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Health and Human Services Committee
February 20, 2008

[LB1108 LB1169 CONFIRMATION]

The Committee on Health and Human Services met at 1:30 p.m. on Wednesday, February 20, 2008, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1108 and LB1169 and gubernatorial appointments. Senators present: Joel Johnson, Chairperson; Tim Gay, Vice Chairperson; Philip Erdman; Tom Hansen; Gwen Howard; Dave Pankonin; and Arnie Stuthman. Senators absent: None. []

SENATOR JOHNSON: Let's go ahead and convene the Health and Human services Committee. Good afternoon everyone. We are waiting for a phone call from a Patricia Madsen, a gubernatorial appointee. We're not making connection at this time, so let's go ahead and start. First, maybe we're going to go right now. Patricia?
[CONFIRMATION]

PATRICIA MADSEN: Yes. [CONFIRMATION]

SENATOR JOHNSON: Hi. This is Senator Joel Johnson. [CONFIRMATION]

PATRICIA MADSEN: How are you today? [CONFIRMATION]

SENATOR JOHNSON: Well, pretty good. I suspect you're every bit as chilly out there as we are here, is that right? [CONFIRMATION]

PATRICIA MADSEN: Absolutely, or even colder, I don't know. (Laughter)
[CONFIRMATION]

SENATOR JOHNSON: Well, we're kind of staying pretty close to the heater around here today, I can tell you that. Well, we don't want to keep you too long on the line. I was just ready to introduce our committee to the people here in attendance, so let me do that now and you'll know who is here as well. First of all, on my right, starting on my right is Senator Dave Pankonin from Louisville; Senator Phil Erdman is next from Bayard; Senator Tim Gay, who is the Vice Chair of this committee, from Papillion; Jeff Santema is the legal counsel for the committee; I am Senator Joel Johnson from Kearney; and then on my far left is Senator Gwen Howard from Omaha; next, Senator Tom Hansen from North Platte; Senator Arnie Stuthman from Platte Center and then Erin Mack is our committee clerk. Now one of the things, and this will obviously apply to your phone call as well, is that all of these proceedings are recorded and so one of the things that we please ask you to do is turn off your cell phones and also when you testify here in person, that is a glass top on that desk and if you tap your pen constantly we get in trouble with the person who does the recording so. Now what we do is this, is we like to have testimony basically roughly three to five minutes. We don't keep exact time like many committees do but let me remind you that if you take a lot of time, that

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takes away from other people later in the day and if you get too long, I have been known to get just a little bit ornery about it so. Now when you do come up, please fill out the testifier sheet, say your name and spell it. Now, Patricia, we understand that you are a gubernatorial appointee to the Child Abuse Prevention Fund Board but that frankly is just about all I know about you, so kindly would you be so kind as to fill us in about what you do just in general and also your interest in this group. [CONFIRMATION]

PATRICIA MADSEN: (Exhibit 1) Certainly. I have been a conference teacher for 20 years. I taught schools in Rock County and in Holt County in Nebraska and about a year and a half ago I accepted a new position with Nebraska Career Connections which is a pre with a career planning and assessment web site for all of Nebraskans and so I've been traveling around the state doing trainings on the web site and have enjoyed that very much. My interest is, has always been working with young people especially with young adults have children, and I'm married. I have two children. My husband runs lumber yards in north central Nebraska along highway 20. It's a family business. We've been in business for over 100 years so I'm a pretty strong native Nebraskan, I guess, and that's pretty much everything in a nutshell. [CONFIRMATION]

SENATOR JOHNSON: Okay. Great. Well, let me just ask if there's any questions around the table here and then, Senator Gwen Howard has her hand up. [CONFIRMATION]

SENATOR HOWARD: Thank you, Chairman Johnson. Patricia, I'm just, I'm a little confused here because your application at the top says Nebraska Commission on the Status of Women. Was that an earlier application? It's dated 2005. [CONFIRMATION]

PATRICIA MADSEN: I'm sorry, I can't hear you very well. [CONFIRMATION]

SENATOR JOHNSON: Well, we'll move the machine a little bit for you, Patricia, so that you will be able to. Hang on for just a second. [CONFIRMATION]

