

Testimony in Support of LB 22 and LB 132
By
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Senator Pahls and Members of the Banking, Commerce and Insurance Committee:

My name is Greg Schleppebach and I am here on behalf of the Nebraska Catholic Conference to express our support for the important public policy embodied in LB 22 and LB 132. The Conference represents the mutual interests of the Catholic Bishops of Nebraska.

Although public opinion about the practice of abortion and its legal status may shift from time to time, a strong majority of Americans has consistently supported measures that prohibit public funding, support and entanglement with abortion. This belief of the American people is clearly enshrined in federal and state law as well as various court rulings.

The declaration section of Nebraska's abortion statutes (28-325) says "that the members of the Legislature expressly deplore the destruction of the unborn human lives which has and will occur in Nebraska as a consequence of the United State Supreme Court's decision on abortion of January 22, 1973." It also says that it is "the will of the people of the State of Nebraska and the members of the Legislature to provide protection for the life of the unborn child whenever possible."

Furthermore, since 1981, Nebraska law (44-1615.01) has prohibited public employee health plans from providing coverage for abortion, allowing such coverage only by way of a separate rider paid solely by the employee.

Federal law, specifically the Hyde Amendment, has since the late 1970s prohibited funding of abortion and health plans that include coverage for abortion. This policy has been incorporated into the State Children's Health Insurance Program (SCHIP) and the Federal Employees Health Benefits Program (FEHBP) to create a consistent federal policy: Wherever federal and nonfederal funds are combined to purchase a health benefits package, that package may not cover elective abortions.

That policy was consistently applied until 2010, when it was contradicted by the final version of the Patient Protection and Affordable Care Act. However, this Act explicitly permits states to prohibit coverage of abortion in insurance plans offered through a health insurance exchange created under the Act, which is, of course, the objective of these two bills.

As for abortion jurisprudence, even courts insisting on a constitutional "right" to abortion have said that this alleged right "implies **no limitation** on the authority of a State to make a value judgment favoring childbirth over abortion..." [*Maher v. Roe*, 432 U.S. 464, 474 (1977)] As the U.S. Supreme Court stated in its 1980 ruling in *Harris v. McRae* [448 U.S. 297, 325 (1980)]:

"By subsidizing the medical expenses of indigent women who carry their pregnancies to term while not subsidizing the comparable expenses of women who undergo abortions (except those whose lives are threatened), Congress has established incentives that make childbirth a more attractive alternative than abortion for persons eligible for Medicaid. These incentives bear a direct relationship to **the legitimate congressional interest in protecting potential life**. Nor is it irrational that Congress has authorized federal reimbursement for medically necessary services generally, but not for certain medically necessary abortions. **Abortion is inherently different from other medical procedures, because no other procedure involves the purposeful termination of a potential life.**"

These public policies and court rulings, in addition to our strong opposition to the injustice of abortion, form the basis of the Nebraska Catholic Conference's support for both LB 22 and LB 132. However, because LB 22 applies this public policy to all health care plans offered in Nebraska, not just those offered in state exchanges established under the federal healthcare law, we do prefer LB 22.