

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 28, 2019

STINNER: The Appropriate-- Appropriations Committee hearing. My name is John Stinner. I'm from Gering, represent the 48th District. I serve as chair of this committee. I'd like to start off by having members do self-introductions, starting with Senator Erdman.

ERDMAN: Thank you, Senator Stinner. Steve Erdman, District 47, ten counties in the Panhandle.

CLEMENTS: Rob Clements from Elmwood. District 2 is Cass County, part of Sarpy and Otoe.

McDONNELL: Mike McDonnell, LD 5, south Omaha.

HILKEMANN: Robert Hilkemann, District 4, west Omaha.

STINNER: John Stinner, District 48, all of Scotts Bluff County.

BOLZ: Senator Kate Bolz, District 29.

STINNER: We'll have other senators joining us. Assisting the committee today is Brittany Bohlmeier, our committee clerk. Our page today is Cadet Fowler. He's studying film studies at the University of Nebraska in Lincoln. At each entrance, you will find the green testifier sheets. If you are planning on testifying 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 to a microphone, but want to go on record as having a position on a bill being heard today, there is a white sign-in sheets at each entrance where you can leave your name and other pertinent information. These sign-in sheets will become exhibits in the permanent record at the end of today's hearings. To better facilitate today's proceedings, I ask that you abide by the following rules. Please silence or turn off your cell phone. Move to the reserved chairs when you are ready to testify. The order of testimony is introducer, proponents, opponents, neutral, and closing. I ask when you come up, that you spell your first and last name for the record before you testify. Be concise. It is my request to limit your testimony to three minutes. Written materials may be distributed to the committee members as exhibits only while testifying-- testify-- testimony is being offered. Hand them to the page for distribution to the committee and staff when you come to testify. We need 12 copies. If you have written testimony, but do not have 12 copies, please raise your hand now, so the page can make copies for you. I will say this, this is the second-- part two of the hearing that we had I think at

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 28, 2019

least seven or eight days ago. And with that, Senator Bolz, would you like to make some introductory comments?

BOLZ: Thank you, Senator Stinner. As I presented on this bill previously, I thought it was important that this committee have some opportunities to discuss the Title X program after the finalization of the federal regulations because, of course, one of the things that is important to this committee is that any federal funds that we are using are within compliance with federal law and regulation to avoid penalties and fines. So as I referenced previously, part of the purpose is to have an opportunity for this committee to discuss and deliberate post the final regulations. I've provided for you a handout that I completed with the assistance of some national organizations. But I'll-- I'll call-- I'll take responsibility for what's in it as my own and say that it's a good-faith effort to try to illustrate the new federal Title X language per the final rule, the previous federal rule, the reproductive health Title X family planning policies and procedures, and comparing that to the LB294 language. I've underlined a couple of portions in the spreadsheets where I see some differences of language between the first column, the federal-- new federal Title X language, and the last column, LB294 language. It is my nonlegal opinion that there are some differences in the language. In the first column, it seems to me that there are some differences in the-- on the subject matter of abortion limitations. It seems to me that there are some additional specifications in the LB294 language relating to granting an organization that performs, or assists with the performance of, provides directive counseling in favor of, or refers for abortion. I think that is slightly different than the language in the federal Title X regulations. It appears to me that as it relates to referrals, there are some differences. Again, adding some specificity which is again, the language, that was previously debated by the body and brought in the Governor's bill, that articulates some differences regarding a referral, prohibiting a referral for the purpose of obtaining an abortion but defining an emergency referral as not being a referral for an abortion. I think that is slightly different than the language in the new federal Title X regulation that says, the project may not use the provision of any referrals, counseling, or provision of provider lists as an indirect means of encouraging or promoting abortion as a method of family planning. I would point out that I think the new federal regulation provides some additional helpful language stating that in cases in which emergency care is required, Title X project shall only be required to refer the client immediately to an appropriate provider of medical services

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 28, 2019

needed to address the emergency. That was one of my very significant concerns when we were debating the language last year, that no woman in an emergency situation would be in any way, shape, or form imperiled because the provider was concerned about making a referral. On the back page, I think there is one other difference in language. The federal regulation articulates that a Title X project must have objective integrity and independence. LB294 articulates that there would be a requirement to require objective independence which "includes, but is not limited to, legal, physical, and financial separation between the affiliated organization and the qualified organization." So as I stated previously, part of the purpose of bringing LB841 was to provide this committee an opportunity to discuss the federal regulations that were finalized I believe March 1, might have been slightly before that, but the final regulations that were completed after the introduction of the Governor's language and before this committee makes a final determination. I'm sorry if I talked too long for a Thursday afternoon, but that that is the information that I have to provide to this committee and part of the subject matter of the dialogue and debate today. And I would be happy to discuss it further with you.

