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Health and Human Services Committee  
February 09, 2017

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[LB495 LB534]

The Committee on Health and Human Services met at 1:30 p.m. on Thursday, February 9, 2017, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB534 and LB495. Senators present: Merv Riepe, Chairperson; Steve Erdman, Vice Chairperson; Sue Crawford; Sara Howard; Mark Kolterman; Lou Ann Linehan; and Matt Williams. Senators absent: None.

SENATOR RIEPE: Thank you very much for being with us today. This is the Health and Human Services Committee. Our members will be coming in here and we'll be getting started. I am Merv Riepe, I am the Chairman of the Health and Human Services Committee. I represent legislatively, District 12, which is Omaha, Millard, and Ralston. The committee today, I'm going to ask them to introduce themselves. If we have...I know Senator Crawford had to step out because I think she's introducing another bill, but I will start to my immediate right and have that good senator introduce himself.

SENATOR KOLTERMAN: I'm Senator Mark Kolterman, from Seward, York, and Polk Counties, 24th District.

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

SENATOR ERDMAN: Steve Erdman, District 47, 80 percent of the Nebraska Panhandle.

SENATOR LINEHAN: Senator Lou Ann Linehan from western Douglas County.

SENATOR RIEPE: Thank you very much. As I said, I think Senator Williams will be joining us momentarily. To my right is Kristen Stiffler, who is the legal counsel for the Health and Human Services Committee. And to my far left is Tyler Mahood, who is our committee clerk, and he will be collecting, if you have documents to submit when you come up should you come up to testify, he will be wanting those. We also have two pages that are religiously with us and I want to introduce them. First, we have Brienne Hellstrom and I always tell it say that she's from Simi Valley, California. It sort of sounds nice on this kind of weather. And also, we have Jordan Snader, who is from Oakland, Nebraska, which is also a very classy area, we might add. This is your opportunity to participate; we encourage that. We have a process and you'll see some committee members come and go, that's normal. They will have other committees that they will be either opening bills on or testifying at. And also, you may see some of our committee members using their laptop computers and we encourage that. Much of the information is available on their laptops. Today, to help us facilitate the process, we have a few simple

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guidelines, if you will. And that is to...we ask people to please silence or turn off your cell phones. We ask that if you're going to testify, to move things along if you're going to testify, as it gets closer to when you're going to testify please come forward and be in the front seats so that we don't spend a lot of time moving up. The process, the order of testifying will be the individual, the senator who will be introducing the bill. And following that will be generally, unless we make an exception, it will generally be the proponents to support the bill. Then we will follow with opponents. And then following that, we will ask for any people that are testifying in a neutral capacity. At the conclusion of that, we will go to Tyler to see if we have had any letters that have been submitted in support or opposition or in a neutral position. Then we ask the introducer or afford them an opportunity to come back and make some final comments, and we call that the closing. On some situations, the introducing senator may elect to waive, which means he or she has no further comments and we will then conclude the hearing. Testifiers signing in, we'll ask you to complete the orange sheet and give that to the committee clerk when you come up to testify. When you come to the mike, we will ask for your name, we ask you to state your name and then to spell out your name, and that's for purposes of the transcribers. Also, we will ask you to be concise. The way the light system works, it's a five-minute light system. There will be four minutes...the introducer has unlimited time, so but the people in proponents and opponents are on a light system and it's a total of five minutes: four minutes on the green, one minute on the amber, and then there's the red light. I will try to be polite and not just cut someone off hardly at the red light, but if it continues on I will probably ask you to, please, try to come to concluding remarks in the interest of everyone else that wants to testify as well today. I'm going to read this one so that I get it into the record right. If you will not be testifying at the microphone but want to go on record as having a position on a bill being heard today, there are white sign-in sheets at each entrance where you may leave your name and other pertinent information. These sign-in sheets will become exhibits in the permanent record at the end of today's hearing. Any written material may be distributed to committee members as exhibits only while testifying. Hand them to a page for the distribution to the committee and staff when you come up to testify. And we're needing ten copies of your document. With that, we're going to open today's hearings. We have two bills that we're going to hear. The first one is LB534 and that is Senator Vargas. So, Senator, the microphone is yours, and welcome. [LB534]

SENATOR VARGAS: Thank you. Hello, everybody. My name is Tony Vargas, T-o-n-y V-a-r-g-a-s. I want to thank the Chairman and members of the committee. I am here today to talk about my bill, LB534, which will provide funding for a statewide housing coordinator within the Division of Behavioral Health to aid in the efforts of the existing six regional housing coordinators. By way of background on this issue, the recommendation to create this statewide housing coordinator position came directly from two reports commissioned by the Department of Health and Human Services. These reports were released by the Technical Assistance Collaborative or TAC in April 2014 and August 2016. When putting together both reports, TAC interviewed community stakeholders and individuals and held feedback sessions with a number

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of organizations, employees, and consumers of behavioral health services to obtain a wide view of existing strengths and resources and areas for improvement. The 2004 report examined and made recommendations for future action in the area of community integration in Nebraska's behavioral health system. For anyone who is new to the technical language in this arena, community integration is defined by the U.S. Department of Justice as settings that are located in mainstream society and inform individuals access to community activities and the ability to interact with nondisabled individuals to the fullest extent possible. In the 2014 report TAC found that the Department of Behavioral Health (sic: Division of Behavioral Health) was--and I believe still is--committed to strengthening our behavioral health system to support individuals in the most integrated settings possible and suggested that Nebraska could do more to support the community integration with psychiatric disabilities. The report recommended that in the short term the Division of Behavioral Health work together with Medicaid and other state agencies, such as the Investment Finance Authority, NIFA, and the Department of Economic Development to identify and maximize existing funding and resources for direct services for managed care and housing. In the long term, TAC recommended that Nebraska continue to expand resources through housing-related assistance program to accommodate individuals that currently reside in assisted living facilities and mental health centers but could benefit from more integrated services in living facilities and mental health centers and make sure that they can live more independently. TAC acknowledged the fact that, while conducting feedback sessions and interviews that regional housing coordinators were seen as a positive addition to the state services, but identified that they are under resourced to handle additional work that could be beneficial, including more systems levels advocacy and assistance. Another long-term recommendation that came from the 2014 report encouraged regional housing coordinators to more consistently define their roles across the state and to allocate additional funding to allow them to have a broader role and build relationships with other agencies and public housing authorities that can continue to aid in identifying additional affordable housing opportunities for behavioral health consumers. This brings us to the second TAC report which was released in the past August as a follow up to the previous report. For the 2016 report, TAC worked with Division of Behavioral Health and related state agencies to develop a strategic supporting housing plan for Nebraskans living with and recovering from serious behavioral health conditions. This resulting strategic plan included goals to strengthen the array of readily possible skill-building and recovery supports within all six behavioral health regions, including a staffing goal to create a housing coordinator leadership position within the Division of Behavioral Health. The 2016 report also examined Nebraska's housing conditions and found that there is an estimated 7,200 individuals that have the highest need and qualify for supportive housing, but there are only 2,290 beds available. These populations are vulnerable and need support to create stability in their lives. LB534 addresses a number of these specific recommendations by directing the Division of Behavioral Health to hire a statewide housing coordinator to work with the division's regional housing staff to achieve these housing goals, to continue to provide assistance in finding nonstate resources and supports and advocate for consumer needs within

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the division. Furthermore, LB534 provides \$1.1 million that would both fund the statewide housing coordinator position and provide a continued investment in housing supports and services for individuals with serious mental illnesses. The funds would be disbursed on a competitive basis to nonprofit programs and other entities that provide integrated housing services and supports for individuals with serious mental illness and substance abuse disorders, including those released from corrections or placed on probation. You may well know that the populations of individuals who need behavioral health services and who are transitioning in and out of corrections quite overlap. Consistent and supportive housing that meets the needs of behavioral health service consumers is considered to be the most impactful and important components when we're ensuring long-term stability for individuals suffering from serious mental illness and substance abuse disorders. By investing in these community-integrated solutions up front, we are more holistically supporting and treating these individuals and ultimately saving money and costs associated with chronic conditions, co-occurring disorders, and individuals who reoffend and end up back in our corrections system. And with that, I'm happy to answer any questions. And thank you for your time. [LB534]

SENATOR RIEPE: Are there...Senator Howard, go ahead. [LB534]

SENATOR HOWARD: Thank you, Senator Riepe. And, Senator Vargas, you and I had sort of walked through my questions earlier, but I just want to make sure that we get them into the record. So the first one is about the reporting relationship between the housing coordinator and the director of Behavioral Health. Does the housing coordinator, who is sort of supporting all of the housing coordinators beneath them, report directly to the division director? [LB534]

SENATOR VARGAS: That's the intention, that it would report directly to the director. And there is potential to modify this language to make sure there's more clarity that they would report to the director. [LB534]

SENATOR HOWARD: Okay. And then the disbursement of the grant funds, is that at the direction of the housing coordinator exclusively? [LB534]

SENATOR VARGAS: The...no. It is at the ability of the coordinator to make recommendations and decisions in partnership with the director of Behavioral Health. And again, that's something I continue to want to amend the language if it's going to be more clear as to how that's going to be executed. [LB534]

SENATOR HOWARD: And then my last question is about the promulgation of rules and regulations around the application process. The first one is that it calls for the director to do so and I believe we just want the division to adopt and promulgate the rules. [LB534]

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SENATOR VARGAS: Yes. [LB534]

SENATOR HOWARD: And then we also...do you want the housing coordinator to be a part of the conversation in crafting those rules and regulations? [LB534]

SENATOR VARGAS: Correct. If we are simultaneously asking them to be the stewards of best practices and collecting the information and working with the different regions, I do also want them in partnership working with the division to figure out the best ways to identify the process, which will also help with just the giving out the funds. [LB534]

SENATOR HOWARD: And then we've also made the adoption of rules and regs an option. We have it as a "may" instead of a "shall." Would you prefer a "shall"? [LB534]

SENATOR VARGAS: I would prefer a "shall." [LB534]

SENATOR HOWARD: Okay. Thank you. [LB534]

SENATOR RIEPE: Senator Linehan. [LB534]

SENATOR LINEHAN: Thank you, Mr. Chairman. And thank you, Senator Vargas, for bringing this. This is a very important subject. Can you explain to me why this particular...this position versus other positions? I guess some of my concern would be knowing the different regional...we had...Senator Schumacher was here yesterday saying we really don't know what we need and one of the things we should do is study what we need and that the different regions do things very differently. And so why of all the things to address, why this particular position? [LB534]

SENATOR VARGAS: So coming out...yeah. No, thank you very much, Senator Linehan. I think there are many...there's no silver bullet to anything that's going to help support the behavioral health system, but we are seeing from the report that came out that there's great work happening across the state. There are differences in how people are doing different things, but there was a continued need to provide support to the housing coordinators and to different regions. And that is not always being supported in the best of ability not because people don't care about it, but because of capacity. This lent this conversation to...there's a position that housing coordinator that is identifying the best practices, figuring out shared mechanisms for better leveraging community resources and finding additional funding resources, building better community relations so that we can continue the community integration, and that somebody that has this touch point to each of the individual regions and those individuals working in the regions is best equipped and can do that, adding extra capacity to this division. [LB534]

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SENATOR LINEHAN: So is the way the system is set up now, what is the interconnection between the regions and the Department of Health and Human Services? [LB534]

SENATOR VARGAS: There is a connection, obviously, to the director of Behavioral Health. But when we looked at the report, as you can see in other entities, we are...when we identified that they were under resourced there wasn't as much funding supports for some of this work in the different regions and there wasn't as much best practices going on, it warranted a conversation and this policy recommendation around an individual that would only be in charge of that and not adding more onto somebody's plate and having somebody that's solely in charge of providing the supports to do this. [LB534]

SENATOR LINEHAN: So what tools would this person have to make sure that the regions were cooperating? I mean, because it's like Department of Health and Human Services is coming into a region and the region is like, why are you here? I mean, that's... [LB534]

SENATOR VARGAS: Yeah. And similarly, the director of this division--that's something that I want to continue to work on--is what it looks like to ensure that this relationship between the division and the different regions, that we are pooling our collective resources to provide the support for this coordinator to do that work. [LB534]

SENATOR LINEHAN: Okay. Thank you very much. [LB534]

SENATOR VARGAS: Thank you. [LB534]

SENATOR RIEPE: Senator Erdman. [LB534]

SENATOR ERDMAN: Thank you, Senator Riepe. Senator Vargas, thank you for coming. So how do they do this now? [LB534]

SENATOR VARGAS: Currently, the different regions have their coordinator, they have funds that are allocated to their different regions, and they do do different things. I think this, to me, is similar to how different school districts or regions' ESUs are doing different work. But we do not have a support mechanism to then collect what they're doing differently, help maximize the best practices, help maximize the different ways that they can go about finding additional funding. And so I think some...it's just capacity and funding, right? Sometimes we need somebody to be able to have the responsibility and the ability to work with people across different, you know, different regions and understand those perspectives in the policies that they're bringing forward, figuring out a way to share with everybody. [LB534]

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SENATOR ERDMAN: So then this is one person? [LB534]

SENATOR VARGAS: One person. [LB534]

SENATOR ERDMAN: Statewide. [LB534]

SENATOR VARGAS: Statewide. [LB534]

SENATOR ERDMAN: Okay. So the next question is, you're going to contribute \$1.1 million in '17 and '18. Then what? [LB534]

SENATOR VARGAS: So my intention is that we come back and we are identifying if it's doing the best that it could potentially do with the dollars that we have available. Anything we should be evaluating, whether or not it's doing what its intention is. So that's why we didn't go beyond that. And if you look at the \$1.1 million and look in the fiscal note, this coordinator position has a set number. It's not the entire \$1.1 million. The remaining funds would be distributed in grants to the different regions to provide continued support and services for continued community integration and engagement with different nonprofit entities to support this population. [LB534]

SENATOR ERDMAN: Is that what it means on line 19 on page 2? It says, funds shall be distributed first to the housing coordinator for the purposes of Section 1 of this act. And then after that, it shall be disbursed competitively to behavioral health regions. So it's going to be totally up to the coordinator where the money goes? [LB534]

SENATOR VARGAS: It would be...and this is something that Senator Howard brought up. The intention is that the division in collaboration and partnership with the housing coordinator would then decide how to divide these funds, based off of the application process that they create and the components that they determine on what constitutes a successful application, knowing that they are the subject matter experts on what is going to be the best serving those regions. [LB534]

SENATOR ERDMAN: Several places in your bill it talks about serious mental illness. So there must be some criteria that's developed to determine what that is. Would that be correct? [LB534]

SENATOR VARGAS: Yes. Yes. [LB534]

SENATOR ERDMAN: It's defined somewhere that if you have these certain shortcomings, you have serious mental illness, right? [LB534]

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SENATOR VARGAS: Correct. [LB534]

SENATOR ERDMAN: Okay. [LB534]

SENATOR RIEPE: Okay. Thank you. Questions? And I have, Senator, you referred to...in here or I have in my left hand here a "Report on Mental Health, Behavioral Health" that was December of 2016. Was there a recommendation in there for this particular full-time equivalent employee? [LB534]

SENATOR VARGAS: Could you repeat, Chairman, which reference report? [LB534]

SENATOR RIEPE: This was a report of the Mental and Behavioral Health task force, established by the LR413 and the report is dated December 1, 2016, so it's fairly fresh. In their recommendations...I read it when it first came out and I looked at it some last evening and a bit today. I didn't see anything in there about a recommendation for... [LB534]

SENATOR VARGAS: No, I don't believe there was a recommendation specific to this, having a statewide housing coordinator to do this. But there were conversations on, how do we best support and add resources and capacity to behavioral health services across the state? And how do we best elevate and codify best practices and maximize what people are doing across regions across the state. [LB534]

SENATOR RIEPE: Was there a serious look at, you know...my experience is the easiest thing to do is to add another person or spend another dollar as opposed to looking at the system and saying, we can discontinue this and we'll do that to trade off because we think the new housing coordinator is more important than something else. Was that looked at or was it simply a matter of going to and say, let's just add another person and go from there? [LB534]

SENATOR VARGAS: I don't know if it was looked at in the report that you were referencing. I know in these reports it was looked at as what are several policy decisions that are going to help continue to increase capacity and best practices? And it was one of the policies that was specifically tailored to, how do we make sure that we are providing a pathway to community integration? We know that the least restrictive environments are providing the best outcome for individuals that have mental illness. And so that... [LB534]

SENATOR RIEPE: Did you have another source of funding, too, because I'm curious how you will convince your fellow legislators in a year when we're talking about a shortfall of \$900 million over the next biennium, to come up with \$1.1 million. [LB534]



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SENATOR VARGAS: So that's the conversation... [LB534]

SENATOR RIEPE: I want to hear the sales job. [LB534]

