HOWARD: [RECORDER MALFUNCTION]--and I serve as chair of the Health and Human Services Committee. I'd like to invite the members of the committee to introduce themselves, starting on my right with Senator Walz.

WALZ: Hi, I'm Senator Walz from District 15-- sorry, usually he goes first-- all of Dodge County.

CAVANAUGH: I'm also thrown off [LAUGHTER]. Senator Machaela Cavanaugh from District 6: west-central Omaha, Douglas County.

B. HANSEN: Ben Hansen, District 16: Washington, Burt, and Cuming Counties.

HOWARD: Also assisting the committee is our legal counsel, T.J. O'Neill, and our committee clerk, Sherry Shaffer. And our committee page today will be Taylor. A few notes about our policies and procedures. Please turn off or silence your cell phones. This afternoon, we'll be hearing five bills, and we'll be taking them in the order listed on the agenda outside the room. On each of the tables near the doors to the hearing room, you will find green testifier sheets. If you are planning to testify today, please fill one out and hand it to Sherry when you come up to testify. This will help us keep an accurate record of the hearing. If you are not 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. Also, I would note, if you are not testifying but have written testimony to submit, the Legislature's policy is that all letters for the record must be received by the committee by 5:00 p.m., the day prior to the hearing. Any handouts submitted by testifiers will also be included as part of the record, as exhibits. I would, we would ask that, if you do have any handouts, that you please bring ten copies and give them to the page. We do use a light system for testifying. Each testifier will have five minutes to testify. When you begin, the light will be green. When the light turns yellow, that means you have one minute left. When the light turns red, it is time to end your testimony, and we will ask you to wrap up your final thoughts. When you come up to testify, please begin by stating your name clearly into the microphone, and then please spell both your first and last names. The hearing on each bill will begin with the introducer's opening statement. After the opening statement, we will hear from supporters of the bill, then from those in opposition, followed by those speaking in a neutral capacity. The introducer of the bill will then be given the opportunity to make

closing statements, if they wish to do so. We do have a strict no-prop policy in this committee. And with that, we'll begin today's hearing with the gubernatorial appointment of Mark Bulger to the Commission for the Blind and Visually Impaired. Welcome. Good afternoon, Mr. Bulger.

MARK BULGER: [INAUDIBLE].

HOWARD: Is it Bulger or Buljer [PHONETIC]?

MARK BULGER: Bulger.

HOWARD: Bulger. All right, I tried.

MARK BULGER: Good afternoon, Senator Howard and committee. Senators, it's a pleasure to be here.

HOWARD: Thank you. We were hoping you could tell us a little bit about yourself and your interest in serving on the commission.

MARK BULGER: Yeah. Well, I'm originally from Iowa. I'm a farm kid. Got involved in the meat industry and lived in different-- six, six different states doing meat processing plants. And I've got a wife and a wonderful daughter that just graduated from the University of Nebraska. Been blind since my mid- to late-thirties. I really appreciate what the vocational rehabilitation can do to help blind people regain their confidence and increase their expectations on what, what blind people can do. And I want to give back in any way I can.

HOWARD: That's wonderful. And I noticed on your additional info that you're also a voting member of the Statewide Independent Living Council. Can you tell us about that?

MARK BULGER: Yes, I am. That's, that's another. I've been primarily involved in the blind community. And I've kind of learned that all of us disabled people have something in common. And when we work together, we can do more things. So I really enjoyed that opportunity to serve, too.

HOWARD: And what does that-- what does the Independent Living Council do?

MARK BULGER: Well, they work to keep people with developmental disabilities, physical disabilities, to become independent and remain independent. You know, the alternatives are not good: nursing homes,

institutions, and things. So we, we're continuously working to help people with disabilities be able to think, act and speak for themselves so that they can live productive lives, as they can in their communities. So it's been a real honor to be a part of that, that group, too.

HOWARD: That's wonderful. Well, let's see if there are any questions from the committee. Are there questions? Senator Walz.

WALZ: I just wanted to say how happy I am to have you here today.

MARK BULGER: Yeah.

WALZ: What is one thing that most excites you about being on the commission?

MARK BULGER: Well, very good. Well, I-- there's-- I'm going to say the, I'm going to say a couple. But the most exciting thing is that we have a separate agency for the blind. Not all states have that. And the blind, we-- most people learn by, you know, observing, you know-- here, I'm going to show you what to do, how to do it. And the blind, we learn different ways. So we have to learn alternative methods and techniques. And our state, the NCBV [SIC] of Nebraska has a good nationwide reputation for being a leader in serving the blind. So that's, that's, I guess, what I would say is most satisfying for me.

WALZ: All right. Thank you. Good to see you.

MARK BULGER: Thank you.

HOWARD: All right. Any other questions? Seeing none, we so appreciate your service on this board and your willingness to help us out on it.

MARK BULGER: And I'd like to thank the state of Nebraska for their support. Not all states support their vocational rehabilitation agencies, but I, I'm proud to say that Nebraska not only matches the federal dollars, but they have done a good job of even exceeding that, to help us provide those valuable services for the blind. And I can't tell you how much we appreciate that. So thank you.

HOWARD: That's wonderful. Thank you. All right. This will close the gubernatorial appointment for Mr. Mark Bulger, and it will open the hearing for LB833, Senator Crawford's bill to exclude certain elderly programs from the Health Care Facility Licensure Act. Welcome, Senator Crawford.

CRAWFORD: Thank you. Good afternoon, Chairwoman Howard and members of the Health and Human Services Committee. My name is Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I represent the 45th Legislative District of Bellevue, Offutt, and eastern Sarpy County. And I'm here today to introduce LB833 for your consideration. LB833 would provide an exemption from overly burdensome and duplicative licensure requirements for Programs of All-Inclusive Care for the Elderly, or PACE programs. PACE is a community-based model that provides comprehensive care for older adults with complex chronic care needs, allowing them to remain in their homes. Seniors served by PACE meet nursing home level care criteria, but they are able to live safely in their community with the support of wraparound services, such as: medical care; social and behavioral health services; pharmacy benefits; home, home care; transportation; home modification; and whatever else may be necessary to keep the individual healthy and safe in their home. Most PACE programs enroll only medically frail individuals with multiple diagnoses. Without the availability of these programs, these are seniors who would likely require nursing home care at a much higher cost. Typically, members attend day services in a facility and have a healthcare plan, have a care plan developed in consultation with a care team and family members. The long-term care industry in Nebraska has reached a critical point. With provider reimbursement rates not keeping pace with the cost of providing care, many facilities have had to close their doors, and the state has had to take over operations of others, at a loss. Innovative care models such as PACE, that offer new approaches to long-term care, can help ensure that seniors have more options for quality care. PACE programs save state Medicaid dollars because services are provided for a fixed capitated monthly payment, keeping costs predictable and lower than the costs that would otherwise be incurred for these services. Currently, only one program is operating in Nebraska: Immanuel Pathways in Omaha. I visited the center and believe that removing the current licensure requirements may help PACE become a more viable option for senior care in Nebraska. Being based on state estimates for the dual-eligible population, Nebraska's spending on Immanuel Pathways is estimated to be about 17 percent less than for traditional Medicaid, saving the state an estimated $2 million a year on this population. Immanuel currently serves about 200 participants in six counties. Under current statutes and DHHS regulations, Nebraska requires that a PACE program maintain four separate healthcare facility licenses pursuant to the Health Care Facility Licensure Act. These licensure include: home health agency for therapy services; home health agency for nursing services; provider of adult day services; and health clinic licensure. These requirements are overly burdensome

because PACE programs are subject to extensive federal regulation and oversight, as well. When comparing federal laws and CMS regulations with our state regulations for PACE programs, each subject area required by the state is-- was already provided for in our federal law regulations. The PACE programs are unique in that they provide a comprehensive array of services. But those-- but these onerous, onerous requirements prevent them from establishing themselves in Nebraska. Currently, there are four states-- Iowa, North Carolina, Pennsylvania, and Virginia-- that exempt their PACE programs from additional state licensure, if the program meets the federal certification and requirements. So I've heard the question about whether it's appropriate to remove licensure requirements for PACE altogether as opposed to requiring one unique license. If LB833 passes, even though we're removing licenses, we're not removing state oversight of these programs. The centers will still be governed by extensive federal requirements and will still be surveyed by the state of Nebraska, as required by the three-way agreement between the provider, the state, and federal CMS. The federal code regulating these PACE programs, 42 CFR 460, set forth comprehensive standards for the building, types of providers and care delivery, training, and administration. It also requires that the state must perform reviews of the PACE center on CMS's behalf. So we're not removing the state's role and oversight of PACE centers. The AARP estimates that over 19 percent of Nebraska's population will be over 65 by 2032. This change will open the door for more of these innovative cost saving programs to open-- this will open the door for more of these innovative cost saving programs in our state. Today you'll hear from a representative of Immanuel who is currently operating Nebraska's only PACE program, and they can speak more of the need for this, the changes under LB833 and, and why passing LB833 does not remove the state's oversight role of their activities. I'm happy to try to answer any questions with you now or at closing.

HOWARD: Thank you. Are there questions? Seeing none, thank you, Senator Crawford.

CRAWFORD: Thank you.

HOWARD: You'll be staying to close?

CRAWFORD: I will.

HOWARD: Wonderful. All right. We'll invite our first proponent testifier for LB833.

ADAM KUENNING: Good afternoon. Adam Kuenning, A-d-a-m K-u-e-n-n-i-n-g. I am Immanuel's corporate legal counsel and an adjunct professor of health law at the Creighton University School of Law. Immanuel is offering testimony today in support of LB833. I believe you've received a letter from our president and CEO, Eric Gurley, as well as our case executive director at our Pathways Program. The handout that you're receiving is simply an updated exhibit to the letter that Eric Gurley submitted, so for your, your review, as you may see fit. A, a quick refresher-- several of you have previously visited a PACE center, either with me or one of my colleagues. And just a quick reminder, in order to qualify for PACE, the Program for All-Inclusive Care for the Elderly, people have to be age 55 or older, they have to live in a designated service area that is approved by CMS and the state of Nebraska-- this bill will not change that-- and they have to meet the nursing home level of care requirement and they have to be able to safely live in their home with the assistance of PACE services. PACE involves an interdisciplinary team of 11 different disciplines to help manage, and foresee, and prevent issues with participants' care. It's truly a unique model, and it fits squarely within Immanuel's mission of Christ-centered services to seniors, each other, and the community. Immanuel operates PACE in both Nebraska and Iowa, and Iowa does not have any facility licensure requirements similar to, comparable in any way to what Nebraska has. We have a great perspective of how two states are doing this drastically differently that I like to share with you today. However, as an initial matter, I wanted to point out the scope of this bill. As Immanuel is the only provider of PACE and we operate its only center in the entire state of Nebraska, which is in north-central Omaha-- if you haven't seen it, feel free to reach out to us. We would love to give you a tour. But this is not an Immanuel-centric bill. This bill is meant to remove hurdles that are facing any potential PACE provider. Immanuel already complies with the, the structure that DHHS has set forth, when we first formed our Pathways Program in 2013. So this is-- it, it's important to just keep in mind the scope of what we're talking about here. When we look at areas such as Scottsbluff, North Platte, Lexington, Kearney, Grand Island, and, of course, Lincoln-- there are PACE programs, very active, successful ones in places like Cheyenne, Wyoming, there are numerous in Colorado, and there are at least two in Kansas-- that if these additional state burdens in Nebraska were not there, perhaps those organizations would be interested in developing a PACE program here in Nebraska. At this point, the introduction was, was exactly right in discussions with the state over the past seven years since we started PACE. It was recently made clear-- as recently as a year and a half ago, we approached this

issue with the state. For your perspective, it's the Department of Health and Human Services, Medicaid and Long-Term Care Division, that oversees this. And we were basically told that the PACE licensure would not change; it would be kind of status quo. At this point, my understanding is that the state may be interested, or at least willing to consider, a single state license, as opposed to the four that it has. However, my question there would simply be, why, if, if that would result in additional regulations that need to be promulgated when we're all aware that the state is trying to reduce the number of regulations? And so I just wanted to address that as we went here. As we discussed, we've got a medical clinic license, home health for therapy, home health for nursing, and adult day service licenses. And those create some issues where, for example, the medical clinic license requires that we can only share-- we cannot share staff space. It's, it, it really comes down to how you built the building. You know, an important perspective for Iowa-- I see my time is already almost up. It's amazing how fast five minutes goes. Iowa has no state license requirements, and Iowa exerts much more oversight over PACE than Nebraska does, solely relying on the federal regulations and the three-way agreement with the CMS and the provider. It's not a matter of interpretation. It's not a matter of, of a different state law that's somehow applicable. It's simply a matter of an understanding of the regulations. The Medicaid division and-- the Division of Medicaid and Long-Term Care has had a lot of leadership changes, a lot of philosophical changes and whatnot. And PACE has simply been something that was easy to overlook, as they were trying to conquer other things: expansion of Medicaid, revamping the Administrative Code, etcetera. And I see that my time has expired. Are there any questions?

HOWARD: Thank you. Are there questions? Senator Hansen.

B. HANSEN: Yes, thank you. Just a quick question. Is Immanuel planning to open any more facilities at all that you know of?

ADAM KUENNING: In the future, undoubtedly. For your perspective, this needle-- I'm sorry-- this, this bill passing would not immediately move the needle for us. It's not as though we're, we're sitting, waiting to open another center. But our mission, Christ-centered services to seniors, each other, and the community, extends throughout Nebraska and Iowa. So we have two centers in Iowa right now. Ideally, we'd like to have more in the state of Nebraska in the future, yes.

B. HANSEN: OK. If you open any more, would that have any-- would that affect any other like, you know, retirement homes or long-term healthcare facilities at all?

