[LB304 LB413 LB542 LB591]

The Committee on Health and Human Services met at 1:30 p.m. on Thursday, February 24, 2011, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB413, LB304, LB542, and LB591. 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: (Recorder malfunction)...going to open the hearings for the Health and Human Services Committee. I'm Senator Kathy Campbell from the 25th Legislative District here in Lincoln and we'll start on my far right. [LB413]

SENATOR BLOOMFIELD: I'm Dave Bloomfield, District 17 in extreme northeast Nebraska. [LB413]

SENATOR WALLMAN: Senator Norm Wallman, District 30, south Lincoln to Kansas. [LB413]

SENATOR GLOOR: Senator Mike Gloor, District 35 which is Grand Island, that's in extreme east-central Nebraska. (Laughter) [LB413]

MICHELLE CHAFFEE: I'm Michelle Chaffee, legal counsel to the committee. [LB413]

SENATOR KRIST: Bob Krist, District 10, northwest Omaha. [LB413]

SENATOR CAMPBELL: And to my far left is Diane Johnson who's the clerk for the committee, and Ayisha and Crystal are the two pages. Senator Cook and Senator Howard are introducing bills in other committees but they will be coming. So we will go through the housekeeping chores here. If you have a cell phone with you, please silence it so that you don't disturb your neighbor. Although handouts are not required, if you are providing handouts, we would like 12 copies, and posted outside is where you can obtain extra copies if you don't have 12. You need to sign in on the orange sheet if you intend to testify and bring those forward with you, and print so that Diane can read them very easily. If you will not be testifying today, you can still sign up on the white clipboard sheets and say I support whatever. Each testifier will have five minutes and it'll go green and it stays green for a long time, and then yellow goes really fast, and then you're going to look up and it'll be red and I'll be going, time, time, time. We don't have a room full of people today so it's not like we're...I mean, if you go a little over we won't have a hook and take you away. When you start your testimony, be sure you state your name and spell it. And with those tips in place, we will open the public hearings this afternoon with LB413, Senator Conrad's bill to authorize use of the Affordable Housing Trust Fund for programs benefiting homeless youth. Good afternoon. First time here. [LB413]

SENATOR CONRAD: (Exhibit 1) It is. Good afternoon, Madam Chair, members of the distinguished committee. It's nice to come and visit you at Health and Human Services this session. I have not had the opportunity to do so yet. My name is Danielle Conrad, D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d. I represent north Lincoln's "Fighting 46th Legislative District" right here in our Nebraska Unicameral Legislature. I am here today to introduce LB413. LB413 would allow the Affordable Housing Trust Fund to be used to support efforts benefiting homeless youth. I introduced this bill as a result of constituent contact. I think that that's obviously, as I'm sure you would agree, one of the most rewarding and exciting parts of our job when you're out talking in community meetings or visiting with people on a one-on-one basis and they talk to you about issues that are really important to them. And I had just that encounter and experience which really put this issue on my radar screen. A constituent who is just an everyday person who wasn't particularly politically active in any circles or campaigns or otherwise who read in the paper the article that I just passed around to you which detailed that from 2009 in the Lincoln Journal Star a study about how Nebraska has about 5,000 children or so that are homeless and how shocking that number was to him and I think to all of us. You know, from my own personal perspective I'm originally from Seward about half an hour down the road, and during the time I lived there 15 years ago, our town was about 5,000 people. So thinking of the entirety of my hometown as homeless children just is a way to kind of illustrate the concept is particularly I think shocking as we do take seriously and hope to enjoy the promise of the good life for all of our citizenry. Further detailed in that article is information about where Nebraska ranks in terms of plans to address, combat, and improve our issues surrounding homelessness. So I hope it is as provocative to your consideration as it was to mine in agreeing to bring this bill this session. As you well know due to budgetary constraints, it's probably not a good idea to start off with ideas surrounding additional investments or new dollars or significant General Fund impacts. So what I did over the interim was try and identify some existing resources that would be a good fit to bring additional attention and awareness and potentially to utilize as an investment source to address some of these issues. I believe that the overall objective, intent, and mission surrounding the Affordable Housing Trust Fund, which already does work to help combat homelessness, could be further clarified to ensure that we have special attention given to homeless youth. So I am not anticipating this would have a significant or any General Fund impact, but it would be an important step to changing Nebraska's public policy to address this more completely. I did introduce an interim study on this very topic in 2010 and I'm hopeful that this will be a continuation of some of that work. And happy to answer any questions. [LB413]

SENATOR CAMPBELL: Questions for Senator Conrad? [LB413]

SENATOR CONRAD: Yes. [LB413]

SENATOR CAMPBELL: Senator Gloor. [LB413]

SENATOR GLOOR: Senator Conrad, what else did you identify? I mean, you mentioned that you during the interim looked at ways to bring some attention to this and obviously this is the Affordable Housing Trust Fund, other things that you found that resulted in bills this session. [LB413]

SENATOR CONRAD: Well, I think our research included a variety of different topics in terms of looking at how our sister states deal with some of these issues, and really there is a wide range of activity that exists across the country in terms of state or local responses to this public policy dilemma. And it seemed that there was everything from a very comprehensive statewide task force or strategic plan laid out to address some of these issues to more discrete and disparate responses state by state. So it seemed to me that this was a program that existed on a statewide basis already that already had a mission that kept its members' mind towards issues surrounding homelessness, and I thought it would be a good fit for additional attention and awareness surrounding youth, homelessness, and children's homelessness. So I think in an ideal world if we weren't in an economic situation that we're in, we would find a way to carve out significant additional financial resources to develop a statewide strategic plan and implement it. I don't know if we're there yet in terms of the political will or the financial resources, so I think this might be a good first step. [LB413]

SENATOR GLOOR: Okay. Thank you. [LB413]

SENATOR CAMPBELL: Senator Krist. [LB413]

SENATOR KRIST: Thank you, Chairperson. Senator Conrad, conceptually, philosophically what do you think this will lead to? In the best world, what do you want to do? [LB413]

SENATOR CONRAD: I think that it's already had some benefits in terms of making sure that this important issue doesn't fall off of our radar screen, and that's one reason that I really wanted to bring the legislation this year to keep this in the public spotlight and to keep talking about it and to see if we can figure out a way to address it in a responsible manner because I guarantee you looking around this table and knowing the hearts and minds of our colleagues in this body, this is not a values difference that any of us would have. I think this is an issue that we all care about sincerely and deeply, but figuring out the appropriate solution in response is always where I think potential for disagreement or different paths may lie. So my hope is that by continuing to keep this in the public view, carving out a specific direction for an existing program with existing funds to do some work on this, that's a first step and we should continue to look for others down the road. [LB413]

SENATOR KRIST: Thank you. [LB413]

SENATOR CAMPBELL: Senator...oh, Senator Krist, I'm sorry. You want to follow up? [LB413]

SENATOR KRIST: Just follow up. I'm sorry. So theoretically obviously keeping the spotlight on it is important. But this would allow us potentially to use this pot of money, this priority expanded to look at homeless youths who potentially could live in group-home environments or something like that, is that where...that's where you think this will go? [LB413]

SENATOR CONRAD: Yeah. I think there's a variety of different short-term needs and long-term needs that this population has. And these funds are specifically set aside to ensure that the housing needs of our citizenry and most particularly our most vulnerable are met. And that happens through a variety of different existing programs. And I think that the board and the distribution and the Department of Economic Development and the citizen advisory and participation that exists could utilize this opportunity to find other ways to utilize existing funds. [LB413]

SENATOR KRIST: Okay. Thank you. [LB413]

SENATOR CONRAD: Yeah. [LB413]

SENATOR CAMPBELL: Senator Wallman. [LB413]

SENATOR WALLMAN: Thank you, Chairman. Yeah, good to be here. [LB413]

SENATOR CONRAD: Yes. Thanks. [LB413]

SENATOR WALLMAN: And, you know, I talk to people from the southern states. They plug something like this in for blighted areas. Could this be used in a blighted area of a city? [LB413]

SENATOR CONRAD: I anticipate that if the other requirements surrounding utilization of Affordable Housing Trust Fund were met that, yes, and indeed these kinds of funds are targeted to areas in need right now, Senator Wallman. So I'm not sure if "blighted" is the exact definition utilized in this statutory framework but I think in terms of concept, you're exactly right. [LB413]

SENATOR WALLMAN: Okay. Thank you. [LB413]

SENATOR CONRAD: Yes. [LB413]

SENATOR CAMPBELL: Senator Conrad, one of the questions I have is, I realize that

the money is run through the Economic Development Department, is that correct? [LB413]

SENATOR CONRAD: That's right, yes. [LB413]

SENATOR CAMPBELL: And comes from...is this the money that comes from doc stamps? [LB413]

SENATOR CONRAD: Yes. [LB413]

SENATOR CAMPBELL: Okay. [LB413]

SENATOR CONRAD: That's exactly right. [LB413]

SENATOR CAMPBELL: And it has a board that administers the money. [LB413]

SENATOR CONRAD: That's right, yes. [LB413]

SENATOR CAMPBELL: Do we have any idea how much comes in on a annualized basis? [LB413]

SENATOR CONRAD: I don't know off the top of my head. We could easily get you those figures from the fiscal analyst... [LB413]

SENATOR CAMPBELL: I'm just curious. [LB413]

SENATOR CONRAD: ...because I know we've looked at them frequently in the past. I know that there is an existing balance for a variety of cash flow purposes that exists now and historically, and it's a significant amount of money that comes through this program each year. [LB413]

SENATOR CAMPBELL: And I just have to say the agency that I work with, I work in the foundation part of it in the program part, we have staff people on the street 24/7, 365 just to deal with this population. And I know that there's a number of other programs. There's a high incidence I know of mental health problems also with this population. [LB413]

SENATOR CONRAD: Yes. Yes, and I think that is mentioned in the article as well that went around. And I think the other piece is, is it does indeed tie into so many other areas of public policy in terms of if we can provide some stability for this very vulnerable population. It has great potential to be helpful in terms of our graduation rates, our poverty rates, rates of incarceration, or reliance on public services, the list goes on and on and on. And I know those are issues you talk about frequently in this committee, and

you appreciate the initial and early investment versus the cost that society and the state bears down the road if left unaddressed. [LB413]

SENATOR CAMPBELL: Exactly. Any other questions? Senator Krist. [LB413]

SENATOR KRIST: I just...for the record, this is a great idea. The thing that comes to mind is those special needs kids that are the "tweeners." They're 18 years old. They're no longer in this group. They're not 21. They can't do this. And I've watched several of those when I was on a board of a special needs school that we couldn't do anything with them. I mean, we couldn't help them because they didn't... [LB413]

SENATOR CONRAD: Right. [LB413]

SENATOR KRIST: ...fit into any particular pot. So thank you for the idea. [LB413]

SENATOR CONRAD: I think you're right, Senator Krist. And I know that in a variety of town hall meetings and other conversations we had this summer in relation to implementation of child welfare reform, for example, we heard some horror stories here locally about how children who were aging out of the system were...had case plans developed for them in terms of housing and how they're going to move forward that said, check into the shelter. [LB413]

SENATOR KRIST: Yup. [LB413]

SENATOR CONRAD: And I would venture to say we can all agree that's probably not the best plan for those kids and those young adults who really need our help to ensure...if we provided at that bridge in transition point, they can become indeed productive citizens. [LB413]

SENATOR KRIST: Thanks. [LB413]

SENATOR CAMPBELL: Okay. Thank you, Senator Conrad. [LB413]

SENATOR CONRAD: Thank you. [LB413]

SENATOR CAMPBELL: Will you be here to close? [LB413]

SENATOR CONRAD: You know, I have another hearing this afternoon so I will probably waive my closing. [LB413]

SENATOR CAMPBELL: Okay. [LB413]

SENATOR CONRAD: And to be clear, we did not reach out and solicit a variety of

supporters or opponents, for that matter, but I do think it is an important issue. I hope that, you know, we can continue to find ways to work together to address these very specific and very vulnerable populations. Thank you. [LB413]

SENATOR CAMPBELL: Thank you very much. Proponents for LB413. Yes, sir. And you can just give the orange sheet to Diane. Good afternoon. [LB413]

