

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Health and Human Services Committee February 17, 2022

**ARCH:** [RECORDER MALFUNCTION] Services Committee. My name is John Arch. I represent the 14th Legislative District in Sarpy County and I serve as Chair of the HHS committee. I'd like to invite the other member of the committee who's here right now, starting with, starting and ending with Senator Day.

**DAY:** Good afternoon, I'm Senator Jen Day, represent Legislative District 49 in Sarpy County.

**ARCH:** We will have other senators that will come here. Also assisting the committee is one of our legal counsels, Paul Henderson; our committee clerk, Geri Williams; and our committee pages, Rolf and Natalie. A few notes about our policies and procedures. First, please turn off or silence your cell phones. This afternoon, we will be hearing three bills and we'll be taking them in the order listed on the agenda outside the room. The hearing on each bill will begin with the introducer's opening statement. After the opening statement, we will hear from 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. For those of you who are planning to testify, you will find green testifier sheets on the table near the entrance of the hearing room. Please fill one out, hand it to one of the pages when you come up to testify. This will help us keep an accurate record of the hearing. 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. We use the light system for testifying. Each testifier will have five minutes to testify. When you begin, the light will be 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. We will ask that you wrap up your final thoughts. If you wish to appear on the committee statement as having a position on one of the bills before us today, you must, you must testify today. If you simply want to be part of the official record of the hearing, you may submit written comments for the record online via the Chamber Viewer page for each bill. Those comments, however, must be submitted prior to noon on the workday before the hearing in order to be included in the official record. Additionally, there is a white sign-in sheet at the entrance where you may leave your name and position on the bills before us today. With that, we will begin today's hearing with LB954. Welcome, Senator Wayne.

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**WAYNE:** Thank you, Chairman Arch and members of the Health and Human Services Committee. I believe it's the first time I've appeared before this committee.

**ARCH:** Really?

**WAYNE:** So this year, I try to introduce a bill to make sure I go to every committee at least once. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and northeast Douglas County. I'm here today to introduce LB954, which is a very simple bill but can have significant impact for small Nebraska businesses and business owners. Simply put, LB954 prohibits counties from enacting bans on vaping methods that are the most--that more restrictive than the Clean, Clean Indoor Air Act. It, it still upholds and does not in any way interfere with the Clean Indoor Air Act. This bill would prevent patchwork from random violations and bans from one county or city to the next making it easier for the industry to provide their services to their customers and conduct business. The fiscal note makes it clear that there is no fiscal impact to the state. There will be a couple testifiers to go in detail about how the bill will prevent some of the difficulties that they seen across the country that they're dealing with. I would like to thank the committee for their time. I'd be happy to answer any questions.

**ARCH:** Thank you. Are there any questions? Will we have a testifier who will explain what the current Indoor Clean Air Act does?

**WAYNE:** Yes.

**ARCH:** OK, great.

**WAYNE:** I had to double-check that person was in the room.

**ARCH:** OK. All right. Any other questions? Seeing, seeing none--

**WAYNE:** I do have a legal briefing that I need to go to, so I probably won't be here for, for closing. So if I'm not here, I waive.

**ARCH:** OK. All right. Thank you. First proponent for LB954. Welcome.

**SARAH LINDEN:** Thank you. Good afternoon, Chairman Arch and members of the Health and Human Services Committee. My name is Sarah Linden, S-a-r-a-h L-i-n-d-e-n, and I am president of Nebraska Vape Vendors Association and owner of Generation V, a Nebraska-based business with 13 vapor stores in Nebraska. Over the past eight years, we have helped an estimated 100,000 people stop smoking. Most of our guests have

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tried to quit countless times using other methods, but were unsuccessful until they tried vaping. You had a question, Senator Arch, about what the current bill is. In 2020, Nebraska added vapor products to the Clean Indoor Air Act. We were able at that time to get a carve out for vapor shops so that our guests in our stores could continue to test flavors in order to find one that suits them because there's nothing worse than buying something and deciding you don't like it when you get home. It also allowed our guests to test nicotine levels because our products come in all kinds of nicotine levels. And that way, they can find one that actually suits the amount that they smoked. It also allowed us to continue to troubleshoot devices. The devices that we carry in our stores can be very complicated for our guests to use, especially if they're smokers and they've never vaped before. It allows us to help, like, set up their device. But if they-- with the ban, a total ban on vaping indoors, we can't even, like, activate a device in our stores to, like, show them how to use it. And so we were very grateful that the, that the state of Nebraska made a carve out for vapor stores so that we could continue to do these things in our stores and all that we're really asking here is that in Lincoln and Grand Island, unfortunately, they had already passed city ordinances which banned vaping indoors full stop. And we're just asking that the committee support this bill so that we can-- so that those municipalities can't restrict our ability to help our guests, essentially. The way that they did the carve out was through a certain amount of retail sales and the age 21. So right now, to even be in our store, even for current employees, you have to be 21-years-old and that has limited our ability to hire significantly, especially in staffing shortages. However, because that's the law now for vapor shops, we do that across all of Nebraska, whether or not we get the benefit of being able to allow our guests to try devices in store or not in different municipalities. So our guests-- another thing to mention is that our guests do not hang out in our shops and vape. We're not like a vaping lounge, like a cigar bar. We're simply just asking for them to be able to try things so that we can help them to our utmost ability. We're not asking for cloudy vape shops or anything. We actually find that our guests don't like that walking into, like, a bunch of clouds or anything. The other thing, like, maintaining just as a business owner, maintaining and adhering to a patchwork of different laws is very cumbersome for us, and it is also confusing to our guests. We have to track and adhere to the different laws and, and even some municipalities. And we're not asking for this here, but some municipalities have special taxes as well and so we have to file special taxes per location. And for our guests who sometimes travel from one vape shop to another, we found in Lincoln

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that they'll just start vaping in our stores because they're used to shopping in Omaha. And then find we have to explain to them why they can't do that. Because the Nebraska legislators made up of representatives from all districts and municipalities in Nebraska, I feel like their needs are already being heard and met and that there isn't a need for these different laws. So supporting this bill would allow us to serve our guests to our utmost ability, allowing them to try flavors, nicotine strengths, get troubleshooting, help. And so we would kindly request that you support this bill.

**ARCH:** Thank you.

**SARAH LINDEN:** Do you have any questions for me?

**ARCH:** Senator Day.

**DAY:** Thank you, Chairman Arch. Thank you for being here today. So help me understand a little bit. If we were to pass this, would that allow electronic smoking devices in any establishment?

**SARAH LINDEN:** No.

**DAY:** OK.

**SARAH LINDEN:** Only in vapor shops because the carve out was extremely limiting to only allow it in vapor shops.

**DAY:** OK. Thank you.

**SARAH LINDEN:** Um-hum.

**ARCH:** Other questions? It's a little unusual for us to hear this bill. I think, I think I've seen you in General Affairs rather than, rather than here is HHS, but.

**SARAH LINDEN:** Oh, you've probably seen all over the place. Normally I'm opposing bills,--

**ARCH:** Yeah.

**SARAH LINDEN:** --not, not supporting them.

**ARCH:** Right. Well, thank you for your testimony. Thanks for coming.

**SARAH LINDEN:** Thank you. I appreciate your time.

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**ARCH:** Next proponent to LB954. Is there anyone else like to speak in favor of LB954? Are there any opponents to LB954? Seeing none, anyone want to testify in a neutral capacity? Oh, wait, there's movement. I'm assuming these are opponents?

**DAVE WATTS:** Opponents, yes.

**ARCH:** Opponents. All right.

**DAVE WATTS:** Thank you, Chairman Arch--

**ARCH:** Thank you.

**DAVE WATTS:** --and members of the committee. I'm Dr. Dave Watts, D-a-v-e W-a-t-t-s. I'm a retired physician from Omaha and current president of the Nebraska Medical Association, testifying on behalf of the NMA in opposition to LB954. Our NMA mission is to advocate for physicians and for the health of all Nebraskans. It's the health of Nebraskans that guides our testimony today. The NMA strongly supported the original Clean Indoor Air Act, becoming law back in 2008. We also supported including electronic smoking devices and vaping use under the provisions of the Clean Indoor Air Act just a few years ago, which the Legislature adopted. And we're also strong advocates for local control as it pertains to public health matters. The Clean Indoor Air Act, as you know, does currently allow for localities to have prohibitions on indoor smoking that are stricter than the requirements of state law. NMA sees no justification for treating indoor vaping or electronic cigarettes any differently than conventional smoking under the act as it pertains to local restrictions, and that's what LB954 attempts to do, it's not specific for vape shops. It's nonspecific across the board. Research on the hazards of secondhand exposure to vaping aerosol is evolving very quickly. Contrary to marketing claims and now popular belief, vaping devices don't simply emit harmless water vapor, rather heating the substances in the chamber of a vaping device produces an aerosol, so-called, because it contains stuff unlike steam, which is pure water. Unlike water vapor, that aerosol contains nicotine, ultrafine particles that can worsen asthma and toxins that are known to cause cancer. The ultrafine particles, or nanoparticles, as they're called, are of concern for a couple of reasons. They're found in high concentrations in vaping devices as opposed to conventional cigarette smoke and, two, they can be more efficient at carrying and depositing toxins deeper into the very tiniest structures in the lung. There have been at least ten known carcinogens and reproductive toxins identified in secondhand aerosol from vaping, including benzene, toluene, formaldehyde, lead, among

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others. One recent study looked at real-use conditions of e-vaping versus smoking, and the study found that nonsmokers who were exposed to either secondhand aerosols from vaping or secondhand cigarette smoke absorbed similar levels of nicotine into their bloodstream. Proponents of vaping and e-cigarettes use often claim that these products are safer to both the user and to public than traditional cigarette smoke. As I just explained, this could not be further from the truth. The Legislature took a tremendous step by including vaping and electronic cigarettes under the Clean Indoor Air Act, prohibiting local communities from responding to new research and enacting their own policies. Beyond that, the act would be a disservice to local public health efforts, in our opinion. LB954 would undermine the Clean Indoor Air Act and would harm the health of Nebraskans. The Nebraska Medical Association respectfully urges the committee not to advance LB954. Thank you, Senators, for your time.

**ARCH:** Thank you. Are there any questions? Seeing none, thank you. Thank you for your testimony. Next opponent for LB954. You can go ahead.