SENATOR HOWARD: Patricia, I just, in looking at your application I notice here it says Nebraska Commission on the Status of Women and that's from 2005. Is that an old application? Had you served on that committee? [CONFIRMATION]

PATRICIA MADSEN: I had applied but I did not serve and from that I was appointed to the Child Abuse Prevent Fund Board. [CONFIRMATION]

SENATOR HOWARD: Okay. So that really just needs to be updated and... [CONFIRMATION]

PATRICIA MADSEN: Right. [CONFIRMATION]

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SENATOR HOWARD: Okay. Thank you. [CONFIRMATION]

SENATOR JOHNSON: Okay. Any other questions around the table here? Senator Stuthman. [CONFIRMATION]

SENATOR STUTHMAN: Thank you, Senator Johnson. Patricia, this is a reappointment. Have you just served one prior term, have been appointed once or been longer? [CONFIRMATION]

PATRICIA MADSEN: I was appointed to fill out a term of someone who had resigned from the Child Abuse Prevention Fund Board and so this is, I guess, my first full term. [CONFIRMATION]

SENATOR JOHNSON: How long have you served so far, Patricia? [CONFIRMATION]

SENATOR STUTHMAN: How long have you served so far, Patricia? [CONFIRMATION]

PATRICIA MADSEN: I was appointed, I believe, in March of 2006. [CONFIRMATION]

SENATOR STUTHMAN: So, you've had several... [CONFIRMATION]

PATRICIA MADSEN: I've finished off a term of the person that I replaced and then this is the reappointment of that term. [CONFIRMATION]

SENATOR STUTHMAN: Okay. Okay. [CONFIRMATION]

SENATOR JOHNSON: Any further questions around the table? Patricia, I see none. We're going to let you off easy today but let me tell you this. We really do appreciate what you do, you are difference makers and so we want to thank you for the service that you do to the state. So thank you very much. [CONFIRMATION]

PATRICIA MADSEN: Well, it is my pleasure to serve and anything that I can do to help our great state I'm more than willing to do. [CONFIRMATION]

SENATOR STUTHMAN: Thank you. [CONFIRMATION]

SENATOR JOHNSON: Thank you very much. Bye, bye. [CONFIRMATION]

SENATOR JOHNSON: All right, with that Senator Phil Erdman on LB1108. [CONFIRMATION]

SENATOR ERDMAN: (Exhibit 1) Chairman and members of the Health Committee. I'm Philip Erdman representing the 47th legislative district here to introduce LB1108.

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LB1108 was brought to me by some of the organizations that represent mental health practitioners as a clean up or clarification to the bill that we had worked on for about the last four years that was finally passed as an amendment to LB247. That bill LB247 provided for the licensure of independent mental health practitioners. LB1108 corrects two inadvertent admissions, specifically the bill adds a reference to the examination requirement currently required of LMHPs and also inserts licensed independent mental health practitioner in Section 38-2112. You also have a amendment, AM1897, that was presented to my office by the Department of Health and Human Services and the Board of Mental Health Practice. That amendment would add licensed mental, independent mental health practitioner to Section 38-2115 to sub (d). It revises the reference to the examination requirement to clarify that the LMHP must satisfactorily pass the examination approved by the board before being licensed and it clarifies the titles to be used in the scope of practice appropriate for the different licenses. There are individuals from the mental health field here that would be subject to the act that will testify. Senator Pankonin and I had a fantastic opportunity in St. Louis to hear from a licensed mental health practitioner who said that had she known what Nebraska's law were when she came here, she would have never come. And actually, we got into a pretty decent discussion about why the bill that we passed last year as a Legislature has actually enhanced her ability to do what she does. And at least from one person's standpoint who is actually a licensed mental health practitioner, who is also a rancher, she is one of those folks out there in the countryside that's helping to provide those services in rural Nebraska. And I think a lot of times, we assume that there are incentive programs or things in place that we need to recruit people and sometimes it's the fact that our regulations are ridiculously irresponsible. And so we're grateful that we address that. LB1108 is just designed to catch a couple things that we inadvertently missed last year. [LB1108]

