[LB539 LB540 LB541 LB662]

The Committee on Health and Human Services met at 1:30 p.m. on Wednesday, February 9, 2011, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB662, LB539, LB540, and LB541. Senators present: Kathy Campbell, Chairperson; Mike Gloor, Vice Chairperson; Dave Bloomfield; Tanya Cook; Gwen Howard; Bob Krist; and Norm Wallman. Senators absent: None.

SENATOR CAMPBELL: Good afternoon and welcome to the Health and Human Services Committee. I'm Kathy Campbell and I serve District 25, which is Lincoln. And I'm going to have my colleagues introduce themselves, and then we'll kind of go through some housekeeping and start off. On my far right is...

SENATOR BLOOMFIELD: Dave Bloomfield from District 17, Wayne, Dixon, and Dakota Counties in the northeast part of the state.

SENATOR WALLMAN: Senator Norm Wallman, south Lincoln to Kansas.

SENATOR GLOOR: Senator Mike Gloor, District 35, Grand Island.

SENATOR CAMPBELL: And Senator Cook would be sitting there, (laughter) but she's going to open on her bill in a minute.

MICHELLE CHAFFEE: Michelle Chaffee, legal counsel to the committee.

SENATOR HOWARD: Senator Gwen Howard, District 9 in Omaha.

SENATOR KRIST: Bob Krist, District 10 in Omaha.

SENATOR CAMPBELL: And Diane Johnson, who is the committee clerk. And Crystal is the page today. Is Ayisha coming? There she is. Both these young women are seniors and every time I say, and they will be looking for jobs. So they're just doing a super job for us as pages to the committee. We want to welcome you today, and I'm going to do a little housekeeping and then we'll start off. I'd ask that you please silence your cell phones so there's no sounds disturbing your neighbors while they're listening. We ask testifiers for 12 copies of your testimony. If you do not have 12, the pages will be glad to help you find a location where you can make copies. Each witness...and you only need to fill out those bright orange sheets if you're going to testify. And so when you come forward, you just give the orange sheet to Diane and any copies that you have. And actually she doesn't let you sit down unless you've done that, and you'll be in big trouble if you don't. You have five minutes. We do use the light system here. It will be green for a long time and then it will be yellow for a short time and then it's red and you're going to look up and I'm going to be going like that. We ask that when you sit down just before

you start your testimony, to give us your full name and to spell your last name for the record. And with that, we'll open our agenda today and the hearing on LB662. Senator Cook is here. The bill would provide for a demonstration project regarding bundling payments under the Medical Assistance Act. Senator Cook, welcome as an introducer.

SENATOR COOK: (Exhibit 1) Thank you very much, Madam Chair, colleagues, members, audience members, thank you. Good afternoon. My name is Tanya Cook, that's spelled T-a-n-y-a C-o-o-k. I am the state Senator representing Legislative District 13, and the introducer of LB662. I'm proud to be the introducer of this legislative proposal. LB662 will authorize a voluntary five-year demonstration project to judge the cost-effectiveness and efficiency of reimbursing Medicaid providers with a single payment for all services related to a specific treatment or condition spanning multiple providers in multiple settings. Under a bundling mechanism, providers assume a financial responsibility for the cost of services for a particular treatment or condition as well as costs associated with preventable complications. Currently, Medicaid providers are reimbursed for each test, procedure, and treatment that they provide to their patients. Fee-for-service Medicaid reimbursement in Nebraska creates an unintended incentive for unnecessary services and increases costs. In a fee-for-service system, reimbursement is directly related to the volume of services provided, and there's little incentive to reduce duplicative procedures. As we all know, Medicaid costs are rising, and the need for this essential healthcare is increasing. I was assisted in drafting an implementation of LB662 by the University of Nebraska Medical Center. This fine institution is represented here today and will testify about the need for innovative reform in the delivery of Medicaid services. LB662 represents innovative reform in the following ways. It offers a potential solution to increased Medicaid costs by changing the way the state reimburses healthcare providers for their treatment of Medicaid patients. Rather than reimbursing providers on a fee-per-service basis, LB662 will test the efficiencies and outcomes of bundling Medicaid reimbursements in a voluntary demonstration program. The bundling mechanism proposed by LB662 should encourage better outcomes and increased efficiency. If the actual costs of an episode of care are less than the bundled payment amount, the providers and state share the savings. Importantly, there's no risk to the state because if the costs of care exceed the bundled payment, the providers alone bear the financial liability. With bundling, there's an opportunity to reduce the number of duplicative physician services during hospitalization. With bundling, there's an opportunity for more judicious use of healthcare resources during the hospital stay. With bundling there's an opportunity to reduce postdischarge costs, including unnecessary postacute care services and avoidable readmissions. Part of the LB662 demonstration program would provide an option for a participating medical provider to request that specific Medicaid regulations they believe to be administratively burdensome, redundant, or unnecessary, could be waived during the demonstration period, provided it does not reduce patient care. This option is for those who believe that a time savings and/or cost savings could be achieved by reducing regulations they see as unnecessary. This provision is intended

for those who deal with the programs to give them the chance to test their theories about whether elimination of a particular regulation could improve the efficiency or lower costs. Again, specific Medicaid regulations will not be waived if it reduces patient care. Since Medicaid is under managed care in some counties, a demonstration program for those counties will have to involve the cooperation of the provider and those who perform the contract for the state to participate in a demonstration program. This is the opportunity for those interested entities to collaborate on an innovative way they want to test. Senator Gloor, I want to speak directly to you on the record and say that LB662 in no way affects the ongoing operation or funding of your medical home model. To the contrary, LB662 builds on the enlightened ideas contained in your pilot project that care providers can better serve their patients if they coordinate care. Your achievements, Senator Gloor, show that coordinated care is possible. LB662 adds an additional, purely voluntary, financial incentive to provide coordinated care as efficiently as possible. Finally, I want to address the alleged fiscal impact of LB662's enactment. The fiscal note attached to this proposal is listed at close to one-half million dollars, which is a lot of money. Here's my question to the committee and to the Legislature and to the agency: What is the appropriate means to reduce state spending on Medicare treatment? Is the answer to reduce reimbursements? I say the answer to reduce coverage or add copayments, are those the answers to do that to financially limited residents? Is the answer to eliminate eligibility for Nebraskans for the safety net coverage that Medicaid provides? I propose that an innovation rather than simple cuts is the appropriate public policy response to budget stresses. I hope that you will stand with me in that position and work to nurture innovative policy to reduce the state's Medicaid expenses. I take issue with several assumptions relied upon in the drafting of the fiscal note, but I will address those with you outside of the public hearing. Additionally, I will work to draft a committee amendment to clarify, codify, and outline the savings available through bundled Medicaid payments. My hope is that once an amendment is drafted that eliminates most, if not all, of the fiscal impact claimed by the department, that each of you will join me in advancing LB662 for debate by the full Legislature. Members of the committee, thank you for your attention to this proposal. Thank you for considering a policy that addresses some of the fundamental flaws in Medicaid reimbursement structure. If you join me in supporting this proposal, you'll be able to tell your constituents that you're seeking solutions to the real problems in our state, the growing and onerous costs of providing Medicaid coverage for Nebraskans. Thank you. [LB662]

SENATOR CAMPBELL: Thank you, Senator Cook. Questions or comments? Senator Gloor. [LB662]

SENATOR COOK: Peace, he said. He gave me a peace sign. (Laughter) [LB662]

SENATOR GLOOR: It was a peace sign. (Laugh) Yeah, I appreciated our chance to visit about this previously. And representatives of UNMC have been very forthcoming with information and assurances, and, you know, I hope this is a good hearing. I am

hoping that there are others behind you that can answer some of the more technical questions I might have, so that I don't have to ask you all those questions. Would that be a fair assumption? [LB662]

SENATOR COOK: Right. Yeah, and I'm confident they will, or if not we'll get you something, each of the members something in writing, too, that will answer the questions to your satisfaction. [LB662]

SENATOR GLOOR: And a lot of my questions probably will be questions that Director Chaumont might be able to help, but also it's nice to see her here today. So, thank you. [LB662]

SENATOR COOK: Thank you. [LB662]

SENATOR CAMPBELL: Other questions or comments? Senator Howard. [LB662]

SENATOR HOWARD: I wanted to make sure we both didn't have our hands up. Thank you. Thank you, Senator Cook, that was a great delivery. And I noticed this...you may not know the answer to this, I am just so puzzled that it would cost so much money to try to save money. Have you asked...what have you been told is the reason for the cost? [LB662]

SENATOR COOK: We've done some research, and again I don't want to get into what we determined. [LB662]

SENATOR HOWARD: Right. [LB662]

SENATOR COOK: I'll talk to you off mike about what we've identified. Perhaps the agency director can speak to that because presumably they're...since Nebraska has participated in Medicaid, lo these many years, presumably there are experienced staff people that would be available to handle this. And it's voluntary, so. [LB662]

SENATOR HOWARD: Well, I can wait and ask Vivianne about that, because she's so good with figures she'll be able to explain that to me. [LB662]

SENATOR COOK: I'm certain. I'm confident. [LB662]

SENATOR CAMPBELL: Any other questions or comments? Thank you, Senator Cook. And I know you'll be here to close, so... [LB662]

SENATOR COOK: Thank you. I will. [LB662]

SENATOR CAMPBELL: ...we don't have to worry about that. We'll take the first

proponent for the bill. [LB662]

MARK BOWEN: (Exhibits 2 and 3) Good afternoon, my name is Mark Bowen. Thank you for the opportunity to comment. My name is spelled M-a-r-k B-o-w-e-n. I'm with the University of Nebraska Medical Center. I am here representing myself to talk in favor of the bill LB662 to provide a demonstration of bundling payments. There is a need to identify ways to reduce costs while maintaining the quality of care provided. LB662 provides an option for medical providers to test whether bundled payments can save costs. The federal Center for Medicare and Medicaid Innovation, called CMI, recently established by the federal health reform law, began operating last month. Part of its mission is to test the innovative payment and medical delivery models that might reduce program costs while preserving the quality of care for beneficiaries. As different strategies are tested, like medical homes and accountable care organizations, they will likely include testing whether moving away from a fee-for-service payment method to a bundled payment for episodes of care can lower costs. During consideration of the federal legislation it was indicated that HHS and CMI, Center for Medicaid Innovation, would be open to considering waivers as part of pilot programs. LB662 would provide a similar opportunity at the state level, and that the state be equally open to seeking waivers, if necessary, as part of a demonstration program to determine if there is a savings. LB662 would encourage the medical providers, and the company contracted to provide Medicaid care, to work in a cooperative manner if waivers are sought. LB662 could facilitate allowing the creative health provider market to determine whether there are financial savings and how they can be found using bundled payments. The UNMC Midtown Clinic, also known as Turner Park, is an example of an entity that might participate in a pilot and demonstration program. The clinic, which serves as the primary outpatient training site for our internal medicine residents, is evolving from a traditional resident clinic to a medical home practice. The care teams include nurse coordinator/educators, social workers, pharmacists, and a mental health provider. Pharmacy residents and mental health interns have also been added as trainees to work side by side with the internal medicine residents to foster the concept of a team-based care approach. LB662 provides a voluntary option for those who participate in demonstration programs to work in a collaborative manner with the state and the company contracted to provide managed care to determine whether a waiver from a regulation, as yet unknown, would be beneficial and would contribute toward reducing costs or lessening the administrative overhead. I appreciate that the incentive for participants is that they could share equally with the state in a cost savings generated from the demonstration project. Thank you for your time. Can I answer any questions? [LB662]