THOMAS JUDDS: Good afternoon. My name is Thomas Judds, T-h-o-m-a-s J-u-d-d-s, and I'm here on behalf of being a proponent for LB413 and I represent a company called Midwest Housing Equity Group that's based in Omaha, Nebraska. In addition, I represent the Nebraska Housing Developers Association as a board member. And then also as a side note, I do serve on the Housing and Homeless Commission for the state. I chair the policies and issues committee for that group. I'm here today to talk about LB413. And to be brief, in my experiences of professional life and the service side, I see a growing need definitely for homelessness. And I say that because we as a company, Midwest Housing Equity Group, has taken a considerable investment into the homeless population in Lincoln. As an example for the Curtis Center, in addition, for the Open Door Mission's expansion of their campus in three phases. So we do see the need for this population. What I'd like to offer as a suggestion is that this committee look at possibly adapting that language that's in LB413 into...adopt that into the language that's in the existing Homeless Shelter Assistance Trust Fund, which is existing. And I say that because the Affordable Housing Trust Fund was developed for the use of affordable housing, and we are using those trust funds as resources for affordable housing such as the homeless expansions that we've done. But I also offer that the Homeless Shelter Assistance Trust Fund is more...I would consider maybe a program or services as opposed to brick and mortar. So I offer that as a suggestion for this committee to really look at. And then, second of all, I would like to address a current bill that's being proposed. And, Senator Gloor, I believe you're familiar with this on that committee, LB388. And the trust funds, as Senator Conrad talked about, there is a balance there, but also...there's a balance there but there's a lot of commitments. And my last understanding is about a $10 million balance, but the commitments that have been awarded are approximately about $16 million. And so what I would strongly encourage the committee members here is to look at that LB388 because what that proposes to do is for industrial site development. And if that is passed or it gets to the floor, this group will need to be cognizant of that because the impact that will have on affordable housing and the homeless because it's all part of the doc stamp. So it's an issue that I think I would strongly encourage each member to become aware of. And with that, I would like to close and would ask if there are any questions. [LB413]

SENATOR CAMPBELL: Any questions on the senators' part? Thank you, Mr. Judds, for coming and offering some alternatives there... [LB413]

THOMAS JUDDS: You're welcome. Thank you. [LB413]

SENATOR CAMPBELL: ...and for your service on the advisory board. [LB413]

THOMAS JUDDS: Thank you. [LB413]

SENATOR CAMPBELL: Other proponents for LB413? Is there anyone here who wishes to testify in opposition to LB413? Anyone in a neutral position? Okay. With that, we'll close the public hearing on LB413, and we'll open the public hearing on LB304, Senator McGill's bill to provide for treatment of sexually transmitted diseases as prescribed. Welcome! First time for you too. [LB413]

SENATOR McGILL: Hello. Yes, and I'm bringing back a repeat, so with changes, with good changes. [LB304]

SENATOR CAMPBELL: Good changes. Good. [LB304]

SENATOR McGILL: (Exhibit 2) Good afternoon, Chairman Campbell and members of the Health and Human Services Committee. I am Amanda McGill, that's M-c-G-i-l-l, and I represent the 26th District in northeast Lincoln. I'm here today to introduce LB304. LB304 would allow expedited partner therapy or EPT for the treatment of sexually transmitted diseases or otherwise known as STDs. EPT is the practice of allowing an STD-infected patient or a public health professional to deliver oral medication or prescriptions to any exposed partners of the patient without said partners actually being examined. In other words, when an infected person seeks medical care for an STD, this legislation would allow the provider to send home antibiotics for the infected partner or partners of the patient. LB304 would not change the scope of practice of any profession. We're clarifying that those who can prescribe or provide meds to an infected patient can also do so for their partner. This practice is currently permissible in 27 states and is highly recommended by the Centers for Disease Control, the American Medical Association, and the American Bar Association. Although some medical professionals in Nebraska are currently using this as an additional method of reaching people with untreated STDs, it is not expressly permissible in our current state law. This ambiguity may deter some providers from practicing EPT. And the goal of this bill is to make it very clear that they can legally use this as an additional tool to fight the spread of STDs. We've been working on the bill with the local county health boards and the STD program manager at the Department of Health and Human Services, and we've modeled our language from Iowa who passed their EPT bill in 2007. In addition over the interim, I met with the Nebraska Pharmacy Association and the Nebraska Medical Association and included their suggestions in this bill. And I have a letter of support from the Nebraska Pharmacists Association. I know last year one of the reasons we didn't push in our short, limited session to advance this is the pharmacists had some concerns and we were able to clear those up over the interim with some slightly different language. It's no secret that sexually transmitted diseases are a problem in Nebraska.

STD rates have been spotlighted since 2004 when Douglas County declared it as an epidemic. In 2010, the Douglas County Health Department reported that chlamydia and gonorrhea rates in Douglas County are 50 percent higher than the national average. Lancaster County has also tracked rising STD rates in recent years, although they've not reached that epidemic rate that Douglas County has. Many STD cases are due to partners not being aware of exposure and/or being unable to seek testing and treatment. Chlamydia especially is a problem because it's a silent disease with about 75 percent of infected women and 50 percent of infected men having no symptoms, according to the CDC. Even if a person might suspect they are infected, many are afraid or do not have the means to seek medical treatment. Obtaining an in-person exam is still the preferred option for STD treatment, however the EPT would be permitted if the medical professional believes the partner is unable or unwilling to seek in-person care. The practice of EPT has been in use for about 70 years, and studies by the CDC have shown that it significantly reduces reinfection rates as well as increases the likelihood of partner notification. A protocol for the practice of EPT has been developed by the CDC and is used across the United States. Our local health departments as well as HHS would also be guided by this protocol. LB304's language requires written materials dealing with allergy warnings, directions, and general information on STD treatment and prevention to be provided to both the patient and the partner. The CDC has reported very little instances of adverse reactions to the oral antibiotics used to treat STDs, and in those cases it was reported as mild intolerance. In fact, there have been no cases of any serious reaction to EPT in the entire country. Although EPT isn't a magic solution to increasing STD rates and should not be used in all situations, it is one more step in the right direction. LB304 ensures that private medical providers are allowed to take this step. Thank you. [LB304]

SENATOR CAMPBELL: Okay. Questions for Senator McGill? Senator Krist. [LB304]

SENATOR KRIST: Do I...in terms of actual dispensing of the drug, and you're familiar with the practice. [LB304]

SENATOR McGILL: Um-hum. [LB304]

SENATOR KRIST: If a person was diagnosed and the physician was allowed to do EPT, and is the prescription written to that person and then that person is allowed to give the pill to a partner or is a prescription written to...? [LB304]

SENATOR McGILL: I believe that's how it works. And there are people coming up behind me that are familiar with some of the clinics that do this right now who can answer those really specific questions. [LB304]

SENATOR KRIST: Okay. [LB304]

SENATOR McGILL: I just...we tried to work out all of the technicalities in terms of that because the pharmacists were concerned about going around them and following other prescriptions and things like that, and I know we cleared up that element of the problem. [LB304]

SENATOR KRIST: Thank you. [LB304]

SENATOR CAMPBELL: Okay. Other questions? Senator Wallman. [LB304]

SENATOR WALLMAN: Thank you, Chairman Campbell. Yes, welcome here too. And did the state of Iowa see a decrease then in incidents or did that help them out, do you know? [LB304]

SENATOR McGILL: It certainly helped them out. Again, it impacts the reinfection rate because sometimes, you know, say I have it and go in to see a doctor but I haven't told my partner, and then that person goes and spreads it or gives it back to me. You know, that tends to be the problem is one partner gets treated, the other doesn't, and then you keep getting it over and over again instead of having both people be treated. [LB304]

SENATOR WALLMAN: Okay. Thank you. [LB304]

SENATOR McGILL: Um-hum. [LB304]

SENATOR CAMPBELL: Senator Bloomfield. [LB304]

SENATOR BLOOMFIELD: Thank you. I know you touched on the possibility of...the word escapes me, allergies. [LB304]

SENATOR McGILL: Yes. [LB304]

SENATOR BLOOMFIELD: If a doctor prescribes something and you give it to your partner and an allergy does show up, is that doctor liable? [LB304]

SENATOR McGILL: No. And there may be some opposition to the bill because of the liability aspect because I do feel that this does not work without having the doctor be protected from liability. [LB304]

SENATOR BLOOMFIELD: Yeah. Thank you. [LB304]

SENATOR McGILL: And it makes me feel better that...I know liability is the big thing this year, but there are no serious cases of an allergic reaction. They've all just been a minor intolerance, so. [LB304]

SENATOR BLOOMFIELD: There's always that magic word "yet." [LB304]

SENATOR McGILL: Yeah, (laughter) that's true, that's true. But I do feel that for this to be workable there has to be that protection. [LB304]

SENATOR CAMPBELL: Okay. Senator Gloor. [LB304]

SENATOR GLOOR: Thank you, Senator Campbell. Senator McGill, help me with my memory. But was there another component of existing statute that came into play last year when we were talking about this? [LB304]

SENATOR McGILL: I don't believe so. Everything that we changed was just clarifying the...like who can administer it, what kind of nurses, making sure that we weren't changing the scope of practice in particular, so we didn't address any other part of statute. [LB304]

SENATOR GLOOR: Maybe it's that scope of practice issue that I keep running through my head, but obviously you've... [LB304]

SENATOR McGILL: Yeah. And I know... [LB304]

SENATOR GLOOR: ...worked hard on it to try and get it to a point where everybody was comfortable, so. [LB304]

SENATOR McGILL: I know last year, you know, we also had the tuberculous fight on the floor which was one of the reasons that Senator Gay and I didn't move to advance this last year was to try to clean up and get the pharmacists off of it or okay with the language. So we worked hard to do that. [LB304]

SENATOR GLOOR: Thank you. [LB304]

SENATOR CAMPBELL: Any other questions or comments? I think it's really much improved, I agree. [LB304]

SENATOR McGILL: Thank you. [LB304]

SENATOR CAMPBELL: And we also didn't have very much time if I remember right. [LB304]

SENATOR McGILL: No, exactly. We were running out of time. I wasn't going to prioritize it. There was no other...there was really no point in pushing it. So I'm going to waive closing though. We've got juvenile justice in Judiciary and it's important to me, so. Thanks. [LB304]

SENATOR CAMPBELL: Oh, good. Very important. Thank you, Senator McGill. Proponents for LB304. Welcome. [LB304]

ADI POUR: (Exhibit 3) Good afternoon. Good afternoon, Chairwoman Campbell, and good afternoon, members of the Health and Human Services Committee. My name is Adi Pour, A-d-i P-o-u-r, and I'm the health director of the Douglas County Health Department. The Douglas County Health Department and the Douglas County Board of Health is in support of LB304. The community in Douglas County has struggled with high STD or STI rates, as they are sometimes called, since approximately 2004. And preliminary data even from 2010 indicates that there were 2,819 individuals that were infected with chlamydia and 815 individuals with gonorrhea. What's interesting is that 70 percent of the chlamydia cases and 60 percent of the gonorrhea cases are in 15- to 24-year-olds. This is a decrease of 3.9 percent in our chlamydia cases and 34 percent in our gonorrhea cases since 2004, however our 2009 chlamydia rates, which is the latest data we have from the states to compare it to and from the nationwide data, is still 30 percent higher than the U.S. rate and around 70 percent higher than...30 percent higher than the U.S. rate and about 70 percent higher than the Nebraska rate. So both government and community organizations have implemented numerous innovative approaches in regards to disease prevention and reduction activities. For example in 2010, awareness in education activities in our community have reached more than 11,000 individuals. A DVD has been developed that's a help from NETV for parents, how to talk to their children; for young individuals, how to share information between them. And we have done...developed or worked on a best practice program called "Focus on You" where you train individuals and youth organizations how to really educate individuals about STDs. The community has also come together and applied for two large grants. One of them was a teen pregnancy prevention grant where we tried to see that we would work again with youth organizations to develop programs that helped youth prevent risky behavior. The other grant to be applied for was together with the Douglas County Correctional Facility and University of Nebraska Medical Center for medical students to go into the correctional facilities, provide educational sessions with the inmates, and also provide testing and treatment for them. Unfortunately neither of these two grant applications got approved. However, the efforts in the correctional facilities are still ongoing as long as our present resources remain. Probably the most exciting program in my mind has been the nontraditional testing events that we have done in our community. In 2010 at these events, and that could have been a concert, it could be an event where a speaker comes in and individuals if they wanted a T-shirt or potentially a free ticket, we would say, well, you need to have an STD test done first. We have tested 1,827 individuals in those events, meaning we bring the testing where the young people are. And we have found more about 5 percent positivity rate. So, remember, these are not individuals who really go to a clinic setting; these are individuals who take the test just so that they have a T-shirt. And so, again, I think it is striking these are individuals who do not think that they are infected. So what this

indicates, what I want to share with you is that we have done a lot of different things in our community to address this. And I will be the first one to be happy not to have to talk to you anymore about STDs. So expedite the partner therapy in our mind is just one more tool that you could provide us and our community and specifically private healthcare providers because they really do not have the time to follow up with positive individuals trying to identify who the partners are. Patients that we see in the health department clinic, we will do that and we will follow up with every positive individuals and try to determine who the partners are. When I just checked with my staff this morning, they say about a third of the partners that were identified we can never find. So this is a way of trying to make sure that we can treat as many individuals and really stop the transmission of the disease. It won't...it's not going to be the golden bullet, but it is one more tool in the toolbox. So I would like to hope that you are in support of this bill. [LB304]

