

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee February 11, 2021
Rough Draft

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ARCH: Good morning. Welcome to the Health and Human Services Committee. My name is John Arch. I represent the 14th Legislative District in Sarpy County and I serve as Chair of the HHS Committee. I'd like to invite the members of the committee to introduce themselves starting on my right with Senator Murman.

MURMAN: Good morning. I'm Senator Dave Murman from District 38, and I represent seven counties to the southwest and east of Kearney and Hastings.

WALZ: Hi, I'm Lynne Walz. I represent Legislative District 15, which is all of Dodge County.

WILLIAMS: Matt Williams from Gothenburg, Legislative District 36, that's Dawson, Custer, and the north portions of Buffalo Counties.

ARCH: Also assisting the committee is one of our legal counsels, Paul Henderson, and our committee clerk, Geri Williams, and our committee pages, Sophie and Jordon. A few notes about our policies and procedures. First, please turn off or silence your cell phones. This morning we will be hearing two bills and we'll be taking them in the order listed on the agenda outside the room. The hearing on each bill will begin with the introducer's opening statement. After the opening statement, we will hear from supporters of the bill, then from those in opposition, followed by those speaking in a neutral capacity. The introducer of the bill will then be given the opportunity to make closing statements if they wish to do so. For those of you who are planning to testify, you will find green testifier sheets on the table near the entrance of the hearing room. Please fill one out and hand it to one of the pages when you come up to testify. This will help us keep an accurate record of the hearing. We use a light system for testifying. Each testifier will have five minutes to testify. When you begin, the light will be green. When the light turns yellow, that means you have one minute left, when the light turns red, it is time to end your testimony and we will ask you to wrap up your final thoughts. When you come up to testify, please begin by stating your name clearly into the microphone and then please spell both your first and last name. If you are not testifying at the microphone, but want to go on record as having a position on a bill being heard today, please see the new public hearing protocols on the HHS Committee's Web

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page on nebraskalegislature.gov. Additionally, there is a white sign-in sheet at the entrance where you may leave your name and position on the bills before us today. Due to social distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill hearing in progress. The agenda posted outside the door will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the room-- for the public to move in and out of the hearing room. We request that you wear a face covering while in the hearing room. Testifiers may remove their face covering during testimony to assist committee members and transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and chair between testifiers. This committee has a strict no props policy, and with that, we will begin today's hearing with LB202 and welcome Senator Pansing Brooks.

PANSING BROOKS: Good morning. Should I start? Thank you, Chair Arch, and members of the Health and Human Services Committee. For the record, I am Patty Pansing Brooks, P-a-t-t-y P-a-n-s-i-n-g B-r-o-o-k-s, representing District 28 right here in the heart of Lincoln. I appear before you today to introduce LB202, which expands eligibility in the-- in the Young Adult Bridge Independence Program to certain juvenile justice youth. Specifically, LB202 will allow juvenile adjudicated youth who have attained 19 years of age and who were court ordered-- who were in court ordered out of home placements to be eligible for the program. The Bridge to Independence, as I'm sure you know, supports young people aging out of foster care-- the foster care system with monthly stipends, health care and case management support. The program was implemented because research was clear about the risk and vulnerability of youth who age out of the foster care system. This program has been enormously successful in helping these youth attain post-secondary education, find affordable housing, cover monthly expenses and have adults to turn to in times of crisis. To be eligible, young people must either be working or completing schooling. The Nebraska's Children's Commission-- the Nebraska Children's Commission has made access to Bridge Independence Program a top priority. Last year, with the help of this committee, we closed an age of majority loophole that finally allowed all tribal youth to participate in the program. Now I bring before you a bill to

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also close a gap in eligibility for juvenile justice youth to ensure that they have the same opportunity to participate in the program. The bill expands eligibility for crossover youth, quote unquote, those youth involved in-- in both the child welfare and the juvenile justice system. This is important because youth aging out of the juvenile justice system often lack adequate support to address the underlying factors leading to delinquency and confine themselves alone or homeless. It is especially crucial to reach these "at risk" kids, so that we can ensure that they have proper supports to keep them from entering our adult prison system. With our overcrowded prisons, these are the kinds of investments and interventions that can help us make a dent in the problem. Under LB202, there would be approximately 30 additional young adults who would qualify for the program. The Department of Health and Human Services has placed a fiscal note on the bill. These costs are not unreasonable and can be managed within our budget priorities. I'm happy to work with members of the Appropriations Committee to ensure that this is included in our budget. The testifiers behind me will shed further light on why this program is so important. I ask you to move LB202 to General File, and with that, I'd be happy to answer any questions or direct them to the experts behind me. Thank you.

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

PANSING BROOKS: OK.

ARCH: You-- you and I both served together on the YRTC Oversight Committee.

PANSING BROOKS: Yes.

ARCH: Do you think, and you-- I don't know how we would know definitively at this point, but do you think that some of the YRTC kids that are being discharged or age out of the YRTC would be in this population?

PANSING BROOKS: Yes, I do. And others can speak to that more careful.

ARCH: OK.

PANSING BROOKS: So many of those kids move out and the goal is not necessarily to have them move back to the same population or pool of--

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of friends or people that really helped lead them astray. And so with this kind of program, we'd be able to help them get out, find housing. You know, if they're just released and their parents aren't around or accepting them, they're pretty much hopeless and they have nothing else to do but move back to the same situation they already knew that got them in trouble in the first place. So, I think for-- among the people that would be helped under the Bridge to Independence, these are clearly young people that-- that could benefit and help them move into society and move on with their lives.

ARCH: OK, thank you.

PANSING BROOKS: Thank you very much, Senator Arch.

ARCH: Seeing no other questions, thank you.

PANSING BROOKS: Thank you.

ARCH: Will you stay to close?

PANSING BROOKS: Yes, I think I might.

ARCH: OK.

PANSING BROOKS: Thank you.

ARCH: First proponent for LB202. Good morning.

SARAH HELVEY: Good morning. My name is Sarah Helvey. It's S-a-r-a-h, last name, H-e-l-v-e-y, and I'm a staff attorney and director of the child welfare program in Nebraska Appleseed. Appleseed has been a strong supporter and very involved in the creation and implementation of the B2I program since its inception. We testified on LB216, which was introduced by former Senator Amanda McGill and established the program in 2013. And we also testified on a number of cleanup and follow up bills. As part of the history of the B2I program and LB216, it's important to note that LB216 originally included Youth with JJ-- Juvenile Justice Experience in the program, but was later amended to remove this population due to the fiscal impacts. Also, for some context and history, LB216 passed in the same year. Again, 2013 that a bill was introduced and passed to move the juvenile justice population from the authority of HHS and the old Office of Juvenile Services to

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the Judicial Branch and the Office of Juvenile Probation. And this transition was also a factor in the decision to amend out of the juvenile justice population from the B2I program at that time. However, it was always the intention that the population would be added back in later on once the initial program was established. And this is reflected in the fact that Senator McGill specifically included in LB216 the establishment of the B2I Advisory Committee under the Nebraska Children's Commission, and specifically tasked that group with developing, quote, specific recommendations for expanding to or improving outcomes for similar groups of "at risk" young adults. And in fact, the B2I Advisory Committee has consistently made that recommendation to expand the program to youth with juvenile justice experience. With that history in mind, we believe now is the time to expand the B2I program to youth with juvenile justice system involvement. We are several years into the program. There was a recent external evaluation that found improved outcomes for young people. We also have national data from the Jim Casey Youth Opportunities Initiative that has shown the value of investing early. It shows that investing in extended services and support can save nearly 7.8 billion in national cost per core-- cohort of young people leaving foster care by reducing their involvement in other systems like adult corrections or public benefits systems and increasing their connection to prosocial and protective factors. We also strongly support LB202 because we believe it carefully targets a subset of the juvenile justice population to those who need the support of B2I because they don't have a home to return to or may otherwise face homelessness. These are young people who in many ways are very similar-- similarly situated to the foster care population. As youth in the system become teens, it's not uncommon for them to pick up a charge for a law violation or a status offense. Often these actions are the result of trauma and in some case, the difference between a young person having a foster care or juvenile justice case may come down to how a charging decision is made by the county attorney. Youth who are duly adjudicated, um-- they're considered duly adjudicated they have both a foster care and juvenile justice case. If both cases remain open when the youth turns 19, those youth would still be eligible for B2I by virtue of their foster care case. But in some cases, the judge may decide to close the foster care case and those young people would not currently be eligible for the program. In addition, there are a number of cases where youth remain on probation not because they fail to

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rehabilitate, but because they lack a home to return to and they face homelessness when juvenile jurisdiction ends at the age of 19. Without a system of transition services and a support system, these young people are at a high risk to drop out of school, fail in their vocational plans and recidivate in the adult corrections system. But we know this program can help. Just a couple of things I would note. Youth with-- under this bill would still be required to meet all of the other eligibility requirements of the first independence program, including participating in a work or education activity and meeting Nebraska residency requirements. Once in the program, the benefits and responsibilities are the same, including monthly visits with a caseworker and court hearings. And with that, I will just take any questions you have. I see that I'm on yellow so I can mention a response to Senator Arch's question with regard to YRTC's, if you like.

ARCH: Uh, please.

SARAH HELVEY: So my-- my understanding in reading is that the YRTC-- young people that are in a YRTC would be eligible under the bill. It requires youth to be in a court ordered out-of-home placement. And so youth-- and in my reading, youth and YRTCs would-- would be in that situation. They would still need to have a juvenile court finding that they're unable to return home-- contrary to their welfare to return home and may otherwise face homelessness.

ARCH: OK, thank you. Questions? Seeing none, thank you very much.

SARAH HELVEY: Thank you.

ARCH: Next proponent for LB202.

LAURA OPFER: Good afternoon. Good morning. Used to be here in the afternoon. Good afternoon, Chairperson Arch, and members of the Health and Human Services Committee. My name is Laura Opfer, L-a-u-r-a O-p-f-e-r, and I'm the policy analyst for the Nebraska Children's Commission. On behalf of the commission, I'm testifying in support today of LB202. As you heard earlier, the Bridge to Independent Advisory Committee is one of five statutory committees which fall under the umbrella of the commission. The commission provides three branch leadership and community resource expertize to support transparent policy change at the state level. The commission also

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provides staffing support to the Bridge Independence Advisory Committee to help fulfill statutory requirements. In our 2020 statutory report to the Legislature, as was previously mentioned, the B2I committee recommended expansion of the program to similar "at risk" young adults. LB202 accomplishes this through expanding program eligibility to a select population of former probation youth who are disconnected from family support or "at risk" of homelessness. The commission is passionate about expanding B2I, in large part due to the improved outcomes young adults experience in the program. Senator Pansing Brooks mentioned this earlier, but I just wanted to highlight some of the results of our evaluation. So through the collaboration with the Foster Care Review Office and the Nebraska Children and Families Foundation, an independent evaluation was completed in 2019 to measure the effectiveness of the B2I program. The external evaluation completed by Child's Trent-- Child Trends, highlighted several key areas of success. B2I participants were found to be more likely than their non-B2I peers to report having some post-secondary education experience, have safe, stable and affordable housing, be able to cover their monthly expenses and have adults to turn to in crisis or for a loan. It is also noteworthy that all study participants, all of them, reported having a high quality, positive relationship with their B2I independence coordinator. This is a direct reflection of the hard work DHHS independence coordinators do on a daily basis to build trusting relationships with the youth they serve. We believe that every youth is one caring adult away from being a success story. And the B2I program helps ensure that young adults have those supportive relationships as they enter adulthood. One of the B2I participants in the study shared, having a person who is there consistently that knows all your needs and knows what you need. I think that's the best part. Isn't this what we want for all of our youth across the juvenile justice and child welfare systems as they enter adulthood? Having safe and stable relationships changes the outcomes for young adults. The B2I program is more than financial resources and case management. It's relationship capital. In conclusion, the Nebraska Children's Commission supports LB202 as it expands effective services to former probation youth facing homelessness or a lack of family support. Thank you, Senator Pansing Brooks, for your leadership on this issue, and members of the Health and Human Services Committee for your time and consideration. I'd be happy to take any questions.

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ARCH: Were there any questions? Seeing none, thank you very much.

LAURA OPFER: Thank you.

ARCH: Next proponent for LB202.

ROSE GODINEZ: Good morning. My name is Rose Godinez, spelled R-o-s-e G-o-d-i-n-e-z, and I am here to testify on behalf of the ACLU of Nebraska. First, we want to thank Senator Pansing Brooks for introducing this legislation, which ensures that our youth transition to represent-- and represents an opportunity for true integration for out-of-home placements. Youth and out-of-home placements may not have established relationships with adults or the community that can help them in this difficult transition period. They also already face many difficult challenges and we know that youth who are supported and can focus on school, their health and preparing for the future have a better shot at succeeding as an adult. Expanding the Bridge to Independent program to more youth will also help to reduce the risk of homelessness and future involvement in the criminal justice system, as well as the school to prison pipeline, which is already particularly high for these youth. With that, we urge the committee to advance this bill to General File.

ARCH: Thank you. Any questions? Seeing none, thank you very much.

ROSE GODINEZ: Thank you.

ARCH: Next proponent for LB202. Seeing none, is there anybody that would like to speak in opposition to LB202? Anybody wish to speak in a neutral capacity?