STINNER: Questions? Senator Hilkemann.

HILKEMANN: Senator Bolz. We-- we had several-- ten days go or so, we had this-- this amendment that you had, LB481. It's the same now-- so what are we-- what's different today than what we had ten days ago?

BOLZ: Um-hum. So the-- there's a comment about substance and there's a comment about process, right? So first, the comment about process. The reason that we have to have a second hearing or a second discussion on LB841 is because the amendment on LB841 was filed late. And I take responsibility for that, but I do-- I guess I do want to provide the explanation for that which is, because the federal regulations were not finalized until late February, early March, I didn't-- I didn't have an opportunity to understand and analyze and look at the substance prior to the deadline for filing that amendment for a sufficient public notice. And if you recall, I articulated the same at that hearing and-- that I had not had enough of an opportunity to review the language. And I would say I think further analysis is still helpful. The-- the-- the-- so the-- the conversation is the same. My position is it is appropriate for the Appropriations Committee to-- to provide funding to programs per federal regulation. Whether that's a water quality regulation or a Health and Human Services regulation, we

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 28, 2019

need to understand if we are doing something that relates to federal regulation and compliance with federal regulation, we need to have those discussions and deliberations. I'm starting being long-winded, Senator Hilkemann. The only difference I have as the introducer today is that I have had a little bit more time to look and compare the new federal regulations, the old federal regulations, the policies and procedures, and the language as introduced in LB294.

HILKEMANN: Right.

BOLZ: And the most useful thing I can provide to you today are my observations about some of the areas in which the language is not precisely the same.

HILKEMANN: OK so. OK. You just-- you just hit on it. You said it's not precisely the same. So OK. So we don't-- so then we're going to have to go-- so I guess-- I guess I'm asking an executive question, I guess at this point, then. Are we talking about-- at some point, are we're going to be discussing approving LB841 with this amendment in it or will we have different language coming? I mean this is-- this is-- you're showing the differences, but this is not different language. In other words, what-- what are we going to have to--

BOLZ: I guess-- there-- there-- there are two things here, Senator Hilkemann, I think. I think one thing is we have had-- this is now the third conversation we've had on Title X and the appropriate-- the appropriate distribution of funds related to the Title X program. So I don't-- it would be hard for anyone to argue that we haven't appropriately deliberated the-- the substance.

HILKEMANN: Right. Right.

BOLZ: This is a vehicle for the decisions that this committee makes about the Title X program, that this committee can choose to move forward with, to not move forward with, to amend, or to move forward as-- as introduced. I myself wouldn't suggest that we move forward with it as introduced.

HILKEMANN: Right. Tech--

BOLZ: But nonetheless, this is our committee's opportunity.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 28, 2019

HILKEMANN: I was just given some instruction here that there is an amendment forthcoming, that-- that's-- that was where I was coming from. Thank you.

BOLZ: I mean I guess the other part of the answer to your question is I think that it is for this committee's discernment what this language means. And I think what we heard from the administration last week was that their interpretation is that the language is sufficiently in compliance with the federal regulation. You may hear other testifiers that have concerns to the contrary today. I myself have not had the time to comb through every bit of language to know for absolute certain sure that-- that this is a strategy that will work or not work. But it is our job to do that work and understand it and be thoughtful and deliberate about it.

HILKEMANN: I think maybe I asked my question too soon. I should have waited until closing, until after I hear what everybody else has to say. Thank you.

STINNER: Senator Clements.

CLEMENTS: Thank you, Chairman Stinner. Thank you, Senator Bolz. I had not had a chance to have a comparison with the new federal language compared to the-- last year's LB294. I appreciate that. And in looking at it, it doesn't use the same words that I see. The state can't have people providing abortions, and that's the federal. The Governor's was a little bit more specific, and on the referral, is very similar. The emergency care seems similar. And on the physical separation, they talked about factors of accounting records, separate personnel and recordkeeping, where the Governor was more specific with legal physical and financial. On-- just reviewing this, I'm not seeing any substantial conflict between the federal-- new federal and the Governor's proposed from last year-- or adopted from last year. Do you see any substantial disagreement with him?

