[LB335 LB490 LB607]

The Committee on Health and Human Services met at 1:30 p.m. on Wednesday, February 18, 2015, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB490, LB335, and LB607. Senators present: Kathy Campbell, Chairperson; Sara Howard, Vice Chairperson; Roy Baker; Tanya Cook; Sue Crawford; Mark Kolterman; and Merv Riepe. Senators absent: None.

SENATOR CAMPBELL: Good afternoon. If we could have everyone's attention....welcome to the hearings of the Health and Human Services Committee. I'm Kathy Campbell and I serve as the Chair. I represent District 25 in Lincoln. And before I go through the procedures for the...and introduce...for the hearings and introduce the committee, I'd like to know what school is visiting. Can someone...

AUDIENCE: Syracuse.

SENATOR CAMPBELL: That was really good. Wow. (Laughter) Well, we're awfully glad to have you here. What grade?

AUDIENCE: Seniors.

SENATOR CAMPBELL: Seniors. Ah, senior year, yes... (laughter) brings back memories. Okay. We introduce...do self-introductions here, so I'm going to start with the senators on my far right. Senator.

SENATOR KOLTERMAN: Senator Kolterman from Seward, Nebraska.

SENATOR BAKER: Roy Baker, senator from District 30, Gage County, part of southern Lancaster County.

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

SENATOR HOWARD: Senator Sara Howard. I represent District 9 in midtown Omaha.

JOSELYN LUEDTKE: Joselyn Luedtke. I'm committee counsel.

SENATOR COOK: I'm Senator Tanya Cook from District 13 which is northeast Omaha and Douglas County.

SENATOR RIEPE: I'm Senator Merv Riepe with laryngitis and I'm...represent District 12 which is Omaha, Millard, and Ralston. Thank you.

BRENNEN MILLER: I'm Brennen Miller. I'm committee clerk.

SENATOR CAMPBELL: And our pages today are Jay who is from Dalton, Nebraska, is at the university in ag economics. And Brook is from Omaha majoring in political science and advertising and marketing. So we're very glad to have them. They are very helpful so if you need something, just let one of the pages know and they'll be glad to help you. I'm going to go through the procedures for the hearing. And we have a lot of people here today so we'll go quickly to get to the hearings. If you are testifying today and you brought handouts, we need to have you fill out one of those bright orange sheets, which you see some of the people in the hearing room have already completed theirs. Please write legibly so we can read your name. If you are bringing copies of handouts, you can hand your orange sheet and the copies to the clerk and the pages will distribute them for you. And we do use the light system here in the committee which means that you have five minutes. The light in front of you will come up green. And it will seem like it's green for a long time. It will go to yellow. You have one minute. And when it goes to red, you're going to be seeing me try to get your attention. And we do this because we want the hearing that comes first and the hearing that comes last to have the same amount of time and be fair to all testifiers. As you come forward and sit down, please state your name for the record and spell it so that the transcribers who listen to the recording of this can hear you say and spell your name. So with that, we'll open the hearings today. And Senator Watermeier is our first hearing on LB490. LB490 will adopt the Provider Orders for Life-sustaining Treatment Act and is a follow-up bill to an interim study that Senator Watermeier had this summer. So welcome, Senator Watermeier. For the audience, Senator Watermeier served on the committee last year so it's always good to see...have a reunion of sorts anyway.

SENATOR WATERMEIER: (Exhibits 1, 2) Thank you so much, Chairwoman Campbell. I tell you, I didn't plan it this way. The government class was here this morning and I spoke to them in the Chamber. And I said, well there's a couple cleanup bills in HHS they could come down and watch. (Laughter) But there's also some tax bills I'm involved with today and several things going on in the building. So they hit the jackpot for coming today. So this was not planned this way. [LB490]

SENATOR CAMPBELL: Absolutely. Good. I just thought maybe you brought quite a few of your supporters. [LB490]

SENATOR WATERMEIER: I need support but I didn't plan on it like this today. [LB490]

SENATOR CAMPBELL: Okay. (Laugh) [LB490]

SENATOR WATERMEIER: This is great, though, to have a support here. So Chairman Campbell and the Health and Human Services Committee, my name is Senator Dan Watermeier, W-a-t-e-r-m-e-i-e-r, representing District 1 in the southeast corner of Nebraska. And I'm here today to introduce LB490. LB490 adopts the Provider Orders for Life-Sustaining Treatment Act. A Provider Orders for Life-Sustaining Treatment Act, or POLST, is a medical order signed by a medical provider resulting from a detailed conversation between a patient and a healthcare professionals. A POLST is always voluntary and is intended for individuals with advanced illness or frailty meaning that a healthcare professional would predict death in less than one year. It goes into effect when an individual is facing the end-of-life situations and is not able to communicate their medical treatment preferences. The Department of Health and Human Services is directed to adopt rules and regulations establishing a standardized format for a POLST form which is detailed in the legislation. In consultation with healthcare provider advocacy organizations, the department is to also develop standards for training healthcare professionals and educating the public on the use of the form. The purpose of POLST is to improve end-of-life care by converting patient treatment preferences into medical orders that are transferable among home and healthcare settings including emergency medical technicians, emergency physicians and nurses, and nursing facility staff. The POLST form can be reviewed and revised as needed. A POLST signed by a medical provider is based on a patient's wishes. It is a valid medical order for current treatment. This differs from an advanced medical directive which is usually written by an attorney containing instructions for future treatments and is encouraged for all competent adults regardless of their health status. It provides more specific information than a DNR order contains which applies when a patient is in cardiopulmonary arrest. A POLST form is voluntary. I need to repeat that. It is voluntary. And it is only used if a patient desires to complete in one and only at the end-of-life situations. The POLST form is printed on brightly colored cardstock for an easy recognition and paramedics would be trained to look for them. Lisa Weber, a hospice social worker with the Columbus Community Hospital, will testify after me. She will distribute a copy of the proposed form and a magnet which is intended to be placed on a refrigerator making it easily recognizable by the first responders. Last fall, your committee held a public hearing on LR596 which I introduced in an effort to study and evaluate the potential use of POLST in out-of-hospital, do-not-resuscitate protocols. At that time, POLST forms had been approved in 19 states and additional states were in the process of developing programs. A half a dozen witnesses testified in support of POLST during the interim hearing and no one testified against it. Furthermore, during the interim, I have held several meetings with interested parties. At a meeting in December, we discussed whether to develop some type of commission to develop the standardized form or whether an organization already in place could take on this responsibility. We could not reach a consensus on this existing body and

I was not excited about creating another commission which would have had a fiscal impact. One of the most important things that I have gained from the discussion on this issue is the need for a standardized form across the state so that we will have one consistency across the state and the sooner the better. The form developed for the Columbus Community has been in existence for almost ten years. It has been shared with several communities. It has withstood legal scrutiny. It works and is serving its purpose very well. Other versions are beginning to be developed. This will just add confusion and increase the chance of misinterpretation in emergency situations if emergency personnel are not familiar with the particular form. Therefore, rather than starting all over by creating a commission to develop a new form when one is already being used effectively seemed counterproductive. Therefore, I made the decision to place the form in statute. Furthermore, by placing the specifics in statute, the development of a form can be expedited which I think is also very important. The legislation does make some updates and changes in the form that was first developed almost ten years ago. We listened to the concerns expressed by interest groups. The form now lists the full treatment options first and makes it clear that oral fluids and nutrition will always be offered if medically feasible. I am also offering an amendment, AM395, which contains some minor changes discussed at national conference on a POLST forum as well as addressing additional comments made by some interest groups. Another amendment I am also offering is AM424 that adds language to the liability section of the bill which is Section 6 so that liability protection also applies to out-of-hospital emergency care providers. The League of Municipalities and the Professional Fire Fighter Association are supportive of this amendment. However, we still need to alter this amendment slightly and I will get it to you as soon as that is completed. The form being developed by this legislation is used in several communities in our state. It has withstood years of scrutiny and has been reviewed on the national level. It has been updated to address issues expressed by interest groups. I feel strongly that the form used should be consistent throughout the state. Multiple forms will just create confusion. Let's not reinvent the wheel. This form is working. Allow it to work throughout the state. I encourage you to look favorably on LB490. And I would appreciate your advancement of the bill, but I know there will be some good discussion, and I'll try to answer any questions. [LB490]

SENATOR CAMPBELL: Thank you, Senator Watermeier. Questions from the senators? Senator Riepe. [LB490]

SENATOR RIEPE: Thank you. This...Senator Watermeier, thank you for being here. Why legislation? Why not physician/doctor/patient relationship education? [LB490]

SENATOR WATERMEIER: Well, I think you lose the consistency across the state in that regard. And keep in mind that the POLST form is already coming into the communities. It's already in the state. We've even got some examples of some internet mailings coming out to different providers in different hospital settings. And so we just feel like if we don't get in front of this that

someone else will indirectly and already has. I really struggle with whether I was the right person for this. I thought, well, there may be somebody else that would be more qualified. But I just felt like after watching what I'd seen through the conversation that I think it belongs where it is. I really do. But I think you'll have better testimony behind me to explain it. [LB490]

SENATOR RIEPE: Okay. Thank you. [LB490]

SENATOR CAMPBELL: Other questions, Senators? Thank you, Senator Watermeier. [LB490]

SENATOR WATERMEIER: Yeah. [LB490]

SENATOR CAMPBELL: Will you be staying to close? [LB490]

SENATOR WATERMEIER: I will. [LB490]

SENATOR CAMPBELL: Okay. Could we have a show of hands of how many people wish to testify today on this? Okay. We have a great number. All right. We will start with the proponents for the bill. And I think Senator Watermeier wanted you to start. Good afternoon. [LB490]

LISA WEBER: (Exhibit 3) Good afternoon. My name is Lisa Weber, W-e-b-e-r, and I'm a social worker/counselor in the Columbus Community and on the board of directors for the Nebraska Hospice and Palliative Care Association which is here today to support this bill. My area of practice is focused primarily on caring for patients with chronic and/or terminal illness. I'm here today because I am the developer and the educator for the current POLST program that several communities in Nebraska are using. I'm also the Nebraska representative for the national POLST Paradigm Task Force for the last eight years. The POLST Program...or Task Force, which stands for the Physicians Orders for Life-Sustaining Treatment--or here in Nebraska that we're calling it the Provider Order for Life-Sustaining Treatment--it's where advanced directives and advanced care planning is a process consisting of conversations between patients, healthcare providers, and loved ones where mutual decisions are made between the patients and the healthcare professionals regarding the care the person envisions in the end of their life. And this is a way of ensuring that those wishes are honored and respected. As a result of these conversations, this POLST form will translate these shared decisions into actionable medical orders. The POLST form assures patients that healthcare professionals will provide the treatments that the patients themselves wish to receive and decrease the frequency of medical orders. For example, if I go to my physician for a medical condition, I receive education such as if I go...strep throat. I receive the education, the diagnosis, and we have a dialog of what kind of treatment options for that illness is. We kind of agree about what will happen and what the treatment is and then the

physician writes a prescription to the pharmacist for the agreed-upon medication or treatment. The prescription that the doctor writes is the communication tool between the physician and the pharmacist. This is the intent of the POLST document. It's a standing order after the discussion happens with the patient between the medical provider and then the other medical professionals. POLST is not for everyone. It is only intended for individuals with serious illnesses or frailty for whom healthcare professionals would anticipate death within about a year. For these patients, their current healthcare status indicates the need for medical standing orders to address their end-of-life wishes and a way of providing those wishes into medical orders for first emergency responders, emergency personnel, and nursing home staff. For healthy patients or individuals, an advanced directives is an appropriate tool for making future healthcare decisions for the loved one. Currently, Nebraska does not have a consistent, reliable tool that communicates options especially in emergency situations. We will discover today that care facilities, hospitals, communities have so many different forms and guidelines. There's even an organization that is starting to advertise an online type POLST program where they're not even going to be getting input from their physician. This is why it's important for me to have the bill in language. You may be told that the Nebraska POLST task force does not recommend this form being written into the bill. This is so that the focus is on the advanced care planning and the conversations and not the form. However, there's no restrictions to being endorsed nationally if the form is not included in statute...if it is included in statute. If there's any question or concern of having multiple versions of the POLST form across the state, they do recommend that it be written into the bill. This was also prevent confusion and meet the goal of having a consistent document for standing orders. I thank all of you for your time and consideration to bring POLST to Nebraska and I'm open to any questions that you may have. [LB490]

SENATOR CAMPBELL: Thank you, Ms. Weber, for your testimony. Questions? We'll start with Senator Crawford. [LB490]

SENATOR CRAWFORD: Thank you, Chairwoman Campbell, and thank you, Ms. Weber, for being here and sharing your experience. Can you tell us about how many of these you have completed in your community and if you've seen any challenges or problems with them? [LB490]

LISA WEBER: Oh, I can't even begin to count how many I've filled out. In our community, which has my hope that...when somebody walks in and says they want to complete that, because we do a lot of community education about it, we have to have an order from a physician that asks me to sit down and fill a POLST form out. So this is after a conversation has somewhat happened with the physician and being a counselor with that that we kind of sit down and visit about it. So I would say hundreds and hundreds in the last ten years. Challenges? There's only been one time that somebody has come to me and said that they were concerned. And it was an individual that was in a nursing home that got a skin infection, a cellulitis type thing, was in the nursing home

and they came and the nurse said, they have a POLST form that says they don't want this and that and we're starting them on antibiotics, and I went and explained that she is alert, she is in...oriented and after discussion with the physician opted to have the antibiotics. So it really wasn't an end-of-life type situation. It was something that was treatable and added to her quality of life. And so that's why it wasn't an issue. And after it was explained it was fine. Paramedics in Columbus love the form. In fact, if they find a different one, they'll bring me something...said, this says here that they don't want CPR; is there any way you can meet with them and get the POLST form filled out? [LB490]

SENATOR CRAWFORD: Thank you. [LB490]

SENATOR CAMPBELL: Senator Howard. Did you have a question? [LB490]

SENATOR HOWARD: I just had a question a little bit about the use of the phrase standing orders. And this may be something if the Medical Association is coming behind you...because when I think of standing orders, there is a physician relationship with the person who is providing the care. But in this instance, a paramedic wouldn't necessarily have a direct relationship with the physician especially in Omaha. So would this still be considered technically a standing order or would that be more of a directive? [LB490]

LISA WEBER: Well, these are considered standing orders or what...because it's signed by the physician. [LB490]

SENATOR HOWARD: Okay. [LB490]

LISA WEBER: And that's why we want it to be transferable to community. [LB490]

SENATOR HOWARD: Regardless of whether or not the person who is providing the care has a relationship with the physicians who has signed the document? Yes? [LB490]

LISA WEBER: Right, because it's signed and it's agreed. And that's one of the reasons that we have added...there's only one state in the United States that doesn't require an individual to check or sign it. They just have the physician sign it and then put it on. But we want to make sure that the conversation happens. And by initialing it and signing it as this is what they want assures that the conversation was had with the individual. [LB490]

SENATOR HOWARD: Okay. Thank you for your testimony today. [LB490]

LISA WEBER: Oh, of course. [LB490]

SENATOR CAMPBELL: Senator Cook. [LB490]

SENATOR COOK: Thank you, Madam Chair. And thank you today for coming and offering this proposal. I've had occasion in the last two years to review DNRs in various and sundry forms. And I guess my primary concern with something like this is that there's somehow an understanding that the person has less than one year. My first question would be, how is that determined? Are you...have you officially signed up for hospice care or palliative care? And the second is that I had some elder care responsibilities let's say for the last two decades. And there were often times I was not able to accompany my parent to an appointment. So they're very smart people. And most of the time they were lucid, but toward that last year, my concern is that I've got a DNR, no heroic measures, all kinds of paper to wave around that they've agreed to when they were more functional but then they've gone to an appointment without me or somebody else and then there's that...maybe something different on there from what I have to wave around at the appointment or at the emergency or at the moment. So those are concerns. I'm sorry, there might not be a question in there. But if you heard one, would you respond? (Laughter) [LB490]

LISA WEBER: Yes. Okay. First of, of course, you know, the process of planning for end of life is an emotional process. And the conversation between the physician or the healthcare professional and if I have it with somebody, again on orders from the physician, is that, you know, before I even fill it out, I'd want to make sure the person understands what their medical condition is or the family members, because...but the end-of-life process--and I'm sure the physicians here will be able to clarify more--it is a very subjective, you know? And it's the same way with, you know, a lot of different things. You don't know if it's going to be within a year or not. Mainly it's if the disease takes its natural progression, the doctor or the provider's best estimate that it could be within the next year. [LB490]

SENATOR COOK: Okay. And this seems like the...a kind of a tool that for many families, they don't have that conversation or when the individuals are just on their own, so it might be a good tool to standardize folks having an advanced directive or people knowing their wishes. [LB490]

LISA WEBER: To start the conversation so that people are aware and...um-hum. [LB490]

SENATOR COOK: All right. Thank you. [LB490]

LISA WEBER: And we're hopeful that...you know, it does take a lot of community education...different groups on what the end-of-life process...but hopefully that, you know, conversations have been initiated before the need for the POLST form and so that the families...in my experience, families are...when they decide that this is what they want...and it's for life-sustaining treatment also. You know, they do want CPR. They do want...they're very much of an advocate for what they want. And they make sure the form is available. And if they go to the emergency room and...that the conversation continues. It's a process. It's not a onetime thing. [LB490]

SENATOR COOK: All right. Thank you. [LB490]

SENATOR CAMPBELL: Ms. Weber, my question--and I'm sorry, I didn't scan the form quickly enough--but on the form does it require that if there is a power of attorney...or who holds that power of attorney? [LB490]

LISA WEBER: There is...like if you see on the magnet, what we do in Columbus--and it's an awesome magnet to hang on the refrigerator--it does say that, you know, if it's included within that form that it's there. In Section E you'll find: I agree to have my power of attorney/guardian make changes in this document in accordance to my advance directive and preferences after consultation with my healthcare provider. [LB490]

SENATOR CAMPBELL: And it...I was really trying to get at the question sort of that Senator Cook asked... [LB490]

LISA WEBER: Okay, please. [LB490]

SENATOR CAMPBELL: ...because I agree with Senator Cook. There are times when my parents went to the doctor and we would follow up and call the physician and we would hear a totally different story. (Laughter) [LB490]

LISA WEBER: Oh, no. [LB490]

SENATOR CAMPBELL: And so I'm just trying to ensure that we don't have a conflict of what's on one piece of paper versus what's on this piece of paper. And it may be that you've answered that by saying you can put the guardian there, and E would cover that. [LB490]

LISA WEBER: Well, and I think somebody will clarify that a little bit. [LB490]

SENATOR CAMPBELL: Okay. [LB490]

LISA WEBER: But advanced directives are the power of attorney for healthcare and the living will. They are legal documents when the person isn't able to consent. It addresses capacity. This is medical orders. These are orders for what treatment. So they're separate. [LB490]

SENATOR CAMPBELL: Okay. Thank you. Any other questions? [LB490]