SENATOR CAMPBELL: Thank you, Mr. Bowen. Questions for Mr. Bowen? I will take...okay, we'll start with my far left. Senator Krist. [LB662]

SENATOR KRIST: Thank you. Thanks for coming and testifying. In the cost or fiscal

note, it identifies FTE, additional people to do things that need to be done. When you talk about sharing the savings, would you also be in line to help with administering the test program so that some of that can be shared in terms of people power? [LB662]

MARK BOWEN: I think that comes down to who is going to be involved in the demonstration, but I think people would be open to that discussion. It's just a matter of who would be involved with being the providers in the test bundling program. [LB662]

SENATOR KRIST: Thanks, Mark. [LB662]

SENATOR CAMPBELL: Senator Howard, did you have a question? [LB662]

SENATOR HOWARD: No, I...but thank you, but I will ask. You know, taking that a step further, it would probably depend on how the state chose to process the billing, wouldn't it? [LB662]

MARK BOWEN: Uh-hum. [LB662]

SENATOR HOWARD: I mean, you can only be so available because the state has their own internal workers and mechanisms, but it's good for you to offer. I think that's... [LB662]

MARK BOWEN: Yeah, and I hate to go too far. [LB662]

SENATOR HOWARD: Exactly. [LB662]

MARK BOWEN: I don't deal with it on a daily basis. I mean, I'd rely on those folks who do deal with it on a daily basis to know if there's a need for a waiver and what regulation they might be looking at. [LB662]

SENATOR HOWARD: Right. And the state has their own high-quality computer system that generates that. So, thank you. [LB662]

SENATOR CAMPBELL: Senator Bloomfield. [LB662]

SENATOR BLOOMFIELD: Thank you, Madam Chair. Mr. Bowen, if, per chance, the federal healthcare bill, their law that is currently there, should fall apart due to court action or political action, would that affect what we're doing here? It looks like some of the emphasis is coming from that. [LB662]

MARK BOWEN: Well, there's the option. We just don't know at this point. We do know that the institute was established, CMI was instituted and established and operating as of last month. We're kind of waiting for them to issue what might be the opportunities

and the regulations dealing with it. So, in part, I can't predict the future, but we'd like to be prepared if it happens. If they do offer the opportunities and they are correct in that they are open to waivers at that level as well, we'd just like to make sure that we can take advantage of them, if they're going to be available. [LB662]

SENATOR BLOOMFIELD: Thank you. [LB662]

SENATOR CAMPBELL: Senator Gloor. [LB662]

SENATOR GLOOR: Thank you, Chairman Campbell. Mark, we have a letter of support...actually it's a letter remaining neutral from the Hospital Association. And one of the paragraphs says, "Nebraska's hospitals support the intent of LB662; however, we urge the state to strongly consider participating in the federal demonstration program before establishing its own bundled payment system." Can you explain that sentence to me? I mean, what is the difference between the federal demonstration project? [LB662]

MARK BOWEN: I won't speak for them. I'm going to...I'll defer, if they're here, to let them explain it but... [LB662]

SENATOR GLOOR: I'm asking you because I didn't see anybody here from the association. I'm really looking... [LB662]

MARK BOWEN: Yeah, my assumption... [LB662]

SENATOR GLOOR: You would know about federal demonstration projects the way you've been monitoring. [LB662]

MARK BOWEN: Yeah. My assumption is that they're probably anticipating, like we are, that CMI will be issuing some opportunities soon. But they're so new in their operation, we're all sort of on the edge of our chair waiting. (Laugh) So I'm guessing that they're referring to those that would be coming down soon from the federal level, probably through CMI. [LB662]

SENATOR GLOOR: And with those demo projects, there would be specific funds that could be used to help with whatever might be involved in start-ups, so. [LB662]

MARK BOWEN: Could be. We don't know because we haven't seen it, but there's that opportunity. [LB662]

SENATOR GLOOR: Yeah. [LB662]

MARK BOWEN: We do know they have some funding to deal with and we do know that they're looking for ways to test delivery methods as well as payment methods, so we're

all assuming it's going to be there, but we just haven't seen it to know. [LB662]

SENATOR GLOOR: I was going to lead into another question. I'm trying to recall where it was taking me. Five-year project. The medical home initiative outstate is a two-year project. Is there a reason that you picked and promote five years rather than a shorter period of time? [LB662]

MARK BOWEN: I will tell...I don't think so. I think part of it was based on sort of anticipating what the federal government might be offering. And during discussion last year, during the debate of the bill, there was some discussion of multiple-year programs, so five years seemed like what they might be looking at, at the federal level. [LB662]

SENATOR GLOOR: Okay. Again trying to anticipate what might be out there. [LB662]

MARK BOWEN: Trying to read the tea leaves, yeah. [LB662]

SENATOR GLOOR: Have you had any...have there been any discussions, do you know, with other payers? I'm specifically thinking of third-party payers because bundled payment systems, in terms of changing that entire practice, would certainly be a lot more...would be a lot easier and improve your chances of success if a few other payers would also be willing to accept a bundled payment arrangement. [LB662]

MARK BOWEN: I have not had those conversations with them. I think it comes to the point where when people have something they can look on paper and see what the opportunity might be, then they'll talk about are we interested or not. And it could be anybody. We just don't know until we actually see those regs, but we think that they might be. We know that we operate under managed care in our county, for example. We know they'd have to be involved. We would want to be cooperative with them. [LB662]

SENATOR GLOOR: And once again, the federal demo project may provide an opportunity to tie into Medicare. [LB662]

MARK BOWEN: It may, right. [LB662]

SENATOR GLOOR: May. Okay. Thank you. [LB662]

MARK BOWEN: Yeah, I wish I could give you more, but again we're just speculating on a lot of the federal stuff at this moment. [LB662]

SENATOR GLOOR: No, I...and clearly all my questions had to do with the demo project, for the most part, trying to see if we knew any more than we do, which is not

much. (Laughter) Thanks. [LB662]

MARK BOWEN: Not yet. [LB662]

SENATOR CAMPBELL: Mr. Bowen, if the CMI project came through that they listed a number of projects and this fit within the scope, would you need the bill? Would you still need the legislative bill? [LB662]

MARK BOWEN: I hesitate because, again not being the provider who works with it day to day, I would say that they may want to view it as a global kind of thing where they want to deal with both Medicare and Medicaid, so that may be one aspect. But I hate to speak for those actual providers. [LB662]

SENATOR CAMPBELL: Okay, so it's really going to depend upon what's in the CMI... [LB662]

MARK BOWEN: Largely. [LB662]

SENATOR CAMPBELL: ...framework and whether you needed the authorization from the Legislature to proceed... [LB662]

MARK BOWEN: Right. [LB662]

SENATOR CAMPBELL: ...and working with the department. Are bundled payments in the same framework as a global...what they call global payments? [LB662]

MARK BOWEN: Well, there's a lot of definitions to it. The ones we tend to talk about the most often are episode-of-care bundled payments. Those were the ones that were dealing with more chronic type diseases, diabetes, those kinds of things where you can have some, I think, ability to identify what the bundled average payment might be that would be reasonable. But there are a variety of other kinds as well. There are ones that have been used for surgery, for example, and a variety of other methods, people's different definitions. And we tend to talk more about the episode of care. [LB662]

SENATOR CAMPBELL: All right. Okay. And I just want to make a comment for the record and certainly with those people that are with us. This summer we had an interim study, a joint task force between Banking, Appropriations, and Health and Human Services, and Senator Cook and Senator Gloor and I sat on that. And I really want to say, I appreciate, Mr. Bowen, all the help that you provided to the committee and... [LB662]

MARK BOWEN: Oh, glad to. [LB662]

SENATOR CAMPBELL: ...the good suggestions that came with that, and that you're still being very vigilant and watching out for the projects, because they're going to come down fast. And if all...I mean, depending on what happens with the national healthcare, we have to be prepared no matter what. [LB662]

MARK BOWEN: Yeah, it is a matter of being prepared. [LB662]

SENATOR CAMPBELL: Um-hum. So I wanted to thank you publicly because you have provided a lot of good information. Any other comments or questions for Mr. Bowen? Thank you very much. [LB662]

MARK BOWEN: You're welcome. [LB662]

SENATOR CAMPBELL: The next proponent. Good afternoon. [LB662]

JAMES CAVANAUGH: (Exhibit 4) Good afternoon, Senator Campbell and members of the Health and Human Services Committee. My name is James Cavanaugh. I'm an attorney and registered lobbyist for Creighton University and Creighton University Medical Center appearing today on their behalf in favor of LB662. You're receiving a copy of a letter from Creighton University. And I apologize: I reproduced it and the letterhead didn't come out, so I will resubmit it with letterhead at the conclusion of the hearing. But it generally states Creighton's position in support of this initiative. As you heard from Mr. Bowen, the previous testifier, there's potential for some real savings, and Creighton, like UNMC, is uniquely situated in the Nebraska healthcare community to participate in this demonstration bundling project. It seems to make just good common sense that if you did some of these things together rather than repeat them over and over as separate transactions, that you would be able to realize some real savings. Like UNMC, we have freestanding clinics throughout the metropolitan area that would be eager to participate in this type of a demonstration project. In reviewing the fiscal note, I guess I was struck by a couple things. It seems to be a knee-jerk reaction of a lot of entities of government, whenever anything is proposed, to immediately add it to their own payroll. And I don't know exactly how many people currently work at HHS. It's a big number. For what we're talking about here to say, well, automatically we'd have to add $67,000 and change to the budget might call for some strict scrutiny on behalf of this committee. Relative to the other costs, I mean, there is language in the bill and language in the fiscal note, and I think you heard language along these lines from the previous testifier, that, you know, we're interested in participating in this program. And the bill spells out, if there are cost savings in these, how they would be distributed, and presumably they would be distributed in such a fashion that they would defray any of these projected costs to the state. I mean, the idea of the bundling is to reduce costs. And so when we're looking at the numbers contained in the fiscal notes, I guess I would have to say, you know, well, let's try to capture as good an idea of some of the cost savings as they apparently are at extrapolating some of the actual costs. It is also stated

in the fiscal note that it is unknown whether or not there would be entities that would participate in the demonstration project. Well, I think that you heard loud and clear from the previous testifier, and now you're going to hear it from me, that yes, there are entities that would be more than willing to participate in this demonstration project. I'd like to commend Senator Cook for bringing this to your attention. I would highly commend you to report this bill out of committee and we'd be happy to answer any questions you might have. [LB662]

