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Education Committee
January 31, 2012

[LB1020 LB1038 LB1090]

The Committee on Education met at 1:30 p.m. on Tuesday, January 31, 2012, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1090, LB1020, and LB1038. Senators present: Greg Adams, Chairperson; Gwen Howard, Vice Chairperson; Bill Avery; Abbie Cornett; Brenda Council; Ken Haar; Kate Sullivan; and Les Seiler. Senators absent: None. [LB1090]

SENATOR ADAMS: (Recorder malfunction)...this hearing of the Education Committee. So if you're going to participate, if you'd take a seat, we will begin. I want to welcome everyone who is here for this hearing today. We're going to hear three bills this afternoon: LB1090, LB1020, and LB1038. The rules of the road here in the committee, first of all, the introductions. I'll start on my far right: Becki Collins, the committee clerk. And if you wish to testify on any side of these bills or in that precarious place called neutral, you are certainly welcome to do that. And if you do, I'd like you to fill out the registration form, the testifier's form. They are at the back of the room by each of the doors. Bring them up all filled out before you testify and hand them to the committee clerk. And before you begin your testimony, if you will clearly state and spell your name for the record--not only for the clerk, but for the transcriber--and then we'll hear your testimony. In the committee, we always use the lights system and we will again today and we'll go three minutes today and followed by questions if there are any from the committee members. I would ask that if you have electronic devices, those dang cell phones, those hidden iPads, if you would turn them off, put them away. If you do need to text or e-mail, take a phone call, that's what the hallways are for rather than the committee hearing room, if you would do that--with the exception of the credentialed press that may be here. So with that, let me introduce members of the committee. Again to my right, Becki Collins. Next to her, Senator Seiler, our newest member of the committee, from Hastings. Next to him, Senator Council and next to her will be Senator Cornett here in a few minutes. This is Tammy Barry, the legal counsel for the committee. I'm Greg Adams, representing the 24th Legislative District. Next to me is the Vice Chair of the committee, Senator Howard. Senator Sullivan will soon be here. Senator Avery representing Lincoln and Senator Haar from Malcolm, Nebraska, make up the committee today. So with that, Senator Wallman, you're up, LB1090. [LB1090]

SENATOR WALLMAN: Good afternoon, Chairperson Adams and members of the Education Committee. For the record, my name is Norm Wallman, W-a-l-l-m-a-n. I'm here to introduce LB1090. This bill would provide up to \$140,000 in grants to Summer Food Service Programs in high-need areas in Nebraska, with a preference into programs with educational and/or physical enrichment activities. These one-time grants would develop sites that could serve federally-funded meals during the summer in an on- and off-going manner--in an ongoing manner. Summer Food Service Program provides federally-funded meals to Summer Food sites, but barriers prohibit school districts and nonprofit organizations from serving children these meals. These include

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one-time infrastructure and planning needs such as refrigerators, dishwashers, and outreach to families. Almost 100,000 children in Nebraska receive free and reduced lunch. During the summer months, about 10,000 that are able to access food and...to food assistance. That is only 1 in 10. This bill would allow for 80 grants of varying sizes and I have people behind me that can tell more about this and thank you very much. [LB1090]

SENATOR ADAMS: Thank you, Senator Wallman. Are there questions from the committee for Senator Wallman? Seeing none. Are you going to stay and close? [LB1090]

SENATOR WALLMAN: Yes. [LB1090]

SENATOR ADAMS: Okay. We will take proponents now, so the first proponent, you're welcome to come to the hot seat. Good afternoon. [LB1090]

KATE BOLZ: (Exhibit 1) Good afternoon. My name is Kate, with a "K," Bolz, B-o-l-z, and I am the associate director of the Low Income Economic Opportunity Program at Nebraska Appleseed. Nebraska Appleseed is a nonprofit, nonpartisan public interest law firm and advocacy organization working for full opportunity and equal justice for all Nebraskans. I come in support of LB1090. This bill will help children access nutritious foods during the summertime, when they are susceptible to hunger because they are not able to access the free and reduced-price meal program through their school. Sponsoring organizations help sites such as schools, nonprofit organizations, YMCAs and other organizations that provide physical and educational activities for children with federally-funded meals. We can be proud that we've seen some success in our Summer Food Service Program. The number of meal sites in Nebraska were increased significantly last year, from 101 to 224. We also added six sponsoring organizations. However, as Senator Wallman alluded to, we are still reaching only a small portion of the potentially eligible low-income children who are in need of food during the summer. Regrettably, some of these children will be difficult to reach because of the federal rules. Federal regulations allow Summer Food sites to be served mostly in high areas of need, in school districts or census tracts that have 50 percent or more of the children in that geographical area accessing free or reduced-price lunch. We may never reach all kids with the Summer Food Service Program during the summer. However, if Nebraska were to reach just 40 percent of eligible children, 42,000 more children would have nutritious meals and our state would receive \$2.3 million in additional federal reimbursements. Now is the time to promote the Summer Food Service Program in Nebraska, both because the Healthy, Hunger-Free Kids Act--which was passed on the federal level in 2010--reduces paperwork requirements and because we have eager nonprofit and school-based organizations who do want to participate for want of a freezer or an outreach staff person or another small barrier that prevents them from serving kids. LB1090 provides modest, one-time funds to help organizations establish greater

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capacity to serve hungry children and that is why we support it. I...see, I have just a few seconds left, but I would like to provide one brief point of clarification about the bill. Our staff did help...our legal staff did help with the crafting of the bill and I wanted to mention that the section relating to preferences does not intend to provide preferences to sites that are somehow affiliated with the school district. Rather, the school district is the geographical area in which the service institutions must reside, so we're referencing low-income school districts as the geographical area where the nonprofit organization, school-based entity, educational institution, etcetera, should reside. Thank you.
[LB1090]

SENATOR ADAMS: Okay, thank you, Kate. Are there questions? Yes, Senator Haar.
[LB1090]

SENATOR HAAR: Yes, thank you for being here. [LB1090]

KATE BOLZ: Sure. [LB1090]

SENATOR HAAR: You say here that if we would get 40 percent of the children, we would get an additional \$2 million in federal reimbursement. [LB1090]

KATE BOLZ: Um-hum, um-hum. [LB1090]

SENATOR HAAR: Is that a...is that sort of the level you have to reach before getting this extra money as...or is it on a per-meal basis or...? [LB1090]

KATE BOLZ: No, that's just a kind of an arbitrary example that...of what 40 percent would gain for us. It's a good goal, really, since we're reaching only 10 percent.
[LB1090]

SENATOR HAAR: Um-hum. [LB1090]

KATE BOLZ: The reimbursement is based per meal, so each meal gets a set reimbursement rate. There can be both meals and snacks, and the handout I sent around provides some examples of what some of those healthy, nutritious meals look like. [LB1090]

SENATOR HAAR: Um-hum. Now, do you know...the fiscal notes says \$140,000.
[LB1090]

KATE BOLZ: Um-hum. [LB1090]

SENATOR HAAR: How many federal dollars would that leverage? Would that be the \$2 million? [LB1090]

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KATE BOLZ: It's hard to articulate specifically how much in federal funds that would leverage because the bill is written such that the Department of Education has a lot of flexibility in deciding who to award grants to, and we really thought that that...we really think that that is a good choice because if there are certain sites that are ready to go, those sites should get preference. [LB1090]

SENATOR HAAR: Um-hum. [LB1090]

KATE BOLZ: Or if there are certain sites of high need, we want the Department of Education to have that flexibility, so it will really vary in the number of children we reached, based on the applicants and the structure of the RFP. [LB1090]

SENATOR HAAR: Do you have a wild guess? Just kind of for the idea of okay, \$1 will leverage how much in federal? [LB1090]

KATE BOLZ: Um-hum, um-hum. Well, it...the average site serves about 200 kids and the reimbursement rates are a little over \$1/\$1.25. I think Bev Benes is behind me and she's with the Department of Education and can provide some more specificity there. [LB1090]

SENATOR HAAR: Okay. [LB1090]

KATE BOLZ: But if we're serving each of those kids a meal all through the summer, it's a significant purchasing power. [LB1090]

SENATOR HAAR: Okay, thank you. [LB1090]

KATE BOLZ: Yeah. [LB1090]

SENATOR ADAMS: So this...Kate, so this program is already in effect, is that correct? [LB1090]

KATE BOLZ: That's right. [LB1090]

SENATOR ADAMS: And it's statewide? [LB1090]

KATE BOLZ: Yes. [LB1090]

SENATOR ADAMS: And federal dollars are already being leveraged? [LB1090]

KATE BOLZ: That's right. [LB1090]

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SENATOR ADAMS: This would be an expansion of that? [LB1090]

KATE BOLZ: This would allow organizations that would be eligible to be participating in this program for want of a freezer or an extra staff person... [LB1090]

SENATOR ADAMS: Okay. [LB1090]

KATE BOLZ: It would not expand eligibility for the program. [LB1090]

SENATOR ADAMS: Right. [LB1090]

KATE BOLZ: It wouldn't necessarily expand the intent of the program. It would simply "gear-up" sites to leverage those meals. [LB1090]

SENATOR ADAMS: It would create the infrastructure that's necessary... [LB1090]

KATE BOLZ: That's right. [LB1090]

SENATOR ADAMS: ...for an additional site to deliver the food and the feds pay for the food. [LB1090]

KATE BOLZ: Exactly, yes. [LB1090]

SENATOR ADAMS: Okay. Okay, that...thank you. Are there other questions for this testifier? Thank you, Kate. [LB1090]

KATE BOLZ: You bet. [LB1090]

SENATOR ADAMS: Next proponent? Are there no other proponents? Okay. Good afternoon. [LB1090]

CELICIA ESPREE: Good afternoon. Hi, my name is Celicia R. Espree, and that is C-e-l-i-c-i-a, R. Espree, E-s-p-r-e-e, and I am a resident of TimberCreek Apartments, located in Omaha, Nebraska, and I am here on behalf of the school-age children that participated in the summer lunch program last year. As a volunteer of a system with feeding the children, I found the program to be very beneficial in meeting the needs of children who actually looked forward to and needed assistance with meals for the entire summer. We were allowed to serve plates starting at 11:15 and the children waited in line--some days as early as 10:25--to be served, which was a clear indication that they were either hungry or they knew their food sources at home was low. Most of the kids waited in line and allowed their younger sisters and brothers to come in first because they wanted to make sure that they receive the meal, because on a couple of occasions, we kind of ran low or ran out of food. During the school year, these children

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are given two hot meals a day, and the pressure of providing one good meal is more manageable for struggling households. Currently, I feel that nationwide, families are having a hard time making ends meet. And as a single parent whose kids participated in the very program that I volunteered at, I find that when bills are at an all-time high and resources are low, parents have to decide what to cut back on. Before rent is neglected or utilities are cut off, parents will make the decision to cut back on food purchases. I also personally feel that the effects of the economy or decision making of the parents should not be felt by school-age kids. They have a right to feel safe and be nurtured. I hope that the food program continues and more programs are opened statewide to help nurture the needs of our future leaders. Please pass bill LB1090. [LB1090]

SENATOR ADAMS: Thank you, ma'am. Are there questions for this testifier? We're not going to let you get away that quick. (Laughter) Are there questions? Anyone? Well, thank you for your work. [LB1090]

SENATOR HOWARD: Well, here, I'll ask one. I'll ask one. [LB1090]

SENATOR ADAMS: Oh, I'm sorry, Senator Howard. [LB1090]

SENATOR HOWARD: Thank you, Senator Adams. Did you see an increased number of children coming into your program over the summer when word kind of caught on? [LB1090]

CELICIA ESPREE: Yes, we did. Right. The first day, I would say we probably had maybe 10 kids, then every day was just more kids, more kids. [LB1090]

SENATOR HOWARD: And you did from the time school was out until the school started up again? [LB1090]

CELICIA ESPREE: Until school...maybe a week before school started we ended that. [LB1090]

SENATOR HOWARD: Okay. [LB1090]

CELICIA ESPREE: And it went really well. [LB1090]

SENATOR HOWARD: Good. Well, thank you for volunteering and being there to help them. [LB1090]

CELICIA ESPREE: Thank you, thank you. [LB1090]

SENATOR ADAMS: Senator Haar? [LB1090]

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SENATOR HAAR: And does that program have a name that you volunteered for or it's just neighbors doing it? [LB1090]

CELICIA ESPREE: It was actually at TimberCreek apartment complex, but it was the Salvation Army that provided the food to us. [LB1090]

SENATOR HAAR: Okay. [LB1090]

SENATOR ADAMS: Any additional questions? [LB1090]

SENATOR COUNCIL: I just have one. [LB1090]

SENATOR ADAMS: Yes, Senator Council. [LB1090]

SENATOR COUNCIL: First of all, I want to commend you for coming and testifying today in support of the bill. [LB1090]

CELICIA ESPREE: Thank you. [LB1090]

SENATOR COUNCIL: And I'm very pleased that Senator Wallman brought the bill forward because the data shows that Nebraska is one of the states that is underutilizing this federal program and is designed for...to provide the meals during the summer for children who would be eligible during the school year. And from your experience, is that...that the children that you were seeing take advantage of the program that is operated at your apartment complex? [LB1090]

CELICIA ESPREE: Yes, yeah. But it was other kids that played basketball at the complex. They would be hungry and... [LB1090]

SENATOR COUNCIL: Okay. [LB1090]

CELICIA ESPREE: But after we served all the kids, they would come in and ask us if they could have a hot plate because they didn't have anything to eat. [LB1090]

SENATOR COUNCIL: Okay. Now then, when you mentioned the Salvation Army...last year, I believe, isn't it like a mobile operation that...? [LB1090]

CELICIA ESPREE: Yes. The way that it worked for us is they came in, in the morning, they brought all the food, even the utensils, the plates, everything we was to use to serve the kids with. And the next day, they would come and, you know, swap out the empty containers with new food containers. [LB1090]

SENATOR COUNCIL: Okay, so did you use like the community room at your apartment

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complex? [LB1090]

CELICIA ESPREE: We used the...yes, yes, um-hum. [LB1090]

SENATOR COUNCIL: Okay, okay, okay. Thank you. [LB1090]

SENATOR ADAMS: Any other questions? Thank you, ma'am. [LB1090]

CELICIA ESPREE: Thank you. [LB1090]

SENATOR ADAMS: Next proponent? Hello. [LB1090]

THERESA MEYER: Hi. My name is Theresa Meyer, T-h-e-r-e-s-a M-e-y-e-r. I live in Omaha, Nebraska, at the TimberCreek Apartments. For some residents with kids and some of our senior residents, the food program that we were lucky enough to have last summer was a wonderful help, as we all know that there are families out there who struggle to feed their children on...to feed their children one meal a day during the school year. During the summer, it's even harder to provide three meals a day. With the Summer Food Program, for some of our children, they're...that's their only hot meal for the day. For parents who do struggle to feed their kids, it's a big help to know that there is a place that the kids can go and get a healthy hot lunch. In my case, it's helpful because I have a child that's disabled who eats different food from the rest of my household. So, therefore, the cost for our groceries and stuff are more expensive. At the food program, if extra food is available, the kids can have seconds or have the option to take their plate home for later. The last week of the month is the time when most households are trying to make their food stretch and I found that the food program helps with that transition. I think if the LB1090 did not pass, there would be a lot of children going to bed hungry at night. As a parent, I know firsthand how hard it is to make food stretch. At times, it just doesn't happen. So on behalf of all the children at TimberCreek, please pass LB1090 so that the children can have at least one hot meal a day to count on during the summer. I am asking you to really consider this bill. Think of all the great children you will be providing hot lunch to all summer long. After all, they are the future. [LB1090]

SENATOR ADAMS: Thank you, ma'am. Are there questions for this testifier? Yes, Senator Haar. [LB1090]

SENATOR HAAR: Thank you for coming. [LB1090]

THERESA MEYER: Um-hum. [LB1090]

SENATOR HAAR: Are you from the same group as the last testifier, then? [LB1090]

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THERESA MEYER: Yes, I live in the same apartments, uh-huh. [LB1090]

SENATOR HAAR: Okay, you...you're both...and so you're basically parents helping to feed the kids in the complex. [LB1090]

THERESA MEYER: Um-hum, yeah. [LB1090]

SENATOR HAAR: So it's sort of a disgrace, don't you feel, in this country that kids are going hungry? [LB1090]

THERESA MEYER: I do, um-hum. Yes, I do. I moved here from Iowa the beginning of the summer and in Council Bluffs, the kids can get their free lunches through the schools. So that was something new to me that I didn't realize that Omaha didn't have anything like that. They didn't have the food programs through the schools. [LB1090]

SENATOR HAAR: So even in the summertime, kids in Council Bluffs were getting free meals. [LB1090]

THERESA MEYER: Um-hum, um-hum. Yes, through the schools, um-hum. [LB1090]

SENATOR HAAR: Okay, thank you very much. [LB1090]

THERESA MEYER: Thank you. [LB1090]

SENATOR ADAMS: Any other questions? Thank you for taking time to be here today. [LB1090]

THERESA MEYER: Thank you. [LB1090]

SENATOR ADAMS: Next proponent? Are there any other proponents? Seeing none. Is there opposition? Anyone? Then let's move to neutral testimony. Ma'am, what you might do if you want to testify in the neutral is come up to the front row so that we can shift seats quick. Thank you. [LB1090]

JEREMY MURPHY: Good afternoon, Senator Adams. Members of the committee, my name is Jeremy Murphy, M-u-r-p-h-y. I represent the Nebraska Catholic Conference and I wanted to testify in a neutral capacity here, primarily to clarify the language in--let's see--it's Section 3...Section 2 of the bill. First of all, to give you some background, I should make you aware that Holy Name School in Omaha provides 500 to 600 meals per day under this program, according to the Nebraska Department of Education. Catholic Social Services also has a site. I think it's called Christ Child Center. But I guess we wanted to clarify the language in 3(b). For example, it says service institutions in school districts. We wanted to clarify whether that means within the