BOLZ: I'm going to do something in an effort to be a little more lighthearted at the end of the week. I'm going to do something that politicians don't always do which is be honest and admit that I don't know, right? So I got a little-- I got a little laugh from Senator Clements out of that.

CLEMENTS: Well, that's fair.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 28, 2019

BOLZ: What I learned from our deliberations on this issue last year was that the world of health care rule/regulation oversight and compliance is complicated, and it has significant consequences. And I think we need to do our due diligence-- diligence to do our best to make sure that we are in compliance with federal rules and regulations while also protecting access to health care which is literally a life-and-death decision. And so I want this committee to walk through our due diligence and due process to make sure that we're not doing it in a way that is out of compliance with federal rule or regulation or hurts people.

CLEMENTS: Thank you.

BOLZ: Thank you.

STINNER: Additional questions? Senator Erdman

ERDMAN: Thank you, Senator Stinner. Senator Bolz, thank you for the information as Senator Clements alluded to. I haven't seen it either. So when were the federal regulations finally adopted?

BOLZ: I cannot remember. Oh, it looks like they were posted on March 4.

ERDMAN: March 4.

BOLZ: Forgive me, I kept saying March 1. March 1 is my birthday so I must have just gotten the number-- the date conflated in my head. But it came out early March.

ERDMAN: OK. OK. When did we have the preceding hearing? When was that hearing before?

STINNER: I'm not sure. I was ill that day, but it was--

BOLZ: It was--

STINNER: --eight days ago.

ERDMAN: Eight days ago? So the information was there eight days ago, right?

BOLZ: It was the seventh? The final regulations were-- I mean I'm-- I'm not perfect, Senator Erdman. I had the federal regulations.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 28, 2019

CLEMENTS: March 12 was the date of our previous hearing.

BOLZ: Thank you. I had-- I had the regulations on the 4th.

ERDMAN: OK. OK. Right. All right. Right.

BOLZ: I asked for additional assistance from legal and health care experts in my analysis and I was not prepared on the 12th to have any sort of analysis or determination.

ERDMAN: Right.

BOLZ: I just didn't want to present anything inaccurate or incorrect to you.

ERDMAN: So these federal regulations are being challenged in court, is that correct?

BOLZ: That's my understanding.

ERDMAN: So what happens in the meantime? If it takes two years for those to be proven to be effective or not effective, what do we do in the meantime?

BOLZ: Yeah. So this is my understanding of it. And I will-- I will-- think the-- the federally qualified health centers on the national level, they did a PowerPoint and a presentation. And my again, nonlegal understanding of what some of the contingencies might be, and perhaps there are others here who have additional insight, if the-- the rules are final, so those-- it's my understanding that those rules stand as the lawsuit proceeds through the court system which no one can predict. I don't have a crystal ball, but I don't see a court case moving forward quickly.

ERDMAN: I agree.

BOLZ: So it is possible that even with a court case, we would not have the outcome of a court case until next session when we could have another discussion. The exception to that, as I understand it, is if a court established an injunction in which case there might be a reversion to the previous regulation. So anything we do would need to be in compliance with federal regulation. And that's where I think it's pretty challenging for this committee to understand what is right, what would be in compliance, if we put something additional

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 28, 2019

into state statute, what would be in compliance regardless of the contingencies.

ERDMAN: But do we have an assurance how it will function, what rules will it function under while it's in court?

BOLZ: It is my understanding that if there is not an injunction, that the regulations as finalized on March 4 are the regulations under which we operate. That is my understanding. It's one of those days when I wish that the Appropriations Committee had a legal counsel.

ERDMAN: How much--how much do we get from Title X? How much money is available for that?

BOLZ: You know, that is a great question. Liz, do you know? I was-- yeah, I was going to guess \$1.8. I know it was under \$2 million but somewhere in the--

ERDMAN: Less than \$2 million?

STINNER: With 60 providers, I believe.

ERDMAN: We may want to, at some point, just say let's forgo that and forget all this arguing.

