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Health and Human Services Committee
February 03, 2011

[LB465 LB467 LB468 LB507]

The Committee on Health and Human Services met at 1:30 p.m. on Thursday, February 3, 2011, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB507, LB465, LB467 and LB468. Senators present: Kathy Campbell, Chairperson; Mike Gloor, Vice Chairperson; Dave Bloomfield; Tanya Cook; Gwen Howard; Bob Krist; and Norm Wallman. Senators absent: None.

SENATOR GLOOR: Good afternoon. I'm Senator Mike Gloor, I'm the Vice Chairman of this committee. Senator Campbell, who's the Vice Chair (sic) is introducing a bill elsewhere. And so she'll be joining us a little later. I also have a presentation that I have to do and so I have to leave about a quarter till. This is sort of a fruit cart upset today. So there may be...Senator Howard may in fact lead the discussion for a period of time. I'd like to welcome you and like to point out a few specific things to you if I could. First, please turn off your cell phones. And if you're 100 percent sure that it's turned off, fine. If you're not, give it a quick peek just to make sure, if you would, so we don't disrupt any speakers. We'd like you to sign in if you're going to be a testifier. You need to also fill out a form if you're going to be a testifier. And be sure and hand that form to the committee clerk, Diane. I'd like to just kind...well, I don't want to get too far ahead of myself. Why don't we start with introductions. Committee counsel, Michelle Chaffee; Diane is the clerk. Senator Bloomfield, would you introduce yourself, please?

SENATOR BLOOMFIELD: Dave Bloomfield, District 17, up in the northeast corner of the state of Nebraska.

SENATOR COOK: I'm Tanya Cook, I represent northeast city of Omaha and Douglas County.

SENATOR WALLMAN: I'm Norm Wallman, District 30, south edge of Lincoln to Kansas border.

SENATOR GLOOR: And again, I'm Senator Mike Gloor. I know Senator Howard and Senator Krist will be joining us eventually. Would like to remind you if you're providing testimony, and we'll start with proponents and we'll start, then we'll start with opponents and then go to people who are neutral. As you take the seat up here, please introduce yourself, get your sign-in sheet over to Diane, and spell your name so that we don't have to guess on your pronunciation or the spelling of your name. And with that, we'll start with LB507. Welcome, Senator Harms. Would you please introduce your bill.

SENATOR HARMS: Thank you, Senator Gloor. Colleagues, my name is John N. Harms, H-a-r-m-s. I represent the 48th Legislative District and I'm here today to introduce LB507. Senator Gloor, thank you first of all for giving me the opportunity to come visit with you and committee members about LB507. This bill would amend the

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Welfare Reform Act to integrate provisions allowing participants under the age of 24 years of age to pursue a high school diploma or what we call the Graduate Equivalent Diploma, which I'll refer to throughout my comments as the GED program, and remain in compliance with the Aid for Dependent Children's program. It also aligns the Nebraska rules with the federal rules for ADC participants under 20 years of age regarding participation in high school and the GED program. Colleagues, for as long as I can remember, I have always believed that education is the key to getting out of poverty. It's the surest pathway that we have to get out of poverty. And in many cases it's the only way that people will get out of poverty. Education is essential for the success of so many young people. And when families involve more for young parents pursuing an education it has increased the key strategy to long-term economic stability. There is no other way that you can do it. And that's why for I think many years I have believed very strongly and have been a very strong supporter of the efforts to increase access to education for participants in the Nebraska Aid for Dependent Children's program. A lot of people who are in the program would like to get out, they want to be independent. They don't want to be under federal rules and federal regulations. Nebraska provides several options for parents accessing our Aid to Dependent Children program to move toward self-sufficiency. That can be such things as pursuing maybe a bachelor's degree, an associate's degree, taking classes towards a high school diploma or the GED program. Unfortunately, what we find in, however, is that sometimes the state and federal laws and regulations make it difficult for young parents to pursue and to receive this kind of assistance. There's barriers there that are built in that don't allow them to go on and pursue a high school diploma or GED. And by the way, that's the very bare minimum today. I can tell you in the future that will not be the bare minimum. So they're going to be already deeper in the box. They're not going to be able to get out. I believe this is counter to the core purpose of this program which is to move low-income families as quickly as possible to reach economic self-sufficiency. That's what this program is about. ADC is to provide...is provided only to low-income families. For example, if you're a single parent, one child, you have to make less than \$597 a month. All ADC participants who are able are required to participate in some type of a work activity. Parents with children that are under the age of 6 have to complete 20 hours of core activities per week. And parents with children that are over 6 have to complete or actually have to pursue 30 hours per week, 20 hours of a core activity and 10 hours of noncore activity. Let me just review what a core activity is and a noncore activity is. A core activity, now remember that requires...that's the first 20 hours you're going to take, would be unsubsidized employment or subsidized employment, and by the way we don't offer subsidized employment, so it doesn't qualify in Nebraska, work experience, job training, job readiness, community services, vocational training. For the noncore activities, which would be the other 10 hours, it would include things such as job skill training, it would also include education directly related to employment, that would be things such as adult basic education, that would be things such as English for a second language, high school diploma or the GED program. And currently, the high school diploma, the GED program activities do not qualify for the major core activities,

work activities for most young ADC recipients and that's the problem. Most young parents receiving ADC benefits have children that are under the age of 6 and are required to get all of their 20 hours from this core activity that I just listed to you. Young parents cannot begin to count the noncore activities until they have already reached the 20 hours. Young parents struggle tremendously with balancing their family and balancing school and all these work activities they have to go through just to be successful. And then we put all these barriers in here that won't let them go on. We keep them in the hole, we don't allow them to get out of it. The current federal rules simply don't allow ADC recipients to pursue a high school diploma or the GED full-time if they are 18 years of age and older. What a tragedy that is. We need to simply remove the burden of young parents who...parents...and do everything we can to help them become successful and to break out of what I call this vicious cycle of poverty because there is no other hope for them. LB507 does just that. LB507 would allow ADC recipients, under the age of 24 years of age, to go ahead and pursue and spend time pursuing their educational hopes and goals and dreams. And that would include, as I said earlier, adult basic education, English for a second language, GED programs that are so critical for so many of these ADC parents. The neat thing about this is that the states have flexibility to provide alternative options to ADC recipients as long as at least 50 percent of their total caseload is participating successfully in a federally-approved work activity. Nebraska has the opportunity then to make the other 50 percent to allow ADC participants to pursue their high school diploma. It gives them some flexibility to stretch that a little bit. Nebraska's work participation rate in the third quarter of 2010 was 60 percent. Keep in mind now I just said that they want you to be 50 percent in a federally-approved activity program at the very bare minimum or you don't have the qualifications you need. Nebraska has met that and has met it for a long time, they're at 60 percent. The impact of the program would be minimal. Nebraska is, as I said already, about 50 percent. The impact on the individual would be phenomenal because it gives them the opportunity to pursue their goal and their dream and to get out of poverty, to give them the opportunity to pursue a high school diploma, which within a few years is not even going to be the bare minimum to be able to get a good job. This bill also provides, and I want you to listen really carefully to this because I want to come back to this in a little bit, because I want to discuss with you the fiscal note that's been done on this. Okay? The bill provides that if Nebraska's federally reported work participation rate under federal temporary assistance to the needy family programs would happen to fall below 55 percent, remember the minimum is 50, we're at 60, what we're saying is if you fall below 55 percent or fall down to 55 percent then the Department of Health and Human Services then can come in and they can look at the number of people that are enrolled in this program, they can put a limit on it. They can make sure that we are flowing appropriately, that we're not going to be overspending, that they have control of the program and that we stay within the federally-regulated guidelines that have been established. This bill also requires that the Department of Health and Human Services would have to give us an annual report. And I'm not going to go through what we would require, it's pretty simple, it's in the bill. And I think it's good because it will keep you, as

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senators, up-to-date with what...really what's happening in this program. LB507 also puts a sunset clause in here and it's December 31, 2015. And I will tell you any time we introduce a bill like this you will see the sunset in there and the reason that that sunset is in there is because I want us to understand and I want us in the future to know whether or not we are accomplishing what we said we were going to accomplish. And if we aren't we shouldn't keep the program. We should change the program because the idea about all of this is to help people, it's to get them out of poverty and to help them become self-sustaining, to have a future, to be able to move forward. We won't know that unless we go back and reevaluate it. Nebraska is a state that has valued education forever. And when I think about the people in this program that deserve to have the opportunity to get the bare minimum of a high school diploma or a GED program and still stay qualified for this aid until we can get them to a point where they can be self-sufficient. Senator Gloor, I'd like to, if I can now, I'd like to talk to you a little bit about the fiscal note because I have some concerns about the fiscal note. [LB507]

SENATOR GLOOR: Senator Harms, as you well know, I need to turn the meeting over... [LB507]

SENATOR HARMS: I understand that. [LB507]

SENATOR GLOOR: ...to Senator Howard. [LB507]

SENATOR HARMS: I will talk with Senator Howard then. Senator Howard. [LB507]

SENATOR HOWARD: All right. [LB507]

SENATOR HARMS: I want to talk a little bit to you...with you about the fiscal note, [LB507]

SENATOR HOWARD: Thank you. [LB507]

SENATOR HARMS: (Exhibit 1) Okay? What you have in this fiscal note, on one side you have what the Department of Health and Human Services has indicated. This would be over \$1 million each year. This is exactly the same issue I had when I introduced previous legislation where they said this would be \$1 million. And so I pulled the legislation on the floor because of the fact that it was high and we weren't for sure about it. So I went to extra measures this time because, quite frankly, two years later we got this bill through and have got it approved. And it was interesting to note we went from \$1 million just to a few thousand dollars. Okay? So I don't agree with the fiscal note from the side that we have here from the Health and Human Services. And you also have another side here that shows what our fiscal staff says that the federal requirement is 50 percent of caseload, as I said previously. But we're at 60 percent. What we're saying then in the law is that if you fall to 55 percent you are now in control of this at Health and