ADAM KUENNING: Perhaps long-term care facilities, but the demographic that we are usually dealing with are Medicaid recipients or dual-eligibles. And our program allows them to be able to stay in their homes at less expense to the, to the state, as those exhibits demonstrate, in terms of the savings to the state. So it would be-- it's, it's usually the chronically ill, and many of them have some sort of cognitive impairment. More than half of our participants have a cognitive diagnosis related.

B. HANSEN: All right, just wondering. Thank you.

ADAM KUENNING: Absolutely.

HOWARD: Are there any other questions? Seeing none, thank you for your testimony.

ADAM KUENNING: Thank you.

HOWARD: Our next proponent testifier for LB833? Seeing none, is there anyone wishing to testify in opposition?

DARRELL KLEIN: Good afternoon, Chairwoman Howard and members of the Health and Human Services Committee. My name is Darrell Klein, D-a-r-r-e-l-l K-l-e-i-n, and I'm deputy director for the Health Licensure and Environmental Health for the Division of Public Health, within the Department of Health and Human Services. And I'm here to testify in opposition to LB833, which will create an exemption from licensure, under the Health Care Facility Licensure Act, for any healthcare facility or healthcare service operating as a Program of All-Inclusive Care for the Elderly, also known as the PACE program. We've had contact with a number of folks who, who are now with el-- excuse me-- knowledgeable, including Iowa and CMS, subsequent to the writing of this testimony. So I'd welcome the opportunity to flesh it out with questions afterwards. But essentially, the exemption from licensure created by LB833 will remove the department's authority-- and by that I mean, the Division of Public Health's authority-- for oversight of PACE programs. Division of Public Health currently is the survey, and certification, and inspection division for all state healthcare facility licensure. And unless directed by the Centers for Medicare and Medicaid Services, CMS, the department will no longer conduct regular inspections or complaint investigations pertaining to PACE programs. The department needs to collect licensure fees to support the cost of inspection and investigation of healthcare facilities and services, if directed by CMS to inspect or investigate. The department would support having one license for a PACE program.

Doing so would retain necessary oversight by the department and would eliminate the need for a PACE program to hold multiple licenses. Even without a change in statute, DHHS will coordinate the inspections related to the licenses currently held by the Nebraska PACE program to minimize the burden on the provider. The Medicaid program also has concerns about having providers who care for a vulnerable population not be subject to licensing. The PACE organization provides services, such as home health and adult day services, that are subject to state licensure, as per state and federal regulations. It does not seem prudent to allow the PACE organization not to be allowed for services they are providing when all other providers of these services are licensed. And LB833 would also impede Medicaid's ability to provide oversight of the care of its beneficiaries that, that its beneficiaries receive through PACE. The federal government recently eliminated its biannual audit of the PACE program, and, by eliminating the state's licensure requirement as well, Medicaid's ability to provide meaningful oversight and ensure PACE beneficiaries receive the care they need would be further diminished. In summary, LB833 will exempt PACE programs from being licensed in Nebraska, removing the state's existing authority and supportive funding to conduct inspections and investigate complaints, potentially placing at risk Nebraska citizens served by the programs. And with that, we respectfully request that the committee oppose the legislation. And I thank you for the opportunity to testify, and I would welcome any questions. I'll answer them to the best of my ability.

HOWARD: Thank you. Senator Arch.

ARCH: Thank you. So you had conversations with Iowa?

DARRELL KLEIN: Yes.

ARCH: Could you tell us about those?

DARRELL KLEIN: I will. Essentially, I guess I'll start off with that-- been a learning experience for me, too. As you've heard testimony, this, this topic has-- is not new, and has been in discussion for quite some time. And what I gleaned from talking with Iowa-- and from when we, when we tried to contact CMS, the regional office kicked it up to Baltimore, so that kind of delayed getting the response. And so I, I spoke with the Iowa rep on Monday and then a group of us spoke with Iowa again yesterday. And what I derived from this is a misunderstanding of the, of the oversight function or a, or a misunderstanding of the difference in, in the oversight. The Medicaid, the agreement right now in existence and the agreements contemplated

by CMS are in agreement with the PACE program and Medicaid. And what they do is, essentially, conduct audits. And there are distinctions between those audits with the typical inspection process that the Division of Public Health carries out, that are the reason we couldn't get to "yes." We looked at this long and hard to try to get to "yes," if we thought the same degree of oversight and safeguard for the public would exist by exempting them from licensure. That's where we would have gone. And we just could not get there. Iowa-- we talked over with Iowa, what they do and what we do. And, essentially, it's a complaint system in Iowa. They've got three PACE providers. I think they care for 600 individuals. And in the last year, they, they indicated that they'd received five to seven complaints. So now that's my segue into the change in the, in the CMS regulations. There still remains a requirement for someone new to PACE, that they have an annual audit. But once a program is out of that new phase, after they've been in operation three years, the, the CFR changed so that there will no longer be regularly scheduled audits for the PACE programs. And it's essentially driven by what they call a quality assessment process, which, in practice, from talking with Iowa, they'll do an audit if there's a complaint, if there's a reason that they think that there is a, an issue. And the audit is largely looking at the PACE program's own representation of how it's carrying out its services, and largely requires information that is provided by the PACE provider. And I want to say we absolutely have no problem with PACE; I think it's a great idea. The difference between that type of audit, with what we normally do with a survey, is the surveys we conduct-- and I know you're familiar with them from the, from the LR296 and LR104 process. There, there are periodic surveys, and then there are also complaint-driven or focused surveys. And another dis-- so in other words, it's a, it's a regular process. In addition, we've heard that complaints can be investigated, also, under the CMS process, The difference there, too, is then Medicaid would consult with CMS to determine whether there would be any discipline imposed or, or anything like that. With our licensure process, we've got a number of tools in the sling that, that we can use if somebody is having some problems. The current licenses held by Immanuel are all administered by the same administrator in the division. The same set of surveyors would go out. So coordination of, of surveys to reduce the burden is-- it works in our benefit, as well. One of the things that I absolutely agree with, and this is also true in the nursing facility side where we work with-- where the survey and certification agency working with CMS and Medicaid public health goes on, does the inspections-- the substantive standards at the federal level cover the same topics that the substantive standards cover at the state level.

So in that respect, they're duplicative. But one fact pattern will meet both sets of standards, and one set of eyes can make that determination. So the chief distinction here is that, under our Health Care Facility Licensure Act, we go out regularly, we directly observe patient care, and, in addition to, to looking at the records that the provider maintains, to see that everybody who needs a license is-- that that's all being followed. We actually have the ability to go out and see how the care is being provided. And absent the authority required under the Health Care Facility Licensure Act, Public Health would have no legal basis to go out and do any of these inspections. And for the-- to the point that, that Medicaid has maybe not taken the active role for this, this PACE program, part of that is very similar to what Public Health does, its survey and certification for, for all certified facilities. If we have state standards, and we're going out, and one part of DHHS is already taking a look, then we're already looking to see that, that the residents' safety is-- so fine point, that the real issue here is, in my mind, the distinction between the audit that would be used under federal law, which has been weakened, and the inspection and survey process that we currently use.

HOWARD: Senator Arch.

ARCH: One other question. In your opinion, why don't we have more PACE providers in Nebraska?

DARRELL KLEIN: I do not know.

ARCH: OK.

DARRELL KLEIN: You know, and, and, in, in fairness, I-- you know, my weakness here is, I kind of come here from the cop mentality. I mean, I prosecuted violations that I'm looking at people meeting the, the requirements.

ARCH: Yeah.

DARRELL KLEIN: So my ability to explore--

ARCH: That's fine.

DARRELL KLEIN: --other issues has been limited.

ARCH: Yeah, that's, that's fine. Sounds like good, sounds like a good program.

DARRELL KLEIN: Yeah.

HOWARD: Other questions? Seeing none, thank you for your--

DARRELL KLEIN: Thank you.

HOWARD: --testimony today. Our next opponent testifier for LB833? Seeing none, is there anyone wishing to testify in the neutral capacity? Seeing none, Senator Crawford, you're welcome to close. And while she's coming up, we have four proponent letters: Heath Boddy, from the Nebraska Health Care Association; Eric Gurley, from Immanuel; Caroline Juliano, Immanuel Pathways of Omaha; Jenifer Acierno, LeadingAge Nebraska. No letters in opposition, no neutral letters. Welcome back.

CRAWFORD: Thank you, committee. And I want to thank everyone who came to testify and appreciate-- really, this is trying to figure out the best way to balance keeping our patients safe and healthy, and having an appropriate level of oversight. And I really feel that the state is, is involved in oversight under the federal law already, and felt that this would be-- LB833 would be a pathway to go to keep the state involved in oversight, but reduce the level of regulation guiding that oversight. But interested, and we will follow up in conversations about how to make sure that we're minimizing the duplicity-- duplicity, there we go-- of inspections that are happening right now, while we continue to have conversations about the best way forward, in terms of whether or not that is continuing to, to push LB833 or whether that is a single license or-- and so I guess that's where I will leave it, is trying to answer any of the questions. And appreciate your attention to this important issue for an important service to our state.

HOWARD: All right. Thank you. Are there any final questions for Senator Crawford? Seeing none,--

CRAWFORD: Thank you.

HOWARD: --thank you, Senator Crawford. This will close the hearing for LB833, and we will open the hearing for LB1051, Senator Wishart's bill to create the Intergenerational Care Facility Incentive Cash Fund, and provide for grants. Welcome.

WISHART: Good afternoon, Chairman Howard, members of the Health and Human Services Committee. My name is Anna Wishart, A-n-n-a W-i-s-h-a-r-t, and I represent the 27th District in west Lincoln. I'm here today to introduce LB1051. LB1051 is a bill that creates the Intergenerational Care Facility Incentive Cash Fund and establishes a

pilot grant program to award one-time funding to eligible nursing facilities wishing to establish on-site childcare. The total pilot grant program cost is $300,000, with a maximum of $50,000 per applicant. The grant funding can be used for the following: modification of the nursing facility structure; modification of the nursing facility's outside campus space; purchase of childcare-related equipment and supplies in any combination of such purposes. And again, this is for nursing facilities looking to build childcare centers within them. This grant program prioritizes eligible applications from nursing facilities located in rural communities, as defined in Section 81-1228, requires nursing facilities to have a plan for providing quality childcare in alignment with our Step Up to Quality standards, and disqualifies any facilities under disciplinary action. The program also requires DHHS to work with nursing facilities and other stakeholders to view regulatory barriers that may impede the development of an intergenerational facility, and develop a plan for addressing burdensome regulations that do not impact the health and safety of the residents. I read about the concept of intergenerational care facilities last fall, and was instantly inspired by the idea. The concept is simple, providing childcare in a nursing facility and creating opportunities for shared activities between senior citizens and children. As many of you serving on this committee know, we, we have a long-term care issue in our state. It's struggling, especially in rural communities. We see this all the time in Appropriations Committee, as well. It seems like every week I hear about another nursing home closing or on the brink of bankruptcy. At the same time, I continue to hear from childcare advocates and parents across Nebraska that there is a need for more access to affordable and quality childcare. At a time when budgets are tight, the demand for quality youth services is high. More seniors are reporting experiencing loneliness across the country, and the need to fix a broken long-term care system is now. The use of one space for multiple generations makes a lot of sense, and common sense to me. Incentivizing the colocation of senior long-term care and childcare will benefit senior residents by providing vital social interactions with children, and will also benefit the children's social and personal development. Beyond the benefits for both seniors and children, this pilot program will help working families who need access to childcare and long-term care for their family members, especially in our rural communities, where alternative is one parent not working or families living hours away from their senior loved ones. Additionally, this bill helps with staff retention, because staff at a long-term care facility will be able to enroll their children in the childcare at that facility. I have shared some

materials on intergenerational care with you, and I really encourage you to read, to read them. They are truly heartwarming. We are lucky enough, also, to have a provider from Adams, Nebraska, who offers this type of programming. Testifiers following me will be able to share with you what intergenerational care looks like, here in Nebraska, and the many benefits they see to their residents, staff, and the children they serve. Again, just to reiterate, LB1051 establishes a pilot grant program for nursing facilities to apply for up to $50,000 to assist in capital improvements, such as renovating in space and purchasing equipment for, for a childcare center. I want to briefly address the fiscal note on the bill. In an attempt to minimize any additional costs to the state for administration of this program, and in working on drafting this bill with the Nebraska Health Care Association, it was suggested that we mirror the existing structure of the department's Medicaid Civil Money Penalty program, which awards grants to eligible applicants for one time or start-up projects that improve the quality of life or care of nursing facility residents. LB22, in 2019, modified Nebraska's CMP statute, and the department developed and implemented its CMP grant award program by using existing resources; that's note, noted on its fiscal note. The grant award structure of this intergenerational care program is similar to that of the CMP program, so it makes sense to pair the two. I hope someone from the department is here, or I will be following up with them to testify and to explain as to why an additional FTE, then, is needed, when a similar program was implemented already, using existing resources. Thank you, and I'm happy to answer any questions.

HOWARD: Thank you. Are there questions? Oh, seeing none,--

WISHART: OK.

HOWARD: --will you be staying to close?

WISHART: Yes.

HOWARD: Thank you. All right. Our first proponent testifier for LB1051? Good afternoon.