SENATOR CAMPBELL: Are there questions? Yes, oh, sorry. Senator Krist. [LB304]

SENATOR KRIST: Thank you, Chairman. I've admired your career and what you've done in the area in health in Douglas County for some time. Thank you for coming down here. Are you concerned with this kind of a process that we're going to see allergic reactions that would be hazardous, obviously, to someone's health or do you think that the program that we're proposing to put into place has enough safeguards that that's going to be an absolute low risk? [LB304]

ADI POUR: From all the experience that we have with other states, Zithromax is a very common antibiotic, oral antibiotic. And I tell you at this time, actually, physicians are providing it to the individuals that they see in their practice, so I do not really foresee that there is a concern with it. It's a very well used antibiotic, widely used and, like we said, very few incidence of reports of adverse reactions. [LB304]

SENATOR KRIST: Is that the drug that most people refer to as Z-Pak? [LB304]

ADI POUR: Yes. [LB304]

SENATOR KRIST: Okay. Thank you. [LB304]

SENATOR CAMPBELL: Any other questions? Senator Gloor. [LB304]

SENATOR GLOOR: Thank you, Senator Campbell. Dr. Pour, thank you for your...first of all, for your efforts towards public health in this state. I'm not an epidemiologist, you may be. But what I'm trying to get an idea of is we're comparing Douglas County against the United States and Nebraska and clearly it's higher, but then I would imagine if you compared other counties, major metropolitan counties, against each other that might be a better measure of severity of more people, closer proximity, more likely to see any

number of diseases that would be at much higher than at a statewide level. So how does Douglas County compare with other major metropolitan areas, at least in the Midwest? [LB304]

ADI POUR: Up to about two years ago, the Centers for Disease Control actually provided us just that information that you were looking for, and in regards to chlamydia, we were always amongst the top ten. And this is comparing communities because, like you say, I agree, there is potentially a difference between an urban and a rural community. And so we definitely rank high. I tell you, the other day I was very disappointed when I looked at a friend of mine who is a health director in California, also in a pretty good sized community, and I looked at her printout and I had to say, what is she...what are they doing different than we are doing? So it's definitely an issue in our community. It is higher than we would ever expect it to be here in the Midwest. [LB304]

SENATOR GLOOR: Well, to the extent any of that information was available, it might be helpful for the committee to see some of that, again, not that I doubt that there's not a serious problem but it just bolsters the case for why this is an important piece of legislation for Douglas County and I believe for the rest of Nebraska. So thank you for your support of it. [LB304]

ADI POUR: You're welcome. [LB304]

SENATOR CAMPBELL: Any other questions? For the record, we need to welcome Senator Howard who has joined us from another committee. The next proponent for LB304. Good afternoon. [LB304]

PAT LOPEZ: (Exhibit 4) Good afternoon. My name is Pat Lopez, P-a-t L-o-p-e-z, and I'm here today testifying on behalf of Friends of Public Health in Nebraska, and that organization represents 18 of our health departments across the state. I was trying to follow Dr. Pour and hoping she was going to go first to provide you some information, so I won't reiterate a lot of what some of the remarks that are written in here. But I just wanted to point out a couple of key things. And the EPT is really a valuable tool. It's not the end-all and the be-all to treating sexually transmitted diseases, but this is especially important for women to be able to receive treatment in a timely fashion. Not only does it prevent infertility and risks for cancer later on, but even more serious and complicated illnesses that are extremely costly. That is one point I wanted to make. And I think Senator McGill also pointed out, too, in our research we've found that this type of therapy is strongly supported by the American Bar Association. In 2008, they adopted this as a recommendation in their house of delegates. We really feel that LB304 would establish in statute more flexibility for Nebraska healthcare providers to work with both partners, the patients, public health professionals, and others so that we can assure needed treatment is provided. I think that all of our public health professionals know the standard treatments and what we need to do, but we also know that we keep needing to

add innovation in treatment. This is especially true across the rural parts of our state where access to certain services and resources may not be readily available. So we really would urge the committee to give serious consideration to LB304. [LB304]

SENATOR CAMPBELL: Questions for Ms. Lopez? Guess not. Always good to see you. [LB304]

PAT LOPEZ: (Exhibit 5) Good to see you. Could I leave a letter of support from the Public Health...? [LB304]

SENATOR CAMPBELL: Sure. Good afternoon. [LB304]

DAVID BUNTAIN: Senator Campbell, members of the committee, I am David Buntain, that's B-u-n-t-a-i-n. I'm the registered lobbyist and legal counsel for the Nebraska Medical Association. We are here in support of LB304. We were before this committee last year in support of LB992 which was the bill that the committee considered last year. At that time, Dr. Filipi who was our president indicated his support and for the reasons that you've already heard. At that time, we expressed two concerns. One was that LB992 did not include any provision for immunity which is a common provision that other states have provided. The other issue was we thought it might be helpful for the department to have the authority to make rules and regulations if there are matters that...or practical considerations that come up that we aren't anticipating at this time. Those concerns have both been addressed in LB304 in Sections 2 and 3. I just want to talk a little bit about the immunity provision. Basically, this is a situation where someone is coming in for an evaluation, medical treatment. A physician, nurse practitioner, physician assistant in the course of that office visit, that treatment, the practitioner becomes aware of someone who is not a part of that physician-patient relationship who is also at risk and is putting the public at risk. And what this allows that practitioner to do is to provide immediate treatment that can be delivered to that person who may not himself or herself seek out medical treatment, and it will have a benefit to the patient, to the patient's partner, and to the public. But that does raise in this litigious environment that we have, that does raise issues as far...in two respects: If a physician is not...or one of the other practitioners is not comfortable giving medicine or giving a prescription to be taken to the partner, if you pass this law, does that somehow create a duty to do that? We think the practitioner should be able to make that decision without having to be afraid of the liability that would attach. The other issue is if they give the prescription or dispense the medication to the person that they haven't seen, what is the risk of liability in that situation? And that is why we think that there needs to be an immunity provision. It's not an absolute immunity provision. It requires good faith on the part of the practitioner. It doesn't apply if there's willful or wanton misconduct. That's a common exception that we've put in other liability laws affecting all kinds of different conduct. So we think that it's a balancing but certainly we should do what we can to encourage this practice that the additional practice, making this available to people to treat sexually

transmitted diseases. So with that, I will close and take any questions. [LB304]

SENATOR CAMPBELL: Do we have any questions for Mr. Buntain? Do you have any questions on the immunity? [LB304]

SENATOR GLOOR: Always but I don't need to ask them here. (Laugh) Thank you. [LB304]

DAVID BUNTAIN: Well, if you have any other questions, I'd be glad to respond to them. Thank you. [LB304]

SENATOR CAMPBELL: Thank you, Mr. Buntain. Other proponents. [LB304]

TRACY DURBIN: (Exhibit 6) I apologize to the committee for the error on the heading of the handout. I am fully aware that I am in front of the Health and Human Services Committee not the Judiciary Committee. (Laughter) Good afternoon, Chairwoman Campbell and committee members. My name is Tracy Durbin, T-r-a-c-y D-u-r-b-i-n. I'm the director of quality and risk management with Planned Parenthood of the Heartland. I welcome the opportunity to express our support for LB304 and I thank Senator McGill for introducing this important public health bill. Through our health centers, we provide reproductive health services primarily to women and men who are facing some tough economic circumstances. In 2010, 67 percent of our patients were at or below 150 percent of the federal poverty level. No one is turned away for inability to pay at any of our clinics. In 2009, we provided care to 11,129 Nebraskans. And approximately 25 percent of those visits were related to sexually transmitted infections or STIs. The testing and treatment for these infections are essential to the short- and long-term health of our patients, just as they're essential to those who access STI services throughout the health care system. STIs have significant physical and psychological consequences and can profoundly and irreparably change lives. They can cause long-term chronic illness, serious birth defects, and even death because some are precursors to cancer. They also can cause infertility. According to the CDC, each year at least 24,000 U.S. women become infertile due to STIs. Testing and treatment for these infections is important to a woman's ability to have children in her future. STIs also exact a heavy economic toll. The cost to the U.S. healthcare system is estimated to be as much as $15.9 billion annually. This doesn't include the indirect costs of lost wages due to illness or premature death. And there are intangible costs related to pain, suffering, and diminished quality of life. Over the past several years, the high social and economic costs of STIs have prompted major medical and public health organizations to examine new and additional methods to stem and reduce the incidence of STIs. Expedited partner therapy is proving to be an effective therapy and is coming under increased usage. The CDC and National Institutes of Health funded a series of studies of the therapy and the results have been reviewed elsewhere, and they consistently find that EPT results in significantly more partners receiving treatment than standard

approaches to partner treatment, and that EPT can decrease patients' risk for reinfection with gonorrhea or chlamydial infection. Studies also show that most patients prefer to notify partners themselves. In a trial in Washington State, patients were offered free medication to give to their partners. The majority accepted the offer, and 84 percent of those participants picked up medication after agreeing to do so, demonstrating that most took the responsibility seriously. Only 7 percent of all patients asked for assistance notifying a partner. And this is similar to other studies that have found that a small minority of patients want assistance with notifying partners. STIs are a public health problem nationwide and here in Nebraska and certainly, as previous testifiers have stated, in the Douglas County area. It's a problem that we really need to address with as many tools as possible, including expedited partner therapy. It's not a silver bullet and it doesn't replace current policies and practices, but it works and, therefore, it needs to be available to clinicians as an option to help us conquer this public health disaster. I ask that you support LB304 and advance it to the full Legislature for further consideration. Thank you and I'll take any questions now. [LB304]

SENATOR CAMPBELL: Questions for Ms. Durbin? Seeing no questions, thank you very much. [LB304]

TRACY DURBIN: Thank you. [LB304]

SENATOR CAMPBELL: And you're always welcome here even if it's Judiciary. (Laughter) Good afternoon. [LB304]