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Human Services. So there's no reason at all why we should be at \$1 million. If you are doing your job at Health and Human Services, you'll control this, you'll shut off the number of people that are coming into this program. And this is assuming, according to our fiscal staff, at 25 percent. We don't know it's going to be 25 percent. When you start these kind of programs it's a slow process. And I will bet you we don't have 25 percent. So what I'm saying to you is I don't want this to die because of a fiscal note because Health and Human Services has control of this. And all they have to do is do their job and watch to make sure how many people are coming into this program. And it should not be a problem at all. I will close there, Madam Chair. And I would be happy to answer any questions you have on this. I know there's people that are going to follow me that are probably a heck of a lot better than I am at answering the questions, but...I also did have a handout. This is a letter, Senator Howard, from Dr. Tom Perkins. He'd like to have it read into the record sometime. He is supporting this piece of legislation. Again, I would be happy to answer any questions. [LB507]

SENATOR HOWARD: Thank you, Senator Harms. And actually, I know Tom Perkins, so thank you for the letter. Yes, Senator Wallman. [LB507]

SENATOR WALLMAN: Thank you, Chairman Howard. Yeah, thanks for coming here, John. [LB507]

SENATOR HARMS: You're welcome. [LB507]

SENATOR WALLMAN: I do like a lot of this bill and I like the sunset provision because it does hold...and I've done that myself. [LB507]

SENATOR HARMS: Yeah. [LB507]

SENATOR WALLMAN: And so I do like that. Thank you for bringing it here. [LB507]

SENATOR HARMS: Yeah, we should, actually to be honest with you, we should probably do that to more bills. It gives us a chance to refocus; 2015 I won't be around but somebody will be here to be able to do it so. Any other questions? [LB507]

SENATOR HOWARD: Do we have any...oh, that's my line. (Laughter) [LB507]

SENATOR HARMS: Oh, I'm sorry. I'm used to being on the other side. [LB507]

SENATOR HOWARD: Do we have any other questions? (Laugh) [LB507]

SENATOR HARMS: Send me to my room, will you, tell me not to come out. (Laugh) [LB507]

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SENATOR HOWARD: I think that would be faster. Do we have any other questions? Actually, I have a question. This brings back a lot of memories from my work at the department. A long time ago we had this program in place. I looked through here and I didn't see any provision regarding the time frame. If you had in mind a certain period of time that someone would have to complete a program, say to complete a GED or... [LB507]

SENATOR HARMS: It's five years. [LB507]

SENATOR HOWARD: Five years? [LB507]

SENATOR HARMS: No, I mean, if you're...I think in the program, I think, if I'm wrong maybe somebody could correct as they come in. I think to be in the ADC program it's five years is the length of time they try to have these things completed within five years. [LB507]

SENATOR HOWARD: Okay. So if I understand this correctly, this would be in lieu of a work requirement. And so the period of time would be the same as with a work requirement. [LB507]

SENATOR HARMS: Right. [LB507]

SENATOR HOWARD: Okay. [LB507]

SENATOR HARMS: And we could make that adjustment. If it's, you know, what I'm really after, and that's where the committee comes into play, is that, you know, I just want to make this so that we can make sure that our ADC parents or young people have the opportunity to pursue this. And if you think it needs to be longer, then I guess we just do it longer. I don't care. I just want to make sure that we're accomplishing what was set out, is to give them the opportunity to get off...get out of the payroll. [LB507]

SENATOR HOWARD: Well, I appreciate that. And I think you're looking at, like you said, giving people the opportunity... [LB507]

SENATOR HARMS: That's right. [LB507]

SENATOR HOWARD: ...to become self-sufficient. [LB507]

SENATOR HARMS: Right. [LB507]

SENATOR HOWARD: And I'm seeing this as a means to provide it early on rather than to have people remain on the system. [LB507]

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SENATOR HARMS: That's correct. [LB507]

SENATOR HOWARD: Thank you. Thank you for bringing this in. You going to stay around for closing? [LB507]

SENATOR HARMS: Thank you. Senator, you know what, I'd like to be able to close, if I may. [LB507]

SENATOR HOWARD: Absolutely. [LB507]

SENATOR HARMS: Okay, thank you. [LB507]

SENATOR HOWARD: We're glad to have you. [LB507]

SENATOR HARMS: Thank you, appreciate it. [LB507]

SENATOR HOWARD: How many proponents do we have? One, two, three. Okay. All right. If the first person who would like to speak as a proponent...we're going to...I'm going to do a little explaining here. We're going to use the light system. So don't be daunted by that but you'll have four minutes, that will be the green light. And then it will go to one minute, that will be the yellow light. And then when it's red then we immediately cut you off. No, we don't. (Laugh) But just be aware that that will kind of be the wrap-up time. So if you'd like to proceed. [LB507]

SHANNIN BURNETT: (Exhibit 2) Good afternoon. My name is Shannin Burnett, S-h-a-n-n-i-n B-u-r-n-e-t-t, and I'm from Omaha, Nebraska. I'm a mom of two. And I'm here to speak in support of LB507. The GED program would be very beneficial to me to further my education and skills to obtain a degree. In 2005, I stopped high school, started working to help my family out. My sister was a single parent with me and my other sister. I worked at a day care for almost four years. Did self-employment childcare in my home, lost my home, wasn't able to afford it. With a GED I would be able to further my skills and that wouldn't have happened, I know that for a fact. Basically, I understand that nothing is handed to anyone, nothing is given. I'm willing to work and do whatever it takes to provide what my family needs. I'm just asking for the opportunity to pursue my GED to further my skills, to study either criminal justice or early childhood development, to break the cycle. That's why I'm here to support LB507 and the ADC program. This very week I wasn't able to go to my GED classes that I'm enrolled in right now. I wasn't able to start because of weather and my child is sick. My core objective is work experience at the day care, that's what I have to do. So all my time this week will go to that. I won't be able to start my GED this week, so I'm just...really, that's just all I'm asking for. [LB507]

SENATOR HOWARD: Okay. Well, thank you. [LB507]

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SHANNIN BURNETT: Thank you. [LB507]

SENATOR HOWARD: You're very articulate. You did a very good job speaking. [LB507]

SHANNIN BURNETT: Thank you. [LB507]

SENATOR HOWARD: Do we have questions for this testifier? [LB507]

SHANNIN BURNETT: Questions? [LB507]

SENATOR HOWARD: You see, you did such a good job they don't have a question. Thank you. Thank you very much for coming in today. [LB507]

SHANNIN BURNETT: Okay, okay. Thank you, thank you. [LB507]

SENATOR HOWARD: Next proponent. Welcome. [LB507]

KATE BOLZ: (Exhibits 3-7) Good afternoon. My name is Kate Bolz, that's Kate with a K, Bolz B-o-l-z, like zebra. I am the associate director of the Low-Income Economic Opportunity Program at the Nebraska Appleseed Center for Law in the Public Interest. Nebraska Appleseed is a nonprofit, nonpartisan public interest law firm and advocacy organization working for full opportunity and equal justice for all Nebraskans. We have long been supporters of educational opportunities in our state's Aid to Dependent Children program. Education is the surest pathway out of poverty and I am very pleased to be here today in support of LB507. Nebraska Appleseed not only supports policies that promote educational opportunities for parents receiving public assistance, we also work to promote these options in the community. I first heard of the struggles of young ADC parents working to balance school, family and work during such a presentation to a teen parenting class in a Nebraska high school. These students were determined to complete their high school degree in spite of the economic and other challenges they faced. And you'll note that being passed around now there's a letter of support from the teacher, Ms. Glenda Plettner-Nelson, from Lincoln public high school in support of this bill. Many of them were not allowed to count the time they were spending in school towards their ADC work requirements and had to spend an additional 20 hours in other kinds of work. LB507 would remove these barriers and allow young parents to maintain finishing school as their primary focus. This small change would have a big impact on the lives of young parents. I would like to share some additional points regarding some of the technicalities of this bill. And I'll do my best not to repeat what Senator Harms has shared with you but to add a bit more additional information. The first thing to note is that in addition to the federal work participation rates that the Nebraska ADC program has so successfully achieved we also have something called caseload reduction credits. These are credits that are accounting for other ways we are supporting low-income

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families in our state. We have accumulated enough credits to knock down our work participation requirements to zero percent. That may seem counterintuitive, but that means that the investments our state is making in parents and families allows us to have more flexibility in our program. In simple terms, Senators, we have met the federal requirements twofold--once through achieving strong work participation rates; and once through our investments that count towards caseload reduction credits but knock our participation requirements down to zero. In simple terms, there's plenty of room to allow flexibility for young ADC recipients to pursue a high school diploma or GED. The second point I want to reiterate is that this bill does include a safety valve and there is opportunity to recalibrate our work participation activities should that be necessary in the future. Finally, I want to remind you that the bill includes a small change that would align Nebraska's federal...Nebraska's rules with federal rules regarding ADC recipients under the age of 20. Not only would that improve the ability of young recipients to complete their high school diploma or GED, this change would actually positively impact our work participation rates. Education is the surest pathway out of poverty. We urge you to support LB507 to help clear that path for young families in Nebraska. I'd also like to note that there are several other support letters being passed around that illustrate there is community support for this bill as well. Thank you. [LB507]

SENATOR HOWARD: Thank you. Do we have...committee, do we have questions? Yes, Senator Wallman. [LB507]

SENATOR WALLMAN: Yes, thank you. You know, welcome to this committee. As I worked with your organization in the past with numbers, you know, what it costs and all this, do you think the fiscal note is correct? [LB507]

KATE BOLZ: My opinion is that there shouldn't be any necessary...any need to tap into General Funds. Our ADC program is so very robust that a fairly dramatic change would have to occur in order for us to fail to meet our work participation rates. And, Senator, I would also mention that the recent economic downturn was pretty dramatic and we have still maintained robust work participation rates in our caseload credit. I am not concerned. [LB507]

SENATOR WALLMAN: Thank you. [LB507]

KATE BOLZ: Thank you. [LB507]

SENATOR HOWARD: Okay. Other questions? All right, thanks so much for coming in. Other proponents. [LB507]

SARAH ANN KOTCHIAN: Good afternoon. [LB507]

SENATOR HOWARD: Welcome to the Health Committee. [LB507]

