[LB27 LB367 LB451 LB511]

The Committee on Health and Human Services met at 1:30 p.m. on Thursday, February 12, 2009, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB451, LB367, LB511, and LB27. Senators present: Tim Gay, Chairperson; Dave Pankonin, Vice Chairperson; Kathy Campbell; Mike Gloor; Gwen Howard; Arnie Stuthman; and Norman Wallman. Senators absent: None. []

(MACHINE MALFUNCTION, SOME RECORDING LOST) []

SENATOR CAMPBELL: (MACHINE MALFUNCTION)...there are members of the Nebraska Hearing Society who will follow me in support of the measure as they were the group that asked me to introduce this bill. Perhaps the most substantive change and the one that no doubt you are hearing about has to do with Section 16 of the bill. And Section 16 would change the makeup of the membership composition of the licensing board. And I'm not going to go into great detail on Section 16 because you're going to hear a lot about it. And I would rather have those that have the most interest in that section and I'm sure that most of the comments you will hear today have to do with that. I would prefer to take any questions at the end, if you have any. But I think it's important that we get right into the testimony. [LB451]

SENATOR GAY: Thank you, Senator Campbell. We'll go straight to proponents then. Yeah, if you have handouts, just give them to... [LB451]

MISTI CHMIEL: (Exhibit 2) Hello and good afternoon. My name is Misti Chmiel. I'm the current president of the Nebraska Hearing Society and lifelong resident of the 35th District, represented here today by state Senator Mike Gloor. I'm joined by my colleagues and fellow board members here today on behalf of the Nebraska Hearing Society, which is currently requesting some small changes to the basic wording of our state statutes in an effort to more closely align ourselves with the federal definitions regarding our profession. In 2008, the federal Office of Personnel and Management publicly listed licensed hearing healthcare providers as hearing instrument specialists, audiologists, and otolaryngologists. These are the same three disciplines accepted by the International Hearing Society, which is comprised of all state chapters and international members from all over the world as adequately being licensed to assist the hearing disabled community. Our proposed changes to the hearing aid dispenser and fitters licensure board are to ensure representation and protection of the dispensers that licensing board governs over and to ensure all licensees treating the public are qualified to do so. It is our desire that public consumers are protected by ensuring their right of choice in a hearing healthcare provider and that they are able to distinguish a difference between the professionals capable of treating their hearing loss based on each individual's needs, wants, and abilities. I thank you all for your time and allowing me to speak before you today and appreciate your consideration of our bill, LB451. [LB451]

SENATOR GAY: Thank you. Let's see if there are any questions. Any questions from the committee members? I don't see any. Thank you. [LB451]

MICHAEL GRACE: Good afternoon. My name is Mike Grace, Michael Grace. I'm here on behalf of the Nebraska Hearing Society in regards to our bill that we were looking at for your consideration, LB451. Our main concern is the wording in our profession now has changed to "hearing instrument specialist." But our other concern that we're looking into is changing is the number of members on our board that looks over the public safety. We are here as hearing healthcare professionals to help our patients hear the best that we can. And we want to work together as a group of professionals. And by doing that we feel it would be important to have equal representation on our board. We hope that you would take that into consideration. And again, we would like to thank you for listening to us today. I kind of don't want to repeat a lot that's been said here and so I'll make it simple. And if you have any questions, I'll be more than happy to answer them. [LB451]

SENATOR GAY: Okay. Thank you. Let's see if we have any questions. Any questions at all? None right now. Thank you. [LB451]

MICHAEL GRACE: Okay, thanks. [LB451]

SENATOR GAY: And for the record, we have Senator Stuthman, Senator Howard, and Senator Wallman have joined us. Other proponents who would like to speak? [LB451]

KEN STALLONS: (Exhibit 3) Good afternoon. My name is Ken Stallons, that's S-t-a-l-l-o-n-s. I'm an audiologist who's here on behalf of the Nebraska Hearing Society in favor of the proposed changes to our state statute specifically as it relates to the licensing board. I was first licensed as a hearing instrument specialist in the state of Iowa in 1984. That was before I became an audiologist. I am currently licensed as both an audiologist and a hearing aid instrument dispenser and fitter/audiologist in the state of Nebraska. The purpose of the licensing board is to protect the general public when it comes to having hearing instruments dispensed to them. As you well know, the licensing board consists of six members: a public member, an otolaryngologist, an audiologist, and three hearing aid dispensers. Currently, this board consists of a public member, an otolaryngologist, three audiologists, and one hearing aid dispenser. Technically, it's functioning in violation of the statute of how it was originally intended. Now I understand that the audiologist's point that since they have to be dual licensed, that they want to have representation on the board. They just don't have the right to make up the whole dispensing section of the board. Both sides have a right to be represented. The licensing board should consist of members of the profession for which falls under their regulations. However, the dispensing audiologists do not have the right to replace the hearing aid dispensers for whatever reason. The audiologists are

governed by their own licensure board in regards to audiology issues. This is a dispensers licensing board, which the audiologists should not have more of a voice than the dispensers who are not audiologists. Nationwide, if we are an audiologist who dispenses hearing aids, we're known as dispensing audiologists. Audiologist describes who I am and dispensing describes one of the jobs that I do. I'm not known as a hearing instrument dispenser but rather as an audiologist. There is not one audiologist, if they really were completely honest about that, who really wants their primary professional description to be a hearing instrument dispenser. In my opinion, this would be beneath them as audiologists because we have earned a higher degree. If the audiologists think that they are equal to the hearing instrument dispensers, then the scopes of practice should be the same. And I'm sure that's not what they're going to want either. I'm not really sure who is responsible for selecting the licensing board members. But when the current hearing aid dispensers have rotated off the board, they've been replaced with dispensing audiologists. There have been many hearing aid dispensers who have made it known that they would like to serve on this board. None of them have been contacted to do so. It seems as if the audiologists are eliminating the voice of the hearing aid specialist with regards to the licensing issues. This does not have the general public's best interests in mind. I realize that the scope and practice has expanded for the audiologists, but this does not include the power or the desire to eliminate another profession's voice. As a compromise I know that the audiologists would have no problem with the current wording of the licensing board if they would not need to be dually licensed. The thought, though, that the audiologists don't need to be licensed is not in the public's best interest. Even physicians need to be licensed. No profession is exempt from someone who is looking to have a personal gain at the cost of integrity and honesty. The licensing board is in place to ultimately protect the general public while allowing for improved quality care from licensed professionals. I want to thank you for your time in allowing me to speak before you today. And I also appreciate your consideration of our bill, LB451. I gave you a copy also of the current board membership that's listed. As you can see, one audiologist is listed, but there are actually three audiologists on this board. [LB451]

SENATOR GAY: Thank you. Any questions? Senator Pankonin. [LB451]

SENATOR PANKONIN: Thank you, Senator Gay. Mr. Stallons, is that... [LB451]

KEN STALLONS: Stallons. [LB451]

SENATOR PANKONIN: I'm a little confused. Who wants this bill? [LB451]

KEN STALLONS: Yeah, I know, I am an oddball from the standpoint of audiologists, for the most part, are not wanting this bill to pass. And but, I guess, as an audiologist that sees this bill is valuable from a standpoint of equal representation because when I look at what...I obtained a master's degree in audiology, whereas the hearing instrument

dispensers have a high school diploma and they've passed a test. So there is some educational differences between those two groups. And I guess it would be nice to have some equal representation. So I am siding with the Nebraska Hearing Society on this point. [LB451]

SENATOR PANKONIN: Okay. Well, I was just trying to get clarification because... [LB451]

KEN STALLONS: Yeah, it's a little confusing when... [LB451]

SENATOR PANKONIN: ...I was wondering which testimony you were giving. Thank you. [LB451]

KEN STALLONS: Yeah. [LB451]

SENATOR GAY: Any other questions? I don't see any. Thank you. [LB451]

KEN STALLONS: Okay, thank you. [LB451]

SENATOR GAY: Other proponents? [LB451]

JOE KOHOUT: Chairman Gay, members of the committee, for the record, Joe Kohout, K-o-h-o-u-t, registered lobbyist, appearing today on behalf of the Hearing Society. I won't take much of your time other than to advise the committee that there are conversations going on between both sides, I guess, that are concerned about this section, and specifically Section 16, the section that deals with that. We have thrown out some thoughts on an equal representation issue. If you read the language, currently it allows for three members who are somehow licensed, plus the guarantee of one audiologist. We're looking at essentially a split down the middle, split it right down the...Solomon's choice as it were, two hearing...licensed hearing instrument specialists, and two audiologists is what we've thrown out. I understand they have to take that back to their membership. So we just want to advise the committee that those conversations are underway. [LB451]

SENATOR GAY: All right, thank you. Any questions? Don't see any, thanks. [LB451]

JOE KOHOUT: Okay. [LB451]

SENATOR GAY: Other proponents who'd like to speak. Opponents who would like to speak on this issue. [LB451]

JODY SPALDING: Good afternoon, Senators. My name is Jody Spalding, S-p-a-l-d-i-n-g. I'm here as the chair of the Board of Audiology and Speech-Language

