[LB250 LB267 LB308 LB326 LB351]

The Committee on Health and Human Services met at 1:30 p.m. on Thursday, January 25, 2007, in Room 1402 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB250, LB267, LB308, LB326, and LB351. Senators present: Joel Johnson, Chairperson; Tim Gay, Vice Chairperson; Tom Hansen; Gwen Howard; Dave Pankonin; and Arnie Stuthman. Senators absent: Philip Erdman.

SENATOR JOHNSON: Good afternoon, everyone. Welcome to the hearing of the Health and Human Services Committee for the Nebraska Legislature. First, let me start by introducing the senators that are here. To my right, Senator Pankonin from Louisville, Senator Tim Gay from Papillion--there we go, got it right--and then next to me here is our Jeff Santema, who is our committee counsel. To my far left Gwen Howard, and Erin Mack is our committee clerk. There will be other senators that come and go, there's introductions round. You will see Senator Synowiecki is here from his committee, and...but we will come and go as we go to testify at other committee hearings, as well. Just a couple of rules before we get to the senator, and here they are. First of all, the proceedings are recorded and are transcribed. If you have a cell phone with you, please shut it off now or you will be shut off. (Laughter) The committee will first hear proponent testimony followed by opponent testimony, and then neutral. Testimony, we ask particularly today because we understand that there are a lot of people that wish to testify, that we wish that you would keep it to three minutes. We will make each bill have a limit of time, so if the first person gobbles up the time, you are going to be shortchanged. So please be kind to be people that are testifying behind you; they have every bit as much of a right to express their opinion as you do. So please remember that. Basically, we like people to testify for three minutes or less. Now in addition, there is a testifier sheet that is available, and for those that will be testifying publicly, fill that out, put it in the hopper, and fill it out completely. Now when you do testify, please tell us your name and spell it; and the other thing is, if you can, kind of make an orderly arrangement coming towards the front row, so that we can move along with that. If you've got printed materials, give them to the page, and we like 12 copies. If you don't have that, they will have copies made for you. One other thing--and I don't know if I mentioned this or not--is that for those of you that may well want to express your support for a bill, there will be a sheet passed around with each bill, so that you will have an opportunity to sign in support of this, which will become part of the permanent record, but you don't actually have to sit down in the chair and express it. That being the case, let's open the hearings today, LB250. Senator Synowiecki, welcome. [LB250]

SENATOR SYNOWIECKI: (Exhibit 1) Thank you. Senator Johnson, members of the committee, I'm John Synowiecki. I do represent District 7 in the Legislature. I had passed out a comparative analysis of what other states do in this area for the committee's review, and I bring LB250 today for your consideration. It's a bill to create a religious exemption for mandatory infant screening. Under LB250 an infant would be

exempt if a parent or guardian of the infant objects to the screening test based on grounds that the tests conflict with the religious beliefs of the parent or guardian. The written objection would be reported to the Department of Health and Human Services. The bill protects both the state of Nebraska and healthcare providers by removing potential liability. I introduce this bill on behalf of constituents of mine, Mary and Josue Anaya. After their daughter was born in July of 2003, Mary and Josue chose not to subject their infant to the metabolic disease screening test required by current statute because of deeply held religious beliefs. Douglas County subsequently brought action to compel the Anayas to comply with the screening test. The Anayas filed a motion for judicial exemption from prosecution and dismissal of the petition. The district court found that under current law, the state had interest in the screening and rejected their motion. The Nebraska Supreme Court refused to hear the case. The state of Nebraska already has a set precedent for religious exemptions for certain laws; for example, Nebraska statute 79-221 allows for a religious exemption from require immunizations. Moreover, Nebraska would be far from the first state to create a religious exemption for infant metabolic disease screening tests. Rather, Nebraska would be the 46th state to create such an exemption. According to data from the National Conference of State Legislatures, 45 other states have some form of an exemption; 31 states have a specific religious exemption, including Kansas, Missouri, North Dakota, and Oklahoma. Fourteen other states provide an exemption for any reason, including Arkansas, Colorado, Iowa, and Wyoming. This information is available in the handout that I did distribute. I think it's time that we joined the other 45 states to create an exemption for families that have deeply held religious beliefs that are not compatible with the mandated metabolic screening test. I want to thank you, Senator Johnson and members of the committee, for your consideration. My constituents are here, as well as another family that this may impact. Senator Johnson, I think we're talking about very, very few families in our state that would opt to execute this exemption, if we so provided it. [LB250]

SENATOR JOHNSON: Any questions of Senator Synowiecki? Yes, Senator Howard. [LB250]

SENATOR HOWARD: Senator Synowiecki, I think it would help everyone if you explained how intrusive the tests are, what's really involved. I remember when this bill came in a year ago, so I have a picture of it, but maybe you can kind of explain it a little further. [LB250]

SENATOR SYNOWIECKI: Senator Howard, I'm not a physician and I don't play on one TV either, and the committee chairman here is probably more versed to answer that question, quite frankly, or my constituents or the other family relative to the intrusiveness or the degree of intrusiveness of these tests, because I really don't know particularly how intrusive they really are. And I think my constituents in particular can speak to that, if you don't mind me deferring to them. [LB250]

SENATOR HOWARD: No, that's fine. I can understand that. [LB250]

SENATOR JOHNSON: Sure, and I'm sure this will come out. Let's wait and see if it does. [LB250]

SENATOR SYNOWIECKI: Right. [LB250]

SENATOR PANKONIN: Yep. Right, and that was my question. I see Dr. Schaefer is here. I'm assuming you're going to testify? Okay, I'm sure we'll be able to ask her. [LB250]

SENATOR JOHNSON: So, one thing a little bit more, and again, Senator Syk...Senator Synowiecki--there we go. [LB250]

SENATOR SYNOWIECKI: That's okay. You did a lot better than Senator Bourne used to. [LB250]

SENATOR JOHNSON: I do not drink! I want you to know that. (Laughter) Here's one of the little questions that popped into my head. I think somewhere in this bill it says that just one parent has to sign for this--let's make that assumption--and now let's say that the parents didn't agree on this, and maybe other people can tackle this question when we go on. Let's say one was very strongly for it, and the other one very strongly against doing these tests and so on. How would that be resolved? And if you aren't up to speed on that right now, why pass on it and we'll let other people... [LB250]

SENATOR SYNOWIECKI: I'll just take a stab and it and it probably won't be entirely responsive to your question, but indeed, it says a parent or guardian, singularly parent. Like any dispute relative to statutes, it would probably end up in the courts, Senator Johnson. I would defer to the committee, if you would want to take a particular look at that. Perhaps there could be some language in there that would prevent some kind of challenge to the statute, if that circumstance did occur. I think...that's my response, but as a practical matter, I think the families that have these certain held religious beliefs that are very, very strongly embedded within the fiber of their being are usually in agreement relative to this type of testing. You're going to have families that have been impacted by this, and that may be a good question for them, as well. [LB250]

SENATOR JOHNSON: Well, I guess the reason I ask that question, and then we'll just see how it plays out, but families that have serious problems with an autistic child, for instance, 70 percent of the time those couples end up in divorce. And with that statistic being there, you could see where there would be potential trouble down the line from a decision. So let's let it go for now and see how it plays out. Any other questions? Thanks very much. [LB250]

SENATOR SYNOWIECKI: Senator Johnson, unfortunately, I have a bill up in Judiciary Committee, and my presence will be needed there to introduce that bill, so unfortunately need to waive my closing and appreciate the opportunity to present the bill before your committee. [LB250]

SENATOR JOHNSON: Thank you very much. We understand. All right, how many proponents do we have. One, two, three, four, five. Okay. Let's move along and why don't you go ahead first, ma'am. I think you had your hand up, and again, with the potential for a long day, we want to hear your testimony, but as we go on, particularly, let's as much as you can, just reinforce what is said rather than start from scratch. Thank you. Go ahead. [LB250]

MARY ANAYA: (Exhibit 2) Okay. Well, since I'm first I hope you'll allow me a little leeway, so I can answer some questions,... [LB250]

SENATOR JOHNSON: I think we will. (Laugh) [LB250]

MARY ANAYA: ...because I'm sure I am the longest of the proponents to speak. [LB250]

SENATOR JOHNSON: Sure. [LB250]

MARY ANAYA: My name is Mary Anaya and I'm from Omaha, 5130 O Street, Omaha. I believe that LB250 is necessary to preserve the religious freedoms that our forefathers have fought so hard to obtain. I consider the blood of my baby something precious in my sight and in the sight of God, and not to be tampered with lightly. Although many in the medical community would have you to believe that not participating in blood screening is highly dangerous, I adamantly disagree. The diseases that are screened for are rare genetic diseases, metabolic diseases, not the more common communicable diseases. Dr. Norman Frost, a professor of pediatrics and director of the program in medical ethics at the University of Wisconsin, said in a quote to the New York Times , "The majority of newborn screenings have failed. Thousands of normal kids have been killed or gotten brain damage by screening tests and treatments that turned out to be ineffective and very dangerous." Treating infants who have no symptoms of disease simply because of a positive test result is at best a questionable practice, but to have this practice forced upon families by the state is simply unconscionable. Six of my nine children were born in the state of Nebraska, and none of them have been screened. The state repeatedly chose to ignore our noncompliance until our daughter Rosa was born in July of 2003. I'll never forget the day in September, 2003, that Todd Cooper from the Omaha World Herald called me to ask how we would respond at our hearing. I had no idea what he was talking about, so he informed me that the sheriff was probably on his way to serve my husband and I subpoenas for a hearing the following day because

we had refused newborn screening. The previous month after we had received a phone call from the state health department, we had sent a notarized letter to them explaining why we were not complying. However, the subpoena came as a shock, since we had been ignored after five previous births, and since our baby was now two-and-a-half months old by the time of the subpoena, and we knew that the screening was really too late to be of much value by then anyway. When Mr. Cooper asked me on the phone if I was willing to go to jail for my religious beliefs, I said yes without a hesitation. I recalled that I had just recently had an in-depth conversation with my two teenage sons discussing that the real problem today with our nation was that people are too selfishly interested in their own comfort and not willing to fight for their beliefs. Our forefathers risked their lives and fortunes to ensure the freedom of their children, and although most are too selfish to change the TV channel in order to protect their children today, I determined to live up to expectations of great men like Patrick Henry who said, "Give me liberty or give me death." While this issue is probably unimportant to many people, to me it's a pivotal decision that will help confirm whether the state of Nebraska will decide in favor of religious liberty or move towards forced nonemergency medical procedures, every time the medical community makes a decision that helpless infants must be tested. Although HIV is communicable and much more common than the diseases that are included in this screening, no one is advocating that the entire state be forced into HIV screening, because adults wish to have a say in their medical treatment. Please allow me to be a voice for voiceless infants. I've had many parents tell me...in fact, I'll add that this has kind of been a surprise, and almost what made us late today is, I had several parents who asked me to bring statements on their behalf, because of the trauma that they've experienced because of this. And I'll address Senator Howard's question, because it is a traumatic screening for many parents and their babies. We thought that the judicial system would certainly overturn the current legislation, because its unconstitutionality seemed obvious to us. However, only court has heard our case, the Nebraska Supreme Court, and they ruled in essence that you, the state Legislature, can make legislation in Nebraska without proving a compelling reason. This is not the standard of law in most states. Most states do require that you prove a compelling reason, but the Nebraska Supreme Court said that you just needed a rational basis for the law. I hope and pray that each of you fears God enough to take that responsibility very seriously. I'm a very law-abiding citizen. I've never received so much as a traffic ticket in my life. I don't take civil disobedience lightly. That is why, a little over a year ago when I was in active labor with my ninth child, I crossed the border into Iowa and after a long ordeal here in Nebraska, as much as I hated to leave in the middle of active labor, I decided we should try to do our best to obey both the law and our conscience. In Iowa it was so simple. In the birth registration packet, there's a screening waiver. You just fill it out, send it back, it's done. Other families who have used the waiver in other states will be very surprised to move to Nebraska and see that you don't have that same option. These diseases are rare, and the incidence is greatly decreased in ethnically diverse populations. Our particular ethnic combination, a Hispanic from Central America and a Caucasian of mostly German and English

descent, would have a much lower-than-average incidence of any of these genetic diseases. I list some numbers here, and I'm sure the state health department will fill you in on the recent numbers. When we were at this hearing last March, the numbers they gave for the six mandated...now, they're now testing for a lot more diseases than the six that are mandated under law. The six that are mandated under law, there were only five babies out of 23,000 in the state of Nebraska that tested positive. That's one in 4,600--very, very rare. Of course, now they're adding...I think I heard that they're now up to 34 different diseases that they're asking parents to screen for. I hope that you would take a look at what diseases they're screening for, because they are requiring a lot more blood than they were originally. So what they told us before, as far as what the tests involved, has changed, and I have testimony from recent parents. Since none of my children have been tested here, I can't speak to it personally, but I have testimony here from a couple other parents who have used words like "traumatized," "I felt violated," "I was lied to." Took their child two weeks to heal, and I will leave copies of those statements with you here. It is traumatic; it's not just a little prick in the heel that the health department tried to say last year. All the parents that I've talked to since then, who've actually had it done, said it was much more traumatic than that. Dr. Frost summed it well in an interview with Fred Knapp on Nebraska Public Radio saying it's more risky to put your child on a football team than it is to skip newborn screening. I'm sure the opposition will have a long line of anecdotal evidence from rare cases where someone found a disease, and please believe me, my heart goes to anyone who has had the experience of having a child with one of these diseases. We understand that there are treatments, and that it's important for early detection. However, I've never yet found any case in any Internet search where someone used the religious exemption and the baby was later found to have the disease, and there is a web site that tracks these things, which I did find. And they do keep a record of people who have exempted from vaccinations for religious reasons, which is legal in Nebraska. You can get an exemption from, a religious exemption from vaccinations, so it's very inconsistent that the diseases which we vaccinate for are both communicable and more common than the ones that are being screened for, and we do provide an exemption for that, but we don't provide an exemption from the screening. The site that keeps tabs on who came down with some...the measles or whatever disease after exempting, they do protest against a religious exemption from the screening, but they have absolutely no records of anyone who did exempt out of the screening who later was found to have the disease. I just want to remind you that, you know, people do have a right to privacy. I'd hate to think that families in Nebraska lose their rights to free exercise of their religion, the right to privacy, and the right to direct the upbringing of our children. I've already mentioned the state's being inconsistent here. Just real quickly: You know, Benjamin Rush, one of the signers of the Declaration, believed that Americans should enshrine the right to medical freedom in the Constitution, as much as the right to freedom of religion. He argued that "Unless we put Medical Freedom into the Constitution, the time will come when medicine will organize into an undercover dictatorship...to restrict the art of healing to one class of men, and deny equal privilege to others, will be to constitute the

Bastille of Medical Science. All such laws are un-American and despotic, and have no place in a Republic. The Constitution of this Republic should make special privilege for Medical Freedom as well as Religious Freedom." That's in quote from Benjamin Rush. My nine children are perfectly healthy in every way. My oldest, Joshua, was on television and in the paper as the youngest graduate ever from Bellevue University. Jeremiah, 16, is now an honor student there at Bellevue University, as well. My thirteen year old is in high school; my eleven year old in junior high, just to go down the list. They're all at least one grade ahead of where children are their age. Rosa, the one that's the subject of this, is so precocious that she could speak in complete sentence and tell stories and jokes at the age of 18 months. They've not suffered from any mental retardation as a result of not being screened. And of course our last child, Justus, is the one that I traveled across the border to Iowa, and of course he's named Justus--not a coincidence. We are hoping that we will at last find justice in the state of Nebraska. Please make it so by voting in favor of LB250. I've brought along petitions. We only had one week. I just found out that the hearing was...about the hearing a week ago. So I do have petitions here. I could only...since I only had six days, in six days I could get a little over a hundred. But I'm sure if I had a little more time I could easily get the thousand. I'd like to pass it around. And I don't know, because I know my time is up, I do have some statements here from others, but I can give it to you to read. (Exhibits 3 and 4) [LB250]

SENATOR JOHNSON: Let me file them, because we'll put them in with the rest of the testimony. [LB250]

MARY ANAYA: Okay. All right. [LB250]

SENATOR JOHNSON: Any questions? I see none. Thank you very much. Sir, are you the next batter? [LB250]

JOSUE ANAYA: (Exhibit 5) Honorable senators and guests, my name is Josue Anaya, and I am here today because I believe that LB250 is necessary to preserve our religious freedoms. [LB250]

SENATOR JOHNSON: Sir, I need you to spell your name. [LB250]

JOSUE ANAYA: My name is spelled J-o-s-u-e, last name A-n-a-y-a. [LB250]

SENATOR JOHNSON: Thank you. [LB250]

JOSUE ANAYA: I object to having blood drawn from my children, due to my sincerely held religious beliefs based upon the Bible and its principles. In Leviticus 17 it says, "The life of all flesh is in the blood." I would never want to do anything to my children that might possibly contribute to shortening his or her life. Also, we are commanded in Leviticus not to cut ourselves. Jesus declared in more than one place in the New

Testament, "It is not the whole who need a physician, but the sick." My children are not sick or in any danger. There are plenty of people in this state who desire to screen their babies, and I certainly do not object to their doing so. However, as for my family, I refuse to sacrifice the blood of my children merely to satisfy the state's curiosity about my children. I believe this screening is unnecessary for us and possibly dangerous to both our physical and spiritual well-being. [LB250]

SENATOR JOHNSON: Thank you. Any questions? [LB250]

JOSUE ANAYA: I also have one testimony of one person who wanted for me to give this to you, too. [LB250]

SENATOR JOHNSON: Okay. [LB250]

JOSUE ANAYA: (Exhibit 12) And it says, "I am a Nebraska resident who values freedom. I moved to Nebraska from a state that values the individual's right to religious freedom as it should. That was the reason the Pilgrims came to America in the first place. I was very disturbed to learn of Nebraska's stance and rulings concerning LB250. It is sad that just across the river such freedom exists, and yet Nebraska has insisted on enforcing such a law. I am further disturbed by the fact that Nebraska is wasting taxpayers' money to prosecute someone who is simply trying to practice religious freedom. This does not reflect well on Nebraska and certainly does not reflect the opinions and attitudes of the Nebraska that I have come to know. As the result of such rulings, I do not feel that Nebraska values religious freedoms and therefore have concerns about raising a family here." Thank you. [LB250]

SENATOR JOHNSON: Why don't you give that to the page, and I will put it in the record. All right, thank you very much, sir. Any other testifiers? Yes. How many besides this lady? One. [LB250]

LOUISE SPIERING: (Exhibit 6) Good afternoon, committee members. My name is Louise Spiering, L-o-u-i-s-e, Spiering, S-p-i-e-r-i-n-g. My family and I live in Saunders County, and we have had experience with the newborn screening program in Nebraska, since three of our four children were born here. I want to thank Senator Synowiecki for bringing this proposed bill to this session. I am here today to personally urge each of you and all the legislators to carefully consider how this revision to the current law on this program will improve the quality of life for all Nebraskans. This proposed bill, LB250, creates a choice for parents and parent equivalents to opt out with a waiver from being forced to comply with the currently mandatory newborn screening program for all babies born in Nebraska. By offering a waiver for religiously held beliefs or, ideally, whatever reason, this will help to restore confidence and trust in a system that I understand to have held quite an ultimatum--comply or face possible criminal charges. It has happened along with a large erosion of trust that you may or may not believe has

happened, but I urge you to consider that it has. All Nebraskans are human beings; we are entitled to make choices over what is done to their bodies and those that, due to our parental responsibilities, belong to their children. This includes all parts and bodily fluids. Every individual is their own person; it is not government property, subject to forced or coerced removal of pieces for law-abiding citizens. The current law needs to be changed, and by bringing this bill to this session and getting it passed, you will be a voice for those whose individual beliefs have been trampled upon, and to bring parents the right to choose about participation in this screening program. I assume that if this proposal passes, this would remove and replace the language about criminal prosecution for noncompliance, which would do right to promote an understanding that people in this country are allowed to practice their beliefs without fear and stress. I would like to point out that in another part of this proposal, that in my humble opinion, does need further evaluation on its necessity. The meaning of the sentence starting on line 18 of page 2 strikes me as another way to evoke fear and force compliance, and to me, that still does not serve any useful purpose. I am referring to the medical cost liability assumption that would result from the decision of parents to not have their infant screened. First of all, how would this be proven, and second, what is exactly being inferred? What are the ramifications of this language? Will there yet, at some point, be a contention where later on in court, when some family's conditions might fall into this category? I ask you to carefully consider what value is really added in including such language in part of this proposed bill. Overall, I'm very excited at the thought of the current laws on this program in Nebraska to be revised. And I respectfully urge you and the Unicameral to consider how passing this bill will improve how residents view our quality of life here, allowing for such an objection and to allow the freedom to choose is not unreasonable. And we will all benefit by eliminating waste of many types of resources in the future, due to people's differences in beliefs. And so, I thank you for this opportunity. That's all. [LB250]

SENATOR JOHNSON: I want to see if we've got any questions. Nope, don't see any. Thank you very much. And we have one other person, or... [LB250]

AMY MILLER: (Exhibit 7) Good afternoon. My name is Amy Miller. I'm legal director with the ACLU of Nebraska, the American Civil Liberties Union of Nebraska, and we are here to testify on behalf of LB250 strongly. We were involved in both of the cases of the two... [LB250]

SENATOR JOHNSON: Let me...afraid I've got to have you spell your name. It's pretty simple, but if you would. [LB250]

AMY MILLER: I would love to spell my name. I got ahead of myself. [LB250]

SENATOR JOHNSON: All right. [LB250]

AMY MILLER: It's Amy, A-m-y, Miller, M-i-l-l-e-r. My apologies for making you correct me. We were involved in both of the cases of the two families you saw before you today. We brought the lawsuit on behalf of Ray and Louise Spiering from Wahoo, so that they could have a delay in the testing that's at issue. We filed an amicus brief or friend of the court brief on behalf of the Anaya family. The difficulty is, in both of those cases, one before the Nebraska Supreme Court and one before a federal court, both judges held that this is a matter for the Legislative branch to decide, and as was mentioned by Senator Synowiecki, you have 46 other states that are allowing exemptions, some of them even for merely because of parental preference. I've given you, as I understand Senator Synowiecki did as well, the very last two pages of my testimony include the statutory citations, if you want to look at what all the other sister states are doing. The shocking thing is that every state except for Nebraska doesn't allow criminal prosecution of parents who choose not to have that testing. In other words, Nebraska and four other states...Nebraska is one of four states, with Michigan, Montana, and South Dakota, that don't have the religious exemption. But those other three states, Michigan, Montana, and South Dakota, at least have in their state law that parents can't be prosecuted or threatened with prosecution, as the Anayas were. So Nebraska stands very much alone, and this bill would bring us in line with the majority of states. It also brings us in line with the existing Nebraska law that's out there. The ACLU firmly believes that the First Amendment allows parents to make decisions based on their religion in their children's well-being, but there are clearly limits that have been placed by the law. If there's a palpable, known health risk to children--a parent's desire to avoid blood transfusions is one of the most famous examples you'll see--or a parent who wishes to avoid surgery, their wishes will be overridden by a court, because at that point the state steps in for the child, in order to assert their right to have medical care. The difficulty with the tests at issue here is there is no known risk at issue. In fact, if you look at page 2 of my testimony, you'll see a quote from the DHHS, Department of Health and Human Services publication, talking about how speculative the PKU test is. "The screening test is just that--a screen. It cannot, and should not, ever be considered a confirmation of the disorder, nor a diagnostic test." While it's a great tool for parents who want to access it, the harm is so speculative that it is a gross violation of religious rights to tell people they have to have that. Page 3 includes the risk for the six main tests, the six main diseases that are being tested for. It shows you the percentage of occurrence both in the Nebraska and nationally, and then compares that to other harms that can occur to children. If you look at it, the most common disease in terms of occurrence is the congenital primary hypothyroidism--afraid I'm not a medical person to pronounce that well. The incidence is about the same as a child falling up or down stairs and dying. It's about the same as a bicycle accident, choking on food, being bitten and killed by a dog. And yet the state does not prevent parents from living in houses with stairs, does not mandate that we cut up tiny pieces of food, does not prohibit children from living in a house where there's a bicycle or a dog. Again, this is a law that is a good idea for people who want to have access to this testing, but the harms are so attenuated and so rare that it is likely that it is simply not going to happen to very many people. I've given

you..the Nebraska Supreme Court was faced with a case that gets to a question that Senator Johnson asked about two parents that were in conflict over an issue. The case was called LeDoux v. LeDoux , where the mother's religious beliefs were that there should be no medical intervention at all. The father no longer had those religious beliefs, and in a divorce/custody battle, the father asserted, I should be primary custodial parent, because if there was an emergency, my ex-wife might not take the children to a doctor. I would, so it's in the child's best interests to be with me. And the Nebraska Supreme Court in fact said there must be an immediate and substantial risk to the child before we're going to set aside a parent's religious beliefs. It was too speculative to think there may be a harm to the child down the ground, and that they couldn't consider that in making a decision about whether or not to place the children with mom or with dad. Same here--if there was an immediate and substantial risk, if the Spierings' or the Anayas' children were facing a medical condition that needed treatment and we knew they needed treatment, while I respect both families, the state would have the right to override their decision to not seek medical treatment. But where there is no immediate or substantial risk, and indeed a very attenuated risk, the state is simply improper in forcing these tests upon people. Are there any questions? [LB250]

