[LB1121 LB1122 LB1176]

The Committee on Health and Human Services met at 1:30 p.m. on Thursday, February 21, 2008, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1121, LB1176, and LB1122. Senators present: Tim Gay, Vice Chairperson; Philip Erdman; Tom Hansen; Gwen Howard; and Arnie Stuthman. Senators absent: Joel Johnson, Chairperson; and Dave Pankonin. []

SENATOR GAY: All right. Well, thank you all for coming today. We'll get started a little bit behind, but we'll get started. Senator Joel Johnson is not with us today. My name is Tim Gay. I'll be presiding chair for today. Senator Gwen Howard from Omaha is here. Senator Tom Hansen from North Platte will be joining us soon. Senator Arnie Stuthman is here. Our clerk, Erin Mack will be taking minutes. And if you could, when you come up to testify, please state your name and spell it out because it's being recorded and it helps her when she's transcribing these later. So if you could do that and if you don't we'll give you a friendly reminder. Our committee counsel, Jeff Santema, and Senator Phil Erdman from Bayard is here. So we'll get started today with...we have three bills, LB1121, LB1176, and LB1122 that we'll be hearing. And like I say, we'll kind of...if we could, and we always say this, in the interest of time we want you to be not repetitive or anything because when you're the third or fourth one down the list and it's getting to be about 5:00, they have every right to be heard and our attention as somebody who were starting at 1:30. So out of respect for the people behind you, we'd like to not be repetitive, and I think it makes a better testimony if you're not repetitive and you add new information. So if you bear with us, we'd appreciate that. So we will get started and I think Roger--Senator Hansen is joining us--Roger, you would be introducing for Senator Johnson? We'll go ahead and get started on the public hearing on LB1121. []

ROGER KEETLE: Good afternoon. For the record, my name is Roger Keetle, K-e-e-t-l-e. I am the legislative aide for Senator Joel Johnson. Senator Johnson extends his apologies. He's ill today and is recovering at the condo, hopes to be back tomorrow morning. With that, Senator Johnson introduced LB1121 on behalf of advocates for persons with disabilities to continue the discussion about the so-called Medicaid Buy-In. This bill is a reintroduction of LB625, a bill that Senator Combs introduced in 2005. It is not the first time that a bill like this has been heard by the committee. The bill adopts the Medicaid Insurance for Workers with Disabilities Act. The bill requires the payment of medical assistance on behalf of persons with disabilities who are employed and whose family income is less than 450 percent of the Federal Poverty Level. Allowable assets for participation of the program are $20,000 for a family of 1, $30,000 for a family of 2, and $40,000 for a family of 3 or more. Recipients whose families income is at least 100 percent of the Federal Poverty Level may be required to pay a premium for their Medicaid coverage using a sliding scale or tiered fee approach. But the premium may not exceed 7 percent of the recipients families unearned income, plus 3 percent of the recipients families earned income. The bill requires the Department of Health and

Human Services to provide education and training about the program, conduct outreach and education, submit an annual report, and establish a Medicaid Insurance for Workers and Disabilities Program Advisory Committee. The department is required to adopt rules and regulations to carry out the act. We know that there are many citizens here today who would like to talk to the committee about this issue. I would just like to repeat the Chair's admonition that testifiers who follow me be brief and to the point and do not repeat what someone else has already said. Senator Johnson does not believe the bill currently is in the form that it should be in, but Senator Johnson hopes that it will continue a dialogue about this important issue. People with disabilities want a hand up, not a hand out. Nebraska's policy makers should explore all options to make people as productive as possible. That concludes the opening that's been prepared for Senator...thank you, Senator Gay, and members of the committee. Do you have any questions? [LB1121]

SENATOR GAY: Thank you, Roger. Are there any questions from the committee at this time? I don't see any now, Roger. Okay. Thank you. We've got a packed house today. Could I see a show of hands those who would be a proponent of this bill, LB1121, that want to speak as well? Okay. All right. All right, you all get a chance to speak. No problem. If something has been said and you just along the way and you want to sign that you're a proponent as well, we can get you a sheet to do that. Any opponents that will be speaking on this? Okay. We have one back there. And then anybody in the neutral capacity? Okay. So like I say, there's quite a few and we're looking forward to hearing from you. So we can start working your way up however you want to approach it. Here we go. [LB1121]

KATHY HOELL: (Exhibit 1) Hello. My name is Kathy Hoell, H-o-e-l-l. I am the executive director of the Nebraska Statewide Independent Living Council. Before I begin testifying, I would like to have it included in the record that I have requested an accommodation of extended time because of my disability under the Americans of a Disabilities. Okay. The Nebraska Statewide Independent Living Council is a federally mandated organization under the rehab act of 1972 as it was amended in 1992. We're a nonprofit organization dedicated to ensuring and increasing independent living for Nebraskans with disabilities. We are here in support of LB1121, the Medicaid Insurance for Workers with Disabilities Act. First of all, we want to make it very clear this act only covers people with disabilities who are already on Medicaid. This is not an expansion. There are not going to be any additional people clambering out of the woodwork to get on this program. This is for people with disabilities who want to work and who receive Medicaid. Currently there is a limited Workers with Disabilities Act in Nebraska that does create...does cover some people. But I think at the current time, there's less than 90 people on the program, and only 4 of those people are actually paying a premium. In the program that we have now, the trigger for paying a premium is 200 percent of poverty to 250. We're talking about lowering that trigger to 100 and raising it to 450 so that there will be more people who will have to pay premiums. The state is going to benefit from this because we have got

more people paying premiums for insurance. We have more people that will be paying income taxes. We have more people that will be paying sales taxes because when you make money, you spend money. It's a fact of life. And they will be. In the benefits of their communities, by spending this money, is you can't even measure that. There have been instances that we are familiar with where people with disabilities have been offered jobs and because of the way the current system is, they've had to go in and negotiate the salary down. That seems rather ludicrous to me. I've known individuals who have worked in places 15 years who have never taken a raise. They limit their hours every time substantial gainful employment comes up. They have to cut their number of hours they work down by two hours or whatever. So I mean, we are forcing people with disabilities into roles that they don't want to be in. One of the main things that this bill does do is it increases asset levels. Currently in the state of Nebraska, if you're single you can only have assets of $2,000; if you're married, up to $4,000. We're talking about raising these to $20,000, $30,000 and $40,000 as Mr. Keetle pointed out. This allows people to save money so they can buy the house they want, they can buy those big ticket items, they can save money for an emergency because they do come up, whether you're a person with a disability or just any Joe Blow on the street. Those emergencies do come up. And I think the next really big component of this bill is it allows people who are medically improved to stay in the program. These are the people who Social Security determines after they go to work. They are what is called medically improved and our state recognizes medically improved as a reason to kick somebody off of Medicaid. These people would not be kicked off. We've got people, particularly with psychiatric disabilities, who have really high medication costs. They cannot afford to lose their Medicaid. So what happens is we end up telling the people with disabilities go sit in the corner and don't bother us. And that isn't just...I thought we were better than that. But I think the part that I like most in this bill is the department would have to develop some strategies to increase the utilization and the effectiveness of this bill. Currently, the staff at HHS doesn't even consider the possibility that people with disabilities could and can return to work. That option is just not in their mind-set. The only thing we would like to see added to this bill, and this was missed on the drafting, was that if this bill is passed and enacted, we would like to see the other one sunsetted, taken out of play and that the people that are currently, the 90 people that are already on the Buy-In, would essentially just be transferred to the new one. Are there any questions? [LB1121]

SENATOR GAY: All right. Are there any questions from the committee? Senator Hansen has one. [LB1121]

SENATOR HANSEN: I have one. Thank you for being here, Kathy. I really appreciate when you came to my office and explained this bill, and I've looked at the fiscal note and I still don't understand that either because I agree with you that it shouldn't be... [LB1121]

KATHY HOELL: The fiscal note doesn't take into consideration the things that would be coming back to the state in the form of the revenue and the premiums, the taxes, and all the benefits it would have. [LB1121]

SENATOR HANSEN: And there's not going to be a flood of people coming into the system just to get these benefits. So... [LB1121]

KATHY HOELL: Yeah. I mean we don't (inaudible) way to become disabled. [LB1121]

SENATOR HANSEN: Thank you. [LB1121]

KATHY HOELL: Thank you very much. [LB1121]

SENATOR GAY: All right. Thank you. Hold on. Any other questions? I don't see any. Thank you, Kathy. [LB1121]

KATHY HOELL: Um-hum. [LB1121]

SENATOR GAY: I was remiss. If you want to testify, I'd forgot to say, you do need to fill out a testifier's sheet, and if you don't have one, Molly can get you one. Just keep your hand up. But anyway, this is a little information we ask for. So if you don't have one, raise your hand and we can get it to you and it looks like everyone does. Okay. Great. All right. Next proponent who would like to speak. [LB1121]

TIM KOLB: (Exhibit 2) While I'm getting ready, my name is Tim Kolb, that's T-i-m K-o-l-b. I'm from Franklin, Nebraska. I'm also a member of the Nebraska Statewide Independent Living Council. And in the interest of not being repetitive, I will allow you to just read my testimony and I will address some issues that maybe need to be discussed. Some things that you need to know to understand the importance for changing the current MIWD or Medicaid Insurance for Workers with Disabilities, to this new one I always referred to as the upgrade to the MIWD. If you are a person with a disability and you have extremely high costs for your disability, you become very reliant on Medicaid to provide for the medical treatments, whether it might be or equipment that you might require to live from day to day. I use myself as the example. Before I give you that detail, let me tell you that if this bill is passed it won't help me in the least. And that's okay because I have alternatives to this that the people who need this bill don't have. And we continue. My disability-related costs are $107,000 a year. So you can imagine I don't dare lose Medicaid. At the same time, I very much want to be employed and earning an income. In fact, until recently I was employed. But now I'm not. I'm working toward getting new employment. But the fact is I must maintain and others like me must maintain their Medicaid, the medical benefits. To that end the federal government realized it was necessary to put into action some regulations, which we now refer to as work incentives. Work incentives are designed to address various needs and issues and

situations that people with disabilities experience. But ultimately the work incentive works toward allowing that person to be employed and be productive without fearing the loss of Medicaid. There's a magic number, however, that if you go beyond you will lose Medicaid unless you have a work incentive. That number, in 2008, is $940 per month. That's referred to in Social Security as substantial gainful activity. Essentially Social Security says if you're making that much money you don't need to be on Medicaid. In fact, we will often categorize you as medically improved, even if you're condition has not changed because Social Security is not so much interested in your condition as they are in whether you can make money to earn a living. The problem is earning a living in terms of being a person with a disability is radically different than for the average able-bodied able-minded person. We have expenses that are far beyond what most people have. So the work incentive says, okay, we're going to ignore the magic number, the $940, understanding that your situation doesn't correspond to the average able-bodied citizen. So you could maintain Medicaid. This bill is a work incentive. That's what it does. It prevents people from losing Medicaid even though they're making a living. The nice thing about it is that that person doesn't just get it for free, they pay premium payments like buying an ordinary insurance program. What could be more fair? Now, this work incentive typically applies to people who are on what's known as SSDI, Social Security Disability Insurance, which is really like taking an early retirement. If you hear people say I'm on disability, they really mean SSDI. This bill, as I said in my written statement, is a quantum leap of an improvement over the current legislation that is now in action. The current MIWD is better than nothing, but the reason it doesn't have very many people using it is because of its eligibility test. It's a two-tiered test which is so complex and convoluted I won't even bother to take you through it. It's so bad that when it was first introduced even the people who were responsible in helping clients apply for it didn't know how. So we've only rarely had times when there were 100 people in the entire community of people with disabilities taking advantage of this. Let me conclude with these remarks, then I'll entertain your questions. Susan, I'm going to have you (inaudible) my paper because I can't see them (inaudible). The vast majority of Nebraska citizens with disabilities who would be eligible for the MIWD are already on Medicaid, so there should not be the dreaded bank-breaking (inaudible) of people who don't deserve this program trying to use the MIWD. In fact, many of these individuals have disability-related costs that extremely high jobs with wages that ordinarily would be more than adequate for the average able-bodied person would not be sufficient to pay for the typical monthly expenses of such things as groceries and rent in addition to the astronomically high disability-related costs. For such people, competitive employment without Medicaid is oxymoronic. So the question is do we pass this bill and help people with disabilities to go back to work and be productive, taxpaying citizens or do we kill this bill and keep people dependent on public assistance programs and the often fleeting (inaudible) of government? If you're a fire-breathing gun-carrying fiscal conservative or a flaming, bleeding heart liberal, LB1121 is your kind of legislation. Do something that makes sense, makes good sense, pass LB1121. Your questions? [LB1121]

SENATOR GAY: All right. Thank you, Tim. Any questions from the committee? I don't see any right now. Thank you, Tim. [LB1121]

TIM KOLB: Thank you. [LB1121]

SENATOR GAY: Thank you for your testimony. [LB1121]

RICHARD SKERBITZ: (Exhibit 3) My name is Richard Skerbitz, R-i-c-h-a-r-d S-k-e-r-b-i-t-z. Senator Gay, members of the Health and Human Services Committee, good afternoon, and thank you for allowing me the opportunity to be here. I'm here on behalf of the League of Human Dignity to testify in support of LB1121. Full integration into society is being able to access the means to independence. Fully integration to society is also the mission of the League of Human Dignity. There are two functions of independent living many times that work against each other, complicating this process: employment and the complications of insurances. In 2007, the United States Department of Labor in their census information estimated that unemployment rate for people with disabilities was around 55 percent. A few years ago, researchers from the Urban Institute analyzed reasons for unemployment and not surprisingly they had found that in the top ten list was a fear of losing medical benefits. We support LB1121 as it would decrease the restrictions by increasing the allowable income and assets and paving the way for individuals with disabilities to buy into Medicaid coverage by paying a small premium. We urge the passing of this bill so people with disabilities can take another step to live their lives to the maximum potential. Thank you very much. [LB1121]

SENATOR GAY: Thank you, Richard. Richard, I have a question for you. We have some questions. Senator Stuthman. [LB1121]

SENATOR STUTHMAN: Thank you, Senator Gay. Richard, if this bill were passed would it really benefit you and tell us how it would benefit you? [LB1121]

RICHARD SKERBITZ: Me personally? [LB1121]

SENATOR STUTHMAN: Yes. [LB1121]

RICHARD SKERBITZ: No, sir. It would not benefit me personally. I am here on behalf of the league in support of people with disabilities because of the staggering figure of the unemployment rate of people with disabilities. The number one--if I may go back to the study that I referenced earlier--the number one reason for the unemployment rate was because the job wasn't feasible or it wasn't appropriate. And when we consider employment and we think about appropriateness, the appropriate job is one that provides the needs for people. That's why we work. And people with disabilities, as I

said, with the complication of employment and insurance, the two battling against each other, this would delineate some of that. [LB1121]

SENATOR STUTHMAN: Okay. Thank you for that information. Another question that I have which your answer led into it, you have in here that the unemployment rate is about 55 percent. If this was passed, what level would you hope to get it to, 35 percent or 20 or have you any idea? [LB1121]

RICHARD SKERBITZ: I don't have any idea. [LB1121]

SENATOR STUTHMAN: But we hopefully would lower that 55 percent. [LB1121]

RICHARD SKERBITZ: That's correct, yes. [LB1121]

SENATOR STUTHMAN: That would be the main object of this bill. [LB1121]

RICHARD SKERBITZ: Yes. [LB1121]

SENATOR STUTHMAN: Okay. Thank you, Richard. [LB1121]

RICHARD SKERBITZ: Thank you. [LB1121]

SENATOR GAY: Richard, I have a question for you. Tim talked about this magic number, the $940. When were those numbers established? Have they ever been changed or indexed for inflation at all? Do you know just offhand? I see some people shaking their heads. Maybe they can answer if you don't know. [LB1121]

TIM KOLB: I can help with that. Every year, the substantial gainful activities is adjusted for the next...last year, yesterday was $900 per month. So it changes from year to year. [LB1121]

SENATOR GAY: Okay. Okay. Thank you, Tim. Thank you, Richard. [LB1121]

RICHARD SKERBITZ: Thanks. Any other... [LB1121]

SENATOR GAY: All right. I don't see any other questions. Thank you, Richard. [LB1121]

BILL CRAWFORD: If you don't mind... [LB1121]

SENATOR GAY: Oh, hold on one... [LB1121]

BILL CRAWFORD: I'll make my testimony real brief, then I'll let Richard come up and

then I'll come back up. [LB1121]

SENATOR GAY: Okay. [LB1121]

BILL CRAWFORD: Okay? [LB1121]

SENATOR GAY: You bet. [LB1121]

BILL CRAWFORD: I'll be brief. [LB1121]

SENATOR GAY: That's all right. [LB1121]

BILL CRAWFORD: (Exhibit 14) Okay. And we have my sign-in sheet and I'll be brief. [LB1121]

SENATOR GAY: Go ahead and state your name too for the record. [LB1121]

BILL CRAWFORD: It's Bill Crawford, and the last name is C-r-a-w-f-o-r-d. [LB1121]

SENATOR GAY: Thanks, Bill. [LB1121]

BILL CRAWFORD: I won't repeat what a lot has been said. I just want to make a couple of points. With this bill, it would increase the eligibility for people with disabilities to be employed. You're tapping into a resource that the state could use. You've got people that aren't productive citizens that could be productive citizens if given the chance. And if they're employed, it's better to have some return on your money for Medicaid than no return at all. And I just feel that if you pass this bill, that would increase the poverty level and give more people with disabilities the chance to go back to work and it wouldn't be such a hardship for them. And you're tapping into an employment force that the state could use. [LB1121]

SENATOR GAY: All right. Thank you, Bill. Senator Stuthman has a question. [LB1121]

SENATOR STUTHMAN: Thank you, Senator Gay. Bill, do you feel that people with disabilities, if they could have an opportunity to work or be employed, they would feel and get a sense of responsibility that they are contributing to the society of Nebraska? [LB1121]

BILL CRAWFORD: Yes. That's why I personally...and I don't want to brag on myself, but that's why I personally went through the men's shelter for a couple of days a volunteer and I got a sense of what they went through down at the City Mission. I also was employed gainfully for 14 years at Pizza Hut. But because of my income, I was going try to lose my benefits and I had to have someone step in and help me. This premium if

you raise it may give people with disabilities more of a chance to be employed, and we cannot lose in effect the Medicaid Buy-In that this bill provides. We have to keep up with the surrounding states. And I read in the bill that we're doing this in relationship to people in other states in the surrounding areas. So we can't...the percentage may be a little high and that's fine. You want to continue the dialogue. We're more than happy to continue the dialogue, but we need to tap into our source of people with disabilities who can and should be gainfully employed and not lose their Medicaid insurance. People should work up the ladder of success and not down. And that's people with disabilities are a valuable asset to society. And it's better to have productive citizens than people that you have to always...you know, it's better to have productive citizens in society that are working and contributing. Any other questions? [LB1121]

SENATOR GAY: Let's see, any other questions from the committee? I don't see any. Thanks, Bill. [LB1121]

BILL CRAWFORD: All right. [LB1121]

