January 21, 2016

Senator Kathy Campbell
Chair, Health and Human Services Committee
Room 1402, State Capitol
Lincoln, NE 68509

Chairwoman Campbell and members of the Health and Human Services Committee,

On behalf of Nebraska Appleseed, I am testifying in support of LB 746, the Nebraska Strengthening Families Act (NSFA).

We strongly support LB 746 because it implements best practices in the recent federal Preventing Sex Trafficking and Strengthening Families Act ("Strengthening Families Act" or "SFA"), reconciles Nebraska statute to be in compliance with federal law, and reflects the input of more than 200 youth and other local stakeholders through stakeholder meetings, surveys and focus groups of young people and foster parents.

I also serve as the co-chair of the Strengthening Families Act task force, a group of stakeholders, with youth at the forefront, which was recently formalized under the Nebraska Children’s Commission, but I am testifying today on behalf of Nebraska Appleseed. As part of LR 248 (Sen. Campbell, 2015), the stakeholder group released a report summarizing the stakeholder feedback and recommendations for how we can fully implement the normalcy provisions of the SFA to improve opportunities and outcomes for children and youth in foster care (see attached). LB 746 closely reflects the recommendations in the stakeholder report.

LB 746 and the normalcy provisions of the federal Strengthening Families Act are all about letting kids in foster care be kids. Research has shown us that many of the normal, everyday experiences that kids have growing up, like getting a driver's license, sleeping over at a friend’s house, or having a part-time job, are actually very important to their social development. It turns out that being allowed to be a kid is very important to becoming a healthy adult. But, for years, many kids in foster care have faced bureaucratic barriers to these growing-up experiences. Even if their foster parents wanted them to, they face a lot of red tape just to do things like go on a class field trip or go to prom. However, with the passage of the new federal SFA and LB 746, many of these barriers can be removed and it will be easier for children and youth in foster care to do the same things as other kids that teach them how to form relationships, be responsible, and learn to be an adult.

In my testimony today, I will provide an overview of the provisions of LB 746 and highlight where each provision tracks federal requirements and/or reflects stakeholder recommendations and best practices.
Before providing an overview of the provisions, I want to mention that the Nebraska Department of Health and Human Services (DHHS) has made policy changes and issued proposed regulations regarding the agency's compliance with the SFA. In addition, as a result of Sen. Campbell and this Committee's leadership in recent years, our state statutes track the federal Fostering Connections Act and include a number of best practices related to Fostering Connections Act, which was the 2008 precursor to the SFA. So while Nebraska is already ahead of the curve in many ways, there is more work to be done to fully implement the SFA in Nebraska and improve outcomes as the federal law intends for children and youth.

- **Reasonable and Prudent Parent Standard (RPPS)**

**LB 746 implements the federal SFA's Reasonable and Prudent Parent Standard** ("RPPS") to allow caregivers (i.e., foster parents and designated individuals at group homes, as required by federal law) to use their best judgment in determining in what age- and developmentally-appropriate activities youth in their care may participate.

Consistent with federal requirements, LB 746 puts into place requirements for the Nebraska Department of Health and Human Services ("the department" or "DHHS") to provide documentation in their court reports that the child has access to opportunities to engage in these age or developmentally appropriate activities and that the RPPS is being followed and for the juvenile court to make determinations. Also consistent with federal requirements, LB 746 requires DHHS to adopt regulations regarding training for foster parents and implements liability protections for caregivers acting within the RPPS.

LB 746 also reflects strong stakeholder consensus to include factors for caregivers to consider when applying the RPPS and to be clear that the RPPS does not impact the constitutional and other existing rights of parents.

- **Youth Notice of Rights**

**LB 746 implements the federal SFA's requirement to provide youth ages 14 and older with a list of their rights** that are explained to them in a developmentally appropriate way, including rights with respect to education, health, visitation, court participation, the right to be provided with a copy of any consumer report and the right to stay safe and avoid exploitation. LB 746 also reflects the input of young people that they receive the list of rights in a hard copy format within 72 hours of placement and at every dispositional and review hearing and that a document with the list of rights be publicly posted at group homes.

As a result of input from youth, LB 746 also requires that the document include other rights, including the right to understand the system in which the child is involved and to have their voices heard in their case.

In focus groups with young people and in working with them as advocacy partners over the years and through intakes to our office, we have heard repeatedly, that too many youth in foster care do not understand the system and process. The federal SFA and LB 746 are intended to address this problem and prevent the disempowerment and disengagement it can create.