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geographical boundaries of school districts. It's my understanding in speaking with Kate Bolz that that was the intent. I guess I also have spoke with Senator Wallman's legislative aide about this, but I don't know if that language could be inserted, but I guess we want some clarification on that if that's possible, because... [LB1090]

SENATOR ADAMS: Which section again, Jeremy? I'm sorry to interrupt you, but... [LB1090]

JEREMY MURPHY: It's...I'm sorry, it's Section 2, subparagraph 3(b). If you look at paragraph 3(a), it refers to service institutions without any clarifiers. But then there's in school districts language in subsection 3(b) and 3(c), and we want to make sure if there are private providers such as Holy Name and Catholic Social Services--I guess it's Catholic Charities in Omaha--that they're able to continue their programs and be able to compete for these grants if this would pass. [LB1090]

SENATOR ADAMS: Okay, fair enough. Are there questions for Jeremy? Yes, Senator Haar. [LB1090]

SENATOR HAAR: All right, thanks for coming. [LB1090]

JEREMY MURPHY: Sure. [LB1090]

SENATOR HAAR: And I know you're talking about clarifying the bill, but obviously you're in support of the intent behind this bill. [LB1090]

JEREMY MURPHY: I would concede that we do monitor free and reduced lunch numbers on an annual basis and that there...you know, there definitely is a need to try to help these children in whatever way possible, and that's why Holy Name and Catholic Charities have stepped forward to try to participate. And I guess I'd hate to see 500-600 kids or more losing that opportunity on a daily basis. [LB1090]

SENATOR HAAR: You bet. Thank you. [LB1090]

JEREMY MURPHY: Sure. [LB1090]

SENATOR ADAMS: Other questions for Jeremy? Thank you then. [LB1090]

JEREMY MURPHY: Thank you. [LB1090]

SENATOR ADAMS: Next neutral testifier. [LB1090]

ERICKA SMRCKA: (Exhibit 2) Good afternoon, committee members. My name is Ericka, E-r-i-c-k-a. Last name is Smrcka, S-m-r-c-k-a, and I am the director of Programs

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and Advocacy at the Food Bank of the Heartland and I am here...I'm on a neutral stance. As you know, many children are dependent on school meals during the school year, but in the state of Nebraska, only 1 in 10 of those low-income students have access to summer meals. This makes summer a very difficult time for families to find a way to feed our...feed their children. And due to the very low participation numbers, the Food Bank for the Heartland felt it was important to become involved and became a summer Site Sponsor for the Summer Feeding Program this past summer in 2011. We were actually able to coordinate and pool the resources of the Food Bank for the Heartland, Salvation Army, and Hunger Free Heartland to start an innovative summer program called the Kids Cruisin' Kitchen, as the two women previously had mentioned. In 10 weeks, we were able to serve 8,000 meals for children in underserved areas of free and reduced lunch participation members. However, we experienced...through our own experiences and discussions with other summer food providers we've identified that there are some barriers to starting or expanding programming and I'd kind of like to share a couple of our experiences that we've encountered. First, our barrier was getting our program and our kitchen up to code. We were actually using a kitchen that belonged to the Salvation Army. We were required to purchase some additional equipment, do some electrical upgrades, and actually replace some plumbing in the kitchen that we were utilizing. Other sites have had to purchase freezer spaces, cooling spaces, warmers, larger ovens, or dishwashers to meet health code so that they could get their permit and thus become a summer feeding site. We also found that through our program, that application and training and learning program compliance did require some additional staffing, and we did experience a little bit lower reimbursement our first month due to just the learning curve of a new program. The...I want to say that the Nebraska Department of Education was an incredibly helpful resource and really walked us through the program, but when you have any new program, there is just a learning curve where you're just learning how to manage. But as I mentioned, we were able to pool the resources of three organizations to be able to offset those differences and in smaller communities, that's not always the case. Specifically, in rural locations, they have some additional barriers and through our experiences, we found many locations, including our own, had to prepare food in one location and then they would move...had to transport that food, so you're talking about additional costs in keeping the food at appropriate temperatures and transportation. And the Food Bank of the Heartland is responsible for 77 counties in Nebraska and rural counties are really a particular concern of ours because there's a lack of partnerships to meet those food insecurity issues, specifically during summer when you have higher heating and...or cooling costs and parents potentially have some child-care expenses. We found that food budgets is something that families will negotiate with and not provide as nutritious meals for their children. And it's our belief that fighting...healthy food is really key for active, healthy kids. So, thank you for your time. [LB1090]

SENATOR ADAMS: All right. Senator Council? [LB1090]

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SENATOR COUNCIL: Thank you. Thank you, Ms. Smrcka, for testifying. And help me understand... [LB1090]

ERICKA SMRCKA: Okay. [LB1090]

SENATOR COUNCIL: ...because you're testifying in a neutral capacity, yet everything you've addressed in your statement would be areas that would be addressed through this bill, so I guess I'm trying to get an understanding. If there is any concern about the bill, what is that? Because everything I've heard, the bill would help to ameliorate by providing some funding to remove some of these barriers, so help me understand what the... [LB1090]

ERICKA SMRCKA: Absolutely, absolutely. You know, we are in favor of any bill that would encourage summer feeding programs. It's really been a matter of timing for our board to put approval in. [LB1090]

SENATOR COUNCIL: I can...yeah. I...and I certainly appreciate that. I certainly appreciate you can't speak until the board has taken an official position, so thank you so much. [LB1090]

ERICKA SMRCKA: No problem. [LB1090]

SENATOR ADAMS: Senator Howard? [LB1090]

SENATOR HOWARD: Thank you, Senator Adams. You know, Ericka, I'd like to think that you could use some of this expertise that you now have from overcoming your own problems to maybe be helpful to the program as it expands. That would seem like that would be real useful to them. [LB1090]

ERICKA SMRCKA: Absolutely. I mean... [LB1090]

SENATOR HOWARD: So you'd be willing to do the outreach and be there as a...for whatever you could be helpful with? [LB1090]

ERICKA SMRCKA: Absolutely, absolutely. [LB1090]

SENATOR HOWARD: Good. Thank you. [LB1090]

SENATOR ADAMS: Senator Haar? [LB1090]

SENATOR HAAR: Where are you headquartered at? [LB1090]

ERICKA SMRCKA: We are all in Omaha, but we actually were trying to identify

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locations where there were high free and reduced-lunch numbers where there weren't current programs. So we actually went into the Plattsmouth area, we went out into western Omaha, where--as the ladies were referencing earlier--Millard Public Schools doesn't do summer feeding in the summer months. So when they were speaking about Omaha, they were actually located in the Millard School District, so we were trying to identify some sites where there weren't summer feeding sites. We would love to expand further out. For us, it's logistical and really coming up with partnerships. And also what we'd love to do is be a mentor to sites, as Senator Howard mentioned. You know, helping new sites come along. Unfortunately, as much as the Nebraska Department of Education and we can provide, it's just the fiscal barriers that we can't support other new sites for. [LB1090]

SENATOR HAAR: Do Omaha and Lincoln Public Schools provide summer lunch programs? [LB1090]

ERICKA SMRCKA: Yes. Yes, they do. [LB1090]

SENATOR HAAR: Okay, okay. [LB1090]

ERICKA SMRCKA: It's very underutilized, though. And that's actually why we came up with this model, was to do something outside of the schools to see if the children...if we were going into parks and areas like that, if that would be more of a draw for the children to come and participate in the program. [LB1090]

SENATOR HAAR: Okay, so underutilized meaning the program is there, but people just aren't...kids aren't coming to the program or...? [LB1090]

ERICKA SMRCKA: It's both. In urban areas, there's a lot of underutilization of the program. But in rural areas, there is no program at all. [LB1090]

SENATOR HAAR: Um-hum, um-hum. And what age kids come to these summer programs? [LB1090]

ERICKA SMRCKA: We saw really the gamut. Most of them were late elementary to middle schoolers, but we saw a two-year-old coming to the program up until...most of the kids were under the age of 16, so. I mean, we actually had...one of our sites had a grandmother that would go and pick up her grandkids around Plattsmouth and bring all of them because she didn't have the resources to feed them. New mom and dad were at work, their...her grandkids were at home not getting food, so she'd pull up in a van every day, grandkids would come out, grandma would eat, you know, they would make sure they were eating and put them back in the van and drive them back home. [LB1090]

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SENATOR HAAR: So did grandma eat, too, or...? [LB1090]

ERICKA SMRCKA: We actually had a grant through the Mutual of Omaha Foundation where we were...had some resources to feed the parents as well. [LB1090]

SENATOR HAAR: Okay, thanks. [LB1090]

ERICKA SMRCKA: That's not reimbursed, though. [LB1090]

SENATOR HAAR: Okay. [LB1090]

SENATOR ADAMS: Why do we not have--in your opinion--why don't we have more facilities in rural Nebraska? [LB1090]

ERICKA SMRCKA: I think Kate alluded to this a little bit. Part of it is, is that just the constraints of the federal program is it's a congregate meeting. You know, it's a congregate feeding setting and in rural locations, sometimes those congregate settings are just not feasible. You have kids that ride 45 minutes every day that go to school and if the school is the congregate setting, to ride 45 minutes for a meal just isn't going to happen. But when you...some of the locations, I think it's just barriers such as getting the school district on-board or getting a local church. It doesn't necessarily have to be in a school. [LB1090]

SENATOR ADAMS: All right. [LB1090]

ERICKA SMRCKA: Getting some of our organization on board to do this... [LB1090]

SENATOR ADAMS: Did... [LB1090]

ERICKA SMRCKA: And again, it can be...facilities is a huge piece of it. [LB1090]

SENATOR ADAMS: The distance in far rural Nebraska I get. I just...I'd be curious how much the program is underutilized at some margin point where there's churches and there's schools, even in a community of 200. And anyway, if you know, I'd like to hear your response. [LB1090]

ERICKA SMRCKA: Yeah, I can only speak from my experience. [LB1090]

SENATOR ADAMS: I understand. [LB1090]

ERICKA SMRCKA: I'm actually working with a program right now. It's really...what we found the most successful is pairing an activity with the meal, so that the child is not walking in with a big sign on their head that says I'm a hungry child. [LB1090]

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SENATOR ADAMS: Um-hum. [LB1090]

ERICKA SMRCKA: If you can get children engaged in an activity and then feed them, they're much more likely to participate. That's been our experience with the lower numbers of participation numbers. With free and reduced lunch, those kids are already in that building, participating in their school activities. To just walk into the building sometimes solely for the meal is a little bit of a humbling experience. [LB1090]

SENATOR ADAMS: Just out of curiosity, when...on any given day when the kids show up for lunch, you certainly don't screen the kids to see if they're...meet the eligibility requirements. [LB1090]

ERICKA SMRCKA: No, no, no. The summer feeding program is solely for areas either through census tract data or the school that falls into 50 percent of free and reduced lunch. So no, we don't take income information or anything on those kids. [LB1090]

SENATOR ADAMS: So it is conceivable that mom may say, hey, go on down and get lunch. [LB1090]

ERICKA SMRCKA: Absolutely, absolutely. [LB1090]

SENATOR ADAMS: Got it. Thank you. Any other questions? Thank you. [LB1090]

ERICKA SMRCKA: Okay, thank you. [LB1090]

SENATOR ADAMS: Any other neutral testimony? [LB1090]

CARYN KUSLEIKA: Good afternoon. My name is Caryn Kusleika, and that's spelled C-a-r-y-n K-u-s-l-e-i-k-a, and I am a registered dietician and health and wellness program manager for the Midwest Dairy Council, which is a nonprofit organization that is working to address childhood obesity and promote nutrition in schools. And as part of my role, I can only educate and inform on legislative bills, but I wanted to come and tell you about our involvement with the summer feeding program. Because of Midwest Dairy Council's commitment to child health and wellness, we feel it is important to provide support to schools for summer feeding programs. Dairy foods, along with other nutritious foods, provide critical nutrients that help improve a child's overall health and diet. The goal of the Summer Food Service Program is to provide nutritious foods to children. A healthy breakfast and lunch including fruits, vegetables, whole grains, and low-fat dairy, gives children the fuel they need to learn, play, and grow. Ensuring children get good nutrition has been shown to improve classroom performance, increase children's abilities to focus on school work, decrease behavior problems and visits to the school nurse, and increase attendance in schools. During the school year,

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more than 98,000 children in Nebraska receive free and reduced prices to get a nutritious breakfast. Sadly, this is the only time some children will eat. Hunger doesn't take a summer vacation. Food insecurities increase during the summer months when school meals are not available and the Summer Food Program has not grown to meet the increased need. Challenges include a lack of sponsors and sites and a lack of information about the program among low-income families. Throughout Nebraska, less than 1 in 10 children who receive a free or reduced-price school lunch also participate in the Summer Food Program. Summer feeding is extremely important to provide children with good nutrition when school is not in session and they might not get nutritious food otherwise. Lack of nutrition during the summer months may set a cycle for poor performance in schools once school begins again. Hunger can also make a child more prone to illness and health issues. Midwest Dairy Council is planning to work with Hunger Free Heartland and others in Nebraska, as well as the Department of Education, to assist in providing schools to promote summer feeding. Our activities will include helping to educate schools on low-income family...and low-income families about the program and recent improvements, making it easier to apply. We will also help recruit sponsors and encourage sponsors to open more summer food sites. For the sake of our kids, we must close the summer hunger gap. [LB1090]

SENATOR ADAMS: Thank you. Questions? Senator Haar. [LB1090]

SENATOR HAAR: Yes. What was the name of the organization you're with again? [LB1090]

CARYN KUSLEIKA: Midwest Dairy Council. [LB1090]

SENATOR HAAR: Oh, okay. Okay, thanks. [LB1090]

SENATOR ADAMS: Other questions? Anyone? Thank you, ma'am. Is there any other neutral testimony? Any more neutral testimony? Senator Wallman, you can close. [LB1090]

SENATOR WALLMAN: I want to thank the testifiers behind me and if this bill needs some tweaking, my office would work with that, the clarity...clarify things, maybe, that some neutral testifiers have. And I think feeding children is important and appreciate your vote on this bill. Thank you. [LB1090]

SENATOR ADAMS: Thank you. [LB1090]

SENATOR COUNCIL: Just one question. [LB1090]

SENATOR ADAMS: Senator Council? [LB1090]

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SENATOR COUNCIL: Thank you, and I apologize, Mr. Chairman, I should have asked this in...on the opening. But the bill the provides for funding to assist, and is that the \$150,000? [LB1090]

JENI BOHLMAYER: One-hundred-forty-thousand. [LB1090]

SENATOR WALLMAN: One-hundred and forty. [LB1090]

SENATOR COUNCIL: One hundred and forty thousand. And I was just wondering if in your research in terms of our underutilization of the program, the cost associated with the food we don't get and use in terms...because when we start talking about anything that has a fiscal note associated, I think we also need to be aware of what benefit would inure to the state by reason of this investment, and that would be an increase in the amount of federal aid to provide the food. So while there may be a cost associated with it, that investment returns quite a bit to the state in terms of the number of children that can be fed. Am I correct in my understanding of how that...? [LB1090]

SENATOR WALLMAN: Senator, I sure think so. You know, and undernourished children, it affects their learning capabilities and everything, so I think it's a win-win for the state. And it still won't feed all the children, you know, that need it, but hopefully it will help a lot. [LB1090]

SENATOR COUNCIL: And I share that opinion. I'm just...I just want to be sure that from a cost perspective, you know, other communities across this country are fully utilizing this Summer Food Program, and I had the privilege of accompanying some folks from Omaha--a couple of them are here on another matter--to the St. Paul area where they are a Promise Neighborhood. And we visited a couple of sites where they've put this additional focus on utilizing the Summer Food Program. And I can't recall who...I think it was Ms. Smrcka who talked about you don't want to place the children in the position where they're embarrassed or shamed into accessing the food and in the St. Paul area, it's all related to programming. And the youngsters come to particular programs--not all in the schools--and then they're provided a lunch, a meal as a part of that program and they reported to us that their utilization rates had gone up dramatically. So I mean the fact is that that federal program is there, those federal dollars to provide that food is there. If we don't utilize it to take care of our children, then other communities will utilize it to take care of those, so I commend you for bringing the bill. [LB1090]

SENATOR WALLMAN: Well, thank you. In times past, you know, the federal government must have thought this was important as well, so I think we should too. Thank you. [LB1090]

SENATOR ADAMS: Any other more...any other questions for Senator Wallman? Thank you, Senator. We'll now move on to our next bill, which is LB1020, Senator Nordquist to

open on the bill. [LB1090]

SENATOR NORDQUIST: Good afternoon. [LB1020]

SENATOR ADAMS: Whenever you're ready, Senator. [LB1020]