MARY ANGUS: (Exhibit 4) Senator Gay, members of the committee, I thought this was to be a perfect time for me to come up and give my testimony. After Senator Stuthman's request because I am one of the people that would benefit directly from this particular bill. My name is Mary Angus, M-a-r-y A-n-g-u-s, just like the cow. I too am on the Statewide Independent Living Council, but I came here today to speak on my own behalf regarding LB1121 regarding Medicaid Insurance for Workers with Disabilities. Approximately two years ago I began Angus Disability Consulting. I am using the Ticket to Work program to help me get it going. I provide consultation on a wide variety of disability issues from advocate training to voter's rights. I am on what is informally known as the Medicaid Buy-In. Building a business like mine has been a slow process. I rely on Medicaid to cover my healthcare needs. If I were not receiving Medicaid benefits I would be unable to afford most of my healthcare. Without that, my condition would deteriorate leaving me unable to work. Although typically an energetic person, the depression that I have experienced leaves me unable to get out of bed. I may not believe I should even be alive. I have been blessed with a treatment team that did not give up on me. I have been blessed with the opportunity to make a difference in the world. However, with Medicaid Insurance for Workers with Disabilities as it is currently structured, I cannot save money. Under the Easter Seals benefit analysis--I'm just going to make a side comment here--I have been told that under my program I can have up to $4,000 in resources. My resources cannot be more than $4,000 as a single person. My income varies from month to month. I am not always able to find a project to work on. If I am to make a success in my business, I need to have some money to fall back on. If I'm not able to make a good income one month, I need to be able to lean on that other funding that I would have saved up. I currently pay no premium. With LB1121, I would begin to pay a premium because I have earned and unearned income over the Federal Poverty Level. I would happily pay a premium when it means that I can continue to

work. I don't want to lose the opportunity to earn a living again after 13 years of being unable to work due to my healthcare needs. Of the features of LB1121, the resource level is the most important to me. Please pass the bill out of committee so it can be debated on the floor. I'd be happy to answer any questions. [LB1121]

SENATOR GAY: Thank you, Mary. Senator Hansen. [LB1121]

SENATOR HANSEN: Thank you, Senator Gay. Mary, thank you for coming today. [LB1121]

MARY ANGUS: Thank you, Senator. [LB1121]

SENATOR HANSEN: Explain to us just briefly how you would earn too much money in one period and you would lose the Medicaid benefits or have you ever done that? [LB1121]

MARY ANGUS: What it would be actually is the resource level. I could earn what I'm earning right now, but if I don't have...like if I were to get paid for a good project one month and I had the money in the bank, I could lose Medicaid because my savings were too high. Or if I owned some kind of real estate or a life insurance plan or something like that I could lose Medicaid because the resource level is set at $4,000. [LB1121]

SENATOR HANSEN: What is the process then you have to go through assuming that you can't find work for a month or so? So how do you get back in the Medicaid system? What is that process? [LB1121]

MARY ANGUS: Oh, no. I'm sorry. I am still in the Medicaid system. I have not left the Medicaid system. What would happen though is if I were to be able to save enough money so that I could get through the lean months, because at some point I would be losing my Social Security check and everything. And that would be if I were to save money so that I could get through those lean months. You know, they talk about what 20 percent of your income should be in savings or something like that. I don't have any way I can do that and still keep the Medicaid. I would loss it because I had done the responsible thing and saved money for a rainy day type of thing. Thank you for your question. [LB1121]

SENATOR HANSEN: Right. Correct. I appreciate you pointing that out. [LB1121]

SENATOR GAY: Senator Stuthman. [LB1121]

SENATOR STUTHMAN: Thank you, Senator Gay. Thank you, Mary, for your testimony. [LB1121]

MARY ANGUS: Thank you, Senator. [LB1121]

SENATOR STUTHMAN: The current system we have now then, the way I'm understanding it, is there's no incentive to be a little bit more responsible earning some money. It almost gets to be a penalty because if you finally get to the point where you could generate some income and then you lose on the other end and it's a penalty. There's no real incentive to get off of the disability part of it. But you can't get off of the disability. I mean, you have a disability. And you know, we're not rewarding, in my opinion, the people that are mentally capable to try to generate some income for themselves. Is that... [LB1121]

MARY ANGUS: Correct, Senator. Actually, I think in terms of your using the word "penalty," that would be the most appropriate word. It's more than a disincentive if I were to lose my coverage at this point. I've only been stable enough to try to go back to work for approximately two years. If I were to deteriorate, I would not be able to work. If I were to be able to keep the Medicaid long enough so that I could get into a successful place with the business and be able to afford my healthcare, unlike Tim I don't have the incredible medical needs that he has, but then I would be able to go. But if I lose the Medicaid prior to that and become more disabled again, then I would be in trouble and I would not want to live with that. I would not. [LB1121]

SENATOR STUTHMAN: Do you feel, Mary, that being able to work is a therapy to your disability? It makes you feel a little bit more responsible and able to do something. [LB1121]

MARY ANGUS: Yes. [LB1121]

SENATOR STUTHMAN: And instead of just being put back in the corner. [LB1121]

MARY ANGUS: Yes, oh gosh, yes. That's exactly it. When I said before that there were times I didn't believe I should be alive, that was very true. And when I'm able to contribute, especially...you know, in our culture money is the way that we view productivity a lot of the times. And so when I'm able to contribute in that way, that really...my recovery began when I started doing my advocacy work. And this level of my recovery has really been incredible since I've been able to start working again. [LB1121]

SENATOR STUTHMAN: Thank you, Mary. [LB1121]

MARY ANGUS: Thank you very much for your questions. [LB1121]

SENATOR GAY: Mary, I've got a question. [LB1121]

MARY ANGUS: Okay. [LB1121]

SENATOR GAY: Although we don't base our self-worth on the amount of money we make or we shouldn't... [LB1121]

MARY ANGUS: No, no, no. I understand that. But for me that's one of the things that I feel like. [LB1121]

SENATOR GAY: I had a conversation with a gentleman this summer actually regarding this. But I guess you're in a consulting business. Is there a...and he brought it to me like I can only go up to this cap and then I'm limited. [LB1121]

MARY ANGUS: Um-hum. [LB1121]

SENATOR GAY: I don't have to be. Some days are better than others, but my employer...he had had pretty stable job for a while and flexibility, he goes, but I just feel like I'm being limited somewhat because my employer...you know, I can't do the extra hours. [LB1121]

MARY ANGUS: Um-hum. [LB1121]

SENATOR GAY: And it just puts a cap or...do you find that a lot in what you've found out so far? I know you have a newer business going. But is that a common problem with people? [LB1121]

MARY ANGUS: Yes, very much so. But I think that's part of the reason that I'm self-employed with my illness, which is bipolar disorder. My energy level can ebb and flow. Being self-employed, I don't have to deal with my employer's requirements that I work overtime. As a matter of fact, I work probably a lot at home that I wouldn't be able to work otherwise. So yes, there's definitely...you can lose your job because you can't work the extra hours that they want. And sometimes that's because of the caps. A lot of the time it's because of the caps. And you know, honestly I hate to hear that because I don't want anybody to think that I wouldn't work as many hours as I could put in because I'd lose something monetary. But I would be losing my health. And so you know, I know that you're not thinking that. I really appreciate your statement. [LB1121]

SENATOR GAY: Yeah. It's a double-edged sword. [LB1121]

MARY ANGUS: But there are times when, yeah, that's a definite problem. [LB1121]

SENATOR GAY: Yeah. I know what you mean. Okay. Thank you. Any other questions? I don't see any. Thank you very much. [LB1121]

MARY ANGUS: Thank you very much. [LB1121]

SENATOR GAY: Other proponents? How many more proponents do we have that would like to speak? One, two, three...about three or four? Okay. Great. [LB1121]

CATHY MILLER: (Exhibit 5) Good afternoon, senators. My name is Cathy Miller, C-a-t-h-y M-i-l-l-e-r, and I'm testifying on behalf of the Nebraska Planning Council on Developmental Disabilities. Although the council is appointed by the Governor and administered by the Department of Health and Human Services, the council operates independently, and our comments do not necessarily reflect the views of the Governor's administration or the department. We are a federally mandated independent council comprised of individuals and families of persons with developmental disabilities, community providers, and agency representatives that advocate for a system change and quality services. The council supports LB1121 to adopt the Medicaid Insurance for Workers with Disabilities Act. We encourage you to pass legislation that promotes rather than hinders the successful employment of people with disabilities. My son is an example of a person who is medically improved and determined to no longer be eligible for benefits. My youngest son is over here. It's his birthday today, so I brought him along. He's 20. I have a son who is 23 years old. He looks like a young, strapping man. He lifts weights. He works the night shift at Wal-Mart. He has epilepsy. He has myasthenia gravis. He has chronic ITP and he has asthma. They decided he was medically improved. He lost his disability benefits. He makes about $250 to $300 a week. He has a $2,000 copay on the insurance. Now, I have to tell you he did not tell them when he made out the application what his medical makeup was. I asked him why not. He said, they'll never hire me because he had been removed from a job because of his illnesses prior to this. So he has struggled during this time to only make necessary doctor appointments, to put off neurologists who say, you know, you need an EEG, we need to check your Falbatol level. Well, I can't do it this month, maybe next month. And the next month he'll miss the doctors phone call, and maybe a couple of months down the road he'll be able to go get this stuff done and be able to pay for it. That is what this bill will help, people like him. It is sad when people with disabilities...my youngest son has Down's syndrome. He appears to be disabled. My middle son, believe me, does not appear to be disabled. He can bench-press 300 pounds. Okay? He does not appear disabled, but he is totally disabled. But because the Falbatol works for his seizures okay and because with his chronic ITP...chronic ITP is where you lose your platelets. Okay? Well, his body thinks of his platelets as enemies, so his body is always destroying his platelets. A normal platelet count is between 250,000 and 500,000. His platelet count generally runs right at 100,000. Blood tests are needed for that. It if gets lower, he needs to take massive treatments. He doesn't have the insurance that's going to cover it. So he goes out and gets himself sick so his platelets go up. For him, his platelets go up when he gets sick. I needed to tell you about Matt (phonetic). He didn't have the courage to come today. So I'll go back now. We need to promote a system of dignity and independence for people with disabilities who, with supports in place, can be the

contributing members of society they want to be. When people with disabilities do find employment, it is often without insurance. In addition, a long-term cost savings to the state would be significant if the medically improved population could be maintained, rather than the continued cycle of bringing them back to that status. Thank you for your consideration. Any questions? [LB1121]

SENATOR STUTHMAN: Thank you for your testimony, Cathy. Any questions from the committee? Seeing none, thank you. Next testifier? Good afternoon. [LB1121]

DAVID FRIED: (Exhibit 6) Good afternoon. Thank you for seeing me today. My name is David Fried. I'm a citizen of the state of Nebraska and I'm a person with a disability. I have schizophrenia. This limits my productivity in many areas such as school and work. But I wanted the chance to better myself by working to try to function in spite of this enormous obstacle. My story is not unique. There are a large number of people with disabilities who inhabit our state with the same problem. We need your help. I'm here today to ask you, as legislators, to make changes in the Medicaid laws that would allow me to work at a job to earn a decent enough income so that I can apply my talents and skills to be a more productive member of society; one where I can lead a more normal lifestyle. I grew up as a normal kid going to elementary school, playing piano, and participating in swimming competitions. I was a straight A student; also went to a program for gifted kids at UNO; was a Rotary Club honor role winner; and won the citywide debate tournament in the eighth grade. I had a promising future. I tried to perform (inaudible) to please my father. Then things changed. At the age of 14, my father died, which doctors believed triggered my schizophrenia. I was hospitalized for three months, taking various medications which had minimal beneficial effects. I had hoped to continue to excel, but was held back by my illness. I then went to Central High School and was barely functioning, receiving Ds and Fs for my grades. They told me I wouldn't finish high school. I was then hospitalized a second time for four months without much overall improvement. I ended up getting a GED. I was able to hold down a part-time job as a busboy. And then I applied to Creighton University, where my father had tenure before he died, at the time achieving only a score of 15 on my ACT to show in my favor. After some hard work and determination and with better medication, I studied for the ACT and received a score of 24. And I applied to Creighton a second time and was actually accepted. I started taking one or two classes a semester, earning average grades at the time. And then a miracle happened. I was started on a new drug which opened up a huge window for me and my future and I felt like I had been given a second chance at life. This drug truly turned my life around. I had determined to prove for myself and others that I was a force to be reckoned with. I started taking 10-12 hours a semester, taking classes like physics and calculus, earning A's in my coursework. My favorite was physics, but I chose to major in political science, which was a faster route towards completing a degree and would hold better job opportunities for me after I graduated. I even went to Washington, D.C., on an internship to lobby for a private group called High Frontier that promoted the Strategic Defense Initiative that was part of

President Reagan's Star Wars defense plan. After getting a B.A. in political science from Creighton, I then went to Metropolitan Community College where I received an associates degree in computer programming. I started out volunteering for former Senator Kerrey's office, also with the Omaha Community Playhouse, and the Martin Davis campaign. I then joined Community Alliance, a mental health rehabilitation program, which would provide me with a promising future. Being 80 to 90 percent functional, I wanted to earn a decent living and get a part-time job with the aid of medication, which costs several thousand dollars a month. At this time, I was on SSDI benefits for my disability. This program had work incentives to help individuals go back to work, which is my goal. After, I started out going through the nine-month trial work period being a database developer for a small insurance company and an express person with Kinko's copying firm. In addition, I honed my computer skills by volunteering to build a database for clients of Lutheran and Family Services. I just wanted a chance to prove myself and do the best I can. I then received A plus certification from Metro, which qualifies myself as capable of repairing computer hardware. Fortunately I can function well in society. Unfortunately my progress is being held back by Medicaid laws which limit the amount of money I can earn a month, thus excluding me from finding any meaningful employment. I still struggle at work due to crippling aspects of my illness, but want to work toward becoming a full-time employee in the future. My ultimate goal is to become a productive member of society, to make a decent living, and progress to the point where I can make my own way in life. The stumbling block for me is that after completing what is called the "three-year extended period of eligibility," which was designed by the state to help mentally ill consumers adjust to going back to work, then Medicaid stipulates that if I earn any substantial income my Medicaid will be terminated, which in turn will take away my medical coverage which I desperately need in order to function, jeopardizing all that I've worked to achieve for these past ten years. This makes it illegal, at this point, to earn over $60 a month in income, which drastically limits my hope of finding any work. In addition, I have to pay approximately $104 a month in spend-down in the form of health insurance from my SSDI check to qualify for Medicaid. Without changes in the system, people like me are limited to a life without a meaningful existence and cannot excel in society. And I know there are others out there just like me. I'm here today to plead to you as legislators to make changes in the Medicaid laws that will let me earn a suitable amount of money, allowing to lead a more normal life. The Medicaid program that can be changed to allow me to do so is called the Medicaid Insurance for Workers with Disabilities. This would be a cost-neutral change as only language would need to be amended. In addition to helping the mental health consumer by allowing this reform, workers would help to contributing to free market economy by the buying of goods and services in the state of Nebraska. Not only would this change help the Nebraska's local economy, but consumers from this would pay into the system actually increasing revenues for government by paying federal and state and local taxes. Finally, any disability work reform require a consumer pay a premium, which just adds even more spending money for the state. This is the only option for mentally ill consumers have if they want to be productive, become more self-sufficient, and lead a

more normal lifestyle. I'm almost through. I didn't ask for this illness. It's not my fault. I'm not looking for a handout. I just want a chance to become a more productive member of society. I know of thousands of others affected in the same way who can't go to work. Many of them go to Community Alliance, which I'm a member of, client of. Ultimately this change would be cost neutral and a win-win situation for all parties involved--including health in consumers, the government, and a healthy economy. There are many, many ill citizens who just want a chance to be given a chance to work. I therefore propose that Medicaid Insurance for Workers with Disabilities be put up for vote in the Unicameral this next session so they can do so. Thank you for listening. [LB1121]

SENATOR GAY: Thank you. Any questions from the committee? [LB1121]

DAVID FRIED: I have a follow-up, if you don't mind? [LB1121]

SENATOR GAY: Very quickly, go ahead. [LB1121]

DAVID FRIED: Sure. You mentioned about resources above the $20,000 limit, like in a bank account, not counting income, but your savings in whatever full monetary form. In my particular case I...this goes against what other people are saying, but I have no problem with earning...being only able to keep $4,000 in the bank account. My main goal is just to get back to work actually. So it would be great if you could help out these people who need the $20,000 or the $40,000 in order to survive. But I just want to let you know that if it's a stress point, I'd just like to say that I could survive on $4,000 of savings just as long as I could work at the same time as I receive my benefits. So... [LB1121]

SENATOR GAY: Okay. All right. Thank you for that. [LB1121]

DAVID FRIED: Okay. Thank you for listening to me. [LB1121]

SENATOR GAY: You bet. No problem. Thank you for coming. Other proponents? [LB1121]

DAVID FRIED: Did everybody get a copy? Thank you. [LB1121]

SENATOR GAY: You bet. Thank you. [LB1121]

ANNIE ANDERSON: (Exhibit 7) Good afternoon, Senator Gay and committee members. For the record, my name is Annie Anderson, spelled A-n-n-i-e A-n-d-e-r-s-o-n. I am here representing the ARC of Nebraska, but I'm also here as a parent. I have 21-year-old son who's just ready to enter the world of work. He has an intellectual disability, as well as having blindness. The ARC of Nebraska is a support

and advocacy organization with and for people with developmental disabilities. The ARC of Nebraska is a statewide organization. We have 17 local chapters and approximately 2,500 members across the state of Nebraska. We're a state affiliated chapter of the ARC of the United States. The ARC of Nebraska strongly supports LB1121. In the past, we've supported Medicaid reform legislation, such as LB709 and LB1248. LB1121 is one of the many reforms that will benefit workers in our state, including workers with disabilities including individuals like my son, George (phonetic). People, Nebraskans, my son all want to work. They are people with intellectual disabilities who are Medicaid recipients who wish to work but cannot because of the barriers they face: going to work and losing their healthcare or many employer provided healthcare plans will not cover preexisting conditions that might be disability related. The only other option is that they have is to remain on Medicaid just to keep their needed healthcare. The ARC of Nebraska believes that Nebraska needs to strengthen economic development and reform Medicaid. We must maintain coverage for those that are the most vulnerable. But we must also expand the opportunity for all people to work. People with disabilities will be able to work and retain their healthcare by purchasing Medicaid through the Medicaid Insurance for Disability Workers Act. We urge you to support LB1121 and would really love it if you'd move it to General File. And do you have any questions? [LB1121]

SENATOR GAY: Thank you, Annie. We'll find out. Any questions? Nope, I don't see any right now. Thank you. [LB1121]

LINDA JENSEN: (Exhibit 8) Good afternoon. My name is Linda Jensen, J-e-n-s-e-n. I am president of the board of directors for NAMI, which Nebraska, which is the Nebraska Alliance on Mental Illness. I'm here to represent NAMI Nebraska. We're the largest organization in Nebraska for support, education, advocacy on mental health issues. I'm also a family member of a person with schizophrenia who has been able to work full time and live in his own apartment as a result of early intervention from very dedicated mental healthcare practitioners and the support of network of family and friends. I'm also a faculty member at a college of nursing and a member of the Nebraska Behavioral Oversight Commission. However, my testimony today represents only NAMI. During the last six years I've conducted qualitative research for the Nebraska Public Policy Center in which my students and I interviewed almost 100 adults in Nebraska who had a broad range of disabilities, including blindness, arthritis, cerebral palsy, and a concentration of mental illness. They were the most courageous people I have ever met. As you can see, the people here today are so courageous. One major concern of each person interviewed was the dilemma of returning to work and the risk of losing their Medicaid. Each person, every one of them considered finding employment very important to returning to as full functioning as they could. For them that was a very important goal that they wanted to meet. However, again they were faced with the risk of would they lose their Medicaid coverage because they needed that in order to keep healthy. One person told was declared medically improved when he graduated from college, even

though he had attended college only part-time. The Medicaid officer that he was dealing with said, okay, you're medically improved, that's it. Even though he didn't have a job, even though he didn't know if he could hold a job, they still said, that's all. So I don't know. I think they got mixed up between schizophrenia and, you know, whether it was...because people with schizophrenia certainly have a normal intellect or more. His Medicaid actually was...even though letters from physician, you know, they just were going to quit it until actually the congressional officer intervened and then they did set up an appeal hearing. He actually was declared, again, disabled. You wouldn't think people would be happy about declaring someone disabled. But he was...you know, it's his lifeline is to have his Medicaid coverage. So you know, the federal Back to Work initiative is wonderful, but it hasn't worked real well in Nebraska because of this problem of the Medicaid, losing the Medicaid. So you know, and like they've said, the people with disabilities are forced to live, you know, on a meager, meager income. They can't even really accumulate enough money to buy a car or a house. It's, you know, an existence that most of us would not like to be in. So I urge you to pass this out of committee. [LB1121]

