

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate January 26, 2026  
Rough Draft

**KELLY:** Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirteenth day of the One Hundred Ninth Legislature, Second Session. Our chaplain for today is Senator Moser. Please rise.

**MOSER:** Good morning, colleagues. Good morning, Nebraskans. Father, we thank you for your many blessings in our nation and our state. Give us wisdom and inspiration to make good decisions. We thank you for our colleagues here in the Chamber, for our staff that are watching from our offices, for our colleagues, who are watching and listening from the hallways and from their offices. Though many times we fail to live up to your standards, we ask forgiveness in the name of your son, Jesus Christ, who's coming, life, death, and salvation, make our salvation-- rising, make our salvation possible. Give us all the wisdom and the knowledge that we can absorb, and bless all our work and heal all who need healing in the flu season. In Jesus' name we pray. Amen.

**KELLY:** I recognize Senator Wordekemper for the Pledge of Allegiance.

**WORDEKEMPER:** Colleagues, please join me in our Pledge of Allegiance. I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

**KELLY:** I call to order the thirteenth day of the One Hundred Ninth Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

**CLERK:** There's a quorum present, Mr. President.

**KELLY:** Thank you. Are there any corrections for the Journal?

**CLERK:** There are, Mr President. On page 427, strike lines 3 through 5. On page 477, add on lines 49 and 50, Hawks, James W, State Highway Commission, Transportation and Telecommunications Committee; Mello, Heath, State Highway Commission, Transportation and Telecommunications. That's all I have for corrections, sir.

**KELLY:** Thank you. Are there any messages, reports, or announcements?

**CLERK:** There are, Mr. President. Your Committee on Enrollment and Review reports LB384, LB668, LB518, LB365 to Select File, all having

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E&R amendments. Additionally, notice of committee hearings from the Appropriations Committee. That's all I have at this time.

**KELLY:** Thank you. Senator Fredrickson would like to recognize the doctor of the day, Dr. Matt Bogard of Omaha. Please stand and be recognized by the Nebraska Legislature. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR302. Mr. Clerk, please proceed to the agenda.

**CLERK:** Mr. President, first item on the agenda. Senator Machaela Cavanaugh, with MO363, has a motion to withdraw LB774.

**KELLY:** Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. Good morning, colleagues. LB774 creates a cash fund for the Rural Health Transformation Program. The Department of Health and Human Services reached out to me, I think, 2 weeks ago, and had some concerns about how this was written and asked if I would withdraw this bill. And I thought about it and decided that they-- that was fine. I would do that. So I am going to be asking for your green vote on the withdrawal of LB774. However, I'm going to take this opportunity this morning to make a few other remarks. As you can probably hear, I, like most people in this building and in the state of Nebraska, and really the country, have a cold, or I think I just have a cold. But others-- or we're all struggling with this cold weather and our voices and our nose and congestion. I haven't been super vocal on the mic so far this year, partially because there's been a lot of organic debate happening and I just felt like that was-- my voice wasn't necessarily needed-- focusing on other things. But this morning, I thought that since I had this opportunity, I would take it to read 2 poems. Both of them are by former U.S. Poet Laureate, Amanda Gorman. The first is, "For Renee Nicole Good Killed by ICE on January 7, 2026," by Amanda Gorman. "They say she is no more, that there her absence roars, blood-blown like a rose. Iced wheels flinched and froze. Now, bare riot of candles, dark fury of flowers, pure howling of hymns. If for us she arose, somewhere, in the pitched deep of our grief, crouches our power, the howl where we begin, straining upon the edge of the crooked crater of the worst of what we've been. Change is only possible, in [SIC] all the greater, when the labour and bitter anger of our neighbors is moved by the love and better angels of our nature. When they call death and void, we know is breath and voice; In the end, gorgeously, endures our enormity. You could believe departed to be the dawn when the blank night has (so) long gone [SIC]-- stood. But our bright-fled

angels will never fully gone, when they forever are so fiercely Good." The other poem that I would like to share by Amanda Gorman is, "For Alex Jeffrey Pretti Murdered by ICE on January 24, 2026," by Amanda Gorman. Before I read this, colleagues, I would just ask that you, you maybe keep your voices down a little bit for me. Thank you. "We wake with no words, just woe and wound. Our own country shooting us in the back is not just brutality; it's jarring betrayal; not enforcement, but execution. A message: Love your people and you will die. Yet our greatest threat isn't the outsiders among us, but those among us who never look within. Fear not the those without papers, but those without conscience. Know that to care intensively, united, is to carry both pain-dark horror for today and a profound, daring hope for tomorrow. We can feel we have nothing to give, and still belove this world waiting, trembling to change. If we cannot find words, may we find the will; if we ever lose hope, may we never lose our humanity. The only undying thing is mercy, the courage to open ourselves like doors, hung [SIC] our neighbors, and save one more bright, impossible life." I am not a poet. I read her words because I think that they express the grace and dignity and humanity that this situation calls for. I heard Senator Moser's prayer this morning, and I am struggling like so many of us are to hold onto hope, to hold onto light, to hold onto grace, compassion, humanity, sympathy, and empathy. My heart is breaking for our nation, our nation of immigrants. My family came here through Ellis Island, was put on a train to Nebraska, built families, built lives, worked in the stockyards in south Omaha. This is an affliction point for a nation and for a state. And I hope that we all are asking ourselves, what are we doing to stand up in this moment? And how are we showing up for each other, for our community, for our loved ones? I've seen this repeated over and over again on social media: it doesn't matter if you voted for this person. It doesn't matter if you agreed at some point in time. It's OK to say you no longer agree with what is happening. It is OK to stand up and use your voice, to use your leadership in this body and in this state to say that what is happening on our streets by our government is not OK. It is not OK for people who are participating in peaceful protests. It is not OK for people who are showing up and documenting atrocities to be gunned down on the streets by pseudo law enforcement. And it is not OK to be complicit and quiet about it. We have a platform, all 49 of us, and we should be using it. It is not OK for our state to be using state resources to detain people illegally, without recourse. The detention center in McCook, Nebraska is a stain on the history of Nebraska, and it will not reflect well on any of us that we allowed this to happen, that we allowed people to be ripped from their homes,

that we allowed 5-year-olds who are here legally, whose fathers are here legally, to be used as bait so that that legally-obtained-status father can be ripped from his home, and him and his 5-year-old detained illegally. This is not OK. And we shouldn't have to have the religious, ministerial community in Minneapolis stand in sub-zero temperatures at the airport and get arrested-- elderly priests and ministers being arrested because they have the conscience that some of us are not willing to show. What is OK is to stand up and say, I agreed with you at one point, but I no longer agree with you. What you should have done yesterday, it's OK to do today. It is never, ever too late to start and stand up for the religious freedoms that this country cares so much about and espouses that we are a Christian nation. This is not Christianity. I am so grateful to Amanda Gorman for her words. She has inspired me many times over. And though they are only words, words can bring comfort and words can bring change. Thank you, Mr. President.

**KELLY:** Thank you, Senator Cavanaugh. Senator DeBoer, you're recognized to speak.

**DeBOER:** Thank you, Mr. President. Good morning, colleagues. I don't have much of a voice yet this morning. But what I do have, I will say, Senator Cavanaugh's words were important, and I thank her for saying them. And I do think that even though there's a lot going on and we have a lot of things to do, that it is important to say, we see what's going on and it matters to us. So colleagues, I think we should just take this moment to remember the lives of all of those who've been affected. Thank you, Mr. President.

**KELLY:** Thank you, Senator DeBoer. Senators Meyer and DeKay would like to recognize some guests in the north balcony. They are from across the state, American Bikers Aiming Towards Education. Please stand and be recognized by the Nebraska Legislature. Senator Raybould, you're recognized to speak.

**RAYBOULD:** Thank you, Mr. President. Good morning, colleagues. And good morning, fellow Nebraskans. I want to thank Senator Cavanaugh and DeBoer for speaking. I can tell you over the weekend, and I'm sure many of you were bombarded with emails from our constituents and calls from folks really deeply troubled and deeply concerned about certainly, the death of Alex Petit-- Pretti, and certainly, Renee Nicole Good, and the actions of ICE in Minnesota. It is really simply abhorrent to see such lawlessness and gaslighting of what we clearly see from the videos, concerning excessive, unlawful, deadly force

against Renee Good and Alex Pretti. Most law enforcement officers-- officer or officers are put on leave pending the results of the investigation. We should certainly be advocating the same for the entire ICE deployment in Minnesota. We should be asking our federal lawmakers to really ask ICE to please stand down while an independent investigation is occurring. That seems the logical and most practical process going forward. What is really troubling is that we have administrative leaders, with the Department of Homeland Security, from the President to the Vice President and other administrative officials, absolutely steadfastly saying what actually occurred. You know, I don't mean to in-- interject levity in this situation. Sometimes it's good, sometimes it's bad, sometimes it'll fall flat. But I have to tell you, I'm drawn to the remarks by Groucho Marx, a famous comedian. His comment, his comment is so aptly appropriate. He said, who you gonna believe, me or your own eyes? Millions and millions of Ne-- of our citizens in the United States have watched all the videos, have watched all the explanations for this. And so I think we have a duty to acknowledge, to our Nebraska constituents who have reached out to us, we hear you, we hear your concerns. We ask that you continue to send us your concerns and we will continue to forward them on to our federal officials to, to hope that they take the appropriate reaction and stance with ICE. The most important action would be for ICE to stand down while this investigation is going on. I do not support defunding ICE. I actually think that ICE needs all the funding they can to go through a retraining process on de-escalation, on how to deal with individuals who are peacefully protesting. That's our right. I think ICE, more than any other agency needs-- amount of training, and that they cannot be redeployed anywhere in the United States without this additional training. It's clearly needed. And I ask all of our officials, how many more states are going to be subject to this unwelcome deployment? How many more families should we see torn apart? How many businesses have had to shut down because people are fearful to leave their homes to do normal activities, like going to a grocery store or going to church or going to school? So I ask our federal officials, please take this moment seriously. And I want to thank all the folks who have expressed their concerns. I think it's, it's time for us to demand action and to demand better of our elected officials. Thank you, Mr. President.

