

**SIXTY-SEVENTH DAY - APRIL 25, 2023**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION**

**SIXTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, April 25, 2023

**PRAYER**

The prayer was offered by Bishop Scott Barker, Trinity Episcopal Cathedral, Omaha.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was offered by Senator Lippincott.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Kelly presiding.

The roll was called and all members were present except Senator Armendariz who was excused; and Senators Briese, Day, DeBoer, Dover, Hunt, McKinney, Slama, Vargas, and Walz who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the sixty-sixth day was approved.

**MESSAGES FROM THE GOVERNOR**

April 21, 2023

Brandon Metzler  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Clerk Metzler:

Engrossed Legislative Bill 376e was received in my office on April 18, 2023.

This bill was signed and delivered to the Secretary of State on April 21, 2023.

Sincerely,  
(Signed) Jim Pillen  
Governor

April 21, 2023

Brandon Metzler  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Clerk Metzler:

Engrossed Legislative Bill 775 was received in my office on April 19, 2023.

This bill was signed and delivered to the Secretary of State on April 21, 2023.

Sincerely,  
(Signed) Jim Pillen  
Governor

April 21, 2023

Brandon Metzler  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Clerk Metzler:

Engrossed Legislative Bill 296 was received in my office on April 19, 2023.

This bill was signed and delivered to the Secretary of State on April 21, 2023.

Sincerely,  
(Signed) Jim Pillen  
Governor

**COMMITTEE REPORT**  
Enrollment and Review

**LEGISLATIVE BILL 227.** Placed on Select File with amendment.  
[ER26](#) is available in the Bill Room.

**LEGISLATIVE BILL 254.** Placed on Select File with amendment.  
[ER27](#) is available in the Bill Room.

(Signed) Beau Ballard, Chairperson

### **RESOLUTION**

Pursuant to Rule 4, Sec. 5(b), LR96 was adopted.

### **PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LR96.

### **WITHDRAW - Motion to LB103**

Senator Hunt withdrew [MO306](#), found on page 936, to recommit to Nebraska Retirement Systems Committee, to LB103.

### **BILL ON FINAL READING**

#### **Dispense With Reading at Large**

Pursuant to Rule 6, Section 8, the Legislature approved the dispensing of the reading at large of LB103 with 32 ayes, 6 nays, 3 present and not voting, and 8 excused and not voting.

The following bill was put upon final passage:

### **LEGISLATIVE BILL 103.** With Emergency Clause.

A BILL FOR AN ACT relating to retirement; to amend sections 23-2301, 23-2323.01, 23-2332, and 23-2332.01, Reissue Revised Statutes of Nebraska, and sections 24-701, 24-710.01, 24-710.04, 79-902, 79-920, 79-926, 81-2014, 81-2034, 84-1301, and 84-1325, Revised Statutes Cumulative Supplement, 2022; to redefine and eliminate terms under the County Employees Retirement Act, the Judges Retirement Act, the School Employees Retirement Act, the Nebraska State Patrol Retirement Act, and the State Employees Retirement Act; to change provisions relating to applicable military service, participation in the School Employees Retirement System of the State of Nebraska, and contribution rates applicable to the County Employees Retirement Act; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 41:

Aguilar	Brewer	Erdman	Kauth	Sanders
Albrecht	Cavanaugh, J.	Fredrickson	Linehan	Slama
Arch	Cavanaugh, M.	Halloran	Lippincott	von Gillern
Ballard	Clements	Hansen	Lowe	Wayne
Blood	Conrad	Hardin	McDonnell	Wishart
Bosn	DeBoer	Holdcroft	Moser	
Bostar	DeKay	Hughes	Murman	
Bostelman	Dorn	Ibach	Raybould	
Brandt	Dungan	Jacobson	Riepe	

Voting in the negative, 0.

Present and not voting, 1:

Hunt

Excused and not voting, 7:

Armendariz	Day	McKinney	Walz
Briese	Dover	Vargas	

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

#### **PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LB103e.

#### **GENERAL FILE**

**LEGISLATIVE BILL 562.** Senator Hunt renewed [MO643](#), found on page 961 and considered on page 1219, to bracket until June 1, 2023.

Pending.

#### **PRESENTED TO THE GOVERNOR**

Presented to the Governor on April 25, 2023, at 9:30 a.m. was the following: LB103e.

(Signed) Jamie Leishman  
Clerk of the Legislature's Office

#### **COMMITTEE REPORTS** Health and Human Services

**LEGISLATIVE BILL 586.** Placed on General File.

**LEGISLATIVE BILL 593.** Placed on General File with amendment.  
[AM828](#)

1 1. Strike original section 7 and insert the following new section:  
 2 Sec. 7. (1) Prior to engaging in cerumen management, a licensed  
 3 hearing instrument specialist shall provide the board with evidence of  
 4 (a) completion of an approved cerumen management course, (b) professional  
 5 liability insurance, and (c) an arrangement with a medical liaison. The  
 6 licensee shall annually thereafter provide evidence to the board of  
 7 professional liability insurance and an arrangement with a medical  
 8 liaison.  
 9 (2) Prior to engaging in cerumen management, a licensed hearing  
 10 instrument specialist shall have an arrangement with a medical liaison.  
 11 If a licensee engaged in routine cerumen management discovers any trauma,  
 12 including, but not limited to, continuous uncontrolled bleeding,  
 13 lacerations, or other traumatic injuries, the licensee shall, as soon as  
 14 practicable, refer the patient to the medical liaison.  
 15 (3)(a) Prior to entering into an arrangement with a medical liaison,  
 16 a licensed hearing instrument specialist shall complete a cerumen  
 17 management course approved by the board. In order to be approved by the  
 18 board, the course shall be approved by the International Hearing Society  
 19 or another organization approved by the board and shall:  
 20 (i) Consist of at least six hours of a participant practicing  
 21 removing cerumen from an ear canal model using a variety of safe  
 22 techniques with at least two hours of focus on infection control;  
 23 (ii) Result in a certificate of completion and attestation of  
 24 competence; and  
 25 (iii) Provide the board with evidence of such completion and  
 26 competence.  
 27 (b) The board may, only after consultation with the Board of  
 28 Medicine and Surgery, adopt rules and regulations as provided in section  
 29 38-126 to provide requirements for the initial cerumen management course.  
 30 (4) A licensed hearing instrument specialist engaged in cerumen  
 31 management shall comply with the following requirements:  
 32 (a) The indications for cerumen management for a licensed hearing  
 33 instrument specialist shall include:  
 34 (i) Enabling audiometric testing;  
 35 (ii) Making ear impressions;  
 36 (iii) Fitting ear protection or prosthetic devices; and  
 37 (iv) Monitoring continuous use of hearing aids;  
 38 (b) The licensed hearing instrument specialist shall refer a patient  
 39 to the medical liaison, an otolaryngologist, or a licensed physician for  
 40 medical consultation or medical intervention if the patient exhibits any  
 41 of the following contraindications to cerumen removal:  
 42 (i) An age younger than eighteen years of age;  
 43 (ii) A perforated tympanic membrane;  
 44 (iii) A history of pain, active drainage, or bleeding from the ear;  
 45 (iv) Evidence of congenital or traumatic deformity of the ear;  
 46 (v) Ear surgery within the last six months;  
 47 (vi) Tympanostomy tubes, such that irrigation should not be used;  
 48 (vii) A bleeding disorder;  
 49 (viii) Actual or suspected foreign body in the ear;  
 50 (ix) Stenosis or bony exostosis of the ear canal;  
 51 (x) Cerumen located medial to the cartilaginous external auditory  
 52 canal;  
 53 (xi) A tympanic membrane that the licensed hearing instrument  
 54 specialist is unable to see; or  
 55 (xii) Any other contraindication to cerumen removal that requires  
 56 medical consultation or medical intervention;  
 57 (c) The licensed hearing instrument specialist shall perform cerumen

31 management using the customary removal techniques that are commensurate  
 1 with the licensee's training and experience;  
 2 (d) If the patient, while undergoing cerumen management that did not  
 3 present contraindications, complains of significant pain, exhibits  
 4 uncontrolled bleeding or a laceration of the external auditory canal, or  
 5 notifies the acute onset of dizziness or vertigo or sudden hearing loss,  
 6 the licensed hearing instrument specialist shall immediately stop the  
 7 procedure and refer the patient to the medical liaison, an  
 8 otolaryngologist, or a licensed physician;  
 9 (e) The licensed hearing instrument specialist shall maintain the  
 10 following proper infection control practices:  
 11 (i) Universal health precautions;  
 12 (ii) Decontamination;  
 13 (iii) Cleaning, disinfection, and sterilization of multiple use  
 14 equipment; and  
 15 (iv) Universal precautions for prevention and the transmission of  
 16 human immunodeficiency virus, hepatitis B virus, and other bloodborne  
 17 pathogens, as defined by occupational safety and health standards  
 18 promulgated pursuant to 29 C.F.R. 1910, as such regulations existed on  
 19 January 1, 2023;  
 20 (f) The licensed hearing instrument specialist who performs cerumen  
 21 management shall maintain a case history for every patient and informed  
 22 consent signed by the patient as part of the patient's records;  
 23 (g) The licensed hearing instrument specialist shall carry  
 24 appropriate professional liability insurance before engaging in cerumen  
 25 management; and  
 26 (h) The licensed hearing instrument specialist is prohibited from  
 27 requiring patients to sign any form that eliminates liability if the  
 28 patient is harmed.

(Signed) Ben Hansen, Chairperson

Education

**LEGISLATIVE BILL 774.** Placed on General File.

(Signed) Dave Murman, Chairperson

Enrollment and Review

**LEGISLATIVE BILL 92.** Placed on Select File with amendment.  
[ER28](#) is available in the Bill Room.

(Signed) Beau Ballard, Chairperson

**AMENDMENT - Print in Journal**

Senator Linehan filed the following amendment to [LB302](#):  
[AM1368](#)

(Amendments to Standing Committee amendments, AM503)

1 1. Strike amendment 2 and insert the following new amendments:  
 2 2. On page 3, lines 14, 15, and 28, strike "person holding elective  
 3 office", show as stricken, and insert "public official"; in lines 24 and  
 4 25 strike "city, village, or school district", show as stricken, and  
 5 insert "political subdivision"; and in line 26 strike "person holding  
 6 elective", show as stricken, and insert "public official holding".

7 4. On page 5, after line 6 insert the following new subsection:  
 8 "(6) This section does not apply to a sanitary and improvement  
 9 district."

### ANNOUNCEMENT

Senator Moser announced the Transportation and Telecommunications Committee will meet April 27, 2023, at 4:00 p.m. in Room 1524 instead of Room 1113.

### GENERAL FILE

**LEGISLATIVE BILL 562.** Senator Hunt renewed [MO643](#), found on page 961 and considered on page 1219 and in this day's Journal, to bracket until June 1, 2023.

Senator Ibach moved the previous question. The question is, "Shall the debate now close?"

Senator M. Cavanaugh moved for a call of the house. The motion prevailed with 17 ayes, 2 nays, and 30 not voting.

Senator M. Cavanaugh requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 31:

Aguilar	Brewer	Hardin	Lippincott	Slama
Albrecht	Briese	Holdcroft	Lowe	von Gillern
Arch	Clements	Hughes	McDonnell	Wishart
Ballard	DeKay	Ibach	Moser	
Bosn	Dorn	Jacobson	Murman	
Bostelman	Halloran	Kauth	Riepe	
Brandt	Hansen	Linehan	Sanders	

Voting in the negative, 9:

Blood	Cavanaugh, M.	Dungan	Hunt	Raybould
Cavanaugh, J.	Conrad	Fredrickson	McKinney	

Present and not voting, 4:

Day	DeBoer	Walz	Wayne
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Excused and not voting, 5:

Armendariz	Bostar	Dover	Erdman	Vargas
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The motion to cease debate prevailed with 31 ayes, 9 nays, 4 present and not voting, and 5 excused and not voting.