SENATOR JOHNSON: Okay. Thank you. Any questions? Senator Erdman, I see none. I know that you have many places to be today and for those of you in the audience, there are many hearings going on that senators have to attend to and so even though the Senator, this is his bill and sits on our committee, he does have other obligations as you might see with other places, so with that, thank you. [LB1108]

SENATOR ERDMAN: And I'll waive closing. [LB1108]

SENATOR JOHNSON: All right, For proponents, how many do we have? One, two, three. Opponents? I see none. Any neutrals? I see none. Why don't you come on up, young lady? [LB1108]

ANNE BUETTNER : (Exhibit 2) Good afternoon, Chair, Senator Johnson and Vice Chair, Senator Gay, and members of the Health and Human Services Committee. I am Anne Buettner. I am the president of the Nebraska Association for Marriage and Family Therapy. We are the proponent of this LB1108 and its amendments. And last year I was

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here in front of you and thanks to the prudence of this committee and Senator Erdman, you gave us, you know, independence to the licensed mental health practitioners, making us at par with other practitioners of equal standing of the rest of the United States. We are very grateful. So even good things need some fine tuning and the essence of the law will not change and has not changed. Just like what Senator Erdman has said, there are three areas that need clean up to make the language consistent with the language of the original law that was incepted in 1993. And I will not be redundant and repeat what he has reported. So to sum up, we just hope that this simple bill will be enacted this year, you know, that you find a place under the sun for us, you know, tack on to something else and thank you very much. [LB1108]

SENATOR JOHNSON: Well, thank you. Any questions? I see none. Thank you very much. [LB1108]

ANN BUETTNER: Thank you. [LB1108]

SENATOR JOHNSON: Next, please. Any other proponents? [LB1108]

DANIEL ULLMAN: (Exhibit 3) I'm Daniel Ullman, D-a-n-i-e-l, last name, U-l-l-m-a-n. My name is Daniel Ullman and I'm representing the Nebraska Psychological Association which supports LB1108. Nebraska Psychological Association supports LB1108 because it can result in better access to behavioral health services for the citizens of Nebraska who suffer from major mental illness. It stands to reason that independently licensed mental health practitioners who have completed training in treating major mental illness, could serve as consultants for nonindependently licensed mental health practitioners. LB1108 provides mental health practitioners with an additional option for needed oversight on cases involving major mental illness. Especially in rural and underserved areas of the state, it is important that mental health practitioners not be limited to obtaining guidance from a qualified physician or licensed psychologist. As past chairperson of the licensing board for psychologists, I addressed the consultation definition before the licensing board for mental health practitioners on November 2, 2007. At that time the psychologists expressed an interest in the following modifications of the consultation definition in the mental health practice act. One, clarify that consultation with mental health practitioners by the current definition, actually describes supervision or at minimum mandatory consultation. Two, include the new category of independently licensed mental health practitioners among those professions qualified to provide mental health practitioners oversight on cases involving major mental illnesses. LB1108 addresses one of the two modifications, namely, adding independently licensed mental health practitioners to the list of consultants on major mental illness. The other modification, how to better define consultation versus supervision in statute and or regulations, is being addressed by the Department of Health and Human Services in collaboration with the licensing board. That's my testimony. [LB1108]

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SENATOR JOHNSON: Okay. Thank you. Any questions? By golly, you must have said it all. Thank you very much. [LB1108]

DANIEL ULLMAN: Thank you. [LB1108]

SENATOR JOHNSON: I think we had one more proponent. Welcome. [LB1108]

SUSAN MEYERLE: Thank you. You'll have to forgive me, I have a cold but it was important that I be here. My name is Susan Meyerle, and my last name is spelled, M-e-y-e-r-l-e, and I'm the chair of the board of Mental Health Practice that oversees the regulations and the laws that are passed and we noticed last year after LB247 was passed, that there were a couple of items that needed clarified and that's the bill that you have in front of you today, is LB1108. and we're asking the committee to review this and to accept the bill and the modifications to the amendments as they stand to help make our job easier and to help serve the public, as Dr. Ullman had mentioned during his testimony. [LB1108]

SENATOR JOHNSON: All right. Senator Stuthman. [LB1108]