**KELLY:** Thank you, Senator Raybould. Senator McKinney, you're recognized to speak.

**McKINNEY:** Thank you, Mr. President. I think I support the motion to withdraw. But I just would like to say that Mr. Pretti and Ms. Good

were not the only individuals killed by ICE in the month of January. A black man, Keith Porter, was also killed by an ICE agent. And for some reason, that continues to get left out of the conversation when we talk about this. Another thing that I think we need to highlight is that if you're, if you're advocating for accountability for ICE and not advocating for accountability for law enforcement in general, then you're missing the point. Because when you allow for a lack of accountability on one side, you get the situation that happened in Minnesota the other day. So I just would like to say, you can't say we need accountability on one part of this conversation and not the other, because they're intertwining and they intersect. Thank you.

**KELLY:** Thank you, Senator McKinney. Seeing no one else in the queue, Senator Cavanaugh, you're recognized to close.

**M. CAVANAUGH:** Thank you, Mr. President. And thank you, Senator McKinney, for ensuring that we do not forget that it's not just white people that are being harmed at the hands of ICE, that there have been and continue to be black and brown people even more so disproportionately being impacted by this violence of this renegade group of non pseudo law enforcement. And accountability for all law enforcement is always, always necessary, so thank you, Senator McKinney, for that very important reminder. I would encourage everybody to [INAUDIBLE] vote green on withdrawing LB774, unless you want me to have one more committee hearing this year. Probably don't. Thanks.

**KELLY:** Thank you, Senator Cavanaugh. Senators, the question is the adoption of the motion to withdraw. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**ASSISTANT CLERK:** 44 ayes, 0 nays on the motion to withdraw, Mr. President.

**KELLY:** The motion to withdraw is adopted. Mr. Clerk, next item.

**ASSISTANT CLERK:** Mr. President, Senator Machaela Cavanaugh, with MO364, would move to withdraw LB775.

**KELLY:** Senator Machaela Cavanaugh, you're recognized to open.

**M. CAVANAUGH:** Thank you, Mr. President. I have a little bit more to say about this one. So LB775 is a bill that I introduced to essentially create guardrails around the rural trans-- health transformation program. So the administration made an application to

CMS. That's the federal health care. I think it was in November or early December, and that application was not shared with anybody publicly, and it still has not been shared with anybody publicly. The Appropriations Committee had a hearing with the Medicaid director in November. A lot of questions were asked about what had gone into the application. A direct request from myself to the Medicaid director for details of the application were made, and a commitment was given by the director of Medicaid to send the Appropriations Committee details of what were put into the application. We still have not received that information and the application has been approved, and we still haven't received the information of what was in the application, so I thought it would be prudent to introduce some legislation so that we could have some oversight and guardrails around it. However, because we are now in the business of allowing the bully that is the Governor of Nebraska to dictate to this body and to the lobbyists outside of the glass that's this Chamber what we can and cannot do, what we can and cannot know, I am withdrawing this bill. Because I brought this bill for the Hospital Association, the Hospital Association helped me draft this bill, and the Hospital Association is no longer supporting this bill because they do not want to incur the wrath of the Governor. So why am I going to spend any political capital on a bill that they don't have the guts to show up for, for their own constituency? So rural Nebraska, rural hospitals, sorry. Talk to the Governor. Talk to the association that you pay dues to. They're the ones that are making backdoor deals to whatever end, I don't know. Because the Governor wants to defund health care across the board. He wants to cut funding to Medicaid for developmental disabilities for property tax relief. He wants cut funding to pediatric cancer research for property tax relief. He wants to cut funding to biomedical research for property tax relief. And let's not forget what's happening with the Nebraska Medicine and the whole university system and that whole debacle that's just living out in front of all of us, and guarantee it's going to have something, at the end of the day, to do with property tax relief. But if people in positions of power who are financially being impacted like this aren't willing to stand up, what am I going to do? I got bigger fish to fry. I gotta help the people, those developmental disability families, I gotta help them, make sure that they can take care of their loved ones. I gotta make sure that a state that has the highest rate of pediatric cancer in the country because of extreme nitrates in the groundwater that are caused by pig farms, I gotta make sure that those kids are getting access to the world health, health care that they should have in our state-- cutting edge research that they should depend on in our state. So if the Hospital Association

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doesn't want to stand up for hospitals and two point-- \$218 million being funneled to God knows what, I'm not gonna fight for it either. Blessings. Please vote green.

**KELLY:** Thank you, Senator Cavanaugh. Seeing no one else in the queue, you're recognized to close, and waive. Members, the question is the motion to withdraw. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 43 ayes, 0 nays on adoption of the motion to withdraw, Mr. President.

**KELLY:** The motion to withdraw is adopted. Mr. Clerk, next item on the agenda.

**CLERK:** Mr. President, if I could, some items for the record, quickly. Committee report from the Health and Human Services Committee concerning gubernatorial appointment to the Department of Health and Human Services; as well as notice of committee hearing from the General Affairs Committee; and a new LR, LR322, introduced by Senator Spivey. That will be laid over. As it concerns the agenda, Mr. President, General File, LB716, introduced by Senator Hansen as chairperson of the Executive Board. It's a bill for an act relating to government. It repeals the Next Generation Business Growth Act, which terminated January 1, 2017; repeals obsolete provisions relating to the Rural Health Opportunities Loan Pool Fund; repeal sections that terminated July 1, 2015, regarding the Nebraska Army National Guard Complex; appeals obsolete appropriation provisions; harmonize provisions; repeals the original section; outright repeals several sections in Chapter 50, 71, and 90. The bill was read for the first time on January 7 of this year and placed directly on General File.

**KELLY:** Thank you, Mr. Clerk. Senator Hansen, you're recognized to open.

**HANSEN:** Thank you, Mr. President. Colleagues, LB716 is a Revisor's bill for this session. As you know, the Revisor of Statutes identifies obsolete statutes and makes recommendations each year to clean up our statutes by repealing terminated or expired provisions and making necessary technical corrections to attain harmonization. Specifically, LB716 repeals the Next Generation Business Growth Act, which terminated on January 1, 2017, along with obsolete provisions relating to the Rural Health Opportunities Loan Pool Fund. With regard to the Nebraska Army National Guard Complex, it repeals sections that



terminated on July 1, 2015, and repeals obsolete appropriation provisions. It also amends Section 71-5661, 72-816, and 81-829.33, to remove references to these repealed sections and to harmonize provisions. There is no fiscal impact, and this is simple-- simply good housekeeping to keep our statutes current and accurate. I would urge the advancement of LB716 to Select File. Thank you, Mr. President.

**KELLY:** Thank you, Senator Hansen. Seeing no one else in the queue, you're recognized to close, and waive closing. Members, the question is the advancement of LB716 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 42 ayes, 0 nays on advancement of the bill, Mr. President.

**KELLY:** LB716 is advanced to E&R Initial. Mr. Clerk.

**CLERK:** Mr. President, next item on the agenda, General File, LB203, introduced by Senator Kauth. It's a bill for an act relating to public health and welfare; defines terms; changes powers and duties of health directors as prescribed; and repeals the original section. The bill was read for the first time on January 14 of 2025 and referred to the Health and Human Services Committee. That committee placed the bill on General File with committee amendments, Mr. President.

**KELLY:** Senator Kauth, you're recognized to open.

**KAUTH:** Good morning, everyone. So this, this bill, LB203, is aimed at putting some of the responsibility for massive county-wide decisions in the elected officials' hands upon their trust and, and recommendations of the public health directors. And I know Senator Fredrickson has a friendly amendment, and it's quite good. So I would like to allow him to get to that amendment to discuss it before we take a vote. That's all.

**KELLY:** Thank you, Senator Kauth. Senator Hardin, you're recognized for a 2-minute refresh on the committee amendment.