SENATOR GAY: Thank you, Linda. Any questions from the committee? Senator Stuthman. [LB1121]

SENATOR STUTHMAN: Thank you, Senator Gay. Linda, in your organization how many people would this benefit? The majority of them or a small amount? [LB1121]

LINDA JENSEN: I think a large number of them. You know, I don't have an exact figure because...but there are a lot of people...it tends to discourage you from even trying to go back to work because they say, well, you're going to lose your Medicaid. And so sometimes well-meaning social workers may even tend to discourage them because they look at, you know, that they could lose their Medicaid. And they can't lose their Medicaid because then they can't pay for all their medical expenses. [LB1121]

SENATOR STUTHMAN: Okay. Thank you. [LB1121]

SENATOR GAY: Thank you. I don't see any other questions. Thanks, Linda. [LB1121]

GERALD REDLER: Good afternoon. My name is Gerald Redler, R-e-d-l-e-r. I'm from Scottsbluff, Nebraska, and I'm a member of the Nebraska Independent Living (inaudible). And also I'm the president of the Panhandle Independent (inaudible) Services out in Scottsbluff. I'm a retired vocational rehab counselor, and really understood (inaudible) some of the other people's testimony. If I were to change somebody, offer a job and find out he couldn't get a job because he didn't have medical insurance, I was wasting my money. The second thing I want...it's going to be completely off the subject. This room is not ADA in compliance. I don't have a listening device. I can't hear. There's a device over there that just got the ear bud. It needs a

neck loop or a T cross so I can hear through my ears. And that's all I'm going to say. But I just wanted to bring it to your attention to make a correction on that listening device. I think it's necessary and I will follow up to see that the listening devices are updated. [LB1121]

SENATOR GAY: Thank you. [LB1121]

GERALD REDLER: Any questions? [LB1121]

SENATOR GAY: Any questions from the committee? Thank you for joining us today. [LB1121]

GERALD REDLER: Okay. Thank you. [LB1121]

SENATOR GAY: Appreciate it. You bet. Any other proponents would like to speak? [LB1121]

C. J. ZIMMER: (Exhibit 9) Senator Johnson, and committee members, my name is C. J. Zimmer, Z-i-m-m-e-r. I am from Lincoln and I am here as the chair of the Nebraska Statewide Independent Living Council, a person with a disability, a disability advocate, and the parent of a young adult with disabilities. I'm urging you to support LB1121, legislation that will make it possible for people with disabilities to retain the Medicaid, which allows us to work, to continue to have access to the essential recovery and rehabilitation services that make that employment possible. People with disabilities not only can work, we absolutely want to work. Working is one of the most powerful and important components of recovery. I'm proof of that as a person who receives Medicaid funded services in another state for an extended period of time, which made it possible for me to obtain a professional nursing license and return to work without losing the services that kept work and sustain recovery within my reach. I share that drive to work with every person with disabilities that I know, including those I care for as a home-care nurse. Some of those people you have heard from today. I know many people that have had to choose between working and continuing to receive the Medicaid that makes work possible. These Nebraskans want to work, but have to choose not to because they would lose that very coverage that puts work and contributing within their reach. That's a Catch-22 that no Nebraskan should have to make. We want to work and taxpayers are right in wanting us to work. As workers, we'll add to the tax base, as well as we will be able to purchase goods and services, further strengthening our communities and the state economy. As a parent, I know what a powerful difference that can make because my child had parents advocating for him so that he received the services he needed. He has not had to make the choice between working and being insured. Instead of being institutionalized out of state at the cost to the taxpayers of $100,000 a year, he is now working full time and paying taxes. Work is the best medicine there is for him as a young Nebraskan with his life as citizen in front of him, for me, for Tim Kolb, Linda

Jensen's son, Mary Angus, and many others you've heard from today. Allow us to not have to choose between life promoting medicines. Because my son got the coverage he needed without having to make that devil's choice between work and being an independent, contributing person or keeping his insurance that continues to support his being able to work. I urge you to put LB1121 forward, making work and Medicaid coverage realistically possible for many of those 225,000 Nebraskans with disabilities. I think a vast number of those will be able to return to work if they can access Medicaid as well. LB1121 will create more workers with disabilities who pay taxes, workers will be paying the state a sliding scale premium, workers who can give back to the state that support of their ability to work. [LB1121]

SENATOR GAY: (Exhibits 9-11) Thank you. Any questions from the committee? I don't see any. Thank you. Other proponents who would like to speak? Okay. I don't see anyone else. Any opponents who would like to...oh, just for the record, for proponents we do have letters from Nebraska Hospital Association, Nebraska Appleseed, and Nebraska Advocacy Services have all submitted letters that will be in the record. So we do have their letters of support. Okay. We'll now hear from opponents. Vivianne, go ahead. [LB1121]

VIVIANNE CHAUMONT: (Exhibit 13) Good afternoon, Senator Gay and members of the Health and Human Services Committee. My name is Vivianne Chaumont, V-i-v-i-a-n-n-e C-h-a-u-m-o-n-t, and I'm the director of the Division of Medicaid and Long Term Care at the Department of Health and Human Services. I've come on behalf of the department to testify in opposition to LB1121. It's a belief of the department that the passage of this bill would be an expansion to the current Medicaid system. In this era of cost containment and our charge of maintaining program integrity and effectiveness, we are not in a position to incur this type of fiscal expansion. While the department supports people with disabilities having the opportunity to be competitively employed and self-sufficient, we must continue to make strides to address the fiscal sustainability of this program in the future to be able to address the needs of even the current populations that qualify for Medicaid. Thank you very much for your time. I'd be happy to address any questions. [LB1121]

SENATOR GAY: Thank you, Vivianne. Senator Howard. [LB1121]

SENATOR HOWARD: Thank you, thank you, Senator Gay. Vivianne, have you been here this afternoon with the rest of us? [LB1121]

VIVIANNE CHAUMONT: Yes. [LB1121]

SENATOR HOWARD: I think I saw you come in earlier. [LB1121]

VIVIANNE CHAUMONT: Yes, I've listened to every word. [LB1121]

SENATOR HOWARD: You've heard everyone speak and talk about how they would be contributing back into society and paying with this bill. So how does that square with your testimony that the department can't afford to do that? [LB1121]

VIVIANNE CHAUMONT: The Medicaid program is the program that would pay for expanded eligibility. Our position is that the Medicaid program should not expand eligibility. We currently have a medical insurance for workers with disability program where the income limit is 250 percent of the Federal Poverty Level. To qualify you have to be under 250 percent. This particular bill would increase that to 450 percent. That would be an expansion of a Medicaid population. Additionally, the bill would add the medically improved population, which is a population that is not currently covered. So we would go from having a population that is not currently covered to including a population up to 450 percent of the Federal Poverty Level. Those expenses would all be born by the Medicaid program and I'm here to testify on behalf of the Medicaid program that this kind of expenditure and expansion of Medicaid at this time is not sustainable. [LB1121]

SENATOR HOWARD: But unfortunately with your definition this really encourages people not to get better. [LB1121]

VIVIANNE CHAUMONT: No. I don't think that it encourage people not to get better. I think that it limits the Medicaid coverage for people. It doesn't have anything to do with whether or not they get better or not. No, I don't agree with that. [LB1121]

SENATOR HOWARD: But if they improve, will they remain eligible for the program? [LB1121]

VIVIANNE CHAUMONT: If they medically improve, they are not eligible for the program any longer under current statute. [LB1121]

SENATOR HOWARD: Okay. Thank you. [LB1121]

SENATOR GAY: Senator Stuthman. [LB1121]

SENATOR STUTHMAN: Thank you, Senator Gay. Hi, Vivianne. [LB1121]

VIVIANNE CHAUMONT: Hi, Senator. [LB1121]

SENATOR STUTHMAN: Nice to see you here today. I do have a question on your testimony, you know, and you explained and answered it to Senator Howard. The thing that I feel an expansion of the program...do you mean we're going to get a lot more into the program, a lot more people, recipients of the disability? [LB1121]

VIVIANNE CHAUMONT: Yes. That's the whole point of the bill is to allow more people to get into this particular program, the Medicaid program. So if you go from limiting people under this program to 250 percent of the Federal Poverty Limit, if they go above that at this point, they would go off the Medicaid program. Under this bill, they would continue on the Medicaid program up to 450 percent of the Federal Poverty Level. [LB1121]

SENATOR STUTHMAN: Well, I look at it a little bit different way. We've got this group of people that are disabled... [LB1121]

VIVIANNE CHAUMONT: Yes. [LB1121]

SENATOR STUTHMAN: ...the disability ones. And in the package that we've got now they can only earn up to so much. And what I think this bill is trying to do is allowing them people to--them same people, not a new group coming in, them same people earning more money to stay qualified. And then they can earn more money and I don't think there's another influx of people that are disabled that would be coming into there to get a benefit. I just think it's...we've got this group, and if they could just earn some more money, contribute to society, and still get their benefit, it wouldn't cost us anymore in Medicaid. [LB1121]

VIVIANNE CHAUMONT: I understand where you're coming from, Senator. But in fact people go off the program, you know, yearly. On our fiscal note we talk about that there are people that go off the program when either they improve or they make more money than the program allows. So people that would go off the program would now stay on the program and so Medicaid would pick up those costs, and therefore it's an expansion. [LB1121]

SENATOR STUTHMAN: I can see your answer and I can see some value in that. But I just think it's going to cost so much to, you know...and we're telling them, you know, don't work. It's going to cost us so much anyway. But if you do work and earn a little bit more, you're going to go off the program, then that's a savings to the Medicaid. But we're not encouraging them to try to generate some more income and our cost to Medicaid is going to be the same. And that's where I'm coming from. [LB1121]

VIVIANNE CHAUMONT: Right. [LB1121]

SENATOR STUTHMAN: And I see a lot heads shaking in the direction that I'm looking. [LB1121]

VIVIANNE CHAUMONT: Right. That doesn't surprise me at all. I think our point, sir, is that people who medically improve and who make income above currently under the

current program go off the program and there's Medicaid savings there. They go off the program. They're not a Medicaid client anymore. Medicaid is not paying any money. If you change the program, those same people who are now not getting paid for by Medicaid will now be paid for by Medicaid, and that's the expansion. [LB1121]

SENATOR STUTHMAN: Thank you. [LB1121]

SENATOR GAY: Senator Howard. [LB1121]

SENATOR HOWARD: Thank you, Senator Gay. You know, I can't help but comment that after working in child welfare and child protection the same sort of theme runs through the payment system there with the FC pay. Because when a foster family works with a child to the point where the child is improving and getting better, we--the system it is--decreases their foster care payment. Which I think we've got to move away from disincentives from proving and for helping people to do better in their own situation and for helping children in hard situations. It really puts people at a disadvantage and I believe we can do better. [LB1121]

SENATOR GAY: Yeah. Thank you, Senator Howard. Vivianne, I've got a question. Roger, when he came up and entered this bill for Senator Johnson, pretty much said it's not ready to be voted on right now. I mean, it's not ready for prime time is what I think I heard, and that's unfortunate. But this is a very complicated situation. Like I said, this summer I was visiting with some people who could do more and they want to do more. And what I think...Senator Howard, I'm not going to put words in her mouth, but I think what we're saying is there is some point we look at this as all a numbers game. We're moving numbers around, but then there's people involved and some will qualify, some won't. And I guess it's a lot of hard work to sit down...and I know you're willing to do that because I've worked with you on other things. But I think we need to sit down and say what's the best situation. Tim Kolb talked about this magic number. There are guidelines and there's a lot of monetary issues involved, payments and those kind of things. But I think what we're saying and maybe as a committee, I'd challenge the committee and committee members to come up with what that is. How can we make it better and still get a win-win situation? I just left, unfortunately, to testify on a $785,000,000 shortfall that we will have on Medicaid spending in the next 20 years. So I was down there talking on other issues. But it all...as Nebraskans, I think what we're looking for is better solutions, win-win situations. And I know it's difficult for you to come here and do what you have to do in your position, and I know also you're open to make some changes. But I guess as we look at this, there are situations out there and many of these people testified, this won't help me, but it will help others. So I guess being long-winded, but what we're saying is where is that happy medium and maybe we can find a number that's agreeable. And that's why I asked about indexing and some of these other things because...you know, so the most needed...well, I don't want to say needy, but those that we want to take care of we need to find ways to take care of. And maybe we find

savings in other departments or do whatever that just throw that out there as a challenge to all of us here. So...Senator Howard. [LB1121]

SENATOR HOWARD: Thank you, Senator Gay. The words you put in my mouth were very accurate. I just think I really lament that we can't move from the point of having programs, but not encouraging to move off of the programs. We so often say, you know, look at the high numbers in this, look at the high numbers in child welfare, look at the high numbers of people that we're servicing on this program. But if we don't help these people to help themselves, we're not only hurting them, but we're also hurting our programs. So I agree with Senator Gay. We need to really apply some hard work to this to meet the need, to meet the need. [LB1121]

SENATOR GAY: All right. Any other questions? Thank you, Vivianne. [LB1121]

VIVIANNE CHAUMONT: Thank you. [LB1121]

SENATOR GAY: Appreciate it. Anybody who would like to testify neutral on this, on LB1121? Roger, do you want to close? You probably... [LB1121]

SENATOR GAY: Oh, I thought you might have a solution for us. (Laughter). [LB1121]

ROGER KEETLE: I think we need to look for solutions. [LB1121]

SENATOR GAY: And truly we appreciate that. I know you put a lot of hard work in this. Okay. With that, we'll close the hearing on LB1121. And I see Senator Dubas is here on LB1176, change provisions relating to Medicaid benefits and departmental reports. Welcome, Senator. [LB1121]

SENATOR DUBAS: (Exhibit 1) Good afternoon, Senator Gay, members of the HHS Committee. My name is Senator Annette Dubas, that's A-n-n-e-t-t-e D-u-b-a-s, and I represent the 34th Legislative District. LB1176 requires the Medicaid Reform Council to summarize and make recommendations of possible rules and regulations at least 60 days prior to the beginning of a legislative session. This legislation aims to create a check and a balance between the executive and the legislative procedures. As you're well aware, these recommendations were brought to our office, you know, right at the beginning of this session. And to be very honest with you, they were placed on a stack of stuff that I should read and pay attention to, but I didn't really get to look at it until it was brought to my attention. Someone asked me the question, were you aware of the changes or the cuts that are going to be made to Medicaid and I had to honestly say, no, I hadn't looked at it. And then was very surprised to learn that there probably wasn't going to be any public hearing process on these suggested cuts. And so that was the impetus behind my introduction of this bill. I just feel very strongly that the public hearing process is an important part of our decision making. Even though LB1176 looks to

approve the council's recommended cuts, that is not necessarily my desire. I really want to emphasize the 60-day presentation of the recommendations is the part of the bill that I feel the strongest about. I have met with many constituents in my district who are very frustrated by the lack of assistance from their private insurance companies for their children with developmental disabilities or mental illness, and I have countered the argument that those limitations will be effective. If we are to cut benefits of Medicaid recipients, I believe there are other places that we should look; not at those with developmental disabilities or other issues that are of no fault to anyone. However, I hope that despite my general apprehension to add the limitation language into this bill that you will strongly consider the 60-day requirement that will guarantee the legislative body, and those who are most directly impacted by the changes, enough time to respond to these recommendations. The Unicameral is unique in its transparency to the general public, and we've always been proud of this institution that allows for public hearings and a general check and balance, when necessary. I do appreciate your willingness to consider this bill as general procedural change that will protect the integrity of the institution that we represent. I also have a handout. This was an e-mail that was sent to me by a provider. She's a speech and language pathologist, and I thought she addressed a very important concern regarding explanation of benefits. And you know, with private insurance, the consumer receives that explanation of benefit, everybody understands what's going on, and we don't necessarily have that in regards to Medicaid. And so there really is, I think, a breakdown in communication and of understanding with Medicaid recipients, what their benefits are or aren't, and why they are or aren't paid. So I just present that e-mail for your information. I know there's going to be a lot of people behind me who will probably better able to address the concerns. But again, I want to emphasize the 60-day reporting period as the thing that's most important to me in this bill. [LB1176]

SENATOR GAY: Okay. Thank you, Senator. Any questions from the committee? I don't see any right now. Are you going to stick around for closing? [LB1176]

SENATOR DUBAS: Yup. Yeah, I will. [LB1176]

SENATOR GAY: Okay. Okay. Thank you. Okay. And then any proponents who would like to speak on this issue? Can I see a show of hands? Okay. Any opponents? Okay. Proponents who are in favor of this? Okay. Any opponents of...all right. All right. We'll start with proponents on LB1176. Come on forward. [LB1176]

RICHARD SKERBITZ: (Exhibit 2) Good afternoon. Richard Skerbitz. Do I need to spell my name again for the... [LB1176]

SENATOR GAY: Yeah. Would you, Richard, please. [LB1176]

RICHARD SKERBITZ: R-i-c-h-a-r-d S-k-e-r-b-i-t-z. I am testifying this afternoon on

behalf of the League of Human Dignity in support of this bill. The league was formed 36 years ago as a result of people wanting greater freedom to live independently and direct their own lives. Consistently fading, as you can see from today from earlier testimonies, are the days where policies are written about people with disabilities. People with disabilities want and should have more say in the direction of their lives on system levels, as well as individual levels. I contacted Senator Dubas's office and asked the intent of this bill, and when I had heard about the threat to...in this case, the threat of not having a hearing, such as this, this is why we are in support of this bill. The bill emphasizes the import of citizen input in the policymaking process. The requirement of each proposes rule and regulation to be presented to the Health and Human Services Committee, and ultimately subject to a public hearing ensures people with disabilities an opportunity for sharing about how such outcome of a rule or regulation would affect them. However, we do urge the legislation to carefully study proposed cuts or redirection of services that would assist people with disabilities to live in their communities. These cuts, we do not want them to force people with disabilities to live in costly institutions. Thank you for your time and consideration. Any questions? [LB1176]

SENATOR GAY: Thank you, Richard. Any questions? I don't see any. Thank you. [LB1176]

RICHARD SKERBITZ: Thank you. [LB1176]

SENATOR GAY: Other proponents who would like to speak on this issue? [LB1176]

CURTIS BRYANT: (Exhibit 3) Senator Gay, and members of the committee, my name is Curtis Bryant, C-u-r-t-i-s B-r-y-a-n-t, and I'm here as a board member of the National Association of Social Workers, Nebraska Chapter. And we concur with Senator Dubas's view that we support the 60-day notice requirement in this bill. But we are deeply concerned about the cuts to Medicaid services in Section 2 of this bill. And so we ask you to amend this bill to remove those cuts from the bill before advancing it to the General File. [LB1176]

SENATOR GAY: Okay. Thank you, Curtis. Any questions from the committee? I don't see any. [LB1176]

CURTIS BRYANT: Actually I do have another point. [LB1176]

SENATOR GAY: Okay. Go ahead. [LB1176]

CURTIS BRYANT: When someone participates in the Medicaid program, they don't have financial means usually to pay for medical services, medically necessary services, that are not covered by the program. And so if they need dental surgery that cost more than $1,000, as the bill specifies, how are they going to pay for it? You know, I worry

that, you know, what's good for private insurance...what works in a private plan, may not work with this population. And so that's why we don't...that's why we're so concerned about the cuts. [LB1176]

SENATOR GAY: Um-hum. Different population. [LB1176]

CURTIS BRYANT: Exactly. [LB1176]