Pathology. Our board is in support of the changes relative to naming...the name changes that are presented. However, we are in opposition to changing the membership of the board. As you understand, the current statutes are that there are three positions that are designated for people who provide hearing aid services, who are licensed to provide hearing aid services. And those positions can be filled right now by people who have just the hearing aid instrument and dispensers license or people who are dually licensed as audiologists. I find it interesting that there was a conversation about equal opportunity to be on the board. The current writing of this actually denies dispensing audiologists, those with a dual certification to be eligible for serving on the board. My role as a board member is to ensure public safety. And it is unclear to our board how these changes safeguard the public in any way or that they enhance that in any way. The differences in licensure requirements for the two professions, I thought I would just go through that briefly for you. You may be aware, so I'll try to keep it short. Audiologists have extended educational requirements. So you have to have a bachelor's degree and then you have to have at least a master's degree. And as of two years ago, you now have to have a doctorate of audiology. In order to obtain those degrees, you have to take a lot of coursework that is...and practical experience which is supervised, which is all focused on assessment and management of hearing and balance disorders. The hearing aid dispenser...instrument and dispenser license requires a high school diploma. It requires a one-time test that is a national standardized test, but it's 100 questions long, and a 45-minute practicum. That is the only evaluation that's required to qualify for this license. We feel, the Board of Audiology and Speech-Language Pathology feels that that additional education actually enhances the ability of audiologists to provide quality care to serve Nebraska citizens with hearing loss. Another concern is that this bill, as it stands now, limits the opportunity for licenseholders to serve on the board. Dispensing audiologists hold 80 of the 160 licenses that are currently in effect in the state of Nebraska. And this change would basically deny dually certified...dually licensed professionals fair representation on the very board that oversees a significant portion of their practice. As a representative of the Board of Audiology and Speech-Language Pathology, I respectfully ask for your opposition to LB451 in its current form. Thank you very much. If you have any questions, I'd be glad to answer them. [LB451]

SENATOR GAY: Senator Wallman. [LB451]

SENATOR WALLMAN: Thank you, Chairman Gay. The licensing here I notice expiration dates. And do you know how long you're licensed? How many years it is? [LB451]

JODY SPALDING: Both licenses are two-year licenses. And they actually end up being renewed on the same year, the audiology and speech-language pathology license is December 1, and the hearing aid dispenser and fitter license is December 31 is the renewal date. But they're both two years. [LB451]

SENATOR WALLMAN: Thank you. [LB451]

SENATOR GAY: Senator Howard. [LB451]

SENATOR HOWARD: Thank you. Very polite. Just a...and I'll make this quick. Thank you, Mr. Chairman. How long did you say the practicum was? [LB451]

JODY SPALDING: The practicum for audiology, the requirements for the degree are more than 1,000 hours. [LB451]

SENATOR HOWARD: Okay, thank you. [LB451]

SENATOR GAY: Senator Gloor. [LB451]

SENATOR GLOOR: Thank you, Chairman Gay. Ms. Spalding, I'm guessing that this is a volunteer position when you serve on the board... [LB451]

JODY SPALDING: Yes, it is. [LB451]

SENATOR GLOOR: ...with some reimbursement for expense. And so it's a volunteer position. They probably don't even have nice treats like we get serving on this committee. [LB451]

JODY SPALDING: No, they don't. I'll have to chat about that. [LB451]

SENATOR GLOOR: Check and see if you're lucky. So I'm trying to figure out why it is that this board seems to be one with some degree of contentiousness around who gets to serve, how many get to serve. What kind of decisions are we talking about that involve safety of patients? [LB451]

JODY SPALDING: That is our basic question about this bill is what problem this change would address in terms of assuring public safety as hearing aid services are provided. And I can't answer that question because I don't understand that myself. [LB451]

SENATOR GLOOR: Well, but you probably do understand the kind of decisions that go there. And that's really my question. What kind of decisions are made by this board that have people... [LB451]

JODY SPALDING: Oh, I'm sorry. Thank you. [LB451]

SENATOR GLOOR: Yeah. [LB451]

JODY SPALDING: Thank you for rephrasing. As a member of the Audiology Board, we are responsible and the same thing for the members of the Hearing and Licensure Board. You are responsible...we are responsible for developing the regulations. So the statutes belong to all of you folks. The regulations in terms of how those statutes are interpreted for the licensees are the responsibility of the board members. So we talk about what's required for continuing competency. We talk about fees. Those are the kinds of decisions that are in regulation. In addition, a significant...the public policy...the public safety issue is complaints come to the board that are made about professionals under our jurisdiction. So the Hearing Aid Dispensers and Fitters Board gets complaints if there is a citizen who has, or another professional, who has a problem with some activity of a licensee. Same thing on our board. So because audiologists fall under both boards, actually there have been examples where we have, as a board, looked at cases against audiologists where the hearing aid dealers and license...that hearing aid board is also looking at them. But it is the responsibility of the board to make recommendations to the Attorney General's Office regarding the level of problem that is being reported and make a recommendation for the response to that. [LB451]

SENATOR GLOOR: So you would make a recommendation to the Attorney General's Office rather than the Board of Health or Board of Licensure? [LB451]

JODY SPALDING: Yes, that's the way that works, yeah. [LB451]

SENATOR GLOOR: Interesting. Thank you. [LB451]

SENATOR GAY: Any other questions? Don't see any. Thank you. [LB451]

JODY SPALDING: Thank you very much. [LB451]

STEPHEN BONEY: (Exhibits 4 and 5) Good afternoon. My name is Stephen with a p-h, Boney B-o-n-e-y. And actually I wear a number of different hats. I'm...my employment is as a faculty member at UNL in the Audiology and Hearing Science Department. I'm also a licensed audiologist and hearing aid fitter and dispenser. And I also serve on the Hearing Aid Fitter and Dispensers Board. But I'm not here to speak today in the capacity of a board member but more of a concerned audiologist who's dually certified. So I wanted to make that clear. Obviously, I'm up here to speak today in opposition to LB451, specifically to Section 16 which would seek to reconfigure the membership composition on the board and certainly limit the ability of dually certified audiologists to serve on that particular board. Much of what I had written here in the testimony would be really redundant at this time to reiterate, the composition of the board currently, etcetera. But I guess the bottom line is that given the current licensee demographics I feel it should stay that way and that neither profession should have a limited opportunity to serve as a board member. One thing I don't think that's been brought up that I thought I would bring to your attention is that in the majority of states that regulate the

profession of audiology, audiologists are able to dispense hearing aids under their Audiology Practice Act, negating the need to hold a separate license. Actually in fact, the scope of practice for audiology in this state does allow us to select, fit and dispense hearing aids. However, we are required to have a license both as an audiologist as well as a hearing aid fitter and dispenser. Other professions, such as occupational and physical therapy, as examples, don't need separate licenses to do certain types of casting or splint their patients. It's covered simply under their practice act. So I feel that if this bill passes it places another unreasonable limitation on our profession of audiology. That's all I have to say. [LB451]

SENATOR GAY: Thank you. Any questions? Don't see any. Thank you. Other opponents. [LB451]

RYAN McCREERY: Chairman Gay and members of the committee, I just want to thank you for your time and hearing my comments today. My name is Ryan R-y-a-n, McCreery M-c-C-r-e-e-r-y. I'm an audiologist at Boys Town Research Hospital in Omaha. And I just wanted to share some comments and some concerns about LB451 that I have as a dually certified audiologist and hearing instrument dispenser. Without reiterating what Dr. Boney and Mrs. Spalding have already talked about, the basic concern that I have about LB451 is that it's not clear what the problem is that this legislation is designed to address. The current situation with the composition of the Hearing Aid Dispensing and Fitting Board leaves the Health and Human Services Department with the option to recruit the best people to serve on the licensing board, whether they are audiologists or hearing instrument dispensers. The flexibility that the current law allows us means that you have the best opportunity to provide for public safety under the current regulation because the board can be composed of the people who the Department of Health and Human Services feels are most qualified to serve in that capacity. The Department of Health and Human Services licensing division, their job is not to ensure equal representation for professions, their job is to protect the public. And the current law allows them to do that the best way that they possibly can, by allowing them to choose the most qualified individuals to serve on that board, whether that would be a hearing instrument dispenser or an audiologist. And so the main thing is that they came up and mentioned this issue of equal representation. But the way that the bill is proposed at this time would not ensure equal representation. There would be more hearing instrument dispensers on the board than audiologists instead of allowing the Department of Health and Human Services to decide who the most qualified individuals are to ensure public safety. Those are the only comments that I have that wouldn't be redundant with what someone else has already said. So thank you for your time. [LB451]

SENATOR GAY: Thank you. Any questions? I don't see any. Thank you. [LB451]

RYAN McCREERY: Thank you. [LB451]

CRAIG FOSS: Chairman Gay and members of the Health and Human Services Committee, I am Dr. Craig Foss, C-r-a-i-g F-o-s-s. I'm an audiologist from Grand Island. I've been licensed by the State Board of Health as an audiologist and as a hearing instrument dispenser for over 26 years. And during that time I have had the opportunity to serve on the Board of Hearing Aid Dispensers as a dispenser. This bill, if enacted, would take away that opportunity for me to serve on that board. I wanted to go to page 15 of the bill and read just part of a sentence. Starting on line 21 where it says, "The professional members shall consist of three licensed hearing instrument specialists," and then the change, "not holding licenses as audiologists." If we direct our attention to page 12 of the same bill it says, page 12, line 21, "Any audiologist who engages in the sale of hearing instruments shall not be exempt from the Hearing Instrument Specialist Practice Act." In this bill on page 12 it tells me that to practice my profession I must have this license. Three pages later it says but I cannot be considered for the board. I think that everyone who holds a license as a hearing instrument fitter should have the right to serve on that board as a hearing instrument fitter. This bill would say that I don't have that right anymore because I also have a license as an audiologist. I don't think that's right, just as I don't think I should be denied serving on a board as an audiologist because I also have a license as a hearing instrument fitter. I have both. I am totally qualified to serve on either one. And even more importantly than the fact that I would not be able to serve if this was passed, approximately half of the individuals who hold licenses as hearing instrument fitters would be eliminated from the pool to serve. Senators, when it comes down to it, when there's an opening on the board for a hearing instrument fitter the state Department of Health will fill that position from applicants. All I'm asking is that everyone who has a license be able to apply. I think everyone should have that opportunity to apply. [LB451]

SENATOR GAY: Thank you. [LB451]

CRAIG FOSS: Thank you. [LB451]

SENATOR GAY: (Exhibit 1) Any questions? Just so you know, we did get a letter from the department, exactly what you just said on a neutral capacity. So we have that, that's in the record. But they caught that as well what you brought up. So thank you... [LB451]

