

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 12, 2019

BOLZ: To get us started this afternoon, I am Senator Kate Bolz. Welcome to the Appropriations Committee hearing. I'd like to start off by having members do self-introductions starting with Senator Erdman, please.

ERDMAN: Thank you, Senator Bolz. Steve Erdman, District 47, 10 counties in the Panhandle.

CLEMENTS: Senator Clements, from Elmwood, District 2, Cass County, and parts of Sarpy and Otoe County.

McDONNELL: Mike McDonnell, LD5, south Omaha.

WISHART: Anna Wishart, District 27, west Lincoln.

VARGAS: Tony Vargas, District 7, south Omaha and downtown.

DORN: Myron Dorn, District 30, all of Gage County and the southeast fourth of Lancaster.

BOLZ: Assisting the committee today is Brittany Bohlmeier, our committee clerk. Our page today is Cadet Fowler, he is studying film studies at the University of Nebraska-Lincoln. At each entrance you will find cream testifier sheets. If you are planning to testify today, please fill out a sign-in sheet and hand it to the committee clerk when you come up to testify. If you will not be testifying on the microphone but want to go on record as having a position on a bill being heard today, there are white sign-in sheets at each entrance where you may leave your name and other pertinent information. These sign-in sheets will become exhibits in the permanent record at the end of today's hearing. To better facilitate today's proceedings, I ask that you abide by the following procedures: please turn off or silence your cell phones. Please move to the reserved chairs in the front row when you are ready to testify. Our order of testimony today will be introducer, proponents, opponents, neutral, and closing. Please spell your first and last name for the record before you testify. Please be concise. It is my request that you limit your testimony to five minutes. If the hearing goes long today we may adjust that at some point to three minutes, but we'll begin with five. Written materials may be distributed to committee members as exhibits only while testimony is being offered. Please hand them to the page for distribution to the committee and staff when you come up to testify. We need 12 copies. If you have written testimony but do not have 12

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copies, please raise your hand now so the page can make copies for you. With that, we'll begin today's hearing on LB642, creating the Brain Injury Trust Fund. Hi, Senator McDonnell.

McDONNELL: Thank you, Chairperson Bolz and members of the Appropriations Committee. My name is Mike McDonnell, M-c-D-o-n-n-e-l-l. I represent Legislative District 5 in south Omaha. I'm here today to present LB642, which proposes to adopt the Brain Injury Trust Fund Act by creating the Brain Injury Oversight Committee and the Brain Injury Trust Fund. The purpose of this legislation is to provide Nebraskans with much needed support to patients and families through resources, facilitation, training, education, public awareness, prevention, and research as it relates to victims of traumatic brain injuries. LB642 establishes the Brain Injury Oversight Committee which, "shall consist of nine public members and the following directors, or their designees: the Commissioner of Education; the Director of Behavioral Health of the Department of Health and Human Services; and the Director of Public Health of the Department of Health and Human Services." The nine public members shall be appointed by the Governor to include individuals with a brain injury or family members of individuals with a brain injury, a representative of a public or private health-related organization, a representative of a developmental disability advisory or planning group within Nebraska, a representative of service providers for individuals with a brain injury, and a representative of a nonprofit brain injury advocacy organization. LB642 further establishes the Brain Injury Trust Fund with the legislative intent to appropriate \$1 million from the Nebraska Health Care Cash Fund annually beginning the fiscal year 2020-2021 for purposes of carrying out the Brain Injury Trust Fund Act. The Brain Injury Trust Fund would be administered through a contract with the University of Nebraska Medical Center for administration, accounting, and budgeting purposes and used to pay for contracts for assistance to individuals with brain injury with outside resources that specialize in this area. These outside sources shall operate statewide and also in a targeted area with individuals who have sustained a brain injury. Such outside sources will additionally work to secure and develop community-based services, provide support groups, and access to pertinent information, medical resources, and service referrals, and educate, educate professionals who work with brain-injury victims. As outlined on page 4 of this bill, expenditures from the fund may also be utilized for resource facilitation, voluntary training for services-- for service providers, follow-up contact, promotion of awareness, supporting research, providing and

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monitoring quality improvement processes, as well as data collection, and evaluation. Each of these critical components serve as a stepping stone towards treating and assisting current and future recipients of traumatic brain injuries. I will point out that no more than 10 percent of the fund shall be used for administrative purposes. Furthermore, it shall be the responsibility of the Brain Injury Oversight Committee to: one, provide financial oversight and direction to the University of Nebraska Medical Center in the management of the fund. Two, develop criteria for expenditures made from the fund. And three, represent the interests of the individuals with brain injury as well as their families through advocacy, education, training, rehabilitation, research, and prevention. Brain injury can happen to anyone, anywhere, at anytime. It is not an occurrence that anyone plans for. And far too often the extent of the injury can go undiagnosed for days, months, and even years leaving victims and their families or caregivers with profound consequences ranging from medical care and employment issues to financial burdens and emotional duress. Traumatic brain injury is, unfortunately, a common occurrence. It happens when least expected, and it comes with many dis-- disguises. A wide-range of accidents to include a blow or bump to the head, a fall, an assault, or a traffic accident can all cause brain injury. A sports-related injury diagnosed as a minor concussion can lead to much more substantial injury to the brain without proper care and follow-up treatment. Additional causes which can result in brain injury include: stroke, aneurysms, tumors, cancer, and infections. It is likely that each of us is in this room today can relate to a personal brain injury experience affecting someone we know or love, a family member, a friend, a neighbor, a colleague, a classmate, or perhaps even yourself. I became personally involved with this issue when I was made aware of the devastating consequences of the brain injury through a high school classmate of mine, Denise Gehringer. Denise is here today to share her personal experience on various levels, as well as her professional involvement as a brain-injury advocate. There are other individuals here who will be testifying in an effort to share their own perspectives both personally and professionally as well. I appreciate them being here today. In closing, I will reiterate the brain injury can happen to any of us, anywhere, at anytime. It only takes a split second to change our lives. I can't do justice to what these families have gone through, but I can ask for your support of this bill. LB642 takes a substantial step in educating, assisting, and supporting current and future brain-injury victims, as well as their

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families or caregivers in an effort to provide the best recovery possible. With that, I'm here to try to answer any of your questions.

HILKEMANN: Thank you, Senator McDonnell. Are there questions for Senator McDonnell? Yes, Senator Clements.

CLEMENTS: Thank you, Senator Hilkemann. Thank you, Senator McDonnell. As, as you were presenting that, I see that you're going to have this program run by the University of Nebraska Med Center, wondering why you picked them rather than have Health and Human, Health and Human Services?

McDONNELL: I think the partnership with the University of Nebraska Medical Center with, with their expertise, the ability with their, their research and, of course, their, their experience over the years, I believe it was a, a good fit.

CLEMENTS: All right, thank you.

HILKEMANN: Other questions? Senator Vargas.

VARGAS: Thank you very much, Senator Hilkemann. Hello, how are you?

McDONNELL: Good.

VARGAS: I have a couple of questions. Actually, just one main one. Over the summer we were studying a little bit more about the Health Care Cash Fund, and they expressed some concern that the-- just the general trend is that it's gonna become less sustainable over time. Can you just tell me a little bit more about-- you know-- I know, we're always looking for funds to then be able to fund-- you know, things that we're proposing like this. I'm a little concerned about the \$1 million coming from the Health Care Cash Fund knowing that that's something that we heard from this summer.

McDONNELL: In knowing a little bit of the history of the Health Care Cash Fund, and in 2001 in LB692 with the tobacco settlement money, knowing that there is going to be some-- it's going to be flexible based on how much money is going to be there on a yearly basis. But, I believe, last year there was-- it brought in \$34 million. I think with the intent of LB692 and with this fit, and the idea of how many people it can help across the state-- east, west, north, south, of all ages, I believe it's a great fit for the Health Care Cash Fund.

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VARGAS: And just remind me of the intent that this would be an ongoing expenditure in our budget from here on in?

McDONNELL: Yes.

VARGAS: OK. All right, thank you very much.

HILKEMANN: Senator Dorn.

DORN: Thank you, Senator Hilkemann. Thank you for bringing the bill, Senator McDonnell. My question-- part of reading this and everything it says that you kind of modeled this bill or you got parts of this bill from other states, I guess. Explain a little bit about maybe some others you were familiar with or how, how do you-- is that why this came forward?

McDONNELL: I, I don't think we should ever be too proud to steal a good idea. So if I can steal a good idea from another state I will. But actually the, the people that worked on this and put this together, not saying there's not parts of this that with ideas from other states, but basically it's coming from the, the people that have suffered themselves or their family members, and what they're coming forward with and asking us, and the areas they need, they need help in. But, yes, there's definitely things that have happened in other states, and, and I believe things they've done in other states that we're, we're borrowing some of their ideas.

HILKEMANN: Senator, you're, you're asking for \$1 million from the, the cash fund there. Are you looking at other avenues to fund this down the line? In other words, it's, it's gonna be an ongoing thing. But are we-- are there gonna be other ways for-- is this gonna be administered in such a way that it would be charities and so forth will be adding to this fund down the line? Do you, you, sir, tell me about that?

McDONNELL: We're, we're definitely not closing the door on a private-public partnership. But as the members of this committee know and, and I believe all the senators realize that we're in a situation right now where we're, we're looking at General Funds and at the time we felt this was a good appropriation of, of the current cash fund for the, the use of trying to help, help these people with the traumatic brain injuries.

HILKEMANN: OK.

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McDONNELL: But in the future are we gonna be looking for other funds? Absolutely. Is it a private-public partnership? Yes.

HILKEMANN: Um-hum. When it comes to brain injuries and head injuries as you well know, \$1 million doesn't go very far. What do you-- where do you see-- how many people do you see this fund helping out?

McDONNELL: I, I believe that-- you know, the first step of any, any journey is the first step. And, and the most important step is the first step. And with \$1 million, you're right-- we're, we're looking at a probably on a daily average in the state, probably one person per hour that this is happening to. And it's not-- there's some things that is going on, but we believe through this-- and, and part of it's preventive. We want to make sure that we're, we're doing everything we can and we've seen it on the national news with some of the sports with the idea, especially football. You're looking at how are they going to prevent injuries in the future? And those studies and, and the equipment, we should be looking at it in all aspects of our lives because it can happen to any of us at anytime, anywhere. With the idea of, of this fund and, again, taking that first step which I think sometimes is the most important step, is \$1 million gonna, gonna cure all the problems and stop? No, it's not. But with the idea of having a private-public partnership with the assistance of the University of Nebraska Medical Center with the passion and the experiences that these people have, have gone through and they have for helping their family members and their, their relatives and their neighbors, we have a great opportunity to make sure that we're plowing the ground, making sure that we at least have this, this committee which is appointed by the Governor with assistance. But the people from the state sitting on this nine-person committee and making sure we're listening to them, getting their, their feedback and understanding the problem. And I think sometimes we don't quite understand what the families are going through and the victims of, of this or of these injuries are going through.

HILKEMANN: Do you see this fund down the line being used for more direct care or more for research?

McDONNELL: Well, I think with the idea of that's why the committee is so important, and the committee that's gonna be overseeing part of the partnership with the University Nebraska Medical Center, is they're gonna give direction. That committee is gonna give direction to say, here we need a little bit more on education, on data gathering, on prevention. I-- that's what I think that's gonna be one of the best

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things about this. It's gonna be directed by people that have gone through this or their family members have. So they're gonna be our subject matter experts and they're gonna give direction on where, where do we go next? Where do we need more help? Is it in education? Is it in prevention? Is it in research? Is it in data collection? And I believe that's gonna be up to the committee.

HILKEMANN: You know, I didn't see it, and maybe I just missed it during your reading your testimony, is there an account-- does this committee have to make an accountability to our Legislature?

McDONNELL: Well, yes, any-- yes, the money will be, the money will be administered through the University of Nebraska Medical Center,--

HILKEMANN: Um-hum.

McDONNELL: --but the committee will oversee that, oversee the, the, the money with the partnership with the University of Nebraska Medical Center.

HILKEMANN: And do they have to report back to the Legislature? That committee?

McDONNELL: Well, yes, they will have to report back to us.

HILKEMANN: OK. Are there other questions for Senator McDonnell? Senator Vargas.

VARGAS: Just a couple logistical questions. Just trying to look up the statute here. So the section on the task-- the Oversight Committee-- I don't-- and you may not be able to answer this, maybe you can, that the public members of the committee-- this is page 3, first paragraph, "The public members of the committee shall be reimbursed, reimbursed for their actual and necessary expenses." Is that normal language that we include and, and committees for reimbursement like what are the limitations of that and just trying to make sure [INAUDIBLE]?

McDONNELL: Yes, I believe, I believe it's just normal language.

VARGAS: OK. And, and this is maybe building off a Senator Hilkemann's question on-- I don't-- so I wouldn't blatantly say I'm either for or against the task force. I think there's always a good reason to have a good task force or an oversight committee, and we've seen some of those where we're part of many of them. But for this committee, I, I didn't see-- maybe I missed it, is there a reporting mechanism to the

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Legislature that is providing some detailed report as to how the funds are being utilized? And the reason why I ask, is just-- and probably my second question-- some of the general purposes, the abilities of the fund-- just want to see if there's a report that is in the statute or could be-- you know, minimal to including some of that?

McDONNELL: Yeah, in any way we can to make the, the bill-- improve the bill or, or clarify the bill and if you look at, at page 2 of, of the bill-- you know, starting with, with line 7 it does break down exactly who the Oversight Committee will be and if, if there's a way to improve that with the annual report in a certain timeframe, I'm open to any suggestions on how to improve the bill.

VARGAS: OK, and I have one more question if I can, Senator Hilkemann?

HILKEMANN: Yes, Senator.

VARGAS: And maybe this might be for somebody that is coming and testifying in support after you, a little bit on page 4, I'm seeing some more about what expenditures from the fund it may include. I know we talked about what it wouldn't be able to include, which is only 10 percent limit on administration. But given its \$1 million, I'm trying to wrap my head around-- you know, how much money really goes to resource facilitation, volunteer training, public awareness, and if there's any, any conversation about how much should be going to some of those different pockets of work. What is really-- what we're seeing to be the most beneficial? And I don't know if there's examples of what that could look like, and that might be somebody behind you. If it is, I'll ask them.

McDONNELL: There's, there's definitely gonna be people testifying behind me, but you're talking about the, the training, the registration, the public awareness, the research, the monitoring, the data, and exactly how that money is gonna be divided up amongst those?

VARGAS: Well, just-- because it's \$1 million, and if we're given \$1 million-- technically the way this is written there can be-- you know, most of this can go to resource facilitation. The majority of it can go to promoting public awareness, which could be billboard, ad campaign. But that's what I'm assuming that's like one thing that we can-- that-- you know, tourism does that sometimes. But, I'm just trying to get a sense of what, what more this looks like so we're

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educating in the record what, what public awareness looks like in some of these different other components.

McDONNELL: Yeah, with the committee we definitely-- we covered the areas, and you're right to say that we decided that within this bill there's gonna be X percent to this area and X percent to this, we, have not.

VARGAS: OK. All right. Well, I'll look to learn a little bit more about what it could look like from some of the other testifiers. Thank you.

McDONNELL: Yeah.

HILKEMANN: Senator Wishart.

WISHART: And I, I apologize if this question is already being asked. First of all, thank you for bringing this bill. You know, \$1 million is a lot in a really tough fiscal year. Can you talk a little bit about it still being worthwhile if, if we funded at a lower amount?

McDONNELL: We are taking out of the Health Care Cash Fund.

WISHART: Yeah.

McDONNELL: And we talked a little bit about this, as Senator Hilkemann was asking, is really \$1 million-- what kind of impact is \$1 million gonna make? And I, I answered that question earlier with the idea that-- you know, sometimes our, our biggest and hardest step is our first step of, of accomplishing anything. So to say that \$1 million, a half a million dollars, 700,000, would I be willing to talk about that? Absolutely. Because we're trying to establish that's the importance of it-- the funding of it, is definitely at this point, do we need 30 million? Do we need 2 million, 5 million? We have to take that first step.

WISHART: OK.

HILKEMANN: Senator Erdman.

ERDMAN: Thank you, Senator Hilkemann. Thank you, Senator McDonnell. So, Senator McDonnell, I would assume every one of those cash, health cash fund has been spent now, right? Somebody gets to use those correctly, no?

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McDONNELL: Well, on a, on a yearly basis-- you're talking about the settlement with the tobacco industry with--

ERDMAN: Are those-- all those dollars all used up?

McDONNELL: No, it's, it's ongoing.

ERDMAN: But I mean annually, do we use all those up?

McDONNELL: I can't say how each dollar's been earmarked, but I can find out for you.

ERDMAN: The point I was trying to make is if they are now designated, designated to someone else, we'll have to make a decision who gets cut to make this \$1 million work. Would that be a fair assumption?

McDONNELL: If every one of those dollars have been earmarked, yes.

HILKEMANN: Other questions? Oh, yes, Senator.

DORN: I, I, I guess I was gonna-- my, my bill's up next and I'm not talking about my bill, but I think Liz prepared this, this summer maybe-- it says July of 2018. And I just, I just want to-- if I could, give a little bit about the Health Care Cash Fund. I'm trying to find the right line here. The balance as of June 30, 2018, was \$451.9 million. That-- reading through this and the report that Liz put together, it was created so that or part of the thing that they wanted to do with this was to not spend that down really, kind of like Mike said, 34 million or something. I don't know, something like that. There are about 23 agencies right now here that in the next two years will get funding from this totaling right at 62-- for over \$62 million. So it is getting spent just a little bit-- not just a little bit, it's getting spent faster than what it earns. Those are the numbers that are in this report that I had or whatever. So-- and, and that's just to bring those numbers out and let you know where they're sitting.

ERDMAN: Thank you.

HILKEMANN: OK. Senator McDonnell.

McDONNELL: Also, I'll make sure everybody gets a report now. My report's a little bit older than yours, but it's from the-- it's from 2016, it was LR517 interim study. And at that point there was \$356.8 million in the balance, and also in the Medicaid Intergovernmental

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Transfer Fund there was \$82.2 million, and then it breaks it down by where the money is being spent with the au-- auditor, the gamblers assistance, tobacco prevention, EMS technicians, Parkinson's Disease Registry, behavioral health, health. It's broke down in a number of areas, and I'll make sure every committee member gets a copy of that.

DORN: Yeah, yeah, and he is correct-- I, I, I was reading the one line from the Nebraska Tobacco Settlement Trust Fund which they incorporated three of them I think together now. That and Nebraska Medicaid Intergovernmental Trust Fund, that has \$25.9 million. And I know there was one more, but I don't see that in here right now without looking through. So there--

McDONNELL: OK.

DORN: --there's a group of three that were, I think, in the last several years put together and out of that they are allocating some funds throughout the years.

HILKEMANN: Are there other questions? Yes, yes, Senator Erdman.

ERDMAN: Thank you, Senator Hilkemann. So on page 5, it talks about that transfer of \$61 million, and we have been transferring 60 million before, and your bill says you're going to transfer 61 million, that's what the extra million is. So my question then is, that 60 million is transferred now is used by somebody, so the way to get more money is to transfer more of the 451 into that. Right?

McDONNELL: Yes.

ERDMAN: OK.

McDONNELL: Yes.

HILKEMANN: Other questions for Senator McDonnell at this time? Seeing none, thank you.

McDONNELL: Thank you.

HILKEMANN: Are there other proponents for LB642?

DENISE GEHRINGER: Good afternoon. My name is Denise Gehringer, D-e-n-i-s-e G-e-h-r-i-n-g-e-r. Ten-- this year marks the tenth year brain injury advocates have been pleading with our state leaders to recognize brain injury as a public health crisis. When will it be the

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turn of over 36,000 Nebraska citizens living with an invisible disability to be recognized as valuable and worthy? When will 9,000 new documented brain injuries per year be seen as a serious issue? When will brain injury supports be considered a responsibility of our state? I'm a parent of four sons, one who experienced traumatic brain injury at the age of 23 due to a car accident in the year 2013. After a month in a coma, four months inpatient in a rehabilitation facility, not in the city where we lived, two more months outpatient therapy travelling two hours each day, and when insurance covered therapy ran out, we were no longer connected with a facility or provider. We found ourselves in an empty void. We quickly discovered that Nebraska is not one of the 24 states that supports the citizens surviving brain injury. The state of Nebraska desperately needs funding allocated to support people with brain injuries to complete their integration back into the community and to find the supports and services they need to get back to being contributing members of society. Without the funding that LB642 would provide, the individual dealing with brain injury recovery is left floundering on a path of dependence. If the supports are in place, the person in recovery has a greater chance to get back to being a productive citizen, and the family caregivers can get back to their lives and work. I am a professional working in the developmental disability field in the Omaha metro area. I have another son who experiences intellectual disabilities and I have been engaged and connected for 23 years with therapists, educators, employment services, as well as many other supports for those with developmental disabilities. While providing care for my son who survived brain injury and his recovery, I was astonished to discover that the supports the state offered to people with developmental disabilities are not available for citizens that survive brain injury. Brain injury survivors are left to sink or swim, and that is determined oftentimes by happenstance or luck. Using connections that I had in the developmental disability realm, I sought and searched for supports and services for my son that was recovering from a brain injury and found it was an arduous undertaking and a full-time job. Without the connections I had to direct me to the services he required, I'm not sure my son would have had a successful recovery, gotten back to work, and on with his life. And he's doing well, he's, he's back to work and a taxpaying citizen. There are significant struggles to find supports and services after person with brain injury is discharged and no longer connected with the rehabilitation provider. Caregivers must take substantial time away from their work and often leave their jobs to try to figure out what therapies, psychological and emotional supports, work force accommodations, health care needs to exist, and

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hunt for services to provide the necessary care and supports. A Brain Injury Trust Fund would provide a statewide, lifespan brain injury network to include specialized facilitation of resources across the state, training for providers and educators, and data collection to evaluate and improve opportunities to help survivors, their families, and caregivers manage the after effects of brain injury. On behalf of brain injury survivors and those that support them, I ask you to let this year be our turn by passing LB642 on to General File. It is the responsible thing for Nebraska citizens because brain injury can happen to anyone, anywhere, at anytime. Thank you, and I'd be well-- I'd be happy to answer questions especially regarding the vision for the budget that we look to spend the, the million dollars.

HILKEMANN: Thank you, Miss Gehringer, for coming to testify today. Are their questions for Miss Gehringer? Senator Vargas.

VARGAS: Thank you very much for coming.

DENISE GEHRINGER: Sure.

VARGAS: I know some of the questions asked of Senator McDonnell were around some examples of some of the language in the bill regarding-- you know, how, how these funds will be used.

DENISE GEHRINGER: Right.

VARGAS: Yeah, can you give some examples?

DENISE GEHRINGER: I sure can. So we modeled our vision and our idea of how we would meet the needs of the folks in our state looking at the very successful program that Iowa has. Iowa spends a million dollars a year. Colorado spends 2.5. You can see our neighboring state-- states set, set some money aside for this. So we look at the bulk of it, approximately 650,000 going to resource facilitation. And what that does is provide skilled coordination that families and survivors can go to, to, to seek out the supports that they need. It also provides a place for educators in our school systems to go to so that they can get training and they can get to education on how they can teach one of our learners that is entering back into the school system-- back into the school environment after a concussion, after a brain injury, because oftentimes they just don't have that training. It will allow for employers to seek out information on how they can accommodate folks to get back in the work force. Sometimes there's some very simple accommodations they can do. Some very low-cost accommodations

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that they can make for their, for their workers that makes the difference between them being employed and unemployed. And so resource facilitation is really the key in that it will allow people to go to a specialized person and find what they need to get our folks back to living fulfilling lives, back to living productive lives, and really going back to the difference between sinking or swimming. And then also-- you know, you keep-- keeping our folks involved in their communities. You know, \$45,000 goes to professional services, there's things like office space and expenditures. Resource facilitation would-- the ideal would be to have five hired folks across the state. Right now, we have one person who does resource facilitation the best she can in the Omaha metro area, but you'll see by some of the graphics that I handed out on those purple sheets that we see a bulk of our, of our brain injuries in the more rural parts-- of the western parts of Nebraska. And we want to make sure that those folks, those folks are served as well, and so we would take those five facilitators and spread them across the state. If we were to have less money available to us, we'd go with less facilitators and do the best we could from there. So you know there's, there's all the other typical costs of doing business expenses-- you know, professional services, those types of things, office space expenditures, but primarily that, that heavy piece that's very important is the resource facilitation.

VARGAS: And do you find that's helpful? And it is helpful to know that some of the other states have the fund, and, and maybe it's helpful for me because then the populations of the other states are bigger, but so, so our basically per person spending is gonna be higher in the state of Nebraska based on population size if we do a million even more than Iowa. And I, I mentioned this to Senator McDonnell because I do have concerns, and this will be a trend for today since we're talking about Health Care Cash Funds in trying to evaluate whether or not the use of Health Care Cash Funds for what we're talking about, any of these bills today is something that is the best way to utilize it--

DENISE GEHRINGER: Sure.

VARGAS: --rather than a really great way to utilize it. So I'm trying to differentiate between those two because it-- we are depleting the fund over time and I know the Nebraska Investment Council has referenced that and that's just a concern I have. Can you tell me just a little bit around-- you know, you mentioned this in your testimony

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about-- you know, insurance covered therapy ran out and then we were no longer connected with a provider.

DENISE GEHRINGER: Um-hum.

VARGAS: Are there other things that we-- that where these funds can be utilized then better improve the system of care rather than creating a trust fund like this or is this like the most efficient way to then utilize those folks?

DENISE GEHRINGER: Yeah, you would think there would be other,--

VARGAS: I, I don't know about that.

DENISE GEHRINGER: --other ways, there's just not. For our folks that experience brain injury, they can't utilize the things that are in place for folks with developmental disabilities. It's not-- it's, it's-- they, they would benefit from things like that but it does not-- the services that are put in place or not apply to them. So our folks don't get the services coordination, they don't, they don't have any tapping into any of those resources. I believe there's approximately 20 brain-injury waivers in our state. I believe 18 of them are being used, and they're being used primarily for folks that have extremely critical needs. And that's-- you know-- I mean, we've got 36,000 known folks that have invisible brain injuries, 20 waivers isn't gonna do a whole lot for them. So-- you know, is, is there a more efficient way to provide this service? Not that any, any one of us has been able to figure out, and we've really been trying. That's, that's why we're here, because this is, this is what we have left.

VARGAS: OK, thank you.

HILKEMANN: Senator Wishart.

WISHART: Well, I, I [INAUDIBLE]--

VARGAS: No, I was just saying thank you.

WISHART: Oh. So are-- actually, I wanted to follow up with what Senator Vargas was saying-- I mean, I, I know this population, I've taken the time to visit QLI, and so there is extreme need to support, support people across the state. I'm interested-- are there other states where they have been able to incorporate people's health needs in terms of brain injury into the insurance system?

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DENISE GEHRINGER: I, I tell you what, that is not my area of expertise.

WISHART: OK.

DENISE GEHRINGER: We do have someone who will testify that may be able to speak to that because that is his background so he may be able to give you a really specific answer. I, I don't have it, but I can-- you know, figure it out, but I bet you he'll have it for you.

WISHART: OK, great, thank you.

HILKEMANN: I have just a couple of questions. You, you mentioned that Iowa has-- is putting a million dollars. How long have they been doing their fund?

DENISE GEHRINGER: Oh boy, I do I know the answer to that, but it's been-- you know, I hate to give an inaccurate answer, but it has been a significant number of years. I thought it was ten, but I do not know for sure.

HILKEMANN: OK. And you mentioned that Colorado has 2.5 million going into it, those two. So you've done some study of these? What, what percentage are these funds, like in the Iowa fund and in the Colorado fund? What percentage is used for administration, and what percentage of these funds are actually used for either direct care or-- you know what I'm asking?

DENISE GEHRINGER: Yep, I do. And I have in front of me, because I thought maybe you folks in Appropriations might be asking--

HILKEMANN: OK.

DENISE GEHRINGER: --these questions. So we did really model everything off of Iowa, so I can't speak to the percentages in Colorado, but I can't speak to the percentages in Iowa, and they have 65 percent of their funds going to the resource facilitation with 4.5 percent going to professional services-- you know, software audits, those types of things. They've got 8.5 percent going to office space, 2 percent going to communications, phone, Internet. We-- I've got it broken down. We've got 2.6 percent for travel expenses, for further learning opportunities for our resource facilitators to be ongoing, professional development. There's 2.5 percent for that education piece, so we can work on that preventing piece, but not a huge hunk. So, so this, this money is not gonna be used for bunch of billboards.

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I mean, there, there will be some outreach and there'll be some education so people can-- you know, clearly if we can prevent brain injuries, we're ahead of the game. Three point percent to program evaluation and 1.2 percent for other budget expenses, banking fees, those types of things. And then that 10 percent for the--

HILKEMANN: So the first number you said was 65 percent for direct--

DENISE GEHRINGER: Resource facilitation, and that includes benefits and insurance and the whole shebang to have those people in play.

HILKEMANN: And you said you do not have the breakdown for Colorado?

DENISE GEHRINGER: I do not.

HILKEMANN: OK, thank you.

DENISE GEHRINGER: We, we felt that the Iowa model was very similar to what our needs were in our state and so we kind of-- we looked, we looked heavily at that one.

HILKEMANN: OK. Senator Clements.

CLEMENTS: Thank you, Senator Hilkemann. Thank you for being here.