SENATOR STUTHMAN: Thank you, Senator Johnson. Susan, so you feel the amendment is the right way to go with this bill? [LB1108]

SUSAN MEYERLE: I do. The amendments that I have seen that went through Doctor, or Senator Erdman's office, are the ones that I have reviewed and believe would also help clarify and strengthened LB1108. [LB1108]

SENATOR STUTHMAN: Okay. Thank you. [LB1108]

SENATOR JOHNSON: Okay. Any other questions? I see none. Thank you very much for coming whether you're feeling good or not, you look good anyhow. [LB1108]

SUSAN MEYERLE: Thank you. [LB1108]

SENATOR JOHNSON: (Exhibit 4) Any other proponents? Opponents? Neutral? I have a note here that the Nebraska Chapter of the National Association of Social Workers also support this legislation. So with that, and no other people coming forward, that closes the hearing on LB1108 and we will move on. Senator White we're going to be able to accommodate you rather promptly here, so welcome. This is LB1169. Welcome, Senator White. [LB1169]

SENATOR WHITE: Thank you. Tom White, W-h-i-t-e, I'm Senator from District 8. Thank you, Senator Johnson, members of the committee for having me here today. LB1169 is a bill that I hope will correct, what I believe to be, one of the more shameful omissions

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that our country faces today. It came to my attention through dealing with various organizations that the care provided to veterans who are National Guard or reservists called to duty and injured in the line of combat is not the same quality of care necessarily as those who were on active duty and were injured. And this bill is a specific attempt to correct one specific example that we're aware of. Whether there are other such holes, I don't know. But I do know this hole exists. One of the most common injuries arising out of the Iraq war and the Afghanistan war are closed head injuries which are secondary to improvised explosive devices exploding outside of an armored vehicle. A closed head injury is an injury where there's no cut or separation into the skull but the brain is shaken inside of the skull and many of the neuro connections, vascular supply, things like that can be damaged. Closed head injuries are something I've worked with as a lawyer for many years. They can cause really profound changes in personality. One of the books that discusses this phenomenon was written by a female physician was in a bicycle car accident and another one is called Stranger in My Bed, which is a story of a spouse who was married to a person who suffered a closed head injury. Some of the symptoms include loss of short-term memory, inability to organize thoughts, the inability to understand jokes or flat affect, changes in personality, inability to organize any kind of meaningful tasks, loss of spacial understanding, emotional changes including explosive temper, sudden emotional changes that seem inappropriate for the circumstances. Closed head injuries cause not only injury to the person who suffered them but everybody around them, the families, the spouses, the children, the employers, the neighbors, the friends. I am fortunate to have on, in my district a Quality Living which was founded by a parent of a child who suffered a closed head injury. It is probably the foremost method of dealing with brain injuries in teaching people to resocialize and become productive again. And they don't just work with the individual who suffered the injury, they work and act as support with employers. They act as training coaches. Many people forget basic social rules like, you can't talk out loud in a movie. They have facilities to teach people how to integrate back into society. A big part of the problem that we've read about with veterans, the Vietnam war syndrome, those kind of things could probably, in fact, be tied in part to closed head injuries working in conjunction with posttraumatic stress. This bill would allow any Nebraska National Guardsman or woman or any Nebraskan who was on reserve duty but called into active duty and suffered such an injury and to whom such care would be appropriate, to get the same care that the federal government provides to an active duty soldier with these injuries. They say the cost in the fiscal note is unknown because we don't know who is eligible at the moment and I will tell you that is not uncommon. Closed head injuries are one of the most under diagnosed injuries there are but even so at the cost of \$70,000 per soldier, I would tell you it is not too much given their sacrifice and it is less than we will pay if they do not get treated. Quality Living has been exceptionally successful by rehabilitating people. I hope you will look at this bill, consider it carefully and forward it to the floor for further consideration. I'd also respectfully hope that the committee, when it has time in the interim, would make an investigation with the Veterans Administration to determine what other differences there

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are in the quality of care for the, to National Guards and reservists injured in the line of duty versus active duty. I feel there should be no difference and I appreciate your courtesy and I will try to answer any questions you may have. [LB1169]

SENATOR JOHNSON: Senator Hansen. [LB1169]

