Health and Human Services Committee
LB 631
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Calder Lynch, Director
Division of Medicaid & Long-Term Care
Department of Health and Human Services

Good afternoon, Senator Campbell and members of the Health and Human Services Committee, my name is Calder Lynch (C-A-L-D-E-R L-Y-N-C-H) Director of the Division of Medicaid and Long-Term Care for the Department of Health and Human Services. I am here to testify in opposition to LB 631.

The language of this bill would adopt by reference provisions of the Patient Protection and Affordable Care Act (PPACA), as currently exists in state statute for applicable provisions of the Social Security Act. When the department first reviewed LB 631, it was viewed as technical legislation with no fiscal impact. However, after further review, there is concern that LB 631 could be interpreted as a mandate to comply with what are now optional provisions of this federal law, specifically the expansion of Medicaid eligibility to a new category of childless adults and an expansion of income eligibility for other adults. Because there is some ambiguity related to the new language referencing the Affordable Care Act, its addition in statute could lead to potential future litigation against the state.

As a note of references, the Nebraska Medicaid program currently provides coverage for low-income individuals in specific categories. In Fiscal Year 2014, Nebraska Medicaid covered, on a monthly average, 235,497 individuals at a total cost of more than $1.8 billion. Clearly the decision to greatly expand these eligibility criteria requires transparent and thoughtful discussion amongst the branches of government, our stakeholders and constituents and should not be accomplished through a piece of technical legislation.

I will not repeat all of the prior testimony that has been heard by this committee on this subject. I will note that the Medicaid program is the single largest and one of the fastest growing programs in state government. There are clearly costs associated with expanding Medicaid in Nebraska. While LB 631 does not include the level of requirements that have been proposed in other Medicaid expansion attempts, much of that analysis remains relevant. Based on our better understanding of the potential impact of this legislation, the Department will be submitting a revised fiscal note.

Regardless, as a result of expanding Medicaid, nearly one in five Nebraskans would be enrolled in Medicaid. Even with initial federal support under the Affordable Care Act (ACA), federal funds will decline by 10 percent by the end of the next four years shifting a huge burden onto the state budget.

The uncertainty in federal funding of the Medicaid program is clear. Our state is currently dealing with a $75 million General Fund impact in the Medicaid program due to the federal government's change in our state's federal match rate or "FMAP." In another example, there is significant uncertainty as to whether Congress will maintain the enhanced FMAP for CHIP services that is scheduled to begin this fall. Should Congress repeal this provision, Medicaid would require an infusion of an additional $17.4 million General Funds in FY16 and $23.7 million General Funds in FY17. This provides a stark example of the financial risk that states accept with the fleeting promise of federal money.

There is also a practical impact to access to care for our current recipients. Many providers either limit the number of Medicaid clients they will see or refuse to see any Medicaid patients at all. Expanding enrollment in Medicaid will exacerbate this problem and escalate the pressure to increase provider rates, which would further increase the cost to the state budget. I will note that just a few months ago a federal district judge in Florida ruled that the Florida Medicaid program had failed to meet its statutory obligation to provide access to care due to its low reimbursement rates. That case is on appeal before the U.S. Supreme Court, whose decision could ultimately have a significant impact on state budgets.

For all the reasons stated, the Department opposes LB631.