JENNIFER CARTER: Good morning, Chairman Arch, members of the Health and Human Services Committee. For the record, my name is Jennifer Carter, J-e-n-n-i-f-e-r C-a-r-t-e-r, and I serve as your Inspector General of Child Welfare. I'm testifying today to provide just some information that we gathered during our investigation on the challenges that face youth-- challenges youth face exiting the juvenile justice system. As you know, in early January, we released our report of investigation on the YRTC Geneva crisis. And during that investigation, we learned of at least three female youth who were discharged straight from the YRTC just days prior to their 19th

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birthday without a period of transition back into the community or services in place. Two of the youth were discharged just the day before they turned 19, and the third was discharged three days prior to her 19th birthday. As has been noted, the-- the juvenile court's jurisdiction ends when a youth turns 19 and then probation services are terminated at that time. These youth were not state wards and so could not qualify through that avenue as for-- former foster youth. There are summaries of all the youth in our report and of note was D.M., who we're calling D.M., an alias. She was physically abused and neglected as a child, along with being sexually assaulted multiple times. She was placed on probation in 2013. Her history included being diagnosed with conduct disorder, cannabis use disorder, PTSD, alcohol use disorder, bipolar, ADHD and anxiety disorder. She was placed in detention facilities, group homes. Was a runaway at least once before her first commitment to Geneva in 2017 at 16 years old. She spent 11 months at Geneva, was then discharged 10 months later, reentered the YRTC in January, 2019, and was discharged in August of that same year, a day before her 19th birthday. She returned to her community without any transitions or services, and a few months later she was convicted of theft charges and sentenced up to two years in prison. So the challenges-- I think the point of our testimony is that our investigations have shown the challenges facing youth aging out of the juvenile justice system are real. And there are limited tools in the juvenile justice system at this point to help those youth transition back as they begin their adulthood. So these youth would benefit from transition services prior to their 19th birthday. And I'm happy to answer any questions.

ARCH: Thank you. Any questions? Senator Murman.

MURMAN: Yes, thank you, Senator Arch, and thank you for coming in, Ms. Carter. Uh, so you're testifying in neutral capacity. It seems like the story you told would be a proponent.

JENNIFER CARTER: Yeah, no, I appreciate you asking because we are-- we are very deliberate about not being advocates. So I'm trying to present the information that we've had that might help inform your decision. But we are oversight and accountability and so whatever the Legislature decides to do, that's what we will be having oversight and seeking accountability for. So it's more to-- to sort of say our investigations have shown this is an actual problem. And then,

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however, the Legislature chooses to solve that, we will have the oversight and seek accountability for that.

MURMAN: Thank you.

JENNIFER CARTER: Yeah.

ARCH: Any other questions? Senator Cavanaugh.

M. CAVANAUGH: Thank you. And thank you for that clarification. It's a refreshing approach to people testifying. You might not know the answer to this, you probably don't, but I'll ask just in case you do. Do you know how much it costs to house somebody in incarceration within our-- our justice system annually? Because you said this youth was-- been incarcerated with a 2-year sentence.

JENNIFER CARTER: I would be--

M. CAVANAUGH: That's fine.

JENNIFER CARTER: --somewhat guessing. I feel like there was in my past life, I looked up this issue and I-- it's in the tens of thousands of dollars per year is my memory. I just don't remember specifically but that may be something like the ACLU or something that have. I can't remember where I got that information when I was looking for it.

M. CAVANAUGH: OK, thank you.

ARCH: Thank you. Any other questions? Seeing none, thank you very much.

JENNIFER CARTER: Thank you.

ARCH: Any other person want to testify in a neutral capacity? Seeing none, Senator Pansing Brooks, you're welcome to close, and as you are coming up, I would mention that we received one-- as far as letters, one-- one proponent, one opponent. Written testimony received this morning, three proponents, Voices for Children, Children and Family Coalition of Nebraska, Nebraska Children's Home Society, and one written testimony in opposition from the Department of Health and Human Services, Director Beasley. You may close.

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PANSING BROOKS: Thank you. Thank you for listening to this today. Thank you to the people who came to testify on this very freezing cold day. I just wanted to say, first off, it's what we hear in Judiciary all the time is that it's about \$42,000 per adult and \$56,000 per juvenile. And, of course, that can go up, they say, anywhere from 56 to 110. So on juveniles, it's a lot more expensive. So thank you for that question. The other thing is that I appreciate-- I've had a call and HHS, we're working with HHS and I want to thank them. We are working on to clarify something that they were concerned about, so that's going on right now. And we may have an amendment, but we hope that you'll consider forwarding this to the floor. Thank you very much for your time today.

ARCH: Thank you. Any questions? Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thanks for being here and bringing this bill forward. So this bill seems like it actually might potentially pay for itself and have better outcomes for the youth. Is that your estimation?

PANSING BROOKS: That's the goal. And it certainly helps over time with the kids in the Bridge Independence, those foster care kids aging out. And as you've heard, it was always intended to include the youth within the-- that were in the juvenile justice system. And, of course, you know, rather than just saying, OK, you can go now and having nowhere to go and no idea of what to do, and of course, that just adds to the prison, the school to prison pipeline. And we also know the kids that are in the juvenile justice system that do not have interventions are much more likely to end up in the adult prison system.

M. CAVANAUGH: And the youth that Inspector General Carter mentioned is costing the state 42,000 or no, use the 53,000 a year.

PANSING BROOKS: Fifty-six for juvenile.

M. CAVANAUGH: Fifty-six.

PANSING BROOKS: They go back into the juvenile court.

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M. CAVANAUGH: And if this program would have been in place based on the fiscal note, it would have been \$9,493 a year. So that's a significant savings for the state.

PANSING BROOKS: It is significant because that-- and that program does do a really good job. So it's one program that really works.

M. CAVANAUGH: Thank you.

ARCH: Any other questions? Seeing none, thank you very much.

PANSING BROOKS: Have a good weekend, everybody.

ARCH: You too. This will close the hearing for LB202 and we will now open the hearing for LB262. Senator Vargas.

VARGAS: Thank you very much, Chair Arch. Do you want a handout?

_____ : Oh, yeah.

VARGAS: You might get this handout from somebody else from behind me, but this is actually a really great synopsis. So good afternoon, Chair Arch, members of the Health and Human Services Committee. I think this is my first time here this year so far. For the record, my name is Tony Vargas, To-n-y V-a-r-g-a-s, and I represent District 7 in the communities of downtown and south Omaha here in our Nebraska Legislature, here today to introduce LB262. Now as the committee is aware, the bridge to independence program is available to youth who are transitioning out of the foster care system and provides support and services including a caseworker, healthcare coverage under Medicaid, and a monthly payment to help with the cost of living. Eligible youth must be 19 to 21 years or-- old and meet one of the following criteria: they have aged out of foster care, in an out-of-home placement. They were discharged into independent living from foster care or they entered into a guardianship or adoption agreement at age 16 or older. Currently, bridge to independence is available to most foster care youth. It's not required. This is a, a program that's available to youth except for one group, kids who are not citizens or who are not lawfully present. These are kids who are part of foster care, regardless of their citizenship status, but who are not allowed to continue receiving these important services and supports like their nonimmigrant peers. Now these supports are

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important to all of these youth, but are especially important to young people who are navigating the immigration system on their own without the help of parents or other family members. LB262 is a simple bill. It fixes this inequity by making bridge to independence accessible by all foster care youth, regardless of their immigration status. The other aspect I want to make sure to claim here is you see on your fiscal note, the, the department anticipates that this would be an additional eight individual youth every year. You know, sometimes we're talking about large, sweeping legislation, I think this is important legislation because those eight youth in our foster care system are losing out on services that others are being provided. And when they're missing out on these services, they're missing out on the opportunity to have the type of transition that enables them to be truly independent, hardworking Nebraskans in every way, shape, or form and I think that's what we all want. You'll also see a fiscal note there. I think this is a very nominal fiscal note and it's something that is needed for these youth. And my hope here is that you look at this solely on the policy because it's good policy that's within the best interest of our state and, and Nebraskans. With that, I'll be happy to answer any questions.

ARCH: Are there any questions? Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you, Senator Vargas. So we have an issue in Nebraska of sort of a workforce shortage. And when I look at your bill-- and I understand that the, the documentation status of these youth may not be where, where we would hope for it to be, but there's the potential in the future for them to become citizens of this state. Is this, in your mind, a way to establish more of a relationship with these youth so that they will want to stay and work and live in Nebraska?

VARGAS: That's a good question. I think a lot of these issues are workforce issues. I think if this is a real workforce issue more so, we would be doing a lot more. I think this is providing what I consider to be the bare minimum. Since other individuals are being provided this, they're-- you know, the same individuals, you know, undocumented or-- you know, citizens or lawful permanent residents are being provided the same services in foster care and then when the bridge to independence program is available, there's a group, be it a small group, that are just not eligible. I think it is investing in

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the workforce, but I think it's also a detriment that we're not providing them with access to these services. We're setting themselves up-- we're setting them up for-- to jump through a lot more obstacles than is needed. And if we do that, we are, in the end, hurting our workforce development for these groups of individuals.

M. CAVANAUGH: And is there anything other than documentation status that differentiates these eight youth from the 30 youth in Senator Pansing Brooks'-- that they could become just as involved and cost the state more money?

VARGAS: No.

M. CAVANAUGH: Thank you.

ARCH: Any other questions? Seeing none, thank you very much.

VARGAS: Thank you.

ARCH: Will you stay to close?

VARGAS: Yes, I will.

ARCH: OK. First proponent for LB262. Welcome.

ALLISON DERR: Thank you. Good morning. My name is Allison Derr, A-l-l-i-s-o-n D-e-r-r, and I am the staff attorney for the child welfare program at Nebraska Appleseed. I am testifying in support of LB262 because it really importantly clarifies that youth are eligible for B2I, the bridge to independence program, regardless of their immigration status. You all have already heard this morning about the B2I program, what it is and why it's effective, so I won't repeat that. It is included in my written testimony, but suffice it to say, the B2I program is an important and essential service for youth transitioning out of the foster care system into independent adulthood. But currently in Nebraska, if a youth is not a citizen or "lawfully present," they are ineligible for B2I. So what that means is once these youth turn 19 and don't have a qualifying immigration status, they are no longer eligible to continue receiving foster care supports and services, unlike their nonimmigrant peers. Statistically, we know that that disproportionately subjects immigrant foster youth to the harmful outcomes that youth who age out of the foster care

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system without continued supportive services will experience. The importance and effectiveness of access to B2I cannot be overstated and that is especially so for young people needing assistance navigating our complex immigration system, often without family or other supportive adults to help them do so. After hearing the department was denying youth access to B2I solely based on their immigration status, Nebraska Appleseed and the Immigrant Legal Center brought a series of cases challenging this, arguing the Legislature intended for immigrant youth to be a part of this program. Unfortunately in June 2020, the Nebraska Supreme Court sided with the department's exclusion of immigrant youth from B2I, holding that because B2I is a public benefit, normally, an individual would have to have a qualifying immigration status to access it. However, if the Nebraska Legislature did intend for immigrant use to be a part of B2I, it needed to more clearly say it, or in other words, needed to "affirmatively" include immigrant youth in B2I through explicit statutory language as federal law allows the Legislature to do. So the court did not outwardly eject-- reject the idea that this may have been the Legislature's intent, but held that it was not clear enough. So LB262 fixes this and follows the court's instructions by adding this explicit affirmative inclusion of immigrant youth in B2I so there's no mistake about the Legislature's intention to continue supporting these youth until age 21. And that not only includes eligibility for the program as a whole, but each of its supports and services. It feels important to note a couple other things for you all's understanding. First, youth receive full foster care supports and services in traditional under-19 foster care, regardless of their immigration status. The department or court does not pause to ask whether or not the youth has a qualifying immigration status before opening up a case for their family or providing them services and B2I is foster care. It's merely an extension of those services until age 21, so access to them should not be dependent on a youth's immigration status. And then additionally, the majority of youth that would become eligible for B2I, should LB262 be successful, already have a lawful immigration status and a pathway to citizenship. They just aren't currently considered "lawfully present" under the department's current practices. So for example, many of these youth have what's called special immigrant juvenile status or SIJ status, which is a protected status for youth that have been abused, abandoned, or neglected, and that provides an accelerated path to permanency for youth that are in foster care or that would be

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eligible for foster care. So the majority of immigrant youth in foster care qualify for the status, but the department does not currently consider them to be eligible for B2I and LB262 fixes that. Then of the remaining youth who do not yet have a lawful status, access to these services is even more important to ensure they can continue receiving support from the court and department in attempting to apply for and achieve a lawful status as to be successful independent adults in the future. So we strongly support LB262 because it grants more equitable access to foster care supports and services to young people, regardless of their immigration status. We thank Senator Vargas for bringing this bill and the committee's continuing commitment to improving our child welfare system. Thank you.

ARCH: Thank you. Any questions? Seeing none, thank you very much for your testimony.

ALLISON DERR: Thank you.

ARCH: Next proponent for LB262.

LAURA OPFER: Good morning.

ARCH: Good morning.

LAURA OPFER: Good morning, Chairperson Arch and members of the Health and Human Services Committee. My name is Laura Opfer, L-a-u-r-a O-p-f-e-r, and I'm the policy analyst for the Nebraska Children's Commission. On behalf of the Children's Commission, I'm testifying today in support of LB262. You heard a lot of great testimony earlier today about the Children's Commission, the B2I Advisory Committee, and so I wanted to make a couple points in my testimony today. So the first is that in the fall of 2020, the B2I committee hosted a presentation from the Immigrant Legal Center focused on special immigrant juvenile status and the population of young adults who are currently denied eligibility for the B2I program due to their immigration status. In January 2021, the B2I committee voted to formally recommend that young adults exiting foster care who are not lawfully present in the U.S. be eligible for the supports and services available under the B2I program. Second, I also wanted to highlight some research. According to research, undocumented youth are at risk of living in poverty, less likely to have healthcare coverage, and

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more likely to face difficulties in accessing social services and public benefits in comparison to U.S. citizens. In addition to the adversity faced because of their immigration status, these young adults also carry risk factors associated with being in the foster care system. They enter our foster care system through no fault of their own and then are denied access to the B2I program due to factors outside of their control. This leaves undocumented young adults in a vulnerable position without the same resources as their peers who are U.S. citizens. The B2I program offers supports and services that mitigate the very risks undocumented young adults face. In conclusion, the Nebraska Children's Commission supports LB262, as it ensures young adults exiting the foster care system are eligible for the B2I program, regardless of their immigration status. Thank you, Senator Vargas, for your leadership on this issue and members of the Health and Human Services Committee for your time and consideration. I'd be happy to take any questions.