SENATOR VARGAS: We're going to find the money. No, no. You know, I could say that at the Appropriations table right now and conversations I've had with initial legislators, is we are making very difficult decisions. But we are also making those decisions informed in policy and long-term growth in supporting individuals and are supporting education. And in this instance, when we look at the reports and the recommendations, we see a benefit to making sure that this group of individuals...and you saw...I showed you the stats with how many beds we have versus the need, that there is a need. And there is also a cost-saving mechanism when we're talking about our correction system and our probation system. When we think about funds I think that there is ability to be creative. We have had conversations on many...in the Appropriations Committee about how we can best meet the needs of Nebraska. This could look into, and I'm more than happy to identify and look at some cash funds that are going to enable us to offset this, but I believe that also General Funds are going to help us say that we're prioritizing behavioral health. And I think we've done that. We've said that with corrections. I think we've done...we've said that with the probation system. And I think this is another instance where we have a population of individuals that, when we're talking about the least restrictive settings--and I know I keep coming back to that--we're providing a pathway for people to be able to live and to be able to get the best services for addressing their mental health concerns. And the data is there, the policy is there. I believe that we're going to make more rationale and support policies...we're going to invest in policies that are protecting Nebraskans and are also making sure that we are saving costs and investing in our Nebraskans. [LB534]

SENATOR RIEPE: I would say that every one of the 49 senators has or will run into the issue of dynamic forecasting. And so it's generally unallowed or is unallowed, but thank you, you've been very informative. We appreciate it. Are there other questions? Senator Howard. [LB534]

SENATOR HOWARD: Thank you, Senator Riepe. Just for a point of clarification, what's cheaper to the state, a highly restrictive setting where we have to monitor somebody 24/7 or is it cheaper to give them some housing supports so they can live independently? [LB534]

SENATOR VARGAS: It is cheaper to have a least-restrictive environment. It is much more expensive and we're seeing that across the board in different entities. You see this in corrections and in probation that the more restrictive environments, the more high structured are much more expensive in the long term. [LB534]

SENATOR HOWARD: Thank you. [LB534]

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SENATOR VARGAS: Thank you. [LB534]

SENATOR RIEPE: Okay. Are there any other questions? Seeing none, thank you for being here. Will you stay around for the close? [LB534]

SENATOR VARGAS: Oh, absolutely. [LB534]

SENATOR RIEPE: Okay, thank you. Proponents. Any proponents speaking in favor of the bill? [LB534]

LARRY STORER: I'm sure there are others here that would rather speak before me, but maybe this is best. [LB534]

SENATOR RIEPE: It's your opportunity... [LB534]

LARRY STORER: My name is Larry Storer, S-t-o... [LB534]

SENATOR RIEPE: Would you please be seated so you're in front on the microphone? [LB534]

LARRY STORER: Larry Storer, S-t-o-r-e-r, Omaha, Nebraska. I'm first of all a citizen; second, a taxpayer; third, a property taxpayer; and fourth, a grandparent with a child and a grandchild in the system. And I know it's easier for me to sit here and shoot my mouth off than it is to be a representative, but I'd like to give a different perspective. Most everybody here is busy with their jobs in the system. But in terms of housing only, I'll have some comments, but I'm going to testify later also. To me this is a systemic problem, so I'm addressing the state, the systemic problems in this state. I am not addressing problems with my relative. But my observations over approximately nine, ten years, maybe more of visiting various housing provisions for children in the system, whether it's behavioral or whether it's disability related is that, yes, everybody is very busy and you can't be perfect. But there are an awful lot of things that are very worrisome. I was highly involved in most everything because my daughter was a single mother. So I provided her a lot of transportation. I've sat in on a lot of the visits, the home visits practically every other week, if not more often. And because of that, I observed an awful lot of things that only as a homeowner would worry me. The upkeep and maintenance of some of the facilities. Yes, some of the kids do damages and things, but as a homeowner you learn to look for certain things that need to be repaired in the facilities. And one time, for example, just looking at things around the outside of the house you notice things in disrepair around the foundation or dryer vents completely plugged with lint, which could be a fire hazard. In other words, if it's plugged outside, it's probably plugged inside also and that is a generation for a lot of fire. So, yes, you

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need a coordinator, but not just for finding that house but also for observing it on a regular basis to make sure that it is safe. And I can say that there are a lot of things in that area that need to be improved. The other aspect is where these houses are located and who actually owns those houses. Now, as a grandparent with no legal authority, I'm not allowed to discuss things with the clients, with the staff, with the people at the state of Nebraska, HHS, even with doctors and providers, therapists. I'm invited to sit in the meeting, but I'm not invited to offer input and I'm not invited to ask questions. Because of my grandson's disabilities I've been involved with a lot of professional organizations. And those organizations are made up of medical professionals as well as parents and children and people with disabilities from across the nation. And then there are people from across the nation...I understand from a meeting in November, a judge from Pennsylvania has been invited by the state of Nebraska to come in and tell you what the best practices are for children in the welfare system. You've got to start with that house you're talking about. You've got to have somebody that's regularly inspecting those things and directing the staff or whoever coordinated that housing to make sure that that's safe. You put everybody at risk if you don't. So I'm a big proponent of this bill, but for many other reasons I also want to say very quickly, the laws on HIPAA and FERPA are working against all of us. Now, I don't know if I'll have time, but every one of the service providers has a mission statement and they all talk about including families and friends. Even the HIPAA law says a highly participating person is part of the team. You can't be part of the team if you're not allowed to give information or ask information. I've never asked for personal notes of the providers. I know that's against the law. But the intent of those laws shouldn't be difficult. It says that we're here to serve people that need service, such as developmental disabilities. [LB534]

SENATOR RIEPE: Thank you. Can you kind of summarize? [LB534]

LARRY STORER: So I have a right. I do have status, as they say. And I think you need to consider freeing up people to be able to share information without being afraid of lawsuits. The providers do not want to discuss things. Even our state people won't, because of that HIPAA law. [LB534]

SENATOR RIEPE: Thank you. [LB534]

LARRY STORER: And that works against all of us. Thank you. [LB534]

SENATOR RIEPE: Thank you. Are there any questions from the committee members? Hold on, sir. Just a second. There may be...are there any questions? Seeing none, thank you very much. Proponents. If there are other proponents, move up to the front, please, so we can move along. [LB534]

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AMIE JACKSON: My name is Amie Jackson, A-m-i-e J-a-c-k-s-o-n. Good afternoon, senators. First, I would like to thank you for introducing this bill, Mr. Vargas, and share with you my personal experience on this topic. I am a consumer with a serious, persistent mental illness with 53 convictions, currently in recovery. I used a housing program in 2014 that paid my first month's rent and deposit and required me to pay a percentage of my income. That opportunity allowed me not only safe, affordable housing, but it also helped me to learn how to budget for my utility bills, my insurance coverage, and all other expenses that are necessary for daily living. It also allowed me to become completely independent from living off the system, set serious financial goals, rebuild my credit, and truly gain freedom and independence to become a responsible, law-abiding, taxpaying citizen. I now work for the Mental Health Association of Nebraska's R.E.A.L. Program as a peer outreach specialist. I work closely and hand-in-hand with people coming out of the correctional system. We operate Honu Home for recently released individuals with behavioral health issues. It's only a five-bedroom home, free to the individual, and on average takes at least six to eight weeks to transition into their own housing once they get a job. I am working with people who have been in the system for 10, 20, 30 years, who are ready to live a life outside of incarceration. I am working now with a man now who was released after 40 years, who came into our office with no place to go. The homeless shelter was not an option for him. We had to get real creative, scurry, and find money from three different sources to get him a motel room for just one month. This man is now working after just a couple weeks, but doesn't know where he's going to live after that one month and we don't know where else we're going to get the money to help him. There are so many people coming out that needs this kind of support. Without safe, affordable housing, it's really hard to focus on recovery. The many people that I have helped transition into their own housing are still there doing great, very appreciative for this new opportunity in life. Most transitional houses require \$400 to \$1,500 a month to get into their places. If the person doesn't have that kind of money they are forced to stay in prison or they're forced into homelessness. I have so many people asking me, where can I get help? Sometimes I don't have an answer. We also have to work diligently to find private landlords that are willing to give people the chance and opportunity they are looking for. And when we do, it works great. I am in full support of this bill and I believe that giving people initial short-term housing support will allow them long-term recovery. [LB534]

SENATOR RIEPE: Okay. Thank you very much for your testimony. Are there questions from the committee members? Seeing none...Senator Linehan. [LB534]

SENATOR LINEHAN: Do you know what region you're in? [LB534]

AMIE JACKSON: Five. [LB534]

SENATOR LINEHAN: Five? Okay, thank you very much. [LB534]

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SENATOR RIEPE: Okay. Other questions? Seeing none, thank you very much for coming forward. [LB534]

AMIE JACKSON: Thank you for your time. [LB534]

SENATOR RIEPE: Any other proponents? Seeing none, are there any who wish to speak in opposition? Any opponents? Seeing none, are there any that want to speak in a neutral capacity? Okay. [LB534]

SHERI DAWSON: (Exhibit 1) Good afternoon, Senator Riepe, and senators of the Health and Human Services Committee. My name is Sheri Dawson, S-h-e-r-i D-a-w-s-o-n, and I serve as the director of the Division of Behavioral Health. I'm here to provide neutral testimony regarding LB534. The bill establishes a housing coordinator within the Division of Behavioral Health and the new position is responsible for providing training and technical assistance throughout the state. The bill provides General Funds for the newly created position and additional funds are provided for housing-related services and supports on a one-time basis. LB534 specifies the Legislature's intent to appropriate \$1.1 million in fiscal year 2017-18 to the Department of Health and Human Services to hire a housing coordinator and distribute aid to nonprofit entities and programs providing integrated housing services and supports for individuals with serious mental illness. The bill does not specify the Legislature's intended fund mix, nor does it identify an intent to appropriate funds in 2018-19 to sustain efforts for services and coordination. The competitive basis of funding in LB534 is not clear. Currently, the Division of Behavioral Health disburses the funds for housing, housing-related services, and supports for individuals our division serves. However, several other entities, including those serving the populations referenced in the bill, also disburse funds. I'm concerned with identifying specific services and supports, positions, practices, or models in legislation as this may limit the flexibility of implementation, cross-system administration and future innovation. The ability to operate from a system of care approach to maximize and leverage resources and avoid duplication of services across systems is difficult to achieve when such specifics are in statute. The legislation is intended to improve housing coordination and services for a broad mix of populations, disabilities, partners, and authorities that cross several existing support systems. The Division of Behavioral Health is actively engaging system partners and developing current strategic planning and work plans. Additionally, the work of the LB1033 Olmstead Task Force will be incorporated into system improvement. Current efforts within DHHS are directed at creating cross-system efficiencies, harmonizing housing and housing-related services and supports, developing resource inventories, and maximizing resources. Thank you for the focus on housing and for the opportunity to provide comments on LB534. And I'm happy to answer any questions. [LB534]

SENATOR RIEPE: Senator Kolterman. [LB534]

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SENATOR KOLTERMAN: Thank you, Senator Riepe. Thanks for coming, Mrs. Dawson. My question, I understand your testimony, but I don't completely understand what your department does when it comes to housing. So I've just got a couple of questions that I'd like to ask and see if you can respond to them. [LB534]

SHERI DAWSON: Sure. [LB534]

SENATOR KOLTERMAN: We heard just a few minutes ago the lady that was at Honu House. And I've been there, I've witnessed that, they're doing terrific work there. I don't disagree on that. And then that's here in Lincoln, that's part of Region 5, I believe. I think Seward, where I come from, is part of Region 5 as well. I might be mistaken on that. And in Seward we have a facility there that Region 5 operates out of and it's got some rooms where people can sleep if they have to, I believe. It's an old house that's been converted into an office. Do you fund both of those facilities under your program? And, if so, who do the people that run those two houses answer to at the present time? [LB534]

SHERI DAWSON: I can't speak to the actual reference in Seward at this time, but I certainly can follow up. Our division funds and contracts with each of the regional behavioral health authorities. Okay? And part of that contract is establishing a housing coordinator and a housing system. So the Mental Health Association has the Keya House, which is here in Lincoln, similar to Honu House but serves just a little bit different population. And some of the region funding does support the Keya House. Each of the regions distribute what is housing-related assistance. And these are dollars, cash, a cash fund that actually comes from every time a house is sold there's a deed. And there's \$2.25 off of the deed that is distributed to a variety of housing-related partners. The Division of Behavioral Health gets 30 cents of that deed. And it goes into a fund and we have housing-related assistance. So those are vouchers that go for individuals that are coming out of the hospital or institution, are under Mental Health Board commitment. And those vouchers can be used to help support a security deposit, rent, utilities, those kind of things. So we have about \$2.6 million that is distributed across all of the regions. And each voucher can only be used up to \$6,000 maximum. The idea is this is transitional housing and then hopefully the individuals will be able to access permanent funding, such as HUD or other kinds of things. So again, that Keya House has some of the region funding. Honu House, to my knowledge, does not have any region funding. [LB534]

SENATOR KOLTERMAN: So do you know how they're funded? Like the Honu House? [LB534]

SHERI DAWSON: I don't know that. I can find out. We had a person testify. [LB534]

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SENATOR KOLTERMAN: The other question that I have...is that all right? [LB534]

SENATOR RIEPE: Please go forward. [LB534]

SENATOR KOLTERMAN: The other question that I have is, when we're talking about HHS, I mean, it's a big budget, big part of our state budget. We're looking a \$1.1 million here for this appropriation. You indicated right now you're spending a little over \$2 million amongst all six. [LB534]

SHERI DAWSON: Yeah, that's for the housing-related assistance program, \$.6 (million). [LB534]

SENATOR KOLTERMAN: So as I read this bill that we're being looked at today, that would also come to you to be or whoever we hire, to help distribute...in other words, it would increase that another \$1.1 million? Am I understanding this correctly? [LB534]

SHERI DAWSON: I believe so. In the bill, though, it isn't clear as to that ongoing sustainability. So it looks like it's \$1.1 million one time. [LB534]

SENATOR KOLTERMAN: Right, over the biennium. And then finally I would ask, like if you were to hire a director of a program like this, what kind of a pay salary do your current directors like this get? Give me a range. All I'm asking for is some sort of a range. [LB534]

SHERI DAWSON: Well, there's coordinator positions within DHHS that do a variety of things. And I would say those are in probably \$50,000 to \$60,000 and then there's benefits that are associated with that. [LB534]

SENATOR KOLTERMAN: But that's a long ways from \$1.1 million. Am I correct? [LB534]

SHERI DAWSON: Yes. [LB534]

SENATOR KOLTERMAN: All right. Thank you. [LB534]

SENATOR RIEPE: Good question. Senator Williams. [LB534]

SENATOR WILLIAMS: Thank you, Chairman Riepe. And thank you, Director Dawson, for being here. I want to be sure I understood the funding that you were talking about for the

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voucher programs. That would not be, as I would understand, General Fund dollars, those are from the doc stamps... [LB534]

SHERI DAWSON: Yes, cash funds. [LB534]

SENATOR WILLIAMS: ...and a percentage of that, so it doesn't come from that. You heard in the testimony of the introducer the statistics on the need across the state for these types of housing. Do you agree with that? And do you see that same kind of level of need? [LB534]

SHERI DAWSON: Yes. I think our division actually commissions a technical assistance collaborative report that Senator Vargas mentioned. And certainly there are housing needs in the state. I think where our division or where I come from is that opportunity to really look...it's a pretty big umbrella, just individuals with mental illness, people from corrections, people with other kinds of disabilities. And so really being able to maximize all of the system partners and dollars take cash funds and what existing federal funds other funders may have to really braid and have a better financial blue print. [LB534]

SENATOR WILLIAMS: And going forward with that, recognizing that there is the need and recognition of an obligation to try to fill that need in some form, the \$64,000 question or maybe the \$1.1 million question is, if we were going to give you and your agency \$1.1 million, is this how you would spend it? [LB534]

SHERI DAWSON: I would have to say there's a lot of need, Senator Williams. And that's a hard question for me to answer. I don't think...certainly, housing is important. But I... [LB534]

SENATOR WILLIAMS: It's a much harder question for us to answer. You see the needs. [LB534]

SHERI DAWSON: Yes, I agree. You know certainly in this budget environment and certainly lots of needs in the system, it is difficult to make those priorities and decisions. I think what I would ask for in this particular case, before we have an allocation or an appropriation is the time for us to really pull those partners together that began with the Technical Assistance Collaborative, the work that we're already doing with NDHHS, the LB1033, and let's look at those dollars that are available for housing, look at the strings that come attached and see how we can better braid those to meet the needs. [LB534]

SENATOR WILLIAMS: Thank you. [LB534]



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SENATOR RIEPE: Senator Linehan. [LB534]

SENATOR LINEHAN: So your total funding right now for housing is \$2.6 million? [LB534]

SHERI DAWSON: That's the cash funds for housing-related assistance. There are other dollars, for example, within the regions there's the housing coordination. And so there are dollars that go to the regions for that coordination piece. And there are also some of the dollars that they use, they went blanked with their county funds and some of the General Funds to provide other housing services and supports. [LB534]

SENATOR LINEHAN: So would it be fair to say it's uneven across the regions? [LB534]

SHERI DAWSON: Well, typically, with our regional behavioral health allocations they are based on population and poverty levels, so not every region has the same amount. [LB534]