SENATOR CRAWFORD: I just have one more. [LB490]

SENATOR CAMPBELL: Senator Crawford. [LB490]

SENATOR CRAWFORD: Could you speak to how you may have involved pastors or priests if that was important to a family member in this process? [LB490]

LISA WEBER: Yeah. We have. There's been several family members that, when I fill out...lots of times I--just a side note--that I do fill these out in people's homes if it's a physician's order just because people are more relaxed and we can get more people than in an office and that kind of stuff. And I've had large families. And there have been many people that have included their pastor in helping...or their priest in helping them making the decisions. And it has been...and we did do a community education for the clergy in town and we have had no...anybody in our community against the program. [LB490]

SENATOR CRAWFORD: Thank you. [LB490]

SENATOR CAMPBELL: Any other questions? Thank you very much, Ms. Weber. [LB490]

LISA WEBER: Oh, you bet. [LB490]

SENATOR CAMPBELL: Our next proponent? Good afternoon. [LB490]

CHRISTIAN KYLE HAEFELE: (Exhibit 4) Good afternoon. My name is Christian Kyle Haefele, last name is H-a-e-f-e-l-e. And thank you for the opportunity to testify. I'm testifying on behalf of the Nebraska Academy of Family Physicians. I'm a family physician here in Lincoln. I see elders in my office. I serve as medical director at a nursing home. I go to the hospital. So I see this from a lot of different sides. And my testimony today is in favor of POLST. And I think you'll hear quite a bit about exactly what the form is. I'd kind of like to start by giving a couple

of examples that I think might clarify some of the questions that were answered earlier. Advanced directives are fine for me. I'm 47 years old. I'm pretty healthy. I have a healthcare power of attorney. I have a living will. If I'm out shoveling my walk in the cold and I keel over, I want the ambulance to come and shock me and put a tube down my throat and pound on my chest and revive me. But the most common story that I hear when I talk with patients about their living will, number one, is they bring me a living will and I say, exactly what does this say to you? Most people don't know what's in their living will. So POLST helps me start the conversation. Most people would say, as my living will says, if I end up long term needing a feeding tube and a breathing machine, I really don't want to exist that way long term. My living will says that so my power of attorney knows that. And that's going to happen for me. And that's fine. I don't need a POLST form. My dad is 88. He still lives at home, fairly healthy, has a lot of medical problems. He is starting to run into that, I'm not really sure that my medical problems are enough that I'm...I wouldn't want to be resuscitated if that...if it came to that. So when he is out shoveling his walk, which he unfortunately does at 88, (laughter) if he falls down out on the sidewalk, my mom is going to call 911. You know, maybe he just broke a hip or maybe he just passed out. He wants treatment for those things. But he does not want to be resuscitated. Even if she runs out into the front yard with the living will in hand, EMS is going to pound on his chest, break his ribs, put the tube down his throat, breathe for him, and do a lot of, you know, potentially harmful, painful things that he doesn't want and he has expressed to me, as his power of attorney, he doesn't want done. I just talked with the...Roger Bonin, the head of EMS here in Lincoln, yesterday on the phone. And this is exactly what he said to me, that even if they have that document, if it's not signed by a physician, they're going to do everything because there's a fear of legal action if they don't. The same thing happens when we transfer residents from our nursing facilities to the hospital. A DNR order that is valid in the nursing facility doesn't go in the ambulance. Now, here in Lincoln it's not a...usually not more than a few blocks worth of a ride. But in most of Nebraska, you might have quite a bit of a ride in an ambulance. And you're doing...you're sending them by ambulance because they're decompensating in some way. And so if they decompensate to the point where they need CPR, that is going to be provided even if they don't want it. My office has been using POLST for about ten years. I first heard about this from Lisa Weber in 2005. And the way we use it now without LB490 or something like LB490 is we use it as a way to discuss end-of-life wishes. It's...most living wills, etcetera, are done between an attorney and an individual and not their doctor and the individual. Unfortunately, living wills are not written in such a way that...in the same language that doctors and patients communicate. And so a simpler language, I think, is really worthwhile. And I see that my yellow light is on so I'll just kind of wrap up and take questions. I think the form itself helps doctors and patients talk about their decisions in a really meaningful way. And it also protects patients from things that they don't want done to them that may be painful at the end of life. And it protects EMS and nursing homes and other facilities from potential legal action because they do have a doctor's order that carries forward with them. Thanks. [LB490]

SENATOR CAMPBELL: Thank you, Doctor. Questions from the senators? Okay. I don't see any questions. Thank you very much. [LB490]

CHRISTIAN KYLE HAEFELE: Thank you. [LB490]

SENATOR CAMPBELL: Our next proponent? Good afternoon. [LB490]

DALE MICHELS: (Exhibit 5) Good afternoon. Senator Campbell and members of the Health and Human Services Committee, I'm Dale Michels. I'm a private practicing family physician. Michels is M-i-c-h-e-l-s. I've been here in Lincoln now almost 41 years. I am a past president of several organizations. I am currently on the Board of Health but I think its' important that I note that I'm not representing the Board of Health. This is not something the Board of Health has taken specific action with but is currently monitoring. So I'm really trying to today represent my patients, the NMA, and the NAFP. And I'm here to strongly support the concept of LB490, the POLST bill. I thank Senator Watermeier for bringing it forward. I appreciate it. I think he's right. We need one organization or one form as much as possible. And so I think that many of the things he said I very strongly agree with. Let me start with a story about a patient of mine from 30 years ago. He was my next-door neighbor two doors down. His name was Saul. And he collapsed one morning in the shower or in the bathroom afterwards. And his wife panicked and she called 911. And they came and they resuscitated his heart and his lungs but not his head. And unfortunately he became a brain-dead individual that lasted another year...or week or two actually. And the unfortunate thing, and I think the thing that the POLST helps us do, is it helps us to give patients a chance to express their opinion. More importantly, I think it gives guidance with a signed physician order for the EMS as to what they should do in these situations. It's a great template for that discussion about "what do you want to do if" sort of thing. And in his case there was no physician sign-off to make it official order. And I think Senator Howard talked about that. We have to...for the EMS to feel comfortable, they want a signed order from a physician or possibly another healthcare provider, APRN, or a PA, but certainly a physician. And we had no communication about the options with Saul. So it was an issue. And it's one of the things that provides that. I provided you this afternoon with a Ziploc bag just to give you some idea. One of the ways...I think Columbus' is probably better but this is another idea. And in it you will see about three different forms. There's a form, the first one, which is the canary one, for lack of a better color. I'm not color-blind but I think that's canary. And that's a very simple form. It's designed for my patients to understand. Behind that, you'll see blue form. The blue form is very similar, I think, to what Columbus uses and it's a little more in legalese. And the last one is a pink form. And that's more of a...just a generic, just to give you some examples of what I'm going to talk about in a second. And last night, I received a copy of another form from western Nebraska that the people in Scottsbluff have been using for a number of years. And it's different than for many of these, but I thought I'd already confused the picture enough. I wasn't going to give you anything else for now. In addition, I know Senator Watermeier has received--or

at least I have received--copies of information that suggest some more changes in the POLST form. He discussed the fact that there are some amendments coming forward. And I think he's right. There's some things to need to be done. My concern as a family physician is that we amend this bill so that it...the statute is...or the form is not put into the statute just because we see the number of changes. And I've given you a couple of things that have popped across. One is in red and that was some things that I thought about. The other one is a suggestion from one of the lobbyists about some different options that could be done. My concern is that if we have the POLST form as it now is requested in statute, that means I'll be back here in another year or two with the additions and the edits and all of the information because it's, after all, in statute. So I really think that there needs to be another method. I don't think that the methods that I provided as recommendations are the right methods. I think there's a better way to do it. I really do think there are some ways to do it simply and without large fiscal notes and large bureaucracies to do this and all of the things that we all try to avoid. I also attached, just for your information, a durable power of attorney for healthcare from one of the local hospitals just to give you an example for comparison of what that means and what it does. And unfortunately it's not readily available at the time that somebody needs an emergency as Dr. Haefele talked about. So it's different. It's similar. They cover some of the same things, but I think that having a POLST form, a statewide POLST form, is an extremely important part of what we would recommend as physicians. Thank you very much. [LB490]

SENATOR CAMPBELL: Thank you, Dr. Michels. Questions from the senators? Any questions? Dr. Michels, you are proposing that it not be in statute. But with the amendments that you have, do you think that the amendments give enough authority that someone will say, well, this is the way that it has to be done so we don't have 15 different... [LB490]

DALE MICHELS: My recommendation would be that with Senator Watermeier, the committee, that we work out a way so that we can say that there is a form approved by the state of Nebraska for POLST and that this is the form that we're going to use. I think, you know, if the form that's in statute now is...stays, I'm not necessarily opposed to it. My concern is that when it comes to an edit, when it comes to a change, when it comes to wording...for instance, if you'll notice that one of the older forms talks about DNR which we are all familiar with, do not resuscitate. Well, current terminology in the last two years has become allow natural death. Okay. I wouldn't want to have to come back to this committee in two years and say, we've now changed the wording. The official wording is this. Therefore, we have to change the statute. I would rather see it come to some organization that could work with this, get that established, and then submit it through the state to people to say we've improved--hopefully--we've improved the form. [LB490]

SENATOR CAMPBELL: Dr. Michels--and I tried to skim this real quickly but I may have missed the...in the amendments--is this working through the State Board of Health? [LB490]

DALE MICHELS: Actually, we had a discussion about this this morning with the State Board of Health. And my comment, Senator Campbell, is it could go through the State Board of Health. The State Board of Health currently does not have a nursing home administrator on it. The State Board of Health currently does not have an EMT and...on it. And, in fact, the State Board of Health does not appoint EMTs to their board. It's...that's a gubernatorial appointment. My concern in those situations would be, I think all of those people are...have valid input. I know they can have input. I had a discussion with somebody earlier today saying that, yes, we can have input, but I think I would like to see them feel a part of the decision process so that when this comes out, we can say, we signed off on it. So the Board of Health is certainly a possibility. I honestly, in my little sketch, suggested that we might ask the chief medical officer to pull a couple of members of several of the boards of...licensing boards--Board of Medicine, board of hospital administrators, board of nursing home administrators, and the EMT board--and put together a committee of six or eight people that could kind of work on the form. I don't know that that's possible, logical, or practical. That's something way beyond me. [LB490]

SENATOR CAMPBELL: I was just trying to figure out whether if working through the Board of Health would give it more...a process that it had...with a review process type of situation. The committee is pretty aware of the Board of Health, obviously, because of issues that we've had before the committee. And that's the only reason I ask the question. [LB490]

DALE MICHELS: Yeah. And I think that's an option. I just kind of looked at the people who would have the biggest stakeholders in it and said, some of them aren't really well-represented on the Board of Health. And I've been on it for--what?--eight years, and chair for the last two, not this year but for a couple of years, so.. [LB490]

SENATOR CAMPBELL: So as an ancillary question here, do we need to change the State Board of Health? (Laughter) [LB490]

DALE MICHELS: Senator, that's beyond my discussion this afternoon. [LB490]

SENATOR CAMPBELL: You are always so diplomatic, Dr. Michels. We're very used to seeing Dr. Michels as the doctor of the day and any number of physicians that provide that care for the senators, so...and we're grateful for that care. Senator Crawford. [LB490]

SENATOR CRAWFORD: Thank you, Chairwoman Campbell, and thank you, Dr. Michels. I guess if we're thinking about...is it more appropriate for it to be statute or is it more appropriate for it to be the regulation developed by a board of this stakeholder group? Since you've been on the Board of Health and you've been on many committees, I guess I would ask you if you

find...would you find easier to keep up to date and change something that's in statute or something that's in those regulations? [LB490]

DALE MICHELS: I think, Senator Crawford, I would answer that this way: I think we need to have a statute that says, there shall be a form whatever form that takes. Now, we can say that it's this form that's in statute or we can say it's this form put together by this group and the Department of Health and Human Services. I find it easier to change regulation than statute. I look with awe at what you all do during your...whether it's 60 or 90 days in terms of the number of bills. And I'm thinking for us to, for instance, have brought this form, have it approved, and two years now later saying, we want to change it from DNR to allow natural death, to me is not the best use of the statute-making time. But to have a group that you could say, this group is charged with developing the form for the state of Nebraska and go from there, I think, would be a grand idea. [LB490]

SENATOR CRAWFORD: Thank you. [LB490]

SENATOR CAMPBELL: Any other comments, Senators? As a follow-up to Senator Crawford's, we can see that because that bill would also have to have a priority, most likely, to make it all the way through. And I don't know that you want to jeopardize what you're trying to do here. [LB490]

DALE MICHELS: Yeah, when you hit one or two priority bills that you possibly can do either as a committee or as an individual, to make it a priority to change six words in the statute...little bit concerning. [LB490]

SENATOR CAMPBELL: I suppose Senator Watermeier could write in the bill, and this shall be a priority bill of the Health and Human Services Committee. (Laughter) Dr. Michels, thank you very much for your suggestions and your testimony today. [LB490]

DALE MICHELS: Okay. Thank you. [LB490]

SENATOR CAMPBELL: Our next proponent? Good afternoon. [LB490]

MICHEAL DWYER: Good afternoon. Chairwoman Campbell and members of the Health and Human Services Committee, my name is Micheal Dwyer, M-i-c-h-e-a-l D-w-y-e-r. And I'm here to testify today as a proponent of LB490. I want to thank Senator Watermeier for his work on this. A little bit of background: I'm a 32-year member of the Arlington Volunteer Fire Department, an EMT, and 26 of those years as an officer. I apologize. I don't have written

testimony today, so I'm going to try to go through some notes and then really wanted to just act as a resource from the EMS community for questions and...as we kind of work through this process. I would stress just a couple of things, that in my 32 years of experience, this particular form is extremely important. The last thing that anyone in EMS wants to do is to walk into a house at 4:00 in the morning and in a matter of seconds have to make a very...life-and-death decision. We need to have clarity both visually and legally in making those decisions. And, quite frankly, we just many times don't have that. I've read the bill, and I think in my opinion the bill and the form is very detailed. It's well written. The amendment that protects EMS responders I think is important and that's coming...really like the magnet. We currently don't have a form like this in Washington County, my world...but it...really like the magnet so it's really clear and yep and nope and we can make that decision very quickly. It does need to be readily available, and I think that the magnet answers that. One of the things that I would mention is that 72 percent of Nebraska is covered by volunteer EMS providers so I'm working through my business or I'm having dinner with the family or it's 4:00 in the morning. The pager goes off and within about three or four minutes of sleepy eyes, I've got to make that life-and-death decision. Particularly for volunteer EMS providers, giving us a crystal-clear form that allows us to make those decisions at the family's wishes very clearly is very important. Thank you for the opportunity to testify, and I would welcome any questions. [LB490]

SENATOR CAMPBELL: Thank you, Mr. Dwyer. Any questions from the senators? Thank you for your service to your community. [LB490]

MICHEAL DWYER: Thank you, very welcome. [LB490]

NICK FAUSTMAN: (Exhibit 6) Good afternoon. I'm Nick Faustman, N-i-c-k F-a-u-s-t-m-a-n. I'm with the Nebraska Health Care Association, or the NHCA, which is the parent association to a family of entities including the state's largest association for nursing facilities, the Nebraska Nursing Facility Association, and the state's only association dedicated specifically to assisted living facilities. Both NNFA and NALA represent nonproprietary, proprietary, and governmental long-term care facilities. NNFA and NALA both support LB490. LB490 standardizes a Provider Orders for Life-Sustaining Treatment form. Naturally, nursing facilities and assisted living facilities care for many of the state's citizens who would benefit from such standardization. NNFA and NALA support efforts that promote healthcare planning as a lifelong process in order to avoid medical crises. Healthcare facilities such as nursing facilities and assisted living facilities are required by federal law to provide patients or residents upon their admission with information about their rights in dictating all future care should they become incapacitated. A POLST form as established by this bill would be an example of one option available to those individuals. The creation of a medical power of attorney is only the first step in advanced care planning over a person's lifetime. There are several others depending on that particular...on the particular stage of life or illness that that individual may be in. For example, upon the creation of

a medical power of attorney, one should consider what types of potential illnesses could affect them and then determine their goals of treatment to be followed should complications occur. The establishment of a specific plan of care expressed in a medical order using the POLST form as established by LB490 would be one of the last steps as it is intended for adults who may be in the last year of their life as we have heard earlier. NNFA and NALA contend that the establishment of a standardized POLST form would be beneficial to both consumers and providers of long-term care services. We are very grateful for Senator Watermeier introducing this legislation and urge the committee to advance the bill to General File. [LB490]

SENATOR CAMPBELL: Questions for Mr. Faustman? I don't believe so, so thanks for coming today and for the testimony. [LB490]

NICK FAUSTMAN: No, thank you. [LB490]

SENATOR CAMPBELL: Our next proponent? [LB490]

KENT ROGERT: Good afternoon, Senator Campbell. Members of the Health and Human Services Committee, my name is Kent Rogert, R-o-g-e-r-t, and I'm here today representing LeadingAge Nebraska which is a coalition association of nonprofit and government-owned long-term care and assisted living facilities in Nebraska. And in the essence of being brief, I will concur with a lot of what Dr. Michels brought up and Mr. Faustman and also would be interested in seeing what Senator Watermeier's amendments look like. I think we'd support the uniform form completely. We want to make sure, though, that it's...it goes far enough to long-term care specific for our needs. I would agree that making this a statutory provision...we want to make sure we have everybody covered so we don't have to come back every year and look for changes, especially those that could be pretty needed. And in answer to a couple questions that I thought when coming up here, I agree again with Dr. Michels that there would not be a member of the EMT or nursing home board of health...or board folks on the Board of Health. And that could be problematic a little bit. Senator Crawford, I don't know what the intention of the committee would be moving forward. But Section 6 of this bill provides an immunity. And I assume that we'll hear from somebody in opposition to that as we go through this bill. But if we're going to create an immunity, it's probably got to be fully in statute rather than a regulation or pretty well spelled out in order to leave that portion in there if that's the intention of the committee going forward. [LB490]

SENATOR CAMPBELL: Any questions, Senators? Thank you, Senator Rogert, always good to see you. [LB490]

KENT ROGERT: You too, thank you. [LB490]

SENATOR CAMPBELL: Thank you all for coming. We're just going to give them a minute. Some of them will be here one day, so... (Laughter) Good afternoon. [LB490]