Senator M. Cavanaugh requested a roll call vote on the Hunt motion to bracket.

Voting in the affirmative, 1:

Hunt

Voting in the negative, 42:

Aguilar	Briese	Fredrickson	Linehan	Sanders
Albrecht	Cavanaugh, J.	Halloran	Lippincott	Slama
Arch	Clements	Hansen	Lowe	von Gillern
Ballard	Conrad	Hardin	McDonnell	Walz
Blood	Day	Holdcroft	McKinney	Wayne
Bosn	DeBoer	Hughes	Moser	Wishart
Bostelman	DeKay	Ibach	Murman	
Brandt	Dorn	Jacobson	Raybould	
Brewer	Dungan	Kauth	Riepe	

Present and not voting, 1:

Cavanaugh, M.

Excused and not voting, 5:

Armendariz    Bostar            Dover            Erdman            Vargas

The Hunt motion to bracket failed with 1 aye, 42 nays, 1 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Pending.

#### ATTORNEY GENERAL'S OPINION

##### Opinion 23-005

SUBJECT: Interpretation of the Nebraska Heartbeat Act (LB626)

REQUESTED BY: Senator Joni Albrecht  
Nebraska Legislature

WRITTEN BY: Mike Hilgers, Attorney General  
Eric J. Hamilton, Solicitor General



## INTRODUCTION

The Nebraska Heartbeat Act (the "Act") would make it unlawful for physicians to perform abortions of certain unborn children having detectable fetal heartbeats. LB 626, § 4. You have asked whether violations of the Act would become crimes under Neb. Rev. Stat. § 28-336 and whether physicians performing abortions for victims of sexual assault must satisfy law-enforcement reporting requirements before performing an abortion. We conclude that violations of the Act would not become crimes under § 28-336 because the Act would not change which "medical procedures" are "accepted" to "perform[] . . . an abortion." Neb. Rev. Stat. § 28-336. Nor would the Act require physicians performing abortions for victims of sexual assault to file a law-enforcement report before performing an abortion. That requirement may be satisfied before or after an abortion is performed.

## BACKGROUND

If enacted, the Act would bar physicians from performing or inducing the abortion of certain unborn children having a fetal heartbeat. LB 626, § 4. The Act requires physicians to search for a fetal heartbeat before performing an abortion. *Id.* § 4(1). If an unborn child has a fetal heartbeat, abortion is prohibited unless there is a medical emergency or the patient's pregnancy resulted from sexual assault or incest. *Id.* § 4(2), (3). In addition, the Act imposes record-keeping obligations on physicians performing abortions. *Id.* § 5. In relevant part, the Act requires physicians performing an abortion under the Act's sexual-assault or incest exceptions to "certify in writing . . . that the physician complied with all the duties of a health care provider required by" Nebraska's health provider law-enforcement reporting statute. *Id.* § 5(2) (citing Neb. Rev. Stat. § 28-902). The Act subjects violators to professional discipline by providing that violations constitute "unprofessional conduct." *Id.* §§ 7-13.

While the Act would amend the Nebraska Uniform Credentialing Act, separate abortion statutes in the Nebraska Criminal Code also apply to physicians performing abortions. Section 28-336 provides that "[t]he performing of an abortion by using anything other than accepted medical procedures is a Class IV felony." Two statutes prohibit abortion based on the unborn child's stage of development. Section 28-329 provides that "[n]o abortion shall be performed after the time at which, in the sound medical judgment of the attending physician, the unborn child clearly appears to have reached viability . . ." *See also* Neb. Rev. Stat. § 28-332 (making "[t]he intentional and knowing violation" of Neb. Rev. Stat. § 28-329 a Class IV felony). Section 28-3,106 bars the abortion of an unborn child having a "probable postfertilization age of . . . twenty or more weeks." *See also* Neb. Rev. Stat. § 28-3,108 (making "intentional[]" or "reckless[]" violations of Neb. Rev. Stat. § 28-3,106 a Class IV felony). Exceptions apply to both the post-viability and twenty-week bans. *See* Neb. Rev. Stat. §§ 28-329; 28-3,106. The Act does not amend these statutes or any other provision in the Nebraska Criminal Code.

## ANALYSIS

**I. Violations of the Act Would Not Become Crimes Under Neb. Rev. Stat. § 28-336**

We conclude that physicians violating the Act would not violate Neb. Rev. Stat. § 28-336. As explained, the Nebraska Criminal Code contains separate statutes criminalizing the performance of abortions through certain medical procedures (§ 28-336) and upon certain unborn children (§§ 28-329, 28-3,106). The medical-procedures statute's proscription against "[t]he performing of an abortion by using anything other than accepted medical procedures" turns on the type of abortion procedure used and whether that procedure is "accepted." Neb. Rev. Stat. § 28-336. The Act would force physicians to take certain steps before an abortion is performed, LB 626, § 4(1), and prohibits the abortion of certain unborn children having fetal heartbeats, *id.* § 4(2). But the Act does not change which procedures physicians may use to perform an abortion.

Subsections 4(1) and (2)(a) of the Act create procedural prerequisites to an abortion. The physician must "[e]stimate the gestational age of the unborn child," "[p]erform an ultrasound in accordance with standard medical procedure to determine if a fetal heartbeat is present," and make certain records. *Id.* § 4(1). A physician's failure to perform these procedures does not implicate the medical-procedures statute because the failure to estimate gestational age or perform an ultrasound is not "[t]he performing of an abortion." Neb. Rev. Stat. § 28-336. As used in the medical-procedures statute, "[a]bortion means the use or prescription of any instrument, medicine, drug, or other substance or device intentionally to terminate the pregnancy of a woman known to be pregnant . . . ." Neb. Rev. Stat. § 28-326(1). Failing to estimate a gestational age or to perform an ultrasound does not "terminate the pregnancy of a woman." *Id.* Instead, those procedures or their omission occur independently of "[t]he performing of an abortion." Neb. Rev. Stat. § 28-336. Thus, violations of Subsection 4(1) and (2)(a) of the Act would not violate the medical-procedures statute.

Next, nothing in Subsections 4(2)(b) or (3) changes which procedures may be used to perform an abortion. Subsections 4(2)(b) and (3) prohibit abortions of unborn children having fetal heartbeats unless there is a medical emergency or the pregnancy resulted from sexual assault or incest. Violations depend on the unborn child's stage of development, the pregnant woman's health, and the circumstances surrounding the conception of the unborn child. By contrast, violations of the medical-procedures statute depend on the type of "medical procedure[]" "us[ed]." Neb. Rev. Stat. § 28-336. Nothing in the Act expands or limits the categories of "medical procedures" that are "accepted." *Id.* Thus, these subsections also do not affect which "medical procedures" for "[t]he performing of an abortion" are not "accepted" under the medical-procedures statute.

Nor do Sections 7 through 12 of the Act, which add disciplinary sanctions for violations of the Act, change this conclusion. Under existing law, physicians may face discipline for any "[u]nprofessional conduct." Neb. Rev. Stat. § 38-178(24). That term broadly includes "any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession . . . or conduct that is likely to deceive or defraud the public or is detrimental to the public interest." Neb. Rev. Stat. § 38-179; *accord* Neb. Rev. Stat. § 38-2021. The statute enumerates multiple categories of conduct included within the term like cheating on a credentialing exam. Neb. Rev. Stat. § 38-179. The Act provides for professional discipline by adding violations of the Act to the list of enumerated categories of unprofessional conduct. *See* LB 626, §§ 8, 12; *see also id.* § 7. Separately, Sections 10 and 11 of the Act mandate license revocation if a "licensee perform[s] or induce[s] an unlawful abortion in violation of section 4" of the Act. *See also id.* § 9.

The Act's amendments to these statutes do not bring violations of the Act within the medical-procedures statute. The licensing statutes amended by the Act forbid a range of conduct not included within the medical-procedures statute's prohibition of "[t]he performing of an abortion by using anything other than accepted medical procedures." Neb. Rev. Stat. § 28-336. A physician can "depart[] from . . . the standards of acceptable and prevailing practice" of his profession or cheat on a credentialing exam without violating the medical-procedures statute. *See* Neb. Rev. Stat. § 38-179(4). Thus, the Act's inclusion of Nebraska Heartbeat Act violations alongside credentialing exam cheating and other categories of unprofessional conduct does not automatically bring that conduct within the medical-procedures statute. To the extent that the licensing statutes and medical-procedures statute forbid the same conduct, that conduct is "[t]he performing of an abortion by using anything other than accepted medical procedures." Neb. Rev. Stat. § 28-336. But as explained, because the Act does not change which abortion "medical procedures" are "accepted," a physician would not violate the medical-procedures statute through a violation of the Act.

Our conclusion that the Act would not change which procedures violate the medical-procedures statute is reinforced by the fact that separate criminal statutes prohibit abortions based on the unborn child's stage of development. As explained above, § 28-329 prohibits abortions of unborn children who "have reached viability," and § 28-3,106 prohibits abortions of unborn children having a "probable postfertilization age of . . . twenty or more weeks." Reading the Act and the medical-procedures statute together to criminalize abortions performed on unborn children having fetal heartbeats would render both §§ 28-329 and 28-3,106 superfluous. All viable unborn children have fetal heartbeats, and fetal heartbeats become detectable weeks before unborn children reach a 20-week post-fertilization age. *See MKB Mgmt. Corp. v. Stenehjem*, 795 F.3d 768, 772 (8th Cir. 2015) ("[F]etal heartbeats are detectable at about 6 weeks."). "[C]ourt[s] must attempt to give effect to all parts of a statute[.]" *Johnson v. City of Fremont*,

287 Neb. 960, 967, 845 N.W.2d 279, 286 (2014). "If a provision is susceptible of (1) a meaning that gives it an effect already achieved by another provision, or that deprives another provision of all independent effect, and (2) another meaning that leaves both provisions with some independent operation, the latter should be preferred." Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 176 (2012). If enacted, the Act would not be read to "deprive[]" the viability and 20-week statutes "of all independent effect." *Id.* The Act would have amended §§ 28-329 and 28-3,106 had it intended to add criminal penalties to the conduct it forbids. It does not change how the medical-procedures statute is applied.

## **II. The Act Would Not Require Physicians to File Law-Enforcement Reports Before Performing Abortions**

We also conclude that physicians performing abortions under the Act's sexual-assault exception may satisfy their law-enforcement reporting requirements before or after performing an abortion. Section 5(2) of the Act provides that "[i]f the physician performs or induces an abortion in the case of sexual assault or incest pursuant to subdivision (3)(b) or (c) of section 4 of this act, the physician shall certify in writing that the abortion was performed because of sexual assault or incest and that the physician complied with all the duties of a health care provider required by section 28-902 that are applicable to that case." Section 28-902 requires health care providers to "immediately report to law enforcement" cases involving "physical injury which appear[] to have been received" because of the commission of a crime unless the patient is the victim of sexual assault and was 18 years of age or older at the time of the crime. Neb. Rev. Stat. § 28-902(1), (2). If the exception applies, the victim must consent before the provider can report the crime. *Id.* § 28-902(2)(b). Section 28-902(3) requires providers to "provide law enforcement with a sexual assault evidence collection kit if one has been obtained."

Nothing in the Act requires a physician to satisfy their law-enforcement reporting requirements or certify compliance with § 28-902 before performing an abortion. The Act makes clear that certification occurs after the abortion has been performed by using the past tense in describing the performance of the abortion. LB 626, § 5(2) ("[T]he physician shall certify . . . that the abortion *was performed* . . ."). To be sure, the law-enforcement reporting statute requires the filing of a report "immediately." Neb. Rev. Stat. § 28-902(1). However, "courts generally hold that the word 'immediately' does not mean instantly" and instead "is to be construed as meaning within a reasonable time having regard to all the circumstances." *Chapin v. Ocean Accident & Guarantee Corp.*, 96 Neb. 213, 216, 147 N.W. 465, 467 (1914). In the context of an abortion, the circumstances permit physicians to submit reports to law enforcement before or after the abortion is performed. Thus, if enacted, the Act would not require physicians to file law-enforcement reports before performing an abortion.\*

### CONCLUSION

As explained above, we conclude that violations of the Act would not become crimes under the medical-procedures statute because the Act does not change which abortion "medical procedures" are "accepted." Neb. Rev. Stat. § 28-336. We also do not read the Act to require a physician to file a law-enforcement report before performing an abortion for a victim of sexual assault. The law-enforcement reporting requirement may be satisfied before or after an abortion is performed.