CINDY KADAVY: Good afternoon. Thank you, Chairwoman Howard and members of the Health of Human Services Committee, for the opportunity to provide comments in support of LB1051. My name is Cindy Kadavy, C-i-n-d-y K-a-d-a-v-y. As a representative of Nebraska Health Care Association, I'm here to speak today on behalf of our 190 nonprofit proprietary and governmental nursing facility members and the Nebraskans they care for. So you should have a copy of our written

testimony. We also emailed it yesterday. My intent is just to highlight some of our key points. First, we want to thank Senator Wishart for this bill and for her interest in promoting intergenerational care. As she described, LB1051 would establish a cash fund and provide initial funding for grants to be awarded to eligible nursing facilities wishing to establish on-site childcare. Senator Wishart provided the details of how that grant could be structured, and, as she described, we tried to model it on an existing grant program that the department operates, that seems to operate in a similar fashion. The Civil Money Penalty Grant Fund, which is funded by penalties paid by nursing facilities, awards grants, on an annual basis, to eligible applicants who describe a project they want to provide that will benefit nursing facility residents. In addition, the department already has an accountability process in place because they survey, inspect nursing facilities on a regular basis, as well as childcare facilities. They also-- there's also a process in place for an annual audit of Medicaid cost reports from nursing facilities. So there would already be an existing structure-- excuse me-- for oversight of this program. This bill would also require the department, provider associations, and other stakeholders to work together to identify if there are any barriers to offering childcare in a nursing facility and, if so, work to eliminate those barriers, those licensure administrative barriers, as long as they would not harm the safety of the individuals or impact the quality of care. We have several nursing facility members who provide on-sichildcareare, and they all agree it's not a money making venture. They-- their hope is to break even at the end of the year. However, they'll also tell you that the benefits are immeasurable for the residents in those facility, for those children who grow up in environment around a diverse population, and for the community at large, especially the smaller, smaller rural communities. So on behalf of our members, we applaud Senator Wishart's vision for growing intergenerational childcare, and are grateful for her effort to support the sustainability of nursing facility and childcare services across the state. Glad to answer any questions.

HOWARD: Thank you. Are there questions? Senator Hansen.

B. HANSEN: Thank you. You said, hopefully at the end, this would almost kind of be a breakeven-type thing. But then, how would this affect insurance rates for you, now that you have children on-site? Would that-- then are you going to get kind of a different kind of insurance? Will that increase your rates because maybe the likelihood of injury might be greater? Or if a child gets injured, you know, on-site-- I don't know how that works with childcare facilities. Do

they have a set, a certain kind of insurance rate and if that would affect you,--

CINDY KADAVY: They get--

B. HANSEN: --and if you would have to pay a lot more?

CINDY KADAVY: Sorry.

B. HANSEN: Yeah, that's all right.

CINDY KADAVY: Yeah, they do have their own regulations, both-- there's two sets of regulations for-- one for childcare and one for nursing facilities. We do have a member who's here from Fairmont who, I think, would be better able to answer that question. She's been providing childcare since 2002, so--

B. HANSEN: OK, OK. Thanks.

HOWARD: Senator Arch.

ARCH: Thank you. Would this, would this require the nursing facility to actually operate the childcare service?

CINDY KADAVY: That's a really good question. And I-- it doesn't seem like it from the way it's structured. We do have members that also contract with an outside entity to operate. They provide the space, and then the childcare operates in their facility. Typically, they negotiate a discounted rate for their employees. It can be a wait, and incentive to attract employees at times, but also a real benefit for the community.

ARCH: Thank you.

HOWARD: Other questions? Seeing none, thank you for visiting with us today. Our next proponent? Good afternoon.

ADAM FESER: Hi, Chairwoman Howard and members of the Health and Human Services Committee. My name is Adam Feser, A-d-a-m F as in Frank-e-s-e-r, and I am a policy associate with First Five Nebraska. We are a statewide early childhood policy and advocacy organization. On behalf of First Five Nebraska, I am here to testify in support of LB1051. First Five Nebraska applauds Senator Wishart's work on LB1051. Simply put, this bill is a win-win for our youngest and older Nebraskans because it would increase the opportunity to deliver efficient care services during a time of great demand. Research has

shown that intergenerational care facilities can provide quality services and cost effect, in a cost-effective manner. Both young children and older adults benefit from daily interactions. Children have shown fewer behavior challenges and improved social development when they interact with adults on a regular basis. And older adults are shown to have improved physical and mental health, improved sense of self-worth and attitude, and enhanced socialization. Combining facilities can also decrease total operation costs for both programs by sharing resources, such as administrative costs, physical space, and so on. Nebraska families depend on accessible and affordable quality childcare that provides consistent, caring, stimulating and safe environments for their children. Across our state, more than 75 percent of children, under the age of six, live in homes where all adults work, yet 84 percent of Nebraska's counties do not have enough childcare slots to meet the current demand. Often parents are forced to leave a job or not accept a job because they don't have access to reliable childcare. Even worse, some parents are forced to choose unsafe, unreliable options for their children so they can work. As communities grow, it's important to recognize childcare as a critical piece of that community's infrastructure, that helps support Nebraska families and working parents. Availability of childcare is something we know helps recruitment for businesses, helps our work force, helps recruitment for school teachers. We've had the pleasure to tour a facility in Adams, with Senator Dorn, on multiple occasions, and they know that the school, the school uses their, their childcare as a recruitment tool. And a lot of the school teachers' children attend there, as well as other businesses in their community and surrounding communities. So again, we are grateful for Senator Wishart's leadership and her dedication to ensuring that Nebraska's youngest children have access to quality early childhood programs. Thank you for the opportunity to testify today, and we hope you will advance, will advance LB1051 to General File. And with that, do you have any questions? I'll do my best to answer.

HOWARD: Thank you. Are there questions? Seeing none, thank you for your testimony today.

ADAM FESER: Thank you.

HOWARD: Our next proponent testifier? Good afternoon.

DANNY DeLONG: Good afternoon. Senator Howard and members of the Health and Human Services Committee, my name is Danny, D-a-n-n-y DeLong, D-e-L-o-n-g. I'm here today testifying in support-- or as a volunteer, testifying in support of LB1051, on behalf of AARP Nebraska. AARP

Nebraska is a nonprofit, nonpartisan organization consisting of nearly 200,000 Nebraska members. We work across Nebraska to strengthen communities and advocate for issues that matter most to families and to those aged 50-plus, issues such as: healthcare; employment and income security; retirement planning; affordable utilities; and protection from financial abuse. We support LB1051, a bill to establish an intergenerational care facility incentive cash fund, and create a grant program to effect the legislation. Our support acknowledges a growing body of research, showing that aging adults benefit from an intergenerational experience. Should seniors and toddlers go to day care together? It's an odd sounding question, but an encouraging body of research-- or an emerging body of research suggests that doing so is good for both the young and the old. We'll focus mostly on benefits for older citizens. Now, more than ever, as many of you know, from hear, from hearing testimony at this committee, our society is generationally stratified as never before, making the elderly feel particularly alienated. According to a study from the University of California-San Francisco, 43 percent of seniors report feeling alone. That same study found that identifying as lonely comes with a staggering 59 percent higher risk of declining health and a 45 percent risk of death. The epidemic of loneliness among the aging isn't just an emotional travesty; it's a health hazard. Researchers at Stanford University point out that aging adults are one of the best groups to spend time with young children, not only because they can pass on decades of wisdom, but also because they are at a point in life when they have the availability and patience to do so, and can provide the stimulation that young children need to thrive. According to a report from Generations United, Americans overwhelmingly support intergenerational centers. Nearly nine in ten believe that bringing together the young and the old in the same care centers is a good use of resources. Participation in intergenerational programs and meaningful cross-age relationships may decrease social isolation and increase older adults' sense of belonging, reduce agitation, improve health, and create overall increases in self-esteem and well-being. The future of aging can be brighter if we can find ways to bring our oldest and youngest citizens together for the betterment of our communities. It's not just a nice idea. We think it's necessary. We thank Senator Wishart and Senator Williams for introducing this important legislation, and for the opportunity to comment. We appreciate your support and encourage the advancement of LB1051 to General File. I am happy to answer any questions.

HOWARD: Thank you. Are there questions? Senator Murman.

MURMAN: Yes. Thank for, thanks for coming in to testify.

DANNY DeLONG: Sure.

MURMAN: My father had Alzheimer's. My mother recently passed, and they were both in nursing homes for a while. And when-- this has been a few years ago with my father. My family was pretty young at that time, and it was always a great thing to visit the nursing home. And not only for my father, but, you know, talking to other residents there, too. They always like to see the kids, especially.

DANNY DeLONG: Right.

MURMAN: And also, my daughter is disabled. And in Hastings, the Goodwill group visits nursing homes. And I think that's a great program, also. But my question is, we always had a little bit of concern when we went in, you know, with the kids, especially somebody would be coughing or had a runny nose or something. And I think the benefits that you voiced far exceeded any problems that could arise from sickness. I mean, there's with the caregivers and so forth, there's always people coming in and out of nursing homes, too. Do you see that as much of a concern?

DANNY DeLONG: I don't think I see it as a concern because I was just thinking, as you were saying it, my parents both were in nursing homes until recently; I've lost both of them. And, you know, when grandchildren come in to visit grandparents, of course, there are going to be illnesses. Grandparents are used to that. They'd rather see the grandchild than worry about getting the cold.

MURMAN: Um-hum.

DANNY DeLONG: I mean, that's, that's what they want to do. They want to see their--

MURMAN: Yeah.

DANNY DeLONG: --their family members, their young family members. That's their blood coming--

MURMAN: Yeah.

DANNY DeLONG: --coming along. That's what you felt, and your parents, and that's what my parents felt. There was always a-- my mom suffered from dementia and passed away a couple of years ago. And-- but when young children would come into the hospital and she'd hear their voices, you know, moving down the hall, her face would light up. She would remember what it was like to be a mom.

MURMAN: Yeah, thank you.

DANNY DeLONG: Yeah.

HOWARD: Any other questions? Seeing none, thank you for your testimony today.

DANNY DeLONG: Thank you.

HOWARD: Our next proponent testifier? Good afternoon.

TAMARA SCHEIL: Thank you. Thank you, Senator Howard and the committee, for allowing me to testify. My name is Tamara Scheil, T-a-m-a-r-a S-c-h-e-i-l. I am the administrator at Fairview Manor in Fairmont, Nebraska. Fairview Manor is a 40-bed nursing home located in Fairmont, population of 560, according to the 2010 population-- or census. Fairview Manor, we are a city-owned, not-for-profit nursing home. In 2000, we began the process of creating a childcare center in our home. At the time, there were grant funds available from the Nursing Home Conversion Fund [SIC] that allowed nursing homes to convert some of their space into assisted living. And also, part of that grant, there was also funds to build childcare centers that would accept handicapped children. So we were able to capitalize on both of those. And so at the time, we built a childcare center. Our goal in building a center was twofold. One, we wanted our residents to have access to children on a daily basis. That was part of our operational philosophy. The second was, our community had a sort of shortage of childcare, and we wanted to close that gap and provide care for not only the employees, but for the children within the community. It's been a huge benefit for our employees to have their children on-site. Our center opened in the fall of 2002. It was originally licensed for 32, 32 children, and a few years back, we were able to increase that to 36. As current, our center runs full on most days. The children's-- our center's childcare population comes mostly from the community, but about 25 percent of that comes from our employees. The benefits of having a childcare center within a nursing home are many. The residents' standpoint, they quickly build relationships with the children. It provides them with joy and meaning, and gives them opportunities to spend time with children. It adds great quality to our residents' lives. From the children's standpoint, we still see children within the center that have an increased social awareness and acceptance towards people living with disabilities when they grow, they grow up seeing people in wheelchairs and using assistive devices, and they accept these people as they are. Children in the center also have an increased emotional intelligence. They begin to interact with

a wide, a wide variety of adults from a very early age, and are quick to develop greater interpersonal skills. Our parents love the interactions their children have with our residents. Although having a center in a nursing home has way more benefits than challenges, there are struggles. Our childcare center is not a money maker for our home. Due to increased benefits we pay to our employees, it can increase the costs of running the center. Our goal is to break even each year. Start-up costs would be essential, indeed, to put a center in a nursing home, but the day-to-day operational expenses can be just as challenging. It would be more likely for a nursing home to succeed in this venture if they were a financially stable building to start with. The childcare center could be added, an added stressor to buildings that might already be struggling, from a financial standpoint.

HOWARD: All right. Thank you. Are there questions? Senator Walz.

WALZ: Thanks for coming today. And thank you so much for being creative and just trying to work on this little experiment that you have. And it sound, it sounds like it's working well. I just appreciate your "collaborativeness" and your creativeness. One of the questions I have is that, other than the facilities that you share, are there other things that you see in the future that you could possibly share-- staff, cafeterias-- or are you sharing other things besides a facility right now?

TAMARA SCHEIL: Well, right now, I mean, we share, we share. I mean, even though we have a, a separate center and the, the nursing home is, is separate, we do share a lot of different things. I mean, you know, you mean like for cooking--

WALZ: Right.

TAMARA SCHEIL: --and-- and I mean-- yeah, we share a lot of administrative services. So like our office manager, you know, they do all of the billing. Our kitchen does all the cooking for the, for the childcare center. So we do share those kind of services.

WALZ: So it's a separate facility?

TAMARA SCHEIL: Yeah, it, it is. I think one thing that-- what I love about this bill is, they're talking about actually putting the center in the nursing home. And I mean, we are all connected. But I've always said if I could always do one thing different, I would move the center so that it was much more centrally located to where the residents are located. We have an assisted living that is also part of our campus.

And so when we built our assisted living, our childcare center is actually on the, on, attached to our assisted living. Then our assisted living is attached to the nursing home. And I wish we would have built a little differently so that it would have been a little bit closer.

WALZ: Well, thank you.

TAMARA SCHEIL: You're welcome.

HOWARD: Other questions? Senator Hansen.

B. HANSEN: Thank you. Can I pose those same questions to you that I asked earlier?

TAMARA SCHEIL: Absolutely.

B. HANSEN: So how would this infect, affect your insurance rates? Or does the, how does it affect your insurance rates?

TAMARA SCHEIL: You know, it really doesn't affect it significantly. You know, obviously, when you have employees, I mean, the majority of our insurance costs come from the physical plant and also from like the workman's comp things for our employees. But as for the actual insurance for injuries, that is very minimal.