SENATOR HANSEN: Thank you. Senator White you said \$70,000 per soldier to diagnose or what's that figure for? [LB1169]

SENATOR WHITE: That would be the full treatment and one of the gentlemen from Quality Living will be testifying further, Senator, and that will be for a full 120 day resocialization and what they do, is they diagnose them. Not all people need all that but that would be, I think, the most expensive case and they diagnose what their problems are and then they, really this is a, how to cope. They work with spouses. Okay, how do you go to a movie. Your memory doesn't work so well. Here's some coping strategies. You can't find your way home. I've had clients who have had bad head injuries in industrial accidents, car accidents, who will find themselves suddenly, Senator, living in the neighborhood they grew up in and not knowing which way to turn three blocks from home. How do you cope with that? How do you, what do you do? And so it's really about trying to get people back into life dealing with what's left rather than being crippled with what has been injured. [LB1169]

SENATOR HANSEN: Okay. IED's I assume is one of the major causes. Are there other causes? You know, friendly fire being too close to the ammunitions that are set off. [LB1169]

SENATOR WHITE: Absolutely. Anything that will cause violent jarring of the brain inside of the skull causing, they call micro tearing of, it's literally on a cellular level where you're breaking connections between cells can cause these problems. [LB1169]

SENATOR HANSEN: Okay. I talked to a 26-year-old veteran the other day that went to Iraq perfectly healthy and came back and he can't hear. [LB1169]

SENATOR WHITE: Eyesight problems, balance disorders, hearing loss are also often classic physical symptoms but they can be accompanied by hidden mental conditions as well. And you often see a lot of drug abuse and alcoholism that we see veterans can be a symptom of posttraumatic stress but it can also be a symptom of somebody suffering depression which accompanies these trying to self medicate. [LB1169]

SENATOR HANSEN: Okay. Thank you. [LB1169]

SENATOR JOHNSON: Senator Pankonin. [LB1169]

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SENATOR PANKONIN: Thanks, Senator Johnson. And Senator White, I appreciate bringing this issue because I think it's an important one. And I think it's tragic that the federal government if it's used National Guard men and women in its campaign on a high frequency has neglected the responsibility to these folks. It was my understanding though that the people that were in the reserves were covered under the federal part of the program. Are you sure it's...I thought...I agree with you on National Guard folks but what about reservists? Do you know for sure? [LB1169]

SENATOR WHITE: My understanding and it's only an understanding and it's not, you know, a review of the actual regs but from conversations with people at Quality Living and others is, the reservists called are also under this TRICARE and now if I'm inaccurate on that, then it's for the National Guard. But I had an understanding that it, depending on how you are called up, you may fall under one program or another but it's anybody under this program will not get, would not be qualified for this kind of rehabilitation but somebody from active duty certainly would. [LB1169]

SENATOR PANKONIN: I think in the cycle where we're at with the short session, where I think this is an issue that does need study because of the implications for those folks down the road but it is an important topic. It needs to at least be researched about the numbers involved and obviously potential costs of obviously going into this as well but thanks for bringing it to us. [LB1169]

SENATOR WHITE: I appreciate that. I would ask the committee to consider the cost of not moving it forward because as these folks don't get treatment, what happens is they come out of the system, they come out of the military and you will see them slide into jail, you'll see them slide into positions where we can't reach them. It's important to have something in, to have this in effect when they get here. Now if there aren't people that we're missing right now, that's not a big deal to take the time. On the other hand, you will see many people suffering these injuries will start sliding, they'll become street people, they'll go into the prison system, other things will happen to them and we can no longer reach them. We need to be able to get them as they're discharged. [LB1169]

SENATOR JOHNSON: Senator Gay. [LB1169]

SENATOR GAY: Thank you, Senator Johnson. Senator White is this a injury, does it last a lifetime then once you have it, it doesn't... [LB1169]

SENATOR WHITE: The general thinking, as I understand it is, you can see recovery from a closed head injury up to 18 months following it. It can be anything from a complete recovery to permanent devastating injury. It just depends on the nature and severity of the initial injury and how people heal. [LB1169]