SENATOR JOHNSON: I see none, and thank you for answering the question. [LB250]

AMY MILLER: Thank you. [LB250]

SENATOR JOHNSON: Any other proponents? I see none. Let's then proceed to opponents. How many opponents would plan on testifying? One, two, three, four, five? Okay. Now we gave the other group about a half hour. I hope that we can do this in a half hour or less, as well. [LB250]

RITA SWAN: (Exhibit 8) Senator Johnson, members of the committee, I am Rita Swan. [LB250]

SENATOR JOHNSON: Could I excuse you for just one second. I had a note in my hand, and I forgot to mention it. Let me do that. There's a letter of support for LB250 from a Mr. Ted Cox, and that will be entered into the record. (Exhibit 11) Excuse me, go ahead. [LB250]

RITA SWAN: Sure. I am Rita Swan, president of Children's Healthcare Is a Legal Duty, a national membership organization headquartered in Sioux City, Iowa, and with Nebraska members. We submitted a testimony from one of our Nebraska members who was unable to be here today. We believe that all babies deserve... [LB250]

SENATOR JOHNSON: Okay. Ma'am, I've got to...I'm at blame, I think, but I've got to have you spell your name. [LB250]

RITA SWAN: Swan, S-w-a-n, just like the bird. [LB250]

SENATOR JOHNSON: You bet, thank you. [LB250]

RITA SWAN: Rita, R-i-t-a. We urge Nebraska not to enact a religious exemption. We believe all babies deserve the benefit of detecting metabolic disorders in time to prevent the catastrophic damage they can inflict. The stipulation in LB250 that Nebraska will not assume any financial responsibility for the mental retardation and other permanent harms inflicted on a baby because of his parents' religious objections to the test may well be unconstitutional. Nebraska cannot refuse to pay its share for Medicaid patients, nor can hospitals refuse to provide emergency care. Even if Nebraska could avoid any financial responsibility for the disabled child, should money be the only...be the Legislature's only concern here? Picture the child with untreated PKU, who spends a lifetime rhythmically rocking and staring into space. This child could have made magnificent contributions to our culture and society. Money is not the state's only loss when preventable mental retardation strikes a human being. The court cases that Nebraska has won have been very definitive. The Anayas case was heard in the district court and in the Nebraska Supreme Court. The U.S. Supreme Court refused to review the ruling. The Spierings case was heard in federal district court. These decisions have been unanimous. The Spierings declined to appeal; they could have appealed to the federal court of appeals and did not, and these courts have ruled that Nebraska has a right and good reason to require this test, to require it between 24 and 48 hours old--when the baby is of that age--and they have ruled that Nebraska need only have a rational basis for this law, because it is a neutral law. It doesn't single out any religion, discriminating against any religion. It doesn't give preference to any religion, and so Nebraska need have only a rational basis for this law. It was said in previous testimony that other states require a compelling interest before you can interfere with religious freedom. That's not true. Marci Hamilton, who is a law professor, wrote a book called God Versus the Gavel , a very recent book, and she traces the history of church/state judicial jurisprudence and says that rational basis has been the usual standard in courts. Nebraska is one of only four states that require metabolic screening of all babies. Nebraska is also the only state that has never had a religious exemption to child abuse or neglect charges. We think you should be proud of your laws for valuing all children equally. I'm ashamed to say that Iowa, the state that I live in, has a religious defense to manslaughter. Parents are allowed to let a child die if they have religious beliefs against medical care. Delaware has a religious defense to first-degree murder, and Arkansas has a religious defense to capital murder. Two states have laws giving a religious exemption from bicycle helmets for children. Our country has well over a thousand denominations, and there have to be limits placed on the freedom to practice religion. People have an absolute right to believe anything that they want to believe, but when...and they have a right to practice their religion until they are compromising other people's rights. And children are our most precious natural resource. Money is not the only loss when a baby dies or is disabled for life. Nebraska's beautiful state motto is

"Equality Before the Law." Please do not discriminate against a group of children by depriving them of protections you extend to others. Please vote against LB250. [LB250]

SENATOR GAY: Thank you. Can you hold on one minute? [LB250]

RITA SWAN: Yes. [LB250]

SENATOR GAY: Are there any questions of the committee? Thank you. Other opponents? Yeah, and can you state your name and spell for the record? [LB250]

BRUCE RIEKER: (Exhibit 9) Senator Gay, members of the Health and Human Services Committee, my name is Bruce Rieker, it's B-r-u-c-e, R-i-e-k-e-r. I'm the vice president of advocacy for the Nebraska Hospital Association, and on behalf of the hospital association, we would like to express our opposition to LB250. Our hospitals are charged with the responsibility of caring for everyone who comes through our doors. That is the responsibility we willingly accept and dutifully carry out. However, we believe that the religious exemption created by LB250 will 1) add to the confusion of providing healthcare, which I think was alluded to, depending on the directive of which parent or guardian with conflicting opinions may come to the hospital with that child; 2) we believe that it will jeopardize the rights of the child; and 3) it will ultimately add to the cost of healthcare. Although we believe that parents who would claim such an exemption are well meaning, we also believe that such a law would send a message that the state condones withholding medical care on the basis of religious grounds. Furthermore, we believe that some parents may not comprehend the risks that they are taking with their child's health and life when they act according to the legislation, under the belief that the state endorses their actions. Helpless infants need to be protected, too, as it was pointed out in earlier testimony. Withholding medical care could jeopardize the life of the child. We believe that our current laws are in place to require parents to provide children with appropriate healthcare, and we believe that the child's rights to proper healthcare go unprotected with religious exemptions such as that in LB250. Finally, the Nebraska Hospital Association is concerned with the financial consequences of LB250. First, many studies indicate that in the long run, preventative care is less costly than acute care. And we appreciate the previous witness bringing to light the question as to the constitutionality of the provision that absolves the state of Nebraska and the Department of Health and Human Services from all financial responsibility, pursuant to the requirements of this particular law. We also want to point out that it places...this bill places all financial responsibility for medical costs that may result from this exemption on the parent or the guardian who files for it. However, when the time comes that one of these children requires medical care, our hospitals will provide that care, regardless of the ability to pay. We're required to do that by law. If the parent or guardian is unable or refuses to pay for the services rendered, that cost is absorbed by the providers of that care and the communities that support them. We appreciate the opportunity to comment on this important matter, and we urge you to oppose LB250. [LB250]

SENATOR GAY: Thank you. Are there any questions from the committee? I see none. Thank you. Other opponents? [LB250]

CARMAN DEMARE: Hello, Senator Gay, and other committee members. My name is Carman DeMare , C-a-r-m-a-n, D-e-M-a-r-e. I am appreciative of the opportunity to sit here before you and make my opposition known. I am here as a concerned citizen, a parent as well as a master prepared pediatric nurse practitioner. I am concerned for the health and well-being of all children of Nebraska. Although I respect the religious freedoms of these two families who have spoken here today, as well as any other families within the state of Nebraska, I must respectfully object to any action or failure of action that may have the potential to cause harm to any child. I have worked for the past 16 years with...in the pediatric healthcare community, being employed with children's hospitals. I've seen many children suffer from unintentional acts, accidents, and some things that were just, you know, nature diseases. I think that technology has afforded our society now many tests and other tools to find and treat many diseases, and I feel that any avoidance of this is irresponsible to particularly children, especially when they are yet not able to speak for themselves. I think the state of Nebraska has done an excellent job in preparing the laws and the information that is available to the public and the newborn screening advisory committee. There have been many public health professionals, private health professionals, and parents who have been on the committee in overseeing the information and the diseases and tests that are available, and they all have supported the recommendations made to the state. I think that whereas it's been previously stated that Nebraska is one of the few that does not allow religious exemption, instead of that being a negative, I would say that we should be applauded as a state who stands out among others who may not have chosen that road, and I think that that's something that we should stand firm on and continue with the laws that we have already enacted, based on the information that we have available. I am aware of other religious objections to medical tests and things, and although, like I say, I respect that, I still look at it from the eyes of a child and see the pain and suffering that children would endure if, in fact, they are not treated, or if we were to avoid some tests that could potentially spare them any pain and suffering. I appreciate your attention. [LB250]

SENATOR GAY: Thank you, and any questions? Senator Stuthman. [LB250]

SENATOR STUTHMAN: Thank you, Senator Gay. Carman, in your practice how many times do you ever personally, you know, are aware or visualize, you know, the religious part of it, that they do not want to accept help? [LB250]

CARMAN DEMARE: Within the position that I currently hold, I am not involved within a situation to where this testing would be, you know, asked for, just because of the area that I practice, although I do work in pediatrics. In my experience I have never

encountered anyone objecting to a newborn screening. The objections based on religious beliefs I have encountered in my professional history have been related to the transfusion of red blood cells, also the administration of chemotherapy and surgeries to treat cancer in children. [LB250]

SENATOR STUTHMAN: Okay, thank you. [LB250]

SENATOR GAY: Thank you. Any other questions? Seeing none, thank you. [LB250]

CARMAN DEMARE: Thank you. [LB250]

SENATOR GAY: Other opponents? [LB250]

DR. LARRY BAUSCH: Good afternoon. I'm Dr. Larry Bausch, L-a-r-r-y, B-a-u-s-c-h. I'm a physician, and I've been caring for babies in the state of Nebraska now for some 37 years. In addition, I chair the committee and I'm speaking on behalf of the Nebraska Medical Association, the committee on maternal and child health for the state of Nebraska, which I've chaired for probably more years than I can remember. And prior to that, beginning for at least now 30 years, I've been involved in the newborn screening development that has occurred for the state of Nebraska, through the Department of Social Services and through Health and Human Services, as it now exists. And I might tell you one other piece of information--that's simply that I spent a good share of my medical training working with two excellent researchers at the University of Nebraska in developing one of these tests that we utilize for screening of newborn infants, so I've had my hands in it, and I think I probably spent about a year's worth of time altogether involved in this issue. And we have had similar issues like this, I think, over the course of thirty-some years in which I think I've testified for such things. I want to talk about a couple things. I'm sorry, I'm a little bit hard of hearing so I missed some of this. But I had several things that I wanted to mention to you, to just kind of update you on what was really involved. One of the issues that has come to light was the issue of simplicity or how invasive is this procedure? And having cared for probably 10,000 babies, I think I can give you some ballpark idea of what it's all about. It involves taking a small lancet, which is a little piece of metal which has a little point on it, and after the skin is prepared on the baby's foot, this instrument is pressed up against the skin and it therefore allows only the penetration of the tip of the little...if you want to call it a...like a stylet or a blade to break the skin enough so that blood can be extracted. After that, then blood is extracted on a little capillary tube, and is then placed on a filter paper which is no different than the filter paper, or very similar to the filter paper that you use when you make your morning coffee. And little drops of blood are placed on that, it is then allowed to dry, and then it is sent to a regional lab. Over the course of several years we've been able to have a centralized lab which has reduced the cost of the tests considerably to the state. And as far as simplicity, we have been concerned about the issue of pain, and one of the things that we've discovered about this is that by giving infants something as

simple as a special type of sugar called sucrose, we can reduce the pain response in these infants with something as simple as a heal stick. And we do this routinely before and after the procedure, and what this does is create something called endorphins, which you may be familiar with. If you go out to the gym and you work out, you usually feel tired, but you also feel better, and part of the reason you feel better is because you've created some of these things in your own body system that reduce the pain and discomfort. So that's one of the things that over the last few years we've able to develop to really make an effort to try and reduce this as a painful procedure for the infants. The second point and probably the most important point is...relates to timing of this. If we were all truly smart doctors and if babies could talk, this wouldn't be so complicated, but they don't, and unfortunately, many of the symptoms that we see in children and adults much later in life are just not present when babies are born. They're not there for us to see, and so we have to find other means of being able to identify certain things, particularly those that might involve life-threatening situations. And so timing becomes very important, and it's getting more complex because we're beginning to expand the causes of some of these metabolic diseases that can be fatal that we may be able to prevent, and in this process, as technology develops in medicine it's becoming more labor intensive, and sometimes the time period in which we can get results that will allow us to save a baby's life can be expanded in time. So timing becomes really critical and really important in that process. And I think that third thing that I would mention to you really relates to what I call the slip... [LB250]

SENATOR GAY: Doctor,... [LB250]

DR. LARRY BAUSCH: Yes? [LB250]

SENATOR GAY: ...I don't want to interrupt, but the whole process is...we've got data on that. The point on the religious exemption, can we kind of get to that? On the religious exemption, I mean, any objections to that? Speed it up. [LB250]

DR. LARRY BAUSCH: Right. And well, this is where we get into this slippery slope, because as we have special interest groups who want to provide exemptions, we reach a point where a screening test is no longer a screening test, because it has to involve a percentage of the population in order to be effective, and once one interest group gets started, then more interest groups get involved, and pretty soon the validity of the testing is really not of any value. And I'd be happy to answer any questions that you might have. [LB250]

SENATOR GAY: Thank you. Are there any questions from the committee? I see none. Thank you very much. [LB250]

DR. LARRY BAUSCH: Okay, thank you. [LB250]

SENATOR GAY: Other opponents? Anybody speaking in the neutral capacity? [LB250]

DR. JOANN SCHAEFER: (Exhibit 10) Good afternoon. I am Joann Schaefer, S-c-h-a-e-f-e-r, M.D., director of the Department of Health and Human Services, Regulation and Licensure, and Chief Medical Officer. I'm here to provide opposing testimony to LB250. We've heard a lot of testimony today, so I'm not going to read my testimony for you but point out some key points, many of which have been made, but a few clarifying things. Over the last ten years, the newborn screening program has identified 236 babies with diseases, who are now receiving treatment and are thriving because of these early detections. The current law requires that all newborns be screened--we've established that, and the bill will allow for this religious exemption. It's important to note that our current law has been upheld in court as constitutional twice, despite the testimony presented--first, in the Nebraska Supreme Court; second, in the federal district court of Nebraska. It has been found that children have the right to appropriate medical care, and it has been applied equally and fairly, and is considered minimally intrusive. This has been one of the most cost-effective public health programs we have. If this bill is passed, it will cause unnecessary potential for irreversible harm and potentially death to children, and lifelong costs for the state of Nebraska. I can answer any questions that come up. [LB250]

SENATOR GAY: Are there any questions for Dr. Schaefer? Senator Pankonin. [LB250]

SENATOR PANKONIN: Just got a quick one. Dr. Schaefer, just a little bit on the...and maybe this...just curious on the history, like when this kind of got going, and as a public health initiative, over the years what led to these tests, and the kind of background you know. [LB250]

DR. JOANN SCHAEFER: Well, as technology is developed and we've been able to do more with screening blood--congenital hypothyroidism was one that was identified early on, phenylketone test, PKU test, was one that was identified, because the signs and symptoms displayed in those infants early on are so devastating. So the technology has matched with the ability to screen. It is true that we do screen more now than those that are required by law, but that was because it was a minimal cost issue for us, and the company that does the screening can provide a wide variety of screens, and that's been urged at the national level for us to comply with that. [LB250]

SENATOR PANKONIN: Would you also agree that the state of Nebraska would not be exempt for paying for these children if, for some reason, their parents couldn't handle the financial responsibility? [LB250]

DR. JOANN SCHAEFER: Well, I think that's an unrealistic expectation, considering, if you take the worst case scenario and you consider profound mental retardation--and the current cost of care at Beatrice State Developmental Center is about $101,000 per

year, per individual--so if you took the worst case scenario and applied it to that, I think it's unrealistic to expect a family to be able to pay that, and they would have to turn to the state. So it is a realistic expectation that the state would be picking up the cost of that. [LB250]

SENATOR PANKONIN: Thank you. [LB250]

SENATOR GAY: Any other questions? I have a question, Dr. Schaefer. [LB250]

DR. JOANN SCHAEFER: Sure. [LB250]

SENATOR GAY: Dr. Bausch mentioned about this slippery slope that might occur if one exception is given, and religious is very important. But what's your opinion on opening that, you know, the slippery slope as he mentioned. One comes, then someone else comes. What's your opinion on that? [LB250]

DR. JOANN SCHAEFER: I agree. It's very difficult to walk that line, and I think that's exactly what the court has found in saying that we've applied this equally and fairly across all groups, that if we let one group come in and say that this is...that this should be an exemption, then we are now not applying it equally or fairly across all infants, number one. And I think it is very hard to justify that, because our duty should be in the rights to protect the healthcare or the health of the child, and that's the perspective that we're coming from. We don't want to trump religious rights or religious freedom at all. I certainly highly respect that and respect the individual rights and believe them myself. This is about the issue of the medical care of the child. [LB250]

SENATOR GAY: And then a follow-up question on that would be, several of us are new to the committee. Has this been...has there been other times this has come up? Is this a new issue, or... [LB250]

DR. JOANN SCHAEFER: No, this has been here a few times. [LB250]

SENATOR GAY: Been here a few...okay. [LB250]

DR. JOANN SCHAEFER: Yeah. [LB250]

SENATOR GAY: Thank you very much. Are there any other questions? Seeing none,...and Dr. Schaefer, for the record, I apologize. You're speaking in opposition. [LB250]

DR. JOANN SCHAEFER: Yes. Oh--no. [LB250]

SENATOR GAY: I asked for neutral. [LB250]

DR. JOANN SCHAEFER: That's okay. [LB250]

SENATOR GAY: That was my fault. [LB250]

DR. JOANN SCHAEFER: Thank you. [LB250]

SENATOR GAY: Is there anyone else opposed that would like to speak? Okay, now I will ask: Anybody would like to speak to LB250 in a neutral capacity? Okay, seeing none, I will close the public hearing on LB250, and Senator Synowiecki has waived his right to close. We'll open the public hearing on LB308. Senator Stuthman, to adopt the automated medication system. Senator Stuthman. [LB250]

SENATOR STUTHMAN: Thank you, Vice Chair Senator Gay, and members of the Health and Human Services Committee. I am Senator Arnie Stuthman, S-t-u-t-h-m-a-n, and I represent the 22nd Legislative District. I am here to give you the opening on LB308, which adopts the automated medication system. LB308 allows but does not require automation and telepharmacy in Nebraska. Automated medication systems, AMS, can include a robotic computer system that stores and packages medications while collecting and maintaining transaction information. These devices may only be used in hospitals, pharmacies, and nursing homes, and stocked by pharmacist, pharmacy intern, or pharmacy technician. The pharmacist in charge or director of pharmacy is responsible for the use and care of the automated medication system. A pharmacy or hospital may use this device if the pharmacy or hospital develops and maintains a policy and procedure manual that includes compliance with a quality assurance program. An automated medication system is proven to decrease medication errors and waste, increase patient safety, and allow a pharmacist to focus on improving patient care. This includes monitoring for drug interactions and allergies, patient education, and consulting with other healthcare professions. Telepharmacy means the provision of pharmacist care by a pharmacist licensed under the Uniform Licensing Law and located within the United States, which is accomplished through the use of telecommunications or other technologies to patients or their agents who are at a distance and are located within the United States, and which follow all federal and state laws, regulations with regard with privacy and security. The first component of telepharmacy is remote order entry. This process occurs when a pharmacist reviews and approves a medication order for a patient at a distant site by computer link, video, or facsimile. This can occur in a hospital that does not have a pharmacist available at all hours of the day. The second component of the telepharmacy includes satellite pharmacies. A satellite pharmacy is a pharmacy that is staffed by a pharmacist or pharmacy technician, which is electronically linked to a coordinating pharmacy, which is defined as a licensed retail pharmacy, by a computer system with a real time on-line database and a video and auditory communication system. Through this video and auditory connection, the pharmacist at the coordinating pharmacy is able to check the

pharmacy technician's work and counsels patients. The pharmacist-in-charge may apply for satellite pharmacy license when there is no community pharmacy within 20 miles. A coordinating pharmacy may only supervise three satellite pharmacies and shall have no more than one technician at each site. A satellite pharmacy may use the automated medication system. The intent of satellite pharmacies is to expand pharmacy services to the underserved areas in Nebraska. These are my opening comments, and I would try to answer any questions, but I do have people that are going to testify behind me that would be...have more knowledge on answering the questions. [LB308]

SENATOR GAY: Thank you, Senator Stuthman. Are there any questions of Senator Stuthman? Senator Howard. [LB308]

SENATOR HOWARD: Senator Stuthman, could you explain what an automated distribution machine is? Is that just what it sounds like? Is it a machine you would put money into and then you would get a prescription out of? (Laughter) [LB308]

SENATOR STUTHMAN: No, realistically not. I mean, perception is...that's what it sounds like. You swipe your card in and you get your medications out of it. But no, this is a machine that is directed, you know, by a pharmacist, that will dispense a certain drug. And there are people behind me that can explain it in great length, and I would urge that you would ask a question to... [LB308]

SENATOR HOWARD: Well, I think you probably would be able to answer the question I'm getting to, which is, is there a human being available at the time the prescription is dispensed? [LB308]

SENATOR STUTHMAN: Yes, there will be, because they will be only at hospitals, pharmacy, or nursing homes, is where these machines will be. They're not going to be a vending machine in Hy-Vee or something like that. [LB308]

SENATOR HOWARD: Okay, okay. [LB308]

SENATOR STUTHMAN: That's what they're...that's... [LB308]

SENATOR HOWARD: It sounds like that's a possibility, with the way it's described. [LB308]

SENATOR STUTHMAN: That's not what the intention is here, that they're going... [LB308]

SENATOR HOWARD: Well, I'm glad to hear that, because I know when I pick up a prescription, the pharmacist is always cautious and asks me if I have any questions, which I would hate to lose that element of this. [LB308]

SENATOR GAY: Any other questions? Okay, thank you, Senator Stuthman. Can I see a show of hands, how many proponents for this? One, two, three, four, five. And opponents? Anybody want to speak neutral? Okay. Let's have proponents. [LB308]