CRAIG FOSS: Thank you. [LB451]

SENATOR GAY: ...for bringing that to our attention. [LB451]

CRAIG FOSS: Thank you. [LB451]

SENATOR GAY: Any other opponents? All right. No other. We did get the letter I just mentioned from the department, Dr. Schaefer, from the Department of Health and

Human Services as neutral on this bill. Senator Campbell, do you want to close? [LB451]

SENATOR CAMPBELL: I just have a brief...I'll come up there. [LB451]

SENATOR GAY: You bet. While Senator Campbell is coming up, I would like to thank both those proponents and opponents did an excellent job of not being repetitive. And I think that's...very good job of doing that. We appreciate it. [LB451]

_____: Senator, I just have one comment and I... [LB451]

SENATOR GAY: No, I'm sorry. But you can... [LB451]

_____: I'm sorry. I thought there was a neutral testimony for... [LB451]

SENATOR GAY: Did you just...you already testified as an proponent. [LB451]

SENATOR PANKONIN: Just written? [LB451]

_____: Right and I didn't want to...I guess, I just wanted to maybe speak to their... [LB451]

SENATOR GAY: We can get that later. But feel free to write anything down and submit it or just call any one of us as well. Okay? That would be good. Or if you want, you could write that down and throw it in there, we can get it that way too. Okay? I'm sorry to be...I just don't want us to create this, otherwise we'd have it... [LB451]

_____: That's fine, that's fine. [LB451]

SENATOR GAY: Thank you. Senator Campbell. [LB451]

SENATOR CAMPBELL: Thank you, Chairman Gay and the committee. My brief comment is that our office has been monitoring the conversations that the two groups have been having and we will continue to do so. And I very much appreciate both of the Hearing Society and the audiologists coming forward and bringing their comments. And we would invite additional letters and e-mails from both sides because we are monitoring their conversations. And, hopefully, we can work it out. [LB451]

SENATOR GAY: Thank you, Senator Campbell. Are there any last questions for Senator Campbell? Don't see any. Thank you. That will close the public hearing on LB451 and move to LB367. Senator Gloor. [LB451 LB367]

SENATOR GLOOR: Thank you, Chairman Gay and fellow committee members. My

name is Mike Gloor, G-l-o-o-r. LB367 is about long-term care beds. Currently, Nebraska's statute, which is called certificate of need, prohibits the relocation of long-term care beds from one healthcare facility to another facility within the same health planning region if the relocation will cause an aggregate increase in long-term care beds between those locations of more than ten beds or 10 percent, whichever is less over two years. It's called the 10-10-2. As shown in the handout, Nebraska is divided into 26 health planning regions as established in the Nebraska State Health Plan. And I show you the map so that you have an understanding of how tightly confined we are in this state with planning regions. Those are very small geographic areas. In addition, the statute also prohibits the relocation of long-term care beds from a healthcare facility to another facility in a different health planning region, between health planning regions. LB367 removes these restrictions so that facilities may relocate, buy and sell from where they are no longer needed in the state to where they are needed in the state based upon population and demand. Statewide total bed capacity would remain unchanged. LB367 gives the receiving entity three years from the sale, relocation, or transfer to license the beds within the department. This component is very necessary because the facility seeking beds for a brand new facility may just be starting construction on a project at the time another facility is seeking to reduce its beds. It also prevents buying up of beds or banking them by one facility. It's a key issue that in order to seek expansion of beds currently a long-term care facility must get department approval. The number of long-term care beds in the state cannot be increased unless approved by the department. In order to approve an application for new beds or relocation of beds, the statute requires the department to perform a calculation aimed at estimating the need for those beds. This calculation formula is based upon occupancy data that is simply not available. The department has suggested changes that were brought to me late this morning. I think they will explain their technical concerns in their testimony. In a rural facility selling unoccupied long-term care beds would allow that facility to remain in operation by redeveloping their portfolio of services. This will protect local jobs, ensure availability of nursing facility care in rural Nebraska, and also furthers Medicaid reform and behavioral health reform by fostering an opportunity for that institution to develop an alternative home- or community-based service. I'd be glad to answer questions. But there will be people providing testimony after me that could also answer some of those questions perhaps better. [LB367]

SENATOR GAY: (Exhibit 6) All right, we'll hold off on questions for you. And, Senator Gloor, we did receive this letter. This is probably what you're referring to. [LB367]

SENATOR GLOOR: Good. Yes, it is. [LB367]

SENATOR GAY: Yeah. [LB367]

SENATOR GLOOR: Dated today, I believe. [LB367]

SENATOR GAY: We have the letter. They're neutral, and it discusses that. I don't see anybody...is there anyone that's going to talk for the department on this? No. So we did receive that... [LB367]

SENATOR GLOOR: Good. [LB367]

SENATOR GAY: ...in a neutral capacity. All right, we'll hear from proponents. [LB367]

BRENDON POLT: (Exhibit 7) Good afternoon, Chairman Gay and members of the committee. My name is Brendon Polt. I'm representing the Nebraska Health Care Association. And special thanks to Senator Gloor for introducing this legislation. I want to get on record we undertook quite a comprehensive process in developing this legislation. We worked together with...the Nebraska Health Care Association worked together with representatives from the Nebraska Association of Homes and Services for the Aging and put together a work group of folks that had...were experiencing problems with the long-term care certificate of need process and how it works in Nebraska. Our group included independent and corporate providers, proprietary and nonproprietary, and government or community owned facilities. There are no provisions of this bill to which anyone in our working group had a problem with. So if it was something of a concern, we left it out. So after we developed what is now the green copy, I thought, what is any group that has any interest in long-term care certificate of need? And we made the bill available to them and we supplied it to the department. And I have to this date not received any opposition to the bill. Most parties have said, we don't have a problem with it or else support it. So our process was open to the maximum extent we could do so. So what did we put together? Well, members of the committee, I submit to you that what you have is the nursing facility economic stimulus bill. And the beauty of our bill is we're not asking for a single billion dollars. (Laughter) In fact, we're not asking for a single dollar at all. What we're asking is for you to let us help ourselves to align beds with...where the population demands their placement. So we hope that LB367 preserves access to long-term care in rural Nebraska. We know that there are an alarming number of rural facilities that are on the verge of closure. These facilities have an intangible asset and have substantial value and that is their licensed beds. The certificate of need act prevents facilities, to a great degree, from accessing value from that asset. So LB367 gives them the ability to transfer or buy and sell beds. And we think that this market-driven approach will align long-term care capacity with need in the population and consumer demand. So what does this mean for the average facility? We know that vacancy rates are highest in rural areas, and we know that a little over half of the facilities statewide are either independently owned or government or community owned. So an independent or government facility can sell off their beds, this would generate revenue and they can reinvest it. Now a corporate proprietary or nonproprietary facility has the option to either sell their beds or transfer them to another facility within their corporation. Either way, they either generate revenue to be used in their community or they can operate more efficiently. And we think this helps them stay

in operation longer within that community stimulating the economy. What does this mean for communities where unneeded beds are sold? Well, in that community you have reinvestment within the facility when it's an independent or government owned facility because they can't transfer that revenue to some other area of the state. We know anecdotally and through conversations with our members that we have members that are looking for ways, they want ideas, how can we expand into home-based care? We know it's necessary, we know it's needed. We know the Medicaid Department is telling us they need those services. We know that money follows the person, can't succeed unless the services are developed. So we know that there is an interest to develop these services across the state. We also know that we have facilities looking for ways they can access funds to go into behavioral health services. We have...the behavioral health reform process has resulted in an increased occupancy of individuals with behavioral needs in nursing facilities. And facilities need to upgrade their physical plants. They need security improvements. They need staff training, they need one-time funds at the same time their general populations are decreasing. Well, these are the kinds of things that can be done. We need to be fully "sprinklered" in several years, and that's going to be a huge hit to facilities. Facilities are rundown in some areas and need...and just need capital to make routine maintenance. So this is how money would be reinvested in the communities. We also believe communities benefit, like I said before, even when a facility transfers a bed out of a community into another community within the same corporation because the facility stays in operation. They're more efficient. They get greater revenue if they can do private rooms or move more people into Medicare rehab and expand those types of facilities. So we think it benefits the local communities in those situations too. So this is real economic stimulus for us. So please let us help ourselves. [LB367]

SENATOR GAY: Thank you, Mr. Polt. Are there any questions from the committee? Senator Pankonin. [LB367]

SENATOR PANKONIN: Thank you, Senator Gay. Mr. Polt, let me just ask you a follow-up question. I understand the concept and this has been very helpful. As a former mayor of Louisville, we own a care center so I'm familiar with some of those issues. So technically, can a care center, if this bill was passed with maybe some of the changes that are recommended by the department, they could actually sell that bed from outstate to Lincoln or Omaha? I mean, the right to have that bed or what's the concept? [LB367]

BRENDON POLT: Yes, you could sell your bed in Louisville to McCook. [LB367]

SENATOR PANKONIN: Or vice versa also? [LB367]

BRENDON POLT: Or vice versa, or you could buy beds. And that would operate without having to obtain a certificate of need. [LB367]

SENATOR PANKONIN: And as far as that mechanism, would there...how would that mechanism work? Would there be oversight over that, how that might happen then? [LB367]

BRENDON POLT: Well, the only oversight would be that the receiving entity has three years, I think the department would prefer two, which is fine, to license that bed. So the receiving facility has to go through the regular licensing process so you...which we believe has some assurance that they're capable of doing so. [LB367]

SENATOR PANKONIN: And the value for having this licensed bed, it would be just market-driven, whatever... [LB367]

BRENDON POLT: Yeah, it really just depends on the area, depends on the provider, what they're seeking to do, if they want to...what kind of revenue they project from a new project. And that might be something that some of the witnesses after me can speak to who have...now, currently within the same planning region there's some buying and selling of beds. So they might have a greater or a better feel for what the bed value is. But it's really all over the place, depending on the person. [LB367]