**HARDIN:** Thank you. Sorry, Mr. President. Getting my technology to re-function again. It was to-- essentially, with AM611, to insert the section of a community-wide directed health measure, subject to approval, in Section 71-1630 and 71-1632; and shall expire in seven days after the date of issuance and may be reauthorized subject to approval as provided in Sections 71-1630 and 71-1632. And we have another amendment forthcoming.

**KELLY:** Thank you, Senator Hardin. Return into the queue, Senator Raybould, you're recognized to speak.

**RAYBOULD:** Thank you Mr. President. Good morning, colleagues. I stand in opposition to LB203 and AM611, but I do support Senator Fredrickson's amendment that I hope to get to shortly. Elected officials shouldn't be in the business of creating impediments to health care best practices or emergencies. I just want to spend a little bit of time in raising awareness of the magnitude of COVID-19 in our lifetime that I believe precipitated this piece of legislation. Let's look back. The number of deaths in 1918 pandemic were 17 to 50 million, but impacting only half the countries in the globe. Sadly, targeting the younger, healthier population while COVID's global death toll was 2.2 million, impacting every single country and primarily those aged 65 and older and those that had health compromises. We can credit the tremendous medical advances made in that 100-year period for that decrease in lives lost, however tragic. Both pandemics cause tremendous negative impacts to global economies. I just want to share my experiences as the chair of the Lincoln City Council in working with Pat Lopez, our Lincoln-Lancaster County Health Director, and Mayor Leirion Gaylor Baird. I couldn't be prouder of how Lincoln-Lancaster County modeled the best science practices in combating a new, unknown virus. Lancaster County had the lowest loss of life per capita in our state of Nebraska. As unpopular as it was to have mandatory mask requirements, space distancing, hand sanitizers, hand washing, and limits on crowd sizes, and protective gloves and plexiglass screening, and COVID testing, each measure worked and protected folks. These measures were not crafted in a vacuum, but based on years of scientific research and practices recommended by medical experts, epidemiologists, pulmonologists, and our world-class UNMC officials as they gradually understood more of the transmission until a vaccine was developed in record time and rolled out. None of these needed safeguards were popular. On the City Council, we received threats. People protested. Crowds showed up, with masks and without, to every single meeting, objecting to all these recommended safety measures and health directives. We even had folks stage recalls of City Council members, myself included, and the mayor that proved to be a truly epic fail, as fellow Lincolnites refused to sign those petitions. I'm proud. We listened to the experts and supported their directives, not bullied or deterred by the loudest voices screaming about their own liberties. We saved lives. We kept kids in school. We kept schools open. We kept businesses open. We served the public and kept government open. We allowed phone-in testimony and even offered

Zoom comments. And we vaccinated our constituents. All these initiatives were done in consultation with healthcare experts and initiated by their guidance and health directives. More importantly, the city of Lincoln was ranked one of the highest cities in the entire United States, demonstrating the greatest economic recovery after COVID. Governor Ricketts issued a state of emergency and the city did the same. Slowing down the process with any administrative hurdles is not acceptable and not in the best interest of the folks we represent and serve. Elected officials are not the healthcare professionals. In medical emergency, there is no time for delay and deliberation. We saw overwhelmingly the majority of our fellow Nebraskans did the testing, wore masks, kept the distances to make sure that our kids were in school and businesses could stay open. Thankfully, our city believed these collective efforts for the common good preempted any minor inconveniences or discomfort of the minority. Lincoln-Lancaster County Health Department always led the way on health care practices-- and practices that had been rolled out to the entire health departments throughout our state, benefiting so many. Preempting this independence is not a solution, but more of a punitive response, politically driven, and not medically supportive that does not serve the best interests of our fellow Nebraskans. I ask that you vote no on the bill, but allow Senator Fredrickson's amendment, AM1781, to be included. Thank you.

**KELLY:** Thank you, Senator Raybould. Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. I-- I'm sorry. I was off the floor. Would Senator Hardin yield to a question?

**KELLY:** Senator Hardin, would you yield to a question?

**HARDIN:** Yes.

**M. CAVANAUGH:** Thank you, Senator Hardin. I, I was going to ask Senator Kauth, but then I realized that this was the committee amendment. Could you explain to me what this changes about the original bill?

**HARDIN:** Well, in terms of where we're-- I think where we are going next, as Senator Kauth said, is what we're most interested in at this point, and that is to come to a meaningful workable compromise on the one extreme, not to have public health people make decisions for an entire society without accountability, and at the same time try to create something that is functional. And so I think that's where I

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believe the new amendment talks about a seven-day process. And I think that's ultimately where we're going, so that there can be accountability in the process. Because de facto, obviously, in the COVID years, we did end up with abuses around the country. And the concern is that if that were to happen again, if we were to have a COVID -26--

**M. CAVANAUGH:** So I'm sorry. In the, in the-- but in the current bill, is-- how does the 7-day review process differ from what's in the underlying bill?

**HARDIN:** Different from the original bill?

**M. CAVANAUGH:** Yes.

**HARDIN:** Well, the original build basically demanded a, a faster response time. And so, this basically just gives a little bit more time for evaluation of what's going on in very dynamic situations, and to respond. Clearly, if we remember back to what was going on at that time, in--

**M. CAVANAUGH:** I do.

**HARDIN:** --2020, 2021.

**M. CAVANAUGH:** Yes.

**HARDIN:** It was, at times, difficult because on the one hand, there was a lot of information and yet not meaningful information that was being communicated at all levels of government, from cities up to the federal level. And there was a lot of confusion. And so this actually begs a far bigger question in my mind, which is we need real-time health data in America. We don't have it. And so, in the absence of that, we need to have processes that are, shall we say, fast enough and put some guardrails around it, and I think that's ultimately what we're after with LB203 and the amendment processes that are before us.

**M. CAVANAUGH:** OK. Thank you, Senator Hardin. Senator Kauth, would you yield to a question?

**KELLY:** Senator Kauth, would you yield to question?

**KAUTH:** Yes.

**M. CAVANAUGH:** Sorry. Thank you. OK. So we have what the system is now, which is different in different county-- well, there's the state, and then there's-- Douglas and Lancaster are kind of different. I know that currently, there is an issue happening in Columbus, with the measles outbreak. How would your bill change the process?

**KAUTH:** So this-- what this bill says that if it's going to be a countywide directed health measure that is not epidemiolo-- epidemiologically linked--

**M. CAVANAUGH:** I know that's a hard word.

**KAUTH:** I cannot say that word-- then it has to go to the board. So if it's something that is-- like, like they can clearly see, OK, this has a, a clear path and a clear link of contagion, that's different. This is you can't just say, everybody mask up, everybody do this.

**M. CAVANAUGH:** OK.

**KAUTH:** This is, if you're going to have that kind of a, a reaction, you have to have the elected members say, yes, OK, we'll listen to you, we'll take your expert advice into consideration. We'll make the decision, and then give you that power to do it.

**M. CAVANAUGH:** And that, and that dec-- that authority in your bill goes to the county board.

**KAUTH:** There are a couple different-- there are some counties that have multiple, so Eric Gerrard with Public Health-- lobbyist with the Public Health, sat down and we, we figured out exactly who it would go to. They will come up with OK, this board, these are the people who are on that board.

**M. CAVANAUGH:** OK. Thank you.

**KAUTH:** You're welcome.

**M. CAVANAUGH:** I appreciate you answering my questions. Thank you, Mr. President.

**KELLY:** Thank you, Senators Kauth and Cavanaugh. Seeing no one else in the queue, Senator Hardin, you're recognized to close, and waive closing on the amendment. Senators, the question is the adoption of AM611. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

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**ASSISTANT CLERK:** 34 ayes, 3 nays on the adoption of the amendment, Mr. President.