KEVIN BORCHER: (Exhibit 1) Senator Gay and committee members, I want to thank you for allowing me to speak today. My name is Kevin Borcher, K-e-v-i-n, B-o-r-c-h-e-r. I would first like to thank Senator Stuthman for sponsoring this bill. I am a practicing pharmacist in Nebraska, and I'm here on behalf of the Nebraska Pharmacists Association. I'd like to state my support for LB308, known as the Automated Medication System Act. This act will create and establish some standards for those who wish to use this automation and technology in the facilities that it specifies specifically. It is voluntary, so we're are not forcing anyone to use this. It's just that if they wish to use it, we're creating some good standards for it. LB308 has been developed with a large group of experienced pharmacists and a physician, and has had input from the Nebraska Hospital Association and long-term care association, as well. This is a compilation of the NABP, or National Association of Boards of Pharmacy, model rules pharmacy practice act, and looking at legislation from multiple other states that have something very similar to this, such as Iowa, Kansas, North Dakota, Texas, and Minnesota. We've selected the best sections from those legislation pieces and the NABP model rules and made them fit best for what would work for Nebraska. The use, as I said, of this is voluntary. The bill does not mandate any use of the AMS, or automated medication system. These standards...systems may be used for patient safety initiatives such as bar code scanning at the bedside in hospitals and other facilities. Telepharmacy is one of the sections in this AMS act, which allows a pharmacist to be at a location other than where the patient is physically located, as Senator Stuthman had mentioned. It does yet provide safe services for those patients. Some of the benefits of telepharmacy can include the restoration of pharmacy services in communities that may have lost those services for multiple reasons--closing of pharmacy based on whatever reason. It can help retain pharmacy services in communities that may be at risk for losing those for cost...financial reasons for whatever, again. And it can also establish new services in those communities that have been missing those. If you look at the map that was sent out, in color, you can tell that there are several counties in Nebraska that have no pharmacies whatever, and there are several that only have one or maybe two pharmacies. North Dakota and Texas were two of the big early adopters of the telepharmacy practice. North Dakota, in a study they had did while they were looking at this, had 53 counties. Eleven had one pharmacy, and nine counties had no pharmacies. Looking at Nebraska on this map that the Nebraska Pharmacists Association had created, 35 counties have either one or two pharmacies, and 19 counties in Nebraska have no pharmacy service whatsoever. In the three years that North Dakota has been adopting their telepharmacy act, 36 remote or satellite pharmacies have been established in areas without nearby pharmacy services. This may or may not mean that it happens in Nebraska, but it shows what can happen in

these. So the citizens of the rural areas have an opportunity to either keep or establish pharmacy services in their community, which is a huge benefit, and a pharmacist is only a televideo monitor away. Another section of this bill allows for automated distribution machines in the nursing home setting. In 2005 the DEA had allowed for controlled substances to be administered within long-term care facilities. This legislation will help to mirror what the DEA has done, as well. These systems provide greater security, a controlled access, and monitoring of controlled substances and other narcotics. Plus, it can reduce waste. If a prescription is dispensed for a 30-day supply for an "as needed" medication such as Benadryl for sleep and it's not used or it's discontinued, that medication may have to be destroyed and discontinued at that point. With an ADM, automated distribution machine, those medications are still in the control of the pharmacy, and they can be used on a unit dose basis instead of bulk, so they're in a sterile, close package and can be reused and cause less waste, less chance of expiring. I just want to thank you once again for allowing me to speak, and I'll accept any questions. [LB308]

SENATOR GAY: Thank you. Are there any questions? Senator Hansen. [LB308]

SENATOR HANSEN: Thank you, Senator Gay. Some of the rural counties...I don't know...allow--hopefully, they're doing it legally--is mailing prescriptions. So what's the difference between mailing prescriptions that are legal to mail and telepharmacy? [LB308]

KEVIN BORCHER: With telepharmacy, it has an opportunity to benefit the community itself, because a pharmacy, a satellite pharmacy, can be opened up in that community, and instead of having to wait if the mail order service is delayed for some reason, or they need a medication for an antibiotic, or a pain medication that you may not be able to wait 10 or 14 days for that to be mailed to you, you can the opportunity for that pharmacy, that satellite pharmacy, to be in that community or nearby, to get that filled on a much more timely basis. [LB308]

SENATOR HANSEN: Are prescriptions normally that slow in the mail? I mean, we get mail every day, so. (Laughter) [LB308]

KEVIN BORCHER: It depends on the mail order service system. I can speak for the one that I'm enrolled in personally, that wishes you to renew or refill that medication 14 days ahead of time. [LB308]

SENATOR GAY: Senator Pankonin. [LB308]

SENATOR PANKONIN: Thank you, Senator Gay. Sir, we appreciate your testimony and just a couple questions. I think like so many of these things, the goals are good, but to me it seems like it's a fairly big change with so many of these things in this bill. But

I'm curious: The other states you mentioned, North Dakota and Texas, how long have they been doing...have they been doing all of these things that you've mentioned, and how long, and... [LB308]

KEVIN BORCHER: Different states are doing different parts of it. North Dakota has implemented their telepharmacy bill in 2002, and Texas in 2003. Alaska is another state that has recently, in the last couple of years, adopted telepharmacy legislation. There are several other states, Minnesota being one that I spoke with this last week, that are preparing for legislation. [LB308]

SENATOR PANKONIN: You know, we all know there's human error and it happens in our system with prescriptions, and we know there's also going to be initiatives between doctor and pharmacy communication, that maybe electronically and things like that, but when I think about an automated medication system,...and even though it might have human interaction with that, but if it's dispensing 36 prescriptions at a time and there's a mistake, I mean I think we need to really ask carefully, because this is a big change, that the machinery literally is reliable, and that the protocols have been developed that we as public policy makers could feel comfortable that the public is well served, and that if there is mistakes, that it doesn't actually make it worse than one prescription. What are your thoughts on that? [LB308]

KEVIN BORCHER: That is an excellent point, Senator. Right now there are several automation medication systems in place throughout Nebraska, throughout the country, and a lot of these systems use technology to help prevent errors, even with human intervention. They can prevent them a lot, use bar code scanning to verify that once the bulk bottle of medication is scanned, that that bar code verifies it's the correct drug to go in a correct cassette or container. And with multiple instances of bar coding throughout that process, it can help reduce those risks of errors. [LB308]

SENATOR GAY: Any other questions? I'm going to ask: Senator Howard, could you take over? I've got to go testify. Thank you. [LB308]

SENATOR HOWARD: We're down to a few numbers here. That's the end of your testimony? [LB308]

KEVIN BORCHER: That's the end of one; if I may testify for another organization, as well, for the Nebraska Board of Pharmacy? [LB308]

SENATOR HOWARD: If you could sum it up in a reasonable time, that would be fine. [LB308]

KEVIN BORCHER: Okay, I'll make it very short. Once again, my name is Kevin Borcher, and I'm representing the Nebraska Board of Pharmacy and speaking on their behalf to

support LB308. Once again, the Board of Pharmacy is in agreement with the Nebraska Pharmacists Association, which is a very good thing to look out for the citizens of Nebraska. This advancing technology is being used, and we want to make sure that there are safeguards in place. One of the pieces with the automated dispensing medication systems or automated distribution systems is that a risk of diversion is greatly reduced, because these systems can track down to the minute, using either a password or a biometric scan ID of their finger, to ensure that the right person who has access is accessing the right medication at the right time. And so the risk of diversion can be greatly reduced with this, too, as long as...as well as the waste. [LB308]

SENATOR HOWARD: Thank you for that additional information. Are there any other questions anyone would like to ask? Okay. Thank you, sir. [LB308]

KEVIN BORCHER: Thank you very much. [LB308]

SENATOR JOHNSON: Senator Howard, why don't you finish up, if you will? [LB308]

SENATOR HOWARD: Thank you, sir. Could we have your name for the record, and could you spell it? [LB308]

KEN KESTER: (Exhibit 2) Yes. My name is Ken Kester, K-e-n, Kester is K-e-s-t-e-r. Senator Johnson, Senator Howard, and other members of Health and Human Services Committee, thank you for this opportunity. I'm also a practicing pharmacist in Nebraska, here on behalf of the Nebraska Pharmacists Association. I echo the support for LB308 voiced by my colleague Kevin Borcher, and would like to elaborate briefly on some of the benefits of components of this act, specifically in hospitals. Pharmacists that work in hospitals provide important safety and therapeutic services. A foundational service provided by pharmacists is reviewing medication orders written by physicians and other prescribers, and then entering those orders in the computer systems. Pharmacists monitor orders for allergies, drug interactions, and appropriate dosing, among other things. When orders are entered by pharmacists in the computer systems, nurses are provided printed or electronic medication administration records. If the hospital has an automated medication system, entry of the order into the computer system may also release only the medications that have been ordered for the patients, making it more difficult for patients to receive incorrect medications. However, most Nebraska hospitals do not have pharmacists working 24 hours a day, 7 days a week, and in fact, very few hospitals outside of Lincoln and Omaha do. That means that in most hospitals, pharmacists are not reviewing medication orders during nights, and in many cases, on weekends. One of the provisions of this bill is for remote order entry, which is one form of telepharmacy. Through a technology called virtual privacy network, or VPN, a pharmacist can have access to the entire hospital computer system from anywhere they have a secure Internet connection. This technology makes it feasible for a pharmacist to receive, review, and enter orders for their hospital from just about anywhere; hence, the

name remote order entry. Furthermore, it makes it possible for one pharmacist to monitor more than one hospital at a time. If one pharmacist can monitor orders for more than one hospital, the hospitals can share the cost of hiring the pharmacist, making 24/7 pharmacist order entry services feasible, even for small, critical access hospitals. The use of remote order entry services to provide pharmacist review for small hospitals is supported by the Joint Commission on Accreditation of Healthcare Organizations and by the Institute for Safe Medication Practices. We believe that current statutes and regulations do not preclude provision of remote order entry, and I personally know of four hospitals in Nebraska that currently utilize such services, including the hospital where I work. Even so, it's our desire that such services be explicitly approved by Nebraska statutes. Thank you for giving me opportunity to speak with you today. I'll answer any questions that I can. [LB308]

SENATOR HOWARD: Do we have any questions for Mr. Kester? Thank you. [LB308]

KEN KESTER: Thank you. [LB308]

JOE DAVIS: My name is Joe Davis, J-o-e, D-a-v-i-s. I'm a practicing family physician involved in the rural health clinic system of Mary Lanning Memorial Hospital. We serve three underserved communities of Sutton, Blue Hill, and Edgar. At our Sutton site there's no pharmacy within 20 miles. My focus and testimony is...correlates with discussion with Senator Burling from our district, and we would like to enable the remote telepharmacy in rural communities without local pharmacy services. Adoption of the legislation will for us complete a two-year innovative approach to improving rural healthcare in underserved...or communities without service. By providing a local pharmacy service, we will narrow down chances of error through indirect pharmacy delivery. Our understanding with retail pharmacists interested in entering this arena is that there are multiple commercial systems that provide prepackaged medications agreed on by the pharmacist and the clinic using it. These are dispensed through a two-way linkage with the sponsoring pharmacist. There's a pharmacy technician, usually trained from the local community, who is in this outreach pharmacy. The prescription can be received by handwritten prescription, facsimile, or in some electronic medical records direct digital transmission. We feel this is an improvement in care based on other rural and western states. They've seen improved services. There's an economic improvement in these small rural communities that are struggling. There's plenty of economic data that says communities that have healthcare do better than communities without. This issue started two years ago when we identified this is Sutton. In the interim it's been pointed out by previous testimony. We now have 19 counties without pharmacy services. Allowing and enabling the private enterprise system to safely enter this void will improve healthcare for rural Nebraskans. Questions? [LB308]

SENATOR HOWARD: Does anyone have any questions? [LB308]

SENATOR HANSEN: Sorry, looking at the wrong journal. [LB308]

SENATOR HOWARD: (Laugh) Yes, Senator. [LB308]

SENATOR HANSEN: Joe, do these rural hospitals and rural...I mean, the clinics away from the hospital, does it almost make it necessary to have electronic records? [LB308]

JOE DAVIS: You're getting into a favorite subject of mine, but I would say this is an area of great evolution in medicine now. We have chosen in our small rural clinic system to test, field an electronic medical records system, including the ability to electronically post prescriptions. [LB308]

SENATOR HANSEN: Thank you. Thank you, Senator Howard. [LB308]

SENATOR HOWARD: Yes, sir. Any other questions? Thank you, Mr. Davis. [LB308]

ALLEN VAN DRIEL: (Exhibit 3) Good afternoon, Senator Howard and members of the Health and Human Services Committee. My name is Allen Van Driel, that's V-a-n, D-r-i-e-l. I'm the administrator, Harlan County Health System, which is a critical access hospital located in Alma, Nebraska. I'm testifying today on behalf of my hospital and also on behalf of the Nebraska Hospital Association and it's 85 member hospitals. And while Nebraska hospitals do support the intent of this legislation, LB308, we do urge you to make some amendments to the bill before its advancement. As I said, Harlan County Health System is a critical access hospital. We were, in fact, the first critical access hospital designated in Nebraska under the Medicare program. Currently, there are 65 hospitals in the state that carry this designation. A critical access hospital is a rural hospital that receives reimbursement from the Medicare program based on its cost or providing care. And this reimbursement methodology was developed at the federal level, based on the fact that these small rural hospitals typically have very low patient volumes but are necessary providers of healthcare. You've heard testimony today about communities that have declining levels of health services in their community, and that was the concern when this methodology was developed to assure the survival of some of these small hospitals. Because critical access hospitals often have small patient volumes, it's often difficult for those facilities to justify or retain certain personnel or services. This is the case with the availability of registered pharmacists within these facilities, as was testified previously. The volume of medication orders in a critical access hospital often does not warrant the presence of a full-time pharmacist, especially if the critical access hospital does not have associated with it a long-term care facility or a retail pharmacy. But the fact that we can't support the full-time presence of a pharmacist does not make the importance of providing safe medications to our patients any less important. In 2000 the Institute of Medicine published a report that was titled, "To Err Is Human: Building a Safer Health Care System." In that report the Institute of Medicine estimated that perhaps as many as 98,000 patient deaths occur in this country

each year due to medication errors. Initially, many of us responded to that report with a response of "Not here," not in our community. But we've come to realize that the potential for serious medication errors does exist in all care settings and that we must create changes in care processes to help prevent those errors. These attempts to improve medication safety have led to discussions of how we can involve pharmacists in the medication delivery process when they're not available in our facilities. One obvious solution to this is the use of telepharmacy, whereby a pharmacist in a location remote from where the patient is can be provided with information about the patient's medical condition, allergies, and medication orders, and can review the orders for appropriateness and likelihood of interaction with other medications. Unfortunately, there is some question as to whether or not telepharmacy is legal in the state of Nebraska today. Part of the intent of LB308 is to change the law to allow the practice of telepharmacy. Let me pause just a moment and kind of describe for you how pharmacy services work today in my facility, and how telepharmacy could benefit us. We do not have a full-time pharmacist. We have a consulting pharmacist, and that consulting pharmacist also operates the only retail pharmacy in the county. He's in my facility for a few minutes most days, but not every day, to deal with problems related to pharmacy. During that time, among the things that he does is review medication orders for patients that are in the facility. I have a registered nurse who acts as a pharmacy assistant and her responsibilities, in conjunction with the pharmacist, include ordering and stocking of medications in our hospital pharmacy, verifying documentation in patient records of the medications that have been administered, and manually providing lists of charges for those medications to our business office for billing purposes. When a patient is admitted to the hospital or presents in the emergency room any time of the day or night, the physician or physician assistant that's on call for the emergency department evaluates that patient and writes orders for diagnostic testing, therapeutic procedures, and for medications. The Medicare conditions of participation, based on what are considered to be best practices in the healthcare industry, say that those orders for medications should be checked by a registered pharmacist for correct dosage, and to make sure that the patient is not allergic to them, and that they do not have any adverse action because of other medications the patient is taking or because of medical conditions that the patient suffers from. This cross-check is supposed to occur prior to the administration of the first dose of the medication, but at the present time this cross-check occurs, at very best, the next morning in my facility, because that's the next time the pharmacist is in the facility. And that's the case in many small hospitals across the state. In some communities in Nebraska, there's not even a pharmacist in the community, so the medication check may not occur until quite some time after the order is written. This creates a potential for errors in dosing or for lack of therapeutic effect from the medication. The ability to use telepharmacy presents a wonderful opportunity to improve this situation. Unfortunately, as this bill is currently drafted, it's my belief that the objective of improving patient safety may not be realized. The language of this bill is targeted at retail pharmacy applications rather than the potential for its use in hospitals and other patient-care settings. Section 10 of this bill defines how telepharmacy will be

allowed. The language of this section is only directed at the operation of satellite retail pharmacies using a telecommunications link, whereby a pharmacist in a central location would supervise pharmacy technicians in the satellite locations. From a retail pharmacy perspective this may make sense, but this same language would describe an unworkable solution for hospitals wishing to work together to establish a networking arrangement for the provision of pharmacist services. This legislation limits the number of remote locations and the number of pharmacy technicians that can be supervised by a pharmacist. Does this language prohibit a network of critical access hospitals from creating a contracted arrangement with a hospital pharmacist in some central location for the provision of this first dose check of medication orders? The bill is not very clear about that. The definitions in the bill are not conducive to operation of this arrangement on a 24-hour-a-day operation, as would be required in a hospital. [LB308]

SENATOR HOWARD: Sir, could I interrupt you? Could you kind of get to the heart of the matter, so we can kind of stay with you on this? [LB308]

ALLEN VAN DRIEL: Okay, almost done. I guess the point of what I'm trying to say is, there are several opportunities created by this bill, and we're very supportive of those opportunities. We believe there is a need, however, for amendment of some of the language in the bill, to make it applicable in the small rural settings most predominantly. We think it's important that the beneficiary of this be the patients, and the patients that are served by the healthcare systems in rural Nebraska, and not...there certainly is no objection to providing retail pharmacies services in areas where they currently don't exist. We want to make sure that the language of the bill is such that it allows us to network critical access hospitals to provide the safety net that the registered pharmacist helps provide, as well. The automated dispensing system has...automated medication system, rather, has potential applications in a wide variety of settings, including hospitals, and one of the other testifiers discussed a little bit about how that can be used. We believe very strongly that that has application even in small rural critical access hospitals where there may not be a pharmacist on site, and we just want to make sure that the language of the legislation and the regulations that would be promulgated by the Health and Human Services System pursuant to the legislation would be supportive of making sure that it's a workable solution in the small rural communities. In summary, there's many goals that can be achieved by a well-written law regulating the practice of pharmacy in this digital age of the 21st century. The goals include the provision of retail pharmacy services, including...or using telecommunications to allow the operation of satellite locations, the use of automated technology to make available medications in nursing facilities and other locations with proper control and oversight, and the use of automated systems to stock, track, dispense, and document administration of medications to patients in small and not-so-small hospitals, as well as the use of telecommunication technologies to make available the expertise of a pharmacist in hospitals that can't justify their presence on a full-time basis. These are all extremely important goals, and all should be pursued. The

language of LB308 does not adequately meet these goals, and I urge you to work with the affected providers of health services in Nebraska to amend this bill before proceeding. I appreciate the opportunity to comment on this matter, and I'd be happy to answer any questions you may have. [LB308]

SENATOR HOWARD: Thank you. Thank you, Mr. Van Driel. Are there questions? You've summed it up. Thank you. Are there any other testifiers in support? Other testifiers in opposition? Oh, reconsidered. [LB308]

JONI COVER: Reconsidered. Hi. My name is Joni Cover, it's J-o-n-i, C-o-v-e-r, and I'm the executive director for the Nebraska Pharmacists Association. I just wanted to point out that we did offer an amendment to Senator Stuthman, and I think he's got a copy of it. We also gave a copy of it to Jeff to try to clarify some of the language. This section that Mr. Van Driel brought up is not intended to apply to hospitals. Everything else is intended to apply to hospitals, so if it's not clear what is applicable to the hospitals and what is applicable to the retail pharmacies, then we would most certainly work with the committee to make sure that it's understandable, because our intent to provide pharmacy services throughout the state, and especially for the critical access hospitals. If we can assist them, that's one of the main goals, so I just wanted to clarify that. [LB308]

SENATOR HOWARD: Thank you. Clarification is always helpful. [LB308]

JONI COVER: Thank you. [LB308]

SENATOR HOWARD: Are there questions? [LB308]

JONI COVER: Thanks. [LB308]

SENATOR HOWARD: Thank you. Do we have speakers in opposition? [LB308]

SHANNON ANDERSON: Hello and good afternoon, members of the committee. My name is Shannon Anderson, S-h-a-n-n-o-n, A-n-d-e-r-s-o-n, speaking on behalf of Alegent Health, and we have just one specific point in opposition, but with my opening I'm wanting to reassure this committee that we are a significant user of automated systems in pharmaceuticals and in fact, we have the big dog one at Bergen that rolls out for all of our metro hospitals, and we are at a 99.99 percent rate without error, so this is phenomenal. What it allows to happen, so pharmacists are no longer counting meds, they are on the floor directing and interacting with patient care. So it's a super program. Our concern, though, in this bill, that I visited with Ms. Cover, I visited with Senator Stuthman about, is the question you brought up earlier, Senator Howard, and that is about the medication vending and kiosk machines. We are using those machines in Iowa right now. The example is this. Now nothing in our system usurps the role of the

pharmacist, so take...that's usually the first hurdle to clear. But the example is this--it's in our emergency room in Mercy Hospital in Council Bluffs; it's three o'clock in the morning, you've gotten the care, you've gotten the prescription for the antibiotic for your child. What should you do? You can't...we're not allowed to dispense the medicine for it, because it's not an in-patient, and our own retail pharmacist is closed. So this machine, then, allows for that access to that med. It's been...it's gone through all the channels, and like I said, a pharmacist hasn't been usurped at that time. You can use that example as well in a rural setting. There are times...we were visiting with the association, and there are times when the pharmacy in the town has closed. Today there's arrangements through delegated dispensing to go to the hospital emergency room to secure some of that prescription. You could have the kiosk there and get the medicine. The prescription, again, it's through all the channels, all the recordkeeping and that. So we're looking for...what the bill does, unfortunately, is it repeals the language today that allows for these machines in facilities. So maybe that language needs to be cleaned up. But we do not want to repeal the language, we do not...and even though it hasn't been used yet, that we don't know of anyone else using a medication vending machine in Nebraska, there's a tremendous consumer demand from our patients for these kinds of things, and it's whether to accommodate the convenience. And the final example is this one: The best way, the most significant way to reduce healthcare costs is to improve health. The way that you improve health is that you get the patient on the immediate care plan. You don't want any down time. Prescriptions is one of those areas where either because of finance or access they will delay in getting their prescription. So we have within different healthcare facilities examples where you've come in, you run a very aggressive disease management program with some of our employees now. When they come in to have different levels checked, it would be very helpful to be able to get their prescription right there. This is a maintenance prescription, the pharmacist is still in the picture, so that's what we're talking about. There's kind of just the idea of a medication vending machine. We've had some fun discussing like what you would get out of it, and what would be under L47, but that's not how it happens. It's privacy, it's specific to the patient, you have patient identifiers, and certainly, we can work with the association, work with the committee, for whatever safeguards you need. But this is really a consumer demand issue and meeting their needs, and not one of usurping a pharmacist role. So we'd appreciate at least keeping the language that's in the books today on, and then we'll work with them, or as I've promised Joni, if there's language she wants to put in this bill, to do that, that way. Okay, that concludes my remarks. [LB308]

SENATOR HOWARD: Thank you for your testimony. Are there questions? Yes, Senator Pankonin. [LB308]

SENATOR PANKONIN: Senator Howard, thank you. Just a quick question. I know we've run plenty long time on this kiosk deal. What's the protocol there, then, for a prescription. How would you...how do you get a prescription from a kiosk machine?