SENATOR PANKONIN: Okay. [LB367]

SENATOR GAY: Senator Wallman. [LB367]

SENATOR WALLMAN: Thank you, Chairman Gay. Thanks for coming, Brendon. So you have so many licensed beds that were available per region? [LB367]

BRENDON POLT: Well, what you have is when the health planning regions were created, facilities had their beds. [LB367]

SENATOR WALLMAN: Um-hum. [LB367]

BRENDON POLT: At that point it became stagnant. And so in order to increase beds you had to use that 10-10-2 formula that I think you're aware of because of your bill. But so you could only increase if you were doing it at a very slow rate or if you obtained a certificate of need. So it just got fixed at a set point in time without really any rhyme or reason to it. [LB367]

SENATOR WALLMAN: Thank you. [LB367]

SENATOR GAY: Senator Campbell. [LB367]

SENATOR CAMPBELL: Thank you, Chairman Gay. If you would sell the bed and then in the future you needed it, then you'd have to go out on the market and get another

one, right? You give up all rights. [LB367]

BRENDON POLT: Yes. You sell your bed and then it's gone. Now, obviously, if a facility in a certain area, they sell all their beds, then that means that vacancy rates are higher. And so they could easily go through the certificate of need process and get another bed. So the way the exception works, the certificate of need process is still in place. If you're not transferring a bed or buying a bed, you...if you can show that there's enough need, if occupancy is a certain threshold, then you can get a new bed. So as the population...as the population ages we're fine. [LB367]

SENATOR GAY: Any other questions? I have one for you. So, and Senator Campbell was kind of going where I was going. You can...so you sell your bed, ten years later you have a need for three beds. And you've used those proceeds to upgrade your facilities and stay in business. So but ten years later you can come to the board, show a need, and the certificate of need, you can get the beds. So we could be creating more beds into the future. The whole certificate of need was to limit beds, wasn't it? [LB367]

BRENDON POLT: It is to limit beds, unless there's a need for them. [LB367]

SENATOR GAY: Right. So the process is still there that you can come back and say, I have...I need five beds in the Panhandle region. And then the department would grant the beds. [LB367]

BRENDON POLT: Yeah. They'd take a regional look and say, we have a high enough occupancy, we need them, so they can build them. [LB367]

SENATOR GAY: Yeah. Senator Pankonin. [LB367]

SENATOR PANKONIN: Just to follow-up on that. Thank you, Senator Gay. So why can't people where there's places where there's a demand for beds go through that need process to get them? If you're in an area that's growing, I mean the potential is growing and you've talked about if you sell a bed and then later on, how come...yeah, why can't you do that now? [LB367]

BRENDON POLT: It's quite a rigorous process. The 95 percent threshold, for one, is sort of arbitrary. Consumer demand might dictate that there is a need. A business can be successful in operating and adding several beds. The way the certificate of need works it's an equation that one is if you look at how it's...if you look at the actual equation, not only is the data not available but it's somewhat rigorous which is something the department speaks to. [LB367]

SENATOR PANKONIN: So this is a more flexible, quicker response to that. If you want to build a 60-bed facility, that would be pretty tough to do if you were doing that in

Lincoln or Omaha. It would be easier to go out and buy the beds? [LB367]

BRENDON POLT: Right. [LB367]

SENATOR PANKONIN: Okay. [LB367]

SENATOR GAY: Any other questions? Don't see any. Thank you. [LB367]

KEITH FICKENSCHER: (Exhibit 8) Good afternoon, Senators, and thank you. I'm Keith Fickenscher, president of Tabitha Health Care Services in Lincoln. Tabitha offers services in 29 counties of Nebraska. We have nursing homes in Lincoln and Crete and we manage Blue Valley Lutheran Homes in Hebron. Tabitha offers a healthcare continuum that includes hospice, home health, Meals on Wheels, intergenerational day care, and independent living apartments, as well as long-term care and skilled rehab services. This unique continuum serves nearly 2,000 people every single day. Our nursing home in Lincoln opened in 1886, making it the longest continuously operating nursing home in the state of Nebraska. It is a 205-bed facility operating at about 92 percent capacity. Having said all that, I hope I speak with some credibility as I support LB367. In the nursing home industry, a licensed bed is the coin of the realm. A fully utilized bed is the most valuable asset a facility has. Without it there is no need for nurses, cooks, housekeepers, or even a building. The present system of allocating licensed beds in this state is archaic and virtually impossible to navigate, especially if it is desirable to move a licensed bed across an arbitrary line separating two health planning regions. If this same model applied, for example, to the retail gasoline industry in Nebraska, owners would be free to build gas stations anywhere they pleased but the state would allocate the available gasoline supply. And some stations would end up with more than they could sell with no way to transfer it to stations in other parts of the state which did not have enough to meet their demand. Nobody would stand still for that. LB367 will, at long last, permit an orderly transfer of beds to the areas of greatest need. The winners under this system will be the facilities selling the beds, the facilities acquiring the beds, and the public served by both the seller and the buyer. The buyer of licensed beds will obviously use them to build or expand a facility in an underserved market. LB367 gives him three years to do this. The seller of licensed beds has many options for using this new capital: he can use it to reduce debt; he can use it to upgrade his facility from semiprivate to private rooms to make it more competitive; he can use it to purchase an electronic charting system which I can attest will reduce med errors and significantly improve his ability to capture all the charges he's entitled to receive; or he could completely change the aesthetics of his facility by replacing white tile floors, fluorescent lighting and pink walls with carpet, wall sconce fixtures, and mauve colors. The trend today is to deinstitutionalize the nursing home and create a genuinely warm and homey feeling. So in my mind the only question I had about LB367 was this, will its enactment foster overbuilding in urban areas and a scarcity of beds in rural communities? My answer is no, because when the market is allowed to work, the free

enterprise system will always move resources to areas of greatest need. This principle works for gasoline, and it will work for licensed nursing home beds. Thank you. [LB367]

SENATOR GAY: Thank you. Are there any questions? Senator Wallman. [LB367]

SENATOR WALLMAN: Thank you, Chairman Gay. Thank you for coming, Keith. [LB367]

KEITH FICKENSCHER: Thank you. [LB367]

SENATOR WALLMAN: Very good story. [LB367]

KEITH FICKENSCHER: (Laugh) Thank you. Well, my gasoline background, I had to throw that in. [LB367]

SENATOR WALLMAN: Yep, I figured you did. (Laugh) [LB367]

SENATOR GAY: All right. Any other questions? Don't see any. Thank you. [LB367]

KEITH FICKENSCHER: Thank you. [LB367]

TONY JOHNSON: Good afternoon, Chairman and members of the committee. I'm Tony Johnson, T-o-n-y J-o-h-n-s-o-n. I'm going to keep this brief. After the words my colleague shared with you, I echo his sentiment. I represent Golden Living and we operate 23 facilities in Nebraska, stretching from Omaha all the way out to Scottsbluff. And the vast majority of our facilities are in rural areas. And I'm a proponent for this bill because it will give us the flexibility and the opportunity to infuse capital or make programs that make sense in our marketplaces to keep our rural facilities viable. That's all I have to add to the testimony. The bottom line is it will afford us flexibility to do what we need to do to maintain viability. [LB367]

SENATOR GAY: Okay. Thank you. Any questions? Don't see any. Thank you for that. [LB367]

TONY JOHNSON: Thanks. [LB367]

SENATOR GAY: Other proponents. [LB367]

JACK VETTER: Good afternoon, Senator Gay, thank you. Members, thank you. My name is Jack Vetter, V-e-t-t-e-r. I'm going to give you a little background so I can get to the closing of what we're talking about. I'm a Nebraskan, born and raised in the Sandhills, originated from Bassett. My entry into the long-term care business was as an administrator in Valentine, Nebraska, in 1965. In 1975, through a series of events that

were supernatural, I was able to buy a nursing home in Fairbury, Nebraska, a 96-bed facility. That was the start of our group. We're a family company and our nursing homes are held by Vetter Holding Inc. Vetter Health Service is the management arm of what we do. We have 26 facilities in Nebraska. We also have some homes in Kansas, Iowa, and a retirement community in Springfield, Missouri. In Nebraska, overall we have about 4,300 employees. So this is kind of an economic lesson to help you a little bit. We have 4,300 employees and about 3,400 of those are in Nebraska. We contribute to the economy of Nebraska, run a number this week and our labor and benefits for all our staff that we have is over $62 million for a year. And we are a for-profit company. So we pay taxes of a little over $1.8 million per year so we're part of the economy. Our company, we want a good company so our philosophy is dignity in life. And we have our vision of quality life, quality care, excellent teams, outstanding facilities, and stewardship. And mission vision and values drives what we do. And our company has had many awards over the years. We feel that we've helped bring the overall state of Nebraska quality care to a higher level. Nebraska rates one of the best in the nation for the quality care it delivers and we think we've been a part of that. My staff, along with Brendon, the healthcare and the others helped develop this legislation. I've wanted to have it for a number of years. And maybe this is just the year we brought it forward. Having the rural background I have a number of nursing homes such as in Bridgeport, Wauneta, Spalding, Red Cloud, and some areas that once were successful 50- and 60-bed facilities. The population trend has taken those facilities down 40 to 50 percent. So once the 60-bed facility now may run 35. That's a standard pretty close across the country. At the same time these older facilities, built 40 years ago, don't meet today's standard unless they've had some major remodeling. Dining rooms are too small, not enough office requirements, therapy areas, and the list goes on. At the same time we've had this down population, we have been forward in doing a number of new facilities across the state. In '89 we built 60 beds in Grand Island, where Senator Gloor is. We've since added to that to where it's 103; '89 we built 60 beds in Alliance; in '98, 120 beds in North Platte replacing a 75 old bed facility; 2000 we had 120 beds in Brookestone Village, 144th in Omaha; in '05 we broke ground and did a 101-bed replacement in Gering, Nebraska, and added 22 cottages. In '05 we built a new facility, 84 beds in Wahoo, replacing an older one. In '07 and '08 we opened a 139-bed subacute facility in western Omaha. And also through the years we've made numerous, numerous additions to existing facilities. This bill is good for Nebraska. And I'm going to tell you a quick story, if you'll allow me. Five years ago the Nebraska Medical Center was going to close down 50 beds and I negotiated with them and bought them. Another facility in Omaha wanted to downsize, make private rooms, and upgrade their facility. I bought the extra beds. The Thomas Fitzgerald facility in Omaha built a new 120-bed facility, they closed the old one, so I bought some beds there. That all was in this one region. We ended up with 139 new skilled beds in west Omaha, a subacute rehab facility which I would invite you to see someday. And so this has been a win-win story in Omaha. I think it can be win-win across the state. It was good...it was a win for the people who had the extra beds, it was a win for us to provide a new service in Omaha and a new

state-of-the-art building. And so with this being able to move beds between regions I think is a great asset for the state of Nebraska. And I would urge you to support it. And I'd be happy to take a shot at answering questions. [LB367]