Sincerely,

MIKE HILGERS  
Attorney General  
(Signed) Eric J. Hamilton  
Solicitor General

pc Brandon Metzler  
Clerk of the Nebraska Legislature

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\*Though your letter does not ask whether a physician performing an abortion for a victim of incest must submit a law-enforcement report before performing an abortion, *see* LB 626, § 4(3)(c), we conclude for the same reasons that a report may be filed before or after an abortion is performed in cases of incest.

### RESOLUTION

**LEGISLATIVE RESOLUTION 108.** Introduced by Hansen, B., 16.

WHEREAS, the 2023 Nebraska School Activities Association State Wrestling Tournament was held from February 16 through February 18 at the CHI Health Center Omaha; and

WHEREAS, sophomore Hudson Loges competed in the tournament for the Blair High School wrestling team coached by Erich Warner; and

WHEREAS, Loges won the Class B 106-pound state championship by defeating Cole Welte of Omaha Skutt in the Class B 106-pound championship match 5-0; and

WHEREAS, the championship win capped an outstanding season for Loges with a total of fifty-four wins and only one loss breaking the previous school record for wins in a single season of fifty-two; and

WHEREAS, Loges is just the fifth Blair High School wrestler to win an individual state championship; and

WHEREAS, the Legislature recognizes the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature congratulates Blair High School wrestler Hudson Loges on winning the 2023 Class B 106-pound State Wrestling Championship.

2. That copies of this resolution be sent to Blair High School and Hudson Loges.

Laid over.

#### GENERAL FILE

**LEGISLATIVE BILL 562.** Senator M. Cavanaugh offered the following motion:

[MO973](#)

Reconsider the vote taken on MO643.

Pending.

#### VISITORS

Visitors to the Chamber were students from Prairie Queen Elementary, Papillion; Episcopalians from Episcopal Churches across Nebraska; students from Rockwell Elementary, Omaha; Henry Malkey, Omaha.

#### RECESS

At 11:56 a.m., on a motion by Senator Linehan, the Legislature recessed until 1:00 p.m.

#### AFTER RECESS

The Legislature reconvened at 1:00 p.m., Speaker Arch presiding.

#### ROLL CALL

The roll was called and all members were present except Senator Armendariz who was excused; and Senators Bosn, Bostar, Brewer, Briese, Day, DeBoer, DeKay, Dungan, B. Hansen, Holdcroft, Ibach, Linehan, McDonnell, McKinney, Vargas, and Wayne who were excused until they arrive.

#### PRESIDENT KELLY PRESIDING

#### GENERAL FILE

**LEGISLATIVE BILL 562.** Senator M. Cavanaugh renewed [MO973](#), found and considered in this day's Journal, to reconsider the vote taken on MO643.

Senator Slama moved the previous question. The question is, "Shall the debate now close?"

Senator M. Cavanaugh moved for a call of the house. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

Senator M. Cavanaugh requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 32:

Aguilar	Brandt	Halloran	Kauth	Sanders
Albrecht	Brewer	Hansen	Linehan	Slama
Arch	Clements	Hardin	Lippincott	von Gillern
Ballard	DeKay	Holdcroft	McDonnell	Wishart
Bosn	Dorn	Hughes	Moser	
Bostar	Dover	Ibach	Murman	
Bostelman	Erdman	Jacobson	Riepe	

Voting in the negative, 7:

Blood	Conrad	Hunt	Raybould
Cavanaugh, J.	Dungan	McKinney	

Present and not voting, 5:

Cavanaugh, M.	DeBoer	Fredrickson	Walz	Wayne
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Excused and not voting, 5:

Armendariz	Briese	Day	Lowe	Vargas
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The motion to cease debate prevailed with 32 ayes, 7 nays, 5 present and not voting, and 5 excused and not voting.

Senator M. Cavanaugh requested a roll call vote on her motion to reconsider.

Voting in the affirmative, 1:

Hunt

Voting in the negative, 42:

Aguilar	Brewer	Erdman	Kauth	Sanders
Albrecht	Cavanaugh, J.	Fredrickson	Linehan	Slama
Arch	Clements	Halloran	Lippincott	von Gillern
Ballard	Conrad	Hansen	McDonnell	Walz
Blood	DeBoer	Hardin	McKinney	Wayne
Bosn	DeKay	Holdcroft	Moser	Wishart
Bostar	Dorn	Hughes	Murman	
Bostelman	Dover	Ibach	Raybould	
Brandt	Dungan	Jacobson	Riepe	

Present and not voting, 1:

Cavanaugh, M.

Excused and not voting, 5:

Armendariz    Briese            Day                    Lowe                  Vargas

The M. Cavanaugh motion to reconsider failed with 1 aye, 42 nays, 1 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Pending.

#### MESSAGE FROM THE GOVERNOR

April 25, 2023

Brandon Metzler  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Clerk Metzler:

Engrossed Legislative Bill 77 was received in my office on April 19, 2023.

This bill was signed and delivered to the Secretary of State on April 25, 2023.

Sincerely,  
(Signed) Jim Pillen  
Governor

#### GENERAL FILE

**LEGISLATIVE BILL 562.** Senator Hunt offered [MO642](#), found on page 961, to recommit to Agriculture Committee.



Senator Slama moved the previous question. The question is, "Shall the debate now close?"

Senator M. Cavanaugh moved for a call of the house. The motion prevailed with 9 ayes, 3 nays, and 37 not voting.

Senator M. Cavanaugh requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 29:

Aguilar	Clements	Hansen	Kauth	Murman
Albrecht	DeKay	Hardin	Linehan	Riepe
Ballard	Dorn	Holdcroft	Lippincott	Sanders
Bosn	Dover	Hughes	Lowe	Slama
Bostelman	Erdman	Ibach	McDonnell	von Gillern
Brewer	Halloran	Jacobson	Moser	

Voting in the negative, 7:

Blood	Cavanaugh, J.	Dungan	McKinney
Brandt	Conrad	Hunt	

Present and not voting, 9:

Bostar	Day	Fredrickson	Walz	Wishart
Cavanaugh, M.	DeBoer	Raybould	Wayne	

Excused and not voting, 4:

Arch	Armendariz	Briese	Vargas
------	------------	--------	--------

The motion to cease debate prevailed with 29 ayes, 7 nays, 9 present and not voting, and 4 excused and not voting.

Senator M. Cavanaugh requested a roll call vote on the Hunt motion to recommit to committee.

Voting in the affirmative, 1:

Hunt

Voting in the negative, 43:

Aguilar	Cavanaugh, J.	Erdman	Kauth	Riepe
Albrecht	Clements	Fredrickson	Linehan	Sanders
Ballard	Conrad	Halloran	Lippincott	Slama
Blood	Day	Hansen	Lowe	von Gillern
Bosn	DeBoer	Hardin	McDonnell	Walz
Bostar	DeKay	Holdcroft	McKinney	Wayne
Bostelman	Dorn	Hughes	Moser	Wishart
Brandt	Dover	Ibach	Murman	
Brewer	Dungan	Jacobson	Raybould	

Present and not voting, 1:

Cavanaugh, M.

Excused and not voting, 4:

Arch            Armendariz    Briese            Vargas

The Hunt motion to recommit to committee failed with 1 aye, 43 nays, 1 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Senator M. Cavanaugh offered the following motion:

[MO989](#)

Reconsider the vote taken on MO642.

Senator Dorn offered the following motion:

[MO990](#)

Invoke cloture pursuant to Rule 7, Sec. 10.

Senator Dorn moved for a call of the house. The motion prevailed with 24 ayes, 3 nays, and 22 not voting.

Senator Dorn requested a roll call vote, in reverse order, on the motion to invoke cloture.

Voting in the affirmative, 37:

Aguilar	Brewer	Dungan	Jacobson	Sanders
Albrecht	Briese	Erdman	Kauth	Slama
Ballard	Clements	Fredrickson	Linehan	von Gillern
Blood	Conrad	Halloran	Lippincott	Walz
Bosn	Day	Hardin	Lowe	Wishart
Bostar	DeKay	Holdcroft	McDonnell	
Bostelman	Dorn	Hughes	Moser	
Brandt	Dover	Ibach	Murman	

Voting in the negative, 0.

Present and not voting, 9:

Arch	Cavanaugh, M.	Hansen	McKinney	Wayne
Cavanaugh, J.	DeBoer	Hunt	Riepe	

Excused and not voting, 3:

Armendariz Raybould Vargas

The Dorn motion to invoke cloture prevailed with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

Senator M. Cavanaugh requested a roll call vote on her motion to reconsider.

Voting in the affirmative, 1:

Hunt

Voting in the negative, 43:

Aguilar	Brewer	Dungan	Jacobson	Riepe
Albrecht	Briese	Erdman	Kauth	Sanders
Arch	Cavanaugh, J.	Fredrickson	Linehan	Slama
Ballard	Clements	Halloran	Lippincott	von Gillern
Blood	Conrad	Hansen	Lowe	Walz
Bosn	DeBoer	Hardin	McDonnell	Wayne
Bostar	DeKay	Holdcroft	McKinney	Wishart
Bostelman	Dorn	Hughes	Moser	
Brandt	Dover	Ibach	Murman	

Present and not voting, 2:

Cavanaugh, M. Day

Excused and not voting, 3:

Armendariz Raybould Vargas

The M. Cavanaugh motion to reconsider failed with 1 aye, 43 nays, 2 present and not voting, and 3 excused and not voting.

Senator M. Cavanaugh requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 32:

Aguilar	Brewer	Dover	Kauth	Sanders
Albrecht	Briese	Erdman	Linehan	Slama
Ballard	Clements	Halloran	Lippincott	Walz
Blood	Conrad	Hardin	Lowe	Wishart
Bostar	Day	Holdcroft	McDonnell	
Bostelman	DeKay	Ibach	Moser	
Brandt	Dorn	Jacobson	Murman	

Voting in the negative, 1:

Hunt

Present and not voting, 13:

Arch	Cavanaugh, M.	Fredrickson	McKinney	Wayne
Bosn	DeBoer	Hansen	Riepe	
Cavanaugh, J.	Dungan	Hughes	von Gillern	

Excused and not voting, 3:

Armendariz Raybould Vargas

Advanced to Enrollment and Review Initial with 32 ayes, 1 nay, 13 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

### COMMITTEE REPORT

#### Enrollment and Review

#### **LEGISLATIVE BILL 565.** Placed on Final Reading.

##### ST7

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Standing Committee amendment, AM827:
  - a. On page 17, line 19, "22 to 28" has been struck and "35 to 41" inserted; and
  - b. On page 17, line 26; and page 19, line 10, "25" has been struck and "38" inserted.
2. On page 1, the matter beginning with "hydrogen" in line 1 through line 6 and all amendments thereto have been struck and "natural resources; to amend sections 18-2441, 37-104, 37-451, 37-453, 37-457, 37-492, 37-559, 37-708, 57-904, 70-619, 70-1001, 70-1001.01, and 70-1025, Reissue Revised Statutes of Nebraska, and sections 37-407, 37-447, 37-448, 37-449, 66-2301, and 81-15,160, Revised Statutes Cumulative Supplement, 2022; to adopt the Public Water and Natural Resources Project Contracting Act; to change provisions relating to agency powers under the Municipal Cooperative Financing Act; to change a quorum requirement for Game and Parks Commission meetings; to change provisions of the Game Law relating to fees charged, permits issued, destruction of predators, and prohibited acts in game refuges; to change provisions relating to the compensation of members of the Nebraska Oil and Gas Conservation Commission; to state legislative findings, to state intent regarding appropriations, to provide for a grant program as prescribed, and to provide powers and duties for the Department of Economic Development relating to a regional clean hydrogen hub; to adopt the Nuclear and Hydrogen Development Act; to change eligibility qualifications for members of the board of directors of public power and irrigation districts; to change Nebraska Power Review Board provisions relating to state policy and requirements for an annual report

as prescribed; to define and redefine terms; to extend available grant funding for new scrap tire projects under the Waste Reduction and Recycling Incentive Act; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency." inserted.

