

**Appropriations Committee  
LB 944 (Section 71- Title X)  
February 5, 2018**

**Bo Botelho, Chief Operating Officer  
Department of Health and Human Services**

Good afternoon Chairman Stinner and members of the Appropriations Committee, my name is Bo Botelho (B-O B-O-T-E-L-H-O) and I am the Chief Operating Officer of the Nebraska Department of Health and Human Services. I am here, on behalf of the Department, to testify in support of the clarifying language in Section 71 of Legislative Bill 944.

The proposed amendment in Section 71 provides further clarity as to the use of Title X funds in Nebraska. As stated in the Federal Register Title X serves women and men, adolescents and adults and provides funding for a variety of family planning services<sup>1</sup> including those to achieve pregnancy and to prevent pregnancy. Federal law states that “Title X funds are not available to programs where abortion is a method of family planning... [and] regulations require that all pregnancy options counseling shall be neutral and nondirective.”<sup>2</sup>

The proposed amendment is needed to ensure program integrity through enhanced clarification. In the 2016 and 2017 Statewide Single Audits<sup>3</sup> the State Auditor found issues. For example, in the 2016 report the Auditor found a Federal payment error rate of 98.3% in the sample of payments to sub recipients during the fiscal year.<sup>4</sup>

The proposed policy clarification does not take away healthcare from Nebraskans. Currently, there are 13 ‘parent’<sup>5</sup> sites and 29 ‘satellite’ sites across the state and each organization that currently receives funding can continue to do so as long as their policies and practices are consistent with the adopted language. If a current grantee is not in compliance after the change, they can update their policies and practices and continue to participate. As with any change to statutes, regulations, or rules, it is the responsibility of each participating organization to adapt as necessary if they desire to continue receiving program funds.

At this point in time, we do not foresee a decrease in available services because of the proposed language. The Department believes other facilities would step forward, if current grantees chose not to participate. In the past other healthcare providers have expressed interest in participating.

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<sup>1</sup> 45 CFR Part 59.5(a)(5)(ii), “contraceptive services, pregnancy testing and counseling, preconception health services, screening and treatment for sexually transmitted diseases, HIV testing and referral for treatment, services to aid with achieving pregnancy, basic infertility services, and screening for cervical and breast cancer.”

<sup>2</sup> 45 CFR Part 59.5(a)(5)(ii)

<sup>3</sup> Nebraska State Auditor, APA Reports Issued, <http://bit.ly/2DKJMYt>

<sup>4</sup> Sub recipient payments totaled \$6,297,825 and the sample was \$681,486.  $\$669,922/\$681,486 = 98.3\%$  of Federal payment errors.

<sup>5</sup> A ‘parent’ site is the organization that receives Title X funding. Ponca Tribe of Nebraska also receives funding, but is not counted as a parent site in Div. of Public Health file.

For the Department to assure federal funds are being properly used a more clear distinction must be made. This is done through the ‘objective independence’ language. As stated on page 46, lines 7, 8, and 9: “[o]bjective independence includes, but is not limited to, legal, physical, and financial separation” between organizations receiving Title X funds and others.

The ‘objective independence’ standard provides the Department with more direct parameters on which to determine current or potential grantee’s compliance. For example, the Department would look for economic, legal, and financial independence from organizations that perform abortions and whether or not organizations have separate facilities.

Before concluding, I think it is important to mention two other points. First, it is common to layout use of fund parameters in the state budget; the state budget is full of instances in which further clarity and direction is provided about the way funds are used<sup>6</sup>. Second, the amendment we are discussing today was not in our budget request because we did not ask for a change in funding, simply a clarification.

It is the mission of the Department to help people live better lives. This does not only include those who directly receive our services, but also includes stewardship of taxpayer dollars. The amended language in Section 71 provides greater program integrity through enhanced clarity needed to be good stewards.

Thank you and I am happy to answer any questions you have.

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<sup>6</sup> E.g. Last year’s budget bill, LB 327, Sec. 112, re: Health Aid, & 118, re: Biomedical Research.