SENATOR GAY: Yup. I hear you. Okay. Any questions? Nope. Thank you. Thanks, Curtis. Any opponents? Okay. We'll start with opponents. Come on forward, Tim. [LB1176]

BILL CRAWFORD: You want me to go next or... [LB1176]

SENATOR GAY: Yeah. You go...sure. We'll have you go next. [LB1176]

BILL CRAWFORD: Okay. [LB1176]

SENATOR GAY: Okay. I'm going to go after Tim. [LB1176]

TIM KOLB: I'm going to take time to take my headrest off. I think I can speak more clearly this way. Again, my name is Tim Kolb, T-i-m K-o-l-b. I am, as I said before, a member of the Nebraska Statewide Independent Living Council. And as a person who is a Medicaid recipient as I confessed previously, I have a deep interest in this bill. Notwithstanding the comments that the bill does provide this 60-day hearing period for proposed cuts, I frankly see no value in even entertaining this kind of legislation. Attempts to cut Medicaid is what I must refer to as arbitrary numbers of dollars can do no good in terms of good Medicaid reform. You will find today that probably the majority of us here are very much interested and approving of Medicaid reform. Amen. Because it hasn't worked all that well so far (laugh). If it is to meet the needs of people with disabilities more accurately and benefit people in a way that ultimately makes them less reliant on public assistance programs, that is good Medicaid reform. But to just decide one fine day to cut X number of dollars for various Medicaid programs is at best absurd. So I would encourage you to put this sucker to sleep right here. Any questions? [LB1176]

SENATOR GAY: Let's see, any questions for Tim? I don't see any. Thank you, Tim. [LB1176]

TIM KOLB: Thank you. I shall attempt to be more graceful this time. [LB1176]

BILL CRAWFORD: (Exhibit 4) Good afternoon. My name is Bill Crawford, and the last name is spelled C-r-a-w-f-o-r-d. I'm here in opposition to LB1176 and I'm going to make

a couple of general points and try not to repeat what has already been said. LB1176, the cuts in Medicaid would provide a hardship for people with disabilities for basic medical services that they would need. I would hope and pray that you would not authorize any cuts in Medicaid, and I think that you're basically trying to save money. But I think it's in the wrong area. If a person on Medicaid is working like we talked about, they can buy into the Medicaid system and be a contributing member of society. However, I do support a sliding scale of a person's ability to pay based on their income and, you know, that kind of thing because the Legislature and this body does not have an open pocketbook. You can address the sliding scale and a person's ability to pay later. But you know, I would generally hope that you would not cut Medicaid benefits that would be needed for a person's independence and their daily living. But I would support and be willing to compromise and be willing...I personally would be willing to pay copays for different medical services. For example, as a person, I pay a small copay for my drugs. I pay a small copay for Madonna every time I go to a physical therapy appointment or something like that. I realize the Legislature, and at the risk of being repetitive, does not have an open pocketbook. Okay? And you guys have to think about budget. And I think rights and responsibilities go together, and this goes back to disabled people being responsible citizens. We have the right to go to work. We have the right for the Medicaid buy in. If we're able. We should pay some kind of copay, either 1 to 5 percent, based on our income and based on our ability to pay. And this concludes my testimony. Does anyone have any questions? [LB1176]

SENATOR GAY: Thanks, Bill. I don't see any. [LB1176]

BILL CRAWFORD: No? [LB1176]

SENATOR GAY: Thank you. [LB1176]

BILL CRAWFORD: And I also support the 60-day extension. [LB1176]

SENATOR GAY: All right. Here we go. Thanks, Bill. Okay. Hearing from opponents on LB1176. Opponents. [LB1176]

BRAD MEURRENS: (Exhibit 5) Good afternoon, Senator Gay, members of the committee. For the record, my name is Brad, B-r-a-d, Meurrens, M-e-u-r-r-e-n-s. I am the public policy specialist and registered lobbyist for Nebraska Advocacy Services. I am here today in opposition to LB1176. While we support fully the 60-day extension for legislative review of proposed Medicaid changes, we cannot support the cuts and caps on services called for in Section 5 of the bill. The proposed cuts and caps on the services identified in that section will disproportionately and negatively affect people with disabilities, often the people most unable to cope or go without these services. We are very disappointed that LB1176 does not take into account the diverse healthcare needs of individuals. Rather LB1176 paints all people who receive Medicaid with the

same brush. And we all know that approach is neither accurate nor does it produce sound public policy. There is no allowance for people who have higher needs for those services or for whom the strict service visitation limits would not be adequate to maintain their health status or rehabilitation. To that end, we recommend that Section 5 of LB1176 be removed or at a minimum take into account the special needs of individuals, especially those with disabilities, and be amended to build in some flexibility within those service limits for those individuals who need higher or more frequent service needs. I'd be happy to answer any questions the committee may have at this point. [LB1176]

SENATOR GAY: Thanks, Brad. Senator Hansen. [LB1176]

SENATOR HANSEN: Checking my notes, thank you, Senator Gay. Brad, in the...it's not Section 5, but it's area number 5 anyway. [LB1176]

BRAD MEURRENS: Oh, sorry. [LB1176]

SENATOR HANSEN: We're going to talk about a limit of one pair of eyeglasses every two years, and this is a change. So what is it now? [LB1176]

BRAD MEURRENS: I do believe it's one every year I think. [LB1176]

SENATOR HANSEN: Okay. A limit of one hearing aid every four years. I would assume those are a pair. [LB1176]

BRAD MEURRENS: That's what we assumed, but the question is we don't know if that's really... [LB1176]

SENATOR HANSEN: Okay. What is it now? Do you know what it is? [LB1176]

BRAD MEURRENS: I think it's one every two. I think the limits on eyeglasses and hearing aids were cut in half. [LB1176]

SENATOR HANSEN: Okay. And then $1,000 per dental services per year. [LB1176]

BRAD MEURRENS: Right. [LB1176]

SENATOR HANSEN: What is that at present? [LB1176]

BRAD MEURRENS: I don't know exactly what the limitation is on dental off the top of my head, but I can get that information for you. [LB1176]

SENATOR GAY: Can we just...when you come up and testify, otherwise we're getting

different versions coming through this microphone. So if Brad can't answer it and you have something to add later, we'd appreciate that. So... [LB1176]

BRAD MEURRENS: Well, I do believe from the galleys, Senator Hansen, that it's unlimited (laugh). [LB1176]

SENATOR HANSEN: All I see here is what the change would be, but I don't know what they are now. That was what I was getting at. And so where we're talking about X amount of services here, but I don't know what they are cut from. [LB1176]

BRAD MEURRENS: Right. [LB1176]

SENATOR HANSEN: And I was just wondering if folks could get by with this amount of services or why they need more. [LB1176]

BRAD MEURRENS: Well, okay... [LB1176]

SENATOR HANSEN: I see this group, but I don't know what they're being cut from. [LB1176]

BRAD MEURRENS: Sure. You don't know where we are currently, where the benchmarks are and where this would lead us. Well, I have a copy of the proposed cuts that HHS sent out. I would be happy to send that over to your office, which would...okay. Well, I have it right here. I don't know if you really want me to go through this here, but I would be happy to...I'm sure with the person's indulgence who gave me this, I'd be happy to submit it for the record. [LB1176]

SENATOR GAY: We could make copies. Also, Senator Hansen, we can get you copies of that as well, I think Erin can. [LB1176]

BRAD MEURRENS: Yeah. But I really want to focus on like the speech therapy, occupational therapy, and physical therapy. You know, there are individuals who have disabilities that require much more of those sort of therapies to maintain their rehabilitation, to maintain their daily functioning or to improve their daily functioning. And it's our position that limiting those visits for those therapies especially are too restrictive, and that it doesn't allow those individuals, for example, who need speech therapy every day for a year to compensate for their loss of those skills due to their disability. That person would get 60 visits and that's it, which is one-sixth of what they need. And so our position is that these restrictions are too invasive and don't allow for those people that have higher needs that need 365 days of speech therapy because they haven't been able to speak for 3 years because of their coma, that these cuts would severely affect them in a negative way. [LB1176]

SENATOR HANSEN: Well--I can't remember who it was--Bill, was talking about we don't have an empty or an open purse or a full purse or whatever. [LB1176]

BRAD MEURRENS: Right. [LB1176]

SENATOR HANSEN: And we're looking for ways to cut Medicaid, but not necessarily, you know, not to one group for sure. [LB1176]

BRAD MEURRENS: Um-hum. [LB1176]

SENATOR HANSEN: But do you have any positive examples of what we could cut? I mean, is there a waiver program? Could we come up with a waiver program that would, say if a person is coming out of a coma, they're going to need more than 60 visits? [LB1176]

BRAD MEURRENS: Well, I think that's definitely something that the department and the Legislature need to work out and also with, you know, including the voice of persons who would have to go through those services to find out what would be the appropriate waiver mechanism. If there isn't one already, could we create one? You know, that's certainly a departmental legislative body activity. But I think the quick answer, a really easy way to get at that...because I understand the fiscal constraints balancing with the needs of individuals. But I think if you think about it such that there are those individuals who need more, that we need to build into this language, if we accept it at all, that there needs to be flexibility within those caps and cuts so that, you know, not everyone is going to need 365 days of speech and physical therapy. Some people may be just fine with the 60-day limits and that's okay. But this legislation doesn't allow for any person who needs more than 60 days to get it. So I think, you know, one of the things perhaps you could think about is making an amendment which builds in that flexibility for those people who need higher needs than the 60 days. [LB1176]

SENATOR HANSEN: With this bill and the bill we talked about prior... [LB1176]

BRAD MEURRENS: Um-hum. [LB1176]

SENATOR HANSEN: ...if a person with disabilities was improved and they got the job that they really wanted and it happened to be a state job, I think what this group of benefits is is from the state employees benefit package. [LB1176]

BRAD MEURRENS: The state employees benefit package was one of the comparisons that the department made when they came up with these cuts. What I have to say to that is, you know, while I understand and appreciate trying to maintain the sustainability...because remember if Medicaid goes away, our constituency in our community gets hurt the most. So we don't want to see Medicaid go away. We want to

see it be as sustainable as it can be. However, we do need to stress that while it remains sustainable, it needs to be as robust as it can be so that it meets the unique and differential needs of the population which can't more than likely or more often than not afford private health insurance. And the other thing is that for persons with disabilities, private health insurance doesn't work well for that population. Remember, the impetus behind Medicaid, the reason why it was created, was to be different and distinct from private health insurance because there was recognition that persons who either have low incomes or persons who have disabilities can't either afford the insurance or more often than not, the insurance coverage doesn't match up with the person with disabilities physical or their healthcare needs. So I would be real hesitant to try and change drastically the nature of Medicaid and map it to private health insurance, the state health insurance in particular. I think that's...I mean, while I can understand wanting to try and make it commensurate with private health insurance, I don't know if we really want to take commensurate to the level where it equals or looks like exactly what private health insurance is because I don't think that benefits people with disabilities at all. [LB1176]

SENATOR HANSEN: Thank you. [LB1176]

SENATOR GAY: Thank you. Any other questions? I don't see any. Thank you, Brad. Other opponents? [LB1176]

KATHY HOELL: (Exhibit 6) Hello. My name is Kathy Hoell, H-o-e-l-l. I am the executive director of the Nebraska Statewide Independent Living Council. The Nebraska Statewide Independent Living Council is the federally mandated organization under the rehab act of 1972, as amended in 1992. We are a nonprofit organization that exists to support, enhance, and increase independent living opportunities for Nebraskans with disabilities. Our organization opposes LB1176. Our organization sees that the Section 5, area 5, whatever it is, actually is targeting people with disabilities. Actually, I'm going to go into each area that they want to cut and how it affects people with disabilities. Nowhere in the proposed change does it say if they will cover eye exams more frequently than every two years. For people with disabilities some our treatments are so caustic that they cause other medical problems. For example, certain psychotropics will cause diabetes. If you have diabetes, the recommended medical protocol is to have your eyes checked for glaucoma yearly. This bill does not allow that to happen. If you have multiple sclerosis you can be fine one day and the next day you could be totally blind. What do you do if it's been six months since you had your eyes checked? Are you allowed to go into the eye doctor if one day you wake up blind? So there needs to be a lot of work done on that section. In regards to the hearing aid, Senator Hansen, you were correct. Hearing aids are primarily sold in pairs. I mean, unless you have total deafness in one ear, you're going to have a pair. So what does that mean according to this legislation? You can have your pair after eight years. With the advances in the technology associated with hearing aids, especially what are called digital hearing aids

now, they have to be paired when they are sold. You can't wait for them to be affected. And the other issue is most private insurance don't cover hearing aids. Medicaid is the only option in a lot of cases. Again, going back to the psychotropics and some of our other treatment for disability disabling conditions, where you see an increase in dental problems. Dental problems have been known, if they go untreated, to cause other medical problems that are more severe. And I have even known of instances where people have died because they've neglected their teeth. I'm not sure we want to go there. Chiropractic visits for some people it just increases their mobility, their agility; it allows them to get around better. Now, I am the person that Brad was referring to before. I had speech therapy, physical therapy, occupational therapy every day for a year just to get to the point where I could start talking again. Most people probably wished I hadn't (laugh). But, you know, my point being who's going to make that decision, who we're going to help and who we're not going to help? I mean, because especially with traumatic brain injuries, acquired brain injuries, you're going to see an increased need for people to receive physical therapy, speech therapy, and occupational therapy. Our concern, our primary focus to our organization is independent living. We want people to live as independently as possible. We want them to be in the communities. We want them to do the same thing everybody else does. However, what this bill is going to do, it's going to force people with disabilities into institutions, into nursing homes to get the therapies that they so desperately need. And it has been shown repeatedly institutions are more costly. So all we're doing by passing this bill is shifting the cost from one part Medicaid to another part of Medicaid. And I'm not sure the savings are going to match up. In the original letter that was sent out by Ms. Chaumont, a compared Nebraska Medicaid to the state employees benefit program, as you mentioned, the problem for us with that is state employees benefits do not always cover all of the needs of people with disabilities for one. It also cover...I have known people with the state employees health benefits who have been kicked off if put on Medicaid because they've capped out, they've reached the limit. Our care tends to be a little on the more extreme side sometimes. But the letter also compared our program to Medicaid in other states. Personally I found it rather problematic. Nebraska is supposed to be the good life. We take care of our people here, but this is not indicating that. We are totally ignoring one segment of the population. But we would encourage you to do, we believe that it is necessary to make Medicaid sustainable. We'll agree with that totally. However, what some states have done, they have waived those limits and those caps for people with disabilities and chronic conditions because we just don't fit into the typical mold. One slight glimmer of hope we saw to this bill was the 60-days notice prior to the legislative session. The letter that came out from Ms. Chaumont came out the day before the legislative session began. So obviously it was not time enough for advocates and legislators to react. And so we see that as a good thing and we'd like to see that only one part of the bill actually saved. Thank you very much for your time and are there any questions? [LB1176]

SENATOR GAY: Thank you. I don't see any. All right. Thank you, Kathy. [LB1176]

PATTY McGILL SMITH: (Exhibit 7) Chairman Gay and members of the Health and Human Services Committee, my name is Patty McGill Smith, and it's P-a-t-t-y M-c-G-i-l-l S-m-i-t-h. I'm representing the ARC of Nebraska. I'm the president of the ARC of Nebraska currently and you've already had the rundown about our organization, so I'll skip that. I just want to move to one part of our testimony that may add to some of the others that you have already heard. Like the others that are opposing this, we do strongly support the part about to give 60 days prior to beginning the regular legislative session. But there were a couple of things were mentioned that I think I would like to add onto that we have read the comparisons of the state workers health plan in various states. But we have not seen any projections of the impact on the recipients of the medical assistance that will result from these limitations on healthcare services. We've seen the impact of savings and that type of thing, but we haven't seen what would happen to the people. This is essential information. We also did not see a comparison with states that already have made positive Medicaid reforms which require person-centered planning, they have individualized budgeting or microboards, which is a way services are done in a more economical way and which change services without severe limits upon the same services. And so without being redundant, I wanted to just add that because Nebraska has not made those changes, we have not moved forward to some really logical savings, and I would just urge the committee to look into some of these things because there are ways that we could do better that would save money. And yet in Nebraska, I would just give one example, in some of our places in the state, you can have services provided like say in the respite part, and you can hire a person that is your neighbor or somebody...even a family member if they're not in charge of the person, they could perform the services. But we do not have a way...like where my daughter's services are, we cannot do anything except use a qualified service provider. There are other states that do this and they do it extensively. And we have a provision that stops that from happening. I'm just mentioning that because that's one that I personally have experienced one way in one program, another way in another program. And I would urge you to look at that because I think that it could be beneficial. Thank you. Any questions? [LB1176]

SENATOR GAY: Thank you, Patty. I have a comment I guess. I agree with you on looking at some of these other things. Prior what I was discussing, I think those are things we need to look at. They don't happen overnight obviously, and we need to work together in these things. But I looked into some of those things you had talked about and there's some real opportunities out there and we need to keep pursuing those. So... [LB1176]

PATTY McGILL SMITH: Our organization would be happy to meet with you and lay out some of these because we know states where these are really working. Iowa, it's working beautifully. Maryland is another one, and we know how it's worked, and yet we have not been able to move forward to get those changes. I think the place that's going

to have to do the work is going to be the Legislature. [LB1176]

SENATOR GAY: Yup. Okay. Thank you. [LB1176]

PATTY McGILL SMITH: Okay? Any other questions? [LB1176]

SENATOR GAY: Any other questions? Nope. Thank you. [LB1176]

PATTY McGILL SMITH: Thank you very much. [LB1176]

SENATOR GAY: Larry. [LB1176]

LARRY RUTH: Senator Gay, the afternoon is long and we have another bill. My name is Larry Ruth, R-u-t-h, first name Larry. The Nebraska Dental Association opposes the bill as drafted. We thank Senator Dubas for her interest in this area. We agree with Section 1. I think she's probably getting a bit of a bum rap on Section 2. She, like we, were very surprised when the letter came out the day before the legislative session talking about an intent to have a rule change, not a proposed rule change, but an intent to have a change. And then we don't have any time to do anything about it. Well, one thing we were able to at the very end--and I'm talking on behalf of the Dental Association--is LB1122, which is the next bill. We are somewhat focused. We look at the dental services, but if you're going to do something about stopping a limitation of services, it has to be by legislative bill. I don't believe LB1176 will do it. It has to be a bill which will stop the proposed limitation in some way. LB1176 doesn't do it. And opposing LB1176 doesn't do it either. You have to have a legislative bill or a proposal. That's why we have LB1122 coming up next. I think you're beginning to get to the nub of the issue. The nub of the issue is that folks on Medicaid are a different population from folks who receive benefits as state employees. And to try to equate the benefits of the state employee, like $1,000 for dentist services, just doesn't cut it for people who either are disabled or who are probably on Medicaid to begin with. The poor do not have the money to pay for that amount over $1,000. They will get sick. They will go to the hospital, and some of them will have terribly critical medical problems, which you will then be force to approach in a different way. Now, we have testimony to that effect as it relates to dentistry in the next bill. And so we're going to withhold that kind of inpatient reaction until that bill. But thank you very much for your attention. [LB1176]

SENATOR GAY: Thank you, Larry. Any questions for Larry? Senator Erdman. [LB1176]

SENATOR ERDMAN: Larry, as a highly paid state senator who is prohibited from receiving the same benefits as other state employees, can you tell me generally how the state's insurance plan is for public employees compares to other insurance proposals, commercial insurance? [LB1176]

LARRY RUTH: I can't, Senator, but I have two people here who certainly can. Dr. Jessica Meeske is a pediatric dentist in Hastings, and I'm sure she has that kind of information and she'd be happy to share that with you. In fact, that is part of, the main part of her testimony is how does insurance relate to this and how does it compare. Yes, Senator Gay. I'm sorry, you're... [LB1176]