**MAGGIE BALLARD:** OK, thank you. Good afternoon, Senator Arch and members of the Health and Human Services Committee. My name is Maggie Ballard, M-a-g-g-i-e B-a-l-l-a-r-d. I am a prevention specialist at Heartland Family Service. I'm here today in opposition of LB954 for a number of reasons. Heartland Family Service is the fiscal agent for MOTAC, which is the Metro Omaha Tobacco Action Coalition, which is a coalition that formed 30 years ago to strengthen tobacco prevention and control efforts in the Omaha metro area. Aside from MOTAC, our prevention team at Heartland serves both Douglas and Sarpy Counties and in the school districts that we serve, such as Papillion and Gretna, vaping is the biggest issue that parents, teachers, and community members report to us. Our community members want to see less vaping, not more. Having control over solving this issue is one of the greatest tools that our coalitions and community members have in their tool belt. Community members are often more comfortable talking to their city council representatives that happens to be their neighbor or their kids' coach and sharing stories with that person that happened last week. It's more realistic to drive ten minutes to the weekly city council meeting than waiting for the Unicameral to reconvene and hoping that their state senator is able to get a bill out of committee to address the problem that was brought to their attention, say, six or eight months ago during the interim. With local control being so important, it's disappointing to see that consideration is being given-- or that consideration is given to being part of the problem rather than part of the solution. Part of the

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problem, the tobacco industry spends a million dollars an hour on advertising. I'll just let you wrap your mind around that for a minute because I don't know how long we're going to go today on this hearing, but in that amount of time, they will have spent a million dollars an hour on advertising. So they have an overwhelmingly high budget to get people that are not using nicotine to start and people who are already using nicotine to use more. We all hear commercials encouraging people to make the switch. But evidence is clear, as the person before me said, inhaling liquidized metals is not safe. Nicotine is harmful to the brain, and vaping is not deemed by the CDC as an evidence-based way to quit smoking. And here's why. I love giving this example to people because I think it really spells it out. So imagine if I was gaining weight from eating too many cookies, which I am prone to doing. Let's say I want to lose that weight. How successful would I be if I said, you know what, I'm going to quit eating cookies and I'm going to switch to candy instead? Obviously, I wouldn't see much of a difference on the scale. I would be able to tell you that I have quit eating cookies, but it's not going to be reflected on the scale. And that's what making the switch is. The final but perhaps the greatest reason I'm here today in opposition of LB954 is on behalf of our clients. As you all hopefully know, Heartland Family Service has several programs where we help treat and provide services to people with addiction. And when someone is attending treatment for an alcohol, cocaine, or methamphetamine use disorder, but they're continuing to smoke or vape, it's easy for some of us to think, you know, we have bigger fish to fry. Nicotine isn't altering their perception of reality. It's not impairing them. Let's let them keep vaping until their cravings subside. Let's not take away everything. It seems like a reasonable approach, but unfortunately, nicotine use is the pilot light for other addictions. Allowing them to continue smoking or vaping is not doing them any favors. The less that our clients use nicotine, the better off they are. The fewer spaces where they are invited to use, the healthier they are. And the more local control our communities have, the less control we give to the rich and powerful tobacco industry. So for these reasons, I encourage you to vote no on LB954. I want to thank you for your time. I also just wanted to voice that I looked over the bill and it's very short and I didn't see anything in it saying what would happen to existing local ordinances if it would-- if they would be grandfathered in. That's not specified in this bill. I also didn't see anything that says that this would just pertain to vape shops. So I just want to bring attention to that, but I am happy to answer any questions that I'm able to.

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**ARCH:** Thank you. Are there any questions? Seeing none, thank you very much for your testimony. Next opponent for LB954.

**MEGAN WORD:** I brought ten copies. There you go. Oh, sorry.

**ARCH:** Good afternoon.

**MEGAN WORD:** Hi. Good afternoon, Senator and members of the committee. Thank you so much for letting me testify today. My name is Megan Word. It's M-e-g-a-n W-o-r-d, and I am the government relations director for the American Cancer Society Cancer Action Network. On behalf of ACS CAN and those we serve, many of whom are dealing with cancer or have a loved one dealing with cancer, I'm here today to testify in opposition to LB954. ACS CAN advocates for public policies that help prevent cancer at all levels of government. Our opposition to LB94 [SIC--LB954] is primarily based on the bill's prohibition on local governments to pass clean air policies at the community level that are stronger than the state law. LB954 targets policies specific to e-cigarettes and flavors, taking away the power of local leaders to regulate how and where these products are used and sold. Data from the campaign for Tobacco-Free Kids shows that Nebraska's adult smoking rate sits at almost 14 percent. The rate at which pregnant women smoke sits at almost 10 percent and more than 17 percent of high school students use e-cigarettes. Nebraska spends \$795 million in healthcare costs related to tobacco use annually, and it is estimated that 500 kids under eight under the year-- excuse me, under 18 years of age will become new daily smokers every year. LB954 forbids local communities from tackling those rates by removing their authority to decide how they want to regulate the use of e-cigarettes and flavors. Local control over matters designed to protect the public's health has numerous benefits that are lost when local control is preempted. The development of public policy at the local level creates community debate, education, and engagement in a way that policymaking at the state or federal level generally does not. This engagement creates a broader base of public understanding and usually leads to more sustainable policies. ACS CAN works at the local, state, and federal levels, and it's important for each of these levels of government to work together to implement policies that protect the public's health. It's through working together that we save lives. By removing local policymakers and local policies from the process, preemption will affect our ability to implement protective policies and help Nebraskans stay healthy. We urge the committee to oppose LB954. Thank you for your time, and I'm happy to sit for questions.

**ARCH:** Thank you. Are there any questions?

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**B. HANSEN:** I have a question.

**MEGAN WORD:** Yes.

**ARCH:** Senator Hansen.

**B. HANSEN:** You mentioned local control. Do you think we should get rid of the Nebraska Clean Indoor Air Act and leave it up to local control?

**MEGAN WORD:** No, I don't.

**B. HANSEN:** OK, just curious.

**MEGAN WORD:** No.

**B. HANSEN:** All right. Thanks.

**ARCH:** Thank you for your testimony.

**MEGAN WORD:** Um-hum.

**ARCH:** Next opponent for LB954. You may proceed.

**SARA PREM:** Hi, thank you so much to committee for allowing us to testify today. My name is Sara Prem, S-a-r-a P-r-e-m. I'm the new director of advocacy in Nebraska for the American Lung Association, so I'm thrilled to be here for my first opportunity to testify. The Lung Association believes that the local government should be allowed to respond to public health issues like youth e-cigarette epidemics in ways that work for their community. We oppose LB954 because it would strip away the rights of local communities to pass any ordinance or resolution that is more restrictive than the Nebraska Clean Indoor Air Act, as it applies to electronic cigarette devices, including the banning of certain electronic smoking devices and flavors. Nebraska children and youth are continuing to use tobacco at an alarming rate, with almost one in five high schoolers reporting tobacco use. And that's according to the 2019 Youth Risk Behavior Surveillance Survey. And that's reported in the 2022 State of Tobacco Control report that the American Lung Association put out just last month. The addition of flavors to the prohibition on local policymaking to protect communities is noteworthy and should not be overlooked in the decision to oppose LB954. Flavors have largely driven the rise in youth vaping. According to the 2021 National Youth Tobacco Survey, 85.8 percent of high school students and 79.2 percent of middle school students who used e-cigarettes use flavored products. And it has become clear that kids overwhelmingly prefer flavored tobacco products. And this has led

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to the recognition that prohibiting the sale of all flavored tobacco products, including mint and menthol as well as flavored cigars and, and e-cigarettes is more important than ever. Efforts to remove all flavored tobacco from the market at the local level is key to addressing the youth e-cigarette epidemic and eliminating the use of all tobacco products by youth from bubble gum and gummy bear and to mint and menthol, flavors have been shown to attract and initiate kids to tobacco use. To fully address the youth vaping epidemic and end youth tobacco use, the American Lung Association and its Nebraska advocates have called on policymakers at every level to end the sale of all flavored tobacco products. City and county governments in Nebraska generally have broad powers under the state constitution to adopt ordinances to protect public health. If LB954 passes out of committee and becomes law, it would take away the rights of communities to protect its citizens by enacting policy solutions that protect and promote local health, as well as protect children and youth from a lifetime of addiction to tobacco and tobacco products. On behalf of the American Lung Association in Nebraska, I urge the committee to vote, vote no on LB954, and thank you.

**ARCH:** Thank you for your testimony. Are there any questions? Seeing none, thank you. Next opponent for LB954.

**KARLA LESTER:** Thank you. Good afternoon, Chairman Arch and members of the Health and Human Services Committee. I am Dr. Karla Lester, K-a-r-l-a L-e-s-t-e-r, and I'm here to testify in opposition to LB954. As a pediatrician, coach for teens and parents, and mom of three, I'm quite concerned how e-cigarette use has dramatically increased in a relatively short period of time, especially among our youth. Most of the young users have no idea what's in e-cigarettes. In fact, a national survey from just a few years ago, the results indicate that many adolescents falsely believe these products are safe, and many teens don't even realize they contain nicotine at all. When asked about what's in their e-cigarettes, 66 percent said just flavoring. It should be noted that in the 2020 May edition of the American Journal of Public Health, it was found that flavors are a major driver of the youth e-cigarette epidemic. E-cigarettes have absolutely no redeeming value and only cause harm. E-cigarettes do not decrease use of tobacco products. E-cigarettes are not a safer alternative to cigarettes. E-cigarettes encompass a variety of devices known as vapes, mods, tanks, and pods. The most popular brand, JUUL, just one pod contains as much nicotine as one entire pack of cigarettes. E-cigarette solutions contain numerous toxicants and carcinogens. Nicotine, the major psychoactive component of e-cigarettes, is a highly addictive drug that can damage brain development and has been linked to adverse

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health outcomes. My son is a freshman at Lincoln High School. He doesn't vape and he will never vape. But I picked him up yesterday and I saw two students walking out of school and within a few feet of the door, they had their e-cigarettes popped in their mouths. My son also told me about a month ago that in one of his classes, geometry, and he's in all honors classes, two of the students were passing an e-cigarette under the table and taking turns getting a hit off of it. I don't know if you're familiar with the addiction business model that is used to, to, to drive tobacco use and intake of ultra-processed foods, especially among our youth. Digital marketing tactics are used to promote e-cigarettes to adolescents. Marketing of youth to-- marketing to youth of e-cigarettes promotes the sweet and fruity flavors. E-cigarette advertising is associated with current e-cigarette use by youths. I'm a proud fellow member of the American Academy of Pediatrics, and will refer you to the AAP policy statement calling for reforms on youth e-cigarette use. I brought a few copies today. I'm also a social media doctor, specifically on TikTok, and yesterday TikTok updated their community guidelines to include the prohibition of any promotion or use of e-cigarettes in videos. Any content creators who use or promote e-cigarettes in videos will be banned from the platform. Local governments need flexibility to address evolving public health challenges such as e-cigarettes and are uniquely positioned to meet the needs of the people in their communities. They should be able to pass laws that are proven to promote good health and well-being. From both, both a professional perspective as a pediatrician and from personal experience as a mom, I can tell you the challenge of e-cigarettes is monumental. It's imperative we don't hinder the ability of communities to address both current and future challenges of this e-cigarette epidemic. Significant gaps remain in e-cigarette regulation. Let's not prioritize corporate profit interests over the health of our children. I would respectfully urge you to vote no on LB954. Thank you.

**ARCH:** Thank you for your testimony. Are there any questions? Seeing none, thank you very much.

**KARLA LESTER:** Thank you.

**ARCH:** Next opponent for LB954.

**BRIAN KRANNAWITTER:** Chairman Arch and members of the Health and Human Services Committee, good afternoon. My name is Brian Krannawitter, that's spelled B-r-i-a-n, last name is spelled K-r-a-n-n-a-w-i-t-t-e-r. Sorry for that last name. Just learned how to spell it myself. I'm the government relations director for the

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American Heart Association in Nebraska. On behalf of the American Heart Association, I'm here to testify in opposition to LB954. Many of the points have already been covered so I'll be very brief. It is critical that local communities maintain the flexibility they need to address e-cigarette use and nicotine addiction to improving health in their own communities. E-cigarettes are battery-powered devices that can deliver nicotine and flavorings to the user in the form of an aerosol. E-cigarettes contain nicotine and, as alluded to earlier, they can harm the developing adolescent brain. From 2017 to 2019, e-cigarette use among high school students more than doubled, leading the United States Surgeon General and other public health authorities to declare the problem an epidemic. And following Dr. Lester, as a parent of a teenager myself, I can certainly testify to the fact I've witnessed the alarming number of youth using e-cigarettes. More than ever, it's important to maintain the ability of local communities to address an ever-changing and challenging issue. Please vote no on LB954, and thank you.