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

LAURA OPFER: Thank you.

ARCH: Thank you for your testimony. Next proponent for LB262. Good morning.

ROSE GODINEZ: Good morning again. My name is Rose Godinez, spelled R-o-s-e G-o-d-i-n-e-z, and I am testifying on behalf of the ACLU of Nebraska in favor of LB262. We want to thank Senator Vargas and Senator Pansing Brooks for introducing this legislation, which ensures that our most vulnerable youth, including immigrant youth, are best positioned while transitioning out of home placements into the community. Next I just want to reiterate something that Appleseed mentioned before, that federal law provides states with the authority to grant this critical benefit to immigrant youth and to clarify that while the bill is titled "young adults not lawfully present in the United States," most if not all of these eight individuals are eligible or well on their path to becoming legal permanent residents under special immigrant juvenile status. As was mentioned before, special immigrant juvenile status is a pathway to a green card in the United States for youth that have been abused, abandoned, or neglected by one or both their parents. I have personally worked on dozens of these cases out of rural Nebraska-- my hometown is Lexington-- so I

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can personally tell you that these children are particularly vulnerable in a country where they not only don't speak the language, but don't understand the government functions of the system here. The bridge to independence program would be especially helpful to these youth to not only transition into our community, but to become a more knowledgeable resident in our state and in our country. For those reasons, we urge this committee to advance this bill to General File.

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

ROSE GODINEZ: Thank you.

ARCH: Next proponent for LB262.

ALEXIS STEELE: Good morning, members of the Health and Human Services Committee. My name is Alexis Steele and that is A-l-e-x-i-s S-t-e-e-l-e and I am honored to join you today on behalf of the Immigrant Legal Center to testify in support of LB262. The mission of the ILC is to welcome immigrants into our communities across the state through immigration legal services, education, and advocacy. More than a quarter of our clients are immigrant children and youth, some of whom fled their homes and entered the country alone and many of whom have been abandoned, abused, or neglected by at least one parent. ILC supports LB262's explicit inclusion of all at-risk youth in our state's bridge to independence program, regardless of their immigration status. LB262 proposes a small technical change to Nebraska law that would have a life-changing impact for an especially vulnerable group of young Nebraskans. Specifically, LB262 adds explicit inclusion of "young adults who are not lawfully present in the United States" as among those eligible for the bridge to independence program. The undocumented immigrant youth we represent, and particularly those who have been involved in the child welfare system, are often profoundly affected by past trauma and in need of comprehensive supportive services. Social workers have long recognized immigrant children as an unprotected population that is a high priority for support and immigrant youth who have experienced caretaker abuse or neglect are even more vulnerable. For this reason alone, we support LB262. Additionally, ILC supports LB262 as a natural progression of Nebraska law. As designed in 2013, the bridge to independence program aims to help vulnerable youth in transitioning to

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adulthood, becoming self-sufficient, and creating permanent relationships. One of the services to be offered through the bridge to independence program is assistance to obtain the necessary state court findings and then apply for special immigrant juvenile status as defined in U.S. code or to apply for other immigration relief that the young adult may be eligible for. So to be very clear, the bridge to independence program includes the provision of immigration services, which is only relevant to a contemplated population of undocumented immigrant pro-- program participants that have cause to use and to seek immigration status. Pursuant to this provision and in accordance with the guidance of the Nebraska Supreme Court, this Legislature should advance LB6-- LB262 to add affirmative language to governing law to assure that immigrant youth, including those who are not lawfully present in the United States, can access the bridge to independence program. To reiterate, ILC urges the do-- the committee to vote in support of LB262 for the simple reason that Nebraska should include the particularly vulnerable population of immigrant youth still seeking status in its system of support for youth in need. Furthermore, we support LB262 as a simple progression of LB216, which this Unicameral proudly advanced to enactment in 2013. We extend a special thanks to Senator Vargas and the many concerned community members who worked so passionately on this bill as champions for all of Nebraska's at-risk youth. I welcome any questions and thank you for your consideration.

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

ALEXIS STEELE: Thank you.

ARCH: Next proponent for LB262. Seeing none, is there anyone that would like to speak in opposition to LB262?

STEPHANIE BEASLEY: Good morning.

ARCH: Good morning.

STEPHANIE BEASLEY: Good morning, Chairperson Arch and members of the Health and Human Services Committee. My name is Stephanie Beasley, S-t-e-p-h-a-n-i-e B-e-a-s-l-e-y, and I serve as the director of the Division of Children and Family Services within the Department of

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Health and Human Services. I'm here to testify in opposition to LB262, which would expand the bridge to independence program and include individuals not authorized by federal law to receive public assistance benefits. Anyone who is not a citizen of or legally present in the U.S. is barred from federal and state law for Medicaid or Title IX-E funding. Therefore, the cost associated with LB6-- LB262 would be-- would need to be 100 percent state funded. This will be a new state program specifically for individuals who are not legally present. The department is concerned that LB262 would cause an additional fiscal burden by extending medical coverage to participants in the bridge to independence, or B2I program, not eligible for Medicaid. This would include not only the expansion group identified in LB262, but all individuals in the bridge to independence program who are not receiving medical assistance because they are not categorically eligible or fail to meet other eligibility categ-- criteria. Please note that the department's fiscal note does not include these additional costs to provide medical assistance to current enrollees who are not eligible for Medicaid, as the number of individuals who would be eligible under this category is not definitive. Bridge to independence eligibility generally requires participation in at least one of the following: secondary or postsecondary education at least part-time, employment for at least 80 hours a month, or participation in a program designed to promote or remove barriers for employment. Individuals who are not citizens or legally present may not maintain eligibility in the program due to barriers in finding employment or locating work-related programs because of their immigration status. Federal law requires that employers verify whether prospective employers are authorized to be employed with the U.S. and prohibits employers from knowingly hiring individuals not legally present. This would prevent many young adults in this expanded population from meeting the B2I requirements. Lastly, workforce development programs which enhance employability are funded through federal dollars and generally not available to, to individuals not citizens or qualified aliens. LB262 would expand eligibility for bridge to independence and make all participants eligible for medical assistance, thus having a fiscal impact on the state of Nebraska. Complexities arise as young adults who are not citizens or qualified aliens cannot comply with the B2I activity requirements due to illegal immigration status. As a result, we respectfully ask the committee not to advance the bill.

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Thank you for the opportunity to testify. I'm happy to answer any questions you may have.

ARCH: Thank you. Are there any questions? Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thanks for being here this morning. On your three-- fourth paragraph, you talked about bridge to independence eligibility generally requires a list of things. One of them is participation in a program or activity designed to promote or remove barriers to employment. Wouldn't seeking a path to citizenship fill that requirement?

STEPHANIE BEASLEY: It could, yes, Senator.

M. CAVANAUGH: So that, that seems to take away quite a bit, if that's--

STEPHANIE BEASLEY: I think you could--

M. CAVANAUGH: --a concern.

STEPHANIE BEASLEY: Yeah, I think you could make that relevance, yes.

M. CAVANAUGH: OK. The fiscal note-- it's, it's a challenge, these fiscal notes. The things that are included from time to time seem to be not consistent. So the fiscal note for this bill has a significant amount of IT expenses. Could you explain why?

STEPHANIE BEASLEY: I cannot.

M. CAVANAUGH: Sure.

STEPHANIE BEASLEY: I know they work with our IT department, IS&T, to identify the change that would be needed and then they tell us how many hours and I think that is--

M. CAVANAUGH: Is there currently a box--

STEPHANIE BEASLEY: --included.

M. CAVANAUGH: --that you check on citizenship for the bridge to independence program?

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STEPHANIE BEASLEY: Is there a--

M. CAVANAUGH: A box--

STEPHANIE BEASLEY: --a box?

M. CAVANAUGH: --or what is the pro-- like, the--

STEPHANIE BEASLEY: I don't know. I don't know. Within the system?

M. CAVANAUGH: Yeah.

STEPHANIE BEASLEY: I don't know.

M. CAVANAUGH: OK, because it's a lot. It says that it's going to take 1,212 hours, basically six months, to change the IT system to accommodate these eight individuals. That is--

STEPHANIE BEASLEY: I don't--

M. CAVANAUGH: --I-- that's a significant thing and it doesn't require that change for Senator Pansing Brooks' bill, so my assumption is it has something to do with citizenship status. So if we could find out an answer to that, that would be really helpful. So is the-- the opposition then is to the, the cost or is it to-- otherwise you're neutral beyond the cost?

STEPHANIE BEASLEY: So the opposition are to cost and some of the unknown, unknown cost with the expansion of medical support to those who are not currently covered by Medicaid. And additionally, you know, really taking the opportunity to highlight some of our program staffs--

M. CAVANAUGH: But--

STEPHANIE BEASLEY: --feeling like barriers that exist within participation, participation and maintaining eligibility for this program as well.

M. CAVANAUGH: But don't you have that concern about this vulnerable population of youth outside of this specific group? But just the bridge to independence program [INAUDIBLE] large, isn't there always a

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concern about them maintaining program eligibility by meeting these eligibility requirements? I mean, we're talking about--

STEPHANIE BEASLEY: The barriers would be different and I think the barriers are just different for a population who is lawfully present and what they can access and the supports that they can receive.

M. CAVANAUGH: But those that are in this group can be seeking to be lawfully present and that would fill that requirement, so it seems like they actually have the easiest ability-- not easiest, but most straightforward ability to fill the eligibility requirement.

STEPHANIE BEASLEY: Yes.

M. CAVANAUGH: OK. Beyond the fiscal impact, which we have discussed previously is not your purview, I don't understand what your opposition is. Do we not want to serve all of the youth in this state to the fullest ability that we have?

STEPHANIE BEASLEY: So, Senator, I'm, I am here to, to talk in transparent terms about what some of our program concerns are as we read through the bill and so hopefully that is a helpful analysis.

M. CAVANAUGH: Well, you can't speak to the concerns about the fiscal note, but your testimony is in opposition because of the fiscal impact, so you're not actually addressing my concerns.

STEPHANIE BEASLEY: I can get you the answers to the IT, Senator, certainly.

M. CAVANAUGH: I would appreciate if the department would take a note of what the Inspector General Carter's testimony was in response to Senator Murman's question and, and what your role is in, in informing this committee.

STEPHANIE BEASLEY: Thank you, Senator.

ARCH: Senator Williams.

WILLIAMS: Thank you, Chairman Arch and thank you, Director Beasley. I, I want to be sure that I'm understanding one of the things that you're bringing out. It, it was my understanding that the intent of this bill

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was to expand the population to this small subset, but what you're also testifying to is that it potentially expands the medical coverage also. Could you be sure that we all understand that clearly?

STEPHANIE BEASLEY: I can get you more information. We-- because-- so for kids who are coming for-- to us from adoption or guardianship, those are not children who would be eligible for former ward Medicaid. So not all of the youth in the bridge to independence program are actually covered by Medicaid and so that would roll those expenses to the state cost. Those would be state funded at that point.

WILLIAMS: Thank you.

ARCH: Thank you. Seeing no other questions, thank you very much for your testimony. Next opponent for LB262. Seeing none, is there anybody who would like to testify in a neutral capacity? Seeing none, Senator Vargas, you're welcome to close. As you come forward, I would mention that we received letters: three proponents and three opponents for LB262 in letters. And in written testimony received this morning, we received four: NSEA, Voices for Children, Children and Family Coalition of Nebraska, and Nebraska Children's Home Society. You're welcome to close.

VARGAS: Thank you very much. Chair Arch, members of the committee, appreciate you being here. So a couple of things that I wanted to make sure to clarify here. One, all the youth that are-- currently would be eligible that we were referencing are already on their pathway to citizenship. So just to be clarified, it, it-- I don't like speaking in binary terms. They're already on their pathway to citizenship, which means they also have a work permit and a Social Security number. They would be eligible, all ready to meet all the requirements that are being expected of them under the bridge to independence program. I know part of the testimony was that they wouldn't be, they wouldn't be eligible because of unlawful status, but all these individuals are already on their way to lawful status. The question is whether or not we extend services to them for these two years to make sure that they are the best setup possible and we are treating everybody the same. If there was for-- some reason that they didn't have status in some shape or form, they could still attend school and meet the requirements under bridge to independence as well. So I just want to clarify that as well because it seemed to be communicated that they wouldn't be

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able to. They could still meet the requirements under, under this, even if that were the case. I, I kind of want to respond to Senator Cavanagh's comment because it, it is important. I, I serve as a member of Appropriations. I work through the budget with HHS and with my Appropriations members. As you know, this is a large portion of our budget, federal and state. I've had no issues or problems with providing the support and resources needed to meet the demands of our state. In fact, we're-- we've, we've done that or we are in the process of doing more of that with even our additional child welfare needs that was previous to when we had, you know, a different childcare-- a child welfare provider and now with the one we currently have. We're talking about a very nominal amount of dollars. So it-- this-- I was a little bit dismayed that there's-- one of the pieces of opposition is the fiscal impact of this when we really should be talking about that there's eight youth that are being cut off from services and cutting off from those services can mean that we're hampering their ability to be fully independent individuals. And we all know what happens when we have individuals that are not set up for success. They don't have good jobs. They maybe are not as successful in their work and their family life as they possibly can. And they're still Nebraskans and that has an impact on us in the long term. So I wanted to make it abundantly clear because in a lot of different ways, I don't like that that-- I want to clarify that it's not, it's not just that we're talking about providing immigrants with unlawful status these services. It's that they are fundamentally different in that they already have and they're on their pathway to citizenship. They already have met the requirements that Director Beasley stated and they would be eligible for the program. There are no barriers that really exist in that and I don't believe that this is actual, actual fiscal restraint or sort of constraints because, well, we've met most of the needs of HHS and if we have to spend more money to do it, \$150,000 approximately, I think it's a worthwhile investment. With that, I'm happy to answer any additional questions from the committee.

