

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

BREWER: Welcome to the Government, Military and Veterans Affairs Committee. I'm Senator Tom Brewer representing the 43rd Legislative District, which is 11 counties in western Nebraska. I serve as the Chair of this committee. The committee will take up bills in the order posted on the agenda. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on proposed legislation before us today. Committee members may come and go during the hearing. It's just part of the process. We have bills to introduce in other committees. Ask that you abide by the following procedures to better facilitate today's meeting. Silence or turn off your electronic devices. And if there's anybody who knows how to run an iPhone, I need your help. Let's see. Please, please move to the reserved chairs which you have already done. Thank you for that. And what we'll simply do is when we finish with proponents, if, if you guys want to go ahead and exit the stage left or right, we'll, we'll bring forward the opponents and then the neutral and we'll just keep moving and then that brings the next one's forward for the, for the next bill. If you work with me there, we'll be good to go. All right. The introducing senator will make the initial statement followed by proponents, opponents, and neutral. Closing remarks are saved for the introducing senator. If you're planning to testify, please pick up one of the green sheets. Fill it out. Again, I have to stress this. Please make it legible because it goes into the official record and well, if we can't read it, we can't put it in the record. When you come up to testify, hand off the green sheet to either one of the pages or the committee clerk at the corner of the table here. If you do not wish to testify but want to record your presence here today for the hearing, there is a white sheet that you can fill out and mark whether you're a proponent or opponent or neutral. If you have handouts, we'd ask that you provide ten copies. If you don't have ten copies, we can have the pages help us get copies. Bring those up when you come to give your green sheets and they'll make distribution for you. When you come to testify, please speak in the microphone clearly. These are what record what happens here today. So if it's not recorded on the mike clearly, then when the transcribers go to transcribe it, we don't get a good record of that. We're going to use the light system today with the numbers. I think we can go 5 minutes and still be done before lunch, or at least up till lunch. So on the light system, you get a green light for four minutes, amber light for one minute, and then when the red light goes, you're done. Dick Clark has an alarm on the computer that'll go off and it will really let you know that you're out of time. No displays of support or opposition to bills, verbal or otherwise. It's just a simply respecting, that's showing respect to

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the person who is presenting and to the committee. Today's-- let's see. The committee members with us here today will introduce themselves, starting on my right with Senator Raybould.

RAYBOULD: Good morning, everyone. I'm Jane Raybould, Legislative District 28, which is the center of Lincoln.

SANDERS: Good morning. I'm Rita Sanders representing District 45, which is the Bellevue/Offutt community.

AGUILAR: Hi. Ray Aguilar, from Grand Island, District 35.

LOWE: John Lowe from Kearney, District 37

HALLORAN: Good morning. Steve Halloran, District 33, which is Adams County, Kearney County and Phelps County.

BREWER: Dick Clark is the legal counsel for the Government Committee. Julie Condon is committee clerk and Senator Sanders, the Vice-Chair, and our pages are Quinn and Ryan. All right, we're on a roll. OK. So I'm going to quickly battle handover and head off to give my speech. I will be back.

SANDERS: Thank you.

BREWER: Nothing personal. [LAUGHTER]

GEIST: None taken.

SANDERS: We'll now open the hearing on LB471. Welcome, Senator.

GEIST: Thank you. And thank you, Vice-Chair Sanders. Good morning, members of, members of the Government Committee. For the record, my name is Suzanne Geist, S-u-z-a-n-n-e G-e-i-s-t. I represent District 25, which consists of the southeast part of Lincoln and Lancaster County. LB471 establishes a voluntary registration for qualified interior design professionals that in return will grant them a much needed stamp for construction document permitting. That stamp will only be applicable to interior nonstructural design features. This committee heard a similar bill two years ago and voted in its favor, though it did not receive final consideration on the floor. The interior design profession and Senator Hunt worked with the Nebraska Board of Engineers and architects last year to find language agreeable to both parties, which resulted in AM43 to last year's LB250. In this bill we are building upon that language, adopting language concerning the scope of interior design practice that was passed into law