**ARCH:** Thank you. Are there any questions? Seeing none, thank you very much for your testimony. Next opponent for LB954.

**DAVID HUMM:** Thank you. Good afternoon, Chairman Arch and Health and Human Services Committee. My name is David Humm, D-a-v-i-d H-u-m-m, and I'm the health promotion manager for the Lincoln-Lancaster County Health Department. I provided you a full testimony and I'm here to testify against LB954. And so I won't, I won't read testimony because it pretty much supports what everyone has already said. Basically, you know, if this is past, this would limit our ability to pass local ordinances and regulation more restrictive than the Nebraska Clean Air-- Clean Indoor Air Act. And I just wanted to clarify probably one thing as far as the localities, Lincoln in 2019, we did pass-- add vaping to our local ordinance and then the state actually is the one that carved out-- because we, we passed it to include all. So anywhere that smoking is not allowed, vaping would not be allowed. The state, the lobbyists, and the tobacco industry carved out that for the rest of the state. So I just wanted to clarify that, that we simply just added vaping, where smoking was not allowed and the carve out was actually with the lobbyist at the state level the following year. So with that, if you have any questions.

**ARCH:** OK. Are there any questions? I, I have one. Any, any further restrictions on vaping that have been passed by-- in other words, flavor or anything like that?

**DAVID HUMM:** No, not, not at the local level.

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**ARCH:** OK.

**DAVID HUMM:** I mean, again, that's something that could be looked at in the future that, as you know, to protect young people from initiation.

**ARCH:** OK. All right, seeing no other questions, thank you very much.

**DAVID HUMM:** Thank you.

**ARCH:** Next opponent for LB954.

**LASH CHAFFIN:** Good afternoon, Senator Arch, members of the Health and Human Services Committee. My name is Lash, L-a-s-h, Chaffin, C-h-a-f-f-i-n. I'm a staff member at the League of Nebraska Municipalities and I would like to offer the League's opposition to LB954. The, the League historically opposes deterioration of local control. And within the existing laws, they're, they're very narrow bands of local control and, and this is something that, that is, that is important to, to the local-- locally elected officials across the state. What local control is, is that local, local leaders make these decisions in, in cities and villages across the state, and these, these, these folks are elected and many-- they bring varied, varied histories. They bring varied talents to their, to their elected positions. And it's not uncommon to have folks elected who are interested in health issues. You know, there's healthcare professionals get elected, doctors, nurses. That's not an uncommon-- you know, I've, I've worked for the League for 30 years and I see a lot of healthcare professionals who run for locally elected office, and they, and they bring to them an expertise and an interest in issues like this. And so today we'd like to oppose LB954 and, and request that you hold this bill in committee.

**ARCH:** Thank you. Are there any questions? Seeing none, thank you for your testimony.

**LASH CHAFFIN:** Thanks.

**ARCH:** Next opponent for LB954. Is there anyone else that would like to testify in opposition? Is there anyone that would like just find a neutral capacity for LB954?

**ALLIE FRENCH:** Good afternoon. My name is Allie French, A-l-l-i-e F-r-e-n-c-h. I'm here in the neutral capacity for LB954. There's not much to it, but I do want to remind people that we have a lot who have recently opposed LB906 for the claim that it's taking over employer rights and free will. And with LB954, if we can't let the few

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businesses that sell these products decide for themselves, it begs the question, are we hypocrites? If businesses can put, put up a sign in their window for, say, requiring masks, can't they do so for rejecting the use of vapes? Honestly, guys, we just need to get the government out of our health. People make stupid choices all of the time, and they have the right to that. And furthermore, government healthcare and schools do not replace the parental rights of the legal guardians of children. It's just something to keep in mind when considering laws-- lawmaking for minors who are not even yet citizens. They are the responsibility solely of the parents. Healthcare seems to have forgotten that they are a service industry. They are not all or nothing. People and patients do get to pick parts and not others, and should be receiving the exact same care. You know what the number one cause of cancer is? Your cells not receiving enough oxygen. If we want to lower cancer rates, get the harmful masks off people first, then I'll believe you care about health. We have a tendency to pick and choose when we care about health and when we don't, depending on how it affects the dollar of the medical systems. If we really care about health, why don't we ban artificial sweeteners? Aspartame has 127 listed side effects with the FDA, including death, early onset Alzheimer's, bone, bone density loss, so on and so forth. If we really care about health, why don't we look at how we can continue to support measures that actually harm our children's health and then interfere with the businesses and parents who have the right to make those decisions for their children in the end? That's all I have today. Thank you.

**ARCH:** Thank you. Are there any questions? Seeing none, thank you for testimony.

**ALLIE FRENCH:** Thank you.

**ARCH:** Anyone else wish to testify in a neutral capacity for LB954? OK. Senator Wayne waived closing, and so this will close the hearing on LB954. Before we proceed, I, I would mention for the record, that we did receive letters as comments for LB954, we received one letter as a proponent, 12 as opponents, and none as neutral. And with that, Senator Brandt, you are welcome to open on LB756.

**BRANDT:** Good afternoon, Senator Arch and members of the Health and Human Services Committee. I am Senator Tom Brandt, T-o-m B-r-a-n-d-t. I represent Legislative District 32: Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster Counties. I appear before you today to introduce LB756, which will help address the methamphetamine crisis in Nebraska. The bill came from concerns from my county, specifically

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from Peggy Galloway, director of Jefferson County Diversion Services, and Mark Schoenrock, chairman of the Jefferson County Board of Commissioners, who will be testifying today. My office has been working with them since last summer on ways to address the meth crisis in southeast Nebraska and across the entire state of Nebraska. The main issue we are trying to address with LB756 is residences where methamphetamine was used and has contaminated the property and how these residences are being rented or sold before they are properly cleaned of the meth contamination. LB756 would eliminate the term "clandestine drug lab" from statute and replace it with the broader language of "contaminated property." This change was made because "clandestine drug lab" is an archaic term. The reality is that these days it is neither clandestine nor a lab as meth can be manufactured in a normal residence, such as in a bathtub or in a kitchen sink, for example, or it is being obtained and used in the residence. The new language of "contaminated property" gives law enforcement and public health authorities more leeway in applying enforcement of drug laws and clarifies the definition of contaminated property to specify a portion of the property was previously used to manufacture meth. LB756 also changes procedures for reporting contaminated property. The general idea is to allow for more local involvement in the cleanup so a change is being made to the applicable statute 71-2433, which includes a local law enforcement agency reporting meth use to local health authorities instead of the State Patrol. Because the State Patrol would no longer have to be notified, language is removed that requires local law enforcement to notify the State Patrol with a list of chemicals found or removed from the property and the chain of reporting that this instigates. The owner will be responsible for notifying local public health authorities who become responsible for supervising and enforcing the property owners' rehabilitation of the property to a habitable state. With updated language, owners and landlords would have to properly clean these residences before they go back on the market so new tenants are not harmed. Director Galloway testifying later will elaborate, but cleaning up meth contamination requires a professional cleaner to be hired that is qualified to handle meth contamination and is properly protected from harm. Three weeks ago, Attorney General Doug Peterson, alongside representatives from the FBI, DEA, Nebraska State Patrol, and the U.S. Attorney's Office, announced the creation of a partnership initiative called "It's a Matter of Life or Meth." This shows how serious this is in Nebraska. This partnership will work to sound the alarm about meth, fully inform the public about the dangers of meth consumption, and understand the destruction it brings to communities. While headlines warn of fentanyl and opioids and they are undeniably a problem, the

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number one drug threat over the last 20 years in rural and urban communities in Nebraska is meth, and it has gotten more accessible and cheaper over time. The amount of methamphetamine seized in Nebraska has surged almost 300 percent in the last five years, with law enforcement agencies confiscating 768 pounds in 2021, including meth spiked with fentanyl, which renders it more potent and deadly. According to acting [SIC] U.S. Attorney Jan Sharp, meth was once only prevalent in metro areas, but now is found in Nebraska's biggest cities, smallest towns, and within the state's tribal reservations. I am not going to stand idly by as the rural communities deteriorate due to meth. I am committed to doing what I can at the state level to address this scourge. LB756 is a great start to help protect innocent children from becoming exposed to and harmed by meth use in contaminated property. And with that, I would be happy to answer any questions from the committee.

**ARCH:** Thank you. Are there any questions? Seeing none, thank you very much. Will you stay for close?

**BRANDT:** Yes, I will.

**ARCH:** OK. First proponent for LB756.

**MARK SCHOENROCK:** Good afternoon, Chairman Arch and members of the Health and Human Services Committee. My name is Mark Schoenrock, spelled M-a-r-k S-c-h-o-e-n-r-o-c-k, and I'm here today in support of LB756. I would like to begin my testimony today to thank each one of you for your service here in the Nebraska Legislature to the citizens of Nebraska. When I was a boy, I had the opportunity to meet Senator Robert F. Kennedy as he was campaigning for President in Beatrice. What he told me that day is there is no greater calling in life than to serve our fellow man, and that put me on the path of a lifetime of public service. Your service here in the Legislature surely exemplifies that calling. I'd like to thank each one of you for your service. I come to you today as a retired officer of the United States Army, who served over 40 years as a logistician leading soldiers responsible for the supply, maintenance, service, and transportation of United States combat forces, and in my elected duties as the chairman of the Jefferson County board of commissioners, the southeast director of the Nebraska Association of County Officials, chairman of the Public Health Solutions district health board, chairman of the Blue Rivers Area Agency on Aging, and as an executive officer of the Blue Valley Community Action. I can testify to each one of you firsthand of the importance of LB756. A significant challenge that our state faces today is the scourge of methamphetamine. When I first came

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into public office after retiring from the Army over six years ago, I noticed a troubling trend of young people who were absent from school getting in trouble with the law and involvement in the juvenile justice system, which leads to significant costs borne by Nebraska taxpayers and our society as a whole. School truancy often leads to other behaviors that are detractors from society and lead to significant societal costs. These costs are measured in terms of increased law enforcement costs, increased court and legal costs, increased family support costs, and also increased healthcare system costs, less probability of having a job or a profession that contributes to society, to name just a few. As a county board in Jefferson County, we implemented a diversion and school attendance program to address this. We have been working hard to coordinate with all of the elements of the school system and various community support elements to address this significant challenge. As with any challenge, there is no one-size-fits-all solution. Our goal is to intervene early so that we can do all we can to get that young person on a better path that leads to desirable outcomes rather than undesirable outcomes which have the probability of affecting them and society the rest of their lives. One of the significant barriers that we have found in our process is these young people growing up in a home that is contaminated by methamphetamine, either currently being used or from former use. This impacts our communities in the following ways: increased abuse and neglect cases, increased costs for legal cases, increased truancy, increased medical expenses primarily through Medicaid, increased need for mental health services, decreased property values, unsightly and abandoned properties, and not enough people available to fill the workforce because of damage to their brains and physical and mental health, and increased need for more community resources. I see this firsthand every day in my role as the county commissioner. All of these are terrible near-term costs, but I believe the far more terrible far-term effect is the increased probability that young person is going to get on an undesirable path and be a lifelong detractor from society, rather than a lifelong contributor to society. Our diverse-- our diversion and school attendance programs in Jefferson County are having a tremendous positive impact but our state has a methamphetamine problem that makes it very difficult. LB756 changes language that previously addressed meth lab to now address meth manufacture, and targets the cleanup of contaminated property. It lessens the involvement of the Nebraska State Patrol and increases the involvement of the local health department to clean this up. If we can get these human habitations cleaned up from methamphetamine contamination, it will have a huge positive impact on ridding our state of the scourge of

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methamphetamine. LB756 goes far in that positive direction, and I strongly urge each of you to support it. Thank you, and I'd be happy to answer any questions that any of you might have.