[LB308]

SHANNON ANDERSON: Well, it would be...because of the electronic medical records...let's say you are in the emergency room and you have...the system would be the doctor would still write the script and there would still be a pharmacist connection to fulfill that script, like Mike Teecy (phonetic), who's the head of our pharmacy operations at Mercy in Council Bluffs, and so then that's just...the same recordkeeping that when you talk about the automated dispensing machines? That the role, the function of the pharmacist is able to achieve through technology? Is the same idea with this kiosk. It's just that, rather than a single dosage, rather than for just in-patient, you would allow the...if it's a ten-day antibiotic prescription. Now the other thing that we were talking about is that it would probably be most limited to, especially in an emergency room situation, to usual prescriptions. Obviously, it's not going to have an array, a wide inventory of it, and so it would be formularies. Some of the kiosks that are in operations across the United States today, for example, only use generics in their machines. So there's things like that, and that's just to...that is a consumer issue, to get lower-priced drugs to a lower-income population. But it's still under supervision with the pharmacist and the doctor. [LB308]

SENATOR PANKONIN: Okay, thank you. [LB308]

SENATOR HOWARD: Any other questions? Well, I do have a comment. I remember when my children were small, and they would get earaches in the middle of the night, which is really hard on both the child and the parent. And I would take them to emergency rooms, and they'd have treatment, but then it would be difficult to find a pharmacy that was open to prescribe the medication. If the kiosk were available, would they also dispense the children's liquid medication, as well as...you frequently think of tablets, but would they be equipped to do that, too? [LB308]

SHANNON ANDERSON: I'm not familiar specifically with that question, but I can get that information to you. [LB308]

SENATOR HOWARD: Okay. [LB308]

SHANNON ANDERSON: And I would see no problem with that. [LB308]

SENATOR HOWARD: I think that would be interesting. [LB308]

SHANNON ANDERSON: I mean, it's the same. Vending machines are all... [LB308]

SENATOR HOWARD: Pretty sophisticated. [LB308]

SHANNON ANDERSON: Right, and we can...like I said, it would be dependent on the

patterns at the particular facility as to what kinds of meds that they recommend to be distributed through there, and I wouldn't think liquid would be a problem, but. [LB308]

SENATOR HOWARD: Okay. Thank you. [LB308]

SHANNON ANDERSON: You're welcome. [LB308]

SENATOR HOWARD: Are there any other people who wish to speak in opposition? Are there any people that would like to speak in the neutral capacity? I think we've exhausted our audience, and I would like to note for the record that we do have a neutral letter from Joann Schaefer on this bill. (Exhibit 5) Thank you, and I will hand it back to you. (See also Exhibit 4) [LB308]

SENATOR JOHNSON: Senator Stuthman. [LB308]

SENATOR HOWARD: Oh, Senator Stuthman. Would you like to do a closing? [LB308]

SENATOR JOHNSON: We've got to let him close here. [LB308]

SENATOR STUTHMAN: Yes, yes. Yes. First of all, I want to thank all of those that testified, and I would like to, you know, advise the committee that we need to look at the amendment that I'm going to be proposing on some of the errors that were found in the bill. And I think we can work this thing out, but I think this is something for the future. So with that, thank you. [LB308]

SENATOR HOWARD: Thank you, Senator Stuthman. And now I'll hand it back to you. [LB308]

SENATOR JOHNSON: All right. That's the conclusion of testimony on LB308. We will now go to LB267. Senator McGill, are you here? [LB308 LB267]

SENATOR MCGILL: I am here. [LB267]

SENATOR JOHNSON: Oh, there you are. [LB267]

SENATOR McGILL: Hiding out. [LB267]

SENATOR JOHNSON: Why don't you just take about 30 seconds to clear the room here, and...well, let's open the hearing on LB267. Senator McGill, proceed please. [LB267]

SENATOR MCGILL: Good afternoon, Senator Johnson and members of the Health and Human Services Committee. For the record, my name is Amanda McGill, that's

M-c-G-i-l-l. I represent the 26th District and I'm here to introduce LB267. As you all know, child care is one of the major costs for our working families in Nebraska with young children and children with special needs. For low-income families, this is a particularly large burden on their incomes. That is why LB267 would restore to 185 percent of the federal poverty level the standard of eligibility for low-income parents to receive child care subsidies. That is up from the current standard of 120 percent. And these families are those not receiving Aid to Dependent Children assistance, that's ADC. The state's child care subsidy program assists low-income families with the cost of child care. The subsidies are provided on a sliding fee scale, so the more a family earns, then the smaller the subsidy that they receive. To ensure clarity, there are two categories in the child care subsidy program. First, there is a transitional child care for families who are transitioning from welfare over to work, and the standard of eligibility for those families is currently 185 percent of the federal poverty level. The second category of families are the families that are affected by this legislation. They are those who have never received that ADC assistance or who have not received it within the last six months. Currently, the standard of eligibility for these families to receive child care is the 120 percent that I mentioned before, and until 2002, the eligibility standards for both of these groups of families were the same--they were both at that 185 percent of the federal poverty level. In that year, then Governor Johanns line item vetoed $4.5 million from the child care subsidy program during a budget-cutting special session. He did that by lowering that eligibility level down to 120 percent. At that time approximately 37 percent of the children receiving subsidies were in families with incomes that fell between that range of 120 and 185 percent. Without any legislative debate or public discussion, 1,067 families and 1,563 children lost their child care subsidies. This action was dramatic and traumatic, and happened with very little notice for any of these families. It pulled the rug out from under 1,000 working, low-income Nebraska families who were striving to become self-sufficient. Using 2006 federal poverty guidelines, today a working family of three cannot receive child care subsidies if its annual income is over $19,920. At the new level of 185 percent, as proposed in this bill, a family of three could earn up to $30,710 per year and receive some subsidy; again, the more a family makes, the smaller the subsidy they receive, so it helps ease them off of the subsidies. It's also important to note that eligibility is based on gross and not net income. Nebraska's income eligibility of 120 percent of the federal poverty level places us among only six other states with such strict requirements. Now regarding the fiscal note, it's $3.5 million, but that represents an investment. It is more prudent to assist families with the cost of child care so they can go to work and accept raises, rather than forcing them to seek a broader array of public services. There are others here today who will provide further details on the value of the child care subsidy program, the impact those cuts in 2002 had on families, and the need to restore this eligibility level. Thank you, and I'll take any questions, if you have them, now. [LB267]

SENATOR JOHNSON: Are there any questions? You have one from Senator Howard. [LB267]

SENATOR HOWARD: Thank you, Chairman Johnson. I remember when this took place. I was working for Health and Human Services as a case manager, and my case aide was affected by this. She found out abruptly that she'd no longer be eligible for the child care subsidy, and she was a single parent with two children. And that was certainly a disability, if you will, for her on the minimum income that she was making from Health and Human Services. So I think this is certainly an issue that we need to consider, and I'm very glad you brought this in. Thank you. [LB267]

SENATOR MCGILL: Thank you. [LB267]

SENATOR JOHNSON: Any other questions or comments? Senator McGill, will you be here for closure? [LB267]

SENATOR MCGILL: Thank you. I plan to. [LB267]

SENATOR JOHNSON: All right, thank you. How many do we have to testify--proponents? One, two, three, four, five, six, seven, eight maybe. The ogre is back in the chair. Senator Howard is a lot nicer than I am. Let's be as brief...but, you know, we want you to, you know, do your testimony succinctly, I guess might be the best word. We have two bills to go after yours, and at the rate we're going, the attention span of this committee for the last bill, I wouldn't want it to be my bill. (Laughter) So with that, if you would go ahead, please. Thank you. [LB267]

JEN HERNANDEZ: (Exhibit 1) Thank you, Chairman. (Laugh) Good afternoon, Chairman and committee members. For the record, my name is Jen Hernandez, H-e-r-n-a-n-d-e-z. I am the community educator and registered lobbyist for Nebraska Appleseed. Senators, you have in front of you tables of what it takes for families in your specific districts to be self-sufficient. When the federal poverty line was calculated back in the 1960s, exactly zero percent of a family's monthly budget was estimated to pay for child care. Child care was simply not an expense that families had to worry about, so the poverty line did not account for that. The poverty line for a family of four currently is $20,000 a year, but the amount of money it takes to provide for the basic needs of a typical family of four in Nebraska is far beyond that. For example, Senator Johnson, a typical family of four, of two parents and two school-aged children in Kearney, will need to earn about $30,243 per year in order to meet their most basic needs, including over $500 a month in child care. I have also submitted for your viewing a document that looks like this, which shows in each county child care...the numbers of child care subsidies in 2002 and the change, when the eligibility went from 185 to 120 percent. And Chairman, you can see that 80 children in Buffalo County lost access to the child care subsidy with that eligibility change. Child care assistance is one of the most critical work support programs for low-income families. Based on the sliding fee schedule which you also have in front of you, you can see that the child care subsidy program

provides assistance on a sliding scale to working families, so as the family's income increases, the family's financial contribution also increases. At 120 percent of the federal poverty line, this program is not able to adequately meet the needs of low-income working families in Nebraska; 120 percent eligibility also comes with a hefty price tag. The average cost to the state for a two-child household receiving a child care subsidy is $604 a month. The average cost of a household of three, parent and two children receiving ADC, is $364 a month in ADC, $239 a month in food stamps, $604 a month in child care, and $837 a month in Medicaid, for a total of $2,044. From a purely cost benefit analysis, it is a much better investment for the state to continue to support working families as they transition from 120 to 185 percent of the federal poverty level rather than creating a cliff that causes families to fall back on full assistance and start the climb to self-sufficiency all over again. Moreover, the decision to reduce eligibility was not based on any data indicating this change was sound public policy. It was made at the eleventh hour by the Governor in an attempt to reduce the budget. There was no public hearing or legislative debate for this change and no opportunity for those affected to be heard. Now that our fiscal situation has turned around, it is time to revisit some of the decisions that were made out of desperation to address a budget deficit. LB267 provides an opportunity to return eligibility to a level that ensures all low-income Nebraskans can obtain quality child care, a critical work support they need to continue their path to self-sufficiency. I encourage this committee to make an investment in our children and working families by returning eligibility to a level that helps working parents succeed in the workplace, while at the same time ensuring that their children have access to safe child care settings. I'd be happy to take any questions that you have. [LB267]

SENATOR JOHNSON: Yes, sir. Senator Pankonin. [LB267]

JEN HERNANDEZ: Yes. [LB267]

SENATOR PANKONIN: Thank you, Senator Johnson. Just to go over these charts, so this one, and then this is what currently... [LB267]

JEN HERNANDEZ: Currently, the current number of child care subsidy cases there are, by county. [LB267]

SENATOR PANKONIN: Okay. [LB267]

JEN HERNANDEZ: And then the other one has the comparative numbers of June of 2002 and December. [LB267]

SENATOR PANKONIN: When this took place. [LB267]

JEN HERNANDEZ: Right. [LB267]

SENATOR PANKONIN: Just looking at the three counties that I represent, or parts of three counties; for example, Cass County now, according to this, has 127 subsidies, and back in June of 2002 it was 132, and then it went down to 88. [LB267]

JEN HERNANDEZ: Um-hum. [LB267]

SENATOR PANKONIN: So now it would be back to 127. [LB267]

JEN HERNANDEZ: Right, and that indicates...we've seen since this data, actually, the latest census data, that we actually have a greater number of low-income working families that fall between 120 and 185. So although we still have a certain...a number of families similar back in June that we do now, even though we don't have the same eligibility level, we actually have more and more families who are between that gap. Does that make sense? [LB267]

SENATOR PANKONIN: I think it's an interesting trend that if you take...and I've just got the southern part of Sarpy County, but now they're at 717, and going back to your other chart, it was 508. It dropped down to 454 with the December, 2002, and even under the current rules, it's at 717. [LB267]

JEN HERNANDEZ: Um-hum. Well, I think a lot of those families, again, fall back on full assistance. When they fall back on full assistance and they're on ADC and you get child care while you're on ADC, then they again fall into these numbers that we currently have. So a lot of these families we continue to pay for child care for them, but now the difference is, they're not working. And when we pay for the child care assistance, when they're, you know, under 100 percent of the poverty line, they're paying the full...the state is paying the full cost of child care. When they're between 100 and 185--or right now it's 120--there's a sliding fee scale. So we continue to pay for the child care costs for those families. [LB267]

SENATOR PANKONIN: Under that theory, though, wouldn't the fiscal note be...if we were taking people off, higher participation, wouldn't the fiscal note be closer to zero or a negative, versus the $3.5 million cost? [LB267]

JEN HERNANDEZ: Well, we do continue to see an increase of families that are working, that are between 120 and 185 percent of the poverty line that we're not picking up, and those are the families that the fiscal note covers. [LB267]

SENATOR PANKONIN: Okay, thank you. [LB267]

SENATOR JOHNSON: Any other questions? Jen, I see none. Thank you. [LB267]

JEN HERNANDEZ: Thank you. [LB267]

SENATOR JOHNSON: Next, please. [LB267]

SUSAN HALE: (Exhibit 2) Senator Johnson, committee members, I'm Susan Hale. I'm a registered lobbyist for the Center for People in Need. We support LB267. I will speak to the effect of child care subsidies on employment and the costs to businesses when working parents cannot afford reliable, stable child care, which enables low-income parents to secure and retain steady employment. And parents with affordable, dependable care are less likely to face child care interruptions that can result in absences and other schedule disruptions in the workplace. There have been numerous studies on the relationship between child care assistance and employment which show that subsidies are associated with positive employment outcomes for low-income workers. Low-income mothers who receive child care assistance are more likely to be employed, to stay off welfare, and to have higher earnings. I relate the findings of just a couple of studies--my written statement includes others. Single mothers of young children who receive subsidies were 40 percent more likely to still be employed after two years, and former welfare recipients were 60 percent more likely to be employed after two years than those who did not receive subsidies. Subsidy recipients worked more hours, had higher incomes compared to mothers whose children were in nonsubsidized care. Subsidies were associated with a 50 percent increase in months worked, and over a 100 percent increase in earnings. Former welfare recipients with young children are 82 percent more likely to be employed after two years, if they receive help with child care. Employers also pay a price when parents do not have stable child care arrangements. In 1998 employee absences related to child care breakdowns were estimated to cost the United States businesses $3 billion. A survey of employees across multiple industries found that 45 percent of parents missed at least one day of work every six months, due to a child care breakdown; 65 percent are late to work or leave work early due to child care issues. Women who receive child care subsidies are 56 percent less likely to report work schedule problems, including having to change shifts or work schedules, reduce work hours, or work fewer hours than desired. In conclusion, child care assistance increases the likelihood that low-income parents will be able to secure and maintain stable employment, benefiting both workers and employers. Assistance reduces absenteeism and other workplace disruptions. Child care subsidies ultimately cost taxpayers less by moving families to self-sufficiency, rather than compelling them to seek full public assistance. Child care subsidies are a worthy public investment, and I urge you to advance LB267 for further consideration. Thank you, and I would like to hand in to you, as well,...I'm sorry. We are gathering names of organizations and individuals who do support this legislation. It's a list that we continue to add to, but I just want to provide you with our initial draft of some of the people across the state who support this legislation. Any questions? [LB267]

SENATOR JOHNSON: Excuse me. Any questions? I see none. Thank you. [LB267]

SUSAN HALE: Thank you. [LB267]

SENATOR JOHNSON: Next, please. [LB267]

SARAH ANN LEWIS: (Exhibit 3) Good afternoon, Senator Johnson, members of the Health and Human Services Committee. My name is Sarah Ann Lewis, L-e-w-i-s, and I am policy coordinator and registered lobbyist for Voices for Children in Nebraska. I'm here today in support of LB267, and I am also here to address the economic impact of child care to the state. I'm fortunate enough to be in a position to bring you some information from a final draft study from the University of Nebraska requested by the Early Childhood Interagency Coordinating Committee, who have yet to give final approval, entitled "The Economic Impact of the Nebraska Early Care and Education Industry." The board implication of the report is that the early care and education industry is a significant infrastructure for the Nebraska economy. The report finds that each one dollar from federal revenue Nebraska receives to support the early care and education industry leads to an additional 81 cents for our state's economy, due to the multiplier effect of additional jobs and earnings as money circulates through the economy. The total annual economic impact the industry has on Nebraska is approximately $241.1 million. The report estimates that an additional 2,500 single mothers are able to hold either part-time or full-time jobs in Nebraska due to child care subsidies. Finally, in respect of time, the report also finds that due to the labor force impact and the federal match for state child care and development fund program, Nebraska receives an additional $16-18 million in tax revenue. Because the early care and education industry as an infrastructure allows parents to work, children to thrive, and our state's economy to grow, Voices for Children in Nebraska urges you to support LB267. Thank you. [LB267]

SENATOR JOHNSON: You were very succinct. Good for you! Any questions? Thank you very much. [LB267]

SARAH ANN LEWIS: Thank you. [LB267]

SHANNA BELSCHNER: Senator Johnson, members of the committee, my name is Shanna Belschner, that's B-e-l-s-c-h-n-e-r. I'm a registered lobbyist for the Children and Family Coalition of Nebraska. I've actually been asked to relay some testimony for a couple of families in Kearney and some providers in the Kearney area--that's where I was raised--with regard to child care. I spoke with some providers in Kearney and I asked them, you know, if they worked with families who struggle with child care, providing child care for their families, and they said that some of the things that they see with families who struggle to afford child care, and those families in particular who kind of hover that 120 percent of poverty, some of the things that they have had to do to qualify for subsidies is sometimes quitting a job--maybe one parent quits a job--or taking

a lower-paying job so that they can qualify for subsidies. One family in particular--it's a two-parent family; dad isn't very present. He's not around much. Mom is a substitute teacher in the Kearney public school system. So her income kind of fluctuates, and she is the primary breadwinner for the family. So to make ends meet she will periodically work at the Red Lobster in the evenings, waiting tables to earn money. But when she's working a lot in the schools, she no longer qualifies. Her income no longer qualifies her for...if she has both jobs, she no longer qualifies for the child care. And since she has to have the child care at all times to be able to teach, she will quit the waitressing job so that her income then qualifies her again for child care subsidies. Another family in Kearney, very different story, a two-parent family with five children. Dad works at a factory in Kearney, and Mom used to work in a convenience store. They ultimately, because of their two incomes, they became ineligible at the 120 percent of poverty. So Mom had to quit, stay home with the five children. But for them, their family economic situation began to deteriorate with the single income. They ultimately had to move about 35 miles outside of Kearney to be able to afford housing. They rent--they actually don't own, and they can only afford one car, and so Dad uses the car, of course, to go to work, which means Mom is home with the kids full time in a rural town, not really able to, you know, get out, get the kids to soccer or hockey, what have you. And with this family you see more of, you know, Mom becoming depressed, situations arising in the home that weren't present before when day care was available, when it was an option for them, and they qualified. So as you look at this legislation, I hope that you will consider how this...how qualifying at the 120 percent of poverty is affecting families in parts of our state. And that's all I have for you. You have any questions? [LB267]

SENATOR JOHNSON: Any questions? [LB267]

SHANNA BELSCHNER: Thank you. [LB267]

SENATOR JOHNSON: Senator Stuthman. [LB267]

SHANNA BELSCHNER: Oh! [LB267]

SENATOR STUTHMAN: Thank you, Senator Johnson. Shanna, what would be the cost of day care for five children? [LB267]

SHANNA BELSCHNER: I know that the cost of day care for three kids is about $800 a month, so add two more... [LB267]

SENATOR STUTHMAN: Two more, so that... [LB267]

SHANNA BELSCHNER: ...and you're looking at over $1,000 a month. [LB267]

SENATOR STUTHMAN: So it would take a pretty good job just to justify that. [LB267]

SHANNA BELSCHNER: Um-hum. [LB267]

SENATOR STUTHMAN: But the situation that I think you're saying is, you know, the mother is home all alone with the child, but that it's creating an environment for her that she would like to do something else. [LB267]

SHANNA BELSCHNER: It is the effect that, you know, they're not able to afford a second car any more, but also they've, you know, they've encountered some debt. So a second income would allow them to address some of their financial needs better. [LB267]

SENATOR STUTHMAN: Thank you. [LB267]

SENATOR JOHNSON: Any others? Thank you. [LB267]

JIM CUNNINGHAM: Senator Johnson and members of the committee, good afternoon. My name is Jim Cunningham, and I'm the executive director and registered lobbyist for the Nebraska Catholic Conference, that's spelled J-i-m, C-u-n-n-i-n-g-h-a-m, appearing to testify in support of LB267, and I'll be brief with my remarks. If I could, I would take you all back to 1994 and immerse you in the debate that occurred over welfare reform. I experienced a lot of that. We were certainly watching that carefully and participating in some of the policy discussion that went on. It was a lengthy, intense, oftentimes emotionally charged debate. But I think that one thing that came out of all the debate that occurred at that time was that the real problem is not welfare, the real problem is poverty. And that led to a general agreement from all those who were involved in that debate and ultimately in the decision, that self-sufficiency is important, it's something to strive for, it's something that can best address the problem of poverty. And in order to make self-sufficiency work best, in order to make it a realistic goal and an effective approach, there is a need for supportive mechanisms, and one of the essential supporting mechanisms for that is access to child care. And so I realize that this particular bill does not address child care in the context of ADC, but it extends and expands the importance of child care as an effective support mechanism for those who are striving to achieve self-sufficiency. I think this bill is important because it enhances and seeks to sustain the effectiveness of self-sufficiency. We supported this bill in its previous form last year, LB1016, and have not changed our position on the measure. Thank you. [LB267]

SENATOR JOHNSON: Any questions of Mr. Cunningham? Jim, I see none. [LB267]

JIM CUNNINGHAM: Great, thank you. [LB267]

SENATOR JOHNSON: Thank you very much. Any other proponents? [LB267]

VICKEY COX: (Exhibit 4) Good afternoon, Chairman Johnson and HHS Committee members. My name is Vickey Cox, V-i-c-k-e-y, C-o-x. I support LB267. I'm here speaking from personal experience. I'm a single working mother of two boys, 19 and 12. I moved to Lincoln from Beatrice to secure more education and become better employed so I can support myself and my children. It has been a long, difficult, lonely road. Through my journey it often has seemed the harder I try the worse off I am. In 1997 I completed my education in legal assisting and got a job at the county court. I saw myself as finally being able to make it. I had far to go, but I could see a brighter future if I worked hard. The pay with the county court was very low, and I qualified for child care assistance for my youngest son. Without this assistance I could not have made it on my wages. Then in 2002 I received notification I no longer was eligible for child care assistance, due to the drop in the eligibility standard. I was scared. At my wages, how could I pay the full cost of child care, keep up with my bills, and make ends meet? There was no way. I found a better-paying job with the public defenders' office. Yes, of course, that was better, but it wasn't enough to meet my family's needs. And of course I was even further away from being able to get assistance with child care. For a while I managed to keep up with my monthly bills and pay the full cost of child care, but I had nothing left. No money for groceries, for gas for my car, clothing for my children or for myself. Haircuts were out, and there were times buying toothpaste and shampoo was very difficult. I had nowhere to turn. One of the worst days of my life was when I had to file for bankruptcy. Like many families needing work support, I also contend with the unexpected and the painful, problems with my sons that made things even worse. My older son was diagnosed with autoimmune hepatitis. He had to have a special diet and prescribed medications. Although I had insurance coverage, there was a lot of out-of-pocket medical and other expenses. My already strained budget was unraveling. Then my younger son Erik developed serious behavioral disorders. As a parent, this is one of the most devastating things to endure. Erik is diagnosed with bipolar disorder, attention deficit hyper (sic) disorder, ADHD, oppositional defiant disorder, ODD, and possible post-traumatic stress syndrome. Coping with my son's disorder and diagnosis was painful, and it created additional barriers. Because of Erik's behavioral disorders, I had problems trying to find a placement for him when he wasn't in school. He was actually kicked out of day cares because they did not have the trained staff to deal with him. There was only two behavioral centers in Lincoln, and he was kicked out of both of them, due to his aggressive behaviors. I applied for and was granted family medical leave so I could leave work early to care for my son after school, on nonschool days, and during the summer. My work hours and income decreased significantly and my bills piled up. In August, 2004, I had to quit my job altogether. This was so painful, but I had no choice. I couldn't make it, and I couldn't afford to work. In January, 2005, I got Erik--my son with the behavioral disorders--into a newly opened behavioral day care and received subsidies for his care. This specialized care is even more expensive than general child care. Because I no longer was working I could get Title XX child care subsidies. If I had been working full time, I would have not received no assistance, and

after paying for his care, I would not be able to pay the rent, utilities, maintain my car, buy clothes and food, and meet all my other daily and basic needs. I should note that my sons' fathers have not been responsible. I am owed $23,000 in child support. Obviously, if I had been receiving the child support over the years, or even could collect it now, my life would be very different. Prior to 2002, I believed I could move out of poverty. I was determined to overcome the obstacles. I believe that if I worked hard and built my skills and knowledge, I would become self-sufficient. I knew it would take time to get there, and child care subsidies was absolutely essential for my efforts. While the eligibility standard was dropped, my hopes faded and my dreams became nightmares. What would I do, and how would I manage? And with the additional barriers of my son's physical and behavioral problems, the path to the future seemed to narrow even more. When I could no longer receive subsidies, it was like someone knocking me back, saying my efforts were irrelevant. I played by the rules. I go an education. I worked. And I was building for my future and my children's future. I admit to feeling like I was being punished for trying to do the right thing and improve myself and build a decent life for my children. The child care subsidy program is needed. It helps lead families to success. It helps parents to be good role models for their children. It gives people the courage and the ability to move forward. It is a boost to self-esteem and helps a person feel like they're worthwhile and able. It gives strength to people who cross over the barriers faced along the way. I urge you to advance LB267, so hard-working, low-income Nebraskans can move to self-sufficiency and become good providers for their family. I thank you for your time and your attention. [LB267]