BOLZ: I would argue vehemently against that. I think that anyone who cares about life and cares about women and cares about access to health care understand that these funds are valuable everything from access to prenatal care and vitamins to pap smears and well-woman checks those things-- those-- as a woman, those things matter.

ERDMAN: I understand that. And that's your opinion and I have mine. Thank you.

BOLZ: Yeah. Thank you.

STINNER: I would ask for additional questions, but I will reserve the right time to-- to put in an amendment after Senator Bolz. Any additional statement, Senator?

BOLZ: I do not.

STINNER: Good afternoon, Committee. For the record, my name is John, J-o-h-n, Stinner, S-t-i-n-n-e-r. I, first, want to thank Senator Bolz for all her work. She tried diligently to put something in place that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 28, 2019

would make sense as we move forward. As Senator Erdman said, there is still a cloud in this issue. The court case, do we go back to Obama-era regulations or do we abide by these? Nobody knows. But the fact of the matter is I think if you remember me talking about this even last year-- and for the new members, we spent over 16 hours talking about Title X when the budget came up. And I can tell you that Senator Scheer was so frustrated that he was about ready to pull the budget and the whole argument, if you remember. We had-- we finally got resolution to some language that the Governor's used again this year in-- in his proposed budget. We elected to take it out with-- my intention was/is to put it into a separate bill which is LB481. And you know, I guess you have to understand that intent language in a budget is like a footnote. And it moves along with the budget, so it dies every two years, just goes on for two years and then it's dead. So to put it in there, as politically volatile as it is and how much air it takes out of the room, I felt with all of this-- all of the issues that we have with Medicaid expansion, with the depleted cash fund, with Medicaid expansion and what that would do in terms of what our priorities should be and how it affects higher ed and education. Throw in property tax, and the revamping pot-- potential revamping of TEEOSA and how that will impact budgetarily. Throw in the incentive program that's being proposed, and certainly the sunseting of the current incentive program, how that all runways out and runways back up. There is a lot of budgetary questions that we have to answer. My position is take it out. Put it in a separate bill. Make it part of permanent statute. That's my position on it. It has been my position. And so therefore, I'm offering an amendment that set-- basically just puts back in the language that we agreed upon. And take this and I'm going to recommend to the committee to forward this to the floor so we can have a full and fair debate on-- on this language. If it needs to be tweaked, if it needs to be changed based on attorneys' opinions about what's out there, then so be it. We can-- we can tweak and change it. It is too bad that we don't have a legal counsel for Appropriations because very seldom that we get into these types of discussions. But that's my position on it. That's why I'm doing what I am. I sincerely understand both sides of this issue, both sides. But from my pragmatic business standpoint, I want it out of the budget. I want it put it into permanent statute. We need to have a robust and-- and comprehensive discussion about our budget, our fiscal posture as we move forward, and what's-- what's important to us, what is our priorities. That budget sets our priorities. It sets it as it relates to how much monetary-- and I didn't even-- I forgot to mention the prison situation, so sorry about that, on the list of things to look

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 28, 2019

at and to do. So that concludes my comments. I'll open up for any questions.

HILKEMANN: Do we have any questions for Senator Stinner? Did you have a question?

DORN: No. Nope.

HILKEMANN: I guess-- so-- OK. This-- I guess this is-- thank you, Senator, for bringing this. This is what I-- It was my understanding we were going to have a bill that incorporated-- so this sort of incorporates last year's language along with what is in the new federal guidelines or just strictly-- this is just basically last year's?

STINNER: Just-- just last year-- what was in the budget, the preliminary budget, the language drops down into this, does not incorporate anything about what the new federal guidelines are. So that's something that probably needs to be looked at and maybe debated--

HILKEMANN: Um-hum.

STINNER: --and possibly adjusted.

HILKEMANN: I know that-- that-- that-- that you're not legal counsel for this-- for this committee. But if-- from all intents and purposes, we've had this in the budget now for one full year, and we have not had any legal challenges to it, at this point. So if we-- if we put this into the budget, we should-- well, you can never say never, but we should be able to withstand a legal challenge. Is that your understanding?

STINNER: If we put this in statute as opposed to the budget that-- we will have that test on the floor. I'm sure of it.

HILKEMANN: Yeah. OK. Thank you. And thank you for making that clarification that this is statutory and not within the budget.