VALDA FORD: Good afternoon. Good afternoon, Senator Campbell, and to all of the esteemed senators here in this assemblage. My name is Valda Ford, that's V-a-l-d-a F-o-r-d. I am here as a citizen of the state of Nebraska, as a registered nurse, as a mother, and as a health educator, and my role is to tell you a little bit about what I see on a daily basis. I've had the opportunity to work directly with the STD prevention initiatives in Douglas County for the last two years, and what I've seen is that young people are loathe to come in to admit that they have an STD if they know they have one. Secondly, that many of the symptoms are silent, and that when they remain untreated and unrecognized, they can cause a lifetime of problems and perhaps prevent lifetimes from continuing. There are two realities that have not been discussed so far today. Number one, doctors have for the 30 years of my career, been giving double doses of antibiotics to their patients so that they can give the second dose to their partners. This has been done in less-than-optimal conditions as would be in this particular bill because there's education that would also be given to the person who was not present. Secondly, definitely several studies, as in the Seattle study just mentioned, show that 8,000 people who were offered this opportunity did take advantage of it and there were zero adverse effects. So over the course of the lifetime of expedited partner therapy, there have been zero anaphylactic responses. And that's what we worry about, when someone has a serious life-threatening response. Any time you take an antibiotic,

as you probably know, you may have something like diarrhea or you may develop some other little nasties like yeast infections or things like that, but there have been none that have presented life-threatening challenges. The most important thing to understand is that if we can find a way...because we know in Douglas County we have over 4,000 cases of STDs reported every year, and of that 4,000, we expect based on extrapolation from everywhere else in the world that we will have at least 2 more cases for every one that is identified. That is 12,000 cases we're talking about in one single county. The cost to us down the line is for infertility, it is for birth defects and other affects on the newborn or the fetus. So another thing that happens is that young people come into these clinics and they say that they don't have the funds to come, where at most typically in a clinic like the health department or Charles Drew Health Center or One World which typically gets most of the more vulnerable people, there's only a $15 charge and they are saying they don't have the money. And it is usually waived, and that's okay. But people know that there's a $15 fee and sometimes won't come. What was mentioned earlier by Dr. Pour is that when we've done these events when we found at least 5 percent of the population who was infected and who do not know it, we have been in some environments like university settings where we've had up to 25 percent positive for people who did not know they had it. I think that it's such a wonderful opportunity to offer to them then and there, here is the medication that you need and here is the information that you need to take back to your partner and here's the medication that you need. Young people come in and ask me, well, can I divide the dose? Can I give...can I take half and give them half? We know that that kind of thinking leads to long-term problems with resistant strains of diseases, which luckily in Nebraska so far we do not have a lot of problems with resistant strains of gonorrhea which is a huge problem across the U.S.A. right now, but it will come to us in time if we don't take the appropriate steps. And I think this is one of many great steps that we might use to help young people help themselves and help old people help themselves (laugh) for that matter. I mean, there are a lot of adults who don't want to go home and say: oh, my God! I'm really sorry but this is what happened. And can't you just soften the blow a little bit by saying: Well, at least, dear, you don't have to drag yourself down to that clinic and explain why your husband or your wife brought this to you. Here's the medication. I think this is a wonderful step in helping us help the people of Nebraska get past their shame as it relates to sexually transmitted infections, to help us eliminate an epidemic that we have, at least in Douglas County and probably in more places. Because we do a very good job of getting out there and testing and we are always surprised when we go into those environments where we don't expect to find a lot of disease or we are with the good kids, the ones who are going to the libraries, the ones who are going to meetings, and still we find at least 5 percent of the good kids, the educated kids, the ones who want to know. And the young people tell me with many events that we've had they would gladly do this and they would be more likely to speak to their partners. And I see the red light. Sorry. I was thinking it meant that I was just really red and hot, so I just kept going. (Laughter) Do you have questions? [LB304]

SENATOR CAMPBELL: The testimony is really hot, there you go. Any questions for Ms. Ford? Thank you very much for coming today... [LB304]

VALDA FORD: It's my pleasure. [LB304]

SENATOR CAMPBELL: ...and working with young people. [LB304]

VALDA FORD: Thank you. [LB304]

SENATOR CAMPBELL: Anyone else who wants to testify in favor of the bill? Those who wish to testify in opposition? While Mr. Lindsay is making his way to the podium, is there anyone who wishes to testify in neutral? I just want to make sure I don't miss anybody. Okay. Good afternoon. [LB304]

JOHN LINDSAY: Good afternoon, Senator Campbell, members of the committee. My name is John Lindsay, L-i-n-d-s-a-y, appearing as a lobbyist on behalf of the Nebraska Association of Trial Attorneys. I guess when David Buntain testifies, you know I'm going to be coming up on the other side, but. (Laughter) I am here as you may have heard from Senator McGill and as well from Mr. Buntain that there's an immunity provision in Section 2 of the bill. You know, last week I hurt my knee and I had to go into the little place that is open at night because I was down here during the day. I spent 10 to 15 minutes filling out paperwork. That doctor wanted to know my medical history. He wanted to know what kind of medications I was on. And why? Why would I spend that kind of time giving that information to the doctor? Because that doctor of course is going to look at my medical history, he's going to look at the medications I'm on, see if there's contraindications for anything that he's going to...that he or she is going to want to prescribe for me. In this bill, we say the first person coming in is going to fill out that medical history. It's really important that we have all that medical history. Second person, ah, don't worry about it. And that is...and it's not to diminish the importance. I understand we have a horrible problem with STDs in this state, so it's not to diminish that. But what we're saying is that this...that the ability to prescribe without knowing even who the patient is, is something that we're going to provide a total immunity from liability. Mr. Buntain mentioned that it's a limited immunity sort of. It says for a physician who acts or healthcare provider who acts in good faith. In good faith is actually more of a contract term not a tort term. For example, we can imagine if we'd say, if you are driving in good faith you would not be immune from liability. It just means you're driving in good faith, it's not...you can...but we still hold people liable if they're careless even if it's in good faith. They're not out there trying to do something evil, just careless. This does protect all carelessness with respect to that unidentified third person or persons, all carelessness on the part of the healthcare provider. That is except for, as Mr. Buntain mentioned, willful or wanton misconduct. It does protect them. The question that I struggle with is in listening to the proponents that there's never been a problem. We've never had a problem with a...whether it be an interaction or a negative effect.

Then why do we need an immunity from liability? If it's that safe, why do we need an immunity from liability? And I would suggest it's because there is that possibility. If there was not that possibility, those who requested the immunity would not have requested it. We talk about...Senator Krist, you mentioned Z-Pak, which I'm sure everybody here has taken at some point or another. The problem is we're not writing this legislation for Z-Pak. We're writing this legislation for whatever is in the standard treatment at the time. Some years ago, it was penicillin. As someone who's allergic to penicillin, I'd kind of like the doc to know that I'm allergic to penicillin before I'm prescribed that. Maybe there are no problems with Z-Pak. All I know is it's not over the counter, so there must be some issue with it. I just think any time we're going to relieve some unknown person of liability for other unknown person...damage to other unknown persons, we should look really, really hard at who that might be because nothing you can do about it when you turn and find out it's your daughter or your grandson. At that point it's too late. I'd be happy to answer any questions. [LB304]

SENATOR CAMPBELL: Senator Krist and then Senator Bloomfield. [LB304]

SENATOR KRIST: I love these discussions about immunity and lack of liability and yeah, just live for them actually. (Laughter) [LB304]

JOHN LINDSAY: As do I, Senator. [LB304]

SENATOR KRIST: Yes, I think we do. But specifically I'm one of those people who's very fortunate to know my family physician well enough that I don't necessarily have to be seen. I can call up and say, please, and he usually will send out a script. Is there a fix to that issue? I mean, I don't necessarily have to see your partner but I have to know what drug store to send the prescription to. Obviously, if I'm sending the script to a pharmacist and that person does business with the pharmacy, there's some protection there. There's also some protection when the person goes and picks up the script from a pharmacy. Can you visualize for me something that might fall on that? [LB304]

JOHN LINDSAY: Well, the...first, with reference to the first part of your comment, I think that's exactly the point. Your physician knows you well enough and has in his or her file a list of all the meds you're on, what your family history is probably maybe going back into your parents' family histories. But that's the whole point. You're doc knows you so knows what's going to be good or bad for you. That's not the case here. There is no history. It is a blind prescription. Is there some solution? I was thinking about that as I was sitting in the back of the room there, and I don't know. I mean, part of the problem is that when you make people no longer accountable for their carelessness, which is what an immunity from liability does, then they tend not to be as careful. So there's that part of the policy question. If you were to shift over and say, if something happens, if the public health consideration here overrides damage to a few individuals, then maybe the...maybe as a...from a public health perspective those individuals should somehow

be taken care of in the event that something bad happens. I mean, maybe that's a response. I mean, maybe the response is more funding for public health, although with the deficit we're...right now I doubt that's on your radar screens. But that's what I'm...I mean, it depends on which policy, that's your decision about do we want to protect the public from potential carelessness or do we want to just make sure they're taken care of if they are damaged by a careless conduct? [LB304]

SENATOR KRIST: Is the answer in the mechanics, in the delivery system? I mean, do we protect ourself...I mean, without granting immunity of liability as you suggest and we look at it like we look at any other drug prescription in the state of Nebraska, are we talking about changing the mechanics and the delivery systems so that that still falls or complies with that particular...with the way we do things normally? Is that...was that question clear? [LB304]

JOHN LINDSAY: I think so. I think...I don't know if it's just in the mechanics or not. I mean, the fundamental problem I think is that you have a public health problem with...from my listening to the proponents that...of people who may or may not otherwise seek medical care. And if they don't seek it, then anything you prescribe for them by definition you're not going to know anything about them because you haven't been able to see them and talk to them and develop that. Maybe it is maybe a way to get around the mechanics somehow. And I'm sure the proponents have looked at all sorts of ways trying to get people into the clinics. But...so I'm not sure if it's just mechanics or not. [LB304]

SENATOR KRIST: Thank you. [LB304]

SENATOR CAMPBELL: Senator Bloomfield, do you have a question? [LB304]

SENATOR BLOOMFIELD: Thank you. I share your concern a little bit about doctors prescribing to strangers. And I'm not familiar with the Z-Pak you talk about, but my bigger concern is the drugs of the future and what may be coming down the road that we don't see yet that they would prescribe under this bill that we could have. Even if we had not had problems to this point, something new might cause that problem and that's where my concern would lie. [LB304]

JOHN LINDSAY: And, sir, I think that's right. We're writing legislation not just for...but make my point, we're not writing legislation for Z-Pak,... [LB304]

SENATOR BLOOMFIELD: Yeah. [LB304]

JOHN LINDSAY: ...we're writing it for whatever treatment is in effect at some point in the future. And there may be a treatment regimen that is more effective against the STD but maybe has more side effects or more severe side effects in some cases or

interactions with particular medications. But I think that's exactly the concerns that we're drafting for well past current day. [LB304]

SENATOR CAMPBELL: Senator Krist. [LB304]

SENATOR KRIST: Let Senator Howard. [LB304]

SENATOR CAMPBELL: Or Senator Howard. [LB304]

SENATOR HOWARD: Oh, thank you. John, if I could ask you, in listening to this I'm thinking my bill where I'm trying to make more medical information available to the providers and the pharmacists, and if there's not anyone identified as the person this is written to because you really...you can't write it for the patient you have. You're already writing them one prescription, so the prescription to partner would not be to that individual legitimately. So how would that...there wouldn't be any mechanism for...I... (laugh) [LB304]

JOHN LINDSAY: No, I don't think they could monitor it. [LB304]

SENATOR HOWARD: I appreciate the problem and I appreciate addressing the problem. But it gets into another problem which is how is there any disclosure of information or anything provided, which goes to Senator Bloomfield's concern as well. Do you see how this all meshes together? [LB304]

JOHN LINDSAY: I don't. I concur. I don't know how your prescription drug monitoring program could monitor someone who is John Doe number one. I mean, I don't see how that could happen. [LB304]

SENATOR HOWARD: It's all well and good if it's a prescription that no one has a problem with, but as Senator Bloomfield pointed out, who knows what will come. [LB304]

SENATOR CAMPBELL: Senator Krist. [LB304]