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several, in several other states. In this bill, the scope of interior design has been further refined. Oversight has been given to a joint Board of Engineers, architects and now registered design, registered interior designers. Education and experiential requirements have been stated more explicitly, and other changes have been made to ensure public safety is protected and that this is the best way to institute abilities interior designers already have in several other states. This bill is long overdue for the same reason we regulate all professions, the protection of health, safety and welfare of the, of the public. Many certified interior designers work in public spaces such as hospitals, schools, nursing homes, government facilities and office buildings. Interior design services protect the public. For instance, they ensure safety, safe evacuation from interior spaces in emergency situations by planning clear circulation paths that lead to building exits. They minimize fire and toxic smoke hazards through knowledge of fire ratings and material properties for different types of interior spaces. They reduce accidental injuries due to falls by applying technical knowledge of friction coefficient, a factor in slip resistance for high traffic areas such as public building entrances and lobbies. The specified proper lighting fixtures to ensure ability to see transitions in floor levels, read directional signage and impart an overall feeling of safety. This bill is also a long overdue piece of legislation for the design and construction industry in Nebraska. It will ensure the same level of public safety in our built environment while bringing greater consumer choice and economic mobility an opportunity for the many small business interior design firms across the state. Of the 313 interior design establishments in Nebraska, 300, now let me repeat, 396 percent are sole practitioners or firms of four or fewer employees. These small business firms desperately need LB471 to pass. I'd like to take a few moments to illustrate for the committee the problem this bill seeks to solve. Let's say an interior designer is brought in to renovate a restroom in a large hotel here in Lincoln. No load-bearing elements will be altered in this renovation. To comply with Americans with disabilities requirements, this designer must draft a design that relocates fixtures, move support handrails and handicapped stalls, and perhaps expands the size of the bathroom to allow for wheelchair or walker access by pushing a nonload-bearing, nonstructural wall back a few feet. This is a very typical job for a commercial interior designer. Let me make it clear, these are activities that interior designers are educated, trained and examined to do and are doing throughout this state as I speak. Several of these activities require a building permit before construction may begin. An architect or engineer can use his or her stamp and seal and proceed to

get a permit for the client to start construction. An interior designer, on the other hand, has no stamp or seal. He or she must go to an architect or engineer, work under the responsible control of the architect or engineer, and then have that architect or engineer stamp her drawings. And I do say "her" because more than 80 percent of interior designers nationwide are women. And then they proceed to complete the project. The designer often must pay for the architect or engineer service anywhere between 1 percent of the fee, up to 15 percent, depending on the size and complexity of the project. Interior design small businesses should not be required to hire or contract out to an architect or engineer to complete projects for which the architects and engineers are absolutely not required. This needless and antiquated bureaucracy is indeed a problem for interior designers and consumers who must pay higher fees for these extra needless steps. LB471 will end this unnecessary bureaucratic process by giving interior designers a stamp for their nonstructural work, a stamp that is required for construction in the state of Nebraska. Today, you may hear opponents discuss how this bill facilitates the illegal practice of architecture. I assure you, it does no such thing. And the language concerning the interior design scope ensures that. But allow me to read to you the definition of architecture in Nebraska. Practice of architecture means providing or offering to provide design services in connection with construction, enlargement, or alteration of a building or group of buildings and the space within and surrounding buildings. The services may include, but not be limited to, planning, providing studies, designs, drawings, specifications and other technical submissions and administering construction contracts. The practice of architecture does not include the practice of engineering. This exceptionally broad and vague terminology seems to capture any design-related work within the surrounding, within and surrounding a building. It squashes any opportunity for anyone who with the appropriate qualifications but without an architect's license, might compete with architects. And perhaps that's why some will testify in opposition. For hundreds of years, the world's oldest professions have been required to reckon with the emergence of new professions that might share similar qualifications and abilities. Our communities and the marketplace are better for it. What kind of world would we live in if doctors prevented the independent practice of nurse practitioners or paramedics? If dentists did the same to dental hygienist or lawyer, lawyers to paralegals. The Nebraska Legislature should welcome these qualified interior designers and give them the chance to compete. By allowing them the chance to compete, we will be keeping more young people graduating from our interior design programs in Nebraska. Interior designers do not wish to practice architecture. They only