ARCH: Other questions? Senator Murman.

MURMAN: Thank you, Senator Arch and thank you, Senator Vargas. You, you mentioned that all of these youth are on their way to legal status. Could you more clearly define how that works?

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VARGAS: I'll, I'll try to restate what some of the previous testifiers shared, but there's special immigrant juvenile status and under that, they're on a pathway to citizenship. These are youth that have had neglect, abuse and, you know, because of that, they have this special immigrant juvenile status. That, that status enables them to have a green card, a work permit, and puts them on a track toward citizenship. The way that's serve-- currently defined as only eligibility is individuals that are citizens or are lawful, permanent residents. And so this is a special sort of aside and so that's one of the reasons why we needed to clarify this in statute.

MURMAN: And that would be-- all of the youth in, in this program would be--

VARGAS: Um-hum.

MURMAN: --on their way.

VARGAS: Yeah.

MURMAN: OK, thank you.

VARGAS: So they all have the special immigrant status. They're all on the pathway.

ARCH: Any other questions? Senator Williams.

WILLIAMS: Thank you, Chairman Arch and thank you, Senator Vargas, for being here. I wanted to delve into the same question that I, I asked Director Beasley about, the either intentional or maybe unintentional expansion of the medical provisions beyond just the subset groups that I think you're targeting with LB290-- or excuse me, LB390. Do you have a comment about that?

VARGAS: I do and I'm going to-- Senator Williams, so I looked at the fiscal note here and I'm, I'm actually referencing this right now. So let's say-- it says right here, "Medicaid would also be extended to this population." I think that's the reference point that, that we're talking about, the additional costs. The total cost would be \$63,000 thousand dollars annually. If the hang-up is that it's going to be a fiscal constraint, it's going to be a fiscal burden, financial burden, the financial burden of \$63,000 annually, I don't think is that big of

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a financial burden. We want to make sure that they receive the same service.

WILLIAMS: My question's not so much--

VARGAS: Oh--

WILLIAMS: --Senator Vargas, the financial burden--

VARGAS: Oh, it's not. I thought I was on the Medicaid--

WILLIAMS: I'm just wondering--

VARGAS: --I thought it was on the Medicaid component.

WILLIAMS: Is this an-- are we actually expanding the coverage here to a broader group under this bill than just the subset that you're talking about? Are we giving more benefits to other participants that are already participating in the bridge to independence program?

VARGAS: My understanding is we are expanding it to make sure that Medicaid is covering more of these services and I think that's the issue, so that there's going to be more of the cost burden on the state. What I'm trying to clarify is that the cost burden in the state is about \$60,000 additionally per year. And if we need to work on, on that language to make it more narrow, I'm happy to work on it, but, but I want to make sure that--

WILLIAMS: I just want to be sure of what we, what we have here.

VARGAS: Yeah, yeah.

WILLIAMS: Yeah, thank you.

ARCH: Thank you. Other questions? Seeing none, thank you very much.

VARGAS: Thank you very much.

ARCH: This will close the hearing for LB262 and will close the hearings for the morning.

ARCH: Are you introducing the bill?

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BEAU BALLARD: I am. Have you opened?

ARCH: We're ready.

BEAU BALLARD: I apologize.

ARCH: OK. I didn't want to start. I didn't want to start before you had-- OK, OK. Hang on. I have something to read here and then I'll call on you. Ready? Good afternoon. Welcome to the Health and Human Services Committee. My name is John Arch. I represent the 14th Legislative District in Sarpy County. I serve as Chair of the HHS Committee. I'd like to invite the members of the committee to introduce themselves starting on my right with Senator Day.

DAY: Jen Day, District 49.

MURMAN: Hello, I'm Senator Dave Murman from District 38 and I represent seven counties to the southwest and east of Kearney and Hastings.

WALZ: Hi, my name is Lynne Walz and I represent Legislative District 15, which is all of Dodge County.

WILLIAMS: Matt Williams from Gothenburg, Legislative District 36, Dawson, Custer, and the north portion of Buffalo Counties.

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

ARCH: Also assisting the committee is one of our legal counsels, T. J. O'Neill, our committee clerk, Geri Williams, and our committee pages, Kate and Rebecca. A few notes about our policies and procedures. First, please turn off or silence your cell phones. This afternoon, we'll be hearing three bills and we'll be taking them in the order listed on the agenda outside the room. The hearing on each bill will begin with the introducer's opening statement. After the opening statement, we hear-- we will hear from supporters of the bill and then from those in opposition, followed by those speaking in a neutral capacity. The introducer of the bill will then be given the opportunity to make closing statements if they wish to do so. For those of you who are planning to testify, you will find green testifier sheets on the table near the entrance of the hearing room.

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Please fill one out and hand it to one of the pages when you come up to testify. This will help us keep an accurate record of the hearing. We use a light system for testifying. Each testifier will have five minutes to testify. When you begin, the light will be green. When the light turns yellow, that means you have one minute left. When the light turns red, it is time to end your testimony and we will ask you to wrap up your final thoughts. When you come up to testify, please begin by stating your name clearly into the microphone and then please spell both your first and last names. If you are not testifying at the microphone, but want to go on record as having a position on a bill being heard today, please see the new public hearing protocols on the HHS Committee's Web page at nebraskalegislature.gov. Additionally, there is a white sign-in sheet at the entrance where you may leave your name and position on the bills before us today. Due to social distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill hearing in progress. The agenda posted outside the door will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that you wear a face covering while in the hearing room. Testifiers may remove their face covering during testimony to assist committee members and transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and chair between testifiers. This committee has a strict no props policy, and with that, we will begin today's hearing with LB609. All right, proceed.

BEAU BALLARD: Good-- good afternoon, Chairman Arch, and members of the Health and Human Services Committee. My name is Beau Ballard. For the record, that's spelled B-e-a-u B-a-l-l-a-r-d, and I'm the research analyst for Speaker Mike Hilgers. I'll be brief today. I'm opening on LB609. This is just a basic revisor bill just to update some language in the Uniform Credentialing Act. And with that, I'll close.

ARCH: Any questions? Seeing none, thank you. Any proponents for LB609? Any opponents for LB609? Anyone want to testify in a neutral capacity for LB609, and he waives close. This will conclude our hearing for LB609. We will now open the hearing for LB436. Welcome, Senator Hansen.

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B. HANSEN: Thank you. I don't know if this one's going to be as quick as the last one, but do our best. And I know Senator Williams, having just mentioned it, can't wait for another scope of practice bill, so this is--

WILLIAMS: Here we go.

B. HANSEN: --specifically-- yeah, all right, sorry. Good afternoon, Chairman Arch, and the rest of the Health and Human Services Committee. My name is Senator Ben Hansen. That's B-e-n H-a-n-s-e-n, and I represent District 16, which includes Washington, Burt, and Cuming Counties. LB436 is an upgrade to the current state of Nebraska's Athletic Training Practice Act. It essentially modernizes it in allowing athletic trainers in Nebraska to be more helpful in the medical-- medical community. LB436 will expand the purview of what athletic trainers are allowed to do in the state of Nebraska in a number of ways, and I believe they haven't had a scope of practice modernizations since, I think the 90s. So I think that's kind of what preempts some of this. One of the ways is that it will allow athletic trainers to help patients beyond just athletes. They are a fraction of our health care community that is drastically undervalued and underutilized. This update will allow them to help nonathletic patients as well. And LB436 would additionally allow athletic trainers the ability to have emergency medication available should the need arise in an emergency situation only. Currently, athletic trainers in Nebraska are not required to, and risk losing their license if done so beyond their current parameters, and this should not be the case. By not allowing our athletic trainers a broader spectrum of work, we are doing a direct disservice to the people of Nebraska who could truly benefit from their shared knowledge and training. Currently, we are stymieing an entire section of our health care workers because of red tape and outdated laws. So with that, I thank you for my testimony and I will stand for any questions. And there are obviously more people with more expertise behind me to testify for any technical questions that you might have as well. And I will close if you guys have any other questions, but I'll do my best right now to answer any.

ARCH: Are there any questions? Seeing none, thank you.

B. HANSEN: Thank you.

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ARCH: We will now take the first proponent for LB436. Welcome.

RUSTY MCKUNE: Hello. Chairman Arch, and members of the Health and Human Services Committee, thank you for the opportunity to be here today. My name is Rusty McKune, R-u-s-t-y M-c-K-u-n-e. I'm a certified and licensed athletic trainer and serve-- serve as the Chair for the Nebraska State Athletic Trainers Association Governmental Affairs Committee. I'm here today to testify on behalf of the NSATA in support of LB436. The NSATA is the sole membership organization for athletic trainers in the state of Nebraska, currently representing over 400 professional and student members. For the past 24 months the NSATA has been working to modernize the Practice Act which was last updated in 1999. The current language is antiquated and fails to reflect the expanded education, continuing education and the resulting skills and abilities of those who are practicing athletic training today in Nebraska and across the country. The NSATA has been successful in navigating the 407 process, receiving the support of both the Technical Review Committee and the full Board of Health. The modernization of this act was initiated with the following goals in mind. Number one, allow athletic trainer to practice at a level which reflects our education and training, while at the same time affording the level of protection that the public expects and deserves. As indicated, the Practice Act, as it currently stands, limits the ability of athletic trainers to practice to the fullest extent of our education and training. Since 1999, the education standards have gone through four revisions. Through clinical and didactic coursework, athletic trainers are now prepared to work with populations who present with comorbidities and a range in population age from children to adults. With respect to patient safety, the NSATA that has gone to great lengths to ensure the public safety and discipline is exemplified through very clearly defined mechanisms. Education, guidelines established with the physician, referral from a health care provider defined within statute, professional responsibility and a disciplinary process that is comprised of standards established through our professional credentialing organization, and the process at the state level is a very-- that is the same for every regulated health care profession in the state. Second goal is to collaborate with other professional organizations. From the start of this process in 2019, the NSATA wanted this to be an open, transparent and collaborative process. Throughout, this has been accomplished. The

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NSATA is engaged in extensive conversations with the Nebraska Medical Association, the Nebraska Chiropractic Physician Association and Nebraska Chapter of the American Physical Therapy Association and the Nebraska Occupational Therapy Association. We've gone to great lengths to not only hear, but to listen to all stakeholders. We've modified, removed and inserted language to provide clarity, remove ambiguity, eliminate confusion and ensure safety. This bill truly has the fingerprints of all of these groups, and we feel that this collaboration has made this a stronger bill. Examples of this collaboration include work with the chiropractors with respect to manipulation. The NSATA agreed with the chiropractors that this was an area which currently lacks the education necessary to ensure patient safety, and as such, exclusionary language regarding manipulation is included in this bill. Another example which exemplifies collaboration and patient safety is with respect to diagnosis. Through discussions, specifically with the Nebraska Medical Association, it was agreed that the language in this bill would not include diagnosis and instead utilize the term, impression. In further efforts to affect patient safety, the physical therapist recommended during the technical review process that referrals to athletic trainers in an outpatient setting shall include a diagnosis. This recommendation was accepted and includes-- language is included within LB436 that represents this. Third goal is to identify our patient population based on what we are educated to do, not who the patient is based on a definition. Athletic trainers in Nebraska are currently limited to treating a defined patient-- or defined population, athletes. As a result, citizens within Nebraska are denied the ability to access athletic training services if they do not meet the definition. Further, physicians and other providers do not have the freedom to refer patients to athletic trainers who possess the qualifications to treat the conditions what their patients have based solely on that definition of athlete. Four, the ability to carry and administer emergency medications. No athletic trainer should be forced to choose between their license and saving a life, and yet this is what happens currently. We work closely with the Nebraska Medical Association and the Nebraska Pharmacy Association to develop and garner their support of the language that you have before you. This proposal would provide athletic trainers with the ability to have emergency medications available to respond to emergencies and administer those medications. This bill also provides for the development of rules and regulations to ensure that this is done in a

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safe manner. Finally, we want to update the modalities of athletic trainers are able to use. This bill seeks to update the language and terminology to allow credential holders to continue to use what can currently be used and also include mechanical modalities, which includes dry needling. As with the emergency medication, there is rules and regulations that are being recommended be promulgated through the rules and regulation process. I will close by encouraging you to improve this bill and move it out of committee. Passage of this legislation would result in the ability of athletic trainers in the state of Nebraska to practice to the full extent of our education and training, at the same time, a greater number of Nebraskans will be afforded access to a skilled health care professional in a safe and effective manner. And with that, I would close and accept your questions.

ARCH: Thank you. Questions? Senator Williams.

WILLIAMS: Thank you, Chairman Arch, and thank you, Rusty, for being here. A few questions come to mind and you started by talking about that you're currently limited to athletes because of being an athletic trainer. Can you give an example of what-- if we pass this legislation, an example of something outside of the athlete that would come under the scope?

