[LB395 LB452 LR22]

The Committee on Health and Human Services met at 1:30 p.m. on Wednesday, March 20, 2013, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR22, LB395, and LB452. Senators present: Kathy Campbell, Chairperson; Bob Krist, Vice Chairperson; Tanya Cook; Sue Crawford; Mike Gloor; Sara Howard; and Dan Watermeier. Senators absent: None.

SENATOR CAMPBELL: Good afternoon and welcome to the afternoon hearings of the Health and Human Services Committee. I'm Kathy Campbell, and I serve District 25; and I'm going to go ahead and have my colleagues introduce themselves.

SENATOR WATERMEIER: Good afternoon. I'm Dan Watermeier, District 1, from Syracuse, Nebraska.

SENATOR HOWARD: Senator Sara Howard, District 9, in midtown Omaha.

SENATOR COOK: I'm Senator Tanya Cook from District 13 in Douglas County and Omaha.

SENATOR KRIST: Bob Krist, District 10, in Omaha and Bennington and parts of unincorporated Douglas County.

MICHELLE CHAFFEE: I'm Michelle Chaffee. I serve as the legal counsel.

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

DIANE JOHNSON: And I'm Diane Johnson, the committee's clerk.

SENATOR CAMPBELL: And our pages today are Deven and Kaitlyn, and they'll be glad to help you if you need assistance making copies or checking on some items on the agenda. I'm going to go through some of the procedures for the Health and Human Services Committee. If you're testifying today, please complete one of the orange...bright orange sheets on either side of the room. If you'd like to just leave a note about a particular bill, you can make a note on the white sheets and, again, they're located on each side. As you come forward, you can give your orange sheet and copies of anything that you want the committee to have to the clerk, Diane Johnson, and she'll make sure the pages distribute that. As you sit down, please introduce yourself once again by saying your name and spelling it. This is for the transcribers who listen, so that's why you have to do both the orange sheet for the clerk and saying your name for the transcribers. In the Health Committee we do use the lights, so you'll start out with five minutes. It will be green for four, and then yellow for one, and then red, and whoever is chairing this is going to be kind of trying to get your attention to do that. With

that, Senator Gloor and I'll move; and we'll let Senator Krist take over.

SENATOR KRIST: That's dangerous. (Laughter) All we have to do is have a motion to adjourn. (Laughter)

SENATOR CAMPBELL: This is not good for us, Senator Gloor.

SENATOR KRIST: Senator Gloor, Senator Campbell, when you are ready, please.

SENATOR CAMPBELL: Wow, I feel like I'm sitting.

SENATOR GLOOR: Want to change seats?

SENATOR CAMPBELL: Maybe we should. (Laughter) Now this is like the Goldilocks. I think they put the shortest person....

SENATOR GLOOR: That's more like it.

SENATOR CAMPBELL: Okay. We're both comfortable.

SENATOR KRIST: Whenever you're ready. (Laughter)

SENATOR CAMPBELL: Thanks, Senator Krist, and good afternoon, colleagues of the Health and Human Services Committee. My name is Kathy Campbell, K-a-t-h-y C-a-m-p-b-e-l-l. And I'm here today to open on LR22, which was introduced by both myself as the Chair of this committee and also Senator Gloor who will open with his own remarks. We have reached a tipping point in healthcare delivery in this country. A tipping point is defined as, "a moment of critical mass, the threshold, the boiling point." I think we can all agree, we're there. Perhaps the passage of the Affordable Care Act got us to this point faster. Perhaps the cost of healthcare in both the public and private sectors got us here. And perhaps science and technology has increased to the point where we can see huge advances, but at what cost. All the forces that got us to this tipping point must now unite and work together toward fashioning a new reality for healthcare. LR22 is the mechanism that we propose to set about the task of uniting, focusing, and delivering healthcare to Nebraskans. During the interim between this legislative session and the 2014 legislative session, LR22 directs both committees, our committee and the Banking, Insurance and Commerce Committee, to bring together policymakers and stakeholders. We would first review the current healthcare delivery system and outline costs and demands upon that system from the patient, the provider, and certainly from payer perspectives. Then the stakeholders, along with policymakers, meet to discuss how the system should change, grow, and prioritize. Public hearings or seminars or focus groups or forums, we haven't quite settled upon what format we would all use to do that; but it would reach out to all Nebraskans asking for their views

on key topics, soliciting their creative ideas to improve access to and delivery of healthcare systems, as well as provider capacity. This, the framework that evolves, is our healthcare transformation. A transformation that works for Nebraska, not necessarily what might work in any other state; but one that takes into account our uniqueness, our successes, and our failures of the past, and our end, which should be our future priorities. Our ideal outcome from this process will be cooperative initiatives among all parties leading to policymaking with all the resources needed to set aside a new reality in healthcare. Although in the end we may not all agree on specific policy changes, we can agree that we explored alternatives, and stakeholders had a seat alongside the policymakers to set this future course. LR22 sets the wheels in motions, and really that's what it's intended to do to get us to think creatively and innovatively. It is an exciting time for all of us to shape a future and make a system that through targeted policies and actions can perform better for our healthcare. I look forward to working with all of you and certainly with Senator Gloor and his committee as we start in on this venture. Senator Gloor. [LR22]

SENATOR GLOOR: Thank you, Senator Campbell. My name is Mike Gloor, G-l-o-o-r. I started my professional career in healthcare as a healthcare planner. I worked for a planning agency. And whether it was because as the twig is bent, so grows the tree, or whether I had a predisposition to taking the long look on things, and I think it was the latter rather than the former, I carried that into my administrative career, always thinking about where I wanted my institution to be five to ten years in the future and trying to make decisions that came my way accordingly. And it really does make life a lot easier. I also think it makes an institution far more successful when you're proactive rather than reactive. I come to the Legislature still with that degree of commitment and volunteer for serving on the newly formed planning committee. But I will tell you one of my real frustrations since I've been down here is that even with a newly-formed planning committee, it's going to take a while before that takes hold, if ever. And we make an awful lot of decisions without any planning focus, without any long-term focus. And that's a dramatic change for me, and I don't think it's in the best interest of the body or in the best interest of the state, especially with term limits where we see such a rapid turnover and...with individual senators who might at least bring their own passions that have a long-term focus. Can't do that more than eight years; and for some of us, we're beyond the halfway point of being able to do that. There used to be a planning initiative at the state level. The department had a pretty elaborate planning process, the Department of Health and Human Services, that took a look at a lot more than some of the public health planning that goes on right now, but got into the issue of the number of acute care beds and the number of practitioners and nurses. Did we have the right work force issues out there? Were there various initiatives that need to be done? What about the maldistribution of long-term care beds or acute care beds across the state? That is all gone for a variety of reasons. And here we are faced with probably the most dramatic changes in our healthcare system nationally since Medicare came about back in the late 1960's. It's been a long time; and I think this process, whether it's successful or not, I

don't know. But I think it's a move in the right direction and a collective approach with two different committees to take a look at this. It's something that we can argue should have been done years ago, but now is as good a time as any and better than most for us to try and engage in taking a look at the long haul for the state and what's in its best interests. Thank you. [LR22]

SENATOR CAMPBELL: Thank you. Any questions? [LR22]

SENATOR KRIST: Any questions from the senators? Just a comment. It is admirable and I, again, applaud both of you for tearing down the silos. It's obviously a joint committee endeavor and where it should be, Health and Human Services and both of you representing Health and Human Services and the Banking and Insurance and across the lines. So thank you for your efforts. Any other proponents? Anyone like to speak in favor of LR22? Good afternoon. [LR22]

GARY PERKINS: (Exhibit 1) Good afternoon. Good afternoon. Thank you, Senator Campbell and members of the Health and Human Services Committee for allowing me to be here this morning...this afternoon. My name is Gary Perkins, G-a-r-y P-e-r-k-i-n-s, and I'm the president and CEO of Children's Hospital and Medical Center in Omaha. Thank you for the opportunity to speak in support of LR22 this afternoon. I applaud the initiative outlined by the Health and Human Services Committee in cooperation with the Banking, Insurance and Commerce Committee to address the multifaceted issues facing healthcare delivery in Nebraska. To undergo a complete and accurate analysis will require input from the medical, financial, and insurance perspectives. Children's Hospital and Medical Center and its nearly 2,000 employees serve as the only pediatric speciality hospital in the state, and as such, we care for thousands of children from across Nebraska and the region. In 2012, we admitted 8,000 children as inpatients to our hospital and had over 370,000 patient visits across our system. We share your objectives of improving the health of Nebraskans while controlling the escalation of cost. As you are well aware, the environment of providing healthcare has changed dramatically in recent years. Hospitals are addressing these challenges by developing strategies and initiatives that result in improving service that are delivered in a more efficient and cost-effective manner. LR22 provides an important vehicle for stakeholders in the healthcare industry, for patients, providers, insurers and policymakers, to undergo a comprehensive discussion to develop a health system framework to meet the future needs of Nebraskans and their healthcare needs. As you study Nebraska's healthcare delivery, cost, and coverage demands and work to develop a framework to transform the healthcare of Nebraskans, I request that you give serious consideration to the impact that your study may have on the future health of children in the state. It may surprise you to learn that Children's Hospital and Medical Center cares for a higher case mix, or more medically complex patients, than our peers across the country. Despite the challenges of caring for the most severely ill, our hospital has reduced patient length of stay from 4.8 days in 2010 to 4.2 days in 2012, resulting in savings to private insurers,

the state, and to the patient's families. Other steps we have taken to improve the quality of care and contain costs include establishing medical homes in our four of our Children's physicians' primary care offices, with plans to have all 11 offices operating medical homes by the end of 2003 (sic - 2013). In addition, by initiating changes to our discharge process, we've reduced our admission rate from 4.3 admission rate from 4.6 percent to 3.8 percent in just the past five months. We take our responsibility as the only children's hospital in the state very seriously. We have developed cooperative strategies with other hospitals in order to improve children's care in the region. Our cooperative efforts include our Fetal Care Center program with Alegent/Creighton Health, our physicians' clinic offices with Creighton University, and the shared pediatric residency program with the University of Nebraska Medical Center and Creighton University. This program is of critical importance to Nebraska in terms of its future medical work force for our children. All of these examples point to Children's experience and resources already in place to improve care, quality, and the value of healthcare in Nebraska. We offer our expertise and urge the committee to include our hospital, as the only healthcare facility that has the health of children as its sole mission, as an integral part of your partnership. Thank you for involvement in this important discussion, and I would be happy to try and answer any questions that you may have. Thank you. [LR22]