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

wish to independently practice in nonstructural, nonseismic scope listed in this bill in which they are trained, tested and competent to practice. We should not promote protectionism, but instead recognize that trained and qualified professionals should be able to work independently, even in overlapping areas of practice if public safety is protected. LB471 very clearly describes what interior designers will and will not be able to stamp, independent of an architecture or engineer. There will be no confusion. There will be no threat to public safety. The practice of interior design described in this bill is specific and limited to nonstructural, nonbearing interior design elements and explicitly excludes the engineering of complex building equipment like HVAC systems, among other things for which interior designers are not qualified to design. This is not the profession that you may see portrayed on TV, focused solely on paint, pillows, esthetics and other decoration. These are tested, qualified, building scientists trained to independently design the work that LB471 describes. You may also hear whether interior designers are qualified to practice the scope outlined in the bill. Without doubt, they are. The scope of practice for interior designers in this bill is based on the education, experience and examination required to be an NCIDQ certified interior designer and was developed in collaboration between the architecture and interior design communities in several other states. This language was successfully adopted into law in Wisconsin and Illinois just last year, and it's currently making its way through the Iowa Legislature, all without opposition. No other design professionals or trade associations in these states were opposed to this language, and every attempt is made to duplicate that collaboration here in Nebraska. The qualification for registration is the NCIDQ exam created by the Council for Interior Design Qualification. This exam is used in 27 of the 28 U.S. states to regulate interior design and/or designers. Prior to sitting for the three-part exam, the applicant must complete a rigorous combination of post-secondary schooling and thousands of hours of supervised in the field training. We will have with us today a representative from CIDQ who will speak to the committee about the eligibility requirements and content assessed on the exam. Furthermore, the registration is strictly voluntary and will not create any barriers to entry or obstruct the practice of any other profession currently practicing. This bill does not create a mandatory license. It will not impact those engaged in strictly decorative services and will not impact any commercial or residential interior designer who does not wish to practice independent, independently or obtain a construction document stamp. The bill also allows a licensed architect to register with the board as a registered interior designer without having to meet the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

additional interior design registration requirements outlined in the bill. Every effort was made to be open, collaborative and welcoming of competing professions to create the best design marketplace in Nebraska. Passing LB471 will allow Nebraska to join 15 other forward-looking jurisdictions in providing a construction document stamp to allow interior designers to submit their own work for a permit. These states have recognized the greater competition in the design and construction marketplace means greater choice for consumers, lower prices for design and construction projects, faster project completion times and greater opportunity for small businesses. In these states, the public safety has not been harmed. In closing, LB471 is necessary to allow interior designers to work to the fullest extent of their capabilities and will not harm public safety. It will not allow interior designers to practice parts of architecture or engineering that should be left strictly for architects or engineers, but it will bring greater economic freedom, mobility and opportunity to designers and design small businesses across the state. Thank you for your time and attention. I would ask that you listen to the needs of small businesses across the state and I would be happy to answer any questions and there will be many coming after me, apparently, who will also answer any questions you may have.

SANDERS: Thank you, Senator Geist, for bringing forward LB471. Before I go into the Q&A portion, we have two senators that just joined us, and I want to be sure to give them time to introduce themselves.

CONRAD: Good morning. Hi. Danielle Conrad from north Lincoln.

HUNT: I'm Megan Hunt from the northern part of midtown Omaha in District 8.

SANDERS: Thank you. Are there any questions for Senator Geist? Senator Hunt.

HUNT: Thank you. Vice-Chair Sanders. Thanks for bringing this bill, Senator Geist. As you know, I deeply support this bill. And one of the barriers to passage in the past was actually your support, and so have, has anything in this bill changed or how have you adopted the bill--

GEIST: I--

HUNT: -- past years?

GEIST: I believe I supported this bill.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

HUNT: OK. Thank you.

GEIST: Yeah. I've always supported this bill. I certainly--

HUNT: Not in my memory, but.

GEIST: I certainly--

HUNT: I'm glad you're introducing it, for sure.

GEIST: Two years ago. I certainly did. Two years ago.

HUNT: OK. Thank you.

GEIST: Yeah.

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

GEIST: Thank you.

SANDERS: And you'll be here to close?

GEIST: I will.

SANDERS: Thank you. So we'll take those proponents at this time. Good morning.