HELEN STANTON CHAPPLE: (Exhibit 7) Good afternoon. My name is Helen Stanton Chapple. The last name is spelled C-h-a-p-p-l-e, like apple with C-h in front. My...I'm an assistant professor at the Center for Health Policy and Ethics at Creighton University. I'm a nurse and an anthropologist who specialized in death and dying for about 30 years. I facilitate...I'm here in the capacity of the...being a facilitator for Nebraska's statewide coalition called It's All About the Conversation. And there is a Web site that you can find on your paperwork. We've studied...we, this coalition, have studied the POLST form generated by LB490 and we've gotten some feedback. We have, as a matter of fact, for the last four years been looking at state policy needs relating to seriously ill, frail, elderly, and possibly dying patients including the POLST. Lisa has been certainly an active member of our group. What we've noticed is a surprising amount of confusion in the state regarding the tools used in advanced care planning, do not resuscitate orders, the living wills, proxy appointment, all of these different tools. We've been concerned that, unlike the six surrounding states for Nebraska, Nebraska itself has no statewide template for out-of-hospital DNR. And the most vulnerable patients in our state are affected by this. They...we have...we know that perhaps dozens, maybe hundreds, of different out-of-hospital DNR forms are used in the state at the moment because all the long-term care facilities make up their own forms. So we have readability challenges, confusion by first responders as you've heard, and some potential delays in the applications of these interventions. We think there are tremendous strengths in this bill. We especially like the fact that it stipulates that the form travel with the patient which gives the possibility that these preferences that have been noted in the conversation that's happened with the patient and the provider will be respected throughout the places that the patient goes, all the different settings that they go to. And that is a critical element that a current DNR form does not do so that a patient has a current DNR form, may hit a setting, an emergency room somewhere, and that physician may say, oh, well they're here now. I'll assess them and I'll do what I think is the right thing to do. So there's a lot of arbitrariness and inconsistency in the way things are happening at the present time. We like the fact that the bill uses the word provider instead of physician. We like the idea that comfort measures are a prerequisite regardless of the treatment plan. We appreciate the fact that the goals of care, the patient's goals of care, are asked for in the form specifically. We have some concerns about the bill but the amendments that I've heard Dr. Watermeier...Senator Watermeier mention are...sound like they're going to be working with the problems that we were worried about. For instance, the fact that LB490 is silent on the pieces of the process that will be crucial for implementation across Nebraska such as publicity, education, and outreach to constituencies. We're not clear...again, it's maybe just an implementation problem, but how would out-of-state forms be used in terms of the POLST? We don't also hear anything about how to use the POLST in an electronic medical record. But we expect that those kinds of things can be addressed. We're

mostly very, very happy about the consistency that this would introduce so that excellence in the care of patients at the end of life is more possible to occur. Thank you very much. [LB490]

SENATOR CAMPBELL: Questions? Professor Chapple, I have a question. Do you know of any state that has written into statute clarifying how this would be used with an electronic medical record? [LB490]

HELEN STANTON CHAPPLE: It varies. There have been studies about this. Part of the problem with registries...electronic registries for advanced care planning documents is that if they're not used a lot in the state then people tend to look them up. When they don't find them then they tend not to look anymore. Do you know what I mean? They don't look for the next patient for the patient whether there's registry or not. Do you know what I mean? So that there's some problems with that. But there are states that are using the registries and they are liking them. I think patients like them as well. [LB490]

SENATOR CAMPBELL: Uh-huh, because we're finding now that your medical record with your physician can also be with the hospital. I mean, there's just lots of ways that that record can be available and so the question... [LB490]

HELEN STANTON CHAPPLE: Right. That's right. So are you asking about privacy concerns, or... [LB490]

SENATOR CAMPBELL: No, just whether you knew of any state that had already put this in a statute that we could look at. [LB490]

HELEN STANTON CHAPPLE: I can guess but I don't know for sure. [LB490]

SENATOR CAMPBELL: Okay. That's all right. [LB490]

HELEN STANTON CHAPPLE: There may be other testifiers who do know that. [LB490]

SENATOR CAMPBELL: Sure. And we can follow up on that one. Senator Crawford. [LB490]

SENATOR CRAWFORD: Thank you, Senator Campbell. And thank you, Dr. Chapple, for being here. So when you talk about registry, can you just clarify what you mean by that? Some states have a registry. [LB490]

HELEN STANTON CHAPPLE: Meaning an electronic registry so that if...it's like NeHII would work so that if you were going to--Nebraska Health and Human...Health Information Initiative--so that if you were to look wondering...you're getting a patient new. And you're wondering, what is the record? Is there...can I find an advanced directive or a POLST form? Is there something I can look at in their electronic medical record and find it there, because it's not always going to be a piece of paper that we're passing from one person to another, so... [LB490]

SENATOR CRAWFORD: Okay. Thank you. [LB490]

HELEN STANTON CHAPPLE: Thank you. [LB490]

SENATOR CAMPBELL: Well, and the person may be in a different locality... [LB490]

HELEN STANTON CHAPPLE: Right. [LB490]

SENATOR CAMPBELL: ...not, you know, that's traveling away or seeing their relatives. [LB490]

HELEN STANTON CHAPPLE: Exactly. [LB490]

SENATOR CAMPBELL: I can say that that's what happened with my mother who was in a care facility in Norfolk and came to visit for Christmas and had a heart attack. And there was no...I mean, my brother... [LB490]

HELEN CHAPPLE: The paperwork is back where she was... [LB490]

SENATOR CAMPBELL: Correct. [LB490]

HELEN STANTON CHAPPLE: ...where she was residing. Um-hum. [LB490]

SENATOR CAMPBELL: And any other form would have been back there. [LB490]

HELEN STANTON CHAPPLE: Sure. [LB490]

SENATOR CAMPBELL: And my brother had a power of attorney and had the records, but he had to go to his office and, you know, get all that stuff. [LB490]

HELEN STANTON CHAPPLE: Sure. Right. [LB490]

SENATOR CAMPBELL: And so it would have been much easier. [LB490]

HELEN STANTON CHAPPLE: So the registry or a portability is what that gives you. [LB490]

SENATOR CAMPBELL: Correct. Correct. [LB490]

HELEN STANTON CHAPPLE: Yeah. Absolutely. [LB490]

SENATOR CAMPBELL: Thank you very much, Professor. Good afternoon. [LB490]

JACOB DAHLKE: (Exhibits 8, 9) Hello. My name is Jacob Dahlke, D-a-h-l-k-e. I am a bioethicist and executive director for Vana Bioethics Consulting in Omaha as well as adjunct instructor and associate for the Center for Health Policy and Ethics at Creighton University. I also participate with the aforementioned group, It's All About the Conversation. I have a particular interest in LB490's POLST form due to my experience as a bioethicist both here in Nebraska and formerly at the University of Vermont Medical Center where Vermont operates with its own version of the POLST. I have also in the past represented...helped to represent Nebraska at the national POLST Paradigm conference. As I anticipate you all know, discussion about and consideration of the POLST form highlights many different perspectives surrounding patient rights in healthcare and even death and dying in general. I'd like to focus my testimony on the broad justification for such a form in the state of Nebraska. Nebraska is currently the only state among its neighbors and is among a significant minority of states in the country to have no such standard form. Arguments about any need or desire for POLST within Nebraska notwithstanding, this reality does little to insulate Nebraska's healthcare professionals from encountering other states' forms. Since Nebraska has no official form of its own, there remains limited proficiency with the forms which can lead to further confusion about a patient's wishes for treatment. An important factor in healthcare is that a patient's preferences and their autonomy for medical treatments are honored both through the process of informed consent and through respecting a patient's right to refuse certain treatments. Some situations are inherently more clear and concise than others and some require a more in-depth conversation with patient...between patient and provider. Three factors that I think can help to frame the context of such conversations include the patient's values and goals for healthcare; second, the appropriateness of the treatment being considered; and third, the likely effectiveness of providing the treatment. While providing blood transfusions to a patient could likely be both appropriate and effective, a capable adult can still refuse such a treatment if it violates their value system or beliefs even if such a refusal may result in their death. Conversely, it would be considered both inappropriate and ineffective to provide antibiotics to a patient with a viral infection even if the patient is

advocating for such a treatment. But in situations where a patient may need CPR, there may be more ambiguity and warrant more consideration. In such a case, it may be appropriate if the patient's heart has stopped but it may be ineffective if restarting the patient's heart would do nothing for their underlying conditions. Also, it may contradict the patient's values and goals, a patient's desire to die at home, or to die a "natural death." If this patient has discussed these options, values, and goals with his or her provider, the POLST form is a way to accurately represent the results of such a discussion. It additionally provides the binding nature of a medical order that should then be honored by any encountering medical professional, either by EMS, nurse practitioners, or assisted living aides. This scenario is currently untenable for Nebraskans with the documentation they have available to them whether from living wills or advanced directives. Many discussions about POLST are about the limitations of treatments. While certainly relevant, I would also like to highlight that POLST forms are just as valuable for promoting certain treatments as well by indicating on the form that they had been specifically considered and are desired. The issue is often mistakenly focused on specific treatments listed on the form and not on the clarity that the POLST form provides in terms of those treatments. It is for this reason then that I support LB490. It provides a mechanism for much more clarity in a sometimes cloudy healthcare environment. Thank you. [LB490]

SENATOR CAMPBELL: Thank you, Mr. Dahlke. Questions from the senators? Thank you for your testimony today. Our next proponent? Anyone else? Okay. Those who oppose the bill? Good afternoon. [LB490]

BURKE BALCH: (Exhibit 10) Good afternoon, Madam Chair. My name is Burke, B-u-r-k-e, Balch, B-a-l-c-h, and I serve as director of the National Right to Life Committee's Powell Center for Medical Ethics. I appreciate the opportunity to testify against LB490 on behalf of our affiliate Nebraska Right to Life as well as the National Right to Life Committee. Before doing so, Senator Campbell, let me just mention that Oklahoma is a state that has a statute with an advanced directives registry you just might want to look at. [LB490]

SENATOR CAMPBELL: Thank you. [LB490]

BURKE BALCH: We recognize the principle that individuals should generally be able to express and implement their wishes regarding medical treatment. And we could support a version of POLST that, providing informed consent and appropriate protections, neutrally and equally enabled people to choose to direct as much as to reject lifesaving medical treatment. Indeed, Nebraska Right to Life last fall shared with LB490's sponsor a draft form and bill meeting those objectives. Unfortunately, despite some positive features, LB490 dramatically falls short of doing so. And let me say how very much we regret that despite our sharing our views and particularly asking for the opportunity to work with and discuss with the proponents of the POLST, Nebraska

Right to Life unfortunately was not invited to the December meeting of interested groups that was discussed...or mentioned or otherwise had the opportunity to negotiate with them. My written testimony details 21 specific problems with LB490 which it is not possible adequately to summarize in the limited time available for oral testimony. I respectfully but strongly urge committee members carefully to review those problems before voting on this bill. Just to deal with a few highlights, instead of providing neutral informed consent, it uses biased language to induce rejection of treatment such as the sugarcoated euphemism "allow natural death" to describe denial of resuscitation. In comparison to other states' forms, it omits many important forms of treatment from the options it provides and contains ambiguous and even self-contradictory language in doing so. For example, the middle level treatment option titled limited additional interventions omits mention of airway management techniques such as noninvasive bilevel positive airway pressure or a bag valve mask which are typically included in this category as a midway between intubation and no response to difficulty in breathing in other state forms. Moreover, its description states no "long-term life support measures will be given." This is very ambiguous. Neither long-term nor life support measures are defined. Is the meaning that the very measures stated to be included in such interventions will be given short-term but not long-term? How long is that? Especially troubling is the bill's treatment of food and fluids. It fails to ensure the opportunity for spoon-feeding. It inaccurately lumps together IV fluids for hydration with total parental nutrition, or TPN, which provides full assisted nutrition. It does not even offer the option for long-term IV fluids or TPN. At most, the patient may choose the option only of a trial period for them. The bill mixes up the difference between advanced directives and POLST and does not adequately ensure that a surrogate decision maker executing a POLST is acting in accordance with the patient's stated wishes. And referring to some questions earlier by Senator Campbell and Senator Cook, the form that we had proposed and urged the sponsor to consider would have required that it note whether or not there was an advanced directive and that there be a certification that the form was in compliance with the directions of the advanced directive. Strangely, Section 5(10)(b) of the bills states, "This document goes into effect when the individual is facing "End of Life" situations and is not able to communicate their medical treatment preference." This fundamentally blurs the distinction between an immediately effective set of specific medical orders subject to alteration whenever the patient's condition changes and a general advanced directive giving future directions should the patient become incompetent. The bill authorizes healthcare workers who are not physicians to issue life or death medical orders. And I must say I'm troubled by the idea that a social worker in a home would be putting this together as opposed to a physician. It does not provide adequate protections for minor children. It is missing needed protections to ensure its implementation in cases in which lifesaving treatment is directed. It has an unbelievably sweeping provision completely immunizing all of those medical providers from any liability related to signing or refusing or failing to sign a POLST without requiring any standard of care whatsoever while providing no protections against fraud or coercion or allowing judicial recourse. I respectfully urge that LB490 be put aside for this legislative session and that between the end of this session and the beginning of the

next, there be full, frank, and thoughtful consultations among not just healthcare providers and their organizations but also advocacy organizations including disability rights and older people's groups and certainly including Nebraska Right to Life. Such discussions, we hope, could result in an agreed bill that genuinely protects patients, allowing them or their surrogates to make healthcare decisions based on their own values on the basis of accurate medical information rather than being pushed into accepting potentially premature death in the service of cost-cutting motivations of a quality of life ideology. Thank you. [LB490]

SENATOR CAMPBELL: Thank you, Mr. Balch. Am I saying that right, sir? [LB490]

BURKE BALCH: Very close, Senator. Balch. [LB490]

SENATOR CAMPBELL: Okay. Balch. Okay. Thank you. Questions that you might have? Senator Cook, did you have a question? [LB490]

SENATOR COOK: Just one. [LB490]

SENATOR CAMPBELL: Sure. [LB490]

SENATOR COOK: Thank you for your testimony. Do you...based on the language--and maybe I'm just going by the word choice--do you think that was...these were intentionally placed into the current bill proposal by the bill sponsor in order to get away with--I don't know--eliminating family protections or legal recourse? [LB490]

BURKE BALCH: Well, Senator, I would always be very leery of questioning motivations in anyone. [LB490]

SENATOR COOK: Okay. [LB490]

BURKE BALCH: What I would say is this, what troubles us: There has been, and as you know, there is a great deal of emphasis right now on reducing healthcare costs. And in the appendix to our...the...my testimony, we document that many organizations that are promoting advanced care planning basically sell it to insurers on the grounds that it will reduce the amount of money that they are spending on their patients. And in particular, there is a good deal of body of literature that talks about how you can "nudge" individuals into rejecting lifesaving treatment and the great advantage that you will save money as a result. And as I say, you know, this is...these are strong statements. But I would encourage you to read the full documentation that's supported with the testimony. So our concern, very frankly, is number one, there are many--how shall I put this--

who very firmly and sincerely believe that what...because what matters is the quality of life, that patients may inappropriately choose or their surrogates may inappropriately choose life-preserving treatments. And our concern is that rather than just very neutrally saying, what are your values, what are your preferences, and trying to implement them that--especially in the context of vulnerable groups of populations that tend to be more inclined to choose lifesaving medical treatments--there's a lot of medical literature that talks about, how can we get into these groups that have this cultural aversion to cutting off treatment? And how can we persuade them that it's really in their best interest to reject treatment? So I would have to say, I think that there is a strong danger right now in the context of trying to reduce medical costs that people are being nudged into rejecting treatment that, if we were simply neutrally respecting their values, they might choose. [LB490]

SENATOR COOK: I guess that's interesting in light of the recent...sorry. [LB490]

SENATOR CAMPBELL: No, go right ahead. [LB490]

SENATOR COOK: I was part of my mother's palliative care meeting with a gentleman who was a physician from a hospital that has been traditionally Catholic, and that was quite the opposite conversation. The nudge was toward God being in control in the natural course of things versus, you know what? You're going to save us a whole heck of a lot of money if you sign right here, Dr. Cook. [LB490]

BURKE BALCH: Well, I will only say this: we are a nonsectarian organization that has people of many religions and of no religion. I realize that there are those who take the position--and I may be misinterpreting your question--who sort of say, well, you know, God picks a time for people to die and, you know, it's wrong to interfere with death by using unnatural means of providing treatment. I would just say, the concern I have about that is, would somebody say that same thing if you were talking about, let's say a 26-year-old tooling around in a Mustang who wound up being, you know, in an automobile accident. And would you say, oh well, God really means to take this person, we shouldn't unnaturally try to preserve this patient's life? Our concern is that, you know, if you really are going to take that perspective--I mean, we respect the views of Christian Scientists or others who take that--but is it really a view that is simply saying, well, we believe God is calling this person and we shouldn't intervene by providing medical treatment? Or is it a view that perhaps unconsciously is saying certain people, because of their age, because of their degree of disability, have lives that are less worthy of being preserved? [LB490]

SENATOR COOK: All right. Thank you. [LB490]

BURKE BALCH: Thank you. [LB490]

SENATOR COOK: Thank you. [LB490]

SENATOR CAMPBELL: Senator Howard. [LB490]

BURKE BALCH: Oh, I'm sorry. [LB490]

SENATOR HOWARD: Thank you, Senator Campbell. No, no, stay. Stay a little while. (Laughter) [LB490]

BURKE BALCH: I appreciate the opportunity. [LB490]

SENATOR HOWARD: Did you come all the way from D.C. to visit with us today? [LB490]

BURKE BALCH: I did, Senator. [LB490]

SENATOR HOWARD: Oh, my goodness. I apologize for the weather. It's freezing outside. [LB490]

BURKE BALCH: There's actually more snow in Washington, D.C., than in Lincoln, Nebraska, right now, believe it or not. [LB490]

SENATOR HOWARD: Well, then I'm glad you're having a nice time. Okay. (Laughter) So sort of...I'm listening to your testimony. My question is, are your concerns more about sort of the culture of the medical community rather than the language of the bill? When I look at the language of the bill, it seems like sort of medical phraseology rather than a sort of...there are a lot of great ways that we could change the wording of a form, but does that meet your end goal which is changing the culture of the community? [LB490]

BURKE BALCH: Well, I think we believe in incremental steps. [LB490]

SENATOR HOWARD: Sure. [LB490]

BURKE BALCH: And while we obviously would like to have an impact on the culture of the medical community, I think what we're dealing with here in the...I think what I should say is that

the form has to be seen in the context of this perspective and of this push. And that's why it's particularly important that any such form be carefully and scrupulously written in a way that's neutral and that doesn't tend to nudge people in one particular way. And it's also why it's very important that the language in it be precise and that it not have ambiguous terms so that people who are signing it or checking off something thinking that they're doing one thing, that that doesn't get interpreted as something very different than what they actually meant. Again, you know, it's a challenge for me to do this in this brief oral testimony, but what I've tried to do in the written testimony is be very specific about how particular language creates those problems in the existing form. [LB490]

SENATOR HOWARD: And then, your...is this your preferred? This is your preferred... [LB490]

BURKE BALCH: Yes, that is the proposal that we offered last year. [LB490]

SENATOR HOWARD: Okay. All right. No further questions. Thank you, Senator Campbell. [LB490]

SENATOR CAMPBELL: Okay. Any other questions? Anybody? Thank you very much and have a safe travel back. [LB490]

BURKE BALCH: Thank you. Thank you very much, Senator. [LB490]