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SARAH ANN KOTCHIAN: (Exhibit 8) Thank you. My name is Sarah Ann Kotchian, K-o-t-c-h-i-a-n, and I'm here today on behalf of Building Bright Futures, a comprehensive public-private partnership that seeks to improve academic performance, raise graduation rates, increase civic and community responsibility and ensure that all students are prepared for postsecondary education in Douglas and Sarpy Counties. I'd like to thank you, Senator Howard and Senator Campbell and members of this community for the opportunity to speak today and also express gratitude to Senator Harms for introducing LB507. LB507 is an investment necessary to achieve greater returns in productivity and prosperity. Although the programmatic impact of this change would be minimal, the personal impact on the lives of students like Shannin and their families would be great. Two Building Bright Futures programs in particular would benefit from and work to maximize the strategic change in public policy for students. One effort comes from inside the office of Early Childhood Services where we are partnering with five longstanding and highly reputable community agencies to provide health, family support and educational services to pregnant and parenting teens who have not yet graduated from high school and their children. Together we aim to ensure that pregnant and parenting teens receive the extra supports they need so they can achieve success in their personal and academic lives and simultaneously learn how to engage in and support their own children's health and education from birth. The other Building Bright Futures effort that LB507 would positively impact is from the forthcoming D2 Center, to connect out-of-school and disengaged youths, ages 15 to 20, with an educational program and other resources required to further their educational and career goals. D2 services will consist of individualized planning and support for academic success including credit recovery, youth advocacy and multiple pathways to earning a high school diploma. D2 will also collaborate with existing community resources and groups to meet a student's nonacademic needs. Between our targeted work with pregnant and parenting teens and students at the D2 Center, we hope to have an impact on the civic and community responsibility, academic performance and graduation of 1,000 students plus their children over just the next year. It cannot go without saying that the timing of this hearing coincides perfectly with the Governor's Commitment to Education statement released last week. We, like the Governor, believe education success and economic success are linked, and we too want our graduates and young professionals to be prepared for high-quality, high-skill jobs with dynamic companies doing business in Nebraska. LB507 will help fulfill our vision and the Governor's vision by providing an even stronger public and private focused effort on student and school achievement that can, in the words of our Governor, pay dividends for individuals, families and communities across our state. And I would urge you to support and advance this bill. Thank you for your consideration of this issue. [LB507]

SENATOR HOWARD: Thank you. And thank you for being so diligent about the light system. (Laugh) Do we have questions for this testifier? I don't think we do. [LB507]

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SARAH ANN KOTCHIAN: All right, thank you. [LB507]

SENATOR HOWARD: Thank you. Are there any other proponents? Any opponents? Any neutral testifiers? All right, Senator Harms. [LB507]

SENATOR HARMS: Senator Howard, Senator Campbell, welcome. [LB507]

SENATOR CAMPBELL: Thank you. [LB507]

SENATOR HARMS: Thank you very much for giving me the opportunity to come in. I feel very strongly about this and I hope that we can bring it out and have the discussion. I'm so committed to making sure that we give young parents the opportunity to get out of poverty. As I said earlier, the only hope is through education. And I believe very strongly in that. And so I hope that you'll be kind enough to bring it out and have the debate on the floor and we'll see how we do. But I appreciate it, thank you. I'd be happy to answer any questions. [LB507]

SENATOR HOWARD: Do we have any additional questions for Senator? No, looks like we're through. [LB507]

SENATOR HARMS: Senator Howard, thank you, appreciate it. [LB507]

SENATOR HOWARD: Oh thank you, sir, thank you. And this will conclude the hearing on LB507. Are you presenting now? [LB507]

SENATOR CAMPBELL: Good afternoon, and I apologize. I was introducing another bill across the hall. This afternoon, just so that you understand, we have three remaining bills. All of those bills I introduced on behalf of the Governor, so we will start with and open the hearing on LB465 to eliminate provisions relating to eligibility of non-U.S. citizens for public assistance. Legal counsel Michelle Chaffee will introduce the bill, and there will be representatives from the Governor here to respond to questions and provide testimony.

MICHELLE CHAFFEE: Good afternoon, Chairman Campbell and members of the Health and Human Services Committee. I'm Michelle Chaffee, C-h-a-f-f-e-e, legal counsel to the Health and Human Services Committee. LB465 has been introduced at the request of Governor Heineman by Senator Campbell, and I'm here for Senator Campbell to open on the bill. LB465 is intended to eliminate state only programs for non-United States citizens who are here legally, but do not qualify for assistance under federal guidelines or with federal dollars. Currently, the Department of Health and Human Services pays for certain benefits for legal permanent residents. These benefits include the Supplemental Nutrition Assistance Program, SNAP, formerly known as food stamps, cash payment for Temporary Assistance to Needy Families, TANF, Medicaid,

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and Aid to Aged, Blind, and Disabled. Federal law requires noncitizens to be in the United States for at least five years before receiving federal public funds. As a result, Nebraska has been using General Funds to provide these public benefits during the five years before individuals become eligible for federal benefits. LB465 will eliminate this practice. Approval of this bill will enable the department to save \$3.9 million annually. Todd Reckling, Director of Children and Family Services of the Department of Health and Human Services is here to testify and to provide more details regarding LB465. [LB465]

SENATOR CAMPBELL: Okay, thank you, Ms. Chaffee. Oh, Senator Howard, sorry, did you have a question? (Laughter) [LB465]

SENATOR HOWARD: (Laugh) I have to be faster. This is a very fast group. [LB465]

MICHELLE CHAFFEE: I thought I got away. [LB465]

SENATOR HOWARD: Thank you, Chairman Campbell. I think it would be helpful if you could give a picture of who these individuals are and why they're in the country. I understand they're individuals who are not citizens, but they're here legally. And so if you could maybe paint a picture of who these people are. [LB465]

MICHELLE CHAFFEE: You know, Senator, I think Todd Reckling is here to speak for the Governor since this is introduced at his request, but I can kind of provide just basically information that these would be legal permanent residents, and they would have...the requirement is that they be...as far as federal law, that they be in the United States for five years before qualifying for federal benefits. And the state has been picking up and paying for these benefits by state-only funds since that federal law was enacted, so this would end that practice. [LB465]

SENATOR HOWARD: And then possibly Mr. Reckling can give us a definition of who these people are. [LB465]

MICHELLE CHAFFEE: Yeah. Yeah. [LB465]

SENATOR HOWARD: All right. Thank you. [LB465]

SENATOR CAMPBELL: Thank you, Senator Howard. We will let her escape. Proponents for this bill? While Director Reckling is making his way here, how many people intend to testify in support of this bill? I think that would be the director. How many people wish to testify in opposition to the bill? Okay. How many people wish to testify in a neutral position? Okay. Thank you very much. Thank you, Director Reckling. [LB465]

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TODD RECKLING: (Exhibit 9) Good afternoon, Senator Campbell and members of the Health and Human Services Committee. My name is Todd Reckling, T-o-d-d R-e-c-k-l-i-n-g, and I'm the director for the Division of Children and Family Services within the Department of Health and Human Services. I'd like to thank Senator Campbell for introducing LB465 on behalf of the Governor. I'm here to testify today in support of LB465. LB465, as you know, is part of the Governor's budget proposal and intended to eliminate provisions related to eligibility of certain non-United States citizens for state-funded economic and medical assistance. This bill repeals Section 68-1070 which identifies the populations of people eligible for such assistance. Currently, Section 68-1070 authorizes the use of state funds for the Supplemental Nutrition Assistance Program, Temporary Assistance to Needy Families, Medical Assistance, and Aid to the Aged, Blind, and Disabled benefits to be paid to lawful permanent residents regardless of the date they entered the United States. The federal government specifically prohibits the use of federal funds for those benefits. Repeal of Section 68-1070, as proposed in LB465, will align Nebraska with federal law and pay for benefits only to those lawful aliens who meet length-of-residency requirements, five years, or who are otherwise eligible under federal law. The department would save approximately \$3.9 million annually in General Funds with this change. The approximate number of individuals impacted is approximately 2,000 per year. We believe that other resources are available to these impacted populations to assist them with their needs. Such resources include, but certainly are not limited to, local area food banks, community health clinics, and the U.S. Department of Housing and Urban Development. If other household members are citizens or meet the requisite federal requirements, those household members would continue to have access to such benefits, which would then be paid for with federal funds. This proposal, I want you to know, is not made lightly. However, in reviewing the state-only benefit, the Governor determined that it was not as high of a priority as all of the other human service programs for which he recommended funding in the biennial budget. I appreciate the opportunity to provide the committee with information related to LB465, and I would be happy to answer any of your questions today. [LB465]

SENATOR CAMPBELL: Senator Howard, did that answer your question? [LB465]

SENATOR HOWARD: Well, I actually have a couple more if that would be... [LB465]

SENATOR CAMPBELL: Sure. [LB465]

SENATOR HOWARD: Mr. Reckling, I want to be clear on this. This would eliminate the benefits for anyone in the country legally, but who is not a citizen, prior to their being in the country for a period of five years. [LB465]

TODD RECKLING: If they're...yes, if they're lawfully present in the United States, but they have not been here at least five years as the federal government requires, they would not be eligible unless they were otherwise eligible for some other federal

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program. And that's what we're paying the state funds for currently, and that's what this bill is about to eliminate those that haven't been here yet for the five-year period. Otherwise, if they're eligible for some other federal program, that would continue. [LB465]

SENATOR HOWARD: Okay. So this won't affect anyone who is here beyond five years. Those people are not addressed in this at all? [LB465]

TODD RECKLING: If they're otherwise eligible for other programs and meet those eligibility requirements, they would be okay. [LB465]

SENATOR HOWARD: But this bill, in particular, doesn't address people who are in this country, who are legally in this country beyond that five-year period. This is prior to. [LB465]

TODD RECKLING: This bill specifically is...right now we are paying with state-only funds for these programs until such a time as they would get on the federal enrollment after that five-year period. [LB465]

SENATOR HOWARD: Okay. Along those lines, you listed the things that wouldn't be included, one of which is medical coverage. If something happened to them...this individual and they had to go to the hospital, who would then pay the medical costs? [LB465]

TODD RECKLING: It would be just like any other person that didn't have medical coverage or whatever. If it's an emergency, they have to be treated at the hospitals. We also have clinics for folks that are dealing with poverty issues, as you know. And so we believe that those resources are available to these populations like they are others that don't have access to benefits. [LB465]

SENATOR HOWARD: So if they weren't able to pay, then it would be back on the hospital or the clinic or whichever. [LB465]

TODD RECKLING: Just like any other citizen that was in that same situation, yes. [LB465]

SENATOR HOWARD: Okay. All right, thank you. [LB465]

SENATOR CAMPBELL: Questions from the senators in addition? Director Reckling, do you have any idea how long this has been a federal...how long the federal government has not included this group in any benefits? [LB465]

