HANSEN: All right. Good afternoon and welcome to the Health and Human [RECORDER MALFUNCTION]. My name is Senator Ben Hansen. I represent the 16th Legislative District in Washington, Burt, Cuming, and parts of Stanton Counties, and I serve as Chair of the Health and Human Services Committee. I'd like to invite the members of the committee to introduce themselves, starting on my right with Senator Ballard.

BALLARD: Beau Ballard, District 21, northwest Lincoln and northern Lancaster County.

M. CAVANAUGH: Machaela Cavanaugh, District 6, west-central Omaha, Douglas County.

RIEPE: Merv Riepe, District 12, which is southwest Omaha and the good folks of Ralston.

HANSEN: Also assisting the committee is our legal counsel, Benson Wallace; our committee clerk, Christina Campbell. And our pages for today are Payton and Delanie. A few notes about our policy and procedures for today. Please turn off or silence your cell phones. We'll be hearing five bills and we'll be taking them in the order listed on the agenda outside the room. On each of the tables near the doors to the hearing room, you will find green testifiers sheets. If you're planning to testify today, please fill one out and hand it to Christina or one of the pages when you come to testify. This will help us keep an accurate record of the hearing. If you are not testifying at the microphone but want to go on record as having a position on a bill being heard today, there are white sign-in sheets available at each entrance where you may leave your name and other pertinent information. Also, I would note if you are not testifying but have an online position comment to submit [RECORDER MALFUNCTION] Ask if you do have any handouts that you please bring ten copies and give them to the page. We'll be using a light system for testifying. Each testifier will have five minutes to testify. When you begin, the light will turn green. When the light turns yellow, that means you have one minute left. When the light turns red, it is time to end your testimony, and we will ask that you wrap up your final thoughts. When you come up to testify, please begin by stating your name clearly into the microphone and then please spell both your first and last name. The hearing on each bill will begin with the introducer's opening statement. After the opening statement, we will hear from the supporters of the bill, then from those in opposition, followed by those speaking in a neutral capacity. The introducer of the bill will then be given the

opportunity to make closing statements if they wish to do so. On a side note, the reading of testimony that is not your own is not allowed unless previously approved, and we do have a strict no prop policy in this committee. So with that, we'll begin today's hearing with LB431 and welcome Senator Halloran, one of the best senators in this entire Legislature.

HALLORAN: Oh boy. Oh.

HANSEN: I said one of so I kind of covered the vast majority of senators so.

HALLORAN: You did cover yourself. Good afternoon, Chairman Hansen and members of the Health and Human Services Committee. For the record, my name is Steve Halloran, S-t-e-v-e H-a-l-l-o-r-a-n, and I represent the 33rd Legislative District. I'm here today to introduce LB431. Last year, this body enacted LB752 with a 46 to 0 vote, which requires five professional licenses to pass an initial criminal background check before issuance. These professions include audiologists, speech language pathologists, licensed independent mental health practitioners, occupational therapists, and occupational therapy assistants. After our legislative session ended last year, the Federal Bureau of Investigation, the FBI, determined that Nebraska needs to revise Nebraska Revised Statute Section 38-131 before it would begin to process the new initial background checks. These are additional licenses requiring initial background checks within the statute that are impacted as well. It is worth mentioning that this is a problem across our country, not just in Nebraska. To avoid a healthcare force shortage emergency, Governor Ricketts signed Executive Order number 22-04 last September to waive the statute and regulations that require the submission of background checks to the FBI until the Legislature could convene again to address the issue. The language in LB431 contains language preliminarily approved by the FBI. LB431 is a simple bill. I know you hear that a lot, but it truly is a simple bill to fix an unexpected issue. It further protects public safety by allowing the implementation of nationwide criminal background checks for certain healthcare professions as the Legislature intended. The State Patrol will follow me to testify to the nuances of this bill as it relates to the FBI and how criminal background checks are conducted. Also, the Department of Health and Human Services will testify and provide details of what occurred last fall leading up to the Executive Order. I am certainly happy to take any questions. However, the state agencies' representatives who will testify after me are very well

versed in performing criminal background checks. Thank you, Chair-- Chairman Hansen, and committee.

HANSEN: I thank you for your opening. Are there any questions from the committee? Senator Riepe.

RIEPE: Thank you, Senator Hansen. Thank you for being here. Is this a one and done kind of thing, Senator? Once the, you know, ten years later, there may have been something that came up. But so is it once you do it, that serves you for your whole career, your background check?

HALLORAN: Well, I can make a-- I can make a presumption or assumption, but I'm generally wrong on those. So that might be a good question for someone following me. I would assume it would-- would be the case.

RIEPE: OK. Well, well-- well handled. Thank you.

HALLORAN: Thank you.

HANSEN: Yeah. Any other questions? Seeing none, see you at close?

HALLORAN: I will stick around for close.

HANSEN: OK. Thanks. Well, with that, we'll take our first testifier in support of LB431. Welcome.

JEFF AVEY: Hello. Good afternoon, Chairman Hansen, members of the Health and Human Services Committee. My name is Jeff Avey, J-e-f-f, last name is spelled A-v-e-y. As you can tell, I have a little bit of a cold I caught at my son's Valentine's Day party at his middle school. So if you have any questions or need me to repeat anything, please let me know. My voice is a little bit hoarse. I'm the director of the Criminal Identification Division, and I'm here today on behalf of the Nebraska State Patrol to testify in support of LB431 and to answer any questions that you may have. Before a national fingerprint-based background check can be completed, the FBI's Office of the General Counsel, or OGC, must provide approval for each category under federal Public Law 92-544. In 2002, the Nebraska Legislature sought to add categories such as audiologists, speech language pathologists, licensed mental health practitioners, occupational therapists and occupational therapy assistants to 38-131 to require fingerprint-based background checks as a part of the licensure process. The addition of these categories was not approved by the OGC. They stated the denial was partly due to language in

38-131 referencing a license governed by the Uniform Credentialing Act if a criminal background check is required by interstate licensure or compact. The OGC has consistently communicated that criminal history record information or CHRI can only be shared with governmental agencies, and that compacts are not considered governmental agencies. The OGC went on to say that the language of the statute was too broad and does not properly reference the category of licenses. Furthermore, the FBI put every background check category under 38-131 under a grace period until the statutory language could be reviewed and changed to bring it into compliance with Public Law 92-544. The Nebraska State Patrol informed the Nebraska Department of Health and Human Services that the additional categories had been denied, as well as the fact the entire statute had been placed on the grace period. NSP and DHHS then collaborated to make the necessary changes to 38-131 to meet all federal guidelines. This language was then submitted for review to the FBI in September of 2002-- 2022 and received preapproval from the OGC's office. Given the language in LB431 has already been approved at the federal level, we support making no further adjustments to the verbiage, as any changes would require yet an additional round of approvals from the FBI. Once the bill has been signed into law, we have to send it back to the FBI's OGC office for a final review and approval. Once that final approval is received, we can start the fingerprint-based background process for all categories listed under 38-131. I'd be happy to answer any questions at this time.

HANSEN: Any questions from the committee? Senator Riepe.

RIEPE: Thank you. Thank you for being with us. My question would be is the bill appears to be limited to physical therapists, occupational therapists. And this goes back a few years ago, but in one of the Omaha hospitals, we had a hospital orderly that was there from California, only to find out later that he was wanted on a murder charge in California. It's not a good sit-- my point is might go beyond speech pathologists and the therapists. I mean, this would not cover that orderly, if you will.

JEFF AVEY: Correct. And I'm just testifying on behalf of DHHS that we support the verbiage and that the FBI has already approved it. So we're certainly open to additional categories being added. In fact, if I may, there's a program called VEX, which I would like to work with the Legislature next year that allows the State Patrol the ability to approve categories dealing with anyone who's dealing with a vulnerable population. It's been approved in Florida several years ago, and there's some other options that give us some autonomy and flexibility

at the state level to make those decisions. Whereas right now, either there has to be a federal statute approval or a statute approved at the federal level to allow for a fingerprint-based national criminal history.

RIEPE: And [INAUDIBLE] my earlier question of the good senator was this-- is this one and done or is this-- do you try to monitor? I mean, you know, bad things happen by professional people as well. And what would protect the public, if you will, maybe five years in if-- if we're-- we have false security, if they say, well, no, that person went through a background check and yet they've done something. It might be something like, you know, physical abuse or, you know, something that.

JEFF AVEY: That's a great comment and accurate in that the criminal history is good as of the date that it is produced. So whether it's a day, a week, a month, a year later, that criminal history is stale. So every-- every category is statutorily authorized. So, for example, I know the top of my head, the teachers, it's a one-time background check. But some categories are required to be reauthorized every certain period of year. So we follow whatever statutory mandate is to produce those background checks. And some-- some are a one and done and some are a continuous check.

RIEPE: OK. Thank you, Mr. Chairman.

HANSEN: Any other questions from the committee? Just for clarification, is this-- the ones who need fingerprints in those categories, is that just for state agency employees or is that for everybody in the entire state?

JEFF AVEY: Well, it's-- it's for everyone employed. So let's use nursing as an example. Right? So if you have a nursing license, nursing falls under 38-131, you have to have a fingerprint-based national criminal history. We disseminate those to DHHS and DHHS then makes an approval or denial of that licensure. So every nurse, every teacher, and we're talking adoption, foster care, liquor commission, gaming, racing, the whole gamut. So the Nebraska State Patrol provides background checks for all those categories, but the background checks are disseminated to the partner agency who then makes the approve or deny on the licensure. Does that answer your question, Chairman Hansen?

HANSEN: I think so. So everybody.

JEFF AVEY: Yes, every nurse, every teacher, everyone under that category would be required to [INAUDIBLE]

HANSEN: So even like, say, a nurse in a private practice that doesn't receive any kind of funding from the state or from the federal government needs to be fingerprinted.

JEFF AVEY: Correct. That's my understanding. Correct.

HANSEN: Why is that?

JEFF AVEY: That's the statutory language that we follow. So I would-- I would defer to my partners at DHHS. We're simply the conduit through which the background check flows.

HANSEN: OK. They told me you knew everything, though.

JEFF AVEY: I know a lot.

HANSEN: Good answer. All right. Any other questions from the committee? All right. Seeing none, thank you very much. Appreciate it. We'll take our next testifier in support of LB431. Welcome.

CHARITY MENEFEE: Good afternoon, Chairman Hansen and members of the Health and Human Services Committee. My name is Charity Menefee, C-h-a-r-i-t-y M-e-n-e-f-e-e. I'm the director of the Division of Public Health for the Department of Health and Human Services, or DHHS. First of all, I want to thank Senator Halloran for bringing this bill forward for us. I'm here to testify on behalf of the department in support of LB431 to amend Nebraska Revised Statute 38-131, which provides the statutory authority for a criminal background check by fingerprinting or by fingerprint for several health professions licensed under the Uniform Credentialing Act or UCA. This statutory requirement is in place for public safety and to ensure that Nebraska is in compliance with the requirements of professional licensure compacts. During the 2022 session, LB752 amended the statute to include additional health professions. While this language has been approved in the past by the Federal Bureau of Investigation or FBI for these purposes, last summer the FBI notified the Nebraska State Patrol, NSP, that this language is no longer acceptable. This notification was not unique to Nebraska, and states across the country faced similar issues. In September 2022, Governor Ricketts signed Executive Order number 22-04 to avoid a workforce shortage that may have occurred by not being able to fully implement LB752. The Executive Order waived the statute and regulations that required the

submission of a set of a background check to the FBI until the Legislature could convene again to address the issue. The department worked with the Nebraska State Patrol to develop the statutory changes needed to address the concerns of the FBI. That language is presented to you today. Adoption of this language, verbatim, is necessary to ensure the department's ability to continue licensure of nursing, medicine and surgery, optometry, dentistry, pharmacy, veterinary medicine and surgery, podiatry, psychology, mental health practice, physical therapy, audiology, speak path-- speech language pathology, occupational therapy, and emergency medical service professions in the state of Nebraska. Adoption of this language verbatim also ensures the department's ability to participate in the licensure compacts that have been enacted, including the Nurse Licensure Compact, the Physical Therapy Licensure Compact, the Interstate Medical Licensure Compact, the Psychology Interjurisdictional Compact or PSYPACT, the Audiology and Speech Language Pathology Interstate Compact, the Occupational Therapy Licensure Compact, and the EMS Compact. The Department urges the committee to advance LB431 without any amendments to the FBI's preapproved language. Thank you for the opportunity to testify today, and I'm happy to answer any questions.

HANSEN: Any questions from the committee? I think you answered mine.

CHARITY MENEFEE: You think? I'm sorry.

HANSEN: Why do we have to fingerprint them? And I think the answer has to do with interstate compacts.

CHARITY MENEFEE: It's in the interstate compacts, and it's in our statutory language requirements in the UCA as well.

HANSEN: OK.

CHARITY MENEFEE: Yes, sir.

HANSEN: OK. All right. Thank you.

CHARITY MENEFEE: Yeah.

HANSEN: Thank you. Any other questions? OK. Thank you for your testimony, testifying..

CHARITY MENEFEE: All right, thank you.

HANSEN: We'll take the next testifier in support of LB431. Anybody else wishing to testify in support of LB431. OK. Seeing none, is there anybody that wishes to testify in opposition to LB431? Seeing none, is there anybody that wishes to testify in a neutral capacity? OK. All right. Seeing none, we'll welcome Senator Halloran back up to close. And I believe there were no letters in support or opposition or neutral, Senator.

HALLORAN: Well, we often hear the term "this is a cleanup bill," and that's truly what it is. It's a cleanup bill. Apparently with LB752, we were not yet in compliance with federal regs, specifically FBI. And that's what this bill will do for us is bring it up to code for regulations. I will have to say I'm not as sharp a dresser as the chairman is.

HANSEN: Thank you, again.

RIEPE: There was a little lovefest going on.

HANSEN: Kumbaya moment here. All right. Yes, Senator Riepe.

RIEPE: Thank you, Chair. My last question would probably be it says you're asking for an emergency exists. I'm trying to-- this has been how long? And what would-- what would make it an emergency at this moment in time? All right. My description of an emergency is maybe a bit different.

HALLORAN: Well, it's my understanding the term emergency would mean it would be enacted promptly upon passage.

RIEPE: I understand that, but I'm trying to figure out what brings it to that level of justification that it would be considered. I mean, I don't see it as emergency. I just see it as a clean-up bill.

HALLORAN: Well, that's not my language. There's a lot of language in the Legislature that we use that I don't understand either.

RIEPE: OK.

HALLORAN: But-- but I think it's important to have it pass or be implemented as soon as passage, because I'm assuming we probably have a backlog of people that need to be-- to have that fingerprinting done to make sure the background check is complete.

RIEPE: Is this-- may I [INAUDIBLE]

HANSEN: Yes.

RIEPE: Is this more aggravated by the fact that we have nurses that are and other therapists that are flying all over the country and back and forth?

HALLORAN: You're going to get me started on another bill that I have. I don't know that it's aggravated by that or not. But-- but clearly, if people are practicing any one of these-- any one of these professions that are listed on the handout that you have that are not currently background checked, they need to be background checked soon as possible.

RIEPE: Also one that I don't see, and there's respiratory therapists which are becoming more and more common.

HALLORAN: Well, that could be another bill, sir.

RIEPE: Thank you, sir. Or maybe a major amendment.

HALLORAN: Or a major amendment.

RIEPE: Thank you, sir.

HANSEN: Any other questions from the committee?

HALLORAN: I do think that they requested that this would be a clean, clean bill without amendments so that they could be within the scope of the regulations.

HANSEN: And if I may, I think some professions might have been left out because they don't have interstate compacts, maybe, agreements. And also, I think they might have an emergency clause in here because I think the Governor's declaration of emergency might be ending in March, which is why this continued. And so you might need to get it going because it's [INAUDIBLE]

HALLORAN: That's-- that's very specific. That's why it probably would be. That makes sense.

HANSEN: OK. All right. Seeing no other questions from the committee, that will clo-- thank you very much, Senator Halloran. That will close-- that will close the hearing on LB431. And we'll move on to the next one, which is LB402. And welcome, Senator Ballard up, which I'm sure is a simple bill.

BALLARD: Not simple, straightforward [INAUDIBLE]

HANSEN: All right. Welcome, Senator Ballard.

BALLARD: Good afternoon, Chairman Hansen and members of the Health and Human Services Committee, the best committee in the Legislature. My name is Beau Ballard. For the record, that is Beau B-a-l-l-a-r-d. I represent District 21, which is northwest Lincoln and north-- northern Lancaster County. I'm here today to introduce LB402, which clarifies the definition of home health agencies to exclude a person or entity that provides only social work services from the home health agency license. Current state law defines home health agents as a person or legal entity which provides skilled nursing care or a minimum of one other therapeutic service as defined by the Department of Health Human Services. DHHS has interpreted this in the regulations to include social workers. As a result, social workers who provide in-home services are required to be licensed as home health agencies. This classification of social workers as home health agencies is an issue because the services provided by social workers are not always skilled nursing care or therapeutic services. Social workers serve across a spectrum of agencies, including schools, shelters, physician offices, community clinics, child welfare agencies, and other areas as hospitals, nonprofits and mental health. As usual practice, social workers do not provide services to people in their residence. It doesn't make sense for all these different agencies to be recognized as home health agencies solely because their social workers go to clients' residence. The change in LB402 excluding social workers from the definition of home health agencies will be eliminated the regulatory burden of licensure, which is a barrier for entry for social workers who do not provide medical services, who are looking to start their own business. Nebraska is a high-- high qualified certified and licensed social workers looking to provide the professional services to constituents in Nebraska. This also helps Nebraskans in need of social work services by removing barriers to access across and allowing social workers to accommodate the needs of their clients who are aging, have disabilities, or would benefit from in-home services. I did pass out an amendment to the committee just from the department that wanted a little more clarification on the definition of social workers. And I believe I will waive my closings. But I just want to say that this is probably one of my-- probably going to be one of my highlights of my early career as a state legislature [SIC]. Constituent contacted me shortly after my appointment and said this was a barrier to starting a business. And as

I maybe overromanticize it, but I'm very excited to help a constituent and look forward to passing this on to the General File. Thank you.

HANSEN: Thank you for that opening. Are there any questions from the committee? All right. Seeing none, thank you very much.

BALLARD: Thank you.

HANSEN: All right. So with that, we will take our first testifiers in support of LB402. Welcome.

MELISSA KRAMER: Hi. Thank you for having me. Good afternoon. My name is Melissa Kramer. That's spelled M-e-l-i-s-s-a K-r-a-m-e-r, and I am speaking in support of LB402. I want to say thank you to Senator Ballard for introducing this bill. And thank you to Senator Hansen for your support of this bill. I would like to highlight also that the Nebraska Chapter of the Association of Social Workers has gone on record in support of LB402 and has submitted a letter. I am a licensed, independent clinical social worker and have been in social work practice for about six years. I am speaking in support of this bill because I believe it will resolve an unfortunate misinterpretation of Nebraska Revised Statute 71-417. The error created some regulatory uncertainty and potential obstacles in opening a small business that offers social work services. In addition, the error may impose some unnecessary requirements on a wide variety of agencies that currently provide social work services across Nebraska. In the DHHS regulation authorized by the Nebraska statute, social work service is listed alongside medical therapeutic services such as physical therapy, occupational therapy, respiratory care, IV therapy, and dialysis. There are three clear reasons I believe it was an incorrect interpretation of the intent of the Nebraska statute to include social work in the list of therapeutic services. First of all, social work services are provided a wide range of agencies throughout our communities. In addition to providing services within an agency setting, it is a very usual practice for many social workers to provide services at either permanent or temporary residence of their clients. I believe the writers of the regulation likely didn't appreciate the range of agencies that provide services, as mentioned by Senator Ballard. It doesn't make sense to require all these agencies to be licensed as a home health agency because they may provide some social work services at a client's residence. Second of all, social work provide services to improve, restore, and enhance our client's capacity for personal and social functioning. Our practice is already defined by Nebraska Revised Statute 38-2119, and within that

definition it specifically states social worker practice-- social work practice does not include treatment of disease, injury, deformity of persons by drugs, surgery, or any man-- manual or mechanical treatment whatsoever. In other words, social work practice does not include providing medical treatment, and therefore it's not appropriate to consider someone who's providing only social work within the definition of a home health agency. Third, the DHH regulation which governs home health agencies imposes requirements which are clearly for the efficient, adequate, and safe practice of medical healthcare services in the home. But they aren't relevant to the practice of social work. Examples include that a physician or an RN may be the agency's administrator having infection control program or having a plan of care approved by the patient's physician. Imagine, for example, if a school social worker is required to have all of their service plans approved by the patient's physician. It doesn't make sense. The reason I support this legislation to clarify the definition of home health agency within the state statute is that it will immediately eliminate the regulatory error that, at least on paper, currently requires a significant number of agencies in Nebraska to obtain a home health agency license. And in addition, closer to my heart, passing LB402 eliminates regulatory uncertainty that has hindered me from opening my social work practice because I would not know if I would need to have to develop and comply with all the additional requirements of the home health agency. Thank you for your support of LB402. I will answer any questions you have.

HANSEN: All right. Thank you for testifying. Are there any questions from the committee? Seeing none, I remember was it a few months ago when you came in and sat down and we talked about this?

MELISSA KRAMER: Yeah,.

HANSEN: I'm glad to see things worked out.

MELISSA KRAMER: Yeah, very much so. Thank you for your help.

HANSEN: Yeah. All right, well, thank you for coming to testify, appreciate it.

MELISSA KRAMER: Thank you.