SENATOR KRIST: Any questions for Mr. Perkins? Senator Gloor. [LR22]

SENATOR GLOOR: Thank you, Senator Krist. Gary, thank you for taking the time to come down... [LR22]

GARY PERKINS: Thank you. [LR22]

SENATOR GLOOR: ...and provide testimony. Then there's a question I've asked myself before, you know, we sat down and talked about trying to pull together LR22 and that is, to what extent can the state make a difference any more? And to frame that for you, we have broad, sweeping bits of legislation like the Affordable Care Act that we have to contend with and at the same time we have market forces that are driving hospitals and physician groups into larger groups, sort of a corporatization of healthcare. Again, not a commentary on whether that's good or bad; but it's happening. And they've got their own planning staff, as you have your own planning staff, and their own initiatives that they're pursuing. Can we be proactive with a state planning level or are we always going to have to be reactive because we've got the feds on the one hand and we've got the healthcare market forces on the other hand? [LR22]

GARY PERKINS: Well, I think you commented your viewpoint about planning. And I share that viewpoint with you, and I hope that that's contributed to the success of my organization as I know it had to the one that you chaired...headed for many years. I think we have a choice. I think we can either be proactive, and as Senator Campbell said, really understand some of the uniquenesses of the geography of our state, the

population of our state; and I think if we don't, then we will be forced into a mold that may not be the best for the delivery of healthcare here in Nebraska. And I think we do have those uniquenesses here in the state of the demography and the geography of our state. And I think that if we don't plan, we don't think about it, then we'll be passive and it will be pushed upon us, and we won't have a basis upon which to have a podium to push back appropriately for the needs of our citizens. [LR22]

SENATOR GLOOR: Okay. Thank you. [LR22]

SENATOR KRIST: Any other questions? Mr. Perkins, I just want to say, my brother and sister-in-law, who is an emergency room nurse nurse for you, do fund-raising efforts. I've tried to draw them away to do other fund-raising efforts with me, but they're pretty committed. (Laughter) I want to thank you for your leadership and for Children's Hospital. [LR22]

GARY PERKINS: Thank you very much. I appreciate that. [LR22]

SENATOR CAMPBELL: Thank you, Mr. Perkins. [LR22]

GARY PERKINS: Thank you. [LR22]

SENATOR KRIST: Next proponent, next person speaking in favor of LR22. Good afternoon. [LR22]

TAMMY WARD: (Exhibit 2) Good afternoon. Senator Campbell, Senator Krist and members of the Health and Human Services Committee, my name is Tammy Ward, T-a-m-m-y W-a-r-d, and I'm appearing today on behalf of Tabitha in support of LR22. When Tabitha met earlier this session with Senators Campbell and Gloor, we expressed an interest in being involved in the study. You were receptive and supportive, as was the rest of the committee, when we met with you as well. So we appreciate all of your support, and we thank you for the opportunity to appear before you today. For over 127 years, Tabitha has provided elder healthcare services in southeast Nebraska. Today, we provide the most complete continuum of post-acute health and support services for older adults in 29 Nebraska counties. The buzz word in healthcare reform is population health management, which is defined as the technical field of endeavor, which utilizes a variety of individual, organizational, and cultural interventions to help improve the illness and injury burden, and the healthcare use behavior of defined populations. The looming problem is that these defined populations are diverse, old, young, rich, poor, healthy, frail, and so on. Managing each cohort successfully requires a variety of strategies. Complicating the management equation further is that Nebraska's health system, like all other states, was created as segmented settings with acute and post-acute expertise, each with unique clinical practices, medical records, and regulatory requirements. And, until very recently, each provider universally disconnected with the patient at the time of

his or her discharge from each setting. The reason Tabitha strongly supports LR22 is that it creates real opportunity for providers and for patients to engage the discovery and the planning necessary to integrate Nebraska's acute and post-acute health services. And it comes at a time when new models have already received some testing. While the complexity of this endeavor is great, Nebraska is not the first to tackle it, and there is an increasing body of evidence available to help focus the discussion so that LR22 can produce meaningful and positive change for the citizens of Nebraska. Key elements are surfacing across new model studies that consistently produce measurable population health improvements, including greater patient engagement in diverse prevention and health management; enhanced role of family caregivers; accountability of providers throughout transitions; uniform clinical service delivery regardless of patient location; integrated and interoperable health information technology systems; and alignment of incentives for cross-setting collaborations. I've also attached a graphic produced by the Health Dimensions Group of Minnesota, and this graphic illustrates what a reformed healthcare delivery model could look like. It puts primary care, or the patient's health home, on top with equal parts of preventative care and chronic care to produce an avoidance of unnecessary hospitalizations. As Dr. Coleman, professor of medicine and director of the Care Transitions program at the University of Colorado, Denver, recently put it, we have a unique opportunity to synthesize. It starts with gathering stakeholder input and setting your aim. So, in closing, may I just say once again, Tabitha looks forward to being part of the discussion group with the other stakeholders in the LR22 study process. Thank you again for the opportunity to be here, and we're glad to answer any questions you may have. [LR22]

SENATOR KRIST: Thank you, Tam. Any questions for Ms. Ward? Thank you so much for coming. Thanks for your testimony. [LR22]

TAMMY WARD: Thank you very much. [LR22]

SENATOR KRIST: Next proponent for LR22. Deven, would you take that mike and tip it up a little bit, maybe in the center, so that people aren't interfered with their papers. Thank you very much. Appreciate it. Hey, how are you? [LR22]

BRUCE RIEKER: Hi. [LR22]

SENATOR KRIST: Welcome. [LR22]

BRUCE RIEKER: (Exhibit 3) Thank you. Pleasure to be here. Thank you all that were able to make it over to our luncheon. My name is Bruce Rieker. It's B-r-u-c-e R-i-e-k-e-r, vice president of advocacy for the Nebraska Hospital Association here in support of LR22. And, coincidentally, that has been identified what your mission or what we perceive as your target, your goal, are very synonymous with what our members identified through a rigorous evaluation and survey of priorities, determination of

priorities for the 89 hospitals that we represent. We go through a process that involves surveying our members, all 89 of them, as well as we have a board of directors policy development committee, which is about 30 volunteer, the hospital executives; and then priority-issue teams which we form to look at issues in more depth. All of those resources we would like to offer as assistance and resources to your endeavor. But those various volunteers that help comprise, defining the mission for us, identified redesigning the delivery of care as our number one priority. We don't have a preconceived idea of what that will look like, but we do know that is a definite need in the testimony, the written testimony I've given you. We've identified many of the influences Senator Gloor already alluded to that as to why we need to make the changes, and we need to evaluate those. We also made a list, definitely not an all inclusive list, as to some of the prudent approach or must-do strategies, such as developing an integrated information system, which is very important to us. And core competencies. Some of these line right up with some of the things that you're already working on, patient-centered medical homes, along those lines. But, and then our highest priority is to explore and evaluate different delivery models that utilize technology, identify methodologies that deter unnecessary care, and disclose provider performance measures. Also assessments that include public reporting of efficiency measures and provider behavior. And then build healthcare teams comprised of hospitals, primary care physicians, subspecialists along through the continue of care. And then, I know we've talked about this in another hearing; but remove some of the legal barriers that exist. Some of them are...you can't do anything about them because they're federally imposed, but there are some legal barriers that cause some speed bumps in what we're trying to put together; and then it's very akin to the patient-centered medical home steering committee that Senator Gloor and Senator Wightman are working on, and we're part of that. Senator Gloor, to your question about what can the state do, you asked Mr. Perkins from Children's Hospital. We have five priority teams that we formed anticipating issues that would be coming in this legislative session: the exchange, essential health benefits, Medicaid rates, Medicaid expansion, and taxes, seem to be ones that we anticipated were coming. And we're also putting together a priority team, which is about eight to ten members, to look at behavioral health; and then the larger one is the redesigned project, which will encompass a lot of what we'd like to do in partnership with you. In every priority team that we had, the number one thing, the highest priority that they said that we need to do in order to start making informed decisions, is to have better data. That we don't have the information, whether it's hospitals that are supposed to collect that data, or whether it's the state, or whether it is different entities through the exchange, either the lack of investment or strategic investment and information and data such as the MMIS system and other things is woefully lacking. We have visited with the Department of Health and Human Services asking them for help. And I guess what I would...not guess, I know what I would say is that one of the things, we're not asking the state to solve our problems; but it would be great if they were an ally and a partner rather than an adversary when it comes to information to help us make more informed, better informed decisions about

where care is being utilized and how we can eliminate waste in the system. [LR22]

SENATOR KRIST: It, it...the discussion around our table today and the discussion that I've had around many tables in many forms, what can we in the healthcare community do to go through this transition? What can we as a hospital do? My answer is the same. The paradigms have to change. If we're going to divert people from emergency rooms, there have to be after-hours clinics available for them to go to. And our rural Nebraska friends are going to have that problem more...I think more than I am in my neighborhood because there seems like there's an emergent care right next to every 7-Eleven, just about. But the point being, that paradigm is going to have to change. And I think we heard a lady from Ogallala... [LR22]

BRUCE RIEKER: Yep, Sharon Lind. [LR22]

SENATOR KRIST: ...Sharon Lind come in and say that's part of the plan. So my answer to Senator Gloor is...my partial answer to Senator Gloor's question because I would never assume to answer any question of his in total, (laughter) would be that we have to present some alternatives if this is going to work. And you can speak to that if you'd like to. [LR22]

BRUCE RIEKER: Well, and I would like to. In fact, it was a part of the conversation at our board meeting last night in anticipation for our advocacy day today. We had our policy development committee together yesterday, and then we had a board meeting last night, and we have been directed by our board of directors to put together materials that help share with you a lot of the things that our hospitals are already doing, recognizing that the paradigm has shifted. In many respects, our hospitals are well ahead of the curve, but we haven't put that information together in a way that all of you know what we're doing. And that's not an indictment of you by any stretch of the imagination when you look at...you have 655 bills this session. We can't expect you to be experts on all this, and we need to put this information together. So what the board directed us to do is to put that kind of information together about the things that our various hospitals are doing. I mean, there are...when I visit each of our hospitals, every time I do that I have "ah-ha" moments. I wish that you could all experience those things to see, it's like, wow, they're doing this and they're more efficient here. They're working with federally qualified health centers, or they're working with a public health clinic or public health department, and they're doing this to take pressure off their emergency rooms and things like that. We're having hospitals that are certified medical homes. You know, Crete Medical Center, I think, in a great way is leading the way when it comes to patient-centered medical homes, and there's a lot that we could learn from them and share with you. But these are things you don't know, and that's not your fault. Those are things that we need to get that information to you. And it was a specific conversation that we had last night to make sure that we help educate our partners more about the things that we're doing. [LR22]