TODD RECKLING: I don't have that handy right now, Senator, but I could certainly get

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that to you. It's been a number of years and, as a matter of fact, we've been doing these programs this way for awhile, at least since, you know, for the last...many years, but I could find out for you. [LB465]

SENATOR CAMPBELL: Okay. That would be helpful. And in the federal explanation of programs, is it the correct assumption that the federal government would have done this as people were applying for citizenship, do you think? No. I'm just reading from somebody from the audience who's answering the question. I was trying to figure out if this was a federal program or, you know, that the federal government had established this as people were waiting to become citizens, but that may not be accurate. [LB465]

TODD RECKLING: I don't believe that's the case, no. [LB465]

SENATOR CAMPBELL: It's interesting to know why that...what was the underlying factor that made the government choose...the federal government choose five years. And perhaps we need to have another proponent here. [LB465]

TODD RECKLING: Director Chaumont is also here to back me up (laughter), if needed. So on the cash benefit programs that I listed the nonmedical assistance, I can get you that information. Director Chaumont may know related to the medical assistance. [LB465]

SENATOR CAMPBELL: Okay. I was just trying to find out the rationale from the federal government as to why five years. That's really what the question is, so we'll have Director Chaumont come up. It's always good to have a backup. [LB465]

TODD RECKLING: I agree. [LB465]

SENATOR CAMPBELL: Oh, sorry, Senator Howard. [LB465]

SENATOR HOWARD: No, no, that's fine. Thank you. Along those same lines, and this may be a hardball question that we'll wait for the first string to come in and answer. But can you tell us how many (laughter)...can you tell me how many people this will affect? [LB465]

TODD RECKLING: Yeah. We estimated about 2,000, Senator. [LB465]

SENATOR HOWARD: Two thousand. Thank you. [LB465]

SENATOR CAMPBELL: Any other questions or comments? Thank you, Director Reckling. [LB465]

TODD RECKLING: Thank you. [LB465]

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SENATOR CAMPBELL: And Director Chaumont, would you come forward, please, and I think you have the answer to both Senator Howard and my question? So we're going to take your testimony here. [LB465]

VIVIANNE CHAUMONT: Not exactly. But as somebody who had to become a U.S. citizen, I happen to know that the five-year...the five-year period is just a standard year. You have to be in this country as a legal resident for five years before you can apply for citizenship, so I think that's why the government picked five years. And also then, the question about why did the federal government do this, and it was in the early 2000s. I can't remember exactly when it was they did it, but I seem to remember implementing it as a Medicaid director in Colorado, the change in federal statute. And what the federal government was looking at, at that time was, you know, budget problems always, and what they wanted to discourage with the five-year issue was they wanted to discourage people from legally immigrating to this country in order to get federal, you know, to get federal benefits or state benefits, make states liable for that benefit. And that's why they did it, and in addition to, the people that we're talking about, just so we know, in addition to...there's a certain group of people. These are legal permanent residents, so these are people who want to immigrate to this country, and then there's that five-year gap. There are exclusions as Todd mentioned for other classes of people who do not have to be, so political refugees that meet certain criteria, asylees that meet certain criteria, those like that. They don't have the five-year waiting period, so the purpose of the federal government was just to discourage people from immigrating to this country just for the benefits. [LB465]

SENATOR CAMPBELL: Director, how long after that five-year period does it usually take to become a U.S. citizen then? [LB465]

VIVIANNE CHAUMONT: After the five-year period, the paperwork begins as I recall. [LB465]

SENATOR CAMPBELL: But then you would be eligible if you met the other criteria. [LB465]

VIVIANNE CHAUMONT: Well, even if you're not a citizen, if you're a legal permanent resident who's been in this country five years and one day, you can then apply for federal funding. It's just for that initial five years. You don't have to be a citizen. You just have to be a legal permanent resident who's been here five years and one day to start that collection. [LB465]

SENATOR CAMPBELL: So the harmonizing here was between the period that you would have before you could apply for a citizenship. [LB465]

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VIVIANNE CHAUMONT: I think...yeah, I think they pick that period because the immigration law is familiar with the five-year waiting period, and so I think that's why. As to the question about going to the hospital, you know, I wish I remembered the answer to that, but I need to check whether or not the emergency assistance program that if a nonlegal person has to go to the hospital for an emergency, that emergency is paid for by the Medicaid program. That is covered, and I'm sorry, I can't remember if that applies to the five-year period. So if I could get back to you on that later next week, that would be good. [LB465]

SENATOR HOWARD: Thank you. [LB465]

SENATOR CAMPBELL: That would be excellent. Thank you, Director. Any other questions for the director? Thank you for coming forward and answering those questions. [LB465]

VIVIANNE CHAUMONT: Thank you. Sure. [LB465]

SENATOR CAMPBELL: Anyone else in the hearing room who wishes to speak in favor of LB465? We will move to those who are opposed to LB465. Good afternoon and welcome. [LB465]

JAMES GODDARD: (Exhibits 10 and 11) Good afternoon, Madam Chairwoman, committee members. My name is James Goddard. That's G-o-d-d-a-r-d. I'm a staff attorney at Nebraska Appleseed. The Nebraska Appleseed Center for Law in the Public Interest is a nonprofit, nonpartisan, public interest law center that advocates for equal justice and full opportunity for all Nebraskans. I'm here today to oppose LB465. First of all, I would like to say that we recognize the tough budget decision, the tough situation as far as the budget is concerned in this state, and that this committee and the Legislature has to make some pretty difficult decisions. It's precisely for that reason why we want to make sure that the committee has all the information it needs in order to make informed decisions on legislative priorities, so I'm here to share information about Appleseed's constituents. For some background, we've already heard some, but I'll go ahead and add to it. Federal law dictates which immigrants are eligible for public benefits. That comes from a 1996 law called PRWORA. It's sort of hard to pronounce, but...it's a long name. So, to be eligible...generally speaking, to be eligible for public benefits an immigrant has to be qualified, though many qualified immigrants are barred from eligibility for the first five years after becoming a qualified immigrant. For example, if you came into the country on some sort of nonimmigrant visa like a student visa, you would not be a qualified immigrant. Then if you became a lawful permanent resident, the clock would start ticking from that day that you got that status, and it would be five years before you would be eligible for many big public benefit programs. So in a nutshell, some lawfully present immigrants have to wait five years for eligibility, and others do not such as refugees, asylees, and a couple other classes. This five-year

period is commonly called the five-year bar. At the same time, the federal government gave states the option to cover this group during that five-year period if states wanted to do that. Now, in order to do that, states would have to use state funds, but it's perfectly permissible and allowed under federal law to do this. Nebraska decided to do that a number of years ago. LB465 would change that, and that raises some serious concerns. The bill would eliminate eligibility for several basic assistance programs--Medicaid, Aid to Dependent Children, SNAP or food stamps. These programs provide access to nutritious foods and basic healthcare coverage. Without these, needy families are either going to go without or they're going to go elsewhere like emergency rooms. This could result in a cost shift to Nebraskans and an unhealthy public, and as I understand it, emergency Medicaid would not cover individuals in the five-year bar period. I believe emergency Medicaid covers individuals who are not qualified immigrants. These immigrants are technically qualified--they're just in a bar period, so my understanding is that emergency Medicaid would not cover this group of people. Now, in addition, programs like ADC and SNAP or food stamps allow participants to get training and skills. This makes them a more productive member of the work force. Without these programs, these individuals are likely to struggle to make progress towards self-sufficiency which hurts Nebraska families and Nebraska's economy. I'd also like to note that LB465 would turn away from a sound policy decision that the Legislature made and that other states have followed. While Nebraska was one of the first states to do this, about half of all states provide some level of coverage to some immigrants under the five-year bar including Arkansas, Iowa, and Illinois, so we're not being more generous here than our neighbors. For all these reasons, I urge the committee not to advance LB465. However, I want to say that if the bill does move forward, I believe it needs some clarifications. The bill entirely repeals 68-1070 of the Nebraska Code. Sections (b) and (c) are entirely eliminated. Eliminating those sections could be interpreted to go beyond eliminating coverage for lawful permanent residents under the five-year bar. It could be interpreted to eliminate emergency services. It could be interpreted to eliminate humanitarian immigrant eligibility. So eliminating those two subsections (b) and (c) isn't actually necessary to stop covering LPRs, and so those provisions could remain for the sake of clarity. With that, I am happy to answer any questions if I can. [LB465]

SENATOR CAMPBELL: Okay. Any questions? Thank you for the clarification, Mr. Goddard. [LB465]

JAMES GODDARD: Thank you. [LB465]

SENATOR CAMPBELL: And if we need more information, we'll get back to you. [LB465]

JAMES GODDARD: Happy to help. [LB465]

SENATOR CAMPBELL: Okay. Anyone else in the hearing room who wishes to provide

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opposition testimony? Anyone who wishes to provide testimony in a neutral position? Seeing none, we will close the public hearing on LB465 and move to LB467, again introduced by Campbell on behalf of the Governor to change the eligibility provisions relating to the medical assistance program. And opening will be Michelle Chaffee. (See also Exhibits 12-14.) [LB465]

MICHELLE CHAFFEE: Good afternoon, Chairman Campbell and members of the Health and Human Services Committee. I'm Michelle Chaffee, C-h-a-f-f-e-e, legal counsel to the Health and Human Services Committee. LB467 was introduced by Senator Campbell at the request of the Governor. And I am here on behalf of Senator Campbell to open on the bill. This bill would authorize the Department of Health and Human Services to end Medicaid coverage when an individual fails to comply with an Employment First self-sufficiency contract. Currently, the department is authorized to end cash assistant benefits. LB467 would add termination of Medicaid as an additional sanction. The Employment First contract is part of Nebraska's welfare reform activities. There are approximately 925 persons on Employment First who are sanctioned each month with an average monthly Medicaid cost of approximately \$341, the savings per year is approximately \$3.8 million, \$1.6 million of state funds and \$2.2 million of federal funds. Todd Reckling, the director of the Division of Children and Family Services in the Department of Health and Human Services, is here to provide more details on this bill. [LB467]

SENATOR CAMPBELL: Thank you. We will move to Director Reckling to provide additional testimony on LB467. Director. [LB467]