B. HANSEN: OK.

TAMARA SCHEIL: And we have a separate policy for that. And I can't really tell you, but I'm going to tell you it's probably within the hundreds of dollars--

B. HANSEN: Oh.

TAMARA SCHEIL: --a couple hundred dollars a year, very minimal.

B. HANSEN: OK. And I think this is a great idea. I like this idea that Senator Wishart has put forth and what you've come up-- you're, you're already doing. Why aren't more facilities doing it? Is it just because of the start-up costs? Or is there--

TAMARA SCHEIL: I think--

B. HANSEN: --some other reason why they don't?

TAMARA SCHEIL: --some of it is the start-up costs.

B. HANSEN: Logistics?

TAMARA SCHEIL: You know, there's-- I think there's a lot of-- I-- when we, we were listening to the gentleman-- I think it was you that had said something about illness and things. I think that we just live in a generation where there's a lot of fear, there's a lot of ageism, different things where, you know, I don't see this as a-- and they don't see this, initially, as a natural fit.

B. HANSEN: Um-hum.

TAMARA SCHEIL: But I will tell you, I've been doing this for so long, since 2002, and I tell people, when they come into our building, I can't imagine running a nursing home without children in it. It creates a different environment. There is, there's always something going on. Our kids come in, and they refer to the elderly people who live there as their "grandfriends." They have beautiful relationships. I, I can't stress enough that this is the right thing to do. And yes, from a financial standpoint, it does not make us money. But the benefits of what it does for us so far outweighs anything that-- you know, even if we were not making money, we would continue to do it because it is beautiful. It gives me staff retention. My staff stay because their kids are there Our census in our building, I don't know what the average census in Nebraska is, but our building runs about 95 percent full, because people want to be in an environment that looks, feels, and acts differently than institutional long-term care. And when you have children in your building on a daily basis, it is a huge difference.

B. HANSEN: Thank you. I have a 3-year-old at home and so it makes a huge difference. But it would-- she would destroy the place [LAUGHTER].

TAMARA SCHEIL: Oh no, she wouldn't. Trust me, trust me, she wouldn't.

B. HANSEN: Maybe why I'm asking about the insurance rates, 'cause [LAUGHTER]-- [INAUDIBLE].

TAMARA SCHEIL: Yeah, no.

B. HANSEN: All right. Thank you.

HOWARD: All right. Any other questions? Seeing none, thank you for your testimony today.

TAMARA SCHEIL: Thank you.

HOWARD: Our next proponent testifier for LB1051? Seeing none, is there anyone wishing to testify in opposition? Seeing none, is there anyone wishing to testify in a neutral capacity? Seeing none, Senator Wishart, you are welcome to close. And while she's coming up, we do have four letters in support: Kelly Keller, from the Nebraska-- National Association of Social Workers-Nebraska Chapter; Heath Boddy, the Nebraska Health Care Association; Joey Adler, Holland Children's Movement; Jenifer Acierno, LeadingAge Nebraska. No letters in opposition, no letters in the neutral position. Welcome back, Senator Wishart.

WISHART: Well, thank you so much. I-- just in, in closing, this is a bill I feel very passionate about. I have had the opportunity-- I remember when I was little and I would do jump rope recitals in nursing homes, and remember how much of a benefit, even at that time, at a young age, it was to be around seniors, and for them to be around us. And I know, going door to door, and I'm sure a lot of you have experienced this, too, I was shocked at how many seniors in my district are incredibly isolated, and would benefit from a more residential living situation, and especially if they were able to be around children. So I hope your committee will consider this bill. I'm willing to work as a member of Appropriations, with my Appropriations Committee, to leave room in our budget for this one-time fund. And I want to remind everybody it's just a one-time funding pilot program. Let's see how it works. Let's see if,-- if communities are interested in this. I think the biggest hurdle, Senator Hansen, is the-- it's just that first-time capital construction, because there are requirements around childcare that are pretty rigorous. So just allowing the nursing homes to have that start-up fund, and then recognizing then, it's-- they're on their own, in terms of making it work. And then I'll work with the department to try and address that fiscal note, and see if there is a way that we can do this. Again, it's just one time-- six grants, probably, total. And so I anticipate we can do some negotiation and hopefully remove that FTE.

HOWARD: Thank you.

WISHART: Any other questions?

HOWARD: Any questions?

WISHART: OK.

HOWARD: Seeing none, thank you, Senator Wishart. This will close the hearing for LB1051 and will open the hearing for LB10-- LB1138, Senator Wishart's bill to establish a dementia registry.

WISHART: Well, good afternoon, Chairwoman Howard, members of the Health and Human Services Committee. My name is Anna Wishart, A-n-n-a W-i-s-h-a-r-t, and I represent the 27th District in west Lincoln. I'm here today to introduce LB1138. LB1138 is a bill that establishes the dementia registry. It was brought to me by representatives of the Alzheimer's Association. Millions of Americans have Alzheimer's or other dementia-related diseases. As the population, age 65 and older, continues to increase, the number of Americans with Alzheimer's or other dementia-related illnesses will grow along with that. In Nebraska alone, by 2030, there will be more people over the age of 65 than there are under the age of 18, if our population trends continue to go the way they are, and in some communities, that's already a reality for them. Establishing a dementia registry and gathering dementia-related data will only prepare our state and its future generations to deal with the, with the reaching impacts of this disease. We've all seen what valuable data has been gained from the state's cancer registry, housed at UNMC. I drafted this bill to mirror the statutes that established the cancer registry, and it was my hope that the dementia registry would be housed there, as well, at UNMC. As you can see by the fiscal note, DHHS is assuming it would stay with the department. I met with several stakeholders over the fall, including the Alzheimer's Association, UNMC, AARP, the Nebraska Hospital Association, Nebraska Medical Association, and the ACLU, some of which-- some of them will be here today to discuss the importance of collecting this data. I did have a request for an amendment for the, from the AARP. I'm OK with those changes, along with any changes requested from the Alzheimer's Association. This really is a bill that I brought on their behalf, and so I am willing to work with all of those stakeholders to ensure that this is the right program that we're putting in place. Again, if you look at the fiscal note, it does seem like this bill is going to need some additional changes and discussion, along with the amendments that may be proposed from some of the others following me, because it is a large fiscal note, and we're in tough budget times right now. So thank you. I'm happy to answer any questions. And thank you.

HOWARD: Thank you. Are there questions? So looking at the fiscal note, it's $1.4 million for a registry. Do you want to tell us what they would use that money for?

WISHART: You know, I, I have not had an opportunity to address the fiscal note with the Department of Health and Human Services. Potentially, they will be here today to discuss that. Otherwise, I will be following up with them to see if there is a way that we can-- if there's a way I can draft this bill to address their concerns, in terms of the fiscal impact. Again, my intention and my hope was that this would be housed at UNMC, alongside the cancer registry, because they have-- it's been a really-- it's been a good process for them to have it housed there because they do a lot of the research that comes from what they learn from that registry. But again, I, I can't quite speak to why it is such a high fiscal note.

HOWARD: OK. Thank you. Any final? Senator Walz.

WALZ: Yeah. Can you explain that a little bit more? So you were hoping that this would be housed at UNMC. So this fiscal note obviously doesn't, doesn't reflect it being housed at UNMC. It reflects being run by the department.

WISHART: Correct.

WALZ: OK. Thank you.

HOWARD: OK. Any other questions? Seeing none, thank you, Senator Wishart. Will you be staying to close?

WISHART: Yes.

HOWARD: Wonderful. All right. We'll invite our first proponent testifier up to speak on LB1138. Good afternoon.

TERRY STREETMAN: Good afternoon. My name is Terry Streetman; that's T-e-r-r-y S-t-r-e-e-t-m-a-n. I'm the director of public policy and advocacy for the Alzheimer's Association-Nebraska Chapter. We're the leading voluntary health organization in Alzheimer's disease care, support, and research. And our chapter serves statewide, providing education and resources in the community while advancing crucial research and public policy initiatives. I'm here today, on behalf of our organization and those we serve, to testify in support of LB1138 and the establishment of a statewide dementia registry, as recommended in the Nebraska State Plan for Alzheimer's Disease and Related Dementias. As you'll see, I've got some testimony written up here that I've also provided to you in printed form. So because Senator Wishart's introduction covered a lot of the technical details and background very well, I won't bore you by repeating it. I'm going to go a little bit off script, so bear with me. This, this cause and this

disease are very personal to me. My grandfather passed away from Alzheimer's in 2005, and ever since then I've been involved with this cause. I was a volunteer for a decade before I joined the association as an employee. And the thing that drives me is my family was not aware of the Alzheimer's Association or the resources that were available until after my grandfather passed. And so we were left, like many Nebraskans and many people across the country, saying, if only we'd known. That phrase is what gets me out of bed in the morning, and it's what keeps me up at night, because I think of the number of families here, and across the country and around the world, who are in that same position. And so I'd like to share about that and a couple of the other things that we tend to hear in our office at the association, that this registry can help to address. So every day in our offices-- we have offices in Omaha, Lincoln, and Kearney-- and through our 24/7 Helpline, families come to us saying: if only we'd known; or, we don't know where to turn; or, we feel so alone; or, my mother passed away from Alzheimer's disease, does that mean I'm going to? There's fear and misunderstanding about the disease, and the data that could be provided by a registry like this, that could advance and accelerate research like what's being done at UNMC on potential causes, treatments, cures, those-- that research could help us see a world where people don't have to worry, am I the next one-- is, you know, am I doomed to this because it's in my family, that can get us to that first survivor. The possibility of an option for families and patients to opt in, to receive additional resources and information, means that that's fewer people who have to say, if only we'd known, or, we don't know where to go. Many times people get a diagnosis, and then they get a prescription and they're sent home. And they come to our office looking like they've just been run over by a truck, because that's what it feels like. So like I said, I'm not going to delve into a lot of the technical details that's in the printed testimony, but I thought it was very important to share the real person-to-person, individual human impact that this could have, and the reasons why it was recommended in the Nebraska State Plan for Alzheimer's and Related Dementias. We've seen in other states-- Georgia, South Carolina, and West Virginia, where registries have been created-- that the level of detail that is available in this research, in the data at the ZIP Code level, has allowed them to better develop programs and policies to serve individuals and their communities, to provide them relief and resources, and to allow research to move forward. UNMC is a leader in Alzheimer's and dementia research and the-- having this tool in their tool belt could really mean incredible advances in our research. I'd like to speak a little bit, too, to what Senator Wishart touched on. Our hope was that this would be something that could be housed at

UNMC. The South Carolina registry is housed at the Arnold School of Public Health in, at the University of South Carolina, and they've seen success with that, as we have with the cancer registry. We were-- our understanding was, there wasn't a way in statute in the legislation to specify that. So what has been included is authority to enter into contracts and promulgate rules and regulations so that that kind of partnership might be possible in the future, which would alleviate a significant amount of fiscal and administrative burden. So I see I'm almost out of time. Thank you for indulging my sort of off-script wanderings, but I thought that was very important to, to share my story and let you know that I'm not just here because I have this name tag and I, you know, I work for this organization. This means a lot to me, and I know that it means a lot to the 34,000 in our state living with this disease and the 83,000 who are providing unpaid care. Happy to answer any questions.

HOWARD: Thank you. Are there questions? Seeing-- oh, Senator Murman.

MURMAN: I notice you have on, on one of these sheets about Alzheimer's disease and related dementias.

TERRY STREETMAN: Um-hum.

MURMAN: So the related dementias, how does that fit into Alzheimer's?

TERRY STREETMAN: Sure. So the Alzheimer's Association, one of the things that I, I like to tell people, that most people aren't aware, our actual, official name is Alzheimer's Disease and Related Disorders Association, and that includes things like frontotemporal dementia, Lewy body dementia, vascular dementia, Parkinson's-related dementia. And so we provide resources on all of those things. And this registry would collect information on all of those, because there are some similarities between them that could help advance research. But there are also some drastic differences between them, both in terms of implications for research but, also, resources for families. Some of them have-- some folks who have different types of dementia exhibit different behaviors that can be problematic, that they need different help with. So it's important to cover all those bases.

MURMAN: Because, because a lot of times I hear about, well, did this person have Alzheimer's? And they say, no, they just had dementia, so--

TERRY STREETMAN: Yeah. So that's, that's a common thing. The terminology is, is kind of shifting to say, Alzheimer's dementia

instead of just Alzheimer's, because dementia is the umbrella term under which these different forms fall. Alzheimer's is the most common, but the rest of them are, are under that same label. And we know that there are folks suffering with those, those diagnoses, trying to deal with that as a family and as individuals, who need our help and who need the kind of breakthroughs that can come from this kind of registry.

MURMAN: OK, thank you.

HOWARD: Senator Walz.

WALZ: Thank you. Thanks, thanks for coming. I, I just want to clarify something. I was looking through the report--

TERRY STREETMAN: Um-hum.

WALZ: --the South Carolina report.

TERRY STREETMAN: Yep.

WALZ: And it sounds like, it looks like there's some really, really good information that would benefit our communities and our state. So I, I just want to clarify the UNMC thing.

TERRY STREETMAN: Um-hum.

WALZ: And I'm sorry.

TERRY STREETMAN: Absolutely. No, that's OK.

WALZ: You said that, that there wasn't a statute that allowed them to house it. Or how did you say that?

TERRY STREETMAN: And, and I apologize. The wording may not be exactly right, and the senator may be able to address it in closing. But as we were providing our input on the drafting of the bill, our understanding was that there was not a way, within the wording of the legislation, to establish the registry within UNMC. I'm not sure if that-- you know, I'm not an expert on, on all the different requirements in our statutes. But that's the reason why it's not written that way, is because our understanding was that it couldn't be. But that was the initial intent was to try to find a way to, to establish it that way, to reduce that burden.

WALZ: OK. All right. Thanks a lot.

TERRY STREETMAN: Um-hum.