HANSEN: Are there any other-- any-- is there anybody else wishing to testify in favor of LB402? OK. Seeing none, is there anybody who wishes to testify in opposition to LB402? Seeing none, is there

anybody who wishes to testify in a neutral capacity to LB402? All right. And Senator Ballard-- Senator Ballard waives closing. So, for the record, we did have one letter in support for this bill representing the Nebraska Chapter of National Association of Social Workers. And no letters in opposition and no letters in neutral capacity. So with that, we will end the hearing for LB402. And we will now open it up for LB661 and welcome Senator Ibach.

IBACH: Good afternoon, Chairman Hansen and members of the Health and Human Services Committee. I'm Senator Teresa Ibach, T-e-r-e-s-a I-b-a-c-h, and I'm here today to introduce LB661 and AM380 for your consideration. LB661 requests a $2.5 million appropriation from the General Fund for a grant program that would award funds to applicants who propose innovative projects for improving access to food, while at the same time improving the resilience of the food supply chain. Last session, Senator DeBoer introduced LB1201, which was amended into LB1014 to use ARPA funds to address food insecurity caused by pandemic economic hardships. The pandemic exasperated the fragility of many systems and had-- that had previously been taken for granted. The disruption to the food system was especially apparent as outbreaks closed food processing facilities, restaurants, and institutional food operations and school meals shifted from ready to eat to grab-and-go options. The fragile food supply chain in Nebraska increased food insecurity, and the number of Nebraskans needing assistance with food jumped to unprecedented, unthinkable levels. Nebraska continues to see record numbers in terms of food needs throughout Nebraska. Nearly a quarter of all Nebraskans report difficulty covering usual household expenses. Food security always lags behind broader economic recovery, and inflation has made the problem even worse. While another bill has been introduced by Senator DeBoer this session to address the food shortage, this bill is aimed at addressing food insecurity through strengthening links in the food supply chain. Retailers, distributors, and other downstream partners are key to getting food to those who need it, particularly in rural areas of the state. But capacity and infrastructure are still bottlenecked. Challenges include equipment availability and cost, delivery, technology and infrastructure, and meeting economic-- economies of scale. This bill gives us the opportunity to enhance the food supply chain, spur nonprofit and private sector investments, and increase long-term capacity and resiliency. It also has the potential to support small businesses, encourage healthy eating habits, reduce food deserts in Nebraska, and improve partnerships between local businesses and producers. There are a host of additional economic and health benefits to shoring up the

food supply chain in Nebraska. I encourage you to take a look at the talking points I provided you in the handout. I have also provided you with a list of awardees of the food innovation grants last year under LB1014, as well as a list of applicants who did not receive awards last year, the projects they proposed, and the amounts that they requested. As you can see, great need still exists. Food security is still a significant problem in Nebraska. This bill will allow us to address some of the problems that lead to food insecurity, encourage collaboration and partnerships, and provide an opportunity for the state to make strategic investments in how families access food in their communities and at the same time improve the resilience of the local food supply chain. I would take-- I would like to offer AM380 as a committee amendment that would replace the original content of LB661. There are no substantive changes to the original language. It simply cleans up the language and provides authority to the Department of Health and Human Services to administer the grant program or to contract with a third party for administration. Thank you and I respectfully ask for your support of LB661.

HANSEN: OK. Thank you. Are there any questions from the committee? Senator Riepe.

RIEPE: Thank you, Senator Hansen. So I noticed in your handout that you shared it looks like Lincoln and Omaha are both about a million and a half.

IBACH: Um-hum.

RIEPE: And then if you look at Auburn and it goes to $25 million [SIC].

IBACH: Yeah.

RIEPE: I just-- that seems like a significant [INAUDIBLE].

IBACH: Difference in those.

RIEPE: It's on the very last page-- project response.

IBACH: Are you talking about the amount that was awarded or the $1,500?

RIEPE: Well, I'm just going on what's listed in here. It's under "Project Response - Auburn, NE." First bullet point says, in the time that I've had to look at it, says 25 million [SIC] 923. I'm just-- I'm

just trying to figure out and I look at it in terms of the number of people served compared to Omaha and Lincoln I'm kind of going like it's an awfully big number, 25 million. I'm sorry. I'm sorry. I'm. I'm sorry. It's 25,000.

IBACH: It's $25,000. OK. I was making-- maybe making--

RIEPE: Yeah.

IBACH: Thinking that the point wasn't in the right place.

RIEPE: OK. I'm settled down now.

HANSEN: [INAUDIBLE] was going to blow up.

RIEPE: I thought it was $25 million. I'm kind of going like some [INAUDIBLE]

IBACH: Lucky city.

RIEPE: [INAUDIBLE] OK. I'm sorry.

IBACH: Thank you.

RIEPE: I'm sorry, Mr. Chairman.

HANSEN: That's fine. If I can, the language in the bill and maybe somebody, I don't know, from the department is here, can we say there's here-- hereby appropriated $2.5 million?

IBACH: Can we say that?

HANSEN: I don't know. Because usually I always thought the language we always used was is the intent of the Legislature transfer $2.5 million from the General Fund to the department with the intent of creating a grant program. Because I don't think-- can we directly appropriate funds like that? I always thought we had intent to bring an A bill to the Appropriations.

IBACH: That's a very good question.

HANSEN: Maybe I'm missing it because I always thought that's what they did in the past for stuff. Is not?

IBACH: That's a really good question. I'm still new here.

HANSEN: Maybe I'm [INAUDIBLE] making it up.

IBACH: No, but that's--

HANSEN: But maybe not. I would just check on that to make sure.

IBACH: OK. OK.

HANSEN: Because otherwise, it sounds like an appropriation bill.

BALLARD: I think it is like [INAUDIBLE].

Speaker 1: I think it's [INAUDIBLE] because I don't think we can directly appropriate funds from the General Fund. I think usually what we say, I think, it's the intent of the Legislature to transfer this to the General Fund with the intent of doing whatever. And then you have to go to Appropriations with an A bill--

IBACH: So clean, yeah.

HANSEN: --so you create it, I think. I don't know, but maybe not. So it's something to check on.

IBACH: I will. Thank you.

HANSEN: Yep.

IBACH: I will do that.

HANSEN: Any other questions from the committee? All right. Seeing none, are you going to stay to close?

IBACH: Um-hum.

HANSEN: All right. We'll see you then. So with that, we will take our first testifier in support of LB661.

GREG FRIPP: Good afternoon. My name is Greg Fripp, G-r-e-g F-r-i-p-p. I'm the founder and CEO of Whispering Roots Inc, which is a 501(c)(3) nonprofit located in Omaha. Our motto is "Grow, Feed, Educate"; grow healthy food, feed hungry people, and educate communities. We operate in both rural and urban communities and provide services and programing such as emergency food logistics; emergency food delivery and distribution; culinary nutrition education; STEM education for preschool up to the four-year college level; food pharmacies, which is using food as medicine; mammography nutritional support; prenatal

nutritional support; economic development and the like. We serve a diverse group of clients, including clients such as children, senior citizens, veterans, natives, immigrants, expectant mothers, school districts, homeless, and more. Before founding Whispering Roots, I served as-- I served our country as a top ranked military logistics officer and also spent time in leadership roles in the corporate sector. As Whispering Roots is a recipient of a food security and innovation grant, I'm testifying in support of LB661, as I believe its passage would make it possible for organizations to provide critical service to rural and urban emergency food clients and people in need that access emergency food via nontraditional means and therefore have a tendency to fall through the cracks. According to Feed in America, one in ten adults and one in seven children in Nebraska are food insecure. People in Nebraska reported needing an additional $89,964,000 to meet their needs. The effects of the supply chain disruptions, inflation, the bird flu, etcetera, have placed added pressure on these struggling families, making it even more difficult for them to find and afford nutritious food. As the leader of an emergency food-- emergency food logistics organization that provides not only food but also supply chain infrastructure to and supports more than 31-plus organizations, I have personally seen demand for our services skyrocket, while donations of food have decreased dramatically across the entire sector. Prior to COVID, we were distributing roughly 2,000 to 2,500 pounds of emergency food per month. I had more than 2,000 pounds of emergency food on one food pallet that I was moving in our distribution warehouse this morning. In the last two years, Whispering Roots has seen a greater than 7,100 percent increase in demand for our programming and products. Last year alone, we provided more than 2.8 million pounds of emergency food to our clients in the community. The importance of this type of legislation and funding cannot be overstated. I tend to fly our organization under the radar and try to keep a low profile, but I feel strong-- so strongly about serving the people of Nebraska that I believe it is my duty to do everything I can to try and help secure funding for people in need in this state. The funding that we received is helping to create a new food, nutrition, and logistics hub that will allow us to expand our capacity to serve more organizations, provide more refrigerated and freezer storage space, purchase more nutritious emergency food, provide more nutrition education, be more efficient in our operations, and allow us to grow the organization. If you're wondering if those dollars are being well spent and if they're having an immediate impact, I'll share one example with you. Prior to receiving our funding and moving to our new distribution food hub, it

would take us approximately three hours to complete our community organization choice-- choice food distribution. That's where organizations get to come in and choose food that's appropriate for their clients. After moving into our food hub, acquiring new equipment, and designing a new process, that same three-hour distribution now takes us roughly 57 minutes. If the funding can do that for us, I wonder what else it can do. I believe in respecting other people's time so I'll close with this. Hungry people are hungry people. If we live-- if you live in rural, in a rural area or an urban area, hunger hurts the same and it needs to be dealt with. If we work together, if we collaborate, if we share innovative ideas and make resources available, we can make a difference. We can have an impact and we can get this done. Thank you for your time and I'll take any questions.

HANSEN: Thank you for coming to testify. Are there any questions from the committee? Senator Riepe.

RIEPE: Thank you, Chairman Hansen. It seemed to me on the SNAP program it was-- I'm throwing out some numbers so correct me where I'm off here, I think it was 138 percent of poverty level. And then when COVID hit, it went up to 165, something in that neighborhood. But now it's dropping back. Does that exacerbate your food problem? Is that part of the reason?

GREG FRIPP: Yeah, it really is. I mean, during COVID we saw individuals in our lines that we'd never seen before, people who had never asked for food. Those people had gone off our rolls, but now they're coming back as prices have gone up and then SNAP, SNAP reimbursements, things are going down. I do believe that there are some folks that are coming behind me that are going to speak specifically to SNAP, but that does cause more problems for us. We tend to see those people in their lines again.

RIEPE: OK. Thank you. Thank you, Mr. Chairman.

HANSEN: Yes. Senator Hardin.

HARDIN: Thanks for being here. How will this be helpful in terms of what you do with produce, fresh foods versus canned goods? Can you speak to those different kinds of food?

GREG FRIPP: Sure can. We have-- we tend to focus on the fresh produce. That's one of our specialties that tend to be more expensive for

people to purchase and access. What this allows us-- what it allows us to do personally is provide more storage, more ability to move food, cross stock, bring in semi loads of food, and then distribute that out into the community. The majority of organizations that we work with are folks that are nontraditional, meaning they don't have the infrastructure to do what we do. They're just in time distribution type organizations where they need to get the food today and then they go out and distribute it that same day. They don't need large refrigerators and docks. They need someone who provides that. And so that's what the funding is allowing us to do. Grabbing ahold of the warehouse that we have in Omaha was a huge win for us. That means that we can now provide more of those services to people who don't need to be able to take a semi load of food, but they need the food that comes on that semi. So these types of funds allow organizations to be able to do that and also allow some of these smaller organizations to maybe have some coolers and "reevers" and freezers on site where when we send them that food, they can store it a little bit longer. Most of our food is just in time. You have very limited time on produce, very limited time on things like protein, dairy, things like that.

HARDIN: That's helpful.

GREG FRIPP: Yeah, You tend to not see the people get lost in the gaps are the ones who don't qualify to receive food from other organizations. They're nontraditional. So they don't have trucks, they don't have lockers, they're not food pantries, but they're feeding a lot of people. And those are the ones that we see who need us to be flexible in terms of how we provide that food.

HARDIN: There is a real shelf life here.

GREG FRIPP: There is a real-- I mean, we get food. Our trucks are coming in at 7:00 in the morning. I mean, I'm up at 3:00. I'm at the dock by 6:00. Trucks are in by 7:00. And we get that food and it's in and it's gone either that day or it's gone during that week or within the next few days. We don't hold fresh produce longer than seven, and that is a hard thing for these organizations that need good, quality, nutritious food but don't have the ability to store it. We serve as that conduit for them.

HARDIN: All right.

HANSEN: Any other questions? Senator Riepe.

RIEPE: Thank you, Chairman Hansen. What are your hours of operation and are you five days a week, seven days a week?

GREG FRIPP: So we are-- normally are-- we're there by 6:00. And the staff trucks come in and start at 7:00 and then we go all day. Because in addition to do food distribution, so we close-- some of our distributions happen after 4:00 in the day, depends upon our clients. We have some folks who come to us, but then we also do emergency food distributions where we go out and do food delivery to folks who don't have the ability to come and pick up from us. So we'll deliver to them. So we are basically five days a week and we also do weekends if we have special needs because we support different organizations. We support things like--

RIEPE: Do you coordinate that with Meals on Wheels?

GREG FRIPP: So we don't work directly with Meals on Wheels, but we have started having conversations with Meals on Wheels. During COVID, we also handle all of the emergency food distributions for Douglas County Health Department, COVID positive, and COVID quarantine. We took all of those folks and delivered food to them as well.

RIEPE: OK. Thank you. Thank you, Mr. Chairman.

HANSEN: Any other questions? So-- so when you say organizations that go through you, are a lot of those like churches?

GREG FRIPP: We have churches. We have immigrant organizations. We have homeless organizations. We have just other nonprofits who provide food but don't have storage capacity. We handle all that for them, and we're growing. So those organizations come to us and get food that's specifically culturally appropriate. We have what's called choice. So they come and they pick what they need for their individuals so we have less waste, which is a very important part of what we do by them being able to select the food that they need. That means that they're not getting things that will otherwise go into the trash. And that's really, really important, especially when we're dealing with different cultures. We serve a lot of varieties of languages, different folks from around the world. We handle pretty much all of them. Difficult. It's challenging. It's not for everybody. Intestinal fortitude.

HANSEN: So thank you for what you do.

GREG FRIPP: Thank you.

HANSEN: Seeing no other questions from the committee, thank you for your testimony.

GREG FRIPP: Thank you.

HANSEN: We'll take the next testifier in support of LB661.

TINA ROCKENBACH: Good afternoon,--

HANSEN: Welcome.

TINA ROCKENBACH: --Chairman Hansen, members of the Health and Human Services Committee. My name is Tina Rockenbach, T-i-n-a R-o-c-k-e-n-b-a-c-h. I'm the executive director for Community Action of Nebraska. We are the state association representing all nine of Nebraska's Community Action Agencies serving all 93 counties. I'm here to testify in support of LB661 in its effort to appropriate funds for grants addressing food security. Our Community Action Agencies all work daily to address food security with our traditional food pantries, mobile food delivery pantries, and food programs for seniors. Our network prides itself on finding innovative ways to address disparities such as access to food. Across Nebraska, we successfully operate 47 traditional food pantry locations. During the pandemic, the success of the mobile food pantries in the rural areas prompted some of our agencies to find ways to keep this as a permanent option to reach more food deserts in remote areas. While lack of food may be only one reason that brings an individual or family to our door, it allows us to sit down with them to see what other ways we can help them get out of their current situation. Often, our food distributions allow us the opportunity to see new faces and to reach areas that we might not get much requests from. In federal fiscal year '22, our statewide network distributed almost 1.3 million pounds of food directly to over 141,000 participants through these food pantry distribution systems. Additionally, The Gathering Place operated by our Lincoln agency serves ready-made meals to anyone in need just two blocks from the Capitol, no questions asked. In FY '21, this location served almost 35,000 individual meals. Everything we do to increase food access to Nebraskans requires resources. Our agencies have great relationships with the Food Bank of Lincoln, the Food Bank of the Heartland, local grocery stores, independent meat and produce vendors, as well as many other locally owned businesses to procure necessary food supply to operate all of our locations. These partnerships have a storied history and we rely on each other. However, as the need increases, the resources are not increasing at a rate that coincides.

When our agencies are placing orders with the Food Bank or other sources, quantities are limited and the huge statewide demand also depletes items. Our agencies are constantly working to find alternative sources or simply investing more programming funds to purchase shortfalls at a higher price. Some of our agencies are only able to distribute what they are given and amounts are limited. Our agencies are looking to grow their food access programs in both capacity and service area. Several of our agencies applied for food security grants made available after last session. Only one agency was awarded, which was our Southeast Agency. The agencies that were declined funding for their programs were not given a reason. The remaining agencies are working to create programs that will partner with locally owned meat markets, grocers, and other niche vendors to supply products that are hard to get, such as produce and meat. Our agencies are also looking to make their food access programs more culturally inclusive with products that may not be commonly available, such as goat and lamb products. And I do want to make one small edit here on the list you were given. If you look on page 2, Southeast Nebraska Community Action Partnership was our one agency that was awarded. They actually were awarded a total of $34,700. So when you look at the bottom there on the $34,000 shortfall, that should be going [INAUDIBLE] Southeast and that was to grow one of their pantry options. They actually are taking it out and doing outreach with it quarterly in each of their six counties. And they're focusing on areas where they-- that they know are disparaged, but also they don't get a lot of requests from. And so they're able to go out there, no questions asked, deliver food, and then hand out more information about our services. So with that, we at Community Action would ask that you do support LB661 and these additional funds for nonprofits such as Community Action Network. And I'd be happy to answer any questions that you have.

HANSEN: Thank you for coming and testifying. Are there questions from the committee? All right. I may have one.

TINA ROCKENBACH: Sure.

HANSEN: So you get 34,000 and you're talking somewhere in that range, right?

TINA ROCKENBACH: Yep, at the Southeast Agency, yes.

HANSEN: Was that from the grant, the $2.5 million grant process?

TINA ROCKENBACH: The way I understand it, yes.

HANSEN: OK. Because I'm pretty sure we did another appropriation from ARPA funds of like 17 or 18, 17.5 million. Did you get anything from that at all? Do you know?

TINA ROCKENBACH: No.

HANSEN: OK.

TINA ROCKENBACH: No. The only agency that has gotten anything for food access through any grant funds that were awarded or appropriated last year was the Southeast Agency. The one-- the other ones who have applied, those are the only other ones that attempted.

HANSEN: All right. Well, thank you for that.

TINA ROCKENBACH: Yeah.

HANSEN: All right. Thanks for coming, too, appreciate it. We'll take the next testifier in support of LB661. Welcome.

RASNA SETHI: Good afternoon, Chairperson Hansen and members of the Health and Human Services Committee. My name is Rasna Sethi. That's R-a-s-n-a S-e-t-h-i, and I'm the policy analyst with OpenSky Policy Institute. I'm here to testify in support of LB661 because we think it is important to find innovative solutions to fighting food insecurity throughout Nebraska and because it is vital to support local economies. There is no question that food insecurity continues to be a challenge in Nebraska. According to Feeding America, nearly 190,000 Nebraskans face food insecurity. In fact, in December of last year, the Food Bank of Lincoln found that they were serving as many people as they were at the height of the pandemic. This means that although the effects of the pandemic are slowly dissipating, food insecurity remains high. So funding provided by LB661 would support innovative solutions to address the growing need for food in Nebraska. An example of a current recipient of these funds, which were previously allocated from ARPA dollars, is the Nebraska Extension's Double Up through Bucks Program. This program was a one-to-one voucher program that turns every SNAP dollar into an additional dollar to purchase local healthy produce. Not only has this program seen notable success with a redemption rate of 91 percent, but with locations throughout the state of Nebraska, this program is accessible in areas of the state considered food deserts. A food desert is defined as an area where a large proportion of low-income residents have low access to grocery

stores or supermarkets. Therefore, this program has a multipronged approach to addressing food insecurity in the state of Nebraska. This is now-- not the only program that has benefited from receiving funds from the Food Innovation Food Systems Innovation Grant. Several others have received funding to address food insecurity in unique ways. For these reasons, OpenSky Policy Institute urges you pass LB661 to help food insecure Nebraskans and support local economies. Thank you. I'll take any questions.

HANSEN: Thank you for coming to testify. Are there any questions from the committee? Seeing none, thank you very much. We'll take the next testifier in support.

SUSAN RICHARDS: Good afternoon.

HANSEN: Welcome.

SUSAN RICHARDS: My name is Susan Richards, S-u-s-a-n R-i-c-h-a-r-d-s, and I am here on behalf of Emerson Grocery Cooperative's Board of Directors. I would like to read the following into testimony: Emerson Grocery Cooperative, doing business as Post 60 Market, supports LB661 which creates a program to award grants to nonprofit organizations for regional or local capacity and food security. We recently opened our grocery store, but are still looking for ways to reduce costs and help provide food to the area around us. We have several communities within 10 to 15 miles that have no grocery store. Some have C-Stores, but not fresh fruits or vegetables. Emerson Grocery Cooperative would be interested in being part of the process by being a hub or locker where we bring food in from our distributor and supply it to other stores in smaller quantity. We currently have the capability to do online ordering. We are lacking in cold storage space for produce and frozen items. To increase this capacity would cost about $75 to $100,000-- $75,000 to $100,000. Emerson Grocery Cooperative has already been in talks with a C-Store in Wakefield that is expanding and wants to increase food offerings to their customers. Allen has a similar style store that we may be able to offer produce and fruit at a more affordable cost. Walthill recently reopened their grocery store and wants to expand fresh fruit foods. In addition, Macy is looking to bring more fresh foods to their town. Emerson resides in three counties: Dixon, Dakota, and Thurston, and a part of one reservation. Our LMI is greater than 50 percent, and Thurston is one of the poorest counties in the nation. This grant would help the rural northeast corner of Nebraska by providing resources to bring fresh produce to areas that are currently underserved. It would help our cooperative to

increase the amount of food brought in and share the cost of freight shipping with smaller stores who would use this hub. This could also bring a more stable food supply to an area that has a large elderly population with limited transportation. This grant would help those people have access to a better food supply. Thank you.