SENATOR NORDQUIST: Thank you. Good afternoon, Chairman Adams and members of the Education Committee. I'm Jeremy Nordquist. I represent District 7, which covers downtown and south Omaha. LB1020 is an effort to highlight the unmet health needs of our state's children and to build upon the great successes we have seen so far in two of the experiments--in Omaha and Grand Island--in our state with school-based health centers. You'll hear more in the testimony to follow about the successes of these programs. LB1020 creates a grant program, administered by the Nebraska Department of Education, to fund the capital, construction, and startup costs for school-based health centers. To apply for a grant, school districts must be able to demonstrate long-term financial sustainability of the school-based health center and must demonstrate a relationship with a sponsoring healthcare facility. Under the bill as drafted, priority will be given to areas...to schools located in areas designated as a health professional shortage area, medically underserved area, or designated as medically underserved populations under state or federal law, with the majority of...or with a majority of students eligible for free and reduced-price lunches. To be eligible to receive a grant under the Coordinated School Health Program under the bill, a school district must provide 50 percent matching funds for the project, obtained from any source available to the district. We also included a provision...this bill is kind of a combination of several states. We included a provision that says that within five years following the receipt of the grant, if the school district uses the facility purchased, constructed, or modeled with grant funds, they must repay the grant. The Coordinated School Health Act would transfer \$200,000 annually from the Education Innovation Fund to the Coordinated School Health Fund. Ninety percent...not less than 90 percent of the money will be awarded as grants. Ten percent could be used...up to 10 percent could be used for administration. The fundamental principle that brings this issue before the committee today is that if kids are not healthy, they cannot learn. By bringing health services to where children are, we can help working moms and dads meet the needs of their kids--the health needs of their kids--which will lead to healthy, happy kids and allow them to focus on what's happening in the classroom. School-based health centers, in a variety of studies, have shown to be associated with a reduction in absenteeism and tardiness, improved grade-point averages among those served, increased likeliness to stay in school, reduced asthma-associated hospitalizations and inappropriate emergency room utilization, reduction in Medicaid expenditures related to inpatient, drug, and emergency department use, increased access to care, as 71 percent of students with a school-based health center have seen a healthcare provider in the past year, compared to only 59 percent without. Testifiers after me will speak about their experiences with school-based health centers, the impact they have on students, and

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the needs that still exist within our school districts for basic health services for our children. I bring LB1020 to you today because I believe school-based health centers are a valuable policy tool to both improve the health and educational outcomes for children and I am open, certainly, to conversations about how to prioritize the grants and how the dollars should be utilized, whether it should be used for construction and startup purposes or whether we should open it up to grants that ask for operational funding. I encourage your support for the legislation and am eager to work with you on advancing it. Thank you. [LB1020]

SENATOR ADAMS: Thank you, Senator Nordquist. Are there questions? Senator Haar? [LB1020]

SENATOR HAAR: Yes, are there schools other than Omaha that are doing this sort of thing right now? [LB1020]

SENATOR NORDQUIST: Yeah. Actually, the first was in Grand Island and they've been up and running for it's either 10 or 12 years now in their high school. They kind of led the way. Actually, Senator Gloor was the chairman of the...or the CEO of the hospital there and he was kind of integral in getting that off the ground. Since that time, Omaha was the next, which launched a little over a year ago at the start of the school year, so about a year-and-a-half now in their operations. They started six half-day clinics in six schools. Those six clinics have all gone to full days and because of a federal grant, there's now a seventh at Northwest High School that's going to be opening, yeah. [LB1020]

SENATOR HAAR: Um-hum, and then have other schools actually...are they considering this? [LB1020]

SENATOR NORDQUIST: Sure, there's...and maybe some people after me can speak to that, but I know certainly in the metro area that there's at least a couple that are...that talked about it, some even at the board level of the...the school boards had discussions about it and I know there's a few outstate as well that have. And I don't know if all those individuals will be here today, but if they're not, some of them were going to submit letters about their interest, so yeah. [LB1020]

SENATOR HAAR: Good. Thank you. [LB1020]

SENATOR ADAMS: Other questions? Senator Council? [LB1020]

SENATOR COUNCIL: Yes, and thank you, Senator Nordquist. And for those of my colleagues who haven't had an opportunity to tour any of the school-based health centers that have been established in the Omaha Public Schools, I urge them to do so and to talk to the staff and the administration about the positive impact the presence of

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those facilities has had on their...the youngsters that they serve, particularly in terms of you talked about attendance... [LB1020]

SENATOR NORDQUIST: Yeah. [LB1020]

SENATOR COUNCIL: ...and tardiness and improving...a tent of this in dealing with issues associated with anxiety and all of those things. But just as I directed questions to Senator Wallman, you know as well as I do the issue is going to be funding. And the way the bill is drafted, it provides for the funding to come from the Education Innovation Fund and there have been some opposition stated to the prioritization that's set forth in LB1020. Again, I guess I'm just asking, what is your response to that? What are your understanding of how this would affect the balance in those accounts? And would there be any possibility of reordering the priorities? [LB1020]

SENATOR NORDQUIST: Yeah, I would certainly be open to that possibility. We had a pretty extensive memo put together by the Legislative Research Office and if anyone's interested in getting that...you may have all seen this before, but it's a very lengthy history of the Education Innovation Fund and where the dollars are at now. Over the next few years, currently we're looking at a...the lowest balance that we would see in the fund is \$3.7 million and that's in fiscal year 2013. When the...all the current earmarks are gone in 2016, the projected balance is \$4.9 million. So over the course of that time, where we would only take that down \$800,000 at \$200,000 a year. As far as the Innovation Fund, I know there's a lot of folks that have different thoughts on what it should be used for, but I looked back. The first bill that was introduced, the Statement of Intent said that it was...the introducer's Statement of Intent said included programs targeted towards at-risk students. And the next bill that addressed it in LB138 in 1999, said programs that address families and social issues impairing the learning productivity of students, so I think of the original intent of this, it certainly is right on. It's been amended and changed 26 times since then, so I don't think one more change is necessarily out of order, and I think it would look at the original intent of this and, you know, I strongly believe that the health of a kid has as much impact on their classroom performance as anything else, so. [LB1020]

SENATOR COUNCIL: Okay, thank you very much, Senator. [LB1020]

SENATOR NORDQUIST: Yeah. [LB1020]

SENATOR ADAMS: Any other...Senator Howard? [LB1020]

SENATOR HOWARD: Senator Adams, thank you. Senator Nordquist, I think it's important--at least it was important for me when I toured the centers--that this is not only accessible to the student, but also to the student's siblings... [LB1020]

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SENATOR NORDQUIST: Yeah. [LB1020]

SENATOR HOWARD: ...and I just find this a benefit to the... [LB1020]

SENATOR NORDQUIST: Um-hum. [LB1020]

SENATOR HOWARD: ...well, the parents, obviously... [LB1020]

SENATOR NORDQUIST: Yeah. [LB1020]

SENATOR HOWARD: ...but also to the community, too, for community health, so... [LB1020]

SENATOR NORDQUIST: Um-hum, yeah. Yeah, the... [LB1020]

SENATOR HOWARD: I think it's an excellent program. And you know everybody always likes a program as long as it doesn't cost us anything or the money comes from nowhere. [LB1020]

SENATOR NORDQUIST: Um-hum. Yeah, yeah. [LB1020]

SENATOR HOWARD: But I think sometimes we have to really look at things that are basic, one-on-one, like health and nutrition, to... [LB1020]

SENATOR NORDQUIST: Um-hum, um-hum. [LB1020]

SENATOR HOWARD: Thank you. [LB1020]

SENATOR NORDQUIST: Absolutely. Thank you. [LB1020]

SENATOR ADAMS: Senator, the question I really wanted to ask you but I'm not going to...all right, if we had to choose between \$140,000 for lunches and \$200,000... [LB1020]

SENATOR NORDQUIST: Whoa, whoa, whoa. [LB1020]

SENATOR ADAMS: You don't have to answer that. [LB1020]

SENATOR HOWARD: That's cruel. (Laughter) [LB1020]

SENATOR ADAMS: It is. That is cruel of me. [LB1020]

SENATOR NORDQUIST: I'll go back and look at the budget and we'll see what we can

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come up with, but... [LB1020]

SENATOR ADAMS: Yeah. Are there any other questions for the senator? Seeing none. Thank you. [LB1020]

SENATOR NORDQUIST: Thank you. [LB1020]

SENATOR ADAMS: First proponent? [LB1020]

JAN THEDE: Good afternoon, Senator Adams... [LB1020]

SENATOR ADAMS: Good afternoon. [LB1020]

JAN THEDE: (Exhibit 3) ...and the members of the Education Committee. My name is Jan Thede, T-h-e-d-e. I'm a retired school nurse from the Grand Island Public Schools. I worked there for 25 years and I worked the last 14 years beside the school-based health center there. I became frustrated as a school nurse that I could not meet the needs of the kids. I can give you one example. A student came to me with a large cut in the palm of his hand. He was from out of country, had no social security number--you know what that means. So I called the local pediatrician and said, please, please help me and he said, Jan, I'd like to, but I'm at a liability here and I cannot do that. And at that time I said, this is nuts. I worked in the Amazon for two years, had the same situation, had no doctor. I was able to do the suturing myself, but here I could not do anything. So then another student comes and she comes after school. She sits in my office. I'm on the phone with a parent. I'm not...have not completed my conversation, she gets up and leaves, and three hours later she commits suicide. We can do better. We must do better and because we can do better, we must. So I went to the University of Colorado during this time and I saw for myself in 1988/89--in the summers of those two years--what a school-based health center looked like and I said, this is it. We can use mid-level practitioners, it can be a cheaper service, it can be accessible, and what I handed out to you are some of the areas that I saw as positive. It brings the service to where the kids are. The kids, most of our kids are at school. It makes it universal. The superintendent's son received care just like the boy that had no social security number. The health service is affordable and it's timely, it does not take parents away from their work situation, and it provides quality care. It does not take the place of the school nurse and it reflects the values of the community and that is key, that it reflects the value of the community. We have 2,000--about 2,000--school-based health centers now nationally. I think that this would be a good place for these monies, if at all possible, to give support to the grass-roots people who would like to start something like this in their community. Thank you. [LB1020]

SENATOR ADAMS: Thank you. Are there questions for this testifier? Yes, Senator Seiler? [LB1020]

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SENATOR SEILER: Yes, let's see, do you receive any donations or private money to your program there in Grand Island? [LB1020]

JAN THEDE: The hospital, St. Francis Medical Center--of which Senator Gloor was the CEO at the time--actually owns our center, so it looks different than many of the others and that's how it should be. The centers should reflect the community, what the values are in the community, whether you're going to offer reproductive health services or not. Those kinds of issues need to be decided by the community members, I believe. [LB1020]

SENATOR SEILER: Thank you. [LB1020]

JAN THEDE: Um-hum. [LB1020]

SENATOR ADAMS: So, if I understand it right, then the involvement of the Grand Island Public Schools was, in effect, to provide a space. [LB1020]

JAN THEDE: In-kind expense--electricity, space, so. [LB1020]

SENATOR ADAMS: The school nurse... [LB1020]

JAN THEDE: The school nurse was provided by the... [LB1020]

SENATOR ADAMS: ...was part of that? [LB1020]

JAN THEDE: ...was provided by the school district and I worked... [LB1020]

SENATOR ADAMS: Okay. [LB1020]

JAN THEDE: ...as a partner with them. They were right next to my office. [LB1020]

SENATOR ADAMS: Okay, so the school district provided, what, janitorial services,... [LB1020]

JAN THEDE: Yes. [LB1020]

SENATOR ADAMS: ...the electricity, and those kinds of infrastructural needs? [LB1020]

JAN THEDE: All of those in-kind, um-hum, um-hum, yes. [LB1020]

SENATOR ADAMS: Okay. [LB1020]

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JAN THEDE: And because we are then connected to a nontaxed entity, they brought monies, resources to the table that we as a school district could not provide. [LB1020]

SENATOR ADAMS: Okay, very good. Thank you. [LB1020]

JAN THEDE: Um-hum. [LB1020]

SENATOR ADAMS: Senator Howard? [LB1020]

SENATOR HOWARD: Thank you, Senator Adams. It says here you're retired. [LB1020]

JAN THEDE: Um-hum. [LB1020]

SENATOR HOWARD: That can't be. [LB1020]

JAN THEDE: I'm old, so that's why I can provide the historical perspective. [LB1020]

SENATOR HOWARD: No, no, no, no, no. No, you have such a good grasp of this whole need... [LB1020]

JAN THEDE: I'm passionate about it, yeah. [LB1020]

SENATOR HOWARD: ...that I hate to think of you as not being a part of it. [LB1020]

JAN THEDE: Thank you. [LB1020]

SENATOR HOWARD: Okay. [LB1020]

JAN THEDE: Thank you. [LB1020]

SENATOR ADAMS: Other questions for this testifier? Thank you, ma'am. [LB1020]

JAN THEDE: Um-hum, thank you. [LB1020]

SENATOR ADAMS: Next proponent? [LB1020]

LISA JOHNSON: (Exhibit 4) Good afternoon. My name is Lisa Johnson, L-i-s-a J-o-h-n-s-o-n, and I'm here today to testify in support of LB1020. I've been a school nurse at Ralston Public Schools for over 20 years and currently oversee the eight school health offices within our district. The increased complexity of nursing care and nursing interventions necessary to provide safe and competent health services within the school setting is evident to me. I would like to share my observations with you today. Ralston Public Schools is made up of eight schools with approximately 3,000 students.

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In a one-year period, the health offices within these eight schools have over 50,000 student visits. The students we provide care for have a variety of complex physical and mental health needs. The student populations that we serve include students that are homeless, living in poverty, experiencing poor nutrition, exposed to violence within their home environment, experiencing addictions, and diagnosed with chronic physical and mental diseases. All of these conditions affect attendance and learning performance. Many are preventable if identified and treated early. The biggest issue that our students face is a lack of access to the needed physical and mental health services. Research supports that school-based health centers greatly enhance children's access to healthcare. Nursing and healthcare in the school setting is consequential in supporting student success. From a national perspective, over 2,000 school-based health centers provide access to high-quality comprehensive healthcare, mental health services, and preventative care to approximately 1.7 million children and adolescents in 44 states and the District of Columbia. Attached to my written testimony is information from the National Assembly on School-Based Health Center...I'm sorry, School-Based Health Care that outlines research and evaluations that have demonstrated that school-based health centers are a cost-effective investment of public resources and a viable mechanism to improve children's access to healthcare. In conclusion, LB1020 would offer local school districts an avenue to fund capital construction and startup costs for school-based health centers. These school-based health centers would improve healthcare access and ultimately improve student success. I thank the committee for your time and consideration. [LB1020]

SENATOR ADAMS: Thank you. Now are there questions for this testifier? Senator Haar. [LB1020]

SENATOR HAAR: Okay, so to understand, you already have school-based health centers? [LB1020]

LISA JOHNSON: We do not. [LB1020]

SENATOR HAAR: You do not. Okay. And then with conceptually, can anybody walk in to a student health center or are there means tests or how does that work, do you know? [LB1020]

LISA JOHNSON: We don't have a school-based health center. I would anticipate that that would be the direction of or under the guidance of whomever was implementing the school-based health center. [LB1020]

SENATOR HAAR: Okay. [LB1020]

LISA JOHNSON: Our...we hope that it will serve all of our students, from preschool through high school, if we were fortunate enough to get a school-based health center.

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[LB1020]

SENATOR HAAR: Okay, well, thanks for what you do. [LB1020]

SENATOR ADAMS: Anyone else have a question? Thank you then. Appreciate your testimony. [LB1020]

LISA JOHNSON: Thank you. [LB1020]

SENATOR ADAMS: Next testifier? This is still proponent testimony. [LB1020]

SHARON WADE: Yes. Good afternoon. I'm Sharon Wade, S-h-a-r-o-n W-a-d-e. I'm the supervisor of health services for Omaha Public Schools. We have six operating health centers and tomorrow will be the opening for our high school--Northwest High School will have a health center. We've had great success joining the Omaha Public Schools staff with the staff of the school-based health centers. It's been a good initial period and it's even been more successful the second year of operation. Our families have historically always had issues with the barriers to get their kids to the healthcare that they need during the school day. Transportation is an issue, their flexibility from their employer is always an issue, lack of insurance or being underinsured is definitely something that keeps kids from going to the doctor. The school-based center--health center--has truly been a solution and in the schools that it serves, which is also available to neighboring schools to any student that's enrolled in the district, they're able to be seen during the school day, be treated, and possibly return to school without having to have their parent take the day off work to take them to the doctor and then for them to miss valuable instruction. Provided they don't have something communicable, they are able to stay at school. We have had success in having...the normal expectation is for the parent to accompany the child to the first visit and to work with them on understanding the history of their child's history, medications, etcetera, and then if it's an older child, we are able to see the kids during the school day and possibly even treat them during the school day. It's been a great benefit for us and I feel that it's really impacted kids staying in school. It also has been great to work with the practitioner or the provider. The school nurses really work hand-in-hand with them as far as communicating with them, and I think that really provides continuity of care for that student. I called some of the school nurses today to get some examples of success stories, their stories which are so valuable to demonstrate the value of anything. And one of them gave a story of a child by the name of Henry (phonetic) that came in and he said that he had been...a rat bit him the night before. She was able to...the child was enrolled in the health center, so she called the mother who had several young children at home and couldn't get up there, so the mom had been there once with Henry before, so he was able to be seen and was able to have the blood testing and the evaluation to make sure that there wasn't any health problem related to that. Henry also had a deformed wrist that was apparently set before he came to Omaha. He was able

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to--through the school-based health center--be referred to a specialist and is getting the care that he needs for the deformity and hopefully will improve his function in that wrist. And all the nurses had great stories to tell and great success with coordinating with the school-based health center staff, so it's certainly a program that I feel benefits kids and keeps kids in school and successful in school. Thank you. [LB1020]

SENATOR ADAMS: Thank you. Questions? Senator Seiler? [LB1020]

SENATOR SEILER: Yes, ma'am. When you use the term enrolled, do all students automatically become enrolled or do you have the parents' consents and that... [LB1020]

SHARON WADE: The parent, yes. [LB1020]

SENATOR SEILER: And that's what you mean by enrolled? [LB1020]