HOWARD: Other questions? Seeing none, thank you for your testimony today.

TERRY STREETMAN: Thank you very much.

HOWARD: Our next proponent testifier for LB1138? Good afternoon.

JINA RAGLAND: Good afternoon, Chair Howard and members of the committee. My name is Jina Ragland; that's J-i-n-a R-a-g-l-a-n-d. I'm here today, testifying in support of LB130--or LB1138-- on behalf of AARP Nebraska. You're getting my written testimony and, to save you the burden of listening to me read it to you, I'm not going to go into details on that. But as Senator Wishart had mentioned, we have requested an amendment to the bill. In theory-- and we do support the concept of the dementia registry and we do support the bill, but we do have the concern that currently, as written, the registry does not allow the patient or their designated representative, representative to choose whether or not to be included in the registry. And we also want to ensure that the data that is collected is secured. And based on discussions with Senator Wishart and, of course, in her opening, with the proposed amendment, we would support the bill, but we would need those things included. It's important to note our policy calls for consumer control of personal information, which is especially important with sensitive health data such as a dementia diagnosis. So the written opt-in consent, that with the secured piece, is important to us. We're also concerned that, as part of this, that someone who demonstrates a possible early diagnosis, if they have signs of dementia, they may not be willing to go in and get that diagnosis, and then they lose out on the likelihood of being exposed to resources, programs, and so forth. But dementia diagnosis is Alzheimer's-- any of those, those are-- can be detrimental to people who may be still trying to work, who are already fighting ageism in different parts of the work force, as well. So with that, we would just ask that some of-- that that be looked at. And I believe that Senator Wishart is going to do that. And with that, we would definitely support the bill, moving forward, with that amendment. I'm happy to answer any questions.

HOWARD: Thank you. Are there questions? Seeing none, thank you for your testimony today. Our next proponent testifier for LB1138? Seeing none, is there anyone wishing to testify in opposition? Seeing none, is there anyone wishing to testify in a neutral capacity? Seeing none, Senator Wishart, you are welcome to close. While she's coming up, we

have four letters in support: Andy Hale, David Slattery, from the Nebraska Hospital Association; Jennifer Meints, from the Nebraska Council on Developmental Disabilities; Jenifer Acierno, LeadingAge Nebraska; Dr. Todd Hlavaty, Nebraska Medical Association. No letters in opposition. One letter in the neutral position: Dr. Daniel Murman, representing himself. Welcome back.

WISHART: Thank you so much. Just really quickly, responding to what the AARP said, I am absolutely willing to work with them in terms of their concerns around privacy, data protection, and opportunities for people to opt out of this. So we'll be working on that amendment. And then I'll be talking with the department, to see if there is a way that we could encourage a collaboration with UNMC, and reduce the, the fiscal note on this bill.

HOWARD: [INAUDIBLE]. Any questions for Senator Wishart? All right.

WISHART: OK.

HOWARD: Seeing none, thank you, Senator Wishart.

WISHART: Thank you.

HOWARD: This will close the hearing for LB1138. And the committee will take a brief break. We'll reconvene at 3:00 p.m.

[BREAK]

HOWARD: We will open the hearing for LB1053. This is a Health and Human Services Committee bill that requires rules and regulations for hospital and nursing facility Medicaid reimbursement rates. And Senator Williams is going to present this bill on behalf of the committee today. Welcome, Senator Williams.

WILLIAMS: Thank you. Good afternoon, Chairwoman Howard and fellow members of the Health and Human Services Committee. My name is Matt Williams, M-a-t-t W-i-l-l-i-a-m-s, and I represent Legislative District 36. I am here to introduce LB1053, which would require the Department of Health and Human Services to adopt and promulgate rules and regulations related to the rate methodology used to calculate the amount of reimbursement nursing facilities and hospitals receive for the care of people insured through Medicaid. Last year, the department announced its intention to remove the Medicaid reimbursement rate methodologies, for both nursing homes and hospitals, from its rules and regulations, in conjunction with its massive revision to all its rules and regulations. At the same time, the department also announced

it had developed a new flat rate methodology that it intended to use to calculate Medicaid reimbursement amounts for nursing facilities. Consequently, our offices became flooded with calls, not only from nursing home administrators, but from hospital administrators who were extremely concerned with the removal of the rate methodologies from rules and regs, and that a new rate methodology for nursing facilities could be imposed without stakeholder input. We were told that not having the rate methodology implemented through a formal public process introduced too much uncertainty in managing their business plans, and many nursing facilities questioned whether they would be able to continue accepting Medicaid patients, which would compound the problems the state was already trying to manage, due to recent closures of several nursing facilities. LB1053 would simply require the rate methodology used to calculate reimbursements to nursing facilities and hospitals for care of Medicaid patients be promulgated through rules and regs. The bill ensures timely notification of, and public hearings for any proposed changes to a rate methodology, thereby allowing nursing facilities, hospitals, and other stakeholders to have a voice at the table and time to adapt their business plans, if necessary, to modify their own administrative processes and expenses to accommodate the new requirements. I would like to take just a minute to address the rate methodology for nursing facilities. Last spring, the department proposed a new flat rate methodology, and the Health Care Association countered with their own rate methodology. I'm pleased to tell you that, over the fall, the department, and the Health Care Association, and representatives from several individual nursing homes, from all across our state, agreed to meet and schedule a series of biweekly meetings. They identified areas of agreement, discussed their differences, reached a compromise, and together developed a methodology that is, by far, much more equitable than the methodology currently being used. The new rate methodology rewards quality, and provides an incentive for continued rein, reinvestment in nursing facilities. Jeremy Brunssen, deputy director for the department's Division of Medicaid and Long-Term Care, and Lance Njos, also with the Division of Medicaid and Long-Term Care, were absolutely instrumental in developing a compromise that met the agreed-upon objectives. I want to say a special thank you to them, and the department, and the stakeholders, for taking their time and expertise and, importantly, finding a solution to this issue. I appreciate the committee's consideration of LB1053, and I'm happy to attempt to answer any questions.

HOWARD: Thank you, Senator Williams. Are there questions? Seeing none, you'll be staying to close?

WILLIAMS: Yeah, I certainly will.

HOWARD: Excellent. All right. We'll invite our first proponent testifier for LB1053. Good afternoon again.

CINDY KADAVY: Hello. So good afternoon, Chairperson Howard and members of the committee. My name is Cindy Kadavy, C-i-n-d-y K-a-d-a-v-y, and we're representing Nebraska Health Care Association today. And I want to speak on behalf of our nursing facility members and the Nebraskans they serve. So in front of you, you should have a copy of our written testimony. I just want to highlight a few points. Senator Williams talked-- gave you a brief description, so I won't repeat that. But we do want to thank Senator Williams for this bill and for his continued interest in sustaining access to nursing facility services across the state. As Senator Williams pointed out, prior to his involvement, we were having a difficult time engaging in a discussion of a rate model with the department. So we're really grateful to his outreach to the department and his successful effort to engage not only the Medicaid team, a representative group of providers and the associations in a good discussion of what a new rate model should look like, that would sustain access to services in the future. There was a series of five meetings, along with significant preparatory work done by our association's consultant and the Medicaid team, and it was only through that and, also, as Senator Williams referenced, the balanced guidance of Jeremy Brunssen at the Medicaid office, that it was possible to really reach this accord on a new rate model. And what you-- the final model that we arrived at is really kind of a hybrid of the association's model and then Medicaid's model. And what we really feel is that the accomplishment of this work group demonstrates what can happen when all the parties work together. And it also demonstrates that really there is no need to remove the methodology from the regulations in order to make changes to that methodology. And again, we just want to point out Jeremy's willingness to be collaborative and transparent was really a key to the success of this effort. But prior to Senator Williams' intervention, it was somewhat of a wake-up call of what can happen when that approach is not taken. So LB1053 is not aimed at administrations who will listen and work with all stakeholders. It's aimed at the possibility of a future administration who may not take that approach. The safeguards intrinsic in the Administrative Procedure Act, which are outlined in attachment 1 of your letter, are important for all Nebraskans because they give an opportunity for the regulated to have a voice when the regulators make changes. And although the odds will always remain in the department's favor, the Administrative Procedure Act does provide some protection for providers. So on behalf of our members, we want

to, again, thank Senator Williams and this committee for your support. And I'm glad to answer any questions.

HOWARD: Thank you. Are there questions? Senator Arch.

ARCH: Thank you. And thanks for coming. I, I-- as you know, I attended some of those meetings, as well. And I was very impressed with the give and take and the openness of discussion. And I thought, wow, this is a model for, for future, of whether it be hospitals or nursing homes or whatever it was. It was very good. I guess my question is, this, you know, keeping it or putting it into regulations would not prevent those kind of meetings from going on, as well, correct?

CINDY KADAVY: Correct, correct.

ARCH: I mean, you'd still have to have a public hearing. You'd still have to have the, the public for the regulation when it actually goes into the regulations, the proposed regulations. But all that work group ahead of time could function and it-- as it did this summer.

CINDY KADAVY: Yes, definitely. And that's worked in the past when the department and the stakeholders worked together. In fact, often they can discover some unintended consequences and sort that out on the front end. And if there's support from all the stakeholders, it's just my experience in the past, it's easier to move things forward and change those regulations.

ARCH: Right. Thank you.

HOWARD: Any other questions? Seeing none, thank you for your testimony today. Our next proponent testifier for LB1053? Good afternoon.

JENIFER ACIERNO: Good afternoon. Good afternoon, Chairwoman Howard and members of the Health and Human Services Committee. My name is Jenifer Acierno, J-e-n-i-f-e-r A-c-i-e-r-n-o, and I'm the president and CEO of LeadingAge Nebraska. Thank you for the opportunity to testify in regard to LB1053. And thank you to Senator Williams for your interest in ensuring care for Nebraska seniors, and to this committee for your dedication to the same. LeadingAge Nebraska is an association that represents around 70 nonprofit providers of senior care in our state. Our members are rural and urban, large and small, but all nonprofit and government-owned providers of care. I am here on behalf of our members to support LB1053, which requires the department to adopt and promulgate rules and regulations related to nursing facility methodology, and which requires that any change to those rules under the Administrative Procedure Act-- or are reviewed under the

Administrative Procedure Act, thereby giving seniors, providers, and other interested parties a formal opportunity to have questions answered and express concerns. I wanted to share that the methodology that was repo, proposed to the Department of Health and Human Services recently was actually a joint venture, borne by cost and effort, half and half, by LeadingAge Nebraska and the Nebraska Health Care Association. We were very happy that Senator Williams worked on including LeadingAge Nebraska members in those conversations, and for Senator Arch's involvements, in, involvement in those meetings, as well. The opportunity for formal review and comment process, as provided when there are proposed changes to regulations, is important to maintain balance and to provide agencies with real-world perspectives on the impact of those proposed changes. When someone needs nursing facility level of care, the facility itself becomes that person's home. They move their things into the space, and they make it their own. The person requires assistance with activities of daily living and they receive them in what is now their home. If a nursing facility rate methodology is not in regulation, changes to rates without opportunity for formal review and comment could literally result in vulnerable seniors not having a place to live, should changes further reduce payment for care, as providers are currently losing over $30 per day, on average, to provide quality care to Medicaid-eligible seniors. It is important that seniors who utilize nursing facility services under the Medicaid program, and their families and their care providers, have some certainty regarding rates associated with this care. DHHS representatives proceeded-- preceding a hearing in the fall, where there was an attempt to remove the regulation related to the nursing facility rate methodology indicated that removing the methodology would give them more flexibility to address changes with the industry and issues that arise out of facilities-- or with facilities. While we acknowledge that there is a need for some flexibility in general, we know that that can be accomplished without removing the methodology from the regulations. We had suggested adding a provision to the regulations, in fact, that would allow the Medicaid director to review specific emergent issues with facilities or industry changes, should the need arise. It is possible to develop regulations that provide the flexibility to respond to change. However, it is vitally important that there is oversight on matters that are important and impactful to the lives at-- who are the lives of the people who this methodology applies to. Requiring that the methodology remains in regulation is imperative. I would like to note that, literally, dozens of providers of care, recipients of care, and stakeholder groups did oppose this when it came up for hearing. Thank you for the opportunity to offer support of

LB1053, and thank you to this committee for your recognition of the challenges facing Nebraska seniors and to those who provide long-term care services. And I'm happy to answer any questions.

HOWARD: Thank you. Are there questions? Seeing none--

JENIFER ACIERNO: Thank you.

HOWARD: --thank you for your testimony today. Our next proponent testifier for LB1053? Good afternoon.

JIM ULRICH: Good afternoon. Chairwoman Howard and members of the Health and Human Service Committee, my name is Jim Ulrich, spelled J-i-m U-l-r-i-c-h, and I am the CEO at York General Health Care Services in York, Nebraska. I'm here to testify on behalf of my facility and the Nebraska Hospital Association, in support of LB1053. Medicaid comprises a significant portion of the population served by Nebraska hospitals. At York General, Medicaid patients historically represent 5 to 7 percent of our hospital and home health patient population, and our Nebraska hospitals provide quality care to the over 243,000 Nebraskans that are on Medicaid. Medicaid rates have a significant impact on our Nebraska facilities. York General Health Care Services operates under multiple lines of service and reimbursement methodologies with the DHHS. York General, in addition to a critical access hospital, also includes York General Willowbrook Assisted Living, skilled nursing facility services at the York General Hearthstone, Home Health--, and, and home health and dialysis services at York General's Westview Medical Building. At the Hearthstone, Medicaid represents 40 percent of all skilled nursing facility residents. That is why it was so concerning this past fall when the DHHS proposed regulations to remove, remove provider rate methodologies from the regulatory process. The public notice and comment procedures, under the formal rulemaking process, has been essential to the provider community, community in working with DHHS on rates. The collaboration between providers and DHHS that we currently experience has been important to ensure accurate data is used in the rate setting and methodology implementation. Transparency and formal prop, and formal process in this area are vital, especially for critical access hospitals like York General, in catching agency mistakes or overreach that would prevent avoidable lawsuits. The Nebraska Hospital Association strongly opposed this change, with 33 letters submitted in opposition. The DHHS proposed similar changes to remove rate making from the regulation process when Calder Lynch was medical director. The NHA also raised our objects, objections then, and the proposed rates were shelved. We are disappointed to see this

harmful proposal back on the table so soon. This bill would codify the good policy of ensuring transparency and fairness in the, in the consequential decision-making process impacting rate methodology. I would like to thank the HHS committee for introducing this bill to ensure that any changes to rate methodology will continue to be considered through the rulemaking process. And I'd be happy, happy to answer any questions.