RUSTY MCKUNE: Yes. Thank you for the question, Senator Williams. You know, I think this is the perfect example of why this is needed. You know, currently, we can-- we can treat a sprained ankle in an athlete because they're an athlete, but a person walking down the street, we can't-- that sprains an ankle, we can't sprain that ankle. Another perfect example, especially in Nebraska. Look, given the rural settings in Nebraska, if we have a-- a rancher that's working in the field, they lift up a hay bale and strain their back, same mechanisms, same-- same motions, mechanical motions as a dead lift that an athlete performs. And yet we can't-- we couldn't treat that strained back on the rancher because they're not an athlete. They don't meet that definition. So, again, as you'll see within the-- the-- the bill, we want to make sure that we're treating and working with-- with the types of conditions that we're educated to treat. And currently, because of the term athlete, there's-- there's injuries and conditions in the general population that we don't have access to simply because they're not athletes. I think the best way to probably summarize that

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is that we know that athletes can sustain nonathletic types of injuries and nonathletes can sustain athletic types of injuries, but we can't treat those.

WILLIAMS: Thank you. You talked earlier in your testimony about the 407 process that you have completed with the-- the-- the minor glitch that we don't-- you don't have that letter yet--

RUSTY McKUNE: Right.

WILLIAMS: --from the Health. Do you know a timing on when that might show up?

RUSTY McKUNE: We don't. We-- we have not heard on that yet.

WILLIAMS: In your judgment, does the language of the 407 is-- is this bill match the language of the application for the 407?

RUSTY McKUNE: From the standpoint, it does not exactly match the 407, but what it does do is, as we left the 407 process, one of the things that the 407 committee encouraged us to do was to continue to work with and collaborate with those who were supportive of the bill, but also with those who were opposed to the bill. And one of the things that we did when we left that 407 process was to try-- and I think one of the reasons that they wanted us to continue to work was to try to-- to work through some of the opposition and work through some of the things that we disagreed on. And so we went to great lengths to continue to work with them on language that we could come to an agreement on, language that we could all agree to. And that-- so there's a few-- there's some changes in there. I think what you would find if you compared what the amended language at the end of the 407 process is, compared to this language, you'll find that this language is more concise. It has some further constraints in it, guardrails, if you will, to help ensure public safety. I think the best example of that is some of the language that was presented to us by the physical therapists after-- it was initially presented after the amended proposal with the public hearing. But it includes opportunities for especially in the outpatient setting, some standards relative to the documentation that we keep. And a lot of those standards seem like it's just common practice. It's things that we should be doing anyway. But in looking at it and in talking with the physical therapists, we

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agreed that it was a strong opportunity for us to-- to further ensure and help provide these standards so that patient safety could be accomplished. So everything that-- that-- that has changed from the application, and what was approved in the 407, has been changed with the goals of trying to improve patient safety and also in trying to follow through with the spirit of what the 407 committee had encouraged us to do and that was to continue to collaborate with all that we've been working with. You know, we've-- we've sent out 24 letters to different groups and different stakeholders around the state. And-- and we've had feedback from-- prior to the 407, I think we got feedback from 17 and we had some opponents. We were able to work through some of those things prior to this process that we're here today for. We sent out 24 letters. We received 18 back, you know, so-- so we're trying to continue that collaborative process, and I think that was the spirit of what the 407 was.

WILLIAMS: I think-- and I think through that, what I would take is, I think it would be your statement that there's nothing in LB436 that tries to expand the scope beyond what the 407--

RUSTY MCKUNE: Correct.

WILLIAMS: --was.

RUSTY MCKUNE: Correct.

WILLIAMS: I guess one-- one final question. You have hinted at the fact that there will be potentially some opposition to-- to LB436, in particular maybe from the Physical Therapy Association. How would you answer their concerns at this point?

RUSTY MCKUNE: Well, I do not know specifically what their concerns are at this point. Based upon some previous conversations, I think that their concerns is simply that we did not include them in the list of providers who could refer to us. You know, as I indicated, the term diagnosis came-- it was included at their suggestion. But if you look at the list of providers in statute that can refer to us in the outpatient setting, every one of those providers can diagnose. And the simple reason that the physical therapists were not included on that is that they can't diagnose. That dia-- diagnostic capability was something that was included to ensure that-- that, again, from a

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patient safety standpoint. And we feel that-- that by having that group defined and limited simply to those individuals who can diagnose, it helps establish and maintain those guardrails. And it also gives us an objective measure to identify who can and can't refer to us so that it doesn't appear as if we're playing favorites with any profession over another. And-- and again, we've got that objectivity to go back to statute.

WILLIAMS: Thank you. Thank you, Mr. Chairman.

ARCH: Other questions? I have one.

RUSTY MCKUNE: Yes.

ARCH: You used-- you used the term can-- can refer to you. I'm assuming that's, may refer to you.

RUSTY MCKUNE: Yes.

ARCH: But do you-- are you required to have a referral before-- can you-- can you practice independently?

RUSTY MCKUNE: In the-- we may not practice independently. We have to practice in our traditional setting, which is high schools, colleges, professional sports. We have to work under guidelines established with a physician. In the outpatient setting, the existing language that we have today, as well as what is contained in LB436, requires that we have a referral from a health care professional. And that is-- and that-- and so those are the individuals that may refer to us. We do not have direct access. We cannot be a portal of entry. And that was one of the things-- that was another thing that we really worked hard with the Chiropractic Physician Association and Nebraska Medical Association and the physical therapists, really all of them, to ensure that-- that that isn't what we were trying to accomplish and to have language in there that assured that.

ARCH: So you need a referral from-- from as you've-- as you've defined it, from a profession that can diagnose. I see. OK. Any other questions? Seeing none, thank you very much for your testimony.

RUSTY MCKUNE: Thank you very much.

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ARCH: Next proponent for LB436.

MICKI CUPPETT: Good afternoon, Chairman Arch, members of the Health and Human Services Committee. My name is Micki Cuppett. That's M-i-c-k-i, last name is C-u-p-p-e-t-t. I'm here today to testify in strong support of LB436 to update the Nebraska athletic training statutes. I've been an athletic training and medical educator for more than 30 years with expertise in curricular development and accreditation. I served as faculty and program director for athletic training at the University of Nebraska-Omaha, for several years prior to taking the same position at the University of South Florida. I still have ties to-- to Nebraska as both of my sons and their spouses live in Omaha and return to the area frequently. Today, I will quickly address the educational content, quality and quantity required of all athletic training at vocational programs that must be accredited by the Commission on Accreditation of Athletic Training Education, or CAATE is their acronym. The profession of athletic training has evolved as nearly 20 percent of all athletic trainers now work in a nontraditional setting such as industry, occupational health, physicians clinics and hospitals. In recognition of changing practice settings, athletic training education is also involved, especially if you consider the changes since the last time the Nebraska athletic training statutes were revised in 1999. Four sets of educational standards that elevated AT education as respected pathways for students interested in health care. These standards were revised in 2001, '05, 2012 and 2020. Similar to other health care professions, AT students must complete prerequisites in the basic sciences and now must complete a masters degree in athletic training, including extensive clinical education. The last time the Nebraska statutes were revised, AT curricula mainly focused on musculoskeletal conditions in the active, healthy athlete. Today, AT education includes expanded patient populations in both didactic and clinical education of the students and extensive education on nonmusculoskeletal and comorbid conditions. Students must be competent in performing an exam to formulate an assessment and plan of care for patients with health-- health conditions commonly seen in athletic training practice, including identifying comorbidities and patients with complex medical conditions. Students must be competent in recognizing conditions across all body systems. They are now expected to be proficient in the use of metered dose inhalers, nebulizers, epinephrine,

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bronchodilators, nitroglycerin, glucagon and insulin. In addition, students must be confident in the administration of rescue medication such as naloxone and administration of oxygen and other medications by appropriate means upon the order of a physician. Clinical education, too, has expanded. Even in 2001, the standards for accreditation required programs to provide education and clinical experiences with specific medical conditions. The language was then strengthened in 2005 and again in 2012. Students must gain clinical education experiences that address the continuum of care that would prepare students to function in a variety of settings with patients engaged in a range of activities. Then the 2020 standards has further strengthened that language. Students must have a-- have experience with populations, including patients and clients, throughout the lifespan of different sexes, different socioeconomic statuses and of varying levels and activity-- of activity and athletic ability, and who participate in non-- non sport activities. For example, participants in military, industrial, occupational, leisure activities and performing arts. Standard 18 also requires that students gain patient-- gain experience with patients with a variety of health conditions commonly seen in athletic training practice. So students interact with patients with emergent, neurological, dermatologic, cardiovascular, respiratory, gastrointestinal and other medical conditions to prepare them for practice. Nonathletic training clinical sites are currently used by athletic training programs, including Cirque du Soleil, the Blue Man Group, Radio City Music Hall Rockettes, and industries such as Toyota, Boeing, NASA and Work-Fit. So students have to have experiences with these-- with these types of populations, but in Nebraska would not be able to treat those types of patients. I hope that my comments today help clarify the quality and quantity of athletic training student education, especially concerning requirements for experience with nonathletic and nonorthopedic patients with comorbid conditions. These requirements have been included in the standard since 2001. The required professional knowledge has continuously changed and reflected in each set of standards as the practice of athletic training has changed. Athletic training education has evolved and now should the-- and now so should the state statutes for athletic training in Nebraska reflect current practice and the needs of Nebraska patients. Thank you for your time. I'll take questions if there are any.

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ARCH: Thank you. Are there any questions? I just have one. Where are the training programs in Nebraska?

MICKI CUPPETT: In Nebraska, they're at the state university system. So University of Nebraska-Lincoln, Omaha, Kearney are the three main programs and others-- anybody help me out with those?

ARCH: Maybe somebody can--

MICKI CUPPETT: Nebraska Wesleyan as well.

ARCH: Nebraska Wesleyan, OK. Thank you very much.

MICKI CUPPETT: Thank you.

ARCH: Thank you for your testimony. Next proponent for LB436. Welcome.

ANNE MINTON: Hello. Thank you. Chairman Arch, and members of the Health and Human Services Committee, we appreciate the opportunity to meet with you today and provide testimony for support of LB436. My name is Anne Minton, A-n-n-e M-i-n-t-o-n. I am the Chief Executive Officer of the National Board of Certification for Athletic Trainers, short, BOC. We are the only independent credentialing agency in the U.S. who provides a credentialing program for the athletic training profession. We focus on public protection, much like you do. The BOC, incorporated in 1989 and headquartered in Omaha, is recognized nationally and-- and accredited by a national commission of certifying agencies, the same organization who accredits occupational therapists and other health certification agencies. I have been with the BOC for over 22 years, serving the first 20 years as chief operating officer and became CEO in 2019. I have watched this profession transform and grow over the last 22 years as athletic trainer education and training has evolved through evidence-based practices. Currently, 49 states and the District of Columbia recognize the BOC exam as part of their requirements to obtain a license to practice athletic training. California is the only state that does not regulate the practice of athletic trainers. The BOC exam is based on a practice analysis and it is a national-- in a national scope. The practice analysis is valid, is a validated study that identifies essential knowledge and skills for the athletic training profession, and serves as the blueprint for exam development and continuing competence programming. This is the

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credentialing industry's gold standard for developing certification exams. As practice changes, we conduct a new practice analysis. We are currently in development of the eighth practice analysis. It is-- it was estimated that in 2020 the body of knowledge in health care is doubling every 73 days. Staying abreast of the most current evidence-based treatment, demands a commitment to professional development. The AT profession has required continual professional education or CE since 1979. The BOC requirements are intended to promote continued competent-- competence and development of current knowledge and skills and judgment. To maintain the BOC certification, an athletic trainer must obtain 50 continuing education hours every two years. From 2016 to 2019, over 83,000 CE courses have been offered nationally, 1,000 of those offered here in Nebraska, many of which are approved courses for other health care professions. The athletic trainer must provide proof of ongoing certification of emergency cardiac care and come-- and comply with the BOC standards of professional practice. That includes practice standards and code of responsibility-- professional responsibility. If an AT provides services to a patient whose condition falls outside of their scope, they would be in violation of the Nebraska statutes, current or proposed. The final measure of public protection lies with the disciplinary statutes and rules and regulations that this provides the public for an avenue for action. The A-- an AT who violates the Nebraska Practice Act also violates the BOC standards of professional practice and faces disciplinary action from the BOC. A review of the past 10 years of disciplinary cases for athletic trainers in Nebraska shows that the most common action has been practicing without a license. Therefore, in my 22 years, we have not had any cases where violation of scope of practice was involved. The language in LB436 includes aspects of other state practice acts that have similar language and intent. This language doesn't define who ATs can treat, but rather the injuries, illnesses or conditions that they are educated and trained to treat. Starting with Vermont's Practice Act enacted in 1999, then Georgia, then Ohio in 2018, most recently in Missouri in 2020, there have been no discipline cases where ATs practice outside of their scope. As health care is ever changing, it is impossible to forecast future scenarios. However, LB436 is designed to allow ATs to grow their knowledge, skills and abilities in order to use best practice to safely provide patient care. The BOC is a proponent of LB436 and request this committee to support, approve and

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send this bill forward to ensure that Nebraskans have access to safe health care. Thank you for your consideration.

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

ANNE MINTON: Thank you very much.

ARCH: Next proponent for LB436. Welcome.