SENATOR JOHNSON: Any questions? Senator Stuthman. [LB267]

SENATOR STUTHMAN: Thank you, Senator Johnson. I sympathize with you, very much so. [LB267]

VICKEY COX: Thank you. [LB267]

SENATOR STUTHMAN: My question doesn't totally pertain to this child care part of it, but aren't there methods in place for getting child support payments from these deadbeat fathers? [LB267]

VICKEY COX: My older son's father, yeah, has gotten to the point where they were going to revoke his license, so that...he's living in Texas. So the laws from Nebraska and Texas were hard to get them to try to pay. My younger son's father currently is serving a year in jail up here for beating up his girlfriend, so that money may take quite awhile for me to see. [LB267]

SENATOR STUTHMAN: Okay. Thank you. [LB267]

SENATOR JOHNSON: Yes sir, or yes ma'am--excuse me. (Laughter) [LB267]

SENATOR HOWARD: How soon we forget! [LB267]

SENATOR JOHNSON: Senator Howard. [LB267]

SENATOR HOWARD: Thank you, Mr. Chairman. When you were receiving the subsidy, were you ever on an arrangement where you were paying part of the cost of day care, and a part was reimbursed? [LB267]

VICKEY COX: Um-hum. I was paying... [LB267]

SENATOR HOWARD: What I'm envisioning was that...were you graduated off of that in some fashion? [LB267]

VICKEY COX: When I just graduated from getting my legal assisting degree and I started with the county courts, I was paying the sliding scale fee, and then the state was picking up the rest. I was slowly having that amount decrease, you know, that the state would pay,... [LB267]

SENATOR HOWARD: Right. [LB267]

VICKEY COX: ...and my portion was increasing. And then the change came, and then I was totally knocked off. [LB267]

SENATOR HOWARD: Okay, thank you. That's kind of how I would envision it working, and... [LB267]

VICKEY COX: Um-hum. Yeah, and it was an unexpected. (Laugh) [LB267]

SENATOR HOWARD: So you were at a point where you were working your way off, because you were paying more, the state was paying less,... [LB267]

VICKEY COX: Right. [LB267]

SENATOR HOWARD: ...and then you had to deal with the entire amount. [LB267]

VICKEY COX: Right, then it was a big change. It was several hundred dollars added onto my monthly expenses. [LB267]

SENATOR HOWARD: Did you stay with the day care, or did you find a cheaper day care? [LB267]

VICKEY COX: I stayed with that day care for a while, but I did eventually have to look

for other facilities for my son. [LB267]

SENATOR HOWARD: And would you have rather stayed with the one you had originally, rather than... [LB267]

VICKEY COX: Yes, because they knew him, instead of him having to start all over and me start all over with the staff. [LB267]

SENATOR HOWARD: Right, and he felt secure there, and... [LB267]

VICKEY COX: Yes. [LB267]

SENATOR HOWARD: Okay. Thank you. [LB267]

VICKEY COX: Um-hum. [LB267]

SENATOR JOHNSON: Other questions? Seeing none, thank you. [LB267]

VICKEY COX: All right. Thank you. [LB267]

SENATOR JOHNSON: Any other...we have others besides this person? Okay. I would caution you that I am going to start getting mean. (Laughter) [LB267]

KATHY NIELSEN: (Exhibit 5) Uh-ah, just as I come up, huh? (Laughter) [LB267]

SENATOR JOHNSON: Yes, I saw you and I...but please, please, have consideration for the people behind you. We want you to, you know, express the problems that you have, but remember to be nice to the people and the following bills. Thank you. Go ahead. [LB267]

KATHY NIELSEN: Senator Johnson and Health and Human Services Committee, my name is Kathy Nielsen, K-a-t-h-y, N-i-e-l-s-e-n. I currently reside in Lincoln, Nebraska, and am a single mother of four children. I am here today to share my personal story to validate much of the information already provided and to support LB267. And I wanted to present not only a perspective from working in Lincoln, but also a rural perspective as well, too, and you'll see from my story here. I grew up in a small rural community here in Nebraska. Following a childhood of adversity and poverty, I ended up in a marriage of much the same at a very young age, just north of where I grew up. Eight years later, when I developed the courage to end the very unpleasant marriage, I was faced with obviously the harsh realities of raising children, four children, on my own, both parentally and financially. My ex-husband became very spiteful and decided not to contribute to the children's welfare at all, and I knew it was up to me. I continued to work at the county courthouse for about six months following my divorce, and...but with much

financial struggle. Obviously, I made about...oh, it was between about $6 and $7 a hour then. This is back in '90, okay? It was actually, like you said, but my day care costs were over half of my paycheck. I made about $50 too much to qualify for any assistance, which only left less than $500 to pay for rent, food, utilities, clothing, transportation. Although humiliating, I was forced to turn to public assistance, obviously better known then as welfare, but not wanting to bring my kids up on welfare all their life and bring them up in that environment, and at the suggestion of my case worker, I decided to move to Lincoln to go to college to upgrade my employment opportunities so I could support my children on my own. Two years later I graduated with an associate's degree. Realizing that that was not going to be enough to support my children I went on to get my bachelor's degree. Well, after I finished my studies I looked really long and hard to find a job that was going to help me to support my family. But unfortunately, due to the lack of experience and living wage jobs at the time, I ended up accepting a position as an assistant to the director of a local agency--again, a fairly good job for the area. I made about $11 an hour, almost doubled my income then, but still was not enough to support my family. I needed at least $30,000-$35,000 to cover just basic living expenses, and I know today it's a lot higher than that, which was nearly double the federal poverty level at the time. While I was fortunate to have three of my kids in school at the time, I was faced with a child care bill of over $1,000 a month, and my net income was about $1,500. Once again, I made a little bit too much to qualify for child care assistance and I was left with only $500 to pay for rent and utilities--right back where I was before. I truly felt, like Vickey said, that I had been punished for my hard work, for getting a good education and for working, and I had been set up for failure. Not wanting to jeopardize my children's welfare by leaving them alone or putting them in substandard care, I was forced to turn to public assistance again, which only prolonged my ability to achieve self-sufficiency. My education and job experience eventually led me to a very successful career with the largest business consulting firm in America for small businesses, and have been self-sufficient for over a decade now. I would never have been able to achieve this success if it hadn't been for the programs and services, the education, while was attending college, such as child care subsidies, Medicaid, housing assistance. These services were a bridge to a brighter and better future for my children, but it also gave me the ability to finally transcend from a lifetime of adversity and poverty, to owning my own home for the last seven years, to putting kids through college with not federal or state aid, and to paying more taxes on an annual basis than I made in a whole year previously, and more than the annual median income here in Nebraska. And from...obviously from a business standpoint, that's a pretty good return on investment. And unlike most people who complain about the taxes they pay, I am very proud and thrilled to be paying these taxes. The most significant outcome that I really want emphasize today is the growth and the development and the advancement of my children. Due to the services they received at an early age, from quality child care to access to healthcare, to food and nutrition, and safe housing, and having a parent that could model a good work ethic, and the importance of education, they have all accomplished high academic excellence, have self-imposed goals for high

achievement, excellent work ethics, are very responsible citizens, are leaders and role models in their communities, and are very actively involved. My oldest son at the young age of 23 is running his own business; my oldest daughter, who was Miss teen Nebraska for not only her academic excellence, but her leadership and contributions to the community, and she is now a junior at one of the most prestigious colleges in the country, Vanderbilt University; my son who is a freshman at the University of Nebraska received one of the highest awards in football for his excellence in character, leadership, and having a positive attitude in the game of life; and my youngest daughter who is still at home, is definitely following in the other siblings' footsteps, and is on track to be one of the best female athletes in the state. This investment in my children can only be measured over a lifetime. My story is only one of many and hopefully exemplifies that success and self-sufficiency does not happen overnight, and that a little investment now will return back to the state tenfold. Therefore, we really must alter our thinking and realize that in order to address the problems faced by Nebraska families today and their children, we must look to the root of the problems before we can derive long-term positive solutions. As Jim Cunningham mentioned, the root is poverty, and I lived through it and I know. It is imperative that we take long-term, preventative, proactive approaches and address our children's problems at an early age, rather than reactive approaches, because then we are only addressing symptoms of the problems. Doesn't it make sense to reward parents for working hard and getting a good education and protecting the future generation of our state, rather than punish them, set them up for failure, and wait for them to fall before we help them? I urge you to support LB267 and consider it an investment and a long-term strategy for the economic well-being of Nebraska, our families, and to strengthen the core of Nebraska's future--our children. Thank you. [LB267]

SENATOR JOHNSON: Any questions? Senator Stuthman. [LB267]

SENATOR STUTHMAN: Thank you, Senator Johnson. Kathy, first of all I want to commend you for your success. [LB267]

KATHY NIELSEN: Thank you. [LB267]

SENATOR STUTHMAN: You're probably one of the few that have accomplished that, and I really respect you for that. [LB267]

KATHY NIELSEN: Actually, I could give you a lot of good examples of... [LB267]

SENATOR STUTHMAN: But you know, there are a lot of them that give up... [LB267]

KATHY NIELSEN: Oh, yes. That's... [LB267]

SENATOR STUTHMAN: ...and are an expense. [LB267]

KATHY NIELSEN: Oh, believe me, there was times I wanted to give up, and I almost, you know...you just about crack a few times, you know? (Laugh) [LB267]

SENATOR STUTHMAN: Yes. But you know, and I truly support, you know, what you have done, what you accomplished, but I've always had the problem with, you know, you earn a little bit more, they take more away. [LB267]

KATHY NIELSEN: Exactly. [LB267]

SENATOR STUTHMAN: And that is a real problem for me, so thank you for your comments. [LB267]

KATHY NIELSEN: Thank you for your comment. [LB267]

SENATOR JOHNSON: Any other questions? Senator Howard. [LB267]

SENATOR HOWARD: Well, I agree that you've certainly achieved a great deal, and I would agree with you also, that there are...you're not alone, that there are others that have achieved, and the stereotype of people remaining on welfare for a lifetime is over. That is past. People are encouraged to work; as a matter of fact, it goes beyond encouragement. People are put in a position where they have a time-limited opportunity to be the safety net, and then it's real...the expectation is employment. So I really appreciate you coming here as an example of what good can be done from this program. Thank you. [LB267]

KATHY NIELSEN: Thank you, thank you. [LB267]

SENATOR JOHNSON: Any others? Seeing none, thank you. The last person took ten minutes. I would hope you would use three. [LB267]

CAROLYN EDWARDS: (Exhibit 6) Hello, Senator Johnson and committee, my name is Carolyn Edwards, C-a-r-o-l-y-n, E-d-w-a-r-d-s, and I teach at the University of Nebraska in psychology and family consumer sciences, and I promise I am not going to give you a 15-minute lecture, but rather two or three minutes, max. I want to... [LB267]

SENATOR JOHNSON: Thank you. Really,... [LB267]

CAROLYN EDWARDS: Hm? [LB267]

SENATOR JOHNSON: ...I hate to interrupt, but please, please make your testimony brief. [LB267]

CAROLYN EDWARDS: Um-hum. [LB267]

SENATOR JOHNSON: I know this lady will, but you are being very disrespectful to the people behind you when you read three- and four-page letters. Please make your testimony succinct. I repeat that over and over again. Please do that. Now thank you, and go ahead. [LB267]

CAROLYN EDWARDS: I want to speak about the effects of quality child care, and especially poor quality child care on children, because one of the purposes of the subsidy proposal is to improve...give kids access to decent quality child care. I was part of a study called the Midwest Child Care Research Consortium, and in 2001, we assessed child care all across Nebraska, and we found about 20 percent of it is poor quality, about a third is good quality, and the remaining, say half, is minimal quality. So what's the effect of the poor and the minimal quality on kids? In some ways it's obvious, because for example, just to think about what the scales tell you, if you're in a poor quality center, your staff member would be unresponsive or ignoring of children. In a good quality center, you have someone who enjoys children and listens attentively, makes eye contact, treats them fairly. If you're in a poor quality center, one or two, there may be no learning materials at all, in six or seven, there may be blocks, sand, games, and so on. The same is true of parent involvement. It just seems obvious that the developing brain benefits from being in a place say, with a wide selection of books and teachers who actually read them to you, versus being in a place with no books and a staff who does not read to children. So let me just very, very briefly give a couple of highlights of what findings are. In terms of health and safety, when you're in poor quality child care with low standards of hygiene, children get sick more, they get infectious diseases more from the inconsistent hand washing and cleaning of tables and toys. They also have more medical injuries because of the broken equipment and playing on equipment that does not have any type of padding underneath it. What about their behavior? The short-term outcomes are that in poor quality care children are unhappy, they tantrum, they cry, they get angry, they withdraw. They play in a simple way, they wander around aimlessly, they're apathetic, and they're distressed. They perform worse on standardized cognitive and language tests. So actually poor quality care actually reduces their learning and their potential from what it would be if they were in, you know, some other alternative. They have less general knowledge, they have smaller vocabularies. The long-term effects you've probably heard in the past about, so I'm only going to tell you about one thing. There is a longitudinal study called the NICHD study, and it's been looking at language and cognitive impacts of good child care on children versus medium and poor. And they also did a parallel study of home environments, the impact of poor quality home environments versus minimal or good. They found out that the child care had about half the impact on the children that the family environment has. So the family environment, of course, is more important, but the child care actually contributed half of that very variance, as well. They also looked at what would be the effects on children if you could move them from being in child care at that bottom poor

end, up to being at the top end, and they found that the shift from the lowest up to the good would result in improvement, relative to the mean of kids--in other words, if...sort of like the distance between where they are at the bottom, and where they'd be at the mean--that getting them...improving their child care up to good would take them about 50 percent of the way, in terms of language and learning. So it actually makes considerable difference for kids to be in good versus the bottom part of child care. That's all I'm going to tell you. Thank you very much. [LB267]

SENATOR JOHNSON: Thank you. Don't go away just yet. [LB267]

CAROLYN EDWARDS: Okey-dokey. [LB267]

SENATOR JOHNSON: Any questions? I see none. [LB267]

SENATOR PANKONIN: I just have one. [LB267]

SENATOR JOHNSON: Woop, there we go. Senator Pankonin. [LB267]

SENATOR PANKONIN: So are you in favor of this bill, or not? [LB267]

CAROLYN EDWARDS: I am in favor of this bill, because I think that subsidies are a way to get children to child care, but it's also a way to get them to ones that...the places that take subsidies tend to be of better quality, and you can regulate which of the child cares they go to. So instead of, let's say that mother with the five desperate kids, just finding some inadequate place for minimal, you know, to put them in, that's probably going to hurt them even more, she can put them in a regulated child care that could be of, you know, benefit to them. [LB267]

SENATOR JOHNSON: Thank you. [LB267]

CAROLYN EDWARDS: Yeah. [LB267]

SENATOR JOHNSON: I don't see any others. Thank you very much. [LB267]

KATHLEEN STOLZ: (Exhibit 7) Senator Johnson and members of the committee, my name is Kathleen Stolz, it's S-t-o-l-z. I am with the Foster Care Review Board, and I'm here in support of LB267. I'll just be really, really brief with my comments. I just want to let you know that 64 percent of the kids that enter foster care enter because of neglect, and a subsection of those people or those children are the children who are left at home alone, or with inappropriate caregivers, while their parents are at work. And some of these kids were injured, and several of them died because of this, because they were left alone or with somebody else. And I've highlighted two of those deaths for you. I just think that if we could make affordable child care available and subsidies to fill in for

some of these families so they don't have to make the difficult choice about whether to go to work to be able to feed their family and leaving their kids alone, or with a boyfriend who is a sex offender or who is high on meth, that you know, if we could fill those in, less kids would be injured, less kids would die, and it certainly would be less costly for the state as far as foster care. I also put in here some information from the Child Death Review Team. That team reviews all the children's deaths, and in 2003 and 2004, 28 children died as a result of child abuse and neglect, and some of those were because they were left home alone, and because they were left with inappropriate caregivers. Two of the recommendations...there were 27 recommendations that came out of this death review team, and two of them were relating to child care. One of them said never leave a child in the care of someone who is abusing drugs, especially methamphetamines. The second one was young children should never be left alone. Those are great recommendations, but we've got to give families resources so that they don't have to make these difficult choices in order to do this. We have a lot of moms who come to our board meetings whose children are in foster care because they were left with an inappropriate caregiver, and their response is, you know, it was free. I need to go to work. I need to...you know, I can't get public assistance anymore, and you know, at least somebody...I left my kids with somebody. I didn't leave them alone. So I would entertain any questions you might have. [LB267]

SENATOR JOHNSON: Thank you. Any questions? Seeing none, thank you very much. [LB267]

KATHLEEN STOLZ: Thank you. [LB267]

SENATOR JOHNSON: Any other proponents? You scare me to death! (Laugh) [LB267]

CECILIA OLIVAREZ HUERTA: Oh no, I don't want to scare you. (Laugh) No, no. Senator Johnson, my name is Cecilia Olivarez Huerta, that's C-e-c-i-l-i-a, O-l-i-v-a-r-e-z, H-u-e-r-t-a. I'm the executive director of the Mexican American Commission, and I just wanted to give you a couple of statistics here. In Nebraska, 56 percent of Latino children are living in low-income families, which is 6 percent higher than the national rate, at 50 percent. By 2030, the overall population will be made up more of 22 percent of children under age five. In order for a two-parent family with two children, each parent would need to make up at least...would need to make at least $10 an hour for the family to be self-sufficient. In order for this to occur, they would need some additional assistance with child care. And those are my comments, and I support the bill and hope that you also will support the bill. Thank you very much. [LB267]

SENATOR JOHNSON: Hold on one second, Cecilia. Any questions? Thank you very much. [LB267]

CECILIA OLIVAREZ HUERTA: Thank you. [LB267]

SENATOR JOHNSON: Any other proponents? Any opponents? One. Any others? [LB267]

BETTY MEDINGER: (Exhibit 8) I have some handouts. [LB267]

SENATOR JOHNSON: And I think it's safe to say that we should allow you a little time, so go right ahead. [LB267]

BETTY MEDINGER: Okay, I'll still be quick. Good afternoon, Senator Johnson and members of the committee. My name is Betty Medinger, M-e-d-i-n-g-e-r, child care administrator in the Office of Economic and Family Support, Department of Health and Human Services. I'm here to testify in opposition to LB267. You're getting a handout on my testimony, so I'm going to skip down a little bit, because I think they've covered in the proponents on explaining the bill and how that works. And I'm going to begin reading on about the third or fourth paragraph. For a family of four not transitioning from assistance, this increase in eligibility moves the annual income from $24,000 up to $37,008. For your convenience I've included a handout of the sliding fee chart currently used by HHS to calculate the family's share of expenses according to income guidelines and the number of children in the home needing child care. Increasing eligibility from 120 percent of the federal poverty level to 185 percent for all families would require additional appropriations which have been estimated at $5,647,406 in state fiscal year '07-'08, and $5,760,354 in state fiscal year '08-'09. A more detailed analysis of those calculations is provided in the HHS fiscal note. In difficult fiscal times we offer our assistance to the most needy in our state. Approximately 17 other states have opted to carry higher thresholds of eligibility, yet they have extensive waiting lists. For example, California has their cutoff at 211 percent of the federal poverty level, yet it is estimated they have 280,000 eligible children on waiting lists, receiving no services. Maryland's cutoff is at 181 percent of the federal poverty level, yet they have 19,674 children on a waiting list. We would have to look at a number of cost reduction strategies that would, in fact, have a negative impact for the client, the provider, and the overall early care and education system as a whole if such legislation passed without sufficient appropriation. At the same time, we operate no waiting list and we serve all eligible families. We prioritize families receiving TANF assistance and those transitioning off TANF are allowed a higher eligibility threshold for the two years following assistance, so that they can have a greater chance of continuing self-sufficiency. Other pressures continue to exist for balancing the child care budget even at the current level. Rates must be adjusted periodically to account for changes in the market, the quality of child care, which is important as well, demands some resources to support, and changes to federal TANF regulations and related work requirements impact the need for child care and place demands on both family and state finances. State General Funds are increasingly needed to support the child care program, while federal funds have not made sufficient changes to keep up with demands. These funds are capped and additional state dollars

do not result in more federal funds. Our Governor is interested in holding the line on spending; expanding programs is contrary to that goal. HHS is concerned about maintaining a tight budget in tight economic times, and for this reason, we testify in opposition to the bill. Thank you for the opportunity to testify, and I will be happy to respond to any questions you may have. [LB267]

SENATOR JOHNSON: We have one from Senator Howard. [LB267]

SENATOR HOWARD: Thank you, Senator Johnson. Betty, I haven't seen you in a month of Sundays. (Laugh) [LB267]

BETTY MEDINGER: It's been awhile. [LB267]

SENATOR HOWARD: You brought up a point that I was going to ask Amanda, but I think you would probably be the person with the knowledge on this. You referred to the federal dollars that are available. What percentage of this cost--and you've quoted in excess of $5 million--what percentage of that is in federal dollars? [LB267]

BETTY MEDINGER: None would be in federal dollars, really. Right now our current budget is $69,465,692, and the federal portion is $32 million-plus, and the state portion of $37 million-plus. [LB267]

SENATOR HOWARD: That's currently. [LB267]

BETTY MEDINGER: That's currently. [LB267]

SENATOR HOWARD: So you're projecting by increasing this, the state's portion would be $5 million? [LB267]

BETTY MEDINGER: Yes. [LB267]

SENATOR HOWARD: I wonder why there's such a disparity between the amount that Senator McGill brought in, which was $3.5 million. Do you... [LB267]

BETTY MEDINGER: You know, I don't know. We talked about this last year when LB1016 was up, and brought our fiscal analysts together with Liz for fiscal analysis, and they just couldn't agree. So we have two fiscal notes, and somewhere in there lies the truth, we hope. It's hard to estimate how many people will come back in, and I'm not going to try to do that, because that's not my expertise, but. [LB267]

SENATOR HOWARD: Okay, so you would project between $5 million and $3.5 million, somewhere? [LB267]

BETTY MEDINGER: Right, somewhere in there, probably. [LB267]

SENATOR HOWARD: Okay. Thank you for the clarification. [LB267]

BETTY MEDINGER: Sure. [LB267]

SENATOR JOHNSON: Very good. Thank you. Any other questions? Betty, thank you very much. Any other opponents? Any neutral testimony? Seeing none, do we have someone to close? There's Amanda right there--great--hiding behind the chair. [LB267]

SENATOR MCGILL: I was going to waive for the sake of time, but I can answer that question for you, and it does deal with the discrepancy in how many people would be coming on board with this program. The legislative Fiscal Office takes a look at how many families are currently below that 120 percent level in comparison to what they were in 2002, when the funds were cut. There are less people right now who are on...who are below that 120 percent, and so they estimated it by taking a percentage of, you know, it was 1,500 and some kids before. The percentage that were cut were 37 percent. So when you look at the 800 and some children that are still on the program now and do a percentage of okay, what would the other percentage be, based on those other numbers, they came up with this $3,600,000 number. Health and Human Services assumes the exact same amount of kids in their numbers who would be coming back on board, as were left before, which would be a higher number in this case. And so, the truth may be somewhere in the middle, but we're looking at the lower note, as looking at the percentage, as opposed to the exact same numbers coming back on board. In relation to the fiscal note, I also just want to point out before I finish that right now the system isn't encouraging people to ease off the system. If they get a raise or a promotion, many women are turning it down when we want them to be continuing to grow and furthering themselves in the company and her position. And right now, the drop-off, that raise that may be a dollar an hour or what-not, won't cover the cost of the child care they're going to have to pick up. And so this is a way to actually them to ease off the system, instead of them having to take the larger subsidies from us all the time, perpetually. That's all I have, unless you have any further questions. [LB267]