DENISE GEHRINGER: You bet.

CLEMENTS: I have a question. On page 4, it talks about where the expenditures for, let's see, line 13, follow-up contact for individuals on the Brain Injury Registry established in the Brain Injury Registry Act. I'm assuming that's already in, in active force in Nebraska, is it?

DENISE GEHRINGER: It, it is, and we do have another person who can testify to her work with that. But my understanding is that, that anytime that there's a person with an identified brain injury-- and so you have to remember there's a number of people that aren't identified. There's a number of people who are sent along their way and don't realize that they have a brain injury, and their, and their, and their physicians aren't identifying as a brain injury, and those folks come to us as well. But for those that are identified, they are put on a Brain Injury Registry, and that's available for statistical information. It's available for any kind of outreach that we can make as far as notifying folks of services that are available to them, those types of things. So that is being used. But again, if you want

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to speak with Chris Stewart when she testifies she can speak more intelligently to that than I can.

CLEMENTS: Who maintains the registry?

DENISE GEHRINGER: I do not have the answer for that, she might.

CLEMENTS: OK, we'll, we'll let another person speak to that.

DENISE GEHRINGER: Yep, you bet.

CLEMENTS: Thank you.

DENISE GEHRINGER: You're welcome.

HILKEMANN: Are there other questions? Thank you for coming to testify.

DENISE GEHRINGER: Thank you for having us.

HILKEMANN: Additional proponents?

TIFFANY ARMSTRONG: Good afternoon, Senators. My name is Tiffany Armstrong, T-i-f-f-a-n-y A-r-m-s-t-r-o-n-g, and I am here today to testify in support of LB642 as a vice chairperson of the Nebraska Brain Injury Advisory Council and chair of the council's Public Policy Committee. I am also an individual who suffered a brain injury on March 3, 2000, in a car accident. Although I have been very fortunate to be able to continue my work on my life goals, including getting married, obtaining my Master of Science in Nursing degree, and eventually having children. Not every individual with a brain injury has the same outcome. Every brain injury is not the same and many people need more assistance than I did in order to continue to meet even their daily needs. I see this constantly as a family member of individuals with brain injuries and as a registered nurse who works with individuals with brain injuries. The Nebraska Brain Injury Advisory Council was created in 2002 when the Nebraska Department of Education Special Education Office received planning grants from the Health Resources Services Administration Maternal Child Health Bureau to establish a culturally competent state system for traumatic brain injury services. After those initial planning grants, Nebraska has continued to receive additional federal grants with the goal of expanding and improving local capacity, enhancing access to comprehensive and coordinated services for individuals with TBI and their families, and to generate support for sustainable activities that lead to the incorporation of services for individuals with TBI

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and their families into the state service delivery system. Most recently, Nebraska received the Traumatic Brain Injury State Partnership Program Grant through the federal Administration for Community Living, Department of Health and Human Services. Although the council works closely with Nebraska VR, the Department of Education, the Department of Health and Human Services, this testimony does not represent any of those entities. The mission of the council is to engage, integrate and inspire brain injury stakeholders to achieve the statewide vision for brain injury policies and services. The statewide vision was created in 2017 with 225 brain injury support group members from across the state to determine a cohesive path to guide all stakeholders in meeting the needs of individuals with brain injuries. The council is currently conducting a needs assessment to determine from the perspective of individuals with brain injuries, family members, and service providers what needs are still unmet in the state of Nebraska and what barriers are still present for current services provided. I provided to each of you a copy of the preliminary data we have collected from that needs assessment to show you that needs still exist and barriers have yet to be overcome in relation to brain injury in Nebraska. By creating the Brain Injury Trust Fund, established by LB642, stakeholders across Nebraska will be able to focus on the statewide vision and ensure that we are providing the best services for individuals with brain injuries and their families throughout Nebraska. Individuals with brain injuries need the help of a resource facilitator to help navigate to and through the appropriate services. Individuals with brain injuries need service providers who understand their unique needs. Nebraskans need to be more aware of brain injuries and how to prevent more brain injuries from occurring. All these activities and services can be made more available with the creation of the Brain Injury Trust Fund. I urge you to all join in-- join me in supporting LB642. Thank you for your time and consideration of this very important bill.

HILKEMANN: Thank you, Mrs. Armstrong, for testifying today. Are there questions? Senator Clements.

CLEMENTS: Thank you. Thank you for being here.

TIFFANY ARMSTRONG: Um-hum.

CLEMENTS: You mentioned federal grants, more than one. Do you know what the dollar amount of those grants has been recently?

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TIFFANY ARMSTRONG: I should know what those are, but off the top of my head I can't recall that, but I can get that for you.

CLEMENTS: All right. I wasn't aware that there already was some money regarding brain injury being received. And it's to-- who received those? Is it private organization or Health and Human Services?

TIFFANY ARMSTRONG: It's through the Department of Ed Vocational Rehabilitation-- is our state agency.

CLEMENTS: Oh, OK, Education.

TIFFANY ARMSTRONG: Yeah.

CLEMENTS: Thank you.

TIFFANY ARMSTRONG: Yeah.

HILKEMANN: Additional questions? Senator Vargas.

VARGAS: Sorry, maybe I just heard this, you said it's through the Department of Ed for Voc Rehab where you get-- I might have missed that [INAUDIBLE].

TIFFANY ARMSTRONG: They are the lead agency that administers those funds, so they receive the funds and then they can contract out with different services to meet the needs of the grant.

VARGAS: Do you know how many funds specifically are allocated for that?

TIFFANY ARMSTRONG: You mean dollar amount?

VARGAS: Yeah.

TIFFANY ARMSTRONG: I--

VARGAS: We can find out. I just didn't know if you knew.

TIFFANY ARMSTRONG: I would probably if I was sitting in the seat back there, but I will find out. I'll, I'll get back to you guys.

VARGAS: OK, thank you. And, and maybe this is just on the delivery. Do you see any things that could be improved in the delivery with Voc

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Rehab and the Department of Ed to the better-- you know, improve what they're doing in this arena?

TIFFANY ARMSTRONG: Yeah, and-- so the funds that we received don't go to direct services for individuals of brain injury so we don't provide direct-- any direct services and that's part of the federal grant stipulations.

VARGAS: Got it.

TIFFANY ARMSTRONG: So we're looking at systems-- how to improve what each department is doing within the state. We have looked at prevention awareness activities and we've been doing that since-- you know, the early 2000s. So--

VARGAS: OK. Maybe I'll ask them if they can, if they can provide direct service or if that's something we're funding or a bigger request from the department, I don't know. But, thank you very much.

TIFFANY ARMSTRONG: Um-hum.

HILKEMANN: Senator Wishart.

WISHART: You know, one of the, one of the statistics that I've become aware of that that I didn't think would be associated with brain injury, but it's, it's significant is that it-- you know, you think it has a physical impact on people's life which it does,--

TIFFANY ARMSTRONG: Um-hum.

WISHART: --but it also has an impact on people-- you know, divorce rates-- you know, fam-- family connections. So people's social lives as well. And so-- can you talk a little bit to how we improve a system where we can really help people with some of the, the negative social impacts that come with brain injury?

TIFFANY ARMSTRONG: I think awareness is huge because most people when you look at an individual with brain injury you see nothing, you would say like you, you wouldn't believe. So a lot of that is with just educating. Yes, even though I don't have a broken arm that you can look at my brain still had an injury and so I think a huge part is that just educating people. But also providing-- ensuring that service providers such as counselors that might be able to help families to sort through all those emotions and changes in their loved ones' lives. A service provider who understands brain injury and all those

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changes that invisible changes that happen. Because even though we do have a variety of counselors throughout Nebraska, they're not all trained to work with individuals with brain injuries. And that's huge, is finding the right provider at the right time who can help you through those times.

HILKEMANN: Senator Clements.

CLEMENTS: Thank you. One more question about the federal grants and Department of Education. The individuals being helped are they adults as well as students?

TIFFANY ARMSTRONG: So we look at all spectrums, so from birth through-- you know, hundred years old or whatever we work with.

CLEMENTS: I was just thinking-- wondering whether the Department of Education was restricted to just funding for students?

TIFFANY ARMSTRONG: No, in, in any of the programs or the, the grants that we've been working on the projects have been all ages. We have focused on different entities over the years if we might have a zero to four, or we might have a project that worked on older-- you know, older children or young adults, but it's, it's through the gamut of ages.

CLEMENTS: Thank you.

TIFFANY ARMSTRONG: Um-hum.

HILKEMANN: Any additional questions? Thank you, Mrs. Armstrong--

TIFFANY ARMSTRONG: Thank you.

HILKEMANN: --for coming today. Additional proponents?

STEVE MARTIN: Good morning, Senator Stinner and members of the Appropriations Committee. My name is Steve Martin, spelled S-t-e-v-e, Martin, M-a-r-t-i-n. I'm here today to support LB642. I spent my career working to help people access quality health care as a health professional early in my career, followed by helping people finance their health care needs through health insurance. I retired last year as the CEO of Blue Cross Blue Shield. I'm not here to speak for them today, but to personal experience, and I'm happy to answer any questions regarding the industry from my general experience. I'm here today because of personal experience I had with a brain injury. It

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gave me personal insight into what individuals along with their families and caregivers go through in the process of treatment and recovery. I am an example of the fact that brain injury can happen to anyone, at anytime, at any stage in their life. In my case, it started with a bump in the head just before Labor Day of 2015. I sat up and hit my head on the edge of an open cabinet door. After a short-term pain subsided, no other symptoms occurred so I went about my life as usual, and it's not unusual for brain injuries to manifest this way. Over the month, I would experience what medical professionals called a subdural-- chronic subdural hematoma. After nearly a month, I began to have repeated seizures in the left side of my body. I was hospitalized and it took several days for seizures to stop and be controlled with medication after leaving me paralyzed on the left side of my body. After a week in hospital I was discharged, but it was not the hospital who guided me to the next treatment. I was fortunate to have experts in the field who recommended what I should do to have the best chance of full recovery. I consider myself lucky as I know currently there are many individuals with brain injuries who are not given appropriate guidance and support that result in the best possible treatment or any treatment at all. This is important to note because delays in treatment of post-brain injury conditions can slow or limit the long-term recovery potential or cause individuals to suffer for more long-term problems. In my case, I was admitted to QLI in Omaha, and after a month of intense rehabilitation was walking without assistance and working part-time. In two months, I was recovered and back to work full-time. It's important to note that the best treatment for brain injuries is often not expensive. In my case, my two months of rehabilitation cost less than one day in the hospital. The Brain Injury Alliance is working to help fellow Nebraskans who suffer from brain injury understand and engage the resources they need to achieve their maximum potential recovery. They are working to build a statewide lifespan brain injury network to include regional and specialized facilitation of resources and support groups across the state to help individuals, their family, and caregivers cope with after effects of brain injury. Left without support and appropriate treatment, individuals can suffer from problems that are inappropriately treated as mental illness or result in engagement with the criminal justice system. Both these costs the state more than the-- then appropriate problem identification and treatment at the time of brain injury would have cost. In addition to the costs of inappropriate care, the costs of disability and loss of productivity unnecessarily burdens families, employers, and the state budget. In a state where every worker counts, I believe investment in brain injury

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awareness, appropriate treatment, and support systems are dollars well spent as a public health issue. To further this process, I'm asking you to support LB642, which will establish the Brain Injury Trust Fund. The investment this bill will deliver a return on investment that I believe will benefit Nebraskans. The Brain Injury Alliance literature, and the other testimony you have heard and will heard describes how the Brain Injury Trust will benefit Nebraska. As you've heard our neighbors in Iowa using a similar strategy have experienced a return on investment of 184 percent on each dollar spent. What's more important is Iowans reported that in the first year of that program access to services improved by more than 68 percent, which is important to know. This is a model that can deliver, I think, the same results for Nebraska, and I ask for your support of LB642, and the implementation of the Brain Injury Trust. I'm happy to address any questions that the committee might have.

HILKEMANN: Thank you, Mr. Martin. Are there questions? Senator Wishart.

WISHART: So I was hoping maybe you could answer my question about insurance coverage. This committee has been briefed previously on a previous week that, for example, hearing, hearing aids are, are not always covered by insurance and, and so that's why I'm, I'm wondering actually if there-- I'm starting to learn maybe there are, there are more medical conditions that, that are medically necessary for coverage that may not be getting coverage. Can you speak a little to that?

STEVE MARTIN: Sure. Under, under almost every state's insurance law, insurance and the departments of insurance administer insurance contracts that employers or others purchase and many times chronic conditions like hearing aids are not included. This includes-- this is also similar to governmental insurance coverage. So-- and in many cases that's not where the significant expense lies in hearing aids. Now it may be if the hearing aid purveyor is charging a lot of money for the hearing aids, but there is a huge range of things like hearing aids. So under a-- once a condition becomes chronic like long-term care or those things, acute care insurance was not written to cover it. If it was written to cover it, it would simply cost even more. So that, that would be the only case when things aren't covered and they in, in most cases I know of acute brain injuries, most the rehab if caught early enough certainly is covered. If it manifests as maybe not-- might not manifest and it, it appears to be something else and

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is mistreated then it may never be covered because it's never properly identified. And then later, a year later or so is treated in a different direction such as a mental illness which then will be inappropriate drugs and things would make matters worse not better, those kinds of things.

WISHART: So do you think there is a way-- you know, along with some of the work we're doing here with this fund, that we could work with insurance to, to find a system where, where people are getting the, the preventative care they need, and also where there may be a potential that there is a need for coverage for the, the chronic conditions that occur with brain injury because they can be acute for a long time?

STEVE MARTIN: Certainly, I could speak to where, where I work,--

WISHART: Yeah.

STEVE MARTIN: --we actively pursue case management. When, when an injury happens-- so in my case, I was fully aware of all the services brought together by the insurance company I worked for. I immediately engaged their care management.

WISHART: OK.

STEVE MARTIN: They understood what I needed, and they actually planned it before the hospital, and hospitals don't necessarily do aggressive discharge planning. Once they have you done, then they kind of look for the next handoff. In this case, it would take several days before I left the hospital to plan my-- so I contacted my insurer, they, they proactively managed it. The case of what this bill would support with other insurers is make people more aware of their resources. So at the time if I hadn't contacted, or a hospital could contact insurers but they rarely do on this-- on, on discharge planning, but our case managers intervened and helped me. That's why I was fortunate. If there was a break-- if, the, the trust was there, facilitators would also let that average consumer know you need to contact and take the most of your private insurance benefits. It's more of an act of omission because consumers don't realize they have the benefits or how to access care management. So I think this would be, this would be more of a public health service and awareness that would activate more treatment that goes unused-- treatment dollars that are going unused, and inappropriately-- or inappropriately spent.

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WISHART: OK, thank you.

HILKEMANN: Additional questions for Mr. Martin? I would just follow up. I, I was just writing a note here about-- I was gonna ask about how the Iowa fund had lowered the cost or whatever else-- what were your experience was, and then your last paragraph you're, you're answering that. Now it's-- you're saying-- how, how do you say that there's a 184 percent return? How would--

STEVE MARTIN: Well, that's their report, so I can't validate it. It's what Iowa has reported from the report I read about the Iowa Trust Fund. I think if you would-- based on my experience in how we see this kind of awareness program increase proper utilization, they got more people to the right place at the right time. So in my experience getting people the right treatment, the right time, and early enough is always less expensive. And even if it's the best, it's less expensive than waiting or delays, especially in something as, as difficult to diagnose sometimes as a brain injury.

HILKEMANN: Um-hum. Did, did-- do you use the Iowa [INAUDIBLE]? Any experience with what's going on with the Colorado program that was mentioned earlier?

STEVE MARTIN: No, I don't, only what I've read.

HILKEMANN: OK. And so-- and I know you're not here on your-- with your role of Blue Cross today, but would you, would you anticipate that this fund would help lower the health care cost in the state of Nebraska for brain injuries?

STEVE MARTIN: My belief-- it would probably more lower the disability rate over time. I mean the disability rate, if you look at there are 36,000 people in Nebraska suffering from some kind of long-term impairment. There's 9,000 a year and 1,000 of those injured will need treatment of some kind. Of that thousand, those that go inappropriately diagnosed and mistreatment will have a greater chance of long-term effect and be more dependent on the system. So it's a matter of shrinking the amount of getting the most recovery we can with the most people, getting them into earlier treatment. It just anecdotally-- I just over the last month, I've referred three people that my consciousness and awareness of Post-Concussion Syndrome, either into the Brain Injury Alliance to get help or into other people that are parts of support groups so they can actually get into active treatment. Again, a lot of these people go-- they don't know what's

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going on with them, they don't get properly identified at the time of the injury.

HILKEMANN: So do you think it would be safe for us to say from your experience and from, from what you presented here today that because-- you know, workman's compensation is a state fund as is Medicaid that over the course of time that, that this fund should help us save workman's compensation dollars as well as Medicaid dollars?

STEVE MARTIN: Workers' compensation, Medicaid, and you would help the other insurers appropriately treat and not have residual effects. In the term of Senator Wishart's comments connect here, because if people don't get acute treatment while they have coverage and they leave their job then they're going to turn to the state for long-term support more often. So it will help use the dollars that are insurance because of added awareness, and I do believe it will help both in workers' compensation fund dollars and in long-term government supported health care dollars.

HILKEMANN: Additional questions? Thank you for coming--

STEVE MARTIN: Thank you.

HILKEMANN: --today, Mr. Martin. Additional proponents?

BRENDA PETERSEN: Good afternoon, Senators. I'm Brenda Petersen, B-r-e-n-d-a, Petersen, P-e-t-e-r-s-e-n, and I'm here from North Platte, Nebraska, and that's relevant based upon my story. And my story is not unlike the others who have joined us today. However, I'm a very, very passionate advocate for the small frontier towns in outstate Nebraska, and I want to be certain that there's-- that my story is the story of those Nebraska residents who live between the Tri-Cities and the Panhandle of the state. I've been involved in the concept of helping Nebraskans of all ages in that part of the state for many years. I've worked with students and adults alike who have had difficulty maneuvering through life's twists and turns. However in 2017, my eyes were open to a very underserved population, people who had suffered from some form of injury to their brain. I'm not just discussing today those folks who have a formal brain injury diagnosis, but rather all people who have had a trauma that involved a concussion or near concussion and are now experiencing many of the effects of the injury to the brain without knowing how or why the many unfortunate effects are occurring to their thought processes and body or what to do when they are occurring. On Memorial Day in 2017, my husband and I

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were traveling home from Colorado with a group of our friends on our motorcycles. The group had spent the weekend at a large charity event. We continued our ride toward home on the beautiful backroads of our state. After stopping for a late lunch in Paxton, Nebraska, the group dispersed and began their own treks homeward. Though we rarely ride on the interstate on our motorcycles we, along with another couple, opted to travel the 22 miles on Interstate 80 from Paxton to Hershey. This proved to be a bad decision because before we had even traveled the 12 miles to Sutherland, a deer came from the median of the Interstate and took out both bikes. I was put on a helicopter and spent a couple of weeks in the Neuro Trauma Unit at Good "Sam" in Kearney. I was broken and bruised but I did not have a diagnosis of a TBI. So like most Nebraskans, we assume that when my body healed all would return to normal. No one understood that though I did not have enough check marks in my diagnostic category to qualify for a diagnosis, I did have enough check marks to reap the repercussions of my injury. It took nearly a year for us to return to work and we are still both in recovery and experiencing the lasting effects of brain injury. My urgent request regarding LB642 and the Brain Injury Trust Fund, is that we develop a way to help provide access to local educated care especially in my part of the state. My family traveled the 100 miles daily to see me when I was in the hospital there in Kearney. As well as the awareness and education opportunities for those who, like my husband and I, have fallen through the cracks because we don't have that official diagnosis. Our helmet saved our lives and our brains from catastrophic injury and death, but we did not have the diagnosis that then qualified us for the services provided. My support for this bill is to help raise and develop understanding that a head injury has lasting cognitive effects and that those effects occur whether a diagnosis has been given or not. We need to raise the knowledge base of Nebraskans and be leaders in building understanding and assistance for all of us, those living with the recovering brain and those who love and care about a person with a recovering brain, because I think we'd all be astounded at how often the situation touches each and every one of our lives.

BOLZ: Thank you, Miss Petersen. Thanks for sharing your story. Are there any questions? Very good, thanks for making the trek today. Oh, go ahead, Senator Dorn.

DORN: It says you still have a few issues with it or whatever.

BRENDA PETERSEN: Yes.

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DORN: What percent are you back to normal? I don't know if that's a fair question. Yeah.

BRENDA PETERSEN: It depends on the day, honestly. I would say that I am a proficient speaker. I speak often in my career choice, in my company, and I rarely, if ever, take notes up to speak, I speak off the cuff most comfortably. That stopped because I never know when I'm going to just have a complete blank-- those cognitive effects definitely effect. We also see a lot of higher emotion days and I have definitely a more post-traumatic stress anxiety that I experience, especially when traveling on the Interstate, so.

BOLZ: Do you have a question? Go ahead.

HILKEMANN: I certainly hope you stopped for lunch at Ole's.

BRENDA PETERSEN: We did.

BOLZ: Very good, thanks for sharing your story.

BRENDA PETERSEN: Thank you.

BOLZ: Do we have another proponent?

SHARON ROYERS: Good afternoon, and thank you for taking the time to listen to me. My name is Sharon Royers, spelled S-h-a-r-o-n R-o-y-e-r-s. I am here in support of LB642, because I, too, am a brain injury survivor. My story is so simple and ordinary that it's actually extraordinary. Prior to my brain injury, I was a high-energy elementary school principal serving the needs of marginalized students in Southeast Omaha. I loved my job and felt I was making a difference there. But one September day changed all that. I was bent down looking for a file. I simply stood up into a cabinet door that had popped open above my head. It hurt and I felt dazed but I did not realize at the time that I had a concussion. I was concerned enough to have the school nurse check me out. I explained to her that I hit my head pretty hard. It hurt and I was really confused. Although these were classic symptoms of a concussion, she did not identify them as such. She told me to take some Advil and that I would be fine. I tell you this part of my story not to blame the school nurse, but to point out that even our health care professionals do not fully understand classic signs and symptoms of concussion. I waited a week to see my doctor, she diagnosed me right away with a concussion and I had to stay home from work for a week to rest. I was actually symptom-free

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after resting. At my follow-up appointment, my doctor warned me to return to work slowly, take it easy, and take breaks. I did not understand how important that was and I did not fully understand that a concussion is a brain injury. I felt fine so I returned to my busy job as principal full force. Within a week, I had significant head pain, lost my sense of balance, could not be in a room with light, and was extremely sound sensitive. I ended up off work for about two months on workman's comp and had to receive physical and occupational therapy. Concussions get worse if they're not managed properly. This is important to note, in our Nebraska schools students are returning to the classroom with concussions and staff need to be trained about the nuances of concussion management in the school setting. I'd also like to note that students with even mild concussions are three times more likely to commit suicide. When I finally returned to work, I found the school setting overwhelming for my brain. I had to take 15-minute brain breaks in my dark coat closet every hour. At dismissal every day, 600 students left the building and I would get dizzy trying to stand on the sidewalk and say goodnight. My ocular motor movements and brain were out of sync. And so this, too, overwhelmed my brain. After trying for a year and a half to do my job and heal my brain, I finally left the job I loved and took early retirement. For four and a half years, I still deal with Post-Concussion Syndrome. I can function relatively normally now, but I was a runner prior to my head injury and still have not been able to return fully to my exercise routine, routine because it causes my headaches to return. I continue to have memory issues and I still get overwhelmed and fatigued very easily. My balance issues return when I am very tired. I have learned the hardest way possible that a concussion is a brain injury that needs to be taken seriously. I was completely naive. In addition to my misunderstandings about concussion, my recovery care was piecemeal at best. I was fortunate to have a doctor certified in concussion care, but timing matters when a brain is healing. The lack of consistent network to help coordinate the pieces of care I needed only prolonged my recovery. Do you know the number one cause of traumatic brain injury? It is not sports. According to the CDC, it is falls, being struck by or against an object, such as a cabinet door, is the second most common cause of TBI, and motor vehicle crashes is the third leading cause. I am living proof that brain injury can happen to anyone, anytime, anywhere. This is a serious public health issue that in some cases is preventable. I urge you to invest and support LB642 to help educate our citizens about brain-injury prevention and to also help improve the quality of life for thousands of Nebraskans who, like

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me, currently suffer from various types of brain injury. Thank you for your consideration, and I'd be happy to answer any questions.

BOLZ: Thank you for sharing your story. Any questions? Go ahead, Senator Hilkemann.

HILKEMANN: If you were on the Brain Injury Trust Fund Board, do you think it's more important that we educate people about brain injuries or that we provide more direct care?

SHARON ROYERS: Well, it's hard to separate the two. I think a network of care is important because of the timing involved for the injured brain and healing, so. But also education, they go hand-in-hand. I'm not sure we can separate them out to be quite honest. Had I known what I know now, and who doesn't say that, but truly I would have managed my symptoms and, and everything--

HILKEMANN: Yeah.

SHARON ROYERS: --differently. I would have taken it far more seriously. You know, the other issue in this state, and I mentioned it, is we are concerned about our teen suicide rate. But, how many of these teens had undiagnosed brain injuries? Something you should be aware of is concussions cannot be seen on MRIs or on CT scans. There is no blood test. It's all symptom based, and very often the symptoms show up days or sometimes weeks later. So it's a tricky business, it's a tricky business.

HILKEMANN: Yeah, I just-- I mention that your-- the stories you've heard today, I'm just gonna share personally that I lost my brother five years ago from a-- from brain injury, and, and--

SHARON ROYERS: I'm sorry.

HILKEMANN: --a very minor fall we thought, and six weeks later he's gone.

SHARON ROYERS: Right.

HILKEMANN: And, and so-- it's and I think about how he was reaching out for help and we didn't really realize what was--

SHARON ROYERS: Because it's invisible.

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HILKEMANN: --going on until late.

SHARON ROYERS: I look fine, don't I? I look normal, but my husband's here to tell you I am not who I was before my brain injury.

HILKEMANN: Yeah, yeah. So it's-- your, your story is so typical of what happened to my brother.

SHARON ROYERS: Yeah, absolutely.

HILKEMANN: And-- so I, I just think that we don't-- so I think that we, that we as a society have just-- we need to be educated about this.

SHARON ROYERS: I agree with you 100 percent, absolutely.

HILKEMANN: Yeah, I mean we, we talked about this is not-- it's not-- this, this is \$1 million-- it's not a huge thing, but I think if we can make people aware that once they have a head injury--

SHARON ROYERS: Yeah.

HILKEMANN: --it's very important,--

SHARON ROYERS: I agree, the education because it's huge.

HILKEMANN: --and you have to keep asking questions.

SHARON ROYERS: Yep, absolutely. I agree. Thank you for sharing your personal story.

HILKEMANN: Yeah.

BOLZ: We're sorry for your loss, Senator.

HILKEMANN: Thank you, Senator.

BOLZ: Any further questions? Very good, thank you. Any further proponents?

EDISON McDONALD: Hi. Edison McDonald, E-d-i-s-o-n M-c-D-o-n-a-l-d, and I'm the executive director for the Arc of Nebraska. We advocate for people with intellectual and developmental disabilities. I'm going to be pretty brief. I think, overall, this is a fantastic bill. The lack of resources and coordination in this area is very frustrating, and, I think, the testifiers here have done a great job talking about that

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today, especially about the lack of support in rural communities. I did want to add a couple of points. Number one, I think that Senator Vargas is right. In comparison to other sections of statute where we have other similar committees they tend to have clearer reporting requirements, and I think adding a biennial report of some kind I think would be beneficial. You know, I'm assuming that UNMC would probably share the data. But just setting a clear timeline as to when and how that shared helps to ensure that we get the information and then we're able to really have more research driven positions. And then also I wanted to ensure that in the members of the committee that we harmonized with Section 81-6,122 to alter the specification of a disability organization to say, an organization that advocates for persons with developmental disabilities. It's a, it's a small clarification, but as it sits now the language would go and limit potentially who could be on the committee. And I'll say it could limit myself or members of my board who I'd like to have on the committee. And I might also add potentially specifying a statewide organization because I think that, that need for having-- especially the rural understanding I think is significant. I think that one of the things that we frequently see is a lot of organization-- you know, have limited scopes of service areas and so that leads to some more limited responses and I think that might be a small technical amendment to improve the quality and functionality of the legislation. Thank you. Questions?

BOLZ: Very good, any questions for this testifier? Go, go ahead, Senator Clements.

CLEMENTS: I'm not sure I understood what you meant about a statewide organization. Are you saying that the Med Center is not a statewide organization?

EDISON McDONALD: And to your question earlier about UNMC, they're, they're a perfect example. I was referring to-- in the bill, in the membership of the committee, it refers to a-- I believe, it's a developmental disability advisory committee or planning council member. So I'm not sure how that would be interpreted for sure, but the way that I read it would go and limit solely to people who served on two boards that are currently members of the state. Whereas instead, folks who may not serve on that board-- I think, Denise Gehringer would be a great example of someone who-- you know, isn't serving on those two boards, but would be a great member. And I think just expanding that would be beneficial. Also, I just have a little

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quest to go and make sure that we kind of clarify and standardize how we have this language because there are a couple different sections of the statute where it references having a developmental disability organization of a different kind. And, I think, just making sure that we've got those pieces standardized, I think is probably better policy. And specifically with this, I think that it, it would help to kind of line things up a little bit more clearly.