HANSEN: Thank you for coming to testify. Are there any questions from the committee? Yes, Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you for your testimony. I'm a little unclear on your-- on your business. Are you a (c)(3)?

SUSAN RICHARDS: No. We are a cooperative grocery store.

M. CAVANAUGH: OK. Because I ask because I think this is a granting program to nonprofits. So I just wasn't sure. I appreciate very much your support of this. I just wasn't sure if this was something that you would be able to participate in.

SUSAN RICHARDS: We're not a nonprofit, but we're able to help distribute food.

M. CAVANAUGH: OK.

SUSAN RICHARDS: Whatever they don't get themselves from their own shipment, we could order and have shipped in.

M. CAVANAUGH: OK. All right. Thank you. Appreciate it.

HANSEN: Seeing no other questions, thank you for coming to testify.

SUSAN RICHARDS: Thank you.

HANSEN: We'll take our next testifier in support of LB661.

TOM VENZOR: Good afternoon, Chairman Hansen and members of the Health and Human Services Committee. My name is Tom Venzor, T-o-m V-e-n-z-o-r. I'm the executive director of the Nebraska Catholic Conference, and we want to thank Senator Ibach for bringing this important bill to help address some of the food insecurity issues that you've already been hearing about. The Catholic Church in Nebraska runs two major social service agencies: Catholic Charities of Omaha, which serves in the Archdiocese of Omaha, covering Omaha and 23 counties throughout northeast Nebraska; and Catholic Social Services of Southern Nebraska, which serves in the Diocese of Lincoln, which

covers all the territory of Nebraska, south of the Platte River. This, of course, is in addition to the countless charitable works that are done at the parish, school, and family level. Between our two agencies, they provide services such as emergency cash assistance, immigration legal services, refugee resettlement and employment services, mental and behavioral health services, microbusiness and asset development services, family strengthening services, and transitional housing and support for women and children fleeing domestic violence, human trafficking or experiencing a crisis pregnancy. For each agency, each one of these agencies, our largest charitable work is our emergency and supportive food services. To provide some context for Catholic Charities, in 2019 their food programs served 55,000 people. In 2020, they served 134,000 people. In 2021, they served 222,000 people. And just last year in 2022, they served over 289,000 people with 2.1 million pounds of food. So in just short-- in just three short years, the number of people being served has grown by nearly 400 percent for a lot of the reasons that you've heard already prior to me. As for Catholic Social Services in the fiscal year 2021-22, CSC provided 306 tons of food throughout their Lincoln, Auburn, Hastings, and Imperial offices. Specifically, the Hastings office runs five different food routes each week throughout south-central and southwestern Nebraska communities ensuring food access to our rural Nebraskans. And the Hastings office alone distributed over 200 tons of food during that fiscal year. LB661 would be an important legislative strategy for helping with regional and local capacity and food security for Nebraskans across the state, which Catholic Charities and Catholic Social Services strive to daily undertake in their charitable outreach. When we review legislation like LB 661, two principles in Catholic social teaching really guide our analysis and help us to see the need for the state to step up and further assist in this particular area. The first is the preferential option for the poor. Preferential option for the poor is a special form of primacy in the exercise of Christian charity. It affects the life of each Christian in as much as he or she seeks to imitate the life of Christ. But it applies equally to our social responsibilities. This love of preference for the poor and the decisions which it inspires in us cannot but embrace the immense multitudes of the hungry, which a bill like LB661 helps to address. The second is the principle of subsidiarity. This principle in part restrains unjustified and excessive intervention by the state into society to prevent encroaching on or crowding out the work of intermediate communities such as churches, volunteer groups, nonprofits, and private company-- companies that advance the common good in their own

unique ways. But subsidiarity also recognizes that sometimes local and intermediate institutions cannot fulfill some important need of the larger community by their own efforts and-- or are simply not the appropriate authority to do so. In these situations, this principle of subsidiarity counsels that it's appropriate and necessary for the state to assume proportionate responsibility for the matter at hand. And so that's where we believe with LB661 this is a bill that recognizes a preferential option for the poor who have difficulty accessing sufficient and nutritious food. And it also strikes the right balance that subsidiarity demands. So it recognizes the hard work being undertaken by charitable service agencies in the area of food insecurity; but without excessively intervening in their work, it provides the additional needed resources to further carry out that work that remains to be done throughout the state to ensure access to food. So for these reasons, we ask that you advance this bill and appreciate your time and happy to take any questions.

HANSEN: Thank you. Are there any questions from the committee? Seeing none, thank you.

TOM VENZOR: All right, easy enough. Thank you.

HANSEN: We'll take our next testifier in support of LB661.

ANSLEY FELLERS: Hello. Thank you, Chairman Hansen and members of the committee. My name is Ansley Fellers, A-n-s-l-e-y F-e-l-l-e-r-s. I'm here on behalf of the-- I'm here on behalf of the Nebraska Grocery Industry Association. We'd like to thank Senator Ibach for introducing this bill. I would just like to mention very quickly to address a couple of the questions. I think the language here is probably because this bill was sort of introduced last year, but as an ARPA request so it did go directly to Appropriations. So there was probably a little bit of miscommunication there. And I think it's definitely the intent should be-- should be made clear. And then to the question of the $17 million versus the 2.5-- the 17.5 versus the $2.5 million. Last year, this request came in as a $10 million request to food innovation and $10 million to food banks. At the end of the ARPA discussion, it was $17.5 million for food banks and $2.5 million for food innovation. So the folks you're hearing from today qualified for that $2.5 million they were meaning actually went to the food banks, although I think if they were here to tell you, they would tell you they haven't received that yet. And that's part of-- going to be part of my testimony too. I also wanted the committee to know that the food banks, there's another bill out there to provide more funding for the food banks. So what

we're doing here obviously is related but different and separate. While many individuals and companies continue working to find ways of delivering affordable groceries to rural communities, in some of our most remote areas this continues to be a challenge. Innovative approaches are needed to figure out how to make groceries affordable. Such innovation grants, we believe, could be used to do things like help establish food distribution hubs, specifically by helping existing independent grocers adopt online ordering, including SNAP and WIC capability and pay for transportation staffing costs as well as refrigerated and frozen lockers to get food to satellite communities without grocery stores. These are truly one-time ideas. The idea is to get money out to these to provide these things. And I think that's why you heard from the Emerson Cooperative. So the Emerson Cooperative was who the University of Nebraska targeted last year to be kind of a food distribution hub. So there is a grocer there that has an affiliation with a larger wholesaler. So they have that-- that relationship already. They can get a lot of food, a variety of it, at an affordable price; and then they would be the hub that could provide food to kind of those surrounding communities. Also, I think in Senator Ibach's, just to clarify, too, I think in the amendment, the word "nonprofit" is struck, but we need to verify that. It wasn't in there last year. So we just need to make sure it's not in there again. We do support the amendment in another way, Senator Ibach introduced, which strikes language we believe to be irrelevant to the goals of LB661. The underlying language could be interpreted and we believe it was last year interpreted to diminish the importance of looking at all options when it comes to producers, suppliers, and retailers to ensure greater efficiency and that every consumer, especially those with limited incomes, have access to safe, affordable, and nutritious food. It's important to mention the timeline for the grant program last year was really a struggle. Grantees were given exactly one month to turn around their applications. The grants were to run through June. And as of January 1, I know a lot of grantees still hadn't received dollars. To access some of the items for the food hub idea, for instance, I know other faces-- others faced this issue, we were hampered by backlogged supply chains. So the idea of going from maybe January of this year to June and getting all the supplies that were necessary I know was probably discouraging to the department. Any flexibility that can be afforded to the department and by the department would be very much appreciated. A variety of foods need-- food needs exists across our state, and they need to be addressed in a variety of ways. Putting dollars forward for food innovation and capacity building could and should benefit local businesses and consumers. The same local

businesses are also the access point for WIC and SNAP customers, sponsor school summer meal programs, and donate to local food programs. For this and many reasons, we encourage the committee to advance LB661 with the proper language. And I appreciate your time. I will answer any questions you have.

HANSEN: Thank you for your testimony. Are there any questions from the committee? Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you for being here and for the clarifications. I appreciate that. And I had heard that we are-- we are struggling to get some of that money out that was allocated last year to our food banks and distribution centers. So thank you again for highlighting that. I don't necessarily see anybody from the state agency here, but it would be great if they can come in and explain what is going on there. What I wanted to ask you about from the grocers' standpoint, and I very much appreciate that the grocers are coming in support of this. But from an economic development standpoint, would it benefit the grocers and the local communities if we expanded the SNAP eligibility?

ANSLEY FELLERS: So, yes, actually we generally support expanding SNAP eligibility. It obviously is a win-win in our opinion versus other food distribution efforts. We very much support reducing or doing what we can to reduce the cliff and maybe make it a step and that is helpful to our employers too.

M. CAVANAUGH: In an ideal world, I don't want to put words into your mouth so you can say if you agree with this or not. But in an ideal world, programs like these would be that stepping point where families, if we increased SNAP eligibility and they could take those pay increases and work and then they knew that this program existed if they ever needed it, instead of having to rely on it now instead of taking those pay increases.

ANSLEY FELLERS: Absolutely. Anything that [INAUDIBLE] works with and maybe through local businesses and existing businesses, we definitely, definitely like and support.

M. CAVANAUGH: Thank you. I appreciated learning about the Emerson Grocery Cooperative. So they are a food distribution center in a lot of ways for those other nonprofits, correct?

ANSLEY FELLERS: Not yet.

M. CAVANAUGH: OK. That's the intention.

ANSLEY FELLERS: Yes. That would be and really the idea there and actually, I know someone is here from the university testifying in a neutral capacity that could talk a little bit more about the cooperative model and what's happening across the state with that.

M. CAVANAUGH: OK.

ANSLEY FELLERS: I think for us, allowing-- it's kind of for Emerson and stores, I mean, it's a how much there is--

M. CAVANAUGH: I got time.

ANSLEY FELLERS: a struggle-- I know-- there's a real struggle in rural communities, as all of you can imagine, as folks age out-- it's just like in agriculture, right, people are aging out of businesses. It's a struggle to sell them and they're looking for creative ways to keep a store in town. And a cooperative model has worked in several places now. And what we really want to do, whether it's a young family that's coming into that store in a rural community or a cooperative model, our goal is to help pad those margins in those stores that are very tight anyway by giving them opportunities to serve more customers. So on a very basic level, this is also just an opportunity to get more customers to that small store, really, you know, give them more of a base to serve and help them with the initial startup cost of maybe getting that online ordering system, SNAP and WIC online set up, a truck, you know that they would have to obviously staff but maybe a refrigerated truck and then those lockers in those satellite communities, stuff like that that are really just a up-front, a high up-front cost so that-- that makes sense.

M. CAVANAUGH: Yeah. Thank you.

HANSEN: Any other questions? I think there's already an organization, I think called the Nebraska Food Co-op. I think they're-- it's-- because I think we are a drop-off site for them and they kind of go throughout the whole state. And it's local growers, I think, can sell their product online, almost like an online farmer's market.

ANSLEY FELLERS: Yep.

HANSEN: And just think if the state was ever going to going to help out in some way, maybe using them as a-- as a vehicle to-- for people to donate through, you know, for some of those growers who are looking

to donate and then drop off at drop-off sites or-- or food banks. I think that would be kind of a unique kind of way of approaching that and keeping everything local, too, so it's just local growers in Nebraska too.

ANSLEY FELLERS: Yes, absolutely. I think those what we're talking about the locker idea, North Dakota, Iowa has a few pilot projects. The problem is right now with the supply chain, accessing things like that is actually really difficult. Even if you have the money to buy them, just getting them to the state is a struggle. But once that supply chain levels out a little bit, we think that that's a really good idea. Whatever, whoever it is serving that. I mean, we obviously have a-- a bias toward the businesses that we represent.

HANSEN: Sure.

ANSLEY FELLERS: But, yeah, great idea.

HANSEN: It makes sense. OK. Thank you for testifying.

ANSLEY FELLERS: Thank you.

HANSEN: Is there anyone else-- anybody else wishing to testify in favor of LB661? All right, seeing none, is there anybody who wishes to testify in opposition to LB661? Is there anybody who would wish to testify in a neutral capacity? Welcome.

CHARLOTTE NARJES: Hi. Good afternoon. Thank you for having us here today and having this [INAUDIBLE] bill. My name is Charlotte Narjes, C-h-a-r-l-o-t-t-e N-a-r-j-e-s, and I am a Rural Prosperity Nebraska Extension educator and the associate director of the Nebraska Cooperative Development Center, NCDC, at the University of Nebraska Department of Agricultural Economics. My testimony today presents initial information on the topic of a potential cooperative hub distribution that is relevant to LB661. I am acting in my own personal capacity with experience working with rural cooperative grocery stores, and I am not representing the University of Nebraska system or the University of Nebraska-Lincoln. So what you hear from the university, that was the disclaimer. NCDC has been helping form cooperative businesses for over 20 years. This includes those interested in grocery store transition. We have been contacted by 48 communities to explore a cooperative grocery store during that time, and mostly in the recent years, a lot due to things that Ansley shared earlier. Not all will move forward or open as a cooperative. In the

last two years, we have assisted four stores in open as a cooperative and another three have opened or are opening with community support. The communities that we work with all have similar reasons. It is about quality of life, allowing elder residents to remain in the community and attracting new residents. They want access to affordable food and goods. They want access to locally produced food and they want access to healthy foods. And they need help in containing costs which improve access. One of the biggest challenges rural grocery stores face is identifying a supplier. When a store is smaller, it will need to purchase food from an existing store that must acce-- assess a surcharge. We describe that as a B store needing to purchase from an A store and that makes it more difficult for the store to be sustainable. This has led a team of us at UNL to propose a cooperative food hub that is modeled after a grounded North Dakota model that has seen success. A visual-- visual representative-- representation of that model is included in the full written testimony behind at the last pages of this-- of my testimony. In this model, it will include local foods, but also needs a partnership with wholesale food suppliers that can provide goods such as toilet paper that may not be produced locally. Briefly, the local food hub would include an existing food retail store with an existing relationship with a food wholesaler located in rural communities and located near a community without a grocery store. The largest store would serve as a redistribution hub. The smaller stores will be delivery points of groceries from the hub store or either local or smaller stores. Community residents would thereby be able to access local foods, dry, refrigerated, frozen food products and toilet paper. LB661 was-- with the proposed amendment has the potential to fund a pilot cooperative food hub that can bring healthier food options to Nebraska's rural communities. Thank you for the opportunity to testify.

HANSEN: Thank you for coming to testify. Are there any questions from the committee? Seeing none, you're off the hook.

CHARLOTTE NARJES: All right. Thanks.

HANSEN: Thank you for coming. Is there anybody else who wishes to testify in a neutral capacity? All right. Seeing none, we will welcome Senator Ibach back up to close.

IBACH: Thank you.

HANSEN: For the record, there were five letters in support for LB661, zero letters in opposition or neutral.

IBACH: I have to say, I do appreciate bills that are good bills that don't get any opposition. So--

HANSEN: So do we.

IBACH: I think Ms. Fellers alluded to-- to your question and answered that for you. And then as far as appropriating, I think we can appropriate in the biennium, but the-- the intent language is for future years. Does that make sense? OK. So anyway, I would like to thank you all for listening for considering LB661. And that's all I have for you today.

HANSEN: Are there any questions? Senator Riepe.

RIEPE: Thank you, Chairman. One of the questions I have, is this coordinated in with the school lunch and free lunch and breakfast programs?

IBACH: Not that I know of.

RIEPE: Because I know at least in Ralston, we would send food home with the kids for weekends.

IBACH: Not that I'm aware of.

RIEPE: OK.

IBACH: This is more just more distribution from central location to food pantries.

RIEPE: [INAUDIBLE] struggle to just figuring out how do you coordinate it or to what degree without overregulating it. But thank you. Thank you for being here.

HANSEN: Any other questions? Seeing none, thank you.

IBACH: Thank you.

HANSEN: All right. And that'll close the hearing for LB661, and we will open it now for LB500 and welcome Senator Cavanaugh to open.

M. CAVANAUGH: Oh, that's me.

HANSEN: Which I think is like you're-- this is like your eighth bill today. Right?

RIEPE: [INAUDIBLE]

M. CAVANAUGH: Oh, good afternoon, Chairman Hansen and members of the Health and Human Services Committee. My name is Machaela Cavanaugh, M-a-c-h-a-e-l-a C-a-v-a-n-a-u-g-h, representing District 6, west-central Omaha, Douglas County. I'm here today to introduce LB500. This is what some might call a simple bill, Senator Ballard. So for those of you that are new to the Legislature and the committee, this is a follow-up to the bill that was my personal priority last year, LB376, family support waiver for children with developmental disabilities. Basically, we passed this bill last year. It had a timeline on it that is proving to be from the the-- so when we do a new-- a waiver, the department has to travel around and do town halls and community public forums for feedback. And during that time, it became apparent that we had not allowed for enough time for this waiver. And so this is really a cleanup to extend the timeline on this. The committee passed and the Legislature passed an additional bill. Well, actually, part of LB376 was another bill that was-- we had amended into it that basically created a study on our developmental disabilities and our waiver program. And the idea with putting a time limit on this particular waiver was that the-- it was our intention as a Legislature and a committee to work with and ask the department to come up with a better plan, a long-term plan, instead of a patchwork of waivers around developmental disabilities in our state. So while we saw the urgency for the family support waiver to help those families that have children that are currently on the developmental disabilities wait list, until they turn 18, they do not qualify-- they might not qualify for Medicaid because their parents make too much money. And by too much money, a family of four, I believe it's something around $50,000 and healthcare bills for a child that is on this waiver could be $100,000. So too much money is-- is not, like, a real indicator of that. It's just the waiver itself allows the family's financial situation to not be taken into account so that that child can qualify for Medicaid before they are 18. So that's what the waiver did in LB376. This bill extends the timeline to allow the department the much needed time that they need to extend the waiver. It also-- we put a financial cap on the bill last year and basically removing-- the financial cap on the bill was limiting the number of people that could be eligible for it. Because we have the money and this is a short-term endeavor because we are asking the department to create a broader plan around developmental disabilities and-- and waivers and supports, I would like for us to remove that cap. I think it hinders their ability to deliver the services to those that need it

and that they might have to leave-- and it's a very small number that would have been left out. But to leave, you know, 20 or 30 families out because we put this actual number restriction in. So that's basically what this bill does. I kind of went off script on my remarks because I kind of thought that maybe I would just explain it a little bit more. But I would take any questions.

HANSEN: Thank you. Are there any questions from the committee? Yes, Senator Riepe.

RIEPE: Thank you. Thank you for being here.

M. CAVANAUGH: Yes,.

RIEPE: The one I'm trying to get clarification here on one in the fiscal note, it talks about the waiver now extended indefinitely, which means if the waiver-- there is no longer a waiver. It's permanent. It's-- it's the second page on that fiscal note, second paragraph down under explanation estimate the General Fund cost in fiscal year '26-27 biennium will increase due to the waiver now extended-- extending indefinitely. I'm just for clarification, when it says waiver, which means extended defenses indefinitely, so to me, my interpretation that means there will no longer be a waiver. It'll just be fixed in the-- into law. Am I reading that wrong? Do you see where I'm at?

M. CAVANAUGH: Well, it's called, I mean, a waiver. It's called a waiver by the federal government. That's what the name of it is.

RIEPE: OK, so that's their language.

M. CAVANAUGH: Yes, but I'm sorry. I am not entirely clear on what the fiscal note is-- is trying to say.

RIEPE: It's the-- I know you're a fiscal hawk.

M. CAVANAUGH: I am a fiscal hawk. I know. I'm trying to find the link where the link-- where it references the language within the bill itself.

HANSEN: In the fiscal note, if I may--

M. CAVANAUGH: Yeah.

HANSEN: --they're pretty much saying that with what they have in the next biennium there's not going to be an incurred cost because it's going to be-- they're going to be implemented later.

M. CAVANAUGH: Oh.

HANSEN: And so it will be '26-27 is when we'll start seeing the cost kick in.

M. CAVANAUGH: Before we would see a-- yes. So, yes, again, as actually the previous bill, well, we would be applying for a waiver. So this would tie the hands of the Legislature in '26-27 to ensure that we are having those-- that money in our budget. Although our hands are already tied from last year, we tied the Legislature's hands through '26. So we did a three-year waiver. But it's become apparent that three years is not enough time for them to do anything with it. So this is changing the timeline, which change-- which changes out, extends out the timeline for the fiscal impact. But there's no new fiscal impact on this fiscal note. And what the fiscal note is saying is that there will be fiscal impact, but our notes don't go that far out.

RIEPE: I'm trying to learn more and more about ARPA. If--

M. CAVANAUGH: This was not funded by ARPA.

RIEPE: OK, because it runs out in '26 then.

M. CAVANAUGH: Right. So this wasn't funded by ARPA.

RIEPE: It was not.

M. CAVANAUGH: There was quite a fiscal dance last year around this bill. And I wish that I had Liz Hruska and Senator Stinner here to explain because I will do a very terrible job of explaining it. But there was quite the fiscal dance around this particular bill and fiscal note to ensure that we had the dollars that we needed and maximized ARPA as much as possible. But there was a lot within this bill that we couldn't use ARPA, so we had to use General Funds.