SENATOR CAMPBELL: Anyone else in opposition to the bill? While the gentleman is coming forward, do we have anyone in a neutral position? Ah, okay, a number of people. All right. [LB490]

ROBERT MOODIE: Senator Campbell and members of the committee, my name is Robert Moodie, M-o-o-d-i-e, testifying on behalf of the Nebraska Association of Trial Attorneys. Our opposition to LB490 is really only limited at this point to Section 6, although if as I gather there are some amendments in the hopper, and if the amendments contain additional immunity provisions, then our opposition would extend to those as well. We would offer the suggestion that blanket immunities are bad public policy. The civil justice system that our country operates under requires that we all act with reasonable care. And if we don't act with reasonable care and that failure to use reasonable care causes damage or injury to someone then there is the civil justice system to account for that. It is impossible legislatively to account for what the appropriate action is or what the appropriate reasonable care should be in every scenario. That's why we have courts to deal with that scenario. Section 6 offers...what appears to offer a blanket immunity. I'm not altogether sure I understand exactly what they're trying to immunize. I'm not

altogether sure I understand exactly what the scenario would be in which this immunity would come into play. But from a philosophical standpoint our position would be that it shouldn't be there and that the requirement that all parties that interact with this legislation do so with reasonable care and avoid carelessness would be appropriate. These types of blanket immunities merely invite the excuse of carelessness in our society and we don't think that should happen. [LB490]

SENATOR CAMPBELL: Questions? Any questions? Thank you for your testimony today. [LB490]

ROBERT MOODIE: Thank you. [LB490]

SENATOR CAMPBELL: Anyone else in opposition? [LB490]

KATIE ZULKOSKI: Good afternoon. [LB490]

SENATOR CAMPBELL: Good afternoon. [LB490]

KATIE ZULKOSKI: Senator Campbell, members of the Health Committee, my name is Katie Zulkoski, Z-u-l-k-o-s-k-i, testifying on behalf of the Nebraska State Bar Association in a very narrow capacity that has actually been addressed already by the supporters of the bill which would be that the Bar Association has a concern with this form being placed into statute. It is not a concern over the concept of a POLST but just that the form be placed in statute is the concern there. And with that I'm happy to answer any questions. [LB490]

SENATOR CAMPBELL: Senator Howard. [LB490]

SENATOR HOWARD: Thank you, Senator Campbell. So you...the Nebraska State Bar Association doesn't have a problem with the immunity provision? [LB490]

KATIE ZULKOSKI: No, it is just about the form. [LB490]

SENATOR HOWARD: Fantastic. Thank you. [LB490]

SENATOR CAMPBELL: Senator Crawford. [LB490]

SENATOR CRAWFORD: So, one of the earlier testifiers suggested that the immunity would have to be done through statute. Do you have a response to that? [LB490]

KATIE ZULKOSKI: You know, I don't think you'd get very far if you just had a paragraph at the bottom of a form that allowed for immunity. So to that extent, I think that's probably correct. But I think you could do both. You could have the form itself. There are other things that are provided in statute that the concept is in statute, the form is available somewhere else. And I think that would probably be a good way to do this as well. [LB490]

SENATOR CRAWFORD: Thank you. [LB490]

SENATOR CAMPBELL: My question would be, does the Bar Association have any suggestions with regard to who should approve the form if you don't put it in statute? How would it come about? [LB490]

KATIE ZULKOSKI: You know, we did not talk about that specifically. [LB490]

SENATOR CAMPBELL: Okay. [LB490]

KATIE ZULKOSKI: I'm sure we could get you an answer to that, but that's not something our committee looked at specifically. [LB490]

SENATOR CAMPBELL: Okay. I just thought if you had discussed it, it would be helpful. [LB490]

KATIE ZULKOSKI: Yeah, thank you for the question, but we did not. [LB490]

SENATOR CAMPBELL: Okay. No other questions. Thank you very much. [LB490]

KATIE ZULKOSKI: Thank you. [LB490]

SENATOR CAMPBELL: Anyone else in opposition? Good afternoon. [LB490]

GREG SCHLEPPENBACH: Good afternoon, Senators. My name is Greg Schleppenbach. It's S-c-h-l-e-p-p-e-n-b-a-c-h. I'm the executive director of the Nebraska Catholic Conference. Nebraska Catholic Conference, representing the collective voice of the Catholic bishops in Nebraska, is opposed to LB490. I'm not aware of, have not seen the amendments. I don't know if

that would change our position. I'd have to see them. But we have concerns...several concerns with POLST as a form of advanced directive in general as well as particularly how it is presented in this bill. I must state up front that the Nebraska Catholic Conference and the Catholic church strongly supports and advocates for advanced care planning. We are strong advocates of healthcare powers of attorney and generally...in general healthcare...advanced healthcare planning. But we have some concerns with this particular form of advanced directive. The first concern that we have is related to informed consent. Because we cannot foretell the future, one cannot truly give informed consent for healthcare treatments when variables such as ability to communicate, the absence or presence of a terminal illness, and actual medical conditions are unknown. We believe that making an ethically sound decision regarding end-of-life care calls for informed consent based on information related to the actual circumstances and medical conditions at a particular moment. This is especially...when the decision comes with a doctor's order which is immediately actionable. Second, a standing medical order that are to be filed...that are orders that are to followed before consulting with a primary care professional or the healthcare agent. The use of POLST does not assure that the treatment decisions it orders are appropriate to the current condition, prognosis, and needs of the patient. Third, the bill does not address conscience protections for healthcare professionals who may have ethical concerns with the medical orders they are asked to fulfill. And related to that I would say that the signature of a physician creates an actual medical order which is operative upon its signing and which could then legally bind Catholic healthcare professionals and institutions to follow POLST form designated treatments that may be contrary to Catholic moral teaching. And then finally, POLST forms may conflict with other advanced directives such as healthcare powers of attorney, and this bill provides no requirement that such advanced healthcare directives be crosschecked with POLST forms for consistency, nor does the bill provide guidance on which would have primacy if a conflict exists. With that, I would urge your opposition to LB490 as presented. Thank you. [LB490]

SENATOR CAMPBELL: Questions? Senator Crawford. [LB490]

SENATOR CRAWFORD: Thank you, Senator Campbell. And thank you for coming to testify. [LB490]

GREG SCHLEPPENBACH: You're welcome. [LB490]

SENATOR CRAWFORD: I guess I'm having some question understanding the--what appears to me--contradictory values that you're talking about. One is that you want...that you're in support of advanced directives and having this conversation. But then you don't approve of the form because the future is unknown and the appropriate decision is the decision at the moment in time. And those seem contradictory to me. [LB490]

GREG SCHLEPPENBACH: The healthcare power of attorney form which we strongly support and advocate, it assigns a person to make decisions for you in real time. So if you're incapacitated and not able to make a decision about medical treatment, then this person is your substitute decision maker and can talk to the doctor, can talk to...find out all of the ramifications, the burdens, the benefits, the particular condition in real time and make a decision based upon the details and the condition in real time in place of the person who is unable to do so. This form, much like sort of a prototype living will, is you sit down today and determine what medical treatments you may or may not want at some future point not knowing what the particular conditions, circumstances, prognosis and such is going to be at the time. And so it's hard to know for sure what a person's real wishes are going to be in real time not knowing what that future circumstance might be. And that's why we think the healthcare power of attorney is a preferable form and why this particular form is sort of problematic. And that is particularly true in terms of informed consent. How can you...when you're putting a doctor's order to something, it's immediately actionable. And you are still...you're designating or indicating things you do or do not want at some future point with a doctor's order to it based upon information you have now but not necessarily when the action would be taken. And that, we think, is problematic in the terms of...in terms of informed consent, of really knowing in real time when this action would be ordered by the physician, would that person want this intervention or not? So I don't know if that clarified the... [LB490]

SENATOR CRAWFORD: So just to clarify, so if I understand correctly, your...the preference is the power of attorney because that's a real person making a decision at a point in time. But I just want to...it's not counter to Catholic social ethics teaching that you would make directives in terms of specific procedures in advance, is it? [LB490]

GREG SCHLEPPENBACH: It can be problematic. Yeah, I mean, the church would teach that it can be problematic because our duty as Christians, our duty as being given this gift of life is not that we have to do everything possible to stay alive. We don't teach that. But we have certain basic obligations to being good stewards of this life. And if a treatment is considered to be ethically ordinary then we would be...the church would teach we are morally obligated to utilize that. [LB490]

SENATOR CRAWFORD: Right. [LB490]

GREG SCHLEPPENBACH: Well, you can't know for sure in advance whether a particular treatment or intervention is ordinary care or extraordinary care when you're making that decision maybe weeks, maybe years, or beyond in advance. So if you indicate in an advanced directive, I don't ever want this particular intervention, you don't know at that time whether or not, when that decision has to be made, is that ethically ordinary or ethically extraordinary care. [LB490]

SENATOR CRAWFORD: Right. [LB490]

GREG SCHLEPPENBACH: If it's ethically extraordinary, we...there...no person...we don't teach that anybody is obligated to utilize extraordinary care. [LB490]

SENATOR CRAWFORD: Right. But they could use this form to indicate the expected ordinary care that they prefer and that they had talked to their priest about. [LB490]

GREG SCHLEPPENBACH: Sure. [LB490]

SENATOR CRAWFORD: I mean, this form can be used to communicate and that discussion could be had with those end-of-life ethics in mind. [LB490]

GREG SCHLEPPENBACH: Yeah, I would say that...I don't think we would say that this form is in principle and per se problematic or immoral. It's that it is...the potential is there for that. I think we are also more concerned also when you put this in the context of legislation, because terms really matter where there are many, many, many, I think 18 different, pretty significant terms that are undefined in this legislation. We get a little more concerned in that context and say, if it were just a document that was out there even something potentially that was produced through rules and regs, but in...when you're talking about legislation, you're talking about the...sort of the force of law, if you will, or statute. And when you have a lack of certain things especially like the conscience protections that we talked about, we get more concerned. [LB490]

SENATOR CAMPBELL: Go right ahead. [LB490]

SENATOR CRAWFORD: If you don't mind. So just as you're talking about...in terms of what it would mean for a provider, say at a Catholic hospital, so if--whether it's this form or some other form--it's...if the patient comes to you and the directive is one that would be seen as not providing ordinary care, the Catholic hospital would have the ability to say, no, that's not an order we're going to follow. [LB490]

GREG SCHLEPPENBACH: Correct. [LB490]

SENATOR CRAWFORD: But you have that right currently. Is that correct? [LB490]

GREG SCHLEPPENBACH: Yes. Yes, I would say that a Catholic hospital could refuse a directive that directs something that is contrary to their...the teaching of the church. I don't

know...the problem here is you've got a doctor's order attached to this. When we're talking about advanced directives, it's not a medical order. And that's the concern. This...a medical order is a higher level of authority, obviously. It has to...it's supposed to be followed. [LB490]

SENATOR CRAWFORD: Right. [LB490]

GREG SCHLEPPENBACH: And so does that bring with it more obligations on the part of the institution or the provider that didn't sign this form but is presented with this form? To... [LB490]

SENATOR CRAWFORD: So I would appreciate it if you would follow up on that and let us know... [LB490]

GREG SCHLEPPENBACH: Sure, I'd be happy to. [LB490]

SENATOR CRAWFORD: ...if that higher level creates that conflict or if those protections still apply. I'd appreciate that. [LB490]

GREG SCHLEPPENBACH: I'd be happy to. You bet. [LB490]

SENATOR CRAWFORD: Thank you. [LB490]

SENATOR CAMPBELL: Any other questions? Thank you, Mr. Schleppenbach. [LB490]

GREG SCHLEPPENBACH: You're welcome. [LB490]

SENATOR CAMPBELL: Anyone else opposed to the bill? Okay. We'll go to neutral testimony. [LB490]

KATHY HOELL: Hello. My name is Kathy Hoell, K-a-t-h-y H-o-e-l-l. I am here to testify as myself but I...I'm involved with an organization. It's a national disability organization whose name is Not Dead Yet. Okay. People with disabilities who are questionable...it's about...a lot of the members are people who are on ventilators, who have feeding tubes--myself, for example--would be a member of this organization, but I'm not testifying on their behalf. But I have been in contact with them about this legislation and our concern is, traditionally, the medical profession does not view people with disabilities as having any quality of life. I mean, I probably travel around this country more than anybody in this room does. And I like to...I go to rock concerts all the time. It's all these little idiosyncrasies. But to a lot of people, because of the way I talk and

the fact that I'm in the wheelchair, that automatically eliminates that. And that is not the case. And the other concern is that--it was brought up earlier--the medical professionals don't know everything. News flash. But, for example, for myself, when I became disabled I was not able to speak for three years. So my views were never taken into account. According to the medical professionals, I would have been...I should have been dead within that one-year time frame. That was almost 75 years ago. (Laugh) So again, it comes down to, the things don't always happen the way they are supposed to happen. I think having the conversation is good. I firmly believe that death is a very natural part of life. But so is disability. Disability is a natural part of life. And that's it. So if anybody has any questions, I would be glad to answer them. [LB490]

SENATOR CAMPBELL: Any questions? Ms. Hoell, you are a frequent visitor here. We expect you to continue that practice. (Laughter) I know that people would say you might not get around very much if this is the only committee you're with, but we're glad to have you come. [LB490]

KATHY HOELL: Well, actually I surprised the Transportation Committee the other day... (laughter) [LB490]

SENATOR CAMPBELL: Good. Good. [LB490]

KATHY HOELL: ...because I found out people in wheelchairs are not pedestrians. [LB490]

SENATOR CRAWFORD: That's right. Senator Garrett's bill. [LB490]

SENATOR CAMPBELL: Interesting. Well, we're glad you're kind of enlarging your scope there. (Laughter) Good to see you. Thank you, Ms. Hoell. [LB490]

KATHY HOELL: All right. Thanks. Goodbye. [LB490]

SENATOR CAMPBELL: Our next neutral testifier? Good afternoon. [LB490]

KARI WADE: (Exhibit 11) Good afternoon. Madam Campbell, members of the committee, my name is Kari Wade. I am here on behalf of the Nebraska Nurses Association to testify in a neutral position for LB490. The Nebraska Nurses Association has identified the following strengths for LB490: We advocate that the assurance...that LB490 will provide the assurance of personal wishes for life-sustaining preferences will be followed in a consistent manner across settings. We also find a strength that the POLST can be completed by a medical provider...doesn't limit...the verbiage of the bill does not limit that to only a physician. We do raise the following concerns which you've heard here today already that including the specificity

of the form in the POLST...in the bill should be reconsidered. This would allow for needed revisions and continued development and...as the form as written may not be compatible with documentation systems across settings, for example, the paper versus the EMR record. The Nebraska Nurses Association does agree with the concept underlying LB490. However, because the form is included, that is why we have selected to take a neutral position on this stance. [LB490]

SENATOR CAMPBELL: Any... [LB490]

KARI WADE: Thank you. [LB490]

SENATOR CAMPBELL: Sorry. Any questions for Ms. Wade? Thank you for your testimony today. [LB490]

KARI WADE: Thank you. [LB490]

SENATOR CAMPBELL: Our next neutral testifier? [LB490]

JERRY STILMOCK: Good afternoon, Senators. Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my clients, the Nebraska State Volunteer Firefighters Association and the Nebraska Fire Chiefs Association. Thank you for Senator Watermeier for introducing this item. And my two associations are in a neutral position. They believe that as the conversation started that perhaps it was more of a role that should be...their view was a role that maybe should be happening by the physicians as the frontrunners to the provider's order. But certainly we are interested in uniformity. And as you've heard from Columbus, from Ms. Weber, from Dr. Haefele, from Dr. Michels, these items are out there. They've been in use for ten years plus by the testimony this afternoon, and we think uniformity would be of great help. On the electronic registry, there are the states of Colorado, Oregon, West Virginia, Idaho, Utah, and New York that use electronic registry at least as reported in January of 2013. There is a wonderful collection of materials that counsel might be able to assist the committee with at polst.org and there are two particular documents. The ABA, American Bar Association, Commission on Law and Aging puts together a 20-point comparison of all of the states recognizing the different issues--some of which you discussed this afternoon and heard from others testifying--out of state POLST documents whether it's statutorily recognized in another state or whether the state it is being compared with is silent. Another document that is quite helpful was The Journal of Law, Medicine and Ethics also appearing in the POLST Web site. The immunity provisions that appear in the healthcare power of attorney go on to state, as one of the opponent testifiers mentioned, that there is no limit of liability if there's a negligent act. And that's something that is stated as well. Being involved in asking Senator Watermeier to initially consider this issue and,

most importantly, being involved in the conversations, I would never tend to speak in...for any of you as senators. But what happened, what I saw happening, was if it was placed in a study or a commission, it might be two years--maybe more--out in terms of passing. And because these items have been out there in Nebraska for ten years plus, there was a belief, I thought, that there was some urgency to go out and not wait because the documents are being used in communities throughout Nebraska. For those reasons, I wanted to submit our neutral testimony and thank you for your consideration. [LB490]

SENATOR CAMPBELL: Thank you, Mr. Stilmock. Questions from the senators? Okay. Thank you. [LB490]

JERRY STILMOCK: Thank you, Senators. [LB490]

SENATOR CAMPBELL: Our next neutral testifier? Good afternoon. [LB490]

RANDY MEININGER: Senator Campbell and members of the committee, again, thank you for allowing me to testify today and thank you for Senator Watermeier for introducing LB490. My name is Randy Meininger, M-e-i-n-i-n-g-e-r. And as...was it last week or the week before? I'm still the mayor of Scottsbluff (laughter); president of the Rural Nebraska Regional Ambulance Network which covers 53 counties and membership basically from Kearney north and south to the state line; president and CEO of Valley Ambulance Services, Incorporated; and the other hat I put on today is I am a member of the bioethics committee for Regional West Medical Center. I am 100--and our associations are--100 percent in favor of legislation of the POLST regulation. We are not in favor of making it in statute, the form. I've been in EMS, emergency medical services, for 41 years, and I've been in front of various hearings trying to get simple things changed. It very well...be one of the forms that's in front of you today. I don't have an issue with that except it should not live in legislation. It should be either out of one of the...either the medical board or one of the other boards that does that. Concerns that we have outside of the form itself is--and it's been stated in one of the amendments--is just the liability issue. When you're talking about EMTs and paramedics, they do have--and you heard that today--very few minutes to make decisions of whether we're going to do something or not do something. But that's based on the patient's wishes. And this is so important, probably more important than the legislation themselves, is that the conversation takes place between the provider or the physician and that caregiver. There was a day that we'd just say physicians needed to be that. However, if I say that today, rural Nebraska doesn't have those physicians in every place. And so you have providers that have a very good relationship with their nurse practitioners or PAs that are working with those patients and they have an excellent relationship with the patients and know their wants and their desires. This conversation has to take place when you're talking about POLST legislation so that you know what the patient wants. And of all things, we want to do no

harm and we want to do what the patient is wanting to do. We're very much in favor of that. The bad thing is, is I can tell you from being a paramedic and being a provider, that conversation does not, on a routine basis, take place across Nebraska and across the nation today for various reasons. Being on the border with Wyoming, Wyoming has had Comfort One. That's a little bit different than the POLST. That deals with the do not resuscitate. Do not resuscitate is just a bad thing because it doesn't cross thresholds. EMS needs it to be able to cross from nursing home to hospital, from home to hospital, hospital back. POLST legislation would do that. But we've got to be very cautious and when the legislation...and look at amendments to it that we can honor the POLST. That conversation has been taking place. There's 20 other states that have this. And we need to be able to honor...when Wyoming residents or South Dakota or Colorado, which we're mostly associated with, come into Nebraska. The magnet idea sounds really good. And everything in my house that was important, you know, the pictures, everything gets stuck up on it. From the EMS realm that's not necessarily true because we're not always going to the homes. The form or the concept needs to go with the patient, needs to travel with the patient, needs to be mobile. So, therefore, we advocate for electronic of some sort to either a registry or into a NeHII or whatever so that those can be accessed, you know, whether it be a barcode or whatever that we could access. So that's...you asked a question when I testified before you the last time of which I don't believe you received an answer, Senator Campbell. There's 429 EMRs, emergency medical responders, in the state of Nebraska. There are 5,409 EMTs in the state of Nebraska of which most are volunteer. And so you need this for them to help make good decisions, especially not only in the initial onset of an illness or injury but in moving patients from critical access hospitals to the tertiary care center. That area is being forgot about of what happens in transit. Don't leave us in limbo. Advanced EMTs, there's seven. That's a new category. Intermediates, there's 75. And paramedics, there's 1,233. I wanted to make sure that came back to you. So that is my testimony and if you have any questions I'd be willing to answer them. [LB490]