CLEMENTS: Thank you, that's a good clarification.

BOLZ: Any further proponents?

KJELL CRONN: Yes, I'm in favor of LB642, and so is Bella. So was Cookie, but she passed away last fall. Do you remember Cookie? My name is Kjell Cronn, K-j-e-l-l C-r-o-n-n, and I live here in Lincoln. Any more information that you need? I have a brain injury. It's hard to remember what to say. Well, in any case, I'm a native Nebraskan. I graduated from Cozad High, and there are other ways to get a brain injury besides physical injury. Actually, mine's considered an acquired brain injury. I had a brain tumor. It was the size of two tennis balls to my right side and that was removed in 2006. And just the removal, the act of removing a tumor, especially of that size leaves one with an injured brain. And I think that this trust fund is a great idea because not only does it allow people to access funds who need them, but it validates the idea of brain injury. In our culture, things are validated by assigning them money, assigning them values, assigning them a trust fund is a great way to begin and that's a great-- that's a really good way to begin the awareness process. I overheard some talk of shall we start with awareness or are there other reasons for the money, and it's really-- it's gonna be hard. What are you gonna do? Do we put up billboards to discuss brain injury? Hard to raise awareness. But, I lost everything. I lost my career as a copy editor at the World-Herald. I lost my marriage. I lost the house in that process. That car, the second car, it was supposed to be a fun car. Moved away from Omaha, lost some friends, moved here. And I don't mean that anything is, is dreary or, or that I'm upset, but I just mean that everything is different. If you want to have a complete flushing out, a complete "bleh" of your life, get a brain injury, get a brain tumor. Better yet. And you'll find out that nothing looks the same after that. I have acquired brain injury from the tumorous section on September 10, of 2006, and I think that this is a great idea for people especially who are not that far along like I am in the progression-- in the progress of a brain tumor, brain

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injury. I looked into things like unemployment-- other means of support, but they weren't available and other people in the family stepped up, so that's, OK. But, I think that there are so many people who suffer brain cancer in this world that the fund could be a real, a real aid to a lot of folks so that's-- questions?

BOLZ: Well, thank you, to you and for-- to Bella for attending today. Questions for this testifier? Go ahead, go head, Senator Hilkemann.

HILKEMANN: Not a question, but just more of a comment. Thank you for coming because I think that-- you know, we, we-- you, you hit upon the, the wide variety of persons who have brain injuries-- here we go from-- you know, we talked about people hitting their head on a cabinet. People falling on a motorcycle or a bike, and in yours was-- you know, this isn't an accident. This was--

KJELL CRONN: Fairly pedestrian-- I mean, it was a grade III oligoastrocytoma once it was discovered. And I am now used to feeling a little more dull. I was 4.0 student, 3.9 in high school, 4.0 at KU, I transferred up here. I saw my transcript. I graduated from here with a 3.9, and went to grad school. I've got, I've got the terminal degree in my field. So there are difficulties now just structurally and cognitively, I think, that I'm aware of. But, it's not hard to say-- and so for me to know that I'm very fortunate and, and lucky to have been-- I don't know, richly blessed at the beginning and then they take out half your right hemisphere and you've still got some chops-- you know. So that's a good thing. But, I really think that this LB642 would really give validation to people with what is so often an invisible disability.

HILKEMANN: And if I hear you right, I hear you saying we ought to be using this for advocacy more so than for direct care.

KJELL CRONN: Well, I think for care it's primary, absolutely. If somebody needs to pay their rent, pay their dog food bill, etcetera, etcetera. The, the nuts and bolts of life, I think a, a brain injury fund, there is, is going to need to be there for that. But advocacy, absolutely; awareness, definitely. I try to be an advocate everywhere we go, and-- you know, I'm so doggone handsome apparently people don't understand that I do have a brain injury and might think I'm going, going through the motions just to have a dog along, and I've, I've encountered almost every reaction in Lincoln. But honestly, I'm not too worried anymore. It's, it's good just to be alive.

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HILKEMANN: Amen.

BOLZ: Thank you very much for sharing your story today. Any further questions?

KJELL CRONN: Thank you.

BOLZ: Thank you.

KJELL CRONN: Thank you very much.

BOLZ: Further proponents?

CHRISTINE STEWART: I think I'm the last one.

BOLZ: Go right ahead, Chris.

CHRISTINE STEWART: Thank you, Senator Bolz and the members of the Appropriations Committee for the opportunity to speak for the population I serve. My name is Christine Stewart, C-h-r-i-s-t-i-n-e, Stewart, S-t-e-w-a-r-t. Along with the other advocates that have provided testimony in person and through their letters that you have been receiving, I am also asking for your support of LB642. As a resource facilitator, I work with individuals of all ages and their family members across the state. Even for those that received an accurate diagnosis and treatment at the time of their injury can find themselves feeling very much alone in the long journey of recovery. Calls to the Brain Injury Alliance are from individuals or professionals searching for resources to continue to improve the quality of life. For the more than 450 people currently served, served through resource facilitation, the top, top causes for their brain injuries are vehicle accidents, falls, assaults, and strokes. While serving the entire state, 40 percent of the population lives in the greater Omaha area, 30 percent in Lincoln, and the rest of the individuals, 30 percent are scattered across the rest of the state. Resource facilitation, education for individuals and professionals have typically been rated as the most needed supports. The goal of 69 percent of the individuals we serve between the ages of 20 to 59 years old is to return to productive lives. Correspondingly, 71 percent have been living with the effects of their brain injury for one more-- for one year to more than 20 years when they finally call for rest-- for resource facilitation, 61 percent are struggling or unable to work at the time of their intake. Due to the lack of resource facilitation that is offered in neighboring states results in Nebraskans receiving

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ineffectual care through inaccurate diagnosis, nursing home or mental health placement, or incarceration simply because we have no other options available. This makes the individual's condition worse and costs the state significantly more than expanding available effective community-based services. Please vote to move LB642 to General File in support of the statewide brain injury network that can give the population a voice. I would be pleased to answer your questions now or provide additional information at your request. Thank you so much for your consideration and time and also care. Thank you.

BOLZ: Very good. Go ahead, Senator Clements.

CLEMENTS: Thank you, Senator. Thank you for being here, Miss Stewart. I had a question earlier about who maintains the Brain Injury Registry. Are you able to speak to that?

CHRISTINE STEWART: Yes, and I appreciate that question because it is rather confusing. The registry is actually handled by the Department of Health and Human Services. When a person presents in front of a physician, and the physician follows up by reporting that person as possibly suffering a TBI, a brain injury to the registry, then the regis-- Health and Human Services ser-- sends that contact to Voc Rehab, and they send out a brochure that has the contact for Brain Injury Alliance in a letter asking them to follow up with us.

CLEMENTS: All right, and I had asked another person whether they thought the University of Nebraska Medical Center was the-- an appropriate place to have this administered. Was that your agreement with that?

CHRISTINE STEWART: Well, as a resource facilitator we're always talking about innovations and treatment and what's going on at UNMC, QLI, Madonna is fantastic, and we find that even like folks who have been living with the effects for 20 years, going back and getting additional therapy even that late can continue to show improvement. And also just empower the person to feel like they're improving their condition. So I do believe it's an important partnership, but I also want people to recognize that when they call us they're past typically the medical part, the brain has healed as much as it's going to heal. And now we got to help people rebuild the pathways and find different ways to do things so they can get back to productivity.

CLEMENTS: Thank you.

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CHRISTINE STEWART: Thank you.

BOLZ: Very good.

CHRISTINE STEWART: Thank you.

BOLZ: Thank you.

CHRISTINE STEWART: Thanks so much.

BOLZ: Do I have any further proponents? Do I have any opponents? Testifiers in a neutral capacity? Senator McDonnell, would you like close?

McDONNELL: I would, thank you. Senator Clements had a number of questions about the federal monies and I will make sure we get the restrictions that are put on the federal money and, and how that can and cannot be used. So I'll make sure you get a copy of the-- but actually we're talking about direct services. And then earlier, and, and thank you, Senator Dorn, for the updated numbers, and I was using some information from legisla-- LR517 from 2016. But going back to Senator Erdman's question from, from earlier it-- we're not trying to-- and in our-- in the bill on page 5, currently there's 23 other activities and, and people taking some of this \$60 million a year. Knowing that we have, as of June 30, we have \$451 million in the tobacco settlement and \$25 million in the, the Medicaid Trust Fund. So I'm not trying to say that those activities that have been going on aren't important. And with the idea of if we were going to limit ourselves to that amount of money then, of course, we would be talking about some of those activities and, and what can be more beneficial to the state Nebraska. I'm not trying to do that. I'm trying to move another million dollars over for a problem that we see east, west, north, south of all ages in the state of Nebraska. And what we can do through this bill and what we can put in place to help these people. And that's, that's the goal. The goal, again, is to make sure that we are taking that first step. And I think the first step is the most important and sometimes the hardest, but we need to address this issue. And again, it's affecting our citizens east, west, north, south in the state and, and all ages. So I'd appreciate your support.

BOLZ: Very good. Do you have any questions for, Senator McDonnell? Senator Hilkeemann.

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HILKEMANN: Just a-- Senator, as we've been sitting here just-- I think about all of the advocacy groups that we have for all the various forms of cancer and rheumatoid arthritis and Alzheimer's and the list goes on and on. And you-- I think you said there are 38,000. Was that the number that-- why do you think it is that we've never-- that we don't have more of an advocacy group for this population?

McDONNELL: Well, I, I think for-- putting my-- given my-- as, as an example myself. Denise Gehringer, I've known my whole life. She comes to me and, and tries just to have it-- just has a conversation-- starts a conversation with me and tells me about what she's gone through, her family's gone through. And until then, until I was elected here, and I heard Denise's story, I was oblivious to it.

HILKEMANN: Yeah.

McDONNELL: And I'm coming from a service-- fire service where we're, we're dealing with a number of, of traumatic brain injuries. And I was not focused on it. And I think like a number of things in, in our state until the people bring it to us and talk to us about it and shine light on it. I think sometimes we're missing some of the problems that, that they're going through and ways to, ways to fix it. They bring the problem and they-- and for us to try to find that, that solution and, and help them. I think until it becomes-- someone walks in and, and pulls at our heartstrings a little bit and educates us, I think sometimes we're not, we're not listening.

HILKEMANN: Yeah, I'd have to say that in general I'm not in favor of starting-- you know, a lot of new programs and funds because they just end up getting-- but I thank you for bringing this forward. And I think it's an important discussion for us to have and whether we-- even, even if we're-- this does not advance. I think the very fact that you brought this discussion forward, I hope that we'll get people behind the idea that we need to-- this is an important entry that would-- condition that we just don't know, people don't know about it. Thank you.

BOLZ: I, I do have one question for clarification. The bill references a Brain Injury Trust Fund. When I think about a trust fund I think about assets that are building interest and then you're making expenditures from the interest. Is that your intention that the million dollars would create a trust fund and then we would, we would

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take the interest income, or is it your intention that it would more work like more of a traditional appropriation?

McDONNELL: Traditional appropriation.

BOLZ: OK. Well, that is probably just a technicality, but maybe we can work with-- work on that language.

McDONNELL: And earlier as we, we-- as I mentioned with some of the questions, anyway we can try to improve this bill, I'm open to any, any ideas or suggestions.

BOLZ: Very good. OK, thank you, Senator McDonnell. We do have 25 letters of support for LB642. I don't think those will be read into the record, but we'll make sure they're part of the record. Thank you for those. And with that, we will close the hearing on LB642, and open the hearing on LB666. We do have four bills up today, so I think at this point we may switch gears and provide three minutes on the microphone. I'm sure there will be follow-up questions from many of you. So we'll open the hearing on LB36-- or LB666. Good afternoon, Senator Dorn.

DORN: Good afternoon. Thank you, Senator Bolz and Appropriations Committee. My name is Senator Myron Dorn. I represent District 30, M-y-r-o-n D-o-r-n. LB666 would provide for a transfer from the Nebraska Health Care Cash Fund to the Board of Regents of the University of Nebraska in the amount of \$200,000 in each of the next, next two fiscal years for Simulation in Motion- Nebraska or SIM-NE program to train first responders, emer-- emergency medical technicians, nurses, and doctors in rural areas. I have served on the Volunteer Rescue Squad in Adams for over 30 years. I know firsthand the time, commitment involved in being an EMT. Residents, workers, and visitors in rural and other areas in Nebraska rely, almost exclusively, on volunteer providers of emergency, emergency medical services. Training for myself and others who provide emergency medical services has quickly and substantially evolved. Nebraska bases its training for emergency care on national training standards and certification requirements. Training to become an EMT initially required 81 hours of training in Nebraska. Today, EMT classroom training hour requirements have doubled to over 160 hours. In addition, this isn't on there, but myself to keep my license current, I am required to do 20 hours of training every two years. Everybody is that has the EMT license. Volunteer firefighters and emergency, emergency medical service personnel have provided emergency medical

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services to their local communities for decades at only a fraction of the cost to taxpayers of paid first responders. Many cities, villages and rural areas cannot afford the cost of maintaining their current level of emergency medical services without the presence of a local pool of committed and dedicated volunteer personnel. Adding to the time commitment for increased training hours, additional time for volunteers, EMTs to travel to local communities for training, this is where SIM-NE tremendously benefits Nebraska first responders. SIM-NE consists of 40-- of four 45-foot trucks stationed in Norfolk, Kearney, Scottsbluff, and Lincoln. The trucks provide emergency medical service, mobile education while bringing-- which brings state-of-the-art hands-on training using high fidelity human patient simulators throughout the state. The simulations are some of the most technologically advanced training tools available to the medical community today. This unique program delivers quality education to first responders who would otherwise not have opportunities to attend simulation training. SIM-NE was initially funded with a \$5.5 million grant from Leona M. and Harry B. Helmsley Charitable Trust. The charitable trust contribution supported SIM trucks, equipment, patient simulators, and supplies. The funding also covered operational expenses for the first three years allowing training to be at no cost for EMS providers. For the operation to continue at no cost to the recipients, additional operational funding is requested from the Legislature in the amount of \$200,000 each year to supplement the annual operating costs of the program. Volunteer EMTs already offer their services for free. Please help fund this lifesaving service in rural communities and advance LB666 to General File.

BOLZ: Thank you, Senator Dorn.

DORN: Thank you. I'll take any questions at this time.

BOLZ: Any questions for the senator? Go ahead, Senator Clements.

CLEMENTS: Thank you, Senator Dorn. Regarding the training that you've had to do, did you have to pay for the training yourself or did your squad pay that cost?

DORN: When I took my original training back in '85 and our squad still in Adams-- if you would like to make the commitment to join the squad our funds we appropriated funds out of our money that we have. I do know there are certain squads around the state that don't have that necessary funding and then you need to supply that at your cost or

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whatever. But our squad has always, in Adams, we've always paid for any training.

CLEMENTS: Any training including the 20 hours every two years, is the--

DORN: The 20 hours every two years we-- you get so many credit hours for having the simulation truck down and going through that training at a certain time at night. Otherwise, we'd attend classes, or on weekends, on Saturdays they will have training elsewhere or they also have a program now, whereby, we can do a local training and it's a statewide over the Internet training at certain times.

CLEMENTS: Thank you.

BOLZ: Go head, Senator Erdman.

ERDMAN: Thank you, Senator Bolz. Thank you, Senator Dorn. Senator Dorn, on the second page of the fiscal note, in the middle of the page it talks about these funds would pay for the personnel and in (salary and benefits) for trainers 30 at 0.1 FTE, fuel and insurance expense for the trucks. For the 30 trainers, is that what that is?

DORN: I do have the fiscal note here if I can find it. OK.

ERDMAN: Right in the middle of the page.

DORN: If, if there are not 30-- that I'm not sure. We do have somebody here I know that was gonna talk later on from the SIM's organization and that they would have to answer that question. I could not tell you for sure.

ERDMAN: So maybe you can answer this, and if you can't that's fine. So right now the funds are being provided by the grant taking care of this and so that grant's gonna run out so these funds would pick up the difference. Is that what you're saying?

DORN: That is correct. Of, of the current-- the, the original five million supplied the four trucks, all of the equipment, and so much funding, and that funding-- that part of the grant is slowly running out of money or same as running out of money. And what this would do is then supplement that part of the cost. Part of-- what they also explained to me, part of it's like most, most situations to get the loan, philanthropy money or whatever or people to help donate money. Generally the state, as in most situations, the state now has to show

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that they have some also skin in the game or whatever and that is part of what this bill was kind of came forward with when they came forward to me and asked me to sponsor this bill that was part of the discussion that we also need to show that we are supporting that as a state.

BOLZ: Very good. Kathy Tenopir, our fiscal analyst explains to me that there are 30 individuals providing the training, but because they are not ongoing trainers that it's more one-time training that doesn't result in a single full FTE, rather it's a percentage of an FTE, if that helps answer the question.

ERDMAN: Well, the bottom of that page talks about three full-time FTEs.

BOLZ: Right, so it looks like there's personnel and for trainers. Anything further for this testifi-- or for Senator Dorn? OK, any proponent testifiers?

JOE WIEBOLD: Good afternoon, Senators. My name is Joe Wiebold, J-o-e W-i-e-b-o-l-d. I am testifying in support of LB666 on behalf of the Nebraska Emergency Medical Services Association, and it's an organization dedicated to providing the highest quality care to the citizens of the state. NEMSA, members are both career and volunteer emergency responders including emergency medical responders, emergency medical technicians, advanced emergency medical technicians, and paramedics. I myself have been an EMS for 16 years working in a variety of settings including volunteer fire department, emergency room paramedic, and flight paramedic. I currently work as a paramedic training officer and director of business development for Medics At Home Ambulance which is a private ambulance company offering services in Omaha and Lincoln, Nebraska. We provide a range of services, anything from standby emergency care at sporting events to critical care transports for medically complicated patients needing transport to a higher level of care. SIM-NE has provided outstanding training to our staff. Our critical care transports involve complicated protocols involving protocols for medically fragile patients including the use of multiple medications through IV pumps, advanced airway interventions involving portable mechanical ventilators. The SIM van is the greatest opportunity in training for these scenarios. It allows us to run our protocols, do interventions, and gauge responses as a live scenario in a controlled environment. It's an amazing piece of equipment that provides hands-on training to enhance lifesaving skills. Having said that, the SIM van isn't limited just to scenarios

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based for paramedics, the SIM van is capable of training all levels of EMS with the ability to modify scenarios based on the region it's in. Most amazingly it can go anywhere to provide the training to emergency care providers across the state. Emergency medical care is a public service that should be supported by our state. LB666 is a reasonable request that we urge this committee to incorporate in its budget. Thank you for your time, and I'd be happy to answer any questions.

BOLZ: Thank you. Any questions for this testifier? Very good, thanks,--

JOE WIEBOLD: Thank you.

BOLZ: --thanks for your-- further proponents?

CRAIG VYHNALEK: Good afternoon, my name is Craig Vyhnalek, C-r-a-i-g V-y-h-n-a-l-e-k, here to testify in support of the bill on behalf of the Nebraska State Volunteer Firefighters Association. I'm currently the EMS chief with Wilber Fire & Rescue in Wilber, Nebraska located about 35 miles southwest of Lincoln. Again, thank you for the opportunity to address this body and ask for your consideration and support of LB666 funding for the SIM-NE training truck program. EMS in rural Nebraska is challenging. It's difficult to recruit and retain members, and once you get them to train them, and keep their training and skills current can also prove to be a challenge. Our department was fortunate to have the SIM-NE truck at a training session in January. The attendance was overwhelming, the training was fantastic. In this training session, we were able to engage and challenge our members. Everyone from as few as two months experience in EMS to over 40 years. This type of training is not something you can do at a regular training session at your local fire station. Additionally, it's not an option to send all of your members out of the area for the statewide conferences and trainings, as you have to keep adequate staff at home to handle the calls and incidents that may occur, which makes the SIM-NE training and even more valuable training tool. I realize this trading opportunity comes with a cost, but being able to train the EMS providers in rural Nebraska with scenarios they will likely encounter in a setting that simulates, motivates, and challenges them, so when the actual situation arises they are more than ready and capable of handling these types of situations. In my opinion, this is priceless. The training equipment inside the truck is realistic and something that most rural EMS agencies could not afford. The availability of the equipment and staff is also vital and enhances the training by going through what went right, what went wrong, and

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what could be improved on. Several of the departments in our area have utilized the SIM-NE training, and I have heard nothing but positive comments about their experience. In fact, most are planning to have the training again in the future utilizing the different training scenario. By supporting the funding of this bill, this will allow the EMS providers in the state of Nebraska to become better trained, challenged, and confident in their skills and abilities when they are faced with a challenging call. In my opinion, the program is a huge asset to the EMS community in the state of Nebraska and the citizens of Nebraska. And if it is allowed to go away, there will be a significant negative impact on EMS in rural Nebraska. In conclusion, I would ask for your support of this bill as the pro-- as this program is one that truly impacts the citizens of Nebraska and provides them with a tool that truly makes a difference in life and death situations. Thank you, and I'm happy to answer any questions.

BOLZ: Thank you. Go ahead, Senator Hilkemann.

HILKEMANN: You, you represent Wilber,--

CRAIG VYHNALEK: Yes.

HILKEMANN: -- but then you represent the national-- the statewide association as well?

CRAIG VYHNALEK: The association, who-- is who asked me to come and speak today.

HILKEMANN: OK.

CRAIG VYHNALEK: And I'm a member of the association as well.

HILKEMANN: OK, just, just a quick question, kind of going back to what was asked Senator Dorn at the beginning, your department receives funding from taxpayers, correct? In other words, there's, there's a, a--

CRAIG VYHNALEK: Small amount, yes.

HILKEMANN: Yeah, yeah, yeah. OK. Do most of the persons that are in your department, does their department pay for this training?

CRAIG VYHNALEK: Our department will pay for your initial EMT training. And then if you incur some expenses to go to an EMS conference or training, we try to accommodate those expenses. The value of having

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the truck come to our department is we were able to accommodate several members. And they all got outstanding training that came to us. This training would not have occurred if people had to leave and go elsewhere to get it, because of logistics, and time, and things like that. So--

HILKEMANN: I won't-- the, the out-- the, the SIM unit is outstanding and I'm glad that, that opportunity-- what I'm, what I'm saying is, is that-- so your department had, had the resource in order to bring the SIM training to Wilber?

CRAIG VYHNALEK: Yes.

HILKEMANN: Would you say that that's the instance for most of our local departments that they would have the-- if they, if they choose to, to bring this SIM unit, that they could do that?

CRAIG VYHNALEK: I think right now it's very readily available, and at this point-- you know, there is no cost to the departments to receive the training. But, the training is readily available for the departments.

HILKEMANN: OK, so it goes back to the Helmsley Trust that's providing, and when-- and it's a concern that the Helmsley Trust is not gonna continue to keep funding this?

CRAIG VYHNALEK: That's what I understand, yes.

HILKEMANN: OK. So as long as the Helmsley Trust is providing it, it, it is available. [INAUDIBLE]--

CRAIG VYHNALEK: I'd have to refer that to the gentleman from the SIM-NE. You know, he would have more information on that.

HILKEMANN: All right, thank you.

BOLZ: Thank you, Senator Hilkemann. I do have one question. Not representing a rural community, can you explain to me what the responsibilities of the city or municipality of Wilber are to your department? Are they responsible for the vehicles or what, what, what things are they responsible for in terms of providing these services?

CRAIG VYHNALEK: Well, the, the city of Wilber provides us our equipment, our vehicles, the insurance, the workman's comp insurance, a, a facility, and-- you know, they also-- you know, we also have a

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budget that-- you know, we do have some money to pay for trainings, etcetera. But the trainings that we're able to go to and attend, I've been doing this for 30 years and none of them really compare to what's able to be brought into your department and give you a variety of different scenarios that challenge you. Like I said before, we had members with two-month's experience, and members of over 40 years and everybody from the two months to the 40-plus years was engaged, involved, and challenged. And that-- that's a huge--

BOLZ: Yes. Since you're representing the association can you answer the question, it-- is, is the way that Wilber funds their EMT services, is that typical of other communities? In most other communities, are they paying for your training, your equipment, your facility-- is your--

CRAIG VYHNALEK: I, I know of some that paid, and I know some that a lot of the expenses for training and even your initial EMT are the EMT's responsibility. So it's kind of all over the board.

BOLZ: OK, thank you. Any further questions? Thank you, sir.

CRAIG VYHNALEK: Thank you very much.

BOLZ: Further proponents? Good afternoon.

DOUG DEKKER: My name is Doug Dekker, D-o-u-g D-e-k-k-e-r. I live at 303 Corral Circle in Papillion. I'm here to speak in support of LB666. I'm the program manager for Simulation in Motion-Nebraska, a program of the University of Nebraska Medical Center. I'm here testifying as a citizen. I do not speak for the university, and my comments do not represent the policy of University of Nebraska. I have proudly served my fellow Nebraskans as a first responder for over 37 years, 33 of those years as an Emergency Medical Technician or paramedic, and 30 years as EMS educator providing both initial and continuing education training classes. During most of the time that I spent as an EMS provider, this was in a volunteer capacity. Many continuing education hours that I have taken over my years have been lecture-based presentations. Lectures have their place, however, studies show that high fidelity medical simulation is rapidly becoming a vital addition to the delivery of medical education. An article published by the Association of American Medical Colleges in 2011 details the benefits of high fidelity medical simulation to improving skills. In the documentation that presented you today, I've left a link there. In addition to lecture based training, there's also a hands-on scenario

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training. Until the advent of high fidelity simulation mannequins, other EMTs or paramedics would role play as patients. During this type of training, students would assess and treat their fellow EMTs. While this training has benefits, it also has drawbacks. For example, when the student took a blood pressure during a scenario, the student had to ask his or her instructor what the reading was. The person playing the patient could not physically mimic the appropriate blood pressure related to the scenario. The same was true for other vital signs. Consistently asking the instructor questions about patient vital signs do not allow for a smooth patient assessment and treatment. This type of training led to potential bad habits in the field. At a conference I attended for EMS educators, a presenter described a disturbing incident that occurred in the back of an ambulance during the assessment of a real patient. During the patient assessment, the EMS student took a blood pressure and immediately looked to the preceptor and asked, what's my patient's blood pressure? Bad habits learned in the classroom carried over to his performance in the field. This is an example of how the student did not have the opportunity, as is said in the military, to train like you fight. SIM-NE simulation allows students to train like they fight. This is done using mannequins that can mimic vital signs allowing students to hear and see all vital signs to perform patient assessments. Until SIM-NE started in the state, during continuing education, EMS providers had very little, if any, opportunity to use this type of simulation to practice performing very important skills in real-life scenarios. They were not able to train like they fight. SIM-NE provides a greatly improved way to help volunteer EMTs maintain their skill proficiency without spending hours on the road traveling to a continuing education course that could be miles away. I ask the committee to support LB666 to provide improved training for rural volunteer emergency responders and providers by providing better training to the volunteer rural emergency health care providers in the state, they're able to train like they fight and provide better care to the citizens and visitors to the state of Nebraska. Thank you.

BOLZ: Thank you for your testimony. Have any questions? Go ahead, Senator Clements.

CLEMENTS: Thank you, thank you, Chair Bolz. Thank you, sir. Has the SIM-NE service been provided free to all the places where it's been used?

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DOUG DEKKER: Yes, we have. All the EMS agencies and the Critical Access Hospitals is the other entity that we train, that training has been provided free of charge. We have had a couple of trainings here in the last few months that is sponsored by the Nebraska Perinatal Quality Improvement Collaborative, they have obtained the state grant from DHHS, and we received some reimbursement through that grant for those particular trainings, which they've numbered about ten or eleven is all.

CLEMENTS: With the \$200,000 quoted here provide all the funds needed to operate these four trucks?

DOUG DEKKER: No sir, the average-- or excuse me, the annual budget is closer to \$1.2 million. The \$200,000, as I believe it was Senator Dorn spoke, helps us be able to-- when we work with the NU Foundation, which we've been working with since day one of the program, to move towards sustainability. It helps leverage their work when they go to talk to donors and say-- you know what, what's the university or the state's buy-in into this. We're able to say the state has put some money towards this and that's what this \$200,000 will help be able to do.

CLEMENTS: Thank you.

BOLZ: OK, thank you, sir. Oh sorry, go ahead, Senator Hilkemann.

HILKEMANN: Yeah. If we were to a-- if the funding goes away-- you said, 1.2 million.

DOUG DEKKER: Yes, sir.

HILKEMANN: Is this what it's gonna take on an annual basis to keep this program going?

DOUG DEKKER: Yes.

HILKEMANN: OK, and how many departments would that-- if that 1.2-- how many departments would you be able to train during a course of a year with that?

DOUG DEKKER: Up to this point in time what we've done is kind of a response-based mode of training that people call us and we've done the training. I would say that we could continue at the same rate we are and we've trained over 250 departments or over 250 trainings, some have been repeats, but we've done over 250 trainings in the last 18

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months. So we could do well over 100 trainings a year probably closer to 150 trainings a year at least doing this.

HILKEMANN: Are there departments during this period of time that it's been provided by the Helmsley group is it-- are there departments that have not asked to have this training?

DOUG DEKKER: Yes, there are. And we actually started last fall with having-- we have a regional coordinator in each area who have started making phone calls, basically cold calls, to the locations that have not requested our service yet to remind them. We've been very conscientious about getting the word out about the program. Sometimes it's still kind of funny, and when you hear people say, oh, I didn't know we could do this, or I didn't know it was free. Even though we've done a massive campaign for the last three years to, to let people know. So we've started calling folks that haven't contacted us yet, and we've been in 87 of the 93 counties so far.