SENATOR GAY: All right. Thank you, Mr. Vetter. Any questions? Senator Pankonin. [LB367]

SENATOR PANKONIN: Thank you, Senator Gay. And, Mr. Vetter, thanks for coming today and sharing your story. I'm just curious about when you do see the downsizing in some of these facilities to that 30- to 35-bed area and you're, as you mentioned, although it's obvious you have a passion for the industry and for serving people but you're pro...a for-profit organization. Can you still do it at that level? [LB367]

JACK VETTER: How low a level? [LB367]

SENATOR PANKONIN: At 30, 35. [LB367]

JACK VETTER: You know, I'm going to answer you and I'm not waltzing around the subject. If you have a 30-bed facility and you're fortunate enough to have it paid for, have a decent private pay mix, and able to serve some Medicare, you can break even on that but it's very marginal. For me and our company, some people will say 40-bed, some will say 60. If we have a building paid for and it's 30- to 35-beds, probably 35, we probably can make that work. But you drop below that and it's going to be a cash flow drain. [LB367]

SENATOR PANKONIN: Right. Fixed costs are so high. But under this bill then your assumption or your assertion is that that may help some facilities like that stay open in areas that are having less population because they can sell those beds, maybe pay the facility off, or make the improvements to stay viable, is that what you think? [LB367]

JACK VETTER: Yes, it's true. [LB367]

SENATOR PANKONIN: Okay. [LB367]

JACK VETTER: And then to be honest you're going to be asked...there are still some pockets in the state where those towns are really small, you have one in Tilden here, this last fall. Whether this bill passes or not, I think the bill is better for that community than it is if it wasn't there because they...if it's government owned and they need to close it, or city, or state, they can at least get some proceeds in there to do some other services. [LB367]

SENATOR PANKONIN: Some value for it. Yeah, thank you. [LB367]

SENATOR GAY: Senator Campbell. [LB367]

SENATOR CAMPBELL: Thank you, Chairman Gay. Mr. Vetter, just for the record because I think I know what you're going to say but I thought I best ask, in this industry though, I mean we're not seeing wild swings in terms of, oh, I'm down, you know, 15 beds and then in a couple years I'm up those. I mean, it stays relatively stable. [LB367]

JACK VETTER: Yeah. You'll have a little adjustment happening, death and admissions will cause something to fluctuate. [LB367]

SENATOR CAMPBELL: Right. [LB367]

JACK VETTER: But in the rural area it's just been a...it's just been this decline. And here in the last three or four or five years it's kind of settled down here. And it moves here but it doesn't move up here anymore. [LB367]

SENATOR CAMPBELL: Thank you. [LB367]

JACK VETTER: Did that help? [LB367]

SENATOR CAMPBELL: Yes. [LB367]

SENATOR GAY: Any other questions? I have one for you. [LB367]

JACK VETTER: Sure. [LB367]

SENATOR GAY: The viability then, Senator Pankonin noted at 35 maybe it's break even. If it goes below that, though, in a certain area, under the licensing requirements, and moving people is hard to do I'm sure, it's a difficult situation in any...can you just...can you move them to other, more viable locations or do you have to go through licensure to get all that done? [LB367]

JACK VETTER: You mean now? [LB367]

SENATOR GAY: Right now, yeah. [LB367]

JACK VETTER: No, you can't move then. [LB367]

SENATOR PANKONIN: If you want to consolidate... [LB367]

SENATOR GAY: You can (inaudible)... [LB367]

JACK VETTER: We consolidated those in the Omaha region. [LB367]

SENATOR GAY: Yeah, but in a rural region, though, could you make business decisions and do that, though, in order to... [LB367]

JACK VETTER: An example might be we built the new home in Gering, and we have the home in Bridgeport, we have the one in Alliance, but Gering lies outside of that region. So there's no way to move. [LB367]

SENATOR GAY: You can't do that then. [LB367]

JACK VETTER: Uh-huh. [LB367]

SENATOR GAY: Okay. I just wondered how much flexibility you have in making decisions with all the regulations that are involved. But I can find that out later. Any other questions? Don't see any. Thank you. [LB367]

JACK VETTER: You've welcome. [LB367]

SENATOR GAY: Any other proponents who would like to speak on this? Don't see any. Any opponents who would like to speak on this? And we did receive a letter, neutral, that I had mentioned earlier from the department. Anyone else who would like to speak neutral on this? Senator Gloor, would you like to close? [LB367]

SENATOR GLOOR: Thank you, Chairman Gay. Mr. Vetter's testimony, I think, was very useful in pointing out with Senator Gay's question how hands get tied in ways that work against what would seem to be common sense. I was reminiscing with Roger Keetle, who is Senator Wightman's LA, the other day because Mr. Keetle and I in different lives with different responsibilities, years ago, even before I got in the hospital industry, were involved in a task force that set up the original certificate of need. I begin to feel at times like the Forrest Gump of healthcare in this state. But back in those days it was a different climate completely, both in terms of hospitals and in terms of long-term care in particular. And certificate of need was set up at that point in time to be very prescriptive and very restrictive. It was just the nature back in the late seventies and early eighties of healthcare and what certificate of need was trying to slow down and control the growth of. Times are different, I mean, dramatically different. We're talking about 25 to 30 years later and the environment is dramatically different. The instance of Tilden is a good example. I believe on your map Tilden falls within our Speaker's legislative district. It's planning area number 11, and they just had no option. Their only option was to shut their doors. And so you've got a valuable asset that could they have sold off some of those beds and got an infusion of cash could have kept going. But their only option was shut their doors. Nobody within that small planning region was interested in buying those beds. So I think this is, in fact, a process of sitting down with the department. I think we can, because the legislation was written in a very restrictive way, I think work

with them to come up with changes in language that make this more compatible with what I really...a real need is here in this point in time. And what this bill tries to do, moving those beds from where there isn't as much of a need to where there is a need in the state. And with that, I'd be glad to answer any questions. [LB367]

SENATOR GAY: Any questions for Senator Gloor? Senator Pankonin. [LB367]

SENATOR PANKONIN: Thank you, Senator Gay. Senator Gloor, I appreciate you bringing this issue forward because I think it is important. And the other thing that's changed, as you well know, in our lifetimes is that these facilities have a different role. At one time we called it going to the rest home. And basically they were almost like assisted living facilities, 30, 40, 50 years ago. And now their care levels are, as you well know, are much higher. And the business model and the care continuum has changed. And we know we will need more home services for folks to be able to stay in their homes because of the Medicaid cost growth. So it's a different business. So I thank you for being flexible in looking at this problem. [LB367]

SENATOR GLOOR: And thanks for reemphasizing that because you're right, back then we were talking about hospitals, nursing homes, and maybe if you were lucky there was a home care department in your larger community, not in the smaller communities in many cases. Now there are different levels of service that can be provided. And again that infusion of the cash allows not only that institution to stay open but perhaps focus on an area where there is a need within that particular planning region and help Nebraskans in other ways. So I appreciate your comment and emphasizing that. [LB367]

SENATOR GAY: Any other questions? I don't see any. Thank you, Senator Gloor. All right, we'll close the hearing on LB367, and Senator Wallman, LB511. [LB367 LB511]

SENATOR WALLMAN: Good afternoon, Chairman Gay, members of the HHS Committee, fellow members. For the record my name is Norm Wallman, W-a-l-l-m-a-n. I'm here to introduce LB511. LB511 would amend the present Nebraska Certificate of Need Act to exempt from the provisions of the act of intermediate care facilities for the mentally retarded of 15 or fewer beds. The change is necessary because the present statute imposes a moratorium on the addition of any long-term care beds anywhere in Nebraska, except for ten beds per year or 10 percent of a facility's licensed beds, whichever is fewer. It is important to understand that the enactment by the Legislature of LB511 will not necessarily lead to the establishment of small ICF/MRs in Nebraska. What the bill would do is to allow the option to be on the table should the state wish to pursue it now or at some future time. Without the change to the Certificate of Need Act, which is encompassed by LB511, the establishment of even one ICF/MR would be illegal. So that's my...I have testimony behind me that will give further information on this. And thank you. [LB511]

SENATOR GAY: Thank you, Senator Wallman. And then we'll hold off on questions until after they're done. [LB511]

SENATOR WALLMAN: Yeah, you want questions now? I'll be around. [LB511]

SENATOR GAY: Okay. Thank you, Senator Wallman. [LB511]