SENATOR CAMPBELL: Any questions from the senators? Mr. Mayor, thank you for coming back particularly from Scottsbluff. That's a long trip, so travel safely and, no, I had not gotten the figures. So it's a good thing you came. [LB490]

RANDY MEININGER: Okay. Thank you, ma'am. [LB490]

SENATOR CAMPBELL: Thank you. Our next neutral testifier? Good afternoon. [LB490]

GARY BRUNS: Good afternoon. Senator Campbell, members of the committee, for the record, my name is Gary Bruns, spelled B-r-u-n-s. And I am the eastern district vice president for the Nebraska Professional Fire Fighters Association. We are an organization over 1,300 career firefighters in 16 Nebraska communities. First, I'd like to thank you for your time and attention to the matter that is before you today. I'm here to speak in a neutral position on LB490. This bill

creates a standardized form to be used in...by emergency responders as a guide in determining the type and extent of care that is provided to an unresponsive victim. The concept for this type of form is such: Emergency crews respond to a person who is suffering from reduced or absent respirations and/or reduced/absent cardiac function. Those crews would be able to use this completed form to determine the patient's wishes regarding what type of care they receive or none at all. There are several EMS systems and their respective communities that already utilize a standardized form. This bill would require that there be one standardized form used consistently throughout the entire state of Nebraska. We do support the concept of a standardized form. However, we feel that the proposed version of the form has both language that is not applicable to prehospital EMS providers and will lead to confusion while making timely decisions that are in the best interests of the patient, family, and the organizations that we represent. The bill itself includes language that specifies the content and the layout of the form as well as language that indemnifies a physician who signs such form. What essential language we believe is missing is that which provides protection for those emergency responders in the case that they are unaware of the presence or the location of such a form when they arrive at an emergency. It is the desire of those responders to respect the wishes of the patient. Yet until they are informed otherwise, it is their sworn obligation to provide all lifesaving measures within their capacity. The proposed form includes treatments and procedures that are not completed at an emergency scene but in a continuous care setting often found in a medical facility. This form would be used in every area of the state from metropolitan areas to rural communities and by emergency responders of varying levels of experience and training. The failure to streamline this two-page document into an easy-to-read, self-explanatory form could quite possibly contribute to delay in patient care or confusion that results in administrating care that is against the patient's wishes. The NPFFA strongly supports the AM424. Without it, we would have had major challenges and likely would have opposed the bill. I appreciate you listening to our concerns. I would like to thank Senator Watermeier and the committee's willingness to work with the Nebraska Professional Fire Fighters Association in a collaborative effort to provide language that establishes a standardized process that is efficient, effective for both the person in the need and the emergency responder who is helping him. [LB490]

SENATOR CAMPBELL: Thank you, sir, for your testimony today. Any questions? Have you shared any of the specifics with Senator Watermeier's office? You might want to...I mean, if you have specifics or a copy of your testimony maybe. [LB490]

GARY BRUNS: We will. Thank you, Senator. [LB490]

SENATOR CAMPBELL: Thank you. Our next neutral testifier? Okay. Senator Watermeier, we're back to you. While Senator Watermeier is coming forward, are there letters? [LB490]

BRENNEN MILLER: (Exhibits 12, 13, 14) Yes, Senator, support letters from the AARP and the Nebraska Hospital Association and a letter in the neutral capacity from the Department of Health and Human Services. Thank you. [LB490]

SENATOR CAMPBELL: Excellent. Senator Watermeier. [LB490]

SENATOR WATERMEIER: Thank you, Senator Campbell. Did I mention this was not a cleanup bill? (Laughter) Good discussion. I know there has been a lot of discussion as to whether the form should be placed into statute or not. My primary goal with this legislation is to have one standard form used consistently across the state. Therefore, I believe we should use the form that has already been used in several communities in Nebraska. By placing this form directly in statute, it allows the law to be implemented in a more timely manner rather than having to wait for a commission to be appointed, then in the commission develop the form which hopefully would be similar to the one that's already in place. As I mentioned, we have worked on several updates to the form. I realize that additional revisions and updates will be necessary over time. My intent is to revise the statute after the rules and regulations are developed by placing the duty to update the form with the proper commission. But as has been discussed, there is not really a proper commission at this time and not the right vehicle that we came up with in discussion. As I understand, a more user-friendly version of the POLST form has been developed. However, we must keep in mind that the POLST form contains medical orders. A medical script to a pharmacist would not take...the patient's wants something to make his throat feel better. The user-friendly form could play an important role in the education process that the department will be developing standards for. It could be used by the patient to start the conversation with the healthcare professional when deciding what medical interventions they want. The healthcare professional could then translate their wishes into the medical form or the POLST form. Furthermore, any specific instructions from religious organizations could also be part of this educational process. This was great conversation today here. And I just tried to write down a few of the quick notes here that I came up with from questions along the way here and hopefully I can read my own writing here. But there was discussion from the gentleman from the Right to Life that states that it was like a prescription, but the way this really will work is that if a person wants a POLST, he has to get a prescription from his doctor. Like an example, it's like a prescription. Then the patient goes out in the community and uses those proper channels, whether it's a case worker or a nurse or whoever it is, to have that long discussion, because--as was stated--this may happen in someone's home. They may actually be in the home...which a doctor is not going to be able to be part of that. After the POLST is figured out and decided, then they bring it back to the doctor. The doctor goes over it with the patient. So we feel like that's the best avenue. We think that's really the best role for that avenue. And we think that's taken care of in the bill...not in the bill, but that's the intent of the bill. What I mentioned also is that there really is not a good vehicle or a good commission right now to date. As you mentioned, the Board of Health doesn't have the right people. And we really wanted to get this started. We want

to get this in the process. I mean, I'm open to ideas and I'm open for suggestions. But I really think that we're at...right at the cuff (sic) of where it could be a good, workable solution. What does it take for...to be proven? We had examples from Ms. Weber. Ten years and probably 200 forms a year and not one example of a legal issue, not one example of something that didn't take...wasn't taken care of from the religious aspect or questions from the family or concerns. There is a spot on the form. And if you want to get it out, it's Section E that specifically talks about the power of attorney. And I'll just highlight that and I'll probably have conversations with you individually. But we do feel like we've taken care of the issue of...the power of attorney trumps this. So if a person is not able to make his decisions, someone comes in that's a power of attorney, they can trump this. So we think that that's simple enough in their minds to take care of that. If we need to change that in some ways, I'd be glad to do that. And Mr. Stilmock had mentioned the question about the EMR records. It is in one of the amendments, the ability to put it in the electronic medical records. You know, lastly I just want to share this idea that it's gotten out of our hands or might get out of our hands. And I appreciate the concerns from the Right to Life and the Catholic Conference. I am lockstep with both those organizations. And it's not like this is going to start or stop the POLST argument. The POLST argument and the actions are already going out there in the community. It's a matter of whether we want to have a standardized form, we want to help the EMS people, we want to help that environment to get a standard form across the state. And that's one of the reasons I took this on even though I may be contrary to some of the very people that support me and think like I do. I wanted to have control of it. I wanted to have the conversation on our side so that we could get it adjusted to, you know, address everyone's concerns. That's why I brought this on. But think about two things: It's voluntary. It's for a select group of people that are facing a terminal illness. That's what it is in a nutshell. And it's voluntary. So I appreciate your concerns and questions today. Is there any other further questions? [LB490]

SENATOR CAMPBELL: Senator Baker. [LB490]

SENATOR BAKER: Senator Watermeier, I see in one of the fiscal notes that this would assume adoption of a uniform form would...well, could it make for an FTE to develop regulations of form. Do you see that as being a permanent job for someone from now on? [LB490]

SENATOR WATERMEIER: No, I don't. I apologize. I didn't look at that fiscal note that close. That's something I always look at as far as...you know me, you know me very well, that I would look at it that close. That's certainly not my intent. No. And by making it in statute today, it will be in statute and then the rules and regulation process that the...I'd say the education is just going to be in the hands of the HHS today. But if I come back with initial...or future legislation to get this other group set up in place, that may require. But I don't think it's going to be an FTE. I think it's just going to be an add-on to an existing commission. If the commission could be set up to properly, you know, look at these issues, which I don't think there's one there today. [LB490]

SENATOR BAKER: Thank you. [LB490]

SENATOR WATERMEIER: Yes. [LB490]

SENATOR CAMPBELL: Senator Crawford. [LB490]

SENATOR CRAWFORD: Thank you. So several people have talked about the important of, you know, also having electronic format access. So, you know, you're talking about the importance of the single form that looks like this. But are you opposed to the fact that there would also be an electronic version of this information that would also have, you know, a shared format and be in some mechanism that people could access? [LB490]

SENATOR WATERMEIER: Not at all. In fact, I'd be in favor of that. But I think even this committee in the last two years, we've had conversations about that. And that's a tricky thing to get done. I certainly want to promote that... [LB490]

SENATOR CRAWFORD: Okay. [LB490]

SENATOR WATERMEIER: ...because that's where we need to head to. And even when I served on the rescue squad for years, you know, the electronic equipment has to be there and the speed in which these individuals have to work, it's incredible. And so we want to make that more available so that they can be studying this patient out possibly on their way. I mean, that's the theory where we want to head. [LB490]

SENATOR CRAWFORD: Right. [LB490]

SENATOR WATERMEIER: But, you know, if it can, you know, gotten into the electronic medical records, that's a first step and then NeHII after that and whatever it takes, so... [LB490]

SENATOR CRAWFORD: Thank you. [LB490]

SENATOR CAMPBELL: Okay. Any other questions? Thank you, Senator Watermeier. [LB490]

SENATOR WATERMEIER: Thank you. [LB490]

SENATOR CAMPBELL: That concludes our hearing and we will take a five-minute break. [LB490]

BREAK

SENATOR CAMPBELL: If you are still departing, could you depart quietly? I think most of the people were here at the beginning so we won't go through any of the additional procedures. We will open the public hearing this afternoon on LB335, Senator Mello's bill to create and provide duties for the Intergenerational Poverty Task Force. Welcome, Senator Mello. [LB335]

SENATOR MELLO: (Exhibits 15, 16) Good afternoon, Chairwoman Campbell and members of the Health and Human Services Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o. And I represent the 5th Legislative District in south Omaha. I'm here today to introduce LB335 which would create a legislative-led Intergenerational Poverty Task Force. The structural language in LB335 is modeled after recent legislative task forces that both were data driven and developed with specific issue area experts to assist the Legislature in developing a statewide strategic plan to address statewide concerns. Intergenerational poverty, particularly as it relates to children, is an issue facing our entire state as demonstrated by the work of Senator Cook and former Senator John Harms through their work through for the Legislature's Planning Committee. LB335 is the logical next step in evaluating both the data, funding, and programs in state law that seek to address and alleviate poverty. To bring this issue closer to home, in my district in south Omaha, a recent Omaha World-Herald article, which you all should have received a copy of, gave a sobering account of the steady increase in poverty among Hispanics in both Omaha and across Nebraska. Since the year 2000, Hispanic poverty in the Omaha metropolitan area has increased by almost 40 percent and has passed the national average. However, multigenerational poverty is not confined to the...specifically just the Hispanic community. Omaha's African American community is also experiencing higher poverty rates than cities like Detroit, Kansas City, and New Orleans. While poverty remains a problem in minority communities across our state, the majority of Nebraskans living in poverty are Caucasian. Intergenerational poverty has affected pockets of our state for well over the last 20 years. The committee should have recently received a map created by our Legislative Research Office that uses census data to show the areas in Nebraska affected by poverty. The U.S. Census Bureau defines a "poverty area" as an area with a poverty rate that is greater than 20 percent. The area highlighted on the map in blue show the poverty areas identified by the U.S. Census in year 2000. The areas highlighted on the map in orange show poverty areas identified by the U.S. Census in 2009. And the areas highlighted on the map that are in red show areas classified by the U.S. Census as a poverty area in both of the last two censuses. This data shows that poverty is a consistent problem not only in east Omaha but in communities across the state such as Kearney, Grand Island, and Hastings. The Intergenerational Poverty Task Force as created by LB335 would be constituted of the five voting members from the Nebraska Legislature including the Chairs of the Health and Human Services Committee and the Appropriations Committee and three members appointed by the Executive Board. Nonvoting members of the task force would include representatives from the Department of Health and Human Services, the Department of Labor, and the Department of

Education and a variety of community stakeholders and policy experts. The intent behind creating the Intergenerational Poverty Task Force is for the Legislature to undergo an analysis of poverty demographics and the demographic shifts occurring within our state, to evaluate current programs and state policies that seek to alleviate poverty, explore best practices across the country to address the growing number of families who are falling below the poverty line, and lastly, to develop a long-term strategic road map for the state to address intergenerational poverty particularly as it relates to children. Thank you for your time and I'd be happy to answer any questions you may have. [LB335]

SENATOR CAMPBELL: Are there any questions for Senator Mello? Senator Crawford. [LB335]

SENATOR CRAWFORD: Hello, thank you. I just have one question. I noticed they're reporting every November and there's not necessarily an end date. Are you thinking this is a group that continues and revises the plan over time or did you think about this as a more short-term project? [LB335]

SENATOR MELLO: I believe, Senator Crawford--and I...it could be an oversight in our drafting--it was to be essentially a task force that is created and fulfilled for the remainder of this biennial legislative process so there would be an initial report issued in November of 2015 continuing through the next legislative session and a final report issued November of 2016. [LB335]

SENATOR CRAWFORD: Okay. Okay, thank you. [LB335]

SENATOR CAMPBELL: Senator Mello, we spent quite a bit of time on this committee a couple weeks ago on children in poverty because of a bill that I am sponsoring. And one of the things that you should know is that, of the districts in the state, obviously Senator Chambers' district--and he has talked about that--would be the highest with children under the age of 6. And then comes Senator Morfeld's district and then comes your district... [LB335]

SENATOR MELLO: That is...that's... [LB335]

SENATOR CAMPBELL: ...and then Senator Nordquist, I believe, and Senator Cook. So we have taken a look at this. And again, great documentation from the Planning Committee to help us know what is happening in our districts. [LB335]

SENATOR MELLO: Senator Campbell, I think those statistics to some extent are not startling to you and me and the rest of the work we've done on the Planning Committee. But it is startling in the sense that we haven't really had a serious policy discussion as a Legislature of how we're going to move forward to start to address those challenges in those communities across the state. It's been the intent, I think, to take some of what we saw with LB690 in this committee last year of taking data from the Legislature's Planning Committee, translating that data into policy for the Legislature to start a process to move forward to address those issues. We've tried to mimic that model in regards to dealing with intergenerational poverty. And that's the hope, that we can move forward in a similar fashion with LB335. [LB335]

SENATOR CAMPBELL: Excellent. Thank you, Senator Mello. And I know you're staying because you have the next bill, so... [LB335]

SENATOR MELLO: Thank you. [LB335]

SENATOR CAMPBELL: ...we have you captive here for sure. Our first proponent? [LB335]

JENNIFER CARTER: (Exhibit 17) Good afternoon, Chairwoman Campbell and members of the Health and Human Services Committee. My name is Jennifer Carter, last name C-a-r-t-e-r, and I am here on behalf of the Coalition for a Strong Nebraska. I am serving as their temporary coordinator. The Coalition for a Strong Nebraska is a group of advocates, researchers, foundation service providers, and community leaders who advocate for investments in commonsense systems that create opportunities for a great start, the good life, and a better future for all Nebraskans. And this coalition actually grew out of a similar impetus to try to create some forward momentum on antipoverty policies and actually to create an opportunity for these groups to work together so we could coordinate better and leverage our resources better on these issues. And one thing that we found, why we found it to be so helpful, is that, for better or worse, poverty is never going to be the crisis of the moment. It's never the one that...while sometimes it garners some headlines, it's not usually requiring urgent action in the same way because it is persistent and sustained and ever present. And so what you really need is this kind of...similarly to fight it, you need something that is also sustained and persistent and stable. And that's why we are supporting the Intergenerational Poverty Task Force because, to us, that is a logical next step and a great answer to provide that kind of stable group that would look at it. In addition, it allows for data and research and things that our group is not necessarily able to do that I think would be really important. We have groups that have worked on poverty for literally decades, but what this offers in the task force is much more interdisciplinary, a broader base of stakeholders, so not only are you, I think, more likely to get to some of the best solutions but also a broader investment in those solutions from all the groups involved. So...and of course we think it's key that the Legislature is involved because not everything poverty related is going to be solved by

new laws, but certainly there are going to be policy decisions that need to be made about certain things that could help eliminate or reduce, at least, poverty. So we think that's a key piece. And really, it's also extremely important to us that this signifies a real commitment to reducing poverty and creating new opportunities in Nebraska. So for those reasons, we are...would look forward to having this task force and any help that the members of our coalition could offer it. And I'm happy to take any questions. [LB335]

SENATOR CAMPBELL: Questions from the senators? Of a personal note, we're delighted to see you back. [LB335]

JENNIFER CARTER: Thank you. It's very nice to be here. [LB335]

SENATOR CAMPBELL: We've missed you. [LB335]

JENNIFER CARTER: Thanks. I'm have missed you guys, too, so. [LB335]

SENATOR CAMPBELL: Excellent. Thank you very much, Ms. Carter. [LB335]

JENNIFER CARTER: Okay. Thank you. [LB335]