**LEGISLATIVE BILL 191.** Placed on Select File with amendment.

[ER29](#)

1 1. On page 1, strike beginning with "the" in line 1 through line 4  
 2 and insert "labor; to amend sections 48-163, 48-164, 48-174, 48-622.02,  
 3 48-649.03, 48-650, 48-652, 48-2103, 48-2107, and 49-506, Reissue Revised  
 4 Statutes of Nebraska, and sections 48-101.01, 71-7104, 81-1228, 81-1229,  
 5 and 81-1231, Revised Statutes Cumulative Supplement, 2022; to adopt the  
 6 Critical Infrastructure Utility Worker Protection Act; to provide for  
 7 reimbursement for mental health and resilience training for first  
 8 responders; to change provisions of the Nebraska Workers' Compensation  
 9 Act relating to notices for rules and regulations, case progression  
 10 requirements, and summonses; to change permitted uses of the Nebraska  
 11 Training and Support Cash Fund; to change provisions of the Employment  
 12 Security Law regarding voluntary contributions and notices of  
 13 determination; to eliminate a definition and certain fees under the  
 14 Contractor Registration Act; to change requirements relating to  
 15 distribution of session laws and legislative journals; to change  
 16 provisions and definitions of the Rural Workforce Housing Investment Act  
 17 relating to grants; to harmonize provisions; and to repeal the original  
 18 sections.".

(Signed) Beau Ballard, Chairperson

**BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 92A.** Introduced by Slama, 1.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 92, One Hundred Eighth Legislature, First Session, 2023.

**RESOLUTION**

**LEGISLATIVE RESOLUTION 109.** Introduced by Brandt, 32; Brewer, 43.

WHEREAS, Command Sergeant Major Joseph Dunlap enlisted into the United States Army in July 1997 as a Cavalry Scout; and

WHEREAS, Command Sergeant Major Joseph Dunlap attended the Basic Cavalryman's Course, Warrior Leader Course, Basic Non-Commissioned Officer Course I and II, Maneuver Senior Leader Course, Company Commander and First Sergeant Course, the United States Army Sergeants Major Academy, Battalion Commanders Pre-Command Course, Tactical Tracking Operations School, Cavalry Leader's Course, Digital Master Gunner Course, Javelin Operator Course, and Combat Lifesaver Course; and

WHEREAS, Command Sergeant Major Joesph Dunlap's assignments include Command Sergeant Major - 1-134 Cavalry Squadron (Infantry Brigade Combat Team), Operations Sergeant Major - Headquarters and Headquarters Troop 1-134 Cavalry Squadron (Infantry Brigade Combat Team), First Sergeant - B Troop 1-134 Cavalry Squadron (Infantry Brigade Combat Team), Platoon Sergeant - A Troop 1-134 Cavalry Squadron (Reconnaissance & Surveillance); and

WHEREAS, Command Sergeant Major Joseph Dunlap served in three combat tours to Bosnia, Iraq, and Afghanistan, a natural disaster response for Hurricane Gustav and a civil unrest response, and overseas deployments for training in Germany, France, and the Czech Republic; and

WHEREAS, Command Sergeant Major Joseph Dunlap's awards and decorations include the Legion of Merit, the Meritorious Service Medal, Army Commendation Medal for Valor - 2nd Award, Army Commendation Medal - 5th Award, Joint Service Achievement Medal, Army Achievement Medal - 3rd Award, Army Good Conduct Medal, Army Reserve Components Achievement Medal, National Defense Service Medal, Armed Forces Expeditionary Medal, Humanitarian Service Medal, Military Outstanding Volunteer Service Medal, Armed Forces Reserve Medal, NATO Medal - 2nd Award, Army Superior Unit Award, Non-Commissioned Officer Professional Development Ribbon - 5th Award, Army Service Ribbon, Overseas Service Ribbon, Army Reserve Component Overseas Training Ribbon, Armed Forces Reserve Medal with 'M' Device - 2nd Award, Global War on Terrorism Service Medal, Combat Action Badge, Afghanistan Campaign Medal, Iraq Campaign Medal, Nebraska National Guard Service Medal - 3rd Award, Nebraska National Guard Commendation Medal, Nebraska Homeland Defense Service Ribbon with 'M' Device, and the prestigious Order of Saint George Black Medallion; and

WHEREAS, Command Sergeant Major Joseph Dunlap retired from the United States Army and Nebraska Army National Guard on April 2, 2023, having served the United States and the State of Nebraska faithfully, selflessly, and with distinguished honor for over twenty-five years.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature extends its appreciation, admiration, and gratitude to Command Sergeant Major Joseph Dunlap for his commitment, courage, and leadership in military service to his country and state.
2. That the Legislature congratulates Command Sergeant Major Joseph Dunlap on his retirement from the United States Army and Nebraska Army National Guard after twenty-five years of distinguished service.
3. That a copy of this resolution be sent to Command Sergeant Major Joseph Dunlap.

Laid over.

#### SELECT FILE

**LEGISLATIVE BILL 227.** Senator Hunt offered [MO397](#), found on page 942, to bracket until June 2, 2023.

Senator Hunt withdrew her motion to bracket.

Senator Hunt offered [MO396](#), found on page 941, to recommit to Health and Human Services Committee.

Senator Hunt withdrew her motion to recommit to committee.

Senator Hunt withdrew [MO395](#), found on page 941, to indefinitely postpone.

[ER26](#), found in this day's Journal, was offered.

Senator B. Hansen offered the following amendment to [ER26](#):  
[AM1455](#)

(Amendments to ER26)

- 1 1. Strike section 65 and insert the following new sections:
- 2 Sec. 21. Section 38-1416, Revised Statutes Cumulative Supplement,
- 3 2022, is amended to read:
- 4 38-1416 (1) Before beginning an apprenticeship, an applicant shall
- 5 apply for an apprentice license. The applicant shall show that he or she
- 6 has completed twenty of the forty hours required in subdivision (1)(a) of
- 7 section 38-1414. The applicant may complete the twelve-month
- 8 apprenticeship in either a split apprenticeship or a full apprenticeship
- 9 as provided in this section.
- 10 (2) A split apprenticeship shall be completed in the following
- 11 manner:
- 12 (a) Application for an apprentice license to complete a six-month
- 13 apprenticeship prior to or while attending an accredited school of
- 14 mortuary science, which license shall be valid for six months from the
- 15 date of issuance and shall not be extended by the board. The
- 16 apprenticeship shall be completed over a continuous six-month period;
- 17 (b) Successful completion of a full course of study in an accredited
- 18 school of mortuary science;
- 19 (c) Successful passage of the national standardized examination; and
- 20 (d) Application for an apprentice license to complete the final six-
- 21 month apprenticeship, which license shall be valid for six months from
- 22 the date of issuance and shall not be extended by the board. The
- 23 apprenticeship shall be completed over a continuous six-month period.
- 24 (3) A full apprenticeship shall be completed in the following
- 25 manner:
- 26 (a) Successful completion of a full course of study in an accredited
- 1 school of mortuary science;
- 2 (b) Successful passage of the national standardized examination; and
- 3 (c) Application for an apprentice license to complete a twelve-month
- 4 apprenticeship. This license shall be valid for twelve months from the
- 5 date of issuance and shall not be extended by the board. The
- 6 apprenticeship shall be completed over a continuous twelve-month period.
- 7 (4) An individual registered as an apprentice on December 1, 2008,
- 8 shall be deemed to be licensed as an apprentice for the term of the
- 9 apprenticeship on such date.
- 10 Sec. 63. Section 68-1512, Reissue Revised Statutes of Nebraska, is
- 11 amended to read:
- 12 68-1512 (1) The maximum support allowable under sections 68-1501 to
- 13 68-1519 shall be (a) four (~~1~~) ~~three~~ hundred dollars per month per
- 14 disabled person averaged over any one-year period or (b) four (~~2~~) ~~three~~
- 15 hundred dollars per month per family averaged over any one-year period
- 16 for the first disabled family member plus two ~~one~~ hundred ~~five~~ dollars

17 per month averaged over any one-year period for each additional disabled  
18 family member. The department shall not provide support, pursuant to  
19 sections 68-1501 to 68-1519, to any family or disabled person whose gross  
20 income less the cost of medical or other care specifically related to the  
21 disability exceeds the median family income for a family of four in  
22 Nebraska, except that the department shall make adjustments for the  
23 actual size of the family.

24 (2) It is the intent of the Legislature that any appropriation  
25 relating to this section be increased accordingly so that each person who  
26 received support prior to the operative date of this section will  
27 continue to receive support.

28 Sec. 65. Section 71-222, Revised Statutes Cumulative Supplement,  
29 2022, is amended to read:

30 71-222 The board shall annually elect a president and vice  
31 president, and the board shall appoint a director who shall serve as  
1 secretary of the board. The board shall be furnished with suitable  
2 quarters in the State Capitol or elsewhere. It shall adopt and use a  
3 common seal for the authentication of its orders and records. The  
4 secretary of the board shall keep a record of all proceedings of the  
5 board. A majority of the board, in a meeting duly assembled, may perform  
6 and exercise all the duties and powers delegated to devolving upon the  
7 board. Each member of the board shall receive a compensation of one  
8 hundred fifty ~~seventy-five~~ dollars per diem and shall be reimbursed for  
9 expenses incurred in the discharge of such member's his or her duties as  
10 provided in sections 81-1174 to 81-1177, not to exceed two thousand  
11 dollars per annum. Salaries and expenses shall be paid only from the fund  
12 created by fees collected in the administration of the Barber Act, and no  
13 other funds or state money except as collected in the administration of  
14 the act shall be drawn upon to pay the expense of administration. The  
15 board shall report each year to the Governor a full statement of its  
16 receipts and expenditures and also a full statement of its work during  
17 the year, together with such recommendations as it may deem expedient.  
18 The board may employ one field inspector and such other inspectors,  
19 clerks, and ~~other~~ assistants as it may deem necessary to carry out the  
20 act and prescribe their qualifications. No owner, agent, or employee of  
21 any barber school shall be eligible for ~~to~~ membership on the board.

22 Sec. 66. Section 71-401, Revised Statutes Cumulative Supplement,  
23 2022, is amended to read:

24 71-401 Sections 71-401 to 71-479 and section 68 of this act shall be  
25 known and may be cited as the Health Care Facility Licensure Act.

26 Sec. 67. Section 71-403, Revised Statutes Cumulative Supplement,  
27 2022, is amended to read:

28 71-403 For purposes of the Health Care Facility Licensure Act,  
29 unless the context otherwise requires, the definitions found in sections  
30 71-404 to 71-431 and section 68 of this act shall apply.

31 Sec. 68. Palliative care means specialized care or treatment for a  
1 person living with a serious illness that carries a high risk of  
2 mortality or negatively impacts quality of life. This type of care or  
3 treatment addresses the symptoms and stress of a serious illness,  
4 including pain. Palliative care is a team-based approach to care or  
5 treatment, providing essential support at any age and stage of a serious  
6 illness. It can be provided across care settings and along with curative  
7 treatment. The goal of palliative care is to improve quality of life for  
8 both the patient and the patient's family or care partner.