SENATOR LINEHAN: But of these, if we have 7,200 people who need housing and we only have 2,292 beds available, that leaves 5,000 people running around. [LB534]

SHERI DAWSON: Well, and some of those, again, some of the dollars are expansive of all Nebraskans, not just folks that are targeted by the Division of Behavioral Health for funding. For example, our funding is to be directed towards individuals that don't have Medicaid and don't have insurance and fall in the middle. The housing needs is larger than that in terms of looking at other system partners, for example, corrections' number of inmates that come out that we don't particularly fund, if that helps with that difference. [LB534]

SENATOR LINEHAN: Okay. I'll have more questions, but not at this time today. There's not time. Thank you very much. [LB534]

SENATOR RIEPE: Senator Erdman and then Senator Howard. [LB534]

SENATOR ERDMAN: Thank you, Senator Riepe. Thank you for coming. So Scottsbluff is a long ways from here, 400 miles. And if one person is going to travel the state...there's five regions, I believe. [LB534]

SHERI DAWSON: Six. [LB534]

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SENATOR ERDMAN: Would it make sense just to have each region have a coordinator that would do this, rather than have one person have to travel the whole state to do that? [LB534]

SHERI DAWSON: Well, that is part of our regional system is that each of them do have the housing coordinator. And when we talk about the system of care approach, Senator, what we really want is a fairly...an umbrella at the state level, but really allow that local planning and those partners to come together there. We will have people come together for policy, like Senator Vargas referenced, but that local innovation and bringing those local housing partners together is certainly a way to continue to move areas forward. [LB534]

SENATOR ERDMAN: It would seem if you take \$1.1 million and you distribute it to the regions and let them do that, it would make more sense than having somebody have a car, drive across the state to coordinate that process. I'm having trouble getting my hands around one person for the whole state. [LB534]

SENATOR RIEPE: Senator Howard. [LB534]

SENATOR HOWARD: Thank you, Senator Riepe. Thank you for visiting with us today. While you're here and because you mentioned the Olmstead Task Force, could you give us an update on how things are going and maybe, because we have some new folks, talk about why that's important. [LB534]

SHERI DAWSON: Well, and I may have to defer...come back to you...I thought I...the director of Developmental Disabilities is actually our Chair for that, but we've been a part of this. And so I believe there is a report that is either finished or will be forthcoming and Director Miller might be able to assist with that. But the partners did come together and have particular recommendations. And our role with the Division of Behavioral Health, because we had the TAC report, that is included in the work of the Olmstead Task Force. And I believe there is maybe some recommendations to have a consultant be able to again look at the opportunities Nebraska has. But I'll let Director Miller answer more specifically. [LB534]

SENATOR HOWARD: I will ask her when she gets here. Thank you. [LB534]

SENATOR RIEPE: I have a question. You talked about \$2.6 million in cash funds for housing and then there were some other funds and I'm always wanting to look. What's the grand total approximately of how much money do we, as a state, spend on housing behavioral health? [LB534]

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SHERI DAWSON: I am going to have to get back to you with the specific number, Senator. We have the cash program, we have the housing coordination, and the other regions do have some other housing projects and serve different populations, such as individuals with substance use disorders. We also have Oxford Housing, that's about \$100,000, so I'll get back to you with a total. But just our division, just to clarify, that are division funds. [LB534]

SENATOR RIEPE: In the interest of those that are sitting in the audience, do you think it's close to \$5 million? Do you think it's close to \$10 million? [LB534]

SHERI DAWSON: I don't think it's up to \$5 million for our division. [LB534]

SENATOR RIEPE: Okay. Okay, thank you very much. Senator Crawford. [LB534]

SENATOR CRAWFORD: Thank you, Chairman Riepe. And thank you, Director Dawson, for being here. And I apologize if you've already answered this question. I was at a hearing in another committee. So from what I understand from the letter, one of your concerns is making sure we're integrating new funding and new improvements into your system of care approach. So if the basic idea is to make sure that the part of the bill that's providing additional funds that could be then provided in some kind of competitive way to nonprofits who provide these kinds of supports, would that be consistent with systems of care, that component of the bill? [LB534]

SHERI DAWSON: I think the component of bringing partners together is consistent with the system of care approach. I'm not clear...and I had met with Senator Vargas' aide and we passed in the hallway again and I'm happy to work with him, but that does need some clarity. Certainly, bringing partners together is system of care. But because it's such a broad umbrella, it's not just individuals our division serves. You know, with that \$1.1 (million) and we had an individual testify on individuals coming out of corrections, I'm not even certain for that \$1.1 million who that's intended to serve and what that fund mix might be. But bringing partners together to really maximize resources is certainly system of care approach. [LB534]

SENATOR CRAWFORD: Does our system of care approach connect your division to corrections? Are you trying to make sure that we're coordinating between those to make sure we're serving those folks between and in between and crossing those systems? [LB534]

SHERI DAWSON: Yes. We are actually working on our 2017 to 2020 strategic plan. It's going through all the approval, final approval processes. But that adult system of care...because you're aware of the children's system of care, we're bringing partners together. And, yes, the justice system is absolutely part of that planning. [LB534]

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SENATOR CRAWFORD: So, again, more resources into that system could very well help for us housing needs. [LB534]

SHERI DAWSON: Yeah. And, again, looking at that, you know, who already has dollars available that they're using for housing. And part of it is sometimes untangling the strings that come. You know, you can only serve this population for this many months or whatever it might be. And really getting that financial blueprint, which is what the TAC work began, and we need to continue to do that. [LB534]

SENATOR CRAWFORD: Thank you. [LB534]

SHERI DAWSON: Yeah. Thank you. [LB534]

SENATOR RIEPE: Are there any questions? Seeing none, thank you very much for being here. Are there others that wish to testify in the neutral capacity? Seeing none, Tyler, do we have any letters and if so... [LB534]

TYLER MAHOOD: (Exhibit 2) I have one letter signed by Kate McDougall of the National Association of Social Workers, Nebraska chapter, in support. [LB534]

SENATOR RIEPE: In support. Okay. Thank you. With that, we'll afford Senator Vargas an opportunity to close. [LB534]

SENATOR VARGAS: Thank you, Chairman. Thank you, members of the committee. For my closing I just want to take a few more minutes to emphasize the need for this position, for additional housing, for supports, for services for these individuals that are facing serious mental illness and substance abuse disorders. In addition to what I have already outlined in my opening of this bill. The 2016 TAC report also examined Nebraska's housing market conditions and existing dedicated housing and support services. They found that Nebraska has about 81,000 individuals who are living with a serious mental illness and more than 9,000 individuals with substance abuse disorders. Many of these 90,000 Nebraskans rely on Social Security income. Because their illness prevents them from finding employment, currently there are only 20,285 affordable housing units available. Of these 90,000 Nebraskans, there are an estimated 7,200 individuals that are projected to have the highest need and qualify for supportive housing. But as we've stated before, there are only 2,290 beds available. That meets just 30 percent of the current need, 30 percent. These Nebraskans are vulnerable. They need support to create stability in their lives and a pathway to a least restrictive and more supportive environment. Again, I would agree that by investing in a statewide housing coordinator and grant funding--and that's a point of

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clarification on the \$1.1 million--for the statewide housing coordinator's salary is included in the \$1.1 million and the remainder is to be distributed in aid grant funding for community integrated housing. Now we are more holistically treating these individuals and ultimately saving money and costs associated with chronic conditions, co-occurring disorders, and individuals who reoffend and end up back in our correction system. The last thing I'll say is this: The 2016 Division of Behavioral Health strategic plan states that Nebraska strives to be the gold standard in facilitating hope, recovery, and resilience as a model of excellence in behavioral health care. I think that's also what we heard from the director. The Legislature should support the division in achieving these excellent goals and putting policy recommendations from the TAC reports that were commissioned by the Department of Health and Human Services into action. And addressing unmet needs requires us, as legislators, to consider statutory changes that are going to appropriate the necessary funds to support integrated supportive housing and services and support the division in their needs to be successful. And I do want to state that when we do have a meeting and there's more that I think we can do to figure out a funding source to make this amenable and to make sure that we are coming more to the table. There's also a conversation about statutory language to ensure that there is specificity with autonomy. And that's something I'm more than happy to work on to make this bill move forward so that we can support this high need population. Thank you very much. [LB534]

SENATOR RIEPE: Thank you. Are there questions? Thank you. You've done a nice job. We appreciate it. [LB534]

SENATOR VARGAS: Thank you much, Mr. Chairman. [LB534]

SENATOR RIEPE: And with that, this closes the hearing on LB534. We will now move on to LB495. And because I will be opening on behalf of the Department of Health and Human Services, I will be moving to the witness table and the Vice Chairman, Chairman Erdman, will be facilitating the process. [LB495]

SENATOR ERDMAN: Thank you, Senator Riepe. You're welcome to open on LB495. [LB495]

SENATOR RIEPE: Thank you, sir, and thank you, committee members. Members of the Health and Human Services Committee, good afternoon. I am Merv Riepe, it's M-e-r-v, last name is R-i-e-p-e. I represent the 12th Legislative District, which is Omaha, Millard, and Ralston. I'm coming before you today to introduce LB495 on behalf of the Department of Health and Human Services. LB495 does two things: first, updates definitions; and second, eliminates an entitlement regarding developmental disabilities. First, let me address definitions. LB495 updates the definitions in the Departmental (sic--Developmental) Disabilities Court-Ordered Custody Act to harmonize language in the Developmental Disabilities Services Act and to provide

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consistency in the Department of Health and Human Services' role to serve individuals with developmental disabilities eligible for intermediate-care facilities or for the developmentally disabled institutional level of care. LB1039 was introduced by Senator Coash last year to clarify definitions regarding intellectual and developmental disabilities. LB495 will address the issues and definitions missed last year in that particular bill. Moving on to the entitlement section of LB495 I want to say this. In regards to the Developmental Disabilities Services Act, the state has prioritized conflicts with state law and CMS expectations. As a state, we prioritize entitlement services over all other capacities, including health and safety. The department believes we need to align our population and funding priorities. My understanding is that actions are underway to mitigate wait time for high school graduates, and Director Miller will explain further. Now if there are no change to statute, the division will continue to serve eligible individuals under the entitlement program with 100 percent state General Funds. Services would be limited to prevocational/vocational services after exhausting vocational rehabilitation resources. This would result in less services than the Medicaid audit day waiver benefit package...adult pay benefit package. I apologize. Also, residential services will not be offered to as many individuals on the wait list. Courtney Miller, director of the Division of Developmental Disabilities, is here to provide further explanation. Thank you for your time and I am happy to answer the questions that I am knowledgeable of. [LB495]

SENATOR ERDMAN: Any questions for Senator Riepe? Seeing none, thank you. [LB495]

SENATOR RIEPE: Thank you. [LB495]

SENATOR ERDMAN: You'll be around to close? [LB495]

SENATOR RIEPE: You bet. [LB495]

SENATOR ERDMAN: Thank you. Director Miller, welcome back. [LB495]

COURTNEY MILLER: (Exhibit 1) Good afternoon, Senator Riepe, Senator Erdman, members of the Health and Human Services Committee. My name is Courtney Miller, C-o-u-r-t-n-e-y M-i-l-l-e-r, and I am the director of the Division of Developmental Disabilities in the Department of Health and Human Services. I am here to testify in support of LB495. Thank you, Senator Riepe, for introducing this bill and working with the department to ensure we align our population and funding priorities for compliance with the Medicaid home and community-based services waiver, and clearly defining definitions throughout all state statutes relating to developmental disabilities. LB495 has two objectives. The first is to update the definitions language in the Developmental Disabilities Court-Ordered Custody Act to match the language in the Developmental Disabilities Services Act for consistency in the division's role to serve individuals

with developmental disabilities who meet intermediate-care facility for the developmentally disabled, or institutional, level of care. The update to the definitions in the Court-Ordered Custody Act creates a more streamlined and consistent explanation of the developmental disability service array and requirements throughout all statutes. It also maximizes the federal funding match for those individuals to participate in the Medicaid home and community-based developmental disabilities waivers, rather than being fully state funded. The second part of the bill is to revise the Developmental Disabilities Services Act. The current statute requires those who are high school graduates, or age 21 and older, to receive services as well as service coordination. The department has been interpreting this to apply to only graduates of a Nebraska high school and Nebraskans who turn age 21. However, following a recent review with the Attorney General's Office, I have been advised that the agency's interpretation must be changed. The Attorney General determined that Nebraska cannot limit the current statute only to Nebraska high school graduates. Also, in order to ensure harmony between the federally approved Medicaid home and community-based services waiver and state law, our agency is required by the federal government to give priority funding to Priority 1 applicants. The Centers for Medicare and Medicaid Services, or CMS, has provided notice that prioritization of participants to receive state entitlement services would not be approved within our Medicaid funded home and community-based services waiver application. Current law prioritizes funding entitlement services for graduates over all other categories of applicants, including Priority 1 applicants who have demonstrated health and safety needs. Current law also conflicts with Nebraska Revised Statute 83-1202, which mandates that the first priority of the state in responding to the needs of persons with developmental disabilities should be to ensure that all persons have sufficient food, housing, clothing, medical care, protection from abuse or neglect, and protection from harm. I have had the opportunity to travel the state on two separate occasions to engage stakeholders in the delivery of developmental disability services. We had honest and frank conversations with families, friends, providers, and advocates--critical voices associated with the programs that serve Nebraskans with developmental disabilities. A concern I heard over and over is how the department is going to serve aged individuals on the wait list with aging parents or caregivers that are unable to care to themselves, as the state prioritizes funding for a current graduate over the emergency priority group defined in the Medicaid waivers. These individuals are also waiting for funding, while an entitled high school graduate receives services whose needs may be met by other DHHS or community resources at that point in time. The health and safety of all individuals is the primary concern, especially when there are funding constraints. By prioritizing services for a select group of Nebraska high school graduates over others that do meet the emergency criteria, a threat to the health and safety to an individual on the wait list could occur. Entitlement services would require full state General Funds until the participant receives a funding offer to participate in the Medicaid program based on prioritization criteria in the approved Medicaid home and community-based developmental disabilities adult day waiver application. That kind of redirection of state funds, state General Funds, would have fewer individuals on the wait list being served. The negative fiscal impact amounts in the DHHS fiscal

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note do not represent amounts available for reduction if the bill passes. The amount represents estimates of General Funds that will need to be added to the budget for fiscal year '18 and fiscal year '19 to finance current statutory provisions of LB495 if it does not become law. Funding to align our budget priorities is included in the Governor's budget recommendation to serve eligible individuals with developmental disabilities in crisis situations and on the wait list. Any reduction to appropriations translates to a reduction in services. The department is committed to prioritization based upon the severity of the participant's needs and/or other qualifying circumstances, which includes providing services for individuals transitioning from the education system to maintain skills and receive the supports necessary to pursue economic self-sufficiency. Thank you for the opportunity to testify before you today. I believe LB495 will help DHHS continue on our mission of helping people live better lives. I'm happy to answer any questions you may have. [LB495]

SENATOR ERDMAN: Any questions? Senator Crawford. [LB495]

SENATOR CRAWFORD: Thank you, Senator Erdman. And thank you, Director, for being here. I wondered if we could clarify, we're applying for a waiver and the waiver, the students who are graduating in the future now are reflected...the needs of those individuals are reflected in the waiver we're currently applying for now and so that we'll get federal funding and state funding to cover the needs of those students. Is that correct? [LB495]

COURTNEY MILLER: So if I understand you correctly,... [LB495]

SENATOR CRAWFORD: Okay. [LB495]

COURTNEY MILLER: ...sure, is that you're asking about those graduates for in fiscal year '17, where the funds were appropriated for them under the graduate entitlement in the current budget year before the waivers are approved, the new waivers are approved. [LB495]

SENATOR CRAWFORD: Well, you can answer that question, yes. No, (inaudible)... [LB495]

COURTNEY MILLER: Okay. [LB495]

SENATOR CRAWFORD: ...the future. Yeah, go ahead. Yes, go ahead. [LB495]

COURTNEY MILLER: So for...we have...we did receive an allocation of dollars for the current graduates and we have had the discussion with CMS and they do not have an expectation necessarily that we are able to flip a switch due to compliance issues. And so what we are doing



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at this time is we do anticipate an approval of the new application to be effective March 1. And so at this point in time, CMS says if there are existing offers out there that they will honor them. It's not March 1 that they are in services. And so for those graduates that have turned 21 and may participate in the adult day waiver, we are proceeding with those offers now to have those completed by March. [LB495]

SENATOR CRAWFORD: Great. And what I understand from some of our conversation is the waiver that you're putting together has attention to the needs of these students and that you actually are building into the waiver a category that many of those students would fall into. The word is "reserved" or what that word is for the category into which these individuals in this...leaving high school at 21 would be recognized in the waiver. Is that true? [LB495]

COURTNEY MILLER: That is correct. States may have what's called reserve capacity... [LB495]

SENATOR CRAWFORD: Reserve capacity, yes. [LB495]