STINNER: I think everybody on the committee understands we want to do the right thing. And the right thing is to get the language right, to get it parsed out correctly so that we have a good bill. But as far as putting it in the budget, I am vehemently against that.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 28, 2019

HILKEMANN: All right. All right. Senator Wishart.

WISHART: So-- so processwise then, Chairman, would this come out at the same time that the budget would? Or if we work on this, and I understand it was-- this was prioritized by-- by our Speaker--

STINNER: Prioritized by the Speaker. Yes.

WISHART: --so it could come at a different time than the budget.

STINNER: Yeah. That-- that would be my guess. Yes.

WISHART: OK.

STINNER: I think it will come out probably before the budget.

WISHART: OK.

STINNER: So we'll have that robust discussion.

WISHART: OK.

HILKEMANN: OK. Senator Clements.

STINNER: Senator Bolz just sent me that's not agreed on, but I don't know what this means. But-- OK. Senator Bolz is going to probably offer an amendment because I didn't see it in here that this language will expire in two years. So I just want to add that.

HILKEMANN: Senator Clements.

STINNER: OK. The amendment that I have it front of me expires in two years according to Senator Bolz. So that's how close I read the amendment. But I had somebody else in my office. I had-- I had meetings up until this time.

CLEMENTS: All right. I was just going to refer to that. It starts off, for appropriations made for fiscal year '19-20 and 2021. Then pursuant to this language, it will be restricted. But I think after 2021, it doesn't-- it's not addressed, so it probably would revert. I would support removing that limitation. And the-- the language here doesn't seem to be exactly like what I remember in the budget from last year. So I have to just review that and do a better comparison and may have some suggestions for any-- any conflicts or any missing information. I think you--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 28, 2019

STINNER: Yeah. I thought I had my staff actually-- or staff members look at it in terms of if it was what was in the preliminary budget or not. But you-- you may be right, and we can work on that as we move forward. I'm here to represent-- to represent this as an amendment that reflects what the budget language is--

CLEMENTS: Yeah.

STINNER: --and what we agreed upon last time. And have it dropped down into-- now if we have to make some adjustments, we'll have to-- have to put it-- put it in an amendment, I guess.

CLEMENTS: I do-- right. I do see legal, physical, and financial separation is-- is included as a definition of objective independent. That matches up, and there's some-- there's a mention of an emergency situation which were most of the provisions that I was looking for. Well, I think that's all I had. Thank you.

HILKEMANN: OK.

STINNER: OK.

HILKEMANN: Any other questions? Thank you, Senator Stinner.

STINNER: Thank you.

HILKEMANN: OK. Do we have other proponents for LB481 or the, now introduced, amendment to LB481? Are there any opponents to LB481?

BO BOTELHO: Good afternoon, Chairman Stinner and members of the committee. My name is Bo Botelho, B-o B-o-t-e-l-h-o, CEO of Department of Health and Human Services and Interim Director of Public Health. I'm appearing today out of an abundance of caution as I was not clear as to the status of the record of the prior hearing on LB481 and the pending amendment. My testimony from the previous hearing is being attached. Thank you for accepting that. I'm happy to answer any questions. I haven't seen the amendment that was discussed earlier today. It is our position, the administration's position, that the language is most properly kept in the budget bill. And the two-year time limit which was discussed on the statute seems to-- seems to do what the budget bill would do anyways by keeping the budget bills. So I'm-- I'm not sure how we're differentiating that now. But anyways, that's the extent of my testimony. I'll take any questions.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 28, 2019

STINNER: Thank you. Additional questions? Senator Wishart.

WISHART: Thank you for being here today. The last time we spoke about this issue a few weeks ago, we had-- one of my concerns in the dialogue we had about-- was about access to these services, especially in Lancaster County where because of Planned Parenthood no longer being part-- able to-- to draw down these dollars. My concern is where-- where are people going. Since then, I was able to review a report, and it was a report done-- it's a federal report of our Title X programs. And my understanding is that we have had a negative 8 percent from last year decrease in the amount of people who are participating in this program. The difference is about-- it's affected about 2,366 people less than last year, than 2017. And when you go on further into the report, they specifically outline, and this is the-- this-- these are federal numbers for the program, they specifically outline that Nebraska reproductive health saw an 8 percent decrease in the total number of unduplicated family planning users. This decrease is likely due to Planned Parenthood of the Heartland no longer being Title X subrecipients. So I would like you to comment on-- I mean that's concerning to me. That is-- that is one of the issues that we talked about last year as a concern that there would be fewer people accessing these important services because Planned Parenthood was one of the main providers of Title X services in Lancaster County. And what we're seeing and what the federal government is saying is due to these changes in language from the budget last year. We have seen an 8 percent decrease. And they specifically say it is likely due to the fact that Planned Parenthood is no longer able to provide these services. So are you concerned about that?