RON JENSEN: (Exhibit 9) Chairman Gay and members of the Health and Human Services Committee, my name is Ron Jensen and I'm a registered lobbyist appearing before you this afternoon on behalf of Mosaic and in favor of LB511. The bill comes about because Mosaic has been in discussion with the state of Nebraska for a number of weeks now about the possibility of establishing small ICF/MRs, or ICF/MR smalls as they're sometimes called, across the state of Nebraska as another locus possible for patients who are discharged or transferred from the Beatrice State Developmental Center. Mosaic operates these facilities in a number of other states and has had great success with it. And Tammy Westfall, who is regional vice president for Nebraska with Mosaic, will if possible, Mr. Chairman, follow me to the witness table and explain the program and the facility themselves. What we have here however is almost a classic Catch-22, where the state and Mosaic--and they have agreed to continue discussions and explore this possibility--where they come to agreement and want to establish small ICF/MRs in the state. The law presently prevents that from happening. There is, in the certificate of need law, going back to when it was amended in 1997, a flat prohibition against long-term care beds in Nebraska--new and additional ones. I was involved at that time...I was involved in 1979 when, yes, the original certificate of need law was enacted, and the motivation, I think, from the then-Department of Health was that we were felt to be overbedded with long-term nursing home beds. How ICF/MRs got included, they may have been standing too close, for all I know, or it may have been a reflection that for the last three or four decades in care and services for persons with developmental disabilities we've tried to move away from large developmental facilities to more community-based care. So the present situation is you cannot obtain a license for an ICF/MR, even one of 6-9 beds, which is what we're talking about here unless you have a certificate of need--but you can't have a certificate of need. It is a Catch-22. What this bill would do would make possible the establishment of an ICF/MR of 15 or fewer beds. It would put the option on the table so that if the state and Mosaic or other providers were to come to an agreement on utilizing this kind of service and facility, it would be possible without going to the Legislature and asking to have the law changed. One thing that I want to emphasize is that this would not open a floodgate for new ICF/MR smalls. The state of Nebraska has a regulation presently establishing 15 beds as the minimum size for an ICF/MR, and that would have to be changed as well. Also in our system of care and services for persons with developmental disability, the state essentially has the clients. They arrange for services. They set the rate that they'll pay and they reimburse the costs of those services. So we're not going to see the ACME

corporation rushing to Nebraska to build ICF/MR smalls if this bill were enacted. I'd be happy to try to answer questions if the committee has them. [LB511]

SENATOR GAY: Thank you, Mr. Jensen. Senator Campbell. [LB511]

SENATOR CAMPBELL: Thank you, Chairman Gay. Mr. Jensen, the facility that's an ENCOR that some of us have heard about from some of the parents, in Omaha, is that a licensed ICF/MR? [LB511]

RON JENSEN: It's not. [LB511]

SENATOR CAMPBELL: What category does it come under? [LB511]

RON JENSEN: You know, I'm not familiar with the facility, so I'm not sure. I'm sure it's considered a group home, probably under the DD program. [LB511]

SENATOR CAMPBELL: Oh, okay. Thank you. [LB511]

SENATOR GAY: Any other questions? I don't see any. Thank you. [LB511]

RON JENSEN: Thank you, Mr. Chairman. [LB511]

TAMMY WESTFALL: (Exhibit 10) Senator Gay and members of the Health and Human Services Committee, my name is Tammy Westfall, T-a-m-m-y W-e-s-t-f-a-l-l. I am the regional vice president for Mosaic Nebraska Services. First of all, I would like to thank all of you for touring Mosaic's Beatrice facility last week. I am testifying in favor of LB511. And as Mr. Jensen testified, Mosaic does operate small ICF/MR facilities in several states. Mosaic has over 20 years of experience operating, currently, 59 small licensed ICF/MR facilities ranging from 4 to 9 beds. Just to give you a little briefing of what we do, is in Texas we have 23 facilities serving 134 people; in Indiana we have 9 facilities serving a total of 60 people; and in Iowa, 26 facilities providing services to 128 people. Here in Nebraska, as you well know, we have three facilities: two large ICF facilities and then one 9-bed home in Grand Island. In an effort to assist in rightsizing BSDC, Mosaic has proposed to the Department of Health and Human Services opening six small ICF/MR facilities throughout Nebraska. These facilities would be similar to the small ICF/MR facility that you all toured in Beatrice, the Hickory Home, and like our 9-bed facility in Grand Island. The proposed facilities will be licensed under the federal ICF/MR regulations, which are the same regulations governing BSDC. These homes will be located in the communities, utilizing community supports. The small ICF/MR facilities will allow Mosaic to serve people with a higher level of need in the community. We continue to be partnering with the state to improve services to all Nebraska citizens with developmental disabilities and we respectfully ask you to advance LB511 to the General Fund. And I thank you for your time and consideration today. [LB511]

SENATOR GAY: Thank you. Any questions? Senator Stuthman. [LB511]

SENATOR STUTHMAN: Thank you, Senator Gay. Tammy, thank you for testifying. You stated in your statement, you're possibly planning on opening up several 6-bed facilities? [LB511]

TAMMY WESTFALL: Um-hum. [LB511]

SENATOR STUTHMAN: Can a 6-bed facility be profitable or should you have it a 10- or 15-bed facility? [LB511]

TAMMY WESTFALL: It can be profitable. [LB511]

SENATOR STUTHMAN: And...but you feel there's only a need... [LB511]

TAMMY WESTFALL: Minimal profit. (Laugh) [LB511]

SENATOR STUTHMAN: A little bit of profit. [LB511]

TAMMY WESTFALL: (Laugh) A little bit of profit. [LB511]

SENATOR STUTHMAN: But are you looking at facilities, and like you stated, just a 6-bed facility, or are you looking at something to maybe make a 12-bed facility? [LB511]

TAMMY WESTFALL: We would prefer the smaller facilities so that...I mean, we would love to even rightsize our own large ICF facilities, but to make it more like a homelike atmosphere. The larger they are it becomes more of an institutional-type facility, and we want it to be more of a homelike atmosphere for people. [LB511]

SENATOR STUTHMAN: And your intent then is to make like a 6-bed in more communities in a homelike setting. [LB511]

TAMMY WESTFALL: Yes. [LB511]

SENATOR STUTHMAN: Okay. Thank you, Tammy. [LB511]

SENATOR GAY: Any other questions? Senator Campbell. [LB511]

SENATOR CAMPBELL: Thank you, Chairman Gay. Ms. Westfall, do you happen to know, is the ENCOR group home in Omaha, is it a group home or is it classified... [LB511]

TAMMY WESTFALL: It's classified as a licensed center for developmental disability. It's a CDD licensed facility. [LB511]

SENATOR CAMPBELL: Oh, okay. Thank you. [LB511]

TAMMY WESTFALL: You bet. [LB511]

SENATOR GAY: Any other questions? I don't see any. Thank you. Any other proponents? [LB511]

GINGER GOOMIS: (Exhibit 11) Good afternoon, Senator Gay and members of the Health and Human Services Committee. My name is Ginger Goomis, G-i-n-g-e-r G-o-o-m-i-s, and I'm the administrator of long-term care programs in the Division of Medicaid and Long-Term Care for the Department of Health and Human Services, and I'm here today to testify on behalf of Director Chaumont who was unable to attend this hearing. My testimony is in support of LB511. As an aside, Vivianne asked me express her deep regret that she's missing out on this opportunity to testify in support of legislation rather than being on the other side. (Laughter) This bill, as written, proposes to modify the Nebraska Health Care Certificate of Need Act. It would allow for an exception from the definition of healthcare facility for intermediate care facilities for individuals with mental retardation that have 15 or fewer beds, also called ICF/MR smalls. This change would serve to exempt these ICF/MR smalls from the certificate of need process and allow this size of facility to be established anywhere within the state without being subject to certificate of need requirements. The department supports the passage of LB511, primarily because it would allow for the development of this smaller, community-based residential treatment option for individuals with developmental disabilities. An ICF/MR, by federal definition, is an institution for individuals who have medical needs and require active treatment, meaning the aggressive, consistent implementation of a program of specialized and generic training, treatment, health and related services directed toward the acquisition of the behaviors necessary for an individual to function with as much self-determination and independence as possible. How's that for bureaucratic wording? In 1972, Congress added the ICF/MR benefit as an optional Medicaid service with the intention of creating a fiscal incentive to upgrade the quality of the environment, care, and habilitation provided in public institutions and to respond to concerns that persons with developmental disabilities in state institutions were receiving little more than custodial care. In 1981, the Centers for Medicare and Medicaid Services clarified that the ICF/MR level of care could be delivered in small facilities and that considerable flexibility and service delivery was permissible. CMS also made a distinction between small facilities with 15 beds or less and large facilities having more than 15 beds. In 1977, there were 574 ICF/MRs in the United States. Thirty-three percent of these facilities were ICF/MR smalls. By 1982, the number of facilities had grown to 1,854, and the percentage of ICF/MR smalls had virtually doubled, to 65 percent. By June 30, 2007, the number of individuals served had

decreased, but the number of facilities had increased to 6,409. The percentage of ICF/MR smalls had now reached 91 percent. Only 41 percent of state or public facilities were ICF/MR smalls, compared to 93 percent of nonstate facilities. The historical trend is towards small, private facilities. Although Nebraska currently serves only 2 percent of our individuals with developmental disabilities in an ICF/MR small, the national average is 41 percent, with four states serving all individuals in these smaller facilities. To be certified to receive Medicaid funding, an ICF/MR must meet federal standards for 24-hour healthcare, and continuous individualized active treatment for people living there. The staffing and services provided must meet individual participants' needs, including community-based living, education, employment training, counseling and support therapies, healthcare, and recreational activities. ICF/MR smalls must meet the same federal standards as larger ICF/MRs but offer an alternative to larger institutions. In the 1990s, the Americans with Disabilities Act was enacted, which required states to provide services in the most integrated setting appropriate to an individual's needs. The ideal of community integration is at the heart of the ADA. As federal statutes and regulations do not require that ICF/MRs be large, other states have modified their licensure and zoning laws and regulations to permit the use of very small and flexible ICF/MRs. LB511 would remove a statutory barrier to the development of smaller, community-based residential options for individuals with developmental disabilities. The establishment of ICF/MR smalls would also provide an alternative to Nebraska's larger, more institutional-type facilities. Nebraska has lagged behind the national trend toward smaller residences for individuals requiring care and treatment. LB511 would facilitate increased opportunities for individuals to live in more homelike, less restrictive settings and, to the extent possible, become a more integral part of their communities. Therefore, the department supports this bill. We ask the committee to place the definitional change into the long-term care bed definition in Section 71-5803.10. This will allow the Division of Public Health to properly administer this act. I would be happy to answer any questions. [LB511]