RIEPE: To me it's kind of like understanding TEEOSA.

M. CAVANAUGH: I feel like that as well.

RIEPE: OK. Thank you. Thank you.

HANSEN: Any other questions? I think you would pretty much be the same fiscal note that you had from last year for LB376, wouldn't it?

M. CAVANAUGH: Yes. Except for the final fiscal note for LB376, because we were doing that fiscal dance and we were trying to get it to be a specific amount, we ultimately had an amendment that restricted the number of kids that could qualify.

HANSEN: Yes. I thought you had an updated fiscal note [INAUDIBLE]

M. CAVANAUGH: And there should have been an updated fiscal note because, well, the A bill, there would have been--

HANSEN: I think it was $2 million state funds and 16 federal.

M. CAVANAUGH: I wish I could have my staff come.

HANSEN: I'm pretty sure that's what the fiscal note was. So I'm assuming that's what this is all going to be. I can only assume, but I'm assuming also the fiscal note now if you want to move the cap.

M. CAVANAUGH: In this biennium, nothing should change.

HANSEN: No, there should be zero fiscal note for this biennium.

M. CAVANAUGH: Right.

HANSEN: Not saying you can--

M. CAVANAUGH: And I do see to Senator Riepe's question we strike a three-year Medicaid waiver. It was my intention to extend the waiver, not to strike it. We strike three-year. So it's my intention to extend the waiver. So we'll have to have an amendment on the timeline not to have it be indefinite. You can't really do a waiver indefinite anyways when you apply for a waiver. It's for a certain number of years and then you have to reapply. So it would be you can either do a three- or a five-year waiver generally speaking. My intention was to create a five-year waiver. Sorry.

RIEPE: Thank you for that--

M. CAVANAUGH: Wow. It's taken-- I'm just moving real slow mentally today. I apologize. I talked a lot this morning, as you might have noticed. And now I'm just like talked out, getting there.

RIEPE: Is it a hangover from Valentine's Day?

M. CAVANAUGH: I wish, chocolate hangover.

RIEPE: Chocolate hangover.

HANSEN: That's right. So next week, you can just not talk at all.

M. CAVANAUGH: Oh, OK. [LAUGHTER] OK. So to summarize, this bill strikes the three-year of the waiver. It's my intention to have it be a five-year waiver. So we'll work on an amendment on that. And-- and everything I said before about the broader context of the intentions of this committee last year and creating a broader plan around family-- around waivers is still accurate. It's not indefinite waiver. It's a five-year waiver.

RIEPE: OK.

M. CAVANAUGH: So the fiscal impact now won't change from what it-- what we already allocated. It's we would be allocating for two extra years. Wow. I'm there.

HANSEN: If I can ask one question.

M. CAVANAUGH: Got there mentally. Yes.

HANSEN: So I didn't see-- so you're probably going to bring an amendment because you were talking about removing the cap. So that's not in this bill right now. Right?

M. CAVANAUGH: This does not remove the cap.

HANSEN: But you were talking about [INAUDIBLE]

M. CAVANAUGH: I would like to remove the cap because if-- if we have the money. But I think that's a conversation we can have as a committee if we, which I hope we do, move this forward, if we would want to bring an amendment to remove the cap on the number because it was my intention to remove the cap. But I, you know, fire hose of bill introduction.

HANSEN: OK.

M. CAVANAUGH: So I would like to remove the cap, which would potentially increase the fiscal note for this year. But it also might not increase it because we don't know how many people are on. And I want Director Tony Green to be proud of me. I'm going to say registry,

not wait list. I want us-- we-- we don't know how many are on the registry. And so without knowing how many are on the registry, I just don't think limiting the number makes a lot of sense because we, first of all, we might have fewer on the registry now because people move out of-- move out of state or they age out of the registry onto the waiver. But also if-- if we have 800 on-- 805 on the registry and we have 800 slots, I feel like that's probably not the intention of this committee or the Legislature. So that is a broader financial conversation I think we can all have together. But for today, this removes the time limit on the waiver.

HANSEN: Sounds good. All right. Any other questions just to make sure? Seeing none, we'll see you at close maybe?

M. CAVANAUGH: I mean, physically, yes. Mentally, it's a question mark, apparently. Thank you.

HANSEN: All right. So we'll take our first testifier in support of LB500.

EDISON McDONALD: Hello.

HANSEN: Hello.

EDISON McDONALD: My name is Edison McDonald, E-d-i-s-o-n M-c-D-o-n-a-l-d. I'm the executive director for the Arc of Nebraska, and we advocate for people with intellectual and developmental disabilities. We're in support of LB500. I think we look at it mostly as just a little cleanup bill. I did want to go through a little bit of the history, and I'm handing out our 2019 waiver study. We had really had a lot of questions about big issues, like how do we better address the waiting list? How do we better ensure quality services? How do we deal with kind of our gaps in services, especially around our aged and disabled waiver? And so I got together a whole bunch of experts to really talk through and dig through these issues in depth. And we came up with this study and a number of policy pieces in this study that the committee has really worked well with us on and that we've moved forward. And I just want to say there have been a lot of benefits as I kind of look back at some of the pieces around like clarification for notices, eliminating the vocational rehabilitation wait list, improving the waiver structure by adding the family support waiver was obviously a key piece, adding some extra wait list funds because we were really kind of caught in a Catch-22 situation where we weren't serving folks. And so then we were ending up with a number of

individuals with high needs. So we were really only able to serve fewer people, but those fewer folks had higher budgets. So yeah, so we've had a lot of benefits and this has kind of been a long venture and really kind of reshaping our waiver system. Then, as Senator Cavanaugh said, I'm really excited about this upcoming study. The family support waiver and the study are both set to come out around December of 2023. And I think that what that's really going to do is help to provide some of this broader insight and some of the outside expertise that we brought in this 2019 waiver study and really make sure that we've got more of that sort of comprehensive view because our waiver system is a nightmare. It is tremendously holey and really excludes a number of people with disabilities. And fiscally, it just doesn't make sense. It ends up in a structure that kind of forces us to spend more money on fewer folks. So yeah, it's been a-- kind of a long journey on this. I think as we look forward, one of the things that we didn't really get done in this study and that I'm hoping this new study will produce is really looking at behavioral health and IDD crossover. I think we've really seen some of those issues around IDD in children and family-- family divisions really kind of be eliminated. But now we want to make sure that we really work on that on the behavioral health side because that's another really costly, inefficient area. So with that, I just wanted to finish up by answering questions. So in terms of a waiver, a Medicaid waiver will typically be in three- or five-year increments. There are all sorts of waivers; 1915(c) is mostly what we use here in Nebraska. And so most of those are going to be three- or five-year waivers. And so this would go and ensure that we could go and actually get the full term, but it would still be a three-year waiver application. And then those waivers do technically end after that three- or five-year period, and then they have to reapply. With that, I'll close and ask for any questions.

HANSEN: Thank you. Are there any questions from the committee? Seeing none, thank you. We'll take your next testifier in support of LB500.

JULIA KEOWN: Good afternoon. My name is Julia Keown, J-u-l-i-a K-e-o-w-n. I am a parent of a child who is on a waiver in Nebraska. He's on the aged and disabled waiver. Also, I'm a native Nebraskan and a registered nurse here. I just wanted to say thank you to everyone for passing LB376 firstly, and then giving the-- giving Senator Cavanaugh what she needs to really fully implement this waiver. So what it means as a nurse and a mom who's got a kid on a waiver here in Nebraska, it's been incredible. It's been absolutely life altering for our family. We have primary insurance through my job. And then we have

the secondary insurance through the Medicaid waiver. OK? So what life looked like before the waiver was my son was always sick. We actually almost lost him in the PICU in Omaha. He was there for two weeks, almost died from human metapneumovirus. And then after that, he got on the waiver. We were able to get him the services that he needed. He got on physical therapy, occupational therapy. He started being able to crawl and walk and talk later than he should have, but the Medicaid waiver worked for us to get him where he needs to be. So this waiver as-- as we talked about, it, it can seem like a-- a fair amount-- a fair amount of money. Right? But when you are spending the Medicaid dollars to keep these kids out of the hospital to get them the primary care that they need, you're not then spending the Medicaid dollars to pay for huge hospital visits after not having primary care. So this is going to be fiscally responsible for Nebraska in the long run. So I just really appreciate you guys working with us on LB376 and passing LB500.

HANSEN: Thank you for coming to testify. Are there any questions from the committee? Seeing none, thank you for coming. Anybody else wishing to testify in support of LB500? Anybody else wishing to testify in support? All right, seeing none, is there anybody wishing to testify in opposition to LB500? Is there anybody wishing to testify in a neutral capacity to LB500? All right, seeing none, we'll welcome Senator Cavanaugh back up to close. By the way, this is highly unusual for our committee to be on bill number four out of five already.

M. CAVANAUGH: This is how-- I already introduced three bills across the hall that had zero opposition. It's like, mark your calendar, folks.

HANSEN: Yeah, I haven't read your letters yet.

M. CAVANAUGH: Oh.

HANSEN: So there is one letter for the record in support of LB500 and no letters in opposition.

M. CAVANAUGH: Way to keep me waiting, jeez. So the family support waiver, in addition to waiving Medicaid eligibility for some of these families that are on the developmental disabilities wait list and they can't-- their kid can't get Medicaid until they turn 18 because they make too much money. In addition to that, the family support waiver that we passed last year has a $10,000 allotment-- allotment to every-- every family that qualifies for family support. Now, not every

family on the family support waiver will need the Medicaid, the income eligibility waived, but every family will get the $10,000. Some of the families already qualify for Medicaid. So again, back to the fiscal dance that we had last year, the $10,000 is something that is part of the waiver process that the department has been working through and working through with families in these public meetings, talking about what services. So it's not just we don't just write a blank check for $10,000, but what services and service array would be included in what they can use that money for. And so this is an opportunity, as the last testifier spoke to, about being able to get access to some of those services that you might not otherwise have access to while you're waiting for your kid to get accepted on to the broader, more robust developmental disabilities waiver. So that's what we did. What this does is extends the timeline for the waiver to five years. Most waivers are three or five years, extends it to five years. We have a-- the division shall support-- shall put in an annual report for the program. So we put in a date of December 1, 2024. That's on page 3, line 19. And then the other thing that it does is has an evaluation. We had an evaluation date of December 15 of 2023. Because we're extending the timeline of all of this, I would also ask that we extend the timeline on the evaluation to 2025 so that we're not asking the department to be rushing through. I think the department essentially needs more time. So what this bill does is offers the department more time to do what we asked them to do last year, and I'll take any questions.

HANSEN: Any questions from the committee? I might have one question. So I see where you changed it. Of course, it maybe doesn't really matter. You changed it. 2023 to 2025. Does that--

M. CAVANAUGH: Um-hum. So that's that five-year. When we struck the three-year--

HANSEN: Yeah, you struck three-year. How come you didn't just replace it with five-year or does that matter?

M. CAVANAUGH: I don't know.

HANSEN: It probably doesn't matter because you have it where when it ends here. So it's just kind of a nuance I think.

M. CAVANAUGH: It-- it-- it might have been a drafting oversight on my part. But, I mean, if-- if it is, we can talk to the department about if it needs to be put back in at five years.

HANSEN: Yeah, [INAUDIBLE] does that but maybe [INAUDIBLE].

M. CAVANAUGH: They can't-- I don't think they can do more than a five-year waiver anyways. So yeah.

HANSEN: Well, I do appreciate your efforts.

M. CAVANAUGH: I appreciate your partnership in this.

HANSEN: We worked pretty good on that last year, me, you, and Senator Arch.

M. CAVANAUGH: We did. Senator Hansen and Senator Arch and myself that we could not have gotten this done without the teamwork of the three of us. And I will be forever indebted. Thank you.

HANSEN: Because there's not a whole lot of stuff we can agree on.

M. CAVANAUGH: Oh, I think we agree on a lot of things. There's just a lot of things we also don't agree on.

HANSEN: But I really appreciate your interest in that bill last year. I thought that was great actually.

M. CAVANAUGH: I'm a fiscal hawk. We like that, right?

HANSEN: That will end our testimony.

M. CAVANAUGH: Thank you.

HANSEN: That will end our hearing for LB500 and then we'll move on to LB421 and welcome Senator Kauth to open.

KAUTH: I like the fact that you have a little cheat sheet out here for the red, green, yellow. Good afternoon, Chair Hansen and members of the Health and Human Services Committee. My name is Kathleen Kauth, spelled K-a-t-h-l-e-e-n K-a-u-t-h. I represent District 31 in Millard and southwest Omaha. Thank you for hearing LB421. This bill addresses the responsibility of a public health director to issue directed health measures. The COVID-19 pandemic brought to light certain flaws in our system. One such flaw is the issue of who gets to restrict freedoms under what circumstances and to what degree. Public health directors held enormous power over individual liberties during the pandemic, such as the ability to force mask wearing, restrict business operations, in-person gatherings, school attendance, even how far

apart we were supposed to stand from each other. Public health directors acted in what they considered the best interests of the public, but as unelected bureaucrats, they should not have been allowed to issue directed health measures restricting personal liberties. LB421 changes the role of public health directors with regard to directed health measures from one of authority to one of advisement. It maintains the importance of the education and experience brought by public health directors, but redirects the responsibility of restricting personal liberties. This should also serve to redirect the ire of the public from the public health directors to the elected officials where it belongs. This is not mean there will never be another situation where liberties are infringed upon. It means that only elected officials should have the ability to restrict those liberties. They are directly responsible to the citizens who elect them. Should those citizens feel the decision is not in their best interest, the elected officials will face an accounting at the ballot box. This is a core tenet of our Constitution. Our liberties do not cease to exist because there may be an emergency. In fact, it is even more important to safeguard them in a time of crisis. Under LB421, public health directors will serve as advisers to the elected officials who oversee their department. The public health officials will present their case regarding the need for a directed health measure, the rationale and evidence and recommended guidelines for implementation. Their contribution stops there. The elected officials job is to assess the information provided, make and implement a decision. It is critically important, especially, especially in what may be an emergency to maintain our rights. Elections have consequences and the responsibility for decisions regarding citizen freedoms must lie with those elected officials. Thank you for hearing LB421 and I'm open to questions.

HANSEN: Thank you, Senator Kauth. Questions? Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you, Senator Kauth. So currently, most of the public health directors in the state have to get approval from the chief medical officer of the state and there is a question about some of the others in the larger cities. So does this take that away from the medical-- the chief medical officer?

KAUTH: That person would still have authority over the advice and the information, but that person is responsible to the elected official, the Governor, who appointed him.

M. CAVANAUGH: What-- OK. Oh, I'm sorry. So when you're talking about the elected official, it's not, it's not a local--

KAUTH: I'm talking about like-- we're, we're talking local, we're talking city and county.

M. CAVANAUGH: --OK.

KAUTH: So-- and, and in Omaha, we had the public health director--

M. CAVANAUGH: Yes.

KAUTH: --did a directed health measure in direct opposition to what the city and the county were saying that they wanted. So that was, that was a very big bone of contention. So to make it so that people are only being represented by those that they choose to elect.

M. CAVANAUGH: What-- that-- I don't, I don't believe that they were doing anything [INAUDIBLE].

KAUTH: In February, there was a mask mandate put in place by the director of the public healthcare.

M. CAVANAUGH: But I don't believe that was in conflict of what the city-county wanted. And they--

KAUTH: Yeah, it was. Mayor Stothert asked her not to.

M. CAVANAUGH: But they are-- they serve at the pleasure of those elected boards?

KAUTH: They do, but they--

M. CAVANAUGH: So if those elected boards disagree--

KAUTH: --but in that situation, there was a-- served as a city because there was a special compact between the city and the county. So there was literally-- there was a lawsuit put against this because there was no one who had-- no elected official had authority over that.

M. CAVANAUGH: But the, but the lawsuit was from the Governor, not from the city or the county.

KAUTH: No. The lawsuit was from three city council members. There was also a Governor's lawsuit, so there was, there was a lot going on.

M. CAVANAUGH: OK. And so the Douglas County public health director is employed by the Douglas County?

KAUTH: Correct.

M. CAVANAUGH: So who would be--

KAUTH: But that-- the Douglas County public health director has the ability to do a directed health measure. This would say that person has to present to that county board and they are the ones who make the decision.

M. CAVANAUGH: Right. I'm not understanding how-- so the-- Douglas County has a public health director.

KAUTH: Correct.

M. CAVANAUGH: And the public health director put in a directive health measure.

KAUTH: Right. Rather than--

M. CAVANAUGH: And the city, the city disagreed with that. But the county board employs the direct-- the health director.

KAUTH: For that instance, it was that she was the directed-- the public health director for the city under a compact that they had together, but the city did not have direct authority over her. She was only able to apply the directed health measure to the city.

M. CAVANAUGH: To Douglas County.

KAUTH: No. This was only in the city of Omaha, not to all of Douglas County.

M. CAVANAUGH: But the city of Omaha, is, is--

KAUTH: --is in Douglas County. Correct.

M. CAVANAUGH: Yes.

KAUTH: Yeah. But it was not for the entire county, it was just for the city. Again, there was a lot of consternation about what was going on. But the point of this bill is to say that elected officials are the ones who need to be making these decisions and working with the public

health directors to say, you know, figure out what's going on and what needs to happen.

M. CAVANAUGH: But in this instance, there's two different elected boards. So who was in charge?

KAUTH: For that one, yes. That would probably be whoever is being affected by the-- because the city was the only one affected by it. So the city would have to be the one to do it.

M. CAVANAUGH: Well, the, the county was also affected by it.

KAUTH: The county was, but only the part of the county that was in the city.

M. CAVANAUGH: Right. Which is most of it.

KAUTH: A lot of it, yes.

M. CAVANAUGH: So I don't see how this solves for-- that situation.

KAUTH: It would say that, that should-- that they want to use their position as the city public health director, which actually I think we hired one recently or we're going to, that-- and make that relationship moot. But then that person, if they're going to impose it on the citizens of Omaha, they would have to get the people who govern the citizens of Omaha to approve it.

M. CAVANAUGH: So if the city of Omaha hires their own public health director and, and discontinues the relationship of having a joint public health director and the county continues to have their public health director, the county is greater than the city. So the county public health director still can issue a directive health measure with the approval of the county board.

KAUTH: And that's, that's what we need spelled out: with the approval of the county board. The public health director can make the recommendation, but the county board is the one who has to approve it.

M. CAVANAUGH: So this is requiring our elected boards to take a specific action around directive health measures?

KAUTH: Correct.

M. CAVANAUGH: It's requiring them to take a vote--

KAUTH: Correct.

M. CAVANAUGH: --as opposed-- so why are we not making them take a vote on any action they take at the-- instead of allowing the directors that they hire to run their departments?

KAUTH: Because this is the one that restricts personal liberties.

M. CAVANAUGH: There's more than just this that would restrict personal liberties.

KAUTH: Well, then we can add more.

M. CAVANAUGH: OK. So, so what you would be willing to expand this to other departments within?

KAUTH: It really depends on what, what you're talking about. But for this bill, it is specifically about public health directors issuing directed health emergencies.

M. CAVANAUGH: OK. All right. Thank you for the clarification.

HANSEN: Any other questions?

KAUTH: I think Senator Walz.

WALZ: I'm sitting as close to you as I can.

HANSEN: All right. Senator Walz. Any other questions? OK. Take it away.

WALZ: Thank you. Thanks for being here today. OK. I have a couple questions. First of all, how does that process work then, if--

KAUTH: I, well, that's-- I was talking with Charity Menefee today, the director of public health and figuring out how do we make sure that this works well and that the structure is in place. So after-- I mean, we can sit down and figure out, how does that process work? One of the things she said was the public health directors are in constant communication with their elected officials, with the people who oversee them. So it's not-- I heard laughter behind me. So it's not something that would be unusual for them to be in contact. We just may need to spell it out very clearly how it will work.

WALZ: All right. I guess I'm thinking of timeline.

KAUTH: Um-hum.

WALZ: So how does that work?

KAUTH: Well, and that's, that's just it. That's the part that-- and I asked her about that specifically, is are there any times when there's an emergency that we-- this would hinder anything? And she said, no, she didn't believe so, mostly because you can set it up so that you have-- I mean, if something is starting to happen, that communication should already be there. That communication should then say, hey, at some point we may need to do this. Be prepared.

WALZ: OK. Can I keep asking questions? And it would have to be a majority vote of the--

KAUTH: Correct.

WALZ: --OK. So I'm, I'm just going to-- for me, this bill is-- I'm, I'm, I'm concerned about it because of the past experience that I've had and my community has had during the flood of 2019. And during that time, I can guarantee you, because I was there with them, that my mayor, the former mayor, the majority of the city council, county commissioners and a lot of community members were out trying to build a temporary levee to divert water from coming into Fremont, which was completely-- I don't know if you remember this--

KAUTH: I remember. It was awful. Yeah.

WALZ: --but it was an island. It was a very, very scary time for the members of our community. So for our public health director, who had to make some decisions during that time to try to convene--

KAUTH: Um-hum.

WALZ: --the mayor, county commissioners, city council members who were out trying to save Fremont from a complete disaster. I'm, I'm just-- I don't know how that would work. It, it concerns me to think that, first of all, they're going to have to drop what they're doing, because now we have to deal with a public health emergency that the majority of city council members and county commissioners are probably going to follow the direction of the public health director anyway.