HOWARD: Thank you. Are there questions? Seeing none, thank you for your testimony today.

JIM ULRICH: Thank you.

HOWARD: Our next proponent testifier for LB1053. Good afternoon.

JAY COLBURN: Good afternoon. Thank you, Chairwoman Howard and the rest of the committee. My name is Jay Colburn; that's spelled J-a-y C-o-l-b-u-r-n. And I want to start out by thanking Senator Williams for taking the lead on LB1053, and also recognize his leadership that resulted in, ultimately, in the meeting between the department and the stakeholders involved with the Medicaid rates. I believe those were scheduled to be implemented July 1, 2020. Pardon for the redundancy in my testimony, it's been pretty well-covered, but it's good to know that the associations are representing the actual facilities accurately. My day-to-day job is to work as the administrator at York General Hearthstone, and that's 127, that skilled nursing facility in York, Nebraska, which counts as rural. So currently, the Medicaid nursing rate methodology, as it is identified in state regulations, any changes to the rate methodology would be protected by the requirements of the Nebraska's Administrative Procedures Act, or the APA. This provides several layers of protection for providers who are currently caring for Medicaid beneficiaries. LB1053 would maintain these protections, should changes to the nursing facility methodology be proposed by the department. Sudden or frequent changes to their Medicare rate methodology may or may not be devastating for providers of outpatient services who can decide to limit the number of beneficiaries they serve, should the change have a potential negative impact on their operation. However, when my team admits a member of our community, in need of long-term care, at our facility, it becomes a resident home and they rely on us to continue providing daily skilled nursing care, along with all of their social and emotional needs for as long as they require that. So it's our hope that folks can move back to their apartment or home or assisted living. But if they stay with us, that's fine too. Should the department remove the rate methodology from regulations and begin to change methodology at

will, it would not only create an unpredictable and unstable business environment for providers, but it would have a negative impact on access to care in the future. By continuing to require rate methodology have rules and regulations, and any changes comply with APA, providers will continue to have a voice on these changes, and entities outside the department will continue to have some oversight. In summation, it's my observation that transparency and cooperation will benefit all stakeholders. I feel this benefit will outweigh the inconvenience or efforts required to conform to the Nebraska Administrative Procedures Act, as evidenced pretty recently with great conversation. So thank you for the opportunity to comment and I urge everybody to support LB1053.

HOWARD: Thank you. Are there questions? Seeing none, thank you for your testimony today.

JAY COLBURN: Thank you.

HOWARD: Our next proponent testifier for LB1053? Seeing none, is there anyone wishing to testify in opposition? Good afternoon.

JEREMY BRUNSSEN: Good afternoon. Good afternoon, Chairman Howard and members of the Health and Human Services Committee. My name is Jeremy Brunssen, J-e-r-e-m-y B-r-u-n-s-s-e-n, and I am the interim director of the Division of Medicaid and Long-Term Care within the Department of Health and Human Services. I am here to test, here to testify in opposition to LB1053, which will require DHHS to maintain the Medicaid payment rate methodology for hospitals and nursing facilities in regulation, and to go through the formal propagation process whenever methodology is changed. Nebraska Medicaid actively works with stakeholders when making any material changes to the payment rate methodology. As an example, Medicaid has been working with nursing facilities, as discussed much today, over the past year on redesigning how we develop the nursing facility per diem rates. And as part of this project, we were seeking to remove the methodologies from the state regulations. Currently, these two payment methodologies are found in both state regulations and in the Medicaid State Plan, the latter of which, which is approved by the federal government. Maintaining them in the state regulations is unnecessary, duplicative, and the process to change the state regulations is much more administratively burdensome than updating the Medicaid State Plan. This is not to say that providers and facilities will have no notice of changes being made to the payment rates if Medicaid relies solely on the State Plan amendments. Public notices are required by federal law whenever changes are made to the State Plan regarding payment

methodology. Stakeholders will continue to play an important role when the changes are considered. With the constantly evolving healthcare market, making timely adaptations to payment methodologies is essential, and we be, believe utilizing the State Plan is a better vehicle for these changes. And as noted, throughout 2019, we've been working with nursing home, nursing homes above-- as referenced above, to listen to their feedback on our plan and update these payment methodologies. And these conversations have been productive. This engagement was not done because of regulations, but because it was the right thing to do. In addition, we toured nursing facilities across the state and provided presentations on our proposed changes. We also met with senators throughout last year to discuss our plan to remove these payment methodologies from the regulations,. and these meetings have been similarly productive. I've personally met in person over the phone with Senators Gragert, Stinner, Howard, Murman, and Williams. In addition, we shared our plans and purpose during a hearing last fall regarding nursing facility and hospital payments. Put simply, Medicaid disagrees with the requirement outlined in this bill and does not believe it's best practice. LB1053 will maintain the status quo and keep Medicaid's payment rate methodologies for hospitals and nursing facilities in the regulations. And we believe this will restrain our ability to face the challenges in a constantly changing healthcare market, and hinder our ability to react timely to help providers. We respectfully request the committee reconsider its position on this bill. Thank you for the opportunity to testify, and I'd be happy to answer any questions.

HOWARD: Thank you. Are there questions? Senator Arch.

ARCH: Thank you. Thanks for coming today. Differences-- so I, I noticed in your testimony it says that the State Plan amendment requires notice of changes, as would regulations. But, but differences, public hearings involved with State Plan amendment changes,--

JEREMY BRUNSSEN: Yes.

ARCH: --as there are with regulations, what, what would be the differences?

JEREMY BRUNSSEN: It's a very, it's a very different process for State Plan amendments. We do a public notice. However, there is not a formal APA process, as referenced by other folks that have been up to testify earlier, prior to me. So it's not the same process. As part of the current regulatory promulgation process, upon receiving the feedback

from providers and constituents after the first hearing, we've recently republished a, our second, for a second hearing, with changes to Chapter 12, specifically to try to address some of those concerns and put in some language that would put some provisions in for public hearing process. I think, from our perspective, that we, we acknowledge there are differences, but we also want to point out that we acknowledge that the providers are essential to the Medicaid program. We would not purposely make changes to the methodology that would drive down access. That, that would also be addressed through the State Plan amendment. CMS requires us to submit network ask, adequacy or access, ad, adequacy or access reports when we're making major changes. They want to ensure that those changes don't hinder access for beneficiaries. But it is a different process.

ARCH: OK. All right. Thank you.

HOWARD: All right. Any other questions? Seeing none, thank you for--

JEREMY BRUNSSEN: Thank you.

HOWARD: --visiting with us today. Our next opponent testifier for LB1053? Seeing none, is there anyone wishing to testify in a neutral capacity for LB1053? Seeing none, Senator Williams, you are welcome to come up and close. While he's coming up, we do have some letters for the record-- in support: Tim Burton, QLI; the Douglas County Board of Commissioners, a resolution in support of LB1053; Todd Stubbendieck, AARP Nebraska; Dr. Cliff Robertson, CHI Health; Rodrigo Lopez, Children's Hospital and Medical Center, Center; Eric Gurley, Immanuel; Terry Streetman, Alzheimer's Association--the Nebraska Chapter. No letters in opposition, no neutral letters. Welcome back, Senator Williams.

WILLIAMS: Thank you, Chairwoman Howard and, again, members of the committee. And thank you for your attention this afternoon. I would like to confirm a few things that Mr. Brunssen talked about. The department did travel across the state. In fact, they were in my legislative district, meeting with nursing homes there this past summer, talking about their proposed methodology. And it's also my understanding-- this is very exciting-- that the department and, in particular, Mr. Brunssen has offered to be a tool in reaching out to nursing homes with the new agreed-upon methodology that's come into play now with the cooperation with, with the industry. What we're really talking about with LB1053 is ensuring a seat at the table, an opportunity to have that discussion in a transparent formal setting. So we, as legislators, are constantly asked to weigh things and make a

balance. And I understand the department's request to maintain flexibility, ability to move quickly and nimbly. At the same time, I think we have a situation where having the industry people having input and a seat at that table is what really makes sense, long-term. The concerns that were raised about uncertainty of what would happen with having to form and formulate a new business plan, all those kind of things and the timing necessary to adjust those business plans is certainly important to this industry. This industry continues to be fragile right now across our state. I have a couple in my legislative district that are, that are struggling, like many of you do. So I would appreciate the advancement of LB1053. Thank you.

HOWARD: Thank you. Any final questions for Senator Williams? Seeing none, thank you, Senator Williams, and thank you for presenting that on behalf of the committee. This will close the hearing for LB1053. OK. We're going to open the hearing for LB840. If you're leaving, please leave quietly. This is Senator Quick's bill to prohibit the use of electronic smoking devices, as prescribed under the Nebraska Clean Indoor Air Act. Welcome, Senator Quick.

QUICK: Thank you, and good afternoon, Chairman Howard and members of the Health and Human Services Committee. My name is Dan Quick, D-a-n Q-u-i-c-k, and I'm here today to introduce LB840, which would amend Nebraska's Clean Indoor Air Act to include electronic smoking devices such as e-cigarettes and vapes. Last year, you joined me in regulating electronic nicotine delivery systems, or ENDS devices, in Nebraska law, by requiring, by requiring retailers to be licensed and, and raising this, and raising the age of purchase of these projects to 19. Since then, our country has witnessed an epidemic of vaping-related illnesses that have left hundreds across the U.S. ill, and caused at least one death here in Nebraska. I made the case, last year, that we should raise the age of purchase to 21 in order to keep these products out of the hands of our young people, and prevent more people from becoming addicted to harmful levels of nicotine. But that, ultimately, was not adopted. The, the epidemic that began after we adjourned last year prompted the federal government to act and to raise the age of purchase tobacco, purchase tobacco and e-cigarettes to 21. Last year, I also made the case that we should include these products in our Clean Indoor Act-- Indoor Air Act-- so that they could not be used indoors or in public places. However, that language was eventually struck from the bill in order to advance the other important parts of the legislation. I'm here today to say that, again, we should include these devices in our Clean Indoor Air Act. Electronic smoking devices produce aerosol vapors that can expose bystanders to nicotine, volatile organic compounds, and heavy metals, along with other

ultrafine particles that go deep into the lungs. Adding them into our Clean Indoor Air Act is important, not just to prevent exposure to unwitting bystanders, but to, but to chemicals and vapor, but to also ensure that our impressionable youth don't see vaping and e-cigarette use as common and safer, as a safer alternative. I've worked closely with the American Cancer Society to ensure the definitions in this bill are comprehensive and will cover future vaping technologies that exist in our markets and will be making their way to, to the U.S. I very much appreciate their help on this issue. I've also worked closely with, with school leaders and public health officials on this topic over the last year. I want to thank them all for all their help. I want to make it clear that electronic smoking devices contain harmful chemicals, and these chemicals can be harmful to those exposed to them secondhand. We have decided, as a Legislature, that our citizens deserve to have clean air to breathe in their work spaces and public spaces. If we don't add these devices to our Clean Indoor Air Act, we are failing to uphold that promise. I'm happy to answer any questions, and I appreciate your time and attention to this matter.

HOWARD: Thank you. Are there questions? Seeing none, thank you, Senator Quick. Will you be staying to close?

QUICK: Yes.

HOWARD: Wonderful. Well, we'd like to invite our first proponent testifier up for LB840. Good afternoon.

TERESA ANDERSON: Good afternoon. My name is Teresa Anderson, T-e-r-e-s-a A-n-d-e-r-s-o-n, and I'm representing Central District Health Department, which is a local health department in Grand Island, Nebraska. And I'm also representing Nebraska's local public health departments, to let you know that we support LB840. In preparation for this testimony, I visited the legislative Web site to affirm that this committee is responsible for assuring the public's health. So I know I'm in the right place with the right people today. I know that all of us are deeply committed to ensuring that the people we serve have every opportunity to be as healthy as possible. Having said that, I invite you now to come on me-- come with me on a nostalgic journey down "Tobacco Road" and public health. Travel back with me in time to the mid-1970s. I am a young nurse, working in an ICU. As you know, smoking is pervasive in, in this decade, the 1970s. I am on duty in the ICU, when kindly-- let's call him Dr. Jones-- kindly Dr. Jones walks into the unit with his cigarette burning. He leisurely takes a puff as he enters through the doors. This gets my immediate attention. "Dr. Jones," I say gently, "could you please put out your cigarette?