SENATOR CAMPBELL: Our next proponent? [LB335]

JOHN CAVANAUGH: (Exhibit 18) Good afternoon, Chairwoman Campbell and members of the committee. My name is John, J-o-h-n, Cavanaugh, C-a-v-a-n-a-u-g-h. And I am here today representing the Holland Children's Movement and the Nebraska Children's Health Alliance which I cochair with Pat Connell of Boys Town. It's an association of healthcare providers focused on improving access to healthcare for low-income children. The Holland Children's Movement was founded by Dick Holland for the express purpose of focusing on improvements in public policy for children and families in poverty. LB335 could well be the most important piece of legislation of the 2015 Legislative Session. There's a growing bipartisan consensus in agreement with former Governor Jeb Bush of Florida that poverty in America is the defining issue of our time. As we observe the consequences of 50 percent of our population across the country struggling to survive on 12 percent of the gross income, we see the pervasiveness of poverty not only in our state but across the country. Chairwoman Campbell and Senator Mello and the cosponsors of LB335 are to be commended for this effort to take a longer and deeper view of the root causes in the persistent growth of poverty in our community. I know that this committee focuses a great deal of attention on alleviating the consequences of poverty. And it is important that we shift that perspective to the causes of poverty and how to more effectively

address those causes. LB335 offers us the opportunity in Nebraska to bring together the best and the brightest and to form a consensus across this state in terms of how we do address poverty and particularly its consequences in intergenerational poverty effect on children and families. So we urge you to advance this and pass it and thank you very much for considering it. [LB335]

SENATOR CAMPBELL: Thank you, Mr. Cavanaugh. Are there questions from the senators? You know, we ought to really talk about this being the former John Harms bill. Senator Mello is smiling. Senator Harms talked about poverty extensively on the floor of the Legislature and children. So he would be delighted to hear the testimony today. [LB335]

JOHN CAVANAUGH: You're exactly right. And thank you very much. [LB335]

SENATOR CAMPBELL: Um-hum, thank you. Our next proponent? Good afternoon. [LB335]

AUBREY MANCUSO: (Exhibit 19) Good afternoon. Chairwoman Campbell, members of the committee, my name is Aubrey Mancuso, A-u-b-r-e-y M-a-n-c-u-s-o, and I'm here on behalf of Voices for Children in Nebraska. For over two decades, Voices for Children has sought to use data to identify the pressing issues facing Nebraska's kids. With almost one in five Nebraska kids living below the official poverty line, it's clear that poverty is an established issue facing our next generation. Poverty creates a variety of challenges for kids ranging from lack of adequate educational opportunities to inadequate access to healthcare to unsafe or unstable housing. We need to do more to ensure that all the kids in our state have the best possible opportunities to succeed regardless of the circumstances that they're born into. Many of the tools we have for addressing poverty either mitigate the immediate consequences--for example, by providing food to those who are hungry--or are highly fragmented. We rely on a patchwork of programs and services with different rules and different goals to tackle a large collective problem. While these resources are important and can be tools in addressing poverty, we are unlikely to be able to fully address poverty without a more comprehensive approach. From a research perspective, we have also learned a lot more about poverty and how to address it in recent years including that it has a multigenerational impact on a family. One important thing to consider in addressing generational poverty is that we need to consider asset poverty in addition to income poverty. About one in four Nebraska households is liquid asset poor meaning that they lack the available resources to subsist at the poverty line for three months in the absence of income. What that means in practicality is that for some kids, their family has additional resources to help them access higher education, to help with transportation in their first job, or a home that will someday be passed on to them. So often the children who spend their childhood struggling with the challenges of poverty also start adulthood with less resources than their higher-income peers. Additionally, many of our interventions to address poverty do not adequately account for the family as a unit. In recent years, increased attention has been focused on the promise of two-generation strategies

which seek to integrate programs and systems in ways that improve overall family wellbeing rather than focusing in on an individual member. Poverty also often seems like an overwhelming and intractable challenge. And while it's complex and multifaceted, there are lessons to be learned from successful attempts, both in the United States and elsewhere at addressing poverty. I think one example in the U.S. is the significant reduction in elderly poverty rates over the past several decades. And it was partially through public policy interventions, namely Social Security and Medicare, that we were able to reverse this trend. Secondly, at the same time we have seen a significant increase in poverty rates in the U.S., child poverty has been cut in half in the United Kingdom. Through an intentional governmental effort to address poverty, the U.K. saw poverty rates among children continue to decrease even as they were hit by the international recession. These two examples illustrate that poverty is a problem that can be addressed through public policies and strategic interventions. Nebraska is a state with an abundance of resources. We have a generally low unemployment rate, a strong philanthropic community, and strong business and agricultural industries. I believe we have many of the resources we need to address poverty but we need to take a more intentional and collaborative and collective approach. LB335 would be an important first step and we would urge the committee to advance this bill. Thank you. [LB335]

SENATOR CAMPBELL: Any questions today? Senator Cook. [LB335]

SENATOR COOK: Thank you. And thank you, Ms. Mancuso, for your testimony. I'm trying to build a record of what poverty really means for some of our newer members. It's arisen in Planning Committee. People sort of remember the days from their own lives or from the movies when everybody was poor but well educated and well loved and secure. So can you help make that distinction? What does poverty mean or look like now? [LB335]

AUBREY MANCUSO: You know, I think it looks different in different communities. But I think in a lot of ways now it's a very significant lack of resources. And especially for kids, it can mean unstable, unsafe housing environment, lack of adequate nutritious food, not being able to see a doctor regularly, having lower-quality schools, and it's sort of confluence of those various things that don't set a child up for success in the longer term. [LB335]

SENATOR COOK: Okay. Thank you. [LB335]

SENATOR CAMPBELL: Other questions? Thank you, Ms. Mancuso. Our next proponent? Good afternoon. [LB335]

BEN ANDERSON: (Exhibit 20) Good afternoon. Madam Chairwoman, members of the Health and Human Services Committee, my name is Ben Anderson and I'm from First Five Nebraska.

Last name is spelled A-n-d-e-r-s-o-n. And I'm here today to ask for your support of LB335. At First Five Nebraska, our work is driven by neuroscience and data. And our focus is on at-risk children from birth through age eight and the high-quality experiences that close the achievement gap for those children. We support LB335 because the leading factor that places a child at risk of failing in school is living at or below 185 percent of the federal poverty level. In Nebraska, the number of at-risk children birth to five is just over 64,000. That's 42 percent of the state's population in that age range. I've included with my written testimony a statewide map showing where those children reside. It's a little bit different than the map that Senator Mello handed out because we're using that 185 percent of the poverty level number in there. We issue this map every year, and every year we see the numbers on this map increase. For this reason, we believe Nebraska needs a long-term strategic plan to reduce the number of at-risk children, and we thank Senator Mello for his leadership in bringing this bill. There are also two elements of LB335 that we think are important and would like to discuss. First, the bill allows the task force to appoint special committees that may include members of the private sector. This element is important because we have seen the advantages of private sector involvement in early childhood education. The private sector demands rigorous accountability. And rigorous accountability produces results. Sixpence, which is Nebraska's birth to three early childhood initiative, is one example of a public/private partnership with a high level of accountability that's yielding results and closing the achievement gap for at-risk children. More children in communities served by Sixpence are showing up at school on par with their peers. By including the private sector, the Legislature can expect similar results. Another point that we applaud is the inclusion of early childhood experts on the task force and the subcommittee. This element is critical because of the overwhelming body of research that shows children who live in poverty and receive high-quality early childhood education are less likely to remain in poverty as adults. This breaks the cycle of poverty and it's not only important to those individuals who will lead better lives, but it also saves taxpayer dollars when it comes to reduced spending on public benefits. Any serious inquiry into how to end intergenerational poverty should begin with early childhood education as it closes the achievement gap and leads to success in life. We thank you for your consideration and request your support for LB335. [LB335]

SENATOR CAMPBELL: Thank you, Mr. Anderson. Questions from the senators? Thank you for the testimony today. [LB335]

BEN ANDERSON: You're welcome. [LB335]

SENATOR CAMPBELL: Our next proponent? Good afternoon. [LB335]

BEATTY BRASCH: (Exhibit 21) Good afternoon. Thank you for being here. It's been a long day for you. My name is Beatty Brasch. I'm executive director for the Center for People in Need.

On behalf of the center and the people we serve, I would...I'm here to support LB335. We see families with many difficult situations at the center. These families often are without enough food. They cannot find employment. They cannot find adequate healthcare. They continually seek services that are necessary for their basic survival. But perhaps the most heartbreaking situation we see is a continuing cycle of poverty among many families. An example is, yesterday we talked to a client named Jen (phonetically) who is disabled along with her mother. She had sought our help in providing food at one of our weekly food sites. Her mother said to us, I work three jobs trying to provide for my family. For Jen and her mother, poverty has become intergenerational. The Center for People in Need recently spoke the committee about the low payment rates for ADC children or ADC in Nebraska. For a household of three, an ADC payment rate of $364 a month, unchanged in the last 30 years, might cover part of a family's rent. But it certainly will not cover other items such as utilities let alone future planning and needs for...such as backpacks and school supplies for their children. In fact, among the 1,206 families...client families we served last year, 13 percent had a utility shut off on the day they took the survey, 44 percent did not have enough food for their families when they took the survey, and 40 percent had gone to an emergency room because they could not afford an office visit. Substantial barriers exist for these families in escaping the poverty trap. You'll find more additional information about our survey in your packet. Limited educational opportunities, greater susceptibility in financial problems in an emergency, marginalization in society due to one's culture and background, and vulnerability brought about by stress are just some of the factors that can play into this cycle. The United States Department of Agriculture reported last year that with the average cost associated with child rearing, it is no wonder so many families easily slip into the poverty trap. A full 28 percent of our clients with children report that they have been in poverty all their lives. Almost as many, 20 percent, said they had been in and out of poverty over the years. Add to this fact that shortfalls in meeting needs only compound with time. Children whose families cannot afford preschool or school supplies enter school less prepared than their peers. Minor difficulties in reading and writing left unattended become a huge deficit in educational ability. When these children get older, they face a future with more limited employment prospects and earning potential. The Center for People in Need serves one of the largest groups of people in poverty in Nebraska. We would be glad to share with you what we have found...what we have learned and participate as a member in the task force if that would be helpful. In addition to the other activities outlined in this bill, I think it's important that we devote time and resources to communicating to the Legislature and the people of Nebraska how critical issues of intergenerational poverty are to Nebraska's economy, our child welfare, and criminal justice system and also our society. The Center for People in Need is willing to create a new survey for the purpose of studying intergenerational poverty and learning more about how families escape the poverty trap. It is also important to ask the families themselves what would help them break the cycle of poverty. Our "Faces of Poverty" report last year included surveys from a respondent pool of 1,206 clients with children. We also conduct a number of other surveys throughout the year on issues relating to poverty. We could easily work with the task

force to gather this...gather the information that they seek. Today, we urge the committee to advance this bill. And tomorrow, let us begin to work on making it a brighter future for all Nebraskans. [LB335]

SENATOR CAMPBELL: Questions from the senators? My colleagues need to know that Ms. Brasch has been an advocate in helping the poor for years in this Lincoln community. Thank you. [LB335]

BEATTY BRASCH: Thank you. [LB335]

BRENNEN MILLER: Excuse me, Senator, I need a pause for just a... [LB335]

SENATOR CAMPBELL: We're on pause because of a...so the next proponent can come up and get all settled in and, Senator Mello, we note that we don't have the very best of equipment here. (Laughter) Just a hint. Duly noted, huh? Okay, you ready, Brennen? [LB335]

BRENNEN MILLER: Yeah. [LB335]

SENATOR CAMPBELL: Go right ahead. Welcome. [LB335]

LINDA COX: (Exhibit 22) Thank you. Senator Campbell, members of the Health and Human Services Committee, my name is Linda Cox, L-i-n-d-a C-o-x. I am the research analyst with the Foster Care Review Office. As a preface, our office is an independent state agency not affiliated with the Department of Health and Human Services, the courts, or any other child welfare entity. Our role is to independently track children in out-of-home care, review their cases, collect and analyze data related to the children, and make recommendations on conditions and outcomes for the children in out-of-home care including any corrective actions. I'm here today in support of LB335 and the Intergenerational Poverty Task Force. I understand that this task force would look at the whole population of children in Nebraska but that would also include the 2,968 DHHS wards currently in out-of-home care as well as the countless children who are at risk of abuse or neglect. Neglect is the most frequently cited reason for children entering out-of-home care across the nation and this is also true in Nebraska where neglect was the primary reason that 74 percent of the children reviewed in the fiscal year ending June of 2014 entered care. We define it as the failure to provide for children's basic physical, medical, educational, and/or emotional needs including the failure to provide adequate supervision. It's often seen in tandem with parental substance abuse or mental health issues. And cooccurring poverty, housing issues, physical abuse, and sexual abuse are also common. Many families involved with the child welfare system come with from multigenerational poverty. This situation may reduce their access to material and

other resources needed to safely and effectively parent their children or to reunite the children who have been placed in out-of-home care. Even if the parent has some employment, there can be challenges. For example, services are often only available 8:00 to 5:00 without flexibility to accommodate for employed parents whose available time doesn't coincide with the normal business day. Plus, the services may be at a distance from parents. This makes it difficult for them to comply with case plans especially where parents are new hires, work in positions where taking time from work is regarded with disapproval, or where time off constitutes unpaid time, further impacting families that are already affected by poverty. There have been situations where parents have told us, either I work or I attend visitation. They are both at the same time. I can't do both. Reliable transportation is also an issue. Through our reviews, we find that families in poverty need assistance if they're to find affordable and safe housing, gain employment skills, have adequate food, safe and reliable day care, access to before- and after-school programs, tutoring for themselves or their children, pay for therapy, access substance abuse or mental health aftercare, or otherwise provide the minimum needed to keep their children safe. Poverty-related issues can also delay the closing of cases if families lack one or more of the above items. It's our hope that this task force will consider these families as it serves to prevent abuse and neglect and reduce the length of time in out-of-home care for wards whose family needs supportive services. Towards that end, the Foster Care Review Office is willing to offer any possible assistance to the task force and the Legislature at large either as a member of the task force or as a resource to it. I thank you for your time and I'm available for any questions. [LB335]

SENATOR CAMPBELL: Any questions from the senators? We certainly had a very thorough report from the Foster Care Review Office, the annual report, and the data in there is just spectacular... [LB335]

LINDA COX: Thank you. [LB335]

SENATOR CAMPBELL: ...in the sense of helping us understand a picture. So I'm sure we would be more than happy to tap into the data system you have. [LB335]

LINDA COX: Thank you. [LB335]

SENATOR CAMPBELL: Thank you. Our next proponent? [LB335]

JAMES GODDARD: (Exhibit 23) Good afternoon. Senator Campbell, committee members, my name is James Goddard. That's J-a-m-e-s G-o-d-d-a-r-d and I am the director of the Economic Justice and Healthcare access programs at Nebraska Appleseed here today to support LB335. I will abbreviate my comments with the late hour and another bill after you. But just a few

comments: Nebraska Appleseed was founded in 1996 and the core of that foundation was working to combat poverty. That's still a major focus of our organization along with many other advocates and leaders in our state. Even with the concerted efforts of many individuals, we know more can and should be done particularly when so many families are working but are still not getting ahead. We support this bill because it represents a new opportunity for policymakers, advocates, and community members to work together to reduce poverty. Specifically, it would create a poverty task force to conduct investigation and work towards a long-range plan for decreasing intergenerational poverty. We think that the concentration on the intergenerational nature is an important one. As more and more experts indicate, a focus on the...meeting the needs of the entire family, the parent and the child, is necessary to truly end poverty. More generally, we support LB335 because it would keep an ongoing focus on poverty, its causes, and how we can work together to address them. With that, I would urge the committee to advance the bill. [LB335]

SENATOR CAMPBELL: Any questions for Mr. Goddard? Thank you, as always, for your testimony. [LB335]

JAMES GODDARD: Thank you. [LB335]

SENATOR CAMPBELL: Our next proponent? Okay. Anyone in the hearing room opposed to the bill? Anyone in a neutral position? Okay. Senator Mello. [LB335]

SENATOR MELLO: Thank you, Chairwoman Campbell and members of the committee. I think it's more as a clarification, I think, to Senator Crawford's question. We looked at the bill. It does...we will need to provide the committee an amendment in regards to clarifying that the task force would provide a preliminary report in November of 2015, a final report in 2016, and be disbanded in 2016. So with that, I'm thankful for the committee's time and I'll answer any questions you may have. [LB335]

SENATOR CAMPBELL: Senator Howard. [LB335]

SENATOR HOWARD: Thank you, Senator Campbell. Thank you, Senator Mello. I always try to think about, when we're doing task forces, how we integrate the people that we're trying to impact into the process. Do you believe that the special committees, there may be an opportunity there to sort of interact with families who are living in poverty and get their feedback or do you feel as though the agencies that would be a part of it would be doing that type of work? [LB335]

SENATOR MELLO: I think, Senator Howard, that's a terrific question. And I think kind of the model that the LB690 task force did over this past interim tried to do that a little bit in regards to breaking it down in select committees that were able to branch out, I think, more in specific areas bringing in a variety of stakeholders into those conversations and dialogues and I see no reason why we wouldn't obviously want to do the same thing with LB335, not simply policy or issue stakeholders but stakeholders themselves, I think, you know, just in the sense of some of the advocates you heard that testified today. I don't want to pick just one, but Beatty Brasch and the Center for People in Need in Lincoln address...and they try to address poverty on such a real level day in, day out in regards to the constituents they're serving here in Lincoln. I don't see any reason why we wouldn't want members of this task force to spend time at a Center for People in Need and talk with people who are obviously utilizing their services and hear their stories to figure out, from a real one-on-one perspective, what are they going through day in, day out, because I think policymakers, sometimes we...we sometimes get trapped in the tunnel known as government and sometimes it's tough to realize that there are a lot of things happening outside of the Capitol, happening outside of offices and advocacy groups. And I think bringing everyone to that table, particularly the people that we're trying to impact their lives, is pretty critical to...in regards to developing a strategic road map for the future. [LB335]

SENATOR HOWARD: Thank you, Senator Mello. [LB335]

SENATOR CAMPBELL: Senator Kolterman. [LB335]

SENATOR KOLTERMAN: Senator Mello, thank you. I really like the bill. I'm glad you clarified your intent of 2016 being done. My question would deal with the...why would you end it after 2016 if there's...I mean, we know there's a lot of poverty. Why wouldn't we want to continue to address it year in and year out and...unless you just don't want to have another committee meeting. (Laughter) You know what I'm saying? [LB335]