STACY SPALE: Good morning, Vice-Chair and members of the committee. My name is Stacy Spale, S-t-a-c-y S-p-a-l-e. I'm a proud graduate of the interior design program at UNO, where I received an education that prepared me to be an interior designer that could practice independently. But as many of you have heard, last session, Nebraska's laws are lagging and giving me, us, that avai-- availability. LB471 could change this. The bill we are proposing would create a voluntary registry of interior designers who have successfully completed the NCIDQ exam and give us stamp and seal privileges so that our drawings could be used to obtain building permits for projects that only fall within the scope of registered interior design. The bill combines our language with the existing Architecture and Engineering Act. So while it is long, the major pages to review are definitions starting on page 26, seal information starting on page 38, and registry information starting on page 59. While quite similar to what many of you saw last session, the scope of practice in LB471 is specifically tailored to match the education, examination, and experience of the qualified designers to which this law would apply. If some of those practice

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

areas overlap with architects, it is no different than dozens of other professions in Nebraska that share competencies and yet establish clear pieces of market share so that consumers have increased protection and choice. The scope of practice language in this bill was passed into law by Illinois and Wisconsin in the last year, and we are really excited to announce that it was passed unanimously through the Iowa senate yesterday. Our expertise as interior designers also goes well-beyond esthetics, as Senator Geist mentioned. We play a key part in the health, safety and well-being of end users and other building occupants. For example, my projects require that I have knowledge in flame spread ratings of textiles, slip resistance of flooring and acoustic properties of materials. So often the most important parts of our work are not aesthetic at all. You will later hear from an expert during the neutral section on our NCIDQ credentialing exam, but we're also bringing today a professor and a student who will provide the educational perspective and other folks who will provide an economic perspective about how this bill could positively impact their careers and increase choice for Nebraska consumers. We hope to continue to collaborate with the Nebraska Board of Engineers and Architects to clarify in the language things like it's unlawful to practice registered interior design or utilize our stamp if you're not actually registered and provide oversight that mirrors the oversight of other design professions. Thank you so much for your time and I'm happy to answer any questions that you might have.

SANDERS: Thank you. We'll see if we have any questions for you.
Senator Hunt.

HUNT: Thank you, Vice-Chair Sanders. Can you speak to how the bill has changed?

STACY SPALE: Absolutely. So based on the progress made in Illinois, Wisconsin and North Carolina, the scope of language practice was agreed upon with AIA, which is the architectural professional organization in those states. So we've simply taken that scope of practice and inserted it. And that's the major difference between this and the AM43.

HUNT: OK, great. Thank you so much.

SANDERS: Any other questions? Senator Raybould.

RAYBOULD: Yes, thank you so much for appearing before us today. Could you do a kind of a compare and contrast with your educational achievement and requirements versus that of an architect or engineer?

STACY SPALE: Mm-hmm. Absolutely. And as one of your constituents, thank you for asking. So our degree program at the University of Nebraska and you know, that maybe the professor could also answer a little better than myself, but the, the four-year degree program is an accredited program, and we start off doing the same core curriculum in the first year as architects, landscape architects, everyone in the College of Architecture. Then you spend a couple of years getting the independent discipline, specific practice. And then we come together again at the senior year to provide the interdisciplinary studios, right? So we're starting and ending kind of bookending that career with all the other design disciplines housed within the College of Architecture. Now, in order to be a licensed architect, those people will have to go on to get a master's in architecture, you know, and, and pass the exam after they have so much practice. Same thing for interior design. After we graduate, we have to have so much work experience and pass the exam. The educational differences are important, but also even though we overlap in what we do, there's definitely a clear scope. So the, the credentialing body, who does the architectural registration exam as well as our CIDQ who does our NCIDQ exam came together and provided a joint report maybe two years ago talking about the scope overlap that is tested in our exams. And you'll find that there is definitely areas where we do overlap in scope. And I think that speaks to the strength of our program here in Nebraska, because we are educated right alongside architects from year one. Other states may have a interior design program that is not housed within a college of architecture and I think that makes it more challenging. But we're a lot more collaborative here because of that.

RAYBOULD: Thank you.

STACY SPALE: Does that answer your question?

RAYBOULD: It did. Thank you.

SANDERS: Senator Conrad.

CONRAD: Thank you so much, Vice-Chair Sanders, Good to see you. Thank you so much for your testimony. I just wanted to follow up on one piece towards the tail end of your testimony. It's pretty amazing in today's political world if you're able to find unanimity for a measure moving forward, so that is quite a remarkable occasion that happened in our sister state of Iowa, it sounds like. But I'm wondering what led to that. Was it, you kind of indicated perhaps that there was a meeting of the minds or a consensus or a collaboration between the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

different stakeholders that kind of paved the way for that kind of political finality.

STACY SPALE: Yeah.