9 Sec. 71. Section 71-2461.01, Revised Statutes Cumulative Supplement,  
10 2022, is amended to read:

11 71-2461.01 (1) Central fill means the preparation, other than by  
12 compounding, of a drug, device, or biological pursuant to a medical order  
13 where the preparation occurs in a pharmacy other than the pharmacy  
14 dispensing to the patient or caregiver as defined in section 38-2809.



15 (2) If the dispensing pharmacy and central fill pharmacy are under  
 16 common ownership, the central fill pharmacy may deliver such drug,  
 17 device, or biological to the patient or caregiver on behalf of the  
 18 dispensing pharmacy, except that the dispensing pharmacy shall be  
 19 responsible for the prescriptions filled and delivered by the central  
 20 fill pharmacy.  
 21 2. Correct the operative date and repealer sections so that the  
 22 sections added by this amendment become operative three calendar months  
 23 after the adjournment of this legislative session.  
 24 3. Renumber the remaining sections and correct internal references  
 25 accordingly.

Senator B. Hansen asked unanimous consent to withdraw [AM1455](#), found in this day's Journal, and replace it with substitute amendment, [AM1497](#), to [ER26](#). No objections. So ordered.  
[AM1497](#)

(Amendments to E & R amendments, ER26)

1 1. Strike sections 60, 61, and 65 and insert the following new  
 2 sections:  
 3 Sec. 21. Section 38-1416, Revised Statutes Cumulative Supplement,  
 4 2022, is amended to read:  
 5 38-1416 (1) Before beginning an apprenticeship, an applicant shall  
 6 apply for an apprentice license. The applicant shall show that he or she  
 7 has completed twenty of the forty hours required in subdivision (1)(a) of  
 8 section 38-1414. The applicant may complete the twelve-month  
 9 apprenticeship in either a split apprenticeship or a full apprenticeship  
 10 as provided in this section.  
 11 (2) A split apprenticeship shall be completed in the following  
 12 manner:  
 13 (a) Application for an apprentice license to complete a six-month  
 14 apprenticeship prior to or while attending an accredited school of  
 15 mortuary science, which license shall be valid for six months from the  
 16 date of issuance and shall not be extended by the board. The  
 17 apprenticeship shall be completed over a continuous six-month period;  
 18 (b) Successful completion of a full course of study in an accredited  
 19 school of mortuary science;  
 20 (c) Successful passage of the national standardized examination; and  
 21 (d) Application for an apprentice license to complete the final six-  
 22 month apprenticeship, which license shall be valid for six months from  
 23 the date of issuance and shall not be extended by the board. The  
 24 apprenticeship shall be completed over a continuous six-month period.  
 25 (3) A full apprenticeship shall be completed in the following  
 26 manner:  
 1 (a) Successful completion of a full course of study in an accredited  
 2 school of mortuary science;  
 3 (b) Successful passage of the national standardized examination; and  
 4 (c) Application for an apprentice license to complete a twelve-month  
 5 apprenticeship. This license shall be valid for twelve months from the  
 6 date of issuance and shall not be extended by the board. The  
 7 apprenticeship shall be completed over a continuous twelve-month period.  
 8 (4) An individual registered as an apprentice on December 1, 2008,  
 9 shall be deemed to be licensed as an apprentice for the term of the  
 10 apprenticeship on such date.  
 11 Sec. 60. (1) The Department of Health and Human Services shall  
 12 contract with, or provide a grant to, an eligible entity to implement a  
 13 pilot program to facilitate the transfer of patients with complex health  
 14 needs from eligible acute care hospitals to appropriate post-acute care  
 15 settings, including facilities that provide skilled nursing or long-term  
 16 care.

17 (2) The purposes of the pilot program are to ensure that:

18 (a) Patients with complex health needs are able to access timely

19 transition from an acute care hospital to a post-acute care setting;

20 (b) Patients receive the appropriate type of care at the appropriate

21 time to best meet their needs; and

22 (c) Acute-care hospitals have available capacity to meet the needs

23 of patients.

24 (3) For purposes of this section:

25 (a) Eligible acute care hospital means a facility that is not

26 designated as a critical access hospital by the federal Centers for

27 Medicare and Medicaid Services and must satisfactorily demonstrate to the

28 eligible entity that it has reached or exceeded eighty percent of

29 available staffed capacity for adult intensive-care-unit beds and acute

30 care inpatient medical-surgical beds;

31 (b) Eligible entity means a nonprofit statewide association whose

1 members include eligible acute care hospitals; and

2 (c) Patient means a person who is medically stable and who the

3 provider believes, with a reasonable medical probability and in

4 accordance with recognized medical standards, is safe to be discharged or

5 transferred and is not expected to have his or her condition negatively

6 impacted during, or as a result of, the discharge or transfer.

7 (4) The eligible entity responsible for developing the pilot program

8 shall:

9 (a) Determine criteria to define patients with complex health needs;

10 (b) Develop a process for eligible acute care hospitals to determine

11 capacity and the manner and frequency of reporting changes in capacity;

12 (c) Develop a process to ensure funding is utilized for the purposes

13 described in this section and in compliance with all applicable state and

14 federal laws;

15 (d) Include regular consultation with the department and

16 representatives of acute care hospitals, skilled nursing facilities, and

17 nursing facilities; and

18 (e) Include quarterly updates to the department.

19 (5) The pilot program may include direct payments to post-acute care

20 facilities that support care to patients with complex health needs.

21 (6) Funding utilized under the pilot program shall comply with all

22 medicaid and medicare reimbursement policies for skilled nursing

23 facilities, nursing facilities, and swing-bed hospitals.

24 (7) It is the intent of the Legislature to appropriate one million

25 dollars from the General Fund to carry out this section. No more than two

26 and one-half percent of the contracted amount shall be used to administer

27 the pilot program.

28 Sec. 61. Section 68-1206, Revised Statutes Cumulative Supplement,

29 2022, is amended to read:

30 68-1206 (1) The Department of Health and Human Services shall

31 administer the program of social services in this state. The department

1 may contract with other social agencies for the purchase of social

2 services at rates not to exceed those prevailing in the state or the cost

3 at which the department could provide those services. The statutory

4 maximum payments for the separate program of aid to dependent children

5 shall apply only to public assistance grants and shall not apply to

6 payments for social services.

7 (2)(a) As part of the provision of social services authorized by

8 section 68-1202, the department shall participate in the federal child

9 care assistance program under 42 U.S.C. 9857 et seq., as such sections

10 existed on January 1, ~~2023~~ ~~2024~~, and provide child care assistance to

11 families with incomes up to (i) one hundred eighty-five percent of the

12 federal poverty level prior to October 1, ~~2026~~ ~~2023~~, or (ii) one hundred

13 thirty percent of the federal poverty level on and after October 1, ~~2026~~

14 2023.

15 (b) As part of the provision of social services authorized by this  
16 section and section 68-1202, the department shall participate in the  
17 federal Child Care Subsidy program. A child care provider seeking to  
18 participate in the federal Child Care Subsidy program shall comply with  
19 the criminal history record information check requirements of the Child  
20 Care Licensing Act. In determining ongoing eligibility for this program,  
21 ten percent of a household's gross earned income shall be disregarded  
22 after twelve continuous months on the program and at each subsequent  
23 redetermination. In determining ongoing eligibility, if a family's income  
24 exceeds one hundred eighty-five percent of the federal poverty level  
25 prior to October 1, ~~2026~~ 2023, or one hundred thirty percent of the  
26 federal poverty level on and after October 1, ~~2026~~ 2023, the family shall  
27 receive transitional child care assistance through the remainder of the  
28 family's eligibility period or until the family's income exceeds eighty-  
29 five percent of the state median income for a family of the same size as  
30 reported by the United States Bureau of the Census, whichever occurs  
31 first. When the family's eligibility period ends, the family shall  
1 continue to be eligible for transitional child care assistance if the  
2 family's income is below two hundred percent of the federal poverty level  
3 prior to October 1, ~~2026~~ 2023, or one hundred eighty-five percent of the  
4 federal poverty level on and after October 1, ~~2026~~ 2023. The family shall  
5 receive transitional child care assistance through the remainder of the  
6 transitional eligibility period or until the family's income exceeds  
7 eighty-five percent of the state median income for a family of the same  
8 size as reported by the United States Bureau of the Census, whichever  
9 occurs first. The amount of such child care assistance shall be based on  
10 a cost-shared plan between the recipient family and the state and shall  
11 be based on a sliding-scale methodology. A recipient family may be  
12 required to contribute a percentage of such family's gross income for  
13 child care that is no more than the cost-sharing rates in the  
14 transitional child care assistance program as of January 1, 2015, for  
15 those no longer eligible for cash assistance as provided in section  
16 68-1724.

17 (c) For the period beginning July 1, 2021, through September 30,  
18 ~~2026~~ 2023, funds provided to the State of Nebraska pursuant to the Child  
19 Care and Development Block Grant Act of 1990, 42 U.S.C. 9857 et seq., as  
20 such act and sections existed on ~~January 1, 2023~~ ~~March 24, 2021~~, shall be  
21 used to pay the costs to the state resulting from the income eligibility  
22 changes made in subdivisions (2)(a) and (b) of this section by Laws 2021,  
23 LB485. If the available amount of such funds is insufficient to pay such  
24 costs, then funds provided to the state for the Temporary Assistance for  
25 Needy Families program established in 42 U.S.C. 601 et seq. may also be  
26 used. No General Funds shall be used to pay the costs to the state, other  
27 than administration costs, resulting from the income eligibility changes  
28 made in subdivisions (2)(a) and (b) of this section by Laws 2021, LB485,  
29 for the period beginning July 1, 2021, through September 30, ~~2026~~ 2023.  
30 (d) The Department of Health and Human Services shall collaborate  
31 with a private nonprofit organization with expertise in early childhood  
1 care and education for an independent evaluation of the income  
2 eligibility changes made in subdivisions (2)(a) and (b) of this section  
3 by Laws 2021, LB485, if private funding is made available for such  
4 purpose. The evaluation shall be completed by ~~July 1, 2024~~ ~~December 15,~~  
5 ~~2023~~, and shall be submitted electronically to the department and to the  
6 Health and Human Services Committee of the Legislature.

7 (3) In determining the rate or rates to be paid by the department  
8 for child care as defined in section 43-2605, the department shall adopt  
9 a fixed-rate schedule for the state or a fixed-rate schedule for an area  
10 of the state applicable to each child care program category of provider  
11 as defined in section 71-1910 which may claim reimbursement for services  
12 provided by the federal Child Care Subsidy program, except that the

13 department shall not pay a rate higher than that charged by an individual  
 14 provider to that provider's private clients. The schedule may provide  
 15 separate rates for care for infants, for children with special needs,  
 16 including disabilities or technological dependence, or for other  
 17 individual categories of children. The schedule may also provide tiered  
 18 rates based upon a quality scale rating of step three or higher under the  
 19 Step Up to Quality Child Care Act. The schedule shall be effective on  
 20 October 1 of every year and shall be revised annually by the department.

21 Sec. 63. Section 68-1512, Reissue Revised Statutes of Nebraska, is  
 22 amended to read:

23 68-1512 (1) The maximum support allowable under sections 68-1501 to  
 24 68-1519 shall be (a) four (~~three~~) hundred dollars per month per  
 25 disabled person averaged over any one-year period or (b) four (~~three~~)  
 26 hundred dollars per month per family averaged over any one-year period  
 27 for the first disabled family member plus two one hundred fifty dollars  
 28 per month averaged over any one-year period for each additional disabled  
 29 family member. The department shall not provide support, pursuant to  
 30 sections 68-1501 to 68-1519, to any family or disabled person whose gross  
 31 income less the cost of medical or other care specifically related to the  
 1 disability exceeds the median family income for a family of four in  
 2 Nebraska, except that the department shall make adjustments for the  
 3 actual size of the family.

4 (2) It is the intent of the Legislature that any appropriation  
 5 relating to this section be increased accordingly so that each person who  
 6 received support prior to the operative date of this section will  
 7 continue to receive support.