TODD RECKLING: (Exhibit 15) Good afternoon again, Senator Campbell and members of the Health and Human Services Committee. My name is Todd Reckling, T-o-d-d R-e-c-k-l-i-n-g, and I'm the director for the Division of Children and Family Services within the Department of Health and Human Services. I'd like to thank Senator Campbell once again for introducing LB467 on behalf of the Governor. And I'm here to testify in support. As stated by Ms. Chaffee, LB467 is prompted by a 2010 court decision, Davio v. DHHS, in which the Nebraska Supreme Court ruled that without a specific state statute, the Department of Health and Human Services could not remove a client's Medicaid coverage as a sanction for noncompliance with the terms of a welfare payment contract. This bill, if enacted, would provide the department with such authority. The department already has the authority to make a household ineligible for Temporary Assistance for Needy Families cash assistance benefits if one or more, or excuse me, if one or both of the adults fail to participate in carrying out the terms of their self-sufficiency contract. The Employment First contract is at the center of Nebraska's Welfare Reform Act. In order to receive benefits, the recipients must develop an Employment First contract with a case manager that includes self-sufficiency goals. The purpose of that contract and the overall goals of the Welfare Reform Act are to incent a welfare beneficiary to seek gainful employment, to promote economic self-sufficiency,

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and to provide individuals with the support needed to move from public assistance to self-sufficiency. Individuals who receive TANF benefits also qualify for Medicaid benefits under the Medical Assistance Act. Unlike the Welfare Reform Act, the Medical Assistance Act does not specifically indicate that benefits should be tied to Employment First contracts. Regulations were previously promulgated by the department in 2006 authorizing the department to terminate Medicaid benefits as a sanction for the failure to comply with welfare work contract requirements. However, the Nebraska Supreme Court ruled that the department did not have the authority to impose such a sanction without a specific statute. LB467 will authorize the department to impose a Medicaid sanction on the noncooperating adult. You'll notice on page 5 beginning on line 24 of the green copy, the additional language in LB467 also indicates that when a woman is pregnant or within the 60-day period beginning on the last day of the pregnancy, her Medicaid for Employment First nonparticipation cannot be closed, "unless she refuses to cooperate by identifying and providing information to assist the department in pursuing third parties who may be liable to pay for care and services on her behalf, except that she may be able to waive cooperation for good cause as defined in federal law." This means Medicaid benefits cannot be removed or denied for pregnant women or during the related 60-day postpartum period as long as the women are cooperating in regard to third-party liability. In December of 2010, 6,886 people participated in Employment First. As Michelle indicated, there are approximately 925 Employment First participants sanctioned each month with an average monthly Medicaid cost of approximately \$341. The savings per year will be approximately \$3.8 million, of that \$1.6 million state General Funds and \$2.2 million federal funds. The Governor's budget relies upon savings that would be achieved by enacting this bill. I appreciate the opportunity again to provide the committee with information related to LB467 and I would be happy to answer your questions. [LB467]

SENATOR CAMPBELL: Questions? Senator Wallman. [LB467]

SENATOR WALLMAN: Thank you, Senator Campbell. Yeah, thanks for testifying here. You say here \$3.8 million savings. I mean, to me if I take federal funds from General Funds we're saving \$600,000, right? [LB467]

TODD RECKLING: I'm not understanding your question, Senator Wallman, I'm sorry. [LB467]

SENATOR WALLMAN: Well, we're saving General Funds here \$1.6 million, and federal funds \$2.2 million. So we're not saving \$3.8 million here, we're saving \$600,000 wouldn't you say? [LB467]

SENATOR HOWARD: In state dollars, state dollars. [LB467]

SENATOR WALLMAN: Yeah. [LB467]

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TODD RECKLING: The \$1.6 million would be state funds. [LB467]

SENATOR WALLMAN: Yeah. [LB467]

SENATOR COOK: Oh, I see. [LB467]

SENATOR WALLMAN: Yeah, but it wouldn't be saving \$3.8 million. [LB467]

TODD RECKLING: Between the state and the federal funds we would be saving the \$3.8 million. [LB467]

SENATOR WALLMAN: Yeah, but we'd be losing \$2.2 million for the state from feds. [LB467]

SENATOR CAMPBELL: Director Reckling, he's subtracting the state funds... [LB467]

SENATOR WALLMAN: Yeah,... [LB467]

SENATOR CAMPBELL: ...from the federal funds. [LB467]

SENATOR WALLMAN: ...from the feds. [LB467]

SENATOR CAMPBELL: Because he's saying that the federal funds would not...we wouldn't get them, they wouldn't come to the state. Am I interpreting your question, Senator Wallman? [LB467]

SENATOR WALLMAN: Yep. Thank you, Chairman. That's all. [LB467]

SENATOR CAMPBELL: And so the actual...I mean, the actual amount of money that we would be putting in is he's subtracting the two. [LB467]

TODD RECKLING: The state funds would then, obviously as you...would not be used for the additional federal match. [LB467]

SENATOR WALLMAN: Yes, I understand. [LB467]

SENATOR CAMPBELL: Questions or comments over there? You all looked like you had questions. I thought you had a question. (Laughter) Senator Howard has a question. [LB467]

SENATOR HOWARD: Thank you. I'm going to have to move to the other side of the room maybe. No, it seems really clear to me what Senator Wallman is saying. We're

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obviously going to be losing money as a state. We'll have less federal dollars coming in than we would be putting out on this program. I mean, we're going to...we would...we receive more in federal dollars than we put in as a state, if you're following this. [LB467]

TODD RECKLING: The last part of that, yes, I agree with that. [LB467]

SENATOR HOWARD: Good. All right. Well, anyway you define it the feds are paying more than we are. Their dollars are worth...are a greater amount than the dollars we're putting in from the state. [LB467]

TODD RECKLING: I agree with that, yes, Senator. [LB467]

SENATOR HOWARD: To the point where we will be losing federal dollars. And we're all concerned about federal dollars, that's all our tax dollars and there's no objection with that. But I think Senator Wallman makes an important point here with...that's something that we certainly should be aware of. The other question that I have is let's say this in plain English. When you talk about a woman cooperating and...a woman who is pregnant, within 60 days after the last day of the pregnancy, who is eligible for medical assistance remains eligible unless she refuses to cooperate by identifying and providing the information about the third parties who may be liable to pay for care and services on her behalf. That would be the father of her child, the individual that she would identify as the father. [LB467]

TODD RECKLING: Under the child support scenario... [LB467]

SENATOR HOWARD: Exactly. [LB467]

TODD RECKLING: Yes. [LB467]

SENATOR HOWARD: That would be where this would enter in, to recoup the funding through the child support. [LB467]

TODD RECKLING: Well, there are a couple different ways that we can sanction a person. We may sanction a person for failure to cooperate with the child support requirement, such as you're identifying. We also have sanctions that could be imposed because of noncooperation with like our quality control reviews or they're not giving us the information we need to continue to verify eligibility or self-(inaudible) or their work hours. And then we also have noncooperation as far as a sanction that could be imposed if there are other potential third-party liability payers out there that the person is not helping us identify or willing to identify for us to go after those third-party payers. [LB467]

SENATOR HOWARD: Can you give a definition of who that would be? [LB467]

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TODD RECKLING: Other type of medical insurance coverage. [LB467]

SENATOR HOWARD: So if this individual has insurance that would cover this...cover her medically... [LB467]

TODD RECKLING: I'm just trying to point out that we have different ways that...reasons that we would sanction a person. So again,... [LB467]

SENATOR HOWARD: Well, anytime that an individual has medical, that becomes first payee. [LB467]

TODD RECKLING: Yes. And all I'm saying is sometimes they may not share that information readily with us. And so there could be a sanction if that information is not shared and there is third-party liability available. [LB467]

SENATOR HOWARD: Okay, thank you. [LB467]

SENATOR CAMPBELL: I want to follow up on that, Director, because if in the course of visiting with the case manager, caseworker it's found to be a domestic violence situation, then that is a factor that's taken into account, is it not? [LB467]

TODD RECKLING: Absolutely. Thank you, Senator. There are certain reasons, obviously, that we would not impose the sanction. And those are situations that the person can bring forward to us. One of those situations would be domestic violence, and there would be other issues related to healthcare or imprisonment or other issues with child care. So there's a variety of reasons that a person could claim good cause for us to review, and certainly domestic violence is one of those good claim causes that we certainly would not want to impose a sanction related to a domestic violence situation. [LB467]

SENATOR CAMPBELL: When the sanction happens to the 925 persons then can they...whatever is required, can they take care of that and in a month be back on the program? [LB467]

TODD RECKLING: It kind of depends on the reason, the causal factor for the sanction. For example, some of the sanctions would require that as soon as the condition is remedied then they can immediately come back on. For example, on our Employment First, however, as far as cooperation with that there are time frames where...for noncooperation that they would have to remain off the program. So that may be, for example, for our SNAP program like one month for the first violation, three months, and then one, three and then six. And then like for ADC it's a little bit different, it's 1, 3, and then 12 months. And also throughout this whole entire process they have the ability to

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go through and appeal in such a situation and can go through the appeal process.
[LB467]

SENATOR CAMPBELL: So the savings are probably calculated when someone is on...is like on the 12-month or whatever. I mean, this...there wouldn't be much of a savings if everybody got back on in one month, would there? [LB467]

TODD RECKLING: At any point in time, and that was the 925 participants that we were talking about, at that...at any given time that was what we estimated based on that number of persons under sanction, which was equivalent to the \$341 in medical costs for those individuals. [LB467]

SENATOR CAMPBELL: Okay. Any other questions? And I did check on my left first.
[LB467]

SENATOR HOWARD: I'm sorry? [LB467]

SENATOR CAMPBELL: And I did check you first. [LB467]

SENATOR HOWARD: Oh, thank you. I feel much better. (Laugh) [LB467]

SENATOR CAMPBELL: Any other questions? Thank you, Director. [LB467]

TODD RECKLING: Thank you. [LB467]

SENATOR CAMPBELL: Is there anyone else in the hearing room who wishes to testify in favor of LB467? Could I have a show of hands of those who wish to testify in opposition. Okay. Those who wish to testify in a neutral position. Okay. We will take those who are opposed to LB467 next. Good afternoon. [LB467]