SENATOR JOHNSON: Any other questions? Seeing none,... [LB267]

SENATOR GAY: Senator, I'm sorry. I did have a question. [LB267]

SENATOR JOHNSON: Oh, I'm sorry. I didn't see you there. Senator Gay. [LB267]

SENATOR GAY: No, that's fine. I was late (inaudible). The...you're saying they'd pass up a raise... [LB267]

SENATOR McGILL: Yeah. [LB267]

SENATOR GAY: ...because it will be taken away, I assume, in the system, and I'm no expert. [LB267]

SENATOR MCGILL: Yeah. Their child care. Child care for them, $500 a month. If their raise is only $175 a month, then that's a huge discrepancy in how much they would then have to be covering on their own, whereas maybe if there was this larger sliding fee scale, then we'd still be giving them some assistance for that, instead of taking it all the way. [LB267]

SENATOR GAY: Okay. So I guess when that's proposed, that's just the law. It's like you're going to scale it, according... [LB267]

SENATOR McGILL: Um-hum. [LB267]

SENATOR GAY: ...and I apologize. I was testifying... [LB267]

SENATOR MCGILL: Yeah. All of these people that I'm looking to include would be on a...would not be receiving full child care paid for. It would be a... [LB267]

SENATOR GAY: Right, a portion? [LB267]

SENATOR McGILL: Yeah. [LB267]

SENATOR GAY: So that regressive...it's regressive, then, on the sliding pay scale (inaudible). Is there something that can be...you know, is this the answer to that? I mean, I agree. Everyone would want them to continue to promote their careers, and... [LB267]

SENATOR McGILL: Um-hum, um-hum. [LB267]

SENATOR GAY: ...that's what we all want. But is there...is this the best method to do that, in your view? [LB267]

SENATOR MCGILL: I think it's a method that...yeah, and it's something that was in place before and then was suddenly cut, and without any discussion in a committee like this, it was suddenly cut in a special session, so. [LB267]

SENATOR GAY: Okay, thank you. [LB267]

SENATOR McGILL: All right. [LB267]

SENATOR JOHNSON: We ran into a similar thing for medications for mentally ill people

as we toured the state this last year, and there's lots of federal complications with that. But we came to the conclusion that, you know, the biggest problem was the sliding scale, that you destroy the incentive to do things because of how the sliding scale was put together, more than anything else, so anyhow, thank you very much. [LB267]

SENATOR MCGILL: All right. Well, thank you very much. [LB267]

SENATOR JOHNSON: And that closes the door on LB267, and thank you all for coming. (See also Exhibit 9) Next is LB326. Senator Flood is not available, and therefore, I am elected to be Senator Flood. (Laughter) Senator Howard, you want to be in charge here? [LB267 LB326]

SENATOR HOWARD: Oh, that's an exercise! I would not want to take the honor from...(laugh). [LB326]

SENATOR JOHNSON: Oh, I didn't see...I'm getting...it's getting late in the day. Senator Gay. [LB326]

SENATOR GAY: Thank you, Senator Johnson. She'd do a fine job anyway, but go ahead, Senator Johnson. [LB326]

SENATOR JOHNSON: Well, Senator Gay and members of the committee, I am representing Senator Mike Flood. LB326 is brought to this committee at the request of the Governor. Senator Flood is not available and therefore, as Chairman of this committee, I appear before you. Let me just briefly read what this bill is about. LB326 is a bill that eliminates the coverages of services of legal, permanent resident aliens. Let me repeat that. The bill eliminates the coverage of services for legal, permanent resident aliens who have entered the country after August, 1996, and have not been in the United States for a minimum of five years. The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 eliminated federal funding for these types of aliens until they have been present in the United States for five years. The Nebraska Legislature enacted legislation, LB864, in 1997. It extended benefits to these persons with the state General Fund dollars, since federal funds were prohibited. The bill also eliminates state-funded food stamp assistance for non-United States citizens. I would ask that you proceed to the representatives behind me, and then perhaps we could get into a discussion later. [LB326]

SENATOR GAY: Thank you, Senator Johnson. Just real quick, the day is getting late, how many proponents on this? One. How many opponents? Okay. Senator Johnson alluded to, several times, five minutes and not be repetitive would be very helpful. We do have another bill after this, as well. So if we could stick to those guidelines. Erin, could you help, too, as far as when we get to one minute left of your five minutes, I'll have Erin just let us know where you're at, so you can help us out with that. Thank you.

[LB326]

SENATOR JOHNSON: Senator Gay, I think that actually under these circumstances, that the rule has been kind of to let the representatives of the Governor go 10 minutes or longer. [LB326]

SENATOR GAY: Oh, okay. Thank you very much, Senator Johnson. We'll abide by that, then. Sorry, Chris. [LB326]

CHRIS PETERSON: (Exhibit 1) Thank you. Good afternoon, Senator Gay and members of the Health and Human Services Committee. I'm Christine Peterson, P-e-t-e-r-s-o-n, chief administrative officer of the Nebraska Health and Human Services System, and I am appearing today on behalf of Governor Heineman. LB326 is included in the Governor's budget recommendations. Throughout the budget process we have reviewed programs to determine efficiencies, especially in areas where we participate in funding with the federal government. Specifically, LB326 would amend parts of state statute Section 68-1070, to curb state spending and also align Nebraska law with federal law regarding public assistance coverage to certain non-United States citizens. We have included in your packet of information a chart that shows various public assistance programs for which immigrants are currently available, and that is the matrix that you have at the end of the testimony. LB326 does not impact immigrants who are eligible for federally funded services--the refugees. Immigrants who will continue to receive benefits are refugees, "asylees," Cuban/Haitian parolees, Amerasians, battered spouses and children, active duty military, veterans and dependents. So if you look at the first sheet of your chart, as you read across, it explains what the program is, which is Medicaid--provides medical care for low-income, 65 or older, blind, disabled, children, caretaker relatives, women with breast or cervical cancer. Under the regular population requirements, they must meet the income and the eligibility guidelines. The eligibility are those populations that are identified already, that I just went through. Children born in the USA to noncitizen parents are eligible. So if the child is with either a...anyone of the exempted populations here or a lawful permanent resident, they are automatically a U.S. citizen; obviously, they're born here and they're entitled to the programs. Does it provide medical care for the unborn child? Yes, it may include prenatal delivery and postpartum care. Qualified aliens, lawful permanent residents, refugees, "asylees," and so on, as I mentioned. Then when you get down to the bottom and you see the coloring, the first five years are paid for by General Funds for lawful permanent residents entering after 1996. That does not mirror federal law. The authority cites the federal statutes. And then undocumented aliens are not eligible if they are undocumented, tourists, visitors, diplomats, students, and so on and so forth. It tells you that for the programs that this bill would encompass--Medicaid, AABD, which is Aid to the Aged, Blind, and Disabled, food stamps, and then on the last page is the ADC or the Aid to Dependent Children program. You will see reference in the chart to lawful permanent residents. If lawful permanent residents have been in the country for over five years, they will

continue to receive benefits under LB326. If they have been in the country for less than five years, they will not. Let me explain further. Federal law bars lawful permanent immigrants from receiving federally funded assistance until the individual has resided in the United States for five years. This impacts those who entered the country legally after August 22, 1996, to work. Our review of the federal law indicates that this is based on the principle that lawful permanent immigrants, particularly newly arriving ones, should not depend on the government for assistance but should rely instead on their own efforts, and on the support of the sponsors that helped bring them into the country. Currently, Nebraska statutes do not bar, but rather mandate that state-funded public assistance is provided to certain lawful permanent immigrants, regardless of their entry date into the United States. Because they are not eligible for federally funded assistance, this is paid for entirely with state General Funds. The state-funded public assistance is in the form of Medicaid, Aid to Dependent Children, Aid to the Aged, Blind, and Disabled, and food stamps. Nebraska does not provide these programs to illegal immigrants. For state fiscal year 2006, a total of 700 lawful permanent residents received this assistance. The annual cost of this assistance, financed entirely by the state, is $2.96 million. Nebraska has been one of approximately 23 states to provide state-only funded Medicaid, and one of only seven states to state-only funded food stamps to these individuals. LB326 would end state-only funded public assistance coverage for lawful permanent residents who have not yet resided in the country for five years. This would also align Nebraska statutes with federal law by mandating that Nebraska provide coverage only to individuals for whom coverage is mandated under federal law. Historic state spending growth in Nebraska's Medicaid program has increased on an average annual basis greater than 10 percent. Public assistance programs have increased at an annual rate greater than 7 percent. Our efforts to control spending growth require us to prioritize and make very difficult decisions regarding the financing of programs, and I urge your support of LB326 and would be glad to try to answer any questions. [LB326]

SENATOR GAY: Thank you, Chris. Any questions from the committee? Senator Howard. [LB326]

SENATOR HOWARD: I'd like some clarification. I understand what's included at this time, but if this were enacted into law, would this mean that there would be no prenatal services, and no birth and delivery services, and no services for medical services for young children, for these individuals that you're referring to? [LB326]

CHRIS PETERSON: Senator, excuse me just a minute. I'd have to ask...I'd have to find out about that one. That was a question we did not look into, but I'll find out for you. In fact, Mike might have an answer before we leave the hearing. [LB326]

SENATOR HOWARD: Thank you. [LB326]

CHRIS PETERSON: Um-hum. [LB326]

SENATOR GAY: Thank you. Other questions? It looks like there are none at this time. Thank you. Any proponents? We will ask for opponents to LB326. Can you hold on one minute? [LB326]

REBECCA GOULD: Um-hum. [LB326]

SENATOR GAY: Go ahead and state your name. [LB326]

REBECCA GOULD: (Exhibit 2) Good afternoon. My name is Rebecca Gould, G-o-u-l-d. Mr. Chairman, members of the committee, I'm a staff attorney at the Nebraska Appleseed Center for Law in the Public Interest. Over the past ten years Nebraska has seen a significant demographic change in the makeup of our communities. There's been an increase of new immigrants that have come to Nebraska, helping to boost our population and revitalize some of our rural communities. This is not a new phenomenon; many Nebraska towns were settled by immigrant communities who came to this country to better their lives and provide economic opportunity for their families during earlier waves of immigration. The economic contribution of these newcomers to our local economies has been significant. In many communities, legal immigrants are the backbone of our labor force. Making the cuts in public programs proposed by LB326 would endanger the health and well-being of these workers and their families. It would also shift and increase costs, rather than saving money. It is important to note that the Medicaid Commission that's been overseeing the welfare reform process did not recommend these cuts as something necessary to stem the growth of Medicaid spending. Who does LB326 hurt? LB326 eliminates eligibility for food stamps, Medicaid, Aid to Dependent Children, cash assistance, and assistance to the aged, blind, and disabled for qualified immigrants who have been in the country less than five years. Qualified immigrants are legal immigrants, and the vast majority of them are legal permanent residents. A legal permanent resident is simply somebody who is legally admitted to reside permanently in the United States. Most apply through a family member. One becomes a resident before becoming a citizen. You have to become a legal permanent resident before you can apply for citizenship, and generally, one has to be a resident for five years before you can apply for citizenship. Many have waited much longer in order to become a resident. In the meantime, permanent residents work and pay taxes. They are also required to register for the Selective Service, and many are currently serving in the U.S. military in Iraq and Afghanistan. These immigrants make valuable contributions to our economy. They are opening small businesses and revitalizing Nebraska's main streets. Contrary to a common misperception, they pay more in taxes than they receive in benefits. And by 2022, they will have contributed $500 billion into our Social Security system during the previous 25 years. So why do legal immigrants use public benefits? Like any of us, legal immigrants are not immune to emergency situations or other bumps in the road. Some find themselves in low-wage,

no-benefit jobs without enough money to adequately feed and care for their families. Some are subject to a domestic violence situation and need to leave their abuser and start over. Some fall subject to a health crisis that causes them to lose their employment, and some get laid off from their jobs when a large plant closes in their community. What is clear is that people do not come to this country looking for public assistance. Between 1995 and 2000, the number of immigrant families with children grew four times faster in states with the least generous safety nets for immigrants, such as Arkansas and Texas, than it did in states with more generous safety nets like California and Massachusetts. Providing assistance is good fiscal policy and good health policy. For the past ten years the Nebraska Legislature has said that when a crisis befalls those living in our communities, including legal immigrants, the state is going to reach out, help create stability, and get the family back on its feet. This is not only the compassionate thing to do--it is also fiscally responsible. Public assistance dollars go directly into our local economies. Food stamps go to the local grocery store, Medicaid goes to our local doctors, pharmacists, and clinics, and cash assistance is paid directly into local housing markets, utilities, and merchants. All of these dollars create and sustain jobs in our local economies, while at the same time preventing parents and children from going hungry, from failing to receive adequate healthcare, and from being homeless. In fact, according to the USDA, for every five dollars spent on food stamps, $9.20 in economic activity is generated in the local economy. Medicaid also has similar effects. For example, if all of the savings from LB326 were from a Medicaid program, the whole $2,961,566, Nebraska would lose 93 jobs, over $8.5 million in business activity, and over $3 million in lost wages. Simply put, providing public benefits is a sound investment in families and communities. Eliminating eligibility will cost more than it will save. While eliminating eligibility for public assistance programs is generally done to save money, the end result is almost always a more expensive cost shift to another area of the budget. For example, taking away access to healthcare through Medicaid does not eliminate the need for medical care. It will, however, cause people to forego needed medical care until they are so sick they need more expensive emergency services. These services are then paid for by the more expensive emergency Medicaid program. So an attempt to save money on one end will ultimately cost more on the other end. So what have other states done? The federal government specifically gives states the option of providing state-funded public assistance to legal immigrants. About half of states do so. In fact, Nebraska can be proud that it was a leader in this respect. We were among one of the first states to act on this option provided by the federal government. Of the states that provide this assistance, a number have considered legislation similar to LB326 and have chosen to continue providing access to these programs to legal immigrants, recognizing the higher cost associated with not providing assistance. There may also be potential liability for the state if LB326 passes. Successful legal challenges have been brought in New York and in Maryland, arguing that failing to provide access to public benefits programs to legal immigrants violates the Equal Protection Clause. Cutting programs that support and stabilize our work force while putting additional dollars directly into our local

economy is bad public policy for Nebraska, and therefore I urge this committee not to advance LB326. And I'd be happy to answer any questions that you have. [LB326]

SENATOR GAY: Thank you. Are there any questions? It looks like there are none. Thank you. That would...go ahead, sit down. Thank you. [LB326]

TERRY WERNER: Didn't know if anyone else was coming up or not. [LB326]

SENATOR GAY: No, we were just debating. Go ahead. [LB326]

TERRY WERNER: (Exhibit 3) Senator Gay and members of the Health and Human Services Committee, my name is Terry Werner, it's spelled W-e-r-n-e-r, and I represent the Nebraska Chapter, National Association of Social Workers, as a registered lobbyist and executive director. Our primary mission is to enhance human well-being and help meet the needs and empowerment of people who are vulnerable, oppressed, and living in poverty. Throughout U.S. history, conflicting views about the economic effects of immigration have shaped immigration policies. One view defines immigrants as a drain on the economy and users of public benefits who take needed jobs away from Americans. The opposing view sees immigrants as enhancing the economy through payment of taxes, investment in small businesses, and the reinvigoration of the rapidly aging U.S. native population. No matter which side you agree with, regardless of if you lie somewhere in between, LB326 strikes at the very heart of playing by the rules. To deny lawfully admitted persons assistance to meet their most basic needs insults the dignity of the human person. LB326 is an insult to the current immigration law, no matter how perfect or imperfect, and an insult to those immigrants who have played by all the difficult rules that we as a nation have laid before them. I urge the committee to immediately oppose LB326. Thank you very much. [LB326]

SENATOR GAY: Thank you, Terry. Are there any questions? Thank you. Other opponents? [LB326]

CECILIA OLIVAREZ HUERTA: Good afternoon, Senator Gay and committee. My name is Cecilia Olivarez Huerta, that's C-e-c-i-l-i-a, O-l-i-v-a-r-e-z, H-u-e-r-t-a, and I'm the executive director of the Mexican American Commission, and I want to oppose. The commission does oppose this bill. Population data shows that numbers of children living in immigrant families rose from 9 percent in 2004 to 11 percent in 2005, while the percentage of Latino children under age five living in poverty is almost 35 percent. If we compare these numbers by immigrant status, the children of two-parent families living were twice as likely to live in low-income households as children of two-parent native families. The Mexican American Commission believes that LB326 is mainly targeting a specific population and ethnic group. Many times one thinks of residents as an immigrant of...when one thinks of legal residents and immigrants, one fails to consider that legal residents can include persons from any country, who have gone through the

entire immigration and visa process. However, in an anti-immigrant climate such as we have in the United States, "residents" essentially is referring to immigrants who are coming from Mexico, Central America, and South America. Other persons who are considered to continue receiving benefits are refugees--Hispanics and Latinos are not considered in this group--"asylees"--this does include a few Latino populations but not all--and other special populations who cannot be deported back to their countries. Not considered are people who are hard-working, but because of unseen circumstances may need assistance, and this would include, for example, persons in the Grand Island area who were affected by the recent raids at the Swift plant, or persons in the ice storm central Nebraska area. Legal residents have spent hard-earned money to pay for the immigration process. They have waited in long lines waiting for a visa and complied with all checks and balances to become a legal resident. Legal residents pay taxes, and I don't see anywhere in the bill that mentions that if they are denied benefits, that they will be excluded from paying taxes. I guess the commission sees this as a bill that does not include the Latino population in the good life of Nebraska, and a state that says it's a equal opportunity employer or provides equal opportunity access to all. We see it as excluding the Latino population that has played by the rules and worked hard to become legal residents of the state of Nebraska. [LB326]

SENATOR GAY: Thank you. Are there any questions? Thank you. [LB326]

CECILIA OLIVAREZ HUERTA: Thank you. [LB326]

SENATOR GAY: Other opponents? [LB326]

SUSAN HALE: Good afternoon. I'm Susan Hale. I didn't spell my name before, and I'm sorry. S-u-s-a-n, H-a-l-e, with the Center for People in Need. I do not have a prepared statement--maybe you're relieved that I do not. We just want to go on record in opposition to these proposals for the reasons well stated by previous testifiers. Thank you. [LB326]

SENATOR GAY: Thank you, Susan. Any questions? Thank you. [LB326]

JOHN KREJCI: Good afternoon, Senator Gay, Senator Johnson. [LB326]

SENATOR GAY: Afternoon. [LB326]

JOHN KREJCI: (Exhibit 4) My name is John Krejci, J-o-h-n, K-r-e-j-c-i. I am an emeritus professor of Sociology, Anthropology, and Social Work at Nebraska Wesleyan and UNK, a number of years. I made numerous trips to Mexico, most to the state of Oaxaca, spent well over a year there over the past 25 years, so I have both a personal, grassroots experience and academic expertise with regard to the people and these issues. Matter of fact, the first year we were in the village we had no running water or

inside plumbing, so I know what a lot of the people who come here experience. I strongly, strongly oppose this bill. As a matter of fact, I am close to...I was close to outraged when I heard that it was even introduced. I know I'm speaking, you know, I like to think the truth to power--the Governor and the head of the Legislature. Nebraskans for Peace is working on a position paper in regard to immigration. It would be similar to, I think, what Appleseed is looking for. This legislation really violated the basic principles of good treatment in legislation--fairness, compassion, and more cogently, the economic and political long-term self interest of Nebraska. What stunned me, and apparent the Lincoln Journal Star , if you saw their editorial on Tuesday, they call this immigration bill mean-spirited, and the Journal Star is not a radical paper by any chance. It would deny services, you know, to legal immigrants. Holy Cow! Given the inequity and injustices of present immigration legislation...I could talk about legislation, immigration legislation, for 200 years, and it's been really, it's been racist, it's been biased, it's been very oppressive to poor people. We don't talk about that, but that's the truth. Why would the Governor want to balance his budget on the backs of the poor? That's unthinkable. And isn't Senator Flood aware that Norfolk would be, I said, a depressed ghost town--that's a little strong, probably--but would be much worse off if not for the immigrants? And we can name five or six towns in Nebraska that are much better off because immigrants are there. Granted...and we've benefited from it. Granted, every new wave of immigration brings stresses on the social fabric and on the economy--19th century, the Irish in New York; my ancestors in Omaha in the 19th century, Italian people in Omaha. As a matter of fact, you can read Mary Pipher's book, theMiddle of Everywhere: The World's Refugees Come to Our Town . She talks about the immigrants who have recently in the last years come to Lincoln. Immigrants are always discriminated against, they have a difficult time, and we need legislation that protects them. This is counterintuitive--the first five years you don't help them. Well, that's when they need the help the most, really. So they have very special needs. High time we reject discriminatory legislation such as LB326 and work to deal positively with our new neighbors. Our immigration laws are outdated and unjust. LB326 is a step in the wrong direction, and I think it should be killed. I feel strongly about this. Thank you very much. [LB326]

SENATOR GAY: Thank you. Are there any questions? Senator Hansen. [LB326]

SENATOR HANSEN: Thank you, Senator Gay. I agree with you that our immigration laws are outdated. Can a state have its own immigration law without it being a federal law? [LB326]

JOHN KREJCI: Well, this obviously is having some...you know, it is an immigration...a law that impacts on immigrants. I'm not a lawyer, so I don't know the ins and outs, but certainly it can impact in the economic benefits it gives to individuals. Appleseed said that maybe there is some question of the legality of this that could be challenged in the courts as unfair treatment. I don't know; I'm not a lawyer. [LB326]

SENATOR HANSEN: Okay, thank you. [LB326]

SENATOR GAY: Thank you. Any other questions? Thank you very much. Other opposition? [LB326]

JIM CUNNINGHAM: Senator Gay and members of the committee, my name is Jim Cunningham, representing the Nebraska Catholic Conference. That's J-i-m, C-u-n-n-i-n-g-h-a-m. I just want to be on record in opposition to this bill, as a matter of concern about the potential harmful effects that it would impose upon impoverished legal immigrants. I want to urge you not to lose sight of the fact that we're not talking about all legal immigrants. We're talking about those who meet the income and other requirements for participation in the program. So they have to meet the income and resources tests in order to qualify for the benefits. That's why I want to underscore the fact that I mentioned the impact on impoverished legal immigrants. And also, I just have one technical issue that I'm having a little trouble getting my hands around and might just need an explanation or some clarification. I don't understand the reason why, of all the benefits that we're talking about, on line 7 and 8 of page 2 of the bill, it strikes the references to food stamps. If the idea is to eliminate a category of eligible recipients, which is lines 11 through 13, then I don't understand why you would specify food stamps to be stricken as well in that prior paragraph. It might have something to do with the fact that food stamps is a program that's entirely federally funded, but...and that might explain it. But at the same time, food stamps will still be, even with total federal funding, a program administered by the state of Nebraska, pursuant to the federal law. So, just a curiosity on my part about the drafting of that provision. Thank you. [LB326]

SENATOR GAY: Thank you. Are there any questions? Thank you, sir. Other opponents? [LB326]

BRUCE RIEKER: (Exhibit 5) Chairman Gay, members of the committee, my name is Bruce Rieker, it's B-r-u-c-e, R-i-e-k-e-r, vice president of advocacy for the Nebraska Hospital Association, and we are here to express our opposition to LB326. And before I enter into the written portion that I've given you, we too share the question that the previous testifier had about the striking of the language with regard to the food stamp program. We did not understand the rationale there, and we don't have an answer. As far as the Hospital Association's position, we do appreciate the fiscal intent of this bill; however, we are concerned with its consequences. This bill would make Nebraska's laws similar to our federal laws, but at what price? Policies that restrict immigrants' access to healthcare services lead to the inefficient and costly use of other services such as our emergency rooms, and negatively impact public health. Based upon our analysis, we believe that the most vulnerable population, the dependent children of these legal immigrants, would be adversely impacted, and we hope that the committee would closely investigate this areas as it deliberates LB326. One statistic we hope you would take into consideration is from the research by the American Immigration Law