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1 The federal SFA also contains a number of important provisions related to identifying and protecting children and youth at risk of sex trafficking and changes to federal adoption incentives and family connections grants, among other things. LB 746 focuses on the normalcy and youth engagement provisions of the SFA. Measures have been taken and are underway to address trafficking in Nebraska, including a taskforce through the Nebraska Attorney General's Office.
Case Planning

LB 746 implements the federal SFA requirement to create a more youth-driven process to improve transition planning, including requiring that transition planning begin at age 14 (instead of age 16 under previous federal law), that youth be given the option to select up to two members of their case planning team, and that the plan is developed in consultation with the youth and describes the services needed for the youth to transition to "a successful adulthood" (previously called "independent living").

LB 746 also reflects strong youth and stakeholder input that the department should offer opportunities for youth of all ages (not just 14 or older) the opportunity, in an age or developmentally appropriate manner, to be consulted in the development of their case plan, and to document in the case plan what efforts were made to involve and engage the child in the development of their transition plan. LB 746 also reflects youth and stakeholder input that the juvenile court should ask the youth if they participated in the development of their case plan and make findings about whether they were involved in case planning.

Pre-Discharge Documents

LB 746 implements the federal SFA requirement that HHS provide youth leaving foster care with vital documents, including their birth certificate, social security card, health insurance information, medical records and state ID or driver's license.

LB 746 also reflects the stakeholder group recommendation that youth be provided a more comprehensive "discharge packet" including information on siblings, relatives, after-care services and benefits, and educational records. LB 746 also reflects the stakeholder recommendation that the case plan document that the youth has received these documents and that juvenile court make a finding at the last court review before discharge that the youth had access to the required documents before the case is closed.

These provisions are important because documents are essential to ensuring youth have what they need to secure housing, apply for school or work, get appropriate health and mental health care and access other forms of assistance.

APPLA

LB 746 implements the federal SFA requirement to eliminate the use of APPLA for youth under age 16 and put into place mechanisms to ensure permanent connections and support are still pursued for youth over age 16.

By way of background, the permanency goal of APPLA was created by Congress to replace "long term foster care" and to encourage agencies to better meet the individual needs children for whom other permanency goals – like returning home, adoption or guardianship – are not appropriate. However, too often, APPLA has become an easy way out for states; rather than continuing to look for planned permanent living arrangements for children and youth who they think will not or cannot be returned home, adopted, or placed with guardians, agencies too often turn to independent living or residential placements rather than attempting to reengage family members or other important people in the youths' lives who could be permanent connections. As a result of these concerns, this provision attempts to limit the use of APPLA to only those youth for whom
other permanency goals are truly not appropriate. Specifically, the SFA directs states to eliminate the use of APPLA as a permanency goal for youth under age 16. However, for youth ages 16 or older (who, under the SFA, may still have a plan of APPLA), the SFA puts in place additional mechanisms to ensure permanent connections and support are still pursued.

LB 746 brings Nebraska statute in compliance with this requirement. LB 746 also implements a stakeholder recommendation to ensure older youth that still have a permanency plan of APPLA have supportive connections by identifying in the case plan adults willing to be consistently involved in the child’s life as the child transitions to adulthood.

- **Oversight of the Nebraska Strengthening Families Act**

Finally, LB 746 will ensure the federal SFA is carried out through:

- **Oversight by guardians ad litem** by requiring that their written reports and recommendations to the court to include the provisions of the SFA concerning the child’s access to activities, notice of rights, involvement in case planning, and participation in court.
- **The statutory creation of the Normalcy Taskforce**, under the Nebraska Children’s Commission, to monitor and make recommendations regarding the implementation of the NSFA and normalcy for children and youth in foster care are related populations. Additional areas of focus include considerations of RPPS activities, populations, training, grievance process, community and family voice, cultural considerations, and youth rights.

**Conclusion**

The Strengthening Families Act provides requirements but also an important opportunity for children and youth in foster care. LB 746 insures Nebraska meets federal requirements and also maximizes the opportunity to improve permanency and the foster care experience and outcomes in Nebraska.

We want to thank Senator Campbell for her leadership on these issues and this Committee for your important role in improving Nebraska’s foster care system. We ask that you vote to advance LB 746 out of Committee.

Sincerely,

Sarah Helvey, J.D., M.S.
Child Welfare Director

Attachments:  
- LB 746 fact sheet
- LB 746 section reference chart
- Letting Kids Be Kids: Nebraska’s implementation of the Strengthening Families Act  
  (with stakeholder recommendations fact sheet)
- Normalcy infographic