AUBREY MANCUSO: (Exhibit 16) Hi. My name is Aubrey Mancuso, A-u-b-r-e-y M-a-n-c-u-s-o, and I'm here on behalf of Voices for Children in Nebraska. Voices for Children seeks to educate and motivate Nebraskans to take action to impact the lives of vulnerable children in the areas of health, education, safety, and economic well-being. We're concerned about LB467 and the potential for unintended consequences for children and families. In fiscal year 2009 there were an average of 17,163 Nebraska children whose parents were ADC recipients in any given month. These are the children who would be impacted if their parents were to lose health insurance coverage. A study in Oregon explored the relationship between parental and child's health insurance and found that uninsured parents were more likely to have uninsured children even when their children were eligible for coverage. The study concluded that universal coverage for children is much more likely to be achieved through a continued focus on covering an entire household. A parent's mental and physical health can also have significant

consequences for children. Untreated mental and physical illnesses can impact a parent's ability to care for their child. And parents who lack insurance are much less likely to seek treatment. In addition, we believe that this would create an additional barrier to self-sufficiency that the program seeks to create. Physical and mental health issues are considered one of the most common barriers to maintaining long-term employment. Current ADC regulations recognize illness as a good cause for voluntarily quitting employment or for missing work-related activities, thus recognizing the integral relationship that exists between health and work. Finally, we believe that this will be a shifting of costs rather than a savings. We know that the uninsured are most likely to use emergency care. The Nationwide Emergency Department Sample found that one in every five emergency room visits was made by a person who lacked health insurance. And these visits are considerably more costly than other forms of care. For these reasons we urge the committee not to advance LB467. Thank you. And I'll take any questions. [LB467]

SENATOR CAMPBELL: Questions for Ms. Mancuso? Seeing no questions, thank you very much. Good afternoon again. [LB467]

JAMES GODDARD: (Exhibit 17) Good afternoon, Madam Chairwoman, committee members. Again, my name is James Goddard, G-o-d-d-a-r-d. I'm a staff attorney at the Nebraska Appleseed Center for Law in the Public Interest. Nebraska Appleseed is a nonprofit, nonpartisan, public interest law firm that advocates for equal justice and full opportunity for all Nebraskans. Again, I want to reiterate our understanding of the difficult decisions that this body has to make this year. And we want to make sure that you have all the information you need to make those hard decisions. I first want to start by saying Medicaid and the Aid to Dependent Children program or ADC contribute to the well-being of Nebraska families. They are investments in their health and economic stability for both parents and children. This bill would decrease the impact of these investments by removing healthcare from parents, which places the entire family at risk of moving backwards instead of forwards. For a little bit of background, ADC provides monthly cash assistance to very low-income Nebraskans. We're talking about for a family of three they could make no more than \$9,600 per year. Now if the individual is found eligible for ADC, they're automatically eligible for Medicaid. Now because of their low-income status they can't afford health insurance on their own or to pay for medical expenses out-of-pocket. Recipients of ADC have to sign a self-sufficiency contract. That contract details the various responsibilities that the participant must do including participating in work activities. If the parent fails to meet a requirement in the contract, which could be for many reasons including minor infractions, parents and their children lose assistance for a set period of time. This is called a whole-family sanction and it's the harshest cash penalty allowed under federal law. This penalty period can be for 1 month, 3 months or as many as 12 months for the third infraction. Now LB467 would make this harsh penalty even more stringent. It would automatically remove Medicaid for a parent when a sanction is implemented, unless that person happens to be

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pregnant. The bill creates the potential for negative consequences for the health of the parent, it risks their ability to care for their children and to reengage in work or other activities to make their family more economically secure. Indeed, LB467 would be counterproductive to the purpose of the ADC program. The primary goal of this program, according to the Legislature, is to move people to self-sufficiency and to keep children in their home. These goals are best achieved when parents are healthy. Removing healthcare from struggling parents makes it harder to stay healthy, to go to work or to care for their families. In sum, LB467 would hurt Nebraska families and it would not comport with the purposes of the ADC program. For all these reasons, we respectfully urge this committee not to advance LB467. Thank you. [LB467]

SENATOR CAMPBELL: Questions? Senator Howard. [LB467]

SENATOR HOWARD: Thank you. Thank you. James, I realize that you're a lawyer and not a math scholar. (Laugh) [LB467]

JAMES GODDARD: That's really true. (Laughter) [LB467]

SENATOR HOWARD: Well, this may be an unfair question. But, you know, with my deduction here that we're going to be leaving \$600,000 in federal money on the table. This is money that would have come into the state in addition to what we were paying...we would be paying out for this medical coverage. Does this seem like the best way to provide...to use the state dollars to provide services? [LB467]

JAMES GODDARD: In the opinion of my organization, no. This is certainly the...this change would, as you mentioned, have a corresponding loss of federal funds. So this will undoubtedly cause less money to be flowing into the state. And still at this point Nebraska's one of those states that has a higher match where the federal government is paying more than the state government actually is. I think it's somewhere in the area of 60 percent, but I'm not exactly sure, but it's certainly higher. [LB467]

SENATOR HOWARD: They're not only...the federal government is not only matching us but they're giving us a whole \$600,000 to boot to work on this program. I hate to use the word punitive, but in your opinion, what does this really kind of amount to (inaudible)? [LB467]

JAMES GODDARD: Well, that, Senator, it's called a sanction. So it's undoubtedly punitive. [LB467]

SENATOR HOWARD: Okay, thank you. [LB467]

SENATOR CAMPBELL: Mr. Goddard, in your research and questions did you ever ask the department to delineate on their average of the 900-some a month of the people,

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900 and...what was it? Nine hundred and twenty-five on average, what the breakdown was of that? [LB467]

JAMES GODDARD: When you say breakdown, do you mean...? [LB467]

SENATOR CAMPBELL: Like by sanctions or... [LB467]

JAMES GODDARD: The type of sanction? [LB467]

SENATOR CAMPBELL: Yes, or adult versus... [LB467]

JAMES GODDARD: We have, I believe, looked into trying to get that information. And I'm honestly not sure if the department tracks the specific cause of each sanction. But I actually don't know. [LB467]

SENATOR CAMPBELL: Okay, because I was thinking of that on the... [LB467]

JAMES GODDARD: But to be clear, they will say the sanction is for noncooperation or for not following through with child support requirements. I'm sure they delineate that. But for nonparticipation what does that mean? Does that mean you didn't go to an appointment? Does that mean you didn't return a phone call? My understanding is it's not that specific but I'm sure the department can answer that. [LB467]

SENATOR CAMPBELL: I may check into that. Senator Wallman. [LB467]

SENATOR WALLMAN: Thank you, Senator Campbell. Yeah, thanks for coming. This is an issue that bothers us all, you know. But are we encouraging people here not to get jobs by these punitive things? You know, to get on health insurance, you know, are we doing the reverse here? [LB467]

JAMES GODDARD: All I can tell you, Senator, is from the experience I have with the clients that call us and the people that we talk to. And by and large these are people who want to be independent, who aren't looking for a handout, who in fact sometimes feel shameful about taking public benefits. So are there other people out there that take advantage of the system? Of course. Is that most people? I don't think so. [LB467]

SENATOR WALLMAN: Okay, thanks. [LB467]

SENATOR CAMPBELL: Any other questions? Okay, thank you, Mr. Goddard. [LB467]

JAMES GODDARD: Thank you. [LB467]

SENATOR CAMPBELL: (Exhibits 18 and 19) Anyone else in the hearing room who

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wishes to testify in opposition? Anyone who wishes to provide neutral testimony on LB467? Seeing no other testifiers on LB467, we'll close that hearing and we'll move to LB468, introduced by Campbell on behalf of the Governor to change reporting provisions relating to the medical assistance program. [LB467]

MICHELLE CHAFFEE: Good afternoon, I am Michelle Chaffee, C-h-a-f-f-e-e, legal counsel for the Health and Human Services Committee. I am here for Senator Campbell to introduce LB468. LB468 has been introduced at the request of the Governor. LB468 amends Section 68-909 and changes the provision relating to when the Department of Health and Human Services is required to provide a report to the Governor, the Legislature and the Medicaid Reform Council that summarizes proposed rules and regulations the department intends to adopt. The Governor's budget proposal includes a savings of \$609,000 over two years by allowing additional copayments or an increase in copayments for certain Medicaid services. This bill will facilitate this process by allowing the department to implement copays for goods and services for fiscal year 2011-12. Vivianne Chaumont, the director of the Division of Medicaid and Long-Term Care, will follow and provide more details on this bill. [LB468]

SENATOR CAMPBELL: Okay, thank you. Director Chaumont. Good afternoon. [LB468]

VIVIANNE CHAUMONT: (Exhibit 20) Good afternoon, Senator Campbell and members of the Health and Human Services Committee. I didn't introduce myself last time I came up here I realize. My name is Vivianne Chaumont, V-i-v-i-a-n-n-e C-h-a-u-m-o-n-t. I'm the director of the Division of Medicaid and Long-Term Care for the Department of Health and Human Services. I am here to provide testimony in support of LB468. The adoption of LB468 is essential to the Governor's budget and I want to thank Senator Campbell for introducing in on behalf of the Governor. The Governor's budget includes a savings to the Medicaid program of \$608,829 of General Funds by requiring Medicaid clients to pay copayments for certain medical services. LB468 allows the department to move forward with the needed regulatory and state plan amendments to implement copayments by September 2011. The Medicaid program currently establishes nominal copayments for several categories of services. Pregnant women, children, and institutionalized clients are exempt from copayment by federal law. Federal law also limits the maximum copayment that states can implement for a particular service. The Governor's budget proposes a savings of \$608,829 over two years in General Funds by adding or increasing certain copayments. You can find a list of the proposed copayments on the handout to my testimony. First, we propose adding a \$15 per admission copayment to inpatient hospital stays, which would result in approximately \$80,000 annual savings to the General Fund. Next, we propose adding copayments of \$3 for durable medical equipment over \$50 and \$2 per office visit for mental health and substance abuse services for additional General Fund annual savings of \$39,400 and \$69,700 respectively. Lastly, the copayment for brand name prescription drugs would be increased from \$2 per prescription to \$3 per prescription. This generates a savings

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of \$77,400 General Funds annually. For fiscal year 2011 to 2012, the Medicaid program will require approximately \$582 million in General Funds. This does not include federal matching funds. By implementing modest copayments for a few services, we can continue to slow the growth of the program. In addition, this gives Medicaid clients some, albeit small, ownership of the healthcare services they receive. LB468 would allow the department to move forward with these changes and projected savings. I appreciate the opportunity to provide the committee with information related to LB468 and I am happy to answer any questions. [LB468]