Foundation. In its research it determined that the disparities in healthcare expenditures are especially pronounced among children. Immigrant children had 74 percent lower per capita healthcare expenditures than U.S. born children. And I know this is a little bit dated information, but it was based upon 1998. However, emergency room expenditures were more than three times higher among immigrant children than U.S. born children, despite the fact that immigrant children visited the emergency room less often. This suggests that the immigrant children may be sicker when they arrive in the emergency room and probably reflects poor access to primary care. Currently, all of Nebraska's taxpayers are paying for those legal immigrants that are now eligible for this Medicaid assistance. However, if those legal immigrants are denied access to this assistance, there is a greater chance that when they do require healthcare, it will be far most costly. The fact of the matter is that legal immigrants will require medical care. The questions we contend to be addressed are 1) how is it best provided? and 2) how will we pay for those needed services? Little attention has been focused on policies that improve the well-being of our immigrants, especially immigrant children. Legal immigrants play an important role in our economy, and our future economic success depends on a healthy work force. Therefore, we urge you to focus on policies devised to improve rather than restrict legal immigrants' access to quality healthcare. And for those reasons, we urge you to oppose LB326. [LB326]

SENATOR GAY: Thank you, Bruce. Senator Howard. [LB326]

SENATOR HOWARD: Thank you, Senator Gay. Bruce, I have a few questions that have crossed my mind in listening to this testimony. Would the hospitals...was the Hospital Association consulted about this possible new law or new legislation prior to having it introduced here? [LB326]

BRUCE RIEKER: Not to my knowledge. [LB326]

SENATOR HOWARD: So you weren't a part of this plan? [LB326]

BRUCE RIEKER: No. [LB326]

SENATOR HOWARD: All right. Following up with that, it would seem to me that if a legal immigrant in this situation, a pregnant woman, was not able to pay for medical care during that pregnancy, came to the point of delivering, she would come to you at the emergency room. And would it be unlikely that she would require more medical assistance, having never received any prenatal care? And do you see a difference in cost in that situation? [LB326]

BRUCE RIEKER: It would...I'm not a doctor, and we have other folks that may be able to testify, from our organization, more specifically on that. But it would my belief that her healthcare costs 1) would be more, having not had any prenatal care leading up to that

point, and then 2) this comes to...this is not, in our estimation a savings to the state. Somebody is going to pay this bill, and if the expenses are more, whether it's the $2.9 million that was referenced, $2.9 million referenced in the original testimony, or greater costs, as statistics would show, it would be those costs if they come to the emergency room or to the hospital, because we are charged with the responsibility of providing care for all those who come through our door, 24/7, 365 days a year, we will pick up that bill, and the communities that support our hospitals will pay that bill. Somebody is going to pay this bill, and it may be more in the long run, based upon this legislation. So that is our very specific concern. [LB326]

SENATOR HOWARD: Well, following up on that, and you may have addressed this, but let me ask it, anyway. Does the hospital have the right to turn away a patient, whether they're in labor and delivery, or whether they're seriously ill, or if their child is ill, if they don't have any means to pay for that? [LB326]

BRUCE RIEKER: No. [LB326]

SENATOR HOWARD: Okay, thank you. [LB326]

SENATOR GAY: Any other questions? Thank you, Bruce. Other opponents? Okay, seeing there are none, anybody would like to speak on this issue neutral? Okay. Senator Flood is not here in person, so there will be no closing on this. But I would ask, Senator Howard, you had a question. Did you...would you like to respond to that, Chris. If you could do that, and then we'll close the hearing. [LB326]

CHRIS PETERSON: Thank you. Senator Howard, the mother would be a person on her own right. The unborn child would be considered a person under its own right, and with the intention of being born in the United States, it would be considered a U.S. citizen and would qualify for the funding. [LB326]

SENATOR HOWARD: So the labor and delivery would be covered? What if there were complications with the birth? Would that also...with the mother...would that also be covered, additional...(laugh) Well, these things happen, and certainly is not remote. [LB326]

CHRIS PETERSON: Yes. My understanding is yes. If I am wrong on that, we will get you clarification on the depth of the coverage, but I am assuming it would be covered. [LB326]

SENATOR HOWARD: If I could ask one more question along these lines...having come from foster care, spent a lot of years working in that field, it occurred to me that if we're going to look at this in terms of state dollars and the children of people that have been here for less than five years--I would assume include the child, as well--if in the

unfortunate event that child would go into foster care, how would that child be covered? Would we be able to make foster care payments? Would there be a subsidy at the time of adoption, if it went to that point? [LB326]

CHRIS PETERSON: Um-hum. If it's the child of a lawful immigrant, they would...I would assume we would provide the services. We don't deny those because of that. In terms of would there be a subsidy provided for that, I'd have to check that. [LB326]

SENATOR HOWARD: Okay, thank you. [LB326]

CHRIS PETERSON: Um-hum. [LB326]

SENATOR GAY: Chris, hold on one minute. Senator Pankonin had one more quick... [LB326]

CHRIS PETERSON: Yes. [LB326]

SENATOR PANKONIN: Thank you, Senator Gay. Chris, one more question. In the testimony from the Appleseed project they indicated that there has been successful legal challenges to similar type of bills in New York, and most recently in 2006, in Maryland. Are you familiar with those, or did you take those into consideration? [LB326]

CHRIS PETERSON: No, we were not familiar with those, and Senator, we wrote those down to look into. What we took into consideration in this bill...and we worked with the Health and Human Services Committee through many of these hard decision, and none of them are easy. Whenever you remove services from anybody,...we've gone through prior auth, presumptive eligibility, eligibility criteria, children's dental, there are just not easy choices. They never are. What we looked at was going back to the immigration...the complexities of the immigration law, and for a lawful permanent resident to come through, to have a sponsor, and so we reviewed those, and for the issue of the immigrant having a sponsor, it says specifically there that they need to show financial responsibility. We also looked at the work options, and again, that shows that they have to have financial responsibility. Certainly, there are unintended consequences people may fall into. But the feeling on this is, if Medicaid continues to grow, there are going to have to be some painful, painful decisions made. This was one that we felt mirrored the federal legislation. If the child is a U.S. citizen, they're entitled to full benefits, so there won't be able children that are U.S. citizens of lawful permanent residents that would be impacted, so... [LB326]

SENATOR PANKONIN: If they're born here. [LB326]

CHRIS PETERSON: Yes, um-hum. They're U.S. citizens. But we will find out about those lawsuits. [LB326]

SENATOR PANKONIN: About those...I think that would be prudent. [LB326]

CHRIS PETERSON: Yes. [LB326]

SENATOR GAY: Okay, thank you. Just...and for the record, I would...we did receive a letter of opposition from Voices for Children. (Exhibit 6) With that, we'll close the public hearing on LB326. [LB326]

SENATOR JOHNSON: And now, we will open the hearing on LB351. Senator Stuthman, we've all been waiting all day for your appearance. (Laughter) [LB351]

SENATOR STUTHMAN: Good evening, Senator Johnson and members of the Health and Human Services Committee. I am Senator Arnie Stuthman, S-t-u-t-h-m-a-n, and I represent the 22nd Legislative District in the Legislature. LB351 amends sections in the Revised Statute relating to Chapter 68, Paupers and Public Assistance, so that Nebraska's law becomes more consistent in the critical areas with the federal regulations outlined in the federal Responsibility and Work Opportunity Reconciliation Act of 1996. LB351 eliminates Nebraska's separate time line limit, receipt of cash assistance for a total of 24 months within a continuous 48-month period, and adopts the federal 60-month lifetime limit for receiving Temporary Assistance to Needy Families, TANF, cash assistance. In Section 408(a)7 of the Social Security Act, a state to which a grant is made under Section 403 shall not use any part of the grant to provide assistance to a family that includes an adult who has received assistance under any state program funded under this part, attributable to funds provided by the federal government for 60 months, whether or not consecutive, after the date the state program funded under this part commences, subject to this paragraph. The act goes on to exclude minor children from being time-limited and explains hardship provisions. Current statutes do not end or cap cash grants at 60 months. If the state chooses not to adopt the federal 60-month lifetime limit, then the state-only funds must be used for the nonhardship participation after 60 months. LB351 eliminates the one-month, one-half transitional Aid to Dependent Children, ADC, payment, and adopts a five-month transitional grant. This will be explained by a representative from the Department of Health after I complete my testimony, which will possibly last another 15 minutes. (Laughter) The goal of transitional grants is to help families transition from welfare to independence. The one-half month grant does not meet the federal definitions of assistance; therefore, families who receive it cannot be calculated in the state work participation rate. The proposed transition grant does not meet the federal definition of assistance; therefore, families who receive it can be counted in the work participation rate. It is estimated that after the first five months, 1,550 families can be counted, each as engaged families. They represent 38 percent of the total number, 4,100, that Nebraska must engage in each month, in the 30-hour-per-week work activity. LB351 eliminates postsecondary education as an approved work activity. Postsecondary

education is defined as a four-year college baccalaureate degree program. Postsecondary education is not a federally approved work activity, and participating in this activity no longer counts towards Nebraska's work participation rate requirement, as of June 30, 2003, with the loss of federal waivers. Vocational training and two-year college programs leading towards a certificate, diploma, or associate degree is still allowable under the Employment First program and are federally approved work activities that do count toward the work participation requirement. Now I will add--failure to adopt these measures could result in the fiscal penalties of up to $2.9 million. Those are my opening comments, and I would refer any questions to the testimony following me. [LB351]

SENATOR JOHNSON: Thank you, Senator Stuthman. Let's proceed to Chris Peterson. Thank you. [LB351]

CHRIS PETERSON: (Exhibit 1) Good afternoon, Senator Johnson and members of the Health and Human Services Committee. I am Chris Peterson, P-e-t-e-r-s-o-n, chief administrative officer for the Health and Human Services System, and first I would like to thank Senator Stuthman for introducing LB351 on behalf of the Health and Human Services System. I'm here to testify in support of LB351, which would amend public assistance sections to make Nebraska more consistent in critical areas with the federal program called Temporary Assistance for Needy Families, also known as TANF. In Nebraska, TANF includes Aid to Dependent Children and the Employment First, welfare-to-work program. Changes are necessary to increase Nebraska's work participation rate, to avoid fiscal penalties of up to $2.9 million. If I could just take a quick minute to have you look at this handout. This probably puts it in the easiest way that we can explain what happens. There was a GAO study done by...in the last year or so that showed that the actual participation was only at the 50 percent level. So there had been constant reauthorizations of the original TANF legislation, and finally, the work participation rate...we got the directive last year, the final rules came out in October... [LB351]

UNKNOWN VOICE: Interim rules, June 29. [LB351]

CHRIS PETERSON: ...okay. And so, what was decided was that states would have new work participation rates. Before, Nebraska has $58 million, roughly, that comes from the federal block grant; $28 million in state funds. There were three groups that we exempted from our count, and we paid for those with state-only dollars. Those were two-parent families, there are specifically exempt families, and then there were the postsecondary education participants. We can no longer exempt them, even if we pay for them with state-only dollars. They now have to be counted, and so if you look at that, it changes the pre-TANF reauthorization rules and post-TANF, and again, this is a point in time, so that on one day when this happened, we had 8,000 people that had to be part of the worker participation rate. We excluded the state-only programs, so excluded

3,500 people from having to meet the worker participation rates, and that participation rate had to be 50 percent. In addition, we also got a caseload reduction credit of $18, so we were actually only hitting a 31 percent work participation rate. The DRA removed all of those--they are no longer there. We now have to include everybody that's in a state program that qualifies for ADC, we no longer have a caseload credit, and we have to hit the participation rate. And so that's why we have asked Senator Stuthman to introduce this for us. Two-parent families have to have a higher work participation rate--there are 1,000, roughly 1,500 of those; the exempt adults, who have physical or mental documentation so they can't work, there's about 2,000 of those; and then the postsecondary people, there are 64 of those. Congress reauthorized TANF in February, 2006. It was originally due to be authorized in 2002; however, Congress has continued the program through short-term resolutions. Between 2002 and 2006, states have been uncertain about the direction of the national program. Now this uncertainty has ended. Welfare reauthorizations require states to strike a balance between two challenging and sometimes contradictory tasks. States are under considerable pressure to satisfy higher work participation rates in a short time, while also moving more families into long-term self-sufficiency. All states are required to meet a work participation rate of 50 percent to avoid fiscal penalties. For federal year fiscal 2005, Nebraska's unofficial work participation rate was 51.4 percent after federal adjustments. Prior to the reauthorization last year, we had to ensure that 1,400 recipients met this work requirement. Now, with reauthorization changes, 4,100 recipients must meet the work requirements. That's an increase of 2,700 people, or Nebraska will face fiscal sanctions. If our 51.4 percent work participation rate is figured under the new rules, our 2005 work participation rate would have only been 18.3 percent. That was what our caseload reduction was. This is a serious concern. So we propose to eliminate Nebraska's separate state time limit. Currently, Nebraska TANF recipients can receive cash grants for a total of 24 months within a continuous 48-month period, and individuals can reapply after each 48-month period with no lifetime limit. This bill proposes the adoption of a federal 60-month lifetime limit for receiving TANF cash assistance. Federal regulations stipulate that no cash payment can be provided to a family that includes an adult who has received cash assistance for a total of 60 months. Current Nebraska statutes do not end or cap cash payments. If the state chooses not to adopt the federal 60-month lifetime limit, then state-only funds must be used for all payments after 60 months. Right now it's 24 out of 48 months you can receive cash. And then when that 48th month is over with, you start again. The 60 lifetime cap means you can receive ADC for five years for the whole lifetime. We believe that this may be an advantage for recipients with the federal requirements. With Nebraska's current program, many clients cycle on and off assistance because they can only receive benefits for 24 months within a continuous 48-month period. This proposal would allow continuous coverage up to 60 months, or for any 60 months over an extended period. Hardship payments are allowable after the 60-month limit, for up to 20 percent of the recipients. The estimated first year savings of adopting the federal 60-month lifetime limit is $1.72 million. Second, currently in Nebraska most single parents are required to participate in 30 hours of work activity

each week, regardless of the age of their children. This has been a difficult requirement for parents of young children to meet. LB351 would adopt the federal requirement for an adult member of a single-parent family whose youngest child is under the age of six years to participate only part time, or 20 hours per week, in the work activities outlined in their self-sufficiency contract. Single-parent families with children age six or older will still be required to participate in work activities per week. Adoption of the part-time participation requirement will help an estimated 4,300 clients meet their required participation hours and will also assist the state in meeting the federally required work participation rate. If this provision is adopted, there may be a slight decrease in supportive service and child care costs used by the parents of young children. LB351 would also eliminate a four-year baccalaureate postsecondary education as an approved TANF work activity. It does not eliminate the ability for the person to be in a postsecondary program. What it says is now we cannot count that as a work activity. If you're going to do that, then you also have to have the 20 hours of work participation or the 30 hours of work participation, if you have a child over six, in order to continue to receive your ADC benefits. This is not to say that HHSS does not value postsecondary education; however, in order to meet our federal work requirements we must comply with federally allowed work activities. In the past we did not have to include these individuals in our work participation rate calculations, because we paid for them with state-only funds--they didn't count. Now we have to count everybody, regardless of how it's paid. However, under TANF reauthorization we must count them, and postsecondary education is not considered a federally approved work activity. And that is listed in the back of your...on this sheet in your packet. Federal government lays out very specifically on this second little piece right here. In particular, the TANF program was not intended to be a scholarship program for postsecondary education. Programs authorized by the Higher Education Act support these longer-term educational activities. In contrast, activities such as basic education and language qualifies as education directly related to employment. So vocational educational training participants are still included, but four years aren't now as a countable work activity. What this means is that recipients can still enroll in a four-year college; however, they will have to participate in another federally accepted work activity for either 20 or 30 hours per week. In the preamble which I talked about it's explicitly stated that it's not intended to be a college scholarship program. Under LB351 we continue to recognize education as a TANF work activity if it meets the new, more restrictive federal definition. The federal government has narrowed the definition of vocational education training. This activity is defined as organized educational programs that are not to exceed 12 months with respect to any individual. It must also be directly related to the preparation of individuals for employment in current or emerging occupations requiring training other than a baccalaureate or advanced degree. LB351 also proposes to eliminate the one-half month grant transitional payment and adopt a five-month transitional benefit. I've spoken to you about this before. The five-month transitional benefit will better help working ADC families transition from welfare to independence, plus it will help boost the state's work participation rate by 30 percent to meet federal work participation requirements. This is one that allows them to

continue their food stamps as they transition off, as opposed to having those food stamps kick them over the income bracket and they would lose those. The current one-half month grant is paid to an average of 680 ADC families each month who lose ADC eligibility due to employment. The one-half month payment helps ADC working families transition from welfare; however, Nebraska right now can't count those families when calculating the state's work participation rate. This is because the one-half month grant does not meet the federal definition of TANF assistance which must be recurrent, and must be based on need. The one-half month transition grant is neither of these. The five-month transition benefit meets the federal definition of assistance because it is recurrent--it is paid over a five-month period and it's based on need of 185 percent of federal poverty. The average one-half month grant is $178. The annual cost is $1.45 million, and the proposed five-month transitional benefit would average $71 per month, or $356 per family over the five-month transition period. The first-year cost is estimated at $1.55 million. It would be provided to families when their employment earnings are 185 percent or less than the federal poverty level when they lose ADC eligibility. This five-month transition period is consistent with the five-month transitional food stamp benefit. It is estimated that an average of 1,550 working families could be counted in the calculation of the state's work participation rate each month with the adoption of this provision. It is estimated that this would boost the state's work participation rate by 30 percent. LB351 also proposes one amendment to a Medicaid statute. Currently, Nebraska statutes allow transitional healthcare for 12 months after the termination of ADC for most working families. Transitional medical assistance is a federal requirement that must continue to be reauthorized. If it is not reauthorized, it would become a state-funded-only program. This bill proposes to adopt language that would only mandate the transitional healthcare if federal funding is available. Lastly, LB351 has proposed to eliminate language in certain sections that is either obsolete or outdated, such as references to outdated waivers and initial implementation demonstration projects. The proposed changes in LB351 will update Nebraska statutes, many of which were created over ten years ago. More importantly, we believe the proposed provisions will make Nebraska law more consistent with federal law in these critical areas and will help us meet the more rigorous federal performance measures, striking the necessary balance I mentioned earlier. If Nebraska does not meet the minimum federal work participation rate, it is subject to a maximum penalty of $2.9 million. As you may recall, within months of TANF reauthorization last year, the Legislature assisted us by amending noncontroversial language onto LB994 that put Nebraska in line with federal requirements regarding job search--which could no longer be unlimited--and work experience which was changed from three months to six months. In November Governor Heineman allowed an emergency public hearing so that we could implement these rules and regs and streamline the program. These steps were only the beginning. In June we received the federal Interim TANF Rules and Regulations, and we have spent considerable time analyzing the program, requirements, and policy options we have. The rules have changed, more people must participate, and we have lost some of our flexibility. It is clear that more must be done, and this addresses it. I'd be glad to

answer any questions you may have. [LB351]

SENATOR JOHNSON: Chris, it seems to me...first of all, let me say that there's 25 or 30 e-mails from students opposed to the bill, and I can see why they would be. I don't...can you tell me what your alternatives are here with the federal mandate? Are there other options that were available to you? Doesn't sound like it to me, but are... [LB351]

CHRIS PETERSON: Well, what I...quite honestly, Senator, this is still shaking out for all the states. We've contacted several states to see what other states are...how they're thinking outside of the box on some of these things. And I think for specific questions, I might turn to Mike Harris for that, but we're not done looking at all. I believe we have to hit the participations rate by October of 2007. So they weren't real fast on getting the direction to us. We've been looking as many things as we can find to do, and many of those, unfortunately, have to be done legislatively. So when specific ones were given to us--and they were pretty clear about the postsecondary one--that's in there. When we look at the fact that we can't do any of our state-supported programs any more, I mean, you were able to take your state money and pay for a program and then exempt them from the count--no longer. You can pay for them with dollars, state or federal; you still have to count them in your work participation rate. So I would say we're still looking, we will keep looking, but this is what we've come with at this point in time. [LB351]

SENATOR JOHNSON: Senator Pankonin. [LB351]

SENATOR PANKONIN: Thank you, Senator Johnson. First of all, I want to thank you, Chris and Senator Stuthman, for explaining this complicated mandate. But it occurs to me right off from the get-go that...and Senator McGill's bill, the LB267, that authorizes...you know, would it be an increased subsidy to get...so people could work. Would that help you meet...and let's say it didn't go to the...from the 120 to 185, but if you see where I'm coming from, would it be better off, and Senator Stuthman kind of alluded to this earlier, too, to have people have more, so we can better meet the requirements of this mandate by maybe having more money in that area? [LB351 LB267]

CHRIS PETERSON: Um-hum. [LB351]

SENATOR PANKONIN: Because to me, it's a dilemma. You're in a seesaw here, because the feds want you to get more people participating, but if they don't have the help for child care, it's hard to participate. [LB351]

CHRIS PETERSON: That's a very good question, Senator. I couldn't give you a specific answer to that right off now, but I think it's something that we will...as you heard from Senator McGill, these are complex pieces, that if you have other parts of a program,

they can impact in ways you don't even think about. If you hit one bubble here, it might pop up somewhere else. We will definitely look into that and have a response back to you. [LB351]

SENATOR PANKONIN: I think some advice from the department would be helpful. I mean... [LB351]

CHRIS PETERSON: Yes, um-hum. If...your point, I think, is if we have to do the two-parent families now, would they...we'd have more luck getting them on if the child care from Senator...okay, that's what I thought you were saying. [LB351]

SENATOR JOHNSON: Senator Howard. [LB351]

SENATOR PANKONIN: And maybe,...just one more little comment. [LB351]

SENATOR JOHNSON: Sure. [LB351]

SENATOR PANKONIN: I mean, maybe there's a level, you know, it's (inaudible) trying to find that optimum level, but if we're trying to increase...and kind of if this mandate is more important overall for us to hit this, then maybe that one...you see what I'm saying, Senator Stuthman, too,...I mean, have to be looked at, I think. [LB351]

CHRIS PETERSON: And we have no problem doing that, Senator, and again, as I said, we're continuing to look at other options, what other states are doing; we're in contact with them, we're looking at their legislation, too. [LB351]

SENATOR JOHNSON: Now Senator Howard. [LB351]

SENATOR HOWARD: Thank you. Thank you, sir. Chris, I was present at the meeting last April when the federal authorities, officials, came in and explained the increased figure, the rise from, I believe it was 34 percent up to 50 percent. And we had quite a discussion about it at that time, and I was concerned then, because the attitude seemed to be, as I remember it, we'll just accept the sanctions, which clearly we can't afford to do. But on the other side of this, I think there's some serious concerns here regarding people that have already enrolled in programs and are working their way through an educational program, a postsecondary educational program, that clearly will have to drop out of this. If they can't meet those requirements of either 20 or 30 hours per week, then as I understand it, they won't be eligible for the TANF funding. So there's going to be a hard choice there for these individuals. Is there any leeway on this front? Is there the ability to make an accommodation for people that are currently enrolled in a program? [LB351]

CHRIS PETERSON: That might be an answer to two sides. Would there be any federal

accommodation, and I'm guessing from what the preamble says, no. They've made it very clear that postsecondary education does not count. Mike, right? [LB351]

MIKE HARRIS: Yes, ma'am. [LB351]

CHRIS PETERSON: Okay. Now could we take a look at that? We have not looked into that, Senator. I guess the reverse would be, would a person who's going to college full time and has to work now full time, or 20 hours if they have children under six, 30 hours, would they continue to work full time? I don't know. That's a...that's probably a hard choice that a lot of people across the state, you know, have had to make, so. [LB351]

SENATOR HOWARD: And I would agree with that. However, these are people in a different situation. These are people that are struggling. Clearly, they don't have the means to support themselves and their child as they would like to. They're trying to get an education in order to be able to do that. I would ask you, when would this go into effect? [LB351]

CHRIS PETERSON: I don't think there's an E...is there an E-clause on it? [LB351]

MIKE HARRIS: There's not. [LB351]

CHRIS PETERSON: No. It would go into effect July 1? [LB351]

MIKE HARRIS: Ninety days after the session. [LB351]

CHRIS PETERSON: Ninety days after the session. [LB351]

SENATOR HOWARD: So that would be this year, which... [LB351]

CHRIS PETERSON: Um-hum. Because again, the count for us, we have to meet that in October of 2007. [LB351]

SENATOR HOWARD: I would really appreciate it if you could look at that opportunity to continue the people that are enrolled in the program. [LB351]

CHRIS PETERSON: We will, Senator. [LB351]

SENATOR HOWARD: I think that's something that would certainly have a more favorable feel to it. One final question: When you talk about the transition from welfare to work and the food stamp program that is there to assist that, what's the length of time that that food stamp program is available to that individual? [LB351]

CHRIS PETERSON: The transitional food stamp program? [LB351]

SENATOR HOWARD: Um-hum. [LB351]

CHRIS PETERSON: I think it's at six... [LB351]

MIKE HARRIS: Five. [LB351]

CHRIS PETERSON: ...five months. [LB351]

SENATOR HOWARD: Five months. [LB351]

CHRIS PETERSON: Um-hum. [LB351]

SENATOR HOWARD: That's what I understood, too. Thank you. [LB351]

CHRIS PETERSON: It correlates with the five months that we're giving out the other one, too. [LB351]

SENATOR JOHNSON: Senator Gay. [LB351]

SENATOR GAY: Yeah, I would agree with Senators Howard and Pankonin, and I think it's...I understand things change quickly, but even a phased out program, if they're already in there. It just doesn't seem right. We're trying to encourage people to do certain things, and then just to...oh, sorry. So even a phased-out program, I think, would be something to look into, that we...it just doesn't seem right that we'd do this. And I know things change. But that's what I would suggest and support. Thanks. [LB351]

CHRIS PETERSON: We will, Senator. We'll look at that. [LB351]

SENATOR JOHNSON: Any other questions? Senator Howard. [LB351]

SENATOR HOWARD: Thank you. Thank you for your patience, sir. I...two years ago I brought in a bill to look at the matter of state funding for guardianships here in the state. You may remember this. [LB351]

CHRIS PETERSON: Um-hum. [LB351]

SENATOR HOWARD: Right now it's my understanding that when a state ward is adopted by a family, that subsidy is, for the most part, paid for by the federal government. [LB351]

CHRIS PETERSON: Senator Howard, your expertise in this field...you and I have talked, and I think I'm just going to always have to bring more people with me.