SENATOR KRIST: And that is essentially the answer I got at the table with the individuals involved. We are doing some of those things. You just haven't heard about them yet. And so I guess that's great information, and that's what LR22 is going to be all about, let's collect that data. Any other questions for Mr. Rieker? Thank you so much, Bruce. [LR22]

BRUCE RIEKER: Thank you. [LR22]

SENATOR KRIST: Next proponent for LR22. Welcome. [LR22]

JAMES GODDARD: (Exhibit 4) Thank you. Good afternoon. My name is James Goddard, J-a-m-e-s G-o-d-d-a-r-d, and I'm the director of the Economic Justice and Health Care Access Programs at Nebraska Appleseed. I'm here today to testify in support of LR22. LR22 is a good first step towards changing the healthcare delivery system in Nebraska in order to create a more efficient, cost-effective, and patient-centered model. Currently, we have a unprecedented opportunity before us through the new healthcare exchanges that will be coming on-line soon and the new Medicaid option, and these things allow us to offer affordable healthcare to those that have been unable to get it for a long time. This increase in access gives us a real chance and, indeed, an obligation to ensure our healthcare system functions in the best way possible for those that it serves. LR22 would create a mechanism for making these important changes happen. It would convene a partnership of policymakers, as well as stakeholders, to review our healthcare delivery system and coverage demands, and develop a framework for system transformation. The broad array of viewpoints contemplated under the LR is a great step because it allows us to have a vigorous and creative exchange of ideas and to ensure solutions will meet the needs of different groups in different regions of our state. There is a general consensus that things like medical homes and coordinated care are fundamental to reforming our healthcare system. At the same time, to coordinate care, people have to have access to care. In other words, access is a critical first step. But we also must commit to the goal of ensuring any new access is access to a functional, productive, and efficient system and that is what this resolution would aim to do. With that, I would urge the committee to advance the resolution, and I'd be happy to answer any questions. [LR22]

SENATOR KRIST: Thank you, Mr. Goddard. Any questions for Mr. Goddard? Seeing none, thanks a lot. Thanks for coming. [LR22]

JAMES GODDARD: Thank you. [LR22]

SENATOR KRIST: Next proponent for LR22. Okay. Seeing none, any opponents? Okay, going, going, gone. Any neutral? Good afternoon, Nick. [LR22]

NICK FAUSTMAN: Good afternoon. Nick Faustman, N-i-c-k F-a-u-s-t-m-a-n. I'm here representing the Nebraska Health Care Association, which is the parent association of a family of entities including the state's only association for all types of nursing facilities which is the Nebraska Nursing Facility Association, and then the state's only association for assisted living which is the Nebraska Assisted Living Association. We do not necessarily have a position, so to speak, on LR22. However, we would like to offer a helping hand in the discussion in the coming months to serve as a source of information as this develops. I think it's important to remember that as we consider making changes to our healthcare system, that it's not only acute care or primary care, but we also have to take into consideration other things such as the state's large aging population and long-term care as well. And so, we'd be happy to aid in any way we can. [LR22]

SENATOR KRIST: Thank you, Nick. Yes, Senator Cook. [LR22]

SENATOR COOK: Thank you, Senator Krist; and thank you, Mr. Faustman, for coming. Earlier in the session, we had some conversations and dual proposals related to certificates of need. Is that something that your organization and part of the dialogue that your organization would be... [LR22]

NICK FAUSTMAN: We would be... [LR22]

SENATOR COOK: ...able and willing to help us move forward on? [LR22]

NICK FAUSTMAN: Absolutely. In fact, I think that there was a hearing a couple of weeks ago for Senator Gloor...or I'm sorry, Senator Wightman's bill regarding rehab beds. We're not directly affected by that particular bill, but I recall several testifiers who questioned whether or not there may even be a need for CON now in Nebraska, certainly a conversation worth having. [LR22]

SENATOR COOK: Okay. Thank you. [LR22]

SENATOR KRIST: Thank you, Senator Cook. Any other questions? Thanks for coming. [LR22]

NICK FAUSTMAN: Thank you very much. [LR22]

SENATOR KRIST: Any other neutral? Okay, with that we will close the hearing on LR22. (See also Exhibits 5-10.) And if you're leaving, please leave quietly. Madam Chair. [LR22]

SENATOR CAMPBELL: Okay. We're going to wait just...no, you can go ahead, sorry. We have sent a page to find Senator Conrad. I told her that we would send a page, so you can just kind of talk in place to anybody and she'll be here soon.

BREAK

SENATOR CAMPBELL: All right. We will restart. Senator Conrad, thank you very much.

SENATOR CONRAD: Good afternoon, hi, hello.

SENATOR CAMPBELL: Hope you didn't feel too hurried there.

SENATOR CONRAD: Not at all. Good cardio end for the day. Absolutely.

SENATOR CAMPBELL: Good. Good. Okay. And we are starting in numerical order, LB395 first. Is that okay?

SENATOR CONRAD: Very good.

SENATOR CAMPBELL: Okay. We will open the hearing on LB395, Senator Conrad's bill to redefine the term, quote, school-based health center, quote, for purposes of the Medical Assistance Act. Welcome, Senator Conrad.

SENATOR CONRAD: Thank you. Thank you, Chairman Campbell and members of the committee. My name is Danielle Conrad. That's D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d. I represent the "Fighting 46th" Legislative District of north Lincoln. I'm here today to introduce LB395. LB395 relates to school-based health clinics and removes the prohibition in current law against the allowance of prescribing and counseling for contraceptive drugs and devices. I introduced this bill at the request of some school-based health clinics that see a need for these services. It's my belief that if we are providing health services at school-based clinics, we need to give the healthcare professionals working there the tools that they need to address the healthcare needs of the population they serve, period. I urge your favorable consideration of LB395. Would be happy to answer any questions and, hopefully, I think we've arranged for some folks on the front lines of this issue to provide some additional information for this committee's consideration who will be testifying behind me. [LB395]

SENATOR CAMPBELL: Okay. Great. Thank you, Senator Conrad. Any questions from the senators? Senator Gloor. [LB395]

SENATOR GLOOR: Sure. Thank you, Senator Campbell, and thank you for this thoughtful revisiting of an issue some of us have visited in the past. Here's my concern, and I'd be interested in your answer to it. I think school-based health clinics are a great thing. [LB395]

SENATOR CONRAD: I agree. (Laugh) [LB395]

SENATOR GLOOR: And I know you agree, and I think most of us agree; but there is such a paranoia about these issues that I'm afraid communities, if they think that their children will be given unfettered access to condoms and birth control pills, won't move in the direction of establishing student wellness centers, student health clinics, and so there's a trade-off there. Do...do you see that as a possibility or a real threat that this prohibition, for want of a better term, makes it easier for communities to come to grips with this. Without it many communities who might otherwise establish them will be fearful and won't do so. Won't move in that direction. [LB395]

SENATOR CONRAD: Thank you, Senator Gloor, so much for the question, and I think you're right. I think overall there's a great deal of common ground on these issues. But I think to the specific answer to your question, really, the beauty of this legislation is, is that it's not a mandate; but it leaves that conversation open to the local community to decide what's best for that community and to have that conversation at the local level and as part of that community who is deciding whether or not to have these clinics at all. And that was a very careful drafting choice in putting together this legislation that rather than mandating these services as part of any existing or future health clinics, we simply sought to remove the existing prohibition and allow that conversation to happen at the local level. So it's not a grant of permission or authority; it just allows that conversation to occur, which permits...which currently it's unable to occur. So I think that it's fair to say that different communities would come to different conclusions about what is best for their community, and an issue of local control is always something that carries a lot of weight in this body, as it should. [LB395]

SENATOR GLOOR: Thank you. [LB395]

SENATOR CAMPBELL: Oh, we're finished. I was so busy looking at my V8 here. (Laughter) I apologize. Question. You have a question. [LB395]

SENATOR KRIST: I do. So the overriding question is, it goes back to local authority which essentially is going to be the school board and individual taking the prohibition away, now you allow them to administer. You don't discuss funding or any other issues. That's totally up to the individual school district... [LB395]

SENATOR CONRAD: As it currently stands today, yes. [LB395]

SENATOR KRIST: ...as it stands today. Is there...you're usually pretty good at figuring out the unintended consequences, something like this, so just lay it on me. What is the unintended consequences? [LB395]

SENATOR CONRAD: I think that the current law is causing a lot of unintended consequences. I think that this body moved forward in a very appropriate way to allow

for these kinds of health clinics to be established and that they're doing great work in the communities that they exist in. But what I'm hearing from people on the front lines in those health clinics is that they're unable to treat the health needs of the population that they're meant to serve, which include contraception and reproductive health issues. And this, basically, is just an opportunity for us to say, if we think that students deserve a place to get health access and information, we should allow them, if so deemed by the local authorities, to have full access to healthcare and information, period. [LB395]

SENATOR KRIST: Is there an overlap between...this, this talks directly to Section 68. [LB395]

SENATOR CONRAD: Right. [LB395]

SENATOR KRIST: Is there an overlap between 68 and 70 in terms of the education format in this actually being housed within the school? Is that something that we need to...we can say these health, the school-based or health-based clinics are there, but again...I guess my question is, we can do this in Section 68, but in Section 70, is there a prohibition that also needs to be dealt with? [LB395]

SENATOR CONRAD: Senator Krist, that is a fantastic question, and I'm looking through my green copy to try and see if I can give you an answer to that; but I'm guessing maybe it's a part of a different section of law and so it's probably not referenced in my green copy. So, without it before me, I think the simple question is, if the committee is prepared to move forward on this idea, I'm happy to work with you to ensure that we can do so from a technical standpoint. [LB395]

SENATOR KRIST: Well, I can't speak for the rest of the committee, but that would be one of my concerns in a different section of law and 70 which is obviously...79, I think. I'm sorry, I misquoted. Seventy-nine, which I think is specific to our schools and the education, so. [LB395]

SENATOR CONRAD: Oh, the sex ed question. [LB395]

SENATOR KRIST: Yeah, I'm sorry. Yeah, yeah. [LB395]

SENATOR CONRAD: I understand. Okay. [LB395]

SENATOR KRIST: So, 79, so I think that's a question that we...I would like to get an answer to. Obviously, I can do my own research; but if you have anything to add in the future, that would be great. [LB395]