COURTNEY MILLER: ...within the waiver applications and what that allows us to do is reserve slots for individuals. So if we indicated, and I'm going to use my form of math, if we indicated that we had 1,000 participants of a maximum that we were going to serve on a waiver and we indicated that we were going to reserve 200 slots, which we have, 200 is the...allows us enough cushion for the average annual amounts of graduates that come into the program that we've served in the past based on historical trends. So that of the 200 that are reserved, we will hit...we can serve 800 and then we would stop. And the only way you would get into that waiver at that point in time is if you could utilize a reserve capacity slot. So for the adult day waiver the reserve capacity slots are the emergency or Priority 1 funding and then those for graduates. And we have defined that reserve capacity group as those individuals specifically transitioning from the education system to maintain skills and receive the supports necessary to pursue economic sufficiency. And that is acceptable to CMS. [LB495]

SENATOR CRAWFORD: That's in our waiver application. Do we have it in rules and regs or a commitment to this population recognized anywhere else besides in the waiver application right now? [LB495]

COURTNEY MILLER: That's an excellent question. Thank you, Senator. Yes, it is in...while it is in the waiver application, we are also working on draft regulations with stakeholders that indicate a chapter on...that recognizes funding and then prioritization for the wait list. And of the prioritization in the draft that was released and disseminated yesterday indicates that there is four prioritization categories. Number one would be emergencies for health and safety; second would

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be those individuals transitioning out of an institution for community-based services; and the third would be individuals transitioning from the education system to maintain skills and receive the supports necessary to pursue economic self-sufficiency; and category four is those on the highest on the wait list on a first come, first served. [LB495]

SENATOR CRAWFORD: And the...right now the proposed rules and regs put these transition students into this category that you discussed that's currently consistent with your waiver application. [LB495]

COURTNEY MILLER: Yes. [LB495]

SENATOR CRAWFORD: So you're putting...we're working on putting in rules and regs that same kind of clarification of their role in the system that's in the waiver. [LB495]

COURTNEY MILLER: That's correct. [LB495]

SENATOR CRAWFORD: Thank you. [LB495]

SENATOR ERDMAN: Any other questions? Senator Howard. [LB495]

SENATOR HOWARD: Thank you for visiting with us again today. I wanted to ask you, do we have a copy of the Attorney General's Opinion that you were citing? [LB495]

COURTNEY MILLER: I'm not familiar that you do, but we can certainly provide that for you. [LB495]

SENATOR HOWARD: Okay. And then my question about that is you said the Attorney General determined, and this was in an official Opinion from the Attorney General? [LB495]

COURTNEY MILLER: I'd have to defer to our legal for that and follow up on that, but, yes, we have had...I know we've had the conversations with the Attorney General's Office. [LB495]

SENATOR HOWARD: Okay. And so is it that our interpretation of the statute is inappropriate or that our statute is inappropriate so we're... [LB495]

COURTNEY MILLER: It is our interpretation of the statute. [LB495]

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SENATOR HOWARD: Our interpreted. [LB495]

COURTNEY MILLER: The current statute indicates that the individual must graduate from a high school,... [LB495]

SENATOR HOWARD: Okay. [LB495]

COURTNEY MILLER: ...and turn 21, and our interpretation has been that they graduate from a Nebraska high school. That is our misinterpretation. [LB495]

SENATOR HOWARD: And so the Attorney General's Opinion will show out that it was only the way that we were interpreting it is the issue with CMS? [LB495]

COURTNEY MILLER: It is not an issue with CMS. [LB495]

SENATOR HOWARD: Okay. [LB495]

COURTNEY MILLER: It was an issue with the Attorney General's Office on the entitlement language. [LB495]

SENATOR HOWARD: Okay. And then you noted on the second page that these individuals are also waiting for funding, so individuals who are aging up and have aging parents, and then entitled high school graduates receive services whose needs may be met by other DHHS or community resources. Can you tell me about those? [LB495]

COURTNEY MILLER: So essentially, what we have not done is maximized other funding opportunities. When individuals graduate with the entitlement program, we move them right on to the adult day waiver for services with that package, and what we have not done is explore other opportunities for respite programs and vocational rehabilitation services for prevocational and vocational employment services. [LB495]

SENATOR HOWARD: Are there other bills that relate to that issue that we're going to hear this year? [LB495]

COURTNEY MILLER: Sorry, repeat that. [LB495]

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SENATOR HOWARD: Well, you said we haven't explored those resources. Are there other bills that are coming that we should look for that are going to address this gap? [LB495]

COURTNEY MILLER: Those resources already exist in that we have the Department of Vocational Rehabilitation. But individuals have had the opportunity to choose between utilizing vocational rehabilitation services versus those same services on the aged and disabled...I'm sorry, the home and community-based developmental disabilities waiver. [LB495]

SENATOR HOWARD: Is the home and community-based developmental disabilities waiver more robust than vocational rehab? [LB495]

COURTNEY MILLER: No, they are the same services. [LB495]

SENATOR HOWARD: And then so...okay. So and then on voc rehab, are we pulling down other sources of funds besides General Funds? [LB495]

COURTNEY MILLER: Vocational rehabilitation, I understand, has federal funds through the WIOA Act. [LB495]

SENATOR HOWARD: Okay. And then I wanted to ask, can you just refresh me on how this interacts? Well, first, how many high school students are receiving this entitlement program? [LB495]

COURTNEY MILLER: I can tell you that about...I believe we have 174, approximately, that are going...that are eligible on our registry for this fiscal year. So that averages between, I would say, 125 and 200, approximate. We have not exceeded 200 or reached 200 in a number of years that come on annually. [LB495]

SENATOR HOWARD: Okay. And then refresh me on how this proposal interacts with the proposed budget from the Governor. [LB495]

COURTNEY MILLER: So the proposed budget--and this relates to Senator Riepe's earlier question on the fiscal note--so there is a difference between the DHHS fiscal note and the legislative fiscal note. Sandy's fiscal note is correct as written based on the initial request submitted in the budget software. It reflected the historical request of serving new graduates with matching federal funds. Since the software submission, we learned that we cannot prioritize funding for graduates using the federal waiver program and also must change our operation to serve those individuals who graduated from a high school outside Nebraska based on that

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misinterpretation of current law. So we worked with the Governor's Office to continue funding service for individuals with developmental disabilities, but while aligning the federal allocation with the federal priority requirements, we transition on the language in that request for the dollar amount in the budget software to reflect those on Priority 1 and the wait list. [LB495]

SENATOR HOWARD: Okay. And then do you want to give us an update on the Olmstead Task Force? [LB495]

COURTNEY MILLER: Happy to. So LB1033, the task force has met and convened. The first... [LB495]

SENATOR HOWARD: Could you tell us why it's important? [LB495]

COURTNEY MILLER: I'm sorry. It is important for individuals to have a plan for individuals that reside in an institution, which could be a variety of settings. It could be an intermediate-care facility for the developmentally disabled. It could be a nursing facility or a behavioral health regional center, and which if it is appropriate and the individual chooses to live in a community-based setting, that the opportunity and...that the opportunity is there for them to transition into the community. And so the committee met. It's a very large, diverse committee. And we met to discuss our first two items in our first report to the Legislature, were what is the department...what has the department done and what is the department doing as far as transitioning individuals from an institution. We provided that report to the committee and discussed that. And then the second piece of the report to the Legislature was if we would need a consultant to assist us in writing, essentially, an Olmstead Plan. And so we did complete those actions by reviewing what the department has done, it is in the process of doing, and it was the consensus of the committee that we would need a consultant to assist with that. Those items were placed in a report and submitted to the Legislature by the due date. [LB495]

SENATOR HOWARD: Okay. Thank you. [LB495]

COURTNEY MILLER: Thank you. [LB495]

SENATOR ERDMAN: Senator Linehan. [LB495]

SENATOR LINEHAN: Just so I...a couple questions here. So does this budget...because the fiscal notes, as you've explained, are different. Does this...does the Governor's proposed budget reduce the number of individuals? [LB495]

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COURTNEY MILLER: Absolutely not. So as is illustrated in the Governor's proposed budget, we'll continue to serve this population. The graduates are included in the population on the wait list. They are just not prioritized above the federally acceptable priority group for ensuring health and safety. [LB495]

SENATOR LINEHAN: So what if we...excuse me. [LB495]

SENATOR ERDMAN: Go ahead. [LB495]

SENATOR LINEHAN: So what if we don't pass the bill? [LB495]

COURTNEY MILLER: If the bill is not passed, we would continue to operate essentially a newly crafted graduate program to ensure compliance with the law with two major differences. The first would be it would become a federally state funded program, as our federal partners have indicated federal funds are not allowable. And two, it would increase the number of individuals qualifying for the program based on the Attorney General's Opinion that the program cannot be limited to Nebraska graduates as our current practice. [LB495]

SENATOR LINEHAN: So we would have to spend more money. Is that what you're saying? [LB495]

COURTNEY MILLER: Correct. [LB495]

SENATOR LINEHAN: Okay. Thank you very much. [LB495]

SENATOR ERDMAN: So maybe a follow-up question on that. So what would the fiscal note be if this bill doesn't pass? [LB495]

COURTNEY MILLER: So the fiscal note, again, Sandy's fiscal note is correct as written. That was written based on the software submission was when we had our number of graduates that we anticipated and it included the federal funding match. The DHHS's fiscal note indicates that for fiscal year '17-18 we would need \$4,197,251, and for fiscal year '18 and '19 that would be \$7,097,170. And that would include in the fiscal year '17-18 would be 220 individuals, because it would include 74 individuals that graduated from a high school outside Nebraska that are on our wait list, and then for the second year it would be 152 individuals that we anticipate would come into services. [LB495]

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SENATOR ERDMAN: Okay. Senator Williams. [LB495]

SENATOR WILLIAMS: Thank you, Senator Erdman. And just one quick question. Am I also understanding this, under the current system that we have, we could be attracting residents to our state because they can receive benefits here that they can't receive in other states? [LB495]

COURTNEY MILLER: Correct. [LB495]

SENATOR WILLIAMS: We would correct that problem with the adoption of this. [LB495]

COURTNEY MILLER: That would apply if this...if the elimination of the entitlement program was removed. Yes. [LB495]

SENATOR WILLIAMS: Thank you. [LB495]

COURTNEY MILLER: Uh-huh. [LB495]

SENATOR ERDMAN: Senator Crawford. [LB495]

SENATOR CRAWFORD: Thank you, Senator Erdman. And thank you, Director. I believe in our...we had conversation about the connection between this bill and the budget, and your testimony also indicates that funding to align this priority is included in the Governor's budget recommendation. As I understand it, that...what we have to be careful about is with increased court-ordered cases and crisis situations, we want to make sure that we have adequate funding in the Governor's budget along with this policy change and waiver to make sure we're serving this population. So I wondered if you would just help us understand what elements of the budget we should be watching as we're...as legislators to make sure that that alignment is there or what commitment do you see in the Governor's budget to make sure that we're meeting these needs? [LB495]

COURTNEY MILLER: Absolutely. Thank you. Yes, so the Governor's proposed budget for '18-19 included two aspects for serving individuals so that the Court-Ordered Custody Act, we have seen an uptick in the number of individuals referred in the court system that have been placed into the department's custody with mandatory participation in the developmental disability program. And so these individuals have...with the increase, they are expensive. Most of them are line-of-sight or one-to-one supervision. And so the discussion was, obviously, we want to continue to have the wait list moving at a reasonable pace and these individuals, again, expensive. So the Governor's recommendation included additional dollars to serve specifically

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what we had forecast for the increase for the Court-Ordered Custody Act. That is separate from the Governor's recommendation of General Funds for '17 and '18, and '18-19 to serve eligible persons with developmental disabilities in crisis situations or at risk for placement in a more-restrictive setting on the wait list. So thank you for the opportunity to clarify that. [LB495]

SENATOR ERDMAN: Anyone else? Seeing none, thank you. [LB495]

COURTNEY MILLER: Thank you for your time. [LB495]

SENATOR ERDMAN: Appreciate it. Are there other proponents? Anyone else who wants to testify in favor? Okay. [LB495]

LARRY STORER: I already have a form on file from earlier and name is Larry Storer. [LB495]

SENATOR ERDMAN: You need a new one. You need a new one for each bill. [LB495]

LARRY STORER: It has a place for marking both bills on that form. Hand it to me and I'll fill it out. [LB495]

SENATOR ERDMAN: Okay. When you're done, just fill another one out. When you're done. Go ahead, sir. [LB495]

LARRY STORER: Do you have mine (inaudible). [LB495]

SENATOR ERDMAN: Go ahead with your testimony. When you're done you can hand it in. [LB495]

LARRY STORER: There's two spaces there but I'll fill this out... [LB495]

SENATOR ERDMAN: Okay. [LB495]

LARRY STORER: ...and I'll give it to you after I'm done. [LB495]

SENATOR ERDMAN: When you're done. When you're done you can do that. [LB495]

LARRY STORER: Is that okay? [LB495]



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SENATOR ERDMAN: Thank you. [LB495]

LARRY STORER: All right. [LB495]

SENATOR ERDMAN: Go ahead. [LB495]

LARRY STORER: I'm also interested in this topic and once again I want to start off by saying things would be a whole lot easier for everybody that's concerned about these things if... [LB495]

SENATOR HOWARD: Name? [LB495]

SENATOR ERDMAN: Give your name again and spell it, please. Your name and spell it, please. [LB495]

LARRY STORER: Larry Storer, S-t-o-r-e-r. [LB495]

SENATOR ERDMAN: Thank you. [LB495]

LARRY STORER: Omaha. [LB495]

SENATOR ERDMAN: Thank you. [LB495]

LARRY STORER: If everybody wasn't so afraid of the federal government, the HIPAA laws and the FERPA laws. Now I want to read a couple of things about mission statements that talk about families. I'm part of the family, so I really shouldn't be excluded to some of these things. But on the...I believe you asked a question about who is excluded under these new rules. Well, you can't really exclude anybody anymore. You can't say we're going to not accept people from the other states because of this. We don't want to retract them. But they're coming here anyway. They're coming here from other countries, so you can't do that either, can you? So that's not really a valid argument anymore under federal law. As I understand the federal law right now, as of July you have to meet certain requirements. And they're doing away with the term "sheltered workshops," etcetera, etcetera, which means what? You people should know that. I'm not the expert. But those are laws and you people should know that. And I'm sure you do. But you have to include outsider's views, like mine, that have people that are involved in the system and have seen things and talked to other people that have seen things, but you're too busy to consider. However, I've had agency people, I've had providers, I've had state senators, and I've had the Ombudsman and the

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Governor refuse to answer a basic question to refute my interpretation of the federal laws that because I was involved so highly and present, like I am right now, that I am an interested party and, therefore, I have status. So I say you need to find a way to let the people in HHS and DD know that not every person is going to sue you. I just want to try and tell you that I know my grandson better than you do and that some of these plans don't fit him. Real quickly, I went, I was invited to a progress review. He's in DD. His progress review is in a gymnasium of a school. It's out away from all the other schools. There's tables in there for employers. They're getting into vocational and transition things and things like this. And when I ask a question, well, does he...what were his grades this year? Oh, well, we don't have normal grades. It's like pass or fail. Now the federal government is saying you could no longer have sheltered workshops, so are we graduating the kids that didn't have a curriculum, a normal curriculum: reading, writing, math? Are we graduating them at age 18 but keeping them till 21 because they're developmentally disabled and give them a sheltered workshop occupation? You know, you need to consider...reconsider that. Let's don't train them for pulling staples, crushing boxes, and washing dishes. Not all of these kids fit that. Some of them need that, yes, but some of them don't. Giving them an early pass is not to their benefit. Thank you. [LB495]

SENATOR ERDMAN: Thank you. Appreciate it. Thank you. Any other proponents? Anybody else in favor of the bill? Seeing none, any opponents? Thank you for coming. [LB495]

ALAN ZAVODNY: (Exhibit 2) Thank you, Senator. I'm old; I got to get my glasses out. Thank you, Senator Riepe, Senator Erdman, members of the Health and Human Services Committee, for the opportunity to appear for you today. For the record, my name is Alan Zavodny, A-l-a-n Z-a-v-o-d-n-y. I'm the chief executive officer of NorthStar Services. We support people with developmental disabilities in 22 counties in northeast Nebraska. And I'm also privileged to serve as the mayor of David City--Senator Kolterman's neighbor--and the fine 2,906 citizens there. I think the last time I appeared before this committee Senator Wesely was the Chair, so it's been a while. (Laughter) And I'll tell you (inaudible). (Laughter) And it's never fun to have to oppose a senator on a bill and I certainly have the utmost respect for the introducer and I don't relish being in that position. I also have the utmost respect for Director Miller. I'm here because I've been doing this 36 years so I have a little bit of history that sometimes gets lost in the term limit era that we're currently in. So I was here for the Developmental Disabilities Services Act. I was here for the Governor's "Blueprint." I was in this building on that day. There was about to be hearings in the afternoon. It wasn't going to go well. And the Governor did a smart political thing--that was Governor Nelson at that time--and he came out with a "Blueprint" which entitled services. And I did my approach with you is the same as I like when people bring me problems as a mayor: Give me the two best arguments for it and the two best arguments against it. So I made this very simple so you have a one-page thing. You can look and really be clear on what I'm trying to tell you. The two arguments against it, because I am in an opposing position at this point, is if LB495 becomes law, what you're going to lose is students that are transitioning from