**KELLY:** AM611 is adopted. Mr. Clerk.

**CLERK:** Mr. President, Senator Fredrickson, I have AM1754 with a note that you would withdraw.

**KELLY:** So ordered.

**CLERK:** In that case, Mr. President, Senator Fredrickson would move to amend with AM1781.

**KELLY:** Senator Fredrickson, you're recognized to open.

**FREDRICKSON:** Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraskans. So I am bringing AM1781 to this bill, and I think Senator Kauth had briefly mentioned this in her opening. So I, I sit on the committee. I, I listened to the hearing on this piece of legislation, and I-- you know, I, I, I ended up PNVing it out of committee because I did have a few concerns and I do feel a bit conflicted about, about the legislation. I'll talk a little bit more about that right now. So, you know, on the one hand, the, the things that I think are positive about this bill is that I think it does add an additional step of like, checks and balances. Right? So we want to make sure that we have the ability to have accountability to the public through the elected boards, but you-- you're also kind of measuring that and balancing that with, of course, when there is public health emergency, urgency, and the need to make decisions as, as quickly as possible. So Senator Kauth and I were talking. The way the original bill was written was that it talked about the next regularly scheduled meeting of the board. So when we dug into that a little bit deeper, we found out that some of these health boards actually only meet every 90 days, for example, or every 6 months. And so, in a, in a true emergency, that is not really a realistic or, or reasonable timeframe to have a meeting. So I was looking at ways to ensure that if and when there is a genuine public health emergency, that this board can meet as quickly as possible and that there were no barriers to them taking a vote or making a decision to either affirm or deny the recommended measure by the health director-- by the health-- public health director. So this amendment also explicitly allows for-- so it allows for them to call emergency meetings at any time. It also allows-- during those emergency meetings, that they can be done virtually. So for example, if they are unable to meet in

person. I wasn't in here during the pandemic, but for those of you who were, you probably recall and I remember reading in the news, there was a lot of questions about can you vote remotely? Can you, can you testify remotely? Can you meet as a committee remotely? So the purpose of this amendment is to ensure that in these actual, genuine public health emergencies, all of these things can be done remotely. So if that's video conferencing, if that's via phone call, if that's via text message, and the idea again, of course, is to remove any possible barrier to these decisions in the elected members of the board to getting the, the response accordingly. I also think that it's important to note, so I, I-- you know, when we think of public health emergencies, of course, COVID comes to mind all the time, because that's sort of the most recent and, and powerful thing in our minds. But I do want to highlight that this also applies to various events. Like, we talked a lot about, there was, there was flooding in Fremont a few years back, for example, which was considered a public health emergency. We-- there, there are extreme weather events that are considered public health emergencies, other acts of God, so there are times when board members might be unable to get together to attend a meeting. So the virtual component of that is-- I, I think is essential to ensuring that there is no hindrance to making a decision as quickly as possible. So I would ask that you support my amendment. I think it does make it a bit more-- I think it improves the bill. I still feel conflicted about the underlying bill because at the end of the day, I do think that the public health experts need to be trusted in these situations. But I do think that this makes it so that there are no additional or unnecessary hurdles for the board to meet and to make their decisions on this. Thank you.

**KELLY:** Thank you, Senator Fredrickson. Senator Raybould, you're recognized to speak.

**RAYBOULD:** Thank you, Mr. President. Again, I stand in opposition to this bill and to the committee amendment that just passed, but I do want to say that-- thank Senator Fredrickson for crafting an amendment as a compromise. But I think, from our perspective at the city of Lincoln, we can still consider it a very bad one. I have passed out testimony from our health director, Kerry Kernan, and kindly ask that you please take a moment to read it. Senator Dungan said last week, we are seeing these types of nationwide legislative actions being directed, not by healthcare professionals but by political operatives. We are seeing noncredentialed, unqualified federal administrators dictate health policies that go directly against sound, proven medical practices and vaccination standards. We are seeing efforts on the

national federal side that dismisses scientific research, discredits sound healthcare practices, degrades and dismantles our established healthcare delivery systems and agencies, and defunds our major scientific cutting-edge research facilities like NIH, and eliminates grants to our world-class and world-respected breakthrough medical discoveries and treatments. This legislation, like so many others, is not science-driven but is a politically driven one. Disinformation, misinformation will not protect people. These politically driven initiatives have no place in our state. Thomas Paine, American Revolution author, wrote, to argue with a person who has renounced the use of reason is like administering medicine to the dead. Adolphus [SIC] Huxley said, facts don't cease to exist simply because you ignore them. My first time on the mic, I spoke about being on the city council as we dealt with COVID-19. I want to share with you what it was like, operating a business and keeping our 1,600 associates and their families safe, our customers safe, and our businesses open during this challenging period of time. As an elected official and local businessperson, we listened and followed the health directives. We didn't argue with those directives, as lives were at stake. We refused to be bullied by those loud voices screaming about their liberties being impacted. During COVID, it wasn't easy. Any business owner knows this. Grocery stores providing food are considered an essential service. We scrambled to get masks that were in high demand, working with a connection that had connections in China, to get 20,000 masks delivered, and gloves and hand sanitizers for our associates. We put up plexiglass on check stands, bagging stations, pharmacy counters, deli counters. We covered bulk food containers and resorted to prepackaged items only. We eliminated sampling of any kind, kind and any unnecessary opportunities for contamination or exposure. As an essential service for our associates, we were considered a priority for receiving the first COVID vaccinations. I can tell you that many of our employees were overjoyed, crying tears of happiness, knowing that they would be included, as they were exposed on a daily basis because of their work. Our associates worked long hours stocking shelves, scrambling to work with food shortages and producers and processors that shut down production lines and eliminated products. Our team worked diligently, seeking out other food supplier sources to keep products on the shelves. Our associates showed up each and every day and were proud to be that essential service of frontline workers, despite the risk, to willingly take care of and feed Nebraska families. We drove to and waited in long lines to be tested at the drive-thrus. We gladly stood in the lines at Pinnacle Bank Arena for the first vaccine shot and followup shots to protect us and more



importantly, to protect the public. We wanted to do our civic duty, however small, but to stand with many who wanted to protect others. The real heroes during this period of time were the brave physicians and dedicated nurses and staff, and public health directors. We felt honored to serve alongside them in our own small way. Saul Alinsky, community organizer, said people cannot be free unless they are willing to sacrifice some of their interests to guarantee the freedom of others. The price of democracy is an ongoing pursuit of the common good by all the people. Nebraskans have always rolled up their sleeves to help their neighbors. We have always done our part to keep folks safe. Colleagues, please vote against this bill that will set back directives that are in the best interest of protecting our fellow Nebraskans. Please learn from history, and let's continue to repeat those successes. Thank you, Mr. President.

**KELLY:** Thank you, Senator Raybould. Seeing no one else in the queue, Senator Fredrickson, you're recognized to close.

**FREDRICKSON:** Thank you, Mr. President. Just as a reminder, colleagues, this amendment is to allow for these emergency meetings and votes by the board to all be done virtually, so that there are no additional barriers to the votes and the decision to be made to expedite the public health decision. Thank you, Mr. President.

**KELLY:** Thank you, Senator Fredrickson. Senators, the question is the adoption of AM1781. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 43 ayes, 0 nays on adoption of the amendment, Mr. President.

**KELLY:** AM1781 is adopted. Senator Kauth, you're recognized to close.

**KAUTH:** Thank you, Mr. President. I would like to say a big thank you to Senator Fredrickson, for his very thoughtful, very friendly amendment. That makes it easier for us to get those decisions quickly, and it still balances out our, our civil liberties. We have to be very, very careful not to overreact to emergencies and throw away our liberties. Those who desire safety and will trade liberty wind up with usually neither. So I appreciate everyone's positive green vote on this, and look forward to seeing it on Select.

**KELLY:** Thank you, Senator Kauth. Senators, the question is the advancement of LB60-- LB203 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 28 ayes, 13 nays on advancement of the bill, Mr. President.

**KELLY:** LB203 is advanced to E&R Initial. Mr. Clerk.

**CLERK:** Mr. President, next bill, General File, LB437, introduced by Senator Riepe. It's a bill for an act relating to the Nebraska Health Care Certificate of Need Act. It eliminates the Nebraska Health Care Certificate of Need Act; eliminates obsolete provisions; harmonizes provisions; repeals the original section; and outright repeals several sections in Chapter 71. The bill was read for the first time on January 21 of 2025 and referred to the Health and Human Services Committee. That committee placed the bill on General File, with committee amendments, Mr. President.

**KELLY:** Thank you, Mr. Clerk. Senator Riepe, you're recognized to open.

**RIEPE:** Thank you, Mr. President. Good morning, fellow senators. I rise to open today on LB437, which was my bill to outright repeal Nebraska's Certificate of Need laws. I will explain what the Certificate of Need is. While I sought its repeal and why I continue to support repeal, before doing so, however, I want to explain what my pending amendment will accomplish. AM732, which will consider after the committee amendment, strikes the bill and replaces it with a smaller change. Specifically, it extends the timeline for a new or modified Certificate of Need applicant to come into compliance. It makes the original text of the bill null and also nullifies the language of the committee amendment. Under current law, a new applicant has one year to determine and demonstrate compliance with Certificate of Need requirements, with the option to appeal to DHHS for a single one-year extension. These requirements include defined project benchmarks, things like fundraising, construction, opening up the beds themselves, hiring staff, among other things. My amendment extends that initial compliance period from one year to three years with the ability to seek one additional year upon appeal. This amendment is offered at the request of Senator Storer, who I thank, and the community members working to establish a nursing home, nursing home facility in Valentine, Nebraska. They are confronting the practical reality the current timeline places undue pressure on them to secure investors, construction facilities, planning, and the recruitment of staff in an already challenging environment. This amendment removes an arbitrary constraint and reduces an unnecessary bureaucratic hurdle for those who have stepped forward to provide needed care in their community. To understand why this matters, it is important to step back and discuss the broader context.