HILKEMANN: So what's the, what's the objection to these that, that they have not taken this training?

DOUG DEKKER: I don't think there's an objection. I think that it is, as is spoken to by the other gentleman and by Senator Dorn, their volunteer people who have a lot of things on their plate and finding that one person to help coordinate all of the training and things sometimes they just don't have enough hours in the day to get everything done that they'd like to get done. The folks that we have called that have not requested our training yet, they've just basically said they haven't been able to have the time to get to us to ask the question. They were very appreciative of the fact that we were there. They want to do our training, it's just a matter of scheduling on their end.

HILKEMANN: Thank you.

DOUG DEKKER: If I may speak to the, the FTE question, there were 30 F-- 30 part-time folks at 0.1 FTE. I don't know what it said. We have part-time trainers that do the brunt of our training courses.

BOLZ: Correct, 30 trainers at 0.1 FTE--

DOUG DEKKER: At 0.1

BOLZ: --equals 3--

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DOUG DEKKER: 3

BOLZ: --total FTE.

DOUG DEKKER: Right.

BOLZ: Correct.

DOUG DEKKER: And then we have a coordinator in each area at one FTE also.

BOLZ: Very good, thank you. Do I have further proponents?

JERRY STILMOCK: Madam Vice Chair, members of the committee, my name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my client-- clients of the Nebraska State Volunteer Firefighters Association, and the Nebraska Fire Chiefs Association. Because the other testifiers have, have fulfilled their role in, in sharing information with you, I just wanted to fill in a couple items perhaps. I think in terms of what does a local community do to assist EMS in that local community, I think it's all over the board. I think some are self-sustaining, meaning they're funding, that they're able to recover from insurance companies or self-paid for patients that receive volunteer EMS services are some-- are in enough to sustain a budget so there's no taxpayer money going into the city or village EMS volunteer squad in that particular area. Others don't have the sufficient amount of volume so the city or village or the rural fire district is providing some taxpayer funding in order to keep an EMS-- a volunteer EMS operation going. But, the EMS has become so critical, critical in some parts of the states. I'm aware of one, one town that because a, a person that was able to fill a role on daytime-- imagine daytime where maybe you're around a hub of a larger community of Grand Island or Kearney or even the town of Syracuse at 2,000, once the daytime staff for EMT is, is no longer available that puts a crunch on the entire system. So I'm aware of once sit-- situation where that, that department was reliable upon a number of daytime people and one daytime person had to go to a more sustaining position for employment for themselves which took them out of the daytime mode for being a free volunteer service, and it put-- it's putting a crimp on the entire service, now how did they domino back. The point of bringing that up is, yes, it's related to LB666, and for what Senator Dorn is doing, but also to let the committee know of what volunteer EMS is going through in the state right now. It's, it's a critical juncture that we're trying to man with volunteers, but yet there are some

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areas, some pockets that have gone over-- they-- they've had to leave the volunteer ranks and go to paid services which obviously is impacting property taxes and or inheritance taxes that are collected by the county. But for the reasons that others have stated we wholeheartedly support what Senator Dorn has brought to the committee, and hope you would see fit to advance it. Thank you.

BOLZ: Thank you. Questions? Go ahead, Senator Hilkemann.

HILKEMANN: You said that, that the, the local departments, they, they can collect from private insurance for transporting patients and so forth. Is that correct?

JERRY STILMOCK: Yes, sir.

HILKEMANN: OK, and I'm-- you said that there are, there are departments out there that, that are not receiving any tax-- they have-- they're not receiving any of the levy of the city or the county?

JERRY STILMOCK: The a-- that's correct. The, the-- there are some communities that, because of the revenue that's brought in, it can take care of the budgetary operations of that volunteer department by fuel, insurance, training-- I mean, it's not lucrative, but, but they're, they're trying to collect for the services that they provided. So, yes, sir.

HILKEMANN: What would you say the percentage of departments that did not receive any type of either county or city tax funds would be?

JERRY STILMOCK: It would be a mere guess, but I, I would imagine there aren't-- there are not very many, but, but that's speculation on my part, Senator.

HILKEMANN: OK.

JERRY STILMOCK: Yes, sir.

HILKEMANN: Thank you.

JERRY STILMOCK: Yes, sir.

BOLZ: Go ahead, Senator Clements.

CLEMENTS: I have a number question for you.

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JERRY STILMOCK: Yes, sir.

CLEMENTS: I was looking at 250 trainings-- 18-- in 18 months is 166 trainings per year, when you divide 1.2 million be divided by 166 is \$7,228 per training. That's pretty expensive. Is it bringing about enough benefit for the cost per training?

JERRY STILMOCK: Without being coy, Mr. Dekker, it's time to come back up and testify. All I know is, it's tough enough recruiting a volunteer, Senator. The cost to go to a paid service would far exceed that, that mathematical function that you just performed at your seat, sir. That's the best I can do.

CLEMENTS: Sure.

JERRY STILMOCK: Yes, sir.

CLEMENTS: That's all right, I was just-- I was kind of wondering-- did that calculation to see whether we could charge a fee. Some of these people are going to training currently and paying for it. I was wondering if they could justify having the local squad pay for this training, but it's a-- looks like private donations is really gonna be required. Like they said, the 200,000 is just small part of it.

JERRY STILMOCK: Very much so. Yes, sir.

CLEMENTS: So thank you.

JERRY STILMOCK: Yes, sir.

BOLZ: Thank you very much.

JERRY STILMOCK: OK, thank you, ma'am.

BOLZ: Further proponents? Any opponents? Any testifiers in a neutral capacity? Would you like to close, Senator Dorn?

DORN: Thank you very much. Thank you for some of the questions. I'm, I'm gonna explain a little bit of funding and what the funding I know was from our squad and from Gage County. Our squad-- when Gage County-- state-- the state is not required or the, the people in Gage County are not-- they are allowed three cents of levy for the fire departments. That's a county wide with the MFO. All the ambulance services in Gage County, none of them receive any tax levy or state funding in that respect. Gage County allocates \$280,000 a year to all

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the services in the county. They wouldn't have to provide a single dollar, \$180,000 of that goes to Beatrice. The rest is balanced out to the other squads, Adams gets \$16,000. If you have an ambulance in the county then you're getting \$16,000 and Wymore gets \$40,000. Several squads like Cortland, they don't have an ambulance, county allocates them \$6,000 a year. Since we have an ambulance, we, we charge, we charge medically when we transfer-- transport or whatever. We average 80 calls a year. We transport maybe 50 to 60 calls a year or whatever, so we do collect funds in that way. But the last time we bought an ambulance was about seven years ago, that was a \$200,000 cost to have an ambulance. So it's all volunteer. We don't get funding from other places. That's where all of those costs that we collect on that's where they go. I do know visiting with other squads around the state and as you visit with other EMT squads there are EMT squads that don't get any funding from anything. And like I said, if Gage County wouldn't allocate the funds the way they do, the, the local squads in the county-- unless they're associated with the fire department they wouldn't have the ability to raise funds either. The truck, the truck-- they had the truck out here, I don't know if anybody else was able to go out and see that. We did have the truck down in Adams a year ago in the summertime. Our squad thought that was one of the best, if not the best, hands-on training we could have had. We don't get-- if you-- in the, in the truck they have another room in the middle where they can change different things on the mannequin and they can stop the blood pressure. They can do a lot of things and create situations which we don't always see. We're not like Lincoln, we're not like Beatrice, who have full-time EMTs. In Lincoln, you expect them or I, I think most people realize that they will get there in a very short time. A lot of our-- especially our rural areas out where Senator Erdman is from, I know visiting with one person out there-- if they didn't have their squad in town it would take somebody-- the next closest place was an hour away. So if you called, it would have been an hour before they got there. The SIM truck, what it does, it gives you a lot of hands-on experiences, a lot of hands on training that you don't get from a lot of the other types of training. So it is a very valuable resource. We really do appreciate it as having it there. This is just one option or some-- one way of asking for some additional funding. So thank you. And some and some very good questions especially yours when you-- you're always the one doing the math and figuring out what it costs per hour or whatever. I-- neat questions.

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BOLZ: Go ahead, Senator Erdman.

ERDMAN: Thank you, Senator Bolz. Senator Dorn, thank you for bringing this-- it's a-- and your service here on the EMTs and the fire department. So in your, in your volunteer organization, what's the average age?

DORN: Oh my gosh, that's not like it used to be. When I, when I was on the squad we were probably-- what I would call a young squad, our average age, I'm probably an average person right now. Most-- a lot of them have been on there for a long, long time, longer than I have, and I've been on there 30-some years. So it's very, very hard to recruit young people because of the hours of training it takes, takes and the time commitment. We've had some on there that just-- the time commitment, they just don't want to.

ERDMAN: Do you have any members under 30?

DORN: Well, in a way, indirectly we do, my daughter who is a physician assistant. She has joined the squad in the last year or two, but not as an EMT, but as a physician assistant. So we do have one under 30 on there that I know of. Otherwise, we do not.

ERDMAN: So it is an old rural Nebraska.

DORN: Yeah, we're losing-- we, we don't have that many young people and as some of them, particularly myself, was we age up we-- the real concern going forward, ten of our calls last year were in our neighboring town Sterling we're just seven miles away. Those were all during the day because they didn't have enough people to cover theirs. So now we're-- you know, it takes us time to get our ambulance and we go over there. They have their own ambulance also but they are running as, as Wymore and Beatrice now have an agreement in Gage County whereas Beatrice-- when Wymore is paged, Beatrice is paged particularly during the day because Wymore will not be able to cover some of those calls, they just don't have enough people. And that way when Beatrice and Wymore are paged at the same time, Beatrice is there-- can leave right away and they know in 15 minutes they'll get to Wymore. So thank you much.

BOLZ: Go ahead, Senator Clements.

CLEMENTS: Thank you. Thank you. One more was, regarding the million dollars extra that needs to be raised as the SIM-NE people told you

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they think it's pretty likely that they'll be able to raise the million dollars on top of this \$200,000 each year?

DORN: I-- part of our conversation was that they needed buy-in from the state. A lot of the people that they're able to raise those from-- funds from, it's like a lot of the other things we have in the state, they want to know that there was a buy-in from the state that they just weren't giving funds or giving the use of funds just solely themselves in that that would be the only source of revenue. They also wanted to know that or make sure that the state has some so called skin in the game.

CLEMENTS: I heard the Nebraska Foundation mentioned, were there other charitable organizations or foundations that you've heard of that will-- would fund this?

DORN: That I did not visit with them about. That-- we'd have to ask some of the others. I see him shaking his head, yes, over here and stuff, so. [INAUDIBLE]--

CLEMENTS: We can, we can find that out later. Thank you.

DORN: Yeah, but I'm sure there are other ones. I mean, they, they-- there are people that are very, very supportive in our state of Nebraska. The one thing I will say is we have very, very good support from a lot of people.

CLEMENTS: Thank you.

BOLZ: I, I do have one question for you, Senator Dorn. Part, part of my education I suppose, but I think I heard you say that the-- there's a-- there are three cents allowed in your levy for fire stations [INAUDIBLE]?

DORN: Now in, now in, in Gage County dif-- different ones are different; different counties are different. Gage County, in their mutual funding agreement they all are at that three cents and Senator Groene had the bill now that they wouldn't need to do that for every year that we passed already, but yeah.

BOLZ: And that-- that's part of my question, that limit is that set by the county or is that step-- set by the state?

DORN: That in Gage County, and I don't know otherwise, in Gage County, that's set by all those organizations and that's-- there-- it's also

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in that mutual fund. The MFO, they also get outside, and somehow, I don't know where that funding comes from, that comes from the state or some of the other organizations. They had to be at a minimum of three cents to also qualify for additional funding. So that's why in Gage County they have done it or at least why they've always explained it to us, because we always ask that question, too, why at three cents? And that is, like I said, I don't know if other counties are different but in Gage County they did that so that they would also qualify for additional funding. Now in Gage County, in Adams, our fire department is completely separate from our rescue squad. Some of the squads are one. I cannot tell you how many are or not. I know in, in Wy-- well, I shouldn't say for sure, I don't know. In, in-- certain squads do it their own way in. In, in Adams, our rescue squad is completely separate from our fire department.

BOLZ: But to your knowledge there is no state limitation on how much a county could spend on these services?

DORN: The state what?

BOLZ: There's no state limitation. That is not a state limitation.

DORN: No.

BOLZ: That is a county limitation.

DORN: Yeah.

BOLZ: Thank you.

DORN: Yes.

BOLZ: OK. Thank you, Senator Dorn.

DORN: Thank you.

BOLZ: I do have six letters of support for LB666. And with that, we'll close the hearing on LB666, and open the hearing on LB669 with Senator Kolterman. Good afternoon, Senator.

KOLTERMAN: Good afternoon, Senator Bolz and members of the Appropriations Committee. For the record my name is Mark Kolterman, M-a-r-k K-o-l-t-e-r-m-a-n. I represent the 24th Legislative District. I come before you today to introduce LB669, a bill that allocates \$15 million to create a center of excellence at the University of Nebraska

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Medical Center that would focus on pancreatic cancer research. I certainly understand that we are in a tight budget here, and I know this is a big ask. But this would not be funded by General Funds, instead the funding would come from the Nebraska Health Care Cash Fund. Before any state dollars are appropriated from the Health Care Case Fund, the university must raise \$15 million in private funds for the same purpose. Thus, creating a public-private partnership to research this terrible disease. As you know my involvement in this proposal is unfortunately based on personal experience. I lost my wife, Suzanne, to pancreatic cancer about 18 months ago. Her diagnosis came without warning, as she was a picture of health until she began noticing some symptoms. This made a huge impact on our lives, and continues to impact me daily. My daughters are not here today, but they would tell you that they both struggle with the reality that the same cancer could strike them or their children at any point in their lives. In visiting with medical professionals on how to screen for this cancer, it quickly became evident that there is no such screening available, and that there is little they can do to prevent the onset. Suzanne was originally diagnosed at the Mayo Clinic in Rochester, Minnesota. They gave her the prognosis of around 60 days to live unless we got really aggressive with chemotherapy. The Mayo Clinic is a good clinic. They recommended we seek out treatment closer to home, specifically at the University of Nebraska Medical Center. In doing so, Suzanne and I, and my family were truly impressed by the highest level of professionalism and innovation we found right here in Nebraska at the UNMC. Every single person we interacted with provided hope, insight, options, and most importantly compassion. Thanks to the wonderful care they provided, Suzanne had 18 wonderful months with us with a highly-- extremely high quality of life. Those are valuable months which we credit to Suzanne's incredible spirit and also to the extraordinary care we received at the Med Center. Others are not so lucky. We, we had friends diagnosed with the same disease after Suzanne was diagnosed, and they died only a few months after being diagnosed. UNMC doctors and research-- researchers shared with us what they had to offer for treatment during Suzanne's illness and what they hoped to offer patients with their diagnosis in the future. Through friends, I was introduced to Dr. Armitage, who will testify in a few minutes. Dr. Armitage also lost his wife to this fatal disease. When he was visiting Suzanne and I one day as she was getting a treatment, feeling completely helpless, helpless in what we could do for Suzanne, I asked him what can we do to make this better for families in the future. He shared the idea of a Center for Excellence, and I told him I wanted to help. This idea is endorsed by the Board of Regents at the

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University of Nebraska, and now we're working on funding the center. I know this can't bring Suzanne back, but it's my hope it will help many and generations to come as the University Nebraska Medical Center focuses on pancreatic cancer research and treatments. Our goal is that one day they will discover a screening that can prevent and pre--prepare families for this type of situation. The reality is that currently there is inadequate focus on this specific type of, type of cancer, and it's considered unfunded in research largely because of how rare it is and the high mortality rate. Just this past week we learned that, Alex Trebek, was recently diagnosed with pancreatic cancer. He was one of the approximately 50,000 people who were diagnosed with this disease each year. I reached out to him, and I shared with him the amazing opportunities for treatment at the University of Nebraska Medical Center, and I heard back from him through his assistant that they appreciated all the information I'd given them, and at this time there were still in the evaluation process of all his options. Other notable people have died from this disease: Steve Jobs, Michael Landon, Patrick Swayze. But it shouldn't take celebrities to push us towards looking for better treatments and screenings. We should think about our neighbors and fellow Nebraskans. Like Suzanne, our former Mayor Bob Elwell, who lost his life to this disease, as well as both parents of our family friend Elli, who you'll hear from in a few minutes, and others that are gonna follow me. I'm guessing each one of you know somebody, some other Nebraskan who's facing this disease and undergoing some sort of treatment today. Thank you for considering this funding. I believe in the University of Nebraska Medical Center and the work they're doing. And I wish them the best as they look for a screening, new treatments, and maybe someday a cure. With that, I'd be happy to try and answer any questions you might have of me. Thank you.

BOLZ: Thank you for sharing your story. Any questions for Senator Kolterman?

DORN: Have one right here.

BOLZ: Go ahead, Senator Wishart.

WISHART: Thank you so much for being here today and sharing your story and this very worthy cause. You know, we've already had some conversations around the Health Care Cash Fund and its long-term sustainability, and we've introduced an interim study last year where we talked about the philosophy of sort of having the fund long-term or whether we invest more immediate in immediate needs so that's kind of

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what we're wrestling with as a committee. But if, if not the Health Care Cash Fund, have you, have you looked at-- are there other sources of funding that you think could potentially go to fund this?

KOLTERMAN: Well, I would tell you that the University of Nebraska Medical Center is constantly look for partners. Several years ago-- the first year I was here, we had, we had two senators introduce a bill where we were gonna give the University of Nebraska \$25 million, a one-time gift--

WISHART: Um-hum.

KOLTERMAN: --to fund the iEXCEL. I would tell you that if you go look at that iEXCEL operation today, you would find that it's, with the \$25 million, they've raised over \$110 million. So are there other opportunities? I would say there probably are. But are there other opportunities that are going to present themselves as soon as we need them? Probably not. But you have to understand this \$25 million, it comes with a caveat, or \$15 million comes with the caveat, that they have to raise \$15 million as well. I know it's a big ask. I was at your hearing this summer-- at the interim study up at the Med Center. I appreciate the fact that we're, we're dealing with limited funds, but I also know that we've done a good job of managing those funds to date. The question, can we tap those funds early? I think we can. Will we have to stretch a little? I think we will. But if you can save a life, if we can find a cure-- you know, we have a Medical Center that's on the cutting need-- cutting edge when it comes to Ebola. They made us-- we're world renowned because of our expertise there. Wouldn't it be great if we could have a more renowned Cancer Center in Nebraska that's found a cure or an early detection for pancreatic cancer? That'd help 50,000 people on an annual basis. I can't think of any better way to spend dollars coming from tobacco settlement funds than this. I know that's a long answer.

WISHART: No, no, it's, it's a good answer. What are some of the-- what are some of the causes of pancreatic cancer?

KOLTERMAN: I'm gonna let the experts talk about that.

WISHART: OK.

KOLTERMAN: We have two doctors coming forward I believe. We'll let them deal with that issue,--

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WISHART: OK.

KOLTERMAN: --but it's a good question.

BOLZ: OK. Thank you, Senator Kolterman.

KOLTERMAN: Thank you, and I'll stick around for the closing.

BOLZ: Sure. Proponents for LB669.

JEFF GOLD: Good afternoon, and thank you so much for the opportunity to be with you today, members of the committee. My name is Dr. Jeff Gold, that's J-e-f-f G-o-l-d, and I am honored to serve as the Chancellor of the University of Nebraska Medical Center and the University of Nebraska at Omaha. And I'm present here today representing the University of Nebraska in support of LB669. I appreciate this opportunity to speak with you, and I'd like to thank the Legislature for the past support of the Fred and Pamela Buffett Cancer Center, and for the dedicated revenue from the Nebraska Tobacco Settlement Trust Fund, now over many years. I want you to know that these dollars are well spent. Both in terms of positive economic impact for the state, but also in our researchers, clinicians, nurses, and staff members fighting every day to improve the lives and health of our fellow Nebraskans. In terms of that economic impact based on a very recent nationally benchmarked study, the Buffett Cancer Center alone has generated \$246.8 million in economic impact in 2018, and created 2,334 jobs for Nebraskans, producing \$8.5 million in one year in state and local tax revenue. This is the first full year of economic impact since the opening of the Cancer Center, and is in the context of a \$4.8 billion entirety of the Med Center's economic impact, now employing more than 42,000 people, generating more than \$165 million a year in state and local tax revenue. This is exactly what we mean when we talk about how investment in our university grows our state. Today, once more we need your help. We are asking you to support LB669. Recent data reveals that more than 92 percent of people diagnosed with pancreas cancer will die within five years, and within the first year following their diagnosis most will succumb as well. Think of that. Too many Nebraskans, too many in this room have felt the devastation of this diagnosis. Myself included, as my dad died almost exactly seven years ago today after a hard fight, highly emotional one-year battle with pancreas cancer. We must do better. We Nebraskans must say that this is the time and this is the place and that we are the people who are gonna change this. We've done it before, and we will do it again. Our goal with LB669, and the creation

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of a Center of Excellence in pancreas cancer is that someday a diagnosis of pancreas cancer will not be a death sentence. Instead, it will be a diagnosis like lymphoma and many leukemia's are today. Indeed, when I was a medical student, 80 percent of childhood cancer was fatal, now it's 20 percent. And so when we ask for your support for LB669, we are not asking for a donation. We're asking for you to stand with us as full and active partners in this fight. Every state dollar will be allocated to pancreas cancer research and will be matched by at least one, and probably more than one, private donations and other funds. We indeed have the individuals who are standing ready to donate and they just need to hear from you that we are all in. This is the kind of public-private partnership that happens in few places around our nation. But it does happen in Nebraska, that makes this all possible. We very much appreciate your vision and indeed the courage of elected officials such as yourself. And it happens because these partnerships are part of the very spirit of our people that we as Nebraskans come together and get things done. Ladies and gentlemen, now is the time. This is the place, and we are the people. I believe that this can be done here and now with your help. I thank you, and I'd be very grateful to answer any questions that you may have.

BOLZ: Thank you for your testimony, and sorry for your loss. Go ahead, Senator Hilkemann.

HILKEMANN: Thank you, Dr. Gold, for being here. The Center for Excellence in pancreatic cancer-- how many centers for excellence in pancreatic cancer are there across the nation?

JEFF GOLD: I would have to defer that to Dr. Armitage or others who are gonna testify after me, but I would imagine it's a small number that have dedicated centers of excellence such as the one the University of Nebraska Board of Regents approved last June.

HILKEMANN: You know, we've, we've had-- I'd have to say that my own personal experience with helping to invest in the University of Nebraska has turned out well with the iEXCEL. Do you see, do you see the same sort of a thing if we invest \$15 million here that the private funding will quadruple or five times the amount that-- do you see that? I know you said you think maybe dollar to dollar, but, but-- do you see it bigger than that?

JEFF GOLD: I do. I not only see it bigger than that, sir, in terms of the private investment from a philanthropic perspective. But you think about it, each of these investigators has one, two, three, maybe even

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four, what we call R01 National Institute of Health Grants funded through the National Cancer Institute. Each of those grants is worth approximately \$250,000 per year, per investigator that's funded. So at a minimum, were this to go forward at the full \$15 million rate, we would add approximately 8 new investigators. They would hire approximately 40 additional people at high-salary rates and each of those 8 investigators would be funded extramurally through the federal government and other sources for a minimum, I would imagine, of \$500,000 a year. So I am not concerned about the sustainability of this at all.

HILKEMANN: Um-hum. The-- you know, I've had this conversation, and I said that my, my daughter had her baby several months ago when I'd look out that window and saw that MD Anderson thing in Houston, Texas is right across the street. And I certainly remember back 40 years ago when I first came to Omaha that if someone had a major cancer they-- there was just two places they would go to, MD Anderson and, and Mayo Clinic. That was the only two. I'm so grateful that we now have the Buffett Cancer Institute and the track record they have. Do we have any-- do, do you have any comparisons of our pancreatic [INAUDIBLE] and, and I know that the overall pancreatic cancer that we, we don't-- the outcomes have, have not been good. But do we have any comparisons as how we've-- our, our cancer center right now as comparing to some of the other major--

JEFF GOLD: Well, the research that's going on in the Buffett Cancer Center now is directly connected to what we call clinical trials. Opportunities for patients both diagnosed with pancreas cancer, but also patients that are at high risk. Patients that have a family history. Patients that have a predisposition. Patients that have certain types of diabetes are considered to be high risk for pancreas cancer. And one of the things that we're trying very hard to do is develop a successful screening test for nondetectable-- for early stage pancreas cancer. The problem with pancreas cancer is that the overwhelming majority of individuals who are diagnosed, are diagnosed at a stage that it's almost impossible to treat. I think the statistics are that 80 percent of people who are diagnosed, are diagnosed at a stage that they're no longer candidates for surgical resection. And of the 1 of the 20 percent that are, ultimately go to surgery. Only 20 percent of them survive five years, because of the stage of their disease. And so it's really a 1 in 25 shot of making it-- you know, five years out from your diagnosis because usually these diseases present with either jaundice, back pain, sometimes they

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present just with weight loss and fatigue, which-- you know, many of us unfortunately have weight loss and fatigue. Several of us are prone to back pain for other reasons, and so these symptoms tend to be ignored, the patients come in late. But if we can have an early screening test, think what's been done for prostate cancer. Think about what cytology has done for cervical cancer. In other parts of the world where cervical cancer screening doesn't commonly exist, it's the number one cause of cancer death in women. In this country it's become extremely low, because of the early diagnosis. We have investigators that are running currently clinical trials, screening high risk patients for very, very early stage cancer in the pancreas. And when and if that diagnosis is made, confirmed by a scan or a biopsy, that is amenable to treatment with some-- with many of the therapies that we currently have at the Buffett Cancer Center.

HILKEMANN: So what you're saying to me is that you've already, just due to the very basis of our Buffett Cancer Center, you've been able to bring in more researchers that we wouldn't have been having for this disease. And so if we even dedicate more to it, we're going to be able to, to expand the number of people that would come here to this state to, to, to investigate this.

JEFF GOLD: That is correct, Senator. We already have an excellent number of very high quality clinicians that treat this disease. But for what we're talking about today, research scientists who have dedicated their career exclusively to the early diagnosis and treatment of pancreatic cancer. What we are attempting to do through this legislation is to jumpstart that so that we can develop a critical mass of additional research scientists who will give us what we need to fill in all the different pieces and accelerate that process. We believe that we are truly on the cusp of this early diagnosis, early treatment, and need this additional work force in order to accelerate that.

HILKEMANN: And maybe this is the question I should ask Dr. Armitage than of you, but I'll start off with you. If, if we-- you say we're going for the, the screening. That's, that's the-- to anticipate which is the prevention and the early screening is, is certainly a, a key to, to cancer-- are the other, quote unquote, centers that are out there, is this also what they're, they're focusing on?

JEFF GOLD: There are so many different attempts to diagnose and treat pancreas cancer. Dr. Armitage and others will be more specific about it. But, I can tell you there are centers across the country that are

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focused on advanced techniques in radiation therapy. There are others that are focused on immunotherapy. There are others that are focused on chemotherapy, and we have expertise in all of those areas that are working simultaneously. The idea of a comprehensively designated Center of Excellence is to package the research, the diagnosis, and the treatment, and of course the follow up, as well as the population health. Because a very legitimate question is what causes this, and why is this disease so prevalent in Nebraska? And as you'll hear from other members that are going to testify in a few minutes, that this is a real extra-- extraordinary challenge here in the state of Nebraska, and we need a better understanding from a population health perspective as to why our families are so much at risk.

HILKEMANN: Thank you, Doctor. I'll probably have other questions later. But, thank you.

BOLZ: Go ahead, Senator Wishart.

WISHART: So then-- are you the right person to ask what, what causes-- what are some of the leading causes for pancreatic cancer?

JEFF GOLD: Well, as best as a cardiac surgeon can tell you, Senator, there are certainly familial concerns that patients who've had parents, grandparents, aunts, and uncles who are diagnosed, there's a relationship to diabetes. There are certain genetic markers as well. I am not personally aware of environmental factors, but I'm gonna guess that Dr. Armitage and others can talk about whether there is literature that supports that.

WISHART: And so that would be part of the Center of Excellence, is looking at population health,--

JEFF GOLD: Yes, Senator.

WISHART: --as well to, to find the roots of, of, of the, the cause?

JEFF GOLD: This is all part of a what, what we define as a comprehensive Board of Regents' designated Center of Excellence. It's understanding the population health aspects, the prevention, therefore, of the disease, the early diagnosis, the screening, treatment, and, and then care.

WISHART: OK. And then-- you know, I think this is a great bill. It's an equally great senator that's carrying the bill, and so I, I really want to try to do something this year. I want to try to do something.

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My-- one of my concerns is with the Health Care Cash Fund, a significant portion of that funding goes to support other really important programs at the university. Are you worried at all that this will affect the long-term sustainability of those fund-- funds?

JEFF GOLD: Every one of these decisions is a very difficult decision, Senator. I, I should point out to you that I'm testifying here before you today on behalf of the entirety of the University of Nebraska.

WISHART: OK.

JEFF GOLD: And in that context, this is the exact conversation that we had. And we decided that the risk benefit ratio of not moving forward with funding this bill given the public-private partnerships, given how close we are to a major breakthrough here would not be worthwhile. And hence, I am here to support the bill.