SENATOR GAY: Okay. And I have a follow up question. And as you know, well, as we

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all know, sometimes these fiscal notes come out and you get them a day before you come here. I read this one and it seems extremely vague but it goes 10 percent to 20 percent of some of the discharged that may apply for this but at 10 percent, it puts it at \$2.5 million, on the front it says \$70,000. I mean, and then, but let's say it's worse, then we're talking \$5 million so we have numbers all over the board here and but I guess the question is this. When you're looking at who would qualify for these services and QLI, I'm familiar with it too, it's an excellent organization but as we're looking at who would qualify for this, how do we, how do you decide who, whose in charge of deciding who qualifies for these services and is it a, I mean, who does that. Explain the process. [LB1169]

SENATOR WHITE: Well, I would say that the same standards, the bill should adopt the same standards that the federal government does. That is, that they're diagnosed with this injury and it's prescribed that this will be helpful in treating them. So it's a physician who literally, like it would be in a normal situation, a physician diagnoses them, says, yeah, you've got these symptoms and this is the best method to treat this problem and that would be the method I would submit to you, Senator, would be the appropriate method. [LB1169]

SENATOR GAY: Okay. [LB1169]

SENATOR JOHNSON: Other questions? Well, Senator White, before you leave let me put in my comments here and what it is, is this. I think this is one of the low points in recent times particularly from our federal government's standpoint. How in the world can you do this to people, to ask them to give up their lives and at least the stressful life that they're left with and then ignore them and leave them out in the cold. I just think it's one of the most inexcusable things that I've seen in government and we will look forward to working with you. [LB1169]

SENATOR WHITE: Thank you for your courtesy. I agree and even if we act, it will not correct the injustice for the vast majority of Americans but I'm hoping that if the state of Nebraska acts, passes this and said this is shameful, we will not stand for it with our citizens, perhaps we can actually move the federal government to correct it. [LB1169]

SENATOR JOHNSON: Thank you. Will you be able to close or... [LB1169]

SENATOR WHITE: I will waive closing with the committee's permission. [LB1169]

SENATOR JOHNSON: Okay, fine. All right. Thank you very much. Proponents. One. Any other proponents? Any opponents? Neutral? I think you are it. Welcome. [LB1169]

MATT CLOUGH: All right. Thank you very much. My name is Matt Clough, C-l-o-u-g-h. I'm the vice president at Quality Living in Omaha, Nebraska, and have worked with

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Senator White in developing LB1169 and really focusing in on a niche of services that we believe, as Senator White has said, is currently not taking care of, for Our Operational Iraqi Freedom and Enduring Freedom veterans coming back from Iraq and Afghanistan. Speaking to the medical piece that Senator White alluded to, the TRICARE system does do an excellent job of the physical rehabilitation component but it is that the cognitive rehabilitation that is not addressed. And the cognitive rehabilitation is what does allow us to think, to live our lives, to enter into situations in a beneficial way to be in relationship, to perform a job. It's that executive functioning, that short-term memory. Senator White alluded to acting, overreacting to situations that you may be in. Those are all symptoms of a damage, a closed head injury damage to the brain. And it is those services that this bill is designed to focus on. Any questions of me? [LB1169]

SENATOR JOHNSON: Yes, Senator Hansen. [LB1169]

SENATOR HANSEN: Thanks, Senator Johnson. Matt, are there other, could you give other examples of closed head injuries that would be similar that you do treat from other injuries or whatever would happen. [LB1169]

MATT CLOUGH: Certainly. Motor vehicle accident is very common. Any, really falls would be another one. Any situation where, as Senator White said, the brain is jarred inside the skull and if you can imagine, if your brain, a twisting motion inside the skull creates a shirring and damage to the brain cells and those do not, don't recover. And so once the damage is there, it becomes a matter of how can I go about creating what we call compensatory strategies to move around those deficits but certainly falls, motor vehicle, occasionally we'll see gun shot wounds which is obviously a brain injury but a penetrating brain injury. I know I've been contacted many times with regard to motorcycles. Those do, you know, can cause a traumatic brain injury as well. [LB1169]

SENATOR HANSEN: Race car injuries? [LB1169]

MATT CLOUGH: Yes. Any time you're going fast and you come to a sudden stop, yeah. [LB1169]