SENATOR GAY: Thank you. Are there any questions? Senator Howard. [LB511]

SENATOR HOWARD: Thank you, Chairman Gay. I'm wondering if these would be considered possible placements for the medically fragile individuals that were moved from Beatrice? [LB511]

GINGER GOOMIS: Yes, this would really be the same type of licensure as Beatrice is required to have. They are still considered an ICF/MR and have to meet those federal requirements. They're just on a smaller scale, which would... [LB511]

SENATOR HOWARD: So that would be a possible plan for those individuals? [LB511]

GINGER GOOMIS: Yes. Um-hum. [LB511]

SENATOR HOWARD: Okay. And you can let Vivianne know that I personally did miss her today. [LB511]

SENATOR GAY: Senator Stuthman. [LB511]

SENATOR STUTHMAN: Thank you, Senator Gay. Is there...would there be the same type of oversight on these facilities as there would have been at Beatrice, or is there different jurisdiction on the oversight? [LB511]

GINGER GOOMIS: No. The same process and policy would apply. [LB511]

SENATOR STUTHMAN: Okay. Thank you. [LB511]

SENATOR GAY: Any other questions? [LB511]

SENATOR HOWARD: I do have one more. [LB511]

SENATOR GAY: Senator Howard. [LB511]

SENATOR HOWARD: Thank you, Mr. Chairman. In considering placement of these individuals if this would become law and go into effect, will there be consideration given to placing these individuals at facilities that were closer to the, if they still had family members that were living? [LB511]

GINGER GOOMIS: Yes. I think that's definitely one of the advantages. [LB511]

SENATOR HOWARD: Okay. I would see that as a key piece to people being able to maintain relationships with their families. [LB511]

GINGER GOOMIS: Truly. Um-hum. [LB511]

SENATOR HOWARD: Thank you. [LB511]

SENATOR GAY: Any other questions? I don't see any. Thank you. Other proponents that would like to speak. Is there any opponents? Anyone neutral? Senator Wallman, do you want to close? [LB511]

SENATOR WALLMAN: Thank you. I want to thank the ones behind me that testified. I think we've seen we have to have more places. And I want to emphasize there's not a fiscal note on here, so I would appreciate your support on this bill. And thank Vivianne for supporting this also. Any questions? [LB511]

SENATOR GAY: Hold on, we've got a couple questions for you. Before we get to that, I

just want to tell you this bill couldn't be in better hands than you handling it. I mean, this is a...I've been watching you the last--well, we all have--and your heart is really into this and you're doing a great job, even, you know, what's best for residents ultimately. So I just want to get that on record. [LB511]

SENATOR WALLMAN: Thank you. Hard time getting it together today. [LB511]

SENATOR GAY: Senator Pankonin. [LB511]

SENATOR PANKONIN: I think Senator Stuthman asked first. [LB511]

SENATOR STUTHMAN: Thank you, Senator Gay. Senator Wallman, would you be willing to put an E clause on this so it would go into effect immediately upon the signature of the Governor? [LB511]

SENATOR WALLMAN: Yes. [LB511]

SENATOR STUTHMAN: I think there is a need for this, definitely is. And while we've got an organization that's willing to come to the table and offer some service, I think this is the opportune time. Thank you for the bill. [LB511]

SENATOR WALLMAN: Thank you. [LB511]

SENATOR GAY: Senator Pankonin. [LB511]

SENATOR PANKONIN: Thank you, Senator Gay. That's a great comment and that's probably a good endorsement of this bill. But you know the other thing I like about it? You can read the whole bill on the floor. (Laughter) We can all read this one, right, Senator Wallman? [LB511]

SENATOR WALLMAN: Senator Pankonin, I'm a plain and simple farmer. (Laugh) [LB511]

SENATOR PANKONIN: Thank you, Senator Wallman. [LB511]

SENATOR GAY: Any other questions? Senator Campbell. [LB511]

SENATOR CAMPBELL: Thank you, Senator Gay. Senator Wallman, I just wanted to tell you that I really appreciated your comments to me in explanation as we took the tour. I agree with my colleagues here: Your interest and depth of commitment there is so apparent. Thank you. [LB511]

SENATOR WALLMAN: Thank you. [LB511]

SENATOR GAY: Any others? All right. Thank you, Senator Wallman. With that, we will close on LB511. And LB27, Senator Pahls's timing is impeccable. Whenever you're ready. [LB511 LB27]

SENATOR PAHLS: I don't know if you know this. There's about 4 inches of snow outside already. (Moaning and groaning.) Yeah, enough said on this bill, right, guys? (Laugh) [LB27]

SENATOR GAY: Yeah. Thank you for that opening and... [LB27]

SENATOR CAMPBELL: And thank you for your closing. (Laughter) [LB27]

SENATOR PAHLS: (Exhibit 12) Senator Gay and members of the committee, my name is Rich Pahls, P-a-h-l-s. I represent District 31, which is basically the Millard of Omaha. I think we just handed out an amendment to you and I'll discuss that in just a little bit. In 2007, the Legislature passed my priority bill, LB482. The bill created the Autism Treatment Program at the Munroe-Meyer Institute at the University of Nebraska Medical Center. LB482 became possible because of the generosity of Nebraska citizens who have offered to support the program with private donations. And a lot of you probably already know one of the individuals, Gail Werner-Robinson. Now this is what LB482 did. It transferred $1 million from the Healthcare Cash Fund each year for five years, contingent on private donations of at least $500,000 each year. This combined amount would be used as the state's match for a Medicaid waiver. Since the passage of LB482, HHS and the Med Center have not been able to come to an agreement on the administration of the waiver. The program has not started. The Medicaid waiver has not been approved. LB27 clarifies the administrative duties of HHS and the Med Center relative to the Medicaid waiver. Since the introduction of LB27, HHS and the Med Center and others have met to clarify...to further clarify the duties of HHS and the Med Center. As a result, we have an amendment to the bill. Everyone who's been working on this they have agreed to the provisions of the amendment. I'm going to let them explain the details of the amendment and explain how the program will be administered and when it will start. Again, this bill was passed but there's been an issue of who was going to do what. And that is what the groups have been working on and that's what this amendment is all about. We're not asking for additional money for anything. We're just asking for clarification on who belongs to what part of the responsibility. And like I say, there will be people following who have worked on this amendment. And I hope...well, I know this thing can be resolved and we can move ahead with the program to help these individuals who need this help. [LB27]

SENATOR GAY: All right, thank you, Senator Pahls. We'll just hear from them and then we'll hold questions for you. [LB27]

SENATOR PAHLS: Yeah, and I'll sit...yeah. [LB27]

SENATOR GAY: All right. Proponents, come on up. [LB27]

GAIL DURKIN: Good afternoon, Chairman Gay and members of the committee. My name is Gail Durkin, G-a-i-l D-u-r-k-i-n, and I'm the executive director of the Autism Action Partnership. I'm here today in support of LB27 and Senator Pahls's bill. I am representing the donors and we are fully supportive of the amendment. This is a great partnership between the public and private sectors. We are coming together and working on the services that will greatly benefit children and families with autism. We're very excited and very passionate about this project. And we want to thank all of you for supporting it over the last couple of years. Thank you. [LB27]

SENATOR GAY: Thank you. Are there any questions? I don't see any. Thank you. Other proponents who would like to speak. Two in one day? (Laugh) Wow. [LB27]

GINGER GOOMIS: (Exhibit 13) Good afternoon, Senator Gay and members of the Health and Human Services Committee. My name is Ginger Goomis, G-i-n-g-e-r G-o-o-m-i-s, administrator in the long-term care program section in the Division of Medicaid and Long-Term Care for the Department of Health and Human Services. And I am here to testify on behalf of Director Chaumont who was unable to attend this hearing. My testimony is in support of LB27. LB27, as amended, proposes changes to the Autism Treatment Program Act established through LB482 of the 2007 session. LB482 established the Autism Treatment Program administered by the Center for Autism Spectrum Disorders at the University of Nebraska Medical Center. It further directed DHHS to apply for a Medicaid waiver by July 1, 2008, to secure federal matching funds for services delivered through the Center for Autism Spectrum Disorders. The department was required to submit concurrent waiver applications to the federal Centers for Medicare and Medicaid Services: (1) to establish an intensive early intervention service for children with autism spectrum disorders as a community-based alternative for children who would otherwise qualify for institutional care in an intermediate care facility for the mentally retarded; and (2) to establish UNMC as the administrator of the service. The department submitted these waiver requests on July 1 of last year and, along with UNMC, has been responding to a series of requests from CMS for additional information since that time. The most recent request for additional information was received February 3. Although we have not received a definitive response to our waiver application, CMS has indicated to the department serious reservations about an inherent conflict of interest created by UNMC's dual role as both a provider of services and a gatekeeper for clients and other providers. CMS has approved Medicaid autism waivers in other states, but has not approved any that incorporate a preferred status for a single provider, as is the case with Nebraska's waiver. LB27, as amended, revises statutory language established by LB482 to transfer the administration of the autism waiver and the Autism Treatment Program Cash Fund

to the department. It removes the Center for Autism Spectrum Disorders at the University of Nebraska Medical Center as the preferred provider of autism services, while maintaining the intent of the Legislature to provide intensive early intervention services based on behavioral principles to Nebraska children with autism. It also clarifies that donated funds will be utilized as the state match for federal Medicaid dollars. These changes will necessitate preparation and submission of a new waiver request to the federal government, but this is expected to clear the way for federal approval. Additional resources will be needed in DHHS to assume the administrative work of client intake and case coordination; provider approval and payment; utilization review; and tracking of donated funds. In order to process payments to individual providers of waiver services, computer system changes will be required. The University of Nebraska Medical Center, the Department of Health and Human Services and the Sunshine Foundation share the common goal of achieving federal approval of the autism waiver application. The department views the amended version of LB27 as the vehicle to achieve this goal and supports this legislation. I'm happy to answer any questions. [LB27]