WISHART: And would you-- you know, if we as an Appropriations Committee decide to, to move down this route and, and make the significant investment out of a fund that we've already been told is, is-- that there are concerns about its sustainability. Would, would your team be willing to work with us in finding additional revenue sources to go into the Health Care Cash Fund to restore its long-term sustainability?

JEFF GOLD: Well, I don't know what it would take to do that, Senator. I'm, I'm committed to find out and do-- and, and to work together with you to do our very best to do that. Clearly, the sustainability of the Health Care Cash Fund is important to us. It supports a lot of critically important research in our institution and in others, and we are very much aware of this. But, we think the possibility to exponentially expand funding in this area and how close we are to major breakthroughs is what makes this a worthwhile pursuit.

WISHART: OK, thank you.

BOLZ: I do you have one follow up question in the same vein, since you are testifying in your official capacity. I, I appreciate that from a university perspective, you've kind of done that internal analysis about the, the risk being worth the reward. But on, on this side of the table, the Health Care Cash Fund funds, not only things like research, like you're proposing, but also ongoing state services including Developmental Disability Services, Tobacco Prevention and Control, Gamblers Assistance, and the Children's Health Insurance

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Program. And so I guess my, my-- the question I'm trying to ask you is-- you know, with a, with a complete and full analysis of all those other competing factors and knowing that those things are going to compete for funds within the Health Care Cash Fund, do you maintain your position that risk, risk is worth the reward?

JEFF GOLD: I do. I don't envy your position in having to weigh all of those factors and to listen to the health care related needs of the state which are significant, believe me. In my-- just over five years here, I've come to appreciate the complexity of this. However, again, I believe that the opportunity to leverage the quote, state's skin in the game, unquote, with private dollars, the opportunity to recruit and retain world class scientists who will bring with them teams of experts who will support the state economically through tax revenue and, and other means as well as, of course, to make the situation that Senator Kolterman's wife gone through, a distant memory of the past. You know-- and let's not forget that every patient that is diagnosed with this disease unfortunately fills beds in clinics, infusion centers, hospitals, and operating rooms that is displacing other Nebraskans who could receive health care services. And these are not inexpensive services to the individuals and also to the communities that support the health care industry of the state. If we can get this to an early-stage diagnosis and manage this purely as an outpatient care type of event, as is the case of many, many types of early stage cancer to date, the economic savings to the state would be potentially considerable.

BOLZ: Well, I, I appreciate that response. I, I think that the cause-- as, as with so many bills that come in front of us, the, the cause is sound, though the way we finance it remains the question. And I think, I think we maybe need to work together to find some creative solutions given the circumstances that we're in with the Health Care Cash Fund.

JEFF GOLD: We would be very open to that, Senator.

BOLZ: Very good, thank you. Any further questions? OK, thank you very much. Further proponents?

JIM ARMITAGE: Good afternoon, my name is Jim Armitage, J-i-m A-r-m-i-t-a-g-e. I grew up in Kearney, and I'm now a professor of oncology and hematology at the University of Nebraska Medical Center, and a graduate of UNL and UNMC. I'm here today representing the University of Nebraska in support of LB669, which would support pancreatic research and provide funds that would be matched. My

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friends who specialize in the care of patients with pancreatic cancer tell me that they believe it is now the number two cause of cancer death in the United States having passed colon cancer, which is-- where which mortality is decreasing, decreasing, unfortunately for pancreatic cancer is increasing. Pancreatic cancer is extremely deadly, due in part to what you heard Dr. Gold talk about, the fact that it's usually advanced and not amenable to surgery. But, it also has a very adverse biology that makes it resistant to available systemic treatments and doesn't appear to be recognized by the body's immune system like some other cancers. And only about 1 in 25 people who contact this disease are gonna survive five years, but most die in less than 2 years. Some of us in this room as you've heard, myself included, know the fear and despair and anger that comes from hearing this diagnosis. And almost all of us here, maybe all of us, have loved ones, friends, acquaintances that we know about who have had to battle this disease. UNMC researchers, led by Tony Hollingsworth, have focused on finding ways to detect pancreas cancer early. It's a disease that occurs in this ridiculously inconvenient place right in the middle of you that you can't feel and difficult to image and hinders diagnosis. Yet this new clinic that we have started, trying to find a way to diagnose the disease earlier, has real opportunity to help those patients who are considered to be at high risk for developing pancreas cancer. These by the way are individuals who frequently have a family history of pancreas cancer. And if you're involved in the clinic, you're given free screening visits every six months to be part of this effort to try to learn how to make the diagnosis at an earlier stage and improve outcomes. By supporting LB669, you can help UNMC physician scientists increase the momentum needed to change the course of pancreatic cancer for our fellow Nebraskans. This is a very difficult disease, but it is not Superman. Just seems like that right now. It also has vulnerabilities, that once discovered, are gonna make it more treatable, more curable, and maybe preventable. There's no reason that these advances should not be made in Nebraska, as we've done for other diseases like lymphoma. I ask you to support LB669 in memory of the loved ones we've lost, and on behalf of the many other Nebraskans who are going to be diagnosed with this deadly disease, and whose lives might be saved by this effort. Thank you. I'd be happy to respond to any questions or comments.

BOLZ: Thank you. Go ahead, Senator Hilkemann.

HILKEMANN: Thank you, Senator. I appreciate you being here. I have to say, I had the privilege of having your son in my office as a-- as an

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intern while I was-- while he was doing his training in medical school. This center-- you heard me ask the question to Dr. Gold, and you're working around the country and the world. How many centers are there that are focusing on pancreatic cancer like this now, and what would-- number would you say?

JIM ARMITAGE: There'd be a fair number that would have-- would say that they have a-- they might describe themselves as having the center in pancreas cancer. If you want ones that would be what we're trying to do-- that is to have comprehensive basic research and comprehensive care from all different areas, and study the public health implications of the disease, all the aspects of it. There aren't very many. There's a very good team at Harvard, Johns Hopkins has a good program, has a very large surgical program. And a few others, there's one at the Medical College of Wisconsin that isn't as comprehensive but gets great referrals from all over the world. But there're not many, and not hardly any of them will have actually more basic science research funding than we already have. What we're trying to do is-- the goal isn't to be as good as them, we want to be better than they are. And we're trying-- the whole effort here is to try to bring together all these different parts that we already have. Leaders in certain aspects of those different things I mentioned, to pull them together into a team, and we're-- we have an endowed chair for the person that will lead this team and we're actively recruiting for that position right now.

HILKEMANN: You mentioned that it's now the number two cause of-- exceeding colon cancer. Why do you think as a society that we've not poured the money into this disease that we have say breast cancer or some of the other cancers that we are seeing and, and colon cancer for example?

JIM ARMITAGE: Well, I think it's become-- it is becoming more recognized as a really serious problem, and the, the statistics that you can go read right now go back a few years because they have to be accumulated and calculated and then becomes apparent, if my friends are all right, the pancreas cancer is on the rise and now passed colon cancer as the--as a cause of death, more people are going to be aware of it. The people don't live very long with the disease. It used to be-- wouldn't even be necessarily diagnosed, sometimes you'd find it at an autopsy. Today, that's much less likely with modern imaging techniques. It, it hasn't ever developed the, the popularity of-- as you said breast cancer or prostate cancer. And so I don't-- why has

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this happened? I don't know. It kind of snuck up on us. It's just keeps-- it happens increasingly frequently, and it kills almost everybody that is affected by it.

HILKEMANN: So this is-- so we have the potential here as you, as you talked-- you mentioned University of Wisconsin has-- is becoming a world referral center.

JIM ARMITAGE: The, the one in Milwaukee, yes. There's two of them.

HILKEMANN: OK, all right. So we have an opportunity here with the researchers that you have in place-- the program we have is that, that this too could be the world's leading center in pancreatic cancer-- treatment cancer.

JIM ARMITAGE: Oh, absolutely. It'll be terribly disappointing if we don't.

HILKEMANN: And as you traveled around the world, I am-- I'm just amazed at our philanthropic community that we have in Nebraska and in the surrounding areas. You also see the philanthropic community embracing this center.

JIM ARMITAGE: Oh, absolutely. I agree with you. This is all-- this is unique for anywhere I know about how Nebraskans are willing to get involved and put their money where their mouth is, so to speak. And probably nothing will encourage people to do that more than the passage of this bill. But everybody wants to see that somebody else thinks it's important, and if the state of Nebraska says it's important, that's gonna make a lot of people get involved and provide money that maybe wouldn't have otherwise.

HILKEMANN: And if I understand it from, Senator Kolterman, this is all the-- the Regents have already voted that we will have this center. Is that correct?

JIM ARMITAGE: That's correct.

HILKEMANN: So now it's-- now we have to make their, their, their vote come true. Is that what this boils down to?

JIM ARMITAGE: I'm, I'm for it, yes.

HILKEMANN: OK, thank you.

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BOLZ: Go ahead, Senator Wishart.

WISHART: So what are the leading causes for, for pancreatic cancer?

JIM ARMITAGE: Pancreatic cancer. Without getting very technical-- first of all, there's a few kinds of pancreas cancer that are relatively rare, endocrine cancers that aren't the same, as the common adenocarcinoma of the pancreas. And the strongest environmental factor that's absolutely proven is cigarette smoking. But that's going down, and pancreatic cancer is increasing. Probably obesity is going to become the number one environmental cause of cancer for a lot of different cancers and probably this one. Ten percent or so of pancreas cancers appear to be inherited, which means that you inherited a gene involved in defective repair of DNA injury usually, that most cancer genes are that. But a whole lot of people, we don't have the slightest idea where they got it.

WISHART: OK. And-- in so in terms of-- so I was sitting across the table in my office from a professor who was diagnosed two years ago with pancreatic cancer and was given a ten month-- ten months to live, and he's going on two years and he had a very holistic approach to-- so he did the chemotherapy, but also did acur-- acupuncture, nutrition-- totally changed his diet. I'd like to point out that he utilized cannabis as well, which is something I've been pushing for. But is that what your-- is your center going to be focused on-- you know, obviously, that the chemotherapy and the drug treatments, but also the nutrition side of things, the-- sort of that holistic approach to tackling this type of cancer?

JIM ARMITAGE: To provide good health care to people, you have to think of them not as a, as a pancreas cancer, as human being. And you have to help them deal with the illness, and do all the things necessary to make them better. And that might mean you have to help them put up with treatments that are adja-- are very difficult things. And that's something you would want to do, and help them be able to deal with that. You have to help them deal with the illness. You have to-- as you said, worry about their life, worry about nutrition. That's part of being a good physician, actually. But, yes, we want to study all those things. And when you do that, you'll find out that some of the things that seem to make sense don't. I mean, they were wrong. And you'll find-- stumble on some things that you didn't have a clue that they might be important and they will be important. To really make a huge difference though, we need to understand the biology of the disease better. We need to understand how it can be attacked that we

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don't yet appreciate. And that could come from somebody having a clever idea in the lab to an observation in the clinic that somebody was just awake one day and saw something unusual happen and asked what was that?

WISHART: Could that, could that mean that if we're looking at-- if we find that there is much more conclusive evidence of obesity leading to, to pancreatic cancer-- could that be then that part of that treatment is, is truly overhauling that person's nutrition? That, that would be part of the, the way that it attacks the, the, the cancer growing?

JIM ARMITAGE: Maybe, but I'm afraid that it's more likely that the obesity by causing inflammation will be the reason you got the pancreas cancer in the first place. And once the cancer is there and growing, it won't be affected by that. In fact it will make you not obese, pancreas cancer more than almost any other cancer makes you lose weight and waste away.

WISHART: OK. And then because this is a Center of Excellence-- so we would expect excellence out of it. If we find with some of the research the, the-- again, more conclusive evidence says that the, the public health situations that are leading to an increase in pancreatic cancer and especially in Nebraska. Will, will the university work with us on addressing that on a broader scale? Like with obesity, will this center be willing to work with us on a-- on addressing, say childhood obesity so that we, we won't target the very-- the reason somebody could be predisposed?

JIM ARMITAGE: My goodness, yes. And Dr. Gold, among the many things that he controls, is a College of Public Health that should have that as an important interest.

WISHART: OK, great. Thank you. Thank you so much for the work you do.

BOLZ: Very good, thank you. Further proponents?

BOB KERREY: Hello, I'm Bob Kerrey, B-o-b K-e-r-r-e-y. I've got written testimony that I've submitted. And most of what's been said, I don't think I can say it any better and there's two women gonna follow me that will say it even better still. I've known Jim Armitage a long time. I knew Nancy, his wife, who died of pancreatic cancer. And when he called and he said he believed that the University of Nebraska was capable of actually finding a cure for pancreatic cancer, I believed

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him. And I believed him because that's what he did with lymphoma. Thirty years ago, you present with lymphoma at the University of Nebraska Medical Center or anywhere, and the likelihood is you're gonna be told you've got a 20 percent chance to, to live. And now the number is like 90 percent, in part because of what Dr. Armitage did. Likewise, when we started, and all I've been doing thus far is helping to raise money. Talked to Dr. Gold-- and, and these two gentlemen-- you've got two nationally and, and internationally known physicians and surgeons. And that becomes enormously important, both in recruiting, because that's what you have to do. This isn't about building a building, this is about recruiting people to come to Nebraska and be a part of this effort. And I'm 100 percent confident that, that people are gonna want to come and work with these two individuals. And secondly, to your question, Senator, I, I do think among the things that have really changed, and Jim didn't talk about it at length, but could, is our capacity now to network with other centers, other people that are working on this problem. And in both cases, both Dr. Gold's case and Dr. Armitage's case, people trust them. And they trust them for a reason, and that trust produces the collaboration-- I think, is gonna be essential to actually be able to find a cure for pancreatic cancer. And I do very much appreciate the question about, about overall health and what's causing it. And again, I think, we shall, we shall see-- I've seen it over the years at the Medical Center, a willingness to let the facts determine what they're gonna do. And let the facts decide, not a prejudice against this or prejudice against that, but let the facts decide what the treatment's gonna be. So I hope, I hope you say, yes, to Senator Kolterman. Jim asked me to call him. I called him and he said, you've got to come to Lincoln and testify and how could I say no. He served me a hamburger once and I owe him, so here I am. I'm glad to at least attempt to answer any questions that you have.

BOLZ: Thank you for your testimony. Go ahead, Senator Hilkemann.

HILKEMANN: Thank you so much for coming, and I appreciate how you've really summarized it, because at--

BOB KERREY: I had some practice doing that, Senator.

HILKEMANN: Yeah. As, as Dr. Armitage had said, it's some of this-- when he talked about the Harvard and, and some of the universities that he mentioned, you're exactly right. With this, we will be part of that coalition that's all working together on that. And, and, and the collaboration when you get with those type named universities with the

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success that they have, you have Nebraska's name with that. It just-- it-- in the medical world, it just makes all the difference in the world.

BOB KERREY: It does.

HILKEMANN: Thanks for emphasizing that in your testimony.

BOLZ: Very Good.

BOB KERREY: Well, this, this has been a pleasure. Thank you.

BOLZ: Thank you.

HILKEMANN: Thank you.

CLEMENTS: Thanks.

HILKEMANN: Welcome back.

ELLI AESOPH: Vice Chairwoman Bolz and members of the committee. My name is Elli Aesoph, spelled, E-l-l-i A-e-s-o-p-h. I am here representing myself in support of LB669, and thank you for allowing me to testify today. I'm here to tell you the story about my family over the past few years. I still remember the text message I got from my mom. It was late in 2012, and she said, I feel silly being at the doctor's office. I just have a stomach ache. And I said, well, it's always better to be safe than sorry. And so after some bloodwork came back abnormal and she had a CT scan, the doctor asked to see her in person. So I went along with my parents and the doctor walked in and she'd seen that same doctor for many years and she had tears in her eyes and she said, I don't know how to tell you this but you have stage four pancreatic cancer. My mom was the spitting image of health. She ran. She worked out. She ate well. My parents always ate very healthy. And so five months later after cancer wrecked her body, and she looked 95 years old, my beautiful 63-year-old mother passed away. She was my best friend. She was my, my rock. She was my support system. She was my boys' grandma. She was married to my dad for over 40 years. And for a long time after she died, I lost him, too. Our family was never the same after we lost her. And I started asking a lot of the same questions that you're asking, what caused this? What, what can we do? And we just got told there was no really no answers. And that's where a lot of people's story ends. You know, they lost somebody that they loved to pancreatic cancer. But fast forward two years later, my dad called me, and he said, I thought I had the

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stomach flu this weekend, but when the neighbor stopped to check by on me they thought I looked a little jaundiced. And I went in and have some blood work done, and a CT scan, and I didn't want to call and tell you because I always knew you'd freak out. Thank you. And so on my mom's birthday, my dad was also diagnosed with stage four pancreatic cancer. My parents did everything right. They were your typical Nebraska family, they loved Husker football. My mom went to UN-- Nebraska UNL. She was the first one in her family to graduate. She was a teacher and a guidance counselor at Norfolk for years. My dad worked at Echo Electric. They had kids. They were involved in their church and their family and they volunteered. And within three years I lost both of them. A community lost people who volunteered and gave back. My kids don't have grandparents. And we have the opportunity to do something. Because if it hasn't happened to your family yet, it will. Six years ago I didn't know a thing about it. And today, I don't have parents. So if you have the opportunity to change that, please, please vote for this bill. Please pass it. Because we as Nebraskans, we can do something about it. Thank you so much for giving me the opportunity to testify today. Can I answer any questions for anyone?

BOLZ: Thank you for sharing your story. We're sorry for your loss.

ELLI AESOPH: Thank you.

BOLZ: You're, you're very brave, and we're glad to have you here today. Thanks for coming.

ELLI AESOPH: Thank you.

HILKEMANN: Thank you.

SHIRLEY YOUNG: Vice Chairwoman Bolz and members of the Appropriations Committee, my name is Shirley Young, S-h-i-r-l-e-y Y-o-u-n-g. I was born in Iowa, but I've lived in Nebraska since I was 2 years old. I am a mother, a grandmother, and the word I have had to force myself to say, a widow. I am here to support LB669. I feel passionate about this bill, because I lost my husband to pancreatic cancer. He was diagnosed on February 22, 2012, at just 59 years old. I remember that moment vividly, the moment our primary care physician came into the hospital room and confirmed the diagnosis. My husband asked him what the diagnosis meant for him. Our doctor replied that it meant he would no longer be running the day-to-day operations of the Union Pacific Railroad. Union Pacific's Board of Directors required that Jim seek a

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second opinion outside of Omaha, which he did. Jim made the decision without hesitation to stay in Nebraska for his treatments at the Cancer Center at the University of Nebraska Medical Center. Just like the Union Pacific employees had been our extended family during Jim's leadership, we now felt our extended family grow with the addition of Jim's oncologist, radiologist, and especially the nursing team at UNMC. I will be forever grateful for their kindness, their comfort, and for the medical care they provided. Jim fought hard but, unfortunately, lost his battle on February 15, 2014, just shy of the two-year anniversary of his diagnosis. Looking back, I realize what a gift those two years were, even though that time was filled with oncologist appointments, lab work, chemotherapy treatments, infections, hospitalizations, and radiation. With that time, we also had the opportunity to reflect and pray and spend time with our family. A time of much difficulty and fear also was the time of beauty and blessing. I credit a lot of that to the compassionate care we received at UNMC. After Jim's diagnosis, we learned he had an uncle and a great-aunt who passed away from pancreatic cancer. In addition, about a year after Jim died, a cousin was diagnosed. She died after about 18 months. This means there are four family members in Jim's family that we are aware of that have died of pancreatic cancer. I live everyday with concern for my children, my grandchildren, and future generations. This is why this research program is so important to me. One of my hopes, besides a cure, is to develop a screening for earlier diagnosis to give people a fighting chance. UNMC has a research study underway now to screen Nebraskans who are considered to be at risk. By the time Jim was diagnosed, his cancer had already spread to his lungs. This meant he was not a candidate for surgery. In the end he experienced horrific pain, ascites, rapid weight loss, neuropathy, and frequent hospitalizations. But he never complained. As a matter of fact, he was always hungry. He'd asked me to make the foods he was craving. One day in February he craved Thanksgiving stuffing. He was so hungry for it he made me make a double recipe. So I made it. And as he sat down to eat it he pushed the plate away and started to cry. He couldn't eat it. He could not make himself eat anything anymore, and the pounds were dropping off. It's so horrible, so very heartbreaking to see her husband of 38 years in such pain and discomfort. Since Jim's diagnosis, we've heard of numerous new diagnoses of pancreatic cancer in our community. Numerous cases, and sadly no one survives. For me, it's devastating every time I hear of a new diagnosis. I like to listen to KFAB when I'm getting ready in the morning, and most days that means listening to Gary Sadlemyer. A couple of years ago, I noticed Mr. Sadlemyer was missing quite a few

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days from the show. Then one morning he announced his wife was battling pancreatic cancer. His many absences had been to care for her. I sat down on the couch and cried. I'd never met him, but I felt such an instant connection to him, to her, and to their entire family, and it broke my heart. I'm a member of a club that no one wants to belong to. When you first hear the diagnosis of pancreatic cancer, you feel hopeless. Then again you cling to any glimpse of hope, because hope is all you have. My desire is that this research program will provide more hope than we felt on February 22, 2012. No institution in the world is better prepared to provide hope than the cancer team at UNMC. Thank you for the opportunity to address you today on this important topic.

BOLZ: Thank you for sharing your story. We're sorry for your loss.

SHIRLEY YOUNG: Thank you.

BOLZ: Thank you. Do I have further proponents? Is there anyone here so bold as to be an opponent? Do I have anyone in a neutral capacity? Would you like to close, Senator Kolterman?

KOLTERMAN: Thank you for taking the time to hear from these testifiers today. This is important research that needs to be funded as we continue to face this disease in our state, and our nation. All these testifiers had something in common that none of us wanted to have. We-- all of us lost a close friend or most of its family members to this dreadful disease. My wife taught me a lot of things. One thing, it was to dream big, dream big. I know this is a huge ask, but this has a possibility of putting this on the world stage. I'm hoping that one day researchers will find-- our researchers will find a cure or screening or better treatment for this disease so other families will not need to face the same loss our families have faced. The Med Center, UNMC, takes a very holistic approach. If you ever have the chance to go through the Buffett Cancer Center, you'll soon discover that it's a diamond in the rough, right here in the middle of Nebraska, from their healing art, their chihuly glass, to their gardens, revolving art. Most importantly the attitude of their staff, the doctors, the nurses, the support of staff. When they coined the phrase, serious medicine, extraordinary care, that's something we can be proud of here in the state. And I would say they're second to none. With that, I'd appreciate your support. I'd encourage all of you to dream big. It's a big ask. Not backing away from that. But as a salesman, someone once told me, nothing ventured, nothing gained. Isn't that correct? I wouldn't be here asking if I didn't think we

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could do this. So with that, I'd try to answer any questions you might have.

BOLZ: OK.

KOLTERMAN: Thank you.

BOLZ: Thank you, Senator. I do have eight letters of support for LB669. And with that, we'll close the hearing on LB669 and open the hearing on LB673. Good afternoon still, Senator Hilkemann.

HILKEMANN: Good afternoon, Vice Chair Bolz and members of the committee. I'm Robert Hilkemann, R-o-b-e-r-t H-i-l-k-e-m-a-n-n, and I represent Legislative District 4. I'm here to introduce LB673 which would appropriate to the Board of Regents of the University of Nebraska \$250,000 from the Nebraska Health Care Cash Fund for data collection analysis on antimicrobial resistant bacteria. Last June, Senator Kolterman and myself and Liz Hruska and Kate Gaul from our Governor's-- from the Governor's fiscal staff were invited to be part of the priority strategy and public health sponsored by NCSL. And what we looked at was issues in health care that we need to address and specifically tried to get on top of, and we had quite a discussion with other states and within our group and we focused upon antimicrobial resistant drug therapy and so you're gonna want to-- what's this all about? Well, in-- over the years, and I'm just gonna kind of paraphrase it. We have-- for years whenever you went to a doctor and you had a little cold or sniffle or whatever else and if you didn't walk out of that doctor's office without a prescription for antibiotics, they didn't think you were doing your job. And we have overprescribed antibiotics, in my opinion. And as a result of using for a little bit of everything and probably when we shouldn't use it for a lot of things, we have created some super-duper bugs that just are resistant to all the antibiotics that we have. That's what we're talking about, is the superbugs and they have-- they particularly focused upon elderly, debilitated people, people with burns, wounds, postsurgical-- they're rampant in the hospitals because that's where these bugs do well. And so that's what we're talking about. And so let me from there off kind of finish up my short introduction and then we have Dr. Ali Khan, public health, who's an expert in this area. He will be able to answer the questions a whole lot better than I am. I-- as a practitioner, we had these superbugs, I, I knew better than that I was not the person to be treating them. I tried to treat them, but we always got them out to the infectious disease specialist as quickly as we can because these are serious infections and if you don't take

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care of these serious infections early on it can create a real problem. And so assist-- antibiotic resistance is one of the biggest public health challenges of our time. In 2013, the U.S. Center for Disease Control and Prevention published a comprehensive analysis outlining the top 18 antibiotic resistant threats in the United States titled, Antibiotic Resistance Threats in the United States, 2013, that's the name of the report. The report sounded the alarm to the danger of antibiotic resistance stating that each year in the United States at least 2 million people get an antibiotic-resistant infection and at least 23,000 people die of these resistant infections. This is the foreword to that report: antibiotic resistance is one of the most serious health threats. Infections from resistant bacteria are now too common, and some pathogens have even become resistant to multiple types of-- or classes of antibiotics. The loss of effective antibiotics will undermine our ability to fight infectious diseases and manage the infectious complications common in vulnerable patients undergoing chemotherapy for cancer, dialysis for renal failure, and surgery, especially organ transplants for which the ability to treat secondary infections is absolutely crucial. When first-line and second-line antibiotic treatment options are limited by resistance or are unavailable, healthcare providers are forced to use antibiotics that may be more toxic to the patient and frequently more expensive and less effective. Even when alternative treatments exist, research has shown that patients with resistant infections are often much more likely to die, and survivors have significantly longer hospital stays, delayed recuperations, and long-term disability. Efforts to prevent such threats build on the foundation of proven public health strategies: immunization, infection control, protecting the food supply, antibiotic stewardship, and reducing person-to-person spread through screening, treatment, and education. I think it's important for our state to work diligently on the data collection and analysis of this public health threat so that we can identify areas of immediate and increasing concern within Nebraska and show what LB673 would help fund are these efforts to identify these concerns, and I appreciate the time of the committee. We are very fortunate to have Dr. Ali Khan here from our public health who's very aware of this condition and, and will certainly be the expert on this today. And with that I would answer some questions that you might have of me.

BOLZ: Thank you, Senator. Any questions for Senator Hilkemann? OK.

HILKEMANN: Bless you. [LAUGHTER]

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BOLZ: We'll take proponent testimony.

ALI KHAN: Good afternoon.

BOLZ: Good afternoon.

ALI KHAN: Glad I, too, stayed the whole day. It was a big public health day it seems. I've heard public health mentioned multiple times. I'm Ali Khan, A-l-i K-h-a-n, dean of the college at the University of Nebraska Medical Center. My thanks to Senator Bolz and the committee for allowing me to testify in support of senate bill, LB673, which seeks essentially a one-time investment in new tools for antimicrobial resistance to immediately impact prescribing practices for antibiotics here in the state and try to limit the spread of these resistant organisms across the state. So antimicrobial resistance, what is it? It's resistance to bacteria, parasites, viruses to the drugs we typically use for those pathogens. And this antibiotic resistance is currently considered one of the top ten global health threats by WHO, and as you heard from the senator also here in the United States. The overuse and misuse of antibiotics and related drugs is the main reason we have this problem with antimicrobial resistance. And the reason we hear about this is multifold. So the first one, as you heard, really has to do with if you can't use your typical antibiotics you're ending up using other antibiotics that are more, more toxic, lead to longer stays, the patients don't do as well. But the final reason, is that we may actually be approaching 1920 again. We may be going to a post-antibiotic era because we're not making new antibiotics every year. Right? There's a certain set of classes of antibiotics, the last set of class was a couple of years ago. And so when you use up all your classes of anti-- you know, there's lots of names for antibiotics but there's a certain number of classes. And when you use up all those classes you're done. You don't really have an option how to treat your patients anymore. And so this leads to costs, healthcare, multiple health care impacts. You heard about the impact in the United States, over 2 million cases here in the United States of resistant organisms and 20,000 individuals who die from complications of antimicrobial resistance. Now Nebraska's unique, not unique in a good way, we're actually in the top ten for our antibiotic prescriptions. So Nebraska physicians write 1,040 prescriptions per thousand persons in 2016. So essentially everybody in Nebraska got at least one prescription for antibiotics last year. If you spread it across-- Senator, if you want to do the math, everybody had an antibiotic prescription last year in the state, and some more than

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one. And it's estimated that at least 30 percent of antibiotics prescribed nationwide are unnecessary. So, clearly, Nebraska prescribers are somewhat undisciplined in their antibiotic prescribing practices. LB673 if passed-- it's a collaborative effort with the Nebraska Department of Health and Human Services to do better with the data that we collect, develop some new tools, and address gaps in hospital-acquired infections. Three specific aims: so we would like to create regional and facility antibiograms and essentially what this is, is a list for clinicians in real time to say I have somebody with pneumonia. This is the right antibiotic I should use based on all of the bugs that we already have data on so that they're not using sort of the Gorillacillin but using the most targeted drug and if you use the most targeted drug it will least likely to cause a resistance. We'd also like to describe prescribing practices by physicians and other practitioners across the state to look for hot spots-- is there a clinician or facility-- oh, I'm sorry, I'm in red.