BO BOTELHO: So there's just two-- two things here, Senator. One is the use of the funds and the use of the services. So what-- what we saw was that those individuals that were using Planned Parenthood for health and services continued to go to Planned Parenthood to receive those same services without the Title X funding. So the decrease in-- and what-- we were expecting that maybe they would switch to some of the other Title X providers, but Planned Parenthood continued to see them at no cost or no additional cost. And so they-- they continued to use that provider. So it's-- there's no indication that there has been a decrease in the services provided. There has been a decrease in the use of the funding.

WISHART: And we had talked about-- we had talked-- well, first of all, that is-- that is really putting in jeopardy a program when we are

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 28, 2019

just banking off of the fact that-- that a service provider who had served these women and men for years would just continue to serve them and-- and mainly just shore the cost that-- of no longer being able to provide these services. Well, one of the things that you had specifically said last year is that we would not see-- we would not see a decrease in the amount of dollars going towards this program. So it is concerning to me that I am seeing from-- from the-- on the federal level that I'm seeing a decrease and they specifically say it is due to-- I mean that is what we had talked about would happen last year, and it happened.

BO BOTELHO: I can't tell people where to go. We have our network, and we believe the network can handle the volume. But they're going to who they choose to go to, and that's the person or persons they were going to prior. I can't force them to go to another provider.

WISHART: OK.

STINNER: Additional questions? Senator Clements.

CLEMENTS: Thank you. Thank you, Mr. Botelho. I recall from March 12 that, you may have mentioned it, in Lincoln there was an additional provider since a year ago. Is that true?

BO BOTELHO: Yeah. We've added an additional provider but not-- not in Lincoln. We were hoping to get a new provider in Lincoln/Lancaster County as well. They initiated a process, but they didn't finalize the process.

CLEMENTS: All right. Are you still hoping to add a provider in Lincoln?

BO BOTELHO: Yes. We're always open to add providers.

CLEMENTS: Thank you.

WISHART: I have another question.

STINNER: Senator Wishart.

WISHART: Just following up on that. How-- how are you tracking that this decrease in 2,366 people disturbed by this program are going to Planned Parenthood?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 28, 2019

BO BOTELHO: One, we haven't received any complaints for lack of services. And two, Planned Parenthood did-- did-- did announce that they would continue to see the previous Title X patients. And since we didn't see the level rise in the other providers and there was no one contacting us for these services, it appeared to us that that's exactly what was happening.

WISHART: But there could be a potential that because we cut a program that was well known in Lincoln for providing these services to women and we did not add an additional clinic in Lincoln, there could be a potential, since we haven't tracked these numbers, that there is just 2,366 people who just did not get the services that they got last year.

BO BOTELHO: I can't exclude that possibility, Senator.

WISHART: OK. OK.

STINNER: Any additional questions? I have one. You made the comment that because of the two-year limitation sunset on this, you can't see the differential between this bill being separate from the budget so we can have a budget discussion. So the administration doesn't care that we have a budget discussion which is constitutionally the only thing we have to do. And with that in the way, it-- basically we're going to spend all our time talking about Title X instead of the issues that really are at hand which I tried to outline. Is that the administration's viewpoint on this?

BO BOTELHO: No. We-- we-- clearly we want you to have a budget discussion, Senator. We just believe that this is a funding language and, like other funding language, it's best put in the budget bill. The other thing about having the budget bill, because the budget does come up every two years at least, is that it is tied to a federal regulation, and federal regulations can change. And so that allows the language to-- to change with the federal regulation.