SHARON WADE: Yes, the parents sign. This year, it did go out with the student information packet, so we had over 31,000 that enrolled. Of course, not all of those folks are utilizing the service, but yes, the parent has to sign up for the service. [LB1020]

SENATOR SEILER: Okay, thank you. [LB1020]

SENATOR ADAMS: Senator Council? [LB1020]

SENATOR COUNCIL: Thank you, and thank you very much for attending and testifying today. I had the opportunity last year, right after school started, to visit the clinic at...the school-based health clinic at Belvedere and had an opportunity to talk to the staff there and just want you to confirm my understanding that they were documenting the number of absences that were avoided by virtue of the immunization requirements for kindergarten--how many youngsters that but for that health clinic would have missed a substantial number of days of school because they had not completed the immunizations. Am I...has that been what you've seen at the other clinics? I guess I'm... [LB1020]

SHARON WADE: Yes, it's made a huge impact on immunization compliance and it's really facilitated parents getting them in and getting it, especially this year with the chicken pox requirement; that was huge for our district. [LB1020]

SENATOR COUNCIL: Okay, so there's a bill that comes right after this one... [LB1020]

SHARON WADE: Um-hum. [LB1020]

SENATOR COUNCIL: ...that deals with another issue involving children and do the

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clinics in Omaha--I know the answer to this question--provide screening... [LB1020]

SHARON WADE: The school-based health center clinics? [LB1020]

SENATOR COUNCIL: ...the school-based health centers provide screening and blood-lead testing? [LB1020]

SHARON WADE: Yes. Yes, they do. [LB1020]

SENATOR COUNCIL: All right. Thank you. [LB1020]

SENATOR ADAMS: Senator Haar? [LB1020]

SENATOR HAAR: In the health centers, are there any...is there any difference in scope of practice or would it be the same as any place? I mean nurses are staffing this. I take it that they refer people in or...? [LB1020]

SHARON WADE: It's actually advanced practice nurses. The school nurses are bachelor-prepared nurses and then the nurse...there's many APRNs and then there's also physician--physician assistants--that work for the school-based health centers, so they're able to diagnose and prescribe. The school-based health centers do not provide emergency care, you know, because of their, you know, really small facility and their equipment. They also are not...do not provide any care regarding family planning services or anything of that nature. [LB1020]

SENATOR HAAR: And you...any student who has the approval of their parents...I mean it's not needs-based as such could come to that? [LB1020]

SHARON WADE: Right. Exactly. Yes, it is not based on their resources. They can sign up. [LB1020]

SENATOR HAAR: Okay. Do you find that kids across the spectrum--across the financial spectrum--use these services or...? [LB1020]

SHARON WADE: It is used but it is used more commonly by students in poverty, which is what we want it to be. [LB1020]

SENATOR HAAR: Um-hum. [LB1020]

SHARON WADE: You know, we want to serve those kids that need it but we also want it to be available for families that need some place for their child to go so they can stay in school as well when they do have private insurance. [LB1020]

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SENATOR HAAR: Um-hum, and we heard in testimony on the earlier bill that there's some stigma about showing up for a school during summer to get food. Is there any stigma attached, do you think, to kids using this service or...? [LB1020]

SHARON WADE: I don't believe that's the case. I think that it's seen as just a place to seek healthcare and not any different than going to your doctor would. And the good thing--this is what I think is awesome--is it will not interrupt the service you get from your private provider. If a family has a family provider, they can seek care at the school-based health center and...if they're on Medicaid, for example, and it won't interrupt their service with their regular healthcare provider. [LB1020]

SENATOR HAAR: Okay. [LB1020]

SHARON WADE: And that's wonderful. [LB1020]

SENATOR HAAR: Um-hum. Are you required--or in the future at least--to be using electronic data keeping and so on for students you see? [LB1020]

SHARON WADE: The school-based health centers do. I am not part of the school-based health center, but the school-based health centers do use an electronic medical record. [LB1020]

SENATOR HAAR: So that their family physician could get all that information quickly and accurately? [LB1020]

SHARON WADE: Yes. They do provide a visit summary to the family physician. They fax it to them. [LB1020]

SENATOR HAAR: Okay, good. Thank you. [LB1020]

SHARON WADE: Thank you. [LB1020]

SENATOR ADAMS: Ma'am, I'm curious about the...we heard from Grand Island in terms of funding the structure. OPS, what's their involvement with these? [LB1020]

SHARON WADE: Very similar situation where we pay for the custodial and lights and that kind of thing and... [LB1020]

SENATOR ADAMS: And provide the space? [LB1020]

SHARON WADE: Um-hum, provide the space. [LB1020]

SENATOR ADAMS: All right, and then any other funding comes from outside sources?

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[LB1020]

SHARON WADE: Yes. [LB1020]

SENATOR ADAMS: Okay, very good. Thank you. Are there other questions? [LB1020]

SENATOR HAAR: Yeah. [LB1020]

SENATOR ADAMS: Senator? [LB1020]

SENATOR HAAR: Well, the fiscal note is \$200,000 and that doesn't seem like a lot of money when you talk about setting up a physical facility or something like that. Is that...? [LB1020]

SHARON WADE: I would agree. I think the experts are coming on after me, though, that could speak to that better... [LB1020]

SENATOR HAAR: Okay, okay. [LB1020]

SHARON WADE: ...but I would...doesn't sound like very much to me either. [LB1020]

SENATOR ADAMS: Thank you. [LB1020]

SHARON WADE: Okay, thank you. [LB1020]

SENATOR ADAMS: Next proponent? How many proponents do we have yet... [LB1020]

_____: Two, just two. [LB1020]

SENATOR ADAMS: ...to hear from? Two? Okay. [LB1020]

SENATOR NORDQUIST: Yeah, there's one down there. [LB1020]

SENATOR ADAMS: Three? [LB1020]

_____: A third? [LB1020]

ANDREA SKOLKIN: (Exhibit 5) Senator Adams, members of the committee, thank you for the opportunity to be here today. My name is Andrea, A-n-d-r-e-a, Skolkin, S-k-o-l-k-i-n, and I am the chief executive officer of OneWorld Community Health Centers, one of the six federally...one of...operator of one of the...of two of the six clinics in Omaha, Nebraska, and I'm here today to express support of LB1020. We operate

these clinics in partnership with Omaha Public Schools and the Building Bright Futures foundation. And just so that you have an idea of scope, during the first half of this year, 1,579 unique children were seen in the health centers through 1,853 visits. These are children that may have otherwise gone without care. Let me tell you about one little girl who had frequent head lice and came from a very complicated--as you've heard about--family situation. But really, it was not the head lice that was the problem. Lice can be treated, though very pesky. The child was found to have a serious eye infection right on the edge of the eye. That very day, in the school clinic, medication was able to be given to the child and the child was able to go back to class. Had that child not been treated, the child would have had a very serious eye infection and in fact potentially lost vision. Nebraska's children need our help. According to the Annie Casey Foundation, the Kids Count Report, which was just released for 2010, 40 percent of children in Nebraska live at or below 200 percent of poverty--for a family of four, that is just under \$45,000--and 18 percent of the children, or about 85 percent, live below 100 percent of poverty. And many of these children have Medicaid, they do not have access to a healthcare provider. Sixty-two out of 93 counties in the state are designated as health professional shortage areas for family practice. This means the parents may have to drive hours in order to obtain care for their children and thus, they are likely to delay or forego care or well-child care and immunization. Additionally, low-income children, especially minority children that make up now 36.3 percent of Nebraska births often have parents with language barriers. When these parents try to access care, they're desperately trying to learn English but they just don't have enough skill to know where to go, so their illnesses also go untreated and become more serious. Early screening and detection of conditions such as asthma, high blood-lead levels, development delays, and diabetes go untreated and our children get sicker. Simple things that could be resolved in a primary care physician office or even in a dentist office for that matter become big issues requiring hospital or emergency room care. These children suffer a lack of continuity of care, have difficulty concentrating in school, and have frequent absences as you've heard. But there is a solution. Establishment of school-based health centers and funding for them can provide this acute care and chronic illness treatment that is needed in the schools. In rural communities where there are few health providers, they can become the medical home for these families. School-based health centers improve access to healthcare services, promote prevention, early intervention, and education to students and parents regarding the health of their children. As you heard, healthy students learn best, yet too many children fight the harmful effects of poverty, poor nutrition--which you've heard about--family violence, and chronic diseases. All of these conditions affect learning in the school. School-based health centers... [LB1020]

SENATOR ADAMS: Ma'am, excuse me. [LB1020]

ANDREA SKOLKIN: Do you want me to...? [LB1020]

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SENATOR ADAMS: Could you summarize and...? [LB1020]

ANDREA SKOLKIN: I'm just finishing up, yeah. [LB1020]

SENATOR ADAMS: We've got a long afternoon ahead of us. [LB1020]

ANDREA SKOLKIN: Um-hum. Sure. They foster learning readiness and can treat things from immunizations, physicals, hearing screening, vision screening, things that you would catch early, then you can take the steps necessary to have good healthcare outcomes. And the benefit to the family, to the community, and the educational system is great. So I thank you for this opportunity. I'd be happy to answer questions as the operator of some of the clinics in Omaha. [LB1020]

SENATOR ADAMS: All right. Thank you, ma'am. Are there questions? Senator Haar? [LB1020]

SENATOR HAAR: I have a question. Now it says in your testimony here that some of these children do have Medicaid but they do not have access to a healthcare provider. Is there any reimbursement from Medicaid to your program? [LB1020]

ANDREA SKOLKIN: Yes, Senator. Medicaid is a payer source, so as children or families come to the health center, we do screen for eligibility for Medicaid. If they're eligible, we try to help them connect and we do bill Medicaid if the child is enrolled in Medicaid. Those children that do not or who are uninsured are served on a sliding-fee basis, but no child is turned away for inability to pay. [LB1020]

SENATOR HAAR: So there is a sliding fee or is some kind of fee to the parent for these services? [LB1020]

ANDREA SKOLKIN: Correct, Senator. It is not a free service. We're trying to teach also family responsibility and taking care of themselves, so there is a sliding-fee scale. But again, if a family can't afford it, care is still provided. [LB1020]

SENATOR HAAR: Thank you. [LB1020]

SENATOR ADAMS: Other questions? Thank you, ma'am. [LB1020]

ANDREA SKOLKIN: Thank you. [LB1020]

SENATOR ADAMS: Next proponent? [LB1020]

JEANEE WEISS: (Exhibit 6) Good afternoon. My name is Jeanee, J-e-a-n-e-e, Weiss, W-e-i-s-s. I am director of Healthy Futures within Building Bright Futures and over the

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last two years actually have been working very closely with both the FQHCs within Omaha to implement the school-based health centers within the Omaha Public Schools. And we, as had asked previously, we are in conversations with two other school districts within the Omaha community to add school-based health centers, so very excited about the possibilities associated with LB1020. At this time, we have thousands of Nebraska children that lack a primary care provider and, therefore, as I represent Building Bright Futures, I want to voice our support in support of LB1020. Students in underserved communities of Nebraska often do not have medical home, may be uninsured, and repeatedly miss school due to mismanaged chronic illnesses that often keep them out of the classroom. And this was even very evident within our first year of operation where, within our six school-based health centers, about 51 percent of the students that walked through our doors did not have a primary care provider or medical home. So to further address our existing health disparities throughout the state and to improve the health of Nebraska's children, Building Bright Futures encourages the expansion of school-based health centers, as they provide a vehicle for bringing cost-effective care to those in need. During our year-and-a-half in operation, the school-based health centers in Omaha served a total of 3,137 children during 4,098 visits that ultimately returned children to the classroom healthy and ready to learn. We provided services such as immunizations, vision and dental screening, well visits, managing chronic illnesses such as diabetes and asthma, and also as simple as removing objects from ears. We had a student that was seen at one of our health centers that came in, was a refugee student, spoke very little English and...but was complaining of ear pain. Through examination, they had found that actually a cockroach had gone into their ear and died about a week before. The school-based health center was able to remove the cockroach, clean the area. And again, the student spoke virtually no English through this entire exam and what was going on and as the nurse practitioner is walking the student back to the classroom, the only thing the student said the entire time was looked up and...at her and said, am I going to live? And so that, in that instance, that school-based health center was just going to be able to provide healthcare on-site, get that kid back to the classroom as soon as possible. If your goal is to eliminate educational gaps and improve academic achievement for all students, school-based health centers are a vital part of that mission. By moving LB1020 out of committee, you can help dismantle many of the barriers our families face. A healthier child is more successful. Thank you for your attention to this issue. Building Bright Futures is dedicated to advocating for Nebraska's children and for your dedication and deliberation on this issue is greatly appreciated. Thank you. [LB1020]

SENATOR ADAMS: Thank you. Questions for this testifier? Thank you. [LB1020]

JEANEE WEISS: Thank you. [LB1020]

JAY SEARS: Good afternoon. For the record, I'm Jay Sears, J-a-y S-e-a-r-s, and I represent the 28,000 members of the Nebraska State Education Association. I'm here in

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support of LB1020 with some reservations and you probably know what those reservations are. Senator Council has already alluded to a couple of those. And wanted to thank Senator Nordquist and his staff for getting some research on the lottery funds that go into education, the Education Innovation Fund, because I'm old enough to be one of the people that started that process and was involved in the discussions. I was surprised that you've changed it 26 times, but that shows what it's all about. It's about innovation and so this is an innovative program, it's a necessary program, and the reservation from NSEA is let's look at what we're lining up and putting in the queue for the innovation funds because in 2016, all of it goes away except for Senator Nordquist's bill and we'd have to reprioritize and there are many necessary programs out there that we could be funding. There are more programs coming. In fact, LB1079 will be on your docket next week in the committee and Senator Mello would like to grab some of the lottery funds. And so I think, you know...I hate those interim studies, but it would be nice if we had the education community around the table talking about what's the next five years with the lottery funds. What's our priorities and how do we do that? Because right now, we're funding four programs with the Department of Education that are good programs but they were funded by general funds until we hit the economic problem. And that seems to be what happens every time with the lottery funds on the education side is we try to plug a hole. And in this program, community-based health centers are important programs and we shouldn't put them up against other priorities. We need to have a priority. You need to have a priority that you can vote on and tell the public, here's where the education lottery funds are going. We've done away with the economic development for recruitment and retention of new teachers and keeping our experienced teachers. We put that on hold for two years. We were willing to do that. Let's take some time and look at it and yes, I think \$200,000 for the next four years in LB1020 is an important use of the lottery funds. NSEA will be here at the table to help you spend that dollar. And I think the cost went up, right? Two dollars? You can't win if you don't play. (Laughter) And now it costs you \$2, but there's lots of winners, right? It's what they said, so. [LB1020]

SENATOR ADAMS: Your honesty about finding a way to spend that money is so sincere. (Laughter) Thank you. [LB1020]

JAY SEARS: Thank you. [LB1020]

SENATOR ADAMS: Are there questions for Mr. Sears? Well, you opened the door. I can't help but ask... [LB1020]

JAY SEARS: Oh. [LB1020]

SENATOR ADAMS: ...because I asked Senator Nordquist. So push comes to shove and we decide to fund school lunch programs and healthcare in the schools or fund graduate programs for teachers, Jay... [LB1020]

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JAY SEARS: You know where my salary is paid for, so I'll do whatever the NSEA membership tells me, but... [LB1020]

SENATOR ADAMS: There's a good way to answer. Okay, thank you. [LB1020]

JAY SEARS: Yeah, that's right, but my heart is somewhere else. (Laughter) And I'm close to retirement. [LB1020]

SENATOR ADAMS: Welcome, John. [LB1020]

JOHN BONAIUTO: Thank you. Senator Adams, members of the committee, John, J-o-h-n, Bonaiuto, B-o-n-a-i-u-t-o, registered lobbyist representing school boards. And my sheet looks like a mess because I was going to testify in neutral. I moved it back and I wanted to just mention that my legislation committee discussed this bill a little over a week ago and they were very comfortable with using lottery funds. They had some questions of whether there would be anything that was being funded that would be disrupted and Senator Nordquist's staff has been very good about answering those questions, providing information. I can tell you that policymakers, that school boards, they have changed. Over the years, if you hang around long enough, that issues like this, where I could tell you I would not be sitting in this position. A number of years ago, boards wanted to keep things a little more contained and did not see their role as broad as it has grown, and so I think that having this opportunity for communities that have space and might want to partner and really move into an area that they have not ventured into before, this may take down a barrier that they would have with startup costs. And so again, it's up to that board and the community to get together and do this, but it is a stretch. You know, we've battled these issues over the years with whether it's been a medication administration or when the State Board had the debate on EpiPens in schools, and so we've gone down this path and seen the vision and the things that schools are involved in broaden. And it will continue to broaden because, you know, that's where we're at. So with that, I will conclude my testimony and appreciate the time. [LB1020]

SENATOR ADAMS: Thank you, John. Are there questions for Mr. Bonaiuto? Thank you, John. [LB1020]

JOHN BONAIUTO: Thank you. [LB1020]

SENATOR ADAMS: Other proponent testimony? Then opponent testimony? Senator Nordquist, you didn't bring opposition with you today. [LB1020]

SENATOR NORDQUIST: Um-hum, that's a first. [LB1020]

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SENATOR ADAMS: Then we'll go to neutral testimony. Mr. Bonaiuto has already sat down, so is there anyone else? (Laughter) Couldn't help it, John, I'm sorry. Then I guess we'll close, Senator. [LB1020]