SENATOR CAMPBELL: Thank you, Mr. Cavanaugh. Questions? Senator Wallman. [LB662]

SENATOR WALLMAN: Thank you, Chairman. Yeah, welcome, Jim. [LB662]

JAMES CAVANAUGH: Thank you. [LB662]

SENATOR WALLMAN: Now in regard to this bundling, do you think that would save like emergency room costs and things like that? [LB662]

JAMES CAVANAUGH: Well, I think it would save some costs simply because, you know, if you're dealing with one patient and then you have a series of procedures, and if you're able to put those together for billing purposes then you're not going to have to, you know, go through all the paperwork of multiple procedures on the same patient. There is some language in here that says, down the road, as kind of a way of measuring the effectiveness of the project, we're going to see if it actually reduces per patient costs. But we're also going to see if it has some impact on patient's visits to the emergency room. And presumably, if you provide, you know, better, kind of continuous care, you might have an impact on bringing down some of those emergency room visits. [LB662]

SENATOR WALLMAN: Thank you. [LB662]

JAMES CAVANAUGH: Thank you. [LB662]

SENATOR CAMPBELL: Other questions for Mr. Cavanaugh? Thank you very much for coming. We always appreciate...when Creighton and UNMC come together, that's pretty powerful. (Laughter) [LB662]

JAMES CAVANAUGH: Well, we enjoy working with them. Thank you. [LB662]

SENATOR CAMPBELL: I know. Other proponents for the bill? Those wishing to testify in opposition to the bill? Those wishing to testify in a neutral position? Senator Cook. [LB662]

SENATOR COOK: Thank you. I just want to close briefly, and thank you again for your thoughtful consideration of the proposal. Obviously, we've got some more research to do and some more noodling about it. Absolutely, the point that Senator Bloomfield brought up regarding the status of the proposal as it may come down from the federal government could be factored in. But something else I learned listening in on the floor debate the first year I got here: like a lot of new senators, I didn't want to say too much into the microphone, recognizing that it's all recorded for somebody to read again some day. And I remember, I believe it was Senator Carlson mentioning the expanding Medicaid costs and how that part of the pie for Nebraska's state budget, before we heard anything about any proposals from Washington, D.C., was growing beyond what we would be able to sustain, just with our aging population. That's beyond issues related to poverty or disability. So when I saw an opportunity to address it, doing something innovative and building on an idea that's gotten a lot of support, broad support within the body and around the country, I seized it. So once again, I appreciate your consideration of it. We're going to continue to be in communication with the hospitals and the different agencies and get back to you on your questions. Thank you. [LB662]

SENATOR CAMPBELL: Thank you, Senator Cook. Senator Gloor. [LB662]

SENATOR GLOOR: Thank you for introducing this bill. Since we're not getting a lot of back and forth on this bill, if this bill finds its way into debate, because it's got that huge price tag on it as you've already pointed out, there will be some challenges. So I would like to offer to be as helpful as I can sorting through all that. And so if you would keep me into play, that might make it easier for us to defend this going forward. I do think that there should be a sizable savings as part of this bundling as opposed to the medical and pilot project provides an even better opportunity to, for want of a better term, pick low-hanging fruit, whether it's diabetes, whether it's COPD. I mean, there are some disease processes that if done right, bundling should result in a considerable savings. But we're going to need to understand that fiscal note to understand why there's some expenses associated with it that don't easily go away. I think I know the answer to that and it's justifiable, but we're going to have to do a little hand holding to make it sound better in debate. So feel free to use me as a resource. But above and beyond that, help me help you do through that process. [LB662]

SENATOR COOK: I appreciate your support. Thank you. [LB662]

SENATOR CAMPBELL: Senator Cook, you are always articulate on the mike. [LB662]

SENATOR COOK: Why, thank you. [LB662]

SENATOR CAMPBELL: (Also see Exhibit 5) With that, we will close the public hearing to LB662. And as legal counsel is making her way, I want to explain a little bit about

what's happening to the next three bills and how they got here. The next three bills that we have for hearing came from the LR542 process, which dealt with recommendations from each of the committees as to what we could do to address the looming budget deficit. And so this summer we reviewed budgets, we reviewed a modification list that came to us primarily from the Department of Health and Human Services, and in the course of that we also did some reading on our own and came up with some ideas that had not been put on the table by other folks, but that we thought we may want to look at. And so what we're going to do this afternoon on these three bills, we'll hear them separately. Legal counsel will open on the bill, but then we're going to go directly to taking comments and hold questions from the senators for the people who wish to make comments, because right now the most important thing to this committee is hearing from you all on these three ideas. They were brought forward as ideas, suggestions. So this hearing today it is important to hear your comments on them. And with that, we'll open up the testimony on LB539, which would require a Medicaid state plan amendment or waiver relating to adult emergency room visits. Ms. Chaffee, do you want to begin for us? [LB662 LB539]

MICHELLE CHAFFEE: Thank you. I'm here to open on LB539. My name is Michelle Chaffee, C-h-a-f-f-e-e. I'm legal counsel to the Health and Human Services Committee. This bill was offered as Senator Campbell has indicated as a result of the LR542 options to identify some on-the-table discussions. LB539 requires the department, no later than July 1, 2011, to submit a state plan amendment or waiver to CMS to limit Medicaid payments for emergency room visits for adults to 12 per year. Emergency room visits that result in inpatient admission should not be counted towards the limit of 12 visits. I'd also add for information to the committee that recently in discussions with the director of Medicaid and Long-Term Care for Nebraska there has been information passed on from CMS in regards to guidelines in limiting or the parameters in which emergency room visits should be dealt with, and as such, that if the committee would go forward with this concept, a committee amendment would need to be developed in order to be in compliance with CMS guidelines. [LB539]

SENATOR CAMPBELL: (Exhibits 6-9) Okay. Thank you, Ms. Chaffee. With that, we will move to those in the hearing room who wish to testify as proponents for LB539. Any proponents? Those who are opposed to LB539? Those who wish to provide neutral testimony? We have a taker. While the director is making her way forward, we have letters from the Nebraska Association of Behavioral Health Organizations, the Nebraska Hospital Association, and the Nebraska State Volunteer Firefighter's Association. All of these organizations are opposed to LB539. Oh, and one other. And also a letter in opposition from the Nebraska Association of Social Workers, the Nebraska Chapter. Okay. With that, Director Chaumont, welcome. [LB539]

VIVIANNE CHAUMONT: Thank you. Good afternoon, Senator Campbell and members of the Health and Human Services Committee. I'm Vivianne Chaumont, V-i-v-i-a-n-n-e

C-h-a-u-m-o-n-t. I'm the director of the Division of Medicaid and Long-Term Care. I am just here to let you know that we are supportive of the intent behind this bill and would be happy to work with you in the future to make sure that it meets the goals that you have intended and to answer any questions that you have. [LB539]

SENATOR CAMPBELL: Are there questions from the senators? Senator Cook. Oh, sorry. [LB539]

SENATOR WALLMAN: Go ahead, go ahead. [LB539]

SENATOR COOK: I was thinking and then it became a question and so I'll go back to thinking. You may not have this number but you are our numbers queen for right now, did we... [LB539]

VIVIANNE CHAUMONT: According to Senator Howard only. (Laughter) [LB539]

SENATOR COOK: Yes. Did we ever ask the agency, what is the typical number of visits to the emergency room for this group of patients? Do we know that, what that number is, like an average or a median number? [LB539]

VIVIANNE CHAUMONT: No. The question wasn't asked in that particular fashion. [LB539]

SENATOR COOK: Okay. [LB539]

VIVIANNE CHAUMONT: The question I think was how many people would be over 12 limits. [LB539]

SENATOR COOK: Ah. Okay. [LB539]

VIVIANNE CHAUMONT: And we gave that number. Um-hum. [LB539]

SENATOR COOK: Thank you. [LB539]

SENATOR CAMPBELL: Is that okay? [LB539]

SENATOR COOK: Yes. [LB539]

SENATOR CAMPBELL: Okay. Other questions? Senator Howard. [LB539]

SENATOR HOWARD: Well, thank you, Senator Cook. That kind of brings to mind...do we have any idea of the population that most uses this? I don't mean adults. I mean is it physical, just illness, disability, or is it mental health issues? [LB539]

VIVIANNE CHAUMONT: I don't have that information and I don't know how difficult it would be to get that information. We could probably do it by diagnosis. [LB539]

SENATOR HOWARD: Well, the reason I ask--and again, thank you, Senator Cook--is because I've heard reports that individuals that were involved in community service agencies in Omaha frequent the emergency rooms just because they like the attention. I mean, that's...I hate to think of it that way, honestly, but there are some cases where they feel more comfortable using the emergency rooms. So it might be useful to know if we're dealing with a particular population and if we could find a better way to assist them. [LB539]

VIVIANNE CHAUMONT: I'll ask if there's any data that we have that would answer that question. [LB539]

SENATOR HOWARD: Thank you, thank you. [LB539]

SENATOR CAMPBELL: Other questions? Director, in the hospital letter, just so that you have some idea of the numbers there were, "In 2009, there were 3,524 emergency room visits by 184 Medicaid--it has nonmanaged care in parentheses--patients that had 12 or more visits." And I should...oh, under this bill, "the hospitals would get paid for 2,208 visits per year and would have had to absorb 100 percent of the costs for the other 1,324. Removing this benefit simply shifts the cost from the state to hospitals." [LB539]

VIVIANNE CHAUMONT: Well, our data shows how many of those we paid for, and I don't know if they're including children and adults in that or if it was just adults. I don't know how they got their data; I know what we paid for. [LB539]

SENATOR CAMPBELL: Is there some issue in terms of the difference between what's truly an emergency--I mean, diagnosed as a medical emergency--and those that are not? I mean, should we be conversing about any of that on the record on this bill? [LB539]

VIVIANNE CHAUMONT: That's up to you. (Laugh) The issue with CMS is that there's different standards if you include emergency room visits, that are in fact for emergencies, in a cap. You can cap that. As we discussed with your legal counsel the other day, you can cap that, but only...you can only cap that in a cap of outpatient hospital care. You can't focus just on the emergency room visits. You can just focus on the emergency room visits if you're only focusing on emergency room visits that were in fact not for an emergency. Then you can focus on those and cap those specifically, but the numbers aren't that big there. [LB539]