STINNER: So does the two-year sunset on this bill if it stays in there, then we can make the adjustments accordingly or we can put in some language that says, this has to follow federal statutes and put it into a permanent statute. Would that be a solution? The intent language on a social issue in a budget situation is inflammatory. And if you don't understand that, you didn't watch last year's proceedings. You haven't sat through Title X discussions. I'm taking it out of the budget discussion because we have to have a budget

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 28, 2019

discussion. If the administration doesn't understand that, I'm sorry. That's all I have. That was not a question. That was a statement. Additional questions? Seeing none, thank you. I would ask for additional proponents. Is there any proponents? Any opponents? Seeing none, anybody in the neutral capacity?

DANIELLE CONRAD: Hi. Good afternoon, Chairman Stinner, members of the committee. My name's Danielle Conrad, D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d. I'm so glad that I get to sit in the chair in the neutral capacity when Senator Erdman is not here because I know that he would take me to task for that-- for that position. But to-- to be clear, as somebody who's worked in this body and then served in this body and on this committee for eight years and has now returned to the other side of the glass for about the last four years, you've accomplished something. I'm rarely speechless. This is a process that I find myself within that I'm a bit confused about where-- where we are with things. Senator Stinner, I could not support more your general statement about process that you were just very, very clear about. And in my limited time, I just wanted to make a few points for the committee, and then to, of course, extend our-- our ongoing cooperation and collaboration with all the stakeholders on this committee and in this room, to continue this debate in the most appropriate way, to respect our legislative process, and to not put at risk all the critical decisions before you in your budget which have to be tantamount and paramount regardless of what our personal, political, or ideological feelings might be about controversial and complex issues like this. So number one, we-- we definitely will look forward to opening up the dialogue, if this committee advances a stand-alone bill with other members of the Legislature, about the substantive issues involved in that. When it goes to just general issues about where we are with the federal rules and regs and kind of how that matches up with the budget, let me be clear, right? We can't forget some of the basic building blocks of our constitutional and legal structure. There is a supremacy clause in place, so federal law controls if it's at conflict with state law. So what's been adopted by the federal government is the law of the land, period. And in many ways, for those of the people in this room and beyond that want to see restrictions in the Title X program, congratulations, they've-- they've been adopted. So to have this committee and this body continue to turn itself into pretzels and its process into pretzels over what is now a nonissue is particularly disheartening. So I applaud your leadership in trying to right the ship processwise. Finally, in terms of impact and issues, Senator Wishart started to-- to draw some of this out. We heard that the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 28, 2019

changes last year would cause no harm. They have. We've seen thousands of people lose care. We saw over 3,000 less breast exams happen under this program last year. We saw a 4 percent decrease-- over 1000 percent decrease in the number of Pap smears that were provided to low-income, and in particularly, rural people. And we saw less than 3,000 individual preventative family planning visits than that happened in previous years. So it does matter, and it is hurting people. And I think we have to be really clear about that. I'm happy to answer any questions, and I thank you for your time and patience in-- in working through these very difficult issues.

STINNER: Senator Clements.

CLEMENTS: Thank you, Ms. Conrad.

DANIELLE CONRAD: Yes, hi.

CLEMENTS: I'm not sure who you were speaking for. Who are you representing?

DANIELLE CONRAD: Sure. My name's Danielle-- sorry, I might have skipped right over that.

CLEMENTS: You did spell your name.

DANIELLE CONRAD: My name's Danielle Conrad, and it's D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d. I'm here today on behalf of the ACLU of Nebraska. And then definitely in my-- my heart, I'm looking at this from the perspective of an eight-year member of this Appropriations Committee, and-- and then also somebody who's concerned about reproductive-- reproductive justice.

CLEMENTS: We've heard about the one clinic in Lincoln-

DANIELLE CONRAD: Um-hum.

CLEMENTS: -- not-- not handling Title X funds.

DANIELLE CONRAD: Um-hum.

CLEMENTS: Are there any other clinics you're aware of that dropped out of the program in the last year?

DANIELLE CONRAD: Sure. Thank you, Senator Clements. In looking at the-- the draft reports from HHS about this program, I think that they

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 28, 2019

delineate that the-- there's been two providers that have dropped out of the program in the last year. I believe one is called Fred LeRoy which is a very, my understanding is, a very small provider kind of focused on Indigenous health and Indigenous communities. And then, of course, Planned Parenthood which was barred due to the language in the last budgetary cycle. And I think on that point, what's really fascinating, Senator, is that, and again, I don't work at Planned Parenthood. I'm not a front-line provider. But it's my understanding that they have stepped forward and, with private philanthropic dollars, have not turned away any patients due to-- due to an inability to pay. So the fact that we're seeing this kind of decrease in the amount of use of Title X, when they're not turning anybody away, shows what a chilling effect that-- that those decisions by the previous Legislature really are having on low-income men and women, and particularly rural men and women across Nebraska which is-- is I think incredibly distressing.