SENATOR CONRAD: I don't have anything to add at the moment, but I will look into it; and maybe they can be looked...the issues can be looked at as complementary to each

other. [LB395]

SENATOR KRIST: Okay. Thank you, Senator. [LB395]

SENATOR CAMPBELL: Other questions? Senator Howard. [LB395]

SENATOR HOWARD: To your knowledge, are school-based health centers considered an evidence-based model for prevention of teen pregnancy? [LB395]

SENATOR CONRAD: To my knowledge, which is limited, (laughter) no. But I'm guessing there are people behind me who can answer that more specifically because I'm really more of a student rather than an expert in this field when it comes to the provision of healthcare. This was an issue that, because of my past work in regards to reproductive health issues, again, certain people on the front lines at these clinics brought to my attention, I wanted to provide a platform with this legislation. When it comes to the specifics, I apologize, Senator, I do not know. [LB395]

SENATOR HOWARD: And then, maybe somebody behind you can answer these questions; but when we're talking about contraception in the school-based health centers, the school-based health centers in...that we have in the state of Nebraska, so we have six in elementary schools. [LB395]

SENATOR CONRAD: Right. [LB395]

SENATOR HOWARD: We have two high schools, one in Grand Island and one in north Omaha, and then we're having a new one in south Omaha. But they also serve siblings of the students that are in the schools, is that correct? [LB395]

SENATOR CONRAD: I think that's right, yes. [LB395]

SENATOR HOWARD: Yes. And then can they also serve parents as well? [LB395]

SENATOR CONRAD: I think that there would be no prohibition that would currently prevent them from doing that. And, in fact, that was one of the attractive aspects of creating school-based health clinics was to provide a point of access for families who maybe didn't have that when it comes to basic healthcare services. But I think the original intent was to make sure that kids stay healthy and stay in school, and this is one proven way to do that. And my point is in dealing with the issues that keep kids from being productive and healthy, reproductive health issues arise. And the current system, which is a prohibition, does not serve their health or our state well. [LB395]

SENATOR HOWARD: Thank you. [LB395]

SENATOR CONRAD: Yes. [LB395]

SENATOR CAMPBELL: Any other questions? Thank you, Senator Conrad. [LB395]

SENATOR CONRAD: Thank you. [LB395]

SENATOR CAMPBELL: I'm assuming you're going to stay because you have the next bill. [LB395]

SENATOR CONRAD: I am. [LB395]

SENATOR CAMPBELL: Good. Our first proponent for LB395. Anyone? Anyone? Okay. Those in opposition to LB395? Good afternoon. Kaitlyn will be glad to help you. She'll take... [LB395]

NANCY RUSSELL: (Exhibits 11 and 12) Thank you for inviting me here, all of you. I'm Nancy Russell, R-u-s-s-e-l-l, and I am bringing you forth some information. First of all, I would like to strike the word "health" that's lodged between reproductive health issues because progestin estrogen-based contraceptive are far from healthy. The following research on the issue of contraceptives being dispensed in public schools the following conclusions are offered: Parental autonomy and parental right to give consent for a minor is standard. That's a standard in our state. Two, only a doctor, nurse practitioner, or a physician assistant can prescribe drugs. And these people carry expensive malpractice insurance. Only pharmacists, and these require six to eight years of school, can fill prescriptions. Prescriptions are not filled by doctors, nurse practitioners or physician assistants. The information sheet on your next page on progestin/estrogen contraceptives references the word, call or contact your doctor 33 times, call or contact your pharmacist 12 times, contact your eye doctor is mentioned once, call your dentist is mentioned once, seek immediate medical help is mentioned twice, tell your dentist once, local poison control center is mentioned once. This bill would require, besides written consent of a parent or a guardian, a doctor, nurse, practitioner or a physician assistant whose work under consultation with the doctor be available to each school in the state along with an available pharmacist. The schools will be required to carry malpractice insurance in case of injury to the patients. If you turn to the information on these oral contraceptives and the bottom of the first page, call a doctor right away if you have any serious side effects including lumps in the breast, mental mood changes such as new worsening depression, severe stomach abdominal pain, unusual changes in vaginal bleeding, such as continuous spotting, sudden heavy bleeding, missed periods, dark urine, yellowing eyes or skin. This medication may rarely cause serious, sometimes fatal, problems from blood clots such as deep vein thrombosis, heart attack, pulmonary embolism and stroke. Get medical help right away if any of these side effects occur: chest, jaw, left arm pain, confusion, sudden dizziness, fainting, pain, swelling, warmth in the groin/calf, slurred speech, sudden shortness of breath, rapid breathing,

unusual headaches, including headaches with vision changes, lack of coordination, worsening of migraines, sudden, very severe headaches. Well, there's a whole list of things. You can go down to the bottom one that says that you must check back with the doctor, as we all do when we go for a prescription. We go back for a doctor checkup to monitor to your progress, check for side effects, follow your doctor's instructions for...well, examining breasts, insinuating there could be lumps coming up from that. So the dangers to our children are immense when we get into the plan that we can put a stack of birth control pills in the school clinic and dispense them at our will. And the most noteworthy thing here is that, do not protect you or your partner against sexually transmitted diseases. So, it's not going to solve that problem. It's not going to make healthier children to give them birth control pills. I do have some information, if you're interested in it, on a program that's being done in some schools. It's a peer program for abstinence education which is bringing forth not only help in that area of slowing teen sexual activity, but also increasing high school academic performance. So, if you'd like to have a copy of that, I'd appreciate it. And hope that you will consider all the repercussions of this type of idea going forward. [LB395]

SENATOR CAMPBELL: Any questions? Senator Cook. [LB395]

SENATOR COOK: Thank you, Madam Chair, and thank you for your testimony. You're testimony focused primarily on side effects related to oral contraceptions... [LB395]

NANCY RUSSELL: Right. [LB395]

SENATOR COOK: ...that women would take. I'm going to go ahead and assume that you'd be opposed to a barrier method that a man or a woman would also use, just based on some of your other handouts. Would that be the case for condoms or cervical caps or IUDs? [LB395]

NANCY RUSSELL: Each of these methods...excuse me, dear. Each of these methods has a list from the pharmacy. I didn't get them all, but you could do that yourself. Go to your pharmacist, say, what are the risks on this, this, and that. [LB395]

SENATOR COOK: Okay. [LB395]

NANCY RUSSELL: Okay, thank you. God bless you. [LB395]

SENATOR COOK: I'm Senator. [LB395]

NANCY RUSSELL: Senator. What did I call you, President? [LB395]

SENATOR COOK: Dear. (Laughter) [LB395]

NANCY RUSSELL: Okay. All right. Any more questions? [LB395]

SENATOR CAMPBELL: Oh, no, thank you, Ms. Russell. Good afternoon. [LB395]

GREG SCHLEPPENBACH: (Exhibit 13) Good afternoon, Senator Campbell and members of the committee. My name is Greg Schleppenbach, that's spelled S-c-h-l-e-p-p-e-n-b-a-c-h, and I'm here on behalf of the Nebraska Catholic Conference in opposition to LB395. Three years ago when LB1106, Senator Nordquist's bill to establish school-based clinics was before this committee, Senator Gloor based on his experience with establishing a school-based clinic in Grand Island, strongly urged Senator Nordquist to keep school-based clinics clear of reproductive health issues specifically prescribing and dispensing birth control. The Catholic Conference also expressed concern directly to Senator Nordquist who was more than willing to add the language to LB1106 that LB395 proposes to remove. That language was part of an amendment that was added to the bill on a vote of 34 to nothing. I would also point out at that public hearing on LB1106 that in response to Senator Gloor's question about how school-based clinics would handle reproductive health issues, Andrea Skolkin from the OneWorld Center, CEO, OneWorld, said quote, there will be no contraception as part of these school-based health centers, unquote. And in answer to another question by Senator Gloor, she responded again, quote, contraceptives will not be dispensed in the schools, unquote. LB395 would be a backtrack on that policy decision. We believe that it would send a terrible message to our young people if school-based...our school-sponsored clinics began prescribing and dispensing birth control, and it would bring unnecessary controversy and division to otherwise good and noncontroversial services provided at school-based clinics. We believe that young people are clearly capable of, and ultimately they desire, self-control in this important area of their lives. And they want and deserve their schools and parents and society's help to achieve it rather than be abandoned to the mediocrity and heartache of risk reduction strategies embodied in LB395. Strategies that don't even purport to address the emotional, psychological, and spiritual dimensions of sexual activity. It should also be noted that teens have the highest failure rates with contraceptive usage and that the vast majority of published empirical studies indicate that greater access to contraception does not reduce unintended pregnancies and abortions. I would refer you to the fact sheets that I gave you that provide a number of different studies in a number of different contexts. I might just point out one in particular, Douglas Kirby. This was Journal of School Health, March, 1999. It was concluded that most studies that have been conducted during the past 20 years have indicated that improving access to contraception did not significantly increase contraceptive use or decrease teen pregnancy. Finally, in response to a concern that I actually heard at the hearing on LB275, Senator Nordquist's bill to provide funding for expansion of school-based clinics, there was concern expressed that school-based clinics are not...that provide STD screenings and treatments are not able to prescribe or dispense contraceptives, but rather have to refer to the sponsoring clinic. And my question is, why is this a problem given that most contraceptive drugs and

devices provide no protection whatsoever from sexually transmitted diseases? For these reasons, we urge you to reject or indefinitely postpone LB395. Thank you. [LB395]

SENATOR CAMPBELL: Thank you, Mr. Schleppenbach. Questions from the senators? Thank you very much. [LB395]

GREG SCHLEPPENBACH: You're welcome. Thank you. [LB395]

SENATOR CAMPBELL: Our next opponent. Those who wish to testify in a neutral position. Okay. Senator Conrad, come full circle. [LB395]