SENATOR GAY: Thank you. Senator Howard. [LB27]

SENATOR HOWARD: Thank you, Mr. Chairman. This information that you just provided us with doesn't imply that the autism program would be moved from Munroe-Meyer, does it? [LB27]

GINGER GOOMIS: No, it has to do with our application to the federal government for a waiver application. And Munroe-Meyer would be able to participate in the waiver as a provider. They would not be the administrator of the program. [LB27]

SENATOR HOWARD: Okay. So they would remain the provider. There's no intent to go through any kind of a bidding process or any of that sort of thing. [LB27]

GINGER GOOMIS: No, no. [LB27]

SENATOR HOWARD: Okay. [LB27]

GINGER GOOMIS: It would be...that was one of the problems with federal approval is that the feds are looking for though. Representatives are looking for open choice for providers and clients. And they felt that the way that LB482 was constructed it did not offer that openness. So Munroe-Meyer will be a provider just as other providers will be participating in the waiver. [LB27]

SENATOR HOWARD: Okay. So it will remain the provider. [LB27]

GINGER GOOMIS: Um-hum. [LB27]

SENATOR HOWARD: All right, thank you. [LB27]

SENATOR GAY: Senator Wallman, go ahead, go ahead. [LB27]

SENATOR WALLMAN: Thank you, Chairman Gay. Yeah, I notice the fiscal note on here is... [LB27]

GINGER GOOMIS: Um-hum. [LB27]

SENATOR WALLMAN: ...why would that be? [LB27]

GINGER GOOMIS: And does it show $750,000? [LB27]

SENATOR WALLMAN: Yeah, yeah. [LB27]

GINGER GOOMIS: The original appropriation did not consider the donated funds that the previous testifier spoke about. We will be able to accept those funds and use them to generate additional federal dollars. [LB27]

SENATOR WALLMAN: And to pick up on that, now do you think there's much success with this program or you know, the causes? [LB27]

GINGER GOOMIS: I guess, I'll leave that to the next testifier. [LB27]

SENATOR WALLMAN: Okay. [LB27]

GINGER GOOMIS: But I think that...my understanding is that the Legislature set it up on somewhat of a trial basis so that that success could be demonstrated. [LB27]

SENATOR WALLMAN: Okay. Okay, thank you. [LB27]

SENATOR GAY: Senator Gloor. [LB27]

SENATOR GLOOR: Thank you, Chairman Gay. And thank you for your testimony. Towards the end you mentioned that additional resources are going to be needed for utilization review and a few other things. But there was no request for state funds for implementation. So I'm trying to understand, does that just mean it will be additional work that will be absorbed within the department? [LB27]

GINGER GOOMIS: No. It...the process is set up so that there's $1 million earmarked from the Healthcare Trust Fund. And from that administrative costs are taken. [LB27]

SENATOR GLOOR: Can be pulled out. [LB27]

GINGER GOOMIS: But as it was originally set up, those administrative functions could have been handled by MMI rather than our department. So we need to make some adjustment in how the money is distributed. [LB27]

SENATOR GLOOR: DO you know how much that's going to be? [LB27]

GINGER GOOMIS: I do not. [LB27]

SENATOR GAY: Any other questions? I don't see any. Thanks. [LB27]

MICHAEL LEIBOWITZ: Good afternoon, Chairperson Gay, members of the Health and Human Services Committee. My name is Michael Leibowitz, M-i-c-h-a-e-l L-e-i-b-o-w-i-t-z. I'm the director of the Munroe-Meyer Institute at the University of Nebraska Medical Center. I'm here to testify in support of the amendment offered to LB27 and to urge the passage of LB27. I want to thank Senator Pahls, Senator Gay, their staffs, the Governor's staff for working on this amendment to clarify the responsibilities for the administration of the autism waiver that was developed as a result of LB482, which was passed two years ago. Under this clarifying amendment, MMI will do what it does best: provide services and support to children and families with disabilities, in this case autism. Health and Human Services, Medicaid will do what they do best, administer a Medicaid program. This change will minimize administrative costs in order to maximize the funds available for services available to children and families experiencing autism, which is really the sole purpose of the autism waiver. Finally, we at MMI want to thank the private donors who are so generously partnering with us and the state of Nebraska in addressing a most critical need for our children. I'd be happy to try and answer any questions you may have. [LB27]

SENATOR GAY: Thank you. Are there any questions? Don't see any. Thank you. [LB27]

MICHAEL LEIBOWITZ: Thank you. [LB27]

CHRISSY McNAIR: I'm Chrissy McNair, C-h-r-i-s-s-y M-c-N-a-i-r and I'm the mother of a 9-year-boy with autism. I'm also a member of the organization of Families for Effective Autism Treatment as well as a board member for the Autism Society of Nebraska. I've also been involved with the development of this waiver from the very beginning and have had the opportunity to share with many of you a lot of the struggles Nebraskans face when searching for services for their children with autism. I want to thank you for hearing our testimony today and thank many of you for support of this waiver in 2007. I'm here to ask that you move LB27 as quickly as possible out of committee and ask that you urge your colleagues to see that LB27 passes quickly on the floor. As you may

know, 1 in 150 children in the state of Nebraska have the diagnosis of autism spectrum disorder. While receiving this diagnosis is devastating to many parents, receiving that label for your child can open the door to seek treatment. And you can imagine how parents feel when they realize how expensive this treatment is and that insurance doesn't cover it, and currently it's not covered by the state as well. Many states have taken steps to rectify this problem. Thankfully, Nebraska is beginning to do the same. It has been two years since the original bill passed, yet not one child has received services under this waiver. And two years is a long time in the life of a young child. Please vote in favor of LB27 and please continue to support the needs of children with autism in Nebraska. I'd also like to thank Senator Pahls for his continued support on this bill as well as Senator Gay as well. So thank you. And I'll answer any questions, if you have any. [LB27]

SENATOR GAY: Thank you, Ms. McNair. Senator Stuthman. [LB27]

SENATOR STUTHMAN: Chrissy, thank you for your testimony. Nice to see you here today. [LB27]

CHRISSY McNAIR: Thank you. [LB27]

SENATOR STUTHMAN: Do you feel if we pass this bill we will finally get to the point where we can have some service for these autistic kids? [LB27]

CHRISSY McNAIR: I think we will be at a critical beginning point. The Department of Education does a great job in giving services but a lot of times it isn't enough. So we are really working to partner a variety of providers and departments within the state to start to give services. So is it the answer for everything? No, but it is a wonderful beginning. [LB27]

SENATOR STUTHMAN: And it's another tool to help. [LB27]

CHRISSY McNAIR: It's another tool, absolutely. [LB27]

SENATOR STUTHMAN: Thank you. [LB27]

SENATOR GAY: Senator Pankonin. [LB27]

SENATOR PANKONIN: Thank you, Senator Gay. And, Ms. McNair, thanks for coming. You've obviously testified before us before. And I'm just wondering, in these couple years as research continues are we making progress on some therapy and services that can help? Have you seen that in your own family? I know you've worked hard with your son. But what do you think the outlook is? [LB27]

CHRISSY McNAIR: There continues to be a lot of attention, obviously media attention and legislative attention to autism. I'm amazed at the number of states that continue to pass legislation primarily for insurance coverage for kids with autism, but also in the Medicaid area. So as far as that goes, there's been tremendous progress. I think as far as treatment and prognosis goes it's always evolving. And the one thing that the entire autism community can agree on is that intensive intervention is what's critical and started as early as possible really does make a difference. And we've seen that in our own child as well. So it's like the earlier the better, and the more intense the better. [LB27]

SENATOR PANKONIN: Okay. Thank you. [LB27]

CHRISSY McNAIR: Thank you. [LB27]

SENATOR GAY: Any other questions? Senator Wallman. [LB27]

SENATOR WALLMAN: Yeah, thanks for coming. I'm sorry we didn't get on this. But do the public schools help? The public school helped you out much or... [LB27]

CHRISSY McNAIR: Absolutely. The public schools do a phenomenal job, they really do. But again it boils down to resources. And because these kids are so unique, autism is a very wide spectrum of disabilities. And every kid is very different. And because of that they all need kind of a different specialty. And it's very difficult, I think, for the school systems to address those issues. You know, some kids have one issue that, you know, you need to work on articulation or you need to work on attention in class. These kids have a variety of issues: it's social, it's communicative, it's behavioral. And so I think that they're just maxed out at this point. But they are doing a good job and it just needs to continue. [LB27]

SENATOR WALLMAN: Okay, good to know. Thanks. [LB27]

CHRISSY McNAIR: Thank you. [LB27]

SENATOR GAY: Any other questions? I don't see any. Thank you. [LB27]

CHRISSY McNAIR: Thank you. [LB27]

SENATOR GAY: Other proponents? Any opponents? Anyone neutral? Senator Pahls, you want to close? [LB27]

SENATOR PAHLS: Just really fast, yeah, before the snow gets you. It's like this, we passed the bill, we have a little bit of a roadblock. I'm asking you to help break that roadblock because all parties are in agreement. If we could kick this thing out you know

this would be a consent file type of bill because there would be no opposition. Hopefully, we could get it done before we have a consent file. Thank you. You have a good weekend. [LB27]

SENATOR GAY: All right, thank you, Senator Pahls. That will close on LB27. And thank you all and have a good weekend. I guess, it's the weekend already starting. [LB27]

Disposition of Bills:

LB27 - Placed on General File.
LB367 - Placed on General File.
LB451 - Placed on General File.
LB511 - Placed on General File.

Chairperson

Committee Clerk