BRAD STAUFFER: Hello. Thank you. Good afternoon, Chairman Arch, and members of the Health and Human Services Committee. My name is Dr. Brad Stauffer, B-r-a-d S-t-a-u-f-f-e-r. I'm a practicing chiropractor in Gretna, Nebraska. I am also the vice president of the Nebraska Chiropractic Physicians Association, as well as their legislative chairperson, and I am testifying today on the Nebraska Chiropractic Physicians Association's behalf. This initiative's first 407 technical review meeting, our association had concerns about the original language as we felt it had left loopholes that could be exploited. Following that meeting, we sat down with the athletic trainer representatives and what we found is a very refreshing willingness to work together to find mutually agreeable language. We believe that the resulting product that you see today is a vast improvement and something that we can support. While we have not addressed every change that was made, I'd like to touch on a few that we consider the most important. Of greatest concern to us was the now included clause that makes it clear that the athletic trainer scope of practice does not include joint manipulation, which is sometimes also referred to as grade five mobilization. It's a very specific procedure that involves a high velocity, low amplitude thrust intended to result in a joint cavitation, that popping sound commonly associated by the public with the chiropractic or an osteopathic manipulation. It's a very safe and specialized procedure that requires highly specialized training and diagnostic authority to be performed safely. As part of the discussion, we have agreed that the athletic trainers should not be prohibited from performing grades one through four mobilizations. So we do feel that they should be able to perform grades one through four. With regard to dry needling, while we do agree that this legislation will allow athletic trainers to perform this procedure, we request that they establish a reasonable educational requirement to perform dry needling. They've agreed that such an education

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requirement is important to assure the proper and safe use of dry needling and we both agreed that the proper place for such language-- languages in their rules and regulations, which will be adjusted appropriately later. It is noteworthy that doctors or chiropractics are included on the list of providers that are allowed in LB436 to refer to athletic trainers. In those discussions, a defining characteristic was the statutory authority to diagnose. Doctors or chiropractics do have the ability to complete and will order a wide range of diagnostic testing, including, but not limited to bloodwork, X-rays and advanced diagnostic procedures like MRI and CT scans in the process of building a diagnosis. And I wanted to stop here and go back. I think it's important to stop here and clarify the difference between diagnosis and treatment. If I use my own practice as an example, over the last few weeks, I diagnosed reduced blood flow in a patient with light pain and made an appropriate referral to a cardiologist, identified a large cervical disc herniation via MRI on a patient that is going to require mutual treatment with the neurosurgeon, and completed an X-ray to rule out a tumor in a case of shoulder pain that would have required an appropriate referral if found. While we may not treat such conditions, we have the wide ranging ability to test for, diagnose and appropriately co-manage or refer conditions that may need additional care, typically contemporarily known as portal of entry as a provider performs a diagnosis leading to treatment or an appropriate referral for additional treatment, including specialized care, athletic training service, physical therapy, etcetera. In closing, I'd like to reiterate that we fully support the athletic trainers in their attempt to pass LB436 as the culmination of a long 407 process. We believe this is a well-crafted bill that appropriately adjusts the athletic trainer scope of practice. The intended goal, the 407 process, is to establish practice guidelines that protect the safety of Nebraska patients and we believe this bill meets that goal. We feel that throughout this process or association and athletic trainer representatives, put aside our own interest and concentrated on the safety of Nebraska's patients. It has always been the goal, the Nebraska Chiropractic Physicians Association, to put access to service and safety for patients to the forefront of our deliberations. And I'd like to thank the athletic trainer representatives for working so collaboratively with us throughout the process. And I also want to thank the members of the Health and Human Services Committee today for listening to me

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and considering our insight on this bill. And I'd be happy to answer any questions you may have.

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

BRAD STAUFFER: Thank you.

ARCH: Next proponent for LB436.

KODY MOFFATT: Good afternoon, Chairman Arch, and members of the committee. My name is Dr. Kody Moffatt, K-o-d-y M-o-f-f-a-t-t, testifying on behalf of the Nebraska Medical Association in support of LB436. Like others, the NMA has greatly appreciated the open and transparent dialogue from the Nebraska State Athletic Trainers Association that started back in the fall of 2019 as they worked through their 407 proposal with various stakeholders, and we thank them for valuing the input of Nebraska's physicians. We recognize the unique role that athletic trainers play in the delivery of health care in Nebraskans. I have worked with athletic trainers in multiple settings for years as a professional who by virtue of my training and practice act, can provide a diagnosis and have the choice to refer to the appropriate provider for treatment that-- and the treatment is best suited for-- for my patients. I understand the depth of their education and value their skill set across the lifespan. I know and trust the continuing education upskilling requirements. We'll provide the-- the treatments based on evidence-based care. The NMA is supportive of the changes sought by LB436, which aims to modernize their Practice Act while maintaining patient safety and quality of care to the public. We believe that the education and professional preparation-- preparation in combination with the other provisions that support the evolution that this bill seeks. With the retention of the requirement in state law that athletic trainers practice under the guidelines established by a physician, we believe that patient safety will be maintained with the expansion of the modalities and interventions addressed in this bill. Additionally, the NMA supports the language that specifies more clearly the situations in which athletic trainers are permitted to treat injuries, common illnesses and the conditions of the patients that they see and that athletic trainers do not diagnose, but rather take an impression of the patient before them. The NMA participated in conversations with the NSATA and

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the Nebraska Pharmacists Association regarding the proposed emergency drug language on page three of the bill. We recognize both the need to have this ability in their scope of practice for enhanced patient safety, in emergency situations and the concerns over proper storage, oversight and administration of these emergency drugs. We anticipate that the NSATA-- we appreciate that the NSATA acknowledges that athletic trainers will carry more of a burden in order to ensure proper storage, oversight and administration of emergency drugs. And we look forward to providing input to the board regarding those rules and regulations. The NMA would like to thank the committee for affording us this opportunity to provide feedback and physician insight on the proposed changes sought by the athletic trainers. And we again thank the NSATA for their efforts in continuously seeking to find the language that all stakeholders can reach an agreement on. And I'm happy to answer any questions you may have. Thank you. And my goal was to not see the yellow light.

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

KODY MOFFATT: Thank you.

ARCH: -- and nice to see you again, Dr. Moffatt.

KODY MOFFATT: Good to see you, Senator Arch.

ARCH: Next proponent for LB436.

TREVA HAUGAARD: Good afternoon, Chair Arch, and members of the committee. My name is Treva Haugaard, T-r-e-v-a, and the last name is H-a-u-g-a-a-r-d. I am the executive director of the Council of Independent Nebraska Colleges, also known as the CINC. The Council of Independent Nebraska Colleges is supportive of LB436, and appreciate Senator Hansen for introducing this bill that, if passed, would allow athletic trainers to work to their full potential in the state of Nebraska. CINC represents all thirteen of Nebraska's private colleges and universities. Our campuses are located from Omaha to Hastings and encompass the state's largest metropolitan area into our rural communities. Just as Nebraska is diverse, so, too, are the independent campuses across our state. A little background about the CINC member schools. Collectively, our Nebraska independent colleges and

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universities educate nearly 35,000 students per year. This includes the highest percentage of minority students in the state. These same higher education institutions award 30 percent of the state's bachelor's degrees, 40 percent of the business degrees, 30 percent of education degrees and over 50 percent of degrees in health sciences. Nebraska-- Nebraska Wesleyan University and Midland University, two CINC member schools are among five accredited professional educational programs for athletic trainers in the state of Nebraska. It would-- it should also be noted that all thirteen of our member schools employ and work with athletic trainers to support their various athletic programs. Our student athletes deserve to have the most qualified and skilled trainers to support them during their athletic careers. CINC views the passage of LB436 as a measure that will help and increase Nebraska's brain gain. By keeping bright minds and attracting new ones, we aim to provide higher quality of life for Nebraskans. This makes the state attractive to a more qualified work force. This bill also encourages the addition of high paying jobs and high growth sectors. That, in turn, enables the state to adopt more H3 careers, which leads to more jobs that attract brighter minds, which once again increases the quality of life and creates a continuing cycle of growth. LB436 will help Nebraska improve brain gain and allow for graduates to see the opportunity of utilizing their degree to the fullest potential and thus seeking gainful employment in the state. With an increase of concern of brain drain in Nebraska, this is an easy bill with no fiscal note, which will attract new talent to Nebraska while also encouraging our graduates to remain in Nebraska. In addition, students who graduate in this field will be in a better position to live the good life with the passage of LB436. This bill will help students, employers and will help Nebraska. For these reasons, the Council of Independent Nebraska Colleges supports LB436 and asks you to please advance this bill.

ARCH: Thank you. Are there any questions? Seeing none, thank you for your testimony. Next proponent for LB436. Seeing none, first opponent for LB436. Welcome.

GRACE KNOTT: Hello. Senator Arch, and members of the committee, my name is Grace Knott, G-r-a-c-e K-n-o-t-t. I'm a physical therapist testifying today on behalf of the American Physical Therapy Association, Nebraska chapter. I serve as the current president representing 1,400 members, physical therapist in the state of

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Nebraska. I am testifying in opposition to LB436. We do appreciate the dialogue with the athletic training profession before, during and after the 407 process. We do not oppose many parts of this revision to their Practice Act. We appreciate a health care profession wanting to expand its practice when need for such expansion exists in the profession, present evidence of competence supporting the expansion. APTA Nebraska speaks in opposition because the current bill does not include a physical therapist as one of the health care providers that can refer to an athletic trainer. During the 407 process, we believed there was inadequate discussion to argue in support of a PT to be included. We believe it is in the best interest of Nebraskans that a physical therapist can refer to an athletic trainer to ensure continuity of care during the rehabilitation process, when a patient's needs may be better aligned with the skills of an athletic trainer. Justification for inclusion of the physical therapists in a list of health care providers who-- who may refer to an athletic trainer, include number one. Physical therapist are direct access providers in Nebraska, which improves earlier patient access to safe quality care by minimizing the need for unnecessary referrals or health care visits. Physical therapists are experts in movement, science and rehabilitation practice. Physical therapists are highly skilled and authorized to manage and direct the rehabilitation process. The doctor of physical therapy degree is required for all accredited entry level physical therapists education programs. Doctorate level education is required in order for the physical therapist to sit for the national licensure examination. Four. The request-- referral relationship is currently well-established between orthopedic physical therapists and athletic trainers. Five. The following language is indicative of standard practice reflected in statutes in other states. Delaware. Athletic trainers can only treat by [INAUDIBLE] or evaluation by supervising physical therapists. Kentucky. Athletic trainers can only treat an injury or condition if it is within their scope of practice determined by a physician, physical therapist or an occupational therapist, Maine. Athletic trainers can also see a recreational athlete after referral from a doctor of medicine, osteopathy, podiatry, dentistry or a physical therapist. Minnesota. Requires they need to work under the direct supervision of a physical therapist. Ohio and Utah boldly allow a physical therapist to refer patients to an athletic trainer. Arkansas. In a clinical nonathletic setting, an athletic trainer must be directly supervised by a physical therapist.

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During the 407 process, APTA Nebraska was told that physical therapists do not diagnose. We are not able to refer patients to the athletic trainer. Providing a diagnosis for physical therapy intervention is standard in physical therapists practice and is required by all insurance carriers. The American Physical Therapy Association developed the Guide to Physical Therapy Practice and direct response to request from state legislative bodies for practice parameters associated with various health care professions. The document is widely used by educational programs, insurance companies and governmental entities. The patient management model described in the Guide to Physical Therapy Practice includes diagnosis. As a necessary skill for developing the patient's plan of care, elements of the model include examination, evaluation, diagnosis, prognosis, intervention and outcome. If physical therapists were added to the list of health care providers who could refer patients to the athletic trainer, APTA Nebraska would have no opposition to this bill. I ask you to carefully consider an amendment to this bill to enable physical therapists to refer to an athletic trainer, thereby improving the care process for the patients that we serve. And I will take any questions now and thank you for allowing me to testify today.

ARCH: Thank you. Are there any questions? Senator Williams.

WILLIAMS: Thank you, Chairman Arch, and thank you, Ms. Knott, for coming back again.

GRACE KNOTT: And I did it within five minutes. I hope you guys realize that.

WILLIAMS: I know, Senator Arch was watching that pretty close.

GRACE KNOTT: I know. I know. [LAUGHTER]

WILLIAMS: I want to try to better understand the distinction between who can diagnose and-- and who can't and who is an initial port of entry. I'll use that term. Can you help me between physical therapists and athletic trainers.

GRACE KNOTT: Well, as a physical therapist, we first look at the patient. We take a history with a patient. We look and we do what we call a systems review that helps us establish what we call a

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differential diagnosis. Basically, is it within our scope to treat this patient? Does he need-- I'll give an example. And the chiropractor physician's testimony said this, which physical therapists do also. Take a look at a low back pain patient, do an examination, doing our test, finding out it's not typical, something's going on. And this has happened more than once in all of our careers, something didn't add up. We refer back to the physician and find out that he had bone cancer. And this happens. You know, I think of another time is seeing a patient realizing that this wasn't normal, referring back to the physician, and find out that there was a fracture present.

WILLIAMS: So-- so, physical therapists diagnose?

GRACE KNOTT: Correct. I provide a diagnosis for treating that patient.

WILLIAMS: Do athletic trainers diagnose?

GRACE KNOTT: That, the athletic trainers would have to-- they do an impression what they just testified, but they can-- they can state more what was in their Recs.

WILLIAMS: And as I understand the testimony, if I wanted to go see a physical therapist, I could go directly there--

GRACE KNOTT: That is correct.

WILLIAMS: --I would not need a referral. Do I also understand that to go to an athletic trainer, I would need a referral?

GRACE KNOTT: That's correct.

WILLIAMS: That's the way we are now. So your hang-up is that you can't refer to an athletic trainer?