SENATOR CAMPBELL: Okay. Senator Wallman. [LB539]

SENATOR WALLMAN: Thank you, Senator Campbell. Yeah, thank you for being here, Director. Do you think that the hospitals would be open to, not this medical bundling, but just say you're going to have this average amount of visits and contract with the hospitals, so much a month, you know, to save money, if they'd be open to that do you think? [LB539]

VIVIANNE CHAUMONT: Would they be open...I'm sorry, say it again. [LB539]

SENATOR WALLMAN: Be open to, like, contracting, you know, like farmers contract for certain services even though you might not use them, but if hospitals would get so much revenue a month it would save money for the state. [LB539]

VIVIANNE CHAUMONT: The Medicaid program can only pay for a service that was rendered. [LB539]

SENATOR WALLMAN: That was...yep, that's what I thought. Thank you. [LB539]

SENATOR CAMPBELL: Senator Gloor. [LB539]

SENATOR GLOOR: This probably is less a question than a couple of comments that you could share whether you think it might be true, at least my experience with hospital-based emergency rooms. I'm including the one that we had in Grand Island which was a trauma center--level two, I think, trauma center. Maybe it was level three, I think it was level three. Easily 60 to 80 percent of the visits that came of all payer categories, not...I would not be able to discern a difference in payer categories, but of all categories easily could be classified as 60 to 80 percent--again nonemergency. Now nonemergency has a broad definition. If you're the mother with a child that's running a 103 degree temperature, that's an emergency. The child's temperature may go down to 100 degrees in an hour after Tylenol. But occasionally a broken ankle. (Laugh) [LB539]

SENATOR HOWARD: Always a good example. [LB539]

SENATOR GLOOR: (Laugh) A good example. But 60 to 80 percent would be categorized as, you know, not what you have an emergency room and a trauma center for--things that could be cared for in an office. Does that number strike you, in your experience, as a reasonable one? [LB539]

VIVIANNE CHAUMONT: I really would have no idea what the amount would be, what that number would be. [LB539]

SENATOR GLOOR: Okay. And, you know, one of the issues here, I understand the

Hospital Association's concern, but the reality is at some point in time those additional patients don't all generate that same level of expense. You have nurses, you have a doctor, you have space. I mean, the light has to be on and the heat has to be turned on. There are clearly some direct expenses like medicines that might have to be given. There may be some direct expense in there, but not every one of those additional patients will be a full cost charity case. So I understand the Hospital Association's concern. I also think that some of the patients who know that there is a limit of 12 will be more discerning in terms of using those services. See, now this isn't a clear-cut issue one way or the other I think as you sort through it [LB539]

VIVIANNE CHAUMONT: I have yet to find, after 20...oh, I couldn't possibly be that old. (Laughter) Since I started doing Medicaid in 1985, I've yet to find a clear-cut Medicaid issue. So the fact that this one is not wouldn't surprise me at all. [LB539]

SENATOR GLOOR: Yeah. Thank you. [LB539]

VIVIANNE CHAUMONT: But you're right. There's many ways to look at this. [LB539]

SENATOR CAMPBELL: And to note for the record: At an earlier hearing that we had, from the budget's perspective, the emergency room visits are also covered by the issue of copays. Is that not right, Director? I mean, that's kind of the direction that's in the budget proposal now before the Appropriations Committee would be an increase in copay or a copay for it. [LB539]

VIVIANNE CHAUMONT: No. No, we did not include in the budget a copay for emergency room visits. [LB539]

SENATOR CAMPBELL: I thought we had. [LB539]

VIVIANNE CHAUMONT: The federal regulatory framework for copays and emergency room visits is so onerous that it's difficult to do. [LB539]

SENATOR CAMPBELL: Okay. I'm sorry. I know that we talked about it at one point. [LB539]

VIVIANNE CHAUMONT: We did talk about it. [LB539]

SENATOR CAMPBELL: Yeah. Okay. Senator Howard. [LB539]

SENATOR HOWARD: Well, actually Senator Krist had his hand up first (inaudible). [LB539]

SENATOR KRIST: Go ahead, ladies first. [LB539]

SENATOR HOWARD: Thanks. Well, I was just going to say I remember this conversation, because I actually had asked the Governor this very question: Why don't we require a copay with this? And that was the very reason, that it was far too complicated federally to be able to put that in place. [LB539]

SENATOR CAMPBELL: Thanks. Senator Krist. [LB539]

SENATOR KRIST: And one of our other letters here states an obvious, so I just want to ask the question. Number 13 happens to be an ambulance that brings a person to a hospital. Can't do it; 13 is too many. Who pays for it? [LB539]

VIVIANNE CHAUMONT: Well...and 13 is not a true emergency? Because if 13 is an emergency, then we will pay for it. [LB539]

SENATOR HOWARD: If they're hospitalized. [LB539]

VIVIANNE CHAUMONT: And we will pay the hospital for it because that will not be in the limit. [LB539]

SENATOR KRIST: Right. So in that case if it's not an emergency, if EMS responds or the ambulance responds, they pick the person up and they bring them to the hospital, they're not qualified to judge. It comes and it's determined that it's not an emergency, who pays for it? [LB539]

VIVIANNE CHAUMONT: I don't know who pays for it. I can tell you who doesn't pay for it. (Laughter) [LB539]

SENATOR KRIST: Good answer. [LB539]

VIVIANNE CHAUMONT: Medicaid will not pay for it. [LB539]

SENATOR KRIST: Thank you. [LB539]

VIVIANNE CHAUMONT: Yeah. [LB539]

SENATOR CAMPBELL: Okay. Any other questions for the director? We should note for the audience that the humor in the ankle illustration was because Senator Howard had injured her ankle, and so that's why the reference. [LB539]

SENATOR GLOOR: And didn't go to an emergency room. [LB539]

SENATOR CAMPBELL: And did not, and we were all very upset with her. [LB539]

SENATOR HOWARD: I'm setting a good example. (Laugh) [LB539]

VIVIANNE CHAUMONT: And we did not pay for it. [LB539]

SENATOR HOWARD: No. (Laughter) Absolutely not. [LB539]

SENATOR CAMPBELL: We want to be perfectly clear that Medicaid did not pay for that. Thank you, Director Chaumont. [LB539]

VIVIANNE CHAUMONT: All right. Thank you. [LB539]

SENATOR CAMPBELL: Anyone else who wishes to testify in a neutral position on LB539? Seeing no one, we will close the public hearing and move to LB540, which would require a Medicaid waiver relating to family planning services. Ms. Chaffee. [LB539]

MICHELLE CHAFFEE: Good afternoon. [LB540]

SENATOR CAMPBELL: Good afternoon again. [LB540]

MICHELLE CHAFFEE: My name is Michelle Chaffee, C-h-a-f-f-e-e, legal counsel to the Health and Human Services Committee. I'm here to introduce LB540 which is introduced as an option under the LR542 process, interim process, that looked at options in regards to potential solutions to the budget. LB540 relates to the state medical assistance program, Medicaid. The bill requires the Department of Health and Human Services to apply for a Medicaid waiver or an amendment to an existing waiver for the purpose of providing medical assistance for family planning services for persons whose family earned income is at or below 185 of the federal poverty level. [LB540]

SENATOR CAMPBELL: Thank you, Ms. Chaffee. With that, we will open for the proponents for this bill. Good afternoon. [LB540]

CAROL RUSSELL: (Exhibit 10) Good afternoon. Good afternoon, Chairwoman Campbell and members of the Health and Human Services Committee. My name is Carol Russell, C-a-r-o-l R-u-s-s-e-l-l. I'm a board member of the March of Dimes Nebraska Chapter and serve as their public affairs chair. As you may know, the March of Dimes is a voluntary health organization dedicated to improving the health of women of childbearing age, infants, and children, by preventing birth defects, preterm birth, and infant mortality. Access to health coverage is critical to achieving these goals. We strongly believe that healthy pregnancies and healthy babies start with planned pregnancies. The March of Dimes is a strong supporter of the expansion of the Nebraska family planning waiver. We believe this expansion saves money and, more

importantly, saves lives. The March of Dimes recognizes Medicaid as an important partner in improving maternal and child health. Some state Medicaid programs are and have been particularly effective in supporting healthy pregnancies and improving birth outcomes for high-risk pregnant women. We have learned from those states' programs and can use their innovations to achieve better birth outcomes. A central purpose of family planning is to promote optimal health of mothers-to-be and their babies, starting before pregnancy. Family planning information and services help prospective parents to make informed decisions about the timing and spacing of childbearing. This is especially important for women at medical risk and those wishing to modify risky lifestyle factors before conception. In 1993, Rhode Island pioneered an expansion of Medicaid family planning benefits by extending family planning and primary care coverage from 60 days to up to two years for a woman who had delivered a baby on Medicaid. This increased access to family planning cut in half the number of women who delivered another baby within 18 months of a previous pregnancy and helped to reduce infant mortality among Medicaid infants. Short interval pregnancies and unintended pregnancies are risk factors for preterm birth and other poor birth outcomes. In the first three years, Rhode Island saved $14.3 million in Medicaid expenditures. Unintended pregnancies continue to be a serious public health concern in the United States. Nationally, 43 percent of births of 18- to 44-year-olds can be classified as unintentional. In Nebraska, approximately 39 percent of pregnancies are unintended. Nebraska currently ranks 51st in making family planning services available, and 49th in the nation for providing funding for this issue. Access to and use of family planning services is an integral part of reducing the number of unintended pregnancies. The March of Dimes recognizes the value of preconception and interconception healthcare and family planning in reducing the risks of birth defects, low birth weight, prematurity, and infant mortality. We believe that providing comprehensive Medicaid family planning services to low-income women in Nebraska will reduce our rates of unintended pregnancies, improve health outcomes of mothers and their babies, and reduce costs to Nebraska taxpayers. In closing, thank you for your service and dedication to our great state. And I will try to answer questions if you have any. [LB540]

SENATOR CAMPBELL: Thank you, Mrs. Russell. Questions that you'd like to ask? In full disclosure, I do want to say that Mrs. Russell and I went to college together, so. [LB540]

CAROL RUSSELL: Just a couple of years ago. [LB540]

SENATOR CAMPBELL: Just a couple of years ago. Thanks. Good to see you, Carol. [LB540]

CAROL RUSSELL: Thank you. [LB540]

SENATOR CAMPBELL: Next proponent. [LB540]