SENATOR CONRAD: Yes, quickly in light of how the committee hearing played out today. Just a couple points that I do want to make for the record. People are welcome to engage in this Legislature however they see fit, and I fully support their right to do so. But I think, taken out of context, reading a list of medical warnings related to oral contraceptives or any medication for that matter, doesn't paint a full picture. I could probably look them up on my Smartphone quickly, but I think it would not be good use of this committee's time for me to run through the laundry list of similar warnings that accompany the aspirin in your desk or purse or pocket. So, I think it's fair to say that any medical issue has certain risks as does most things in life. The other point that I want to make is that, you know, we all know that people can utilize whatever studies they see fit to put forward their points; but quite simply, science and common sense tells us that contraception and education is the best tool we have available to prevent SDIs and to prevent unintended pregnancies, which prevent abortions. So, this is really commonsense legislation in that regard, and there can be no argument. I will just take a moment of the committee's time to read in a few statistics about why this legislation is necessary and why I don't see it as reneging on any promises that were put forward during the initial adoption of this legislation, but really why it's important to revisit this issue now that those policies have been in place and we have a little bit more information about how they're working or not working, which is part of being a responsible legislator to always keep an eye on to the decisions we've made and to make modifications if need be. So this is information that was presented to me from some folks at Building Bright Futures and in relation to the seven school-based health centers that are operated in the Omaha Public Schools. And I'll go as quickly as I can just to ensure that we have it in the record. Up until this year, about 50 percent of the students that came to the school-based health centers did not have primary care providers and often accessed care through the urgent care or emergency department. This year they saw a huge improvement of 31 percent, so they're seeing that they can identify the school-based health center as a primary care provider and that has been successful. However, the number of pregnancy tests and STD tests is an issue that continues to come up, and their hands are currently tied. When those issues are presented, the school-based health center must provide a referral to another medical

provider. And what they're finding is that a lot of times for reasons of cost, reasons of time, reasons of access and other factors, students aren't taking that next step, so that these reproductive health issues go untreated and cause additional problems for the student, the school, community, etcetera. And they continue to end up on their doorstep again and again. So with that, I did just want to provide a little bit of the information. I'm trying to scramble and pull together some e-mails in relation to this bill because I was hoping it would be provided by proponents on the record; but if we can get some more comprehensive statistics, I will follow up with the committee in that regard. [LB395]

SENATOR CAMPBELL: Any questions for Senator Conrad? Senator Crawford. [LB395]

SENATOR CRAWFORD: I apologize for coming in late from another hearing. Could you indicate in the school-based clinics in general what the parental consent practice would be for any kind of healthcare? [LB395]

SENATOR CONRAD: I don't know. (Laugh) [LB395]

SENATOR CRAWFORD: Okay. [LB395]

SENATOR CONRAD: And I'd be happy to find that out, Senator Crawford. I'm relying upon some just...I...Senator Gloor probably knows right off the top of his head, but I think that there are different rules for different types of treatment for different ages would be the general response. [LB395]

SENATOR CRAWFORD: Okay. Okay. [LB395]

SENATOR CAMPBELL: Senator Gloor, did you want to comment on that? [LB395]

SENATOR GLOOR: Well, I could speak specifically to the organization that we helped to establish for any child to be seen. In this case, it treats...again, I'm going back from what I remember four or five years ago. Any child that is being treated at a high school or middle school level where the clinic is established, there has to be a release form signed by a parent that allows that child to see the practitioner, first of all. And not all parents will sign that. And so you may have 60 percent of the eligible children, all children eligible; but 60 percent of the enrolled students who have that release form. After they have seen that practitioner, then there's also a notice sent to parents so that they know that that student has been in to see the practitioner and that happens to be the notification process in place with the one I know. I think at least the authorization is fairly common at other similar centers across the country. Whether it is in Nebraska, I'm not sure. [LB395]

SENATOR CAMPBELL: Okay. Thank you. [LB395]

SENATOR CONRAD: We'd be happy to get you some more specific information as well, Senator. [LB395]

SENATOR CAMPBELL: Other questions? Senator Watermeier. [LB395]

SENATOR WATERMEIER: It may be unrelated, thank you, Senator, Senator Conrad. An unrelated question, you had a statistic here about 50 percent of the students did not have a primary provider before the healthcare...the school-based started, and then it was down to 31 percent. Is that because somehow the school-based promotes people to get a primary provider? [LB395]

SENATOR CONRAD: Yes, the...well, the student is identifying the school-based health center as their primary provider. I'm sorry if I was unclear in that regard. [LB395]

SENATOR WATERMEIER: As their primary, I see. Okay. Well, I wondered, that's what I wondered, so okay. [LB395]

SENATOR CAMPBELL: Good clarification, thank you. Other questions? All right, we'll close the public hearing on LB395, (See also Exhibits 14-16) and we'll open the public hearing on LB452, Senator Conrad's bill to require a Medicaid waiver to provide coverage for family planning services. Senator Conrad, go right ahead. [LB395]

SENATOR CONRAD: (Exhibit 17) Good afternoon, again, Senator Campbell, members of the committee. My name is Danielle Conrad, D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d, representing the "Fighting 46" Legislative District of north Lincoln here to introduce LB452. LB452 requires the Department of Health and Human Services to apply for a state plan amendment for the purpose of expanding Medicaid for family planning services for persons whose earned income is at 185 percent or below the federal poverty level. For the record, the federal poverty level for a family of three is about $35,000. Other states are going to make application for a state plan amendment versus a Medicaid waiver due to the fact that you only apply for a state plan amendment once as opposed to continued applications involved in the Medicaid waiver process. There are some who will follow me today, and I know that they are here, (laughter) that can explain in greater detail, if need be. I introduced this bill because not only is it the right thing to do for Nebraska's women and families in need because...but because it also saves the state millions of dollars per year. There is a considerable and significant fiscal savings associated with this legislation that I implore your attention to. In fact, looking at the fiscal note, for every $1 dollar spent on family planning, about $4.17 is saved for a total of over $12 million in annual savings, and that's General Fund dollars. To put that money in perspective, and these are numbers that we talk a lot about at Appropriations and that I've been illustrating for our friends at Revenue recently, but I thought might be helpful to your consideration today: what does $12 million, almost $13 million in General Fund savings each year mean? What does that represent in the context of our state

budget? That's an increase of about 1 percent in additional TEEOSA dollars for school funding. That's a 2 percent increase annually in provider rates across the state. That represents the amount that it would take to remove about a fourth of the existing waiting list for citizens with developmental disabilities that are currently awaiting services. Those are just a few examples of what that dollar amount represents. It is past time that we fund family planning services for low-income women in our state. It is...or expand eligibility for these women because we already do provide (laugh) family planning services for low-income women in our state. Not only is it the right thing to do, but I think the time is right at this point as well; and there is a national expert that will be following me today who can speak very specifically as to the timing issue and how this legislation complements the Affordable Care Act and some of the other issues before this committee and before this state. So that being said, I've introduced legislation like this previously in the past. Senator Campbell has carried similar pieces as well. This is a little bit different in the fact that it's a state plan amendment rather than a Medicaid waiver. And that was carefully chosen for a variety of reasons; but, like I noted in my opening: one, you only have to do it once instead of kind of an ongoing process. Number two, it's meant to alleviate administrative burden which we frequently hear from our partners in the Department of Health and Human Services that moving forward with legislation like this can cause them a great deal of administrative burden. And with a state plan amendment, I think you'll find that that is definitely not the case. I brought a copy of how you apply for a state plan amendment to the committee so that they can see that it's about two-and-a-half, three pages of check spot boxes that are already pretty much filled out for the state. So it's a relatively simple process in terms of the application for the state plan amendment that has relatively little, if any, administrative burden. Of course, the eligibility determinations and the services required from the department in regards to any Medicaid eligible, we can have a fair amount of dialogue and disagreement about what that might take; but when it comes to actually applying for the state plan amendment, it's a very, very simple process from the administrative perspective. And I think that that's one reason, not to mention the moral aspects and the fiscal aspects, but Nebraska is now really a minority of states on this issue. Ten states have state plan amendments, 21 states have a waiver in place. So I think that, again, because of the complementary nature of where we are with the Affordable Care Act that the time is right to move forward on this issue. Thank you. [LB452]

SENATOR CAMPBELL: Thank you, Senator Conrad. Questions? We should note that the current Medicaid plan does have a family planning section. [LB452]

SENATOR CONRAD: Absolutely. [LB452]

SENATOR CAMPBELL: I can remember standing on the floor reading that and having senators come up and go, I had no idea. [LB452]

SENATOR CONRAD: Right. [LB452]

SENATOR CAMPBELL: That we have a family planning portion to our state plan and what's in there, a lot of people don't take time to read it but it's fairly extensive. [LB452]

SENATOR CONRAD: It is, absolutely. And, you know, this really isn't controversial from that perspective; and I've had people ask me before, they say, oh, gosh, that's state-sponsored contraception, I'm very nervous about that. Well, headline, news flash, we have state-sponsored contraception. (Laugh) So the choice is whether or not we expand eligibility for those services that are currently being provided so that we can again treat the people in need of treatment and capture significant cost savings for the state, which, if the committee seems like they have a willingness to move forward on these issues, I would even be willing to entertain a potential amendment that would redirect those funds back into the Medicaid program, which is something that we're always looking to shore up. [LB452]

SENATOR CAMPBELL: Any other questions? Thank you, Senator Conrad. [LB452]

SENATOR CONRAD: Thank you. [LB452]

SENATOR CAMPBELL: All right. We're going to call for proponents. Senator Conrad was right. (Laughter) Good afternoon. [LB452]