GRACE KNOTT: That's correct. And it happens a lot of times when-- we might give an example. A physical therapist is working in a small town and maybe there's an athletic trainer in that town and there is a marathon runner in that town. And maybe my practice is more focused on the older adult. Maybe I have a contract with a skilled nursing facility and maybe I feel like I don't have enough up-to-date education and training on running dynamics. I would refer to that

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athletic trainer for that patient, instead of me, myself, treating that patient.

WILLIAMS: Thank you for helping me understand that.

GRACE KNOTT: Thank you.

ARCH: Other questions? I just want to follow up with-- with one question Senator Williams was asking. So practical implications, not having physical therapists in this bill with the ability to refer.

GRACE KNOTT: That's correct.

ARCH: What's-- what's the practical implications to the practice of physical therapy?

GRACE KNOTT: The practical would be, let's say I'm in an outpatient clinic and I want to refer this individual for athletic training services, he doesn't need physical therapy services, but more athletic training services. If this bill is passed, as it's written right now, I-- he would have to go back to the physician, incur another copay just for the physician to say, yes, you can go to the athletic trainer.

ARCH: I see. OK, that's helpful. Thank you. Thank you for your testimony. Next opponent for LB436? Seeing none, is there anyone that would like to testify in a neutral capacity for LB436? Seeing none, Senator Hansen, you may close. As you're coming up, I would mention that we've received eight letters as proponents for-- for this bill, no opponents and one neutral. And we also received three written testimonies, all proponents, Athletic Training Educators, Nebraska State Athletic Trainers Association, Student Leadership Council and the American Massage Therapy Association, the Nebraska chapter. You may close.

B. HANSEN: Thank you. This is one of the easiest scope bills that we're going to have. Everybody-- I don't want to say this is a kumbayah moment, but it was pretty close. This isn't the typical turf war that we're used to seeing in scope bills. Even the physical therapist have been right now, it's not so much the aspect of the bills is that there was not a clue to the diagnosis. They really didn't have a problem with what they're doing. And it really doesn't

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seem so much an expansion of scope of practice as it does more of a modernization of what they're trying to do because of their education, because they haven't been-- this hasn't been modernized since the 90s. And so this is-- this is really one of the easier scope practice bills we're going to have for a while. And we've been involved. I know Senator Williams has, myself. People have been on here involved in other scope bills and this really is probably one of the most collaborative efforts I've seen so far with the scope of practice bill. We're getting everyone involved, getting language narrowed down to where everyone agrees on it. And so the negotiation process in here worked very well. And so I was really glad to see that. Right now I'll do my best to answer any questions, but I'm hoping we can get this bill through the committee this year because all the check boxes have been met and it really is a good bill and they're worthy of it. So, I'll do my best to answer any questions.

ARCH: Are there any questions? Senator Day.

DAY: Would you be willing to amend the bill to address the concerns of the physical therapists, or is there a particular reason why they were left out on the list of providers that could refer that would keep you from amending the bill?

B. HANSEN: That would take some discussion, again--

DAY: OK.

B. HANSEN: --because of the collaborative effort from all the groups that came together to make sure this is what everybody wanted. That one aspect might kind of interfere with what somebody else wants, and so I'm always open to anything, but that's something we're going to have to discuss with everybody else too.

DAY: OK.

B. HANSEN: Yeah.

DAY: Thank you.

B. HANSEN: Yeah.

ARCH: Other questions? Seeing none, thank you very much.

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B. HANSEN: Thank you.

ARCH: And this will close the hearing on LB436. We will now open the hearing for LB390, and Senator Murman, you are welcome to open.

MURMAN: Good afternoon, Chairman Arch, and members of the Health and Human Services Committee. For the record, my name is Senator Dave Murman, and that is spelled D-a-v-e M-u-r-m-a-n. I represent District 38, which includes the counties of Clay, Nuckolls, Webster, Franklin, Kearney, Phelps and southwest Buffalo County. I'm pleased today to open on LB390, which was introduced at the request-- request of Governor Ricketts. The purpose of LB390 is to allow holders of medical licenses from other states to more easily receive a license to practice in Nebraska. The bill addresses the shortage of credentialed health care practitioners regulated by the Uniform Credentialing Act and is intended to supplement and not replace existing methods of issuing a credential based on reciprocity or an existing compact. The origins-- the origins of this bill came from the Governor's executive order number 20-10 issued on March 27, 2020 after the coronavirus emergency to address additional health care work force capacity by suspending some credentialing requirements to make it easier for health professionals to work in Nebraska. A number of other states implemented similar measures at the time and experience to date has been beneficial. After the introduction of this bill, we were contacted by several individuals representing various health care stakeholders who desired to see certain changes to the bill. In a good faith effort to resolve their concerns, I'm offering an amendment-- and I've got that amendment here --that addresses those concerned-- concerns as we understand them. While Section 1 of the bill sets forth those practices that are included within the Uniform Credentialing Act, the original language of Section 3, subsection 6, exempted out certain practices. This amendment today further exempts additional health care practices and I offer a handout now that illustrates the health care practices that are covered by LB390. The amendment narrows the bill to professions who do not already have an expedited reciprocity process in place and exclude certain practices that already have an expedited reciprocity process-- process which this bill would have made redundant. Section 2 of LB390 removes the residency requirement for the issuance of a temporary credential to a spouse of an active duty member of the United States Armed Forces assigned to duty in Nebraska. Section 3 provides that a person who has

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a current and valid credential in another state for at least one year may apply for an equivalent credential after submitting the required documentation fees and passing a criminal background investigation, if required. The relevant board will determine the appropriate credential and the department determines the documentation required. The applicant's current credential cannot have been subject to revocation, other disciplinary action for other conduct, which would have disqualified them in Nebraska. If they meet all of the requirements, health care professionals may obtain a Nebraska license before moving here. However, in accordance with the amendment, an applicant who obtains a credential pursuant to the provisions of this bill must establish residency in Nebraska within 180 days after issuance of the credential. If they fail to comply with this section, the department shall revoke the credential. This requirement was added to address concerns from physicians that telemedicine practices would encroach on their business without such practitioners moving to Nebraska. However, the Nebraska-- Nebraska physicians are part of an interstate compact, which already allows this to occur regardless of whether this bill passes or the Governor's executive orders expire. Please note that eight other states, including our neighboring states of Iowa and Missouri, have similar laws now. A number of other states, including our neighbors of South Dakota and Wyoming, are pursuing-- pursuing similar legislation this year. LB390 simply builds up existing executive order number 20-10. It does not replace the current requirements, but offers an alternative. Due to a scheduling conflict, the Governor is unable to be here this afternoon, but he asked me to read this letter into the record. I have copies of that too. Thank you for your consideration of LB390-- but let me read that letter first. Dear Chairman Arch, and members of the Health and Human Services Committee. Thank you for the opportunity to have this letter read into the record. Scheduling conflicts prevent me from appearing before you to support LB390. I especially thank Senator Murman for his leadership in introducing the bill. At its heart, LB390 is designed to attract health care professionals to Nebraska. The bill provides an easier route for those licensed professionals who live in other states to obtain a license to practice in Nebraska. The bill also allows health care professionals to obtain a Nebraska license before moving here. This will especially benefit military spouses see-- seeking reciprocity for their licenses when moving to Nebraska. LB390 builds on efforts to increase the health care work force through executive

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order, 20-10, which I issued last year at the request of hospitals, doctors and others. Health care professionals-- professionals, hospitals, nursing homes and other health care facilities will all benefit from making it easier to obtain health care licenses when moving to Nebraska. This is a jobs and growth bill. It makes it less burdensome to move to Nebraska to make a living as a health care professional. The simple goal of LB390 is to add yet another method that licensed professionals from other states can use to get licensed more efficiently. I welcome the opportunity to work with the committee so that LB390 can be advanced to the General File. Sincerely, Pete Ricketts, Governor. So thank you for considering LB390, and at this time I'd be open to questions, but there are professionals behind me that can probably answer better than I can.

ARCH: Thank you. Are there any questions for Senator Murman? Seeing none, thank you very much. At this time we'll have the first proponent for LB390. Welcome, Dr. Anthone.

GARY ANTHONE: Thank you, Chairperson Arch, and members of the Health and Human Services Committee. My name is Gary Anthone, G-a-r-y A-n-t-h-o-n-e, and I'm the chief medical officer and director of the Division of Public Health at Department of Health and Human Services. I'm here to testify in support of LB390, which would provide an additional method of issuing credentials based on reciprocity and a supplemental to the methods of credentialing found in the practice acts within the Uniform Credentialing Act. This bill is intended to bring health care professionals to the state of Nebraska. LB390 requires that applicants for credentials based on reciprocity hold valid and current credentials in another state or U.S. territory or the District of Columbia for at least one year. Applicants must also provide specific documents-- documentation set forth in Section 3, item 3 of the bill, such as educational requirements, minimal work experience, clinical supervision requirements and passage of an examination. The department would determine the documentation required to be submitted in compliance with Section 3 of the bill, and the board with jurisdiction over the equivalent credential would determine the appropriate level of credential for which the applicant applies-- or qualifies. Applicants would not be eligible for this method of reciprocity if they fail to submit the required documentation or if they had a credential revoked or voluntarily surrendered while under investigation for unprofessional conduct in any jurisdiction.

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Additional grounds for disqualifications are included in the bill. This additional method of reciprocity would not apply to professions which are not regulated by the Uniform Credential Act or to those under certain practice act named in the bill. LB390 continues the efforts to increase Nebraska's health care work force led by Governor Ricketts throughout the pandemic by providing an easier route for licensed health care professionals to obtain a license to practice in Nebraska. As a physician that has practiced and successfully managed health care professionals in both California and Nebraska, I recognize the importance of recruiting and retaining highly skilled health professionals. Additionally, training and expertise should be valued as highly as licensure. Opening pathways for qualified health care professionals to enter our state is essential to ensuring access to health care in growing our health care work force. DHHS worked with Senator Murman and the Governor's Office on an amendment to clarify language in the bill and to address concerns that were raised during conversations with stakeholders. To address concerns that some applicants for reciprocity under LB390 would get their Nebraska license solely to deliver care through telemedicine without moving here, the amendment adds a requirement that applicants who obtain a credential through this process must establish residency within 100 days of being granted their license. After all, the goal of the bill is to increase the number of practitioners who live and work in Nebraska. Another concern that stakeholders shared was that they already possess expedited reciprocity methods beyond compacts or standard license based on a license in another state. To address these concerns, the amendment limits the use of the new reciprocity method to professions which do not already have an expert-- expedited reciprocity process beyond a compact. The amendment now lists which practice acts are subject to the bill instead of which are excluded from the bill. In summary, LB390 would enhance mobility by providing an additional method of obtaining a credential based on reciprocity for certain professions under the Uniform Credentialing Act. We respectfully request that the committee support LB390 with the amendment and move it forward to the floor for full debate. Thank you for the opportunity to testify today. I'd be happy to answer any questions.

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

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B. HANSEN: Thanks for coming to testify, Dr. Anthone. I appreciate it. How many other states do this?

GARY ANTHONE: Right now, there are eight other states with this reciprocity--

B. HANSEN: OK.

GARY ANTHONE: --process and two in the process of obtaining right now.

B. HANSEN: And I think-- I think with the amendments you were talking about-- having to do with compacts in the rest of the world is what we're kind of dealing with, so would this override a compact, does this work in conjunction with the compact, or if a practitioner wants to stay with the compact instead of this, like--

GARY ANTHONE: Normally, I think a practitioner would stay with the compact if we have a compact with that state, but if we don't, then this reciprocity bill would take that place.

B. HANSEN: OK. Thanks.

ARCH: Other questions? I have one. I've been trying to put these pieces together for some time and understanding, so-- so now we're saying we're identifying those things that are-- that the professions that are-- physicians already have an expedited process, is that correct?

GARY ANTHONE: Correct. What the com-- 32 states we have a compact with, yes.

ARCH: Oh, OK. Within a-- within a compact, OK. So, if there is a state and there is a profession that would be on the list, we would still as a state, the board, would determine educational requirements all-- all of the requirements. It's not a-- it's not an automatic acceptance of a license from another state, it's still governed by the requirements of our state.

GARY ANTHONE: That is exactly correct. The-- the-- it would be vetted out through that process also, yes.

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ARCH: OK, OK. Any difference in fees for application or for obtaining the license, any-- anything there that would be-- that would be different. Would they still need to pay an application fee and all of that.

GARY ANTHONE: Yes, all that would stay the same.

ARCH: OK. In the case of compacts, we-- we-- rather than issuing a license, I think we call it a privilege to practice. Is that-- is that correct?

GARY ANTHONE: I think so, yes.

ARCH: OK, so this is-- this would actually issue a license in this-- in this process of reciprocity.

GARY ANTHONE: That is correct, yes.

ARCH: OK. All right, thank you. Any other questions? Seeing none, thank you very much for your testimony. Next proponent for LB390. Welcome.