**ARCH:** Thank you. Are there questions? Senator Hansen.

**B. HANSEN:** Thank you. So previously in Nebraska State-- well, first of all, thank you for your service.

**MARK SCHOENROCK:** Thank you. I appreciate that, Senator Hansen.

**B. HANSEN:** Yeah, thanks for coming to testify.

**MARK SCHOENROCK:** Thank you.

**B. HANSEN:** The Nebraska State Patrol was one who previously did clean up before they changed statute to local health boards.

**MARK SCHOENROCK:** They, they would be involved in the reporting process, Senator Hansen, but not necessarily involved in the cleanup of these properties. There's really a void right now that addresses the cleanup of the properties. And what we're trying to do with this LB is to address responsibility for the actual cleanup of the properties.

**B. HANSEN:** OK. How does it get cleaned up? Like, what do they do? They go in, like, with biohazard suits and, you know, with-- and a big broom or how does it work? I don't-- I'm just curious.

**MARK SCHOENROCK:** You know, there's, there's a lot of those details that I, I can't answer directly for you. I think I'll defer to Peggy Galloway, who is our diversion director, she can address that more in detail for you. But it is a rather extensive process and it's, it's a costly process. And so if you're a landlord and you've got a property that's decontaminated with methamphetamine, it's going to be expensive for you to get it cleaned up. It's not inexpensive.

**B. HANSEN:** Yeah, I've had the unfortunate experience of not with meth, but with lead paint on walls, on my walls. And so what they have to do for that, and that was, that was insane the, the amount of work and the--

**MARK SCHOENROCK:** Yeah.

**B. HANSEN:** --taping off and plastic and suits and so I can assume this is kind of, kind of like that. And maybe if you don't know somebody

else might know this, but how long generally does it take to clean up a property?

**MARK SCHOENROCK:** I think it varies depending on the extent of, of what is in that home, how long people have been abusing methamphetamine within that home. Obviously, the longer and the more extensive the use, the more it's, it's going to take to clean it up. But it is not an inexpensive process. And so if you're a landlord, it's a significant issue to get that property cleaned up before you turn around and rent it out again.

**B. HANSEN:** OK.

**MARK SCHOENROCK:** And there-- therein lies the problem, people that are aware of this in their homes that they rent it out to somebody, they're aware of the issue and they don't do anything to address it. And so they rent it out to somebody else to come in. And that family might not even be aware that that home is contaminated with methamphetamine and therein the cycle just starts all over again. And that's what we're trying to break, we're trying to break that cycle.

**B. HANSEN:** OK. All right. And are there other instances where local public health departments can charge and collect fees or is this, is this--

**MARK SCHOENROCK:** Typically, typically not. There are a few-- I'm chairman of the Public Health Solutions district health board, we have the area pretty much southwest of Lincoln here. There are a few of our services that we charge for, but most of it is not, most of it's grant funded with what we do in local health departments. And so one of the issues here, of course, is what are the resources going to be needed to address the actual cleanup of these properties and to enforce that law, presuming that we're able to get the law on the books?

**B. HANSEN:** OK.

**MARK SCHOENROCK:** And so we'll have to address that downstream.

**B. HANSEN:** OK, I, I ask these questions because I'm curious about the authoritative role of a public health board and what they can do, what they can't do in instances such as this. So that's kind of why I was asking some of those questions. So--

**MARK SCHOENROCK:** You bet.

**B. HANSEN:** --appreciate it. Thank you.

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**MARK SCHOENROCK:** Yep. Thank you.

**ARCH:** Other questions? Seeing none, thank you for your testimony.

**MARK SCHOENROCK:** Thank you. And thank you to each one of you for your service. Appreciate it very much. Thank you.

**ARCH:** Next proponent for LB756.

**JOE CASSON:** Good afternoon, Chair Arch and members of the committee. For the record, my name is Joe Casson, that's J-o-e C-a-s-s-o-n. I'm here in support of LB756. I am the current county attorney in Jefferson County. Prior to my current term, I was the public defender in Jefferson County and surrounding counties for about 22 years. Prior to that, I was the county attorney in Jefferson County for 15 years. I started my legal career 44 years ago up in the Sandhills in Taylor, Nebraska. And the one thing I can tell you is when I first started practicing law, I was a county attorney. The day I was a lawyer, I was appointed by the county board out in Taylor to be the county attorney because we didn't have one. And back then, the problems I had to deal with were relatively simple as I reflect on it. We had alcohol abuse and fights and thefts and cattle getting out and I learned how to do this job. And I ended up in Fairbury four years later, it got a little more complicated. Well, a lot of the problems I was experiencing in, in Fairbury were more family related. We had kids acting out and I, I spent more time in juvenile court than I did anywhere else trying to deal with kids. And I did that for 15 years, and all of a sudden, I'm getting the kids of the kids that I first started working with. And I just felt I'm not making a difference here, so I thought I'd change to the other side and, and see if I could impact the situation more directly. Deal with these people one on one. So that's what I did. Well, I did that for 22 years and, well, now I'm back because it's got even worse than when I started. And the reason I'm, I'm here in support of this particular bill, LB756, is it updates the language in the legislation that allows the cleanup of meth contamination. Our current law, which is about 15 years old, was enacted when we had meth labs, clandestine meth labs. And if you remember back in the day, the people would go into a drug store, Walmart, get the Ephedrine, and, and we all know that contains amphetamine, methamphetamine is what they were extracting. They had to go through a process to extract a chemical which was a part of another medication, and that conta-- that processed contaminated properties when we would bust a clandestine meth lab, the property was contaminated by all the chemicals they were using to break out the usable portion of, of the, the medicine that you bought at Walmart or wherever. Well, things have changed. We, we

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don't see that anymore. And that's the reason we need to update the language to deal with the unlawful manufacture because they're-- we don't have clandestine drug labs. Methamphetamine is made in bulk in Mexico from scratch, that the component chemicals that you need to manufacture meth are each chemical is legal, we can't control like we could put the Ephedrine behind the counter. The individual chemicals that are used to make meth are all legal chemicals, and most of those chemicals come from China and India and end up in Mexico where they have big factories that make this substance and then it's smuggled into the United States. And so that's what I'm dealing with now is pure meth that's manufactured in Mexico, that on the local level, they're cutting it and doing whatever needs to be done to market it. But that's creating at that level contamination. And we need to address that. I need more tools to, to deal with this problem than just prosecuting people for selling or, or possessing meth. So this would be helpful from a standpoint of law enforcement to have this. Now, over time, I would like to see this expanded to include the use of meth. When, when you use meth, smoking meth, it gets into the, the, the HVAC system. It goes throughout the house. In an apartment building, it could go out throughout the whole, whole building. And that's creating contamination, and we need to get more information on the extent of that. But this is a good start. Thank you.

**ARCH:** Thank you for your testimony. Are there questions? Seeing none, thank you--

**JOE CASSON:** Thank you.

**ARCH:** --for coming today. Next proponent for LB756.

**PEGGY GALLOWAY:** I feel very short in this chair.

**ARCH:** It's a low chair.

**PEGGY GALLOWAY:** It's low.

**ARCH:** It is.

**PEGGY GALLOWAY:** Well, thank you, Chairman Arch and all of you for letting us come and talk today. I'm Peggy Galloway, P-e-g-g-y G-a-l-l-o-w-a-y. I'm the director for Jefferson County Diversion Services and Pretrial Release, and I'm, and I'm here today to support LB756. We started the Southeast Nebraska Biohazard Decontamination Task Force to examine the issue of methamphetamine contamination in our county and across the state. As Diversion Services and Pretrial Release, I work with adults and kids and it was shocking to me.

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Fairbury is my hometown, born there, moved away back and forth. And the last time I came back after 20 years, I was shocked at the state of the town and the people, and I could not wrap my head around what was going on there. When I started in this position, it came very clear, very fast. One family alone, I had children in the juvenile diversion because of the problems in school and with the law and all of the problems they have. Talking to them one on one, the stress, anxiety, the depression is just rampant. They can't focus, concentrate. I had these kids, parents, and grandparents who were also meth users and dealers in the program as well. So three generations, like, within the first six months I was there and so I started digging to find out more about this. And what I found was that while the, the labs are almost nonexistent, the use as we just found reinforced, I guess, to say from the Attorney General's Office is more rampant than ever. Small towns in particular because they want to come there and hide. They think they can get away with it a lot more. But the drug use is so rampant, law enforcement expect to find meth in every call they go. Whether it's domestic violence, assaults, whatever it is they, they expect that, they don't hazmat up because they don't know about the contamination. They don't know that being exposed to that inside a house, it also exposes them to the contamination. My fear is with the kids that live in these houses, the lifestyle is stressful and traumatic enough, but when you add in the contamination to this is from just smoking it, doesn't have to be manufacturing it, leaves a residue in every soft porous surface within that house: carpets, walls, bedding, stuffed animals. So there's your kids, the [INAUDIBLE], it gets the ventilation systems. Every time those things kick on, they breathe that in, they'll see behavior problems. They see physical problems that nobody can figure out why these kids are sick. The studies show that the-- physically kids are more susceptible, of course, because their bodies are smaller, they suffer from sleeplessness, sleeplessness, irritability, immune effects, weight loss, dizziness, difficulty breathing, nausea, throat, eye and skin irritation, and dental issues, and headaches. Big time. Their brain chemistry is altered, and over time from daily exposure, they won't get that back. It makes permanent damage to them. They're more apt to suffer from neglect and abuse, as well as becoming a victim of sexual abuse and sex trafficking. For behavior, they suffer from anxiety, depression, increased aggression, moodiness, difficulty with concentration, memory issues, truancy, lower grades and lower graduation rates. School is very difficult for them. They live in a lifestyle through no fault of their own that causes trauma 24/7, so they're always in survival mode all day, every day. And as kids, they don't know how to process it. Being told to sit down, be quiet, do

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your work at school, it doesn't, it doesn't work for them. They can't do it. They're not able to because of what they're exposed to. Our schools are being subjected to more and more kids put into special education problem-- programs because of the behavioral problems and learning disabilities more than physical disabilities. So that puts added stress on the schools and on the programming to try and figure out how to help these kids. There's estimated that right now there are 70,000 kids in Nebraska that live in drug-endangered homes. So within the next five or ten years, we have at a minimum 70,000 kids who can-- will grow up in this environment and then we have to try and deal with how to help them. They don't-- you know, for work and jobs and just living a normal life. And it's not just poor areas of town. I work with Martie Law, who owns a biohazard decontamination company in Waterloo, Nebraska, and she tells me that 95 percent of the houses that she tests are positive for meth. They range anywhere from \$50,000 house to million dollar homes. It's every age range. It's every economic group. It's everywhere. I would tell anyone and everyone don't rent a house unless it's been tested and cleaned. I hope you support this bill so that we can become a voice for the children who are the innocent victims to do everything they can to help them.