ROBIN SUMMERS: (Exhibit 18) Good afternoon. Madam Chairwoman, members of the Health and Human Services Committee, good afternoon. My name is Robin Summers, R-o-b-i-n S-u-m-m-e-r-s. I'm senior policy director at the National Family Planning and Reproductive Health Association in Washington, D.C. For your information, we're a national membership organization that represents many of the nation's publicly funded and other family planning providers. I'm pleased to be here today to speak with you about the importance of LB452, and I respectfully request that my written statement be submitted for the record. Expanding Medicaid eligibility for family planning has been highly successful in combatting unintended pregnancy and saving public dollars in 31 states. Medicaid's...well, I'm going to call SPAs, because we like to call them that, are not duplicative of the Affordable Care Act's coverage expansion, but are, in fact, a complement to it that will help states meet what is sure to be a growth in healthcare demand. Today I'd like to make five key points about why a Medicaid family planning SPA is a cost-effective means of providing essential health services during and post-ACA implementation and a good investment for Nebraska. Although the ACA will expand insurance coverage to millions, we know from Massachusetts, a state that is several years further down the road in healthcare reform, that even with universal coverage there will still be significant coverage gaps. One reason for these gaps is that some individuals will not have health insurance coverage because they are cycling on and off of insurance due to changing life circumstances. Either they lost their job, their income level fluctuates, they got married or divorced, all of which can affect someone's

insurance eligibility and status in a process known as "churning." These are people our member healthcare providers see every day. It's the woman in her early thirties who lost her job and with it, her employer-sponsored coverage or her ability to pay for the insurance coverage that she was paying for out-of-pocket. Or it's the woman in her twenties who works two retail jobs whose hours and, therefore, monthly income fluctuate depending on how good business is. Medicaid planning SPA would help ensure continuity of care for these individuals. Another benefit of the family planning SPA is that while eligibility for full benefit Medicaid and the Affordable Care Act subsidies to purchase commercial insurance are based on family income, Medicaid family planning SPAs often allow individuals to qualify for services based on their own individual income. So this means that an individual who might not otherwise be eligible for Medicaid coverage because her family income is too high--so, for example, her husband makes too much money--could still be eligible to receive family planning services through Medicaid state plan amendment...family planning state plan amendment. Additionally, even with the Affordable Care Act's requirement that new commercial insurance plans cover a range of women's preventive health services, including all FDA-approved methods of contraception, women may not have access to the contraceptive methods most effective for them to prevent pregnancy. Current rules regarding this requirement gives some flexibility to insurance plans and states which are doing things like tiering services so they're limiting what patients can access to generics or certain brands, or they're even excluding certain methods such as IUDs and other long-acting contraceptive methods. Medicaid family planning SPAs provide a broad range of contraceptive method options helping to ensure that women can choose the right method that's most effective for them. Finally, full...actually, not finally, second from finally. Full implementation of the ACA will take years. It's estimated that the national participation rate for the ACA's Medicaid expansion will be 57 percent, meaning that roughly 43 percent of those eligible for full benefit coverage will not be enrolled into Medicaid. Medicaid family planning SPAs ensure the continuity of services and supplies necessary to prevent unintended pregnancy while people are being enrolled into coverage under the ACA. And now, finally, a Medicaid family planning SPA will save Nebraska money. According to a 2011 projection from the Guttmacher Institute, a Medicaid family planning SPA would save $8 million a year by enrolling about 19,000 people into coverage. The fiscal note shows an even greater savings and expansion, as was already outlined. The other thing I should point out is that since Medicaid is a payer of last resort, the SPA would only pay for services that are not otherwise paid for, so there is no duplication. Implementing a Medicaid family planning SPA would give Nebraska's healthcare providers a critical tool to help provide essential healthcare services to women and men in need, leading to a healthier state while saving taxpayer dollars. Thank you for having me here today, and I look forward to answering your questions. [LB452]

SENATOR CAMPBELL: Thank you, Ms. Summers. Questions? Senator Krist. [LB452]

SENATOR KRIST: No, go ahead. [LB452]

SENATOR CAMPBELL: Senator Cook. [LB452]

SENATOR COOK: Thank you, Madam Chair. And thank you for your testimony. Senator Conrad made reference to saving such as...as I'm recalling, 1 percent toward our TEEOSA state aid. How soon could a state like Nebraska realize those sorts of savings that you're making reference to? Can you give us maybe an example from another state or... [LB452]

ROBIN SUMMERS: Sure. Thank you for the question, Senator. You know it varies from state to state. Our experience with predominantly originally family planning waivers, which was the method since the 1990s that has been used to do these expansions of eligibility for family planning and now the state plan amendments, which I should also note, the authority for state plan amendment for family planning was authorized in the Affordable Care Act. So certainly Congress contemplated that there would be some working together of these programs. But on average, it's usually about a one-and-a-half to two years. It can vary. Sometimes a little earlier, sometimes a little later; but basically, you're waiting for sort of the ramp up, people to get enrolled in the coverage. And then, obviously what you're waiting for is the reductions in unintended pregnancy and lower rates of births resulting from those unintended pregnancies. [LB452]

SENATOR COOK: Okay. Thank you. [LB452]

SENATOR CAMPBELL: Senator Krist. [LB452]

SENATOR KRIST: Two questions. Does any other Medicaid funding at all fund an actual abortion procedure? [LB452]

ROBIN SUMMERS: No, Senator, it does not. [LB452]

SENATOR KRIST: Okay. And then, the second question is, according to the fiscal note, at least from the department, that CMS requires states to provide at least one family planning related service, for instance, treatment of STDs in addition to the family planning. So, I think it's miswritten, but I understand the intent here is that you just can't go in and do family planning, that the CMS requires the states to offer it in conjunction with another service. And I apologize if that was in Senator Conrad's opening, but is that true, and how many states are actually...I mean, if the CMS says you have to do it, you have to do it. [LB452]

ROBIN SUMMERS: Right. So thank you for the question and actually it gives me an opportunity to clarify something. So the Affordable Care Act, the way that the SPA authorization is written, it does require that they provide family planning and family

planning related services. What CMS has done, it said you must provide family planning services and at least one...we don't care what...family planning related service; and they give sort of a long list of examples of the kinds of services that you can do. You can do as few or as many as you would like as long as you do at least one of those related services. Family planning waivers have a long history of doing both family planning and family planning related services. I actually, offhand, do not know of any waivers that only do family planning services explicitly. I believe all of them do, or at least most of them do at least some related services. All the state plan amendments do family planning plus family planning related services. [LB452]

SENATOR KRIST: So, for the record, obviously the state plan would have to incorporate a list of things that are eligible for those other services that would have to be done in conjunction with family planning if it's going to be funded. [LB452]

ROBIN SUMMERS: That's correct, Senator. Have to at least have one listed service that it was going to do in addition to family planning service. [LB452]

SENATOR KRIST: Okay, great. Thanks for coming. [LB452]

ROBIN SUMMERS: Thank you. [LB452]

SENATOR CAMPBELL: Senator Crawford. [LB452]

SENATOR CRAWFORD: Thank you, Senator Campbell. Just a follow-up, could you give us a few examples of what those family planning related services would be? [LB452]

ROBIN SUMMERS: Sure. This is the one that I always get confused about. STI treatment tends to be one of the biggest ones. So this is where a situation where, you know, you come in for a family planning visit, you come in to get a contraceptive method, you have an STI that's diagnosed at the time, you come back for treatment. The treatment portion that you come back for later would be considered a family planning related service because the original STI was diagnosed during the original family planning visit. That's one of the biggest ones that folks do. HIV screening is technically considered a family planning related service. I know some states do things like colonoscopies and they do more extensive, different kinds of public procedures and those kinds of things. So it's a pretty wide variety, and I could actually get you...I don't have the full list in front of me, but there's a full list from CMS that has sort of the different types of things, and I'd be happy to follow-up and provide that. [LB452]

SENATOR CRAWFORD: That's very helpful. Thank you very much. [LB452]

ROBIN SUMMERS: Sure. [LB452]

SENATOR CAMPBELL: Ms. Summers, that doesn't have to be a new service, does it? [LB452]

ROBIN SUMMERS: I'm sorry, I don't understand. [LB452]

SENATOR CAMPBELL: Well, if you're already providing something under your family planning state...in your state plan, does that count? [LB452]

ROBIN SUMMERS: Yes, so the...what the ACA language requires of the SPAs in the way that CMS has interpreted it is that the family planning services are the same services that you are already providing in your state's Medicaid program. [LB452]

SENATOR CAMPBELL: Got it. [LB452]

ROBIN SUMMERS: It's the exact same services. [LB452]

SENATOR CAMPBELL: Got it, because that's something that if you're not sure about it, you ought to take a look at our state plan. Okay. Senator Howard. [LB452]

SENATOR HOWARD: Thank you, Senator Campbell. Thank you for your testimony. I am a little confused because we've heard from our state Medicaid director that waivers and state plan amendments are really burdensome administratively and so in looking at this, this doesn't seem very burdensome. And so, I guess, could you speak to the administrative burden of a waiver versus a state plan amendment and maybe why this one seems a little bit simpler to me? [LB452]

ROBIN SUMMERS: Because, you know...thank you for the question because frankly that was one of the reasons that we actually...my organization and other organizations in Washington pushed to get the authorization for a state plan was to alleviate that burden on the states. Waivers are very burdensome. They historically have been very difficult. I know of one state that took over four years to get its family planning waiver approved because they kept going back and forth. Waivers have no time requirements on CMS, whereas, state plan amendments do. There's a clock that starts tickling as soon as you've submitted the application. It's a much simpler process; and once you've done a state plan, you're done. You don't have to keep renewing waivers, typically. You authorize for three years the first time and then you do five-year renewals. You know, one of the other issues right now is that waivers actually right now are not authorized past the end of this year. There is no family planning waiver that is authorized past the end of this year. And that goes through actually for some other waivers as well. You know, CMS has been focusing a lot, obviously, on ACM implementation. State plan amendments don't have any such restriction. They will continue forward beyond this year. So, but yes, the state plan amendment application that CMS put together as sort

of a template is much more straightforward, much simpler, much less burdensome. And as I said, once you're done, you're done. [LB452]

SENATOR HOWARD: Thank you. [LB452]

SENATOR CAMPBELL: CMS is also trying to push state plan amendments, rather than waivers. [LB452]

ROBIN SUMMERS: They are. [LB452]

SENATOR CAMPBELL: And all across, not just in family. They're just saying, folks, this is a lot easier, do it this way. [LB452]

ROBIN SUMMERS: They would prefer to do it because with waivers they have to do budget neutrality. You know, all demonstration waivers are required to be budget neutral and prove that neutrality and the formulas for that are very difficult even though we know, historically, that family planning expansion programs are very much money savers, they're still a formula and you have all these things to try to...all these sort of hoops to try to jump through. So frankly, CMS doesn't want to deal with it either. They would much rather deal with state plan amendment. [LB452]

SENATOR CAMPBELL: Okay. Anything else? Thank you for coming and thank you for your testimony. [LB452]

ROBIN SUMMERS: Thank you for having me. [LB452]

SENATOR CAMPBELL: Our next proponent. Good afternoon. [LB452]