ANDY HALE: Thank you, Senator Arch, members of the HHS Committee. I am Andy Hale, A-n-d-y H-a-l-e, and I am vice president of advocacy for the Nebraska Hospital Association. And I want to thank you for this opportunity to present testimony as the NHA supports LB390 with the proposed amendment. The health care work force shortage affects Nebraska's physical health and its economic health. Lack of care impedes the ability of communities throughout the state to draw and hold residents and the businesses that employ them. This issue has become only more exasperated during the pandemic. There are substantial gap-- gaps in the distribution of health professionals across the state. Sixty-six of Nebraska's counties have been deemed medically underserved. Our hospitals struggle with attracting and retaining not only physicians and nurses, but other staff as well, such as technologists and technicians. In my handout that I have included today are several health care fields where the state struggles with work force. I'm basing those numbers from a study conducted by UMC and the Office of Rural Health Initiatives titled, The Status of Nebraska Healthcare Workforce: Update 2020. One of the problems we have is getting people licensed. We've heard stories about

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individuals relocating here, but unable to practice because they cannot get licensed. We've heard situations in our urban areas as well as our rural areas where those physicians and other licensors-- licensees, excuse me, are on campus, on site, and are able to practice because the license-- licensure process is held up. We believe that this will help speed up that process. We were concerned initially that this bill would basically open the door for what we would call bad actors, maybe individuals across different states that would utilize telehealth from those states and take away business from our hospitals and clinics and others and with never any intent of moving here to the state. But we worked with the Governor's Office, specifically with Stephen Berry in the PRO Office, and our concerns have been addressed in that amendment. Passage of LB390 will help with the recruitment and retention of health care professionals in Nebraska. It'll also expand health care coverage in the state. When we introduced this bill, or excuse me, when Senator Murman introduced this bill, he mentioned the pandemic and the executive order that the Governor issued in March. That was something the hospitals worked with other health care professionals to expedite that process and it's worked out very well, and so we would like to see that continue to go forward and this bill is a great way to do that. The NHA would like to thank Senator Murman and the Governor for bringing this bill with the amendment, and we encourage the committee to advance LB390, with the amendment, to General File. And before I take questions, if I could, I can't specifically address Senator Hansen's issues but as far as looking at this from a compact, the nurses have a compact with 34 other states, the medical licensure compact. I had 28 states, but it might be 30. Physical therapy is-- has 21 states. Psychology has 14 states involved and audiology and speech pathology has 6. And so bills brought by other senators, I should probably thank as well. In regards to that compact is Senator Blood has done a terrific job with getting compacts as well as Senator Kolterman. And so as you can see, those compacts have been great for us, but not every state-- state participates. And so when you have that licensee coming from that area, the process can get upheld. The last thing I will say is, we have worked with the Department of HHS prior to the pandemic with addressing this issue and they have been great to work with. The issue on their end with licensures at times is there's a lot that goes into doublechecking to make sure everything is correct. They have to reach out to other states and sometimes other states processes are slowed down as well.

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And so I want to thank the DHHS team that we've worked on probably for the last two years before this pandemic as well. So with that, I'll take any questions, Senator.

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

ANDY HALE: Thank you.

ARCH: Next proponent for LB390.

ASHLEE HENDRICKSON: Chairman Arch, and members of the Health and Human Services Committee, my name is Ashlee Hendrickson, A-s-h-l-e-e H-e-n-d-r-i-c-k-s-o-n, and I am here today as the advocacy coordinator for the Nebraska Health Care Association. On behalf of our 423 nonprofit and proprietary skilled nursing facilities and assisted living communities across the state, I'm here to testify in support of LB390, a bill to provide for credentialing based on reciprocity, you heard. Skilled nursing facilities and assisted living communities in both the metro and rural areas of Nebraska have faced work force challenges for years but with the onset of the public health emergency, maintaining necessary staffing has only become even more problematic. Staffing is the largest expenditure for these facilities. However, wage and benefit amounts are limited by reimbursement, particularly when the high percentage of a facility's residents are reliant on the Medicaid program to pay for their care. Recently, there's been an increase in demand for enhanced staffing to meet the additional screening, testing, vaccination reporting and other regulatory requirements associated with COVID-19. During the public health emergency, Nebraska implemented certain occupational credentialing flexibilities that are helpful in meeting the demand for additional staff. On behalf of our members, NHCA appreciates that LB390 would extend the credentialing flexibilities for health care professionals from other states after the public health emergency ends. According to the American Health Care Association and National Centers for Assisted Living, the turnover rate for direct care staff and nursing facilities increased from 62 percent in 2019 to 99 percent in 2020. Respectively, assisted living facilities saw their turnover rate increase from 63 percent in 2019 to 73 percent in 2020. The National Health Care Safety Network, which is a database administered by the Centers for Disease Control and Prevention, reported that 46

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Nebraska nursing facilities reported staffing shortages for the week ending January 17, 2021. LB390 would help streamline the credentialing process for qualified individuals and help address the work force shortage faced by Nebraska nursing facilities and assisted living communities. Therefore, NHCA respectfully ask that you advance LB390. We'd like to thank Senator Murman and Governor Ricketts for their leadership on this important legislation and I'd be happy to answer any questions.

ARCH: Thank you. Are there any questions? Seeing none, thank you very much. Next proponent for LB390.

LAURA EBKE: Good afternoon, Chairman Arch, members of the committee. My name is Laura Ebke, that's L-a-u-r-a E-b-k-e. I'm the senior fellow at the Platte Institute, and I'm happy to be here today to testify in general support of LB390 as introduced and with the proposed amendment and I thank Senator Murman for introducing it. For over four years, the Platte Institute has been working to reduce barriers to work through occupational licensing reform efforts. Since January of 2019, I have spent a lot of time looking at occupational licensing trends around the country. The Platte Institute has made occupational licensing reform one of our top priorities since 2018, and we've worked with legislators and think tanks in about a dozen states in varying capacities to help them move in a direction that reduces barriers to state-- it reduces barriers in their states. The effort to reform occupational licensing is a nationwide one, initiated by the Obama administration report that emphasized barriers to opportunity, recommending that states consider significant licensing reform and continued through the Trump administration. Unlike many policy movements, occupational licensing reform truly crosses political and ideological lines. There have been several streams of reform efforts, and I'd like to put LB390 into the appropriate context. One stream has included efforts to review licensing. Like Nebraska's 2018 law, some of those bills call for a regular review of existing licensing to determine whether the least restrictive regulations are being used. Other states have applied that review process to sunrise efforts akin to our Uniform Credentialing Act, 407 process. Before new licensing is created or greater regulation is imposed, a needs analysis is undertaken. Another current of reform has been recognition or reciprocity efforts. Some states, including our neighboring states of Iowa and Missouri, have created broad universal recognition, allowing

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licensing boards to accept licenses in good standing from other states as sufficient for licensure in their state. In those two states to our east, that recognition includes just about every profession licensed by the state, not just health care licenses. Several substreams flow from the broad universal recognition efforts. Some states have chosen to provide universal recognition for military spouses for all occupations. There's a bill that is close to passage in the Wyoming Legislature that does that. The emergency measures resulting from the pandemic included-- included licensing related orders by Governors, which allowed for licensing of health care professionals from out of state to assure that states had adequate providers. We applauded those measures when Governor Ricketts issued those orders here in Nebraska and believe that they were prudent. We also promoted the idea that those licensing changes should be made permanent. LB390, as introduced, is a good effort and attempts to make those changes permanent. Still, as we move out of the pandemic, we think there's a better approach to licensing reform that legislators should consider. This bill alone is limited in its application to one industry already heavily covered by interstate compacts and national tests as the basis for state licensing. If an occupation can't bill health care and-- health care insurance for payment for services, it's likely not included under this bill's provisions. Our preferred method for expanding Nebraska's work force would be more bold and all encompassing, applying to virtually all occupations where licensure is required. It would include military spouses or other accompanying family members and those with military occupational specialties, or MOS, who are leaving military service and deciding where to settle. That said, LB390 is not in conflict even with the proposed amendment, with our preferred occupational licensing bill this year, LB263, which does all of those things. Therefore, I encourage your favorable consideration of LB390 and I'd be happy to entertain any questions you might have.

ARCH: Thank you. Are there any questions? Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thanks for being here. Nice to see you.

LAURA EBKE: Nice to see you.

M. CAVANAUGH: LB263, could you remind me which one that is?

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LAURA EBKE: That's Senator Briese's. It's a bill that was heard in the Government Committee last week. It is the universal recognition, so it would provide these-- these elements across occupations.

M. CAVANAUGH: OK. And so this wouldn't-- this doesn't supersede that if we were to enact this other compact?

LAURA EBKE: They do the same thing. The LB263 covers all licenses and would do what this-- what this one does. It covers all licenses and does what LB389 and the Education Committee does. You know, there's nothing-- they don't conflict at all.

M. CAVANAUGH: And this doesn't exclude the compacts.

LAURA EBKE: Right.

M. CAVANAUGH: OK. OK, thank you.

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

LAURA EBKE: Thank you.

ARCH: Next proponent for LB390. Seeing none, are there any opponents that would like to testify on LB390?

LESLIE SPRY: Good afternoon, Chairman Arch, and members of the Health and Human Services Committee. My name is Leslie Spry, Dr. Leslie Spry, L-e-s-l-i-e S-p-r-y. I'm a resident here in Lincoln. I'm testifying in opposition to LB390 on behalf of the Nebraska Medical Association. We were not aware of the amendment, but I don't think it still addresses some of our concerns so I will go on to at least read my testimony. I'm a kidney guy here in Lincoln and I previously served as a member of the Nebraska State Board of Health and as well as past president of the Nebraska Medical Association. We would like to thank the Governor's Policy Research Office for reaching out to us after LB-- LB390 was introduced to see if we-- if they had our support. Unfortunately, we have concerns about this bill as written, potentially modified somewhat as a result of the amendment but we struggled to find the need for this legislation. It is our understanding that the department currently turns around physician licenses at least every five to seven days. So an application is in--

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in residence for only five to seven days before it's turned around and issued. The longest delays, and I can personally attest to this because I brought several new partners on board, the longest delays and barriers to practice happened during the credentialing processes as required by health insurers, not with the state licensing facility. In some cases, it's taken us six months to get new partners credentialed so that they can bill. And believe me, that hampers the whole process of getting new partners and new people into the state. Although some organizations have chosen to support this bill, we have heard conserv-- concerns from our physician members within those organizations that they have concerns with the purpose and drafting of this bill. Our opposition centers around two central themes. First, we believe the language of the bill, as an additional method of licensure, unnecessarily and dangerously restricts the ability of professional licensing boards to govern the standards of their profession. Page 5 of the bill instructs the department of-- to determine which documentation for education, work experience, clinical survey, clinical supervisory experience and examination scores are sufficient. For physicians, the Board of Medicine Surgery currently sets these standards as provided in-- by Nebraska statute 38-2026. And there is no indication in this bill that the department must follow these standards or the standards of any of the existing professional boards. Second, while LB390 is described as legislation that will encourage health professionals to move to Nebraska, there's nothing in this bill that incentivizes that to happen. The practical effect on LB390 is that with the rise of telehealth in the past year, we will be more likely to see a provider remain in their office in another state and use LB390 as an easy use telehealth to treat Nebraska patients. Now, this was addressed by Senator Murman as saying that the amendment contains something about assuring residency with 180 days. And I believe Dr. Anthone said within 100 days, so I'm not sure whether it's 100 or 180 days or exactly what it is, but that might assuage some of that concern. So the use of LB390 to easily use telehealth to treat Nebraska patients. While the Nebraska Medical Association stands 100 percent behind telehealth and the ability to allow Nebraska providers to reach rural Nebraska patients, we do have reservations about out-of-state providers using relaxed licensing laws to cherry-pick states and siphon patients from Nebraska providers and facilities because they do not have a long standing relationship with the patient care by out-of-state providers can lead to fragmentation, disruption

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and patient confusion over treatment and medications, ultimately making the system less efficient. It is also likely that we will see an increase in surprise billing as these providers might not be credentialed in network with the Nebraska health care-- health insurance carrier. There is a potential for negative ripple effect on malpractice liability. With the increase in providers from out of state treating Nebraska patients, the community standard for medical tort liability may be impacted and no longer reflect Nebraska local standards. Malpractice juries are currently instructed in local-- in the local community standard, but these new physicians may not ever get a chance to experience the local standard. So basically to sum up, we just don't see a need for this. Under the Nebraska-- under the Nebraska law, currently physicians at least are under the Interstate Medical Licensure Compact. We thought that there was 40 states, there may be 34. I don't exactly know how many there are, but under those compacts, we already have mandatory reporting from those compacts back into Nebraska to tell us when there's a license under investigation or a license that's been challenged. And under this bill that-- nothing in there contains that information. So we respectfully ask for the committee to see this bill as unnecessary and duplicative of existing stronger methods for reciprocity and urge you to not advance the bill. I'd be happy to answer any of your questions.

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

LESLIE SPRY: Thank you.

ARCH: Next opponent for LB390. Seeing none, is there anyone that would like to testify in a neutral capacity? Seeing none. Senator Murman, you are welcome to close and as you are coming, I would mention that we have received seven letters, four proponents, two opponents and one neutral. We also received one written testimony today from Jessica Shelburn from the Americans for Prosperity-Nebraska as a proponent.

MURMAN: Thank you, Chairman Arch, and fellow members of the committee. As I previously-- previously mentioned, after the introduction of this bill, we made a good faith effort to work with representatives of various health care stakeholders to try and address all of their concerns. This resulted in the amendment that I passed out. In summary, LB390 simply builds up the executive order that has been in

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place for nearly a year. It supplements and-- and does not take away from existing reciprocity agreements and compacts. LB390 will make it easier for Nebraskans to access the health care they need when they need it. Hospitals, nursing homes and other health care facility-- facilities will benefit because this will make it easier to increase our health care work force by having an expanded pool of health care talent to draw from. Every day Nebraskans will benefit because such facilities will be better able to provide health care services and reduce staff shortages. And specifically to some of the questions that were raised by Dr. Spry, the amendment does say 180 days for residency and the tel-- so that addresses the telehealth requirement and the residency requirement. So I'll take any questions at this time.

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

MURMAN: Thank you.

ARCH: This will close the hearing for LB390 and will close the hearings for the afternoon for the committee.