SENATOR GAY: No, finish up if you're... [LB1176]

LARRY RUTH: That's it. [LB1176]

SENATOR GAY: I do have a comment. You had made a statement, I think it's...I just want to clarify this. This was handed out when Brad Meurrens came up. [LB1176]

LARRY RUTH: Yes. [LB1176]

SENATOR GAY: And I know there's a reference to the state employees health plan coverage on here. [LB1176]

LARRY RUTH: Yes. [LB1176]

SENATOR GAY: But there's also a lot of other references to Medicaid. So I don't mean to be arguing with you. I'm just saying for the record, we're comparing this all to the state health plan. But there's a lot of Medicaid coverages that other states are doing too. [LB1176]

LARRY RUTH: Yes. You're right, Senator. [LB1176]

SENATOR GAY: So just in the fairness of the debate we need to recognize that. [LB1176]

LARRY RUTH: I appreciate that. Yeah. However in talking with a lot of people on this, they tend to say that the argument that they have heard in the past is well, this is...you're just wanting to have something more richly endowed than the state plan available to state employees. And if that's what people are looking at, then I want to respond to that too. [LB1176]

SENATOR GAY: Yeah. And I agree. I'm just saying so everyone knows, this was handed out as public record of other states Medicaid coverages too. So...okay. Thank you. [LB1176]

LARRY RUTH: Thank you. [LB1176]

SENATOR GAY: Other opponents? [LB1176]

PAT SNYDER: (Exhibit 8) Good afternoon. My name is Pat Snyder, P-a-t S-n-y-d-e-r. I am the executive director of the Nebraska Health Care Association and the Nebraska Assisted Living Association. NHCA is a private trade association with a membership of approximately 400 proprietary and nonproprietary and governmental Nebraska nursing homes and assisted living facilities. The Nebraska Health Care Association has supported the current Medicaid reform process since its inception in 2005 when Senator Erdman introduced LB709, calling for the development of a Nebraska Medicaid reform plan, and which called together the Medicaid Reform Council to which I was appointed. I continue to serve on the Governor's Medicaid Reform Council. LB1176 was introduced to ensure public discussion of Nebraska Medicaid state plan amendments, and to require that the department announce amendments to the Nebraska Medicaid program at least 60 days prior to a regular legislative session. I do not have a problem with the public discussion of state Medicaid state plan reductions nor a notice requirement per se. And so I debated whether I would appear in support or in opposition or neutral to this bill. I decided that appearing in opposition was probably the clearest way to demonstrate my support for the department's proposed reductions. I support the department because I believe their announcement is consistent with the Medicaid reform process. In the initial reform process, we studied the Medicaid program in detail, looking at eligibility, projected growth, cost drivers, and so forth of the various components of the Nebraska's Medicaid program. We heard testimony from providers, from advocacy groups, from insurance experts, and program participants, to name a few. Pursuant to that public process, Dick Nelson and Jeff Santema produced the Medicaid reform plan which in subsection 1.4 recommended that the department align services with those customarily found in commercially available health, vision, and dental insurance policies. This recommendation was not contentious judging from public commentary on the plan. I have included the pages of the plan pertaining to this recommendation in the packet I provided. The Medicaid Reform Council discussed each of the recommendations in the reform plan and voted whether to support or oppose each recommendation. In addition, we set forth a specific proposed strategy on how the recommendations could be implemented. Pertaining to covered services, the council unanimously voted in favor of the recommendation. And we unanimously voted that the Nebraska Comprehensive Health Insurance Pool should be used as a measure of comparison for Medicaid's optional services. Now, I want to bring the acronym to your attention. The name of the Nebraska Comprehensive Health Insurance Pool is CHIP, as is the Children's Health Insurance Pool, and they are not connected. So the Nebraska Comprehensive Health Insurance Pool is for those individuals who cannot get health insurance in the state of Nebraska. And so we have an emergency pool for those individuals. Our reasoning was that CHIP is an appropriate point of comparison because it offers a reasonable set of base benefits. I have also included the council's vote and recommendation from our 2005 report in your packets. The reduction recently announced by the department leave intact significantly more coverage than that which is provided by CHIP. Clearly CHIP offers no routine dental nor does it include

eyeglasses or hearing aids, and it offers rehabilitation commensurate with the department's proposal. Only for chiropractic visits does CHIP offer more coverage. But even in this case, the department is only proposing limiting these services, not excluding them. Included with the department's January 8, 2008 benefits reduction letter, a comparison is made to surrounding state's Medicaid coverage, as well as state employee coverage. The department has done a commendable job in demonstrating that the proposed cuts are reasonable and consistent with the Medicaid reform plan and the council's recommendations. Regarding the proposed 60-day notice period, I support amending the Medicaid Assistance Act to require some minimum notice period, whether it is 60 days or a month or some amount of time in which reasonable consideration can be given to proposed Medicaid changes. The act currently requires that changes be announced before a regular legislative session, and in order for that to have meaningful effect, should an hour suffice? This change would appear to be consistent with the intent of the law. I recall that when LB1248 was drafted, the department insisted that a notice timeframe not be too narrow as to tie its hands. And it argued that the legislative resolutions would be able to be offered up until the final day of the session if the Legislature disagreed with a departmental action. Considering the limited practical impact of a resolution, I hope the committee sees value in ensuring some minimum notice period in which the public can reasonably consider the impact of proposed changes while preserving a reasonable amount of departmental flexibility. In summary, I am here representing providers of long-term care services and as an appointee on the Medicaid Reform Council. In both capacities, I urge you to oppose LB1176 and to support the department's reductions in the Medicaid reform process. It is designed to preserve the Medicaid program into the future. Like it or not, Nebraskans do rely on Medicaid. Our responsibility is to establish a Medicaid program that is sustainable for present and future generations. This is but one of the hard steps to reform Medicaid. We all share in this responsibility and for that reason, again, I urge your opposition to LB1176. I'm happy to address any questions. [LB1176]

SENATOR GAY: Thank you. Any questions from the committee? I don't see any. Thank you. [LB1176]

PAT SNYDER: Thank you. [LB1176]

SENATOR GAY: Other opponents? [LB1176]

JENNIFER CARTER: (Exhibit 9) Good afternoon, senators. My name is Jennifer Carter, C-a-r-t-e-r, and I'm the registered lobbyist and director of the healthcare access program at Nebraska Appleseed. We're here to testify in opposition to the language in LB1176 that would authorize the proposed Medicaid cuts. But I want to be clear that we're also strongly in support of these 60-day notice provision and we're grateful that Senator Dubas brought this bill. Just quickly because people have covered a lot. When we're talking about difference in the populations with, you know, comparison to a state

employee plan, I just wanted to, if it helps, give you an example of Medicaid eligibility for low income parents is 47 percent of the Federal Poverty Level. That means in a household of three they're making about $8,272 a year. So this is really a population that cannot cover the gaps in their healthcare coverage. They just do not have the disposable income. And the purpose of the Medicaid program, the stated purpose in statute is to provide necessary and appropriate healthcare and related services. And the reason I bring that up is there is already a standard by which we decide what services people get. It's not that everything is available and the full amount of benefits that we might provide will be available to recipients. It's only if a doctor authorizes and Medicaid approves the services. And our concern is that the caps as is might interfere with the programs essential purpose, and someone who needs medically necessary services above and beyond the caps will not be able to get it as is. Also, the proposed cuts could really limit a family's efforts to move to self-sufficiency. If you can't take care of your healthcare concerns, if you can't get your hearing aids for four years, if you can't get an extra pair of glasses when you're in a car accident, it's going to make it hard for you as you try to move forward in finding a job and all of that. And so one thing we thought we would like to ask the committee to consider is an amendment that would require that there's some kind of bypass procedure, something akin to prior authorization in our drug program. So that if somebody really does need something above and beyond the benefit cap, it's there and that might be accessible to them and there's a process for them to get that. And as has been stated, an action actually needs to be taken by this committee because the regulations are just going to go through at the end of the legislative session if nothing affirmative is done. And finally, on the 60-day notice provision I think that requiring the notice and having the Medicaid Reform Advisory Council available, all of that has been I think really important to this Medicaid reform process. But we can't have a meaningful dialogue on Medicaid reform if proposed cuts are only announced on the eve of legislative session, 11 days before bill introduction when affirmative action needs to be taken by the Legislature. And so this is a really difficult issue, and like others have said, we welcome and have been participating in this since the beginning to give the perspective of the consumer. And we appreciate that people have heard us and allowed us to participate in that way, and we've made several suggestions with the coalition of other groups of other ways we might save money in the Medicaid program. But if we're serious about balancing fiscal sustainability of the program along with meeting the healthcare needs of our Medicaid participants, then we really have to have the kind of notice and enough time that maybe the Medicaid Reform Advisory Council could have had, as is allowed in statute and suggested in statute, a hearing on this two months ago and we could have been flushing this out before the legislative session began. And so we're very supportive of the 60-day notice provision. There are other points I make in my written testimony, but I won't take up your time this afternoon. But I'm happy to take questions. [LB1176]

SENATOR GAY: Any questions? Senator Erdman. [LB1176]

SENATOR ERDMAN: Jennifer, thanks for your testimony. I want to make sure that it's clear. I think you finished up clearer than you started. The Legislature does not have to authorize the department to make these changes. [LB1176]

JENNIFER CARTER: Absolutely not. Right. The authorizing language is not necessary. [LB1176]

SENATOR ERDMAN: Okay. Because your earlier statement says we write to oppose the language authorizing the department to make these proposed cuts. Then you're closing statement refers to the observation, which is the way that it actually is is that legislation has to be enacted by the Legislature, as Mr. Ruth pointed out, to stop those from being enacted. [LB1176]

JENNIFER CARTER: Right. So we are opposing an authorization that wouldn't necessarily be necessary, but would just be language, you know, saying go right ahead. But there would be...if any changes need to be made, if you are considering an amendment for some kind of bypass process, that would have to be affirmatively enacted. I mean, unless HHS, obviously, decided itself to change its proposed regulatory changes, and that might take care of it also. [LB1176]

SENATOR ERDMAN: Thank you. [LB1176]

SENATOR GAY: Jennifer, I've got a question for you. Is there anybody from your organization on the Medicaid reform group? [LB1176]

JENNIFER CARTER: No. But we participate in every way we can. I'm always at the meetings. But I'm not actually on the council. [LB1176]

SENATOR GAY: So you understood what was going on in that because the prior Pat Snyder just kind of testified on it. And I guess some of these things were covered during that...and I read the report and I don't remember who's everybody on it. But it's a lot of hard work and you've alluded to that. There's tough decisions have to be made. But you were at the committee hearings and was there a lot of opposition at that point when these things were brought up or... [LB1176]

JENNIFER CARTER: My understanding...and I apologize. I've been attending the meetings. Recently I was less involved when LB1248 was up. Other people in my office were and I'm sure they'd be more than happy to talk to you about it. But my understanding was that...I mean I don't know how much public interest there was in Medicaid reform in terms of just any old person coming in and being at the hearings and testifying. But my understanding--and actually there may be others in the room who could speak to this--was that there were comments made. I know we worked with a large coalition of groups and submitted basically a report with alternatives for cost

savings that we thought would be more positive and balance. And I'd be happy to get a copy of that to you and to the committee if we haven't already given it out. [LB1176]

SENATOR GAY: Yeah. I'd like to see that. [LB1176]

JENNIFER CARTER: That would we thought better balance the needs of the beneficiaries, but also implement some cost savings because as other people have said and I've said in front of this committee, we obviously don't want it to go away. And we appreciate the need for fiscal sustainability. But sometimes we might take a different road to get there. [LB1176]

SENATOR GAY: Yeah. Well, we received a lot of reports obviously, but I'd be interested in looking at that. I did, like I say, I had an interest in the Medicaid reform and I thought there was a lot of good work went into that. But I'd be interested and I'm sure other people would again to see that. So... [LB1176]

JENNIFER CARTER: Sure. Yeah. We're happy to recirculate that. [LB1176]

SENATOR GAY: Thank you. [LB1176]

JENNIFER CARTER: Thank you. [LB1176]

DOUGLAS VANDER BROEK: (Exhibit 10) My name is Douglas Vander Broek, and the last name actually is two words, V-a-n-d-e-r, and the second word of the last name is B-r-o-e-k. I'm Doug Vander Broek and I'm a practicing chiropractor in Lincoln. I'm also a member of the board of directors of the Nebraska Chiropractic Physicians Association, and the NCPA represents about 85 percent of the licensed chiropractors in the state of Nebraska. I'm here today to speak in opposition to the proposed cuts in chiropractic care for Medicaid patients. And currently Medicaid provides a chiropractic benefit of 1 set of x-rays and a maximum of 20 visits per year for chiropractic care. The proposals by HHS would cut the maximum allowable chiropractic visits from the current 20 to 12 per year. Chiropractic care is an inexpensive effective method of treatment for Medicaid patients with back or neck pain, sciatica, shoulder/arm/hand pain or numbness, muscle tension headaches, and a variety of other conditions. The number of visits that are required to treat a specific patient for a certain condition varies widely based upon the severity of the condition, age, and physical condition of the patient and their response to treatment. For example, if I have a patient with sciatica, pain in the leg, actually two patients with sciatica: One is ambulatory; one is in a wheelchair. The patient who is ambulatory will respond faster and will require fewer visits because of the ability to walk and stretch and do a number of other exercises. I've also had patients that I've treated who are amputees with phantom leg pain who have attempted other types of medical care and nothing has removed the phantom sciatica, other than chiropractic adjustments. So some patients require 20 or even more treatments per year to get

adequate care. In one case that I treated last year, a patient received a total of 25 visits during the year 2000. And all 25 visits were not for the same diagnosis. And due to the severity of the condition that she experienced late in the year, I also recommended that this patient be under the care of the family physician and a physical therapist at the same time. Also at my recommendation, additional x-ray and MRI studies were ordered through the family physician. Chiropractors can directly order imaging and lab work, except for Medicare and Medicaid patients. Because this particular patient needed the treatment, I treated this person for the additional five visits toward the end of the year at no charge. As portal of entry providers, chiropractic physicians are educated and licensed to diagnose. Decreased physician contact for patients may result in a delay of timely diagnosis and any necessary referrals, further increasing total healthcare costs. Throughout my 25 years of practice, there's been a number of times when I and other chiropractic practitioners have been the first to diagnose fractures, cancer, abdominal aortic aneurisms and a number of other conditions, and then promptly refer those people for the appropriate medical treatment for those conditions. Another patient that I treated last year who needed 20 visits experienced a fairly short-term significant weight loss. And it's been my experience that either short-term weight losses or gains change the weight bearing on the spine and can result in persistent back pain. This particular patient's weight loss resulted from a gastric bypass, which was funded by Medicaid. A chiropractic care is one of the least expensive options for Medicaid patients at a reimbursement of just $25.99 per visit. If adequate chiropractic is not available, shifting of care to other more expensive options will occur. Chiropractic also provides a unique service which cannot be duplicated by other providers. Several years ago, Medicaid proposed eliminating the x-ray benefit for chiropractic patients. When a cost comparison was done, it showed that if the x-rays were taken by any provider other than a chiropractor, family physician, orthopedist, imaging center or hospital that the actual net costs to HHS would actually increase instead of decrease. As a result of the cost comparison and the shifting of services, the chiropractic x-ray benefit was retained. In the fiscal note the total savings that HHS proposes by cutting chiropractic visits from 20 to 12 per year is $69,000. Statewide this is a number that would quickly disappear if there would be shifting of services to other providers. However, $69,000 is a small proportion of the proposed $2.5 million cuts. Retaining the 20 visit maximum treatment for chiropractic care is not about protecting chiropractor's incomes. It's about providing necessary care at a very reasonable cost for those patients who have the fewest resources available. In the absence of any abuse of overutilization on either the part of the provider or the patient, retaining the 20 visit limit will help provide quality care in those cases where the treatment is medically necessary. For many Nebraskans, chiropractic is not expendable or is not an elective procedure. I would like to thank Senator Dubas for bringing this issue to the forefront so we could all discuss this. I would like to thank the committee for their time. I would entertain any questions. I would also propose an amendment to LB1176 for the committee's consideration that on page 5 line 9 that we strike the word "12" and instead insert the word "20." I would be happy to answer any questions that you may have. [LB1176]

SENATOR GAY: I've got a question for you. Just looking at these stats, 2,594 patients had 11,457 visits. What happens after they hit their 20 visits? [LB1176]

DOUGLAS VANDER BROEK: Well, they don't in most cases I think they don't receive chiropractic care. [LB1176]

SENATOR GAY: They just quit. [LB1176]

DOUGLAS VANDER BROEK: I think that either they quit or the provider probably doesn't provide treatment. In the one case that I cited I treated the person an additional five visits because they needed the treatment. But I think that there is, there probably is not treatment available beyond that. And my guess would be with a savings of $69,000 that there...you know, I don't understand the fiscal note entirely, but there may not be that much savings in eliminating from 20 down to 12. [LB1176]

SENATOR GAY: So well, I guess what you're saying that you probably just did those to finish up the treatment. I mean, you can't hit 20 and then just quit. I mean so you're taking that. You're eating that or what? [LB1176]

DOUGLAS VANDER BROEK: Right. That's correct, Senator. There is not a magic number. And also as I said in a calendar year's time, you know, 10 or 12 visits may be more than adequate enough for a treatment for a particular diagnosis, two or three treatments may be enough. But we have people who utilize chiropractic and may see the chiropractor for three or four different conditions or diagnosis throughout the year. We do actually serve as family physicians for a number of people who, believe it or not, do not have family physicians. And we then refer to the appropriate medical specialist as they need throughout the year. So this would definitely impact people's overall healthcare. [LB1176]

SENATOR GAY: Okay. Thank you. Any other questions? I don't see any. Thank you. [LB1176]

DOUGLAS VANDER BROEK: Thank you. [LB1176]