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high school are going to be sitting at home losing skills. I don't think anybody can guarantee you that that will not happen because we can only provide services to what's appropriated. And if you take that appropriation away, you're not going to have that. And that would be a tragic thing. I remember what we had before that and students, parents were at wits' end sitting at home with their loved one who they couldn't get services because we had a super long waiting list then, the registry of unmet needs, which has been there for a long time and it's never really gotten smaller. The other thing sounds a little more self-serving but I think what I don't want to be is in a position of saying no one told us. Well, you have a provider system in crisis right now, make no mistake about that. I have very serious doubts that the sustainability of the system we have now is, frankly, there. And so you can go back to...most of my testimony is in Appropriations. The predictions I made there have come true. We have continued to contract. We're getting smaller and smaller and smaller. Our economies of scale are gone. And make no mistake about it, we do the state's business. We...you don't have the facilities to do it. You don't have manpower to do it. And you could not do it for the rates that the providers are doing it for. But we have finally got to the point where our expenses aren't being met and this is just another blow to that continuing. You will not have a provider system probably in the foreseeable future if the trend continues the way it is. And I am done. [LB495]

SENATOR ERDMAN: Thank you. Any questions? Senator Crawford. [LB495]

SENATOR CRAWFORD: Thank you, Senator Erdman. And thank you, Mr. Zavodny. [LB495]

ALAN ZAVODNY: Zavodny. [LB495]

SENATOR CRAWFORD: Zavodny. Thank you. Thank you. [LB495]

ALAN ZAVODNY: I trip over it once in a while. [LB495]

SENATOR CRAWFORD: (Laugh) So one of the shifts in the program, as I understand it, one of our shifts will be asking people having families seek voc rehab services and other services and then the developmental disability services will be filling in with respite and some of those other opportunities. Does your...when you're working with families, are you the person that will be helping families navigate that? [LB495]

ALAN ZAVODNY: Well, we're not exactly 100 percent sure how that's going to look. We've had some presentations made to us as providers. We've been down the road with voc rehab before and it didn't go the best, to be honest. [LB495]

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SENATOR CRAWFORD: What...do you mind? [LB495]

ALAN ZAVODNY: Oh, I am not going to get Christmas cards because of you. Thank you. [LB495]

SENATOR CRAWFORD: Oh, no. [LB495]

ALAN ZAVODNY: We...voc rehab had a system where they had milestones that you could meet and it was very complicated to run the process. Also, I think they've had challenges in the past of just having the personnel, and how you're going to add this to it where you're going to have a bunch of students. Because what we see most of the time is schools do a great job of getting placements for students, but the placement actually belongs to the school a lot of times. That job isn't the person's. And when the person leaves school, they put their next student into that placement, so they have a great agreement with businesses to have a placement for the school. What we do is we place a person in a job and try to match their wants and needs in a job that meets their skills and something they're interested in. So the approaches are just totally different, I guess. And that's why sometimes you have problems. When I first started 36-some years ago, we never met a toilet we wouldn't clean. I mean we would say, hey, we've got this great job for you. We didn't ask you if you wanted to clean a toilet. We said, you should be happy we have this job for you. Or you're going to make French fries at MacDonal'd's. Now we have a much more complicated process and a better process saying, what do you want to do? What are you interested in? And you match people to their interests and it just...it works a ton better. We've learned a lot over the years. [LB495]

SENATOR CRAWFORD: And you do that directly with the developmental...that's part of your... [LB495]

ALAN ZAVODNY: Uh-huh. [LB495]

SENATOR CRAWFORD: ...services that you're providing... [LB495]

ALAN ZAVODNY: Right. [LB495]

SENATOR CRAWFORD: ...with the funds that you're currently receiving. [LB495]

ALAN ZAVODNY: Right. [LB495]

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SENATOR CRAWFORD: Thank you. [LB495]

SENATOR ERDMAN: Thank you. Oh, no? Okay, Senator Crawford. [LB495]

SENATOR CRAWFORD: So you said as you were coming in of the two arguments against, because you were coming in opposition, but did you have two arguments for it? [LB495]

ALAN ZAVODNY: I did. I think the flexibility for the Developmental Disabilities Division to allocate resources as they seem fit... [LB495]

SENATOR CRAWFORD: Uh-huh. [LB495]

ALAN ZAVODNY: ...see fit. And I can't sit here and argue health and safety. I'd look like an idiot. So I get that part,... [LB495]

SENATOR CRAWFORD: Uh-huh. Yeah. [LB495]

ALAN ZAVODNY: ...that that's got to be a priority. But you know I don't...and I don't know how many people outside the state of Nebraska we've really had ever ask as a graduate for services. That was news to me. So I'm learning something that I (inaudible). [LB495]

SENATOR ERDMAN: Okay. Thank you. Thank you for coming. [LB495]

MICHAEL CHITTENDEN: (Exhibit 3) Thank you very much. And I appreciate you letting me jump in. I'm hosting a dinner for 49 of my most favorite senators tonight... [LB495]

SENATOR CRAWFORD: Uh-huh. Yeah. Uh-huh. [LB495]

MICHAEL CHITTENDEN: ...and I'd like to go attend to that, so. Good afternoon, Senators. My name is Michael Chittenden, M-i-c-h-a-e-l C-h-i-t-t-e-n-d-e-n. I'm the executive director for The Arc of Nebraska. We're here to talk about our serious concerns and oppose LB495 as it's currently written. We think it's dangerous to harmful to individuals experiencing developmental disabilities and their families by taking away the one true safety net that's been in place for folks. Historically, people with intellectual developmental disabilities and their families have had to fight for everything they received. We're still less than 50 years away from the only choice being institutionalization. That's still in the rearview mirror. They and their families and "navigants" have worked hard to get the supports and services they receive and now...but still the only

entitlement they have assured to them is a day service program after graduating and turning 21. Our concerns are this. First, a quick step back to last year. We had...we testified neutral on the language that defined developmental disabilities. We want to reexpress our concerns on that. When you draw hard lines at IQs and you don't include mental illness as a cause of I/DD, you have unintended consequences and people get gapped out of systems. And where do we see that happen most is people end up in jail because they're not receiving those supports and services they need because they're really misdiagnosed, even though they might have an IQ of 71, you know? So wanted to put that out there. In Section 4 of this bill, DHHS proposes the removal of the entitlements that people have come to enjoy. Families worked hard to push the idea of deinstitutionalization and public education, but they also knew there needed to be more after adulthood, after the age of 21. By removing this statute, you are creating wait lists, and the wait list as we now know it, just for residential services, sits at over eight years. Families can't handle the pressure of having to be with their loved one not having services for eight years. What you're going to do is set up a situation where a family, upon the graduation at 21 of their loved one, are going to have to make hard choices. Who's going to quit their job, because most families with a child that has a developmental disability need to have two incomes and the education piece isn't there anymore during the day. So who's going to quit their job, Mom or Dad? How are we going to live on one income? What's going to happen? All too often we have seen people give up their rights, their parental rights. We really do know of situations where people have dropped their child off at a shelter to put them in danger of health and protection so they would receive services and now the state is paying for all of it. So we would...we want to come in with solutions. We humbly suggest, can we amend the current statute? Can it say only Nebraska graduates? Why haven't we thought of that? Are there other ways? And I'll leave it to lawyers and better legal minds than mine to amend. But we really think that getting rid of the entitlement is a mistake. It creates a longer waiting list. It puts people that have a possibility for services right now, it puts them at the whim of the state Legislature as well as the federal Legislature. If it doesn't get funded, the waiting list continues to grow. I would encourage you to ask how many people have come off the waiting list in the last three years, five years, ten years? It hasn't been much. It's over 3,500 people now. This bill would create even more. That's my testimony and I'm available for questions. [LB495]

SENATOR ERDMAN: Any questions? Senator Crawford. [LB495]

SENATOR CRAWFORD: Thank you, Senator Erdman. And thank you for being here and advocating. I'll start with the question first. I don't know if you were listening. We were talking about the creation of 200 reserve spots in rules and regs and in the waiver. [LB495]

MICHAEL CHITTENDEN: Yes. [LB495]

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SENATOR CRAWFORD: So if that is the case and if we've had under 200 in this entitlement position in the past, what...and besides the fact it was an entitlement before and now it's regs, which I understand is more vulnerable,... [LB495]

MICHAEL CHITTENDEN: Right. [LB495]

SENATOR CRAWFORD: ...but what other concerns do you have in terms of those reserve slots being able to handle the services needed for these individuals? [LB495]

MICHAEL CHITTENDEN: Well, in theory, it's not a bad proposal. It just...it gets rid of what is rock solid and replaces it with, you know, the opportunity... [LB495]

SENATOR CRAWFORD: Right. [LB495]

MICHAEL CHITTENDEN: ...to not get the funding. I think the department and Director Miller have done a great job of working with and collaborating with the service providers and stakeholders and trying to create a system that goes forward, but this is the first we heard of getting rid of the state entitlement, at least in the meetings that I've sat in. I didn't sit in at all the meetings. There were just simply too many to attend all of them. But this is the first we're really hearing having to get rid of the entitlement program, at least for me during the process. So I think that's the issue that we hold at this and as I represent, you know, self-advocates and the families, they're scared. They're worried. What's going to happen to Joe when he turns 21? And what, you know, and what's going to happen to our family if we can't see Joe going to a day program and even getting the prevocational services? It's a good theory; practice is another thing. And we know by practice, waiting lists get longer and longer and we face more and more budget crises in the state. And so what gets cut, what gets funded, and how do we appropriately address the waiting list? And again, I don't envy the senators the task at hand on trying to find that answer, although I'm willing to sit down and help in any way I can. [LB495]

SENATOR ERDMAN: Senator Howard. [LB495]

SENATOR HOWARD: Thank you, Senator Erdman. Thank you for visiting with us today, Mr. Chittenden. [LB495]

MICHAEL CHITTENDEN: My pleasure. [LB495]

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SENATOR HOWARD: And this is a question that you...maybe in your capacity with The Arc you may know better than I do. But so this change was in the Governor's proposed budget. But do we know, has the Appropriations Committee approved that change? [LB495]

MICHAEL CHITTENDEN: I don't have that answer but I will work (inaudible). [LB495]

SENATOR HOWARD: And so it kind of depends on the Appropriations Committee? [LB495]

MICHAEL CHITTENDEN: It, well, that's, yeah, all waiver systems will depend on the appropriations process. What are you willing to fund? Because it's not an entitlement so you don't have, by state law, you just... [LB495]

SENATOR HOWARD: You don't have to fund it. [LB495]

MICHAEL CHITTENDEN: ...you don't have to fund it. You put it into what (inaudible). We've got, I believe for several years, we've had an autism waiver, child autism waiver, and I could be off. But there's a waiver that hasn't been funded at all. We've put no money into the waiver and I'm pretty sure it has to do with autism or child autism. We just haven't funded it. So there's a waiver on the books; no funding given to it. [LB495]

SENATOR HOWARD: Right. Would you mind following up and just seeing if they have? [LB495]

MICHAEL CHITTENDEN: Sure. Yeah, I will gladly look into it and get that information back to the committee. [LB495]

SENATOR HOWARD: Thank you. [LB495]

MICHAEL CHITTENDEN: You're welcome. [LB495]

SENATOR ERDMAN: Anyone else? Senator Crawford. [LB495]

SENATOR CRAWFORD: Thank you, Senator Erdman. Would you mind following up in terms of definitions of... [LB495]

MICHAEL CHITTENDEN: Sure. [LB495]



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SENATOR CRAWFORD: ...intellectual disabilities? You're concerned about the use "IQ."  
[LB495]

MICHAEL CHITTENDEN: Sure. [LB495]

SENATOR CRAWFORD: Is it just the hard and fast number that you're concerned about or...  
[LB495]

MICHAEL CHITTENDEN: Well,... [LB495]

SENATOR CRAWFORD: ...are there other things that you feel are better definitions? [LB495]

MICHAEL CHITTENDEN: Yeah. Oh, no, we, in last year's testimony, we talked about, while we understand that 70 has always kind of been that cutoff point medically speaking, we suggested that there be a standard deviation. Anybody within one standard deviation be tested for other of, you know, signs or symptoms or things that, you know, how they do with their daily living skills, their coping skills, you know, all the things that we would look at to determine, you know, what supports are appropriate for a person. I'm not saying that a person at 85 should qualify, even though that is one standard deviation. We were just asking for a test, you know, for some sort of backup to kick in. Because again, a person who has a 71 IQ doesn't have, you know, may or may not have mental illness because it can't be looked at, according to these regulations and these definitions, might not have the coping skills, might not have the understanding, would really need to have some sort of help that most appropriately would be found through the DD services because that person was so close to having a developmental disability by this, and yet they're not. So they're out on their own and more times than not they are generally getting in trouble with the law. And so they end up in the corrections system as opposed to the DD system. And I think we can probably serve them cheaper in the DD system, but I don't know corrections' number so I can't guarantee that number. [LB495]

SENATOR CRAWFORD: So that's two things that I'm hearing. One is the hard IQ, which I'm not finding right now in the statute... [LB495]

MICHAEL CHITTENDEN: Yeah. [LB495]

SENATOR CRAWFORD: ...but I'll look for that. And the other is distinguishing it from mental disability? [LB495]

MICHAEL CHITTENDEN: Well, mental illness. It's kind of a chicken... [LB495]

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SENATOR CRAWFORD: Mental illness I mean. [LB495]

MICHAEL CHITTENDEN: Yeah. [LB495]

SENATOR CRAWFORD: I meant mental illness. [LB495]

MICHAEL CHITTENDEN: It's kind of a chicken and the egg type of thing. For many years people have bounced back and forth. It's the developmental disability is causing the mental illness; the mental illness is causing the developmental disability. The fact is the person has needs and somebody needs to support them. And again, credit to CEO Phillips for finally having all of what was siloed in the last administration talking to each other. I think there's a real move towards, okay, let's get the person served and we'll find which one is appropriate as we get the person served, but let's at least get the person served. [LB495]

SENATOR CRAWFORD: Okay. That's very good to hear. [LB495]

MICHAEL CHITTENDEN: So they're...yeah. [LB495]

SENATOR CRAWFORD: It's very good to hear. [LB495]

MICHAEL CHITTENDEN: The new CEO and the director have been doing a great job that way. [LB495]

SENATOR CRAWFORD: Thank you. [LB495]

MICHAEL CHITTENDEN: No problem. [LB495]

SENATOR ERDMAN: I think that's it. I may have a comment. Perhaps last year your neutral testimony didn't serve you well. [LB495]

MICHAEL CHITTENDEN: Yeah, I'm thinking. (Laugh) [LB495]

SENATOR ERDMAN: To my point, neutral testimony. [LB495]

MICHAEL CHITTENDEN: I appreciate that. [LB495]

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SENATOR ERDMAN: Thank you. [LB495]

MICHAEL CHITTENDEN: I will take that under consideration (inaudible). Thank you, Senators. [LB495]

SENATOR ERDMAN: Next, please. Thank you. Thanks for coming. [LB495]

DENISE GEHRINGER: (Exhibit 4) Good afternoon. My name is Denise Gehringer, D-e-n-i-s-e G-e-h-r-i-n-g-e-r. I'm knee-deep in the disability community. I am the founder and director of a community athletic program for individuals with special needs. I'm a member of numerous disability related boards, committees, and advocacy programs. I work in the disability field and I'm an ambassador for a national disability organization. But first and foremost, I'm a parent and an advocate for my 21-year-old son Jacob who has Down syndrome. And I have been advocating for him and others with disabilities for 21 years. Falling off the cliff is what is nationally known as what happens to individuals when they leave the school system. You can do a quick Google search and it will immediately take you to that. Nationally, when individuals with intellectual and developmental disabilities, known as I/DD, age out of the school system at age 21, it is commonly referred to as falling off the services cliff into the unknown. In Nebraska, the guarantee of day services for adults leaving the school system at age 21 is an entitlement and guaranteed to our citizens with I/DD. Nebraska has acted responsibly and promised to care for and provide supports and services to its most vulnerable citizens. In Nebraska, because of the legislation put into place in 1995, our citizens with I/DD do not fall off the cliff. If this entitlement is taken away, our family members and friends with I/DD will be faced with the uncertainty and the distress of not knowing what their future holds. Without the guarantee of day services, parents and caregivers of adults with I/DD will always worry that they may have to quit their jobs, as Mr. Chittenden mentioned, to provide the supports that are needed for their family members with special needs. This is currently going on, so this is not a, you know, futuristic crystal ball that I'm looking into. If the individual does not receive services, a possibility that will always been looming without the entitlement in place is that the parents will have increased emotional stress. It will affect their ability to sustain their wherewithal needed to be the caregiver and guardian of that adult for that person's life span or the parents' life span. Guaranteed day services, in addition to assisting the citizen with special needs in working and living in the community, also affects the quality of life of the entire family. So it's not only affecting our individual but those that are family members and caregivers. Without the guarantee of day supports and services, individuals with I/DD will find it far more difficult than it already is to secure a job in their community. Now those individuals are able to work a job successfully with the assistance of a job coach that results from their guaranteed day services. These job coaches take the burden of supporting the worker with I/DD off of the employer and, thus, create a win-win situation for both the individual with special needs and the business. Currently, my son, a 21-year-old with Down syndrome, who's pictured in the corner because I think it's important for