KAUTH: Um-hum. So wouldn't you set up a protocol for in, in case of an emergency, here's what happens and, and develop a protocol ahead of

time to deal with that. At what, what were the public health directors, what DHMs were they issuing?

WALZ: Well, they had--

KAUTH: Was it--

WALZ: --contaminated water to deal with.

KAUTH: --yeah, I was going to say the water issue.

WALZ: I mean, there were so many issues that they were dealing with. Multiple issues.

KAUTH: Right.

WALZ: So then again, you know, how, how much-- I just don't-- I'm just very, very concerned after having that experience.

KAUTH: Um-hum.

WALZ: And to set up a protocol for an emergency, all of these things are emergencies. I mean, what emergency are we going to say, you know, in this case, the mayor and the city council members don't have to drop what they're doing and-- I don't know. It's, it's, it's just very concerning for me as well as my, my community. So I just wanted to--

KAUTH: No. Thank you. I appreciate that feedback.

WALZ: Yeah.

HANSEN: Any other questions? Senator Ballard.

BALLARD: Thank you, Mr. Vice Chairman. I just have a clarification question, maybe a legislative intent. So what's the, the intention behind the word "or" on-- is it, it's city council or county board? Does that mean--

KAUTH: Depending on which one is--

BALLARD: So they just-- so the--

KAUTH: --it'd be whoever is in charge of the public health director--

BALLARD: I see.

KAUTH: --because this is different in different areas.

BALLARD: OK. So they wouldn't necessarily have to-- they would--

KAUTH: Both do it.

BALLARD: Both do it. OK. So the, the--

KAUTH: The intent was if you're-- if you have a city council and that's who runs your public health department, that's who you'd go to. If it's a county and that's who runs your public health department, that's who you would go to.

BALLARD: OK. I see.

KAUTH: But we might-- do we need to clarify that, do you think?

BALLARD: We can probably talk about that off-- but so, for like the city of Lincoln or Omaha, they would-- whoever runs their public health department, that's who they'd have to clear that bar with.

KAUTH: Yes.

BALLARD: OK. I see. Thank you.

HARDIN: I have one.

KAUTH: OK.

HARDIN: Is this essentially, a check in the balance for a long-term type of issue? Granted, when we had the flood, that was something that happened. Certainly the effects lasted for a long time, but that was, shall we say, of a different nature than the COVID that went on for years?

KAUTH: Yeah, it is, it is a check and balance--

HARDIN: It's a check and balance.

KAUTH: --issue, just to make sure that we don't have out of control infringement on liberties.

HARDIN: And fences keep things out, we keep things in. Is that correct?

KAUTH: That is correct.

HARDIN: I got you. Very good. Well, will you be hanging around till close?

KAUTH: I will be hanging around. Yes.

HARDIN: Wonderful. We'll look forward to seeing you then.

KAUTH: Thank you.

HARDIN: That being the case, is there anyone here who would like to come up and support LB421? Welcome.

DAVID SPLONSKOWSKI: Hi. Hi. I'm David Splonskowski, D-a-v-i-d S-p-l-o-n-s-k-o-w-s-k-i. How much time do I have? I, I'm not-- don't plan on taking a ton of time, I just want to understand.

HARDIN: We, we generally run on-- [INAUDIBLE] we're going five?

DAVID SPLONSKOWSKI: OK, great.

HARDIN: He's, he's holding up all five fingers--

DAVID SPLONSKOWSKI: OK. No problem.

HARDIN: --and so we're going with five because the room-- usually when the room's overflowing, we say one minute--

DAVID SPLONSKOWSKI: Sure. OK.

HARDIN: --but today, you're good so.

DAVID SPLONSKOWSKI: One minute. OK. It won't be a problem. So I do hope that this, logistics aside, from what you guys are discussing, that this bill prevents future issues like the ones that impacted my family, due to state and county health directives in the spring of 2020. And, you know, COVID did get mentioned a bit ago there. But a few years have passed, so I want to remind you how far our state went to restrict our most important liberty of religious freedom. The health measures shuttered doors of churches statewide and suspended the right to assembly. In the interests of public health and fear of spreading the virus, the Governor and the Department of Health created a direct conflict of the Nebraska Constitution, which states that all persons have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. So I want to highlight a few of those things that violated the ability to worship

God according to my conscience and that of many fellow Christians. Religious gatherings were shut down while large retailers were considered essential and remained open. No gatherings larger than ten people were permitted, removing any opportunity for collective worship, putting Christians in a conflict of conscience over the command to continue meeting together. Authority over the specific manner in which religious worship took place was given to unelected bureaucrats that we didn't have direct access to. And some of the additional specifics that were stipulated in some of the health directives stipulated that places of worship cannot provide religious texts to the congregation unless the books were brand new. Essentially, we don't want people to touch other people's stuff, but placing undue burden within the worship context. Church nursery services were not permitted, even though commercial daycares were allowed to be in operation. The rule told-- the directive told people where and with whom they were allowed to sit when in a religious service and items such as communion trays were not to be passed between congregants, leading to even further directives specifying the manner in which a drive-thru church service could be held. So these intrusion into the public affairs of churches led me to try and contact my, my County Board of Health and I was never able to reach anyone after multiple attempts and voicemails. It was a revolving automated line. Please leave a message. Please leave a message. No contact returned. I contacted the State Board of Health and was told that the State Health Department will only listen to concerns regarding the validity of the authority of the health directors, not the specifics of the actual, actual directives. So again, no really, ability to discuss the nature of the directive and the, the burden it was placing on, on my Christian liberty, religious liberty. I contacted the state-- my state senator and the Governor's Office, but they were unable to assist in the matter really, either. Finally, I did receive a direct phone number for the county health director, but my concerns regarding religious worship fell on deaf ears as the director stated that she didn't see the directives as a restriction on her religious practices and I should be happy with the drive-thru service. So my understanding of LB421 is that, from what I just heard from the Senator that are sponsoring it, that it would require a check and balance and essentially, not allow a health director to issue something without adoption by their local elected official. And so it doesn't necessarily prevent poor decisions being made, but at least it does allow residents to petition their local elected officials regarding the implementation of certain health directives, so I, I am in support of this legislation.

HARDIN: Thank you for being here. Any questions? Seeing none, thank you. Anyone else in support of LB421? Come on down. Welcome.

STACEY SKOLD: Thank you. Hello. My name is Stacey Skold, and that's S-t-a-c-e-y S-k-o-l-d. I'm a native Nebraskan. I have a Ph.D. in human sciences and I'm here to support LB421. Over the past three years, there was an alarming trend within school boards, city councils, county boards and other publicly held positions. This was the transfer of power and decision making to unelected officials. Many leaders either transferred the responsibilities to someone in an insulated, unelected position or our law permitted unelected officials to issue arbitrary, wide-sweeping mandates. This is unacceptable on multiple levels. At its core, it's eroding our democracy. And elected leaders represent the citizens and citizens, by vote, hold their leaders accountable. Democracy is a careful balance and some proponents have argued time-sensitive decisions had to be made. But public bodies can move quickly and their insight and role are especially important in emergencies where there is risk of infringing upon or removing freedoms. We need to close this loophole and I would argue that we also need to include amendment to exclude injections from the directed health measures and ultimately to develop a medical Bill of Rights. For now, I ask that you support LB421. LB421 effectively closes the loophole by ensuring elected leaders make decisions while unelected officials still advise and offer professional counsel. Thank you.

HARDIN: Thank you. Would you stay for questions? Any of those? Seeing none, thank you.

STACEY SKOLD: Thank you very much.

HARDIN: Anyone else in support of LB421? Is there anyone in opposition to LB421? Welcome.

JAMES LAWLER: Thank you. Thank you. Good afternoon, Senators. My name is James Lawler, J-a-m-e-s L-a-w-l-e-r. [RECORDER MALFUNCTION] Specializing in infectious disease and public health. And I come before you today to voice my opposition to the restrictions that LB421 would place on public health emergency powers. I will add that my expert testimony today constitutes my personal opinion and does not necessarily represent the views of the University of Nebraska system, the University of Nebraska Medical Center or Nebraska Medicine. I've spent most of my career studying and actively working to combat emerging infectious diseases and public health emergencies. As a member of the White House Biodefense and Pandemic Preparedness Team in

the George W. Bush Administration, I received-- I researched global experiences of the great influenza pandemics of the 20th century, investigated the international air travel of a person with drug-resistant TB and led response to a major food, food contamination threat. As a consultant for the World Health Organization and National Ministries of Health, I've deployed to control outbreaks of some of the most dangerous infectious diseases in the world, such as Ebola and Marburg viruses. As a staff member of the National Security Council, I helped coordinate our national response to the pandemic of 2009, H1N1 influenza. In all of my experiences, I can say that three factors consistently are critical in effective public health response: speed, technical expertise and professional courage. LB421 would undermine all of these in Nebraska. In health-- any health emergency response, speed is the most important principle. Infectious diseases can spread rapidly and early interventions are always most effective to mitigate injury/illness. Whether it's controlling the spread of tuberculosis, preventing exposure to environmental toxins, hours make a difference. The deliberative process outlined in LB421 will introduce delays of weeks or days, putting the health of citizens at risk. In my 21 years of active service in the U.S. Navy, I observed organizations that are effective and great leaders empower their experts and when there's a technical problem, they work to remove barriers impeding those experts. Our health officers and public health professionals are our technical experts. They've spent years in higher education and training programs to acquire the depth and range of knowledge necessary to manage public health threats. We should leave public health problems to the public health experts. Finally, effective response to a public health emergency requires courage and commitment. Decisions to issue directed health measures or DHMs, are often hard and sometimes unpopular. And when they work, nothing happens. That's why good public health is usually under the radar. When our public health professionals do their job, nothing happens. These unsung heroes have quietly been protecting us from public health threats for years. I asked my local public health colleagues to pull some data. COVID aside, Douglas County and Lincoln-Lancaster Health Departments estimate they issue around 120 work restrictions and isolation or quarantine orders every year. That's two to three actions, two to three directed health measures, in any given week protecting us against diseases and pathogens such as viral hepatitis, salmonella, norovirus and other diseases. Most of the time these orders are executed quietly. The emergency is contained and we never hear about it. But I, for one, am certainly glad these unsung heroes are working tirelessly behind the scenes every day. They will continue to do their

job and protect us effectively and quietly for years to come, as long as we don't undermine their commitment by taking away what authorities they have left. LB421 will slow our response to public health emergencies, take tactical decisions away from our technical experts and further undermine the morale of the professionals we rely on to make courageous decisions. If this bill passes as written, we all will be less safe. Let's support our public health professionals rather than undercut them. Let's keep all Nebraskans healthy and safe. Thank you.

HARDIN: Thank you, Dr. Lawler. Senator Riepe.

RIEPE: Thank you, Chairman. First of all, thank you for your service and your military service and especially for serving in the Navy. I appreciate it. I'm an old Navy guy, myself.

JAMES LAWLER: Thank you, sir.

RIEPE: My question would be regarding speed. Is that-- in your definition of speed-- I'm trying to quantify this a little bit. Is that in a matter of minutes or hours or days, because I'm thinking if it's a very small governing group, they should be able to respond within a matter of hours, if you will, to get a quorum together to make some decisive action. So I'm looking for [INAUDIBLE] to kind of clarify for me what speed means to you.

JAMES LAWLER: Sure. In many circumstances, including infectious disease outbreaks-- let's say a restaurant has, potentially, a, a source of hepatitis A on, on staff and, and there needs to be quick action to, to intervene before more people are exposed and infected or there's an environmental toxin, in many circumstances, even a few hours can make a huge difference.

RIEPE: Please, may I ask another question? Just putting this out there, is there anything that because you have expertise in the area, can you help us to say there would be a category one and a category two and category three as a four-alarm fire and others could be delegated. But if it gets to a three, which is not just for that restaurant and the people that dine there, but for the entire community, you know, that's a three-alarm fire and maybe that's treated differently or is that?

JAMES LAWLER: I suppose it depends on your perspective. I would say from my perspective, if, if it were my family member that were put at

risk because of one of these infectious disease threats or an environmental contamination, I would see that as a level three emergency. So I think public health often acts on a, on a small scale with many of these DHMs. Sometimes they act on a large scale. But for the people affected, I would, I would argue that it's, it's probably a level three emergency regardless.

RIEPE: Well, I would say, if I may, Mr. Chair, It seems to me like there's always trust and integrity in terms of, you know, decisions made by experts. But the COVID thing became rather political and a difference of opinion in terms of whether it was a virus or whether it was not a virus or whether it was a vaccine or whether it was a shot. So much of this, regardless of where it started, the public got confused, if I may use that term, about what was the correct information. And with that, leadership, individuals in leadership, their integrity was challenged as well, not only their decision making, from the top up, all the way to the top and it cascaded down. I don't know whether that was a question. I, I was hoping it would be, but it became more of a sermon.

JAMES LAWLER: I'm in violent agreement, sir.

RIEPE: Thank you.

HANSEN: Yes, Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you for being here, Dr. Lawler, and for all of your work around all of the infectious diseases that we are confronted with. We truly are lucky to have you in Nebraska, so thank you for, for being here. And I echo Senator Riepe's sentiments. Thank you for your service in a military capacity. I didn't notice that it became political. That flew right over my head, I guess.

RIEPE: Oh, come on.

M. CAVANAUGH: I did want to ask, we've heard about how great Nebraska did during the pandemic and I'm not sure if you're the right person to ask this question of. I'll put it to you if you want to answer it or maybe others behind you, but is part of the reason that Nebraska fared, I think our healthcare professionals would take issue with this terminology, but "so well" during the pandemic, but is part of the reason that we fared the way that we did due to the fact that we had directive health measures put into place in two of our largest population centers?

JAMES LAWLER: I certainly think those helped quite a bit. I, I would not necessarily be one of those who would want to pat ourselves on the back for our total performance during the pandemic, but obviously, we did better than many other states. And I do think that one of the reasons was because we were able to implement some of these measures in our largest urban centers of population.

M. CAVANAUGH: OK. Thank you. And thank you again for your service to our state and to the medical community.

HANSEN: Any other questions from the committee? Yes, Senator Hardin.

HARDIN: Thanks for being here. 2023 has afforded us some hindsight from 2020 on. Some of the overreach that happened at every level, the response has not aged well. If we take a look at the name Anthony Fauci, 50, 80 years from now, that's going to be one of those names that's talked about in history classes. Do you suppose that what we've experienced over this prolonged three-year alteration of our, our memories, our lives and in some cases our family trees, is-- actually needs to be left undone, that we shouldn't be asking these questions about appointed folks to these positions? Because I think that's kind of where this bill seems to be coming from, is that at some point, there needs to be a threshold where we say we need to continue to find out if the person who's in charge is too close to the forest to see the trees. Is that-- can-- just comment on that threshold for me?

JAMES LAWLER: I'm, I'm not sure I understand your specific question.

HARDIN: My specific question is appointed folks sometimes outstay their welcome, no matter how professional they are, no matter how much they know about a particular subject very deeply. Sometimes they don't see the other things going on around them in a complex scenario, like we did with COVID. I think, let's be honest, if we wouldn't have had COVID, we wouldn't be sitting here talking right now. And so I completely agree with you. Most of the time, our appointed folks do an amazing job because they protect us on a daily basis from running into terribly hard problems. And we really appreciate you and them. I think this has to do with is there a threshold that gets crossed and if it wasn't how things were crossed in COVID, where is that threshold of when other elected officials can step back in and say, wait a minute. There needs to be some accountability for the appointed folks who are the experts. That's what I'm asking, is just a comment on if, if COVID wasn't the threshold, what would that be?

JAMES LAWLER: Well, we obviously have a long debate about that. I'm more concerned about--

HARDIN: Let's have that now.

JAMES LAWLER: --well, I'm more concerned about what this bill does to local powers and the local ability of public health officials to intervene in short-term problems that, again, they do on a day-to-day basis, that most of the time we're not aware of. And that's where this bill, I think, has significant impact. We can talk all day about Tony Fauci, who, by the way, never did anything or issued any authority or decree that had any effect on a Nebraskan. He had zero authority. He was an adviser. So we can, we can argue about revisionist history and what you think about Tony Fauci, but the reality is Tony Fauci made no decisions or decrees that had any direct impact on Nebraskans. Our local public health officers make decisions that have impact on our health every day and we need to preserve that capability.

HARDIN: But those local public health officers took marching orders from H-- from, from Tony Fauci, did they not?

JAMES LAWLER: I'm not sure how many of our local health officials were listening to Tony Fauci. There's, there's a lot of things that Dr. Fauci said that I don't agree with, but hopefully they were listening to some of us who are, are local and state and regional experts who were also advising them on what the appropriate interact-- interventions were.

HARDIN: Thanks.

HANSEN: Any other questions from the committee? I might have a quick question. Typically, the local public health directors are in pretty good communication with the elected officials in their area. Right. Like city-county. So within a phone call, they can probably get good information about where they stand on certain things?

JAMES LAWLER: As, as far as I know, yes, that is usually the case.

HANSEN: And during a-- might want to say a state of emergency or a public health situation-- it, it could happen relatively quick, where the local elected governing board could meet quickly and make a decision and vote on something, couldn't they, based on your recommendation?

JAMES LAWLER: I think that depends on the circumstances and what the, what the intricacies and the rules are of, of having a meeting and, and making a decision and, and at how many levels that needs to occur.

HANSEN: OK. That makes sense. I was just reading your testimony. I'm sorry. I was gone for some of it.

JAMES LAWLER: Sure.

HANSEN: I had to pop out real quick. But you mentioned your concerned, which I'm not saying is not valid, but it kind of is, that this could delay the decision-making process and how things are implemented.I, I think to me, again, you know more about the implementation of certain things, but just in my opinion, I don't know if we would delay days to weeks, you know, being able to make a decision considering, especially with modern technology and the ability to zoom on a meeting, I don't, I don't know what rules and regulations certain governing boards have on their ability to vote online, but if not, being able to meet quickly, you know, I think, shouldn't take days or weeks, I wouldn't think if it's that big of a health emergency. Like you come to them and say, hey, look, there's a virus right now coming out and we need to shut things down right now. But at least I think, from the perspective of the average citizen and the elected officials acting on their behalf-- and I think that cooperation seems a-- seems to, to me, to put the right foot forward during an emergency where everyone's scrambling and kind of going bonkers. But I just wanted to mention that. I don't think it should take days to weeks, like you mentioned. I could be wrong, but I just wanted to put that out there, at least and kind of mention that, so. Any other questions from the committee? Just to make sure. All right. Thank you for coming, though. I actually appreciate, appreciate your expertise, actually.

JAMES LAWLER: Thank you.

HANSEN: Is there anybody else wishing to testify in opposition to LB421? Welcome.

JIM NORA: So good afternoon. I appreciate the opportunity to speak. My name is Jim Nora, J-i-m N-o-r-a. I'm an infectious disease physician here in Lincoln and I wanted to make a few comments about LB421. First of all, while I was listening, I reviewed the testimony that I prepared and I have left off an important part. I admitted omission. I looked for typos, but sure enough, there was one, so I hand wrote something in there. My handwriting is even worse when I'm writing

without a desk, so thank you for your understanding with that. I wanted to say I appreciate the comments made by Senator Kauth and I, I don't think any of us would presume to want to argue with the importance of respecting liberties and freedoms and always wanting to make sure that those are being looked after. I guess I would hope to convince all of you that there are very select circumstances when it's important for public health to, within the context of legal measures, restrict freedoms. And that's not something that anyone ever would seek to do, but there are circumstances where it is important. And I would also comment and so-- in response to some of the comments made and those in support of this, I think it's very important with directed health measures and one of the goals of directed health measures is never to be arbitrary or discriminatory. And I can hear in the comments that were made that the perspective of those that made them that-- yeah. There, there is a sense that some of those could have been arbitrary and, and I would say that there was never-- there should not be an intent for that. And in the setting of, of an outbreak, sometimes public health doesn't necessarily get everything perfect. And I think it's always good to review things and see how things can be done, done better. But my main comments, I want to focus around how this bill, in its current form, would affect the day-to-day operations of public health and my belief that this would endanger the safety of Nebraskans. The authority of local health directors to take necessary and urgent actions should not be impeded. It needs to be very rapid and there have already been some comments about that. But I'd like to get-- I'll give an example in just a minute here. The particular way that this is laid out seems to me to add multiple layers of bureaucracy to how this precedes, these measures. There's, there's a board of health that gets involved. And then, if the Board of Health gives the approval, then we have to convene the, you know, the city council to, to further approve things, so a very, very cumbersome process. And I think the way the process is outlined in my mind makes it, makes it absolutely clear that no decision can be taken in a, in a rapid or a timely fashion. And that's where I, I, I had to make a little correction to what I had said. I think that this particular bill is prescriptive in the way it sets out the, the rules for health departments across the state. And one of the strengths of local health departments is to take advantage of their local expertise to really tie in to their local community. And what works well in Lincoln or Omaha may not be ideal for Norfolk or North Platte. And what works in Norfolk or North Platte may not be ideal for very rural communities. My in-laws live in north central Nebraska, in O'Neill and Spencer. And in Spencer, there's a, there's a volunteer fire

department. They don't even have their own fire department. And to me, it seems like a, a big ask to ask some of these communities to, to put forward a board of health to, to review some of these decisions. There's been discussion of COVID, and I really would like to focus on how this bill might affect things other than COVID, because there is a lot of day-to-day operations that occur that are really in the background. And I have a personal interest in taking care of patients with tuberculosis. And this is, this is an area where directed health measures do go into effect. Just this past year, I had a patient here in Lancaster County where there was-- and there-- we got very close to having to involve a directed health measure to restrict movement. And we, we always, always try to, to not do that. We want patients to voluntarily comply with recommendations. But when somebody has infectious tuberculosis, it's absolutely up to the public health directors to, to, you know, put in place measures to protect public safety.

