

Attorney General's Opinion on AM2294 that was applied on LB 662. LB 662, as most of you know is the Family Services Incentive Act, and there was an amend...this amendment had to do with wording for abortion and contraceptive counseling and referral and so on, and you will find it in your Journal, page 1671. This was issued yesterday so it is available. What that amendment says is in LB 662 on page 7, line 8, strike "include, but not"; and in line 17 after the period, insert "Prevention, early identification, and intervention services eligible for funding shall not include performance of or counseling or referral for abortion or distribution of or counseling or referral for abortives." I refer you to your Journal and my question was the constitutionality of this amendment. From probably would be about second paragraph on the legal opinions, "The effect of AM2294 is to deny (state) start-up funding for abortion and contraceptive counseling and referral, and for the performance of abortion and the distribution of contraceptives. Abortion and contraceptive counseling and referral are constitutionally protected speech. Clearly, the United States Constitution and the Nebraska Constitution prohibit unreasonable interference with the right of potential grantees under LB 662 to engage in these protected speeches." Nebraska does not have a court case referring to this amendment or to abortion and contraceptive counseling so, therefore, it does proceed to the United States Court for directive, and since the absence of the Nebraska law, we turn to the United States Supreme Court and other federal courts that have addressed this question under the First Amendment of the United States Constitution, which prohibits infringement of free speech, and is made applicable to the states through the Fourteenth Amendment. My question is Section (sic) LB 662 constitutionally suspects which provides the funding of public entities and private nonprofit agencies for family services shall not include performance of or counseling or referral for abortion or distribution of or counseling or referral for abortives. Conclusion, yes, the prohibition on counseling or referral would make the bill constitutionally suspect. I did not want to muddy up LB 662. We changed some of our germane rules and it was added on. In fact, I don't even remember how I voted on it, but I did have a question. LB 662 has incentives for grant programs, family advocate project, Nebraska Commission on families, training programs, and so on and so forth. It was introduced by a number of senators and seemed to me to be a very good bill. I did, as I said, I had this question. The Ninth Circuit Court speaks Planned Parenthood v. Arizona, and I shall just roughly go down,