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us to know we're talking about people, is in his last months of his transition program with his school district. He will be entering the adult services arena in May. And throughout my son's academic career, we have set goals and worked to reach them so that he could be as equipped as possible to be a productive citizen, living and working in his community, which is something that he really wants to do. Additionally, during his transition program, he's worked to develop skills that would make him employable. Because of all this hard work, he is on a path to work a job in the community with the assistance of a job coach. He may also likely need to continue to gain skills through continuing education programs. He strives to live an independent life and it is very possible if the correct supports and services are available to him. Learning to operate independent of his parents is extremely important as it is likely he will outlive both of us and we want him to be able to live on his own and not become a burden for others. Now with the entitlements in place, all this is very possible. It is the humane and decent thing for the state of Nebraska to do. If the guarantee of day services is eliminated, the uncertainty of the systems an individual with I/DD and his family is left with is extraordinarily distressing. I very much understand the system feels that LB495 will allow funding to be optimized for now. However, removing the entitlement of day services for Nebraska citizens with disabilities puts our most vulnerable citizens in jeopardy. And if funding avenues that are the impetus of this proposed bill are not available in the future and LB495 is passed, the entitlement, the security of services for individuals with I/DD and the funding, will not exist. So what do we do then? And for those reasons, I strongly oppose LB495 and ask that it not be advanced out of committee. And I thank you for the opportunity to speak to you and welcome to answer any questions. [LB495]

SENATOR ERDMAN: Thank you for your testimony. Are there any questions? Seeing none, thank you so much. Good job. Thank you for coming. [LB495]

JANINE BROOKS: Oh, sorry. Those are yours. [LB495]

SENATOR ERDMAN: Good afternoon. [LB495]

JANINE BROOKS: (Exhibit 5) Good afternoon. My name is Janine Brooks, J-a-n-i-n-e B-r-o-o-k-s. I'm from Omaha, Nebraska. I serve in the role of self-advocate on the state board for the Autism Society of Nebraska, a grass-roots volunteer organization that serves the autism population of Nebraska. Although I wanted to remain neutral, I am declaring as opposed in this situation. Anytime the risk of a wait list emerges that involves our kids or adults, it is too much of a threat to allow for the potential of happening, at least in my community. Let me preface my statement by saying, argh! Why can't we just work on aligning the state definition of a developmental disability with the federal definition? That's what we were doing last year. Does it really need to involve the altering of an entitlement that the disabled communities worked so hard to have established? The definition is imperative to fix. The fixation on the IQ pushes way

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too many of our kids on the autism spectrum out of the program. What is available in mental health is inappropriate for their needs, particularly for those with higher functioning, although I don't like that word. And they utilize...these individuals, they utilize their executive functioning to make sound decisions that are imperative for them to make as functioning adults, and they're lacking in those areas so it makes it hard for them. Many of these individuals have guardianships established by the courts over them. This further dictates their need for extra supports and services. Mention is made to exclude chronic mental health, but I do not understand why. This comes from personal experiences with my own daughter, who was diagnosed mentally ill as a child. If a child has chronic mental health going on as a kid, it is most likely continuing on as an adult and requires a number of the same supports that were there as a child. And if we are tearing down the DHHS silos, this is one that can readily be torn down quite easily as these individuals often bear a label of dual-diagnosis, usually having something in developmental disabilities and something already in mental health or behavioral health. And many of them, unfortunately, are also likely to be autistic. The categories breaking down substantial functional limitations make it easier for individual's needs to be identified based on the shortfalls within conceptual, social, and practical skills. As a parent to a daughter with a relatively high IQ, that being 90, who exhibited profound deficits in the above-mentioned categories, under the old definition, the one we currently use right now, she technically does not qualify. I had to fight the process, appeal after appeal, until a judge in Lancaster District County Court finally decided my daughter could qualify for developmental disability services. That was a year ago. She's now 30. (Laugh) I started that fight back in 2007. It is very sad to hear of other families having to go through the same struggle in getting necessary supports and services for the individual that they are caring for each and every day. Maintaining the present definition does not allow for the individual to live at the highest level of independence possible, which I believe is the current goal of CMS. If you cannot access services due to exclusion and long delays end up costing the individual in substantial setbacks, most often resulting in regression and loss of skill sets, how do these people recover? I do not fully understand what is happening in lines 19 through 21 of the statute that's written. I am not fully versed in entitlement, but anytime it puts the focus of funding on the federal government it becomes scary. With the current President and his regime, fears exist that the disabled...in the disabled communities of Medicaid block grants and the defunding of Medicaid waivers, those being developmental disability, the aged and disabled waiver, and the autism waiver, which was one you guys were asking about which is not funded. What will happen to these individuals that had an entitlement that let them continue on with supports through a day program if the money is no longer there? Who will bear the responsibility of staying home with the young adult, since he has nowhere to go? Will this committee be able to push the Education Committee to start requiring the schools to offer more programs that meet our young adults' needs of functional living and vocational living, two things currently not addressed in the schools and also two of the greatest things addressed in the day programs? Should wait lists begin? And if they do, how long should a person stay on there before it becomes imperative that they get lined up for services? Presently, our state has made...been

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making great progress in helping elevate the role of our disabled in the communities. The people-centered care concept is an incredible idea. It gives empowerment to those who are disabled. They are starting to realize the "me" in the picture is truly relevant. Let us continue making a great stride by fixing the definition of a developmental disability, but I still cannot support this current bill based on the risk of wait lists. [LB495]

SENATOR ERDMAN: Can you kind of wrap it up, ma'am. The red light... [LB495]

JANINE BROOKS: I am done. The only other thing I want to say is Voc Rehab does not understand the autism community. Too many of our individuals do not do well in their setting. Please look at the PACE model through AAP. [LB495]

SENATOR CRAWFORD: Can you repeat that...PACE? [LB495]

SENATOR ERDMAN: Any questions? [LB495]

JANINE BROOKS: PACE through AAP, Autism Action Partnership. They have a wonderful program that's working well for the autism community. [LB495]

SENATOR ERDMAN: Good. Okay. Any questions? Thank you for coming in. Appreciate it. Good afternoon. [LB495]

RAY McBRIDE: (Exhibit 6) Good afternoon. My name is Ray McBride, and I need help to read so I got... [LB495]

SENATOR ERDMAN: Can you spell your name for us? [LB495]

RAY McBRIDE: R-a-y M-c-B-r-i-d-e. [LB495]

SENATOR ERDMAN: Okay. [LB495]

RAY McBRIDE: With the help with my teacher...with my teacher from Grand Island Senior High, I wanted to go to prom in my senior year. I graduating class, special ed from 2000 and 20 years old. My foster mom tell me it was not good to be by one... [LB495]

RICHARD MACIEJEWSKI: May I read it for you? [LB495]

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RAY McBRIDE: Yes. It's hard. I'm sorry. [LB495]

SENATOR ERDMAN: It's all right. Take your time. No problem. [LB495]

RICHARD MACIEJEWSKI: With the help of some of my teachers at Grand Island Senior High, I was able to attend my senior prom. I wanted to attend the prom for the first time because it was my senior year and I would be graduating out of the special education program at 21 years old. My foster mother didn't think I deserved to go because I was graduating with a special education diploma and she said she would not allow me to live with her any longer if I went. With the help of my teachers, they brought me good clothes and provided transportation for me and my date. True to her word, my foster mother told me I had to leave. A teacher aid was willing to go to court to become my guardian and found me another foster adult care home with Kelly. My first foster mother had taken me to Vocational Rehabilitation Services to help me find a job a few months before I graduated. I had talked with Rich and he was able to line me up with a part-time job at the Grand Island daily Independent paper, inserting ads into the daily production. I wanted to be independent, so I didn't think I needed any help. With the job and my SSI income, I was able to afford an apartment at the Walnut apartment facility. That didn't work out very well because I was soon having problems maintaining the apartment, doing things on the job that were inappropriate or dangerous, and constantly calling my guardian or bank to find out how much money I had. I finally agreed to connect with development disability services. I had also stressed out two court-appointed guardians in the process. My anxiety level was about what would happen to me; it was always off the chart. I asked the court to see if Rich would be willing to be my guardian. He reluctantly agreed. Once I was connected with DD services and came off the waiting list, they assigned me to attend the Goodwill day program, as I had already lost my job at the Independent. Goodwill taught me how important it is to work. Eventually I was also working part-time for Goodwill besides attending their program to improve my social skills and continue to work on basic educational tasks, like reading and speech. Skills Goodwill taught me are how to use their baler and run an electric pallet jack. I also learned the importance of following a work schedule. Through Goodwill employment services I was able to get another part-time job at Younkers unloading trucks. The employment staff also helped me with job training and a job coach, and are now teaching me the Younkers department numbers to make my job easier. I was also connected with Mosaic through DD services for my residential program and needs. I now live with a foster family, and with Mosaic they have shown me the importance of taking care of my health. I have learned how to eat healthy and how important it is to exercise, losing 50 pounds in the process. I am now convinced to use my CPAP machine when I sleep. Through Mosaic I get to be part of a family and am learning life skills, such as how to cook and clean and take care of my personal hygiene. If you have any questions, I will try to answer them or have Rich explain. [LB495]

SENATOR ERDMAN: Very good. [LB495]

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RAY McBRIDE: Any questions? [LB495]

SENATOR ERDMAN: Any questions? Senator Kolterman. [LB495]

SENATOR KOLTERMAN: Just have a comment. Thank you for coming today. Your testimony is important. It's important for us to hear from the people that use the services as much as it is those that try to administer them. And I assume you had some help writing this. [LB495]

RAY McBRIDE: Yeah, one of my staff at Goodwill helped me write it, but he put some of the other stuff in it. [LB495]

SENATOR KOLTERMAN: But it's very well done. [LB495]

SENATOR CRAWFORD: Thank you. [LB495]

SENATOR KOLTERMAN: And also, thank you to you, sir, for coming. And I know the role you must be playing is...you take a lot of pride in that. We thank you for that. [LB495]

SENATOR ERDMAN: Good luck. I appreciate it. Thank you. Senator? [LB495]

SENATOR HOWARD: Both of them have to do their names. [LB495]

SENATOR ERDMAN: Oh. Can you give us your name too, sir? [LB495]

SENATOR HOWARD: And spell it. [LB495]

RICHARD MACIEJEWSKI: I'm sorry, what? [LB495]

SENATOR ERDMAN: Can you give us your name and spell it for us? [LB495]

RICHARD MACIEJEWSKI: Oh. I will testify (inaudible). [LB495]

SENATOR ERDMAN: Oh, okay. Okay. [LB495]

RICHARD MACIEJEWSKI: I'd like to follow him. I can follow with some stuff. [LB495]



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SENATOR CRAWFORD: Okay. [LB495]

SENATOR ERDMAN: Okay. [LB495]

RICHARD MACIEJEWSKI: Thank you, Senators, for having the hearing and for allowing us to give testimony. I applaud... [LB495]

SENATOR ERDMAN: Can you state your name and spell it? [LB495]

RICHARD MACIEJEWSKI: Oh, I'm sorry. Richard Maciejewski. I got to spell that last one, it's Polish. M-a-c-i-e-j-e-w-s-k-i. [LB495]

SENATOR ERDMAN: Thank you. [LB495]

RICHARD MACIEJEWSKI: And I'm also alias known as a twin to Bernie Sanders in case you haven't noticed. (Laughter) [LB495]

SENATOR WILLIAMS: We might have noticed. (Laughter) [LB495]

RICHARD MACIEJEWSKI: (Exhibit 7) I applaud the bill in some respects. I'm kind of not exactly neutral, but I applaud the bill with the detailed first page where they try to define the characteristics of developmental disability. And I want to call attention to one of those characteristics that they define to the...how you know or how you have developmental disability, and that one is number 3, which says "likely to continue indefinitely." I want to stress that. It's likely to continue indefinitely. I worked for 17 years in Grand Island with Vocational Rehabilitation Services. And part of my duty was to work with DD clients applying for services. I'm also personally an acting guardian/conservator for persons like Ray, some of the consumers, and a representative payee for individuals with disabilities. And I continue to be involved with The Arc of Central Nebraska, seeking to retain and improve the level of services in the state. I think it is import to realize the characteristic I have emphasized about "likely to continue indefinitely." While individuals with developmental disability may improve their ability and performance, it is not likely that they will achieve a level of functioning in either employment or life skills that they will not continue to need some support services. That becomes especially true if parents die and siblings are not living near the area to take over. Ray gave you kind of a synopsis of how he thought he could be independent and he could make it, and he saw that that didn't quite work out. It's important that he have services because his parents live in Omaha. He was taken away from his parents when he was early teens. And the foster mother that told him if he went to the prom... [LB495]

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RAY McBRIDE: Would throw me out. [LB495]

RICHARD MACIEJEWSKI: Yeah, that's what she said, and she did; moved to Grand Island. So he was not in contact with his parents for a long time. So when Ray came to Voc Rehab to get services, that was still before he was attached to DD with case management. His foster mother when she came in said, I don't know if you can do anything with this kid; if you look at his socks, he can't even match his socks. Well, Ray has proven that he has some ability. He's learned to use the baler at Goodwill, one of three that do use the baler quite frequently. [LB495]

RAY McBRIDE: Go on the (inaudible) been there 15 years. [LB495]

RICHARD MACIEJEWSKI: And he's also now started a job unloading trucks at Younkers. Ray likes physical labor. That works. And so he has proven that, yeah, he can do better than matching socks. My part that I'm not so sure about this bill, and to some degree some of my questioning has been answered, but it's hard. I couldn't always hear what was being said when they were talking to you guys. My problem is in the last part of it, it says all Nebraska residents eligible for funding for services through DD shall apply for, and it lists a whole bunch of things. And includes then lists the litany of sources for funding and agencies, including Division of Rehabilitation Services. I'm not sure what that means. The section needs to be clearer. I'm not sure, first of all, does it continue to say...will it continue to provide services right after they term out of graduation at 21 or not? It almost sounds like before they can now have case service coordination as they term out, they have to apply for a whole bunch of things. Now most parents don't know a whole lot about all these agencies and if you throw that at them, they're just going to go, oh (flung his arm up), and they won't get nothing done. So that statute needs to be clearer and the reason it needs to be clearer is that I think we need to continue...if somebody doesn't want the funding or the parents don't want the funding or don't want to get involved in case management, okay. My problem with that when they would come to me, would say I hope you realize what you're doing because chances are it's not going to work out so well down the road. You're going to need that. So I need to have this statute clearer. I don't see it as an either/or. Seems to me that we ought to have services when they graduate, come out at 21,... [LB495]

SENATOR ERDMAN: Okay. [LB495]

RICHARD MACIEJEWSKI: ...available for them. Because first of all, they don't know really well what they can do in terms of employment and that's one of the good parts about the programs, like Goodwill, Mosaic, those kind of programs where they go into them. They have a better chance of assessing what their characteristics and their abilities are to match what kind of job they might be able to handle. And it's not likely it's going to be a full-time job. Very few developmentally disabled persons can really handle a full-time job. [LB495]

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SENATOR ERDMAN: I understand. [LB495]

RICHARD MACIEJEWSKI: So that leaves a whole bunch of time, which is also why the services like Goodwill are important. Because if they don't go to services like that, when they're not working they sit at home. They lose skills that they once had from high school. They have very little social activity because they're not exactly work...or not...it's hard for them with normal teenagers and stuff to attach social things that they can do. And so they just...they lose skills. And those programs are really, really important. [LB495]

SENATOR ERDMAN: If you could...if you could wrap it up, your red light is on. [LB495]

RICHARD MACIEJEWSKI: Okay. [LB495]

SENATOR ERDMAN: Okay. [LB495]

RICHARD MACIEJEWSKI: So that's my only...that statute needs to be clearer. [LB495]

SENATOR ERDMAN: Okay. [LB495]

RICHARD MACIEJEWSKI: Okay. [LB495]

SENATOR ERDMAN: We appreciate that. [LB495]

RICHARD MACIEJEWSKI: I would like to give one example, if I might. [LB495]

SENATOR ERDMAN: Make it quick. [LB495]

RICHARD MACIEJEWSKI: Okay. In working with students, I had a DD client that came to me and he came in with a tie and a dress shirt and slacks. Now it's unusual. But this kid came and every time he came to me and was wanting to get some sort of job, he always came dressed like that. And so as we tried some different things to see what he might do, I got a request from a company in Doniphan, Nebraska. They needed somebody to clean the lunchroom and the hallways. And I thought, whoa, Mr. Clean, this is perfect, you know? This job might really work for him. So I got him a job coach, we started the job. About two weeks down the line I got a call from the employer. He said, okay, Mr. smarty-pants counselor, what do I do now? I said, what do you mean, what do you do now? He said, well, he said, he cleaned the lunchroom but now he won't let anybody else in. (Laughter) He's got it clean and he don't want to get it dirty. Now