HANSEN: Dr. Nora?

JIM NORA: Yes.

HANSEN: Your red light is on. Sorry to cut you off here.

JIM NORA: Oh, sorry, sorry.

HANSEN: Yeah, that's just fine. So we'll first see if there's any questions from the committee and they might have some questions about stuff [INAUDIBLE].

JIM NORA: Oh, sure, sure.

HANSEN: Are there any questions from the committee? Yes, Senator Riepe.

RIEPE: Thank you, Chairman Hansen. My question is this: in your response to the COVID pandemic, did you consult with others?

JIM NORA: Oh, absolutely, yes. The-- so our, our group, Infectious, Infectious Disease, is actually contracted by Lincoln-Lancaster County Health Department and they got advice from us. The, the entire Lincoln community really came together. So we had meetings. At first it was three times a week at 5:00 on Zoom. It was Infectious Disease, myself, often myself and sometimes others, pulmonary critical care, it was our hospital leaders. All of these groups met on a regular basis and provided direct input to the Lancaster County Health Department.

RIEPE: But at the time when-- and I don't know whether you declared a mask mandate? Did you, did you declare a mask mandate for Lincoln?

JIM NORA: I, I did not. No. That, that's something that is, that-- it's done by-- through the health department, but that's something that was supported by the community, that was supported by me, that was supported by the hospitals, that was supported by all of the, you know, the, the pulmonary critical care. So this was, this was widely supported in Lancaster County.

RIEPE: So on the timeline for this COVID crisis, how long did that take before they made a declaration, then all of a sudden, this would be a mask mandate? Was that-- I'm looking for, I'm looking for was it hours or was it a week or?

JIM NORA: So the, the, the mask mandate, to be fair, that was a prolonged process. That was not a short term. That's not--

RIEPE: That didn't happen immediately.

JIM NORA: Absolutely, no. No. That was-- there was a lot of thought that went into that. And that is-- so if there's a restaurant that-- where an employee has salmonella and is infecting people with salmonella, that's something that needs to happen in a more rapid timeframe.

RIEPE: You know, I think you mentioned you met with some pulmonary [INAUDIBLE] understand that.

JIM NORA: Yes.

RIEPE: Did in any of this process, did you engage any elected officials like the mayor or, or anyone that-- to keep them briefed so that they--

JIM NORA: Absolutely. So.

RIEPE: --were they in on the decision making?

JIM NORA: So we, we gave recommendations and--

RIEPE: OK.

JIM NORA: --and so our-- the-- I'm primarily at Bryan hospital. And so this committee, this group that met at Bryan Hospital, some of the

senior leadership at Bryan was in contact with the mayor, with, with the Governor and [INAUDIBLE].

RIEPE: [INAUDIBLE] she wasn't in the office or in the room.

JIM NORA: They were not in the room during these meetings. No.

RIEPE: Who had the final say on it then? Did, did they go back to the mayor and say, this is what-- you used the word recommended. Did they go back to the mayor and recommend it and then she declared it?

JIM NORA: It was a recommendation and then I, I think--

RIEPE: To whom?

JIM NORA: --it's, it's really the-- well, it's recommended to the health department and to the mayor. And between the two of them, that's the-- we, we, we ended up with, with specific measures put in place.

RIEPE: But you don't know who made the final? Somebody had to make a final--

JIM NORA: Yeah. I think I-- and I-- my, my role was really in recommending and I don't, I don't want to misspeak here, but I believe it is the health department that makes those final recommendations. Whether the mayor has veto power over that, I don't want to--

RIEPE: You again used the term recommend. So I'm trying to chase this down to the end.

JIM NORA: Sure.

RIEPE: Who, who did they recommend to?

JIM NORA: We recommended to the, to the health department and to the hospital.

RIEPE: I thought you said the health department made a recommendation. I thought you said you recommended to the health department and they in turn recommended to and then I'm trying to fill in that blank.

JIM NORA: Yeah. So I, I-- and I, I sit on-- would, would sit on this committee. We would make recommendations to the health department and then the health department would then make a decision based on our

recommendations. Whether the mayor has veto power over that, I don't know those intricacies.

RIEPE: OK. I'd be interested in finding that out, but thank you. Thank you for helping me get there.

HANSEN: Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you for being here and also for your work around infectious diseases. You mentioned that measures should not be arbitrary, discriminatory or unduly restrictive. And I just kind of wanted to elaborate a little bit on that, because we do have members of this committee that weren't here during the peak of the pandemic. And we, as a committee, Health and Human Services Committee and the Legislature had numerous briefings with medical professionals and Dr. Lawler was oftentimes at the forefront of those. And I don't recall ever being told of what the health measures should be, only being informed of what the situation was. And I-- frankly, it took a lot of direct pressing from me and sometimes I wouldn't even get it there, as to what should we do. And so I'm stating this more because of the conversations that we're having here, that I, I want it to be clear in, in retrospect, when we are looking at what happened historically, that our medical community, that the people in this room that have been at the forefront of this for years were not making arbitrary decisions or recommendations, that there was thoughtful conversation. And when it was discussed with the Legislature and with the Health and Human Services Committee, that it was thoughtful, robust, and no one ever, in my recollection, said that we should have a directive health measure. In those briefings, they were there to inform us of what the situation was and what are the best practices. And out of that, our public health officials had their own conversations, I assume in concert with yourself and other medical professionals in this room and not in this room to discuss what was the appropriate measures that we needed to take to secure the health and safety of the citizens of Nebraska. I wanted to state that for the record because I feel like there's a great deal of misunderstanding about what happened by those that maybe weren't at the forefront of this. And so I appreciate very much your work and you have given-- started giving a testimony. And I see that you-- are you working around monkeypox?

JIM NORA: There are cases that have been followed or individuals that have been followed in Lancaster County and I have not personally followed those. But that's one of the things that comes up. There's a

monkeypox, there's an active TB case, there's, you know, an exposure to-- several years ago, we followed someone who had an exposure to Marburg. And, you know, when that person landed in-- at the airport, you know, steps were in place. That person came straight to the hospital where they had an evaluation. I happened to be the one that got to do that. And then, and then that person was followed very closely by the health department.

M. CAVANAUGH: I have to be honest, I don't know what Marburg is.

JIM NORA: So Marburg is a hemorrhagic virus and it's, it's a cousin of Ebola, Ebola.

M. CAVANAUGH: Sounds pleasant.

JIM NORA: So it is a very-- it can be a very deadly virus for those that acquire it, and it can be contagious to others.

M. CAVANAUGH: And I also recall when we were taking Ebola patients to the university. At that time, my husband worked on the campus at UNMC. My children went to the child care there, where also people who were working in the Ebola unit also had children going to the child care there. And I had obviously a very personal and keen interest in the protocols that were being implemented and followed. And I never had an exposure to Ebola. And so I have a lot of reason to place my trust and-- in, in the medical community, that these directive health measures and all of these health measures are really essential to stop the spread of pandemics, because we could have easily had an Ebola spread just like we had everything else spread. So thank you so much for your testimony, for being here today and for being in a very difficult field of study during a very difficult time. Thank you.

HANSEN: Senator Riepe.

RIEPE: Thank you. Because we've moved over to talk about Ebola. I would also remind the committee and the-- and those in attendance that there is also a physician that was hospitalized at the University of Nebraska Medical Center with Ebola. Who on his own, I suppose, because he was a physician so he self-diagnosed, decided to go out and walk into the community and exposing-- possibly exposing the community in Omaha to Ebola. So someone wasn't in charge. My other question going back to the other piece is how long was Lincoln under a mask mandate?

JIM NORA: I think there were perhaps two, if not three separate mask mandates and--

RIEPE: Contiguous?

JIM NORA: No, no, they were not contiguous.

RIEPE: Did you give them a week break and then--

JIM NORA: The most recent one, I believe, was in January of 2022, and it was about four weeks.

RIEPE: OK.

JIM NORA: And that was put in in part-- and the-- that came about in part because the hospital system was absolutely overwhelmed. We had no room in the inn, we had patients lined up in the ER and the hospitals. We were trying to figure out how to take care of people who didn't have COVID because there was no room for them. And that was one of the, one of the requests that the hospitals and, and our group put out is that can you, can you do anything from a public health standpoint to give us a break to see if we can even slightly reduce the number of admissions to the hospital so that we can take care of patients?

RIEPE: Would you also agree that there was a lack of understanding, even at the highest professional levels, about what masks work and which don't? Because as we went along, we found out that cloth masks were totally ineffective. And if you didn't do a-- what is it, a 3MD or what-- I forget what the-- exactly what--

M. CAVANAUGH: N95.

RIEPE: --you almost had to have a, you know, World War I gas mask to be safe. And-- so there was a lot of-- even among the experts, there was a lot of giving up on this and moving to a new standard and say that lost confidence with the public all along.

JIM NORA: One of the, one of the challenges was supply chain, because when this happened, it would have been fantastic if we had a completely ample supply of N95s.

RIEPE: We couldn't get them from China.

JIM NORA: And-- but we, we didn't have them on hand. And so some of the, some of the alternatives that came up were not intended to be as good, but were intended to be makeshift measures in the absence of having the, the items that we needed.

RIEPE: And I, I would be the first to say no one intentionally misled or misdirected anyone. There was no malicious intent here from anyone. And for that, I thank you--

JIM NORA: Yeah.

RIEPE: --and your professionals. Thank you, Mr. Chairman.

HANSEN: Any other questions from the committee? Senator Hardin.

HARDIN: From 200,000 feet up, do you believe that public trust in health directors was harmed over the last three years?

JIM NORA: Yeah, I think that public trust has been harmed. And I, I, I would say that from a public health standpoint, from an infectious disease standpoint, we want to do whatever we can to, to help earn back that trust. I think that the right thing to do is to go to the, the science and the evidence and where things stand. And it's very, very difficult to pick out among all the information that we hear, what-- what's correct, what's not being-- what's not correct, what's being fed to us from sources that might wish us evil. You know, it's, it's it's a challenge and I think it's an ongoing process to try and build up trust.

HARDIN: Strange that in the information age we would have so little of it.

JIM NORA: Yes. Sometimes too much information is, is a problem.

HARDIN: We appreciate what you do.

JIM NORA: Thank you.

HARDIN: Thank you.

HANSEN: Any other questions from the committee? Yes, Senator Ballard.

BALLARD: Thank you, Mr. Chairman. Can you give me a sequence or a timeline of events from when you figure out or understand that there's possible infectious disease to when isolation or restrictions are put in place?

JIM NORA: So going to tuberculosis, one of my areas of interest, somebody comes into a clinic or often in the hospital setting and we make a diagnosis or we have a strong suspicion that there's active

pulmonary tuberculosis. Before that patient leaves the hospital, I pick up the phone and I call Angie Elliott at Lincoln-Lancaster County Health Department. And I say, this is what's going on. This patient needs to be in isolation and Angie makes, makes the arrangements for it. And she is, she's one of the TB nurses and she goes out to this home, the home of this person every day to help administer TB medications. She's wearing a mask. So, yeah, it happens, it happens almost immediately in the setting of a respiratory contagious illness. I have the number for Angie Elliott on my cell phone. I call her seven days a week. Sometimes it's been on the weekend when this has happened.

BALLARD: OK. OK. Thank you.

HANSEN: Yep. Any other questions from the committee? If I may, I think COVID was kind of an unprecedented situation with some unprecedented decision making. And it seems like for all of us, it was a learning experience since we've never-- I don't think we were ever in a situation like that before, at least not in my lifetime. And I think the rub kind of comes is-- when it comes to who makes decisions on affecting people's civil liberties, Right. Whether it's their ability to work and feed their family, go to church, visit their family member. So I think that's where the rub and I think that seems like this bill is an appropriate response to that, in my opinion. And I want to kind of propose the same question I did to the previous testifier. If something like this happened again and you were on a time crunch and you needed to respond quickly, do you think you would be able to respond quickly to local elected officials to make a decision within a matter of hours?

JIM NORA: So if I need to get somebody with active pulmonary TB into isolation, what this bill tells me is what would happen instead of me picking up the phone and saying this person needs to be in isolation, then we would have to gather the Board of health and then someone would have to go and testify before the Board of Health and say, oh, this person has tuberculosis. These are the tests we did that show that this is what we think it is. And, and then, if the Board of Health is in agreement, then we can take that to the city council and then the city council, whenever they can convene, can review the information and make a, make a decision if they want to go forth with that. I think that it's hard for me to imagine that that could happen in a matter of a couple hours. I think it would be days, if not a week or two for that to happen. OK. So I guess I would say I absolutely appreciate the-- that COVID has been a very unusual circumstance. I

hope that this bill does not destroy the ability of public health to respond to ordinary things like tuberculosis, salmonella, risk of Ebola. And I think that the way this is written, it puts that in jeopardy.

HANSEN: OK. Thank you. Any other questions from the committee? I'm seeing none. Thank you very much.

JIM NORA: Thank you for your time.

HANSEN: Thank you. Anybody else wishing to testify in opposition to LB421? Welcome.

JEREMY ESCHLIMAN: Good afternoon. Thank you, Chairman Hansen and members of the Health Human Services Committee. My name is Jeremy Eschliman. I'm health director at Two Rivers Public Health Department in Kearney, Nebraska. We are a district health department serving seven counties, nearly a hundred thousand people. I'm here today on behalf of Friends of Public Health. And I want to testify in opposition to LB421 and hopefully answer a few of your questions, maybe not all of them. But LB421 as presented potentially increases the risk of communicable disease, complicates processes designed to protect the public's health and diminishes the ability of local health directors. Local health departments across the state are responsible for communicable disease investigation and control. We've talked about that quite a bit, already, ranging from new emerging diseases such as we've seen with SARS, CoV and also the longstanding diseases that we've talked about too, like measles, mumps, tuberculosis. A direct-- directed health measure is an important tool in the public health that is needed, not only as a deterrent but occasionally, as a requirement to protect the public's health. The following example provided to me by a local health department illustrates the need to use a directed health measure as a requirement for the protection of the public's health. A hospitalized patient with active pulmonary tuberculosis, as we talk about a contagious disease, was discharged to home to continue medications and begin direct observed therapy. Since the patient was in his first two weeks of therapy and obviously still at the most contagious period, the health department began this therapy and found the patient to be cooperative for this therapy, which we commonly see, but at the time was also belligerent and uncooperative at times, which is also something we commonly see in public health. Then over time, refused to take the medication and stay home. The patient became more verbally abusive and threatening and then ultimately told the health department staff to go away. He also refused to make a follow-up

appointment with the infectious disease doctor. This patient's refusal to comply with the necessary protocol to contain this disease required the use and legal action to protect the public's health. In my experience, the majority of people voluntarily comply with isolation/quarantine requirements. I've seen that over the last couple of years. Specific examples where a directed health measure has been applied, besides what we all talk about in COVID-19, is in situations like contagious disease such as shigella, E. Coli, norovirus, hepatitis A. We see those in community-based settings, Senator Machaela, Machaela Cavanaugh, like, for example, childcare. We see those all the time. We see those in schools, in restaurants. And so we, we take this premise that when we go out to eat, we take our kids out, we take our grandparents out or we go out, it's safe. Well, part of that premise is based on some of the regulations in place for health measures. So these exclusions from our community-based settings are important to discontinue the transmission of disease and protect the public's health. As we've all found out in the last couple of years, viruses don't know political fences or boundaries or geographic boundaries and so they really pass on people to people. So the current risk of communicable disease [INAUDIBLE] as a population, as I mentioned already, the success we have in doing that in public health and why it is safe in our communities is allotted to us to be adjusted to the approach that we have in public health and directed health measures. During my 23-year career in public health, Nebraska has faced multiple infectious disease threats from, as we've mentioned, SARS, Ebola, out in central Nebraska we had several individuals who were monitoring for Ebola travel cases, anthrax, hepatitis A, influenza, measles, tuberculosis, tularemia, West Nile, I mean, the list goes on and on. Well, you've heard about some of these in the news. Many of these you don't hear all the time. It's because below, below the level of the waves, these are things that we control the spread of. While each disease poses a unique threat, local health directors took specific actions. These include, as we mentioned before, with hepatitis a, closing a restaurant, ordering a mosquito spraying to stop West Nile virus, holding mass vaccination clinics, as Dr. Lawler had said, like during H1N1 about 10-12 years ago. Local health directors need to have appropriate and efficient immediate responses to infectious disease, backed by knowledgeable teams of public health staff, including epidemiologists, infectious disease experts and environmental specialists. Health departments also regularly consult their local medical community. I know there's a few questions about that. Very few of these decisions are made in isolation. I know I can speak for myself where I issued a few directed

health measures early on in the pandemic. These were in consult with our local communities and also with a physician on the board of health, board chair in the public health, so just as an example. Very few of these are in isolation and always considering relevant factors and taking action, always making the public health the top priority in what we do. LB421 as presented would eliminate health directors' existing statutory responsibility to take immediate actions to arrest the progress of disease and require the health director to seek approval from their respective board of health, then in turn, go to city council or county board for subsequent approval. In my district as an example, I have seven counties. I have well over 20 municipalities. Just think of the logistics of doing that if it was a widespread disease. It's, it's challenging to get my mind around it. So currently right now in my area, and it's-- there's subtle differences in geographic areas in Nebraska, I have to get approval both myself and, and the physician on my board, in addition to taking it to DHHS, the chief medical officer, for approval. [INAUDIBLE] get that and I'll wrap up really quickly. So that's-- LB422 [SIC - LB421] as potentially presented, increases the risk of communicable disease, complicates the processes just as I had mentioned and it's-- and also ultimately degrades public's health overall. So thank you and I'll-- I'm available for any questions you guys may have.

HANSEN: Any questions? Yes, Senator Walz.

WALZ: I have a question. I just want to see if I copy. You're saying correctly, you cover seven counties?

JEREMY ESCHLIMAN: Yes.

WALZ: How many cities?

JEREMY ESCHLIMAN: Well over 20.

WALZ: OK. So if there was some type of an outbreak or natural disaster or some type of situation that needed a directed health measure, you would have to go to-- let's say it affected three counties, two cities. You would have to have the city council of every city vote and then every county commission take a vote as well.

JEREMY ESCHLIMAN: That, that's correct. And, and to give you an example, just to extrapolate that a little bit, if I may. As, as we saw during the COVID pandemic and I don't want to focus on that. There are really so many other areas that we-- we're working all the time on

this-- where we issued a few direct health measures initially and then it was clear, politically, that wasn't an option. So what we did is we brought our community together in saying, hey, is this something we-- that you guys want to pursue? And at that point, it came before the city council of Kearney, it came before the city council of Gothenburg. I think it came before the city council of Minden-- just a few and I probably missed one. I'm sorry-- but that's-- it takes time to do that and it takes a lot of resources to do that. And as we see with people, people move quickly. They, they move-- especially in central Nebraska. I'm sure it's-- Lincoln, Omaha, people moving back and forth all the time. One person that's contagious can quickly go another way and they cross the geographic boundary and so then that's-- that is the challenge. And we see people easily drive, out in central Nebraska, hour, hour and a half to go to work, so it's pretty common to see a contagious disease spread like that.

WALZ: All right. I just wanted to clarify. Thank you.

JEREMY ESCHLIMAN: Thank you.

HANSEN: If I may, I think, again, I'm going to shoot my opinion out here again. I think it is very feasible for-- during an emergency, which I can't imagine is ever going to happen again, like COVID, any time soon. Again, it's a little unprecedented. I think we've learned a lot. And I, I think it's definitely feasible for a city council or a county board to meet quickly if they needed to, hearing from their local public health director saying, holy crap, we need you guys here right away. We need to make a decision. I don't think they're going to take days or weeks to do that. I think they can declare an emergency session if they need to under such a situation and make a decision quickly.

JEREMY ESCHLIMAN: Um-hum.

HANSEN: And so the idea that it's going to take days or weeks, I'm having a hard time wrapping my head around that, especially, if it was in a-- during an emergency situation such as an outbreak. And I look at active tuberculosis, pulmonary tuberculosis, because that seems to be a common theme among the testimony about a concern. And at Two Rivers, you've had four cases in the last four years.

JEREMY ESCHLIMAN: Oh. Can I correct--

HANSEN: Yeah. Go ahead.

JEREMY ESCHLIMAN: --correct that? OK. So we, we currently have one active case. Each year and I'm sorry, some of the state data is a little bit lagging, but we've had three cases last year, before that we had four cases that year. And so in the last two years combined, not including 2023, we've had seven cases.

HANSEN: OK. All right, because I think the last [INAUDIBLE] on DHHS website, it said four.

JEREMY ESCHLIMAN: Yeah.

HANSEN: OK. But they're lagging a little bit in their data?

JEREMY ESCHLIMAN: Yeah.

HANSEN: OK. It doesn't seem like a whole lot, even that, to restrict people's civil liberties, in my opinion, I think. And I-- and I'm just going to reiterate, I think that's why I think this bill makes sense to me. I think-- it doesn't seem like an undue burden on your part to make decisions quickly. And I should have mentioned this to the previous testifier, but they mentioned the idea that we have to address a public board of health. Not every county has a, a public board of health, right, I don't think, or do they?

JEREMY ESCHLIMAN: So, Senator Hansen, if I could go into that in just a little bit [INAUDIBLE].

HANSEN: Yeah. Yeah. Actually, I-- actually I'm, I'm [INAUDIBLE].