**ARCH:** Thank you. Are there questions? I, I have a question. One, one is when do you decide that you need to go in and clean a home?

**PEGGY GALLOWAY:** So according to-- I've also worked with the National Alliance for Drug Endangered Children and through training with them, any time a police officer or anybody would go into a house and see that there's meth contamination, or DHHS is told that, you know, they're working with the family, and the parents freely admit that they smoke meth, that's a drug-endangered home, and it needs to be tested because the-- just the fact that they do it, you know, you don't even know how long they've been doing it or how long they're going to admit that they've been doing it leads to all these problems.

**ARCH:** So can, can law enforcement then order tests? Can they require a test? Is that a court order that they need for that or is there a, a charge that needs to be brought?

**PEGGY GALLOWAY:** That I don't know. All I know is that the, the way that it's reported now with the labs was the State Patrol reported it to the health environmental and they reported it to Public Health Solutions and then they report it to the local law enforcement and there's way too many people, you know, in that process.

**ARCH:** OK.

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**PEGGY GALLOWAY:** But especially with there's been any kind of law violation in the home, you know, where they've been arrested or the kids are in trouble, or there's so much illness with these kids and nobody can seem to figure out why. They go to the doctors, they go to doctors and they give them-- we have 11-- 10-, 11-year-old kids on antidepressants. I don't think that's normal. And so that should be a flag for the physicians to call Public Health Solutions and say, hey, we need to look at this house. DHHS, we need to look at this house, there's, you know, these-- why are these kids sick? Why don't they go to school?

**ARCH:** OK. Thank you.

**PEGGY GALLOWAY:** The protocol needs to be sent and revised.

**ARCH:** Senator Murman.

**MURMAN:** Thank you. And thank you for testifying. What is the process for testing a house for meth?

**PEGGY GALLOWAY:** They'll go in-- they-- what they do is they will tape off squares about four by four inches and then they have swabs that they go through and will read them on their special equipment. It is very specialized and that's why the, the company in Waterloo is the only local company that specializes in biohazard contamination. And she's got several counties that she works with in-- on this side of the state, South Dakota, Kansas, and a little bit in Missouri, too. So they'll test inside the ventilation systems, they'll test the drywall, they'll test the carpet. The carpet will always have to be removed because it's so porous that, you know, it holds that in there even longer. So there's-- they, they go through several areas of the house, all kinds of the surfaces to test it and swab it and then see how high it is.

**MURMAN:** And approximately how expensive is that to test-- just to test?

**PEGGY GALLOWAY:** Well, she said the cleaning-- the testing is-- she never told me a, a cost on the testing part of it. But the cleaning part is like \$4 to \$7 a square foot depending on how large a facility it is in like an apartment building versus a single story home or how bad the contamination is.

**MURMAN:** And then you said something about 95 percent of the houses have meth contamination. Is that in Nebraska or, or--

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**PEGGY GALLOWAY:** Yeah, that's just in her, in her area in Nebraska that she has tested. And one, one development that she works for specifically tests every single property every time someone moves out because it's so rampant that they don't want to take the chance of exposing innocent people moving in there.

**MURMAN:** So that's in a fairly rural area that you're talking about?

**PEGGY GALLOWAY:** No, it's, it's metro,--

**MURMAN:** OK.

**PEGGY GALLOWAY:** --it's rural, it's, it's everywhere. It's, it's the full gamut, which is just the shocking part of it. But, yeah.

**MURMAN:** Thank you.

**ARCH:** Thank you. Other questions? Senator Hansen.

**B. HANSEN:** Yeah, thank you. I kind of want to go back to the, the role of the local public health department and maybe just the process of how this works. So is the ordering of a decontamination always done after the house has been, you know, somebody [INAUDIBLE] family is doing meth there, right? Somebody goes to jail, child goes to, you know, maybe family services or somewhere else, so then the local public health department then orders that place to be cleaned?

**PEGGY GALLOWAY:** To be tested.

**B. HANSEN:** To be tested and then 95 percent of them probably going to have to then be--

**PEGGY GALLOWAY:** Well, but it-- there's a certain level that they have, and it's in the leaf behind the book, the level that so many units per square. It's a language I don't understand.

**B. HANSEN:** OK.

**PEGGY GALLOWAY:** But if it's above that level, then they know that the toxicity on that is so high then-- so they would test it and then the owner would then have to contract with the cleaning company to come in and clean that property.

**B. HANSEN:** Yeah, are these typically rental units? Is this typically rental units we're talking about or it can be pretty much anything?

**PEGGY GALLOWAY:** Anything.

**B. HANSEN:** OK. So then, say, the family was doing meth and then somebody ended up buying the property. They came from out of town. They go to buy the-- they go up and buy the home and then somebody says I think the previous owners there did meth and so then the public health department then orders that place to be cleaned. So what happens to the family who bought the home then? Can, can they be forcefully removed from the home or how does that work?

**PEGGY GALLOWAY:** Well, they would, I would think, voluntarily want to leave with that. But--

**B. HANSEN:** Say, say they don't. Like, can, can they be forcibly removed from their home?

**PEGGY GALLOWAY:** I don't-- I mean, again, if they aren't the ones, you know, who bought it, but that's why it needs to be tested just like radon and lead.

**B. HANSEN:** Yep.

**PEGGY GALLOWAY:** There should be a standard, especially when the sell for a property. And now when you have rental programs where the rental inspections go in to check a house to make sure that it's up to code for renting, that should be part of the standard procedure for selling or renting to have it tested to make sure that it's safe.

**B. HANSEN:** OK. And I totally agree with you on that part, and I think there could-- there's a lot of dangers and issues I think with, with the kid contamination. This is more like who does what when and I noticed we're adding local public health department out enforcing certain sections, which we have already. They can also charge and collect fees, which I didn't know they could for something like this. So I'm curious to know then how does that affect other people who are not partaking in the meth usage,--

**PEGGY GALLOWAY:** Yeah.

**B. HANSEN:** --you know, and then what happens then with the family, are they being compensated for having to leave or, like, it's more of a property rights kind of thing and what, what can the local public health department do and what can they force and what can they charge people? I mean, because it looks like it's quite a bit, you're talking about \$4 to \$7 per square foot. That's quite a bit. And so--

**PEGGY GALLOWAY:** Well, they have-- they wear hazmat suits. I mean, it's, it's very protect-- especially now with the fentanyl coming in

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with the meth because you don't know what's-- where that's going to be either.

**B. HANSEN:** Yeah.

**PEGGY GALLOWAY:** So it's, it's a very scary situation for everybody.

**B. HANSEN:** Yeah, because we know we have, we have certain rules and regulations I know on, on radon and--

**PEGGY GALLOWAY:** Yeah.

**B. HANSEN:** --that has to be, I think, tested now--

**PEGGY GALLOWAY:** Yes.

**B. HANSEN:** --before you even-- on a home inspection, I think, so. OK, I was just kind of curious,--

**PEGGY GALLOWAY:** Yep.

**B. HANSEN:** --the, the whole roles of the-- since we're adding, we're adding more power to local public health departments and what they can and can't do, I'm just kind of curious how that plays out for other people, so.

**PEGGY GALLOWAY:** Right.

**B. HANSEN:** Thank you.

**ARCH:** Thank you. Other questions? Seeing none, thank you for your testimony.

**PEGGY GALLOWAY:** Thank you.

**ARCH:** Next proponent for LB756.

**MAGGIE BALLARD:** Hi. Good afternoon again, Senator Arch and members of the Health and Human Services Committee. Again, my name is Maggie Ballard, M-a-g-g-i-e B-a-l-l-a-r-d, and I'm a prevention specialist with Heartland Family Service testifying in support of LB756. And I would like to say-- like to thank Senator Brandt for bringing this bill forward and also for all the work that Peggy has done in advocating on this issue. So please forgive me for not having anything written, prepared to give you and for being kind of informal on this, but I think it's really important for Heartland Family Service to go on record and express how important we think this issue is. Our

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prevention team, we have been trying to combat the harm from the meth epidemic since about 2004. And as you've heard from other people talk about today, as we saw pseudoephedrine become available just behind the counter where you have to show your ID to buy Sudafed, we have seen, of course, meth labs have gone down, but unfortunately the demand for the drug has not gone down and so use continues. And like Senator Brandt talked about here in Nebraska, you know, being one of the flyover states, a lot of times we're hearing all about the opioid epidemic, which is a problem. Obviously, fentanyl is really scary right now, but meth has and continues to be the number one drug problem in Nebraska. It's what we see the number one substance that people seek treatment for when they come to Heartland Family Service. We have a drug endangered children's task force that we participate in. Now that's more on the Iowa side, but obviously contrary to what some of us like to think, a lot-- there are a lot of similarities between what happened in Nebraska and what happens in Iowa. And so, yeah, I just want to make sure that you give this bill your full support because I think it's so important that we do these things. We run these tests. We get these areas cleaned up so that the children which are our most vulnerable citizens of Nebraska so that they don't have the issues like Peggy talked about. You know, the-- excuse me, the being absent from school, the depression, the anxiety. All of these things that happen in the brain, a lot of them mimic learning disabilities like ADHD or other things like that. But it really comes down to the things that have happened in their brains as a result of being exposed to these chemicals. And so I think a lot of us have probably been around long enough to remember, you know, some of those commercials that tell us all the scary things that are in meth. But obviously, it's not just the Sudafed, right? It's things that we use to make our cars run. It's things that we would use to clean our kitchen sink or our toilets, battery acid, all of these really toxic things that we would never usually imagine putting into our bodies. But when people are using meth, those are the things that they're exposed to and then the people around them as well. And like I said, a particularly our children. And so that's why I think this bill is so important and I hope that you vote it out of committee. Any questions?

**ARCH:** Thank you. Are there any questions? Seeing none, thank you very much.

**MAGGIE BALLARD:** Thank you.

**ARCH:** Next proponent for LB756. Welcome.

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**JON CANNON:** Good afternoon, Chairman Arch, members of the Health and Human Services Committee. 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 as a proponent for LB756. First and foremost, we would like to thank Senator Brandt for bringing this bill. We think it's extremely important and we appreciate his work on this as we have, as we have gone on. I would also particularly like to thank Commissioner Schoenrock, who appeared already before you. He first brought this issue up in front of the NACO board, probably late last spring, early summer, and he's been working very, very diligently on it with all the stakeholders that you've had here before you today, including Ms. Galloway, Mr. Casson, Ms. Ballard as well. And so certainly, Commissioner Schoenrock is to be commended for the effort that he's put forth as far as bringing this an issue to your attention. You've heard about the issue from the experts. I'm not going to go over any more details. There's, there's very little I can discuss, which hasn't already been more than ably discussed already. But one thing I do want to mention is that the counties and our local political subdivisions, we are where the legislative rubber meets the governmental road. And so as these ills that you're hearing about here in the Legislature will fall our society, we're the ones that have to take action and we're just trying to find the best ways and the best tools that we can have in order for us to meet these sorts of societal ills. The methamphetamine, methamphetamine scourges effects are long lasting and they're felt long afterwards. This fight is far from over, as I believe you have heard from all the testimony before. This is a welcome and necessary addition to the police powers of the counties. We certainly would urge your passage, your, your vote of this out of committee, and we would like to see this being debated on General File in the very near future. I'd be happy to take any questions you may have.