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there's no way I could tell this kid, but this why you got a job. No, that didn't work nearly as neat as I thought it might. (Laughter) [LB495]

SENATOR ERDMAN: It's a good story. Thank you. [LB495]

RICHARD MACIEJEWSKI: And I could give you lots of cases like that. [LB495]

SENATOR ERDMAN: I appreciate it. Any questions? That's a good story. I appreciate you guys coming in. That's great. Thank you. [LB495]

RICHARD MACIEJEWSKI: Thank you. [LB495]

SENATOR ERDMAN: Thanks a lot. If you can, try to adhere to the light system if you would. [LB495]

DEBBIE SALOMON: Right. I'm short and sweet. (Laugh) [LB495]

SENATOR ERDMAN: Thank you. Thanks for coming too. [LB495]

DEBBIE SALOMON: (Exhibit 8) Okay. Dear Chairman Riepe and members of the Health and Human Services Committee, my name is Debbie Salomon, S-a-l-o-m-o-n, and I'm submitting testimony on LB495 as a parent of two beautiful daughters with intellectual disabilities and other developmental disabilities. I wear several hats around the state, but I'm here strictly as a parent. Lisa transitioned out of school in 1999 and Jillian in 2002. My family would have been turned upside down without access to transition services. Both my husband and I worked, and I carried the health insurance. I lost the last of my after-school sitters at the time Lisa turned 21. They all went to college. Without access to day services, my family would have had no insurance and no way to pay our bills if I had to quit my job. Jillian had had eight spine surgeries by that time and we had no state support, so we owed the medical profession thousands of dollars. Lisa had a job at that time at Goodwill Industries in Omaha but could not and cannot be successful without her job coach. She's been there 17 years. Lisa had cancer in 2002 and Jillian had another surgery at the same time. Without access to day services, I would not have been able to keep the girls home. Jillian was immobilized and was a two-person turn. I was also in school that summer to finish up the last six hours for a raise, which I really needed. Families need transition services in order for their sons and daughters to receive job coaching to maintain employment of which they also contribute to our tax base. For our sons and daughters who cannot work, day programs give them a place to go and a sense of worth. No one wants to sit home or with babysitters paid by parents whose financial burden is already stretched to the max. Day services allow our sons and

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daughters to grow and develop. Once their learning becomes status quo, future potentials are at risk. We are lifelong learners and so should our children who happen to have a disability. Without waiver services and entitlement services, many of our young people would die earlier, become antisocial and without a purpose. My daughters have had rich wonderful lives due to employment and day services. We're in the process of trying to find Jillian a job. She's currently volunteering at the Rose Blumkin Home and Open Door Mission, both utilizing job coaching. The other three days she is at her day program all day. Jillian would have been in competitive employment, but when she graduated school she was ill from her last surgery and had a central line for a year. And she was well enough but not well enough, and so we ended up having to find a day program for her that had a nurse on staff. And of course she's made friends and has the boyfriend and the whole nine yards, so I really haven't moved her until this point when she's more capable. I've been a widow for the past 13 years and I just retired in July due to my health. Without our waiver services, Lisa and Jillian's lives would not be near as successful as they are. They're good citizens and taxpayers as well. Please don't take away our transition entitlement services. We as families have fought too hard and too long for services for our children who can't take care of themselves. Please let them maintain pride in what they do and have a place to go to work every...each and every day. Thank you. [LB495]

SENATOR ERDMAN: Thank you very much. [LB495]

DEBBIE SALOMON: Any questions? [LB495]

SENATOR ERDMAN: Good testimony. Any questions? [LB495]

DEBBIE SALOMON: Okay. Thank you. [LB495]

SENATOR ERDMAN: Hearing none, thank you. Next testifier. [LB495]

MARY PHILLIPS: Hello. [LB495]

SENATOR ERDMAN: Good afternoon. [LB495]

MARY PHILLIPS: Chairman Riepe and members of the committee, I am submitting testimony in opposition to LB495. I have been immersed in the disability... [LB495]

SENATOR ERDMAN: Can you state and spell your name? [LB495]

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MARY PHILLIPS: I'm sorry. I'm also a rookie at this. [LB495]

SENATOR ERDMAN: It's all right. [LB495]

MARY PHILLIPS: My name is Mary Phillips, P-h-i-l-l-i-p-s. [LB495]

SENATOR ERDMAN: Thank you. [LB495]

MARY PHILLIPS: I'm submitting testimony in opposition of LB495. I have been immersed in the disability community for almost 30 years. I have sat on local and state advocacy boards, regional and state DD councils. I've taught special education and I currently work as a director for special education in an educational service unit outside of Lincoln. You've heard testimony today of what can happen without entitlement services, and I want to leave you with a personal story having experienced that worst possibility. I'm a parent of a 29-year-old woman born with cerebral palsy and developmental disabilities. If anyone would have ever told me that I would be the parent of this type of individual I would have never believed them. No one plans for this and no one asks for it and no one hopes for it. However, when you have a child with disabilities you become a lifelong advocate for all persons with disabilities. You gain an understanding of what supports are needed to maintain a quality of life that you all hope for your own children as well, and you develop the courage to be here and to speak on their behalf. In 2009, my daughter aged out of services in her local high school at the age of 21. She had spent seven hours a day every school day for the past previous three years in a job practice program and that program taught her the skills to work independently with minimal supports in a variety of work settings. She was prepared to enter the work force semi-independently, at least on a part-time basis. At the time she aged out of school, her father and I did not know that we should have appealed her DD denial at age 16, much earlier. In fact, the information we were given was, she won't be eligible for services till she's 21; you might as well wait. And so we believed that and we did wait. We began the journey of obtaining adult services behind the curve. Applying for SSI was a two-year ordeal. Applying for DD services resulted in a process involving several appeals until she was finally deemed eligible even though she had a general adult functioning score of 50, which for those of you who don't know is fairly moderate cognitive impairment. While the process is much more automated now and parent friendly, persistence is still required. Nevertheless, we knew our daughter was deserving of this service and we knew she would not be able to have...lead a contributing life without those supports. So we persisted with the services...with the appeals until she was deemed eligible. The process of application, denial, appeal, denial, appeal, and then reevaluation for us took a little over two years. During that time, she's 22 and 23 and she sat home alone as we were full-time employed parents. She was unsupervised, unemployed, unmotivated, understimulated intellectually and socially. She did not have good nutrition. She didn't eat well and she often slept most of her day. She gained 40 pounds. She did not get out

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into the community and she didn't leave our home unless we took her. She lost mobility. She lost self-esteem and her problem-solving skills eroded. She spent hours of unsupervised time on technology, which resulted in a very negative experience for a vulnerable young woman. Her father and I watched her slowly lose all those skills that we had advocated for, for her, for so many years, and there was nothing we could do about it. From a young woman who was able to work with minimal job coaching, she regressed to where she continues to be very dependent, even to this day, upon her job coach, even all these years later. That two-and-a-half-year window of sitting out cost so much regression of her skill set in the work place, as it would for any person who was forced to take a one- or two-year forced hiatus, that she continues to require more supports now than she would have needed then, had she been able to get services at 21 if she had been deemed eligible, which is fully our responsibility for not doing that earlier and getting that through. But she is a story. This is a personal story of should that waiting list occur...and until today I did not know about the 200 spots that were being saved, and I didn't know that there was only about 175 high school students eligible at 21 in any year. This was new information. But I'm here to say should LB495 go forth, the scenario we lived could affect many young people should a waiting list develop. People who are already deemed eligible and should be in a day program upon acceptance of their diplomas should not have to sit and wait if there is no funding. We will see significant skill regression, more dependency, more health issues, more safety risks, less socialization, and ultimately that is going to cost us in the state of Nebraska more money to support them than if they had received the day program for which they were eligible at age 21. Thank you. [LB495]

SENATOR ERDMAN: Thank you so much for your testimony. Any questions? Seeing none, thank you so much. [LB495]

MARY PHILLIPS: You're welcome. [LB495]

SENATOR ERDMAN: Next testifier. Good afternoon. [LB495]

DOUG CZEPA: (Exhibit 9) Thank you. My name is Doug Czepa. My last name is spelled C-z-e-p-a. I'm here on behalf of my son and just want to read a letter. It's fairly short. [LB495]

SENATOR ERDMAN: Okay. Go ahead. [LB495]

DOUG CZEPA: Got my glasses here though first. My name is Doug Czepa, as I mentioned, and our family lives in Papillion, Nebraska. My wife and I are parents of five children. Two of our sons are on the autism spectrum. Today I'm here to briefly share with your committee about the impact that LB495 could have on our son, Matthew, and our family. Matthew is 19 years old. He was diagnosed with autism at the age of two. As his parents and now legal guardians, throughout

every stage of his life we have strived to provide Matthew with the therapies and support he has needed to learn and to meet his needs so that he can experience a happy, productive, and self-determined life. When Matthew was diagnosed and we discovered that our Omaha community did not have the therapy resources beyond a diagnosis, we uprooted our family and relocated to the state of Wisconsin where Matthew could participate in a full ABA therapy program. Eventually, we were able to return to Nebraska where Matthew has attended elementary, middle, and high school in the Papillion-La Vista School District. He is currently in his first year of our district's Young Adult Transition Program. While we rejoice with every skill that Matthew has mastered and every goal he has achieved, we also recognize that he will need a lifetime of supports. Although Matthew is able to complete many tasks independently, he does require the support and supervision of a staff member or caregiver at times...or at all times, both in his school placement and in his home environment. His current school placement consists of structured classroom setting for part of the day and a supervised employment setting for the other part of the day with accommodations that meet his developmental needs. With LB495 and the removal of a guaranteed placement at age 21, Matthew is facing the possibility of graduating without the programming and supports he needs to transition to adult life. He could potentially fall into this window of uncertainty of, if any, or if or when he will have access to the services he so desperately needs. If a placement following graduation is postponed, Matthew will cease to have a program that provides meaningful activity and the opportunity to acquire new skills and further his independence. Matthew loves to learn and he loves to be in the community that he lives in. He looks forward to going to school each day. Like all adults, Matthew deserves the opportunity for full enclosure (sic--inclusion) in our community on a daily basis and he needs access to day services for that to be possible. Not only will this impact Matthew, but it will impact my wife and I significantly. Like so many families, we're relying on the ability to have Matthew move from his transition years to a day program. Without an immediate placement following high school, it will require that one of us remain in the home to serve as his day provider. If that becomes the case, either my wife or I will forgo employment to care for Matthew, resulting in a significant hardship for our entire family. In closing, if the state of Nebraska moves from a guaranteed placement of day services at age 21 to a waiver system, as outlined in LB495, it could potentially have a very negative impact on our son, our family, and so many others with developmental disabilities transitioning into adulthood across the state of Nebraska. Thank you for this opportunity to share how we feel about this bill personally and how it would impact our family. [LB495]

SENATOR ERDMAN: Thank you for your testimony. Are there any questions? Senator Linehan. [LB495]

SENATOR LINEHAN: Just quickly, you said that you moved to Wisconsin because they had the ABA therapy, but then you moved back. So does Papillion-La Vista have the ABA? [LB495]



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DOUG CZEPA: No. Once he was done with the AB...it was about a two-and-a-half-year period where he had intense therapy there, where they came into the home. And we moved away at that point in time because it's kind of a burnout part of... [LB495]

SENATOR LINEHAN: Is it a preschool program more than...? [LB495]

DOUG CZEPA: Yes. [LB495]

SENATOR LINEHAN: Okay. So it's a preschool program but you don't know if schools in Nebraska would have it. I mean you're past that. [LB495]

DOUG CZEPA: Back at that time they didn't. Today they...there are services that are available and some that are paid for through insurance companies. But, of course, at the time we were going through it, there weren't any available. The only thing that was, was the obtaining a diagnosis. [LB495]

SENATOR LINEHAN: Okay. And, okay, that's very helpful. Thank you very much. Appreciate you coming today. [LB495]

DOUG CZEPA: Sure. [LB495]

SENATOR ERDMAN: Any other questions? Seeing none, thank you. [LB495]

DOUG CZEPA: Thank you. [LB495]

SENATOR ERDMAN: Any other opponents? Any other opponents? Any letters? [LB495]

COURTNEY MILLER: I was asking permission to come to clarify something (inaudible) or I can come in as neutral if necessary. [LB495]

SENATOR HOWARD: She already testified. [LB495]

SENATOR ERDMAN: She already testified once, right? [LB495]

SENATOR HOWARD: Can Tony come up and do it? [LB495]

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SENATOR CRAWFORD: Oh, that would be a good idea. [LB495]

COURTNEY MILLER: (Inaudible). [LB495]

SENATOR ERDMAN: Are you neutral or...? [LB495]

DON WESELY: Neutral. [LB495]

SENATOR ERDMAN: Neutral? Okay. Thank you for coming. [LB495]

DON WESELY: Thank you. For the record, my name is Don Wesely, D-o-n W-e-s-e-l-y. I do lobby on behalf of Nebraskans for Rate Equity. I'm not here representing them. I am representing myself. And I'm an old-timer like Alan, I guess, and there may be others here who were around when this passed. But I thought if I took a five-minute of your time to give you some context, it might be helpful to you. Nebraska has always been kind of cutting edge on DD services. It started with the Horacek case, which some of you may remember, most probably not, but it was filed in '73. There was a consent decree in 1975. And what that did is it deinstitutionalized DD services, at that time, mental retardation services. Nebraska set up the regions that we have now and private providers in the community, and we actually were so good at it we had international and national people come to see how we did it, how those services worked, and we were really, I think, very good at that. Then we reached kind of a time when disabilities, developmental disabilities really rose to the top for our priority for the nation and for the state. That was in 1990 with the passage of the Americans with Disabilities Act by the Congress, and then we followed that in 1991 here with the Developmental Disabilities Services Act, which was a bill actually I carried. That led to, as Alan talked about, Governor Nelson came in with the developmental disabilities "Blueprint." And I think some of these things are available for you if you go back in the documentation. But that whole time period, '90-91, there was an idealism about developmental disabilities and we were going to change things. And ultimately here in Nebraska what we wanted were two things: We wanted the best services for developmentally disabled individuals and we wanted to stop the waiting lists. We...our goal was to end the waiting list. If you look in the statute before you there's a paragraph that's stricken that says it's the intent by 2010 to end the waiting list and have everybody who needed them to have services. Well, actually, that was 2010. Obviously, we're far past that. But we actually reached that goal, maybe not technically but in spirit, in the late '90s, because what we did with the passage in '91 was we set up additional funding, matched by federal dollars, to take care of people that were on the waiting list. And we, over the next I'd say seven or eight years, we pretty well did that. And then the idea was we put the money in, we get those folks in services. If we put in the mandate, which you're discussing, so that every year as people leave high school they get services, you maintain that you don't have a waiting list. And so that was the strategy and we actually accomplished that

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in the late '90s. And I think it worked very well until the 2000s. And then what happened, basically, is cuts in the budget led to the BSDC disaster and it's been pretty tough for the last few years. But I want to congratulate Courtney, Courtney Miller, who's done a really good job of turning things around and we're now very proud of the work she's doing. And the people I represent lobbying are community-based providers and we've always been I think outstanding. As I said the regions were great working with private providers and we've always been great. The BSDC situation took a turn for the worse. It's getting better. But in the 1990s, Nebraska, because of the fact that we had high-quality institutional services, high-quality community-based services, and we had this legislation, were considered the gold standard for DD services in the whole country. And as I said, we had people come here starting in the '70s through into the '90s because of the work we did. And I guess I'm not here opposing the bill. I understand times change and you have to make adjustments, but there was good reason for what you're considering right now and goals were good and the idealism was there. You're now talking about...somebody earlier talked about an eight-year wait with 3,500 people. That's about where we were when we started in around 1990. And I just feel like, you know, we had a problem, we solved the problem, we had a plan, and then, you know, as times change it went away. But I would urge you to think again about the idea that we don't have people waiting. It's not a choice between people coming out of high school and high priorities. They both should get services. That's...if they're a high priority, they should get services. Coming out of high school, as you can see and you heard, if we don't provide services immediately leaving high school, and I know there's slots there and hopefully that will all happen, but they lose ground and they're harmed for the rest of their lives. So there was a lot of thought that went into this. And working with Courtney, I have a lot of confidence. It's just that people come and go and administrations come and go and priorities change. So I'm urging you to be cautious on this issue, and that's my background. [LB495]

SENATOR ERDMAN: Thank you. Any questions? Thank you for coming. [LB495]

DON WESELY: You bet. Thank you. [LB495]

SENATOR ERDMAN: Any other neutral testifiers? [LB495]

BRAD MEURRENS: (Exhibits 10 and 11) Good afternoon, Senator Erdman, Senator Riepe and members of the committee. For the record, my name is Brad, B-r-a-d, Meurrens, M-e-u-r-r-e-n-s, and I still am the public policy director for Disability Rights Nebraska, the designated protection and advocacy organization for persons with disabilities in Nebraska. There are some parts of the bill that are positive and some that raise some concerns which we wanted to make the committee aware. So, thus, I am here today in a neutral capacity. And I will skip over the first part of my written testimony because we do share some of those same concerns around the definition of