BOLZ: Finish your thought, and then we'll see if there's any questions.

ALI KHAN: To find hot spots of antibiotic usage and try to help counsel those people and look at antibiotic stewardship. And then we'd like to trace the link between animals, food, and people in the state for how antibiotic resistance spreads. So those are the three things we would like to do with these resources. Thank you very much, and apologies for going over.

BOLZ: It's OK, very good. Any questions? Go ahead, Senator Wishart.

WISHART: So there's a potential that antibiotics used in, in livestock could be affecting our resistance in humans?

ALI KHAN: Absolutely, Senator. This has been described in a number of different circumstances. So if you think about some of the antibiotic resistance we see it's in pat-- it's in stuff in our gut and stuff in our food like salmonella and E. coli. Well, that originally often-- that comes from animals and if you're giving chickens and other livestock, and if you're giving them a whole bunch of antibiotics, then their bacteria become resistant and then when you eat that food or handle it, mainly when you handle it, you become exposed. So the chicken we get at the lovely supermarket is not sterile, right, and the meat we get is not necessarily sterile, so we expose ourself to those bugs and then those bugs sort of cause disease in us.

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WISHART: OK. And then-- I mean, what-- I-- what is, what is going wrong in terms of med school training, where, where we are having problems because we've seen this with the opioid crisis is where-- well, where we are having problems with prescribing in terms of doctors prescribing when things are unnecessary?

ALI KHAN: So clearly this is a problem with anti-- it's, it's been a problem with opioids. It's a, it's a problem with antibiotics. There's different underlying factors for those so the opioid factor really had to do with the change in philosophy in the U.S. that no pain-- you had to be pain free at all times, which is inconsistent with any other country in the world. And so that, and you know, pain became a fifth vital sign, so lots of anti-- opioids started to be dispensed. For antibiotics, it's a combination of the act-- the training of physicians and the expectations of patients. So there are many patients, and I'm a pediatrician, I have seen many a mom and dad over my career who have walked in the door with a kid with sniffles and they want their antibiotics, and, no, the kid has sniffles. So it takes-- it-- you know, at this point in my career it's easy to say, no, it's the sniffles-- you know, if it changes come back. But if you're a young practitioner, if you're a hurried practitioner in the ER, it's very easy and simple to write what you think is a-- you know, antibiotic prescription with no outcome-- you know, that's not gonna matter, but it does matter. It matters to that kid who may or may not have a, a bacterial infection. It also matters, and I don't talk about this here, but where do these antibiotics go in the end? They go right,--

WISHART: Into our water system.

ALI KHAN: --they go right in, right, they go straight into your water system,--

WISHART: Yeah.

ALI KHAN: --and they go out into the watersheds and then that drives other antibiotic resistance because then all of these bacteria-- environmental bacteria are exposed to antibiotics they shouldn't have been exposed to. So better training.

WISHART: So would-- so better training, would it, would it make sense for us to align some of the efforts around antibiotic prescribing with the opioid work we've done?

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ALI KHAN: You have a-- you have aligned some of that work already. So for example, the Legislature has been very progressive and innovative in their, in their monitoring systems. So since January of 2018, all prescriptions in this state now go into a database. It started off with opioids and now,--

WISHART: And now it's all.

ALI KHAN: -- now it's all. It's very progressive-- you know, so that's an example of where that alignment has occurred already. Now the last I-- if I could, going back to your earlier question, there is other checks and balances, so for example, one of the measures we now have for clinicians is, did you treat a cold when antibiotics? And when you start measuring that you notice that less physicians are treating colds with antibiotics.

BOLZ: Go ahead, Senator Erdman.

ERDMAN: Thank you, Senator Bolz, Thank you for coming today. I noticed the last sentence on your second paragraph, the data suggested Nebraska providers have been amongst the most undisciplined. Why is that?

ALI KHAN: Sir, I-- thank you for that question, Senator. I don't have an answer for you. I just have the data that when you look at number of prescription by prescribers by states, Nebraska pops up in the top ten in the number of prescriptions they provide per patient. Part of this study would actually help answer that question, so what we hope to do is to use the data provided by the Legislature and other databases to say, who's prescribing in this state? And then can we use that to try to understand who may be overprescribing, who may be under prescribing, and then use that data to drive what's called antibiotic stewardship programs to sort of have a conversation with that facility, facility or that physician to say you know your rates of prescribing are way above anything else we see in the state, can we help train you? Can we help provide you tools so that you're using fewer antibiotics and using them better?

ERDMAN: OK, thank you.

BOLZ: Go ahead, Senator Wishart.

WISHART: So from, from looking at-- and, and from, from looking at our state and from other states are there-- when you break down the data,

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are there, there groups of health care practitioners that tend to philosophically prescribe more than others?

ALI KHAN: That's a great question, Senator. I think what we find is ER physicians typically have the highest use of antibiotics that may be unintended, but I want to be careful about that, that's also maybe a function of where we have the data, right, so it's a lot easier to get the data in that setting. And again, given how innovative our Nebraska Legislature has been, we will now be able to look at it-- prescribers who only have practices, prescribers in the ER, and prescribers in the hospitals. And we actually will be able to answer that question, hopefully, with some data analytics.

WISHART: And then the, the-- kind of a last question. Is, is part of this a product of a medical education system that doesn't include other sort of holistic more natural remedies to addressing an issue? So, for example-- you know, I had a cold this summer. I had a cold that passed through the Legislature. We all got it. One of my friends, who I reached out to tends to, to really be more in favor of-- say, drink a, drink a hot toddy and-- you know, and take a certain kind of vitamin and you'll-- you know, you'll deal with it. It lasted longer, but I never got it again. Whereas, so-- I guess I'm wondering, but she's very, very specific or he's very, very specific about more natural medicine and so less inclined to prescribe antibiotics. So I'm just wondering is part of the, is part of the problem that we're just not-- we're not teaching in medical school other alternatives to, to an antibiotic? I'm just interested in your perspective.

ALI KHAN: So-- yeah, that, that would definitely be a data-free zone based on my perspective, Senator.

WISHART: OK.

ALI KHAN: So we teach evidence-based medicine in medical schools, osteopathic schools, etcetera. So if there's evidence that says it works, antibiotic or not, our students are being taught that. We also-- and let, let me go back to prevention, right, given my day job. Think about prevention, so hopefully everybody, everybody in the Legislature got a flu shot. OK, prevent your risk of getting flu, especially for individuals such as yourself. I bet you shake a whole lot of hands every day and kiss a whole lot of babies. We recommend washing your hands to people especially during the winter when they're all congregated together. So we do try to teach prevention also. And part of our practices are to focus also on the prevention standpoint

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so that they don't find themselves in this place. We also are rapidly looking at the literature and moving practice so, for example, when I practiced a very long time ago, if a kid came in with a red ear, it was, it was something called, osteomyelitis, it was an ear infection, and you gave them antibiotics and you send mom or dad or aunt home. Nowadays we know-- you know what, if a kid comes in with a red ear and he doesn't look that sick; give it a day. You know, they may just be fine with the little bit of Tylenol or something, and that is the approach that they take in Europe where they use a lot fewer antibiotics than we do, and increasingly pediatricians here take the same sort of approach. And it's also why we've changed our practice to say, that if you've had a cold for seven days, and you don't have a fever, you don't have green snot, and you're not coughing up you know junk, you don't get antibiotics. You know, just a hot toddy, and just wait it out.

WISHART: Yeah, OK.

ALI KHAN: Thank you, Senator.

BOLZ: Senator Dorn.

DORN: During, during your presentation you made the comment that we haven't developed a new class of antibiotics in several years. Why?

ALI KHAN: It's a-- there's a lot of factors that underlie that, Senator. Some of that has to do with pharmacy--pharmaceutical companies' interests. So if you have a drug, such as-- if you have a drug for things such as diabetes you're guaranteed to treat somebody every day of their life. If you have a drug for antibiotics you may only treat-- you know, you treat somebody for seven to ten days and you're done. So there's some, there's some, there's some financial incentives to work on other drugs, but there's also technical issues. It takes a lot of time and effort to develop these antibiotics. And invariably what we've seen, and we knew this from penicillin, when penicillin-- you know, was developed. Within a couple of years of penicillin, we already saw resistance. So the, so the secret, the secret isn't just give me another class of antibiotics, it's how do we use the ones we have more judiciously and how are we careful to not use in animals the type of, of antibiotics we may use in humans. So there's all sorts of prevention ways to move forward to help the situation.

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DORN: From that thought process though, so then we-- I, I know we need to develop new classes,--

ALI KHAN: Right.

DORN: -- but then, I guess there isn't an urgency or--

ALI KHAN: Of-- no, Senator, there, there-- there's a, there's a worldwide urgency to, to develop more antibiotics classes. It's just hard, and-- you know, it's, it's just hard to develop a brand new class of antibiotics. People are mining all sorts of-- you know, materials-- environmental materials, other materials to say, what could a new class look like?

DORN: Then, then one more quick-- it's a, it's a point as much as anything, and, and unfortunately because this winter there, I know, there was a, a child that was-- that died basically from the flu.

ALI KHAN: Yes, sir.

DORN: You know, and, and part of-- and this is kind of, I can look at it as a catch-22. They-- they've taken that child to the doctor, said he really wasn't sick enough-- you know, go home, and when they come back, then he's too sick and then he couldn't be, be cured or whatever. And I don't remember all the details, but then that individual passed away. So it's kind of a catch-22 of do you do more preventive or do you do-- let's give them the antibiotic now hoping it won't get worse, or so on-- you know what I mean? And, and from that perspective we're not all exactly alike, so to treat somebody one way and another one another way, I'm, I'm sure not near or skilled or knowledgeable enough to do that. And that's why we rely sometimes on the doctors and how they're trained and everything, so.

ALI KHAN: That-- that's a great example and a great question, Senator. Yes, Physicians Health Care practitioners, in general, have to,--

DORN: Yeah.

ALI KHAN: --have to use a number of different fact-- a number of different pieces of information that come to them to say, you know what, I think this kid is fine, I'll see him back tomorrow.

DORN: Yeah.

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ALI KHAN: Or, no, you know what this get sick enough, I need to treat him or I need to put him in the hospital. And that always doesn't go right and there's all sorts of factors on whether or not the kid came back or not. But, this also goes to why we tell people to get the kids vaccinated, whereat, so at least you're in a better position when you walk in to see your doc to say, OK, I know you got vaccinated. So it's not-- you know, the vaccine efficacy for flu is, unfortunately, not as nice grade as we would like it, but at least you know you had that minor step-- that baseline step of getting vaccinated.

DORN: Thank you.

BOLZ: Very good. Thank you for all of your answers.

ALI KHAN: Thank you all very much for your patience.

BOLZ: Do I have any further proponents? Do I have any opponents? Do I have anyone in a neutral capacity? Senator Hilkemann would you like to close?

HILKEMANN: I'll summarize this very quickly for us. We've had four bills today that all want to take money from the same fund, and this one is asking \$250,000. Every issue that we heard about today is important. There's no issue that will save our state more than this particular initiative, because you and I, as members of the Appropriations, know how much money we're spending on Medicaid dollars. And so many of this, as doctor talked about, we have some of the new antibiotics that are being, that are being [INAUDIBLE] are \$10,000 a day. And you say, how could be \$10,000 and say, keep them in the hospital on IV antibiotics, it would cost them \$25,000. So this is, this is part of-- you know, why is it that the research costs are huge, the liability that our drug companies have and is, is huge, and so that's why these drugs come in as the kind of costs that they are. And-- you know, it's a-- I think probably not, Senator Wishart, probably not yours as much as the generation that Senator Clements, and Erdman, Dorn and I have been, but in the old days if you went to the doctor and they didn't give a prescription and they'd say, what the heck did you go to the doctor for? And-- you know, we're thinking of-- and, and I'm, and I'm not justifying, but that's really the thought that people had. And that's part of the reason that we're at this point. And a lot of times to, to hear, well they got a virus, an antibiotic that didn't make any difference, they didn't give them anything-- or didn't-- she didn't give them anything, so it didn't do anything. That's part of why we've gotten into the predicament that

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we've gotten in here. And the other thing is just that, is just that we, we, we-- we're short of an instant society. I've been fighting a cold for just about a week, and I've been told several times by one of my significant others I should go to the doctor, and I said, you know, honey, it'll be gone in seven days. I know that, but so many people come in and run to a doctor after a day or two, as Dr. Khan said, and they go in and they want something. That's the price that we're paying for it with these, and so everything we've heard is important today. This is one issue that is going to save our state Medicaid dollars, and that's what we as an Appropriations Committee need to take very serious. And that's how I'll close, and I'll answer any other questions you may have.

BOLZ: Any remaining questions for Senator Hilkemann? Very good, thank you very much. That will close the hearing on LB673, and open the hearing on LB481. Good evening, Committee. I'm Kate Bolz, that's K-a-t-e B-o-l-z. I'm presenting LB481 today. LB481 is a shell bill. The amendment to LB481 is being passed around. The amendment states the Department of Health and Human Services shall administer, administer the federal Title X program in accordance with applicable federal regulations in existence as of the effective date of this act. I introduced LB481 as a vehicle for this conversation at the beginning of the session because we knew that new federal regulations were likely to be promulgated during the legislative session. So this committee should pass, if it is to pass, anything related to Title X, those should be in accordance with the federal regulation, we should not be out of compliance. Further, I would argue that we are not the committee that should be setting policy around these programs rather it's more appropriate for the Appropriations Committee to implement funding per federal rule and regulation rather than setting our own policy or setting policy in the stead of the Health and Human Services Committee. So I know that there will be further conversation and discussion about the substance during the agency hearing. I didn't invite any testifiers today because our purpose was to make sure that we had a vehicle to have this discussion should it be necessary. I'd be happy to clarify anything for the committee.

HILKEMANN: Are there questions for Senator Bolz? Senator Clements.

CLEMENTS: Thank you. Thank you, Senator Bolz. I'm not sure why-- excuse me. It was my understanding that Health and Human Services always had to follow federal regulations. Is-- could you clarify why this was necessary?

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BOLZ: There, there are two reasons for bringing this bill. The first is, that because federal rule and regulation was not promulgated until just a couple of weeks ago the, the end of February or beginning of March. It was-- I thought that it was important that we had an opportunity to make sure that whatever this committee passed was in compliance with the new federal regulation. So because the Governor's budget was introduced in January, and the new rules and regulations were not completed until the end of February beginning of March, I wanted to have the assurance that we had a procedural opportunity to make any changes that might be necessary if this committee decided to move forward. So the other reason is that, that if, if this becomes an issue of significant debate, I think that it is helpful to have multiple vehicles for having this conversation. And after consultation with the chairman, we agreed that this, this bill could serve as another tool in our tool box for the committee.

CLEMENTS: OK, thank you.

BOLZ: Um-hum.

HILKEMANN: Senator Erdman.

ERDMAN: Thank you, Senator Hilkemann. Thank you, Senator Bolz. Senator Bolz, I was, I was absent the day that we voted on Title X in the budget. I had two hearings that day in transportation, and so I wasn't involved in the discussion that happened that day, but maybe you can answer this question. So the language that we had in the budget last year that we adopted on Title X, is that out of compliance with federal regulations?

BOLZ: So there are, there are new federal regulations. I have, I have asked for some information from some federal experts, and I have done my own initial review. There are some areas that are consistent. There are some areas that are not 100 percent consistent. There are some areas that I think might be confusing. I am not a legal expert and so I am not the person to make the judgment call as to whether or not the language proposed is or isn't fully compliant. I am sure that we will have testifiers during the agency budget hearing that could answer that question, but the, the answer that I can give you is that in an initial review the language is not 100 percent the same.

ERDMAN: So can I conclude from that, you're not sure whether it's in compliance or not. Right?

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BOLZ: I am not the person to make the determination as to whether or not the language is proposed to the committee is or is not within full federal compliance of the law. A legal expert should really make that judgment.

ERDMAN: So you were here last year, we had about maybe 18 or 20 hours of debate on this issue.

BOLZ: It sure seemed like it.

ERDMAN: Correct?

BOLZ: Yes, something like that.

ERDMAN: And so we had come to a conclusion, and we had negotiated what the language should be last year. Would you agree?

BOLZ: That the Legislature passed legislation in the state budget.

ERDMAN: Yeah, and we were in agreement that that language was sufficient and OK last year. Was that a-- be a correct statement?

BOLZ: Those who voted in favor of it.

ERDMAN: OK, and so then now we have separated that from the budget. And now when we get to the floor do you think-- you're surely not naive enough to think that it won't be a contentious item and we won't have 20 hours to debate again?

BOLZ: I can't predict the actions of my colleagues.

ERDMAN: Well, I'm telling you it will be.

BOLZ: OK.

ERDMAN: And in my opinion, we should have left it in the budget. Should have been there, we negotiated that last year, and we had it settled. And having it in the budget would have given you an opportunity to have a discussion about the budget instead of about this because this would have already been settled. And I'm concerned about hooking this to the national language, and it's in court right now. And if the court rules that that language is no longer applicable, then what do we do?

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BOLZ: I think we would take the same action as with any other federal rule or regulation that we tried to administer and had a court challenge.

ERDMAN: So if it happens on August 1, and we're not in session, what do we do then?

BOLZ: Well, if, if we were to pass a, a budget that implemented funds for say-- oh, what's a good example, the Children's Health Insurance Program, and the, the regulations were ultimately found to be out of compliance in a court case we would have to take action in the next legislative session. I, I don't necessarily think that, that we should treat this issue any differently than any other issue that comes before the Appropriations Committee. We have to make decisions based on the information in front of us.

ERDMAN: So would you be OK if we took last year's in-- information or the wording we had last year on Planned Parenthood and Title X and put that into your budget, into your bill. Would you be acceptable with that?

BOLZ: As I said before, I'm not the person to make the final judgment as to whether or not that's in compliance with the federal regulations. I would not be comfortable with putting anything into our budget that's not in compliance with federal regulation.

ERDMAN: So can I get a yes or no? Would you be acceptable to putting last year's language into this, into this bill?

BOLZ: I'm not in a position to make that determination, because I don't have enough information regarding whether or not it's in compliance with the federal regulation, because the federal regulation was newly promulgated at the end of February. So until I have an answer to that question, I can't answer the second question. I'm not trying to avoid your question.

ERDMAN: You've answered, you've answered the question, and the answer is, no. I understand that.

BOLZ: I-- no that's not an accurate representation of what I'm communicating.

ERDMAN: Well, then would you be interested in putting that language into this bill?

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BOLZ: I need a legal determination about whether or not what has been approved is in compliance with federal regulation before I'm in a position to make a decision about whether or not it should be in this bill or in the budget.

ERDMAN: OK.

HILKEMANN: Senator Vargas.

VARGAS: Thank you very much, Senator Hilkemann. Senator Bolz, you made a statement that-- in your opening testimony that we are not the committee that should be setting this policy. I know last year we had this debate and we made decisions as Appropriations Committee and the body made decisions or people made votes. Can you tell me to your knowledge, have, have we included language like this before last session in any of our past Appropriations' bills? Or at least during your time?

BOLZ: Are you specifically asking whether or not we have put any language, any language related specifically to the Title X program into a budget bill?

VARGAS: Um-hum.

BOLZ: I don't recall, I don't recall having any specific language around the Title X program beyond what is typically in the Governor's budget package, and that was Governor Heineman and Governor Ricketts during my time. What is typically in the, the full budget package articulating that we will have a Title X program and the dollar amounts will be distri-- disbursed.

VARGAS: OK.

BOLZ: That is my memory,--

VARGAS: No, it's not why--

BOLZ: --there, there may be further, there may be further information.

VARGAS: Yeah. No, I reframed the question from your experience given that you've been on the committee the longest from all of us that are here. And, and you started going down this pathway of sort of looking at Children's Health Insurance Program as, as a sort of analogy. In your experience on the committee, and, and since you're bringing this specific pathway, it-- has it been habit for us to put-- do we always

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put federal regs into state statute like this? Not just like this, but in general? You-- we're kind of going down that route with, with Children's Health Insurance Program.

BOLZ: Um-hum. I mean-- I think that, that specifically we, we tend to assume that things will be implemented per federal regulation. I don't know that we always add additional language directing certain programs to be administered per federal regulation. Though, there have been circumstances in which we, we passed funding kind of under that rubric that we were understanding that we would be in compliance with federal rules and regulations and expectations. There have been circumstances in which that has worked out just fine. And there have been circumstances in which that resulted in federal fines and penalties.

VARGAS: Yeah, OK.

BOLZ: A specific example, if--

VARGAS: Yeah.

BOLZ: --you'd like to hear it, is we had information from the Department of Health and Human Services Division of Developmental Disabilities that our rate methodology for the developmental disability program would be approved by CMS, and it was coming to-- I remember it was late, late May early June and we were still waiting for that final assurance from CMS. We had to move the budget package before we got the final assurance from CMS. And you recall, I believe, because of the way that your term of service has begun that one of the things that we've had to do is pay back some federal funds for implementing a rate methodology that was out of compliance with CMS rule and regulation.

VARGAS: Yeah. Thank you very much, Senator Bolz.

HILKEMANN: Senator Dorn.

DORN: A little bit more for clarification for me. This here says that effective date as of this act,--

BOLZ: Um-hum.

DORN: --three years from now the federal changes-- they, they change whatever on it. Then does this automatically put that in ours or would

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we have to make a new bill or, or whatever? That's, that's where I'm at.

BOLZ: No, no, it's a, it's a good question. It, it will be a question for you to answer Senator Dorn, because our budget bill is-- it's a, it's a biennial budget.

DORN: OK.

BOLZ: The, the, the new budget will go into effect when you build it two years from now. So you will, you will need to have a conversation again. If you were to bring some sort of legislation regarding any issue, implementation of the Developmental Disability System or the Children's Health Insurance Program and you brought those changes to the Health and Human Services Committee then you could create a statute that would have-- that would be in effect until it were-- it was changed or-- you know, removed by this body. That is different than how something comes into our budget.

DORN: Yeah, so then I, I read it a little bit wrong. So it, it basically-- this puts in what will be in effect federally--

BOLZ: Correct.

DORN: --when this or if this passes then that stays that way and then a change would have to be brought again.

BOLZ: Right, if, if something were to happen on the federal level we would, we would need to take action as an Appropriations Committee in the second year just for education purposes since you-- since you're kind of exploring this area. An example of a federal change that this committee has had to grapple with is when, when federally they changed what it meant to have a, a community level standard of care. In our Department of Correctional Services we have a expectation that someone who gets health care services in the Department of Correctional Services will get the same kind of services they would get if they went to a doctor in the community. Well, what changed on the federal level was an understanding of what Hepatitis C medication was a community level of care and that resulted in us expending a significant amount of dollars to make sure that we were complying with the federal standards. So the, the long and the short of it is that if, if something needs to be changed it will not be the first or the

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last time that the Appropriations Committee needs to respond to federal regulation.

DORN: Thank you.

HILKEMANN: Senator Erdman.

ERDMAN: Thank you, Senator Hilkemann. Senator Bolz, would you agree that the federal language now is very similar to what we had last year?

BOLZ: In my initial review, it is similar to what was put into the budget package last year.

ERDMAN: OK. So that's being challenged in court right now. Is that true?

BOLZ: That's my understanding.

ERDMAN: So what if that takes a year to be challenged in court? What do we have for provision that in the state? If the feds doesn't, doesn't have-- if it doesn't get through the courts,--

BOLZ: Um-hum.

ERDMAN: --and it takes a year to get through, what, what provisions do we have?

BOLZ: Um-hum. I, I think that would also be a good question for legal counsel. I, I think that's probably a question that we should ask of our legal experts. Maybe that's the legal counsel of the Health and Human Services Committee.

ERDMAN: So we would reserve-- we would revert back to what the federal government has now? Would that be--

BOLZ: I'm not sure.

ERDMAN: --because that's what's in, that's what's in force right now. Right?

BOLZ: I, I, I do not know. I don't know the answer. What, what the point that this piece of legislation is making is that we, we as an Appropriations Committee need to fund per federal rule and regulation in order to avoid fines, fees, and penalties. And so we can only work with the information that we have. If these rules are finalized and

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they are promulgated, I think that the direction we would probably get is to do in accordance with the standing federal regulation. But again, I am not an attorney, and so that's probably an excellent question to confirm with, with someone of legal expertise.

ERDMAN: And I believe you'll notice I'm not an attorney either thank God. But, I'm with you on that one. But we need to make sure that we have something in place to function under, and if we don't have any provision at all, it's held up in the courts?

BOLZ: Um-hum.

ERDMAN: It doesn't make any sense for us not to make a decision just waiting for the court to decide.

BOLZ: I mean-- I think that's one of the reasons that I would urge this committee's caution in adding any additional language to, to this particular conversation beyond what is within federal compliance. Because if something changes and we have a state directive, you don't want the state directive to be out of compliance with the federal regulation and remanded to a situation in which you have a penalty.

ERDMAN: So if our policy from last year and the federal policy are similar and the court rules that their policy is fine, we would be in good standing, right? We'd be in a good place?

BOLZ: If--

ERDMAN: If our policy we passed last year, the language we had last year is very similar to what the federal government has passed and is being challenged in court today. Is that correct? You said they're similar.

BOLZ: Say your question again. I'm not following you, I'm sorry.

ERDMAN: Our language from last year is very similar to what the feds have-- what the President has adopted and is being challenged in court.

BOLZ: OK.

ERDMAN: So if the, if the court rules in favor of the federal policy, we're OK. If we lose, lose last year's language, use it-- adopt it,

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and the court approves it, we're OK, because it's the same thing.
Right?

BOLZ: I, I think-- I'm, I'm sorry. I'm really not trying to avoid your question, but the, the, the conversation that we had earlier on the mike it-- I would go back to that position saying I do not have a full analysis as to whether or not what has been proposed in the Governor's budget is within full compliance with the new federal regulation.

ERDMAN: OK.

HILKEMANN: Are there other questions? Senator, I've got just a couple of questions. If I, if I understand this correctly, if this amendment were approved as we've, as we've got it that this would, this would mean we would not have to bring the Title X language in each subsequent budget?

BOLZ: No, sir. No, no, sir, because it, it does not create statutory change. It creates change-- it creates a change within our budget bill rather than changing underlying statutes.

HILKEMANN: So it would not, so it would, so it-- whether this goes through or not, next year we'd have to deal with this same issue?

BOLZ: If we make it a part of the budget package.

WISHART: In two years, in two years.

BOLZ: If it is a, if it is a part of our budget bill in two years, you'll have to revisit it.

HILKEMANN: All right. And--

DORN: That explains my question, too.

HILKEMANN: -- if, if we've-- right now the way we have it, as we adopted it last year, are we not open to a federal challenge of that if the, if the federal's changes?

BOLZ: Ask your question again, please.

HILKEMANN: Well, in other words last year we, we had language that, that was agreed that we passed the budget with, OK. And that was what was earlier in the year that was discussed. We had that motion of we, we insert the language back in the budget, OK. We put that back in,

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aren't we still if the-- with, with changes going on in the federal, even if we kept that same language in, are we not open to federal challenge?

BOLZ: If we were to, if we were to reinstate the language as adopted last year. As I understand your question, your question is if we were to reinstate the language that we adopted last year would we be open to a federal challenge.

HILKEMANN: That's correct.

BOLZ: And my answer is I do not know because I don't have a full legal analysis as to whether--

HILKEMANN: OK.

BOLZ: --or not the language we put in last year or the language currently proposed in the Governor's budget is in, is in full compliance with the new federal rules and regulations. Which is part of the purpose of bringing this bill, is, is because we knew that the regulations would come mid-session. So, so we don't-- what, what would not be a good case scenario would be a case scenario in which this committee or the body as a whole adopted language that was out of compliance with federal regulation and because the Governor's budget was introduced prior to the final promulgation of the rules and regulations we could not know for sure. So part of the conversation that needs to be had in the agency budget is whether or not, is whether or not what is proposed in the Governor's budget is, is in full compliance and whether or not this committee wants to take action on it.

HILKEMANN: So can this-- you said it, it would require a statute change. So how can this, can this amendment that you're presenting here, can it be changed so that it is a statute change?

BOLZ: If, if a senator wanted to introduce a statute change about the-- how the state is, is implementing family health care programs, the appropriate thing to do would be to bring a bill that would get, get referred to the Health and Human Services Committee and then that bill could be put into statute change versus making it part of our budget if, if one were to want to create statue change.

HILKEMANN: Are there are other questions for Senator Bolz at this time?

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BOLZ: If I, if I might-- colleagues, I'm, I'm not sitting in front of you pretending that I am the legal expert. What I am offering this committee is a vehicle and an opportunity to make some decisions about what is-- has been a very controversial issue. And so I, I hope you understand that I am bringing this in service to the committee as a tool in our toolbox that we can choose to use or not choose to use.

HILKEMANN: Are there additional questions at this time? Seeing none, thank you, Senator. We will now hear proponents for amendment-- this amendment. I do not see additional proponents. Are there any opponents to this amendment?