SENATOR CAMPBELL: Questions? Senator Howard. [LB468]

SENATOR HOWARD: Thank you. If I could ask you and just for clarification, copayment for brand name prescription drugs will go to \$3. Is there a copayment for generic? [LB468]

VIVIANNE CHAUMONT: Yes, currently there is a copayment of \$2 for generic, I believe, and \$2 for brand name. And it would raise the prescription for just brand names to \$3. [LB468]

SENATOR HOWARD: Will there be an increase for the brand names if there's no generic equivalent available? [LB468]

VIVIANNE CHAUMONT: It will still be a \$3 copayment. [LB468]

SENATOR HOWARD: All right. [LB468]

VIVIANNE CHAUMONT: Any brand name drug. [LB468]

SENATOR HOWARD: Okay, thank you. [LB468]

SENATOR CAMPBELL: Any other questions, Senator Howard? Other questions from the senators? Of the list, Director, that you gave us which of the...which copayments are we now collecting? [LB468]

VIVIANNE CHAUMONT: On...? [LB468]

SENATOR CAMPBELL: We're collecting on brand name drugs. [LB468]

VIVIANNE CHAUMONT: We collect brand names drugs at \$2. Currently, we don't have any copayments for any mental health and substance abuse. We do have copayments for physicians of \$2. So it just makes sense to have copayments when you go to a therapist of \$2. We do collect copayments or we do allow copayments for numerous other visits and I've got that list here for you. These would all be new copayments for

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services that currently don't have copayments, except for the prescription which is increasing it by \$1. [LB468]

SENATOR CAMPBELL: And at some point, I know that the Medicaid Reform Council looked at this. But of the states who surround us do they require copays? Because it's not...I thought we had a handout on that at one point? [LB468]

VIVIANNE CHAUMONT: Not on copays, we had a handout about what other states require, a lot. I can put together a handout for you, Senator, of what the surrounding states do. Most states charge copays. And when we decided what amounts to charge, for instance, some of the surrounding states charged a significantly higher copay for hospital, for inpatient hospitals. But the highest copay you can charge according to federal law is \$3.65, except for your average thing, except for hospital stays they have a different calculation that you can do and so it's higher. Fifteen dollars is pretty low for inpatient hospitals. [LB468]

SENATOR CAMPBELL: On the durable equipment, oh, over \$50. So if the equipment is under \$50 the person would pay zero. [LB468]

VIVIANNE CHAUMONT: Correct. [LB468]

SENATOR CAMPBELL: Okay. [LB468]

SENATOR WALLMAN: That was my question. [LB468]

SENATOR CAMPBELL: Oh, that was your question too? Okay. How long have we charged copays, Director? [LB468]

VIVIANNE CHAUMONT: You know, I don't know this system has...how long we've charged copays. I don't know the history of some of these copays. But I think they've charged them for a very long time. These were all in place since at least I've been here. We haven't done anything with copays until this year. [LB468]

SENATOR CAMPBELL: Okay. In terms of adding additional ones or increasing the cost, right? And all I'm saying is this list adds new ones. And this is the first time since you've been here that they've added new ones. [LB468]

VIVIANNE CHAUMONT: Correct. [LB468]

SENATOR CAMPBELL: I would have to say from my recollection on the Reform Council that's accurate. I was just trying to figure out how long we've had them. Senator Howard. [LB468]

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SENATOR HOWARD: Thank you. In looking at this and trying to think it through what we could be dealing with in the future, do you have any concern that this will have the unintended consequence of encouraging emergency room visits? [LB468]

VIVIANNE CHAUMONT: No, I think that we already have a problem with emergency room, with emergency room visits. [LB468]

SENATOR HOWARD: We do, I grant you... [LB468]

VIVIANNE CHAUMONT: But I don't think it will because we already charge a \$2 copay for a physician visit. I think that would more correlate. [LB468]

SENATOR HOWARD: Well, that's what I was actually thinking. If we have the \$2 copayment for the physician but we don't have anything in place for the emergency room visits, and I understand why we don't, but I'm just thinking for people that...we have a problem anyway with emergency room visits and have had for a very long time. I'm just wondering if this bill results in more people using that? [LB468]

VIVIANNE CHAUMONT: I don't believe so. [LB468]

SENATOR HOWARD: I think probably time will show us that. [LB468]

SENATOR CAMPBELL: And just for the audiences' benefit, the bill will have a hearing later, but one of the things that the committee looked at was limiting the number of emergency visits per year. And we looked at that probably as an offset to a copay on an emergency room. I mean we had some discussion, the committee did over the summer. [LB468]

VIVIANNE CHAUMONT: Right. [LB468]

SENATOR CAMPBELL: Are there people who do limit their visits, Director? [LB468]

VIVIANNE CHAUMONT: Yes, there are numerous states that limit physician visits and include emergency visits in that limit. I've seen limits of 12 a year. And I think the lowest one I saw was six or eight visits a year for...just for physician visits as well. And I think some states limit outpatient hospital visits as well. [LB468]

SENATOR CAMPBELL: Senator Howard. [LB468]

SENATOR HOWARD: Thank you. Just one brief question for my clarification. When you say that \$2 copay for doctor visits, that includes facilities such as OneWorld and those physician visits would be the same as a doctor visit? [LB468]

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VIVIANNE CHAUMONT: Yes. [LB468]

SENATOR HOWARD: Okay, thank you. [LB468]

VIVIANNE CHAUMONT: Yeah, and there's a very large class, that's why you think the numbers would be bigger, but there's a very large class of Medicaid clients who do not...who are exempt from copays. And that would be children, pregnant women and folks in institutions or in the HCBS program. [LB468]

SENATOR HOWARD: The what? [LB468]

VIVIANNE CHAUMONT: The Home and Community-based Services program, they're exempt from copays as well. [LB468]

SENATOR CAMPBELL: That's a large number. [LB468]

VIVIANNE CHAUMONT: As are people in managed care exempt from copays. [LB468]

SENATOR CAMPBELL: And the PATH program or is it, what's the new program that... [LB468]

VIVIANNE CHAUMONT: PACE? [LB468]

SENATOR CAMPBELL: PACE, why can I...I can never get that correct. [LB468]

VIVIANNE CHAUMONT: Program of All-Inclusive Care for the Elderly, PACE. [LB468]

SENATOR CAMPBELL: Thank you. Will they pay copays in there? [LB468]

VIVIANNE CHAUMONT: I don't know, I don't know. [LB468]

SENATOR CAMPBELL: I mean,... [LB468]

VIVIANNE CHAUMONT: Probably not. [LB468]

SENATOR CAMPBELL: ...I have to say I'm real excited about that program. [LB468]

VIVIANNE CHAUMONT: Yeah. I think it...you know, I think we can set up the program to be either way. And it's probably more synonyms with HCBS. And so we'll take a look at that. I don't know that answer off the top of my head. It is a managed care program so it wouldn't probably have copays. [LB468]

SENATOR CAMPBELL: Right. Director, this is kind of a difficult bill to read because it

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really has to do with, I mean, it starts out by talking about the reporting time. And I'm assuming that the department made the decision, in light with the budget, to go this direction. But after the requirement... [LB468]

VIVIANNE CHAUMONT: Right. [LB468]

SENATOR CAMPBELL: ...that was in the bill to report to the Legislature and to the Medicaid Reform Council. [LB468]

VIVIANNE CHAUMONT: Right. And, well, partly right. I believe in the letter to the Medicaid Reform Council was the addition of copays, raising all copays for drugs to \$3 or to the maximum allowed by federal law, I think. At the time we thought that was \$3. So part of it is in there but the rest of them are not. And to be honest, we just decided to bring this bill to make absolutely sure that there was no question that we were complying with everything that we needed to comply with. [LB468]

SENATOR CAMPBELL: So once this...if this bill were to be enacted by the Legislature, from this time forward you would still have to comply with all notification on rules and regulations. [LB468]

VIVIANNE CHAUMONT: Oh, yes. [LB468]

SENATOR CAMPBELL: Okay, because it's...for those who are reading the bill I'm sure they're like going, why is this not about copay? But it's really about the notification of the change in the Governor's budget. [LB468]

VIVIANNE CHAUMONT: Um-hum. And we have no intention of using that exemption for now for anything other than this bill. [LB468]

SENATOR CAMPBELL: Okay. Any other questions? Thank you, Director. [LB468]

VIVIANNE CHAUMONT: Thank you. [LB468]

SENATOR CAMPBELL: Anyone else in the hearing room who wishes to provide testimony in favor of LB468? Those in the hearing room who wish to provide testimony in opposition? Okay. Those who wish to provide testimony in a neutral position? Okay. Let's go ahead and take those who are opposed. Good afternoon. [LB468]

MARY ANGUS: Hello, Senator Campbell. [LB468]

SENATOR CAMPBELL: How are you? [LB468]

MARY ANGUS: Too short for this chair. (Laugh) [LB468]

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SENATOR CAMPBELL: I am always too short for any chair almost. [LB468]

MARY ANGUS: I feel like Peter Pan. [LB468]

SENATOR CAMPBELL: I appreciate where you're coming from. Welcome and please go ahead with your testimony. [LB468]

MARY ANGUS: Thank you. Thank you, Senator Campbell and committee members. My name is Mary Angus, Mary M-a-r-y A-n-g-u-s, like the cow. I'm speaking on behalf of ADAPT Nebraska which is a network of advocates for persons with disabilities. We strongly oppose LB468. This legislation would provide the division of Medicaid with a period of several months during which they could make dramatic changes without legislative knowledge. It makes it possible for Director Chaumont to obfuscate the Legislature's own check and balance system between the executive and legislative procedures set up in 2008 under LB1176. Nebraska could then join other states by making deep cuts affecting tens of thousands of people of the 224,459 people using Medicaid or CHIP. If this bill passes, Senators, you would not have any say over any additional devastating cuts taken between now and December 1, 2011. After that date you would again have that check and balance. Until that date there would be no such check. Services that could be cut include mental health and substance abuse services, community-based services for people with disabilities, prescription drugs, and newborn screenings for hearing. The division could decimate Nebraska's Medicaid program having a devastating effect on people with disabilities. It has the potential also to violate the civil rights of persons with disabilities by forcing many of them into institutions. Other states, such as Georgia, have found themselves on the losing end of DOJ, Department of Justice, lawsuits based on this type of irresponsible policy. Were Nebraska to be sued, and I can assure you that we would be, the additional costs legally would be enormous. In Nebraska the cost of a person with a developmental disability for services in an institution is \$228,000 per year. Community services provided that way would cost approximately \$47,000 per year. If even only eight people were forced into an institution as a result of any cuts that were to be made, including copays that they could not afford, that would be over \$1 million in additional cost to this state. HHS isn't telling you what you need to know to make informed decisions. Since the implementation of Medicare reform they have given you only information such as the direct budgetary costs or savings. They haven't given you the impact on people with disabilities. They have not told you about hidden costs. They have given you information like the Milliman report which overstated the number of people eligible for Medicaid and the consequent costs. The data you've been given has been provided based on an N-FOCUS collection system which your audit is found to have overstated the state portion of Medicaid and understated the portion paid by the federal government. You are the only body that can stop this attack on people with chronic illnesses and disabilities. The administration can appear to be responsible on a fiduciary level by doing this. But it does not satisfy