8 Sec. 65. Section 71-222, Revised Statutes Cumulative Supplement,  
 9 2022, is amended to read:

10 71-222 The board shall annually elect a president and vice  
 11 president, and the board shall appoint a director who shall serve as  
 12 secretary of the board. The board shall be furnished with suitable  
 13 quarters in the State Capitol or elsewhere. It shall adopt and use a  
 14 common seal for the authentication of its orders and records. The  
 15 secretary of the board shall keep a record of all proceedings of the  
 16 board. A majority of the board, in a meeting duly assembled, may perform  
 17 and exercise all the duties and powers delegated to devolving upon the  
 18 board. Each member of the board shall receive a compensation of one  
 19 hundred fifty seventy-five dollars per diem and shall be reimbursed for  
 20 expenses incurred in the discharge of such member's his or her duties as  
 21 provided in sections 81-1174 to 81-1177, not to exceed two thousand  
 22 dollars per annum. Salaries and expenses shall be paid only from the fund  
 23 created by fees collected in the administration of the Barber Act, and no  
 24 other funds or state money except as collected in the administration of  
 25 the act shall be drawn upon to pay the expense of administration. The  
 26 board shall report each year to the Governor a full statement of its  
 27 receipts and expenditures and also a full statement of its work during  
 28 the year, together with such recommendations as it may deem expedient.  
 29 The board may employ one field inspector and such other inspectors,  
 30 clerks, and ~~other~~ assistants as it may deem necessary to carry out the  
 31 act and prescribe their qualifications. No owner, agent, or employee of  
 1 any barber school shall be eligible for to membership on the board.

2 Sec. 66. Section 71-401, Revised Statutes Cumulative Supplement,  
 3 2022, is amended to read:

4 71-401 Sections 71-401 to 71-479 and section 68 of this act shall be  
 5 known and may be cited as the Health Care Facility Licensure Act.

6 Sec. 67. Section 71-403, Revised Statutes Cumulative Supplement,  
 7 2022, is amended to read:

8 71-403 For purposes of the Health Care Facility Licensure Act,  
 9 unless the context otherwise requires, the definitions found in sections  
 10 71-404 to 71-431 and section 68 of this act shall apply.

11 Sec. 68. Palliative care means specialized care or treatment for a  
 12 person living with a serious illness that carries a high risk of  
 13 mortality or negatively impacts quality of life. This type of care or  
 14 treatment addresses the symptoms and stress of a serious illness,  
 15 including pain. Palliative care is a team-based approach to care or  
 16 treatment, providing essential support at any age and stage of a serious  
 17 illness. It can be provided across care settings and along with curative  
 18 treatment. The goal of palliative care is to improve quality of life for  
 19 both the patient and the patient's family or care partner.  
 20 Sec. 71. Section 71-2461.01, Revised Statutes Cumulative Supplement,  
 21 2022, is amended to read:  
 22 71-2461.01 (1) Central fill means the preparation, other than by  
 23 compounding, of a drug, device, or biological pursuant to a medical order  
 24 where the preparation occurs in a pharmacy other than the pharmacy  
 25 dispensing to the patient or caregiver as defined in section 38-2809.  
 26 (2) If the dispensing pharmacy and central fill pharmacy are under  
 27 common ownership, the central fill pharmacy may deliver such drug,  
 28 device, or biological to the patient or caregiver on behalf of the  
 29 dispensing pharmacy, except that the dispensing pharmacy shall be  
 30 responsible for the prescriptions filled and delivered by the central  
 31 fill pharmacy.  
 1 Sec. 90. If any section in this act or any part of any section is  
 2 declared invalid or unconstitutional, the declaration shall not affect  
 3 the validity or constitutionality of the remaining portions.  
 4 2. Correct the operative date and repealer sections so that sections  
 5 21, 60, 61, 63, 65, 66, 67, 68, and 71 inserted by this amendment become  
 6 operative three calendar months after the adjournment of this legislative  
 7 session and section 90 inserted by this amendment becomes operative on  
 8 its effective date with the emergency clause.  
 9 3. Renumber the remaining sections and correct internal references  
 10 accordingly.

The B. Hansen amendment, to [ER26](#), was adopted with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

Senator Day offered the following amendment to [ER26](#):

[FA67](#)

Strike Section 3.

Senator Day asked unanimous consent to withdraw [FA67](#), found in this day's Journal, and replace it with substitute amendment, [AM1488](#), to [ER26](#). No objections. So ordered.

[AM1488](#)

(Amendments to ER26)

1 1. Insert the following new section:  
 2 Sec. 61. Section 68-1017.02, Revised Statutes Cumulative Supplement,  
 3 2022, is amended to read:  
 4 68-1017.02 (1)(a) The Department of Health and Human Services shall  
 5 apply for and utilize to the maximum extent possible, within limits  
 6 established by the Legislature, any and all appropriate options available  
 7 to the state under the federal Supplemental Nutrition Assistance Program  
 8 and regulations adopted under such program to maximize the number of  
 9 Nebraska residents being served under such program within such limits.  
 10 The department shall seek to maximize federal funding for such program  
 11 and minimize the utilization of General Funds for such program and shall  
 12 employ the personnel necessary to determine the options available to the  
 13 state and issue the report to the Legislature required by subdivision (b)  
 14 of this subsection.

15 (b) The department shall submit electronically an annual report to  
16 the Health and Human Services Committee of the Legislature by December 1  
17 on efforts by the department to carry out the provisions of this  
18 subsection. Such report shall provide the committee with all necessary  
19 and appropriate information to enable the committee to conduct a  
20 meaningful evaluation of such efforts. Such information shall include,  
21 but not be limited to, a clear description of various options available  
22 to the state under the federal Supplemental Nutrition Assistance Program,  
23 the department's evaluation of and any action taken by the department  
24 with respect to such options, the number of persons being served under  
25 such program, and any and all costs and expenditures associated with such  
26 program.

1 (c) The Health and Human Services Committee of the Legislature,  
2 after receipt and evaluation of the report required in subdivision (b) of  
3 this subsection, shall issue recommendations to the department on any  
4 further action necessary by the department to meet the requirements of  
5 this section.

6 (2)(a) The department shall develop a state outreach plan to promote  
7 access by eligible persons to benefits of the Supplemental Nutrition  
8 Assistance Program. The plan shall meet the criteria established by the  
9 Food and Nutrition Service of the United States Department of Agriculture  
10 for approval of state outreach plans. The Department of Health and Human  
11 Services may apply for and accept gifts, grants, and donations to develop  
12 and implement the state outreach plan.

13 (b) For purposes of developing and implementing the state outreach  
14 plan, the department shall partner with one or more counties or nonprofit  
15 organizations. If the department enters into a contract with a nonprofit  
16 organization relating to the state outreach plan, the contract may  
17 specify that the nonprofit organization is responsible for seeking  
18 sufficient gifts, grants, or donations necessary for the development and  
19 implementation of the state outreach plan and may additionally specify  
20 that any costs to the department associated with the award and management  
21 of the contract or the implementation or administration of the state  
22 outreach plan shall be paid out of private or federal funds received for  
23 development and implementation of the state outreach plan.

24 (c) The department shall submit the state outreach plan to the Food  
25 and Nutrition Service of the United States Department of Agriculture for  
26 approval on or before August 1, 2011, and shall request any federal  
27 matching funds that may be available upon approval of the state outreach  
28 plan. It is the intent of the Legislature that the State of Nebraska and  
29 the Department of Health and Human Services use any additional public or  
30 private funds to offset costs associated with increased caseload  
31 resulting from the implementation of the state outreach plan.

1 (d) The department shall be exempt from implementing or  
2 administering a state outreach plan under this subsection, but not from  
3 developing such a plan, if it does not receive private or federal funds  
4 sufficient to cover the department's costs associated with the  
5 implementation and administration of the plan, including any costs  
6 associated with increased caseload resulting from the implementation of  
7 the plan.

8 (3)(a) It is the intent of the Legislature that:

9 (i) Hard work be rewarded and no disincentives to work exist for  
10 Supplemental Nutrition Assistance Program participants;

11 (ii) Supplemental Nutrition Assistance Program participants be  
12 enabled to advance in employment, through greater earnings or new,  
13 better-paying employment;

14 (iii) Participants in employment and training pilot programs be able  
15 to maintain Supplemental Nutrition Assistance Program benefits while  
16 seeking employment with higher wages that allow them to reduce or  
17 terminate such program benefits; and

18 (iv) Nebraska better utilize options under the Supplemental  
19 Nutrition Assistance Program that other states have implemented to  
20 encourage work and employment.

21 (b)(i) The department shall create a TANF-funded program or policy  
22 that, in compliance with federal law, establishes categorical eligibility  
23 for federal food assistance benefits pursuant to the Supplemental  
24 Nutrition Assistance Program to maximize the number of Nebraska residents  
25 being served under such program in a manner that does not increase the  
26 current gross income eligibility limit except as otherwise provided in  
27 subdivision (3)(b)(ii) of this section.

28 (ii) Except as otherwise provided in this subdivision, such TANF-  
29 funded program or policy shall increase the gross income eligibility  
30 limit to one hundred sixty-five percent of the federal Office of  
31 Management and Budget income poverty guidelines as allowed under federal  
1 law and under 7 C.F.R. 273.2(j)(2), as such law and regulation existed on  
2 April 1, 2021, but shall not increase the net income eligibility limit.  
3 ~~It is the intent of the Legislature to fund the administrative costs~~  
4 ~~associated with the benefits under this subdivision beginning on May 27,~~  
5 ~~2021, with federal funds as allowed under the federal American Reseue~~  
6 ~~Plan Act of 2021, Public Law 117-2, as such act existed on April 1, 2021,~~  
7 ~~and continue to fund such administrative costs with such federal funds~~  
8 ~~through September 30, 2023. Such administrative costs shall not be paid~~  
9 ~~for with General Funds. Beginning October 1, 2025 2023, the gross income~~  
10 ~~eligibility limit shall return to the amount used prior to the increase~~  
11 ~~required by this subdivision. The department shall evaluate the TANF-~~  
12 ~~funded program or policy created pursuant to this subsection and provide~~  
13 ~~a report electronically to the Health and Human Services Committee of the~~  
14 ~~Legislature and the Legislative Fiscal Analyst on or before December 15~~  
15 ~~of each year 31, 2022, regarding the gross income eligibility limit and~~  
16 ~~whether it maximizes the number of Nebraska residents being served under~~  
17 ~~the program or policy. The evaluation shall include an identification and~~  
18 ~~determination of additional administrative costs resulting from the~~  
19 ~~increase to the gross income eligibility limit, a recommendation~~  
20 ~~regarding the gross income eligibility limit, and a determination of the~~  
21 ~~availability of federal funds for the program or policy.~~  
22 (iii) To the extent federal funds are available to the Department of  
23 Labor for the SNAP Next Step Program, until September 30, 2023, any  
24 recipient of Supplemental Nutrition Assistance Program benefits whose  
25 household income is between one hundred thirty-one and one hundred sixty-  
26 five percent of the federal Office of Management and Budget income  
27 poverty guidelines and who is not exempt from work participation  
28 requirements shall be encouraged to participate in the SNAP Next Step  
29 Program administered by the Department of Labor if the recipient is  
30 eligible to participate in the program and the program's services are  
31 available in the county in which such household is located. It is the  
1 intent of the Legislature that no General Funds be utilized by the  
2 Department of Labor for the processes outlined in this subdivision (iii).  
3 For purposes of this section, SNAP Next Step Program means a partnership  
4 program between the Department of Health and Human Services and the  
5 Department of Labor to assist under-employed and unemployed recipients of  
6 Supplemental Nutrition Assistance Program benefits in finding self-  
7 sufficient employment.