SENATOR KRIST: Okay. Different tack, same boat going the same direction (laughter). What we're describing here and I don't...I apologize for stepping out but Senator Howard tells me we didn't actually talk about the mechanics and the delivery system. So I'm going to ask Senator McGill and others to potentially give us more information on how that actually works. If we go in for a test, let's call her Amy for any other...Amy goes in for a test and finds out that she needs to be treated. And her boyfriend Andy is at home. I'm inferring that the doctor would say, here's a prescription for you and here's a prescription for Andy and send it home with her. I don't know very many physicians, except in the public health world, that send prescriptions home. They usually write a

script and then they take it to their local pharmacy. So the doctor is not writing a blind prescription. The doctor would need to have Andy's full name. It's provided to him and he gives them both scripts, one for Amy, one for Andy, and they have to go to their local CVS, Walgreens, whatever, not to give anybody a particular plug. At that point, it becomes the pharmacist who looks at a person. And I don't think she can pick up her boyfriend's prescription or...I've had problems picking up my family prescriptions sometimes. So both of them would have to go pick them up. If it's identified as an EPT--is that what we're...no, E...okay, if it's identified in the EPT program, then the pharmacist would say, ah, not to embarrass anybody, but I need to tell you what's in this drug. Are you allergic to penicillin? Are you allergic to Z-Pak? Have you ever had...would that satisfy the requirements in your...in the second scenario? [LB304]

JOHN LINDSAY: Possibly in respects to the mechanics that you were... [LB304]

SENATOR KRIST: Right. [LB304]

JOHN LINDSAY: ...going in your first question is if that person is required to physically appear at the pharmacy and answer those questions. I don't know if that's the case or not. [LB304]

SENATOR KRIST: Okay. [LB304]

JOHN LINDSAY: But it does get back to your question of mechanics. I would...my guess is that that's...and, again, I'm just judging from the language of the statute or, excuse me, the legislation. But it refers to...I'm assuming that that's not going to be the case because it refers to general instruction for use or medication guides where applicable shall be provided along with the additional prescription. [LB304]

SENATOR KRIST: Got it. [LB304]

JOHN LINDSAY: I think that assumes they will not see a healthcare provider but rather would rely on the information that comes with it, which for me raises another question. I don't...I've never sat down and studied those little medication guides that come with my medication. I typically, my questions ask a... [LB304]

SENATOR KRIST: I tend not to try to read those either. (Laughter) [LB304]

JOHN LINDSAY: When they start showing pictures of molecules I...they lost me in junior year of chemistry. [LB304]

SENATOR CAMPBELL: Senator Bloomfield. [LB304]

SENATOR BLOOMFIELD: I have another question here and you may not be able to

answer this, but we go back to Amy and Andy. And Andy has gone in and asked, says I've got this problem that showed up, and we write the prescription for his girlfriend Amy. What if his girlfriend Beth and Louise and Billy Jo...how many prescriptions do we write? [LB304]

JOHN LINDSAY: Well, I think that's the...I mean, I think the...my guess is the problem is confronting public health people is just that, that if the...depending on the level of...number of partners involved, it could be difficult...that's the difficulty with the entire issue. [LB304]

SENATOR CAMPBELL: Any other questions? Mr. Lindsay, perhaps the answer might be if we took a look at what the other 27 states do. I mean, and I don't know whether you were here when Senator McGill opened, but she talked about the fact that this program is carried out in 27 other states. So perhaps we ask Senator McGill's office to take a look at those other 27 states. There has to be something that addresses the question you're raising, and perhaps we can learn it from them. [LB304]

JOHN LINDSAY: And we would be absolutely open to working with the committee and Senator McGill. [LB304]

SENATOR CAMPBELL: That would be great. Thank you for that offer. Senator Gloor. [LB304]

SENATOR GLOOR: Thank you, Senator Campbell. Kind of biding my time on this and maybe biting my tongue a little bit. But you would understand the current good Samaritan laws... [LB304]

JOHN LINDSAY: Um-hum. [LB304]

SENATOR GLOOR: ...that exist in this state. So what's the difference? Why would this be different than some of the good Samaritan provisions that already exist in statute? A lot of this... [LB304]

JOHN LINDSAY: Good Samaritan is emergency. [LB304]

SENATOR GLOOR: Only? [LB304]

JOHN LINDSAY: If I recall the language, it refers to somebody who happens upon an accident, renders care that they're not liable for doing CPR improperly or that type of thing. [LB304]

SENATOR GLOOR: How about a disease that might render somebody sterile if not appropriately treated or insane if left untreated for long periods of time? Couldn't that be

considered an emergency? [LB304]

JOHN LINDSAY: The emphasis there is what you just said, for long periods of time. STDs are very serious. I don't diminish that at all. But they're not like opening an artery and potentially bleeding out in a very quick fashion. It's...I think that's what the...and I would say I would have to go back. I haven't looked at that language in a long time, but I believe it is intended to hit emergency situations. [LB304]

SENATOR GLOOR: I thought there were provisions related to charity clinics that operate. [LB304]

JOHN LINDSAY: They're separate. There are other.. [LB304]

SENATOR GLOOR: Yeah. [LB304]

JOHN LINDSAY: There are some provisions--as you know, I've appeared in front of this committee I don't know how many times on immunities this year--they get spread out all over statute. So I am not saying that there are not provisions relieving people of liability, but my guess is that in a lot of those, I may have sat up there and simply 25 votes went the other direction. [LB304]

SENATOR GLOOR: Yeah. It merits and I'm sure Senator McGill would be willing to look at it. But I think my caution in all this to the committee is I think large amounts of the medications we're talking about being distributed here will not be distributed by pharmacists but by physicians, practitioners who will be working with providing charitable care through established clinics through their solely for community service projects, not all clearly and maybe not even half but I think a good portion of it. I think they're already covered under some immunity provisions. I think they are, but. [LB304]

JOHN LINDSAY: They may be and I... [LB304]

SENATOR GLOOR: Yeah. [LB304]

JOHN LINDSAY: ...it's something...yeah, it probably makes sense to look at. But the language of the statute is very specific. It refers to with or without compensation. [LB304]

SENATOR GLOOR: Yeah. [LB304]

JOHN LINDSAY: So I think the intent was to make clear that you can be paid and still be immune from liability for those actions you were paid to take. [LB304]

SENATOR GLOOR: Okay. Thank you. [LB304]

SENATOR CAMPBELL: (See also Exhibit 7) Anything else? Thank you very much, Mr. Lindsay. Anyone else in the hearing room wishes to testify in opposition? And I'll try one more time for neutral. Okay. We'll close the public hearing on LB304 and we'll move to LB542, Senator Howard's bill to require hospitals to offer and mandate employee influenza vaccinations. [LB304]

GWEN HOWARD: Very good. (Laugh) I think that's the content. [LB542]

SENATOR CAMPBELL: Is that it? [LB542]

SENATOR HOWARD: That's it. [LB542]

SENATOR CAMPBELL: That's the opening. That's it. [LB542]

SENATOR HOWARD: We'll make this brief because it's snowing like crazy out there. [LB542]

SENATOR CAMPBELL: Is it really? [LB542]

SENATOR HOWARD: Yeah. When I came in here, it was a little while ago but you've been here...you've came in sooner than I...or more recently than I have. So we'll just get this done. Thank you, Senator Campbell and members of the committee. For the record, I am Senator Gwen Howard, H-o-w-a-r-d, and I represent District 9. LB542 would require all general acute care hospitals make flu shots available to all employees. Influenza is the largest vaccine-preventable killer in the United States. It is the eighth leading cause of death and it kills 36,000 people each year, which makes me glad I got a flu shot. It is especially deadly among our most vulnerable populations. Ninety percent of flu deaths occur in individuals over 65 years of age. Infants under the age of six months cannot be vaccinated for the flu. Their only protection is...my LA wrote in here a "herd immunity" which I don't know if that's a medical term or not but we'll call that a group immunity that all individuals around them are vaccinated so the flu cannot get near them. The hospital is a place where group immunity is the most necessary because there's a large population of individuals who are most at risk. LB542 would require that the flu vaccine be made available for hospital employees, significantly decreasing the likelihood that the virus can be introduced into or spread in the hospital environment. Other testifiers are going to have more specific information and I'm sure we'll have more knowledge for any questions. But I did want to note that the Hospital Association is not in opposition to this bill. And I had some other testifiers that wanted to come in but begged off due to the weather, which I said is perfectly understandable. [LB542]

SENATOR CAMPBELL: Thank you, Senator Howard. [LB542]

SENATOR HOWARD: You're welcome. [LB542]

SENATOR CAMPBELL: Questions? Senator Gloor. [LB542]

SENATOR GLOOR: Just running through the scenario of the hospital that I used to run and most other hospitals that I knew did this at no cost to their employees anyway. [LB542]

SENATOR HOWARD: Good. [LB542]

SENATOR GLOOR: But the challenge was getting enough vaccine to be able to do this. (Laugh) And so the question would be...I mean, clearly the answer would be if you don't have enough vaccine, then you're not expected to provide the immunization except you... [LB542]

SENATOR HOWARD: Makes sense to me. [LB542]

SENATOR GLOOR: ...except you can always get vaccine by going outside purchasing groups and paying premium prices on the open market in competition with the Walmarts and others to do it. I'm just trying to cover the eventualities of...you know, the worst of the influenza outbreaks usually are the ones that weren't prepared for and, therefore, there aren't enough vaccines and how we can deal with that if all of a sudden a hospital finds itself short and has to vaccinate 300 people by paying premium prices out on the open market and pass that along to the consumer through increased charges. We understand that? That's okay? [LB542]

SENATOR HOWARD: I would see that as, you know, a challenge. I don't know how else to (laugh) answer that. You, I'm sure, have much more experience in dealing with that sort of issue than I have or will. [LB542]

SENATOR GLOOR: Was there any discussion about long-term care facilities? I'd think the most vulnerable populations... [LB542]

SENATOR HOWARD: There wasn't in this bill, but that would seem to me that would be a facility that would certainly want to avail people of the flu vaccine. [LB542]

SENATOR GLOOR: I think also, I mean, the same issue. I think most do... [LB542]

SENATOR HOWARD: Same issue. [LB542]

SENATOR GLOOR: ...the same issue that...and even more so they're usually even more vulnerable. [LB542]

SENATOR HOWARD: Well, anytime you're...you know, I often wonder how doctors don't catch everything under the sun. Anytime you're exposed to people that are likely to have illness certainly increases your chances. [LB542]

SENATOR GLOOR: Yeah. [LB542]

SENATOR CAMPBELL: Any other questions? Oh, Senator Bloomfield. [LB542]

SENATOR HOWARD: Senator. [LB542]

SENATOR BLOOMFIELD: Senator Howard. [LB542]

SENATOR HOWARD: Yes, sir. [LB542]

SENATOR BLOOMFIELD: I'm afraid we're going to have a philosophical difference here before we get done with this. [LB542]

SENATOR HOWARD: Yipes. [LB542]

SENATOR BLOOMFIELD: Any time to me that the government requires you to take a substance into your body I'm going to have an issue. [LB542]

SENATOR HOWARD: I appreciate that. [LB542]

SENATOR BLOOMFIELD: So you know that it's coming down. [LB542]

SENATOR HOWARD: I can appreciate that. [LB542]

SENATOR CAMPBELL: Any other questions? Thank you, Senator Howard. [LB542]

SENATOR HOWARD: Thank you. [LB542]

SENATOR CAMPBELL: And we know you'll be here for closing. [LB542]

SENATOR HOWARD: No, I won't be here for closing. Thank you. [LB542]

SENATOR CAMPBELL: Okay. Those who wish to testify as proponents for LB542. Good afternoon. [LB542]

LINDA K. OHRI: (Exhibit 8) Good afternoon. For the record, I am Linda K. Ohri. I'm Dr. Linda Ohri with the Immunization Task Force Metro Omaha. And thank you, Senator Campbell and other senators, for hearing this bill. I'm writing on behalf of the