BO BOTELHO: Good afternoon, members of the Appropriations Committee. My name is Bo Botelho, B-o B-o-t-e-l-h-o, and I serve as the interim public health director of the Department of Health and Human Services. I am here to testify in opposition of LB481 as amended. Last year the Nebraska Legislature made positive updates to the Title X program, which are reflecting the Governor's current budget recommendation. The changes have provided clearer guidelines that ensure program integrity. As a result, we are more confident in the services being funded within the program. In fact, on February 22, 2019, the U.S. Department of Health and Human Services updated its Title X regulations which are scheduled to go into effect in May. The federal government provision mirrors changes made by the Nebraska Legislature last session. We oppose LB481 as amended for three reasons. First, this is a budget issue that should be addressed in the budget. The Legislature has for decades included similar budget language in the budget every year. It is common to lay out funding parameters in the state budget. The state budget is full of instances which further clarify in direct the way funds are used. This was successfully addressed in the budget last year. A separate bill this year not only relitigates a question Senators had already settled, it changes precedent for how similar matters can be addressed or revisited in the future. We urge the committee to include the language recommended by the Governor and the budget for consideration by the full Legislature. Second, AM614 would not maintain the program integrity achieved of last year's budget language. The budget language enacted last year provided clear guidelines for the administration of the Title X program. Those guidelines are allowed in the current federal law. The Governor's proposed budget for the next biennium continues this language for the administration of Title X program. As I testified last year, the budget language, which provides for objective independence is needed to ensure program integrity through enhanced

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clarification. In the 2016 and 2017 statewide single audits, the state auditor found issues. For example, in the 2016 report, the auditor found federal payment error rate of 98.3 percent and the sample of payments to sub recipients during the fiscal year. Without the budget language, we can expect similar issues to arise in the future. Third, if passed, AM614 will put the local Title X program at risk. As you're all aware, the federal government can and does update or substantially change regulations to support newly passed or amended laws or to provide new or clarify direction in current law. Forcing our state Title X program to be in accordance with applicable federal regulations in existence as the effective date of the act will likely lead to an untenable choice: either comply with federal regulations and violate state law or comply with state law and violate federal regulation. Not in compliance would subject Nebraska to a potential loss of all Title X funding currently amounting to a loss of almost 2.5 million. AM614 takes Nebraska backwards, and would codify a version of federal regulations that is subject to change. Before I close, I want to provide a general update about Title X network in light of the changes made during last session. Last year, several raised concerns that people would not be served if the budget language were enacted. These fears have been unfounded. We have been able to continue to serve citizens seeking out Title X services. Preliminary data for 2018 shows we served approximately 27,000 people and added a new grantee. We had one grantee who opted to leave a network, and they have publicly said that they will continue to serve their customers without Title X funding. Also, we have not received complaints about services not being available. We will continue to work to expand our network in the next grant cycle. Finally, I want to close and say that beyond our three reasons for opposition, that we are concerned about the process surrounding this amendment. The AM was filed after the seven-day notice period for this hearing. I want to reiterate that this is a very unconventional way to address budget intent language. I urge the committee to maintain the agreement the full Legislature struck last year. Thank you, and I'll answer any questions.

HILKEMANN: Thank you. Are there any questions? Senator Erdman.

ERDMAN: Thank you. Thank you, Director, for coming today. So let me ask you the same similar questions I asked of Senator Bolz. The language that we adopted last year, is it very similar to the language that the federal government has adopted that's being challenged in court?

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BO BOTELHO: Yes.

ERDMAN: So if we adopted that language again this year and the court found that that language was fine-- I think they're taking that into a court in Oregon, we'd be exactly as the federal government is. Would that be fair to say?

BO BOTELHO: Yes.

ERDMAN: So it doesn't appear to me that we want to go with an opportunity to go with this amendment and find out that the federal government-- and so let me ask it differently. So if we do-- if we adopt the amendment AM614, or whatever it was, and the court throws out the federal government's-- they challenge the federal government's issue that they have now with their language. What happens to us? What language do we have?

BO BOTELHO: This amendment would in essence freeze the program in time, the date that this would become law. So it-- it's saying that the Title X program must be conducted in accordance with federal regulation at the time that this is signed into law. So it, it freezes you in time to whatever federal regulations exist at that time.

ERDMAN: So we go back to what the federal government had before, before they implemented the new change?

BO BOTELHO: Yes, or whatever would be at that time.

ERDMAN: Right. Do you see a danger in us adopting last year's language?

BO BOTELHO: Well, Senator, it would-- last year's language in what was in the budget bill?

ERDMAN: Um-hum.

BO BOTELHO: No, I mean, obviously it, it wasn't contested by the federal government during this past year. We had no problems with our program. And in fact, the federal government is now adopting or about to adopt almost identical language. So clearly, they don't have concerns with the language.

ERDMAN: Thank you.

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HILKEMANN: Senator Vargas.

VARGAS: Thank you very much, Senator Hilkemann. Director, a couple of questions and I-- you know, for the record we-- you know, we actually had this very similar conversation about this bill, and I think you'll remember it and I'll have to do a little bit of education on-- off-- after this with some of the testimony, but I wanted to revisit some of this from our original conversation we had last year. Because I, I do want to caution us and some, some of the question here is on, when you say we-- and, and you put this in the testimony that we have included similar budget language in all of our past amendments. Can you elaborate on that a little bit?

BO BOTELHO: Yeah, and, and this current budget, and, and in all previous budgets that I'm aware of contain General Fund prohibitions for the use of abortion or abortion type services. It also contains prohibitions for fetal tissue research. And if you look at your cash funds, almost every cash fund stipulates how the funds in that cash can be used. So the idea that the budget would, would set parameters on how monies can be used and that's fairly consistent with every budget that I'm aware of.

VARGAS: So are you saying the exact same budget language has been utilized for the last several years, the exact same parameters in the budget?

BO BOTELHO: No, the, the, the-- by exact same, which language are you talking about? The Governor's proposal?

VARGAS: The Governor's proposal from last year. That language, was that new language from last year that was included, or was that similar-- the same identical language from the previous year?

BO BOTELHO: I don't think it was the same from the previous year.

VARGAS: OK, OK, more of the conversations we had last year and you use this term in here again which is-- you use the word needed. And I remember one of the conversations we had was about-- I asked you define needed in your opinion. When you say the word that we need to do this, what does that mean to you?

BO BOTELHO: That we believe the language is necessary to ensure the integrity of the program.

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VARGAS: OK, and then I asked you about program integrity. So this is necessary to the integrity of the program. Does every state currently-- every state last year in their budgets had to include this specific language you used last year in order to then maintain the program, or to actually follow through on the program?

BO BOTELHO: I don't know what every state did. But our-- certainly our language not [INAUDIBLE] other states. The federal government would bind the other states.

VARGAS: Would, would have not including the language not allowed us to then operate the program?

BO BOTELHO: No, we could have operated the program.

VARGAS: OK. And so when you term the use program integrity, would of we've been able to then improve program integrity without including the statute, the statute-- I'm sorry, these legislative changes in the budget last year?

BO BOTELHO: I, I believe programs-- there's always methods and means to improve program integrity.

VARGAS: OK. And I bring this up because we're, we're-- I know we're gonna get to some sort of an impasse at some point. I know for the new senators, we're gonna, we're gonna do our due diligence on the floor and then even in this committee. The questions I'm asking are really along the lines of do we need to do this? The answer is, no. Do we need to do it for program integrity? No. Are there other ways to improve program integrity? Yes. Do we typically use other ways of program integrity? Constantly. There's internal program mechanisms that we can and always should exhaust within the budget process, and we do it. And other states have been able to then operate the Title X programs based on your-- what you've just stated. So I just-- I want to make this really clear because we're gonna keep having this conversation in the committee, we're gonna have a conversation when we-- again with, with the agency, with another hearing. And just the last thing, you, you talk about being in opposition to this because the full-- there is an agreement the full Legislature struck in this. Can you just clarify a little bit on what you mean by that?

BO BOTELHO: The previous budget language that passed by the Legislature.

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VARGAS: Yeah, I, I just want us to caution that-- because this was not a, not-- this is indiv-- individual votes and not necessarily the agreement that this was the right language but that an agreement that, not the full Legislature, but individuals decided that was the best pathway forward to get us past a contentious-- not in agreement on the for-- on the front end to then figure out a way to then ensure program integrity. I appreciate you being here. I still have a lot of reservations about which pathway to go forward, but I think this is a good dialogue.

HILKEMANN: Senator Clements.

CLEMENTS: Thank you, Senator Hilkemann. Thank you, Mr. Director. Would you refresh my memory as to with Title X funds, what percentage of those are federal dollars and, and what percentage are state dollars?

BO BOTELHO: Title X's a federal program, Senator.

CLEMENTS: One hundred percent? There's not a match, it's just 100 percent federal?

BO BOTELHO: I believe so, yes, Senator.

CLEMENTS: Is that why it's important to follow the federal guidelines closely?

BO BOTELHO: Yes, you don't have a choice. You have to follow federal guidelines of Title X.

CLEMENTS: Regarding the program integrity that you are discussing, I remember that or I think maybe you even mentioned that there were auditing violations of how spending was done according to Title X federal regulations. Is that correct?

BO BOTELHO: That's correct, Senator.

CLEMENTS: Is, is that what you mean by endangering program integrity?

BO BOTELHO: Yes, Senator.

CLEMENTS: And-- so do you think-- do you believe then that the language that was put in last year's budget would help to ensure there were not violations?

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BO BOTELHO: Yes, it, it would prevent a violation for-- of Title X funds being used for abortions or abortion- related services.

CLEMENTS: Thank you.

HILKEMANN: Senator Wishart.

WISHART: Who is the-- what's the name of the, the new clinic that was added?

BO BOTELHO: NOAH.

WISHART: NOAH. How long have they been serving people?

BO BOTELHO: In, in general, or in our program? They're new to our program.

WISHART: In general.

BO BOTELHO: I'm not sure how long they've been in existence, Senator.

WISHART: And where, where do they serve?

BO BOTELHO: They're in Omaha.

WISHART: They're in Omaha?

BO BOTELHO: Um-hum.

WISHART: And the clinic that was-- that's no longer serving, what population did they serve? Because you said there is one clinic that--

BO BOTELHO: Lincoln-- it was, it was a clinic in Lincoln.

WISHART: Lincoln.

BO BOTELHO: Yes.

WISHART: So is there a, a concern that we've lost a significant portion of service to the Lincoln constituency?

BO BOTELHO: No, we haven't seen that, Senator. The, the numbers of individuals served by Title X program has been fairly consistent since 2015. And we didn't see an increase or a dramatic increase in the [INAUDIBLE] Lincoln program. So it appears that those individuals

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that, that need service in this program with this type of services are being served.

WISHART: How many people did-- do you know did-- is it NOVA?

BO BOTELHO: NOAH.

WISHART: NOAH. How many people did NOAH serve?

BO BOTELHO: I don't know if I have the numbers of individuals served for that, but I can get that to you, Senator.

WISHART: OK. I'm still finding it hard to believe that by losing a clinic in Lincoln and then adding one in Omaha that we wouldn't be disproportionately affecting the constituents that I serve in Lincoln.

BO BOTELHO: Well, I, I believe there, there are entities in Lincoln that have been serving Title X patients that, that continue to serve. And, and they've told us that. They're gonna continue to serve these individuals regardless of the Title X funding.

WISHART: Because one of the concerns that I heard from the-- from some of the clinics in Lincoln was their, their concern about access. And so I, I guess I'm disheartened to hear that, that again we, we lost one of our clinics and, and the one that, that came on line is, is not in our community.

BO BOTELHO: Yes, Senator.

HILKEMANN: Senator Vargas.

VARGAS: Do you do audits often, not just the Title X of other programs and DHHS or-- sorry, Division of Public Health?

BO BOTELHO: Yes.

VARGAS: Have you found any other instances where there are programs that could be doing a better job as a result of your audits?

BO BOTELHO: Yes.

VARGAS: Do you have a protocol for what you do once you've identified problems through audits for any of your programs?

BO BOTELHO: So if-- we have an internal audit division and it's a state auditor, so when an audit uncovers a discrepancy or weakness in

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a program, the program then identifies solutions to solve or prevent that in the future.

VARGAS: Got it. Do the solutions always include legislative change?

BO BOTELHO: Not always.

VARGAS: OK. What, what are the determinations to make a legislative change versus just doing an internal programmatic or management change?

BO BOTELHO: It, it depends on the problem you're trying to solve, Senator.

VARGAS: Um-hum. Could you have improved or made corrective actions based on this audit without the legislative change from last year?

BO BOTELHO: The--

VARGAS: So just a yes or no answer.

BO BOTELHO: Could we improve the program? Yes. Would those, would those improvements solve this particular problem? I'm not sure. I don't think that would be likely, Senator. The way Title X funding works is it's advanced to the entity and then the entity spends the money. So we don't have control of how the entity spends the money once it has that. So the, the-- what this language does, it would prevent the funding from going into an entity that has the capacity to use it for abortion-related services.

VARGAS: I'm gonna try to rephrase the question. Did you need to make this legislative language or could-- because previously I asked you, and I'm trying to rephrase this. Are there other internal controls, mechanisms that you could have made changes to address the corrective actions from the audit that didn't include legislative changes?

BO BOTELHO: The corrective action regarding the abortion-related services, we believed this solution is the one that's needed to address that problem because the way the Title X funding works. Can we approve Title X program in general from other, other solutions? Yes. But this language is what prevents that issue from occurring again, and I don't think there's another truly effective way-- the way our program works, to solve this problem.

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VARGAS: OK. I don't think I got a yes or no answer. I, I think I got-- I think we believe or we think this is the way to be the most effective. It still lends me to believe that there are-- we could have done it more internally because we don't go down this route of doing legislative changes every single time we have something internally that we find an audit, and that's kind of what I've heard. Thank you.

HILKEMANN: Senator Wishart.

WISHART: When, when, when we found the problem in the audit, was it addressed by that clinic?

BO BOTELHO: Yes, they reimbursed the money.

WISHART: OK, and then did the federal government at the time of that audit in the findings, did, did we lose any of our Title X funding?

BO BOTELHO: No, we did not.

WISHART: OK.

HILKEMANN: Senator, Senator.

McDONNELL: Thank you, Senator Hilkemann. Thank you for being here today. Just follow up on Senator Wishart's-- some of her questions. So we had a, a new grantee and that's NOAH, all right. We had the old-- or we had one person decide no longer to participate but then they said publicly that they were to continue to provide services to their customers. Is that correct?

BO BOTELHO: That's correct.

McDONNELL: So prior to-- in 2000, you've got-- in 2018, 27,000 people were served. Do you know how many people were served in 2017? In your testimony, you got 2018, 27,000--

BO BOTELHO: Yes, in 2017, we had around 29,000; in 2016, 27,954; and in 2015, 26,369.

McDONNELL: Also, in your, your statement you have not received any complaints?

BO BOTELHO: We have not. No, Senator.

McDONNELL: All right, thank you.

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HILKEMANN: Thank you, Senator McDonnell. Any other-- yes, Senator Wishart.

WISHART: So why, why aren't we-- why isn't the Governor's Office or Department of Health and Human Services bringing a bill in front of Health and Human Services to codify this in statute? So it's-- I mean, so that these changes if, if, if you are that concerned about it, why don't we put it in statute so we're not every year dealing with this discussion in the budget which, which is contentious? I experienced it last year and, and frankly on Appropriations Committee, a lot of our responsibility is, is getting a, first and foremost, to get a budget through, and so at times we-- it's, it's better to take something and, and put it in statute and especially if it's something that the administration strongly believes should be there in perpetuity. So why not, why not do that this year?

BO BOTELHO: And I believe I touched on that in my testimony, Senator, but we believe this is funding language and its most appropriate place is in the budget.

WISHART: But do you, do you recognize so that with taking it through Health and Human Services and getting it in statute that, that it would have more stability in terms of its existence in law than every year coming back into the budget? Because what we're seeing here is we're-- there's a potential it won't be the budget this year and, and a missed opportunity to have brought in front of the Health and Human Services Committee.

BO BOTELHO: I understand what you're, what you're saying, Senator, but again, we believe it's most appropriate place is in the budget. It's, it's funding restriction.

WISHART: OK.

HILKEMANN: Additional questions? Two things I'd like to ask. Just, just for clarification on page 2 of it, you said that you found a payment error rate of 98.3 percent, that means 1.7 percent were in error. Right? Ninety eight point three were properly paid?

BO BOTELHO: That was the state auditor, yes, Senator.

HILKEMANN: OK. It's sort of a strange way to say you had a funding error rate of 98.3 percent. It's a [INAUDIBLE] thing for me. It says

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federal payment error rate of 98.3 percent. See, I read that and say 98.3 percent of them were wrong.

BO BOTELHO: The, the-- of this sample-- so of-- if you go back and look at that audit report the sample they took-- what the auditor found was that 98.3 percent, they found errors in 98.3 percent of, of the sample they took from that audit. The error rate was extremely high.

HILKEMANN: So I-- oh-- so I did read it right?

BO BOTELHO: Yes, Senator.

HILKEMANN: So you mean 98.3 percent of the time, we're not paying them correctly?

BO BOTELHO: At that time, that's what the auditor found, yes, Senator.

HILKEMANN: How many was in the sample?

BO BOTELHO: I don't remember, Senator. We can, we can go pull the audit report.

HILKEMANN: So I did read that right. Why would we have, why would we have a 98.3-- why would the department have a 98.3 percent error rate?

BO BOTELHO: I'm not sure of the reasons behind the error rate, Senator. Obviously, at that time the program wasn't being administered in a way that was sufficient.

HILKEMANN: So OK. Maybe some of when we're in executive sessions that I did not hear that we were that high of an error rate last year on this but, so is this-- OK. I think that's something that we need to-- I would think an error rate of 98.3 percent-- I think we have some questions over what the program-- what the department's doing in administering this program.

BO BOTELHO: The program is administered very differently today than it was at that time, Senator.

HILKEMANN: OK. Any other-- oh, yes, Senator Clements.

CLEMENTS: Thank you. That is news to me also. I don't think-- I, I didn't recall that it came out to be that 98 percent. You know, he

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was-- could you express how the program is being administered differently to help correct that?

BO BOTELHO: Yeah. I can't give you all the specifics, but we have a new administrator now and we believe that there's a lot more scrutiny on the program internally on, on how they're handling these, these payments.

CLEMENTS: All right, and Senator Hilkemann said the program had a 98 percent error rate, wasn't it the provider that was making the errors?

BO BOTELHO: That was the case as well, Senator. There was the, I believe, if you go back and look in the report, and I don't want to operate off memory, but there was, there was the backup material to, to justify the expenses. It's just that there wasn't-- when the auditor finds a, a payment error, it's not necessarily that the payment itself was, was made for an incorrect purpose, it is that there wasn't-- the, the program or the recipients couldn't provide documentation to show what the payment was being used for.

CLEMENTS: OK, so that it just wasn't following the guidelines-- federal guidelines correctly then.

BO BOTELHO: Correct.

CLEMENTS: All right, thank you.

HILKEMANN: Additional questions? Yes, Senator Vargas-- oh, Senator Dorn.

DORN: Well, that was a 2016 audit,--

BO BOTELHO: Yes.

DORN: --so we don't, we don't start losing funds when you're at that bad of a number?

BO BOTELHO: The, the, the payments could be justified. But the auditor is saying that they found these errors or, or the lack of documentation. The program can then go back and create the documentation or get the documentation and show that the payments were not.

DORN: So we're not put on-- I mean, we haven't lost any funding?

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BO BOTELHO: We have not.

DORN: And we're not put on-- I guess, notice that you need to clean it up or anything like that?

BO BOTELHO: No, other than that one payment which was, which was then reimbursed and clearly that payment was made inappropriately. But most of these payments we're able to show that they were in fact appropriate but the sufficient documentation was not there.

DORN: Thank you.

HILKEMANN: Senator Vargas.

VARGAS: The audit that we're referencing, was that audit-- well, did the auditor express concern about that audit?

BO BOTELHO: I think the auditor expresses concern about every audit finding.

VARGAS: Did the auditor make recommendations to then implement legislative language in his formal recommendations?

BO BOTELHO: I don't know what his formal recommendation for-- but we can look at that audit report, Senator.

VARGAS: From what I recall, there were-- did not include it, but I wanted to check with you. The majority of it was all internal program mechanisms. And I just want to clarify something you said, so if it wasn't 98 percent in this sample, and I have to remember, I remember the sample, it's a sample right? So I have to look at the sample, and they were addressed, and that you said one of the ways-- what are the ways that we improved-- addressed the 98.3 and the, and the management of this program? What did we do?

BO BOTELHO: I, I think we-- I'll have to get back to you in all those ways. But, I'm, I'm-- on one of the ways clearly we work with our recipients on ensuring how they're handling the funds and how they're documenting their internal spend.

VARGAS: OK.

BO BOTELHO: But, I can get you more information on that, Senator.

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VARGAS: Could that-- could you have done that without the legislative language?

BO BOTELHO: That was done without this legislative language. But again,--

VARGAS: OK.

BO BOTELHO: --we're confusing the issue, Senator, because the legislative language is meant to prevent funds once they're received by the recipient for being used for abortion-related services and internal documentation doesn't prevent spending once the money is received by the recipient.

VARGAS: But the audit didn't find those-- so all those instances of-- let's say, payment errors were addressed. Correct?

BO BOTELHO: Yes, I believe so, Senator.

VARGAS: OK. So payments were addressed. There wasn't any legislat-- there wasn't recommendations to bring legislative language, but there are internal program mechanisms that were put in place that seemed like could have been done without the legislative language. OK, thank you.

HILKEMANN: Any other questions? I have-- so I want to follow back up on that. Are you saying as a result of, of changing of the language that-- now we haven't done an audit at this point but if an audit were done today from just the fact that we've changed this language that we would-- that this would go from a payment error rate of 98.3 percent to zero percent?

BO BOTELHO: By changing the language, Senator, it-- it's not gonna address internal documentation issues. But what it does, it prevents funds from being used for abortion-related services. The, the language change prevents funds from going to an entity that has the capacity to perform abortions or abortion-related services. Thus, this language would prevent those funds from ever being transferred and that particular violation cannot happen under this language. So this language prevents that problem.

HILKEMANN: So what you're saying is, is that up on the, on the federal error rate is that 98.3 percent of those samples were used for paying providers of abortion.

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BO BOTELHO: No, that's not what I'm saying, Senator.

HILKEMANN: OK. So what was the federal payment error rate? I mean, you said it was 98.3 percent of the sample. Now I, I think--

BO BOTELHO: I think we'd have to go back and look at that audit, Senator, which, which is available from the auditor, and I can provide that to you. What the auditor said, is that when they took a sample, 98.3 percent of that sample showed payment errors. Lots of those errors, I believe, if you go back and look at that is, is documentation errors, accounting errors.

HILKEMANN: OK. Not necessarily that we paid it wrong?

BO BOTELHO: Correct.

HILKEMANN: OK. It just seems to me to be-- I mean, it just--

BO BOTELHO: High.

HILKEMANN: --that, that number just blows my mind away, and I-- it almost makes you think that you had to, had to focus in on trying to find what was wrong when before you started. I mean, you know-- I mean, to be wrong 98.7 [SIC] percent of the time is, is pretty tough. OK. I'm sorry, I just-- that was interesting to me, and then you also-- on the final thing I want to mention is here you say that this seven-day notice was prior to that and I, and I do have a note here that we're gonna have to continue this hearing because that wasn't done, and we'll have to go and-- another hearing on it. But we will hear the persons who are here today on this-- that point. And that's on March 28th, March 28th. So are there other questions at this point? Thank you very much for coming.

BO BOTELHO: Thank you, Senator.

HILKEMANN: Are there other opponents, other opponents to testify?

MARION MINER: Good afternoon, Senator Hilkemann, members of the Appropriations Committee. My name is Marion Miner, M-a-r-i-o-n M-i-n-e-r. I'm here on behalf of the Nebraska Catholic Conference, which advocates for the public policy interests of the Catholic Church and advances the Gospel of Life by engaging, educating, and empowering public officials, Catholic laity, and the general public. I'm here today to express the Conference's opposition to LB481. LB481 as amended last Tuesday states simply that the Department of Health and

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Human Services shall administer the Title X program in accordance with applicable federal regulations in existence as of the effective date of this act. The reason that the Conference opposes the adoption of this language as written which is fine as far as it goes on its face is, is twofold. First, Nebraska, as, as you've heard before, I think, Nebraska DHHS has to follow applicable federal regulations anyway regardless of whether this language exists anywhere in our statutory code or in the budget. So the bill doesn't actually accomplish anything. And second, although it may be that Senator Bolz's intent is to incorporate the new pro-life federal rules announced by the Trump administration and ensure compliance, those rules will not go into effect anytime in the foreseeable future. We believe those federal rules are good. They're very similar to the compromise language that the Legislature worked out at the end of last session in the budget. But the new, the new rules won't go into effect anytime soon because opponents who have already sued the Trump administration over these new federal rules will almost certainly find a judge willing to enjoin them. In other words, make them unenforceable until the lawsuit is resolved, and that could take years. During the years that the lawsuit is ongoing, the new rules are not gonna have any force. So if the Legislature passes this bill rather than the budget language the whole body agreed to last year the state will recommence funding the abortion industry through the Title X program, which is against the will of Congress on this federal program. This puts us in a pre-2018 position with regard to Title X with no requirement that abortion providers physically, legally, and financially separate their abortion activity from their Title X related services, and without those separation requirements taxpayer dollars will directly fund abortions as has been made clear by state audits in two consecutive years. So the Conference opposes LB481, and urges the Appropriations Committee to recommit to the pro-life budget language the Legislature worked so hard to forge a consensus on last year. And with that I'm certainly happy to take any questions I can, and I'll try to answer them the best I can.

HILKEMANN: Any questions? I have a couple of questions.

MARION MINER: Sure, go ahead.

HILKEMANN: So what you're saying is if we go back and we adopt the same exact language that we had last year that that language would supersede the federal government's language?

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MARION MINER: No, no, no, that's not what I'm saying. I'm sorry, if I wasn't clear on that. So last year's language that, that the Legislature passed was compliant with federal regs. I believe that it's compliant with the new federal regs. In fact, the new federal regs, as, as you've heard from others, are very closely tailored-- very close to what we passed last year. So what we pass-- what the Legislature passed last year, what you passed last year, is within the bounds of federal regs, rules and regs. So what I'm saying the danger is here is that if the federal regs, the new ones, that are closely-- very closely related to what Nebraska did last year through the budget, if those are struck down and we don't have our old budget provision from last year in the budget and all we've got is are these new federal regs, when they're struck down temporarily pending the outcome of a lawsuit which may be two or three years down the road, we've got nothing in there to prevent these dollars going to abortion providers. We've sacrificed that because we've tied ourselves explicitly to a new federal regulation that no longer is in force. So what I'm saying is that if we leave these-- this language in place which we, which we-- which the Legislature agreed to last year, we have our own state provisions within the bounds of federal rules and regs that stand independently of whether the new rules and regs are enforced. Does that make sense?

HILKEMANN: Well, you're still saying that the state is, is so-- it is-- if, if that the state would take precedence over the federal.

MARION MINER: No, I'm, I'm sorry, and, and--

HILKEMANN: Because how-- I don't understand. In other words, I, I don't, I don't want to be difficult, but I, I, I think it's-- in other words if we're-- we put these regs in-- as-- and we keep it exactly as we had last year and we said, yes, we're gonna keep on paying it.

MARION MINER: Um-hum.

HILKEMANN: All right. And there's a challenge to the federal government and the, and the challenge is, is that the federal language is not correct or whatever else it is, and we've been paying it using the, the, the regs that we've put in. What-- and you say it could be years which it could be years,--

MARION MINER: Um-hum.

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HILKEMANN: --so wouldn't there-- isn't there a possibility it would come back and say, you've been doing it wrong for the last three years because you didn't-- you weren't within compliance of the federal regs?

MARION MINER: No, because that issue's already been regulated-- been litigated in the past. So, so the language that was passed last year was addressed in 19-- it was very closely tailored to the old Reagan administration regs and that issue was litigated in 19-- and finally decided in 1990 in the Rust v. Sullivan case, so we know that that language is good. The new stuff, right, I think is going to be good, too, because it's, it's very close to the old Reagan rules as well, the new federal stuff. But it-- but somebody is gonna challenge it because they don't want to comply. Right? And this is happening on the West Coast primarily. They're gonna find a judge. Most likely that's going to enjoin those, those new federal regs pending the outcome of the lawsuit. So to answer your question that-- I'm sorry, I'm, I'm going maybe off on a tangent here, but to, to really answer your question, what, what the Nebraska Legislature passed last year in the budget that issue's already been litigated in the past in 1990 with the Rust decision. So, so we're in a good position in Nebraska with the language that we adopted last year.

HILKEMANN: So there would be no-- OK. So it's not gonna come back in two or three years to say that you had not-- and we-- and not 98 percent noncompliance, we have 100 percent noncompliance because we didn't follow the rules that the feds have?

MARION MINER: I don't think that's likely because, because of the way Rust was decided and because of the way that-- what the Legislature did last year so closely follows that pattern laid out in Rust.

HILKEMANN: So are there other states that put in their budget exact language that we did in Nebraska last year?

MARION MINER: I don't think so partially because what ended up coming out last year was, was a compromise. What, what ended up coming out in the final version was not exactly what went in at the very beginning. Now what went in at the very beginning is there anything exactly like that, the closest thing that I know of is something that happened at the federal level again during the Reagan administration. I know that some other states have restricted the way that federal funds, including Title X funds, are going to be used in their states to keep them from going to abortion providers at, at least if they're not

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separated, if there's no program integrity. But as, as to whether the exact language has been used by other states that, that went into the budget discussion last year here, I'm not sure whether or not that's true.