The Certificate of Need process is a government regulatory scheme that requires healthcare providers to obtain state approval before opening or expanding facilities. It was originally intended to control cost and prevent duplication of services-- that is, needless duplication of services. In practice, however, it has become a bureaucratic roadblock that limits competition, stifles innovation, and restricts access to care, too often established to allow providers to use the Certificate of Need process to block potential competitors, preserving market domination at the expense of patients and communities. Historically, Certificate of Needs has far more ex-- was far more expansive-- and I personally had to sue the state of Nebraska when serving as a vice president for Bergan Mercy in Omaha, to be able to obtain a Certificate of Need required to purchase and operate what had become an absolute standard of care for hospitals-- an MRI machine. I'm glad to say after spending \$25,000, we won that case, and we received our MRI. In effect, the CON process operates as a government-sanctioned monopoly. It reduces direct competition between facilities, weakens market-based accountability when quality of management issues arise, suppresses labor competition that would otherwise allow employees to negotiate higher wages, and ultimately contributes to higher Medicaid and Medicare along with commercial insurance spending in the care system, compared to those without Certificate of Need. Notably, Nebraska does not impose Certificate of Need requirements on hospitals and home health alternatives. As a result, in areas with sufficient population density, patients and family at least have access to care options that are not constrained by the regulatory barrier, highlighting that competition, when allowed to exist, can expand choice and responsiveness within the health care system. When LB437 was originally introduced, it was designed to eliminate the Certificate of Need requirement for long-term nursing homes, rehabilitation facilities, and skilled nursing facilities altogether. Shortly after "ducing"-- after introducing, a situation began in, in Butte, Nebraska, which gave this a message of urgency. Butte is a village of 274 residents in Senator DeKay's district. Its nursing home was slated for closure by an out-of-state owner with residents to be relocated elsewhere, none of it in Butte. The community, however, was willing to step and take ownership through a local nonprofit. That's-- what stood in their way was a lack of commitment to need-- was not a lack of commitment to need, but the Certificate of Need process itself, a process that's costly, bureaucratic, time-consuming, and impossible to complete before the April 1 closure date. For communities like Butte, the CON process is not merely inefficient, it is harmful. It delays or outright prevents local solutions to urgent

healthcare needs instead of protecting patients. It forces elderly residents to be uprooted from their homes, their caregivers, and their support networks. We all understand the consequences that moving frail seniors can have on their health, well-being, and survival. I also want to briefly call the testimony of a-- recall the testimony of a young woman from Butte, Mrs.-- Ms. Brewster, who spoke before the Health and Human Services Committee with a high degree of clarity and resolve. She said, the need is obvious. The certificate should not be an obstacle. We're neighbors who want to help neighbors. That statement captures the heart of the issue. While the amendment before us today does not fully repeal Certificate of Need, in my opinion, moves us in the right direction by extending compliance timelines. We acknowledge the real-world challenges facing rural healthcare providers and remove an arbitrary bureaucratic barrier that serves no patient-centered purpose. This amendment is about practicality. It is about giving communities like Valentine and others across Nebraska a fair chance to provide care, create jobs, and keep loved ones close to home. It is a measure-- measured step towards reducing unnecessary regulation while still operating within the existing statutory framework, much to my chagrin. For those reasons, I ask for your green vote on AM1732, and thereafter, LB437, and your continued consideration of reforms that put patients, communities, and common sense ahead of bureaucracy. Thank you, Mr. President, and I yield my time.

**KELLY:** Thank you, Senator Riepe. Senator Ibach, you're recognized to speak. Excuse me. Senator Hardin, you are recognized to open on the committee amendment.

**HARDIN:** Thank you, Mr. President. In brief, LB437 proposed to repeal the Nebraska Health Care Certificate of Need Act. AM659 to LB437 narrows the scope of the Certificates of Need repeal to long-term care beds, nursing homes, while retaining the Certification of Need requirements for rehabilitation beds, rehab hospitals. The HHS Committee advanced LB437 with AM659 by a vote of 6 yea, 0 nay, and 1 present, not voting. I'd appreciate your green vote on AM659 to LB437. Thank you.

**KELLY:** Thank you, Senator Hardin. Senator Ibach, you're recognized to speak.

**IBACH:** Thank you, Mr. President. I just wanted to mention that I, I visited with several people about this, and a-- it's a situation that I'm very proud of in District 44. I stand in support of LB437 and

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Senator Hardin's underlying amendment. We had a very challenging timeline in Grant a few years ago, when their retirement facility was closed very unexpectedly and local leaders had to petition for an extension on those Certificate of Need beds, in order to form a coalition that addressed the timeline. And just a good note of, of-- a good note to, to leave it on is that the facility in Grant, the Western Skies Community Center, will open in April. And I think that this bill allows for those 3 years as opposed to that 1 year, where you can secure those beds. So again, I support LB437, and I encourage my colleagues to do the same. Thank you, Mr. President.

**KELLY:** Thank you, Senator Ibach. Mr. Clerk.

**CLERK:** Mr. President, Senator DeKay, I have FA-- or excuse me, AM 770A, with a note that you withdraw.

**KELLY:** So ordered.

**CLERK:** In that case, Mr. President, Senator Fredrickson would move to amend with AM782. I have a note he would withdraw that amendment, as well.

**KELLY:** So ordered.

**CLERK:** In that case, Mr. President, Senator Riepe would move to amend with AM1732.

**KELLY:** Senator Riepe, you're recognized to open on the amendment.

**RIEPE:** Thank you, Mr. President. AM732 is the amendment that strikes the underlying provisions of LB437 and replaces them with a 2-word change that effectively extends the compliance timeline for affected facilities, namely, those who have been granted a new certificate of need. The amendment moves the deadline from one year with a possible one-year extension to three years with an optional additional one-year extension. This adjustment reduces unnecessary government pressure on facilities seeking to develop or expand, allowing additional time for fundraising, staff recruitment, construction completion, and equipment procurement. The added flexibility is particularly important for facilities, facilities where return on investment or workforce ability may be uncertain. This small but significant tweak to the existing law has brought-- was brought to me by Senator Storer-- and I thank her very much for that-- and a facility seeking develop-- to develop it-- itself in Valentine, Nebraska. Thank you, Mr. President.

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**KELLY:** Thank you, Senator Riepe. Senator DeKay, you're recognized to speak.

**DeKAY:** Thank you, Mr. President. I rise in support of LB437 and the amendment, AM1732, brought by Senator Riepe. One quick correction. The Butte nursing home facility is actually in Senator Storer's district. So LB437 was my 2025 personal priority bill. I would like to briefly outline my interest in this legislation. Last February, I began receiving emails and phone calls from concerned residents in Butte regarding the impending closure of the Butte Senior Living Facility in Butte, Nebraska, in Boyd County. I do not represent Boyd County. And that-- like I said, that would be Senator Storer. But I live about 35 miles east of Butte and know many of the people in Boyd County. The loss of the Butte Senior Living Facility represented a huge potential loss to Butte and Boyd County of about 50 local jobs or about 4% of the county's employment opportunities, income brought into the communities, a 10-unit assisted living facility, and a displacement of about approximately 30 residents. In subsequent meetings with various groups like DHHS, the state's existing Certificate of Need law was identified as a barrier that hindered the efforts of the village of Butte to try and reopen some sort of nursing home or assisted living facility in their community. For example, Butte had no problem of trying to get new beds because the company that-- had a problem of trying get new bed because the company that owned them simply relinquished them, meaning they just more or less disappeared for purposes of Certificate of Need law. That is why I prioritized this measure last year. To keep things short, thankfully, last year, the various stakeholders met and we were able to find a way for Butte to clear some hurdles so that they can be on a path to reopen as an assisted living facility. This involved a lot of work by various people, including Senator Riepe, Senator Storer, and DHHS. I also want to weigh in and have my support for AM1732. Butte, thankfully, had a quick turnaround in being able to get a new Certificate of Need. Other communities may not be so lucky. I appreciate this amendment extends the time of a new or modified Certificate of Need is valid for one year to three years. This may not sound like a substantial change, but it can be for some small communities who are trying to find the capital necessary to try to keep a nursing home or an assisted living facility in their community. I don't think we, in the Legislature, should be aiming to slam the door on folks from trying to reopen a nursing home or an assisted living facility and keep their families and community members near them. Thank you, Mr. President.