Immunization Task Force Metro Omaha in support of the legislative bill, LB542, that was introduced by Senator Howard. This bill seeks to require that general acute hospitals offer influenza vaccination and to require that their employees be vaccinated or have the alternative to decline the vaccination in writing. So individuals do have the option to decline but they have to sign a declination if they do so. There is substantial literature to support this recommendation. And I want to speak particularly, Greg Poland, MD, is a famed vaccine researcher at the Mayo Clinic Research Group. And he wrote an article in 2005 that I think really expresses the need for this mandate. That was in the international journal Vaccine, and if you mind, I will quote from that: In this paper we outlined seven primary truths, which I will mention in a minute, supporting the call for requiring influenza immunization of all healthcare workers. We view this as a serious patient safety issue given the clear and compelling data regarding the frequency and severity of influenza infections. In addition, clear-cut safety, efficacy, economic, legal, and ethical platforms support the use of influenza vaccines. Unfortunately, healthcare workers have demonstrated over almost 25 years--that I've been in practice, more and we've been working on this--that they are all too often unwilling to comply with voluntary influenza immunization programs utilizing a variety of educational and incentive programs at rates sufficient to protect the patients in their care. And unfortunately with influenza, you need very high rates of immunization--in the neighborhood of 90 percent--to really give good herd immunity, which is indeed a medical term which means that when you have your healthcare providers immunized, you are creating a protective circle around those vulnerable patients in the hospital to protect them from being infected by the very people who are there to take care of them. We suggest that an annual influenza immunization should be required for every healthcare worker--this is Dr. Poland's statement--with direct patient...who have direct patient contact unless a medical contraindications or religious objection exists or an informed declination is signed by the healthcare worker. In other words, what we're saying is that at the very least you need to sign something that says you recognize that you're making a decision that may not be in your patients' best interest and in fact has been proven not to be. High rates of healthcare worker immunization will benefit patients, healthcare workers, their families, and their employers, and the communities within which they work and live. I've added the emphasis about rates because I think this is very important. Typically the numbers for healthcare workers are running, even after years of education and promotion, at about 40 to 50 percent. And as a healthcare worker I have to tell you I am embarrassed by that. Unfortunately, healthcare workers are just like a lot of the rest of the population in thinking that they are invulnerable to illness, even though they come to work with illness all too often, as we know, and they don't like shots any better (laugh) than most other people. I really...this is a core reason for why such a mandate is needed. One that has really been documented repeatedly before and after this report was published. The numbers really aren't that much better today six years after this report was published. I want to list below the truths that Poland listed: Influenza infection is a serious illness. It causes significant morbidity and mortality, adversely affecting the public health on an annual basis. Influenza and pneumonia are the eighth leading

causes of death in this country and have been consistently every year for pretty much as long as I've been following this as a public health educator. This, at this current time in influenza reports in Nebraska, it is accounting for over 8 percent of the deaths in the state--influenza and pneumonia. So this is a very serious illness, which is unfortunately also often not recognized. Influenza-infected healthcare workers can and do transmit this deadly virus to their vulnerable patients. This has been documented in repeated studies. Influenza vaccination of healthcare workers saves money for the employees themselves, for their employers, and it prevents workplace disruptions, because often the time when we have the most people having to be hospitalized because of influenza, we then have workers who end up not being able to come to work because they are also ill. Influenza vaccination of healthcare workers is already recommended by the CDC and it is the standard of care throughout the world. Immunization requirements are effective and they work in increasing vaccination rates. Healthcare workers and healthcare systems I believe, and our organization believes, have an ethical and a moral duty to protect vulnerable patients from transmissible infections. Our first rule as healthcare providers is to do no harm. And he, as a healthcare provider, states as his seventh truth that if healthcare systems will either lead in doing this voluntarily or they may be lambasted by the public. (Laugh) Okay. [LB542]

SENATOR CAMPBELL: And I'm going to stop you right there so we can go to questions. For the other senators, note that there is additional information on the second page. Senator Gloor. [LB542]

SENATOR GLOOR: Thank you, Senator Campbell. Thank you for your work with immunizations. [LB542]

LINDA K. OHRI: Thank you. [LB542]

SENATOR GLOOR: Not...it doesn't cost a lot of money to get a shot, can save a tremendous amount of money and pain and suffering certainly. But you used the term "healthcare workers" almost exclusively in your testimony, but the legislation is specific to hospitals. And we have a letter...I mean, we have support, Senator Howard says, from the Hospital Association which kind of mirrors my personal knowledge base, which is hospitals are doing this anyway. My concern is that we have a piece of legislation here that is putting into statute something that's already being done within hospitals for a variety of reasons, whether they're business related or community service related or their commitment to public health. I mean, do we have knowledge that there are hospitals that aren't immunizing their workers against flu? I mean, I'm just...I agree that there are a lot of healthcare workers who don't get immunized for influenza. But my experience is they're not in nursing homes and they're not in hospitals, they're in doctor's clinics and ambulatory surgery centers and imaging centers and all the places that patients usually go to before they go to a hospital or a long-term care facility. And I'm just wondering if we're not too narrow in our focus on this bill addressing an issue

that may not be that much of an issue. [LB542]

LINDA K. OHRI: Well, I think from even the task force's perspective, we'd love to make it broader. However, I think there's two parts to your question and one is about whether or not acute general hospitals are offering influenza immunization. I think you're exactly right and it's one reason why I'm sure the Hospital Association is in support of this... [LB542]

SENATOR GLOOR: Sure. [LB542]

LINDA K. OHRI: ...because hospitals are already offering influenza immunization. Generally speaking it's free to employees. The other piece is where the problem is and it's not a matter of supply. In recent years I think our hospitals have generally had not a problem at all with adequate supply of vaccine. What the problem is, is employees who dodge getting it. And one can ask "why" but consistently in studies we see that 40 to 50 percent of employee vaccination compliance is about what you get. Declinations, having a case where the employee has to actually make a decision and acknowledge their decision--I have refused to receive this influenza vaccine--can make a big difference. Often I think healthcare workers, just like others, basically dodge influenza immunization by: Oh, I'm too busy! Oh, I don't really get sick. It doesn't really work anyway. They have the same reasons why the general public, and unfortunately we have an immunization rate of the general public that's around 20 to 30 percent, depending on the age group. [LB542]

SENATOR GLOOR: But how does this get enforced? I mean, how do we...are we going to yank hospital licenses if they don't do this or are employees supposed to be fired if they don't do this? I mean, there has to be a repercussion as a result of this and I don't see that in the legislation. [LB542]

LINDA K. OHRI: Well, the legislation does require that the hospital have a signed declination requirement for employees,... [LB542]

SENATOR GLOOR: But... [LB542]

LINDA K. OHRI: ...which is...frankly I work...I teach at Creighton University and our university last year--well, this is the second year now--has not only put in place a requirement that employees be vaccinated or sign a declination but they have to...if they sign a declination, it has to be for a medical or a religious reason. They're not given the option of just, I don't care to get it. Now this legislation is more open than that. If the person says, "I don't care to get it," they can still sign a declination. So it really does meet your statement in terms of the people being absolutely required to do something. But the literature does show that even by making people face, as a healthcare worker, that are you going to say...are you going to sign your name that you have decided that

you're putting patients at risk by refusing to receive this immunization, that that can make a difference in increasing those rates of compliance. [LB542]

SENATOR GLOOR: Okay. But...yeah, I'm going to need to think about that a little bit, but I'd visit with Senator Howard about it. Thank you. [LB542]

LINDA K. OHRI: Um-hum. [LB542]

SENATOR CAMPBELL: Senator Bloomfield. [LB542]

SENATOR BLOOMFIELD: I see when...okay, I come in to go to work. I don't want the shot. I am forced to sign the declination. Senator Krist comes in for service. Two weeks later he gets sick and turns around and sues the daylights out of me because I didn't have that flu shot. I see horrendous issues coming down the road with this. I see clinic responsibility. I see personal responsibility. I do see issues here. This Legislature, prior Legislatures, banned smoking because we couldn't force someone to go in and breathe the smoke in a bar if they weren't smokers or even if they were smokers in order to keep a job, and I think we're doing the same thing in reverse here. We're forcing them to take that shot in order to keep their job, and I don't think it's going to be...it's not right I don't believe. [LB542]

SENATOR CAMPBELL: Ms. Ohri, one of the questions I have, and I was listening to the exchange of questions, the bill does not, however, in line 15 and 16, it doesn't say that they have to say that they've put others at risk. [LB542]

LINDA K. OHRI: That they would what? [LB542]

SENATOR CAMPBELL: That they've put others at risk. [LB542]

LINDA K. OHRI: No, no. [LB542]

SENATOR CAMPBELL: It's just that they can decline or not decline to do that. [LB542]

LINDA K. OHRI: Right. The declination writing would be up to the hospital as to...as to how strict they wanted to make that. [LB542]

SENATOR CAMPBELL: Right. Right. Senator Wallman, sorry. [LB542]

SENATOR WALLMAN: Thank you. Thank you, Chairman Campbell. Yeah, thanks for...sorry I was gone a little bit. You still keep your records confidential even on this, wouldn't you? [LB542]

LINDA K. OHRI: Pardon me now? [LB542]

SENATOR WALLMAN: Keep your records confidential? [LB542]

LINDA K. OHRI: Of who's immunized or not immunized? [LB542]

SENATOR WALLMAN: Yeah. [LB542]

LINDA K. OHRI: That would be private patient information, correct. [LB542]

SENATOR WALLMAN: Thank you. [LB542]

SENATOR CAMPBELL: Okay. I do want to say that I appreciate...it's probably several years late but I appreciate when the task force worked with us and when we looked at the...an immunization bill for pilots in schools and at some point hope to come back to that idea. [LB542]

LINDA K. OHRI: So do we. Thank you very much. [LB542]

SENATOR CAMPBELL: Thank you. Next proponent. Good afternoon. [LB542]

JUSTIN BRADY: (Exhibits 9-11) Good afternoon. Senator Campbell and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist for Sanofi Pasteur who is a vaccine manufacturer in support of this bill. I won't go through the reasons that the previous testifier did on the importance of getting vaccinated and the protections that's needed to help individuals in hospitals. I'll skip what I was going to say and kind of try to address some of the questions. Senator Gloor, you talked about the availability. That was one question you had. One way we at least think it's addressed in the bill is that it talks about the hospital has to make these available when they are available, and we're willing if there's something else in that language you'd like to...you know, if we want to say, when reasonably available. I mean, but something to address that. We think they'll be available but we understand that there could be a circumstance that it...they just weren't. The next thing I was going to talk about, also the previous testifier touched on a little, and that was that there is not the requirement to get it. You can either sign something that says you were declining it or you can get it. I would argue that right now you would have that liability if you didn't get a flu vaccination and Senator Krist got sick. He, then, could at least raise the issue of whether or not you got a flu vaccine and sue you now. Whether or not you've signed a piece of paper or whether or not you've had a flu shot under this bill wouldn't change the liability. The liability either exists today or it doesn't, and I don't think this bill would change that liability. And then as far as...I guess that's about all I have other than, yes, Senator Gloor, I think most hospitals, acute hospitals, are doing this in some way or the other. I think this was a first step to try to come up with a minimum standard. Whether or not it needs to be expanded to other healthcare

providers or what is something that I'm sure we'd be willing to look at and work with. With that, I'd try to answer any questions. [LB542]

SENATOR CAMPBELL: Thank you, Mr. Brady. Questions? Okay. Thank you very much for coming today. [LB542]

JUSTIN BRADY: Thank you. [LB542]

SENATOR CAMPBELL: Next proponent. [LB542]