SENATOR HANSEN: Thank you. [LB1169]

SENATOR JOHNSON: Senator Pankonin. [LB1169]

SENATOR PANKONIN: Thanks, Senator Johnson. Appreciate coming today and I know you have a tremendous reputation with your facility. The question I asked Senator White you may be able to...a couple of things, I guess. Tell us a little more about the TRICARE program and who it covers, specifically the question I asked between National Guardsmen and reservists. I understood...it was my understanding that reservists were treated more like the regular Armed Forces than Guards folks, so if you could help me

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understand that, if you have any information on that. [LB1169]

MATT CLOUGH: What I'll try to do is give you my understanding of it and again I would encourage the committee to get... [LB1169]

SENATOR PANKONIN: Investigate that. [LB1169]

MATT CLOUGH: ...investigate it. My understanding is that the benefits are the same but they aren't available for active duty as either so this service that we're talking about within the TRICARE system is not available period. And so the goal here is to work with Nebraska residents who are falling through the cracks and not receiving these services. [LB1169]

SENATOR PANKONIN: So it could be Guardsmen and women, reservists and regular Armed Services folks that are out of the service now. [LB1169]

MATT CLOUGH: Yeah. [LB1169]

SENATOR PANKONIN: Or because of disability or whatever. [LB1169]

MATT CLOUGH: Yeah. And I have, should mention to, I visited with John Hilgert. Have also visited with, and I apologize, I don't recall his name, the General who is now overseeing Nebraska National Guard. He is relatively new to his position. [LB1169]

SENATOR JOHNSON: Lempke was the old one. [LB1169]

SENATOR GAY: Tim Kadavy. [LB1169]

MATT CLOUGH: Yeah. And in visiting with them, they are not currently aware of any individuals in their commands that would qualify for these services. [LB1169]

SENATOR PANKONIN: One more follow up question. If I remember right from some of your material, you have had folks in these circumstances though from other areas that are receiving treatment at your facility who've had, who've been in Iraq or Afghanistan, and have had these injuries? Are they being, have been and are being treated at your facility? [LB1169]

MATT CLOUGH: We have seen some and how that has worked is, we've had a commander in essence insist upon those particular soldiers receiving services and that is the prerogative of a commander. So if the commanding officer says, I want my soldier to receive services here, that is their prerogative. But on a general level, it has to be an exception, it's not the rule. [LB1169]

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SENATOR JOHNSON: Senator Gay, another question? [LB1169]

SENATOR GAY: Yeah, Senator Johnson. So you did talk to General Kadavy and he says there's no one right now he sees that would need the service. [LB1169]

MATT CLOUGH: Yeah. He referred us to his chief of staff who has been in the position a little bit longer and he was not aware of anyone. [LB1169]

SENATOR GAY: Okay. Back to the question I asked Senator White and I know it's a tough one for a lawyer to answer, probably have to go over to a doctor and maybe you can help. I still don't understand the process. If he says there's no one available and then we're taking guesses of who might use this service but and it's a serious situation as Senator Pankonin talks about. They deserve the same as everyone, we would agree on that. We deserve the same services as anyone else. If you're risking your life you should get those services. But I guess I still reading in this, you come to the...if you think you have this, you go to the Department of Health and Human Services. I still don't see the screening mechanism. Is it a general, it wouldn't be a general physician I wouldn't think that looks. But how do you identify what's happening here that they're going to need the services that you're talking about because it sounds like it's a fairly technical thing. [LB1169]

MATT CLOUGH: Okay. Well, it would start with the physician diagnosis of traumatic brain injury and there currently is a mechanism within Health and Human Services on the Medicaid side to determine eligibility. And I would, again that perhaps is a path that makes sense, would be to use the exact same criteria that would begin with that physician diagnosis with HHS to go through that series of criteria that are currently used under Medicaid. So there is an established criteria to receive these services. [LB1169]

SENATOR GAY: We'll just have to check into it then. Okay. [LB1169]

MATT CLOUGH: Uh-huh. [LB1169]

SENATOR JOHNSON: I think it might be the mechanism that we go about it then, Senator Gay, is that we be doing. I think that you're comments are well taken that we need to figure out the mechanism for this to work as well. Senator Howard. [LB1169]