CLEMENTS: OK. Thank you.

DANIELLE CONRAD: Yes.

STINNER: Senator Dorn.

DANIELLE CONRAD: Yes, hi. Hi.

DORN: Thank you, Chairman Stinner. I guess mine is for yours and maybe Anna's too.

DANIELLE CONRAD: Sure. Yeah. Yeah.

DORN: I know Anna gave some numbers.

DANIELLE CONRAD: Yeah.

DORN: And then you gave some numbers and I guess I'm just trying to make sure in my mind, were-- were yours-- yours specific to an organization? Or are yours statewide numbers? Or are yours statewide numbers? I guess-- and clarify that a little bit or what-- yeah, I don't--

DANIELLE CONRAD: Sure.

DORN: I want to get that right in my mind.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 28, 2019

DANIELLE CONRAD: Very good, Senator, and we'd be happy to-- to get a copy of this report. I believe it's public information for everyone. And I think it's, overall, statewide numbers for the program--

DORN: Statewide. Yeah.

DANIELLE CONRAD: --for different types of visits, different types of providers, etcetera. So I'm sorry, I ticked through those real quickly.

DORN: All right. Yeah.

DANIELLE CONRAD: But we'd be happy to get that so everybody's on the same page with that. Yeah.

STINNER: Additional questions? Senator Hilkemann.

DANIELLE CONRAD: Hi.

HILKEMANN: Any-- any data done-- have we had an increase in unplanned pregnancies over this year?

DANIELLE CONRAD: Well, I don't-- thank you so much, Senator Hilkemann. I don't know if that specific metric is a part of this new data and report that we're looking at. It definitely details an increase in STDs, in both chlamydia and gonorrhea. It details a decrease in breast exams and Pap smear exams and a decrease in family planning visits. So I think that, again, those numbers are incredibly distressing. I don't see a specific metric in there for unplanned pregnancies, but I think to be clear, this is an area where even those of us who have different viewpoints on these issues can find a lot of common ground, right? If we want to see a reduction in the amount of abortions, we have to see a reduction in the amount of unintended pregnancies. And the way that we can do that is through commonsense approaches like education and prevention. So historically, that's why this program's been incredibly noncontroversial because it does just that. And so to inject this political debate into the budget and into this program is-- is disappointing, and is hurting real people. And we can and should have important and ideological debates about important issues in this state and beyond. But definitely, it's a rarity to see it as part of the budget.

HILKEMANN: OK. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 28, 2019

DANIELLE CONRAD: Yes. Thank you so much. And if I find more information, I'd be happy to follow-up with you and the committee.

STINNER: Additional questions?

DANIELLE CONRAD: OK. Well, thank you so much, and congratulations on your last hearing. You've almost-- almost made it. So I know that's always a--

STINNER: We hope it's the last.

DANIELLE CONRAD: Oh, well, good point. That's right. Thank you.

STINNER: Anybody else in the neutral capacity? Seeing none, Senator.

BOLZ: I'll be brief and let us all get to our recess day. I wanted to provide one piece of information that has been provided to me in answer to questions that have come up today. I think it is worth noting that new grant awardees in Omaha and Lincoln over the past year do not provide the full panel of Title X services which is another piece of data or another analysis we can do in terms of articulating the impact of previous decisions. At the same time, we are now under new regulation, and so I'm not sure how relevant that is to the conversation moving forward, but nonetheless, illustrates the point that we have to get the language right to the best of our ability. My final point is simply that I remain consistent in my position that if there were long-term statutory change considered, it is only appropriate that any long-term statutory change be considered by the Health and Human Services Committee who has the jurisdiction to do this work. I think that because this has been a deliberation in the Appropriations Committee, it can come out as a committee bill in theory per appropriate process but should be considered as something that aligns with the budget time frames, and that if there is a long-term discussion necessary for how our state administers this work, it should go through the committee of jurisdiction. That's all I have.

STINNER: Thank you, Senator Bolz. Additional questions? Seeing none, that ends our hearing on LB481.