CONRAD: Are those, have, where's, what's the status of negotiations with similar stakeholders here?

STACY SPALE: It's a great question. So most of the collaboration in Iowa was between the IIDAs, International Interior Design Association, ASID, the American Society of Interior Designers and the AIA. It's my understanding in Iowa the engineers were not opposed, but you can double check that.

CONRAD: Every state's a little different, sure.

STACY SPALE: Yeah. And so the, the people who care passionately about interior design registration and having the ability to have a stamp and seal, Iowa had, had a title act in the past, but really discovered through this process that a stamp and seal is required. So they sat down with AIA and said, hey, let's go line by line in this language. Figure out a scope of practice on which we could all agree. And that language actually that started in Iowa, then I believe went to North Carolina and was tweaked a little bit. Illinois tweaked a little bit, Wisconsin tweaked a little bit, now it's back in Iowa and was successful.

CONRAD: OK.

STACY SPALE: And that's the same language we're using in our bill.

CONRAD: I appreciate that. Thank you.

SANDERS: Thank you. Any other questions? Seeing none, thank you for your testimony.

STACY SPALE: Thank you very much

SANDERS: Other proponents? Good morning.

KENDRA ORDIA: Vice-Chairman and members of the Government, Military and Veterans Affairs Committee, thank you for your time this morning to express my support for LB471. My name is Kendra Ordia, K-e-n-d-r-a O-r-d-i-a, and I live here in Lincoln. I'm assistant professor of interior design in the College of Architecture at the University of Nebraska-Lincoln and a registered interior designer in the state of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

Texas since 2008. I am here as an educator, and I'm not here representing the interior design program, college or university. However, I do have firsthand accounts of the accredited curriculum being taught in our state and many stories of how this legislation impacts students as they choose where to begin their careers after graduating. I hold a bachelor's of science and interior design degree from the University of Nebraska-Lincoln and a masters of interior design from the University of Texas at Austin. I practiced as a registered interior designer in Texas at large commercial architecture firms for 12 years and had been involved as an interior design educator for about ten. During this time, I've had the legal ability to sign and seal my own construction document drawings to obtain building permits, which I did for several commercial projects with nonstructural modifications. This same ability is what we're seeking here in Nebraska under LB471. I returned to Nebraska in 2019, for my current academic position at the College of Architecture, and I'm proud that UNL's program is one of two Council of Interior Design accredited interior design programs in Nebraska, other one being in Kearney. Senator Lowe just stepped out. And we're responsible for educating many of the designers who would pursue voluntary registration in the state under LB471. At UNL specifically, undergraduate students in the College of Architecture, as Stacy mentioned, includes architecture, interior design, and landscape architecture. The students begin their education together and often have overlapping classes. Each curriculum teaches a unique perspective and technical skill set. Interior designers obtain this technical knowledge by studying building and life safety codes, sector specific building regulations, environmental behavior, lighting, acoustics, fire safety, circulation patterns, space planning, project coordination and materials just to name a few. Interior design students take courses in construction documents and learn how to communicate design intent of nonstructural interiors with the professionals they would eventually coordinate with, like architects and engineers. From an educator's perspective, LB471 is important for incentivizing our state's talented and knowledgeable interior designers to start their career here. As a point of reference, since 2017, in the last five years, at least 49 percent of UNL's graduating interior designers have left Nebraska for design positions elsewhere. Since interior design is not legally recognized and regulated in Nebraska in the way that it is in 30 other U.S. jurisdictions, interior design graduates in the state have no opportunity for independent practice, making opportunities in regulated jurisdictions more enticing and often attracting qualified practitioners out of Nebraska. And I know this from personal experience. Keeping Nebraska's

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

economy competitive means establishing legal recognition for the interior design profession so that students, recent graduates and young professionals can join firms, start their own businesses and add to the workforce right here in the state. Qualified interior designers who will apply under LB471 have the education, experience and examination-based knowledge to protect public health, safety and welfare in code regulated spaces. And therefore I ask you to please support LB471. Thank you and I'd be happy to answer any questions you may have.

SANDERS: Thank you. Are there any questions? I see none, but I do have a comment.

KENDRA ORDIA: Yes.

SANDERS: Thank you. And welcome back to Nebraska.

KENDRA ORDIA: Thank you. It's been good to be back.

SANDERS: Appreciate your testimony. Thank you.

KENDRA ORDIA: Thank you.