SENATOR NORDQUIST: All right. Thank you, members of the committee, for your attention to this issue today. I think we have a great opportunity before us to extend to other districts in the state what we've seen in Grand Island and in Omaha. And in Omaha, working at Building Bright Futures, I've kind of seen...we've certainly learned a lot from the Grand Island experience and I think that going forward, other districts could learn quite a bit from the experiences that we've seen in the Omaha Public Schools as well. Senator Haar, he asked about the Medicaid dollars. We passed a bill our first year down here that allowed Medicaid funding just to clarify. Because counties under managed care, it wasn't quite clear if they could bill Medicaid for that, so that got clarified. And in that bill, we did prohibit specific reproductive health services from being provided, so that issue for now is off the table. The \$200,000 question you asked, it is a modest amount. In Omaha, through the seven clinics now we've constructed, they averaged at right around \$200,000 for the construction of one. The bill as written requires a district to put up a 50 percent match, so every year we'd at least be able to do two. The NDE could say, well, on this project, we're only going to fund 20 percent or depending on how the grant dollars would play out. So from our experience--and I'm not sure what they've seen in other districts--the Omaha clinics all have probably a little extra space, that they're small space but we have a behavioral health clinic--or behavioral health office--in each of those that may not be needed, so you could...it probably could be done for less than \$200,000 for the construction, so we're not going to be able to meet all the need in one year. The bill prioritizes free- and reduced-lunch districts and medically underserved areas and certainly willing to work with the committee on that. I just want to address...the Department of Education, I think, was submitting a letter in opposition or the...yeah, that the board, State Board of Education, they said they have concerns about diluting the use of Education Innovation funds from the core mission of public schools. I handed out to the committee a statement adopted by the Board of Education on March 2, 2010, Policy for Coordinate School Health, and the first paragraph reads: The State Board of Education believes that education and healthcare are inextricably intertwined. Healthy children learn better. Children must be healthy mentally, physically, and socially. A coordinated school health approach--which if you look at the federal definition, that includes school-based health centers as a piece--designed to coordinate service and emphasize partnerships will promote physical, social, and cognitive development of children. So I think saying that this is not part of the core mission of schools kind of runs contrary to the statement that they're intertwined, as the board has adopted that policy as well, so thank you. [LB1020]

SENATOR ADAMS: Senator, if the match money you talked about... [LB1020]

SENATOR NORDQUIST: Yeah. [LB1020]

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SENATOR ADAMS: ...comes from the school district, can it come from outside sources? [LB1020]

SENATOR NORDQUIST: That...yeah, the...it's...it basically is opened up to philanthropy or however they can raise that 50 percent match. [LB1020]

SENATOR ADAMS: Otherwise we would inherit that in GFOE? [LB1020]

SENATOR NORDQUIST: That's right, and I would be open to amending that section... [LB1020]

SENATOR ADAMS: All right. Thank you. [LB1020]

SENATOR NORDQUIST: ...if we need to clarify that. [LB1020]

SENATOR ADAMS: All right. Are there other questions for the senator? Seeing none. [LB1020]

SENATOR NORDQUIST: Thank you. [LB1020]

SENATOR ADAMS: Thank you, Senator. That will conclude the hearing on LB1020 and we'll immediately proceed right on to Senator Council's opening on LB1038. [LB1020]

SENATOR COUNCIL: Thank you, Senator Adams. Members of the Education Committee, I'm Brenda Council, last name spelled C-o-u-n-c-i-l. I represent the 11th Legislative District and I appear before you today to introduce LB1038. And with the exception of Senator Seiler, I know that my colleagues on the Education Committee may be wondering why are we considering LB1038 since it's identical--with the exception of the effective date--to LB204, which was before this committee last year, which I want to express my gratitude to the committee for advancing it to the full body. I want to thank the full body for passing it on final reading. Regrettably, however, the body was not willing to override the gubernatorial veto. And in view of the veto, some may ask, well, why are you continuing to pursue this? I'm continuing to pursue it because of all of the contacts I've had from the public health community, from the early childhood education community about the necessity for this body to take some action to ensure that we remove all barriers to educational achievement for all the children in the state of Nebraska. Yesterday, when we were hearing on LB1124--and you'll be discussing LB870 when we go into Executive Session--the emphasis was on kindergarten readiness rates and how do we determine kindergarten readiness and why it was so important. You heard from representatives from First Five. You're all aware of the statewide public service campaign to focus attention on the first five years of a child's life and how important it is during those five years--those first five years--to make

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sure that children receive all the resources they need and they're not exposed to conditions that would have an adverse impact on their ability to achieve to the full extent of their potential. In fact, you heard...if you were invited to--and we all were--and had an opportunity to attend, the Health and Human Services Committee had a national expert come and speak to the body, members of the body, about prenatal care and how even during the prenatal period of time, the level of prenatal care has an impact on a child's eventual academic performance. So the intent of LB1038, again, is to--excuse me--to again to remove barriers to children's educational achievement that are the result of environmental influences. And in fact, I had occasion to talk to Dr. Taylor, who was here at our invitation from Emory University, who's an environmental epidemiologist, and I shared with him LB1038 and he was quick to say that this is something that this state absolutely should consider moving forward with. So it was for those reasons and I guess I must also add for reasons associated with the basis for the Governor's veto and what I believe to be the Governor's misunderstanding and lack of knowledge of some of the issues involving elevated blood-lead levels in children and where the Centers for Disease Control stands on this issue. There's a misconception that the bill requires every child to undergo a blood-lead test. It does not. The child...it requires that child to be assessed for risk of elevated blood-lead levels and if that assessment shows that they are at risk, they should be blood-lead tested. But if the assessment doesn't show that they are at risk, all the bill requires is that there be a statement signed by the healthcare provider who conducted the assessment saying they're not at risk. I understand the concern expressed by those who do not want to provide any reason for children to be excluded from school. And in that regard, I'll remind the committee that last year during the hearing on LB204, there was no one who appeared to testify in opposition to LB204. But subsequent to the committee's advancement of the bill, there was opposition received from various school nurses and school nursing organizations. I want to advise the committee that prior to act...to even following LB1038, I extended an offer to the school nurses to sit down with me and to address any concerns that they had, to see if we could address them before the bill was actually introduced. Unfortunately, and I've been advised that it was due to technology problems that my communication apparently was not opened until just recently. And I'm sure that many of you have received some communications from school nurses that it's unfortunate I did not receive at the time I extended the offer to sit down and talk, which was more than three weeks ago. But if you look at some of the issues that are raised by the school nurses, I think that they can be addressed. One of the concerns--and I will tell you I received one yesterday and...well, I didn't see some. They were received in my e-mail on Sunday, but I didn't see them until yesterday--about the 15 days if the child doesn't have either a blood-lead test or evidence that they've been assessed as slow...at low risk. I mean that's something that can be addressed. If 15 days isn't long enough, let's talk about what's an optimal period of time, because it is not my intent to exclude children from school. My intent was to tie the blood-lead testing into an event or a situation that all children undergo before entering kindergarten. And all children must be immunized before entering kindergarten and that's an expense that all parents who are

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enrolling children in kindergarten are going to have to incur and that the incremental additional cost associated with a blood-lead test if it's necessary is something that would be undertaken with most of the EPSDT, which is the well-baby exam. The school nurses also take issue with the fact that a lot of evidence suggests that the blood-lead testing should occur at 12 months and 24 months. I've always acknowledged that, but I've also provided the committee with information that shows that recent medical research findings reveal that elevated blood-lead levels in children as late as age six, compared to toddlers, are more strongly associated with IQ and reduced volume of gray matter in the brain--operative in planning, complex thinking, and moderating behavior. I also provided you all with a copy of an article that showed those differences. The Governor, in my humble opinion and respectfully, erroneously applied a standard for blood-lead testing that is not available to the state of Nebraska and that standard is that the CDC in 2009 changed its recommendations. Prior to 2009, CDC recommended that all children in poverty--so for us, that's all Medicaid children--be blood-lead tested at 12 months and 24 months and if necessary, at 36 months and 72 months. And according to that CDC recommendation, the Medicaid regulations require blood-lead testing of Medicaid children. The fact, ladies and gentlemen, is that in Nebraska, we do not blood-lead test all Medicaid children and the data shows it. And if you look at the fiscal note that was provided with LB204, Health and Human Services admitted as much. Health and Human Services said under my bill, they would be required to test--blood-lead test--all Medicaid children. And they're not doing that now, so they estimated an additional cost, a cost that they should be incurring right now. The Governor said--and I don't disagree--the CDC prefers a strategic approach, targeting children at high risk of elevated blood-lead levels. And under CMS, which is the entity that oversees the enforcement of Medicaid regulations, a state can receive an exemption from current federal Medicaid requirements to test--blood-lead test--all Medicaid children. Nebraska has failed to do that. We have submitted no data to the...to CMS that demonstrates that we have a system of just blood-lead testing children who have been identified at high risk of elevated blood-lead levels. And until such time as we submit that and we receive approval from CMS, we are bound to comply with current Medicaid rules and regulations which require that all Medicaid children be blood-lead tested. My bill would provide the avenue for the state of Nebraska to receive the very waiver that the Governor based his veto on assuming that we had. We don't have that waiver because we haven't submitted that data. But if we enact LB204 and begin to gather the type of data that shows that we're only...we have a way of identifying the kids who are at greatest risk of elevated blood-lead levels and those are the only children we're testing, then we can seek a waiver of that Medicaid regulation and, in effect, actually save the state of Nebraska money in terms of testing for elevated blood-lead levels. But right now, if CMS enforces the Medicaid regulations as they should, the Department of Health and Human Services should be expending currently the money they asserted they would have to spend as a result of LB204. So with that, I'll reserve the remainder of my comments for my closing if that's all right with the Chair, because we have a number of individuals who have appeared today to testify on this bill. You

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also should have received correspondence from a number of individuals and organizations, including the Friends of Public Health and the Public Health Association of the state of Nebraska, the members of the Omaha City Council, whose districts are...the greatest impact is felt in terms of elevated blood-lead levels. And I think one of those council members is present here to testify, so I'd like to leave the balance of this time for those who are here to testify. [LB1038]

SENATOR ADAMS: Are there initial questions for Senator Council? Just like that, the hands fly up. (Laughter) [LB1038]

SENATOR COUNCIL: Absolutely, yes. [LB1038]

SENATOR ADAMS: Senator Sullivan. [LB1038]

SENATOR SULLIVAN: Thank you. Thank you, Senator Council. So did I understand you correctly that CMS is not currently enforcing that regulation that pertains to blood-lead testing? [LB1038]

SENATOR COUNCIL: What I can say, Senator Sullivan, is that CMS has not found us in violation yet of that regulation. [LB1038]

SENATOR SULLIVAN: Do you know what the penalties would be if they found us to be in violation? [LB1038]

SENATOR COUNCIL: No, I don't at this point in time, and that's something that we continue to research. [LB1038]

SENATOR SULLIVAN: Okay, thank you. [LB1038]

SENATOR ADAMS: Senator Haar? [LB1038]

SENATOR HAAR: Same question, thank you. [LB1038]

SENATOR ADAMS: Senator, help me a little bit more with the CMS issue. I understand we've been down this trail before, as you well know. So how do we...again, talk me through...with me about the waiver. How do we narrow the group? We've got to have the data. [LB1038]

SENATOR COUNCIL: Right, you... [LB1038]

SENATOR ADAMS: Tell me more about that. [LB1038]

SENATOR COUNCIL: Yes, you have to have the data that shows that you have

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developed a mechanism to focus your blood-lead testing on those children who are at greatest risk of elevated blood-lead levels. [LB1038]

SENATOR ADAMS: Okay. [LB1038]

SENATOR COUNCIL: We haven't done that and I don't know if any of the individuals who are here to testify can confirm that. [LB1038]

SENATOR ADAMS: So conceivably, if we had this data we could regionally--geographically, in some way--narrow down those who need to be tested. [LB1038]

SENATOR COUNCIL: Yes. In fact, I firmly believe, Senator, that with the data that would be generated from implementation of LB1038, we could present that to CMS to show that we have a system in place limiting blood-lead testing to those children who are at greatest risk and they would either issue a letter that's a waiver letter or they would change, amend the state Medicaid manual to reflect that Nebraska is no longer one of the states that is required to blood-lead test all Medicaid children. If you look at the state Medicaid manual, we are one of the states that is currently required to blood-lead test all Medicaid children. [LB1038]

SENATOR ADAMS: So it's your opinion that until that point comes, we've got to extend this to every kid in the state until we can nip...until we...and that becomes the base data. [LB1038]

SENATOR COUNCIL: Right, correct. [LB1038]

SENATOR ADAMS: Okay, thank you. Are there other questions for the senator? Thank you. How many proponents do we have? May I see a show of hands? All right, let's get started then. Good afternoon. [LB1038]

BEN GRAY: Good afternoon. Chairman Adams and members of the committee, my name is Ben Gray. That's G-r-a-y. I reside at 5425 Fort Street in Omaha, Nebraska, 68104. I am also the city councilman for the 2nd District of the city of Omaha. It encompasses the district that Senator Council represents as well. Let me start by saying that I considered this bill to be so important. Today is a city council day. I should be sitting, doing what you all are doing: listening to testimony and other things. But because I consider this bill to be extremely important, especially to northeast and southeast Omaha, I felt it important to not just write a letter as our vice president, Garry Gernandt, and myself signed, but that I come down and testify as well. We sit on either the first- or the second-largest Superfund site in the country. We have the poorest children, African-American children, in the country. They tell us that we are somewhere in the top 10 in terms of an African-American community in terms of the poor conditions

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that exist there. I'm a little tired of being number one in those sorts of categories. We have heard about what we're going to do with community health centers and all of those other things and those are all really good, viable programs that are necessary and needed. But if we're not going to address in any way or in a limited way those who have problems with lead-based paint and who are lead poisoned and we know what they do...I'm not going to talk about all the statistics because there are others that will tell you what those statistics are, but we know it diminishes their capacity to learn. We know it increases the propensity for violence. Those are things that we know. And to...if we're going to genuinely fix the problems that we face, especially in some of our poorer neighborhoods--mine being one of them--we need to address it holistically. And if we're going to address it holistically, then we need to really look at lead poisoning, because if we don't know that some of these young people that are coming into our classrooms--if our teachers don't know, if those of us who are involved in gang intervention don't know, if the police don't know and others don't know--we run the risk of building...having more people in our jails unnecessarily that could...those sorts of things could have been prevented had we done this test. It is important. It is essential, in my judgment, to the extent that I took off a day from the city council to come down here and testify in front of you all on it. There are others who have the statistical information that some of you all are looking for. Senator Council, I would like to commend her greatly for continuing to pursue this. This is...this has to happen in our community if we're going to change things around in a holistic way. Thank you, I'll answer any questions that you all might have. [LB1038]

SENATOR ADAMS: Thank you. Are there questions? I guess not. Thanks for taking the time today. [LB1038]

BEN GRAY: Thank you. [LB1038]

SENATOR ADAMS: We appreciate it. [LB1038]

BEN GRAY: Thank you, Senators. [LB1038]

SENATOR ADAMS: Next proponent. [LB1038]

KARA EASTMAN: Good afternoon, Senator Adams and members of the committee. My name is Kara Eastman, K-a-r-a E-a-s-t-m-a-n. I'm the executive director of Omaha Healthy Kids Alliance. We are a lead poisoning prevention and healthy homes organization obviously located in Omaha but the scope of our work is not limited to Omaha. The Lieutenant Governor is the chairman of our board and we have many partnerships throughout Nebraska. I'm here in...as a proponent of LB1038 and feel like this is one bill that will greatly strengthen the work that we do around preventing childhood lead poisoning in Omaha and in Nebraska. What you may not know is that 76 percent of the housing in Nebraska was built before 1978. That is the year that

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lead-based paint was banned from residential use. That's over 550,000 housing units that have a high likelihood to have lead-based paint in them. We know that lead-based paint is the cause of childhood lead poisoning. We also know that the CDC just recently lowered the level of concern to five micrograms per deciliter, which means that we don't really know what we're dealing with in Omaha or in Nebraska when we're not testing all of our kids. I have a little bit of data to show--and my Wi-Fi is not working very well--about some of the districts in Nebraska. And if I could pull it up, that would be helpful, right? [LB1038]

SENATOR ADAMS: Though I know that this is valuable, that doggone cell phone just bugs me. (Laughter) [LB1038]

KARA EASTMAN: I'm so sorry. [LB1038]

SENATOR ADAMS: All right. [LB1038]

KARA EASTMAN: Don't look. Okay, so... [LB1038]

SENATOR ADAMS: Well, I can't help but look. [LB1038]

KARA EASTMAN: Well, for example, in District 43, 12 percent of kids were tested in 2010. That's 283 kids. Six of them were found to be lead poisoning. And, Senator Adams, in your county, you have 2,221 kids under the age of six. Twelve percent of them are being tested and two were found to be poisoned in 2010. So I mean I think that when we're only testing 10, 12 percent of kids, we don't really know what we're dealing with. And part of the problem is that we're jeopardizing our chances for getting future funding from organizations like the CDC, because without knowing the landscape of what we're dealing with, we can't accurately portray the numbers. We can't develop programs properly. So LB1038 addresses those things and I feel like it's something that we need to do in Nebraska. We are right now only testing about 50 percent of kids in our highest-risk areas like in...you know, in areas of Omaha. We need to be testing 100 percent of kids. [LB1038]

SENATOR ADAMS: Thank you. Are there questions? Senator Howard. [LB1038]

SENATOR HOWARD: Thank you, Senator Adams. Do you find it problematic to wait until a child is five to test them? [LB1038]

KARA EASTMAN: I think that there's several sources of data that show...or studies recently that show that testing kids at five actually is more important than testing them younger because as Senator Council said, the studies are showing that it's really at that age where the most amount of damage is done in terms of jeopardizing IQ. I mean, I think that in my ideal world, we would be testing kids every year between ages one and