CAREY WINKLER: My name is Carey Winkler, C-a-r-e-y W-i-n-k-l-e-r, and unfortunately I'm not as eloquent or as up-to-date on all of the Legislature things as everyone before me is. I hoped to come to show the human aspect of how these changes would affect a family. I'm here to address my concerns of the proposed cuts and changes to Medicaid in regard to LB1176. I'd respectfully request that you take great consideration and careful study the impact that these changes are going to have on families. I'd like to share what having Medicaid has meant for me and my family. My son, Grant, is five years old. He has a very rare chromosome duplication with multiple disabilities. He has

visual, orthopedic, and cognitive impairments. He's completely nonverbal, has a heart condition and a seizure disorder. Yet he's the most pure human I've ever met. For five years now I've had to fight insurance companies. I was completely unaware of the programs that were available to him. Every year they refused to cover the brace for his foot. They don't cover orthodics. Those have cost $900. So I wait as long as we can to get a new one. We continue to fight to get those covered. At age two, he had a grand mal seizure and stopped breathing. I dialed 911 for help. He had to be taken to the emergency room via ambulance. They would not cover that. They didn't have a contract with the provider. That was over $600 for the ride. My husband and I had a very heated debate over whether I needed the ambulance or not. I said well, I could probably put the IV bag on the luggage rack in the van and drive him if you'd like. We needed to have his eyelids lifted because they drooped so severely he wasn't able to keep his balance to walk. The insurance claimed that was a cosmetic procedure that they weren't going to cover. We did end up getting that covered, but then the cost of that procedure was $7,000. Within one month of that surgery he learned to walk. In five short years, Grant has had 9 surgical procedures ranging in cost from $5,000 to $15,000. We've paid the copays and deductibles and the expense that our family's incurred is easy to see. Honestly, that is only a small portion of our day-to-day medical expenses. We continued to see specialist in every day appointments to keep his conditions under control. Having a child like Grant has changed how our family lives. When he came along we make many sacrifices, we work endlessly to attain goals so easily reached by other children. His two brothers are well aware that Grant's needs are many, so they ask for very little. We do the best we can to keep them in, you know, sports or other things that they might like to do. But we have to say no to them very often. We just recently applied and received the age and disabled waiver for Grant because of his severity of his disabilities eight months ago. I've said that was a Godsend for us. We do pay premiums for family healthcare insurance through my husband's work. So Medicaid is only a secondary provider for us. My other concerns about the Medicaid reform is the issue of charging families premiums on the waiver. The numbers that I've seen, our family would have to pay $120 a month over what we already pay for private health insurance just for Grant. So his single coverage to obtain Medicaid as a secondary provider would be almost...well, 50 percent higher than what we pay for our entire family coverage. Unfortunately Grant has many more medical needs than the average person, so I have to continue to fight with our insurance company to cover these. Luckily we now have that safety net of allowing us to get the coverage that he needs with Medicaid. When I think back to when I took Grant home from the hospital, the only support I had from them was the advice to just take him home and love him. I had no idea of any of the programs or supports available, and that seems so strange to me that they would say that to me. Just take him home. Well, of course I love him. He's my child. But then it occurred to me that not so long ago that might not have been encouraged of me. They might have told me to just leave him and put him in an institution. Since Grant has had access to Medicaid, I feel like I have the necessary supports I need to handle the day-to-day life of having a child with special needs. I know someone is there to help me

through all his medical issues. Having respite care has allowed me to actually be me again. I actually went to a Husker football game this year, and my husband said to me, wow, I forgot you were fun. You know, that kind of earned him a little pop up the back of the head, but I forgot I was fun too. I found out that I do need breaks. I feel like I was just in a holding pattern, surviving barely above water. I was literally at my breaking point before I found out that the waiver was available to our family. These programs are so important to families and I do understand the sustainability and the fiscal responsibility and the personal responsibility. I have enormous personal responsibility. All families on the waiver programs, since our income is not...we don't need to show income, it's due to the severity of our child's disabilities. And I just want you to know that human side of it, that, you know, we do, we've continually have been denied by the private insurance companies. And when you try to model Medicaid to those, it would greatly affect us. I can speak specifically to the eyeglasses, we, in one year, had to change his prescription four times. His one lens, because it was so severe, cost $198. We bought the cheapest frame possible and the total cost for those eyeglasses, which were not covered at all, was a little over $400. And then three months later his visual impairment was such--he's legally blind, but also...but he can see partially--was such that we had to continue to change his prescription. So if you have any questions I could answer for you. [LB1176]

SENATOR GAY: Thank you. Any questions? Thank you very much for that. Appreciate it. Other opponents? [LB1176]

C. J. ZIMMER: (Exhibit 11) I am C. J. Zimmer, Z-i-m-m-e-r. Senator Gay and committee members, I'm speaking to you today as the chair of the Nebraska Statewide Independent Living Council, a disability advocate, the mother of a young adult with disabilities, and as a person with a disability. In the past, I have needed Medicaid to recover and rejoin my community as a contributing citizen, employee, and parent. If these cuts are not successfully challenged, many Nebraskans with disabilities that depend on Medicaid will have a sharply diminished quality of life because they will have to be institutionalized to receive the bare minimum of care. This proposal will cut or cap services needed to live independently in the community. People with disabilities have much to offer, but their ability to participate meaningfully depends on receiving adequate supports and services. The cuts and caps as suggested by HHS would divide people with disabilities absolutely essential levels of services to sustain independent living. Many treatments create problems that require care more frequently or more extensively than the proposal suggests. For example, diabetes requires frequent visual visits, at least yearly eye exams to check for glaucoma, and frequent corrective lens changes. The cuts to vision services do not adequately protect vision or allow for rehabilitation to be maintained. Many psychiatric medications cause unavoidable side effects that require dental care more frequently and extensively than afforded by LB1176. I can attest to this personally with over 32 years of experience. A person without dental health is a person who is essentially without health. Some treatments for severe mental illness,

for example, can necessitate the need for more than 60 occupational therapy visits a year. If I had been subjected to the drastic limits being suggested by LB1176 when I was very ill and on Medicaid, I would today be cycling in and out of institutions at great cost to the taxpayers, not working, paying taxes or advocating for and with people with disabilities, with whom I'm very proud to be associated. We are a good investment for Nebraska. LB1176 would also put recovery and rehabilitation out of reach for people with traumatic or acquired brain injuries or young people with complex or multiple disabilities, as we just heard. LB1176 is asking too high a price for people with disabilities to pay. It is likely to shift costs to other categories through increased highly costly out of home placements, and as a home care nurse who cares for people with disabilities, I can assure you there will be worsened and inadequately treated side effects, which will lead to higher costs down the road rather than having treated them adequately in the first place. And colloquially I think we would call that pay for it now or pay much more for it later. Technological progress in many areas, such as hearing aids, outstrips what LB1176 allows for. Hearing aids are most often needed in pairs and hearing can worsen in just a few years, necessitating new hearing aids so a person can participate in their community and work and contribute to Nebraska and our economy. We think the committee should amend LB1176 so that people with disabilities are not subject to the limitations outlined in the bill. An avenue for appeal needs to be created for unusual or unforeseen circumstances, such as significant improvement in medical science or changes in disabling conditions. Nebraska has a proud history of caring for its own. When I go throughout the United States in my efforts in advocacy, I'm proud to say I'm from Nebraska because we do have this history of caring for our own. I urge the committee to amend LB1176 so this tradition continues, enabling citizens with disabilities access to the care needed to sustain independent living and the capacity to make meaningful contributions to our communities. [LB1176]

SENATOR GAY: Thank you. Any questions from the committee? Senator Erdman. [LB1176]

SENATOR ERDMAN: C. J., thank you for your testimony. I heard this before and I went to get the information to make sure that I was hearing it correct, and then you said the same thing about the hearing aids. Logically you would assume that hearing aids come in pairs because you've got a pair of ears. [LB1176]

C. J. ZIMMER: Right. [LB1176]

SENATOR ERDMAN: According to the statistics, there were 4,375 individuals that received hearing aids between 2003 and 2006 under our Medicaid program. [LB1176]

C. J. ZIMMER: Um-hum. [LB1176]

SENATOR ERDMAN: Only 234 of those individuals received more than one hearing

aid. So that's around 5 percent or less. Can you help me with the connection? If 234 clients out of 4,375 received more than 1 hearing aid...and again, I can assume that maybe they received 3 or 4 hearing aids, but maybe they received a pair. Where's the disconnect between what the statistics are showing us within the system versus what is evidently practiced within the ability to treat individuals that have hearing issues? [LB1176]

C. J. ZIMMER: Unfortunately I don't know the answer to your question. I don't know if it's because currently you're only allowed...that was the only number of people who were allowed to receive two hearing aids. I'm not... [LB1176]

SENATOR ERDMAN: Well, the hearing aids right now are unlimited. [LB1176]

C. J. ZIMMER: I have a hearing impairment but the technology I use does not include hearing aids. So I am just not conversant with an explanation for that. [LB1176]

SENATOR ERDMAN: Yeah, because logically to me...I mean, hearing is kind of like glasses, at least in theory, that if you're going to have glasses, it's probably a result of one eye overcorrecting for the other, which was my case when I was younger. Hearing may be the same way, but right now we have unlimited hearing aids under the Medicaid program. And of the 4,375 individuals that received hearings aids, only 234 actually received more than 1. And I'm just trying to connect the dots so that we were comparing... [LB1176]

C. J. ZIMMER: I can understand that, and I'm sorry I do not have the answer for that. I do know that the technology in hearing impairment treatment has just increased enormously. Many people are using cochlear implants, which could change the number of hearing aids because that is state of the art treatment. But I'm sorry. I'll have to defer to someone else. [LB1176]

SENATOR ERDMAN: Sure. You're more of an expert than I am. I just thought I would ask. [LB1176]

SENATOR GAY: Tim, do you know what...hold on one minute. I think we can get that information for Senator Erdman, and I'd rather get some...not that I don't value your information, but I think we can get that information for you, Senator. Be more than happy to get that. Senator Hansen and I were on Banking and Insurance, we heard a lot about cochlear implants and hearing and there are some really good information we can get you, why that occurs. So I'd rather not get off the subject here. We will get that information because it's... [LB1176]

C. J. ZIMMER: Okay. When I use technology, I use it in both ears, but it is not hearing aids. [LB1176]

SENATOR ERDMAN: Right, right. [LB1176]

SENATOR GAY: Yeah. Many times one is worse than the other and you only get one. Anyway, we'll get you that information, Senator. Okay. Thank you for offering though, Tim. [LB1176]

SENATOR HOWARD: Tim, I think maybe Vivianne would know. [LB1176]

SENATOR GAY: She's going to be testifying next if you want to cover that, Vivianne, or whoever is. [LB1176]

C. J. ZIMMER: Thank you. [LB1176]

SENATOR GAY: Thank you. If you know, Vivianne. If you don't, that's fine too. Ready? [LB1176]

VIVIANNE CHAUMONT: (Exhibit 12) Good afternoon, Senator Gay and members of the Health and Human Services Committee. My name is Vivianne Chaumont, C-h-a-u-m-o-n-t, and I'm the director to the department...for the Department of Health and Human Services division of Medicaid and Long Term Care. I'm here to testify in opposition to LB1176. Current statute allows the department to establish limits to benefits that recipients may receive under the Medicaid programs. The statute currently requires the department to notify the Governor, the Legislature, and the Medicaid Reform Council of any proposed changes, and the changes cannot be effective until the Legislature has had an opportunity to consider the changes. LB1176 Section 2 would amend current statute by adding the requirement that the notification to the Governor, the Legislature, and the Medicaid Reform Council be at least 60 days prior to the beginning of a regular legislative session. The 60 day reporting requirement limits the department's ability to react to changes in the economic status of the state if that status change is after this reporting period. This limitation takes away the latitude and flexibility to develop proposals in a timely manner and, as need arises, to maintain the sustainability of the Medicaid program. LB1176 places in statute the specific limits on adults for certain Medicaid services. These are the limits proposed by the department in order to comply with the mandate given in the biennial budget bill adopted by the Legislature for the current biennium, fiscal year '08 and fiscal year '09. The budget bill instructed the department to limit optional services to those similar to commercially available health, vision, and dental insurance. The limits proposed by the department are: one pair of eyeglasses every two years, does not affect doctors visits for vision exams, it just affects eyeglasses to one pair every two years; hearing aids every four years, and when we said hearing aids, I should have said a pair of hearing aids every four years, the fiscal note is calculated on the basis of a pair; dental benefits to a $1,000 limit; and an annual limit of 12 chiropractic visits; and 60 outpatient medical

rehabilitation visits. The biennial budget bill, approved by the Legislature last year, has already decreased to the department's budget by more than $2.2 million for savings to be garnered from imposing these benefit limits. It is not necessary for the limits to be placed in statute. Current optional service limits are not in state statute. Current statute gives the department authority to impose limits on medical services once the Legislature has had the opportunity to consider the proposed changes. If the Legislature does not take action to stop the proposed limits, the limits can be implemented by the department. This bill is not necessary to implement the proposed changes to the optional Medicaid benefits. The intent of these changes proposed by the department is to follow the recommendations for the Medicaid reform plan and the mandate to the Legislature, as reflected in the biennial budget bill, which eliminated $2.2 million from the department's budget to implement changes such as these and to align Medicaid coverage with coverage in commercial insurance plans, such as the Nebraska state employees insurance plan. I would be happy to answer any questions. [LB1176]

SENATOR GAY: Any questions for Vivianne? Senator Hansen. [LB1176]

SENATOR HANSEN: Thank you, Senator Gay. Vivianne, you said in your testimony and I don't think we heard it yet this afternoon, these cuts are only for adults. Is that correct? [LB1176]

VIVIANNE CHAUMONT: Only for adults. [LB1176]

SENATOR HANSEN: It has nothing to do with children's Medicare benefits? [LB1176]

VIVIANNE CHAUMONT: Absolutely nothing. [LB1176]

SENATOR HANSEN: Thank you. [LB1176]

VIVIANNE CHAUMONT: Yeah, the mandate from the Legislature and from the Medicaid Reform Council is to align the dental, vision, and health insurance benefits for adults to commercial insurance plans. [LB1176]

SENATOR HANSEN: Thank you. [LB1176]

SENATOR GAY: Thank you. Any other questions? I don't see any. Thank you, Vivianne. [LB1176]

VIVIANNE CHAUMONT: Thank you. [LB1176]

SENATOR GAY: Other opponents who would like to speak on this issue? I don't see any. Anybody in the neutral...opponent or neutral? Neutral? Neutral. Okay. Anybody in the neutral capacity. [LB1176]

ED SCHNEIDER: (Exhibit 13) This is for Senator Hansen. Good afternoon. My name is Ed Schneider, E-d S-c-h-n-e-i-d-e-r. I'm the third party consultant to the Nebraska Optometric Association. I'm a retired optometrist and I was the Medicaid vision care consultant from 1981 to 1998 or thereabouts. The Nebraska Optometric Association supports the concept of LB1176 in regards to the opportunity for legislative oversight as proposed in the regulatory changes for the state Medicaid plan. From optometry's experience, DHHS regulatory process has been very satisfactory. However, with the increasing pressures to manage the costs, we believe that it is appropriate for the Legislature to have at least an opportunity to address any significant regulatory changes as mentioned in Section 1 of the bill. We think that's reasonable. But while we support the premise in Section 1, we are concerned that putting the specific limitation into statute as proposed into Section 2, that is to put it into statute...especially in page 5 lines 6 and 7 is inadvisable at this time. We're concerned that the statutory restrictions rather than regulatory limitations would interfere with the greater flexibility of the regulatory process by the department, should there be a change deemed necessary. As we understand the regulations, and I actually handed Senator Hansen a list of the limitations on vision care, adult Medicaid recipients may have their eyes examined once every two years. This does not affect that. And incidentally, that two year business does not affect things like glaucoma or diabetic retinopathy or serious problems. And their frames and lenses may be replaced every year under certain limited circumstances. And the examples here are due to damage or to breakage or the loss or that sort of thing. There's no mechanism for automatic annual replacement. There must be a good reason for the replacement to take place. Now, we don't oppose the general concept of limiting the replacement of eyeglasses to once every two years for adults. In fact, our members feel that's a real reasonable limitation. And especially in fact as mentioned numerous times earlier, most third party vision plans already have a two year limitation. However, when we must consider that the general public probably most likely will have additional resources should something untoward happen to their glasses, whereas Medicaid recipients most likely will not. And that can lead to financial repercussions to that individual and to the state, and those could be significant. And the possible repercussions might include, for example, interference with education or training or advancement of employment, possible job injury with resulting medical expense--your handout is on two sides, by the way--loss of safe driving ability due to poor vision, which could lead to loss of transportation related to the employment or actually loss of employment. And as you are aware, you do pay for transportation for medical care and that could add to that. And auto accidents with a cost to the state and to innocent bystanders, so on and so forth. The department's projected savings is $115,000. However, we wonder if putting this restriction into statute might possibly create additional expenses to the state, which would erode or completely offset that $115,000. And of course, the obvious is probably a vision-related accident could quickly gobble up $115,000 in Medicaid medical expenses. So rather than put the two year restrictions into statute, we will suggest to continue using the regulatory nonlegislative alternatives.

And such alternatives might be put into regulation, which would limit the circumstances under which broken or lost glasses would be authorized. And there's four examples there that are just off the top of our head. And the department may or may not agree with those. They may come up with something better. We understand Ms. Chaumont's charge here that these be comparable to commercial plans. On the other hand, we hope that we have convinced you at least consider this situation. We understand the need to defend parameters for Medicaid services. We are well aware of the financial stress placed on the state by the costs of Medicaid. But for the aforementioned reasons, we are opposed to the idea of placing these specific limitations on eyeglass replacement into the statute as proposed in Section 2. However, we feel that there is merit is Section 1 and we are offering our testimony therefore in a neutral capacity. [LB1176]

SENATOR GAY: (Exhibits 14, 15, l7, 18 and 19) Thank you, Ed. Any questions from the committee? I don't see any. Thank you. Anyone else would like to testify in neutral? I don't see any. All right. With that, we're going to close the public hearing on LB...oh, Senator Dubas. I'm sorry. While Senator Dubas is coming up, we do have some letters indicating...they'll be entered into the record: Nebraska State Speech Language and Hearing Association; Nebraska Occupational Therapy Association; Nebraska Primary Care Association; Nebraska Hospital Association; Nebraska Chapter of American Physical Therapy Association. Thank you, Senator Dubas. Sorry. [LB1176]

SENATOR DUBAS: Thank you, Senator Gay and committee members. I think the point that I really want to emphasize or reemphasize is that without legislative intervention on these recommended cuts, they're going to happen. So my point is that if we don't have this information presented to us in a timely fashion, we don't have an opportunity to react. I think Senator Hansen made the point, you hadn't seen the information. It was on my pile of things to read. You know, unless it's really brought to our attention, the first ten days of the legislative session are a flurry of activities, and so unless something is really brought to your attention, those things can be easily overlooked. And so I think it's very important that we have this type of information presented in a timely fashion that gives us a chance to react, as well as those who are most impacted by the suggested changes a chance to bring it to our attention, suggest recommendations or opportunities to work on it. I think just by the number of people who showed up here today to testify, no matter what side of the issue they took, show the importance of a public hearing and that they wanted to have an opportunity to bring their concerns to the legislative body for us to know and understand what was going on. So I do appreciate all of the testimony that was brought forward today, especially those who had suggestions and recommendations on how we could save money without necessarily having to make cuts that were going to directly impact the lives of the people who really do rely on these services. I think the hearing ultimately asks the questions: Have we exhausted all cost saving measures before we've looked at making cuts in services? I guess I'd just like to reemphasize the fact that by not having this information in a timely fashion, we really

are shirking our duties and we lose that opportunity to raise the questions we need to be good policy makers. So I appreciate your attention today. [LB1176]

SENATOR GAY: Senator Erdman has a question. [LB1176]

SENATOR ERDMAN: Senator Dubas, I wasn't here for your opening. I apologize. You may have covered this, you may not have. About the time you were running for the Legislature was about the time the process was being taken statewide on Medicaid reform initially envisioned in LB709, and then ultimately put in place under LB1248. Did you attend or were you aware of those hearings? Did you participate in those? [LB1176]

SENATOR DUBAS: No. I was not aware of those hearings. [LB1176]

SENATOR ERDMAN: Okay. Have you since those have been completed read the Medicaid reform reports or reviewed those recommendations? [LB1176]

SENATOR DUBAS: I haven't given it really close scrutiny, but I have looked through some of the report. [LB1176]

SENATOR ERDMAN: Okay. I think one of the interesting parts about this discussion is that it's cast as if the folks that devoted an amazing amount of time, Jeff Santema and Dick Nelson especially, to a thoughtful process in which we'd had--I don't know--300 people in western Nebraska attend the meeting that was out there to discuss this topic. Simply doing nothing eliminates all services because we're on a crash course for unsustainability and it's not just this program, it's state aid to schools and other things. I, too, am interested in proactive solutions. I am somewhat interested in the way that the bill was drafted, however, because even if the bill passes, it doesn't stop what they did. Unlike Senator Johnson's bill, LB1122, it intends to remedy the perceived problem or real problem that's proposed by the rule change in the services. I think it's appropriate for us in the public setting, especially as elected officials, to ensure that people have a venue, but that there's also a remedy. I don't see the remedy under your bill as it's written, and there may be a remedy through an amendment or through LB1122. But I think, at least from my perspective, it's instructive to me to review how we got here and more importantly, where we want to go. I think your bill has provided some of that opportunity and I thank you for doing that and I'm sure we'll hear some more on LB1122. [LB1176]