KAY OESTMANN: (Exhibit 11) Good afternoon, Senator Campbell and members of the Health and Human Services Committee. My name is Kay Oestmann, K-a-y O-e-s-t-m-a-n-n, and I'm the president of the Public Health Association of Nebraska, which covers the entire state and represents 400 members of our public health associates. So I'm here to testify for that organization. LB540 would amend the state's plan to maximize family planning services for low-income women in our state. The outcome is access to preventative healthcare for women's health services and healthcare cost savings. Focusing on the improved access to healthcare and the Medicaid plan amendment would increase the geographic availability of women's health services; increase access to private healthcare providers; and improves birth spacing, time between pregnancies, with substantial, positive consequences for infants, women, families, and society. Short birth intervals have been linked with numerous negative perinatal outcomes. United States and international studies have found a causal link between the time between a birth and a subsequent pregnancy and three major measures of birth outcomes: low birth weight, premature birth, and small size for gestational age. Medicaid expansions that have been implemented in about half the states also provide evidence of the effectiveness of helping women to avoid short intervals between births, thereby reducing the risk of poor birth outcomes. In Arkansas, repeat births within 12 months dropped 84 percent between 2001 and 2005 for women enrolled, and the proportion of having a repeat delivery within 48 months fell by 31 percent. In New Mexico, women accessing services under the expansion were less likely to have a repeat delivery within 24 months than were women who did not access expansion services--35 percent compared with 50 percent. In Rhode Island, you just heard about the proportion of mothers on Medicaid with birth intervals of less than 18 months fell from 41 percent in 1993 to 28 in 2003. Focusing on the cost savings under Medicaid, 90 percent of the costs of family planning services are provided by the federal government; 10 percent are provided by the state. The Centers for Medicare and Medicaid Services in a 2003 federally funded evaluation noted that states initiated these expansions precisely because of their cost-effectiveness. Cost savings noted that all of the programs studied yielded significant savings to the federal and state governments, including Alabama, Arkansas, California, Oregon, and South Carolina, each saving more than $15 million in a single year; Wisconsin estimated that its program generated a net savings of $159 million in 2006; and Texas estimated that its program yielded a net savings of $42 million in 2008. In closing, LB540 provides the opportunity for an improvement in access to women's healthcare services at a demonstrated cost savings to the state of Nebraska. The Public Health Association of Nebraska supports this prevention program because primary prevention strategies offer proof of savings in our communities. These savings are shared by primary care, long-term care, public health, and education. I'd be glad to answer any questions. [LB540]

SENATOR CAMPBELL: Questions for Ms. Oestmann? Ms. Oestmann, I'm going to ask a couple of questions here. In looking at the other states, those savings weren't

immediate, were they? [LB540]

KAY OESTMANN: They weren't what? [LB540]

SENATOR CAMPBELL: Immediate. [LB540]

KAY OESTMANN: No. They were, you know, it says like in 18 months, the 1993 to 2003, so that's ten years. But, you know, the estimated time from when they started them, why, they were able to definitely identify that that's what the savings were. I included a bibliography with this, so that, you know, if any of you want to look, research it further, why, that's where the references are. And I know none of you have anything to read right now, so (laugh) thought I'd just include that. [LB540]

SENATOR CAMPBELL: Well, you just never know when we're going to get another snowstorm. (Laughter). Ms. Oestmann, another question for you is, a lot of people classify this as a women's health bill and because of the health services that are provided. Can you give a little bit of explanation from a public health perspective of what those services are? [LB540]

KAY OESTMANN: Well, a lot of it is education. I watched the Education Committee yesterday talking about the information for, you know, giving sex ed in the schools. A lot of the people that access the public health clinics that are for women haven't had a lot of education along the lines of, you know, basic anatomy even. So these clinics are very good at doing public health education for women, helping them access things that they need to, you know, understand what they better need to raise healthy children, the importance of birth spacing, and they can talk to them about that. You know, it's important that they know that their bodies don't respond immediately; that if they continue to have children, you know, one after another, that their risk for having low birthrate children and babies that aren't good babies...you know, so that happens. They also have access to finding out if they have an STD that they haven't identified that can affect the birth of their children. They also find out if they...you know, they have to have Pap smears and that kind of thing. They teach them how to identify self-breast exams. They teach them about folic acid which helps have...you know, they tell them about prenatal vitamins because folic acid is a very important thing to include in a young woman's prenatal health. So, you know, education is really good, and a lot of times they get the bad name that they're just there for birth control, but they're doing great education in these public health clinics, so. Did that answer your question? [LB540]

SENATOR CAMPBELL: That's helpful. Absolutely. Thank you. That's helpful. Other questions? Senator Bloomfield. [LB540]

SENATOR BLOOMFIELD: Is pregnancy interruption used to expand the birth intervals? [LB540]

KAY OESTMANN: In most of our public health clinics that's not the goal. The goal is... [LB540]

SENATOR BLOOMFIELD: But is it used? [LB540]

KAY OESTMANN: I can't answer that for you because it's not my line of work and I don't know. You know, I refer young women to them. I don't know. I know in my area there's no abortions that are done. There may be the morning-after pill given, but I don't know that for a fact, so I can't speak on that. So I don't want to be quoted on that. [LB540]

SENATOR BLOOMFIELD: Okay. Thank you. [LB540]

SENATOR CAMPBELL: Follow-up questions? Thank you, Ms. Oestmann. [LB540]

KAY OESTMANN: (Exhibit 12) Thank you so much. I also have a letter that I would like to have included in the testimony from Friends of Public Health, which is the advocacy for local health departments. [LB540]

SENATOR CAMPBELL: Okay. If you'd just give it to the clerk. Next proponent. [LB540]

LAURA URBANEC: (Exhibits 13-15) Good afternoon. Madam Chairman, Senator Gloor, committee members, my name is Laura Urbanec, L-a-u-r-a U-r-b-a-n-e-c, and I am the executive director in Grand Island with Central Health Center. We also have offices in Kearney and Lexington. We are part of a network of centers that provide reproductive health services throughout the state. I'm speaking on behalf of the Family Planning Council of Nebraska in support of LB540. Recognizing that investing in family planning services is fiscally responsible and prudent, 28 states--including regional neighbors like Oklahoma, Iowa, Missouri, and Wyoming--have made family planning services available to more people by obtaining Medicaid waivers. Medicaid recipients receive these services through any and all providers who see Medicaid patients and who provide such services. These waivers are saving states millions of dollars. It has been calculated that for every $1 invested, $4 are saved in costs by averting unintended pregnancies for low-income women who otherwise would require governmental services. In 2009, Iowa conducted a study of the impact of its waiver and learned that the first year's savings were closer to $7 for each $1 invested. And it was determined that over five years, those savings grow to $15.12 for every $1 invested. I have provided you with some information that they did on that study and we can get you the complete report also. Other proofs of savings: In 2003, the Centers for Medicare and Medicaid Services commissioned a national evaluation of the impact of Medicaid family planning waivers. Every one of these programs studied saved money, every single one. For example, the Arkansas program resulted in total savings of nearly $30 million in a single year, while the program in Oregon generated savings of $20 million. The fiscal note on LB540

states Nebraska would save approximately $5.5 million annually. And this committee recognized that a waiver would be fiscally prudent and included it among recommendations in the LR542 report. There are indications the savings could be significantly more as calculated by the Guttmacher Institute after extensive research and analysis. In January, the institute released a comprehensive report on Medicaid state plan amendments or SPAs. And a SPA is a newly available option to a waiver, and the application process is less complicated and less costly. In that report, the institute finds that if Nebraska provided family planning services to persons up to 185 percent of the federal poverty level, the net savings could be $13,822,000 in the mature year. This information is among the materials that was just distributed also. A huge consideration--in fact, a compelling reason to do this--is that Medicaid family planning services have an enhanced matching rate. The federal government pays 90 percent of the costs and the states pay 10 percent--90 percent, 10 percent. No other Medicaid program has a higher federal match and most are significantly less. This means for every $1 that states invest, the federal government contributes $9. That's $10 in services that can be provided. This proposed policy is supported by the majority of Nebraskans. A September 2010 poll of voters revealed that 64 percent support changing the standard of eligibility for family planning services under Medicaid to 185 percent of the federal poverty level. Medicaid family planning waivers have been proven to be successful. By investing in this waiver, Nebraska would bring in significant federal dollars which would have a multiplier effect throughout our economy. We would reduce Medicaid expenditures in both the short and long term by shifting resources to prevention. We would help ensure that thousands of Nebraskans receive essential healthcare services. I ask that you please advance LB540 and work to ensure it's implemented as soon as possible. I want to thank you very much for your time and consideration and I'd be happy to try and answer any questions. [LB540]

SENATOR CAMPBELL: Thank you, Ms. Urbanec. Questions? Ms. Urbanec...oh, I'm sorry. Senator Gloor. [LB540]

SENATOR GLOOR: Thank you, Senator Campbell. Laura? [LB540]

LAURA URBANEC: Yes. [LB540]

SENATOR GLOOR: What impact do you think this would have on your current patient numbers in Grand Island? Any guesses that you have based upon talking with counterparts in other states? [LB540]

LAURA URBANEC: I think it would be a very positive impact. I think we could increase our numbers, people coming into us and needing these services. I think that it would help women tremendously in planning their pregnancies, in receiving the, as the previous proponents mentioned, the education. We, as family planning agencies, do a tremendous amount of education with our patients. The education, the screenings, from

breast, cervical, STD, HIV, all the screenings, and even treatments that we do provide to the routine annual exams and giving them a sense of empowerment over their life. [LB540]

SENATOR GLOOR: And so the impact goes well beyond family planning. Is it Every Woman Matters that's one of the programs that...does that still exist, involved for breast screening? [LB540]

LAURA URBANEC: Yes. There's the federal Every Woman Matters program, yes, for women 40 and over. That's the breast and cervical cancer diagnostic screening program and there is income eligibility criteria with that, and we participate in that as well. Yes. [LB540]

SENATOR GLOOR: Okay. [LB540]

LAURA URBANEC: And keep in mind that this waiver would allow any provider to participate if they were willing to sign women up and do the Medicaid eligibility criteria to provide family planning services, not just limiting it to family planning, so. [LB540]

SENATOR GLOOR: Thank you. [LB540]

LAURA URBANEC: Yeah. You're welcome. [LB540]

SENATOR CAMPBELL: Questions? All out of questions. Ms. Urbanec, I want to go back and Senator Bloomfield posed a question to the last speaker. Did you hear that question from him? [LB540]

LAURA URBANEC: On the...? [LB540]

SENATOR CAMPBELL: Senator Bloomfield, would you repeat your question? [LB540]

SENATOR BLOOMFIELD: Yeah. Is pregnancy interruption used to expand that birth interval? [LB540]

LAURA URBANEC No. [LB540]

SENATOR BLOOMFIELD: Okay. [LB540]

LAURA URBANEC: We do not. Federal law prohibits that as well as Medicaid, and so this law would not support, condone, or anything with that. [LB540]