**ARCH:** Thank you. Are there any questions? Seeing none, thank you for your testimony.

**JON CANNON:** Thank you very much. This is my first time in front of this committee, so I appreciate it.

**ARCH:** Oh, great. Welcome. Come on back sometime.

**WILLIAMS:** Initiation service.

**JON CANNON:** Will I learn the secret handshake at least?

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**ARCH:** Next proponent for LB756. Is there anyone that would like to testify in opposition to LB756? Or in a neutral capacity? Seeing none, Senator Brandt, you're welcome to close. As you come up, I would mention that we did receive four letters as proponents: three individuals, and one from the Gage County Sheriff's Office. No opponents and no neutral.

**BRANDT:** Well, I'd like to thank the Judiciary Committee because that's where this should have went. But hey, it's good for you guys to catch a break once in a while. Commissioner Schoenrock says this bill is to put kids on the right path. County Attorney Casson, you know, he's spent a lot of time in juvenile court. This is one more tool for law enforcement in the state. Director Galloway, 70,000 kids in the state are affected by this, and it's particularly insidious if you or your family moves into a home or an apartment and you are unaware that this stuff is already there. That's truly where the problem lies. And then we did have a couple of special ed teachers from the district. Unfortunately, they had to leave because we got jockeyed here, but they fully support all the symptoms and everything that Ms. Galloway was saying. This is a small town problem. The people in Blair, Gothenburg, Glenvil, all know exactly what I'm talking about here. I mean, these people move into our towns. We know what houses they are. We see those kids at school. It's much more apparent in a small community than maybe were Senator Arch lives, but it's, it's everywhere in the state of Nebraska. I read a lot about this problem. And when it's being manufactured in Mexico because they are importing these components from India and China, this is another revenue stream. And particularly now with this fentanyl kicker put on it, we, I think, are going to see a lot of long-term consequences we, as a state, are going to have to address. This is just a real small step in a direction here, and we will get back to the committee on whether a court can order a test. Somebody asked that. I don't know if Senator Hansen--

**ARCH:** That was mine.

**BRANDT:** --Senator Arch asked that. Can a family be forced out of their home? I don't think so. I mean, if they, if, if they want to remain living there, that's kind of on them. But that's what this bill is, is really about and I'd be happy to take any questions.

**ARCH:** Thank you. Are there questions? I guess I just want to, I just want to talk it through one more time because there are a lot of pieces to the testimony, but this is a-- we're changing who's notified.

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**BRANDT:** Um-hum.

**ARCH:** We're changing-- so, so the, so the health department is notified when law enforcement believes there's, there's, there's a possibility of contamination.

**BRANDT:** That's true, and that's about what they estimate are 10 percent of the meth-infected homes out there. That is true.

**ARCH:** OK.

**BRANDT:** And this is sort of addressed at the other 90 percent. Law enforcement-- then you have, you have a path, you have a paper path when they go into a home. Quite often what happens is, you the landlord, all of a sudden my renter is gone. You show up, they're gone. You kind of suspect that this is going on. We really want them to self-report to the local health agency and try and get those facilities cleaned up. That's really probably more what this bill is about. The State Patrol portion was something that was just requested as a cleanup as part of this bill because they really-- it's local law enforcement that has the jurisdiction. Your local sheriff knows what's going on. State Patrol really didn't have much to do with this from the get go.

**ARCH:** So, so the local law enforcement identifies, refers, or notifies the health department.

**BRANDT:** On the ones where local law enforcement is involved. Yes.

**ARCH:** Yeah, well,--

**BRANDT:** Yeah.

**ARCH:** --otherwise, they may be self-reporting as well.

**BRANDT:** Right, that's right.

**ARCH:** But, but otherwise they, they would report. The health department then, it says that they become responsible for enforcing the existing prohibition on habitation of a contaminated property.

**BRANDT:** Yep.

**ARCH:** So they-- the health department then orders testing of the property.

**BRANDT:** Sort of a gray area, but probably.

**ARCH:** OK.

**BRANDT:** Yep.

**ARCH:** Who pays for the testing?

**BRANDT:** The landlord is going to have to pay for this.

**ARCH:** OK.

**BRANDT:** Yep.

**ARCH:** If that's-- if they get referred and there's--

**BRANDT:** Yep.

**ARCH:** OK. So then testing is, is, OK, landlord.

**BRANDT:** Or owner.

**ARCH:** Or owner.

**BRANDT:** Sure.

**ARCH:** Right. And so, and so then if it is contaminated, then the health department has the ability to stop anyone else from living in that piece of property. Correct?

**BRANDT:** I would have to get back to you on that. I don't believe that's how it's written, though.

**ARCH:** OK. It, it just-- the committee statement refers to enforcing the existing prohibition on habitation of a contaminated property until rehabilitation has, has been completed. So, so, so then the-- yeah, OK. So Department of Health, and this kind of goes to Senator Hansen's question, the Department of Health then has the ability to stop the sale of the property, stop the habitation of the property?

**BRANDT:** We'd have to--

**ARCH:** Maybe not the sale--

**BRANDT:** --we'd have to get back to you specifically on that. The Department of Health basically is, is the overseer to make sure that the right contamination--

**ARCH:** Yeah.

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**BRANDT:** --outfit got in there to test and clean. I mean, that's how we see their function in this.

**ARCH:** OK.

**BRANDT:** Yeah.

**ARCH:** Well, Judiciary may have been able to actually understand those questions without asking.

**BRANDT:** Well, yeah, it's, it's, it's a little different feel, but I always enjoy coming here. This is, this is--

**ARCH:** Well, we enjoy having you.

**BRANDT:** Yes.

**ARCH:** So--

**BRANDT:** And we did one of your bills this year, so this is probably--

**ARCH:** That's right. That's right.

**BRANDT:** --tit for tat right here, the trade, so.

**ARCH:** All right. Are there any other questions for Senator Brandt? Seeing none, thank you very much.

**BRANDT:** We appreciate it. Thank you.

**ARCH:** And that will close the hearing for LB756. And we will now open the hearing for LB956. All right, you may proceed.

**MURMAN:** Well, good afternoon, Senator Arch and what's left of the Health and Human Services Committee. For the record, my name is Dave Murman, D-a-v-e M-u-r-m-a-n, and I represent District 38, and that includes the counties of Clay, Nuckolls, Webster, Franklin, Harlan, Furnas, Red Willow, and part of Phelps County. I'm here today to introduce LB956, which changes provisions relating to confidential public health information. The language of this bill was brought on behalf of the Nebraska Department of Health and Human Services. The legislation allows for information about communicable disease to be more widely shared between government entities for public health activities. It permits public health districts and other public health entities to release information to any federal, tribal, state, county, or municipal agency for routine activities like reporting on foodborne illnesses or respond to large-scale threats to public health like

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COVID-19. As we have seen, the COVID epidemic showed all of us the importance of quickly sharing data across agencies and with the public during a public health emergency. However, our existing statutes have not provided the flexibility to share this information during a pandemic or in other situations. LB956 is designed to address this. Section 1 will provide DHHS the ability to disclose public health data that may otherwise be individually identifiable-- identifiable in an emergency, such as a pandemic. This gives the department the authority through the Director of Public Health or the CEO of DHHS to allow disclosure of data under these specific statutes to support public health activities like developing the COVID dashboard. Again, this is limited to extraordinary circumstances where disclosure is necessary to address an imminent, an imminent threat that poses a substantial risk to the public. Section 2 of the bill provides for data sharing about communicable disease by DHHS, local boards of health, local health departments, and other similar government agency-- agencies, including Native American tribal governments with our health agencies for the protection of public health. Of significant importance, LB956 focuses on protection of the data and identify-- and identity of our fellow Nebraskans. Built into this legislation data can only be shared with people who need to know, whose participation is necessary for public health purposes, and is limited to the minimum information needed for their work. Chairman Arch and committee members, thank you for your consideration of LB956, and DHHS will be providing testimony and additional details on this bill. However, I'd be glad to answer any questions you might have right now.

**ARCH:** Are there any questions for Senator Murman? Seeing none, thank you very much. First proponent for LB956. Welcome.

**ASHLEY NEWMYER:** Thank you, Senator. Good afternoon, Chairman Arch and members of the Health and Human Services Committee. My name is Ashley Newmyer, A-s-h-l-e-y N-e-w-m-y-e-r, and I'm the chief data strategist at the Department of Health and Human Services. I'm here to testify in support of LB956, which will clarify and increase the department's ability to share vital data in a more consistent manner with other public health partners and the public. DHHS would like to thank Senator Murman for sponsoring this legislation. The COVID-19 pandemic has highlighted long-standing issues with the statutory framework that currently governs the sharing of public health data in Nebraska. One issue is that there are different statutes governing the collection and release of different kinds of data, and each statute imposes somewhat different requirements as to when and with whom data may be shared. Additionally, several of the statutes covered in this bill were enacted when the merging or linkage of data sets were either not

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available or not technologically feasible. However, the advancement of technology over the past decade has greatly increased the ease and ability to do so. Doing so can enable a more rapid identification of health threats to Nebraskans. The lack of a consistent structure inhibits the department's ability to provide quality data consistently, particularly in the event of a threat. Another issue is that the key statute governing communicable disease data sharing in terms of the entities with whom data may be shared is very narrow. The statute permits sharing with the Centers for Disease Control and official state and local health departments, but it does not permit sharing with other partners such as the U.S. Food and Drug Administration, Native American tribal governments, or other agencies of Nebraska state government that may be involved in specific public health responses. As such, the current limitations hinder the department's ability to work with local and federal partners that need the information to assist in the public health response to stop or mitigate the harm to others, a core function of public health. This can be seen in the need for the Governor to issue executive orders to allow DHHS to obtain the data needed to create and update the COVID-19, Influenza, and RSV dashboard, which the medical community finds so valuable. LB956 would help address these issues by permitting DHHS to publicly share appropriate data under covered statutes to keep Nebraskans informed when there is a substantial risk to the public due to an imminent threat. Disclosure would be limited to the minimum information necessary and could be made only to those persons whose participation is necessary in the public health response. The bill would also allow appropriate communicable disease data to be shared with other federal, state, county, or municipal agencies, or agencies of Native American tribal governments for purposes of public health activities with similar limits on what information may be shared and with whom. Providing a clear, consistent standard for sharing the covered data in these limited circumstances would increase the department's ability to provide the minimum necessary pertinent data to the public and our public health partners when responding to health threats. This change helps ensure the public has access to needed information to make informed decisions while protecting the data and keeping confidential information secure. We respectfully request that the committee support this legislation and move it to the floor for full debate. Thank you for the opportunity to testify, and I'm happy to answer any questions.

**ARCH:** Thank you. Are there questions? Several. Senator Hansen.

**B. HANSEN:** Thank you. This bill sounds scary.

**ASHLEY NEWMYER:** OK.

**B. HANSEN:** Is it just me? It sounds like you're collecting a lot more-- maybe you can, can answer this here. Are, are you-- with this bill, are you garnering more private information than what was previously allowed?