**KELLY:** Thank you, Senator DeKay, Senator Storer, you're recognized to speak.

**STORER:** Thank you, Mr. President, and good morning. I can't express enough how grateful I am for Senators Riep-- Senator Riepe's willingness to work with me, for all the work that Senator DeKay has done on this as well. Certainly, this bill has evolved since its original introduction. But with the AM1732, we're still gonna be able to get some very meaningful things done that are gonna have a real-world impact on people in both Cherry County and in Boyd County, right now, to extend the time for them to, to try to get resources together to open-- reopen the very much needed nursing, nursing home facilities. So in, in 2021, December of 2021, the nursing home in Valentine closed, and it just kind of sent sock-- shock waves through the community. And for perspective, that meant that residents were having to be moved anywhere from 45 miles up to 90 miles away to find appropriate care. And that-- that's just drive time. And so, that's been the circumstances that families have, have been dealing with for the, for the last 5 years, when their loved ones need that kind of care. So with some determination, there's a, there's a group in Valentine that have come together. They're working very hard to try and raise the funds necessary and do, do the preliminary work to be in a position to build a new nursing home. They actually did qualify for the Certificate of Need, which is difficult to do, as you've heard, so they, they got over that hurdle. But when they found out that once they received that Certificate of Need, they only have one year with a potential extension of an additional year, so at the very most, two years to have that project completed, there, there was a lot of disappointment. Because for any major project, if you can just imagine that you're trying to pull together the funding for a multi-million dollar project, go through the permitting process, acquire the, acquire the property, and, and get the architectural plans in place, have it fully up and running and staffed in under two years, that's not realistic for any major construction project. So this, this current provision, the limitation of one year plus one year extension, is putting a really unnecessary burden on these, these communities that are working hard to reopen facilities in those very rare cases, at this point, that they do qualify for the Certificate of Need. So I appreciate, again, all the, all the people that have come together to, to work on this issue. Please vote yes on AM1732 and ultimately, LB437. This is going to make a big difference for people working very hard to reestablish care in their communities in-- out in, in Nebraska, so thank you, again.

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**KELLY:** Thank you, Senator Storer. Seeing no one else in the queue, Senator Riepe, you're recognized to close on the amendment.

**RIEPE:** Thank you, Mr. President. I want to express that as an urban senator, I also-- being a kid with a farm background, so I came from a rural community, but I happen to be interested in all aspects of rural health care. I think, across this state, mainly this bill will benefit, I think, the rural communities. If we can get more nursing homes into these rural communities, make it easier, then that's what we want to do. We're all Nebraskans when it comes down to it. I also want to extend my thank you to Senator Storer. She, along with my LA, Gerald Fraas, sat down. In about 5 minutes, we came to a conclusion as to how we might make this thing work. And she made a telephone call, and that was very helpful. It pleased the people in Valentine. And I want to thank Senator DeKay, and his cooperation and support, along with Senator Fredrickson. And so, with that, I would ask for the green vote on the amendment, which is AM733 [SIC] and the overriding bill. I appreciate that very much. Thank you.

**KELLY:** Thank you, Senator Riepe. Members, the question is the adoption of AM1732. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 42 ayes, 0 nays on adoption of the amendment, Mr. President.

**KELLY:** AM1732 is adopted. Seeing no one else in the queue, Senator Hardin, you're recognized to close on AM659, and waive. Members, the question is the adoption of AM659. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 39 ayes, 0 nays on adoption of the committee amendment, Mr. President.

**KELLY:** AM659 is adopted. Senator Ri-- Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. First of all, I, I, I was listening, and I appreciate Senator Riepe and Senator Storer working on this together. I know that nursing home deserts in our rural communities is a really real and severe issue. I more wanted to make an observation this morning for the lobby. What are you all doing? I've had people on this floor come up and talk to me about this bill multiple times this morning in here. I get paid \$12,000 a year to follow thousands of bills. I-- it is not my job to educate this body



about Certificate of Need. There's a whole bunch of people paid out there, who apparently are not putting slips of paper in to talk to any of you about whether this is a good bill or a bad bill, what the compromise is, do we agree with the compromise, do we not agree with the compromise. So I just gotta say, I've got 47 days left. And next year, I'm not going to be here and my colleagues are not gonna be able to rely on me to come and ask me questions about bills that you should be-- that you are paid to educate them on, so please start doing your job. I'm not going to do it for you. I'm busy trying to save the budget of Nebraska. So thanks, everybody. Thank you, Senator Riepe, for working so hard on this bill. I know it's important to you. Thank you, Senator DeKay, for prioritizing this bill. I know it was important to you. Thank you, Senator Storer, for working on this bill. Thank you to the senators in this body. You're earning your \$5.27 an hour this morning. The people outside the glass, however, are not. And I am tired of being an unpaid lobbyist for the healthcare industry, so start showing up. Thank you, Mr. President.

**KELLY:** Thank you, Senator Cavanaugh. See no one else in the queue, Senator Riepe, you're recognized to close on LB3-- LB437.

**RIEPE:** Thank you, Mr. President. I would simply ask for a green vote, a yes vote on LB437. Thank you.

**KELLY:** Thank you, Senator Riepe. Members, the question is the advancement of LB437 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 41 ayes, 0 nays on advancement of the bill, Mr. President.

**KELLY:** LB437 is advanced to E&R Initial. Mr. Clerk.

**CLERK:** Mr. President, General File, LB110, introduced by Senator Hughes. It's a bill for an act relating to public health and welfare; provides requirements for pelvic examinations as prescribed. The bill was read for the first time on January 10 of 2025 and referred to the Health and Human Services Committee. That committee placed the bill on General File, with committee amendments, Mr. President.

**KELLY:** Thank you, Mr. Clerk. Senator Hughes, you're recognized to open.

**HUGHES:** Thank you, Mr. President. LB110, as amended by AM63, would require health care providers to obtain consent before performing intimate examinations on unconscious or anesthetized patients. I would

like to state for the record that I've looked into this and have had-- have found no evidence that this has happened in our hospitals or care facilities here in Nebraska. That being said, if we can address this before it happens, prevent miscommunication or worse, then we should do that. In 2024, the federal government, through the Department of Health and Human Services, issued guidance to our teaching hospitals about this very subject. This guidance clarified that providers and their medical students must obtain written consent from patients before perform-- performing pelvic exams, including for unconscious or anesthetized patients. I'd also like to note that the DHS-- DHHS guidance also applied to breast, prostate, and rectal examinations. The sum of the examinations are defined as intimate by AM63. LB110 would take the federal guidance and make this standard for all healthcare providers in the state. There are at least 29 states that have already passed this for pelvic exams, intimate exams, or both. You all should have a list of these states on your desk that I've asked our pages to hand out. Colleagues, patients have a rational expect-- expectation of having control over their medical decisions. This is especially important for pas-- patients undergoing an-- anesthesia. They have the expectation that their provider would inform them and get their consent for any examinations of intimate areas of the body before they go under anesthesia. The ethical principle of informed consent is critical to the trust that patients place in their healthcare providers. Both of those conditions are especially critical to survivors of sexual assault when a violation of that trust can prevent a patient from seeking the medical care that they need out of fear. Taking a minute to obtain consent can avoid a terrible situation. LB110 does allow healthcare providers the ability to perform these kind of examinations without consent if it is immediately necessary for emergency purposes. LB110 imposes no criminal penalties on providers. It only subjects providers who violate this bill with professional discipline. LB110 provides the ability, ability of someone with the healthcare power of attorney to provide this consent, and it allows court-ordered examinations for the collection of evidence. I'd also like to point out that intimate examinations would not include a visual examination. It only applies to the manual or internal examination of these sensitive parts of the body. I also included some findings to lay out the intent of this bill to provide direction to the courts if a violation of this statute were to end up in the courts. Again, patients have a rational expectation of having control over their medical decisions. Informed consent provides communication between the patient and their provider. We protect these areas of bodies and other laws that we have in Nebraska,

and they deserve similar protections in healthcare. I urge you to advance LB110 with AM63 to Select File. Thank you.

**KELLY:** Thank you, Senator Hughes. As stated, there is a committee amendment. Senator Hardin, you're recognized to open.

**HARDIN:** Thank you, Mr. President. AM63 to LB110 clarifies and strengthens the original bill by adding conforming language, a clear definition, a statement of legislative intent, and an enforcement mechanism. The amendment defines an intimate examination as the manual examination of a patient's breast or an internal pelvic, prostate, or rectal examination, expressly excluding visual inspections. The amendment affirms that informed consent is a foundational principle of ethical medical practice and a critical component of patient trust. It recognizes a patient's right to control medical decision-making, particularly with respect to sensitive examinations involving areas protected under state law. Under the amendment, a healthcare provider is prohibited from performing an intimate examination on an anesthetized or unconscious patient without the patient's prior written consent, except when consent is provided by an authorized decision-maker, the examination is necessary for emergency care, or the examination is ordered by a court. If an intimate examination is performed under these circumstances, the patient must be notified in writing prior to discharge. Violations of these provisions are subject to professional discipline under the Uniform Credentialing Act. The HHS Committee advanced LB110 with the sponsor's amendment, AM63, by a vote of 6-0, and 1 present, not voting. Thank you, Mr. President.