(Laughter) I will find out for you, Senator. I'm aware of the bill, and ask your question and we will get back to you. [LB351]

SENATOR HOWARD: All right, thank you, and I appreciate your recognition of the fact I've spent many years doing this. The bill itself addressed the issue of the payment, the subsidy for children that went into guardianship in this state, which those dollars are primarily state dollars. [LB351]

CHRIS PETERSON: Um-hum, yes, subsidized adoption and subsidized guardianship, I believe, are predominantly... [LB351]

SENATOR HOWARD: Right, those are the two programs that we offer to people willing to make a permanent home for children... [LB351]

CHRIS PETERSON: Home for a child, right. [LB351]

SENATOR HOWARD: ...who come through our system. I'm sure you'd agree with me that adoption is more permanent than guardianship, which is why I've always promoted that; have seen that as a better permanency plan for state wards. I would certainly encourage you to revisit that and see what the cost savings would be to, I don't know if I would say eliminate the subsidized guardianship program, but... [LB351]

CHRIS PETERSON: Oh. [LB351]

SENATOR HOWARD: ...I would look at that in terms of encouraging, or certainly being more forward thinking with the adoption option of permanency, rather than the guardianship option. And there are situations where guardianship is certainly warranted, but many situations that I would be very cautious about, in terms of the child's well-being and the cost to the state. [LB351]

CHRIS PETERSON: Okay, okay. I'm learning some of those things now. [LB351]

SENATOR HOWARD: Thank you. [LB351]

CHRIS PETERSON: Thank you. [LB351]

SENATOR JOHNSON: Any further questions? [LB351]

CHRIS PETERSON: Thank you. [LB351]

SENATOR JOHNSON: Thank you. How many proponents do we have? Any? I see none. Any opponents? One, two, three, four, five. All right. Neutral? All right. Because of the late hour, I have to leave you, and so Senator Gay will take over, and I...this is one

of the consequences of our previous testifiers taking so long. I wish that it didn't have to be this way, but we'll stay as long as you are here, and...but I have to leave, so Jen? [LB351]

JEN HERNANDEZ: (Exhibit 2) Good afternoon again, members of the committee. My name is Jen Hernandez, H-e-r-n-a-n-d-e-z. Before I give you my testimony I just want to let you know that the Center for People in Need and Voices for Children in Nebraska had to leave and asked me to hand in their testimony for them. (See also Exhibits 3 and 4) I'm the community educator and registered lobbyist for Nebraska Appleseed, and as part of our work we actively review changes proposed for the Nebraska Welfare Reform Act and comment on the legal and practical impacts such changes would have on our communities. Back in 1997 when the Legislature created the Nebraska Welfare Reform Act, a lot of time was devoted to designing a program that would focus on the individual needs of each family and provide meaningful assistance to help families become truly self-sufficient. Nebraska chose to design a program that focused on what would work best for Nebraskans, rather than adopting the federal requirements without question. One of the cornerstones of the welfare reform act is that it provides parents the education and training they need to be successful in Nebraska's job market. Attached to my testimony you will find current information from the Nebraska Department of Labor showing that the highest paid jobs in Nebraska, the "hottest" job prospects in Nebraska, and the fastest growing occupations in Nebraska require at least an associate's degree. LB351 now proposes to abandon, among other things, the postsecondary education component of Nebraska's program that has helped so many families achieve self-sufficiency. And in the previous testimony it was alluded to the fact that recipients can pursue an associate's degree, but I just want to clarify and make sure you know that that is a time-limited, 12-month cap, and that then they would have to do the 30 hours the rest of the time, the 30-hour-a-week work requirement the rest of the time. This bill is being brought under the guise that this is a mandate, that Nebraska will lose federal dollars or somehow be penalized by the federal government if we do not exclude postsecondary education from our ADC program, and this is simply not the case. Under the current federal law, Nebraska can continue to allow ADC recipients to pursue postsecondary education as a work activity using state funding, and not lose any federal dollars. Under federal law states must have a percentage of the people--50 percent of the people receiving TANF funds--engaged in core work activities. This is generally referred to as the state's work participation rate, which was discussed in the previous testimony. As long as Nebraska's work participation rate stays at or above this level, we will not be sanctioned or lose federal funding, and there are plenty of ways Nebraska can meet its work participation rate. Last week this committee heard testimony on LB90, which would have helped do just that, and Senator Johnson asked a question about, what can we do? If we don't do this, what can we do? And there are definitely some other options that we can do; among those--a couple of them are actually in the bill--providing transitional ADC, which is a bonus to parents who leave TANF for work and remain employed. We can also expand...we currently do not have many, if any at

all, subsidized employment opportunities and community service opportunities, part-time participation, the earned income disregard, which was the bill that was brought last week. So the assertion that we need to remove postsecondary education from our program is misleading, and it is shortsighted. We all want the same thing. We all want to break the cycle of poverty, we all want families to provide for themselves and never need any form of public assistance. We're never going to achieve that goal if we take away the opportunity to pursue education from those who need it most. It is also important to remember, as Senator Howard brought up just a moment ago, that there are parents who are pursuing postsecondary education programs at the present time. The state has entered into self-sufficiency contracts with these families, agreeing to allow them to do postsecondary education for up to 24 months. LB351 would force the state to breach these contracts and pull the rug out from under these families in need. There is no valid reason Nebraska should not continue to honor its commitment to these families and help them continue down the path to true self-sufficiency. Finally, one other feature of LB351 is the imposition of a 60-month lifetime limit on the receipt of ADC. This, too, is being proposed under the guise that Nebraska will somehow be out of compliance with federal law if we don't adopt this change, and this is simply not the case. Nebraska can use state funds to provide assistance beyond 60 months, as the previous testimony said. Another justification for adopting a lifetime limit is that it will give incentives for family to move off public assistance quicker; however, there are already plenty of incentives built into the program to motivate families. Once a family goes on ADC, the parent must sign a contract and immediately engage in at least 30 hours a week of work activities. If the parent fails to comply with this requirement, a full family sanction is imposed that stops all ADC payments to the household, and it takes away the adults' Medicaid and reduces food stamps. Sanctions are a strong enough incentive to motivate families. The only impact of a lifetime limit on assistance is to force more children to live in poverty. Families that have received 60 months of assistance and still in need generally have very significant barriers preventing them from being successful in the work place. Taking away assistance will not eliminate the need--it will only leave the family without the ability to meet its basic needs. Nebraska's ADC program should continue to reflect Nebraska's interest in moving families out of poverty, and creating and sustaining a highly skilled work force, and I therefore ask this committee not to advance LB351. [LB351]

SENATOR GAY: Thank you, Jen. Any questions? Thank you very much. Other opponents? Would you make your way up to the front, if you're going to be an opponent here, to save time. Go ahead. [LB351]

REGINA YOUNG: Hi. My name is Regina Young, R-e-g-i-n-a, Y-o-u-n-g, and I thank you today for listening to my opposition of LB351. I am the mother of four children ranging in ages from three years to ten years old. After being a stay-at-home mom for most of my children's life, I was forced into singleness by the abusive actions of my children's father. He is now incarcerated, and I do not receive any child support

assistance. I have been a recipient of the welfare assistance for the past three years. Right now I am currently enrolled at the College of Saint Mary in Omaha. I am studying nursing on a full-ride scholarship. The ADC that I receive each month is not used for my tuition, but it is used for basic living necessities and gas and clothes for my children. When I heard that my TANF could be threatened for the time that I'm trying to finish my education, I felt very compelled to share with you the importance for my family, and even for society, the opportunity that I have to attend college and get my degree. An education will enable me to discontinue the need that I have for assistance. It would enable me to get a job, to be self-sufficient, and to be a tax-paying contributor. I am attending school full time right now, and I cannot imagine the enormous strain that it would have on my studies and the burden on my family if I had to juggle both my class load and my family responsibilities. My son has special needs that require some visits to the Mayo Clinic, and if I had to fulfill the 30 hours of work on top of going to school full time with nursing classes, it would be very challenging. Attending college is definitely not the easy way out. It's very challenging and difficult, but even after one semester and my success in my grades, and the encouragement I have from so many, I've seen so many benefits. The pride that my children have in me is overwhelming. It has encouraged them to be better students, and I am confident that the example I'm setting for them by going to school will ensure that they will not follow in a cycle of poverty. If I had to work, I would have no choice to be at a minimum wage job, and I might be able to receive the child care subsidy because of the low-income job I would be qualified for, but that would just contribute to my poverty. It would keep me and my family in a cycle of the system and just keep me on it much longer. By allowing me and many other moms like me to attend postsecondary school and still receive our TANF benefits for the short period of time while we get our education, this will allow us to focus on being good moms to our kids, raising them, completing our studies so we can get degrees to ensure self-sufficiency, and no longer need assistance. My plea to you is to support the positive direction that I and many other single moms are on, allowing us to finish our education and still receive our TANF benefits in the state of Nebraska for the short time while we finish school. Thank you. [LB351]

SENATOR GAY: Thank you, Regina. Senator Howard. [LB351]

SENATOR HOWARD: Well, I would really like to thank you for having the courage to come in, to stand up and come in. I know this can feel pretty intimidating to come in before a group like this. College of Saint Mary's has a wonderful program, and I was wondering if you're living in the dorm in their... [LB351]

REGINA YOUNG: No, I'm not able to, because of the number of children that I have. [LB351]

SENATOR HOWARD: Number of children, right. How close are you to graduating? [LB351]

REGINA YOUNG: I just started. [LB351]

SENATOR HOWARD: Okay, so... [LB351]

REGINA YOUNG: You know, this is...I just finished my first semester, so... [LB351]

SENATOR HOWARD: And then how long is your program? [LB351]

REGINA YOUNG: It's three years. [LB351]

SENATOR HOWARD: And you're going into what field? [LB351]

REGINA YOUNG: Nursing. [LB351]

SENATOR HOWARD: Nursing, good. We have a shortage of nurses here, so you've made a good choice. [LB351]

REGINA YOUNG: Yeah. [LB351]

SENATOR HOWARD: Thank you so much. [LB351]

REGINA YOUNG: Thank you so much. [LB351]

SENATOR GAY: Thank you. Hold on a minute. Any other questions? Thank you very much. [LB351]

REGINA YOUNG: Thank you. [LB351]

SENATOR GAY: Other opponents? [LB351]

DANIELLE MEDINA: My name is Danielle Medina, and I'm a single parent of my three-year-old son, Sammy. I'm a full-time college student and a part-time tutor, and I have received welfare for one year to supplement my income while I attend college. I'm grateful for this small and temporary investment that the state of Nebraska is willing to make in me, as I use education as my pathway to lasting financial sufficiency. The benefits to society for investing in the lives of single mothers are numerous and long term. For many women who use postsecondary education as a pathway to self-sufficiency, they will not only become productive, contributing members of society, but they will build new traditions and introduce a new way of life to their families, by role modeling a lifestyle that will end their own poverty and eliminate a mentality that encourages the poverty cycle. Like Gina, for me school is not easy. I dropped out of school when I was 16, and now I'm 22 and I just finished my first year of school with a

4.0, and...I'm sorry. This is making me really nervous. I'm pursuing nursing, not because I want to, but because it offers me job security and a salary that will ensure my financial self-sufficiency. I use TANF, not as part of my tuition--I have scholarships and grants and loans--but TANF enables me to purchase clothes and food and things like that for my son. Working 30 hours a week would inevitably compromise my spot in the nursing program as well as the precious little time I have to raise my son. Unfortunately, to be unsuccessful in postsecondary education as a pathway to self-sufficiency, I fear that I would become a long-term burden to society, and my need for assistance would only increase as my son grew older. And so, I just would really like you guys not to pass this. [LB351]

SENATOR GAY: Okay, thank you. Thank you for sharing that with us. Hold on one minute. Any questions? [LB351]

SENATOR PANKONIN: I just have one, Senator Gay. [LB351]

SENATOR GAY: Senator Pankonin. [LB351]

SENATOR PANKONIN: Are you also at the College of Saint Mary's? [LB351]

DANIELLE MEDINA: Yes, and I am in the MLL program. [LB351]

SENATOR PANKONIN: The what? [LB351]

DANIELLE MEDINA: The Mothers Learning and Living program. [LB351]

SENATOR PANKONIN: Okay. [LB351]

DANIELLE MEDINA: It's...I live on campus with my son, so. [LB351]

SENATOR PANKONIN: Yes. Well, thanks to both of you ladies for coming. [LB351]

SENATOR GAY: Hold on one minute, Danielle. Senator Howard. [LB351]

SENATOR HOWARD: And I'd like to join in with Senator Pankonin's thank you to you. This is...I know this is not the easiest thing to come down here and be a public speaker. But one thing struck me in thinking this through is, of all the e-mails I've received, of all the contacts I've received about this, they've all been women, and I'm starting to consider whether this is some sort of a policy that would prove to be discriminatory against women. So I'm kind of weighing that out as I listened to the both of you speak, and that's very bothersome to me, so...but thank you so much for coming down. [LB351]

DANIELLE MEDINA: Thank you. [LB351]

SENATOR GAY: Thank you very much, Danielle. [LB351]

MARTHA BROWN: My name is Martha Brown, M-a-r-t-h-a, B-r-o-w-n, and I have the privilege of working at College of Saint Mary, and I am also very proud of our students for waiting all afternoon to have their say. I'm not going to repeat anything they said, because they said it much better than I did, but I have three points I wanted to say very briefly. One is that my understanding of the goal of getting off welfare is self-sufficiency, and I don't believe it's possible for most people to achieve to self-sufficiency without some type of education that really prepares them for the work force. And I've worked with young women like Gina and Danielle for a number of years, and my feeling about it is that if we do not allow these women to go to college, and force them to work full time instead, they will not be able to get much more than minimum wage jobs, which yes, then we get them off the welfare rolls and into work, but they will never be self-sufficient, and we will be as a state paying for welfare benefits for them indefinitely, because they will be eligible for food stamps, they will be eligible for child care, subsidies for housing, indefinitely. Whereas, if we make the short-term investment on helping them get their degree, they'll be off welfare permanently, which is truly their goal. And I mean, I didn't just pick our two best students. I could have picked any of our students, but these two in particular, they're practically straight-A students. They're working very, very hard to make this happen. And the other point I want to make is that it makes such economic sense to support these women in doing this, because not only do we save the other money in welfare benefits long term, but we also have taxpayers that are contributing to the state and will be contributing. These women want to stay in Nebraska. These are not women that want to leave the state. They want to stay here, and if we educate them and allow them to do that...my third point is that I can tell you that it is working to support women while they're in college. We don't keep track of, we don't even necessarily know the percentage of women at our college that are receiving welfare benefits, but we do have a specific scholarship program for women on welfare, and we do track those women after they leave college to see what happens, because when we promote that program to donors, we say these women will be off welfare. So then we need to see, are they? And yes, they are. We have graduated over 40 women in that program in the years we've had that scholarship, and none of them are on welfare. We follow them, we see what they make, what their degrees are, what their jobs are. They're off welfare permanently, and any number of them would be happy to come here and tell you that. Two other quick things: I know that the language in there is that TANF is not intended to be a scholarship program, and as you heard from Danielle and from Gina, they're not using it as a scholarship program. They're working very, very hard to get scholarships and grants to cover their tuition, but they've got to live, also. They've got to have some kind of money to support their kids while they're in school. And they said it would be difficult to work 30 hours, be in school, and raise children. I would say it would be impossible. I don't think they could be in school. So I urge you not to pass this. [LB351]

SENATOR GAY: Thank you, Martha. Senator Howard. [LB351]

SENATOR HOWARD: Thank you, Senator Gay. I want to tell you how much I appreciate the program over at College of Saint Mary's. You're barely out of my district, and I wish you were in. (Laugh) But your program has been in existence probably ten years now? [LB351]

MARTHA BROWN: The scholarship program that I referred to has been in existence 12 years. The resident program for women to live on campus with their children... [LB351]

SENATOR HOWARD: Right. [LB351]

MARTHA BROWN: ...has been in existence eight years, and that's not a scholarship program. Those women have to pay room and board like every other student on campus. They have to cover that through grants or scholarships or loans. [LB351]

SENATOR HOWARD: Okay. Well, what I've admired so much about your program is you take a personal interest in your students, and you really see that they progress through your program. It's not an idle waste of time, or someone that's just maybe interested in seeing if they like college. [LB351]

MARTHA BROWN: No, that's. right. [LB351]

SENATOR HOWARD: You really make a commitment to them, and I've shared your information with senators from other states, encouraging them to look at your program for people... [LB351]

MARTHA BROWN: We've had a lot of interest from other states. [LB351]

SENATOR HOWARD: I think I've stirred that up, actually. (Laugh) But I think this is a critical issue, and I'm certainly glad you've come in to present this. Thank you. [LB351]

MARTHA BROWN: Thanks. [LB351]

SENATOR GAY: Martha, I would join with Senator Howard. It's quite an impressive program sounds like you have going, so. [LB351]

MARTHA BROWN: It would be absolutely devastating to our students to cut it off. There's just got to be some way to make it work. [LB351]

SENATOR GAY: Well, thank you all for your patience--long day. Other opponents? [LB351]

TIP O'NEILL: (Exhibit 5) Senator Gay, Members of the Health Committee, I'm Tip O'Neill, that's T-i-p, O'-N-e-i-l-l. I represent the Association of Independent Colleges and Universities, which is a consortium of 14 privately controlled, nonprofit regionally accredited institutions located in Nebraska. I'm proud to say that the College of Saint Mary is one of the institutions that I represent. I would also say that I'm here, and I am authorized by my colleagues in the public sector, who were not able to stay for the hearing today, to offer some comments on their behalf, and I actually have a letter from Stan Carpenter, who is the chancellor of the State College System. Ron Withem and Dennis Bakke (phonetic) also, from the University of Nebraska and community colleges asked me to provide some comments relating to their concerns about LB351. Really, the issue in my mind is it's a...the major problem is a federal problem. Honestly, Congress deferred too much authority to the federal Department of Health and Human Services relating to defining work for purposes of work fare, and we ended up with some extremely shortsighted decisions by the federal bureaucracy regarding what should count and what doesn't. One of the things I noted in reading the federal regulation is, federal...if a college student was in the federal work study program, working at the college, that doesn't count as work for purposes of this law, because there are federal funds involved in the federal work study, and anything that involves federal funds that's work, doesn't count. So if a college student was in the work study program, he or she would have to work 20 or 30 hours additionally at some other job in order to be counted for purpose of our numerator. It doesn't make any sense at all. One of the things I don't understand completely is, what is in the numerator and what is in the denominator, and how do we get to that 50 percent? I'd like to see us take a closer look at that, and I'd also like the committee not to rush to any judgment on this bill, but really take a close look at what we can do from a flexibility standpoint to make it work, because you know, if it was an easy thing to do, as a TANF recipient going to college, there would be more than 60 out of all of the recipients of TANF who were in the program. It's not the easy thing to do, but it's the thing that will make these students ultimately self-sufficient for the rest of their lives. And you know, I'd like to see us work on it. I'm not being critical of Senator Stuthman or the department. I think, you know, they're taking a look at what the federal law now says. The political winds are probably changing a little bit in D.C., too. I would like to see the federal government take another look at this issue. But for the meantime, I think you as a committee, and Jeff and the department, you know, see what we can do in here, because I think it's a good program, and I think it works. I'd be happy to answer any questions for you. [LB351]

SENATOR GAY: Thanks, Tip. Are there any questions? [LB351]

TIP O'NEILL: Thanks. [LB351]

SENATOR GAY: Thank you. Other opponents? [LB351]

TERRY WERNER : (Exhibit 6) I may be the last one; I may be the shortest, so you'll be glad to know that. My name is Terry Werner, it's spelled T-e-r-r-y, W-e-r-n-e-r. I'm the registered lobbyist and executive director for the Nebraska Chapter, National Association of Social Workers. I'm here to testify in opposition to LB351. Our organization supports economic policy that invests in human capital, recognizing that Nebraska's well-being derives not only from an economic balance sheet, but also from the well-being of its member. LB351 strips Nebraska's lowest income families of their ability to pursue postsecondary education, leaving families and future generations without a means to break the cycle of poverty. I ask that the committee carefully consider the future price tag of not allowing ADC families to access postsecondary education, and I urge you to oppose LB351. And I'd be happy to...that's short and sweet, and we can all go home. [LB351]

SENATOR GAY: Thank you, Terry. We appreciate that. Any questions? Thank you. [LB351]

TERRY WERNER: Thank you. [LB351]

SENATOR GAY: Other opponents? Anybody would like to speak in a neutral capacity on this? Senator Stuthman, would you like to close? [LB351]

SENATOR STUTHMAN: Thank you, Senator Gay. In closing, I really respect the people that came and testified here on this bill today, and I think there may be a possibility of a little bit of a misunderstanding as far as this...the college, the postsecondary education, and hopefully we can work through this with Director Peterson to see whether we can assist these two people, or the people that are, you know, trying to better themselves. And in my opinion, that is the goal for the improvement of the society. So maybe we can try to work something out so that we can assist these type of people. Hopefully, it is in there that we can do that and still have the federal assistance. So that is what my goal is, and I think you as a committee need to take a little bit of time and see whether we can iron this stuff out. [LB351]

SENATOR GAY: Thank you, Senator Stuthman. Thank you all for being with us this late hour; appreciate your input, and with that, I will close the public hearing on LB351. [LB351]

Disposition of Bills:

LB250 - Indefinitely postponed.
LB267 - Indefinitely postponed.
LB308 - Held in committee.
LB326 - Indefinitely postponed.
LB351 - Advanced to General File, as amended.

Chairperson

Committee Clerk