**ASHLEY NEWMYER:** No.

**B. HANSEN:** OK.

**ASHLEY NEWMYER:** No, we are not.

**B. HANSEN:** So, OK, this doesn't involve interrogating anybody saying,--

**ASHLEY NEWMYER:** No.

**B. HANSEN:** --OK, who are your sexual partners, all that kind of stuff?

**ASHLEY NEWMYER:** So we already have, we already have a communicable disease statute that gathers information about sexually transmitted infections. And so similar to contact tracing as everybody is unfortunately very familiar with, with COVID. When there is a sexually transmitted infection, there is a program that reaches out to people to help assist them in receiving treatment or trying to contain the spread of that infection.

**B. HANSEN:** OK, and is any of this court ordered or is it just like the sharing? Because it sounds like you're kind of superseding HIPAA a little bit here.

**ASHLEY NEWMYER:** No. So under HIPAA, there is the ability for public health activities to occur, which such as contact tracing or like when there is need to work with local health departments or if there's an outbreak that crosses state lines between us and Iowa, there is the ability to share that information only as necessary to help contain the spread of, of an infection or something like that.

**B. HANSEN:** And is that under a declaration of emergency that you have, you're allowed to do that or is it any time?

**ASHLEY NEWMYER:** Any time there is an outbreak of something, there is the authority to do that.

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**B. HANSEN:** Who provides that authority, is that the executive branch or is that just, is that just in statute?

**ASHLEY NEWMYER:** It-- it's, it's under HIPAA and it's also under our existing state statutes.

**B. HANSEN:** OK, just kind of curious. And did all-- did this kind of all come about because of COVID-19? You said you kind of-- we, we saw some of the holes in our ability to do things because of COVID-19--

**ASHLEY NEWMYER:** Yes.

**B. HANSEN:** --so this came from-- OK.

**ASHLEY NEWMYER:** Yeah, so COVID made it-- made some of the issues with our communicable disease statute very obvious in our ability to what we could share, especially with the public or with other state agencies. We identified prior to that like, for example, with foodborne illnesses, if we identified people getting sick with salmonella or E. coli and we would conduct that it was linked to lettuce, we would have to communicate only to CDC. And then CDC would communicate that to the FDA, which slows down the process of FDA has the authority to take action on a foodborne illness like that.

**B. HANSEN:** OK. I'm always curious whenever, like, if we ever had-- get COVID-20, you know, then what, then what will this allow, you know, our government to do to private citizens? And-- but you're saying nothing would pretty much change on that, on that.

**ASHLEY NEWMYER:** So, yeah, so the change-- if there was COVID-20, what this bill would change is in the first section of the bill, it would allow for in the case of an imminent threat to the health of the public, the CEO or the director of public health could sign an approval, saying, OK, we need to deploy a COVID-20 dashboard to help share additional information with the public.

**B. HANSEN:** OK. This is more about sharing information with certain entities--

**ASHLEY NEWMYER:** Yes.

**B. HANSEN:** --not about authoritative power-- increasing authoritative power to do certain things.

**ASHLEY NEWMYER:** Correct. Yes.

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**B. HANSEN:** OK. All right. Thanks.

**ASHLEY NEWMYER:** Yeah.

**ARCH:** Senator Williams.

**WILLIAMS:** Thank you, Chairman Arch. And those were most of my questions--

**ASHLEY NEWMYER:** OK.

**WILLIAMS:** --with one exception. In your testimony, you, you talk about sharing appropriate information. What would be deemed appropriate and who determines whether it is appropriate or not?

**ASHLEY NEWMYER:** So in the example of the foodborne illness, in order to conduct that case investigation, if there was a foodborne illness, the, the public health entity, ourself, or maybe the local health department would ask a person, hey, what did you eat over the last four days? And so that would be an example of that's information in that instance that would be appropriate for us to collect. But in the instance of other diseases or injuries, it wouldn't necessarily apply that we would need to know what you ate, you know, the 14 days prior. And then as far as appropriate sharing, only the information that's needed to contain the spread of an illness or a, a poisoning is, is the information that's shared. So kind of like when you think of a, a medical team, when a doctor is caring for their patient and they have, you know, Nurse Smith and Nurse Jones, that doctor is only sharing information about that patient with Nurse Smith and Nurse Jones, not, not with other nurses that just happened to be in the hospital, but aren't directly caring for that patient.

**WILLIAMS:** OK. Thank you.

**ASHLEY NEWMYER:** You're welcome.

**B. HANSEN:** I have some more questions.

**ARCH:** Sure. Senator Hansen.

**B. HANSEN:** Is that OK?

**ARCH:** Sure.

**B. HANSEN:** So I got a few more questions just--

**ASHLEY NEWMYER:** Sure.

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**B. HANSEN:** --brought up when you were talking there.

**ASHLEY NEWMYER:** Yeah.

**B. HANSEN:** This is more of kind of a powers kind of question. So can the, can the U.S. government order you to gather information or share information with them?

**ASHLEY NEWMYER:** Can the federal government order--

**B. HANSEN:** Like--

**ASHLEY NEWMYER:** --the state health department to gather information?

**B. HANSEN:** Yeah.

**ASHLEY NEWMYER:** We have as far as under particular federal statutes, I can't think of an example. There are instances where in certain grant programs, they may request information from us as part of that grant. And then it comes down to we look at what our state laws allow us to share versus don't allow us to share, which this is a good example. So in this bill, if there's a foodborne illness, FDA may reach out to our state health department and say, hey, we need this information. But under current law, we are not able to release it directly to the FDA.

**B. HANSEN:** OK, that was, that was kind of--

**ASHLEY NEWMYER:** OK.

**B. HANSEN:** --leading to my other question is, like, does this allow you now to do that? Whereas, before you could say, well, we have to have other people sign off on it, elected officials or, you know, somebody else to say, OK, now we can disseminate this information to the federal government if we desire and I don't know if this, then, you know, negates that or if it allows it without--

**ASHLEY NEWMYER:** So this does, this does allow additional sharing with federal agencies only in the instance of trying to prevent or lessen an imminent threat to the health of the public.

**B. HANSEN:** OK, so the federal government-- I don't mean to, I don't mean to interrogate you, I'm actually more curious than anything else, and I don't mean this to sound like a conspiracy theorist question.

**ASHLEY NEWMYER:** OK.

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**B. HANSEN:** So say the federal government comes in and says, OK, we want you to tell-- I don't know if you can even get the specific information or not, who's vaccinated and who's unvaccinated.

**ASHLEY NEWMYER:** So for, like, any type of--

**B. HANSEN:** Or who, who has had COVID-19 before you ever go to hospital, they have your name. Can you get that information and then share it with other people?

**ASHLEY NEWMYER:** So right now with lab reporting, we do have the information of how many positive cases we've had in our state. And then we do share the number of positive cases in our state with CDC.

**B. HANSEN:** Not, not private information like names, things like that?

**ASHLEY NEWMYER:** Not names and addresses of people like, like line-level information is how I would describe it. That doesn't need to go to CDC because that does not help them with their, their role as the federal government. No.

**B. HANSEN:** OK. But right now, currently you can get information on-- or people's names on who has had COVID-19 or who has been vaccinated or who has been unvaccinated currently?

**ASHLEY NEWMYER:** Does the department--

**B. HANSEN:** Yes.

**ASHLEY NEWMYER:** --have names of people? Yes, the department has registries of people that have been vaccinated and that have tested positive for COVID.

**B. HANSEN:** OK.

**ASHLEY NEWMYER:** But we do not share that with the federal government.

**B. HANSEN:** OK. Would this bill allow you to?

**ASHLEY NEWMYER:** That would not meet the minimum necessary threshold for sharing. Like, there wouldn't be a benefit to sharing that with the federal government. There wouldn't be a need to do that.

**B. HANSEN:** That was kind of, I think, Senator Williams kind of asked that of, like, what, what, what do you mean when you say--

**ASHLEY NEWMYER:** Yes.

**B. HANSEN:** --appropriate--

**ASHLEY NEWMYER:** Yeah.

**B. HANSEN:** --instances, right?

**ASHLEY NEWMYER:** Yeah.

**B. HANSEN:** And so because or--

**ASHLEY NEWMYER:** And that also-- so I would say under state law and then also under HIPAA there's an additional protection there that-- I mean, the sharing of individually identifiable information is not necessary in a large majority of instances because it does not benefit containment of a spread of illness or injury.

**B. HANSEN:** Well, unless they want to find out who's vaccinated and unvaccinated, right? So if they want to try to contain a communicable or, you know, a virus, you know, I mean, they want to find who's vaccinated and unvaccinated, they can kind of tell, you know, which communities have been, which percentages and who specifically and--

**ASHLEY NEWMYER:** So, yeah, so like the percentage that-- like being able to share, oh, there's 67 percent of Nebraskans that are fully vaccinated. That's enough information.

**B. HANSEN:** OK.

**ASHLEY NEWMYER:** Or there's 70 percent of Lancaster County's residents are fully vaccinated. I mean, sharing a percentage or an aggregate piece of information is enough to know what level of protection there is in the community.

**B. HANSEN:** OK. I, I, I, I appreciate your time.

**ASHLEY NEWMYER:** Does that help?

**B. HANSEN:** I appreciate you answering my questions because there's a lot of things I didn't think the federal government or even our state government could do before that now they are doing.

**ASHLEY NEWMYER:** OK.

**B. HANSEN:** You know what I mean? And so now I'm kind of trying to read the tea leaves here a little bit so, OK,--

**ASHLEY NEWMYER:** OK.

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**B. HANSEN:** --say if COVID-20 does come along or a new, a new variant of COVID-19. And now they want a lot more information to, you know, to find out--

**ASHLEY NEWMYER:** Sure.

**B. HANSEN:** --more specifically what's going on. And now they come to you and say, we need you to give us the names of certain people. I mean, not saying it's ever going to happen, but my, my conspiracy theorist realm has gone from here to here lately.

**ASHLEY NEWMYER:** Right, right. And privacy is of the utmost importance, too. I mean--

**B. HANSEN:** Yeah, I appreciate you saying that. So I'm just-- thanks, I appreciate you answering my questions, too. Thank you.

**ASHLEY NEWMYER:** Yeah, you're welcome.

**ARCH:** Other questions? I, I have one.

**ASHLEY NEWMYER:** OK.

**ARCH:** If I recall correctly during the pandemic, there were some instances where the state could not share information in a particular county because the count was so low that if they were to share that, you could identify the individual.

**ASHLEY NEWMYER:** There was-- I'm sorry, are you--

**ARCH:** Go ahead. No, please.

**ASHLEY NEWMYER:** --finished with your question? OK.

**ARCH:** Yes. Clarify or correct.

**ASHLEY NEWMYER:** OK. So yes, there were instances where the executive order had expired that waived pieces of the communicable disease statute. And so yes, there was not sharing of counts of positive cases in certain counties because it did increase the risk passed the threshold the department had set as far as risk of potentially identifying that person.

**ARCH:** Would this, would this statute change, change any of that authority for the department to not share on that basis?

**ASHLEY NEWMYER:** No, no. The, the--

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**ARCH:** It doesn't require.

**ASHLEY NEWMYER:** Correct. Yes, yes.

**ARCH:** It allows.

**ASHLEY NEWMYER:** It allows. Yes, it does not require. Yes.

**ARCH:** OK. All right. Thank you. Any other questions? Seeing none, thank you for your testimony.

**ASHLEY NEWMYER:** Thank you.

**ARCH:** Next proponent for LB956. Seeing none, is there anyone that would like to testify in opposition to LB956?

**ALLIE FRENCH:** I screwed up but that does say opponent. We have two bills with very similar numbers today, that got me puzzled there for a moment.