TRACY DURBIN: (Exhibit 19) Good afternoon, Senator Campbell and members of the committee. My name is Tracy Durbin, T-r-a-c-y D-u-r-b-i-n. I'm representing the Nebraska Chapter of the National Association of Social Workers in support of LB452. It proposes a policy that's good for low-income women and men who need access to reproductive healthcare. It's a policy that's good for all taxpayers. The NASW code of ethics states that social workers promote clients' socially responsible self-determination. This is an important aspect of what we as social workers are taught and it's what leads us to support LB452. Family planning encompasses several different services, but my remarks today will focus on the impact of unintended pregnancies. Unintended pregnancy mainly results from the lack of access to effective contraceptive methods, or the inconsistent or incorrect use of effective contraception. The U.S. unintended pregnancy rate is significantly higher than the rate in many other developed countries. Total public expenditures for births resulting from unintended pregnancies nationwide were estimated to be $11.1 billion in 2006. Of that, $6.5 billion were federal expenditures and $4.6 billion were state expenditures. Unintended pregnancy is

associated with the increased risk of problems for the mother and child. If a pregnancy is not planned before conception, a woman may not be in optimal health for childbearing. For example, a woman with an unintended pregnancy could delay prenatal care that may affect the health of the baby. Both unintended and unwanted childbearing can have negative health, social, and psychological consequences. Health problems include greater chances for illness and death for both mother and child. In addition, such childbearing has been linked with a variety of social problems, including divorce, poverty, child abuse, and juvenile delinquency. In one study, unwanted children were found less likely to have had a secure family life. As adults they were more likely to engage in criminal behavior, be on welfare, and receive psychiatric services. And unintended pregnancies also can lead to abortion. In 2011, 52 percent of the women who had abortions said they had not been using contraception during the time that they became pregnant. To summarize, there's substantial documentation on the serious health, social, psychological, and economic consequences of unintended and unwanted childbearing. These consequences can include increased maternal and infant death and illness, unstable marriages, and the restriction of educational and occupational opportunities leading to poverty and limited roles for women. These adverse effects are not shared equally by all segments of society, and in the United States fall more heavily on those who are poor, young, or members of an ethnic minority group. For these reasons, it's prudent for the Legislature to do everything possible to ensure that low-income Nebraskans have access to reproductive healthcare, which is important to every aspect of their lives and to society at large. I urge you to take the necessary steps to implement the policy proposed in LB452. Thank you. [LB452]

SENATOR CAMPBELL: Thank you, Ms. Durbin. Are there questions from the senators? Okay. Thanks for your testimony today. [LB452]

TRACY DURBIN: (Exhibit 20) I'd also like to take this opportunity to turn in the written testimony for Nebraska Appleseed who was not able to be here. [LB452]

SENATOR CAMPBELL: Okay. And Kaitlyn will be glad to help you with that. Our next proponent. Good afternoon. [LB452]

CAROL RUSSELL: (Exhibit 21) Good afternoon, Chairman Campbell and members of the Health and Human Services Committee. My name is Carol Russell. I'm a past board member of the March of Dimes, Nebraska Chapter, and serve... [LB452]

SENATOR CAMPBELL: Ms. Russell, you have to spell the... [LB452]

CAROL RUSSELL: Oh, C-a-r-o-l R-u-s-s-e-l-l. Sorry. I am a past board member of the March Dimes, Nebraska Chapter, and serve on their public affairs committee. As you may know, the March of Dimes is a voluntary health organization dedicated to improving the health of women of childbearing age, infants and children, by preventing birth

defects, preterm birth, and infant mortality. Access to health coverage is critical to achieving these goals. We strongly believe that healthy pregnancies and healthy babies start with planned pregnancies. The March of Dimes is a strong supporter of the expansion of the Nebraska Family Planning Amendment, LB452. We believe this expansion saves money, and more importantly, saves lives. The March of Dimes recognizes Medicaid as an important partner in improving maternal and child health. Some state Medicaid programs are and have been particularly effective in supporting healthy pregnancies and improving birth outcomes for high-risk pregnant women. We have learned from these state programs and can use their innovations to achieve better birth outcomes. A central purpose of family planning is to promote optimum health of mothers-to-be and their babies, starting before pregnancy. Family planning information and services help prospective parents to make informed decisions about the timing and spacing of childbearing. This is especially important for women at medical risk or those wishing to modify risky lifestyle factors before conception. In 1993, Rhode Island pioneered an expansion of Medicaid family planning benefits by extending family planning and primary care coverage from 60 days to up to two years for women who had delivered a baby on Medicaid. This increased access to family planning cut in half the number of women who delivered another baby within 18 months of a previous pregnancy, and helped to reduce infant mortality among Medicaid infants. Short interval pregnancies and unintended pregnancies are risk factors for preterm birth and other poor birth outcomes. In the first three years, Rhode Island saved $14.3 million in Medicaid expenditures. Unintended pregnancies continue to be a serious health concern in the United States. Nationally, 49 percent of births to 18- to 44-year-olds can be classified as unintentional. In Nebraska, approximately 40.9 percent of pregnancies are unintended. Nebraska currently ranks 51st in making family planning services available and 49th in the nation for providing funding for this issue. Access to and use of family planning services is an integral part of reducing the number of unintended pregnancies. The March of Dimes recognizes the value of preconception and interconception healthcare and family planning in reducing the risks of birth defects, low birthweight, prematurity, and infant mortality. We believe that providing comprehensive Medicaid family planning services to low-income women in Nebraska will reduce our rates of unintended pregnancy, improve health outcomes of mothers and their babies, and reduce costs to Nebraska taxpayers. In closing, thank you for your service and your dedication to our great state. I would be happy to try to answer any questions that you might have. [LB452]

SENATOR CAMPBELL: Thanks, Mrs. Russell. Are there any questions from the senators? Thanks. [LB452]

CAROL RUSSELL: Thanks. [LB452]

SENATOR CAMPBELL: Okay, our next proponent. [LB452]

KORBY GILBERTSON: (Exhibits 22 and 23) Good afternoon, Madam Chair, members of the committee. For the record, my name is Korby Gilbertson. It's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today as a registered lobbyist on behalf of the Family Planning Council of Nebraska, but it's under another name, Nebraskans for Public Health Funding, which is made up with the members of the Family Planning Clinic in Nebraska. I handed out a couple of things to you today. One is prepared testimony that Laura Urbanec from Grand Island, she's the executive director of Central Health Center in Grand Island and also the president of the Family Planning Council. She had planned to come today and, unfortunately, was ill and unable to do so, so she asked me to submit her testimony and this handout. I think we've talked...for a lot of you this is not the first time we have heard this issue; and so I thought, though, for the people that have not been members of the committee in the past might appreciate some of the history behind this issue. And I won't go into great detail, but I thought it might be helpful. First of all, I did notice when I was doing this this morning, I didn't have to wear these glasses when I was doing this when we first began. (Laughter) Back in 2005, the Health and Human Services Committee fostered a proposal that there would be a committee, referred to as the Medicaid Reform Task Force, to look into what could be done to reduce Medicaid costs in the state. The committee, or the task force, was formed and chosen by the governor and the chair at the time, which was former Senator Don Peterson. It included the presidency of Blue Cross Blue Shield of Nebraska, representatives from Creighton Medical Center, the University of Nebraska Med Center, and last but not least, Senator Campbell served as the vice chair. The task force met for a number of months and developed a list of recommendations regarding what could be done to help reduce the amount of Medicaid expenses for the state. One of those recommendations was to investigate whether a family planning waiver would benefit the state of Nebraska. While I was reviewing the transcripts from previous years' hearings on this issue, I found one statement rather compelling. In response to a question regarding the state being more proactive from Senator Gloor, former-Senator Don Peterson, chair of the Medicaid Reform Task Force, stated: we have tried to be proactive, but this requires the cooperation and actions by the government of the state of Nebraska in order to facilitate this program. So I'm sorry it has to come here as a bill, but we have asked politely that they take a look into this--I think there's a word left out--and we have received no response. And I just think that it's not a good way to run an organization like this, and it's very frustrating for the members of the council who have studied these issues and come out with a suggestion, and it's totally ignored. I think Senator Howard kind of asked a question along that line about what had gone on in the past about these amendments. Then in 2009, LB370 was introduced by Senator Conrad and that would have required application for the Medicaid waiver, which we've already discussed the differences between the waiver and the state plan amendment, so I will not do that again. Unfortunately, LB370 was not advanced from committee. And in 2002, LR542 was introduced by the...I believe it was Executive Board to require the Executive Board and all the standing committees of the Legislature to look at cost-saving measures in light of the impending budget issues that were facing us that

year. And it also required...or asked that the committees introduce legislation to help facilitate those recommendations. So in 2011, Senator Campbell introduced a series of bills which included LB540. LB540 would have required HHS to either apply for a waiver or SPA. It was happily advanced to (sic) committee and made it as far as Select File before we got weighed down with the committee...or with priority bills, and the bill was not discussed any further. Ms. Russell talked a little bit about where states...where Nebraska ranks as opposed to other states. She talked about how we rank 51st in making family planning services available and 49th in funding. But we also rank number one in STDs in this state in Douglas County. I think that these are numbers that at least alarm me, and I hope they alarm you. Legislation like LB452 can help prevent this by providing more access to coverage. It doesn't just cover birth control, and it's not just an issue about birth control and abortion. It's an issue about basic preventative healthcare, and I hope that we can steer the conversation about this to that in the future. I'd be happy to try to answer any questions. [LB452]

SENATOR CAMPBELL: Questions? Senator Krist. [LB452]

SENATOR KRIST: Part of your testimony is a part of my personal frustration. The only way that we're going to see any movement in taking care of people with the Medicaid money and Medicaid funds, is either change of director or change of administration or both. And I've said that openly in this committee before. So we have all great ideas in the world around this table. We hear all the public testimony we can, but if the director doesn't want to file what she needs to file, or follow up on what she needs to follow up on, it's not going to happen. So, and I know you share that frustration. [LB452]

KORBY GILBERTSON: And...yeah. [LB452]

SENATOR KRIST: I make that point, though, in the fact that I don't see anybody here from the department to testify one way or another again, and I can't make heads or tails out of this fiscal note because it doesn't make any sense to me, so. [LB452]

KORBY GILBERTSON: Senator Krist, I'm glad you said that because it reminded me, it takes me back to what Senator Howard asked about HHS saying they didn't look into it because things were rather cumbersome. I remember as far back as 2008, 2009, when we would approach the department and ask why we couldn't do something, at least look at it, look at the cost benefit. Their simple response was, anything that could have the potential to expand Medicaid, we will not even look at. And it was just a blanket no. And that, very honestly, is why this legislation is necessary. [LB452]

SENATOR KRIST: So, again, for the record, I may stand on different sides of the fence on contraception and all the rest of it, and I know you know that; but the best idea in the world is not going anywhere unless we are able to do something, and I thank you for your comments. [LB452]

KORBY GILBERTSON: Thank you. [LB452]

SENATOR CAMPBELL: Any other questions from senators? Senator Howard. [LB452]

SENATOR HOWARD: Thank you, Senator Campbell. And you may have answered my question already; but I was just wondering if it's gotten as far as Select File, I don't understand...can you talk about the opposition to this throughout the years? [LB452]