JEREMY ESCHLIMAN: It is a little different across Nebraska. So I'm going to start with Two Rivers, for example. So we're, we're a district health department created through interlocal agreement between those seven counties. So if seven county boards signed on to that-- it's a little unclear, legally speaking. I definitely [INAUDIBLE] want to appeal to any legal minds, legal counsel of the-- otherwise, how that works between cities and counties, you know, which one takes priority-- but in regards to the, the board of health as a whole, they, they select health directors. They appoint, they evaluate me. If I do something wrong, they fire me. That, that's what their job is, at least in, in my jurisdiction. The board of health is comprised of elected officials, which is one person from each of those counties we're in. In addition to appointed people that the county boards have power to appoint, there are a few additional people. Like on my, on my board of health, a physician, a dentist, a veterinarian, physician assistant on our health-- generally representing certain populations

and certain technical expertise. So that being said, that's, that's the kind of the way it works, you know, in my area. Now, if you come to where we're at now, Lincoln-Lancaster County, the Board of Health, of course, is-- there's different layers. There are two: there's a health director, you know, there's the city council and the county board and so I'm not familiar with that as much. I defer to-- and we can get you some information on that. In Douglas County, I know that was brought up before-- Douglas County, my understanding is-- and Senator Machaela Cavanaugh, I would defer to your expertise there. That's your area or, or other senators in the room. But the way that power has been structured historically, is the county board hires that health director and they have that power. And I think what's being challenged in some way is-- the way this bill is presented is sep-- making that separation, like who, who does, in particular in Douglas County or, or otherwise. But it's-- across the state, it's not necessarily uniform. And part of that is, I think, the-- in Nebraska, where one of our common principles is local control. And so I think each health department is a little different in that way and we answer each community a little differently because of that. So I hope that answered your question.

HANSEN: I think that, that, that helps. I just didn't know if some of this language might need to be cleaned up or like, specified, by some areas that don't have a board of health or they might approach this a different way. I just didn't know for sure. I'm trying to figure that line right there, if it's feasible or if it's not, based on what the previous testifiers and what you've said. So I was kind of curious about that.

JEREMY ESCHLIMAN: Senator Hansen, if I could have a response--

HANSEN: Yeah. Sure.

JEREMY ESCHLIMAN: --to that really quick. OK. OK. I think just speaking of my colleagues, this is a very much-- the last couple of years are out of this world as far as public health, the public in general. Let's all acknowledge that. But looking back-- and I had just a little bit of time after the craziness of some of the, the world we lived in passed, to do some reading. And some of the things as a population that we experienced regarding pushback against mask mandates, pushback against vaccinations, pushback against governmental intrusion, they're very typical of what we saw back in the Spanish flu right around the turn of the 19th century. So it's-- that's not uncommon. But if you look through history over time, these huge events

are well spread apart. I'm not saying this shouldn't be something that should be looked at, but don't throw the baby out with the bathwater. So [INAUDIBLE] because some of the things that we rely upon, public health, I mentioned before, some of those, what we call enteric diseases which are more stomach bug sort of stuff, we rely upon directed health measures all the time to keep our community safe-- child cares or restaurants and other community settings.

HANSEN: OK. Thank you. Appreciate that. Senator Hardin.

HARDIN: Thanks for being here.

JEREMY ESCHLIMAN: Yeah. Thank you.

HARDIN: I guess I would ask the same question that I, I've posed to a couple of others. Public trust: has that been harmed or not harmed?

JEREMY ESCHLIMAN: You know, Senator Hardin, that-- I love that question. Thank you for bringing that forward. Our, our public trust in governmental, in institutions is definitely frayed, is the way I would say it. And frayed in the fact that politics, nationally, has been very divisive. And with that, public health is clearly in the realm of politics And I've, I've talked to many colleagues about this before. You can't separate public health from politics. It's just the way it's always historically been. Just like in the work that all, all the senators here are working in right now, policies and things like that. With, with that challenge, one of the things I heard a previous testifier say is, misinformation-- that's a huge issue. How do we get good, accurate information out there? Another challenge with the-- in my perspective, personally that I've seen, is in public health we follow science. The scientific method is you try something, if it doesn't work, you try something else and that's messy. And usually that's peer reviewed by other academic folks, you've heard one of our esteemed experts, Dr. Lawler. We, we listen to folks like that in local public health in Nebraska. Some of the national experts you mentioned-- I'll reiterate what Dr. Lawler said. We, we hear that, we see that, but we want to know what works here, what works locally for us. And so we look to our university systems, systems-- excuse me. We look to other colleagues. If there's something that's working well in Scottsbluff, you know, we, we want to try to apply that in Kearney or Lincoln or Omaha if, if we think it'll work. But the-- generally speaking, the method of improvement over time and that's really the scientific method, it's, it's always been that way. When you put it on, on the main screen, the public-- quite honestly, it's, it's

difficult to absorb and understand. I, I'd heard-- Senator Riepe, you had mentioned like the mask and the changing of the mask requirements over time. Quite honestly, we've never had something this scale that-- of knowing-- sure, we know what N95 mask, you know, how effective they are or there's a shortage issue. We, we thought, well, cloth masks-- that sounds good. That's better than nothing, when we think this is a contagious disease. And the more research we have, that we find out, that generally speaking, like a single cloth mask isn't very effective. And the six foot-- yeah, that's a little bit arbitrary. It depends upon your surroundings. Like in this room, maybe we want a little bit more space than six foot just because of-- it depends upon the heating, ventilation system, etcetera, but I don't want to get too long winded. Senator Hardin, I hope that answered your question.

HARDIN: Somewhat.

JEREEMY ESCHLIMAN: OK.

HARDIN: We've invoked the term scientific as though it becomes a bit of an abracadabra that makes us say, OK, everything is fine from this point on. Beyond the masks, things like vaccing and other kinds of things have been placed out there for us all to experience. Here again, we're looking through the rearview window of what we've experienced, what's happened to all of us. We don't have to go read scientific journals. We've lived it ourselves, had COVID twice, so on and so forth. And how has that worked? My, my concern is what you do and what Dr. Lawler does and so many others is important work. We need to believe in you. They need to believe in you, too. And I'm, I'm, I'm simply posing the question, what does the medical community need to do, particularly appointed health officials, to help bear the burden of helping restore the trust that has been harmed? That's my concern. This bill wouldn't even have been brought up, is my suspicion, if the trust had not been harmed. And so I'm saying since it's been harmed, I believe it's an opportunity for a check in the balance for the public to say help us out, because simply telling us we've got to trust you when you invoke the word science from here on out is not enough.

JEREMY ESCHLIMAN: Senator Hardin, I absolutely agree with you. That, that's not enough. And the-- I, I feel, just from my personal experience and talking to other colleagues, also, that there, there's a good process already in place to really that trust. If, if you think me personally as a health director, just using me personally, if I'm going rogue, you know, doing all these things that you don't feel I should be doing, there's a process in place of employment through the

local board of health with me. That they're bringing that complaint forward, there's-- they'll open the investigation, a process. I calmly talk to my board members, which are elected and appointed officials. That's-- it happens on almost a daily basis of what's going on. Not always, but, you know, in situations like during the last couple of years, it was daily. I was talking to my board physician, my board chair every day. I was talking to county board members, not every day, but, you know, as possible-- city mayors possibly, too. I'll stop there.

HARDIN: But I-- that begs another question for me. How long does that take for the board to say, we're going to evaluate what's happened and now we're going to respond to it? How long does that take? I, I don't know.

JEREMY ESCHLIMAN: So, to speak on my local experience with, with my local board of health and I imagine it's similar across Nebraska-- they, they can call for an emergency meeting there as, as a governmental entity similar to a lot of other governmental entities or, you know, you can, regardless of interlocal agreements and Open Meetings Act, the executive committee of the board, which is comprised of the officers elected by the board of health, they can take action between board meetings. Of course, the checks and balances there is they have to come back to the board and say, hey, this is what we did. What do you think? You know, there's the chance for ratification and reconciliation, that process. But they do that authority, they can take action pretty swiftly in that regard. So.

HARDIN: Is, is that the fox going to the fox den, though, after going into the henhouse?

JEREMY ESCHLIMAN: I'm sorry. I'm not--

HARDIN: Can't follow me through my, my farm boy analogies?

JEREMY ESCHLIMAN: Yeah, no. I, I appreciate it, but I'm just-- help me out there.

HARDIN: In a nutshell, if that public health director gets in trouble and they're going back to another group of appointed people as opposed to elected officials, as this bill is proposing, aren't they essentially avoiding accountability that this bill is introducing?

JEREMY ESCHLIMAN: I don't think so, in my experience.

HARDIN: OK.

JEREMY ESCHLIMAN: And the reason I say that is because, you know, what I've seen that's been interesting with boards of health, they, they do have independent opinions. And-- but as a, as a general sense, they come because they're interested in public's health. And so if there's something that's interesting to them, then they're going to have that discourse. And I encourage you to come out to Kearney, we'll have you into our Board of Health meeting or anyone-- we have Zoom meetings all the time for those-- actually for public participation or if you're interested in coming out. It's quite interesting. They're, they're quite engaging. We had about a three-hour meeting this last week, but it's-- but nonetheless. I, I feel personally that there are checks and balances in place that are, that are accurate, too, to get to your point.

HARDIN: Thank you.

HANSEN: Senator Cavanaugh.

M. CAVANAUGH: Thank you. It's nice to meet you in person.

JEREEMY ESCHLIMAN: Yeah. Thank you.

M. CAVANAUGH: I know we've spoken before over the last several years and thank you for your service to the-- it's Two Rivers, right?

JEREMY ESCHLIMAN: Correct.

M. CAVANAUGH: OK. You cover a large area.

JEREMY ESCHLIMAN: Yes.

M. CAVANAUGH: My question and you-- it's hard for me to know exactly if you've answered it or not. It seems like you have. And I also see that Mr. Cannon is sitting here and perhaps will be testifying, so he might be able to answer. You've been talking about the board of health and that is one thing that I am unclear of. So when you read the bill, on page 7, line 17, it's-- that's where it says that you advise the board of health regarding the adoption of the measures. I wasn't-- it's unclear to me, but maybe it's more clear to you, that that's not the state board of health, but that's the local boards of health?

JEREMY ESCHLIMAN: Yes, that's correct.

M. CAVANAUGH: But not everyone has a local board of health.

JEREMY ESCHLIMAN: Nearly-- at this point in time in Nebraska, as far as I know, all 93 counties are covered by a board of health.

M. CAVANAUGH: OK.

JEREEMY ESCHLIMAN: There, there are some that are covered just by a county, like in Douglas County. Some are multi-county districts, etcetera.

M. CAVANAUGH: OK. OK. Thank you. I think maybe I now have clarity.

JEREEMY ESCHLIMAN: OK. Thank you.

M. CAVANAUGH: Thanks.

HANSEN: Senator Walz.

WALZ: I just have one more question on top of that, because I'd like clarity on what public spirited, public spirited-- oh, shoot. Now I lost it.

JEREMY ESCHLIMAN: Senator, if I could offer, public-spirited citizen? Is that, is that what it is?

WALZ: Yeah. Yeah. Public-spirited men or women shall each serve-- six of those. What is public-spirited, what does that mean?

JEREMY ESCHLIMAN: That's a great term the Legislature created at some point in the past.

HANSEN: Don't look at me. I didn't do that.

JEREMY ESCHLIMAN: So, so what, what it means to me and this is how it applies, is for-- in a district health department or a, a county or city, depending upon the structure, a public-spirited person means somebody appointed by the elected officials within that region and they have to live within that region. And so, it could be, like in my example, a public-spirited person in-- I'll pick on Dawson County-- somebody that lives in Dawson County that's appointed by the county board. So in that county per say, there is a county commissioner and a public-spirited person appointed by the county commissioners.

WALZ: OK. Thanks.

HANSEN: Any other questions? Senator Riepe.

RIEPE: Thank you. I have a quick question. Can you share with me what is an R [INAUDIBLE] your credentials, REHS?

JEREMY ESCHLIMAN: Oh, yeah. Thank you. And Senator Hansen and I had a discussion here a couple weeks ago about that. So registered environmental health specialist is what it means.

RIEPE: OK. Thank you.

JEREMY ESCHLIMAN: Yeah, thank you.

RIEPE: I've just never seen it before, so shame on me. Thank you.

HANSEN: OK. If I may bloviate one more time. I think you hit the nail on the head. You said the scientific method is messy. Right. The problem I have is I don't want the authority or the ability to take away somebody's civil liberties or work to provide for their families or go to church to be messy. It has to be very specific. And I think that's part of the learning experience I feel like we learned from COVID, is we thought if we get the vaccine, we'll be protected from spreading it or getting it ourselves, which we found out to be completely false. It might help you, prevent you from getting worse to some extent or being out of the hospital, but I can see how we took away a lot of civil liberties because people weren't vaccinated or people weren't wearing masks.

JEREMY ESCHLIMAN: Um-hum.

HANSEN: So that was a messy part, like you just said. Sometimes we try this and if we get it wrong and we come back and I appreciate that. You are absolutely right with that. What-- the problem I have is where does the authority lie now? And people being able to take away somebody's ability to work and provide for their family, take away their civil liberties, where should that lie in a messy environment? And I think that's the rub that I have. Right. That's the problem I have and that's where I think the bill is hitting the nail on the head on that aspect--

JEREMY ESCHLIMAN: Um-hum.

HANSEN: --is it should be with local elected officials, even though local elected officials elected the public health director probably. You know, I mean, I think with such a strong response and a big

decision, I think it needs to lie in the people, that the people have elected directly. And I think that can happen in a timely manner if we need to. So I'm hearing the arguments from everybody coming up so far, and it says, well, it's going to take days and weeks. I fundamentally disagree with that. And what about somebody with pulmonary tuberculosis? Seven cases out, out of I don't even know. Let's just have seven out of 100,000, you know. But then, seven cases within so many years doesn't really, I feel, necessitate the ability to relinquish that power to one person. And so I think in some aspect, the, the whole idea of going to the public board of health, since they-- or I think they're in part, are the ones electing you, correct? Or is it more the county?

JEREMY ESCHLIMAN: Appointing me. Yes.

HANSEN: OK.

JEREMY ESCHLIMAN: Yeah.

HANSEN: So maybe making it quicker and just going to the elected officials like in the county or the city, might make-- might help facilitate that process sooner. So I, I kind of listened to what you're saying and maybe, there might be some ways to tighten this up, possibly. But I just had to share my thoughts again. So--

JEREMY ESCHLIMAN: Yeah, thank you.

HANSEN: --and I do appreciate you coming here.

JEREEMY ESCHLIMAN: Yeah.

HANSEN: --and so, here we have some great conversation and you always, you always smile when you answer all your questions, too.

JEREMY ESCHLIMAN: I try.

HANSEN: So that's good. All right. Any other questions from the committee? All right. Thank you, again, for coming.

JEREMY ESCHLIMAN: Yeah. Thank you.

HANSEN: Appreciate it. I'll take the next testifier in opposition to LB421.

GINA FRANK: I'll make this really quick. I have my notes written on here, so I'll hand it to you after. My name is Gina Frank, G-i-n-a F-r-a-n-k, and I am here testifying as a regular citizen, not for my job, not for my union. You'll notice I'm wearing a mask. It's because I've been coughing and I would-- you know, masks work as protect-- preventing spread. So me wearing a mask protects everybody else that I'm around. I did take a COVID test. It's not COVID, but still going to protect everybody else around me. As a private citizen, as a person who participates in public life, directed health measures should be set by experts based on facts and data, not on opinions of people biased by mainstream media and financial gains. So I think that having, having it-- directed health measures for public health being set to a vote of a group of people who-- some of them might believe that tuberculosis is caused by some nanobots that the government is sending out through some kind of something or other. Like, there are really, really nutty theories out there that are not based in reality and they're not based in scientific information, they're not based in data, they're not based in facts. The reason tuberculosis has only had-- there's only been seven cases in the health district in the last few years is because of directed health measures, because people who were contagious were not allowed to freely participate in society because they were contagious. And that is protecting public health. That's protecting everybody else in the, in the area from getting tuberculosis, from getting all these diseases. And so I think that having-- inserting bureaucracy and politics into directed health measures is a very bad idea and a very bad precedent. I don't think the government should be, you know, determine-- like putting politics into health. Thank you.

HANSEN: Thank you. Any questions from the committee? Seeing none, thank you for coming. Appreciate it. We'll take our next testifier in opposition to LB421. Welcome, Mr. Cannon. I don't get to see you very often in HHS.

JON CANNON: Good afternoon, Chairman Hansen, members of the Health Human Services Committee. It's my first time in front of HHS this year, so pretty stoked about that. Thank you very much. My name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the executive director of the Nebraska Association of County Officials, otherwise known as NACO, here to testify today in opposition, respectful opposition to LB421. I will say that I want to thank Senator Kauth for bringing this. When I-- the times that I visited with her when she was running, after she was elected and after she took office, she's always been a prodigious note taker. I certainly appreciate the fact that, that she does that and

she is concerned about hearing from everyone and so I, I hope that I'm able to work with her and we are able to work with her, as far as addressing the concerns that have been brought up so far. I think one of the things is I'm kind of hearing the testimony of all this-- it sounds like we're fighting the last war. And I'm not going to make any claims that I'm-- I have too much military experience, but that always seems to me like that's, that's not a great idea. And certainly, you've heard from a number of people who are concerned about infectious disease primarily. You can't always wait for the county board. To address what you had mentioned earlier, Senator Hansen, you have to have a quorum before you can take any kind of action. You have to schedule and I can tell you what. I've, I've tried to schedule meetings with numerous people on this committee and sometimes it's four or five weeks before I get a, a meeting with four or five people, so you can imagine what that has to do with it. Also, the Open Meetings Act has a few things to say as to, as to what sorts of meetings we can call and when. You can call emergency meetings for an emergency purpose. You have to have an agenda that clearly states the actions you're going to be voting upon. And oh, by the way, when we're talking about an emergency, I think everyone has talked about how those things are sort of messy, to use the term of art that appears to be prevailing today. And so if, if numerous ideas are being batted around and the idea comes up that everyone agrees to but it was not on the agenda, now we have to call another meeting. And so, again, having to work through the Open Meetings Act with, with our governing bodies isn't always going to work for us. You know, we've already talked about the sorts of infectious diseases that we're talking about: TB, typhoid, malaria, hantavirus, Ebola, I think, even got mentioned. So that is why county boards hire health directors. It's their expertise, it's their, their proficiency, it's their ability to get things done in a reasonable manner. They're able to formulate that response. We prefer that boards are reactive to these sorts of emergency situations rather than proactive. And I'll just give you an example. When we had the floods and when the emergency managers or the sheriff said we're going to declare an evacuation order, we weren't concerned about people's property rights, right? We said people have to get out of dodge right now. When people wanted to get back to their homes, I don't, I don't think I heard too many arguments about, about that. When we talk about sheriffs, they're elected officials, obviously, but emergency managers, your rural fire districts, weed superintendents, you know, those are the sorts of people that we, we do not say, when there's an emergency or there's something that you need to take care of in an immediate fashion, you have to get approval through the

county board. Now, and I think that what I'm hearing through the testimony and everything I've heard so far today and, and certainly from the conversation that's been going back and forth between the committee and the testifiers, is that this may just be a little bit overbroad. Certainly, like I said earlier, I'm more than happy to work with Senator Kauth in addressing any of those issues that we may-- might have to strike the right balance. I'm happy to take any of your questions. Thank you very much.

HANSEN: Thank you. Any questions from the committee? Yes, Senator Walz.

WALZ: Thank you. Thank you for coming today. I bet you're wondering, Senator Walz, I already explained to you what the board of health is made up of and you don't understand.

JON CANNON: I've, I've got to-- when Senator Cavanaugh asked, asked Jeremy the question that she had and then, and then she said, I might have to ask Mr. Cannon this and then he answered, I was like, oh, thank goodness, dodged a bullet. But now here we are.

WALZ: Can you just explain to us who in the community makes up these city councils or the county commission. What kind of people are they?

JON CANNON: As far as the city council, if Lynn Rex is in the audience, I'll, I'll defer to her, certainly. That's, that's not my bailiwick. As far as the county board is concerned, those are regular people in the community. And so, I can tell you that when I, when I look at board members that are serving on the NACO board or board members that I'm familiar with, they're farmers, they're ranchers, they're physicians, they're lawyers, doctors, all that good stuff. And so there's, there's no one overarching job title that I see county board members having.

WALZ: Right. I guess one of the things I'm concerned about is there aren't a whole lot, from what I know and maybe I'm wrong, but county board members or city council members that have an education background in health.

JON CANNON: As I go through my personal Rolodex, I, I can think of very few.

WALZ: Yeah. Yeah, I'm just-- yeah. I was just thinking about, you know, it would-- it might be a hardship if there was a requirement then to I mean, if this-- if we required county commissioners or city

council members to have a background in health so they can make better decisions when it comes to health directives.

JON CANNON: You know, certainly NACO's primary purpose is to provide education to all elected county officials across the state. And that's something that we do through various workshops or seminars or conferences and whatnot. You know, certainly, if that's something that we can offer our elected county officials, we're always willing to do so. But I, I can tell you that-- I, I can't-- as, as, as fun as I think I being the executive director of NACO, is, I can't tell any of the county officials exactly--

WALZ: Sure.

JON CANNON: --what to do. They-- it's more the other way around. They tell me what to do.

WALZ: Yeah. It might be hard to find, to fill those positions in that case. All right. That's all I had, Thanks.

HANSEN: Thank you.

JON CANNON: Yes, ma'am. Thank you.

HANSEN: Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thanks for being here.

JON CANNON: Yes, ma'am. Thank you.