There's a lot of oxygen in here, and I don't want us to blow up." He turns and he looks at me and he slowly smiles. "Oh, I won't blow us up," he says. "The oxygen just makes my cigarette burn faster." At any rate, he obligingly extinguishes his cigarette and proceeds on to tend to his patients' needs. I guess we both realize that smoking at this moment, especially around oxygen, is not a good idea. We learn as we go through life. Today, we know much more. Now, fast forward with me 20 years, on to the 1998 and the Master Settlement Agreement. What a major public health victory, when the tobacco industry is finally forced to acknowledge its responsibility for countless tobacco-related illnesses and premature deaths. And now big tobacco must pay a price. One result of the Master Settlement Agreement is a creation of the local public health infrastructure for all Nebraskans, proving once again that something good can come from something bad. But there is still secondhand smoke. We learn as we go through life. Today we know so much more. Now come along with me as we again fast forward, this time just 10 years to 2008. Grand Island City Council has just passed a city ordinance prohibiting smoking in all public places and places of employment. Its purpose is to protect the public health and welfare by prohibiting smoking in public, public places and places of employment. Our health department is responsible for enforcement, which is pretty much a non-issue, except for a few creative bar owners who try out various versions of nonconforming outdoor smoking areas. This requires some remeasuring and a fair amount of education and revisiting the rules, but we quickly arrive at an understanding of compliance. The successful Nebraska Clean Indoor Air Act will be passed just six months from now. Electronic smoking devices aren't included because they are new and fairly rare at this time. We learn as we go through life. Today we know so much more. Welcome back to today. Now it is our time to address electronic smoking devices. We know now the direct use of electronic, electronic smoking devices results in the deposit of nicotine, volatile organic compounds, and heavy metals, along with ultrafine particles that go deep into the individual's lungs. And we know that these products are present in the exhaled aerosol that creates a passive vaping by the bystanders. We know that there is no established safe, safe level of nicotine exposure, that nicotine is considered harmful at any level, especially for our children. We in public health are certain that children should not be exposed to passive vaping. Additionally, the aerosol from these devices leaves a chemical residue on surfaces, creating thirdhand exposure for employees and customers alike, who touch the table or the countertops. Last fall in Grand Island, forward-thinking city council members unanimously voted to amend our Smoking Regulation Act to prohibit use of these devices in public places. Our communities--

other communities, including Lincoln, have recently done the same. Lastly, and on a personal note, our three sons are grown now, but we have four grandchildren ages 4, 3, 2 and 6 months. When we go to visit them, we often take the opportunity to eat out as a family, and I'm guessing you may do the same. Please think about this with me now. What is on the table where our kiddos bang their tiny fists, pick up toys from the table and chew on them, pick up food that has fallen on the table and put it in their mouths? What chemicals are they ingesting? What are our precious little ones breathing as they sit in the same room where vaping is occurring? Probably things we have no control over, right? Well, we don't think so. We learn as we go through life. Today we know so much more. Now is our time to take action to protect our children. Nebraska local health-- public health departments support LB840. Thank you for your time. I'll be happy to answer questions.

HOWARD: Thank you. Are there questions? Seeing none, thank you for your testimony today.

TERESA ANDERSON: Thank you.

HOWARD: Our next proponent testifier for LB840? Good afternoon.

NICK FAUSTMAN: Good afternoon. I'm Nick Faustman, N-i-c-k F-a-u-s-t-m-a-n. I'm the Nebraska government relations director for the American Cancer Society Cancer Action Network, which is the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society. And we support evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. ACS CAN is pleased that Senator Quick introduced LB840, which would add electronic cigarettes to the Clean Indoor Air law. ACS CAN advocates, advocates for comprehensive smoke-free workplace laws to protect workers and the public from the harmful effects of secondhand exposure and to create com, communities that support tobacco-free living. The use of electronic cigarettes or e-cigarettes, regardless of their content, should be prohibited in all workplaces, including restaurants and bars, to protect against secondhand exposure to nicotine and other potentially harmful chemicals, to ensure the enforcement of existing smoke-free laws are not compromised, and to ensure that the public health benefits of a smoke-free law are not undermined. Everyone has the right to breathe clean smoke-free air, including vape shop employees. No one should have to choose between their health and a paycheck. In addition, there are two additional points that I would like to make on this issue this afternoon. E-cigarettes are not safe. They can take chemicals that you've heard-- many others read off a

long list of. And it's only common sense that these, these devices be prohibited under the Nebraska Clean Indoor Air Act, in order to protect the public and preserve the intent of the act. Excuse me. And e-cigarettes are constantly evolving. There are countless versions on the market and, therefore, the state's Clean Air Act should be comprehensive to apply to all of these, these devices, regardless of delivery method or the content. The proposal before the committee today accomplishes this important health policy goal. The Legislature can protect the intent of the Nebraska Clean Indoor Air Act by prohibiting the use of these products under the act.

HOWARD: OK. Thank you. Are there questions? Seeing none, thank you for your--

NICK FAUSTMAN: Thank you.

HOWARD: --testimony today. Our next proponent testifier? Good afternoon.

BRIAN KRANNAWITTER: Good afternoon. My name is Brian Krannawitter; that's spelled B-r-i-a-n; last name is spelled K-r-a-n-n-a-w-i-t-t-e-r. And I'm the government relations director for the American Heart Association, and we are-- I'm here today representing the organization, in support of LB840. And first of all, I would like to thank Senator Quick for introducing this bill. It is very much needed, and we appreciate all of his hard work on this. What is vaping? Vaping is an act of inhaling and then exhaling the aerosol, often referred to as vapor, which is produced by an e-cigarette or similar device. The term is used because e-cigarettes do not produce tobacco smoke, but rather an aerosol, often mistaken for water vapor, that actually consists of fine particles. Many of these particles contain varying amounts of toxic chemicals which have been linked to heart and respiratory diseases and cancer. Nicotine can harm the developing, can harm the developing adolescent brain; that was referred to earlier by a previous testifier. And I should also add that, in 2018, the U.S. Surgeon General called on states and localities to include e-cigarettes in smoke-free policies. And further, the surgeon general found that including e-cigarettes and smoke-free policies will maintain current standards for clean indoor air, reduce the potential for renormalization of tobacco product use, and prevent involuntary exposure to nicotine and other aerosol emissions from e-cigarettes. So with that, I would restate our support for the bill. And thank you, again, to Senator Quick for introducing this measure.

HOWARD: Thank you. Are there questions? Seeing none, thank you for your testimony today. Our next proponent testifier for LB840? Good afternoon.

ANDY HALE: Good afternoon. Chairwoman Howard, members of the HHS Committee, my name is Andy Hale, spelled A-n-d-y H-a-l-e, and I am vice president for advocacy for the Nebraska Hospital Association. Over 2,200 patients have been hospitalized for vaping-associated lung injuries in the United States this year, and 48 people have died from this condition. Although exposure is considerably lower than those found in regular cigarettes, most vaping devices release a number of potential toxic substances. Injuries and poisonings have resulted from devices exploding and direct exposure to e-liquids. Nearly one in three high school seniors has tried vaping in the past year. With advertising geared towards teens and young adults, devices designed to attract attention, and thousands of flavors to choose from, the expectation is that growth will continue. Vaping may increase the risk of smoking. Teens and young adults who vape are almost four times as likely to begin smoking cigarettes. Long-term studies are needed to evaluate the risks of cancer and respiratory illness. There is some concern that vaping can cause coughing and wheezing, and may exacerbate asthma. The CDC recommends consumers consider refraining from vaping until more research is available. I would like to thank Senator Quick and his staff for bringing this important legislation, and I urge the committee to advance the bill. Any questions?

HOWARD: Are there questions? Senator Murman.

MURMAN: Yes, thanks for testifying. The research I have seen shows that those that have had problems from vaping, it's almost all related to-- from vaping THC. Do you have any research to show that? Or [INAUDIBLE]?

ANDY HALE: I think the research that I've seen confirms that that is one of the main problems. But I think it's, it's such a new industry that we just don't know yet, Senator. So that's what we would recommend, is, is that, you know, we could put a pause on this. And, you know, more study needs to be done.

MURMAN: And a follow-up question. If the medical-- or the new ballot initiative to put medical marijuana on the ballot would pass, do you see that as affecting anything we're doing here today?

ANDY HALE: I don't believe so. I'm not too sure. I mean, I know, as you mentioned, THC can be induced with vaping devices, but I don't know with medical marijuana. I don't know the answer to that question.

MURMAN: Thank you.

ANDY HALE: Um-hum.

HOWARD: Other questions? Seeing none, thank you for your testimony today.

ANDY HALE: Thank you, Senator.

HOWARD: Our next proponent testifier for LB840? Seeing none, is there anyone wishing to testify in opposition? Good afternoon.

SCOTT LAUTENBAUGH: Good afternoon, Madam Chair and members of the committee. My name is Scott Lautenbaugh, L-a-u-t-e-n-b-a-u-g-h. I represent the Nebraska Vape Vendors Association. We are opposed to this legislation. There was a gentleman on the prior bill who said, I hate to be back here on this again so soon. I know how he feels. This was just before the Legislature last year and as part of a compromise was stripped out of the bill. And now here we are again in the same biennium talking about this again. It's important that you understand who my clients are. They're Nebraska businesses. They don't want minors smoking. They don't allow minors in their shops. They're subject to compliant check-- compliance checks. They take care of this in their shops. They're not the ones that are the problem, but they certainly are stakeholders as they do employ lots and lots of Nebraskans. And they are Nebraska-located businesses. For some reason, when the stakeholders get together on these topics, it's the Cancer Society and sometimes the Attorney General's Office. We are not there. So we are here to tell you that we do oppose this. I didn't understand vape shops when I was retained by this organization. It was just created last year in response to the legislation. The point of having vaping in vape shops is simply this: people use it as a smoking cessation device. You show up at a vape shop. You need to find a flavor that you actually like. You need to learn how to use the device. You may need to sample increasingly lower amounts of nicotine as part of your cigarette replacement. It is crucial to these businesses that people actually be able to vape inside vape shops. And what this bill would do is ban vaping inside vape shops. The age is going up to 21, so you're protecting adult vapors from the dangers of, the alleged dangers I should underline, of secondhand vape. That doesn't make any sense in reality unless the goal is actually just to

hurt these businesses. I did pass around an amendment that would exempt vape shops. We passed license-- you passed licensing last year. It would exempt vape shops from this. We believe there's a logical reason to do that for the reasons I just stated regarding that people come in and actually try out vaping products in the shop. It is frustrating at times to testify on these bills because people will come before you and say we support evidence-based policies and then they don't offer you evidence. To say that vaping isn't safe, fine. Cheeseburgers aren't safe. Bus exhaust isn't safe, but the studies show that vaping is 95 percent safer than cigarette smoking. In Europe and in England, vaping is seen as a policy success getting people to stop smoking. They have vaping areas in British hospitals because that is so vastly superior to smoking cigarettes. They've recognized that. We seem to be going a different direction on this and saying you haven't heard anybody say that these chemicals in vaping products are actually president-- present in harmful quantities. They're saying there are chemicals there that could be harmful if in sufficient quantities. Shouldn't somebody come here and say and there is this quantity in secondhand vapor and that's harmful because anything is harmful if there's enough of it. Water is harmful if there's enough of it. No one has come before you with any evidence that secondhand vaping is really harmful. And now we're going farther to say that there's a danger from thirdhand vaping with residue on diner tabletops that children might get into. My clients don't have children in their places. If my children were eating off the tabletop in a diner, my first concern would not be nicotine residue on the tabletop. I can guarantee you that. There are much greater threats to people secondhand than the alleged threat from secondhand vapor. This bill, as written, would put a lot of very nice vaping facilities, which I had never seen till I was involved in this and I bet you haven't either, would put them out of business. They exist to serve a purpose. They do help people. I think we all know people who have gotten off cigarettes and they are doing better because of this product. I would urge you to not put these businesses out of business. I would urge you-- we heard someone suggest earlier we should take a pause on this, which means banning vaping indoors. Well, that pause puts businesses out of business. It's not a pause for them. It's a death for them. So I would ask you to take a pause on this type of legislation until someone actually comes to you with evidence of actual secondhand harm, actual, real, scientific, verifiable evidence. To say that this is like the '70s that we were still smoking indoors, no. Everybody knew smoking was bad for you in the '70s. Right now, we're speculating that secondhand vaping might be bad because there are chemicals in it that-- no one will tell you they're in sufficient amount to be

harmful, but they're there. That's true of everything in life, bus exhaust. We can go on and on down the list. You should wait for proof of actual danger before putting Nebraska businesses out of business. Thank you.

HOWARD: Thank you, Senator Lautenbaugh. I should hope that you're not worrying about your kids eating food off of a table at a diner because they're quite-- they're quite grown up now, aren't they?

SCOTT LAUTENBAUGH: Yeah, it'd be odd if they were doing that.

HOWARD: My question is for this amendment that you brought to us, does this address your concerns? If this amendment were adopted, you'd be OK?

SCOTT LAUTENBAUGH: There are-- and I scratched the number off the top of the amendment because I didn't want there to be any confusion. There are still a couple of issues with it where the language is they only could sell vaping products and then be exempt if they have a vaping license. Well, a lot of these places sell Diet Cokes and whatnot for the people who are sitting there trying out the vaping products. So the "only selling vaping products" probably goes a little too far. Another crucial part of it is that this would be a peremptory state law. It would preempt local ordinance. And we were actually kind of encouraged to do this by the city of Lincoln as they were passing their indoor ban this year and we were trying to get an exception for vape shops. And the response was you should have the Legislature try to take care of that. So here we are.

HOWARD: OK. So I'm sorry, was that a yes or a no?

SCOTT LAUTENBAUGH: You know, as, as I finished, I realized I didn't answer your question. We would support the bill with those changes.

HOWARD: With these changes. But the changes would need to be clear that they could still sell like pop and gum and that sort of thing.

SCOTT LAUTENBAUGH: I don't know how many would sell gum. I mean, again, this is an adult shop. But, you know, refreshments, that kind of thing

HOWARD: Sure.

SCOTT LAUTENBAUGH: Not bars, really. But, you know.

HOWARD: OK, great. All right. Questions? Senator Williams.

WILLIAMS: Thank you, Chairman Howard, and thank you, Senator Lautenbaugh, for being here. I wanted to go down that same line just a little bit, so I'm very clear. So your concern and that of your clients is the vaping inside their vape shops. That's the concern, not banning vaping from other areas that are banned-- would be banned with this law under the Clean Air Act.