**KELLY:** Thank you, Senator Hardin. Senator Hughes-- Mr. Clerk.

**CLERK:** Mr. President, Senator Hughes would move to amend with AM1756.

**KELLY:** Senator Hughes, you're recognized to open.

**HUGHES:** All right. One more amendment. Thank you, Mr. President. I rise today to introduce AM1756 to the committee amendment, AM63. It was brought to our attention that the subsection (4) of AM63 could be interpreted to require medical providers to provide every patient who is under anesthesia and has an intimate examination performed on them with the written notification of the examination prior to discharge. The intent of LB110 with AM63 is only to provide written notification of the procedure under the 3 exceptions listed in subsection (3) of the bill. These exceptions are: if an individual who has power of attorney for healthcare decisions has consented to the exam; or the

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examination is needed for emergency care, for example, a person collapses, is taken to the hospital by ambulance, and the healthcare providers suspect the person has an infect-- infection that requires an intimate exam to be form-- be performed; or if a state-- if a court orders the examination for the collection of evidence. We don't intend that everyone be provided written notice of these examinations prior to discharge from care, as the vast majority of them will have been provided informed consent prior to the exam happening. We're just trying to cover the instances where the healthcare decision being made is out of the patient's immediate control for the situations listed and give them some transparency when they exit care. AM1756 fixes the unintended issue that requires a written notice for all patients when they exit care, and I urge my colleagues to support this correction, AM1756, and, of course, support AM63 with the underlying bill, LB110. Thank you.

**KELLY:** Thank you, Senator Hughes. Seeing no one else in the queue, you're recognized to close on the amendment.

**HUGHES:** I've said what I needed to say. So colleagues, I would appreciate your yes vote on this amendment. Thank you.

**KELLY:** Thank you, Senator. Senators, you're-- the question is the adoption of AM1756. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 42 ayes, 0 nays on adoption of the amendment, Mr. President.

**KELLY:** AM1756 is adopted. Seeing no one else in the queue, Senator Hardin, you're recognized to close, and waive closing. Members, the question is the adoption of AM63. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 42 ayes, 0 nays on adoption of the committee amendments, Mr. President.

**KELLY:** AM63 is adopted. Senator Hughes, you're recognized to close, and waive closing. Senators, the question is the advancement of LB110 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 41 ayes, 0 nays on advancement of the bill, Mr. President.

**KELLY:** LB110 is advanced to E&R Initial. Mr. Clerk.

**CLERK:** Mr. President, next bill, legislative bill-- General File, legislative bill-- my fault, Mr. President. General File, LB397, introduced by Senator Moser. It's a bill for an act relating to labor; it eliminates provisions relating to safety committees and a safety program; terminates a fund; harmonize provisions; repeals the original section; and outright repeals Section 48-443 and 48-444 and 48-445. The bill was read for the first time on January 17 of 2025, and referred to the Business and Labor Committee. That committee placed the bill on General File. There's currently nothing pending on the bill, Mr. President.

**KELLY:** Thank you, Mr. Clerk. Senator Moser, you're recognized to open.

**MOSER:** Thank you, Mr. President. Good morning, colleagues, fellow Nebraskans. Today, I bring LB397 for your consideration. It came out of Business and Labor on a 6-1 vote. The bill is brought at the request of the Nebraska Department of Labor. It amends Nebraska law to remove a program that has not been funded or administered for 22 years. The Nebraska Department of Labor requests that this legislation would repeal Revised Statutes 48-443 through 48-446. These Nebraska statutes require employers to establish safety committees and create a workplace safety consultation program. While well intended at the time of its passing, this program has been "unfunded"-- unfunded since 2003. Its last appropriation in 2003 was \$586,000, and basically, the bill-- the requirement does nothing to promote workplace safety. Workplace safety committees continue without these statutes. The majority of employers in Nebraska are covered by the federal OSHA program and OSHA supersedes Nebraska law, and these employers must meet federal safety requirements. Additionally, the Department of Labor has a voluntary OSHA on-site consultation program. This program offers confidential inspections focused on finding and fixing hazards at no cost to employers. The department works in coordination with the federal OSHA, but it is a separate and distinct program. The Department of Labor has other existing funded state and federal programs that enforce or promote worker safety. For example, there are specific state requirements on farm labor contractors. In short, because this program covering-- covered by this bill has been unfunded since 2003 and it duplicates federal regulations, they've become essentially defunct. LB397 removes the unfunded program and statutorily references, and statutorily references to it from the books. Colleagues for these reasons, I ask for your support in advancing LB397 to Select File. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate January 26, 2026  
Rough Draft

**KELLY:** Thank you, Senator Moser. Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. Would Senator Moser yield, yield to a question?

**KELLY:** Senator Moser, would you yield to questions?

**MOSER:** Yes, I would. Thank you.

**M. CAVANAUGH:** Thank you, Senator Moser. So you said that this hasn't been used for how many years?

**MOSER:** Its last appropriation was 2003.

**M. CAVANAUGH:** OK.

**MOSER:** And so the state has not been administering it or enforcing it, so it really hasn't been used.

**M. CAVANAUGH:** So could you explain to me what the opposition to it was then? Because I saw that the Nebraska Association of Public Employees came in opposition.

**MOSER:** Well I think anytime you talk about workplace safety, it sets off alarms in various organizations. But this is just a requirement to have a workplace safety committee, and the Department of Labor does not have funding to enforce it or to work with employers within that Nebraska program. And the Nebraska program duplicates what OSHA requires, in most cases anyway. So why spend 586-- well, we haven't spent any money for 22 years, but the last appropriation was \$586,000 to do something that duplicates federal regulations and really does nothing to promote safety. Employers can still have a safety committee. I'm sure most of them do. They have OSHA requirements to follow. And the Department of Labor does a voluntary program to simulate an OSHA inspection. So they'll come out to the employer and they'll look through their processes, and say, well, this is fine, this may lead to a violation of OSHA regulations, this may be a violation of OSHA regulations. And so, the employer gets a, a free pass, so to speak, because the state is not going to prosecute those but they give them advice on how to pass the federal OSHA inspections-- how to, how to follow the federal law.

**M. CAVANAUGH:** And if-- is there money in this cash fund currently?

**MOSER:** There's no money in the cash fund.

**M. CAVANAUGH:** OK. So if OSHA were to go away and dissolve, then what would be the fallback for the state, as far as workplace safety?

**MOSER:** Well, I would imagine the state could reinstitute safety regulations, but this particular bit of statute doesn't really prescribe what the safety committee should do or even define what safety is. You're just supposed to have a committee. It's kind of like we do around here. We have committees on committees, and you know, we form a committee about that, and a lot of times, the committees don't do anything.

**M. CAVANAUGH:** OK. Thank you. Thanks for answering my questions. I yield the remainder of my time.

**KELLY:** Thank you, Senator Cavanaugh. Senator Hallstrom, you're recognized to speak.

**HALLSTROM:** Thank you, Mr. President, members. I was going to also ask the same question that Senator Cavanaugh asked, in terms of whether or not there was any money in the Workplace Safety Consultation Program Cash Fund, which Senator Moser indicated there is none, not having had appropriations for over 20 years. I was just going to provide a little bit of historical context to the workplace safety committees. I believe they came about back in the 1990s. There was a grand compromise regarding workers' compensation, at which time, workplace safety committees were one of the elements. They were put into place because they were believed to not only enhance safety in the workplace, but also result in a decrease in the cost of workers' compensation premiums to employers. And for self-insured, it would have a natural impact on their cost, as well. That benefit of premium decrease probably has long since gone away. What was exchanged at that time with regard to the compromise had to do with issues relating to the current law that we have on physician choice, and probably most significant, removing or eliminating what had previously existed was an, was an every few year auction. The maximum weekly benefits were set in statute based on a specific amount. And every 2 or 3 years, we'd come back and do battle in the Legislature to determine whether or not the, the benefit should be increased. And we tied that wagon to a percentage of the state's average weekly wage at that time, a, a system which has continued to work relatively well. But again, the offsetting cost benefit of the workplace safety committees has long since gone away. I think that businesses will continue and have

continued to have their workplace safety committees and for whatever benefit those might indirectly have on their premiums, that's a good process. But I agree that we should do away with statutory dictate, and particularly, any potential funding or oversight requirements of the Department of Labor. Thank you.

**KELLY:** Thank you, Senator Hallstrom. Senator Quick, you're recognized to speak.

**QUICK:** Thank you, Mr. President, and if Senator Moser would yield to a question, I'd like to ask him a question.

**KELLY:** Senator Moser, would you yield to a question?

**MOSER:** Yes.

**QUICK:** Yeah. Senator Moser, I don't know-- do you-- can you tell me or do you know if public sector employees, like state employees, county employees, city employees, are covered under OSHA?

**MOSER:** That's not a question that I have knowledge of. I would assume so. The Occupational Safety and Health Act, I think, covers almost everybody. But I can get more information and get back to you on that. The OSHA regulations, in, in my opinion, are very robust, and they're very aggressive in how they enforce them. And as well, they should, because people can be hurt, killed, in the process of their work. So.