SANDERS: Are there any other proponents? Welcome.

KELEIGH KETELHUT: I was going to say good morning, Chairman Brewer, but he's not here right now.

SANDERS: He'll be back.

KELEIGH KETELHUT: So good morning, not Chairman Brewer, but members of the committee. My name is Keleigh Ketelhut, K-e-l-e-i-g-h K-e-t-e-l-h-u-t. I am a seventh-year student at the University of Nebraska-Lincoln. I may be a familiar face to some of you. I completed my four-year bachelor of science in interior design in 2020 and will be graduating in August of this year with a dual master of architecture and master of science and architecture degrees. I'm here today to ask you to vote in favor of LB471. One of my primary professional goals is to become a registered interior designer upon completing and passing my NCIDQ certification. Upon graduating in August as a first generation college student, I will have completed 245 credit hours, five different internships, three degrees, countless hours of hard, diligent work and spent nearly \$125,000 on tuition alone. I am proud, I am motivated and I am excited to begin my career in the professional world, but because there is no legal pathway for me to register as an interior designer in Nebraska, I am moving out of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

state post-graduation to seek greater opportunity elsewhere. I am confident that upon completion of the NCIDQ, I will be able to practice safely and competently within the scope of LB471. As an NCIDQ certified designer, I would be more sought out in the workplace than I currently stand without NCIDQ certification. But even after I've completed three accredited degrees, 3,520 hours of professional practice, three exams as well as other certifications and licensures, there still would be no legal recognition for myself as an interior designer in the state of Nebraska. All design professionals alike vow to protect the health, safety and welfare of those whom they design for. The legal recognition of LB471 would provide qualified professionals in all primary disciplines of design and opportunity to practice to the fullest extent of their education, training and abilities. In order to maximize my potential as a design professional, truly impact the health, safety and welfare of the public and accomplish my long set personal goals, my only choice is to leave the state upon graduation. Nebraska's lack of regulation for interior design does not incentivize me to start my career here. Thus, I am starting my career in a state where I at least will be able to call myself a registered interior designer upon completion and passing of my NCIDQ certification. If the law was different and NCIDQ certification meant that I was able to practice to the fullest extent of my education, training and abilities, myself and possibly many other recent graduates would remain in the state of Nebraska to start their businesses and careers. Thank you for your time and listening ear.

SANDERS: Thank you. Let's see if there's any questions. Senator Raybould.

RAYBOULD: Thank you very much for sharing your, your experience. So when, at what point in your studies or career can you take the exam?

KELEIGH KETELHUT: So as an interior design student, you can actually start taking it your senior year. So you can start taking it that second semester of your senior year. And then after that, you-- there are two other exams that you would take after that. You could start the professional practice under a certified individual. We started that. We're required to start that as a third-year student going into fourth year, so that experience starts then. And then at that point you can start taking your first exam and then once you graduate, the other two to come.

RAYBOULD: So when you graduate, do you typically get job offers from architectural firms, or?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

KELEIGH KETELHUT: Yep. Mm-hmm. Yep. There are architectural firms that collaborate inter-- interdisciplinary, so oftentimes you'll have architects, interior designers. Sometimes there's like acoustical engineers, engineers in general, structural, mechanical. I've worked in firms with all of the above.

RAYBOULD: So it sounds like you've already made plans to leave the state. OK, so if we get this passed, would you reconsider?

KELEIGH KETELHUT: I would consider coming back, yes.

RAYBOULD: OK. OK.

KELEIGH KETELHUT: Definitely.

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

KELEIGH KETELHUT: Thank you.

SANDERS: Other proponents? Good morning and welcome.

BECKY REA: Good morning. Thank you. Thank you for your valuable time today listening to our testimonies concerning the voluntary registration of interior designers in Nebraska, LB471. My name is Becky Rea, B-e-c-k-y R-e-a. I own Fritz and Lloyd Interiors here in Lincoln. I cannot stress how important this voluntary registration is to the profession of interior designers who have spent thousands of dollars on their education, many and one of Nebraska's two SETA accredited universities. These students work hard and receive their bachelor's degrees and continue on to complete multiple years of work experience in order to qualify to sit for the rigorous three-day NCIDQ examination, which you'll hear more about in a little bit. I graduated from UNL with my bachelor's degree in interior design 23 years ago. After working in Chicago at an architectural firm, I returned to Nebraska, joining Swanson Interiors for many years, and later design works here in town, culminating in establishing my firm in 2016. My business was something I began building in my mind many years before as I grew up in Cedar Bluffs, Nebraska, in a building and contracting family, including the namesakes for my business, my grandfathers, Fritz and Lloyd. But even with my education, 23 years of experience and NCIDQ after my name, I couldn't submit my own drawings for the interior build out of my studio space because our laws say I'm not qualified. Instead, my landlord had to have their staff redraw the plan exactly the way I had drawn it in order for it to be viable. If I had started my business in Chicago, I would have been able to do this.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