SCOTT LAUTENBAUGH: We're in a difficult spot because what we maintain vigorously is that there is no evidence of harm from secondhand vape. So on an intellectual level, we struggle to say it's OK to ban it everywhere indoors. But on a practical level, we're already having harm done to us by some localities that are taking it upon themself to ban it everywhere, including inside vape shops, which we're trying to get some relief from that. And this kind of goes down the road of what we did with cigar bars. We created exception for them back in 2010. The argument was, oh, gosh, these will be on every corner. Well, I think there's 10 of them in the whole state. This won't increase vape shops. This will just allow vaping to continue to go on in vape shops.

WILLIAMS: And in your testimony, you, you mentioned we only have adults in there, no children in there. Is-- is that by design or is there some regulation that causes no children to be in there?

SCOTT LAUTENBAUGH: By law, we can't sell to people, we agreed to 19 last year. Now it's going up to 21. But children are just not allowed. I don't think there's a-- I can't tell you for sure that there's a regulation that says children can't hang out in there, but they don't have children in there.

WILLIAMS: But you would not be opposed to something in legislation then that kept children out of the vape shop.

SCOTT LAUTENBAUGH: I would have to ask my clients before I speak out of turn, but that seems like a reasonable supposition.

WILLIAMS: Thank you.

HOWARD: Thank you. Other questions? OK, so you're OK if we have this amendment with an addition. Did you speak with Senator Quick about this? Is he-- is he the one who drafted this amendment for you?

SCOTT LAUTENBAUGH: Actually, I requested it myself and it just came back today and it was still wrong. So I apologize if this is a springing it upon, but I wanted to have something to bring--

HOWARD: Oh, OK.

SCOTT LAUTENBAUGH: --to the committee to present. And it's my fault it was still wrong, not Bill Drafters. I'm not casting stones here. I'm just saying, no, there haven't been any prediscussions on this. This is a new concept.

HOWARD: This is a new concept. So he hasn't seen this amendment?

SCOTT LAUTENBAUGH: No, no, no.

HOWARD: OK. Will you be sure to give him a copy?

SCOTT LAUTENBAUGH: Absolutely.

HOWARD: Thank you. All right. No other questions? Thank you for visiting with us today.

SCOTT LAUTENBAUGH: Thank you.

HOWARD: Our next opponent testifier for LB840. Good afternoon.

SARAH LINDEN: Good afternoon, Chairman Howard and members of the Health and Human Services Committee. My name is Sarah Linden, S-a-r-a-h L-i-n-d-e-n, and I am president of Nebraska Vape Vendors Association and owner of Generation V, a Nebraska-based business with six vapor stores in Nebraska. I wanted to just touch on Senator Murman's question about the recent illnesses that came up in September, October of last year. And the CDC has released more and more information over time. But the recent release said that 100 percent of the vaping-related illnesses were linked to illegal THC products sold by drug dealers. None of the products sold in my store or any vape shop in Nebraska has vitamin E acetate in it. It's actually impossible to vape vitamin E acetate out of like a regular vape device because the consistency is far too thick so the viscosity doesn't work. It would clog it up essentially. And the CDC retracted their statement asking people to refrain from vaping as well. So that came up in previous testimony. The main reason we oppose this bill is that there is no scientific basis for a ban on vaping in public places as all of the research so far shows that levels of contaminants found in secondhand vapor is below levels that would be cause for concern. And I gave you a bunch of research and in the third section, there's actually three research studies about this. A study by BMC Public Health concluded there is no evidence that vaping produces inhalable exposures to contaminants of the aerosol that would warrant health concerns. And then the CDC itself conducted their own study, which is in that packet, in 2016 and concluded exposure to flavoring, chemicals, formaldehyde, nicotine, propylene glycol were all below

occupational exposure limits. Now occupational exposure limit suggests levels of exposure that most employees may be exposed to for up to 10 hours per day, 40 hours per week for a working lifetime without experiencing adverse health effects. And that's really the only standard we have to go by. According to Public Health UK, vapor products are 95 percent less harmful than smoking. And our customers use them as a harm reduction tool while weaning themselves off nicotine completely because many of them have tried to quit and found they cannot. So this is simply just a harm reduction tool. According to a study published in the New England Journal of Medicine in 2019, vapor products are nearly twice as effective at helping smokers quit than all other nicotine replacement therapies combined. Smoking is the number one cause of preventable death in the United States, killing 480,000 people every year. You would think that a product that is 95 percent less harmful than smoking and twice as effective would be celebrated. Instead, we are condemning it and creating laws to restrict it. Each time we do this, we are creating the perception that vapor products are just as harmful as smoking, a perhaps-- perception that is harmful to public health. We should be championing these products like they are in the UK where they allow vaping and have vape shops inside of hospitals. Yes, they allow it inside of hospitals. And they also provide free vapor starter kits to all smokers who are looking to quit smoking. One of the many reasons we oppose the bill is that it will ban vaping in vape shops and greatly limit the amount of consultation we are able to provide our guests to help them quit smoking. It will eliminate their ability to test flavors or nicotine strengths to find what is best for them. This law would also prevent us from helping them set up or troubleshoot issues with often complicated vape devices to ensure their safe use. Lastly, banning vaping in public places including vape shops while knowing-- allowing smoking in cigar bars is discriminy-- discriminatory. It should be fair. If you allow smoking in cigar bars and you know that smoking-- secondhand smoke actually kills people, then you should at least allow vaping inside vape shops when there's no scientific evidence that there's any harm at all. Having watched my grandmother die from lung cancer and my father struggle with COPD, I'm passionate about helping people stop smoking. So sorry if I'm a little out there. I only market my products to smokers and even advise customers who come into my store who aren't smokers to not start a new habit. My goal is to one day put myself out of business as we help smokers make the switch to vapor and gradually help them step down their nicotine intake to help them quit nicotine altogether. We'd love nothing more for everyone to just quit smoking. However, 75 percent of smokers have tried to quit and cannot. Vapor products are proven to be safer than smoking and

more effective. I kindly request that you oppose LB840 or at least provide a carve out for vapor stores so that we can continue serving our guests and help them quit the deadly smoking habit. Do you have any questions for me?

HOWARD: Thank you. Are there questions? Senator Williams.

WILLIAMS: Thank you. And thank you for being here and your testimony. I think you said you had six vape-- vape shops.

SARAH LINDEN: Um-hum.

WILLIAMS: Where are they located? So what community?

SARAH LINDEN: So I have three in Lincoln, two in Omaha, one in Bellevue. And then I have a couple in Iowa as well.

WILLIAMS: OK. What is the name of your vape?

SARAH LINDEN: Generation V. So you're probably familiar with mine because it's on the corner of 17th and O, so it's very close to the Capitol.

WILLIAMS: Can't miss it.

SARAH LINDEN: Yes.

WILLIAMS: How do you keep children out of your vape shop?

SARAH LINDEN: So we actually do currently allow children in our store if they're accompanied by a parent or adult. However, we do not allow them-- so we have kind of a bar area where people can come and sample juices, although they can't anymore in Lincoln. But they were able to sample flavors and then we would let them test different nicotine strengths to find the nicotine strength suitable for them. So they're not coming too much or too little. And we would not allow the children to be within arm's reach of that counter. So we were keeping them away from the counter, but they could come in and we have a little couch area that they could have their kids sit because some parents actually can't really get away from their kids. And we don't allow parents to leave kids in the car by themselves. So they-- sometimes they have to bring them in and they sit on the couches very, very far away from any product.

WILLIAMS: So-- so currently Lincoln has a city ordinance.

MOBILE DEVICE: I'm not sure I understand.

SARAH LINDEN: I'm so sorry. [LAUGHTER]

WILLIAMS: I'll ask the question again then. Just in case you don't understand, I'll ask--

SARAH LINDEN: I apologize [LAUGHTER].

WILLIAMS: As I understand it, Lincoln has a city ordinance that precludes vaping in your--

SARAH LINDEN: Correct.

WILLIAMS: --in your vape shop.

SARAH LINDEN: Correct.

WILLIAMS: And as Senator Lautenbaugh testified to in the proposed amendment, they would like to have this be a preemption of that.

SARAH LINDEN: Correct.

WILLIAMS: Going down a long set here, if we were to add in here, no children, picking an age there--

SARAH LINDEN: Right.

WILLIAMS: What would that do?

SARAH LINDEN: I think that we would be willing to do that. We understand--

WILLIAMS: Just as long as they don't leave them in the car, right?

SARAH LINDEN: Right. That's-- but we understand--

WILLIAMS: That's all I needed to know was that you would--

SARAH LINDEN: OK.

WILLIAMS: --be willing to.

SARAH LINDEN: Yeah.

WILLIAMS: Thank you.

SARAH LINDEN: Yes, we would.

HOWARD: All right. Other questions? Seeing none, thank you for your testimony.

SARAH LINDEN: No problem. Thank you.

HOWARD: Our next opponent testifier for LB840? Seeing no one in opposition, is anyone wishing to testify in a neutral capacity? Seeing no one in a neutral capacity, Senator Quick, you are welcome to close. While he's coming up, I'll read the letters. We have several letters in support: Larry Dix, the Nebraska Association of County Officials; Dr. Cynthia Paul, Nebraska Psychiatric Society; Don Preister, city of Bellevue; Dr. Daniel Gih, Nebraska Regional Council, the American Academy of Child and Adolescent Psychiatry; June Ryan, Nebraska Cancer Coalition; mayors from the Greater Nebraska Cities, including Roger Steele-Grand Island, Corey Stutte-Hastings, Doug Young-Holdrege, Stan Clouse-Kearney, Jon Fagot-Lexington, Ted Griess-Minden, Marlin Seeman-Aurora; Dr. Todd Hlavaty, Nebraska Medical Association; Drs. Steven Williams, Josue Gutierrez, and Brett Wergin from the Nebraska Academy of Family Physicians; James Michael Bowers, from the Lincoln-Lancaster County Board of Health; and Kelly Kalkowski, North Central District Health Department. No letters in opposition, no letters, letters in the neutral position. Welcome back, Senator Quick.

QUICK: Thank you, Chairwoman Howard. One of the things I wanted to address, I know you'd asked the question about the THC, but I know the one individual on it that, that had died in Nebraska had been a longtime smoker and switched to vaping. And so whether that-- he never used THC products so he-- you know, that was something that I want to address. And I, you know, I don't know about all of the information out there. I know that you can probably find any study that will show you anything. So I know that's out there, as well. And then, you know, from some of my other appearances before this committee, like during the interim study this year, how, how much I look out for the-- or advocate for children. And I want to make sure our children are protected. And I know that raising my own children and having nine grandchildren, they see what we do and they hear what we, what we say. So I think one of the things with the Clean Indoor Air Act that I want to make sure that we're, that we're addressing-- I'm not looking to put people out of business. So that's not what I'm trying to do. But I'm also trying to protect those children that see people in, maybe, a public setting that are using a vaping product or a tobacco product. And, and I hope that, I wish there was more education out there for people to understand that these products, although maybe they're being used for, for a specific purpose, to quit-- they're using it to quit smoking, but that they're not all right for children to use. And so I,

you know, that's one of my main objectives with this, is to make sure that in a, in a public setting, and even in our workspaces, where maybe someone who doesn't want to be exposed to that type of that environment, they're not exposed to that. And it took us many years to find out that tobacco products were really dangerous to your health. And we, you know, we had a lot of people with lung injuries. My-- I had two grandparents that passed away because of their smoking habit. And I know that they fought that for a lot of years. And it's because of the nicotine itself. The nicotine in the product, that's what you become addicted to, and you want to keep using it. And so I know I've witnessed people who maybe didn't smoke-- who did smoke before. They wouldn't smoke around their children. They didn't smoke in their cars with their children in them, they didn't smoke in their homes with the children in there; they would go outside. And now, all of a sudden, they're vaping, and they're vaping in their houses. And I can't stop that, but we need more education to help with that. They're vaping in their cars with their children in their cars. So I don't want to see what happened to, to other people along the way. You know, with-- especially with tobacco products, we saw how secondhand exposure causes cancer and other lung, other lung injuries. And so that's one of the things I really want to address with the, with the Clean Indoor Act [SIC], and making sure that we protect our children, and, and, and really, other people who would be exposed to those type of products or who don't want to be-- have that exposure. So I'm-- I didn't really know about the amendment, but I know I also want to address the preemption. I can tell you, I've talked to the city of Grand Island, and they would care not to be-- have a preemption put on them for being able to do whatever they want to do with their ordinances within their communities. And I can say I have talked to the city of Lincoln a little bit, but I would have to talk to them a little more, more before I could say where, where, what we'd do on preemption. But with that, thank you for hearing me out, and I hope that you will pass this legislation on. So thank you.

HOWARD: Thank you. Are there questions? So you'll work with the Nebraska Vape Vendors Association on this amendment? Are you--

QUICK: I'll look at it. I can't say where I'm--

HOWARD: Yeah.

QUICK: --you know, [INAUDIBLE].

HOWARD: Are you comfortable with this, with the idea of leaving the vape shops out of it?

QUICK: I can't say that I am right now. I mean, I have to look at it more. I mean, I-- up to this point, I was totally wanting to just get the Clean Indoor Air Act. And so I haven't really thought that far into it. But I'm willing to talk to people on the committee and work with the vape vendors to see what could be done. But, you know, I'm going to be careful about what I do, so--

HOWARD: And you've spoken with me previously. You, your intention is that this bill will be your priority?

QUICK: I had, yes. So I've spoken with you about that, making it a priority bill, yes.

HOWARD: OK, perfect. All right. Any final questions for Senator Quick? Seeing none, thank you for your testimony today-- or your bill today.

QUICK: Right, yeah.

HOWARD: No more testifiers. All right. This will close the hearing for LB840, and conclude our hearings for today. We actually finished everything we needed to finish.