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six. Those are the times when they're most at risk. But this bill gets to something and gets to a lot of kids that we would probably miss otherwise. [LB1038]

SENATOR HOWARD: And what is your answer to the problem if a child tests high degree to their returning to that environment? [LB1038]

KARA EASTMAN: Well, I think that we are starting to find that there are a lot of easy solutions. And this...you know, part of what this bill does is gets to the education of parents. Knowledge is power. Once we test the kids, inform the parents of the things that they need to do in their home--and that can easily be done either in a school or in a doctor's visit or with a good educational program--parents can do some things around their house to significantly reduce risks of lead poisoning. And they don't have to go through a whole abatement process or replacing all of their windows. There are simple, easy things that parents can do, but we're not properly educating parents around the state. You know, especially outside of Omaha and Lincoln, people think that if they live there, they don't have a problem with lead. Well, obviously they do when you've got, you know, 76 percent of your housing built before 1978. [LB1038]

SENATOR HOWARD: Well, it sounds like this would be just good general information for all parents to have. [LB1038]

KARA EASTMAN: Absolutely. [LB1038]

SENATOR HOWARD: So that could be provided to parents that hadn't had their child tested. [LB1038]

KARA EASTMAN: It could be, but I think the only way that we're going to know if children have blood in their systems is through a blood-lead test. It's the only way that you can definitively know. We also know that by testing the kid, even a blood-lead level of five is...can be detrimental. So we know that at that point we can provide interventions that can help that kid along the way. So by knowing what the kid's blood-lead level is, we really have a good start of keeping that kid on the right track. [LB1038]

SENATOR HOWARD: So when you say intervention, you mean information. [LB1038]

KARA EASTMAN: Information, educational interventions, there's all kinds of things that you can do with kids who are lead poisoned to help them along the way. [LB1038]

SENATOR HOWARD: Information and education. [LB1038]

KARA EASTMAN: Absolutely. [LB1038]

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SENATOR HOWARD: Thank you. [LB1038]

SENATOR ADAMS: Senator Sullivan. [LB1038]

SENATOR SULLIVAN: Thank you, Senator Adams. You mentioned that about 12 percent of students are now being tested, or children? [LB1038]

KARA EASTMAN: Across Nebraska, you're testing depending on the district, so I pointed to Senator Adams' district where 12 percent of kids are getting tested. In some districts, it's less. In some districts, it's a little bit more. [LB1038]

SENATOR SULLIVAN: And how is that testing...I mean, well, what's the population that's being tested? [LB1038]

KARA EASTMAN: So...and actually, you mean like in the districts? [LB1038]

SENATOR SULLIVAN: Yeah, yeah. [LB1038]

KARA EASTMAN: I can only speak to what I know in Omaha, so I don't know how kids are getting screened out in other districts. [LB1038]

SENATOR SULLIVAN: So where did...how did you...where did that information regarding Senator Adams' district, where did that percentage come from? Where did you get that information? [LB1038]

KARA EASTMAN: From Nebraska Health and Human Services. [LB1038]

SENATOR SULLIVAN: Okay. [LB1038]

KARA EASTMAN: They publish a map, so Dr. Pour from the Health Department in Douglas County might be able to speak to that better than I can. [LB1038]

SENATOR SULLIVAN: Okay, okay. [LB1038]

SENATOR ADAMS: Anyone else have a question? Thank you then. [LB1038]

KARA EASTMAN: Thank you very much, and no more cell phone. [LB1038]

SENATOR ADAMS: Good. (Laugh) Next proponent. Good afternoon. [LB1038]

WILLIE BARNEY: Good afternoon. Good afternoon, everyone. Willie Barney, W-i-l-l-i-e, last name is Barney, B-a-r-n-e-y. I want to thank you, Senator Adams and the Education Committee. Last time I was before you was about a year ago and we want to thank you

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for your efforts in helping us to keep the focus school moving forward. And we know that you have a commitment to academic excellence. We know that you have a commitment to equity and excellence in education. I come before you today not an expert in lead, but I have worked with hundreds of organizations in north Omaha and south Omaha over the last few years. One of the things that we're very concerned about is that according to the information that I've been reading, we sit on top of a 20-square-mile area that has been labeled by the EPA as one of the largest Superfund in the entire country--the entire country. We know that lead has an impact. The folks that are experts can tell you exactly what the impacts are. I'm staggered that we're still having this conversation in our community about whether or not we should test our kids when we're sitting on top of one of the largest...I am shocked as a community that we have not moved forward on this. I want to thank the Education Committee for moving it forward. I'm shocked that we have an education Governor that has said it's his number one priority, but something that has a direct, measurable impact on education is something that we have not moved forward to test--absolutely shocked. So I stand here as a parent, as someone who works in that community, that sees these kids walking up and down the street every single day not knowing which of them is impacted. We know it has an impact but we have not moved forward as a state to make sure that our kids--100 percent of them--in these areas that are most impacted are tested. I'm shocked, living in a state that's called "The Good Life," focused on education and economic development, that we have not moved forward on this. I'm just absolutely shocked. Again, there are people that can give you the statistics, that can walk it up and down, and I'll take any questions that you have. But this is something...I told someone I was coming down to testify today and she...someone I've known for six years. She told me that her daughter was poisoned by lead and lost 30 pounds, had to go to the doctor before they figured out what it was: lead paint in north Omaha. We have a significant issue and I'm so thankful that you have taken this forward. And I'm thankful for Senator Council for bringing it back to you. And I hope that as a community and as a state that we truly talk to the Governor about why in the world would he veto something when he declares that he is focused on education and improving academic excellence. We know that we need effective teachers. We know that we need parental involvement. We know that we need building leaders. We know that we need all of those other things. We also need to test our kids and understand what is the scope of this issue so we can deal with it, whether through information, through education. Whatever the means are, this is a serious issue not only for north Omaha and south Omaha, but for our state. I'm shocked to hear that across the state, that 76 percent of our homes could potentially be in the same position, and we have the ability to test and get it done but we are not choosing to do it in this state. There are other states--again, I'm not the expert--Iowa, Illinois, Michigan, Pennsylvania, Ohio. Other states have made this decision to move forward and make sure that their kids are tested. Why, in "The Good Life" state we have not done it? I'm shocked. Thank you for your time. [LB1038]

SENATOR ADAMS: Thank you. Questions? Senator Seiler. [LB1038]

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SENATOR SEILER: Mr. Barney, has the EPA identified where the lead's coming from besides lead-paint houses...or lead paint in houses? [LB1038]

WILLIE BARNEY: One of the biggest one, of course, is the ASARCO plant. [LB1038]

SENATOR SEILER: Right. [LB1038]

WILLIE BARNEY: And my understanding even as I'm getting more educated on this issue is not only in Omaha but there are other locations around the state where manufacturing facilities helped create this issue. That's the soil-based problem. But the bigger problem...so we're spending millions of dollars to clean up the soil, but what are we doing with the lead-based paint which is potentially even a greater issue, based on the numbers that we're seeing? Where 76 percent of the homes are in the...so that's a significant issue. [LB1038]

SENATOR SEILER: Yeah, I understand the statistic. What I wondered is what remedial action the EPA has taken for the lead in your area. Any? [LB1038]

WILLIE BARNEY: For the soil, they're dealing with the soil. But again, they're...Douglas County Health Director is here and the other experts can give you a much better idea. But from what I'm understanding, the lead paint they have been...probably has a bigger risk for us than...and even in the EPA letter, it says that this is a public health matter. And it's so compel...I mean, it's right in front of us and that's just the soil. We haven't even...because we're not doing the testing, we don't know the size and scope of this issue that we're really facing. And it's so... [LB1038]

SENATOR SEILER: And your testimony is a little disheartening to me because of the fact that I always thought Hastings was the largest Superfund in the state. (Laughter) [LB1038]

WILLIE BARNEY: We...matter of fact, we may have two of them, and if...two of them in our...in the state that does not require lead testing. Isn't that something? [LB1038]

SENATOR ADAMS: Other questions? Thank you, sir. [LB1038]

WILLIE BARNEY: Thank you so much for your time. [LB1038]

SENATOR ADAMS: Next proponent. [LB1038]

ADI POUR: (Exhibit 7) Good afternoon, Senator Adams and members of the Education Committee. My name is Adi Pour, A-d-i P-o-u-r, and I'm the Health Director of the Douglas County Health Department. I'm here today representing the department and

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also the Board of Health of the Douglas County Health Department. The Douglas County Health Department has actually had a lead program since the 1970s, so we know pretty well about this issue, and what I'd like to highlight to you today are really three main points. Childhood lead poisoning is highly damaging. It's principal target is the developing brain, the developing brain of our children. My second point is going to be childhood lead poisoning is preventable. There is no good lead. We do not need lead. And the third one is childhood lead poisoning costs us all, not just the children. Lead is the most well-studied example of an environmental contaminant that interferes with learning--very appropriate to be in front of your committee today. And this is according to the Center for Children's Health and the Environment: studies have indicated that potentially 11-point reduction in IQ if the level is around 10 micrograms per deciliter. And this is Bruce Lamphear, scientist who has done a lot of studies on lead. So they offer, for example, a normal IQ equals 100 points and the 10 percent loss is 10 points, so it represents the change from somebody who has been born with a normal intelligence becoming mildly retarded. And of course, somebody who is mildly retarded, through exposure to lead could actually become severely retarded. But on the other hand, we always forget a child may be born with an IQ of 115. Through lead exposure, then, however, that IQ is lowered to 100, which is not normal for that child anymore. So sometimes we forget that this goes both ways. The learning and the behavioral effects of childhood lead poisoning can persist throughout somebody's life. These effects have a toll not only on individuals but on our society. There are three...increased expenses for medical care, special education, juvenile and adult correctional programs, local government case management, lifelong loss of earnings, higher private health insurance premiums, and increased other expenses. Some studies have now shown that each child that has an elevated blood-lead level costs society \$50,000. When I extrapolate that cost based on a report from HHS, in 2010 we had 270 children with elevated blood-lead levels in the entire state of Nebraska. That means a burden of \$13.5 million, just for that year. To date, many leaders--you, I'm sure, included--react to poor student performance, struggling school districts with low graduation rates, and solving this problem has shown to be expensive and mostly unsuccessful. What often is missing, however, so sufficient data exists, is the indication of the medical root cause. Education reform often has a focus on teachers, on the curriculum, on the diversity of the students, and on the demographic of the student bodies. How often do you hear lead poisoning being brought into that discussion? Furthermore, just the last one I would like to mention with you a new study that has come out that has indicated that the presence of lead in children at age seven is the best predictor of violent crime in later years. So science tells us we need to do all we can in our community to address lead poisoning by removing lead-based paint in all the homes in a safe manner, by eliminating lead from consumer products. We also need to continue to test children until we have a safe environment where that occurs. Again, you heard the issue about physicians. I just want to tell you we screened last year 15,000 children in Douglas County, and that is compared to 2,000 children in the year 2000. We have spent millions of dollars bringing the awareness around childhood lead

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poisoning due to the Superfund site. We still test only 30 percent of the Medicaid-eligible children. So all the efforts, all the physicians telling us, well, it's just education, we will do it, it hasn't brought us to where we need to be. So I think you have a tool in your toolbox that I think we should need and I...we are in full support of LB1038. [LB1038]

SENATOR ADAMS: Thank you. Questions for this testifier? Thank you. Next proponent. [LB1038]

JEANEE WEISS: (Exhibit 8) Thank you. Hi. Again, my name is Jeanee, J-e-a-n-e-e, Weiss, W-e-i-s-s, director of Healthy Futures within Building Bright Futures. Again today, I represent Building Bright Futures in an effort to communicate our support of LB1038. It is absolutely essential that the state of Nebraska begins to identify every child that is a victim of lead poisoning. To have a child go untested and unidentified can be catastrophic to their academic outcomes and ultimately their ability to function as a productive citizen in our communities. Due to the previous discussions and hearings, you are well aware of the antisocial behaviors, hyperactivity, and decreased achievement students exposed to lead experience throughout their lives. By advancing LB1038 out of committee, we begin to lay the groundwork for early identification and connection to education supports early in a child's academic career and provide a valuable prevention tool for those that have not yet been poisoned. The ability to test and identify children poisoned by lead is a social issue, it is a health issue, and it is an educational issue. So we strongly urge this committee to again advance LB1038 and again, we also thank Senator Council for her continued advocacy of our children. Thank you. [LB1038]

SENATOR ADAMS: Thank you. Are there questions? Seeing none, thank you. [LB1038]

JEANEE WEISS: Thank you. [LB1038]

SENATOR ADAMS: Other proponents? [LB1038]

JOHN LINDSAY: Senator Adams, members of the committee, my name is John Lindsay, L-i-n-d-s-a-y--excuse me--appearing as a lobbyist on behalf of Omaha Public Schools. OPS supports strongly LB1038 for the reasons you've already heard. That is that it...we believe that it's important to be aware of lead levels in our children. We know that exposure to lead potentially impacts a child's ability to learn, including hearing loss, learning disabilities, speech, and language development challenges. And if we know that's there but we also know which children have elevated blood levels, that allows a school district to plan for the educational needs, to meet the educational needs of those children. It helps teachers to know their students, to help those students overcome the obstacles that they face because of those elevated blood levels. It helps parents to help

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their children as well with the struggles that they will face. And finally, it...as we've heard, it can help the community in planning the...how to address those lead levels and in how to educate all persons about the importance of preventing exposure to lead. We would urge the advancement of LB1038 and be happy to answer any questions.
[LB1038]

SENATOR ADAMS: Thank you, John. Are there questions for John? Thank you. Other proponents to the bill? Proponents? Then we will move to opposition testimony. Is there opposition testimony? May I see a show of hands of the amount of opposition? Okay.
[LB1038]

JOANN SCHAEFER: (Exhibit 9) Good afternoon, Senator Adams and members of the Education Committee. My name is Dr. Joann Schaefer, J-o-a-n-n S-c-h-a-e-f-e-r, M.D., Chief Medical Officer and the director of the Division of Public Health with the Department of Health and Human Services. I'm here to testify in opposition to LB1038. The bill raises the same questions of policy as LB204, which was vetoed by the Governor during the 2011 Legislative Session. LB1038 requires blood-lead testing of all children prior to enrollment in kindergarten in all public and private schools in the state. The bill encourages parents to test their children after the age of 12 months and before the age of 4 years. The cost of testing is to be borne by the parent or guardian or by DHHS in the case where the children are enrolled in Medicaid or CHIP. The bill excludes a child from attending school if the screening and/or blood-lead test has not been performed. The federal Department of Health and Human Services Centers for Disease Control and Prevention published a report in the Morbidity and Mortality Weekly Report of August 7, 2009, entitled, "Recommendations for Blood Lead Screening of Medicaid-Eligible Children Aged 1-5 Years: An Updated Approach to Targeting a Group at High Risk." The report recommends moving away from broad-brush approach of testing all children for lead poisoning to targeting our resources in those areas where children may be most at risk--and I'd be happy to answer questions about how this may have been confused. The items listed in the definition of very low risk are unfortunately going to result in each child having a blood test, simply because a parent and their medical provider will not be able to state that their child "has never eaten a non-food item." I am unaware of a toddler that could ever meet this definition. The second question of concern is: Did he or she ever play with a toy that was recalled by the Consumer Product Safety Commission for lead contamination? A search of their site at this time leads you to eight...over...or just 898 press releases for various lead infractions or numerous individual pages of press releases of toy recalls that date back to 1974, making finding actual information on toys recalled for lead issues extremely difficult. Therefore, through an abundance of caution, medical professionals are going to result in testing every child for blood-lead levels. A more realistic approach, we believe, is targeted approach. Medicaid has a long-established program known as Early and Periodic Screening, Diagnosis, and Treatment Program, or the EPSDT program. Part of this program is the requirement to

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screen and test Medicaid-enrolled children for lead poisoning. LB1038 effectively expands this to all children. It would be more appropriate to concentrate on practitioner and parental engagement, rather than implement a policy that is likely to overidentify children, resulting in unnecessarily testing of... The requirement that children have blood-lead testing before entering school puts an additional burden on the school systems in terms of prenotification of parents, additional recordkeeping, and follow-ups. The department acknowledges the concern of lead in our state and the recent recommendations also from the CDC for actions that have been lowered to five micrograms per deciliter. However, the change in recommendation does not affect our position on this bill. The department remains committed to working with our partners across the state in other ways. I would be happy to answer any questions. [LB1038]

SENATOR ADAMS: Thank you, Dr. Schaefer. Are there questions? Dr. Schaefer, help me. There are two things. One--and you kind of footnoted it yourself--so how do we develop this target group? [LB1038]

JOANN SCHAEFER: Okay, so there is data; there is some limited data. We have not pulled that data together to do the analysis on that. You know, I've looked and I have...I actually have a copy of every state law that's available in the country and there's only...you know, Iowa does the blood level testing at this level. And we don't believe that it would take a law to put together the data that's necessary to run that Medicaid report. It would take some data analysis. And there is definitely concern out there. We do have physicians that are not complying with the Medicaid rules right now, that they aren't screening the children at the level that they need to be. But you need to take a look at the level, you need to look at the data, and apply for that waiver of Medicaid to do that targeted risk-based approach. Our question is whether you should put a standard practice in the law that is good practice to screen children that are at risk. And I should back up and make sure that I'm stating that there's a difference between screening a child and testing a child and frequently we confuse those terms. Screening based on risk, according to a series of questions that you ask about a child's potential exposure to lead, is screening. And then when you...they trip those tests positive, then you actually do the blood test. Separate in Medicaid, there is a requirement in Medicaid at 12 months and 24 months. Regardless of all those screening tests, you are supposed to be getting that test at 12 months and 24 and that is actually not being occurred. There isn't...that it's not occurring. There is no fine for that, but we do need to work with the physicians across the state to get them to comply with that requirement that they are currently not complying with... [LB1038]