SENATOR MELLO: I do. I do. And that's...Senator Kolterman, that's a terrific question. And I think the general premise behind the concept was--and Senator Cook is now with the committee, she was not here for the opening--but Senator Cook and former Senator John Harms kind of started this process in our Legislature's Planning Committee. And this is kind of the next step in regards to what the Planning Committee has done. I'm not saying that a special legislative task force wouldn't need to be kept along past 2016. I think we...to some extent, the Legislature has a tendency to try to build special task force or special committees within that two-year time frame where we know the makeup of that committee, the makeup of the Legislature. And to some extent, if the committee wanted to continue it for four years or six years, I'm more than willing to work with the committee on that. I think the general outcome, though, that I would want to see from LB335 is a real...I think a real strategic road map for the Legislature, the Governor, and for

the state as a whole to start to utilize moving forward to address poverty and intergenerational poverty from a variety of perspectives. Obviously from a fiscal perspective, we deal with this in Appropriations Committee every day of spending billions of dollars on education, on training, on healthcare, on economic and public assistance programs, and to see to some extent how those programs are interwoven with each other, how they're interacting with each other outside of the policies that this committee, I know, deals with on a day in, day out level. That probably may take longer than two years. I'm not disagreeing with that premise. But I think we wanted to be able to at least condense something and give this committee and the Legislature a, kind of, at least a point in time that we could say, we can provide some kind of document to the state as a whole of, here is the year and a half worth of work that this select committee has done. Here's what we have been able to gather. Here is everyone who has been involved. Here is our recommendation, so to speak, moving forward. The recommendation, as we've seen with other special and select committees, have been to continue the committee, though. And so I don't want to rush to that conclusion right now without knowing the decision of this committee...be even move this bill to General File or what the Legislature or the Governor may do. But that has been a recommendation for a number of other select committees and task forces, is to produce what they felt was a quality report. And part of that report sometimes says, we need you to continue this group moving forward because there's issues that we have not been able to work on. There are some issues that need further clarification, further research. And poverty is such a big issue. And it's something that, arguably, this bill is not going to solve. It's not a silver bullet and I would never tell you or any of our colleagues or anyone in support or opposed to a bill like this that's what we're going to do. But I guess in my time here in the Legislature, I've come to realize--and a lot of it was done through the Legislature's Planning Committee and working with our colleagues on that committee--is having the Legislature at times take a step back and take an analysis and a review of everything that we've done, everything that we've spent money on to see really, what are the best practices? Really, what are the outcomes that we as a legislative branch and arguably what the state wants to get from those decisions that we've made. We sometimes don't have that ability or that luxury to do that, because we're...unfortunately, it feels like the last few years are jumping from crisis to crisis to try to fix other problems that are coming and facing the state. This is an issue that no doubt I would love to see solved in my lifetime. And I don't know if we'll be able to do that. But I think, from a practical standpoint of where you and the rest of the committee members sit, you have a ton of legislation that no doubt you're considering that involves poverty. And we heard just a couple specific bills that were mentioned today that the committee has already heard. And for us to not want to take a step back to take an analysis and to some extent be able to do...look at some evidence-based practices and some evidence-based analysis of what's been working, what's not been working, particularly in light, I think, of a new Governor, a new executive branch. I think it's a missed opportunity for the Legislature not to do and that would be my hope of LB335. And if it continues to move forward after that 2016 deadline and that's the will of the committee and that's the recommendation, it could be well a

very good recommendation to continue that. But I don't want to jump to that conclusion right now at this moment in time. [LB335]

SENATOR KOLTERMAN: All right. Thank you. [LB335]

SENATOR CAMPBELL: Senator Kolterman, one of the steps that the Executive Board is taking on all the resolutions having to do with special committees, we're saying that they need to report...give a report to and appear before the standing committee of that topic. Part of my concern in the past on special committees has been, there's been no report back to--in a briefing situation--to the standing committee that had that topic. We have standing committees. We've put into effect special committees because we really needed to hone in on an issue. Think of the time that we put in just looking at bills. We don't have a lot of time to do that in depth. But on the other hand, this task force group of people could come forward with an action plan for bills and that would be presented to this committee then who would take a leadership position in shepherding those bills through the Legislature. That's certainly one way that we have done it. So you want to always come back to that standing committee. Anything else? Letters for the record. [LB335]

BRENNEN MILLER: (Exhibits 24, 25, 26, 27) Letters in support from Children and Family Coalition of Nebraska; National Association of Social Workers, Nebraska Chapter; Nebraska Child Healthcare Alliance; and the Nebraskans for Peace. Thank you. [LB335]

SENATOR CAMPBELL: And that concludes that hearing. And we will move to open the hearing on LB607, Senator Mello's bill which would adopt the Home Care Consumer Bill of Rights. Senator Mello. [LB335]

SENATOR MELLO: Good afternoon. I do not believe we're at evening yet. Chairwoman Campbell and members of the Health and Human Services Committee, my name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District in south Omaha. LB607, a bill that creates the Home Care Consumer Bill of Rights, was drafted in response to one of the key recommendations from the legislative-led Aging Nebraskans Task Force. In 2014, the Nebraska Legislature passed LB690 establishing the Aging Nebraskans Task Force. And over the interim, members of the Legislature, particularly of this committee, Senator Campbell and Senator Cook, along with representatives from the judicial and executive branches and community stakeholders assessed the needs of the growing aging population in our state. One of those growing needs with our aging population is more consumer protection when utilizing home-care services. LB607 establishes a reasonable and responsible consumer protection requirement similar to those implemented in other states across the country and would provide increased clarity of responsibilities moving forward for both consumers and service providers. The Home Care

Consumer Bill of Rights as drafted would provide consumers the right to participate in the approval of services and any changes to services, the right to refuse service, information on rights and responsibilities in the agreements between the consumer and the provider of services, freedom of choice of service providers, and freedom from exploitation. One significant protection LB607 highlights is the transparency on the employment status of home-care workers. Traditionally there are two different types of models that are used by home-care service companies, one being your traditional W-2 employer/employee model and the other being a 1099 contract employee relationship. Through our discussions over the interim on the Aging Nebraskans Task Force, oftentimes seniors are not notified of the 1099 contractor status of a person providing these services thus creating considerable risk for the consumer particularly as it relates to workers' compensation and other workplace liabilities. The Home Care Consumer Bill of Rights will require business that provide home-care services to disclose to the consumer as to what the status of their employees are or the status of the person that will be in the consumer's home prior to the beginning the...prior to beginning the agreed-upon services. Others behind me will testify to the specific differences of these two models and will speak to the specific risk taken on by a consumer if they are to enter into an agreement with a 1099 contractor employee. In addition to the disclosure of the status of the employee, the Home Care Consumer Bill of Rights requires that home-care providers give consumers a list of resources relating to consumer protection including the following: the Consumer Protection Division of the office of the Attorney General, the Department of Aging, the state's long-term care ombudsman, and other state/local agencies responsible for or interested in the rights of home-care consumers. Violations of this act would be subject to a Class V misdemeanor which carries a $100 fine. In response to some confusion about the intent of the language in certain parts of LB607, my office has drafted an amendment to clarify sections of the bill. You should have received...AM436 is the amendment I'm discussing. First, it was not nor is it my intent to require the Department of Health and Human Services to create any kind of database of home-care services available to the public and the amendment AM436 strikes Section 6 of the bill to clarify that concern. In working with various stakeholders, it's come to my attention that language in the bill only refers to seniors receiving home-care services and speaks nothing of children receiving home-care services. The amendment provides some clarifying language that extends the protection to all people receiving in-home-care services including minor children. Despite the Department of Health and Human Services...the department's fiscal note estimate, LB607 will not expand the duties of the department or the long-term care ombudsman's office. In addition to the long-term care ombudsman, consumers can still contact the Attorney General's office, the Legislature's ombudsman's office, and the local authorities when they feel their rights have been violated under LB607. LB607 would simply require that consumers are made aware of these entities that are already in place to ensure protection of their rights under the bill. My goal with LB607 is to ensure that the rights of Nebraskans' vulnerable population such as our elderly and people who are disabled are protected when they have assistance from someone else in their home. The committee should have received letters of support from the Nebraska Medical Association and

the Nebraska Association of Home and Community Health Agencies. There are a number of others here today to testify in support of the bill and to the importance of having these protections in place. Thank you for your time and I would be happy to answer any questions you may have. [LB607]

SENATOR CAMPBELL: Questions for Senator Mello? Senator Howard. [LB607]

SENATOR HOWARD: Thank you, Senator Campbell. Did you receive a copy of the letter from the department? [LB607]

SENATOR MELLO: I did receive a letter...the letter from the department regarding LB607. And while I briefly was able to look at that in preparation for the hearing today, many of the components on the letter from the department are technical in nature. They did speak briefly to their fiscal note on the bill which I...for some new members to the committee and to the Legislature, it's a perfect example of why we have our own Legislative Fiscal Office in which the Legislature follows the Legislature Fiscal Office's fiscal note and not the agency's, so to speak, and which our Legislative Fiscal Office's fiscal note only directs attention to that database issue that if it was the intent of the bill to create that, that may be a fiscal matter that we've got to consider under the bill. I think, with our amendment, we strike Section 6 which nullifies and takes care of that fiscal impact as well, as it was never our intent to have the department do that. But for the remainder of what I've been able to see, Senator Howard, in the department's letter, it's mostly technical information, I think, to provide the committee. And I know they're not coming in opposition to the bill as it's currently drafted. [LB607]

SENATOR HOWARD: I just had some questions related to the letter. [LB607]

SENATOR MELLO: Okay. [LB607]

SENATOR HOWARD: In Section 8 on page 4, they indicate that it's unclear who is responsible to provide cost information. Can you clarify your intent? [LB607]

SENATOR MELLO: It would be the provider. [LB607]

SENATOR HOWARD: The provider. And then also in Section 8, the 30 days advance notice of an adverse action, a change in cost or services isn't necessarily an adverse action based on Medicaid rules and regulations, correct? [LB607]

SENATOR MELLO: Correct. [LB607]

SENATOR HOWARD: Okay. And then my final question, and I apologize because I actually...I do have to leave, they indicate that there are some potential conflicts with the administrative code. And I just wanted to clarify because sometimes I get confused, but if the Legislature passes a bill, is statute binding in regards...what trumps regulations? [LB607]

SENATOR MELLO: State law--that's a great question, Senator Howard--and state statute always trumps administrative regulations. So if this committee and the Legislature adopts LB607, they simply would have to change their rules and regulations through the Administrative Procedure Act process to comply those regulations with what we have in LB607. [LB607]

SENATOR HOWARD: Thank you, Senator Mello. [LB607]

SENATOR MELLO: Thank you. [LB607]

SENATOR CAMPBELL: Senator Kolterman. [LB607]

SENATOR KOLTERMAN: I just have a question: Do you know if that's the same thing for the federal government? [LB607]

SENATOR MELLO: (Laugh) That's a great question, Senator Kolterman. And while I am not a constitutional expert, I have a feeling you could hear a number of people having a variety of opinions on whether federal law or federal regulation...I would assume federal law, obviously, trumps federal regulation similar to the same process we have here. I think sometimes we know that there are some challenges at the federal level which...luckily we don't have to always address those here at the legislative level, though. [LB607]

SENATOR KOLTERMAN: So then we just get down to interpretation of the law? [LB607]

SENATOR MELLO: That, more than likely, is probably where you see most of that consternation at the federal level, is who is interpreting a law, the executive branch or the legislative branch, and where they go from there. [LB607]

SENATOR KOLTERMAN: Thank you. [LB607]

SENATOR CAMPBELL: Senator Baker. [LB607]

SENATOR BAKER: Senator Mello, did I hear you say you're going to strike Section 6? [LB607]

SENATOR MELLO: Yes. [LB607]

SENATOR BAKER: Okay. I had that marked and I was wondering how that was going to work. Thank you. [LB607]

SENATOR MELLO: Okay. Yep. [LB607]

SENATOR CAMPBELL: Other questions? Senator Mello, we do not have the amendment but we will track it down. [LB607]

SENATOR MELLO: I will make sure to give a copy of this to a page right now and have them make a copy and try to get it to you before the end of the hearing. [LB607]

SENATOR CAMPBELL: That would be excellent. Any other comments? Thank you. We will move on. The first proponent for the bill? [LB607]

KATHY HOELL: (Exhibit 28) So you get to hear from me again. [LB607]

SENATOR CAMPBELL: Jay, do you want to take the form from Ms. Hoell? [LB607]

KATHY HOELL: Okay. This is for me and this is for Disability Rights Nebraska. They wanted me to submit their testimony for them. [LB607]

SENATOR CAMPBELL: Okay. That's fine. [LB607]

KATHY HOELL: Okay. Good afternoon, because it is still afternoon. My name is Kathy Hoell, K-a-t-h-y H-o-e-l-l. And I'm the executive director of the Nebraska Statewide Independent Living Council. There is an organization such as ours in all 50 states and all the territories. We monitor and...to make sure that we have rules, regulations that also promote independent living. People with disabilities have the right to independence and inclusion, nondiscrimination and dignity. First of all, I want to thank Senator Mello for introducing this. One of the basic tenets of independent living is that people with disabilities and seniors should be allowed to live in their own homes and communities with the proper supports and services. And knowing their rights when they're receiving home-health care is right up there with them getting those services. Our...we really like this legislation but there are a few tweaks that we think would make it even a better piece of legislation. The description about who is included, from what I understand, is in the amendment, so I won't address that one. One of the things I want to make sure is when the

consumer receives a copy of the bill of rights that it be given to the consumer in the form that is appropriate to them so whether it's braille, large print, audio, whatever, and it's got to be given directly to the consumer, not have the home health person just hand them a notebook that they put up on a shelf. Another concern that we had is line 29, page 3, "to the extent practicable." Members of our council had thought that this minimized their voice to get choice in how their services are provided. For example, in some case, providers come in and put them to bed at 6:00 in the evening and don't get them up until 10:00 or 11:00 the next day. We...this is done more as a convenience for the provider rather than for the person with the disability. We realize emergencies do occur with staffing or whatever. And...but we feel it needs to be negotiated. They need to be equal partners in the services they provide. We felt like basically this is a very good piece of legislation but I think with these few minor tweaks it could be a great piece of legislation. And our final concern was about the Class V misdemeanor at the end. We would love to see it if repeat offenders could...if the fine would go up for repeat offenses because sometimes for some companies it's easier to pay the fine than it is to fix the problem. And we hope you will advance this bill. Thank you for your time and if you have any questions... [LB607]

SENATOR CAMPBELL: Thank you, Ms. Hoell. Questions from the senators? Thank you for your testimony today. Good afternoon. [LB607]

MICHAELA VALENTIN: Good afternoon, Chairperson Campbell and members of the Health and Human Services Committee. My name is Michaela Valentin, spelled M-i-c-h-a-e-l-a V-a-l-e-n-t-i-n, and I am the registered lobbyist for Home Instead Senior Care. In the interest of time, because Senator Mello already hit a lot of the points I wanted to hit, we will just skip right down to: Home Instead is a member of the Aging Nebraskans Task Force and we support LB607 for the protection of seniors who receive home-care services. One of the biggest issues that our industry faces is confusion around whether a home-care service is provided by an employer/employee model that W-2s its employee which is known as the agency model or a model that is commonly referred to as the registry model that does not W-2 its employees. The registry model is similar to a temporary staffing agency that places caregivers in the home. In some cases, the registry model of home-care services does not notify the senior that the senior is the employer of that person in their home, that the senior is responsible for such things as handling taxes from the hiring of the caregiver, payroll, and scheduling. And there is no employer recourse for theft, injury, or property damage with that temporary staffing agency model. However, with our employee/employer model, the senior would be able to go back to the employer as a matter of recourse if anything was to happen in those areas. In the registry model, the senior is oftentimes on his own. It's important for a senior and his family to know what type of employer will be providing their in-home personal care services and what the employer does to ensure that the senior is protected as well as protecting the person who is in the home for caregiving. For example, the employer/employee model performs quality assurance checks, training, criminal background checks, and drug screens and has workers' compensation insurance. The registry

model does not. That model just places the caregiver in the home. Home Instead believes that seniors should know their rights when hiring in-home personal care. We support LB607. Thank you. I'll take any questions. [LB607]

SENATOR CAMPBELL: Any questions for Ms. Valentin? [LB607]

MICHAELA VALENTIN: Yes. [LB607]

SENATOR CAMPBELL: Senator Crawford. [LB607]

SENATOR CRAWFORD: Thank you. Thank you, Senator Campbell. So do you think the language in the bill is sufficient for a consumer to understand the difference between those models? Like, it tells them what kind of model it is but do you think... [LB607]

MICHAELA VALENTIN: The way that we would explain it would be in very plain language. So, yes, I think they would. I think they would understand, which they don't at all now because nobody explains it to them, that if you have this certain kind of caregiver in your home, that type of model has to explain, these are not our employees, we don't have any follow up with you. We just pay for these people to...we just place these people in your home. We don't drug screen them. We don't quality check them. We don't train them. And we can definitely work with this committee, but one of the testifiers following me from Right at Home will give you an example of the home-care bill of rights that they use and you can take a look at that language. And if you feel we need to do some tweaking, to do some more plain language modeling, we're all happy to work on that. [LB607]

SENATOR CRAWFORD: Thank you. [LB607]

MICHAELA VALENTIN: Thanks. [LB607]

SENATOR CAMPBELL: Okay. Thank you, Ms. Valentin. Our next proponent? Good afternoon. [LB607]

KRISTI BENNING: (Exhibit 29) Good afternoon. Chairperson Campbell and members of the Health and Human Services Committee, my name is Kristi Benning. It's spelled K-r-i-s-t-i B-e-n-n-i-n-g. And I'm the operations manager for Right at Home in-home care and assistance in Omaha. Right at Home is an Omaha-based in-home care and assistance franchisor. We have more than 350 franchise locations in the U.S. and over 40 locations in 8 countries. We've been in operation for 20 years and employ over 25,000 people in 45 states. Right at Home is a strong

supporter of LB607. We currently provide all new clients with a home-care bill of rights prior to beginning services. We do explain this and have them sign it. We go through each point with them. We also explain their responsibilities. Potential clients should understand what they're receiving and what to expect from a home-care company and whether or not that company employs its people. Our caregivers are employees. We take very seriously the people we place with our clients. Our employees are put through thorough background checks including criminal and motor vehicle as well as abuse and sex offender registry checks. We conduct prior employment and drug screening. Our employees receive initial and ongoing training and we do have quality assurance procedures in place. We believe that in order to protect our clients requiring home care, any business placing a caregiver in a client's home should do the same. If they don't, they should disclose the information fully in writing and as indicated in the language in Section 3 of the bill. I've passed out the consumer bill of rights and responsibilities that Right at Home currently uses so you can see what it might look like in practice. And again, Right at Home supports LB607. Thank you for your time. I'm happy to take any questions. [LB607]

SENATOR CAMPBELL: Questions? Senator Baker. [LB607]

SENATOR BAKER: Thank you. I'm looking here. Do you say anywhere on this bill rights of...the people are your employees? [LB607]

KRISTI BENNING: We do not in plain language. That is something that we explain. What we do explain in one of the points is that they have the right to the information, right to our policies and procedures of Right at Home which, you know, mandates our operation. We do explain that they have the right to receive care from sufficiently trained personnel. And so with that, we do go into additional information, the difference between agency employee and a registry. [LB607]