SENATOR DUBAS: Well, I worked very closely with Jeff and with Senator Johnson on this bill. Kind of at the 11th hour we were realizing something needed to be done. Is this exactly the bill I wanted? No, but it was the vehicle for us to use to generate this discussion and I think that's the most important thing throughout this whole process. And I do know that there have been a lot of people who have given an enormous amount of time and attention to this issue and will continue to do so and my bill is not a

slam on that work. I appreciate the work that they've done. And as being someone relatively new to the whole process, I'm not going to come in here and say, you've done it wrong and I know how to do it right. That's not my intention at all. [LB1176]

SENATOR ERDMAN: Well, you might. You might be able to say that because I don't think anybody has the solution. And I think everyone that sat around the table under the Medicaid Reform Council as originally established, and those of us that sit there now, whether we're a member of the Legislature or not are interested in proactive solutions that accomplish the goal. And I think that has to be focused on. There are a lot of things we could do. But we have to be going in the right direction and accomplishing the goal that makes sense, not only for the state of Nebraska, but for the recipients and I think that's an interesting balancing act. There are a lot of things we could do. They may not contribute to the overall viability of the program, which in turn jeopardizes everybody's services. And I think that's an interesting thing to keep in mind as we discuss these issues. [LB1176]

SENATOR DUBAS: Thank you. [LB1176]

SENATOR GAY: Any other questions? Senator Howard. [LB1176]

SENATOR HOWARD: Thank you, Senator Gay. I would like to say, Senator Dubas, you are relatively new to the process, but you know what, you can always question. You can always ask and I think that's a part of why we're here to look at things, and even when legislation is passed, we revisit legislation the next year and we realize that there are things that we need to do differently. So never hesitate to get into an issue that you question or that you want to know more about. I support you in that. [LB1176]

SENATOR DUBAS: Thank you. [LB1176]

SENATOR GAY: Any other questions? Thank you, Senator. Appreciate it. Okay. That will close the hearing on LB1176. See also Exhibit 16. And open on LB1122. Roger, go ahead and open. [LB1176]

ROGER KEETLE: Good afternoon, Senator Gay and members of the Health and Human Services Committee. For the record, my name is Roger Keetle, K-e-e-t-l-e. I'm the legislative aide for Senator Joel Johnson. I'm sorry to say Senator Johnson is ill today and I'm testifying on his behalf. The purpose of LB1122 is to review the propriety of a proposed establishment of a cap or limit of $1,000 per year for dental services as provided under the Medical Assistance Act. It's Senator Johnson's position that the Legislature should be fully informed of the impact of the proposed cap on dental services. This hearing will provide information for an informed decision on this cap. The Legislature has the authority to stop the implementation of this proposal. The language of LB1122 would establish a category of medical assistance required under state law,

which is in addition to the medical assistance required under Title XIX of the Federal Social Security Act. The new category would include dental services. Larry Ruth of the Nebraska Dental Association will follow me and offer an amendment for your consideration that limits the state mandated dental services established by LB1122 to the dental services currently provided. This amendment also clarifies that LB1122 only addresses dental services. The impact of LB1122 as amended is that the proposed cap of $1,000 per year on dental services would not be implemented. This concludes the opening and I hope you look forward to a greater understanding of the issues and now the specific impact of a proposed cap on the annual amount of dental services provided under the Medical Assistance Act. With that, I'd take any questions. [LB1122]

SENATOR GAY: Thank you, Roger. Are there any questions for Roger? I don't see any right now. [LB1122]

ROGER KEETLE: Thank you. [LB1122]

SENATOR GAY: Proponents? How many proponents do we have on this? Five. How many opponents? One. All right. Thanks. [LB1122]

LARRY RUTH: (Exhibit 1) Senator Gay and members of the committee, my name is Larry, L-a-r-r-y, Ruth, R-u-t-h, and I'm representing the Nebraska Dental Association today. Thank you very much for allowing us to present LB1122. LB1122 is one of those bills that you just put together as fast as you can, as soon as you can, and you don't have a lot of time to do it. We have an amendment, 1976, being distributed which makes a little bit clearer what we're attempting to do and I'll just go over that with you. AM1976 would establish a new mandated, state mandated, dental services under Medicaid. It would move it from the optional services to the mandated services. And that would be appropriate to do, in our opinion, in order to avoid the proposed limitation that we're talking about. I stand available to answer any questions on this amendment that because it's kind of technical, I wanted to be available. It also makes sure that the services under this new service are the same as are being done right now, the same that are being done right now. And I just put in a March 1 date for that benchmark. Thank you. [LB1122]

SENATOR GAY: Okay. Thanks, Larry. Any questions for Larry? Senator Erdman. [LB1122]

SENATOR ERDMAN: Larry, I think I'm missing a page. I recall when we went through the process of LB1248--and I think it's drafted somewhere, I just don't think it's copied here--we discussed whether we would list the optional services in statute or not because technically we don't have to provide these. They are optional. You're amendment, it goes from page 1 to page 3... [LB1122]

LARRY RUTH: Is the amendment three pages or two pages? [LB1122]

SENATOR ERDMAN: ...and leaves out the optional services and so...actually what I was looking for, if you have a...there we go, and I'll just ask it if I see it. Nope, you took care of it because one of the questions that I had was technically sub 1 of 68-911 refers to the mandated services, and sub 2...well, now sub 3 and first the optional and you had dental listed in both on the green copy, and you've addressed that in your amendment. [LB1122]

LARRY RUTH: Yeah. Right. [LB1122]

SENATOR ERDMAN: But we have now three pages in my possession and I'm sure our talented legal counsel will provide that for us. [LB1122]

LARRY RUTH: Okay. I think what happened was when it went through the photocopier it all...something that was on two sides became one side and we only did every other bill. What's that? [LB1122]

SENATOR ERDMAN: I recall very vividly the importance that some people felt that the optional services needed to be listed in statute. I just wanted to make sure that you weren't pulling a quick one on us here. [LB1122]

LARRY RUTH: It's a peculiar way of doing this because the optional services are as defined by federal law, the mandated services are as defined by federal law. So we had to come up with a subsection 2, which is different which is a state mandated service. [LB1122]

SENATOR ERDMAN: Fair enough. [LB1122]

SENATOR GAY: All right. We'll get copies of all three pages run. I don't know where Jeff went, but...all right. Any other questions? [LB1122]

SENATOR ERDMAN: You weren't trying to save money by (laugh) leaving out a page were you? [LB1122]

LARRY RUTH: You are sharp. You're sharp. [LB1122]

SENATOR GAY: All right. I don't see any other questions. Thanks, Larry. [LB1122]

LARRY RUTH: Thank you. [LB1122]

SENATOR GAY: Any other proponents? [LB1122]

JESSICA MEESKE: Good afternoon, almost evening, so we'll be brief and be gone. Senator Gay and members of Health and Human Services, my name is Jessica Meeske, J-e-s-s-i-c-a M-e-e-s-k-e, and I'm here today representing the Nebraska Dental Association in support of LB1122. As you know from being here before, I'm actually a pediatric dentist and I also have a master's in dental public health. I currently practice in Hastings where I've been the past eight years. As a pediatric dentist in a group practice, about 50 percent of our patients are covered by the Medicaid program. Most of them are children, but we also see developmentally disabled adults as well. Many of these patients are very young. They travel long distances. Many of them are in the foster care system. Some of them live in the area homeless shelters. But they have very difficult medical, dental, and social situations. This bill addresses setting a limit on adult dental benefits. So why, you might be asking, is a children's dentist here testifying on this issue. Well, I can assure you it wasn't because my staff was excited about rescheduling the seven kids who were having surgery today and dealing with their moms. But it's important that I'm here because I'm very passionate about preserving the dental Medicaid program for those who truly need it. In order for you to understand why this is not a good idea, you have to understand just a little bit about dental disease. So what I'm going to do is I'm going to try to really condense in about 90 seconds what it takes dentists 4 years to go through dental school and... [LB1122]

SENATOR ERDMAN: Do we get a license when you're done? (Laughter). [LB1122]

JESSICA MEESKE: Sure. If you're willing to take the board. (Laugh) Okay? So let's break these down a little bit. When you look at dental disease, we're going to break it into two things for simplicity sake: tooth decay and gum disease, periodontal disease. And these diseases are infectious, they're progressive, they're debilitating, and they have a direct relationship with the patient's overall health. If we look at them individually we can break them down. Infectious. Okay, when I talk about dental disease being infectious, you need to think of it in terms of if I'm a pregnant mother and I have a baby and we share saliva, which we will do through kissing, all those bacteria bugs in my mouth I transmit to my infant child. That puts the infant child at risk for dental disease, such as tooth decay. Let's say I'm a pregnant mom and I have periodontal disease or severe gum disease. There's a very strong body of science that suggests that my baby is going to be at risk for preterm labor and low birth weight. And I think you already understand what the cost can be for bringing a preterm, low birth weight baby into the world, medically, educationally, and it goes on and on. Let's talk about it being progressive. Now I can really talk about adult dental disease. This means it's going get worse over time, and this is something where if you leave it go untreated, this is like a bacterial infection in your skin. It's going to spread and get bigger and get worse until it gets to the bloodstream. The only difference in the teeth is because it's a calcified tissue, so it moves slower. But you need to know that every year I put patients in the hospital for severe tooth decay because their faces are so swollen they can't open their mouth and eat, and their entire bloodstream and body is being affected. So you put

them on an antibiotic. You put them in the hospital. You get the swelling down. You can open up the mouth. You can treat the tooth. Okay? It's debilitating. People have chronic and severe pain and they have difficulty eating and speaking. And finally, it's directly related to one's overall health. So everything from a pregnancy to your heart health and everything is affected by the status of your mouth with it. You also have to understand and comprehend the impact that dental disease has on the social economic status of Medicaid beneficiaries and society. These dental diseases disproportionately affect those that are on Medicaid. They don't affect our population all equally. Those with smaller incomes, who are homeless, have severe medical issues, and maybe have more difficulty finding employment are afflicted with much more severe dental disease. And one of the things that's been a recurring theme today is you can't compare somebody who has an income that works for the state and has a state insurance program or a dental benefit with somebody on Medicaid. Once the state employee hits their $1,000 maximum or anybody else...if you work for Hastings Public Schools and you have Blue Cross, it's a similar type plan. But these families have an income to make up what that difference might be. And just so you know, dental insurance was never created to cover everything for every patient. What it was meant is to help offset the cost so it becomes affordable. The adults that we're talking about have extremely difficult complex dire medical, psychiatric, and social situations. They might be nursing home bound. They may be trying to go back to school They may have just gotten out of prison and they're trying to lift themselves out of their situation. A lot of these patients in nursing homes, these are like your parents, my parents, our grandparents. The only difference is they have smaller incomes. For society it's only going to increase the cost of the Medicaid program because you're going to shift your dental costs and your dental expenditures from Medicaid over to the medical side. It's just a cost shifting-type of thing. So what is the answer to reducing Medicaid spending you're still asking. And you've asked this several times today because it seems like you've put a lot into your Medicaid reform committee. And I'm not going to leave you without some suggestions. First off, your dental cuts are not going to help much. We make up about 2 percent of your Medicaid budget. You're big time Medicaid expenditures are in long-term care, in hospital inpatient care, and in pharmacy. They're not in dental. You're not going to get a measurable amount of cut by cutting it. There's no quick fixes. But here's two things that you can do...and I would have liked to have an opportunity to be a part of the reform process. And we specifically asked if a dentist could be involved, and we were told no. So that's why we're forced to come at this hour and with this bill. But here's two things you can do: I believe as early as tomorrow you have an opportunity to pass a clean indoor air act. That will be absolutely historic in terms of great public health policy. The second thing you have an opportunity to do this year is to ensure that, like many other states around us, insuring that everyone in this state or a majority of people have access to water fluoridation. I've come several years in the past and testified to this. We've showed you study over study. When you take comparable populations, neighboring towns, one town's fluoridated and one isn't, this town has lower Medicaid expenditures. That's what you need to be moving in that direction. So in closing, you

might still be scratching your head and asking, I still don't understand why a pediatric dentist has come down here today to fight so vigorously against these cuts for adult dental Medicaid benefits. Well, I'll tell you why. It's because these little kids that I'm seeing in my office this week that are on Medicaid, some day they're all going to be adults. And some of them have disabilities, some of them are poor, some of them have severe medical problems. But they're going to be the same adults that were before you testifying today. And one of the things that I hope they're going to do, and I know many of them will do, is they're going to go on and they're going to go to vocational school and four-year colleges and hopefully be gainfully employed. I really feel the majority will. But we know there's going to be a small percent that aren't, and that's the small number of adults that we're actually talking about. To limit their dental care would make as much sense as trying to limit their obstetrical care or limit their cardiac care and say, okay, after a heart attack, you've maxed out at this, we're not covering anymore. You just can't do it and have a medical assistance program that is really there to help people and at the same time be able to control costs. I just want to make a last point. I know, Senator Stuthman, we've talked before about your wonderful community health center in Columbus. This is going to have devastating affects to all the community health centers, the dental colleges, and the medical center if you limit how much a patient can spend on Medicaid. Because the people that end up in these places are oftentimes the worst of the worst. I'd be happy to entertain any questions. And I did bring information about other insurance programs, about Ameritas, which is the state dental benefit program, and I can compare fees or anything you would like. [LB1122]

SENATOR GAY: Thank you. Senator Erdman. [LB1122]

SENATOR ERDMAN: I was just picking a fight with Larry earlier just to see what he would do (laugh). But I would take the information. Jessica, you've been here before. We have actually had hearings about this time of the day when it seems that the issues here before us are here and... [LB1122]

JESSICA MEESKE: It seems to be about my time. [LB1122]

SENATOR ERDMAN: Let me ask you about the process that you think we've gone through. I've been on the Medicaid Council for, I think, 18 months now. I've never seen a request from the Dental Association to appear before the council. I know that when we were drafting the council originally under LB709 and then continuing it under LB1248, you and every other professional industry in the state of Nebraska wanted a seat. There's not room for a 3,000 person council and obviously there had to be a process that's been determined there. I don't want to let it said on the record that somehow your profession has somehow been left out. At the same point, I also wanted to be clear that just as much as it's our responsibility to involve you, it's just as much responsibility of your organization to involve yourself in a known process. As we talk about this topic, we can fluoridate the water, we can debate the actual total value of that and we have in the

past, and I don't even know what the status of that bill is. I'm sure we're somewhere between here and there or somewhere in between as we have been for the past eight years. So we simply go back and say that we leave this portion out, we leave it in law as it is as is proposed here, and we move on. And from the standpoint then of the process it's gone through, what's the next step? I mean, I'm interested. I think you're bringing viable alternatives. [LB1122]

JESSICA MEESKE: Um-hum. [LB1122]

SENATOR ERDMAN: But we're probably going to disagree on some of the actual application of some of the laws that are being proposed before the Legislature and what they actually accomplish. But candidly, do we have a problem in our Medicaid system as far as a financial sustainability? Are there fundamental changes that need to happen? I mean, you're not just a dentist, you're a Nebraskan. [LB1122]

JESSICA MEESKE: Um-hum. Taxpayer. [LB1122]

SENATOR ERDMAN: We're going to get to the point where we're deciding whether we spend money on... [LB1122]

JESSICA MEESKE: Right. [LB1122]

SENATOR ERDMAN: ...roads, cops... [LB1122]

JESSICA MEESKE: Schools... [LB1122]

SENATOR ERDMAN: ...schools, Medicaid. I mean... [LB1122]

JESSICA MEESKE: Um-hum. [LB1122]

SENATOR ERDMAN: ...and I'm not the soothsayer here of doom. I'm just...it's a fact. [LB1122]

JESSICA MEESKE: Right. It's a fact. [LB1122]

SENATOR ERDMAN: I mean, it's coming. One of the arguments against Medicaid reform is that it hasn't saved us enough money, and so it's not been effective. So then when we get the opportunity to propose some savings, whether they actually are accomplished or whether they shift to save somewhere else, then the response is well, it's not going to save enough or it's going to cost us somewhere else. I mean, it's a Catch-22. [LB1122]

JESSICA MEESKE: Chicken and the egg too. [LB1122]

SENATOR ERDMAN: It's a self-defeating prophecy from some. And I think some candidly want that reality. I think some assume that if we oppose any changes...and I don't think this is your organization, but if we oppose any changes that somehow the problem will go away. Now, the problem is going to go away for me professionally because I'm going to be gone. [LB1122]

JESSICA MEESKE: Right. [LB1122]

SENATOR ERDMAN: But the problem is not going to go away for me personally as a Nebraskan. So I'm interested and I think your testimony...I think you are very knowledgeable. You've shown that on other issues. I'm appreciative that Larry asked you and others to testify instead of him because you actually know what you're talking about (laugh) and he's just here to help guide the ship, I guess. But I'm interested. [LB1122]

JESSICA MEESKE: Okay. [LB1122]

SENATOR ERDMAN: I don't know that there's a question there. I just want to make sure that you know that there are options to be involved. It includes the same type of sacrifices you're making today. It's rescheduling those seven kids that were supposed to be in your clinic to make sure that you're able to give us the information that we need. At the same point, I hope you don't expect us to find the solutions on our own because I'm not smart enough to find them. [LB1122]

JESSICA MEESKE: Yeah. [LB1122]

SENATOR ERDMAN: And I think most of the members of the Legislature, regardless of where we're at on any of theses bills appreciate the information that's provided and is done in such a way as you have today that's intelligent, it's understandable, and gets to the heart of the matter. [LB1122]

JESSICA MEESKE: Thank you. [LB1122]

SENATOR GAY: Senator Hansen. [LB1122]

SENATOR HANSEN: Thank you, Senator Gay. Doctor, given you said you see the worst of the worst. But given you see a healthy mouth, how much preventative cost would there be to keep that mouth in good shape for the course of a year? [LB1122]

JESSICA MEESKE: Not near as much as to try to get them out of trouble and to treat active disease. But when a...you know, if a child comes into my office and they have a checkup visit, if they were paying out of pocket, that might be $150. If they had a Blue

Cross plan, that might pay about 90 percent of that. But you know, part of this has to be the responsibility of the provider. And if I see a child who comes in, and maybe they're on Medicaid or Blue Cross or pay out of pocket, if they come in and they have a healthy mouth and their risk factors for disease are low, I don't bring them back in six months. I say, come back in a year. We don't need to spend the money and take the time to do that. And I want you to know as a provider, I take very seriously when I have parents who come in whose children are on Medicaid or any insurance plan, if that parent is not taking responsibility for their child in doing what they're able to do, I lean on them really heavy. And yesterday I had to threaten to turn a mom into social services because I have given her multiple opportunities, multiple appointments to get this child's work done. It cost nothing to the parent. We also have very stringent things about when patients no-show. We never turn a child away in pain. But if I have a family on Medicaid that consistently abuses that, we have them pay a $25 record reactivation fee. That's not charged to Medicaid or the state. We just say, you know, you wasted an appointment time; other children could have used this time; we're not kicking you out of the clinic, but in order to get back in it's going to be a little inconvenient to have to get back in. And I think it does help to change family's behavior about that. But I take that very, very seriously that not every kid who comes in gets everything possible (inaudible). [LB1122]

SENATOR HANSEN: Okay. I think what I was trying to ask was that you see the worst of the worst and those are going to cost a lot. But if you're in a preventative basis, children on Medicaid, if you can get to the parent, if you can get to the child and get that stopped, that behavior stopped, get the brushing started, the flossing started, how much would that cost per year if you... [LB1122]

JESSICA MEESKE: With what Medicaid pays me? [LB1122]

SENATOR HANSEN: Can we do it for $1,000 a year? [LB1122]

JESSICA MEESKE: To maintain a child's health? [LB1122]

SENATOR HANSEN: Yes. [LB1122]

JESSICA MEESKE: Absolutely, to maintain it, even an adults' health, which is what we're talking about, adult. [LB1122]

SENATOR HANSEN: An adult child, okay. [LB1122]

SENATOR GAY: Senator Howard. [LB1122]