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developmental disability that were raised earlier, especially around the inclusion of mental illness and the, you know, inclusion of, you know, looking at the developmental disability and the IQ score of 70 and below. And I've also handed out to you comments that we submitted last year when there was an issue around changing the developmental disability definition around the IQ standards, and the inclusion of that one I thought might be more enlightening. So I will try to keep my comments to about 15 sentences, so if you know me, that's very difficult for me to do, but I'd rather focus on the entitlement. Our position is that this entitlement is an actionable right that parents and individuals can utilize to procure services, and that the removal of this language in the bill essentially removes this right. And we understand that this may be problematic for the federal matching funds and we certainly want to maximize the number of people receiving necessary developmental disability services in Nebraska. But this underscores the importance of legislative oversight and program evaluation to ensure that things progress as planned and promised, and that problems that were raised by the opponents do not materialize. Once the entitlement is removed, it may very well be difficult to reinsert it and people's rights in this area may be lost indefinitely. If service provision or process begins to lag or additional difficulties arise regarding service Nebraskans with developmental disabilities need under the proposed removal, Nebraska may need to in the future revisit the idea or the issue of entitlement language. Additionally, we would suggest removing the word "federal" from the legislative intent language found on page 4, line 5, or replacing it with "federal and state" or "all." An interpretation of this proposed language could allow the state to shrink its funding responsibilities and increase reliance on federal-only funding. Nebraska does have a major role and a responsibility providing adequate levels of funding to serve its residents with disabilities fully and should not be given an easy out. And with that, I will conclude my testimony. You have my written with more comments. And I'd be happy to answer any questions that you may have at this time. [LB495]

SENATOR ERDMAN: Any questions? You were teetering there on not being neutral. [LB495]

BRAD MEURRENS: Oh, well, it's a balancing act. I mean we recognize like, you know, Mr. Wesely said, you know, times have changed. We recognize that. [LB495]

SENATOR ERDMAN: I appreciate your comments and your ability to talk about it, but when you come and talk about the comments you made, it's hard to make a case that you are neutral. But I do appreciate you making those comments about what changes need to be made. [LB495]

BRAD MEURRENS: Sure. [LB495]

SENATOR ERDMAN: Thank you for coming. Any questions? Senator Crawford. [LB495]

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SENATOR CRAWFORD: Thank you, Senator Erdman. And thank you, Mr. Meurrens, for your testimony. [LB495]

BRAD MEURRENS: Sure. [LB495]

SENATOR CRAWFORD: So I'm just wanting to clarify and understand a point in your testimony. You say: "We continue to press for the inclusion of mental illness as a sole determinant of a developmental disability." You say that...so our definition right now is developmental disability is...it sort of excludes mental illness. [LB495]

BRAD MEURRENS: As a sole determinant. [LB495]

SENATOR CRAWFORD: Okay. But you don't mean...you're not...you're...so that would be one place you exclude it. Another would be that it's both, but you're saying inclusion of mental illness itself as a determinant for being... [LB495]

BRAD MEURRENS: As a sole determinant, yes. [LB495]

SENATOR CRAWFORD: Okay. And can you explain like an implication of that or an example... [LB495]

BRAD MEURRENS: Sure. [LB495]

SENATOR CRAWFORD: ...of what that looks like for our... [LB495]

BRAD MEURRENS: Sure. The, you know, if the definition of developmental disability is that it's a disability that's onset before the age of 22, our issue is that...and if we consider mental illness or psychological disabilities as a disability, if those disabilities occur before 22, that should meet the definition of developmental disability, like the federal law says. So if developmental disability is defined as before 22, mental illness is a disability and that disability happens before 22, we contend that it should be considered a developmental disability as well. [LB495]

SENATOR CRAWFORD: And why is that important in your sense of services or being able to...why is that important in terms of that definition in Nebraska and how that plays out for individuals with a mental disability that occurs before age 22? [LB495]

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BRAD MEURRENS: Sure. I think a couple of different things. I think if we can put that language in or, you know, whatever, then that expands the scope of people who can receive those necessary services. And I think that definitional exclusion really supports the...especially in the previous years of the silo mentality between divisions. Now I grant...again, I would echo the comments that were made earlier about progress that the divisions and the department in general have made to try and break down those silos. But I think as long as we have that distinction in the definition of developmental disability, that perpetuates, at least on paper, it perpetuates a, you know, who serves this person and which department/division do they receive services in? But again, I think that that recognition that this sort of "not our division, that division," "not this division but that division," you know, is counterproductive and I think that there's, you know, a recognition that that needs to be changed. I think that there have been nascent growing activities within the department to try to break down some of that silo. [LB495]

SENATOR CRAWFORD: Thank you. [LB495]

SENATOR ERDMAN: Senator Linehan. [LB495]

SENATOR LINEHAN: Thank you for your testimony. And I think I understand what you're trying to do but I'm a little concerned because developmental disabilities and mental health are two different things. I mean one person could have both, but not necessarily. [LB495]

BRAD MEURRENS: True. [LB495]

SENATOR LINEHAN: So it's a little...I just for the record here want to caution that we do a lot of research on that before we would decide those two fit together. [LB495]

BRAD MEURRENS: Right. But if you accept the idea that mental illness is a disabling condition and you accept that the definition of developmental disabilities, any disabling condition that happens before the age of 22, right? That means that the exclusion of mental illness as a sole exclusion, right, as written in the current Nebraska statutes doesn't really comport with the true definition of developmental disability, either in federal or in state statute. That (inaudible). [LB495]

SENATOR LINEHAN: Okay. Well, I think we just need to have a wider conversation. [LB495]

BRAD MEURRENS: Sure. I would... [LB495]

SENATOR LINEHAN: I would appreciate that. [LB495]

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BRAD MEURRENS: I would agree with you 110 percent that that needs to be a wider discussion, which is, again, why we're kind of neutral is that these are just some things that we wanted to point out that need to have larger discussions, not necessarily as items to be used to oppose or kill the initiative that has been proposed but, again, just wider issues that need to be discussed and thought about in the future years. Yeah. [LB495]

SENATOR LINEHAN: Thank you very much. Thank you. [LB495]

BRAD MEURRENS: Uh-huh. [LB495]

SENATOR ERDMAN: Thank you. Any other questions? Seeing none, thank you. [LB495]

BRAD MEURRENS: Sure. [LB495]

SENATOR ERDMAN: Any other neutral testifiers? [LB495]

LARRY STORER: Any what? [LB495]

SENATOR ERDMAN: Neutral. Do we have any letters? [LB495]

TYLER MAHOOD: (Exhibits 12, 13, and 14) Yes. I have one letter of support signed by Kristin Mayleben-Flott of the Nebraska Planning Council on Developmental Disabilities; I have one letter of opposition signed by Eversalem Lemma of the University of Nebraska Medical Center student delegates; and one letter in the neutral position signed by Joel Kabala representing himself. [LB495]

SENATOR ERDMAN: Okay. Senator Riepe, you're welcome to close. [LB495]

SENATOR RIEPE: Thank you, sir. Thank you. And thanks to the committee. Obviously, this is a very difficult and challenging topic but I think that it's been well discussed. And I do want to thank all of those who have come here today to express their interest and all those who have testified. I also want to thank our pages because I know we have been running them really hard today. So thank you, to you, and all of you as committee members. And I know that you've taken some special concerns and expressed some compassion about individual stories, and those are all important because they're real Nebraskans. As Nebraskans, we work hard to reach out to provide services to those who are eligible. LB495 is one vehicle that allows us to provide the services

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within our capacity. And I thank all of you for this hearing and will take questions if it so pleases the committee. [LB495]

SENATOR ERDMAN: Okay. Any questions? Senator Williams. [LB495]

SENATOR WILLIAMS: Thank you,... [LB495]

SENATOR RIEPE: Yes, sir. [LB495]

SENATOR WILLIAMS: ...Senator Erdman. And thank you, Chairman Riepe, for bringing this legislation. Can you address in language that I might understand how this...what has been called the window of opportunity is closed with LB495? [LB495]

SENATOR RIEPE: I think that's probably technical enough that I would have to defer on. I don't...I haven't heard the term "window of opportunity" expressed today. [LB495]

SENATOR WILLIAMS: We heard it several times from people opposed to the bill that by taking it from an entitlement we were closing their window of opportunity... [LB495]

SENATOR RIEPE: Oh, for their future? [LB495]

SENATOR WILLIAMS: ...or window of certainty, I should say, window of uncertainty. Do you have a concern about that? [LB495]

SENATOR RIEPE: Well, of course, you know, anytime that you have to, because the interpretation is that it will restrict or reduce some services and that is always a concern because if you're looking beyond the age of 21 and if that is being restricted, that creates real concerns for any parents or guardians of an individual that's going on into the future. I know I have some...a friend of mine who...and he and I talk once in a while and his concern is with his son, you know, what happens when he's not here. And so, yes, that is a major concern. How we address it as a state, we're going to have to take a step back and try to look at it. We're trying to match that up to what our resources are and trying to figure out what we can do. [LB495]

SENATOR WILLIAMS: Do you feel that it will restrict or eliminate the availability of services? [LB495]

SENATOR RIEPE: I think it will restrict to some degree, yes. [LB495]



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SENATOR WILLIAMS: Thank you. [LB495]

SENATOR ERDMAN: Okay. Senator Crawford. [LB495]

SENATOR CRAWFORD: Thank you, Senator Erdman. And... [LB495]

SENATOR RIEPE: Yes. [LB495]

SENATOR CRAWFORD: ...thank you, Senator Riepe. One of the...as I understand it we're moving forward and trying to make sure there are reserve slots, but we're taking an entitlement language out of statute. So as I understand it, the reserve slot idea may get reflected in rules and regs but that's very different than having it in statute. So I wondered if you would consider or we could have a future conversation about securing in statute something along the lines of reserve capacity so that there's a statutory commitment to that in a way... [LB495]

SENATOR RIEPE: Uh-huh. [LB495]

SENATOR CRAWFORD: ...that's federally compliant but that we have a statutory commitment to a capacity even if it's not an individual entitlement. [LB495]

SENATOR RIEPE: Uh-huh. Thank you. Thank you for the question. It is the responsibility of the committee to look at those options. I think it's our responsibility to talk about that. Normally, as we sit down and we go through Executive Committee to say do we want to or how do we want to forward this if we want to forward it to General File, and oftentimes we come in and we will add amendments or make changes that we think merit going forward. [LB495]

SENATOR CRAWFORD: Uh-huh. [LB495]

SENATOR RIEPE: So I'm certainly receptive to us looking at all of the options and opportunities within our capacity to be able to fund the situation. I hope that we can do that Executive Committee. [LB495]

SENATOR ERDMAN: Senator Linehan. [LB495]

SENATOR CRAWFORD: A... [LB495]

SENATOR LINEHAN: Could you...oh, I'm sorry. Go ahead. [LB495]

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SENATOR CRAWFORD: No, go ahead. [LB495]

SENATOR LINEHAN: Just for clarification, what I think we're...we've been told today is that we can't reserve a group of slots ahead of another group of slots. What the federal government has come in and said is you can't take every individual who's graduating from high school program and put them ahead of everybody else. We're not reducing any...not that I don't have great empathy for everybody who was here today, but we're not going to, if I recall right, we're not reducing the number of people we serve. It's just we're not putting a group of people ahead of another group. And even with that being the case, they're trying to reserve...trying to figure out a way where they can still help these kids. Is that your understanding? We're not actually going to be serving any fewer people; it's just we can't move this group of high school graduates in front of everybody else that's already on the waiting list. Or am I confused? [LB495]

SENATOR RIEPE: Well, and I'm not an expert on this by any means and my sense was, from what I heard in the testimony too, that there was a sense that there would be lost services to a number of people, regardless of where they're going to fit in, in terms of priority, because they will age out, was the way that I thought that I heard some of the testimony. Now if I didn't hear that right, we'll talk about that. [LB495]

SENATOR LINEHAN: Maybe we just need more clarification. [LB495]

SENATOR RIEPE: I don't know whether legal wants to respond to that or not. [LB495]

KRISTIN STIFFLER: Uh-uh. [LB495]

SENATOR RIEPE: Okay. [LB495]

SENATOR ERDMAN: Senator Crawford. [LB495]

SENATOR CRAWFORD: Thank you, Senator Erdman. And I think it's helpful if we just get some of the questions out so that other people can hear the questions as well... [LB495]

SENATOR RIEPE: Sure. [LB495]

SENATOR CRAWFORD: ...and that we have those on the record in terms of our conversation, even though I know it will go further in our conversations. So I think another key question for us to understand better as we move forward is the casework or navigation piece. So if the law...I

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mean that's already existing law that asks them to apply for other services. But if our intent, as I understand it, is to make sure that is being done and so we are requiring people to work with Voc Rehab and other services first, one of the questions that got asked here by testifiers was the question of are parents or individuals kind of on their own applying? Or do they get connected to the system and it's just the case that they're applying for those with help getting connected to the system? Or do they have to apply to all those things before they get connected to the system? [LB495]

SENATOR RIEPE: Uh-huh. [LB495]

SENATOR CRAWFORD: So I think that's important for us to understand and think about if there's anything that we need to clarify or... [LB495]

SENATOR RIEPE: Uh-huh. [LB495]

SENATOR CRAWFORD: ...address... [LB495]

SENATOR RIEPE: Uh-huh. [LB495]

SENATOR CRAWFORD: ...when we learn the answers to those questions. [LB495]

SENATOR RIEPE: One of the things that I heard today was the one person that testified and said, well, they thought that they probably wouldn't...or were told that they didn't need to apply until they were 21. And so until then there was nothing to do, when in fact at the age of 15 they should have begun the process. They were not made aware of that and all of a sudden they found out later. And so I think it's not only when to apply, and we also heard another testifier talk about, because there are so many agencies, the issue of the person living in the community, who on an episodic basis maybe has to seek services from any governmental service, doesn't necessarily know where they should start. And/or maybe even going to their legislative representative to say, can you...that an Ombudsman even exist or that we in our offices, who go out of our way to try to facilitate that, to make...to get them in the right track. And obviously, we might not...we're not going to have all the action but we might be able to triage, help them triage. That's something I think that why we ran for public office. [LB495]

SENATOR ERDMAN: Very good. Senator Howard. [LB495]

SENATOR HOWARD: Thank you, Senator Erdman. [LB495]

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SENATOR ERDMAN: Uh-huh. [LB495]

SENATOR HOWARD: And this is more of a question or a request for Director Miller but... [LB495]

SENATOR RIEPE: She's right behind me. [LB495]

SENATOR HOWARD: ...we'll send it along. [LB495]

SENATOR RIEPE: Can I just sit back and (inaudible)? [LB495]

SENATOR HOWARD: I think for me to make a good choice about this bill, I would need a better understanding of who's on the wait list and what it might look like. So we're going to take these kids below the age of 21 out of this program and we're going to put them as a third priority on the waiting list. And what sort of time frame are they looking at then if they're on the wait list and then third priority? So how many people are on the wait list, what does that look like? Not just the top five people but sort of a breakdown of everybody who's on the wait list and what priority they're at within that? Because it may be that, if we get rid of this program, they wouldn't see services for years as well, and that's certainly not the intent, I think. And then the other question that I had goes back to the original briefing where Director Miller indicated that they had used allocated money for the...that money that we had allocated for the wait list for current services. And so I'm just hoping we can get a clarification for that later... [LB495]

SENATOR RIEPE: Okay. [LB495]

SENATOR HOWARD: ...because I would hate to think that the Legislature had allocated funds to address the wait list and it hadn't been used appropriately. [LB495]

SENATOR RIEPE: Okay. [LB495]

SENATOR HOWARD: Thank you. [LB495]

SENATOR RIEPE: I'm not trying to...if we can identify those problems, I'm willing to work legal to research those and to be able to come to Exec Committee, because I think that's the way it works. And we don't witnesses come to Exec, but we clearly need to understand the questions; that otherwise we will Exec and then we'll hold and then we'll Exec again. So the more

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information that we have from the git-go--that's a good farm term there, Senator--we'll be better off and be able to make a good decision. [LB495]

SENATOR HOWARD: Absolutely. And I feel like this is a good opportunity because the director is right in the room and so... [LB495]

SENATOR RIEPE: That's right. [LB495]

SENATOR HOWARD: ...it's not... [LB495]

SENATOR RIEPE: That's right. [LB495]

SENATOR HOWARD: ...not all the pressure is on our legal counsel. [LB495]

SENATOR RIEPE: Oh, don't worry about that. (Laugh) [LB495]

SENATOR ERDMAN: Anything else? Well done, Senator Riepe. We got one more letter? [LB495]

TYLER MAHOOD: (Exhibit 15) Yes, I have a letter signed by the Nebraska Association of Service Providers in a neutral position. [LB495]

SENATOR ERDMAN: Neutral, okay. That will wrap up the hearing on LB495. [LB495]

LARRY STORER: May I have maybe a minute or two? [LB495]

SENATOR ERDMAN: We're adjourned. You can speak to us. We're going to adjourn. We adjourned the hearing. [LB495]