KORBY GILBERTSON: As you can imagine, as with any issue that has to do with reproductive rights in the state, it tends to take on a life of its own. There have been a number of bills not specifically related to having a state plan amendment, but even issues insofar as funds for family planning. We've had repeated attempts to try to take money away from the family planning clinics. You're all free to look at the legislative history. My name was drug through the mud a few times when there was a specific bill to take money away and give it only to local health departments. And it came out in an e-mail that was sent bragging about the taking of the money from the family planning people. That bill then was immediately killed on the floor. That's the problem, I think. It turns into a debate about abortion and access to birth control. And that's why I asked, if you take a look at this pamphlet especially, this comes from HHS, on the back of it, it lists all the different things that are done by family planning clinics. This is not just about access to birth control, but access to a lot of other very important services that the less fortunate in our state need to have access to. [LB452]

SENATOR HOWARD: Thank you. [LB452]

SENATOR CAMPBELL: Senator Howard, we also ran into the issue of the fact that by CMS ruling, you get to choose who your Medicaid provider is, and that was an issue. Would you say that's... [LB452]

KORBY GILBERTSON: I think that was an issue, but we had...but then, these funds now go to anyone who applies for them. In years...years and years ago when we first got money for family planning clinics when I believe it was when Ben Nelson was Governor, those funds were directed only to Title X clinics. And now, any provider can access those funds, so that issue should be put to bed. [LB452]

SENATOR CAMPBELL: Okay. Thank you. [LB452]

KORBY GILBERTSON: Thank you. [LB452]

SENATOR CAMPBELL: Our next proponent? Anyone else? Okay. Those in opposition to the bill? Good afternoon, again. [LB452]

NANCY RUSSELL: (Exhibit 24) Good afternoon. Nancy Russell, R-u-s-s-e-l-l. Again, I object to the term "health" in connection with oral contraceptives. Progestin/estrogen is not a healthy component of drugs. Witness the cancer warnings to postmenopausal women on estrogen therapy. The warning on the maligned patient information sheet that I gave you earlier, do not use if you smoke and are over age 35. Health damage from these drugs will be expensive down the road medically. This bill also requires citizens who object to contraceptives as a matter of conscience rights to finance them through taxation. Contraceptives greatly benefit pharmaceutical companies who lobby mercilessly for their use. State and federal budgets are in crisis mode, and I think it's irresponsible to add this to their burden. I have, myself, had 13 unintended healthy pregnancies. I consider myself to be healthy at the age of 75. A person dear to me who received estrogen therapy is dying of uterine cancer at the age of 68. Don't ask about her medical costs. Birth control pills fuel STDs especially among young people who feel confident that they're protected, and I really believe that this is the reason why the STDs are such...or the sexually transmitted diseases are going through the roof. Have any questions? [LB452]

SENATOR CAMPBELL: Okay. Any questions for Ms. Russell? Thank you for your testimony. [LB452]

NANCY RUSSELL: Thank you. [LB452]

SENATOR CAMPBELL: Good afternoon, again. [LB452]

GREG SCHLEPPENBACH: (Exhibits 25, 26 and 27) Good afternoon, again. Senators, thank you for allowing me to testify. My name is Greg Schleppenbach, S-c-h-l-e-p-p-e-n-b-a-c-h, here on behalf of Nebraska Catholic Conference in opposition to LB452. The Conference believes there are significant moral, social, and health implications to this bill; and we also believe that there are serious flaws in one of the primary arguments propelling it, the cost savings to the state. The cost savings argument asserts that if Nebraska expands government funding for contraception, two results will occur. More women in the target population will use contraception; and two, as a result, fewer pregnancies will occur in this population which ultimately results in a cost savings to our state by reducing the number of births that would otherwise be paid for by Medicaid. To substantiate the argument, proponents point to studies like a 2004 study commissioned by the Centers for Medicaid and Medicare, CMS. The study examined six states that already implemented the Medicaid waiver to expand contraceptive coverage and claims that all six states experienced a net cost savings by reducing the number of pregnancies and births that would result without expansion of contraception. A critical examination of this study, however, reveals that the study's conclusions are based entirely on estimates and assumptions, not empirically-based data. The study simply uses a formula to estimate how many women may avail themselves of this new source of contraception, and how many pregnancies may be

averted as a result. The formula makes two assumptions: that the problem driving unintended pregnancies is inadequate access to contraception and, two, that increased access to contraception will result in increased use and fewer pregnancies. The first assumption is undermined by studies showing that few women forego contraception due to cost or availability. For example, an Alan Guttmacher study, which I've handed out to you, of sexually active women found that only about 12 percent cited the high cost or lack of availability as their reason for not using contraception. Similarly, a January 2012 Centers for Disease Control study of 5,000 teenage girls who gave birth after unplanned pregnancies, also in the handout I gave you, found that only 13 percent had trouble accessing birth control. The second assumption is undermined by the facts of the CMS study itself. The study admits that not every state in the study experienced an increase in family planning use, and only two of the six states appeared to experience a reduction in unintended pregnancies. How can the study credibly claim that all six states saved money by averting births due to better access to contraception when not every state even experienced an increased use of contraception, and four of the six states did not experience a decline in unintended pregnancies? This strains credibility. The assumptions in the CMS study that easier access to contraception results in fewer pregnancies might be more compelling if there was significant empirical research to back it up. On the contrary, most studies--and these are studies I passed out at the last hearing, and I might point out that these are studies conducted by proponents of family planning, not opponents--demonstrate that greater access to contraception does not reduce unintended pregnancies and abortions. I've listed some of them in my testimony. There's also a growing body of social science research linking contraception to an increase in social pathology and poverty. Brad Wilcox, a sociologist at the University of Virginia, has examined the work of several leading scholars who argue that contraception played a central role in launching the sexual and divorce revolutions of the late twentieth century. For example, Robert Michael at the University of Chicago has argued that about half of the increase in divorce from 1965 to 1976 can be attributed to, quote, the unexpected nature of the contraceptive revolution, unquote, especially in the way that it made marriages less child-centered. Likewise, Nobel prize winning economist George Akerlof at the University of California at Berkeley argues that the availability first of contraception and then of abortion in the 1960s and 1970s was one of the crucial factors fueling the sexual revolution and the collapse of marriage among the working class and the poor. I might point out that these are social scientists who don't agree with the Catholic church and conservatives on this issue. They're just good social scientists who follow where the evidence leads. Finally, another concern we have about expanding the use of our tax dollars for contraception is the fact that many forms of contraception can cause early abortions. As the product insert in any package of hormonal contraception spells out, these drugs work in three different ways. Number one, by preventing ovulation; two, by preventing fertilization if ovulation occurs; and three, by preventing implantation of an embryo in the womb if fertilization occurs. That third mode is an early abortion. For these reasons, Senators, we urge you to oppose LB452. Thank you. [LB452]

SENATOR CAMPBELL: Thank you, Mr. Schleppenbach. Questions from the senators? Thank you very much for your testimony. Our next opponent? Okay. Anyone who would like to testify in a neutral position? Okay. Senator Conrad, did you wish to close? [LB452]

SENATOR CONRAD: Thank you, Senator Campbell. Thank you, members of the committee. Thank you to all who came forward today to share their ideas on this important legislation and, particularly, I do want to thank Ms. Gilbertson for updating this committee with a good review of the long and rich history this topic has enjoyed before this body. It is, by no means, a new issue to the Nebraska Legislature, but it may be a new issue for some new members. So I definitely thank you for your kind consideration and attention, and I think it's important to note as we move forward again this isn't about abortion at all. This is about prevention. This is about healthcare. This is about cost savings, and we are all entitled to our own opinions, but what we're not entitled to is our own facts. And our legislative Fiscal Office is our gold standard for determining what the cost savings of any piece of legislation may be. As you know, they are nonpartisan, they are unbiased, and I stand by their fiscal note as I hope that you will give it great weight in your consideration of this important issue. [LB452]

SENATOR CAMPBELL: Senator Krist, I know you wanted to come back to this. [LB452]

SENATOR KRIST: The fiscal note...the numbers are about the same. The fiscal note on legislative fiscal relates to about $15 million, okay. And then if you go back to the department, they also relate to $15 million, but I've never seen the word "aid" in one of these bottom lines. Do you have a copy of it? I'm sorry. [LB452]

SENATOR CONRAD: Yes. [LB452]

SENATOR KRIST: Just flip it over to the back and completely to the backside. [LB452]

SENATOR CONRAD: Yes, yes. [LB452]

SENATOR KRIST: And on the tally sheet, it shows me benefits, operating, travel, capital aid in capital. Have you ever seen that? I mean you're on Appropriations, that... [LB452]

SENATOR CONRAD: Right. You know, we always take a look at the fiscal notes provided by the various state agencies, but we utilize the fiscal notes provided by the Fiscal Office as what we use in consideration of any given piece. And to be clear, I don't know if the department has passed around a letter. They did provide one to my office in opposition to this legislation right beforehand. We'd be happy to give copies of that out if need be. But, Senator Krist, your original point, I appreciate and share your frustration,

whether it's ACCESSNebraska, this issue, or any other significant policy issue, it's very frustrating to continue to work together in a comprehensive, bipartisan, consensus-driven manner and to pass legislation to improve the delivery of our public benefit systems for the citizenry of our state only to see those efforts thwarted by an administration that has yet to (laugh) explain those actions, but... [LB452]

SENATOR KRIST: Well, and I guess my point and I'll just kind of wrap it up for me. [LB452]

SENATOR CONRAD: Sure. [LB452]

SENATOR KRIST: I mean, what I try to do when I look at these fiscal notes because we see a lot of them come in from the department, is try to rationalize through and lend creditability to one or discredit another one based upon the relationship between the two. And I know that's not how you guys always operate over there because I do trust the legislative, don't get me wrong. But it seems to me that they're...the question, I guess, that I would ask and I see your legal counsel writing it down now, your LA, but the question I would like to ask is, what is their definition of aid? Is it the Medicaid funds that we're talking about deferring, because it would help me understand? [LB452]

SENATOR CONRAD: I think the answer to that is yes. [LB452]

SENATOR KRIST: Okay. [LB452]

SENATOR CONRAD: I wouldn't know what other context it would be offered with it. [LB452]

SENATOR KRIST: Yeah, and I don't know either. Okay, thank you, Senator. [LB452]

SENATOR CAMPBELL: Any other questions? Thank you, Senator Conrad. [LB452]

SENATOR CONRAD: Great. Thank you. [LB452]

SENATOR CAMPBELL: And that concludes our hearings for the day. (See also Exhibits 28-32.) [LB452]