**ARCH:** Got me confused, too, so.

**ALLIE FRENCH:** All right, my name is Allie French, A-l-l-i-e F-r-e-n-c-h. I am here in opposition to LB956. I'm going to begin off with a question. Does our Unicameral make laws in the best interest of the ease of government or of we the people of Nebraska? We may not be imposing any actions on citizens at this time, but this is definitely the first step to allowing the use of fraudulent data with more ease. Please quit allowing doctors and public health officials to run our lives. They especially shouldn't be shielded from liability in the case they make a mistake. Doctors' errors are the third leading cause of death annually. And in the last two years, I quite easily claim that that's drastically increased as the group think insanity has taken full hold. I mean, seriously, guys, do you guys or DHHS, how do you guys determine if something is a serious or imminent threat? Fraudulent PCR tests? Or does it only take a millionaire public health official on the news? We certainly don't wait until people are dropping dead in the streets. Do you realize that our government, the CDC, even our local public health officials, never have to prove what they're saying? They just get to deem it so. Yes, I know, data. The dishonest man's favorite type of proof. Epidemiology is the true quack science. Like determining the dangers of an infectious disease, it is possible to do epidemiological studies using similar methods that fail to find a link between sex and pregnancy, or that nobody has ever died in a car crash. If you don't want to find something, then the chances are you won't. You can't reject the null hypothesis, but you-- oh, I'm

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sorry. You can reject the null hypothesis or fail to reject it, but you can never accept the null hypothesis. Unfortunately, accepting the null hypothesis is precisely what these researchers often do. It's a rookie mistake, and they should never be allowed access to research grants again. Let's think about this. Have you ever seen a virus leave one person, then land on someone else and watch symptoms develop within 15 minutes causing injury or death? The answer is no. Anything else is a lie. These injuries are purely anecdotal. The assumption that once-- that one person's condition is a threat to others is ludicrous and requiring, allowing, or permitting the reporting of one's health condition and leaving the recourse of action open to legally shielded government agencies is wrong. Sorry, guys, but we have no desire to make this easier for you. The numbers mean nothing when we're using bad tests, and this legislation would only allow the continuation of fraudulent tests to be used. For the love of God, Nebraskans do not want to be tracked and recorded people. That's all. Thank you.

**ARCH:** Thank you. Are there questions? I have one.

**ALLIE FRENCH:** Yes, sir.

**ARCH:** Could you ever envision a time when people were dropping dead in the street and the government would be of great benefit to stopping the spread of something like that?

**ALLIE FRENCH:** If we had people invading our borders and shooting at us, that might be about it. When it comes to the health and wellness of the citizens, we each have the right under the Declaration of Independence, when they created the two sanctions of, what's the word, sovereignty and individual autonomy, that right is not delegated to our government.

**ARCH:** I just remember a time my grandparents were telling me stories of a time when, when they would slap a quarantine sticker on your house and, and require the family to stay inside. The husband was outside earning a living--

**ALLIE FRENCH:** Yep.

**ARCH:** --and the family was inside quarantined because they had-- they really had no ability other than that to stop the spreading of something that was killing people.

**ALLIE FRENCH:** Right.

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**ARCH:** Is that appropriate? Do you ever see a time when something like that could be appropriate?

**ALLIE FRENCH:** You know what? I can see the potential use of quarantine. I do know that it may be effective. Do I think it's right? No. What I do know is that the measures that we've implemented today, such as masking or testing asymptomatic individuals, has absolutely no bearing on the prevalence of a viral infection.

**ARCH:** OK.

**ALLIE FRENCH:** And, and the data that would be being collected wouldn't be, you know, individuals quarantined. It would be individuals that received a positive PCR test or an individual who received a negative PCR test, or an individual who received another medical procedure of one type or another.

**ARCH:** Right.

**ALLIE FRENCH:** So it's really kind of more scoped to what is being imposed and used to report this data.

**ARCH:** And we, we wrestle with some of these issues, obviously, because of the--

**ALLIE FRENCH:** Absolutely. You know, I think--

**ARCH:** --because of the long, because of the long-term implication of some of these statutes that--

**ALLIE FRENCH:** Yep.

**ARCH:** --allow, don't allow, that type of thing based upon current situation or, or current debate. So we, we just have some of those, some of those bigger questions on our mind.

**ALLIE FRENCH:** Biggest mistake we ever made was the General Welfare Act. And if we didn't have that, none of this would be an issue.

**ARCH:** All right. OK, thank you very much for your testimony.

**ALLIE FRENCH:** Thanks, guys.

**ARCH:** Next opponent to LB956. Seeing none, is there anyone that would like to testify in a neutral capacity?

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**TIMOREE KLINGLER:** Good afternoon. I will be very short and sweet. For the record, my name is Timoree Klingler, T-i-m-o-r-e-e K-l-i-n-g-l-e-r, and I'm the registered lobbyist on behalf of CyncHealth. We are the operator of the state Prescription Drug Monitoring Program, and we also operate the statewide designated Health Information Exchange. Philosophically, we have nothing against this legislation. We just have a few concerns as it is very broad. There is some addition of language, language later on in the bill that just seems to narrow the scope. And we want to make sure that there is not any way that there-- that any information is being prevented from being disclosed to both the Prescription Drug Monitoring Program or the statewide Health Information Exchange, so that providers have access to that information to be able to deliver proper healthcare to their patients. I understand that there are a lot of moving parts around this legislation, so I would just ask that if there is any looking at amending the legislation to, you know, kind of satisfy all the parties that we would be engaged in those conversations. That is all I have, and I'd be happy to answer any questions.

**ARCH:** Thank you. Are there any questions? Seeing none, thank you for your testimony.

**TIMOREE KLINGLER:** Thank you.

**ARCH:** Anyone else wish to testify in a neutral capacity?

**JEREMY ESCHLIMAN:** Hello. Good afternoon, Senator Arch and members of the Health and Human Services Committee. My name is Jeremy Eschliman, spelled J-e-r-e-m-y E-s-c-h-l-i-m-a-n. I'm health director at Two Rivers Public Health Department in south central Nebraska with population centers in Kearney, Lexington, Holdrege, and serving those seven counties in south central Nebraska. I'm testifying today on behalf of Friends of Public Health in Nebraska, an advocacy group of local public health directors in a neutral position for LB956. Over the last several days, we met with staff from the Department Health and Human Services. Ashley and others, thank you back there. And, and we appreciate that they've engaged us on this bill. To be clear, LB956 essentially wholly rewrites the current statute, and so it has been really helpful to understand the intent behind this bill and, and the origination of it. So LB956, as briefly mentioned, discusses several other statutes, 11 at my current count, and makes changes to these for disclosure of information. For example, syphilis testing in pregnant women, disclosure of local health department lab results, physician data, birth defect reporting, etcetera, etcetera. I'd like to outline a few of our current thoughts behind why we're submitting a neutral

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testimony today. We are supportive of the change adding Native American tribal governments as entities that would receive public health data. As we know, diseases of public health significance do not always follow geographic or established political boundaries. The inclusion of Native American tribal governments in the list of allowed entities is a very positive step forward. The bill uses federal regulations 45 CFR 164.514, lovingly known as HIPAA safe harbor, in Section 1B as a standard for de-identification of data rather than the current standards under 71-503.01. This part is problematic in particular for public health departments in greater Nebraska, including Two Rivers, as the new threshold would be at the state level unless to the geographic unit contained more than 20,000 people. And Senator Arch, I think, had mentioned this is a discussion point. This would essentially mean that sharing data at the county level would not occur in most cases, and sharing data at the state level would be the only option for all but the very largest population health departments. Putting the HIPAA safe harbor standards in state statute would remove a valuable flexibility need for public health departments to utilize other methods of determining what level of de-identification is appropriate. De-identification is not standard practice for sharing data between local health departments. Local public health and state public health should not be differentiated with required de-identification and limiting the competency-- or I'm sorry, excuse me, limiting the completeness and accessibility of raw data to local public health only hinders public efforts in Nebraska. It sounds like there may be efforts to work on amendments on this bill and we'd like to be included in those. In public health, we often work collaboratively. And whether it happens immediately or over the interim, we'd appreciate those discussions. We look forward to continued conversations on improving the access to public health data for local decision-making while balancing the needs for confidentiality of personally identifiable information. The bill, in its current form, has changes that could negatively impact the function of all local public health departments throughout the state, but particularly in greater Nebraska. I thank the committee for their time and be happy to answer any questions you have.

**ARCH:** Thank you. Are there any questions? Seeing none--

**B. HANSEN:** I would--

**ARCH:** Oh, I'm sorry. Senator Hansen.

**B. HANSEN:** You're fine. Sorry, I was thinking.

**ARCH:** Missed you.

**B. HANSEN:** Yep. I think maybe the concern of some of the questions I had previously maybe-- you mentioned the identification is not standard practice for sharing data with local health departments. I think I typically would not be worried about any of that kind of stuff. But I think in this politicized environment, I think when it comes to health, which I don't think we've had to this extent when it came, when it comes to COVID-19, it's much more emotional and much more politicized as opposed to logical. And so the sharing of that data is one of my biggest concerns is what's going to happen with that data and then what kind of power that we can use with that kind of data. And so one, one of the questions I did have, which I actually had from some constituents, which I think is sort of related to this and just since I got you here, I was kind of curious to ask this because it has to do with disseminating information.

**JEREMY ESCHLIMAN:** Um-hum.

**B. HANSEN:** Do you guys have a Facebook page?

**JEREMY ESCHLIMAN:** Oh, we do. Yeah.

**B. HANSEN:** OK. Are you allowed to delete comments on that?

**JEREMY ESCHLIMAN:** Our legal counsel has advised not to do that. And the, the advice of-- the opinion that our attorney rendered in that regard was that is possible for government to do that but you have to have a really strong policy on that. So in, in our case, we typically do not.

**B. HANSEN:** OK. I was just curious. All right. Thank you.

**JEREMY ESCHLIMAN:** Yeah. Thank you.

**ARCH:** Other questions? Seeing none, thank you for your testimony.

**JEREMY ESCHLIMAN:** Yeah. Thank you.

**ARCH:** Is there anyone else that would like to testify in a neutral capacity on LB956? OK, Senator Murman, you're welcome to come and close. And as you're coming up, I would mention that we did receive two letters in as proponents from the Nebraska Brain Injury Advisory Council and the Brain Injury Alliance of Nebraska. And one letter of opposition from the Nebraska Medical Association. With that, you may close.

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**MURMAN:** OK, thank you for your consideration of this bill. The COVID-19 pandemic has brought to light the need in extraordinary situations to disclose certain health information. LB956 helps address this situation so that information like the COVID dashboard could be provided without the Governor having to issue an emergency order. Furthermore, the language of LB956 will allow DHHS to share data with other agencies, provided such agencies are also subject to confidentiality provisions. I've heard from health professionals in my district how helpful access to this type of information would be. I ask your support of this bill and that you would give it timely consideration. Any questions?

**ARCH:** Thank you. Are there any questions for Senator Murman? Seeing none, thank you very much.

**MURMAN:** Thank you.

**ARCH:** This will close the hearing on LB956, and we'll close the hearings for the committee for the day.