8 (iv) Such TANF-funded program or policy shall eliminate all asset  
9 limits for eligibility for federal food assistance benefits, except that  
10 the total of liquid assets which includes cash on hand and funds in  
11 personal checking and savings accounts, money market accounts, and share  
12 accounts shall not exceed twenty-five thousand dollars pursuant to the  
13 Supplemental Nutrition Assistance Program, as allowed under federal law  
14 and under 7 C.F.R. 273.2(j)(2).

15 (v) This subsection becomes effective only if the department

16 receives funds pursuant to federal participation that may be used to  
17 implement this subsection.

18 (c) For purposes of this subsection:

19 (i) Federal law means the federal Food and Nutrition Act of 2008, 7  
20 U.S.C. 2011 et seq., and regulations adopted under the act; and

21 (ii) TANF means the federal Temporary Assistance for Needy Families  
22 program established in 42 U.S.C. 601 et seq.

23 (4)(a) Within the limits specified in this subsection, the State of  
24 Nebraska opts out of the provision of the federal Personal Responsibility  
25 and Work Opportunity Reconciliation Act of 1996, as such act existed on  
26 January 1, 2009, that eliminates eligibility for the Supplemental  
27 Nutrition Assistance Program for any person convicted of a felony  
28 involving the possession, use, or distribution of a controlled substance.

29 (b) A person shall be ineligible for Supplemental Nutrition  
30 Assistance Program benefits under this subsection if he or she (i) has  
31 had three or more felony convictions for the possession or use of a  
1 controlled substance or (ii) has been convicted of a felony involving the  
2 sale or distribution of a controlled substance or the intent to sell or  
3 distribute a controlled substance. A person with one or two felony  
4 convictions for the possession or use of a controlled substance shall  
5 only be eligible to receive Supplemental Nutrition Assistance Program  
6 benefits under this subsection if he or she is participating in or has  
7 completed a state-licensed or nationally accredited substance abuse  
8 treatment program since the date of conviction. The determination of such  
9 participation or completion shall be made by the treatment provider  
10 administering the program.

11 2. Correct the operative date and repealer sections so that the  
12 section added by this amendment becomes operative three calendar months  
13 after the adjournment of this legislative session.

14 3. Renumber the remaining sections and correct internal references  
15 accordingly.

## SPEAKER ARCH PRESIDING

The Day amendment, to [ER26](#), was adopted with 27 ayes, 3 nays, 15 present  
and not voting, and 4 excused and not voting.

Senator Riepe offered the following amendment to [ER26](#):  
[AM1486](#)

(Amendments to E & R amendments, ER26)

1 1. Insert the following new sections:

2 Sec. 65. Section 71-1797, Reissue Revised Statutes of Nebraska, is  
3 amended to read:

4 71-1797 The Legislature finds that it is imperative that the State  
5 of Nebraska protect its investment and the progress made in its efforts  
6 to alleviate the nursing shortage which exists. The Legislature also  
7 finds that the Nebraska Center for Nursing will provide the appropriate  
8 means to do so. It is the intent of the Legislature to appropriate funds  
9 necessary for the center to carry out the Nebraska Center for Nursing  
10 Act, including, but not limited to, (1) administrative costs incurred by  
11 the Department of Health and Human Services to expand clinical training  
12 sites as provided in subsection (3) of section 71-1798 and (2) funds for  
13 such expansion of clinical training sites in the amount of three million  
14 dollars from the General Fund for fiscal year 2023-24 and three million  
15 dollars from the General Fund for fiscal year 2024-25.

16 Sec. 66. Section 71-1798, Reissue Revised Statutes of Nebraska, is  
17 amended to read:

18 71-1798 (1) The Nebraska Center for Nursing is established. The



19 center shall address issues of supply and demand for nurses, including  
 20 issues of recruitment, retention, and utilization of nurses. The  
 21 Legislature finds that the center will repay the state's investment by  
 22 providing an ongoing strategy for the allocation of the state's resources  
 23 directed towards nursing.

24 (2) The primary goals for the center are:

25 (a) (1) To develop a strategic statewide plan to alleviate the  
 26 nursing shortage in Nebraska by:

1 (i) (a) Establishing and maintaining a database on nursing supply  
 2 and demand in Nebraska, including current supply and demand and future  
 3 projections; and  
 4 (ii) (b) Selecting priorities from the plan to be addressed;

5 (b) (2) To convene various groups representative of nurses, other  
 6 health care providers, business and industry, consumers, legislators, and  
 7 educators to:

8 (i) (a) Review and comment on data analysis prepared for the center;  
 9 (ii) (b) Recommend systemic changes, including strategies for  
 10 implementation of recommended changes; and  
 11 (iii) (e) Evaluate and report the results of these efforts to the  
 12 Legislature and the public; and

13 (c) (3) To enhance and promote recognition, reward, and renewal  
 14 activities for nurses by:

15 (i) (a) Proposing and creating recognition, reward, and renewal  
 16 activities; and  
 17 (ii) (b) Promoting media and positive image-building efforts for  
 18 nursing.

19 (3) After consultation with a statewide association representing  
 20 hospitals and health systems that provide clinical nursing opportunities,  
 21 the Nebraska Center for Nursing Board shall provide for the expansion of  
 22 clinical training sites for nurses throughout the state, giving  
 23 preference to areas that have lower numbers of registered nurses per  
 24 capita compared to the state average, and shall provide for the  
 25 development of programs that:

26 (a) Incentivize clinical nurses to become clinical nurse faculty;  
 27 (b) Incentivize nurse faculty to partner with staff nurses in the  
 28 development of clinical nurse faculty;  
 29 (c) Expand simulation training for nurse clinical education; and  
 30 (d) Incentivize hospital facilities to support the center in  
 31 carrying out this subsection.

1 2. Correct the operative date and repealer sections so that the  
 2 sections added by this amendment become operative three calendar months  
 3 after the adjournment of this legislative session.  
 4 3. Renumber the remaining sections accordingly.

The Riepe amendment, to [ER26](#), was adopted with 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

Senator Walz offered the following amendment to [ER26](#):  
[AM1477](#)

(Amendments to ER26)

1 1. Insert the following new sections:  
 2 Sec. 16. (1) For purposes of this section:  
 3 (a) Physician peer coach means any health care provider licensed to  
 4 practice medicine or surgery who provides coaching, training, or  
 5 mentoring through a physician wellness program to another health care  
 6 provider licensed to practice medicine or surgery under the Uniform  
 7 Credentialing Act or to a student of an accredited school or college of  
 8 medicine; and  
 9 (b) Physician wellness program means a program that (i) provides

10 coaching, training, and mentoring services by physician peer coaches or  
11 coaches certified by a nationally recognized credentialing program for  
12 coach practitioners for the purpose of addressing issues related to  
13 career fatigue and wellness for individuals licensed to practice medicine  
14 and surgery under the Uniform Credentialing Act and students of an  
15 accredited school or college of medicine and (ii) is established,  
16 organized, or contracted by any statewide association exempt from  
17 taxation under section 501(c)(6) of the Internal Revenue Code of 1986  
18 that primarily represents health care providers in multiple specialties  
19 who are licensed to practice medicine and surgery under the Uniform  
20 Credentialing Act. A physician wellness program does not include a  
21 program of evaluation, monitoring, treatment, or referral.  
22 (2) Any record of a person's participation in a physician wellness  
23 program is confidential and not subject to discovery, subpoena, or a  
24 reporting requirement to the department unless the person voluntarily  
25 requests release of the information in writing or the physician peer  
26 coach determines that the person's condition constitutes a danger to the  
1 public health and safety by the person's continued practice of medicine  
2 or surgery.

3 (3) A person who contacts or participates in a physician wellness  
4 program shall not be required to disclose such contact or participation  
5 to any health care facility, hospital, medical staff person,  
6 accreditation organization, graduate medical education oversight body,  
7 health insurer, government agency, or other entity as a condition of  
8 participation, employment, credentialing, payment, licensure, compliance,  
9 or other requirement.

10 Sec. 22. Section 38-1,125, Revised Statutes Cumulative Supplement,  
11 2022, is amended to read:

12 38-1,125 (1) Except as otherwise provided in section 38-2897, every  
13 credential holder shall, within thirty days of an occurrence described in  
14 this subsection, report to the department in such manner and form as the  
15 department may require whenever he or she:

16 (a) Has first-hand knowledge of facts giving him or her reason to  
17 believe that any person in his or her profession:

18 (i) Has acted with gross incompetence or gross negligence;

19 (ii) Has engaged in a pattern of incompetent or negligent conduct as  
20 defined in section 38-177;

21 (iii) Has engaged in unprofessional conduct as defined in section  
22 38-179;

23 (iv) Has been practicing while his or her ability to practice is  
24 impaired by alcohol, controlled substances, mind-altering substances, or  
25 physical, mental, or emotional disability; or

26 (v) Has otherwise violated the regulatory provisions governing the  
27 practice of the profession;

28 (b) Has first-hand knowledge of facts giving him or her reason to  
29 believe that any person in another profession:

30 (i) Has acted with gross incompetence or gross negligence; or

31 (ii) Has been practicing while his or her ability to practice is  
1 impaired by alcohol, controlled substances, mind-altering substances, or  
2 physical, mental, or emotional disability; or

3 (c) Has been the subject of any of the following actions:

4 (i) Loss of privileges in a hospital or other health care facility  
5 due to alleged incompetence, negligence, unethical or unprofessional  
6 conduct, or physical, mental, or chemical impairment or the voluntary  
7 limitation of privileges or resignation from the staff of any health care  
8 facility when that occurred while under formal or informal investigation  
9 or evaluation by the facility or a committee of the facility for issues  
10 of clinical competence, unprofessional conduct, or physical, mental, or  
11 chemical impairment;

12 (ii) Loss of employment due to alleged incompetence, negligence,

13 unethical or unprofessional conduct, or physical, mental, or chemical  
14 impairment;

15 (iii) An adverse judgment, settlement, or award arising out of a  
16 professional liability claim, including a settlement made prior to suit  
17 in which the consumer releases any professional liability claim against  
18 the credentialed person, or adverse action by an insurance company  
19 affecting professional liability coverage. The department may define what  
20 constitutes a settlement that would be reportable when a credential  
21 holder refunds or reduces a fee or makes no charge for reasons related to  
22 a consumer complaint other than costs;

23 (iv) Denial of a credential or other form of authorization to  
24 practice by any jurisdiction due to alleged incompetence, negligence,  
25 unethical or unprofessional conduct, or physical, mental, or chemical  
26 impairment;

27 (v) Disciplinary action against any credential or other form of  
28 permit he or she holds taken by any jurisdiction, the settlement of such  
29 action, or any voluntary surrender of or limitation on any such  
30 credential or other form of permit;

31 (vi) Loss of membership in, or discipline of a credential related to  
1 the applicable profession by, a professional organization due to alleged  
2 incompetence, negligence, unethical or unprofessional conduct, or  
3 physical, mental, or chemical impairment; or

4 (vii) Conviction of any misdemeanor or felony in this or any other  
5 jurisdiction.

6 (2) The requirement to file a report under subdivision (1)(a) or (b)  
7 of this section shall not apply:

8 (a) To the spouse of the credential holder;

9 (b) To a practitioner who is providing treatment to such credential  
10 holder in a practitioner-consumer relationship concerning information  
11 obtained or discovered in the course of treatment unless the treating  
12 practitioner determines that the condition of the credential holder may  
13 be of a nature which constitutes a danger to the public health and safety  
14 by the credential holder's continued practice; ~~or~~

15 (c) When a credential holder who is chemically impaired enters the  
16 Licensee Assistance Program authorized by section 38-175 except as  
17 otherwise provided in such section; ~~or~~

18 (d) To a credential holder who is providing coaching, training, or  
19 mentoring services to another credential holder through a physician  
20 wellness program as defined in section 16 of this act except as otherwise  
21 provided in section 16 of this act.

22 (3) A report submitted by a professional liability insurance company  
23 on behalf of a credential holder within the thirty-day period prescribed  
24 in subsection (1) of this section shall be sufficient to satisfy the  
25 credential holder's reporting requirement under subsection (1) of this  
26 section.