LARRY KREBSBACH: (Exhibit 10) Good afternoon, Senator Campbell, members of the committee. My name is Larry Krebsbach, L-a-r-r-y K-r-e-b-s-b-a-c-h. I'm here representing APIC Greater Omaha Chapter. APIC stands for Association of Professionals in Infection Control and Epidemiology. I'm the governmental affairs representative for our local chapter. I want to speak in support of LB542, but before I begin, some of you might not be familiar with our organization. APIC is a multidisciplinary, voluntary, international organization. We promote wellness, prevent illness and infection worldwide by advancing healthcare epidemiology through education, collaboration, research, practice, and credentialing. APIC's vision is to improve the health of people worldwide by serving as the preeminent voice for excellence in the prevention and control of infections and related adverse outcomes. The Greater Omaha APIC Chapter has over 100 members from Nebraska. Our members work in a variety of healthcare settings, hospitals, long-term care facilities, outpatient centers, and clinics. As everyone has said before, we know influenza is a very serious disease. And I have some information in the testimony I'm providing but save some little time. One of the things that hasn't been mentioned is, in Nebraska in 2009 and 2010, we had over 5,000 admissions in hospitals related to influenza, a pretty high amount. And we know the most efficient method for preventing that is through vaccination. In addition to risks for exposure to influenza for healthcare workers comes from community sources, healthcare personnel, and also exposure to ill patients. And conversely those same ill patients are at greatest risk of developing severe complications of influenza from ourselves, healthcare providers who work with them. Therefore, one of the most important strategies to prevent influenza transmission is pre...vaccination before anyone is exposed. Despite longstanding recommendations by the CDC, APIC, several other national organizations, a response to voluntary programs really has failed to increase immunization rates. In 2010, a survey was done by Centers for Disease Control showed about 62 percent of healthcare workers were vaccinated against influenza. We really must do a better job of trying to provide immunizations for healthcare workers. We are very much in support of this legislation and any movement towards improving vaccination we think is very beneficial. However, we'd really like for you to consider expanding this to all healthcare personnel. Citizens of Nebraska seek care in other medical settings, long-term care facilities, clinics, outpatient centers, a variety of different areas. So, in addition, we would like you to think about that. The

other thing would be to consider requiring influenza immunization as a condition of employment. The organization really feels strongly that that's one of the best methods to promote the vaccination. And that would be only if there was any contraindications based upon medical reasons as presented by the ACIP, which is immunization practices committee from Centers for Disease Control, those would obviously be exempt. And part of my...the bottom part of my handout talks about how we would define healthcare personnel. You know, what we talk about in hospitals is...and according to the legislation is the employees. There's several different groups of folks that come into a hospital--physicians, PAs, advanced nurse practitioners, volunteers. None of those are employees of the hospital but are still there providing care for our patients, and I think that needs to be considered. So thank you for your time, allowing me to speak, and entertain any questions if anyone has any. [LB542]

SENATOR CAMPBELL: Any questions? Thank you very much for coming today. [LB542]

LARRY KREBSBACH: Thank you. [LB542]

SENATOR CAMPBELL: Next proponent. Good afternoon. How are you? [LB542]

BRUCE RIEKER: I am well. How are you? [LB542]

SENATOR CAMPBELL: Very good. [LB542]

BRUCE RIEKER: (Exhibit 12) Good. Good afternoon, Chairman Campbell, members of the committee. My name is Bruce Rieker, vice president of advocacy for the Nebraska Hospital Association. We represent 87 hospitals that employ about 43,000 people that are subject of this discussion, and we do support LB542. As our policy development committee when I brought this before them at...and I think it's become abundantly clear in this hearing already, each one of our members looked at each other and said, who's not doing this already? So then the only thing that we saw that was different in probably the standard practices in all of our hospitals that we represent is the mandate that the employee specifically decline to have the vaccination is the only difference we saw between our procedures today and what this bill would propose. After that, we had quite the conversations about, okay, if we were to make it better, what are all of the other things that need to be considered. So, one, I want to make it clear that we're supporting the bill. But as several of the people have testified before me, the amount of traffic in and out of our hospitals includes: visiting medical staff or medical staff that aren't employees; we have numerous volunteers; we have outside medical personnel that come in, such as EMTs; we have family members who visit their families that...their loved ones who are in the hospitals. So, you know, we can make the issue much bigger, but as far as what we can do as hospitals, you know, we're supportive of this. I do appreciate Mr. Brady's comments. I had exactly the same notes I wrote down when Mr.

Gloor, Senator Gloor, asked about the availability of the vaccine. And there would probably be things that we could say to amend the language to say "reasonably available" or there may be some things that would have to be amended in vendor contracts to say that, you know, that they were responsible for making sure that they would...you understand that contracting process better than I do. But that was a concern. Enforcement. You know, as we have our...or we offer the flu vaccine or vaccination to our employees, we have a list of everyone who received it. That information is protected by HIPAA and other state and federal laws. However, we do have a record of who received it, so we have that information. And with that, I'd close my comments and try to answer any questions if there are any left. [LB542]

SENATOR CAMPBELL: Senator Gloor. [LB542]

SENATOR GLOOR: Thank you, Senator Campbell. And, Bruce, you know, you and I have visited about this bill at all but I do think just to make sure that people who want to be compliant don't fall by the side of the road of noncompliance as a result of unavailability of vaccine, I think some tweak to language that would talk about...you know, assuming no nationwide shortages or that vaccine is available within a comparable price to purchasing contracts, something that points out the fact that...I mean, I recall the first two major influenza outbreaks, we had to prioritize who got it and who didn't... [LB542]

BRUCE RIEKER: Um-hum. [LB542]

SENATOR GLOOR: ...starting with direct patient contact people and working your way down to administrative teams, the lower on the list because we didn't have direct patient contact as much. And it would be inappropriate for those folks that are in a hospital to be noncompliant simply because there just wasn't enough to go around to vaccinate everybody. And I would think there could be some simple wording that could be handled to make this that. Sadly, I think it's an eventuality. I mean, I think different types of influenza outbreaks, it may be 10 years off, 20 years off, I think there's a possibility that something will hit us for which we can't come up with a vaccine fast enough, sadly, and no reason not to build that into the law to recognize it. [LB542]

BRUCE RIEKER: Well, and I haven't shared this with the folks from Sanofi and they've been very good to work with through all this, but as our policy development committee met and discussed this bill, part of this inevitability situation that you're discussing, it did come up. And some of our members said, you know, in those cases, it should be incumbent upon the vaccine companies to have prepared for that and to...I mean, they need to make sure that there are consequences if they don't have enough vaccine available. One member even said, we'll mandate all of this if they'll pay for it, but we didn't turn around and propose that one. So...but, yeah, it... [LB542]

SENATOR GLOOR: I'm sure they'd be welcome to a friendly amendment from the floor. (Laughter) [LB542]

BRUCE RIEKER: Yeah. So we left those off the table, but this possibility was a concern from some of our members expressing, well, what is available. [LB542]

SENATOR GLOOR: Yeah. [LB542]

SENATOR CAMPBELL: Any other questions or comments? Sometimes I think the general public just has no idea how threatening influenza can be for them. [LB542]

BRUCE RIEKER: Um-hum. [LB542]

SENATOR CAMPBELL: And as much as we try to give them and provide that information, I don't think they realize it. [LB542]

BRUCE RIEKER: Yeah. We see a firsthand example right in Grand Island right now with the veterans home,... [LB542]

SENATOR CAMPBELL: Yeah. [LB542]

BRUCE RIEKER: ...you know, where they have eight cases. Everybody is quarantined to their rooms for the next 24 hours, so yep. [LB542]

SENATOR CAMPBELL: It might be difficult for all of us to be quarantined in this room, wouldn't it, Mr. Rieker? (Laugh) [LB542]

BRUCE RIEKER: It would be. You just can't get away from me. (Laughter) [LB542]

SENATOR WALLMAN: Have you had your shot? [LB542]

BRUCE RIEKER: I have had my shot. Everybody at the Hospital Association has had their shot. [LB542]

SENATOR CAMPBELL: And me too. I think all senators should have to have influenza shot. Okay. Any other questions? Okay. Any other questions? [LB542]

SENATOR BLOOMFIELD: Well, thanks! [LB542]

SENATOR CAMPBELL: You can decline, but... (laughter) [LB542]

BRUCE RIEKER: We'll have you sign this form. [LB542]

SENATOR CAMPBELL: Exactly. Thank you very much for your testimony today. [LB542]

BRUCE RIEKER: You bet. [LB542]

SENATOR CAMPBELL: Anyone else wishes to testify as a proponent? Okay. Those who are opposed to the bill? Those who wish to testify in a neutral position? Anyone? Okay. We will close the hearing then on LB542 because Senator Howard has gone back to Omaha, fearing the road conditions I think. So I just caution our other senators here. Okay. The next bill is LB591, and we will open that hearing. Senator Gloor has introduced a bill to provide for syndromic--am I saying that right? [LB542]

SENATOR GLOOR: (Laugh) It's as close as I'm going to get! [LB591]

SENATOR CAMPBELL: Okay--surveillance program and change immunization information exchange provisions. Wow! [LB591]

SENATOR GLOOR: Thank you, Senator Campbell and fellow members of the Health and Human Services Committee. My name is Mike Gloor, G-l-o-o-r. I think we can all attest to kind of holding our breath when somebody walks into our office on, in this case January 4, and says I have a bill I'd like you to consider carrying. (Laugh) And such was the case when the department approached me, except I understood in conversation it was for reasons that they couldn't control. And the importance of this bill was such that I felt it was in fact worth saying yes to at that late of date and I hope you'll agree and help me by advancing this bill. I'll cover it, but we have more than adequate support here of staff from the department, specifically Dr. Schaefer, to go into more detail. LB591 is about health information immunizations and disease monitoring. Nebraska already has a sizable immunization registry that was built some time ago with federal dollars. The purpose of the exchange that we're talking about here under this legislation is to protect Nebraskans from vaccine-preventable diseases and to facilitate age-appropriate immunization. The bill purports to: provide more accurate assessment of immunization needs from individual and to state level, enhance vaccine-preventable disease surveillance and prevention, provide easier access and retrieval of immunization data, improve patient safety and quality of care, enhance communication between medical facilities such as hospitals, pharmacies, physicians' offices, school health...school nurse health offices, and improve the quality of data within the system. LB591 authorizes the use of the Nebraska statewide immunization registry to share and exchange immunization information with: healthcare professionals, schools, licensed child care facilities, electronic health record systems, public health departments, health departments of other states, and Indian health services and tribes. Additionally, this bill supports the state's efforts to advance the use of electronic health records in the analysis of medical data to detect or anticipate disease outbreaks. This analysis, called syndromic surveillance, is widely acknowledged as beneficial to public health. Currently,

syndromic surveillance in this state is conducted on a very limited basis. I could speak to this on a personal knowledge and a personal basis. While some facilities across the state currently participate voluntarily, other facilities are unwilling to participate in the absence of statutes and regulations authorizing such activity. Currently, syndromic surveillance information is gathered through phone calls, faxes, and the data that comes as a result of this is weeks-old or more when compiled. Electronic exchange of health information will provide real time information, giving disease experts increased ability to catch on...to catch an outbreak as it's happening. And for you to hang your hat on something through all this with syndromic surveillance, I would tell you what caught my eye is after 9/11 there was a flurry of activity, as you might expect, of concern within the healthcare community and especially when the hospitals who had emergency rooms of patients who may start showing up with conditions that might be as a result of some biological warfare against this country. For us to find out about that in enough time to be able to do something about it was tied to a system that involves phones calls, medical directors visiting with each, perhaps faxes bouncing around, something that was a far cry from what should be available to us, and that is an electronic sharing of information and that's what we're talking about here in part. The department sees the opportunity to enhance disease monitoring by developing collaborative electronic interfaces between providers and healthcare facilities and the DHHS computer systems. The bill would enhance DHHS's ability to: quickly identify or rule out public health threats, conditions of public health importance or suspected incidence; support public health investigations and recommend courses of action; obtain data to inform the public and stakeholder organizations about conditions of public health importance; provide better information to help data providers, media, first responders, and government decision makers; and prepare for a federal meaningful use expectation that will require a high level of efficiency and timeliness of the system and usefulness and ease of retrieval of data. I want to finish by just touching on confidentiality because it's always an issue, so it's good to have this on the record. Confidentiality was a concern of mine. In our debate up on the floor through this committee, confidentiality always comes up. Use of electronic health information for these purposes and many, many others will be compliant with the confidentiality provisions of the federal HIPAA act. Nebraska's immunization information system has: multilayer log-ins, access limitation, encryptions to protect the data, different users of the information are limited to only the data pertinent to their purpose. The department considers confidentiality and security of this data a major priority. LB591 is the foundation upon which further safeguards for confidentiality and limitations on access to this type of information can be further spelled out by rule and regulation. Existing statute 71-503.01 already sets out some standards for use in confidentiality of public health data. LB591 refers to these current standards as applicable to syndromic surveillance information, and current immunization statute, Nebraska Revised Statute 71-542, makes a breach of confidentiality a crime, Class III misdemeanor. That's three months imprisonment and/or a $500 fine. And LB591, very importantly here, has no fiscal impact. I'd be glad to answer questions but, as I've said, there are testifiers after me who are experts. [LB591]

SENATOR CAMPBELL: Senator Wallman. [LB591]