HILKEMANN: So are you saying to me that it could turn out if this injunction and so forth down the line, it, it will go ahead and-- if we keep-- if we go back and put the exact same language into effect, put it into the budget again for next year we could be the only state in the union that's not covering that. Is that a possibility?

MARION MINER: That's-- sorry, could you, could you rephrase that last question?

HILKEMANN: If we'd be the only state in the union not covering the Planned Parenthood because of, of, of our language? No, other, other states have excluded abortion providers from, from receiving Title X funds. They've not all done it in the same way that Nebraska has.

HILKEMANN: OK. How many states have?

MARION MINER: I don't know that right offhand. I know Arkansas did something themselves, I think maybe in 2015. Some states like Iowa and Texas just decided to decline federal Title X dollars altogether and create their own state rules with their own pro-- their own programs with their own rules. So that's another mechanism that some states have used. But there may be others, but I don't know of them right offhand.

HILKEMANN: OK, thank you.

MARION MINER: Um-hum.

HILKEMANN: Senator Wishart.

WISHART: So, so did you talk to a senator over the interim about introducing a bill into the Health and Human Services Committee that would mimic the language introduced last year in our budget?

MARION MINER: Did I talk to a senator? No, uh-uh.

WISHART: Your organization?

MARION MINER: Uh-uh, No, nope, no.

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WISHART: Why, why-- you know, I know this issue is important to you.

MARION MINER: Um-hum.

WISHART: You-- you've made it very clear and you guys have--you know, fought on this issue for-- I mean, we're going into the third year-- fourth year now. Why wouldn't you have a senator, even if even if you wanted to push for it in the budget as well, why wouldn't you attack this on two fronts and have a senator introducing this in the Health and Human Services Committee and codifying it into state statute so that you don't have to deal with this battle every two years?

MARION MINER: Yeah, that's, that's a good question. I think if we could codify it into state statute we'd be, we'd be happy for that to happen. One of the things though about-- but, but we always have held that when we're talking about expenditure of state funds even if there are state funds that were first received from the federal government, once they come into the domain of the state's control that it is appropriate for the Appropriations Committee to put limits on how those funds are, are, are to be spent and to whom they should go. And that's something that we've done for a long time since at least 1999, as I think Mr. Botelho mentioned, we've had restrictions on General Funds and how those are to be spent. That's been part of the mainline budget bill that comes out of appropriations.

WISHART: But do you agree that this could be something that we could change in statute?

MARION MINER: Oh, sure, it's, it's, it's possible to do it that way. The other, the other-- and I forgot to add this at the beginning, the other difficulty with that is because, because we're talking about a federal-- we're talking about adherence to federal rules and regs and one of the questions that sort of being battered around is how do we make sure that what we're doing here is in compliance with federal rules and regs. One of the, one of the thing-- one of the advantages of doing it through the Appropriations Committee and through this process is that you-- and I know it's a headache for everybody to do it all the time, but, but it gives you some flexibility. You know, when the federal-- if the federal rules change, then it gives you the opportunity to mimic that without having to go back and, and through a separate bill and, and changing the state statute which is now no longer compliant with the new federal regs.

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WISHART: Do you, do you think in, in your work with, with these clinics and other clinics that, that work with, with family planning and, and, and health care, don't you think when we're coming-- I mean, one of the concerns I have is now within four years we have strung along all of these clinics with different regs. It seems like it's like this with this being in our budget and if we-- so don't you think that there is some detriment to every two years the regulations from what I've seen on my-- as my-- on my life in the, in the Legislature from, from every two years a clinic having to reassess what is now compliance or not? Because this issue is always gonna be a significant battle within our budget. So I, I guess I, I still don't understand-- even if you-- and this is coming from my perspective working on issues where you try two different fronts, why wouldn't you be-- if this is such a priority, and I know it is, why wouldn't you be really pushing a senator to introduce this in the Health and Human Services Committee, and is that something you plan on doing in the future?

MARION MINER: I, I can't, I can't speak for the, for the Conference on whether we'd plan to do that in the future. But to your earlier point with regard to sort of being up and down and having to, to, to comply with, with new requirements, I think what we were all hoping for last year was that the language that we agreed to, that the Legislature agreed to at the end of, of last session was going-- because, because and I, I know not everybody was happy with it, but because we've sort of come to a consensus and an agreement that this is something that we could go forward with that the next year we hoped we wouldn't have to sort of relitigate the issue, and that we'd have something like, like in our General Fund restrictions since 1999. We've had the same language in there for 20 years now and that this would become just like that-- you know, because this is something where we all hammered out a consensus and came to an agreement going forward that was gonna be the standard. And, and-- you know, we had-- we spent a lot of time on it last year. We spent a lot of time on the legal issues especially, and I think it was pretty clear by the end of that, that we were in good shape legally. And that all being worked out then this, this would set a standard that we could just follow without too much controversy from then-- from there forward.

WISHART: But that's the-- that is the risk that, that advocacy groups take when they, when they only address an issue within our budget because what we deal with on our Appropriations Committee is we restart everything every two years and, and groups that come before us recognize that every two years they're, they're battling for their

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funding or to make sure there aren't changes or to address changes when they need to happen, and that's a recognition. And-- you know, while on this issue-- you know, I, I don't tend to fall on the same side as, as your constituency that you're working with specifically on this Title X issue even though I got a lot of heat for it last year. But I, I did what was right as an Appropriation Committee member and get a budget across the finish line. But, I really feel like we're letting Nebraskans down by not addressing this issue in statute and giving some consistency to this issue since it is one that is such a hot button top-- topic. So I would really encourage your organizations to be pushing a senator to bring a bill before the Health and Human Services Committee. One-- a senator who's passionate about this issue so we can address this and codify in statute and give some stability to the constituents who really care about this issue--

MARION MINER: Um-hum.

WISHART: --and some closure.

MARION MINER: Sure I, I, I appreciate your,--

WISHART: OK.

MARION MINER: --your opinion.

HILKEMANN: Senator Vargas.

VARGAS: Thank you for being here.

MARION MINER: Sure.

VARGAS: So this is a-- this question is just a little bit about-- it's kind of along the same lines as Senator Hilkemann, try to get some clarity. So if, if-- let's say the federal laws get tossed out as a result of litigation, and we have the same language, wouldn't our same language that we have right now, if it had been deemed, violated the law, wouldn't they, wouldn't they also violate the law?

MARION MINER: Well, no not necessarily because-- so we've got two different scenarios. One, the, the challenges that are being made to the new federal rules are, are being made primarily in the Ninth Circuit,--

VARGAS: OK.

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MARION MINER: -- and, and there's a reason for that. It's because the Ninth Circuit is likely to rule with, with those who are challenging the, the new federal regs.

VARGAS: What do you mean?

MARION MINER: What do I mean?

VARGAS: Yeah.

MARION MINER: That I think that the, the challengers of that bill have made a cal-- calculation that that's when the most favorable forum to get, to get a, a court to agree with their own interpretation of the law. Now in the long term, I think that-- it's, it's, it's my opinion that the new federal rules and regs are very likely in the end to be upheld because something very much like them was upheld in 1990. I'm, I'm very confident that that's gonna be the final result. However in the meantime, we've got a couple of years where these new rules even if they are consistent with the requirements of the constitution are not going to be in effect. And if that's what we're tying ourselves to, then we've got, we've got nothing back here to prevent-- to, to ensure that, that program integrity between abortion services and Title X services.

VARGAS: So this is now reminding me the conversation we had. I'm sure you're remembering it, too. The same conversation we had back and forth and we're looking at the testimony talking about this 1990, after that case that you referenced, this is, I think, from the Reagan administration you referenced. Is that correct?

MARION MINER: Um-hum. Reagan was out of office by then, but it was his change, yes.

VARGAS: But in 1990 is when it, when it was settled. Did we, the Nebraska Legislature, then put and codify that language into our budget every two years?

MARION MINER: I don't think so, uh-uh.

VARGAS: Why not then? Why haven't we been able to then operate without codifying that language if it was upheld by the courts at that time?

MARION MINER: So that, that language, as I understand it, and I'm a little-- I'm not quite as well versed on the details as I was last year, that, that, that language really never had a, had a chance to go

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into effect. So because they didn't enforce it, the federal government didn't enforce it, and then Senator-- President Clinton, when he came to the-- into office, very quickly told the HHS, federal HHS to ignore those requirements and to institute new requirements that, that undid everything that had been done in the Reagan administration. But as far as what-- you know, I can't speak for what the Nebraska Legislature did or didn't do in 1990, but part of it is just because there was so much uncertainty at that time because you had-- you're in between administrations and it wasn't clear what the outcome of that litigation is going to be. In this circumstance, I think it's quite clear what the outcome of the litigation is gonna be, but it's gonna be two maybe three years down the road when all the dust settles.

VARGAS: It still seems that liti-- based on litigation that has happened, and if history repeats itself we've been able to operate without having this language in our budget for several decades.

MARION MINER: Um-hum.

VARGAS: And for some-- so it seems like-- and again, I got this from, from Bo, that we didn't need the language to then operate for program integrity. We wanted it to then be in there, or some people wanted it to be in there. We didn't need it to then be able to then enforce some of the audit findings programmatically internally. We didn't need it to then operate post litigation 1990. If a new administration comes in and changes the regs and we have our current-- we use our current language that we passed last year in our budget, would-- wouldn't that be in violation if they changed the regs and then say that those are no longer-- won't we have to go through this again?

MARION MINER: Sure. If they, if they went back and changed the regs then, yeah, we'd be, we'd be in a different position. And in that case-- excuse me. In that case, all it takes is dropping the language from the budget, it's-- and it's no longer there.

VARGAS: So the regs that you said-- Bill Clinton's regs,--

MARION MINER: Um-hum.

VARGAS: --that he put into statute-- I'm sorry, put into program-- you know, rules and regs.

MARION MINER: Um-hum.

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VARGAS: Would you have been OK in putting those rules and regs into our program budget at that time?

MARION MINER: Well, we'd be in a similar situation to this particular hearing on, on this amendment where one of the things I said right from the outset was it's not necessary. It doesn't really make any sense to put this, to put this into the budget because we already have to comply by federal rules. It's redundant. That, that would be the same, the same feeling I would have with regard to the claim [INAUDIBLE].

VARGAS: You and I are on the same page. It's the same exact reason why it has been redundant to even put this language at all in the budget.

MARION MINER: So, so I see where you're going with this,--

VARGAS: Yeah, I--

MARION MINER: But, but here, here said, yeah,--

VARGAS: [INAUDIBLE]

MARION MINER: -- but here's, here's the-- yeah, I know, and, and I agree, but here's, here's the, here's the difference here. The difference here is that the federal regs that were in existence before this language, the, the budget language was passed last year, were not enough to ensure compliance with the requirement that no federal funds allocated under Title X go to services-- or go to programs where abortion is a method of family planning. We saw that-- first of all, because the largest recipient of Title X funding in our state was, was an abortion provider. And secondly, because through the audits we found that some of that money was going directly to provision of abortion services, which is a violation of the law. So this was a safeguard mechanism to make sure that that never happened again.

VARGAS: So I-- and I've said this-- I said this in a different hearing. This is not a real court of law-- I mean, you're not testifying as expert testimony, you're giving your opinion. Because what you're stating-- and you put this in here, that and without the separate-- these are your words, and without those separation requirements, taxpayer dollars would directly fund abortions has been made clear by state audits. This is very powerful language. You're basically saying is a causal relationship that without this there would be, there would be-- they would be directly funding abortions,--

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MARION MINER: Um-hum.

VARGAS: --which based on Senator Hilkemann question on other states that don't have this, that hasn't been happening. States that don't have that-- there's not a causal relationship that states don't have this language that they're directly funding abortions. I think it's a very strong statement to make, to make it, and what-- we're trying to parse through the facts. We deal more with, with what is being appropriated and how to make sure that we're abiding by standards either internally or federally.

MARION MINER: Um-hum.

VARGAS: Less interpretation that this just seems like very strong language than to put in your testimony when it's not a fact. And even the audit findings did not state what you just stated.

MARION MINER: Yes, they did.

VARGAS: They did not state this exact scenario that without these separation requirements in legislative that they would-- their taxpayer dollars would directly fund abortions. That specific sentence is in the recommendation from the state auditor's report?

MARION MINER: No. What it-- what, what the audits did find is that some of the money that was received for Title X purposes was applied directly to the provision of abortion services.

VARGAS: OK, now were they, were they coded or were they applied directly?

MARION MINER: What's, what's the distinction you're making there, I'm not sure how to answer the question?

VARGAS: Well, coding and, and one of the reasons why they've been able to address everything, at least that we've seen from the audit that we heard from the director of the Division of Public Health, is they addressed all the issues with coding and clerical issues. I, I find that there is a big issue with whether or not something was coded wrong, whether or not something was with intent,--

MARION MINER: Um-hum.

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VARGAS: --or was done direct-- you know, with, with that sole purpose of doing that.

MARION MINER: Sure.

VARGAS: I think there is a big difference between those two things and what's-- so focusing on the auditor's language and what the report was, did they specifically say what you're putting in here that without those separation requirements taxpayer dollars will directly fund abortions. Was that the recommend-- that was their, their finding?

MARION MINER: So I can't tell you exactly what the words are that were in the audit because I don't have the language in front of me.

VARGAS: OK.

MARION MINER: But I do remember, and, and I'm, I'm banking on recalling this correctly,--

VARGAS: OK.

MARION MINER: --but I do remember-- seem to remember that some of the "misexpenditure" of funds was not simply a coding error, but it had to do with direct application of funds received through the Title X program to abortion services. Now I think what we found is that once that was caught, right, then the provider who took those funds and apply-- and misapplied them. Once, once it was found that that had happened then, because they were compelled to, because they wanted to, I'm not sure, turned around then and, and corrected the problem. But the problem there, though, was that that money was already spent. And when that money which is federal money which is banned from going to abortion services is spent on abortion services regardless of whether they turn around and reimburse the money, they've already committed a violation of federal law. And that reflects back on the program integrity as it applies to the entire state.

VARGAS: It does, but we've already made it very clear and based on what you're saying that what you're identifying as a problem can be addressed without this legislative language. You're stating in your testimony that without these separation requirements which we could have-- the program could have, could have improved its internal program requirements to make sure the separation requirements were very clear that there is redundancy and that we didn't need to do it.

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Nobody is making a choice on it-- is, is stating ideologically about this. We're just stating-- or I'm just trying to state and trying to get from you that the separation requirements could have been done internally by the program because those are already federal regs. Putting things into legislative language doesn't automatically lead to behavior changes.

MARION MINER: It doesn't lead to behavior changes, but it does require-- it does set bright-line rules that are very easy to tell whether or not there's compliance. Right? So if you've got to have physical, legal, and financial separation between your Title X services and your abortion services, it's very easy to tell as DHHS whether or not you're compliant with that.

VARGAS: It, it just states--

MARION MINER: When we're talking about money that's already been spent-- when we're-- through the audit process, we're going in after the fact and finding if that money was misapplied. Furthermore, HHS doesn't have-- or, or the auditor doesn't have the resources to analyze every single dollar that was spent every year. So what they're, what they're looking at,--

VARGAS: [INAUDIBLE]

MARION MINER: --what they are looking at-- what they're looking at is a sample. Right? And in, in one of those years, I don't remember was 2015 or 2016, they found that 6 percent of the funds that they had examined with regard to expenditures from the Title X program by one provider, 6 percent of those funds were misallocated for abortion-related services. And that's just the money that was studied. Now if we took the whole sample size-- if we were able to, to analyze-- if the auditor was able to audit the entire Title X budget of that one provider, would it have been greater than, than 6 percent or less than 6 percent? We don't really know. But if, if-- let's just say it was consistent across that whole body of money that was, that was allocated, 6 percent of how ever many hundred thousand dollars they received is a lot of money that was spent in violation of the Title X program. That's conjecture. But when we're talking about what was actually studied, that-- that's significant, more than one out of every 20 dollars that was spent was misspent.

VARGAS: The only the case I'm trying to make and then I'll stop asking these questions for you right now is that you, you, you said it's

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con-- it's conjecture-- like this doesn't-- is not how we legislate on conjecture. We really try to avoid that. I, I, I think we, we mostly try to avoid that, and your testimony is stating-- is making very stark causal connections that even our auditor's language, and I've read it, do not make those connections. And that's not a proportionate response, we-- even when we find audit findings like this, we don't implement legislative language like it, it-- put, put aside the content of what we're talking about. We don't typically do that. We allow the executive branch to then manage internally. Otherwise, we'd be here every single time something's going wrong and always go to a legislative change. I think we try to sometimes really avoid putting legislative changes so that we're not putting-- making government more onerous, and we do provide some deference to the executive branch to then do that. But I, I, I appreciate the dialogue, we had the same dialogue, it's-- this is helpful, but I'm, I'm hearing that it was redundant in the first place for us to then do it. So I appreciate you shedding a little bit more light on it.

MARION MINER: That-- and, and I'll-- you're welcome. But I, I would again reiterate that what the State Legislature did last year was address a problem that was identified in audits in consecutive years, so they had an opportunity to, to institute program controls after 2015, the 2015 audit saw problems. In 2016 they did another audit and we find the same problems again. So this was very-- to my mind a very common sense way to address a recurring issue in compliance with federal law, very closely tailored to something that had already been upheld by the U.S. Supreme Court and in, and in conjunction with what we've done in the past in our budget which is to make sure that the money that we're taking in from taxpayers is not going to fund abortion services. Now what was conjecture was expect-- extrapolating that 6 percent figure to an entire body of money. What is not conjecture is pointing out that money that was received through Title X was used directly for abortion services. That's a fact. That's what was reflected in the audit.

HILKEMANN: Senator Wishart.

WISHART: So I had pulled up the transcript of, of Auditor Janssen. And in response to this audit, he pointed out that it was miscoding and that there had been implementation done by that provider to ensure that those kind of misquote-- coding errors wouldn't happen again.

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MARION MINER: If I recall correctly, that's true for one year but not another.

WISHART: OK.

MARION MINER: I'd, I'd be happy to be corrected on that, but that's what I recall.

WISHART: OK.

HILKEMANN: Any other questions? I think you're off the hot seat for now.

MARION MINER: All right, thank you.

HILKEMANN: Are there other opponents?

KAREN BOWLING: Good evening, Senator Hilkemann and members of the Appropriations Committee, I'm Karen Bowling, K-a-r-e-n B-o-w-l-i-n-g. I serve as the executive director of Nebraska Family Alliance and I'm testifying on their behalf. NFA is a nonprofit policy research and education organization that advocates for marriage and the family, life and religious liberty. We represent a diverse statewide network of thousands of individuals, families, and faith leaders. Last year the legislative body successfully approved under Section 71, language to the budget prohibiting Title X funds from being distributed to an organization that performs, assists with the performance of, provides directive counseling in favor of, or refers for abortion. AM614 does not include the exact language and merely inserts that existing federal guidelines must be followed. NFA opposes LB481 because when Congress initiated the Title X Grant Program in 1970, and I think Nebraska's first grantees were rewarded in 1971. Its expressed will was that funds would not be used in programs where abortion is a method of family planning, pursuant to the requirement of 42 U.S.C. The objective separation requirement in the intent language of the appropriation for the Title X program is essential to protect the integrity of the program. Unfortunately, Nebraska Title X funds have been used for abortion services. A 2015 report by the state auditor identified the problem. The audit of one clinic found that Title X dollars were used to pay for physician fees for abortion, clinic manager time for abortion fees associated with pathology of tissue from aborted children, and employee travel to provide abortions. All of these payments were prohibited by the federal law, and I actually brought some of the testimony from the auditor, and so I can give you

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some additional facts from that. On February 22, 2019, just this last month, the U.S. Department of Health and Human Services issued a final rule to revise the regulations covering the Title X family planning program, which actually has been the first time in about 20 years. Within days, lawsuits were filed by several states challenging the revisions. The new regulations are guaranteed to be tied up in court for years. And if LB481 is enacted, we would revert to Nebraska's Title X granting provisions back to pre-2018 language, once again ensuring organizations that cancel in favor of, refer, or perform abortions could be granted Title X funds. Senator Hilkemann and members of the Appropriations Committee, because of these concerns, we oppose LB481. And thank you for your time, and I'm willing to answer any questions. I do have some data here from the auditor's report.

HILKEMANN: Senator, you're up.

CLEMENTS: Thank you, Senator Hilkemann. Thank you, Director Bowling. There has been a lot of discussion about the auditor's report, and I would like to hear what you brought regarding the audit.

KAREN BOWLING: Well just to refresh my memory in preparation, I have some of the findings from the 2015 Nebraska statewide audit and 2016. And so the following language intended, it's in verbatim of the 2015 Nebraska statewide single audit. And this is-- I'm gonna refer to pages 209 through 211 that the auditor addressed on February 8th of last year before this committee. One sub recipient Planned Parenthood of the Heartland perform family planning services and abortion services. Abortion services are not allowable under family planning. And so as they were referring to the, the, the testing sample that they took, this will refer you to that testing sample. We tested ten employees, a clinic manager tested was paid \$52 for two hours of on-call time related to abortion services that were charged to the grant. They tested ten program income expendi-- expenditures. Expenditures from program-generated funds are required to adhere to federal regulations. They noted one payment for \$1,970 for physician fees related to abortion services. They also reviewed ten pathology expenditures; two invoices included products of conception, end quote. We inquired whether some of these charges resulted from miscarriages. However, the sub recipient replied that all of the question charges should have been coded to abortion services. They reviewed two months of employee travel reimbursements, three of 11 employees tested had travel reimbursements that were not consistent with time sheets and appeared related to abortion services. The total expenditures reviewed

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for Planned Parenthood of the Heartland were \$54,572, that was the sample that they took, of which three thousand five hundred and fifty-- fifth-- five hundred and thirty seven, were noted related to abortion services. Planned Parenthood of the Heartland received a total of two thousand nine hundred and seventy dollars-- nine hundred and seventy six in Title X funds in the fiscal year of 2015. The statewide single audit tested four-- fifty four thousand dollars of the monies that they, that they received. So I think Mr. Miner referred to that so one out of 20 dollars they discovered had been-- whether it was inappropriately coded or used for abortion services. I do have a quote here from the auditor: in this case where the funds were used from a grant to pay for abortion-related services, that's where federal regulations could be triggered in the situation. This means the misuse of Title X funds for abortion services discovered in the 2015 audit put the entire Title X program in Nebraska at risk of losing its federal Title X funding. And then I have additional data here from 2016.

HILKEMANN: Senator Clements.

CLEMENTS: And I think Senator-- I think Mr. Miner probably-- he cited that pretty well.

KAREN BOWLING: OK.

CLEMENTS: Thank you.

KAREN BOWLING: Thank you, Senator.

HILKEMANN: Did you have a question, Senator Erdman?

ERDMAN: No, I'm fine.

HILKEMANN: Senator Wishart.

WISHART: So I'll ask a similar question then I-- you know, I know this is an issue that you have in your organization and you have been very involved in for the last four years and it is a roller coaster for advocates on either side of this issue. So did your organization go to a senator in the interim and ask them to, to bring a bill to the Health and Human Services Committee so we can codify this issue in statute and kind of move forward?

KAREN BOWLING: Senator Wishart, we did not. And I will tell you from our perspective you're, you're right. It's, it's heated. It's a

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difficult dialogue year after year, but like other budget appropriations, Title X language simply, simply provides conditions for the distribution of funds. And so we feel like it is very appropriate in the budget. I will address it on a second concern regarding bringing it from a legislative perspective where you say that it's codified in state statute. It may be codified that year but an exact example is a bill that we worked on diligently last year, diligently, and it was probably one of the most painful hearings of all of the mothers who have lost children because of miscarriage and had partnered with HHS to be able to issue a commemorative birth certificate. It's nothing even legal, but to say you existed, that is being challenged this year in the Legislature. So there's no guarantee if we bring a legislative bill, it will not be challenged the following year.

WISHART: And I, I understand that because you can't bind a future Legislature,--

KAREN BOWLING: Right.

WISHART: --which is why there-- you know, any compromises that are made on the floor one year cannot be held up the next year you can't expect new senators who are elected in or on different committees to uphold a compromise that the previous Legislature put in place. But that brings us back to this to where we are today. I mean, there is a definite understanding at the end of a two-year budget cycle that we start over with everything again. And so why not also while you're working on this initiative with the budget, because here we are where unlike last year it's, it's not in our budget right now. And so those-- the, the constituents and Nebraskans who care a lot about this issue on one side or the other I think with this being in the budget process it is going to be a roller coaster every year. So why not at the same time bring an initiative in the Health and Human Services Committee so that you're working on, on two fronts on this issue?

KAREN BOWLING: My response to that will be similar than-- as my previous response, regardless of whether we do it through the budget or a legislative bill we're gonna have a heated debate.

WISHART: But it's-- it is--

KAREN BOWLING: It's, it's gonna happen.

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WISHART: But it is very, but it is-- but there is a different dynamic when you are putting something in, in statute and, and, and working on that than there is in the budget, because there is just a clear understanding in the budget that every two years were starting over. I mean, the concern I have on the Appropriations Committee, and again I said this before-- I mean, I talk-- took a lot of heat for, for the decision I made last year. But I recognize that as a committee member, I don't get to have the same-- I don't get to, to focus in on specific issues the same way that other senators do because my, my, my responsibility first and foremost to this Legislature is navigating a budget across the finish line. And my concern is then that this showed itself to be a very tough issue to get across the finish line. So it is-- it's problematic to Nebraskans that we don't have an-- a-- an initiative option going through the Health and Human Services Committee on a statutory change since this is an issue that both sides of-- both sides on the issue care really deeply about. And I think it would be good to have some stability moving forward in terms of, of the direction we're going.

KAREN BOWLING: Well, Senator Wishart, I, I do want to acknowledge you, you sit in a different seat, everyone on this Appropriation does. I recognize you feel the weight of a budget. I don't in anyone-- any way want to suggest or deny that that's not a different weight. I, I do understand that. My suggestion would be then let's go back to how the original intent was established in 1970 when Title X funds were introduced. It would clear it forever. We wouldn't have that debate. It would be as it was, as it was asked to be established. What's happened through the years beginning-- I know, Senator, excuse me, as Mr. Miner talked about the Rust v. Sullivan decision. But if you go back to even in, I think it was in 1990, and it was a memo that President Clinton advised through HHS. It wasn't until '93 and his exit that he changed the rules and regulations. And then under the a-- ad-- administration of Obama they have been changed. It's because we've lost the original intent. If we can agree to the original intent, how it was established, it would be a correct all. We wouldn't be going through this every year. The reality is whether it's coming through the budget or through the legislative process it's gonna be difficult, it's gonna be difficult.

WISHART: I mean, the, the, the concern I have again on, on the-- on that side of the Appropriations Committee and this-- again, this is an issue that kept me up at night more than any other issue last year. The, the concern I have again is that what, what we end up doing when

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we have an issue that causes such a-- that causes so much friction in the budget is that we jeopardize the potential of a lot of other funding. I mean, if you looked at our budget right now the amount of money that goes to child welfare.

KAREN BOWLING: Um-hum.

WISHART: So the, the benefit of taking a statutory approach to an issue is you really get a single it out and you don't jeopardize the potential of a budget passing where you have other really significant issues that you really care about. I mean, we're funding the Attorney General's Office and the work that they're doing on human trafficking. We are, we are trying to hold as harmless as possible providers for child welfare. So if we don't have a budget pass because of an issue that could be changed statutorily, but is in our budget or out of our budget, and it, it locks us that what we wrestle with as Appropriations Committee is we have to recognize that there are a lot of other really good things in that budget that are being jeopardized. So again, I'm just-- I'm trying to push for Nebraskans to really look at this issue from a statutory change. So what we're not doing is what we almost did last year. And thank goodness it was a deficit budget because that has a lot less of a problem. But there are still \$55 million increase for child welfare in that budget which is really important. What I'm worried about again this year is that we're ending up back where we were, where potentially we're jeopardizing millions of dollars that go to support kids because of an issue that we could have brought through a statutory change. I mean, doesn't that concern you?

KAREN BOWLING: Of course it concerns me and I guess I just, after 18 years of being down here, I have found the goodwill of senators to figure out how to get a budget through even on issues that we disagree with. This has not been my first go around on issues regarding the budget. So I still believe in the goodwill and we need to have those honest conversations. I hear you. I, I, I do want you to know, I hear you. We may view it differently, and I think probably at the intersection of is it appropriate to even be in the budget, I feel like that's really maybe the question before us. And I would contend that it is because it is a funding stream. And by implementing these regulations we get to enforce accountability for it. We probably disagree on that, but I, I do think it's appropriate there. But, thank you.

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WISHART: Yeah.

KAREN BOWLING: Thank you, thank you.

HILKEMANN: Are there other questions? Senator Clements, Erdman? Karen, thank you for coming.

KAREN BOWLING: Thank you, Senator Hilkemann and all the members, for another late night. Thank you.

HILKEMANN: Are there other opponents to this amendment? Is there anyone here that would like to testify in the neutral position? Senator Bolz, do you-- waives closing. With that, we will close the hearing, and I-- and actually I have to say that this hearing will probably be continued. Am I correct? On March the 28th, March the 28th, we'll have round two.