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our obligation to spend taxpayers' money in a wise manner. It's penny wise and pound foolish. I really urge you to not allow this to go out to the floor. I'd be happy to answer any questions if you have any [LB468]

SENATOR CAMPBELL: Any questions for Ms. Angus? Senator Howard. [LB468]

SENATOR HOWARD: Welcome, Mary. [LB468]

MARY ANGUS: Thank you. [LB468]

SENATOR HOWARD: You frequently come in and testify and always do a good job. So thank you for that. [LB468]

MARY ANGUS: Thank you. [LB468]

SENATOR HOWARD: Right now there's a \$2 copay, right? [LB468]

MARY ANGUS: Um-hum. [LB468]

SENATOR HOWARD: And people are paying that. Are you concerned that it's going to be increased by a dollar? [LB468]

MARY ANGUS: Actually, I'm more concerned about other changes that could be made based on this legislation. In the fiscal note they describe other possible changes that could be made. Since the check and balance system would be lifted for the months between the time it's implemented and December 1, the division could make any kinds of changes without notification. And that's the big concern that we have. They could do a variety of things. They could eliminate mental health and substance abuse services, they could add large copays to home and community-based services or eliminate them entirely if they so choose. [LB468]

SENATOR HOWARD: And the period of time would be, you said between the time this is enacted, which would probably be July 1... [LB468]

MARY ANGUS: Um-hum. [LB468]

SENATOR HOWARD: ...and December 31? [LB468]

MARY ANGUS: No, it would be November 31 (sic). [LB468]

SENATOR HOWARD: November 31 (sic). Okay, thank you. [LB468]

MARY ANGUS: Um-hum. The fiscal note does talk about some of the possible other

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areas that they could, it could be much broader than what was stated in the introduction. [LB468]

SENATOR HOWARD: Thank you. [LB468]

MARY ANGUS: Um-hum. [LB468]

SENATOR CAMPBELL: Any other questions for Ms. Angus? Thank you for coming. [LB468]

MARY ANGUS: Thank you very much, Senator. [LB468]

SENATOR CAMPBELL: Next testifier. [LB468]

KATHY HOELL: Hello. [LB468]

SENATOR CAMPBELL: Good afternoon. [LB468]

KATHY HOELL: First of all, my name is Kathy Hoell and I am asking for reasonable accommodation... [LB468]

SENATOR CAMPBELL: Kathy, would you spell Hoell for the record. [LB468]

KATHY HOELL: Yes, it's K-a-t-h-y H-o-e-l-l. [LB468]

SENATOR CAMPBELL: Thank you. [LB468]

KATHY HOELL: And I am asking for reasonable accommodation of the Americans with Disabilities Act regarding the... [LB468]

SENATOR CAMPBELL: You're fine. [LB468]

KATHY HOELL: Okay. First of all, I am here to testify on behalf of the ARC of Nebraska. Chairman Campbell and members of the Health and Human Services Committee, ARC of Nebraska is a support and advocacy organization with (inaudible) people with developmental disabilities. They are a state-affiliated chapter of the ARC of the United States. The ARC of Nebraska is a statewide organization with 17 local chapters and approximately 1,500 members across Nebraska. The ARC of Nebraska strongly opposes LB468 to change the reporting provisions relating to the medical assistance for (inaudible). LB468 creates the potential for a several month period during which the Department of Health and Human Services could make any alterations to Medicaid without legislative oversight. In effect, this would remove the very safeguards that this committee put in place. We are gravely concerned that this would result in unchecked

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cuts to Medicaid that will fall upon the backs of Nebraska's most vulnerable citizens. We urge you to keep the current (inaudible) intact to assure that this does not happen. Thank you. [LB468]

SENATOR CAMPBELL: Questions for Ms. Hoell? You did just fine. [LB468]

KATHY HOELL: Thank you. [LB468]

SENATOR CAMPBELL: Questions for Ms. Hoell? Thank you for coming today. Anyone else...yes, in the hearing who wishes to testify in opposition to the bill? We'll now take testimony in a neutral position. Good afternoon. [LB468]

REBECCA GOULD: (Exhibit 21) Good afternoon, Senator Campbell, members of the committee. My name is Rebecca Gould, G-o-u-l-d, and I'm the executive director at the Nebraska Appleseed Center for Law in the Public Interest. Nebraska Appleseed is a nonpartisan, nonprofit, public interest law firm that works for equal justice and full opportunity for all Nebraskans. I'm here today to testify in a neutral capacity on LB468, in part to provide some history and background on the provisions that are implicated in this bill and to help the committee...to provide the committee with some additional information for you to consider as you're reviewing this bill. In 2006, the Nebraska Legislature and this committee took up the task of reforming Nebraska's Medicaid program. And there was actually quite an extensive process that took place. And the goal was to make sure that we were reforming that program in the way that it was going to be most effective both for the state but also for individuals who are served by the program. As part of that process, there was a lot of discussion about the flexibility that the department needed to implement the program and at the same time a lot of discussion about how advocates in the public could know what was going to go on with the program, what kinds of changes would be made over time. And as part of that dialogue a compromise was made between the department and the advocacy community. And that compromise is set out in Nebraska Statute 68-909 and 68-912. And essentially, the agreement was that the department would provide notice to the public and to the Legislature about significant changes it wanted to make to the Medicaid program. And it was the kinds of changes that would have a dramatic impact on recipients, changes to benefits, changes to eligibility, changes in cost sharing, premiums, copays, those kinds of things, and that the department would have the flexibility to make those changes but they had to notify folks they were intending to do it and provide an opportunity for the Legislature to intervene and decide it didn't want to go in that direction with the program. And so there's required an intervening legislative session before changes could be implemented by the department. And at that point in time it was something advocates felt comfortable with. We would have notice. We'd have an opportunity to talk with the Legislature. There would be opportunity for consideration and it was something that the department felt comfortable with because it maintained flexibility for them to make changes. The concern with LB468, should it be

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passed, is that it creates this window of time in which the department wouldn't have to abide by those rules. And I think the one question that we have is the department could have brought a bill on copays if that's what they intended to do. And instead they're sort of coming at this issue from a strange perspective by changing the notice period. And so I think that's a question that we have about why that was the approach that was taken here if there isn't any interest in changing any other provisions within the program? And I think the other thing to keep in mind is this period of time will probably end up being about an eight-month window of time in which the department would have authority to make changes without providing notice and waiting for the intervening legislative session. Specifically the things they'd be allowed to do would be make changes to premiums, deductibles for goods and services, limits on the amount, duration and scope of goods and services, requirements for recipients of medical assistance to participate in care coordination and disease management programs, and to make state plan amendments and request waivers. That's a lot of things that could be done that go well beyond copays. And so we're asking here that the committee carefully consider the full potential impact of this bill and carefully think about the balance that had been struck in setting up this process in the first place and take that under consideration as it considers this bill. I'm happy to answer any questions. [LB468]

SENATOR CAMPBELL: Questions? Senator Cook. [LB468]

SENATOR COOK: Thank you, Madam Chair. I have a question about why you chose to testify officially in a neutral capacity when this letter and your testimony seems to indicate a negative, several negative points about the bill. Just curious. [LB468]

REBECCA GOULD: Well, sure. I mean, I guess our goal is it's unclear what the intent of the department is here. I think we have the statement of intent that says this is about copays. There is authority given to the department to implement copays. They have been providing information about copays to the Medicaid Reform Council and to this committee. And I think the concern or our reason for testifying in a neutral capacity is to try to bring some additional information and raise some questions. If the only intent here is to pursue the copay issue that's been, you know, publicly out there, we're less concerned. The process has provided for information deliberation. But if it's going beyond that which, you know, again, I don't want to speculate about the intent of the department. But I think the questions have to be asked and we felt a neutral capacity is a better place to be raising those kinds of questions than in testimony in opposition. [LB468]

SENATOR COOK: All right, thank you. [LB468]

SENATOR CAMPBELL: Senator Wallman. Do you have a question? [LB468]

SENATOR WALLMAN: Yeah, thank you for coming. I usually have a question. Do you

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have any plan, you know, you have any idea how to come up with the same amount of savings in the same scenario, you know, copays or...? [LB468]

REBECCA GOULD: I mean, I think there's a number of ways to generate savings within the Medicaid program. And there is legislation that we would support related to taking up an option for family planning services. It would provide a great deal of savings to the Medicaid program. So I think there's lots of ways to produce savings in Medicaid. And specific to this bill, I think, it's sort of a tricky fiscal note in the sense that the language of the bill doesn't actually say anything about copays. And so, you know, it's a little tough to react to the fiscal note in particular because I think the bill itself lends itself to potentially much broader implications than what is outlined in the fiscal note. [LB468]

SENATOR WALLMAN: Thank you. [LB468]

SENATOR CAMPBELL: Ms. Gould, did you have any suggested amending language to the bill? [LB468]

REBECCA GOULD: I mean, I guess a suggestion would be to leave the bill alone and to address the issue of copays through legislation that actually discusses copays. If that's the goal, there is a section...and actually, I think, in Section 68-912 it deals with the department's authority to establish premiums, copays and deductibles. And legislation could have been drafted to amend that section to grant the department authority to implement the copays that they've discussed. [LB468]

SENATOR CAMPBELL: Okay, thank you. Any other questions? Thank you, Ms. Gould. Anyone else in the hearing room who wishes to provide testimony in a neutral position? If not, we'll close the public hearing on LB468. [LB468]