SENATOR WALLMAN: Thank you, Senator Campbell. Senator Gloor, you're in the hot seat, right? [LB591]

SENATOR GLOOR: Sure. Always. [LB591]

SENATOR WALLMAN: So what...no fiscal impact, I appreciate that. But it has to have an impact on hospitals, right? This has to...this software and that, that has to cost money. So otherwise why would there be reluctance? [LB591]

SENATOR GLOOR: I don't know that there is reluctance. But the reason that there would be no fiscal impact I think within the system or within hospitals or other physicians clinics, community clinics is that this information is almost already gathered. And when it has to be faxed, when it has to be called in, I mean, we're talking about the NeHII system and a seamless medical record here so that when a patient is cared for from the doctor's office, nursing home, hospital, this information is entered and finds its way appropriately within the system to the different areas where it can be dealt with. Here's an example of if one nursing home is reporting influenza case after influenza case, it is currently called in. And I'm sure it can be described how it's reported in for nursing homes, I'm not familiar with that. But the reports find their way in but not instantaneously. And this provides for an instantaneous transfer of that information so that we can find out much sooner. And being able to act sooner not only improves quality of care but ends up lowering costs. [LB591]

SENATOR WALLMAN: Thank you, Senator. Thank you, Chairman. [LB591]

SENATOR CAMPBELL: Senator Bloomfield. [LB591]

SENATOR BLOOMFIELD: Thank you. Senator Gloor, we're using a word here that nobody is real comfortable pronouncing--syndromic. [LB591]

SENATOR GLOOR: I think it's... [LB591]

SENATOR BLOOMFIELD: Can you tell me what it means? [LB591]

SENATOR GLOOR: Yes, but I'm going to let Dr. Schaefer do that. [LB591]

SENATOR BLOOMFIELD: Okay. That would be fine. [LB591]

SENATOR GLOOR: Its basis is syndromes and syndromic is how I think to pronounce it and perhaps that's not been correct. But that's the first question that I asked and I got a

very good answer and I made notes and they're back there. So (laughter) I'll let her answer it. [LB591]

SENATOR BLOOMFIELD: That would be fine. Thank you. [LB591]

SENATOR CAMPBELL: Any other questions? Thank you, Senator Gloor. And there's the notes. [LB591]

SENATOR GLOOR: (Exhibit 14) Oh, well, I have this letter of support. [LB591]

SENATOR CAMPBELL: Okay. That would be great. I think it would be best if we brought...Dr. Schaefer, are you testifying? [LB591]

JOANN SCHAEFER: Um-hum. [LB591]

SENATOR CAMPBELL: In favor, I'm assuming. [LB591]

JOANN SCHAEFER: Yes. [LB591]

SENATOR CAMPBELL: Would you like to come forward... [LB591]

JOANN SCHAEFER: Yes. [LB591]

SENATOR CAMPBELL: ...and we can get more information? [LB591]

JOANN SCHAEFER: (Exhibit 15) Good afternoon, Senator Campbell and members... [LB591]

SENATOR CAMPBELL: Good afternoon. [LB591]

JOANN SCHAEFER: ...of the Health and Human Services Committee. My name is Dr. Joann Schaefer, J-o-a-n-n S-c-h-a-e-f-e-r, M.D. I am the state's Chief Medical Officer and the Director of the Division of Public Health in the Department of Health and Human Services. I'd like to thank Senator Gloor for introducing LB591 on behalf of the department and I'm here to speak in favor of the bill. The bill supports the state's efforts to advance the use of information technology in Nebraska. LB591 will benefit public health by developing a new statute to support syndromic surveillance in data reporting and enhance our ability to share immunization information within our state immunization registry. LB591 does not create a new mandate on the department. We are currently collecting immunization and syndromic information from healthcare providers across the state. However, the laws have not kept pace with the advances of technology and business practices. This bill offers benefits that we feel will provide more effective and efficient public health practice within state government. You will hear me mention

"syndromic surveillance" throughout the testimony and here's my chance to explain it to you. Syndromic surveillance involves reviewing D identified data to detect or anticipate disease outbreaks. A syndrome is a cluster of disease symptoms. So the best example I can give to you is influenza and how we currently do influenza monitoring. Influenza-like illness is defined as a fever, cough, and a sore throat. So when somebody comes in and their record says, fever, cough, and sore throat, those get plucked out of the record and sent, and that is a case of influenza-like illness for us. Some facilities currently report that to us immediate and electronically. It's D identified. We don't know who the person is. We have no interest in knowing who that person is. We just want to know the level of that disease that's occurring in a state. It's very predictable, very well-known what our baseline influenza-like illness status is across the state. When that information goes up, it peaks, we know we have an outbreak coming and looming. Some of that information is currently provided real time right now and some of that is provided to us a week in delay after the fact because it's collected by people counting, literally, cases, putting them on a spreadsheet, sending them to us afterwards. After the fact, it's meshed with our data and it's put into a report. So the syndrome is the fever, cough, sore throat and the surveillance is what we're doing. So I hope that answers your question. So when a spike is at...at that activity is seen, public health professionals are then alerted and we can respond. So there are different syndromes that we watch for that could be used for predicting problems. So most effective syndromic surveillance systems are automatically done. They monitor and analyze the data in real time. Our current influenza monitoring is not all real time. And obviously if you take paper and people out of the system and it's done automatically in the background, it's much more efficient. This bill will give DHHS the authority to use the statewide immunization registry to share and exchange immunization information as well. The sharing of this immunization data is important in assuring high-quality care for patients and helping ensure Nebraskans are protected from all vaccine-preventable diseases. On another note, recent federal initiatives offer incentives to healthcare facilities nationwide to adopt electronic health records. As part of this national priority, healthcare facilities are expected to provide information from such electronic health systems to benefit public health, otherwise known as meaningful use. Specifically, their electronic health record systems are to include the ability to send data to public health authorities in three categories: one, syndromic surveillance; two, lab reporting; and three, immunization information. Existing statutes are not broad enough to cover such activities within our widely acknowledged...those that are widely acknowledged to benefit public health. Many facilities are unwilling to participate in the absence of the statute. They want to be compliant with meaningful use expectations and they've asked for some statutory cover. Their concerns would be relieved if this would occur. The bill specifically states that these activities would benefit and advance both electronic health records and electronic health information exchange while respecting patient privacy. Be happy to answer any questions. [LB591]

SENATOR CAMPBELL: Questions? Senator Wallman. [LB591]

SENATOR WALLMAN: Thank you, Chairman. Yes, thank you, Doctor. So you plug in with public schools and do they give you their records or how do you...when you close the schools down, you know? Once in a great while that happens. [LB591]

JOANN SCHAEFER: For influenza? [LB591]

SENATOR WALLMAN: Yes. [LB591]

JOANN SCHAEFER: Yes. They report to us through the local health departments. So, yes, we monitor the influenza activity that's going on in schools. Local health departments do a fantastic job of knowing what's going on in their schools. [LB591]

SENATOR WALLMAN: Thank you. [LB591]

SENATOR CAMPBELL: Good question. Do you want to follow up, Senator Wallman? [LB591]

SENATOR WALLMAN: No. [LB591]

SENATOR CAMPBELL: Other questions for Dr. Schaefer? So how far away are we from everybody being on electronic? [LB591]

JOANN SCHAEFER: Oh, we have a ways to go but they're doing a great job. I mean, the part of this act that's encouraging meaningful use is the incentive payments that are going out to hospitals through Medicare and then there's a Medicaid portion of that as well. We have, you know...the facilities have to report one of those three categories in the meaningful use, the lab, syndromic surveillance, or the immunization data. And it's up to the facilities, the hospitals to pick one of those. And we don't know which one they'll pick. We have to be ready for all three, so this is our attempt to be ready. Lab is taken care of under other statutes, so we're good to go on that. These two are...this is our attempt to be good to go on these other two pieces so that the facilities, when they're ready to report this under Medicare and receive those incentive payments, they'll be ready to go. We are currently getting calls from people asking if we're ready to retrieve this data. We are. In all intents, purposes, we are ready to retrieve or receive some of the syndromic data and if they're comfortable with that, we receive it. The immunization information data exchange is a little bit...it just depends on what type of data they want to send us or what we want to exchange with them, whether or not we have the statutory authority to do it. [LB591]

SENATOR CAMPBELL: Are the incentive payments provided the money for that provided through the federal government? [LB591]

JOANN SCHAEFER: On Medicare, yes. [LB591]

SENATOR CAMPBELL: Because it's...on Medicare. [LB591]

JOANN SCHAEFER: And then on Medicaid they're still working out that plan. [LB591]

SENATOR CAMPBELL: Okay. We could hope it's 100 percent. [LB591]

JOANN SCHAEFER: I don't know the details of it. That would not be in my shop. (Laugh) [LB591]

SENATOR CAMPBELL: Okay. Other questions? We should have asked Director Chaumont that question yesterday. Then we could have found out if we were...I'm assuming that they're applying for it. [LB591]

JOANN SCHAEFER: Right. There's a federal share in that too. [LB591]

SENATOR CAMPBELL: Yeah. Thank you, Dr. Schaefer. It's always a pleasure to see you. [LB591]

JOANN SCHAEFER: Thank you. [LB591]

SENATOR CAMPBELL: Others who would like to testify in favor of the bill? Good afternoon. [LB591]

VICKI VINTON: (Exhibit 16) Good afternoon, Senator Campbell and members of the committee. My name is Vicki Vinton, V-i-c-k-i V-i-n-t-o-n. I'm a registered nurse who resides in District 39 and I'm here representing myself and 30,000 members of the Nebraska Nurses Association. We want to voice our support for LB591 which will provide for a syndromic surveillance program and change immunization information exchange provisions. My take on this is a little more strongly on the immunization side. I'd like to say that immunization protects a child born in the U.S. today against 17 diseases. The American public enjoys a life span increase of more than 30 years due to vaccines protecting us from infectious diseases. Immunization is vital to the public health and welfare of the citizens of Nebraska. Outbreaks of disease occur when vaccination rates decline. In 2009, the rate for two-year-olds in the U.S. was 70.5; Nebraska's immunization rate was 65.4 percent. In building a syndromic surveillance program through an immunization information system, called an IIS, this allows health systems to collect and consolidate vaccination data. Health information exchanges will allow for electronic sharing of immunization information across the state between healthcare providers and DHHS in real time and at the point of care. This allows for accurate exchange of information that will promote higher immunization rates, fewer delays and errors, and improve surveillance of communicable diseases. The IIS, or the

immunization information system, will allow healthcare providers to determine what vaccinations are still needed, assist in patient reminders, develop vaccine coverage reports, and follow up on past due vaccinations. This immunization information system also allows for interoperability between electronic health records systems, and if we don't utilize this system, we won't be able to track access, quality, or outcomes--three metrics that are vital to healthcare delivery. On the second page you'll notice a map of the United States. Nebraska lags neighboring states in the percentage of children less than six years of age participating in an immunization information system. These are 2009 figures from CDC. Our neighboring states, Colorado, Wyoming, Kansas, and Missouri, show a percentage of participating at a 67 to 94 percent level. Iowa and South Dakota are at 95 to 100 percent. And Nebraska is currently participating...and the date I have from the mortality...morbitity and mortality weekly is 2011, we're at 0 to 33 percent. So we have a ways to go in improving immunization information system communications of our citizens' immunization status. So we're asking...the Nebraska Nurses Association is asking you to support LB591 and align Nebraska's immunization programs with the benefits of health information exchange. [LB591]

SENATOR CAMPBELL: Questions? Ms. Vinton, so the graph would tell us that it's that they are in the system, doesn't mean they haven't been immunized. They just aren't in that system. [LB591]

VICKI VINTON: Yes. They're just not utilizing the system to communicate the data. [LB591]

SENATOR CAMPBELL: Got it. Thank you very much for your testimony today. [LB591]

VICKI VINTON: You're welcome. [LB591]

SENATOR CAMPBELL: Other proponents? Anyone wishing to testify in opposition to LB591? Anyone wishing to testify in a neutral position? Senator Gloor, do you wish to close? Senator Gloor waives closing. (See also Exhibit 17) We will close the hearing on LB591. [LB591]