**QUICK:** OK. That's the only question I had. So thank you. If you can find me that information, I'd appreciate that. You know, one of my concerns is just making sure that, that we're-- making sure safety in the workplace is important for not just the private sector, but also for the public sector employees. I can tell you, working for the city of Grand Island for 28 years, I was on a, a, a utility safety committee, as well as I was the city-wide safety committee. And working together with the employer and having that, you know, we had management at the table, we had employees at the tables. We really could help alleviate a lot of the injuries by some of the practices and policies that we put in place to make sure employees were protected in the workplace. And I just think it's so important to, to do that, because then you can also reduce workman's compensation claims. You know, if you're actively working on those safety issues and addressing them and getting the, the employees to buy into those safety policies that you put into place, you can actually reduce your, your costs-- what it costs the city, what it costs the employee. You



know, you don't-- there is no employee out there that wants to get hurt on the job. I can tell you that I had a workplace injury. I had a torn rotator cuff, torn bicep ligament. I was out of work for 6 weeks on workman's compensation. I didn't want that to happen, and I don't think there's any employee out there that wants that to happen. I know there's not one employer that wants that to happen, either. They want to make sure that they can keep someone actively working, doing the work that they need, and not have someone who's, who's hurt and not able to, to help in the workplace. So I, I do want to make sure this also cover-- that, that this isn't something that's going to affect public sector employees. Maybe I see it from the-- on the private side, where that, that, that-- maybe that's something that could be addressed. I don't know. But for the public sector side, I'm not so sure that OSHA comes in and oversees any, any of our accidents that happen in the workplace, or if there'd be a death. So I just want to make sure that we're, we're doing our diligence and, and looking into that. Thank you, Mr. President.

**KELLY:** Thank you, Senator Quick. Senator Dungan, you're recognized to speak.

**DUNGAN:** Thank you, Mr. President. Good morning, colleagues. I do rise today, I think, opposed to LB397. I appreciate the introduction from Senator Moser, to kind of give us some historical perspective as to why we find ourselves here. But I do just want to highlight-- I, I think this is actually a much more consequential bill than what's being, I think, talked about or the way it's initially been, been proposed to this body. Getting rid of the requirement for these safety committees, I think, is not inconsequential. I understand that it sounds like the actual funding for these organizations or this, this fund and this program has not happened since 2003. Certainly, it's something that I think we probably should look at whether or not we're going to be able to continue funding it. But the elimination of the program requirement, I think, does raise some red flags to me. Senator Quick, I know, was talking about OSHA and public employees. My understanding is that OSHA, at the federal level, of course, does not cover those public sector employees, and so there is a, a wrinkle that we need to take into consideration there. But generally speaking, I think there's a, a, a problem I have with the idea of getting rid of this requirement of these safety committees and hoping that some of these businesses are going to continue to do so. I think Senator Moser is completely right. And Senator Hallstrom, I think, also gave us some good reasons they should continue doing so, whether it's to be able to get lower premiums on workers' comp, or other things such as that, but

that doesn't mean they have to. And I think what this looks like to me is a further privatization or, I guess, a dismissal of workplace safety. If you look online at the comments for LB397, there's a-- in, in particular, one opposition comment that was submitted that discusses some of the worker safety issues that have come up over the last couple of decades in the meat and poultry plants that we have here in Nebraska. They include in their concerns that they hear specifically quotes from workers in the industry saying things like, quote, everyone who goes to the plant is risking their lives every day. The line was running so fast it felt like it would kill you. In our department, we say that the line kills hogs and it kills people, because at the end, you end up hurt. At the meat-- quote, at the meat-packing plant, I feel like I'm in a war zone, because there are so many injuries and wounded people. Quote, they should treat you like human beings, because I know of 3 people who urinated and defecated in their pants on the line, and afterwards, they laugh at you. So these are things that are happening in our workplace, and we need to make sure that there is some accountability for that. Now if we're not adequately funding workers' safety committees, I think that that should be the discussion, is how can we increase our support at the state level of ensuring that there is proper safety in the workplace. The history that Senator Hallstrom provided us, I think, is really educational, about how we got to where we are today with regards to workers' comp in general. But if you take a more, I guess, long-term, historical perspective, it's really important to remember why we have a lot of these worker safety protections in the first place. Working in industrial factories, working in meatpacking plants, for decades, was highly unregulated and incredibly unsafe. And these are folks who provide essential labor to our state to make sure that one of the largest, if not the largest industry in the state of Nebraska can continue to operate. So I use that to highlight the necessity of continued support for worker safety, and to, I think, treat this as though it's sort of just a quick little "oh, this hasn't done anything for a while so let's get rid of it" undercuts the larger point, which is whether or not we are adequately funding or looking at worker safety as a state. So I do understand that there's maybe some history that can be looked at. But in general, the, the requirement of having a safety committee is something that I don't we should be getting rid of, because I, to put it frankly, don't trust that many of these industries are going to continue to adequately look after their workers or continue to adequately support the people who are the boots on the ground, doing the hard work, who have their lives on the line every day, for doing this important work. You know, you always hear

the analogy of the fox guarding the hen house. And without some requirement that these industries have these safety committees that do vital things, like review workplace accidents, that establish safety plans-- without having some requirement that they do so, I just don't entirely trust that all of these industries that need that kind of oversight are going to do so themselves. Because certainly, it might be more advantageous for them to get rid of these safety committees, which ultimately is going to hurt workers. So I appreciate the conversation here today. I think this is a bill that's worth discussing. I do oppose getting rid of these safety committees, and would ask for your red vote on LB397. Thank you, Mr. President.

**KELLY:** Thank you, Senator Dungan. Senator John Cavanaugh, you're recognized to speak.

**J. CAVANAUGH:** Good morning, colleagues. I, again, I also rise in opposition to this bill. I appreciate Senator Quick's comments, because, of course, people ask questions, and there's things you didn't think about until somebody else raises that question. So in answer to Senator Quick's question, I went to the OSHA website, and they have frequently asked questions. And the answer-- or the question is, am I covered by OSHA? The answer, the OSHA or OSH Act covers most private sector employees and their workers-- employers and their workers, in addition to some public sector employees and workers in the 50 states and certain territories and jurisdictions under federal authority. OSHA covers most private sector employers and their workers in all 50 states, the District of Columbia, and the U.S.-- other U.S. jurisdictions, either directly through federal OSHA or through an OSHA-approved state program. Workers at states and local government agencies are not covered by federal OSHA. So local-- workers at state and local government agencies are not covered by federal OSHA, but have OSHA Act protections if they work in states that have an OSHA-approved state program. And then you can follow the link and see which states have an OSHA-approved state program, and Nebraska is not one of them. So what that means is states-- the state of Nebraska, local-- state and local government agency employees are not covered by OSHA. So I think Senator Quick's question is a good one. And I think I echo what Senator Dungan was just saying, which is that the issue here seems to be if we are failing to adequately fund the enforcement, that's not a, a-- doesn't mean that this program doesn't need to exist. Their workers deserve to be supported and respected, and they deserve to have protections for safety in the workplace. And the fact that we haven't been enforcing it doesn't mean that the workers, these employers, do not have safety plans and it is not providing a benefit

of a safer workplace. It just means that we're-- the state-- is failing to do its part in en-- in ensuring that that is happening, and we should not just be eliminating that requirement because of that. And so-- and of course, there are state and federal workers who will lose protection because they will not have that additional layer, as-- that Senator Moser talked about, of federal OSHA protection if we eliminate this requirement. So I've been rising in opposition to this bill. I do appreciate the conversation, because I've learned something thanks to the questions this morning. Thank you, Mr. President.

**KELLY:** Thank you, Senator Cavanaugh. Senator Quick, you're recognized to speak.

**QUICK:** Thank you, Mr. President. I just wanted to get up and talk one more time. I, I am, after looking into this, LB397, I am going to oppose this bill, strictly because of, of-- not the-- I know the public sector isn't covered, so we want to make sure that those protections are in place for public sector employees, but also just thinking about the private sector, just in general. I'm not sure why employers wouldn't want to have this in place, too, to kind of have some input on how, you know, re-- reducing workmen's compens-- compensation claims and making sure that there are protections for employees. They don't want employees hurt, either. I can tell you that. I, I know that for a fact. So just making sure that we're, we're having those protections in for employees, to keep them from getting hurt, having that input from employees along with management, to make sure that everybody has buy-in to safety programs, and making sure we're keeping employees healthy, making sure that they go home with all their body parts every single day, and that, that, that they-- they're able to come into work and provide for families. So with that, I'll, I'll yield the rest of my time. Thank you, Mr. President.

**KELLY:** Thank you Senator Quick. Mr. Clerk.

**CLERK:** Thank you, Mr. President. Items for the record. Notice of committee hearings from the Education Committee-- excuse, excuse me-- the Education-- the Executive Board, the Transportation and Telecommunications Committee, and the Education Committee; as well as a series of motions from Senator Spivey to LB1242. And new LR's: LR323, from Senator DeKay; LR324, from Senator DeKay; and LR325 and LR326, from Senator DeKay. Those will all be laid over. I also have LR327, Mr. President. LR327, from Senator DeKay, to be laid over. Finally, Mr. President, a priority motion. Senator Bostar would move to adjourn until Tuesday, January 27, at 9:00 a.m.

**KELLY:** Senators, the question is the motion to adjourn. All those in favor, say aye. Those opposed, nay. The Legislature is adjourned.