M. CAVANAUGH: How are you?

JON CANNON: I'm, I'm well. Thank you, ma'am. How are you?

M. CAVANAUGH: I'm well.

JON CANNON: I'm not allowed to ask questions. I'm so sorry.

M. CAVANAUGH: You-- well, yeah. I think pleasantries are allowed. Well, I don't know. Will we allow it?

HANSEN: What the heck.

M. CAVANAUGH: OK.

JON CANNON: Cool. It's late in the day.

HANSEN: It's not 9:00 at night, so we're doing good.

M. CAVANAUGH: So we have, like, in Omaha, we just had an update of the city charter. I know that's a city. So different counties have a similar operating scheme? Do they have a charter that dictates how they operate or manage themselves or.

JON CANNON: Ma'am, as a, as a what's called a Dillon's Rule state, county, county boards and counties in general, we do not have any authority beyond what the Legislature has explicitly granted or authorized or required or permitted us.

M. CAVANAUGH: OK. So that helps a lot with my next question then. So we authorize, we give the authority at the state level to the county level. Have we, in the past, directed the county to have to adopt certain things? Have we, have we done something like this, not in a healthcare avenue or in a healthcare avenue, but-- I'm, I'm trying to figure out how this historically plays into that relationship between the state and the counties. Is this a typical action for the state to take to direct counties to have to go through specific steps in order to implement a regulation or rule?

JON CANNON: Yes, ma'am, I, I think there is. I mean it-- but it depends on the subject matter, of course. I mean, there are, there are certain things where, you know, when it comes to the police power of the counties, there are guidelines, certainly. But there isn't a step by step, you know, flow chart of here's what you have to do. Now, when it comes to, for instance, the Open Meetings Act, we, we have very specific instructions from the Legislature as to how we are supposed to conduct and manage our meetings and provide notice and, and all that good stuff.

M. CAVANAUGH: OK.

JON CANNON: But again, those are the sorts of things that, that when they are directed to us, they take, they necessarily take time, because we want the public to be-- have notice and all--

M. CAVANAUGH: Sure.

JON CANNON: --that good stuff.

M. CAVANAUGH: So the Open Meetings Act would actually be a great example of the state directing the counties how they must operate.

JON CANNON: Yes, ma'am.

M. CAVANAUGH: OK. Thank you. That is, that is helpful. I'm just trying to figure out if we're overstepping our purview with this, whether agree or disagree with the bill. I just want to make sure we're not overstepping our purview. So thank you.

JON CANNON: Yes, ma'am. Thank you.

HANSEN: Any other questions? Senator Hardin.

HARDIN: Thanks for being here.

JON CANNON: Thank you, sir.

HARDIN: I think one of the things I'm thinking about today is that in some ways, the supporters and the opposers seem to be talking past one another a little bit. What I mean is the bill seems to be proposing something in relationship to a pandemic. Took a long period of time to say, yep, we're in a pandemic and then we fought it for a long period of time. So perhaps there's an issue of duration going on. The exceptions that I'm hearing from the opposition largely have to do with a much more brief type of problem or issue. Right. And so I'm kind of hearing apples and oranges going on where I'm hearing it's the exceptions that make us nervous about this bill in the opposition. OK.

JON CANNON: Yes, sir. If I, if I may address that--

HARDIN: Yes.

JON CANNON: --briefly, because I'm not quick enough on my feet to keep in my head for too long. And so I agree with you. And, and that was why actually and, and because of that, that, that theme that was kind of recurring, that is one of the reasons that I wanted to specifically stress the fact that in emergency situations, counties and-- I'm, I'm not here saying, you know, this is Jon Cannon's opinion. This is, this is what the, the board of NACO has, has adopted as their position. Counties, they don't want to be proactive, they want to be reactive. And so in an emergency situation, we have and, and I can go through the list: sheriffs, emergency managers, weed superintendent-- weed superintendents, public health directors, those sorts of offices. We want them to take the lead. We want them to be on point and then we want the county board-- and, and, and frankly, if all we need is something where, you know, within so many days of, of, of some sort of measure having been implemented, then the county board has to ratify

that. From my perspective, I wouldn't have a problem-- I don't want to speak for the public health directors, but from my perspective, I wouldn't have a problem with that.

HARDIN: My sense is, given that this lasted two and a half years, there was lots of time to be reactive here.

JON CANNON: There was.

HARDIN: OK.

JON CANNON: Yes, sir.

HARDIN: And so you bring up a great point, which I think kind of makes the point for the supporters, which is this isn't something that needed to be decided in a, in a single moment by elected officials. It's an opportunity for elected officials to look at the, the long game and say, wait a minute. After weeks or many months, we see liberties being squashed and it's a check and a balance to say after these many weeks or months or even more than a year, our view of the long game is that this needs to be asked about, held in check.

JON CANNON: Sure. And, and Senator, I agree to the extent that we would ask county boards to be reacting to the decisions of the public health directors. I, I think that's all to the good. And, and I think that's a wise policy to pursue. But, but to have to say that the county board has to be proactive before a public health director can go out and do its job. Again, we wouldn't ask a sheriff to go consult the county board before they made an arrest of a, of a wanted fugitive. And I know that's kind of a ridiculous extreme, but that, that really does get to the, the emergency nature of what we're discussing here.

HARDIN: Thank you.

JON CANNON: Yes, sir. Thank you.

HANSEN: OK. I want to bloviate again.

JON CANNON: Yes, sir.

HANSEN: I agree with you. I think-- I'm just going to use counties as an example. I think they should be reactive. I don't think they should, in my opinion, should be reacting to a public health director's decision as opposed to more their advice. The notion that

elected officials have to have some background in health makes no sense to me. They don't have background-- some don't have backgrounds in roads, some don't have backgrounds in, you know, building permits or law, you know, like a lawyer. They rely on the advice of people who come in front of them, right, which I think is the main purpose of a public health director. You have to trust them to give you the proper advice. So you, being the expert in representing your constituents, that's the thing they should be experts in. They represent their constituents, relying on the advice they get from a public health director. The part when we have public health directors making decisions that can affect people's civil liberties, I think is a very messy situation, like you said.

JON CANNON: That word again, sir.

HANSEN: Yes, I'm going to use that, but I did it on purpose, too. And so I think you're kind of comparing a little bit of apples to oranges when you say a flood. You know, I mean a flood is happening within minutes. Right. And we're not talking about a zombie apocalypse, I think. Right.

JON CANNON: I can't wait for that bill.

HANSEN: Yeah. If we have a zombie-- we can put that in the bill. If there's a zombie apocalypse, public health directors can have total authority. Right. But we're talking about someone like Senator Harden was kind of alluding to, is like, this is something that, you know, had-- is-- over a course of time, where I think we can get the information from our elected officials who get advice from a public health director. And so, again, I think-- I just had to push back a little bit on some of the stuff that you were saying, because it seemed like you were comparing some things that weren't quite the same. So you can respond to that if you like.

JON CANNON: Oh, thank you, sir. I just-- I believe that the analogy is to an emergency situation. And so my analogies have been other emergency situations that elected and unelected officials that are county, county employees have to face. And I don't think that we ask any of them to say you have to get authorization from the county board before you can go and go do your duty.

HANSEN: Thank you. Yes, Senator Hardin.

JON CANNON: Yes, sir.

HARDIN: Yeah, I was just checking. The word emergency does not appear anywhere that I can see in the bill, so I think we're talking about kind of looking at what's going on over a period of time and, and responding to it. So I don't-- I define an emergency as, honey, we're out of bacon and so something needs to be done. And so, in a nutshell, I think we're looking at a much longer period of time than what I would call an emergency. It seems like what the bill is addressing.

JON CANNON: Well, I think the, the President's state of emergency was in effect for a long, long time. The Governor's-- the state of emergency had been declared for a long, long time. I mean, emergencies are how, how you want to define them--

HARDIN: Well, and I guess that's--

JON CANNON: --I mean, certainly. But I think when you initially get to that point, when the emergency has been declared, I think that's what we're talking-- and, and--

HARDIN: And that's fine.

JON CANNON: I, I think that's the common ground we have here.

HARDIN: What I don't want to say is that an elected board has to respond quickly, without appropriate conversation about what they're contemplating. Right. That affects a lot of different things.

JON CANNON: Well, and, and I, I appreciate that, because the immediacy that, that we're talking about here is something that, again, through the statutory framework that we have, such as the Open Meetings Act in particular--

HARDIN: Right.

JON CANNON: --is something where a, a, a county board cannot meet immediately generally. And you can declare an emergency, but, but then you're restricted very, very heavily on, on what exactly you can accomplish during that emergency meeting.

HARDIN: Thank you.

JON CANNON: Yes, sir. Thank you.

HANSEN: Any other questions? Going once. Going twice.

WALZ: It's OK. I'll ask you later.

HANSEN: You sounded so excited. Seeing no other questions, thank you for your testimony.

JON CANNON: Thank you very much. Thank you all.

HANSEN: Is there anyone else wishing to testify in opposition to LB421?

ECHO KOEHLER: Good afternoon. Hello again. My name is Dr. Echo Koehler, E-c-h-o K-o-e-h-l-e-r. I have a Doctor of Nursing Practice degree, I am a registered nurse and a nurse educator. I am here on behalf of the Nebraska Nurses Association, speaking in opposition to LB421. Nebraska Nurses Association is so proud and we are so fortunate in the great state of Nebraska to have nurses leading our most populous public health departments. They're highly educated in population health and epidemiology and are experts in public health practice. Health directors are uniquely qualified to follow the public health ethical standards that guide evidence-based public health practice, including the balance of optimal targets for health and well-being and in cases balancing the autonomy, freedom, privacy and other legal interests of individuals and populations for common good. Requiring approval of the city council or a county, county board to issue directed health measures creates bureaucratic red tape that will delay implementation of emergency public health services. Further, the legislative intent behind this law undermines the education, experience and skill set of the public health director, who is uniquely qualified to implement evidence-based practice. In the cases of individual patient-directed health measures, we have a concern that a right-- a patient's right to privacy may be violated by requiring an individual's personal health information be shared publicly before an elected board. The restrictive law interferes with the trust and confidentiality between patients and clinicians in the delivery of timely, evidence-based care by politicizing public health. Further, as nurses, we really rely, across the state, to work closely with health departments and at times need emergency guidance, including directed health measures in settings included but not limited to schools, nursing homes, occupational health, shelters, parish and faith-based centers, clinics, hospitals and in private practice. As nurses, we rely on strong public health leadership to make timely, critical public health decisions to protect all Nebraskans. The Nebraska Nurses Association is the overarching organization for the 30-plus thousand registered nurses in Nebraska. All nurses are bound by our code of

ethics and our professional duty to our patients. For these reasons, the NNA is opposed to LB421 and we ask the committee to please stop the advancement of this bill. And I'll take any questions.

HANSEN: All right. Thank you. Any questions from the committee? Senator Riepe.

RIEPE: Thank you, Senator Hansen. In the hospital business, we always had infectious disease nurses. So I'm curious about their level of expertise in terms of epidemiology and also when it comes to limited knowledge about something like COVID or Ebola or something that's much more than-- what we looked for in the hospital was, you know, probably staph infections and that kind of infectious disease control. So to me, a wide variance between a hospital and where we used our nurses and where I think most nurses practice versus that higher level of COVID and Ebola. And, and I'm curious if you consult with or what do you have a established relationship with particular physicians, as well, to get more than one opinion?

ECHO KOEHLER: Yeah, I, I appreciate that question about nursing and the profession of nursing and what our different education levels are. Our nurses that are leading our health departments have advanced education and they have advanced education in epidemiology. There are nurse practitioners that are in roles that are, are health directors. And so, while there is definitely-- we have, have nurses in infectious disease within hospitals, it's a very different role and a very different skill set that's needed in population health or in public health practice. And so as you've heard, our city councils, our county boards, they're responsible for hiring those that are educationally and experientially prepared for the role of a public health director. And so nurses, at times, do have that education and experience to be able to fill those roles.

RIEPE: OK. OK. Thank you. Thank you for being here.

ECHO KOEHLER: Yeah. Thank you.

HANSEN: Any other questions? Seeing none, thank you for coming.

ECHO KOEHLER: I got off way too easy. Thank you.

RIEPE: Well, you could come back [INAUDIBLE].

ECHO KOEHLER: I'll see you again. I'm sure.

HANSEN: I would, I would run while you can. All right. We'll take our next testifier in opposition to LB421.

JULIA KEOWN: My name is Julia Keown, J-u-l-i-a K-e-o-w-n. I am a registered nurse, native Nebraskan and mother here in Lincoln. I just kind of wanted to address the idea that these DHMs during COVID didn't work or weren't worth it and I can tell you that is absolutely not true. They were established to basically save the hospitals. Right. We were all drowning. And that's what they did. So these health care professionals that are uniquely qualified to make these decisions, absolutely made the right decisions. And, you know, for a lot of us that were working in the hospitals, we needed them sooner. So I'm glad that they happened when they did, really. So my testimony is in early 2020, our-- the manager of my unit, my home unit, the ICU, she hung a sign-up sheet for volunteers to staff a COVID unit, should we eventually need one. And I signed up for better or for worse. The experiences I had on the COVID ICU as a bedside nurse will be with me for the rest of my life. I have never seen so many people die so horribly. Much of 22 was-- 2020 was spent desperately trying to save people from a new disease with no cure and very few effective treatments. It was like an assembly line of carnage with no end in sight. When DHMs were announced, there would be a collective sigh of relief amongst bedside clinicians, myself included. There were actually times that we would, you know, on a, on a break when we-- very few times when we got those breaks. Someone would read in the Journal Star that we had a DHM come out, a mask mandate. We would actually cheer, you guys, because we knew it was going to work and it did. Right. We knew that in 2 to 3 weeks, we would be coding fewer patients, telling fewer family members over Zoom that their loved ones wouldn't die alone and delicately and respectfully wrapping fewer patients in oxycide-soaked towels, we were wrapping their faces in towels, before placing them in body bags. Make no mistake. These DHMs worked. They saved lives. And honestly, ideally, it would have been great if they would have been implemented sooner. I would have spent fewer times telling five-year-old grandchildren that I'm glad that they lost their tooth and I would tell their grandmother that over Zoom. And then I would spend the next 3 hours singing hymns, Amazing Grace, to their grandma while she passed away. OK. They worked. The public health experts who enacted these DHMs should be hailed as heroes for making difficult but evidence-based health decisions that saved lives, saved healthcare systems for all Nebraskans, supported healthcare workers and prevented serious and long-term morbidity issues for countless Nebraskan citizens. LB421 will take the ability

of public health experts to ameliorate harm away from them. That's all I got.

HANSEN: Thank you. Any questions from the committee? Yes, Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you for being here. I say this with all sincerity and gratitude in my heart. Thank you. You testified previously on my bill--

JULIA KEOWN: Yeah.

M. CAVANAUGH: --about your child?

JULIA KEOWN: It was scary. It was scary.

M. CAVANAUGH: You are an amazing human being, an amazing specimen of what it means to have care and compassion in your heart and I appreciate you showing up in this hearing room. You've shown up in a lot of hearing rooms this year. And thank you for, for sharing yourself with us, for your, your heart of service and for taking care of those families and for having those conversations with those five-year-olds and for singing to those patients. I just truly thank you.

JULIA KEOWN: You can thank me by not passing this bill.

M. CAVANAUGH: I won't, I won't vote for it.

JULIA KEOWN: Yeah. Yeah. Yeah.

HANSEN: Questions from the committee? All right. Seeing none, thank you.

JULIA KEOWN: Thank you.

HANSEN: Anybody else wishing to testify in opposition to LB421. Is there anybody wishing to testify in a neutral capacity? All right. Seeing none, we will welcome up Senator Kauth to close. And for the record-- find it here. We-- so there were letters, 15 letters in support of LB421 and 8 letters in opposition.

KAUTH: Thank you very much. I appreciate everybody sticking around and listening to the testimony. And I would love to work with Jon Cannon. He's great to work with. We do need to clean up some of the language

and make sure-- there seems to be confusion about the county board of health. We could certainly separate out things like food poisoning and those immediate issues. But I do want to point out that there seems to be plenty of time to get a vote. Everybody was talking about how many different times they would talk with elected leaders and other people. There seems to be plenty of time to say, we need to sit down and vote on this. And this in no way diminishes these public health directors' education and their experience and their recommendations. All we want to do is make the person responsible for making that call be the elected official. That's why we put them in place. The job of an elected official is to assess information and to gather it all. It's not to be an expert in everything. Like you said, you don't have to be an expert in roads to make that decision-- or finance or any of the other things we deal with. You have to be able to assess the information and weigh the costs and benefit. I think Dr. Eschliman said something about the masks. He said it was better than nothing. That's an example of something that was not better than nothing. Those masks, there was a cost-benefit with that and the cost was far, far greater than the benefit when you use cloth masks. So that was something that was imposed upon people without there being any sort of accountability. And it didn't actually work and it did actually cause harms. So I want this bill to represent people being given the chance to have their elected officials, the people they put in that spot, to make those decisions in an emergency for them and have it-- have that rest with the elected officials. Any other questions?

HANSEN: All right. Thank you. Any questions from the committee? Senator Walz.

WALZ: Thank you. The elected officials we put in place, don't they put the public health director in their place?

KAUTH: Yes--

WALZ: OK.

KAUTH: --but you, you want to make sure that they're a-- a vote.

WALZ: Right. I just wanted to clarify that. Can I ask one more question, please?

HANSEN: Sure.

WALZ: So Fremont, I believe, was the first town in Nebraska to have the out-- the COVID outbreak. And if I remember right, I think that

our health department was never-- they never issued the mask mandate. The City Council did and then the Governor's Office.

KAUTH: Exactly. And that's-- the elected, the elected official did it.

WALZ: OK. Hold on. Just let me finish, please. And then the Governor's Office issued the mask mandate. The health department did have and they did do an isolation order. My question is, I mean, there's a lot of moving parts. So what happens if the state issues a directed health measure and Dodge County Public Health approves of it and then the City Council says, we don't approve of it?

KAUTH: That would be, kind of in the hierarchy of things, the state directed health measure, that would be approved by the Governor. That is the elected official who is in charge of that public health director. And I'm happy to sit down with either Jon or, or whoever to figure out who is responsible for each one. But that would be an overriding, so if the Governor says, yes, I'm taking the hit, I'm making the decision because my-- the state public health director has made this recommendation, that's how that would go.

HANSEN: OK. Any other questions from the committee? Senator Cavanaugh.

M. CAVANAUGH: Thank you. What would you say to testifier Dr. Koehler, who said that in the case of directive health measures, a patient's right to privacy may be violated by requiring an individual's personal health information be shared publicly before an elected board?

KAUTH: And that's a really good point and that's part of the, as Jon said, the overly broad. Those would be the, the food poisoning, the individual, the one-on-one issues that we may need to separate out from this because we're talking a big community response versus those very small individual ones.

M. CAVANAUGH: But in the case of Fremont, which is a medium-sized community, that might be OK. But in a smaller-sized community, like Hooker County where there's 500 people and you have to go to the county board and five people have an illness, you are breaking HIPAA, basically, by forcing them to disclose this publicly at a public hearing.

KAUTH: I don't think you'd have to disclose the name of the people at the public hearing.

M. CAVANAUGH: No, you wouldn't be disclosing the name of the people, but you would be exposing the people, because everybody would know if you said five people and you're in a town of 500 people.

KAUTH: So are you asking if, if the smaller the town it is, the less they should have that protection?

M. CAVANAUGH: I'm asking you to address the concern stated here that you'd be violating a person-- an individual's personal health information to be shared publicly. You're forcing the public health director to share information publicly, at a public board.

KAUTH: To, to say that there are people in the community who have this and we need to implement a directed health measure?

M. CAVANAUGH: Well, I guess what are they going to have to report to the board in order to get the public health measure?

KAUTH: It, it really would depend. Are they just isolating these, these individuals one by one or is it an entire community that's being isolated?

M. CAVANAUGH: OK. And what would you say to a Nurse Keown, who said-- who talked about how they cheered when there were public health directives put in?

KAUTH: Again, I'm not saying you don't need directed health measures. I'm saying the person responsible for putting them in place needs to be elected.

M. CAVANAUGH: But his is in direct reaction to the measures that were put into place.

KAUTH: But they were put into place-- if they were put into place by someone who is elected [INAUDIBLE]

M. CAVANAUGH: So is this in reaction purely to the process of how they were put into place or is this in reaction to them being put into place?

KAUTH: This is in reaction to who takes accountability and responsibility for putting a directed health measure into place and it needs to be the person who is elected by the citizens of that area.

M. CAVANAUGH: The people who are elected, who appoint or place-- put the public health director are already responsible, so we're creating additional bureaucracy in government.

KAUTH: They, they need to go on record. They need to go on record saying that they're the ones taking responsibility to remove freedoms from people.

M. CAVANAUGH: OK. I look forward to us discussing taking away freedoms from people when we're debating bills on the floor of the Legislature that are taking away freedoms from people.

KAUTH: Absolutely.

M. CAVANAUGH: Thank you, Senator Kauth.

HANSEN: Any other questions from the committee? From my understanding, you can divulge information about somebody's health without divulging any personal information, so you would not be breaking HIPAA from my understanding, because you can say, a female in her thirties, etcetera, etcetera, which should not be breaking the law.

KAUTH: That, that would be my understanding. I think Senator Cavanaugh was implying that in a small town, everybody knows everybody so they'd figure it out.

HANSEN: Yep. So, OK. Seeing no other questions, thank you.

KAUTH: OK.

HANSEN: All right. And with that, that will close our hearing on LB421 and our hearings for the day.