27 2. On page 6, line 11, after "38-1,147" insert "and section 16 of  
28 this act".

29 3. On page 7, line 21, after "38-1,147" insert "and section 16 of  
30 this act".

31 4. Correct the operative date and repealer sections so that the  
1 sections added by this amendment become operative three calendar months  
2 after the adjournment of this legislative session.

3 5. Renumber the remaining sections and correct internal references  
4 accordingly.

The Walz amendment, to [ER26](#), was adopted with 29 ayes, 0 nays, 15 present and not voting, and 5 excused and not voting.

ER26 was adopted, as amended.

Senator Riepe withdrew the following amendment:

[AM1372](#)

(Amendments to AM1332)

1 1. Insert the following new sections:

2 Sec. 65. Section 71-1797, Reissue Revised Statutes of Nebraska, is  
3 amended to read:

4 71-1797 The Legislature finds that it is imperative that the State  
5 of Nebraska protect its investment and the progress made in its efforts  
6 to alleviate the nursing shortage which exists. The Legislature also  
7 finds that the Nebraska Center for Nursing will provide the appropriate  
8 means to do so. It is the intent of the Legislature to appropriate funds  
9 necessary for the center to carry out the Nebraska Center for Nursing  
10 Act, including, but not limited to, (1) administrative costs incurred by  
11 the Department of Health and Human Services to expand clinical training  
12 sites as provided in subsection (3) of section 71-1798 and (2) funds for  
13 such expansion of clinical training sites in the amount of three million  
14 dollars from the General Fund for fiscal year 2023-24 and three million  
15 dollars from the General Fund for fiscal year 2024-25.

16 Sec. 66. Section 71-1798, Reissue Revised Statutes of Nebraska, is  
17 amended to read:

18 71-1798 (1) The Nebraska Center for Nursing is established. The  
19 center shall address issues of supply and demand for nurses, including  
20 issues of recruitment, retention, and utilization of nurses. The  
21 Legislature finds that the center will repay the state's investment by  
22 providing an ongoing strategy for the allocation of the state's resources  
23 directed towards nursing.

24 (2) The primary goals for the center are:

25 (a) ~~(1)~~ To develop a strategic statewide plan to alleviate the  
26 nursing shortage in Nebraska by:

1 (i) ~~(a)~~ Establishing and maintaining a database on nursing supply  
2 and demand in Nebraska, including current supply and demand and future  
3 projections; and

4 (ii) ~~(b)~~ Selecting priorities from the plan to be addressed;

5 (b) ~~(2)~~ To convene various groups representative of nurses, other  
6 health care providers, business and industry, consumers, legislators, and  
7 educators to:

8 (i) ~~(a)~~ Review and comment on data analysis prepared for the center;

9 (ii) ~~(b)~~ Recommend systemic changes, including strategies for  
10 implementation of recommended changes; and

11 (iii) ~~(c)~~ Evaluate and report the results of these efforts to the  
12 Legislature and the public; and

13 (c) ~~(3)~~ To enhance and promote recognition, reward, and renewal  
14 activities for nurses by:

15 (i) ~~(a)~~ Proposing and creating recognition, reward, and renewal  
16 activities; and

17 (ii) ~~(b)~~ Promoting media and positive image-building efforts for  
18 nursing.

19 (3) After consultation with a statewide association representing  
20 hospitals and health systems that provide clinical nursing opportunities,  
21 the Nebraska Center for Nursing Board shall provide for the expansion of  
22 clinical training sites for nurses throughout the state, giving  
23 preference to areas that have lower numbers of registered nurses per  
24 capita compared to the state average, and shall provide for the  
25 development of programs that:

26 (a) Incentivize clinical nurses to become clinical nurse faculty;

27 (b) Incentivize nurse faculty to partner with staff nurses in the  
28 development of clinical nurse faculty;

29 (c) Expand simulation training for nurse clinical education; and

30 (d) Incentivize hospital facilities to support the center in

31 carrying out this subsection.

- 1 2. Correct the operative date and repealer sections so that the
- 2 sections added by this amendment become operative three calendar months
- 3 after the adjournment of this legislative session.
- 4 3. Renumber the remaining sections accordingly.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 753A.** Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 565A.** Senator Bostelman offered the following amendment:

[AM1447](#)

- 1 1. Insert the following new section:
- 2 Sec. 2. There is hereby appropriated (1) \$6,000 from the Oil and Gas
- 3 Conservation Fund for FY2023-24 and (2) \$6,000 from the Oil and Gas
- 4 Conservation Fund for FY2024-25 to the Nebraska Oil and Gas Conservation
- 5 Commission, for Program 335, to aid in carrying out the provisions of
- 6 Legislative Bill 565, One Hundred Eighth Legislature, First Session,
- 7 2023.
- 8 Total expenditures for permanent and temporary salaries and per
- 9 diems from funds appropriated in this section shall not exceed \$6,000 for
- 10 FY2023-24 or \$6,000 for FY2024-25.
- 11 2. Renumber the remaining section accordingly.

The Bostelman amendment was adopted with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

#### GENERAL FILE

**LEGISLATIVE BILL 138A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 31 ayes, 0 nays, 14 present and not voting, and 4 excused and not voting.

#### AMENDMENT - Print in Journal

Senator Dorn filed the following amendment to [LB562](#):

[FA68](#)

Strike Section 1.

#### GENERAL FILE

**LEGISLATIVE BILL 243A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 33 ayes, 0 nays, 13 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 254A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 583A.** Title read. Considered.

Senator Sanders offered the following amendment:

[AM1487](#)

- 1 1. On page 2, line 1, strike "[§103,762,107](#)" and insert
- 2 "[§103,762,106](#)".

The Sanders amendment was withdrawn.

Advanced to Enrollment and Review Initial with 40 ayes, 0 nays, 4 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 683A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 39 ayes, 0 nays, 5 present and not voting, and 5 excused and not voting.

**LEGISLATIVE BILL 754A.** Title read. Considered.

Advanced to Enrollment and Review Initial with 29 ayes, 1 nay, 14 present and not voting, and 5 excused and not voting.

#### **AMENDMENTS - Print in Journal**

Senator M. Cavanaugh filed the following amendment to [LB727](#):

[AM1458](#)

(Amendments to Standing Committee amendments, AM1152)

- 1 1. On page 35, reinstate lines 13 through 19.

Senator M. Cavanaugh filed the following amendment to [LB727](#):

[AM1457](#)

(Amendments to Standing Committee amendments, AM1152)

- 1 1. On page 20, strike beginning with "The" in line 11 through the
- 2 period in line 17.

Senator M. Cavanaugh filed the following amendment to [LB727](#):

[AM1456](#)

(Amendments to Standing Committee amendments, AM1152)

- 1 1. On page 2, strike lines 7 through 12.

Senator M. Cavanaugh filed the following amendment to [LB727](#):

[AM1452](#)

(Amendments to Standing Committee amendments, AM1152)

- 1 1. Strike sections 46, 48, 49, 50, 54, 55, 56, and 64.
- 2 2. Renumber the remaining sections, correct internal references, and
- 3 correct the repealer accordingly.

**BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 227A.** Introduced by Hansen, B., 16.

A BILL FOR AN ACT relating to appropriations; to appropriate funds to aid in carrying out the provisions of Legislative Bill 227, One Hundred Eighth Legislature, First Session, 2023; and to declare an emergency.

**SELECT FILE**

**LEGISLATIVE BILL 92.** Senator M. Cavanaugh withdrew [MO293](#), found on page 934, to indefinitely postpone.

Senator M. Cavanaugh withdrew [MO298](#), found on page 935, to bracket.

Senator M. Cavanaugh withdrew [MO297](#), found on page 935, to recommit to committee.

Senator M. Cavanaugh withdrew [MO296](#), found on page 935, to indefinitely postpone.

[ER28](#), found in this day's Journal, was adopted.

Senator Slama withdrew [FA31](#), found on page 854.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 254.** Senator M. Cavanaugh withdrew [MO410](#), found on page 942, to recommit to committee.

Senator M. Cavanaugh withdrew [MO411](#), found on page 942, to bracket.

Senator M. Cavanaugh withdrew [MO409](#), found on page 942, to indefinitely postpone.

[ER27](#), found in this day's Journal, was offered.

Senator Hunt offered the following amendment, to [ER27](#):  
[AM1460](#)

(Amendments to E and R amendments, ER27)

- 1 1. On page 1, line 11, after the period insert "~~Closed-captioned~~
- 2 video coverage shall include closed captioning in both English and
- 3 ~~Spanish~~".
- 4 2. On page 11, line 29, after the period insert "~~Closed-captioned~~
- 5 video coverage shall include closed captioning in both English and
- 6 ~~Spanish~~".

The Hunt amendment, to [ER27](#), was adopted with 35 ayes, 0 nays, 8 present and not voting, and 6 excused and not voting.

Senator J. Cavanaugh offered the following amendment, to [ER27](#):  
[AM1461](#)

(Amendments to E and R amendments, ER27)

- 1 1. Insert the following new section:
- 2 Sec. 4. Section 50-702, Revised Statutes Cumulative Supplement,
- 3 2022, is amended to read:
- 4 50-702 (1) The Legislative Mental Health Care Capacity Strategic
- 5 Planning Committee is established. The committee shall consist of the
- 6 following members: (a) The chairperson of the Judiciary Committee of the
- 7 Legislature or his or her designee, (b) the chairperson of the Health and
- 8 Human Services Committee of the Legislature or his or her designee, (c)
- 9 the chairperson of the Appropriations Committee of the Legislature or his
- 10 or her designee, and (d) four senators selected by the chairperson of the
- 11 Executive Board of the Legislative Council. The committee shall select a
- 12 chairperson and vice-chairperson from among its members.
- 13 (2)(a) No later than November 1, ~~2023~~ 2022, the Legislative Mental
- 14 Health Care Capacity Strategic Planning Committee shall contract with an
- 15 independent consultant with expertise in inpatient mental health care
- 16 delivery. The contract shall be awarded based on competitive bids and be
- 17 subject to the approval of the Executive Board of the Legislative Council
- 18 upon a recommendation of a majority of the committee. The consultant
- 19 shall assist the committee in determining the necessary capacity for
- 20 inpatient mental health care beds for both state-operated and privately
- 21 owned facilities based on best practices in mental health care. The
- 22 consultant shall provide recommendations to achieve the necessary
- 23 capacity if the current state inpatient mental health bed capacity is
- 24 insufficient.
- 25 (b) On or before November 1, ~~2024~~ 2023, the consultant shall provide
- 26 a written report of its findings and recommendations to the Legislative
- 1 Mental Health Care Capacity Strategic Planning Committee.
- 2 (3) This section terminates on November 1, ~~2025~~ 2024.
- 3 2. Renumber the remaining sections and correct internal references
- 4 and the repealer accordingly.

The J. Cavanaugh amendment, to [ER27](#), was adopted with 35 ayes, 0 nays, 10 present and not voting, and 4 excused and not voting.

[ER27](#), was adopted, as amended

Advanced to Enrollment and Review for Engrossment.

#### UNANIMOUS CONSENT - Add Cointroducers

Unanimous consent to add Senators as cointroducers. No objections. So ordered.

- Senator Conrad name added to LB82.
- Senator Conrad name added to LB153.
- Senator Fredrickson name added to LB227.
- Senator B. Hansen name added to LB574.
- Senator B. Hansen name added to LB626.
- Senator Conrad name added to LB763.



**VISITORS**

Visitors to the Chamber were students from Lyons-Decatur Northeast, Lyons.

The Doctor of the Day was Dr. Dave Hoelting of Pender.

**ADJOURNMENT**

At 4:33 p.m., on a motion by Senator Albrecht, the Legislature adjourned until 9:00 a.m., Wednesday, April 26, 2023.

Brandon Metzler  
Clerk of the Legislature