SENATOR HOWARD: Thank you, Senator Gay. I really want to thank you for taking...especially taking the Medicaid patients because I know how difficult it is to find

really good dentists that will agree to do that and do all the paper work, take the rate that's available. Even in Omaha where my district is, it's very hard to find a dentist for adults that will go through that. And you know, sometimes these individuals miss appointments and then that becomes frustrating and like you say, the dentist has wasted an appointment time. But I'm wondering, do you see this as having ramifications on fewer and fewer dentist wanting to work with Medicaid patients because the problem...I would see the problem is not becoming better, it would actually become more severe. [LB1122]

JESSICA MEESKE: I actually cut out that part of my testimony because of the lateness in hour. But well, you know, one of the things I have a privilege of doing is when I go down and teach at the dental school or if I'm even teaching from Hastings via satellite or if I have dental students come to my office, one of the things that I really love to do is to show a dental student how you can include these patients into your practice and make it work with being very creative and very carefully balancing the number of insured, noninsured, and the Medicaid. And one of the things that I try to do is to point out to them how important it is as a provider to take care of the people in your community, whatever it is they look like, whatever it is they can afford. And they can still do that and still be a very successful dentist and business owner. What this is going to do is when I go speak to the dental assistants in two weeks and give my Medicaid lecture, I always start off with asking them what have you heard about the dental Medicaid program? And they throw out all the reasons they've heard from dentists not to see this population. Then for the next 60 minutes, I have to convince them to do it. There is so many disincentives for a dentist not to participate in the program, and this is going to add one more and really make our fragile network provider even more fragile. On top of the number of dentists we have retiring, we've got workforce issues as well. So I'm going to have to get very creative when I go to the dental school and find new ways to convince these dental students that this is the right thing to do and it's a good thing for them and a good thing for the people they care for. Tough. [LB1122]

SENATOR HOWARD: I can really understand that. Thank you. [LB1122]

SENATOR GAY: Thank you. Senator Erdman. [LB1122]

SENATOR ERDMAN: Jessica, good news. LB245 is on General File to require fluoridation in all communities across the state. [LB1122]

SENATOR HOWARD: Yes. [LB1122]

JESSICA MEESKE: I knew that and thank you. [LB1122]

SENATOR ERDMAN: With an opt out provision. [LB1122]

JESSICA MEESKE: Right. [LB1122]

SENATOR ERDMAN: Just in case... [LB1122]

JESSICA MEESKE: That you add it. [LB1122]

SENATOR ERDMAN: ...so if you would like to compare the two topics that she brought up as legislation and the differences between LB395 and LB245. [LB1122]

SENATOR GAY: Anyway, so...Doctor, I've got more of a comment along with most everyone here. We appreciate all you're doing because I know it is an extra effort to take on Medicaid patients. You've mentioned one thing though I've got to comment on. You know, these parents come in and they're not taking individual responsibility for their kids and then they come in with the problem already going on. And you know, that's the kind of thing I'm glad to hear you saying that and taking some steps to say, come on, because those kids...I know, and you've been here before and we appreciate that. But yeah, that's a key too. I think in all of these things we need to make sure that people are taking those steps to, you know, at least do your part of the healthcare world. And then I'm glad to hear you say that. I appreciate that. So Senator Howard has something. [LB1122]

JESSICA MEESKE: Thank you. [LB1122]

SENATOR HOWARD: Thank you, Senator Gay. Senator Gay makes such a good point. That just makes me curious about one thing. Do you see many cases of baby bottle mouth anymore? [LB1122]

JESSICA MEESKE: A huge number of baby bottle mouth. [LB1122]

SENATOR HOWARD: Sounds totally preventable, and you know better than I do. [LB1122]

JESSICA MEESKE: You know, it is totally preventable. But so is an unplanned pregnancy. You know, what are we...how do you tell...you know, we educate, educate, and educate. I run a public health clinic that is absolutely free for low-income, uninsured children in my community. We see 110 children in this clinic every year that are falling through the gaps. And I don't know how you do it. We just keep going at it and at it. But when you do things like water fluoridation, you take the compliance out of it because everybody drinks water--except Senator Erdman with his soda (laugh)--and...no, everybody drinks... [LB1122]

SENATOR ERDMAN: Thanks for reminding me. I was thirsty. [LB1122]

JESSICA MEESKE: ...everybody drinks water and if you don't drink water and you drink bottled water, you at least cook with it or the kids get it through the water fountain. So we have to find more ways that makes it dummyproof to do it. But I do see a lot of baby bottle tooth decay. [LB1122]

SENATOR HOWARD: Which is a shame and I thank you so much for staying in the good fight. [LB1122]

JESSICA MEESKE: Thanks. [LB1122]

SENATOR GAY: All right. Thank you. Other proponents? [LB1122]

SENATOR ERDMAN: I think of Larry Ruth every time I drink my water at home, (laugh), at least in Lincoln because it's not in Bayard. [LB1122]

TIMOTHY DURHAM: Senators, I'd like to thank you for the opportunity to speak with you today. I'm Timothy M. Durham, T-i-m-o-t-h-y, Durham, D-u-r-h-a-m. I'm professor and chair of the UNMC's College of Dentistry's department of hospital dentistry. And I'd like to state clearly that I'm providing testimony as a representative of the dental profession and I'm not providing testimony as a university employee. I'd also like to state that I'm here providing testimony in favor of LB1122 and I'm going to structure my comments to show you the stark contrast with what would happen under LB1176 or any other type of plan to eliminate or restrict dental coverage. For the last 20 years I've been associated with UNMC's adult general dentistry clinic in Omaha. And the percentage of peer mix at UNMC filled by adult Medicaid is anywhere from 35 to 55 percent over that time frame. States are mandated to provide dental services to children while adult dental services are optional. And subsequently the adult dental program becomes the lowest fruit on the budgetary tree at times, and it's susceptible to cost containment, benefit reductions, reimbursement rate control, and elimination of services. And even though dental spending accounts for only about 1 percent of Medicaid expenditures nationally, has proven not to be a major contributor to the rising cost of Medicaid. Using reduction tactics, 20 states have severely restricted or eliminated their adult dental programs. What are we learning from those states when they do this? In Massachusetts, the Kaiser Foundation found that patients reported an increase in unmet dental needs, many without the discretionary income, their disease goes untreated and it progresses to more emergent-type conditions. Patients reported living in dental pain and had diminished self-esteem and that had a negative impact on employment and income. And it increased the burden that was placed on the safety net facilities, like the federally funded healthcare centers. Many facilities like Oneworld or Charles Drew, Peoples, Good Neighbor in Columbus or Panhandle in Gering will be stretched beyond capacity to handle these cases, as well as put increased burden on our dental schools. And the savings to the state really total less than 1 percent and a lot of cost shifting occurred to other segments of the healthcare system. The state of

Maryland found that without discretionary funds, their vulnerable population sought care in the emergency room. And the Ohio Dental Association found that that was three times more expensive than the dental environment. And they also found that it was not definitive in nature, it was more palliative in nature, so more and more visits occurred. Let me give you some other examples of what would occur if we had this cap placed, either by that legislation or through a policy within the Department of Health and Human Services. In our particular clinic I just pulled a random sample of 23 patients; 57 percent of them exceeded that $1,000 cap in 12 months or less. Within this sample, five cases represented individuals with developmental disabilities, the individuals that you saw here today providing testimony. Many times they cannot be treated in the traditional dental environment and we must take them down to the operating room to do their care. Due to the concentration of that care at that one-time visit many times will exceed the cap. And the average Medicaid reimbursement for those 5 individuals was $1,121 in my particular sample. So whatever happens, a specific carve out really needs to occur for the special needs population. Let me give you another example or two from the clinic setting: Patient A is a 72-year-old female with diabetes. For years, her physician has wanted her to get her teeth checked and the chronic and progressive nature of her dental condition leads to the extraction of 17 remaining teeth. The exam, radiographs, extractions, in our clinic was $1,490. Of that amount, Medicaid reimbursed us $884. Although she's under the cap that has been talked about, the Medicaid reimbursement for temporary dentures is $370; for 2 dentures it would be $740, and that would push her well over the cap. She wouldn't be able to get dentures. She'd have to wait one year to get dentures made under the current policies. During that time frame, she'd have trouble with her diabetes, eating, adjusting her insulin. She'd have to go visit her physician more often. Then when that other year rolled around and she started to get her dentures, to make a denture it's $570 reimbursable by Medicaid. I couldn't make two dentures for her because she would exceed the cap. She'd have to wait two years to have that occur. The second case is similar to that with a patient with hypertension, and due to the late hour I won't go into that one. I'd also like to provide you with a few facts about our Medicaid population at UNMC. Part of my master's program was to study the Medicaid population because I don't think we've really done a good job of looking at how Medicaid policy in Nebraska impacts these individuals and what is going on there. Within that Medicaid population they are two to two and a half times more likely to have dental needs on recall when compared to the insurance population. Capping that care would lead to the progression of active disease and emergency-type situations like I described previously that occurred in Massachusetts and in the other state. The Medicaid population on average was 29 percentage points higher with respect to systemic, pharmacological, physical, and mental oral health risk factors. That means a systemic disease that has an impact on the oral cavity; a phamacological management, such as medication for depression that could cause dry mouth that could impact the oral cavity; the physical disability like what you've seen here today. Individuals that are quadriplegic, a paraplegic and can't use their hands to brush their teeth or those with mental health disorders or are cognitively impaired. Additional analysis of those patients

of that population that I was looking at on recall found that a sequence of events would occur: that patients would have poor oral hygiene, longer recall frequencies, and increases in all those health determinants. They would end up being the worst of the worst and the patients at greatest risk for oral disease. That group was the Medicaid group. Medicaid policy reform, which kind of advocates reduction or elimination of adult dental benefits for short-term costs savings, will jeopardize the oral health. And based on experiences of these other states could escalate the cost of the total program by cost shifting. It also places increased burden on the safety net, and will also diminish access points to care, as you had mentioned earlier. So mandating dental care, adult dental care, and protecting this vulnerable population is key. More than happy to entertain any questions that you may have. [LB1122]

SENATOR GAY: Thank you. Any questions? Don't see any. Thank you. Other proponents? [LB1122]

ANNIE ANDERSON: (Exhibit 2) I promise to go extremely quickly. My name is Annie Anderson, A-n-d-e-r-s-o-n (sic), and I'm here representing the ARC of Nebraska. And earlier we went over what the ARC stands for and its mission, and in the essence of time, we'll just skip through that. And just be very simple in what we'd like to say, and that is that we support Senator Johnson's bill, LB1122, to make dental services a mandatory service and have it written to address the $1,000 limit under LB1176. So that's it very simply and plainly that we obviously do support this bill and would hope that it would move out of this committee. [LB1122]

SENATOR GAY: All right. Thank you. Any questions? Don't see any. Thanks. [LB1122]

JENNIFER CARTER: (Exhibit 3) Good afternoon. I'm Jennifer Carter, C-a-r-t-e-r, with Nebraska Appleseed, and I'll try to be even faster. I just wanted to clarify one thing with our testimony. We were coming here to testify in support because we too would support dental services being mandatory. But we're concerned that making the mandatory wouldn't actually address the cap, and that some other affirmative action would be necessary. And I was not aware that there would be a proposed amendment to basically freeze dental services as they are now, which might solve the problem with the cap. So short of that, if for some reason that wasn't accepted by the committee, we would also still ask that there may be other affirmative action taken like as we had suggested before, some kind of bypass procedure so that the folks who do need to go over the $1,000 cap would be able to do that when medically necessary as required by statute. And I'm happy to take any questions. [LB1122]

SENATOR GAY: (Exhibits 5-10) Okay. Thanks, Jennifer. Any questions? I don't see any. Other proponents? I don't see any others. Just for the record: League of Human Dignity, Nebraska Chapter National Association of Social Workers, Lancaster County Health Department, Nebraska Hospital Association, and Nebraska Planning Council on

Developmental Disabilities have all included letters of support on this bill. Opponents? Any opponents? That's you. [LB1122]

PAT SNYDER: (Exhibit 4) My name is Pat Snyder. I'm the executive director of the Nebraska Health Care Association and the Nebraska Assisted Living Association. In an effort to make my testimony very short, I would just say that we are in opposition to this bill. I think it makes no sense to testify to the bill as it is intended to be amended as set forth in the statement of intent. I ask the committee once again to let the Medicaid reform process work as it was envisioned. The department has done an excellent job of demonstrating that it proposes cuts are consistent with the intent of Medicaid reform plan and the recommendations of the Medicaid Reform Council to bring Medicaid more in line with private healthcare coverage, including dental plans. These reforms will help to preserve the program for the future generations. Thank you. [LB1122]

SENATOR GAY: Thanks, Pat. Any questions? Nope. Go ahead, Vivianne. [LB1122]

VIVIANNE CHAUMONT: Feeling just a little negative this afternoon. Good afternoon, Senator Gay, the Health and Human Services. I'm Vivianne Chaumont, director division of Medicaid and Long Term Care for the Department of Health and Human Services. I'm here to testify in opposition to LB1122. As currently drafted without the amendment LB1122 would violate...is in conflict with the code of federal regulations at 440-142 CFR, which lists the dental services for adults as optional services. The Medicaid federal statute, as well as the Medicaid federal regs say that it is an optional service and not a mandatory service. The code of federal regulations does allow the states to impose limits on optional medical services provided to adults, which the department currently does in dental through the use of prior authorization and program coverage limits. The department also proposes to place additional limits on adult dental by imposing a $1,000 per year cap on dental services received by adults. The intent of the $1,000 per year cap is to follow the recommendations from the Medicaid reform plan to align Medicaid coverage with coverage in commercial insurance plans, such as the Nebraska state employees insurance plan. And to come into compliance with the mandate of the biennial budget that was passed that instructed the department to limit dental coverage to align it that coverage in commercial plans. The department does value dental health and supports continued coverage of dental as an optional service which is consistent with the code of federal regulations. As to the amendment, I would like to say that the amendment seeks to make dental a mandatory service in Nebraska at the same level as it existed on March 1. This is contrary to the Medicaid reform plan to align benefits to commercial insurance. It also goes against the mandate of the biennial budget bill, which has already taken out $2.2 million from the department's budget. In addition, the amendment would put a fiscal impact on this bill of over $1.5 million in the first year of implementation, and approximately $500,000 in the second year, which are the savings that the department is proposing from these bills. The department opposes LB1122 because it removes flexibility that we need in order to responsibly administer our

services within the budget that we are allocated. I would be happy to answer any questions. [LB1122]

SENATOR GAY: Thank you. Senator Erdman. [LB1122]

SENATOR ERDMAN: Vivianne, talk to me about the process we're in here. I'm somewhat familiar with it, but just so that I'm clear. The department has issued a notice of intent in what you plan to do. [LB1122]

VIVIANNE CHAUMONT: Correct. [LB1122]

SENATOR ERDMAN: Under the law you provided that notice to the Legislature and the Governor and the members of the Medicaid Reform Council. During the legislative session none of those actions are allowed to be carried out until the Legislature has completed their session. [LB1122]

VIVIANNE CHAUMONT: Correct. [LB1122]

SENATOR ERDMAN: When the Legislature is complete, when our session adjourns on April 17, what is the process then that if no action is taken by the Legislature that those will be effective? [LB1122]

VIVIANNE CHAUMONT: The department will then have to post notice and issue proposed regulations, which will then be subject to public hearing. [LB1122]

SENATOR ERDMAN: And what is the time line on that? [LB1122]

VIVIANNE CHAUMONT: The time line will be that we'll issue the regulations...well, I hope to have the regulations ready to go as far as the process is concerned so that they can just be noticed the third week in April. [LB1122]

SENATOR ERDMAN: If LB1112 goes into law, it will not become law until July 17 at the earliest. Would your regulations likely happen prior to that? Would the effective date of those....I mean, can you realistically accomplish the change... [LB1122]

VIVIANNE CHAUMONT: I was hoping to have all of these changes in effect on July 1 at the latest. [LB1122]

SENATOR ERDMAN: So there could be a scenario where the law...there would be a two week gap where people would not be eligible. Assuming the Legislature made the decision under LB1112 with the amendment or however it's drafted to reinstate that portion of the proposed reductions. If we're not drafting this correctly to come effect before that time, there likely would be a gap between when services would not be

available versus when they would be under the reinstatement from the Legislature? [LB1122]

VIVIANNE CHAUMONT: I think realistically if the Legislature adopted a bill that said that they do not want us to implement that, we would not bother to implement it. [LB1122]

SENATOR ERDMAN: I'm just...and I think that's the answer I was looking for. I was just curious because if not, we would put the E clause on the bill to make sure that it was in effect prior to whatever the date was so that there wouldn't be that gap in services. But... [LB1122]

VIVIANNE CHAUMONT: Correct, but... [LB1122]

SENATOR ERDMAN: Obviously there would be no need to pursue that if that was the will of the Legislature for anyone's benefit. [LB1122]

VIVIANNE CHAUMONT: That's correct. I mean I have better things to do with my time than adopt a rule for a two week period. So we would just take that that's what the Legislature wanted us to do and we would just not implement the rules, not go forward with the rules. [LB1122]

SENATOR ERDMAN: Okay. Thank you. [LB1122]

SENATOR GAY: Senator Howard. [LB1122]

SENATOR HOWARD: Thank you, Senator Gay. And thank you, Senator Erdman. That was an excellent question that I hadn't even considered, but it certainly is pertinent. [LB1122]

SENATOR ERDMAN: You're welcome. [LB1122]

SENATOR HOWARD: Thank you. I just have to comment that, you know, it's been proven time and time again that if we don't look at things in terms of prevention, that down the road it's more costly. This doesn't take anyone that's too educated to figure that out. It worries me. It concerns me that again we're coming in, we're cutting corners, and we're limiting preventative care to the point where we have no choice but to pay on the other side of it. We've certainly seen that in child welfare and I'm glad we're moving toward a more preventative focus in that. But to start to drop the ball on things such as dental health, I just find that...I can't support that, and I'm certainly going to do everything I can to support Dr. Johnson with this legislation and doing anything that I can do to see that it moves forward. [LB1122]

VIVIANNE CHAUMONT: Well, thank you, Senator Erdman...Senator Howard. Sorry.

(Laughter) [LB1122]

SENATOR ERDMAN: Now, don't insult Senator Howard like that. [LB1122]

VIVIANNE CHAUMONT: It's really late. I appreciate your sentiments on that, but I can assure you that you can get all the preventive care that's normally given to anyone with a $1,000 a year in Medicaid benefits. So this is not in any kind of way or form...as a matter of fact, it would be wonderful if people got preventive care because then if the chances are great that they would not need anymore than $1,000 a month that the people would not need more than $1,000 a month. And $1,000 a month is more than enough money to get two dental cleanings and a set of x-rays a year, which is what most people get. I just went to the dentist last week and that's what...you know, that's what most people get and what most insurance covers. So this is not in any way, shape or form saying anything against preventive care. We totally agree with you. That's the answer. [LB1122]

SENATOR HOWARD: Well, I really appreciate and that in some cases it's to get people to a point where they're able to benefit from preventative care. [LB1122]

VIVIANNE CHAUMONT: That's probably true at some point. [LB1122]

SENATOR HOWARD: Thank you. [LB1122]

SENATOR GAY: All right. Thank you. Any other questions? I don't see any. Thank you. Any other opponents? Anybody who would like to speak in neutral capacity? Roger, you want to close? [LB1122]

ROGER KEETLE: I want to commend the committee for staying this late and waive closing. [LB1122]

SENATOR HOWARD: For you, Roger. [LB1122]

SENATOR GAY: Okay. No problem with that. We'll close the public hearing. Thank you. [LB1122]

Disposition of Bills:

LB1121 - Advanced to General File.
LB1122 - Held in committee.
LB1176 - Advanced to General File.

Chairperson

Committee Clerk