SENATOR BLOOMFIELD: It's my understanding that there's some question in federal law with the new healthcare thing that may or may not materialize. So I still have some

questions here. [LB540]

LAURA URBANEC: But even before that, even...there are no Title X funds that can be used for abortion, absolutely none. And we have that...many family planning clinics across the state do not even provide abortions at all. They don't do that at service whatsoever. And Medicaid does not pay for those either. [LB540]

SENATOR BLOOMFIELD: Okay. Thank you. [LB540]

SENATOR CAMPBELL: Any other follow-up questions? Thank you for coming today. [LB540]

LAURA URBANEC: You're welcome. Thank you for having me. [LB540]

SENATOR CAMPBELL: Next proponent. Welcome. [LB540]

JEAN PHELAN: (Exhibit 16) Good afternoon, Senator Campbell, members of the Health and Human Services Committee. My name is Jean Phelan, J-e-a-n P-h-e-l-a-n, and I am a registered nurse who resides in District 45. I am here on behalf of the Nebraska Nurses Association which is a voice for approximately 30,000 registered nurses in Nebraska, and we are asking for your support of LB540. I'm sure that you all know how Medicaid works, so I'm not going to go into the logistics of it. But basically the federal government and the states jointly finance Medicaid, and the states have broad...can administer under broad federal guidelines. Medicaid does play a key role for women of reproductive age where family planning services are essential components of healthcare. The federal government provides at least 50 percent of Medicaid spending, known as federal medical assistance percentage or FMAP. State matching rates range anywhere from 50 to 76 percent of costs. However, family planning services are unique among covered services where the federal government provides a much higher match rate at 90 percent for all states. This 90 percent match rate provides states with an important incentive to make coverage for family planning services as broad as possible. In addition, providers and plans are not permitted to charge Medicaid beneficiaries for family planning services and supplies. This prevents states from charging out-of-pocket costs for family planning services. Under a waiver from the federal government for family planning services, Medicaid beneficiaries also benefit from freedom of choice for managed care family planning services and supplies. This advantage allows individuals to obtain services outside of their plan. Many states have sought and receive permission or waivers from the federal government to extend Medicaid eligibility for family planning services. States who have obtained these waivers have argued that the costs of providing family planning services and supplies to individuals under the program is lower than the cost of providing care to women with unintended pregnancies. LB540 requests that Nebraska join with other states to obtain a waiver from the federal government to provide family planning services and supplies. These family planning

services include prescription and over-the-counter contraceptives, sterilization treatments, preconception care, screening and treatment for sexually transmitted diseases, cancer screening, and human papilloma virus vaccine. According to the State Medicaid Coverage of Family Planning Services: Summary of State Survey Findings that was done in 2009, Nebraska currently does provide some of these services at the 90 percent match rate. However, LB540 would allow Nebraska to provide most family planning services at the 90 percent match rate. Additionally, this bill would enhance the services provided and covered. LB540 would allow Nebraska to extend coverage for family planning services to many low-income individuals whose incomes are above the income eligibility levels to qualify for Medicaid enrollment. Nebraska currently provides family planning services for prescription contraceptives, including oral contraceptives, IUDs, implants, injectables, and diaphragms; over-the-counter contraceptives such as condoms; and sterilization procedures. However, preconception care is an area where Nebraska could extend coverage for services. Currently, gynecologic exams and contraceptive counseling are only sometimes considered family planning services depending on the context of the visit. Reproductive health education and preconception counseling are not covered at all. STD testing and treatment as well as HIV testing are only sometimes considered family planning services. Testing and treatment for STDs and HIV are essential for early identification, effective management, and reduction in transmission. Cancer screening and prevention services include mammograms, Pap testing, colposcopy, and HPV vaccine for adults 21 to 26 years old. Nebraska sometimes considers Pap testing as family planning services and never regards mammograms as family planning. Colposcopy is done after a positive Pap test to prevent cervical cancer. However, this procedure is never considered a family planing service in Nebraska. The HPV vaccine for young adults is only covered under Medicaid based on medical necessity. In conclusion, the Nebraska Nurses Association asks you to support LB540. This family planning waiver for Nebraska would allow the state to cover services--including office visits, tests, laboratory procedures, and contraceptive supplies--where the primary purpose is family planning. These services and supplies would be matched with 90 percent of federal dollars. Research has shown that Medicaid family planning expansions result in lower birthrates, unplanned pregnancies, and abortions. Broad, income-based programs have the greatest impact. [LB540]

SENATOR CAMPBELL: Questions? Any questions? Thank you for coming today and testifying. [LB540]

JEAN PHELAN: Thank you. [LB540]

SENATOR CAMPBELL: Other proponents. Good afternoon, and welcome. [LB540]

JEAN BRINKMAN: (Exhibit 17) Good afternoon, Senator Campbell and committee members. My name is Jean Brinkman, J-e-a-n B-r-i-n-k-m-a-n. I will inform you this is the first time I've testified so I may be nervous. [LB540]

SENATOR CAMPBELL: You're doing great. Don't worry about it. [LB540]

JEAN BRINKMAN: (Laugh) I've been the director for 28 years for Family Health Services, which is located in Tecumseh, Nebraska, which is southeast Nebraska, and I highly support LB540. I'll briefly address current eligibility requirements for family planning services under Medicaid, costs associated with family planning in comparison to pregnancy, and the financial realities of many low-income Nebraskans. First, however, I'd like to relate what family planning services are under Medicaid. Most of our services include the initial and annual physical exams, including a health history; follow-up visits for any type of problem visits; laboratory services; prescribing and supplying contraceptive supplies and devices; counseling services; STD testing and treatment; and prescribing medications for specific treatment. Under a Medicaid waiver as proposed, a person's eligibility would be based upon income. Currently, in order to receive family planning services under Medicaid, you have to fall into one of these four categories. The first one is a woman with dependent children and an income at or below 58 percent of the federal poverty level, which is $8,450 per year for a family of two. The second category: be pregnant and living at or below 185 percent of the poverty level, and you will receive family planning services for a period of 60 days following the birth of your child. Third category: be disabled with an income of 100 percent or below of the poverty level. And fourth: be a woman who has breast and/or cervical cancer, in which case services would be available up to 250 percent of the poverty level. Missing in this are women without dependent children, women who currently are not eligible regardless of their income. This defies logic. If there's a young, childless, low-income couple who want to delay having children, ensuring they can access family planning services would be far less costly than paying the cost of a pregnancy that couple was hoping to avoid. This fact is borne out in the fiscal note on LB540. The note says it would cost $198 to provide services to a recipient. This compares to $12,155 to cover prenatal care, labor and delivery, and infant care up to one year--$198 compared to $12,155. Obviously, the former is the preferred cost, particularly since as policymakers you are struggling to reduce the Medicaid expenditures. And the document states that an additional 26,000 women could be served, so not only do we save millions, but thousands of more people could get essential, basic healthcare services. I want to bring the discussion to the plane of a low-income person. If we would consider a young woman, age 22, who earns $9 an hour. After taxes and minimal benefits, she brings home about $1,350 a month. Out of this, she has to pay rent, utilities and phone, car insurance, gas, and perhaps a car payment, with food and household goods. She has little left to cover personal items, unexpected expenditures such as car repairs, clothing, and healthcare. This is the type of situation we see all the time in our clinics. With her income, and if pregnant, she'd qualify for Medicaid and receive ADC. If it would be more fiscally responsible to help her with $30 a month for contraception than to expend thousands of dollars in public assistance if she were to become pregnant. On any day, LB540 would be a wise policy to implement, so in the light of the current state budget constraints, it should be at the

top of the list to help reduce state expenditures. So I urge you to support LB540 and hopefully actively work for its success. [LB540]

SENATOR CAMPBELL: And we brought you a glass of water. [LB540]

JEAN BRINKMAN: Thank you. [LB540]

SENATOR CAMPBELL: You're welcome. You did a great job. Questions? Senator Wallman. [LB540]

SENATOR WALLMAN: Thank you, Senator Campbell. Thanks. Neighboring districts we are. I'm District 30, so. [LB540]

JEAN BRINKMAN: Okay. District 30. Okay. [LB540]

SENATOR WALLMAN: Thank you for coming. [LB540]

JEAN BRINKMAN: You're welcome. [LB540]

SENATOR WALLMAN: And have you seen a decrease or increase, you know, what is it nationally, that teen pregnancies have went down? [LB540]

JEAN BRINKMAN: Nationally they may have went down, but in our areas and in our small southeast rural areas,... [LB540]

SENATOR WALLMAN: Um-hum. [LB540]

JEAN BRINKMAN: ...they have increased. You know, just to...I'm not sure how much I'm supposed to say but we have very young teenagers that have just come into the program, 15 and under, and they are now pregnant. And then we do have the WIC program with us, which we try to get help for them. But we're seeing a very high rise, you know, in our little rural communities, of high pregnancy rate. And the STD rates are climbing faster than what we want to see it happen. And I've been there 28 years, so what I'm hearing now when we get phone calls is, "I just lost my insurance and my husband and I have no way to support...you know, to buy birth control. What do I do now?" They want an answer from us, and we help them any way we can with Title X dollars. And Medicaid would be a huge savings and huge benefit. [LB540]

SENATOR WALLMAN: Thank you. [LB540]

JEAN BRINKMAN: You're welcome. [LB540]

SENATOR CAMPBELL: Other questions from any of the senators? Okay. Thank you.