SENATOR ADAMS: Okay, so... [LB1038]

JOANN SCHAEFER: ...and that, we believe, is an education and awareness issue. [LB1038]

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SENATOR ADAMS: Okay, so if I understand you correctly--at least in response to my question--there are at least two things. [LB1038]

JOANN SCHAEFER: Right. [LB1038]

SENATOR ADAMS: One, we have an admission that we're not getting all these Medicaid-eligible kids tested. [LB1038]

JOANN SCHAEFER: Right. [LB1038]

SENATOR ADAMS: Not screened, but tested, right? [LB1038]

JOANN SCHAEFER: Right, tested, that is a requirement. [LB1038]

SENATOR ADAMS: And we're prepared to take that on. Is that what I hear you saying? [LB1038]

JOANN SCHAEFER: That...yes, that has to be taken on by multiple approaches. [LB1038]

SENATOR ADAMS: Then the data that we need to narrow the target area, that involves screening rather than testing? [LB1038]

JOANN SCHAEFER: That...no, there's both that's in there. But no, we have to collect that data from across the state to approach the, you know, CMS to ask for that, and that's testing data. [LB1038]

SENATOR ADAMS: And your statement was, if I understood you correctly, that... [LB1038]

JOANN SCHAEFER: We've not pulled that data together to apply for that. [LB1038]

SENATOR ADAMS: But you believe that you have that data. [LB1038]

JOANN SCHAEFER: We may have that. I...without looking at it, we don't know. [LB1038]

SENATOR ADAMS: Okay. Senator? [LB1038]

SENATOR CORNETT: And I understand the difference between screening and testing. [LB1038]

JOANN SCHAEFER: Okay. [LB1038]

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SENATOR CORNETT: How much does a lead test cost? [LB1038]

JOANN SCHAEFER: Between \$10 and \$17, from what we've put together. [LB1038]

SENATOR CORNETT: Okay. [LB1038]

JOANN SCHAEFER: So for uninsured families... [LB1038]

SENATOR CORNETT: How many... [LB1038]

JOANN SCHAEFER: ...or if an insurance doesn't cover it. [LB1038]

SENATOR CORNETT: Got it. How many cases of lead poisoning in children were documented last year in Nebraska? [LB1038]

JOANN SCHAEFER: In 2011, we had 170 that were over 10 in various levels, so between 10 and 70. So in a variety...I have different ranges, so 170. [LB1038]

SENATOR CORNETT: So when you talk about an undue hardship to a parent to have this screening done or for the schools before they enter school, how many cases of polio have we had in Nebraska in the last year? [LB1038]

JOANN SCHAEFER: Zero. [LB1038]

SENATOR CORNETT: And we require polio vaccination still? [LB1038]

JOANN SCHAEFER: Yes. [LB1038]

SENATOR CORNETT: How about measles and chicken pox? [LB1038]

JOANN SCHAEFER: Yes, and they're all covered. [LB1038]

SENATOR CORNETT: What is the difference? [LB1038]

JOANN SCHAEFER: Oh, a large difference. [LB1038]

SENATOR CORNETT: It... [LB1038]

JOANN SCHAEFER: Those vaccinations, those diseases are contagious. So if one case of polio were discovered in the United States, it would be devastating to the United States. [LB1038]

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SENATOR CORNETT: But one case of lead poisoning is devastating for a family. [LB1038]

JOANN SCHAEFER: Yes, absolutely, I agree. There's no argument there. [LB1038]

SENATOR ADAMS: Senator? [LB1038]

SENATOR SEILER: Ma'am, I...or Doctor, I really believe you can give us a report this high on lead and lead testing in Nebraska. [LB1038]

JOANN SCHAEFER: Um-hum. [LB1038]

SENATOR SEILER: Tell me what happens after we get the report. [LB1038]

JOANN SCHAEFER: Well... [LB1038]

SENATOR SEILER: I'm more interested in is there a cure? I hear well, we've got to prepare for students, we've got to prepare for these problems of lower IQ. That's fine. But now we've identified those students, what happens? [LB1038]

JOANN SCHAEFER: You know, absolutely... [LB1038]

SENATOR SEILER: There's no testimony in this record on that. [LB1038]

JOANN SCHAEFER: Right, well, absolutely. Let me give you a little bit of my perspective. First of all, I'm a family physician and I've worked for two-and-a-half years at Charles Drew Center...Health Center, so I know firsthand some of the impact of families and I'm not sure there's other providers who can actually say that in this room. So I know firsthand the effects of lead poisoning on a child. And so when you find elevated lead levels, there's a whole variety of medical treatment that can occur to help treat a child and it is absolutely imperative that you get lead out of them...out of a child's life. [LB1038]

SENATOR SEILER: And does that recover the IQ loss, the intelligent loss? I'm sure the parents in this audience want to know that. [LB1038]

JOANN SCHAEFER: No, it...lead is toxic. Lead is toxic. It is a neurotoxin, so there are...there is irreversible damage to the human brain when lead is in a child. But obviously, with... [LB1038]

SENATOR SEILER: Okay, so at what level, then...we're talking about five-year-olds. At what level would be most effective? Or should there be multiple tests in the targeted area that has high lead level so we can stop this progression before it does irreparable

damage? [LB1038]

JOANN SCHAEFER: I understand your question. I think there are two answers to your question. One is what you do with a single child. A single child, when you find an elevated level, the goal is to get the lead out and abate the environment or try to fix that situation and you follow...there's different ways that you get the lead out, depending on how high of a lead level it is, and hope that you can reverse it. You get them into special ed if they're showing adverse consequences of lead and you hope that you can reverse some of the damage. But we know that lead is not good for the brain, period. But as with any toxin, you're always hope...due unto neuroplasticity of the brain and the fact that the brain can recover, that you're hoping that you're going to go there. But the whole shift of the focus in lead and how we deal with this in the country is shifting to primary prevention. In other words, we want to make a healthy home from the beginning and do as much as we can to prevent the home from ever causing a child... [LB1038]

SENATOR SEILER: Well, I fully understand that. I've been filling out those lead reports on real estate... [LB1038]

JOANN SCHAEFER: Right. [LB1038]

SENATOR SEILER: ...for 30 years... [LB1038]

JOANN SCHAEFER: Right. [LB1038]

SENATOR SEILER: ...and I don't see where they...that helps them. But what I want to know is back--and you didn't tell me the question I asked--is I want to know should we be teaching...or testing at one years of age? Two years of age? Three years or all? In those targeted areas where these people have testified they have the highest lead in the country, what tests should be done in that area to stop this decrease in intelligence or brain function? [LB1038]

JOANN SCHAEFER: Sure. I think the evidence supports--right now, currently--that testing at one year and two year is good. Outside of that, I'd have to get back to you for any other testing... [LB1038]

SENATOR SEILER: Thank you, that's what I wanted to know. [LB1038]

JOANN SCHAEFER: ...for additional evidence to support more testing at another... [LB1038]

SENATOR ADAMS: Senator Haar. [LB1038]

JOANN SCHAEFER: You know, and I think that other states would probably argue with

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you that they have higher lead levels and lead risk in their real estate, not on the Superfund site issue, but on their lead paint in their older homes percentage. [LB1038]

SENATOR ADAMS: Senator Haar. [LB1038]

SENATOR HAAR: Yes, Dr. Schaefer, you said in your last...in your testimony that your department remains committed to working with our partners across the state in other ways. What are those other ways that the state is working on this problem? [LB1038]

JOANN SCHAEFER: Well, we would like to see, you know, we would like see increased proper testing that's done in, you know, clinic offices. We would like to see increased awareness on the issue as a whole. We're not opposed to working on those issues at all. We have aggressively applied for grants the last three years for...under the Healthy Homes models for lead and trying to create and go along with how the CDC is moving in a Healthy Homes model. We haven't received any of those grants. We have that's currently pending now and we...all of those require work with the partnerships that we have across the state. So we continue to work in that area and we won't stop working in that area. We just haven't won any of the grants. [LB1038]

SENATOR HAAR: So should the state itself, you know, maybe General Fund money or...? I mean we see a problem here and we say we'd like to do this and we'd like to do that but we don't have the money. Well, how much money would it take to implement these programs? Because the loss of a young mind is just irreplaceable. [LB1038]

JOANN SCHAEFER: Well, I think one of the biggest issues right now is getting our providers to do the test that's already required and paid for under Medicaid dollars currently. You've heard testimony here today that it's not being done. [LB1038]

SENATOR HAAR: So this is a problem that doctors aren't? We're saying doctors...? [LB1038]

JOANN SCHAEFER: Our clinicians are not. [LB1038]

SENATOR HAAR: And is it because we don't have penalties? [LB1038]

JOANN SCHAEFER: I think they truly don't know. I think they're true...I think many of them truly just do not understand that it's a requirement. They misinterpret screening and testing. I don't think there's anything other than simply that. And I think Douglas County has done an amazing job of trying to educate many providers, but quite frankly, they have a lot that they have to keep up on. [LB1038]

SENATOR HAAR: Okay. [LB1038]

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SENATOR ADAMS: Senator Cornett. [LB1038]

SENATOR CORNETT: So when you take your baby in for all the different checks... [LB1038]

JOANN SCHAEFER: Yes. [LB1038]

SENATOR CORNETT: You have scheduled testing...or not testing, but scheduled immunizations. [LB1038]

JOANN SCHAEFER: Um-hum. Correct. [LB1038]

SENATOR CORNETT: Should we just make the lead test part of that? [LB1038]

JOANN SCHAEFER: Yes, and it actually is on the EPSDT form. But I think they're just forgetting or not acknowledging the fact that it's not a screen. [LB1038]

SENATOR CORNETT: So it's on the form that they're supposed to be doing this. [LB1038]

JOANN SCHAEFER: Um-hum. [LB1038]

SENATOR CORNETT: And they're not doing it. [LB1038]

JOANN SCHAEFER: Correct. [LB1038]

SENATOR CORNETT: So why have we as a state not done something against the physicians not doing this? [LB1038]

JOANN SCHAEFER: That's a good question. I don't know. [LB1038]

SENATOR ADAMS: Senator Howard. [LB1038]

SENATOR HOWARD: Thank you, Senator Adams. Actually, I remember that. I'm...was very familiar with that form when I did case management and I often wondered that same question is: Why wasn't it done? I don't have an answer for that either. But I'm wondering how involved is the test itself. I remember going to health fairs. There was one not that long ago over at North High School where they offer things like your blood pressure and your cholesterol and basics. Is this something that could be offered in a community setting like that? If a parent had their child there, could they have...could a health fair offer a lead screening test? [LB1038]

JOANN SCHAEFER: It wouldn't be any different than a cholesterol screening test.

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[LB1038]

SENATOR HOWARD: So it's pretty basic. [LB1038]

JOANN SCHAEFER: It's a...right. It's just a blood test. [LB1038]

SENATOR HOWARD: That's good to know. Then that could be incorporated in that sort of thing. [LB1038]

SENATOR CORNETT: I was going to say when we moved into our house that was built prior to 1970, my pediatrician just did it. It wasn't even an option. [LB1038]

JOANN SCHAEFER: Yeah, that's...and providers that are really good at doing that have actually...have that built right in because it's not uncommon to have a hemoglobin checkup the first year, so it's built in. [LB1038]

SENATOR HOWARD: Okay, thank you. [LB1038]

JOANN SCHAEFER: It really is a question of getting providers that are not necessarily familiar with dealing with a Medicaid population and/or not used to dealing with a Superfund site or just being aware, getting them reengaged in the conversation of lead. [LB1038]

SENATOR HOWARD: And maybe it's an issue of parents realizing that this is important, you know, just like we had to learn that having high cholesterol was not a good thing and you should get that checked out too. [LB1038]

JOANN SCHAEFER: This is true. But again, I would say not all children are going to screen out and not all children need a lead test--a blood-lead test. They do not all need it. But when you look at the screening questions, the parents are not going to say that (a) my child has not eaten a nonfood product as a toddler, because that's a common thing for toddlers; and (b) there are so many toys and so many products that are recalled because of lead, they're always going to feel at risk. So just by...they're not going to screen out into the low risk. Those questions are driving this to be all kids get a blood-lead test. [LB1038]

SENATOR HOWARD: Sure. [LB1038]

JOANN SCHAEFER: So there's...that's really making this policy. And the comment on the Morbidity and Mortality Weekly Report is that we're pointing out that this is...they are in fact stating that you should be collecting data to get to this point, so that is the point of that. It wasn't misinterpreted, it wasn't misapplied. It is you need to get a targeted-based approach and this is not doing that. This is going to everyone. By the nature of the

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screening questions, the screening questions are driving parents and providers to say well, I, you know, gosh. No one can answer no to those two screening questions, so you're going to screen every child with a blood test and that's the objection on policy. [LB1038]

SENATOR ADAMS: Any other questions, Senator? [LB1038]

SENATOR SEILER: I have a follow-up question. If it's on your Medicare report that they have to do a blood test and the doctor is following the report. And then you say you don't need a blood test... [LB1038]

JOANN SCHAEFER: No, that's...because not every child has Medicaid. [LB1038]

SENATOR SEILER: If the child has... [LB1038]

JOANN SCHAEFER: So this would require every child in the state, not just every child that's on Medicaid. [LB1038]

SENATOR SEILER: I believe that doctors are spooky enough about malpractice that if you send out the word that all Medicaid people should be tested, they're going to test everybody... [LB1038]

JOANN SCHAEFER: Okay. [LB1038]

SENATOR SEILER: ...because you've set the standard then. [LB1038]

JOANN SCHAEFER: Okay, the law...this bill would require every child. The Medicaid rules only require Medicaid and that's not even being followed currently. [LB1038]

SENATOR SEILER: No, I understand that it's not being followed. But I'm saying the legislation says everybody's got to be tested may not be necessary because if you send out word to the Medicaid they've got to be tested, you're not following it, I'd almost guarantee you the doctors are going to say, whoa, the tort lawyers will be after us tomorrow if we're not making tests on every kid that comes through here. [LB1038]

JOANN SCHAEFER: Well, that...and that would be an approach. [LB1038]

SENATOR SEILER: Thank you. [LB1038]

JOANN SCHAEFER: We have not been aggressive. [LB1038]

SENATOR SEILER: I have nothing further. [LB1038]

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SENATOR ADAMS: Dr. Schaefer, I really appreciate you being here today. This is our second or third time on this bill and I think that I have gotten far more background this time by your testimony here. And I think the committee--and I'm not going to speak for Senator Council and her bill--will certainly appreciate the fact that you're going to get the word out to those physicians on what they need to be doing on the Medicaid side. I'm still concerned about the fact that this is our second or third time on this and the data issue and targeting has been part of this every time and we're now just getting around to a response that we might have the data. And if we don't, we have to have a plan to get it, would you agree? [LB1038]

JOANN SCHAEFER: Yes. [LB1038]

SENATOR ADAMS: Thank you, appreciate that. [LB1038]

SENATOR SEILER: Thank you for your testimony. [LB1038]

SENATOR ADAMS: Any other questions? Thank you, Doctor. Other opposition testimony? [LB1038]

DAVID BUNTAIN: Senator Adams, members of the committee, my name is David Buntain. It's B-u-n-t-a-i-n. I'm the legal counsel and a registered lobbyist for the Nebraska Medical Association, and we basically have the same concerns that Dr. Schaefer has spoken about. I won't go through all my prepared comments, but basically there are two issues. One, we think that the bill is overbroad. All of the information in this area from the CDC, from various groups that work in this area, say that we ought to be adopting public policies that are targeted toward the areas where there is a significant risk of lead-based...or of lead poisoning for children and that...this is much broader than that. The other concern is this kind of artificial distinction that's in the bill that it's a screening bill but if you're at high risk, then you have to have the test. The way the screen works, in effect, it's going to result in all children having to be tested. And the language that's in the bill is parallel to the Medicaid test but it's not identical and particularly the issue of whether a physician would be asked to certify that the child has ever put foreign items in their mouth. I mean I don't think any physician or nurse practitioner or P.A. would feel comfortable certifying that. We agree completely that physicians are not doing an adequate job under Medicaid. We've indicated to the department that we are willing to work with the department to better educate physicians on what their obligations are. I think everyone who's testified here today on both sides of this issue agrees that this is a serious public health problem. What we're arguing about is what is the most effective way to do it. And we're certainly willing to work with Senator Council to deal with this issue and work with your committee, so I'd be happy to respond to any questions. [LB1038]

SENATOR ADAMS: All right, what questions do we have for this testifier? Senator

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Haar. [LB1038]

SENATOR HAAR: Well, thank you very much for being here. [LB1038]

DAVID BUNTAIN: Sure. [LB1038]

SENATOR HAAR: It kind of sounds like the doctors aren't doing their job. Could you...I'm sorry, this just really upsets me to hear why we're not doing this when so many...when kids are so permanently affected by this and it affects all of us and families and sort of the finger now is pointing back to the doctors. Do you accept that or...? [LB1038]

DAVID BUNTAIN: I would say yes, that's part of the problem. And I'm not here to defend anyone who doesn't follow what the regulations require. I do think, as Dr. Schaefer indicated, it may be in part a matter of education and understanding. But I mean this is one...this is...Senator Seiler has indicated this is one area where they should understand what the risks are from public health standpoint but also from a liability standpoint. So that's why we definitely want to do what we can to prove the compliance in this area. [LB1038]

SENATOR HAAR: Um-hum. [LB1038]

SENATOR ADAMS: Senator Cornett. [LB1038]

SENATOR HAAR: Whoa, wait. I wasn't quite finished. [LB1038]