SENATOR HOWARD: Thank you, Senator Johnson. You talked about the individuals that were referred by their commanding officer for treatment and it sounded like these were kind of exceptions to the rule. So who provides a payment then? Whose responsible for the payment? [LB1169]

MATT CLOUGH: There are discretionary funds that a commander has that he can allocate towards health benefits for his or her soldiers and those funds come out of

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that... [LB1169]

SENATOR HOWARD: And that's federal, that would be federal funding? [LB1169]

MATT CLOUGH: Yeah, DOD funding which would be federal, I would assume, yeah. [LB1169]

SENATOR HOWARD: All right. Thank you. [LB1169]

MATT CLOUGH: Uh-huh. [LB1169]

SENATOR JOHNSON: One more from Senator Gay. [LB1169]

SENATOR GAY: Sorry, we'll just follow up with what Senator Howard says. If there's...can we currently do that then, could we go seek those federal funds if we had a need that, I mean, I'm sure they want to get the best care for the soldiers. So is there money that we could go receive from the Department of Defense that we should be looking into for to provide these services? [LB1169]

MATT CLOUGH: I think the, you know, I think the ideal would be that the federal government would make accommodation to provide this service but as it stands right now, there is no broad accommodation within TRICARE rules and regulations that would accommodate it. And so it's a...and so what it does is, it pushes a commander to take individual action to try and get what that individual feels is appropriate for their subordinates. [LB1169]

SENATOR JOHNSON: Senator Pankonin. [LB1169]

SENATOR PANKONIN: You mentioned it before, you mentioned again, when an individual commander would have done that, who paid for that? Did the federal government pay? I mean, how was the mechanism for... [LB1169]

MATT CLOUGH: I'm sorry, I can't, I don't know the all...I know that, again from what I understand in visiting with those commanders, they have discretionary dollars to accommodate specific health care needs that they think are appropriate for their soldiers. And I am, again I'm assuming that that's part of an allocation that they receive by virtue of their command from the DOD. [LB1169]

SENATOR PANKONIN: Okay. Thank you. [LB1169]

SENATOR JOHNSON: Another question. Senator Gay. [LB1169]

SENATOR GAY: Senator Johnson, thank you. And this isn't so much a question but it's

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a comment I think needs to be made. I have a close friend whose in the Guard and I know that the Nebraska National Guard does everything they can to, they go to Washington many times to demand the things for our soldiers, so I don't want it to be misrepresented here in any way that they're not doing all they can. So all I was referring to, I think Senator Howard too, if there's another mechanism we're just trying to ask you that maybe we need to look, explore this so. But I don't want that out there at all because I know some people are here but I know they go and really search for all the best care they can everywhere. General Lempke even alluded to that when he was in on another matter so I just wanted to put that out there. [LB1169]

SENATOR JOHNSON: Yeah, and I think that's right but we need to all stick together to do the best we can for these people. As we talked earlier, I think it's inexcusable that there are any people that we ask to endure all this and then don't help them when the consequences have been suffered. [LB1169]

MATT CLOUGH: Yeah. This is perhaps an aside but there were actually a series of articles in the Omaha World-Herald this past summer and that highlighted individuals who had served in Operation Iraqi Freedom that had suffered closed head injuries and they talked about the impact that those injuries have had on their lives. And those, I think, there were six vignettes in the World-Herald and those six vignettes did a nice job of highlighting the issues that this bill is designed to address. [LB1169]

SENATOR JOHNSON: Well, thank you very much for coming. [LB1169]

MATT CLOUGH: It's my pleasure. [LB1169]

SENATOR JOHNSON: Appreciate it. [LB1169]

MATT CLOUGH: Thank you. [LB1169]

SENATOR JOHNSON: (Exhibit 1) We also have a letter of support from the Nebraska Hospital Association and do we have any other proponents? I see none. Any opponents? Any neutral? I see none. Therefore, that concludes the hearing on LB1169. Shall we go into Exec here again? Let's take about a five-minute break and go into... []

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Disposition of Bills:

LB1108 - Advanced to General File.

LB1169 - Held in committee.

Chairperson

Committee Clerk