[LB540]

JEAN BRINKMAN: Thank you very much. [LB540]

SENATOR CAMPBELL: Senator Cook, I'll recall at the end of the proponents. [LB540]

SENATOR COOK: Okay. Thank you. [LB540]

SENATOR CAMPBELL: Other proponents? Is Mr. Werner the last proponent? Okay. Is Ms. Phelan still here? Yes. Would you please stay because Senator Cook has a follow-up question, and we'll bring you up after Mr. Werner so not to confuse the order for the clerk. Thank you. Good afternoon. [LB540]

JAMES GODDARD: (Exhibit 18) Good afternoon, Madam Chairwoman, committee members. My name is James Goddard, that's G-o-d-d-a-r-d. I'm a staff attorney at the Nebraska Appleseed Center for Law in the Public Interest. Nebraska Appleseed is a nonprofit, nonpartisan, public interest law firm that works for equal justice and full opportunity for all Nebraskans. I'm here today to support LB540. As many of you probably know, Nebraska Appleseed has worked for a number of years on Medicaid in general. In that time, we've worked with a lot of groups that want to improve Medicaid in its efficiency while at the same time protecting the program and the people it serves. This bill providing family planning services would meet these goals. It is one of the best options for long-term savings and efficiency in the program. This is because family planning services receive a 90 percent federal match and because the services themselves provide significant long-term cost savings for Medicaid as well as other public benefit programs. These savings to Medicaid are critically important in a time when Nebraska's budget is tight, such as this year, as you know better than anyone else. Deeper cuts to Medicaid would cause a lot of significant concerns. It could cause significant hardships to families. It could shift costs to providers which could affect low-income access to healthcare. It could also cause higher costs in the long term in the Medicaid program. On the other hand, we have this option. The state can choose to make this smart investment, to make the program more efficient and to produce long-term cost savings. That is what this bill would do. I also want to mention and emphasize that this bill in family planning services could have a positive impact and does have a positive impact on Nebraska women and Nebraska families. Providing women with education on family planning can have a beneficial effect for them and their whole family; so can providing health services which can lead to healthier pregnancies. Moreover, family planning services can support a woman and a family's effort to become truly self-sufficient by giving them information they need to make choices that are best for themselves and their families. Indeed, helping families plan their choices around the timing and the size of a family can provide them with an opportunity to really think closely about their overall life plans and to prevent unintended interruptions in work or in school--things that are needed to move them from dependence to

self-sufficiency. So in sum, we hope this committee will seriously consider this bill and the cost savings and benefits that it could provide, and we respectfully urge the committee to advance LB540. Thank you. [LB540]

SENATOR CAMPBELL: Questions for Mr. Goddard? Mr. Goddard, I know that you've done work on Medicaid because you've testified in the past. In the studies that you've looked at, you don't initially save money. Would that be accurate? I mean, there may be a cost for the first year? [LB540]

JAMES GODDARD: As I understand it, Chairwoman, there must be an initial investment up front, simply because you are expanding eligibility to a higher income level, and so that must correspond with more people getting services. However, I think the fiscal note seemed to indicate to me that it would be four years before there would be any cost savings, and that...I'm not quite sure that that makes sense from what I understand, that it would actually take a full four years to see cost savings. I think there would be an initial investment. I think it's $16,000 this year, which in the Medicaid budget is a real drop in the bucket, as you know, even in these hard budget times. So to answer, I believe there is an initial investment but I don't believe that we're going to wait four years to see the kind of huge cost savings that other states have. [LB540]

SENATOR CAMPBELL: But obviously the cost also would be the increased number of people eligible for Medicaid. That's what you're saying. [LB540]

JAMES GODDARD: At the initial... [LB540]

SENATOR CAMPBELL: Initial onset. [LB540]

JAMES GODDARD: Yes, initially, and then I guess the idea is down a little beyond the first year you're going to actually have fewer people eligible for Medicaid. [LB540]

SENATOR CAMPBELL: Okay. Other questions? Thank you, Mr. Goddard. [LB540]

JAMES GODDARD: Thank you. [LB540]

SENATOR CAMPBELL: Mr. Werner. [LB540]

TERRY WERNER: (Exhibit 19) Good afternoon, Senator Campbell and the Health and Human Services Committee. My name is Terry Werner, T-e-r-r-y W-e-r-n-e-r. I am the executive director for the Nebraska Chapter of the National Association of Social Workers. And there's not much left for me to be said, so this will be quick. But, you know, as I watch or listen, mostly, on my computer to the floor debate, the debate over the last few days has been pretty awesome and just the beginning of what you're going to face this year. And this bill to me seems like such a win-win bill for both the

Legislature in terms of budgetary restraints and for families in Nebraska. And again, much of what's been said already I won't repeat. But it does seem to me that it should be pointed out that this bill is really good for families, that women who defer childbearing have the chance to further their education, develop work skills, provide better for the children that they do have, and improve the well-being of their families. I believe also that there are numerous additional benefits such as the potential to reduce violence and child abuse, greater economic opportunity for families, and the greater likelihood that children will become self-sufficient. The NASW code of ethics states that "social workers promote clients' socially responsible self-determination," and this is a very important part of what we as social workers are taught and, again, is part of our code of ethics. I believe that LB540 supports this position. NASW-NE supports the legislation to facilitate access to family planning services and encourages you to please advance this to the full floor of the Legislature. Thank you very much. [LB540]

SENATOR CAMPBELL: Questions for Mr. Werner? Thank you very much for coming. For the clerk's benefit, we are going to return to the testimony of Ms. Jean Phelan. Do you need something specific, Diane? Okay, For the purpose of a question from Senator Cook. [LB540]

SENATOR COOK: Thank you, Madam Chair, and thank you, Ms. Phelan. I have a question related to the second to the last sentence on your typed testimony. And it's a been a while since I have diagramed a sentence, but I want you to tell me what it means after I read it. It reads, "Research has shown that Medicaid family planning expansions result in lower birthrates, unplanned pregnancies, and abortions." What does that...does that mean it results in each of those or does it mean...what did you mean it to say? [LB540]

JEAN PHELAN: I apologize because I even wondered about that. I'm an educator so I should have known better about the sentence structure. It actually...what I wanted to say is: lower birthrates, lower unplanned pregnancies, lower abortions. So lower percentages of all of those. [LB540]

SENATOR COOK: All right. [LB540]

JEAN PHELAN: Does that answer your question? [LB540]

SENATOR COOK: It makes just more sense in context of the rest of your testimony, so thank you for clarifying... [LB540]

JEAN PHELAN: Yes. [LB540]

SENATOR COOK: ...that. [LB540]

JEAN PHELAN: Senator Campbell, I also wanted to just mention that there's been some discussion about savings for this program and how there's not going to be savings seen for four to five years. That is not the case. The state of Nebraska for each dollar that they invest, they will save $4, and that can be seen in the first year. In over five years, they would save $15. So this is a save-save...I mean, this is a win-win program for the state of Nebraska. [LB540]

SENATOR CAMPBELL: That's the Iowa study, is it not? [LB540]

JEAN PHELAN: Yes. [LB540]

SENATOR CAMPBELL: Any other questions that you'd like to ask? Thank you for coming back to answer that question. Those who wish to oppose the bill? Good afternoon and welcome. [LB540]

GREG SCHLEPPENBACH: (Exhibits 20-21) Hi, Senator. Good afternoon committee, Senator Campbell. My name is Greg Schleppenbach, that's spelled S-c-h-l-e-p-p-e-n-b-a-c-h--a distinct disadvantage that takes half my testimony to spell my name. I'm here on behalf of the Nebraska Catholic Conference to urge you to oppose LB540. I want to be clear, I'm not here to present religious or theological reasons to oppose this bill. Rather, the Catholic Conference believes there are significant moral, social, and health implications to this bill and we believe that there are serious flaws in the arguments propelling it. We hear repeatedly from proponents of contraception that increasing access to it results in fewer unintended pregnancies and abortions. And what's more, they claim these benefits come with a cost savings to our state by averting births that would otherwise be paid for by Medicaid. To substantiate this claim, proponents point primarily to a 2004 study commissioned by the Centers for Medicare and Medicaid. The study examined six Medicaid waiver states, and claims that every state experienced a cost savings based on births that were averted by expanding access to contraception. A critical examination of this study reveals that it is based on estimates and assumptions, not on empirical data. It's not even clear if this study qualifies as a peer-reviewed, evidence-based study. What's particularly questionable and troubling is that the study admits that not every state examined saw a reduction in unintended pregnancies nor did every state experience an increase in family planning use. Yet the study claims that every state saved money by increasing funding for family planning and subsequently averting births. It's questionable that those states not seeing a drop in unintended pregnancies saw a decline in births. But if they did have a decrease in births, that means that this decrease had to come from abortions and miscarriages. This conclusion would stand to reason given the fact that 54 percent of women having abortions were using contraception in the month that they got pregnant. This is according to the Alan Guttmacher Institute. In explaining this phenomenon, Guttmacher said: Because women who are using contraceptives are motivated to prevent an unplanned birth, they are more likely than women who were not

using contraception to seek an abortion should they become pregnant. Contrast this one questionable CMS study with numerous studies, incidentally conducted by family planning proponents, demonstrating that greater access to contraception does not, much to their chagrin, reduce unintended pregnancies and abortions. I provide you with a sampling of those in my testimony and a bigger sampling in the handout that I gave you. I want to just point to a couple of them. The first one just was published in, last month's January 2011 issue of the journal Contraception. It featured a ten-year study in Spain. They examined the use of contraceptive methods in order to reduce the number of elective abortions. During this ten-year period, they saw an overall increase in use of contraceptive methods but the elective abortion rate doubled during that time period. A May 2004 article in that same publication, Contraception, Anna Glasier said about emergency contraception that, "...estimates of efficacy are unsubstantiated by randomized trials. Efficacy is based on rather unreliable data and a great many assumptions and have been questioned both in the past and more recently. While advanced provision of emergency contraception probably prevents some pregnancies for some women some of the time, the strategy did not produce the public health breakthrough hoped for." It is, at best, debatable and speculative about whether or not Nebraska would ever see a cost savings associated with expanding Medicaid-subsidized family planning. But one thing that's not debatable, as the fiscal note points out, this bill will cost the state more than $100,000 in this biennium and, if I read it correctly, $780,000 in fiscal year '14. My understanding from looking at the fiscal note of this bill a couple of years ago, it takes 15 months to get a Medicaid waiver. I don't see how it's possible that this could save money in the first year when we can't even be eligible for the waiver for 15 months, probably longer. So I think it's fallacious to say that this is going to save the state money in this biennium. It's clearly not going to do that. Finally, another concern that we have about expanding the use of our tax dollars for contraception is the fact that hormonal contraception can cause early abortions. As the product insert in any package of hormonal contraception spells out, these drugs work in three ways: by preventing ovulation; by preventing fertilization if ovulation occurs--both of these are contraceptive properties; and third, by preventing implantation of an embryo in the womb if fertilization occurs. That third mode is an early abortion. I won't go into it here but I just...I did mention in my testimony about some of the other social science that's out there by sociologists who are not by any means religious or conservative, certainly have no moral qualms with contraception, who have begun to connect the dots between the availability of contraception and other social ills such as divorce and the feminization of poverty. I'll conclude by saying there's a growing body of this social science research that's challenging our assumptions about the impact of contraception on our society, and I do ask you to take a serious look at this research before you consider further expanding family planning funding programs in our state. Thank you. [LB540]

SENATOR CAMPBELL: Thank you, Mr. Schleppenbach. Questions from the senators? Sir, as you...you've obviously done a lot of study, and have you had a chance to look at

any of the family planning laws in the surrounding states, Iowa, that were mentioned? [LB540]

GREG SCHLEPPENBACH: I have not. [LB540]

SENATOR CAMPBELL: And the reason for the question: whether there was anything particularly written in them that would address some of your concerns. [LB540]