SENATOR ADAMS: Oh, I'm sorry. [LB1038]

SENATOR HAAR: Okay. The other thing that's very frustrating: it sounds like maybe we have the data, we haven't acted on it. And every day this is going unaddressed, more kids are, you know, having lower IQs and all those other kinds of things. Is this something that can happen pretty quickly in the medical profession or is this just we're going to spread this out over years? [LB1038]

DAVID BUNTAIN: Well, I don't think we can do a whole lot with the data because we don't collect the data. But, you know, we can get on the issue of better...of the education and we can get that done. [LB1038]

SENATOR HAAR: Um-hum. [LB1038]

DAVID BUNTAIN: I mean I can't give you a time... [LB1038]

SENATOR HAAR: Um-hum. [LB1038]

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DAVID BUNTAIN: ...but, you know, that we'll...we will definitely do what we can. And I should note that, you know, the Medical Association is a membership organization, so we don't represent all the physicians in the state. [LB1038]

SENATOR HAAR: Sure, sure. [LB1038]

DAVID BUNTAIN: But we will certainly use the channels that we have to get the word out that this is really important. [LB1038]

SENATOR HAAR: Um-hum. But... [LB1038]

SENATOR ADAMS: Senator...oh, I'm sorry. [LB1038]

SENATOR HAAR: Yeah, and I don't mean to put you on the spot. But it's sort of like the situation that must have happened when all fire insurance was private, to see your house burning down and, you know, nothing being done about it because, you know, you didn't have that little plaque on your door or something. And it sounds to me like we have a fire going here and we need to address this very quickly. [LB1038]

DAVID BUNTAIN: Well, and I...frankly, that's one of the reasons that we think it's important to devote our resources and other public resources to addressing it in the areas where it's a problem rather than creating a statewide solution to what's really a targeted problem. And I agree, I think it does need to be stepped up. I mean you've heard....I mean there are certainly agencies, particularly in Omaha but around the state that have been working hard to address this. But a lot of others need to commit...to get involved in it, I agree. [LB1038]

SENATOR HAAR: But it sounds like even in Omaha, from what we've heard from the public health department there, even there only is...a fraction of those children are being identified that need to be. And I just...I guess I'm just showing my emotion here about why is this still a problem and I think we all need to address that. [LB1038]

DAVID BUNTAIN: We would agree. [LB1038]

SENATOR ADAMS: Senator Cornett. [LB1038]

SENATOR CORNETT: What are the implications for physicians that don't follow other standard testing guidelines and immunizations under Medicare? [LB1038]

DAVID BUNTAIN: Well, that's a pretty broad question. This...the issue really is the complying with the Medicaid regulations. I think it's possible that our...you know you can be terminated as a Medicaid provider. There's also the potential liability issues that

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Senator Seiler alluded to. [LB1038]

SENATOR CORNETT: I was going to say, beyond the liability issues for the physician from the child and the parent, these children are going to end up costing the state a lot more money too. [LB1038]

DAVID BUNTAIN: Right. [LB1038]

SENATOR CORNETT: I, unlike Senator Haar...and I don't feel uncomfortable putting you on the spot here. I think this is in eight years one of the most frustrating hearings that I've sat in on when I find out that the people that are supposed to be caring for our children frequently aren't doing a test that is recommended or required. [LB1038]

DAVID BUNTAIN: And I understand your outrage. I...you'll have to talk directly to the providers. I would say there are...we have a lot of really good physicians who are doing... [LB1038]

SENATOR CORNETT: Oh, and I don't...I was going to say I don't disagree with that. [LB1038]

DAVID BUNTAIN: ...are doing this as well, so it's... [LB1038]

SENATOR CORNETT: I'm very happy with my pediatrician. But obviously, there's people out there that are sweeping these children under the rug. Is it because they're on Medicare? [LB1038]

DAVID BUNTAIN: Medicaid. [LB1038]

SENATOR CORNETT: Medicaid, pardon me. [LB1038]

DAVID BUNTAIN: I can't speak for why it is. I...you know, if you look at what is required in the screening, it is pretty substantial in a lot of areas. And I...you know, I don't know enough about the nitty-gritty of the screening and how it's being done to be able to respond to that. [LB1038]

SENATOR CORNETT: Well, I guess I'm curious what the difference between a Medicaid screening is and a...just a regular newborn and the other screenings that you have to go through, because... [LB1038]

DAVID BUNTAIN: Did... [LB1038]

SENATOR CORNETT: ...you know I had to fill like six pages out one time when I went in before my child was two. [LB1038]

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DAVID BUNTAIN: There's an extensive regulation that's...I happen to bring. It's 471 Nebraska Administrative Code, Chapter 33, which is on health checks. And it's pages and pages of regulations of which should be covered in these screenings. [LB1038]

SENATOR CORNETT: And are health checks being done differently from private pay to Medicaid? [LB1038]

DAVID BUNTAIN: I can't say. They're certainly similar. I can't say to how close they are to being identical. You'd have...I mean we could provide some physician expertise on that if there are questions about that. [LB1038]

SENATOR CORNETT: Thank you. [LB1038]

SENATOR ADAMS: Senator Seiler. [LB1038]

SENATOR SEILER: I have a follow-up question, Dave. It's been a long time. [LB1038]

DAVID BUNTAIN: Yes, it has. [LB1038]

SENATOR SEILER: Do you have access or does your group that you represent have access to the medical doctors providing under Medicare/Medicaid so you know who you can go to, to get out the word through your agency? [LB1038]

DAVID BUNTAIN: Yes, yes. [LB1038]

SENATOR SEILER: Does Medicare/Medicaid work with your group? [LB1038]

DAVID BUNTAIN: Not directly, but I...we have a... [LB1038]

SENATOR SEILER: HIPAA won't come into play that you've got a problem finding out which doctors you need to notify? [LB1038]

DAVID BUNTAIN: I'm not sure if we can get that information but, you know, most physicians who have...I mean pediatricians, family physicians would be the primary ones, but most of them are participating in Medicaid. [LB1038]

SENATOR SEILER: Okay, okay. I didn't know if you needed something from the state to get that information or not. [LB1038]

DAVID BUNTAIN: No, no, that's not an obstacle. [LB1038]

SENATOR SEILER: Thank you. [LB1038]

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SENATOR ADAMS: Are there other questions? Thank you. [LB1038]

DAVID BUNTAIN: Thank you. [LB1038]

SENATOR ADAMS: Other opposition testimony? Neutral testimony? [LB1038]

JEREMY MURPHY: Good afternoon, Senator Adams, members of the Education Committee. My name is Jeremy Murphy, M-u-r-p-h-y. I represent the Nebraska Catholic Conference and I'm testifying neutral, basically to ask a clarifying question with respect to the language that's on page 3 of the green copy, lines 6-8. There's no reference to section 79-221, which deals with, oh, statements that could be made, perhaps by a physician, as to whether someone is low-risk or not. But that language appears in line 3 of the bill on page 2, the: except as otherwise provided in sections 79-221 and 222. Also appears in line 14 of page 2, line 25 of page 2. And I don't know if that's a drafting oversight or not, but I've...I don't know, it might be a technical correction. It just appears to be internally inconsistent, so we were just wondering if that could be clarified, perhaps by Senator Council. That's all I have. [LB1038]

SENATOR ADAMS: Thank you, Jeremy. Are there questions for this testifier? Thank you. [LB1038]

JEREMY MURPHY: Thank you. [LB1038]

SENATOR ADAMS: Any other neutral testimony? Senator Council, you may close. [LB1038]

SENATOR COUNCIL: I guess I'm glad I'm on this committee. I'm not going to keep you all night, although there's cause to. And quite frankly, Senator Adams, I resisted taking my seat over there because while I'm introducing this bill, I'm a member of this committee and there were questions that should have been asked of the Department of Health and Human Services representative that wasn't...they weren't asked. But I trust that everyone heard the admission, the admission that DHHS has a regulatory obligation to blood-lead test all Medicaid children and that they are not doing it. So in your fiscal note last year on LB204, when there was an assertion that my bill would cause them to test more children...it's not my bill that obligates them to test these children. It's Medicaid that obligates them to test these children and they admitted by virtue of that fiscal note that they weren't doing it. The question is: What do you do, Senator Cornett? EPSDT--and I believe Senator Howard should be aware of this--that when a Medicaid child receives an EPSDT, the medical provider is reimbursed at a set rate for everything included in that EPSDT, which includes blood-lead screening. So if there is not a blood sample sent to a lab associated with an EPSDT, believe me, the Department of Health and Human Services knows that that blood-lead test has not been

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conducted, yet that provider gets paid for performing the EPSDT. When we talk about targeting, how long must we wait? I've been dealing with lead and blood-lead poisoning in Douglas County for seven years. Seven years ago, less than 33 percent of Medicaid children were being tested. We talk about education and information, but a part of a group that provided every Medicaid provider in Douglas County with information regarding the importance of testing children for elevated blood-lead levels...Dr. Schaefer makes reference to the screening device. I had to sit back there and laugh. Those questions come straight from the CDC. I didn't make it up. I didn't say, oh, this is what I believe determines whether or not a child is at risk. This is with the CDC and what physicians who provide services to Medicaid children are supposed to be following now because if you look at the Medicaid regulations, they say all Medicaid children should be blood-lead tested at 12 and 24 months and thereafter if there's evidence that they're at risk of blood-lead poisoning. We're not doing that, ladies and gentlemen, and we're placing these children at risk. And the question was: So what happens? And Senator Seiler, you asked a good question; Senator Howard has asked the question before. A child is tested and we find out that they have an elevated blood-lead level. Dr. Schaefer was correct. There are some treatments available to try to remove the lead from the blood, but in terms of the neurological damage, that's done. Now when a previous testifier talked about information and education but they intended to say this, information and intervention, and some other testifier spoke to that. If teachers are aware of the neurological conditions of their children, wouldn't we as members of this Education Committee hope that they would adjust their instruction to provide the greatest opportunity for those children to learn or that they would have an understanding of what may be a barrier to those children learning? And when the bill was redrafted and filed last year, we made a specific reference to ChildFind and that was because if parents are getting their children tested at 12 months, 24 months, and they discover that they have elevated blood-lead levels such that it could cause a medical condition that impaired their brain development, they are eligible at that age for educational services as early as 24 months, as early as 36 months. That's why the bill has been introduced and that's why the bill will continue to be introduced. I think it's important that this committee know--and I tried to explain to the full body last year during our discussion of the veto override--that what the Governor stated with regard to Medicaid children is not true. It's not my bill that requires us to test them all. It's Medicaid regulations that requires us to test them all and we're not. Now does my bill require potentially non-Medicaid children be tested? Yes. Now Dr. Schaefer talked about screening and testing. Yeah, they get...those terms get confused. But in...under Medicaid regulations and as the CDC uses screening, it means a test. When they say all children should be screened, that means a test. My bill provides for a screening for all children and if that screening showed that they were at risk of elevated blood-lead levels and then...there would be a test. Dr. Schaefer attacks the screening device. Okay, let's work on the screening device. But my bill did not then, does not now require every child to have a blood-lead test. It requires them to be screened and if the results of that screening shows that they're at risk, they should be tested. And the results of those tests, if they

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are elevated, must be currently reported to the Department of Health and Human Services. Dr. Schaefer said there were 170 elevated blood-lead levels reported to them last year. What she didn't tell you was how many kids were tested. If only 30 percent of the kids were tested and you had 170, you multiply that, you've got over 500 potentially, just using that baseline data. So I don't want to belabor it. I know we have other things to do today. But the reason for the veto was that this bill required children to be unnecessarily blood-lead tested. I submit that it doesn't; it never has. If there's a question about the screening device, the questions, let's work on it. But that questionnaire comes from the CDC, the very body that the Governor relied upon in saying that we shouldn't universally blood-lead test, we should target. Well, why do you want to accept what they say on one hand and don't accept what they say on the other? If we're going to target, I don't think there's anybody in this room who would oppose targeted screening, targeted testing. But we're not in a position to do it and we're not in a position to do it because the Department of Health and Human Services hasn't done the things that they need to do. Dr. Schaefer talks about the grants we haven't gotten. You know why we can't get them? Because we don't have that data. The people who get...the communities that get those grants have that data. They've collected the data, they've assessed the data, they've analyzed the data, and when they sent in their grant applications, they have a basis for their program. Mark my word, ladies and gentlemen, DHHS can continue to be on the receiving end of rejections on their grant applications because we don't have the data. My bill would result in establishing that baseline of data and I still submit placing Nebraska in a position where we could seek a Medicaid waiver and implement a targeted testing program. And I'll answer any questions you may have. [LB1038]

SENATOR COUNCIL: [LB1038]

SENATOR ADAMS: Senator Cornett. [LB1038]

SENATOR CORNETT: As part of that screen that they're getting paid for but they're not doing, why are we paying them if the screen isn't done? And should we also be looking at stopping payment until all parts of that test that are required are done? [LB1038]

SENATOR COUNCIL: I can't speak for the Department of Health and Human Services, Senator Cornett. But what I do understand is that the medical provider is reimbursed a set rate for an EPSDT... [LB1038]

SENATOR CORNETT: Which is the whole...correct. So... [LB1038]

SENATOR COUNCIL: ...which is the whole gamut of things, right? Now the lab work on the blood,... [LB1038]

SENATOR CORNETT: Um-hum. [LB1038]

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SENATOR COUNCIL: ...that's paid for separately, okay? [LB1038]

SENATOR CORNETT: Correct, but we're just talking about the screening. [LB1038]

SENATOR COUNCIL: Right, that's...but that screening is included and that screening...and then let's say test. The finger poke... [LB1038]

SENATOR CORNETT: Um-hum. [LB1038]

SENATOR COUNCIL: ...is included as one of the things that should occur and that is included in the cost that the state pays for an EPSDT. [LB1038]

SENATOR CORNETT: So every...so... [LB1038]

SENATOR COUNCIL: So I mean how much of it is it? I don't know. [LB1038]

SENATOR CORNETT: But what I meant is: Should we be paying them at all for that if they're only doing part of it? [LB1038]

SENATOR COUNCIL: I don't think so and maybe that would get to the very issue that Senator Adams and Senator Haar were raising. [LB1038]

SENATOR CORNETT: Well, I mean if we require that they do everything on that sheet to get their payment, they're going to do it. [LB1038]

SENATOR COUNCIL: I would agree. [LB1038]

SENATOR ADAMS: Other questions? Senator, just as a matter of clarification to me so that I'm not...well, I'm sure I'm missing something. But if we got to the point where we were testing all Medicaid-eligible kids, does that give us then the base data that we need to create the target area? [LB1038]

SENATOR COUNCIL: You know, you don't need to...that's not the way other states have collected the data. What they've done is developed a targeting approach, utilized that targeting approach, and it may include and it may not include Medicaid-eligible children. [LB1038]

SENATOR ADAMS: Okay. [LB1038]

SENATOR COUNCIL: And they've developed that data and submitted it to the CMS. So... [LB1038]

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SENATOR ADAMS: So could that be used then? I get it. [LB1038]

SENATOR COUNCIL: So I mean it could be...yes, it could be used. I mean that data could be a part of the data, right. [LB1038]

SENATOR ADAMS: And would...I guess what I'm thinking here, if this is something that is supposed to be done and we get to doing it the way it's supposed to be, does that in some period of time give us the base data we need to then begin to target? [LB1038]

SENATOR COUNCIL: Yeah, because the reason CDC changed...the CDC recommendation before 2009 was based upon the research that indicated that all children in poverty were at risk of blood-lead poisoning. And then over the course of time, you know, through data... [LB1038]

SENATOR ADAMS: Right. [LB1038]

SENATOR COUNCIL: ...it showed that not all children in poverty...certain children in poverty are at greater risk and that's where the targeting approach comes into play. That was the reason for the change, I think. I don't know if Dr. Pour would concur with it, but that's the reason for the change because before 2009, the medical assumption was all children in poverty were at risk of blood-lead poisoning, so they should all be tested. [LB1038]

SENATOR ADAMS: Yeah. [LB1038]

SENATOR COUNCIL: And then the data that was collected over time showed that that's not necessarily the case. And so the move was and the recommendation from CDC has moved from universal testing--that's testing them all--to just testing those who are at greatest risk of blood-lead poisoning. [LB1038]

SENATOR ADAMS: Well, we've come a long way today, I think, Senator. [LB1038]

SENATOR COUNCIL: I hope so. [LB1038]

SENATOR ADAMS: I do, in comparison to prior hearings on this same subject. Somehow I think there's a solution at hand, but maybe I'm just... [LB1038]

SENATOR COUNCIL: And I'm willing to work with this committee. I'm... [LB1038]

SENATOR ADAMS: I have no reason to be. I have no reason to be an optimist... [LB1038]

SENATOR COUNCIL: No. [LB1038]

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SENATOR ADAMS: ...but today I... [LB1038]

SENATOR COUNCIL: I'm willing to work with this committee, I'm willing to work with the medical community, I'm willing to work with the Department of Health and Human Services. In fact, I was delighted to see Dr. Schaefer here today because if you will recall from prior hearings on this matter, we've never had anyone from the Department of Health and Human Services, so. [LB1038]

SENATOR ADAMS: And very helpful. [LB1038]

SENATOR COUNCIL: And they need to be a part of this discussion. [LB1038]

SENATOR ADAMS: Thank you, Senator. [LB1038]

SENATOR COUNCIL: Thank you. [LB1038]

SENATOR ADAMS: Any other questions? Thank you. That will conclude the hearings for today. And Committee, I realize that... [LB1038]

SENATOR HOWARD: We need a little break. [LB1038]

SENATOR ADAMS: We are...well, make it very little. (See also Exhibits 10-13) [LB1038]