SENATOR BAKER: Do you have knowledge of home healthcare? How many operate like you do? And how many are just a registry? [LB607]

KRISTI BENNING: Oh, you know, I don't have the exact number. (Laugh) [LB607]

SENATOR BAKER: Take a wild guess. [LB607]

KRISTI BENNING: Oh, boy. I would say more...in this area that I'm familiar with, I would say more operate as agency. But I don't know exactly that number. [LB607]

SENATOR BAKER: Thank you. [LB607]

KRISTI BENNING: Sure. [LB607]

SENATOR CAMPBELL: Senator Kolterman. [LB607]

SENATOR KOLTERMAN: Thank you, Senator Campbell. When you say that they're employees, are we then to assume that you provider workers' compensation and general liability and all of the things that go with employee/employer relationship? [LB607]

KRISTI BENNING: We do. [LB607]

SENATOR KOLTERMAN: Okay. [LB607]

KRISTI BENNING: We do. So we do cover workmen's comp for the...you know, if the caregiver is hurt in a client's home. We take a direct liability, so...and we have professional liability/general liability insurance as well. [LB607]

SENATOR KOLTERMAN: Okay. Thank you. [LB607]

KRISTI BENNING: Sure. [LB607]

SENATOR CAMPBELL: Senator Crawford. [LB607]

SENATOR CRAWFORD: Thank you. I assume I know the answer to this since you're coming in support of this bill, but I'm just going to ask it for the record, clarify. When you read the contents of the bill and you look at what you already pass out to clients, (1) do you see changes you would probably make in what you hand to clients and (2) is that something you're very...you're happy to make those changes for the sake of making sure that the clients have the rights that are spelled out in the bill? [LB607]

KRISTI BENNING: Absolutely. We would...yeah, I think we would make some changes just given the nature of the bill probably to explain, you know, in more detail the things that the--oh my gosh, I'm so sorry--I think we would explain in better detail the employee relationship. [LB607]

SENATOR CRAWFORD: Right. That's what...yeah, um-hum. [LB607]

KRISTI BENNING: I'm sorry, that's what I was trying to say. Thank you, Senator. [LB607]

SENATOR CRAWFORD: Thank you. [LB607]

SENATOR CAMPBELL: Any other questions? Senator Cook. [LB607]

SENATOR COOK: Just morbid curiosity: Is this the type...size font that you hand to the client (laughter) only because... [LB607]

KRISTI BENNING: I know. [LB607]

SENATOR COOK: ...I just now had a milestone birthday and I have these new glasses and can barely... [LB607]

KRISTI BENNING: Yes. [LB607]

SENATOR COOK: This is...okay, so I... [LB607]

KRISTI BENNING: We have different fonts for our different clients. [LB607]

SENATOR COOK: Oh, good. Thank you. [LB607]

KRISTI BENNING: Absolutely. (Laugh) [LB607]

SENATOR COOK: I'm like, uh-oh. [LB607]

KRISTI BENNING: Terrific question. Thank you, Senator Cook. [LB607]

SENATOR CAMPBELL: It says something about the age of the senators on the panel, perhaps. [LB607]

KRISTI BENNING: Well, I mean, I've got my glasses, too. [LB607]

SENATOR COOK: By the minute. [LB607]

SENATOR KOLTERMAN: Twenty-nine, huh? [LB607]

SENATOR COOK: Again. [LB607]

SENATOR CAMPBELL: Thank you. Any other questions, Senator? You know, going back to the question that was asked about--I think Senator Baker asked--you know, how many are on an agency and how many are register? I just remember at one of the Aging Task Force meetings was talked to us about, and I can't even remember who said it was just a growing number of the registry. And that is a concern. I'm really glad Senator Mello brought the bill based on what we heard this summer from people because you just have a lot of seniors and have people in their home and they have no idea that they are...you know, they are responsible for that person essentially because they're contracting with them and they don't know that. [LB607]

SENATOR BAKER: Senator Campbell, and maybe I'm out of order here but I had personal experience with my wife's aging parents in their last year that we thought it was employee and it wasn't. We discovered theft and they said, well, that's not our employee. [LB607]

SENATOR CAMPBELL: Yeah, yeah. Exactly. Exactly. Thank you. Senator Baker, personal stories are always helpful. I tell you, we learn from experience here. Okay. Thank you very much for your testimony today. [LB607]

KRISTI BENNING: Thank you. [LB607]

SENATOR CAMPBELL: Our next proponent? Good afternoon. [LB607]

SHANNON AHLMAN: Good afternoon. Chairperson Campbell and members of the Health and Human Services Committee, my name is Shannon Ahlman, spelled Shannon, S-h-a-n-n-on, Ahlman, A-h-l-m-a-n. I am operations manager for A Place at Home in-home care. A Place at Home is an Omaha-based home care provider. A Place at Home has been in business since August 2012 and has grown from three employees to over 70 employees serving 65 clients. Our mission is to provide compassionate care delivered by passionate professionals to those who want to remain in their own home. A Place at Home supports LB607. Seniors should know that a caregiver is in the home and the employment relationship between that caregiver and the employer if there is a relationship. All of our employees are W-2 employees who we train, drug screen, criminal background check, and insure and bond, just to name a few. We create individual care plans that the caregivers follow and are accountable for. Some models of home care do not do that. And we want everyone to provide for care for our seniors to be on a level playing field. Seniors and their families should know if the senior is considered the employer. Often this is not disclosed by home-care models that do not employ their caregivers. A Place at Home supports protecting seniors and specifically supports LB607. Thank you and I'm happy to take any questions. [LB607]

SENATOR CAMPBELL: Any questions, Senators? Thank you for your testimony today. [LB607]

SHANNON AHLMAN: Thank you. I appreciate it. [LB607]

SENATOR CAMPBELL: Our next proponent? Good afternoon. [LB607]

FRANK VELINSKY: Good afternoon. Madam Chairman, members of the Health and Human Services Committee, my name is Frank Velinsky, F-r-a-n-k V-e-l-i-n-s-k-y. I am president of the Nebraska chapter of the Home Care Association of America. I sit on the national legislative policy advisory council to the Home Care Association of America. I also own...co-owner, founder of a in-home care agency serving 500 clients, mostly Medicaid waivered, low-income individuals as you know. Utilizing approximately 300 caregivers, we operate in western Iowa and throughout the state of Nebraska. We've been involved with this from the beginning. We are not a franchise. We're a family owned business. We developed the organization from the grass-roots level. And at that time, we got deeply involved with the legalese, if you will, the organization, the structure, the labor issues, the employer/employee relation, the independent contractor versus the W-2. It's either a 1099 or a W-2 employee. I don't have to remind you of the growing elderly population nor the growing disability community that wishes to stay in their own homes. There are lots of things that have...playing into this growing population not to mention individuals like myself who is now a card-carrying senior boomer. I am aware of many of the issues that you have been discussing here today. To one extent or another, there's lots of information and things to know about this area but I think I can tell you that the in-home industry, as far as our members go on the national level, have had a steep learning curve. We've learned that there is a difference between those who are members of our association who want to be responsible employers and be responsible to our clients. The best practices that have been developed over the years lend legitimacy to our business. There are many, many organizations and individuals across the country and in Nebraska who attempt this work. But I think that some of the paperwork that is involved is merely skipped. In fact, in late 1999, the U.S. Department of Health and Human Services entered into a research agreement with the Robert Woods Johnson Foundation to begin what was now called, as we know, the consumer-directed era. It was called money follows the person. I know that it has different definitions. But one of the...when the reports came out years later and several reports after that, there were lots of proclamations about how great the in-home care was. And indeed it is. But there was one element that kept out of those reports and that was referred to merely as paperwork. The paperwork is actually the glue that holds the organizations together, the legitimate organizations together. LB607 is that glue or at least it contains a lot of it. It contains the legitimacy of employers. And I think that that may be one of the most important parts of moving this on. It's...we've got this huge population. We've developed programs. The Medicaid waiver is doing its job in my opinion. I see it daily. And I that think that this bill is a steppingstone forward to build for our future for both the elderly and

the disabled in this state. And again, some of the things...very quickly, the Medicaid waiver program: Olmstead also gives legitimacy, permits a lot of these things to take place. And that is going to even, I think, develop the in-home care even further as case law takes place across the country and permits states to utilize these services. And it's a much better quality of life for our consumers as well. Thank you very much for hearing me out. [LB607]

SENATOR CAMPBELL: Senator Cook, did you have a question? [LB607]

SENATOR COOK: I did. I had a thought, so I'll give voice to it because it helps, just like you said. I, too, have been in the position to retain home health services. And I want to make a distinction without besmirching the image of any rival group that does not have employees as the people who have testified have. Would...if I gave an example of an organization that operated via Web site, would that be an example that, perhaps, one might access and then you find out later that you're responsible for your...that you are the employer of... [LB607]

FRANK VELINSKY: Oh, I can't imagine that happening. [LB607]

SENATOR COOK: Okay. [LB607]

FRANK VELINSKY: I mean, it might. [LB607]

SENATOR COOK: I'm thinking of one in general and I don't want to say it on the microphone. [LB607]

FRANK VELINSKY: Um-hum, a Web site. [LB607]

SENATOR COOK: But I'll just confirm with the bill's sponsor, because I'm trying to get a line, a way to delineate for my own conversational purposes, between and among home-care agencies and the ways in which families and individuals identify them and retain them. So I'll just follow up on my own. [LB607]

FRANK VELINSKY: Okay. And I think that the...many of the laws that already exist...to govern a legitimate employer already exist in Nebraska. And I think that, you know, just following that...a quick response, if you don't mind, there was a question regarding numbers of people on the registry, independent individuals. The...in Nebraska, it is no less than 6,000. And I saw that recently. Several years ago, I was part of a committee at Department of Health and Human Services that was looking at another form of service. And there were categories...and that ranged up to 12,000 for disability, elderly, and the...what was then the MR categories. And so

they're...and some of those could have been duplicates, but I think the 6,000...not less than 6,000 is unduplicated amount. And so the...if I may comment one more time regarding workers' compensation. I think this is extremely important. Keeping in mind that there at 6,000 independents going into homes, workers' compensation...and the Labor Committee is probably going to hear more about this issue, from me anyway, in the future. This is becoming a huge issue in this industry for the smaller businesses. And it's a very big deterrent for newcomers to come into this area. One of the things that is happening is that we're going into homes that are owned and controlled by other individuals--housing authorities, landlords, HUD operated--that are not in good repair. They are aging employees, sometimes, like our clients. And it's become a real problem. And we are responsible for those injuries. Those payments are huge. So it's kind of like...when OSHA developed this, it was controlling...they were developing these rules based on the fact that plants and factories were controlled by owners. We don't own these homes or these facilities or these parking lots. And we have had significant injuries and they last forever in some cases. So I think that...thank you for hearing me on this particular issue. That may be another steppingstone in, you know, as we go on in developing this area. [LB607]

SENATOR CAMPBELL: Any other questions or comments? Thank you, Mr. Velinsky, for your testimony today. [LB607]

FRANK VELINSKY: Thank you. [LB607]

SENATOR CAMPBELL: Our next proponent? While Mr. Intermill is getting ready, other people who wish to testify today? Mr. Intermill, you are the last person, I gather. [LB607]

MARK INTERMILL: I'm the only person standing between you and the end of the day, huh? Okay. (Laughter) [LB607]

SENATOR CAMPBELL: You know, usually you have such good information, I'm not going to worry about that. [LB607]

MARK INTERMILL: (Exhibit 30) Okay. Well, I...my name is Mark Intermill, M-a-r-k I-n-t-e-r-m-i-l-l. And I'm here today on behalf of AARP. I did send a letter because I wasn't sure I was going to be able to be here. [LB607]

SENATOR CAMPBELL: Yeah. [LB607]

MARK INTERMILL: But I did...if I could, wanted to be here to support this bill. And I'll tell you that you're doing much better than the Revenue Committee is in getting through your hearings today. (Laughter) [LB607]

SENATOR CAMPBELL: All right. [LB607]

MARK INTERMILL: So we...LB607, it addresses a group that we're very concerned about, a group that, by its nature, by the services that it receives, is a vulnerable group that does need some protections. And I think, as we've heard, they also need to understand their responsibilities as an employer if that's the case. We do have a lot of, as we just heard, independent contractors who are providing services to frail older persons. And there is a different relationship that they have with that individual in terms of an employer/employee that needs to be well understood. So both the protections in this bill and the delineations of the responsibility of the individuals who are employing somebody, I think, are important steps. And with regard to Section 6 that I understand will be eliminated, this was actually something we kind of liked. (Laughter) But I have some solace in the fact that there is another bill that addresses the same type of issue that you have heard. LB320 has the aging and disability resource centers which would provide a similar type of function and I think fits...would fit very well with this, with the bill that we're hearing now. So just wanted to say AARP's support for the bill and be happy to try to answer any questions you might have. [LB607]

SENATOR CAMPBELL: One of the things that we are going to have to pay attention to in addition to this bill is an issue that this committee dealt with last year. And that is the department and what they pay for the time. And if we will remember...I will never forget the gentleman who came in and the committee members will remember him and...which he talked about the fact that he needed that care. And even though he knew that they were falsifying the records and maybe stealing from him...remember that? Remember the gentleman? I know Senator... [LB607]

SENATOR COOK: Um-hum, yes, the young man. [LB607]

SENATOR CAMPBELL: ...young man. It seems to me whatever we can do to try to help the population is so critical because they are really...they, you know, they need the people. They need the help. And sometimes they don't feel that they can say anything or complain about it because they don't know who's going to come ever again to help them. And that is really sad. [LB607]

MARK INTERMILL: Yeah. And that's...you know, I've been working with the Caregivers Coalition...there's a forming Caregivers Coalition that we're trying to establish statewide. And one of the things...when we were in McCook and talking to some folks out there, I ran into a woman who was managing independent contractors for her mother's care who has developed a

lot of the paperwork or the processes that need to take place. And those are the types of things that I think that we might be able to share within the state through this type of process or through an ADRC that would maybe help those individuals who are trying to make those arrangements to be able to pull it off. [LB607]

SENATOR CAMPBELL: I think that would be great. And I know Senator Mello knows but, you know the, because it was a big hit to the budget, but the federal government's labor laws have...you know, they've come down by rule and regulation, I think. And they're being very specific about those contractors and how you account for them. And we can say, oh, this is going to cost us, you know, the money. But on the other hand, maybe we will see more accountability out of some of the people on a registry that don't work with an agency than we've seen in the past, because I am very concerned about this population. And we know that in order to save the baby boomers in the future, we're all going to have to take care of them in their homes. [LB607]

MARK INTERMILL: Or us in our homes. (Laugh) [LB607]

SENATOR CAMPBELL: I know, I should say us and then...trust me, after cataract surgery last week, I can identify with this, absolutely. Absolutely. Thank you, Mr. Intermill. [LB607]

MARK INTERMILL: Thank you. [LB607]

SENATOR CAMPBELL: Any other testimony today for this bill? Senator Mello, would you like to add some closing words? You have five minutes. (Laugh) [LB607]

SENATOR MELLO: Assuming there's no opposition or no neutral, just, I think it was just more of a clarification. Obviously I...it was good to see, I think, a broad coalition of supporters on behalf of LB607. And the amendment that I mentioned that the pages had made a copy and distributed, most of the testimony that you heard from Ms. Hoell regarding disability rights in Nebraska, the amendment you have made all of those changes that she had discussed with the exception of the increased fine or penalty for repeat offenders. It's not an issue that I'm not willing to consider, but I wanted in...first to be able to get a little bit of conversation with committee members in first in regards to the initial penalty we put in of the Class V misdemeanor with the $100 fine if someone violates LB607 before we wanted to add, I think, more fines or more penalties on top of repeat offenders. So everything else she discussed, though, is in the amendment AM436. With that, I look forward to talking with the committee more about this bill and hopefully moving it forward to General File. Thank you, Madam Chair. [LB607]

SENATOR CAMPBELL: Okay. Letters for the record? [LB607]

BRENNEN MILLER: (Exhibits 31, 32, 33, 34, 35) Thank you. Letters in support from the Nebraska Medical Association, Nebraska Association of Home and Community Health Agencies, Disability Rights Nebraska, LeadingAge Nebraska, and in the neutral position, Department of Health and Human Services. [LB607]

SENATOR CAMPBELL: Okay. Senator Kolterman has a question. [LB607]

SENATOR KOLTERMAN: Yeah, I just have a question. And it deals a lot with what we're talking about here today. Are you aware that there's a bill to deal with independent contractors that's coming forward, and I believe it's in Government? [LB607]

SENATOR MELLO: No. [LB607]

SENATOR KOLTERMAN: And it pertains to workers' compensation. [LB607]

SENATOR MELLO: That may be in Business and Labor, Senator Kolterman. [LB607]

SENATOR KOLTERMAN: Oh, that's in Business... [LB607]

SENATOR MELLO: I'm unaware of that piece of legislation. We have done work before on independent contractors a few years ago in respects to trying to create a clear line of delineation in regards to what really is a 1099 contractor in comparison to a W-2 employee. But I'll make sure to look into that bill in Business and Labor. [LB607]

SENATOR KOLTERMAN: I...it's Senator Harr. It's his bill. [LB607]

SENATOR MELLO: Okay. [LB607]

SENATOR KOLTERMAN: And it really just deals with a lot of the issues we're talking about here. One of my concerns, and I appreciate you bringing this, is the people that come in...I mean, the people that do this kind of work, it's very easy to injure your back, get hurt on the job. And when they do, if they don't have workers' comp, sometimes their medical throws them out because they...it's on the job. And so if we can figure out a way to delineate between workers' compensation and what's an independent contractor versus what's an employee, that's very important. You know, and we find in our community that there's people that will do this. They

might have one or two clients, is all, but they don't...you know, they just kind of hang their shingle out there. And we need to protect these people because they're very vulnerable at that state in their life. [LB607]

SENATOR MELLO: Absolutely. [LB607]

SENATOR KOLTERMAN: So I think it's LB296 but I'm not positive. [LB607]

SENATOR MELLO: We will look into that, Senator Kolterman. Thank you. [LB607]

SENATOR CAMPBELL: Thank you, Senator Kolterman. That was a good question. [LB607]

SENATOR KOLTERMAN: And that's coming Monday, is the hearing for that. [LB607]

SENATOR MELLO: Okay. [LB607]

SENATOR CAMPBELL: Okay. The hearing is still coming, you think? [LB607]

SENATOR KOLTERMAN: Monday. I plan on testifying in support of it. [LB607]

SENATOR CAMPBELL: Okay. All right. Any other comments? Okay, we'll close the public hearing. [LB607]

SENATOR MELLO: Thank you. [LB607]

SENATOR CAMPBELL: Thank you, Senator Mello, and right on the dot at 5:00. (Laughter) [LB607]

SENATOR MELLO: 5:00. [LB607]

SENATOR CAMPBELL: It's impressive. [LB607]