GREG SCHLEPPENBACH: You know, I'm happy to look at more and be presented with more. I've done a fair bit of research in looking at the proponents' evidence. I went back to the Medicaid reform committee hearings and looked at the evidence that was presented by the proponents of this. You know, presumably they're putting forward their best evidence in those settings. And what I saw was this CMS study as the primary substantiation for states saving money. I got a copy of the study. I looked through the study. I saw the Alan Guttmacher Institute's memo about this study where they acknowledged...the study itself said it didn't reduce unintended pregnancies in every state that they studied, and didn't even see necessarily an increase in family planning use in every state. Now to me that just doesn't add up how that can be the case, and yet they claim that every state saved money based on averting births. That was very clearly the criteria, that it averted births. But you read the study and it's very clear that it's based on presumptions, that there's a body of women out there who don't currently have...aren't eligible for federal funding for contraception who would be, and they have a certain percentage of pregnancy rate. And based upon that, the assumption is that if they have access, they won't have as many pregnancies, and hence, they extrapolate from that a savings. It's pure speculation. Even in those states where they claim that this has happened, I don't know how they could possibly definitively connect any reduction in births to the expansion of family planning. It's speculation. So, again, as an offset for spending in other areas, this bill doesn't do it. It certainly does not do it in this biennium. I don't think there's any question of that. [LB540]

SENATOR CAMPBELL: Senator Cook. [LB540]

SENATOR COOK: Thank you, Madam Chair. I have a question about the Catholic Conference, Nebraska Catholic Conference's general position on the use of contraception by whether or not the state is subsidizing or paying for it. Is this a position you're taking on this bill or it is this something that is a general tenet of your organization? [LB540]

GREG SCHLEPPENBACH: Well, it's certainly the Catholic Church's position on contraception is well known that we believe it... [LB540]

SENATOR COOK: Tell me what it is. I'm Baptist. [LB540]

GREG SCHLEPPENBACH: Sorry. (Laughter) [LB540]

SENATOR COOK: I don't have to... [LB540]

SENATOR CAMPBELL: She has to be honest. [LB540]

SENATOR COOK: Right. [LB540]

SENATOR CAMPBELL: She has to have...disclose this. [LB540]

SENATOR COOK: Yes. [LB540]

GREG SCHLEPPENBACH: The church has consistently through its history opposed the use of contraception as immoral. This was affirmed by Pope Paul VI in 1968, I believe, in Humanae Vitae. But the church has always opposed it. Now, in a public policy context, we're talking about a very different thing. You know, we're not out there advocating that it be outlawed. That's not a part of what we do. This bill would expand our tax dollars for this and it's being done in a way that I believe that the basis of which is flawed, and that's our primary interest in this debate about this issue is to point out some of the facts that I pointed out in my testimony. But certainly from a moral perspective, within the church we teach natural family planning, which I highly recommend if you're not familiar with that that people look at that. It's become very sophisticated, doesn't require women to pump chemicals into their body, has tremendous other health benefits in that women get to know the natural system of their body and are able to detect diseases and things because they're familiar with the rhythms of their body. It's not the old rhythm method that most people think about. It is a very sophisticated approach to planning pregnancies. The church supports and encourages families to plan their pregnancies. The church doesn't suggest that people should have as many babies as they can possibly have, and thankfully God has given us a natural way to do that, to space births through natural family planning. And it, again, doesn't have all of the chemical and other problems that artificial contraception does. [LB540]

SENATOR CAMPBELL: Senator Cook. [LB540]

SENATOR COOK: Another question. About...you made reference to the Catholic Conference's public policy position. Can you talk to me a little bit about what their public policy position is toward taking care of children or helping families take care of their children if they are unable to support the child within the family or...I mean, at one point earlier in my life I was a student, I guess, at nursery school at what used to be an orphanage where the Daniel Sheehan Center is now. Does the Catholic Conference still run orphanages and take children in and support them through adulthood as a family would? [LB540]

GREG SCHLEPPENBACH: The Catholic Conference doesn't and let me clarify. The Nebraska Catholic Conference represents the bishops of Nebraska on policy matters, but the... [LB540]

SENATOR COOK: Okay. And who are those bishops? [LB540]

GREG SCHLEPPENBACH: Archbishop Lucas, George Lucas, is the archbishop of Omaha, Bishop Fabian Bruskewitz is the bishop of the Lincoln diocese, and Bishop William Dendinger is the bishop of the Grand Island diocese. They are the head of the Catholic Conference. So we represent them on policy issues. But yes, we as the Catholic Church, through Catholic Charities and Catholic Social Services, are the largest charitable organization nonpublic. Other than the federal government, we are the largest charitable organization in the country, and we do provide an enormous amount of services to those in need. We, as the Catholic Conference, also, as you probably know, advocate in a lot of different areas. We've worked with Senator Campbell on ensuring prenatal benefits for pregnant women, worked very hard for that legislation as well. So I think we take a very consistent look and position on life issues and on caring for human life at every stage and condition. [LB540]

SENATOR COOK: Okay. I have one more question. You talked about your support for the bill last year related to prenatal care for undocumented mothers, the continuation of Nebraska's practice. I guess the question I was getting at is after the child is born... [LB540]

GREG SCHLEPPENBACH: Um-hum. [LB540]

SENATOR COOK: ...and it's out and it has parents that can support it or doesn't support it, I guess I haven't seen as much engagement from the Catholic Conference on those issues, those child welfare issues, whether it's child abuse. Just because this is the first time I've been on this committee, what, a month and a half, a whole month and a half. (Laughter) [LB540]

SENATOR CAMPBELL: I think that's probably... [LB540]

SENATOR COOK: Yeah. [LB540]

SENATOR CAMPBELL: ...about the amount. [LB540]

SENATOR COOK: And this is the first time I've seen you or seen a piece of paper from you, seen you in front of me, so. And we had child welfare day and I don't recall seeing you there. And I guess I'm just kind of harkening back to what I initially learned about the Catholic church's or the Catholic belief system's erstwhile commitment to social

justice in general and I don't see that either. So I...you show up for this one but I'm wondering where you are on the other stuff. [LB540]

GREG SCHLEPPENBACH: Well, let me tell you there's more than just me at the Catholic Conference. Jim Cunningham is our executive director, and I guarantee you he is very involved on all of these issues, child welfare and other issues. Perhaps you've not had as much interaction with him, but I would suggest that if you talked with your colleagues you would find that he is present on pretty much anything related to child welfare. The Catholic Church is very interested in that and I think has been exceedingly involved in those issues in a public policy context. I don't deal with those issues in my particular program in the office. We have some specialization there, but Jim certainly does. And more importantly, I think the Catholic Church is very credible in the sense that we expend a tremendous amount of our resources and time in helping in putting, you know, our money where our mouth is in whether it's Catholic Charities or social services or the pregnancy help centers that are often staffed and run by many Catholic individuals and funded by Catholics. I think we're pretty consistent on the issue. [LB540]

SENATOR COOK: Okay. [LB540]

SENATOR CAMPBELL: Any other questions, comments? Thank you, Mr. Schleppenbach. [LB540]

GREG SCHLEPPENBACH: Thank you. [LB540]

SENATOR CAMPBELL: (Exhibits 22-23) Others in the hearing room who wish to testify in opposition? Those who wish to testify in a neutral position? Seeing no one, we will close the hearing on LB540, and proceed to LB541. I should note for the record and I think the clerk has them, but the Nebraska Medical Association, Friends of Public Health in Nebraska, and the Nebraska Federally Qualified Health Centers supported LB540. Thank you to the clerk for letting me slip that in. Once again, Ms. Chaffee, we're here. [LB540]

MICHELLE CHAFFEE: Thank you. Senator Campbell and members of the Health and Human Services Committee, my name is Michelle Chaffee, C-h-a-f-f-e-e, and I am here to introduce LB541, which was introduced as a result of work done in regards to LR542 during the interim. LB541 states the Legislature finds Nebraska Medicaid would benefit from increased efforts to prevent improper payments by enforcing the eligibility criteria for recipients, enrollment criteria for providers, determining third-party liability for benefits, review of claims prior to payment, and identification of the extent and cause of improper payment. Medicaid would also benefit from efforts made to identify and recoup improper payments and collect postpayment reimbursement including but not limited to maximizing prescribed drug rebates and recoveries from estates for paid benefits. The bill requires the department to contract with one or more Recovery Audit Contractors,

also known as RAC, to promote the integrity of Medicaid and assist with cost containment. The contracts would include services for cost avoidance, cost recovery, and casualty recovery of payments through identifications of third-party liability. The contractor will review claims submitted by providers of services or other individuals furnishing items and services which payment has been made to determine whether the provider has been underpaid or overpaid and take action to recover any overpayment identified. Also, the department shall contract to support a health insurance premium assistant payment program. Finally, LB541 allows the department to enter into any other contracts deemed to increase the efforts to promote the integrity of the medical assistance program. The contracts entered into under the authority of this section may be on a contingent fee basis, and contingent fee payments are based upon amounts recovered, not amounts identified. Initial contracts would be entered into on or before July 1, 2011. LB541 requires the department to report to the Legislature the status of the contracts by December 1, 2011. Also, I'd like to mention that as a part of conversations with the director of Medicaid and Long-Term Care in Nebraska that we did discuss the issue that RACs or R-A-C contracts are required under the federal healthcare reform act initially was to be begun by December 31, 2011, later postponed until April 1. But as of a letter from CMS dated February 1, 2011, CMS has currently postponed the enactment of that section until the final regulations have been promulgated from the federal government. So just to clarify that although there had been an RFP in regards to the Recovery Audit Contracts, that is kind of put on hold. So with that... [LB541]

SENATOR CAMPBELL: Than you, Ms. Chaffee. We will now proceed to those who wish to testify in favor of LB541. Good afternoon and welcome. [LB541]

MICK MINES: Good afternoon, Senator, members of the committee. For the record, my name is Mick Mines, M-i-c-k M-i-n-e-s. I'm a lobbyist and I'm here today representing the National Association of Insurance and Financial Advisors of Nebraska or NAIFA. NAIFA has no fiduciary interest in this bill. We are simply here in support because we are in support of what you're doing to identify any waste, fraud, and abuse. And certainly this is one direction you can go by using an account recovery consultant, and we urge you to proceed with this. We believe that even the fiscal note seems a little light, seems a little short, and we would encourage the committee to go ahead with this endeavor. Whether or not there's a federal program or not, we think there's an opportunity for savings to our clients as well as the state of Nebraska. I'd be glad to answer any questions. [LB541]

SENATOR CAMPBELL: Questions? Any other questions? Senator, always good to see you. [LB541]

MICK MINES: Thank you. [LB541]

SENATOR CAMPBELL: (Exhibit 24) Others who wish to testify in favor of LB541? Those who wish to testify in opposition to LB541? Those who wish to testify in a neutral position? Okay. We should enter for the record that we receive a letter in opposition to LB541 from the Nebraska Hospital Association. And with that, the hearings are concluded for today and we are adjourned for the hearings. The committee will be staying for Executive Session. [LB541]