These 23 years of experience have impressed upon me how very important it is to be concerned with the health, safety and welfare in the built environment. We've seen accessibility needs personally and passed small commercial projects and even more now with Gateways requesting home designs to be able to age in place and to house aging parents and loved ones safely. My education experience and NCIDQ qualification are invaluable to help them do that. Sadly, many times the public experiences practitioners who are not educated in building codes and accessibility. They decorate the interiors, but they are not trained to design for health, safety and welfare, which can cause risks. We are called to analyze, abide by codes and anticipate what would be safe solutions for the occupants involved. And we collaborate with architects and engineers when their expertise is required, but we need this registration so that the public can make educated choices to keep their spaces safe. Please allow us to work for our communities in the manner our excellent universities have educated us and our professional exams have confirmed we are qualified for. I hold my design staff to the same level of qualification, a design education and the NCIDQ or working towards it. LB471 calls us to a higher standard required by the state of Nebraska and makes our profession accountable. Thank you for your time.

SANDERS: Thank you. Check to see if there's any questions. Seeing none, thank you for your testimony.

BECKY REA: Thank you.

SANDERS: Others proponents? Welcome.

JENNIFER ANKERSON: Vice-Chair and members of the committee, my name is Jennifer Ankeron, J-e-n-n-i-f-e-r A-n-k-e-r-s-o-n, and I'm here in support of LB471. It establishes a voluntary registration which allows qualified interior designers that are fully trained to safeguard the life, safety and welfare of the public through rigorous education, training and testing to distinguish themselves as registered interior designers. Regulating interior design is good for the economy. I work as a senior interior designer at a large architecture and engineering firm and as an adjunct professor for the College of Architecture at the University of Nebraska-Lincoln. This allows me to provide a unique lens as to why regulation of interior design is necessary as I have perspective on both worlds. I'm an associate senior interior designer at Leo A Daly, an AE firm with studio locations around the world. With 17 years of experience, I collaborate with and work alongside respected colleagues from all disciplines, including architecture and engineering. I purposely use the term alongside because I have

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

rigorous education, training and years of experience. I am treated as a valued peer at my firm. I take on tasks that include almost every aspect of the built environment, including but not limited to space planning that includes determining internal circulations and calculating occupancy loads, assessing and creating life safety plans for contract documents, scoping interior environments based on interdisciplinary collaboration, specifying finishes, specifying furniture, creating contract documents, drawings and specifications, project management and construction administration. What I do as an interior designer matters. Being allowed by Nebraska state law to stamp and seal for permitting purposes on projects that fall within the defined scope of registered interior design would make a positive impact not only to my employer but also our clients. Eight years ago, I was recruited to teach at the College of Architecture at UNO part time. I impress upon my students the importance of interior designers within the built environment and my professional practices course for interior design students learn about subjects including portfolios, interviewing skills, ethics, and code of con-- code of conduct. But they also learn about interpersonal communication skills and leadership, leadership traits to help enable them to see leadership within themselves. Regulating interior design incentivizes young professionals to stay and work here. College students sometimes wonder what their future holds and where their careers might take them. I tell my students that their future is bright and it's right in front of them, but their future is also right here in the hands of this committee. These students will finish their education, they'll graduate, and they will do amazing things. The question is if they will do amazing things here in Nebraska. The answer to that may be up to you. If you incentivize these students, recent graduates and young professionals to want to work here because their profession has legal recognition, voting yes to LB471 will signal to these students that you believe in their future and that you want them to stay in Nebraska to practice their craft. I ask that you vote in favor of this important legislation. Thank you for your time.

SANDERS: Thank you. Check to see if there are any questions. Senator Lowe.

LOWE: Thank you, Vice-Chair, and thank you, Ms. Ankerson, for being here and for teaching these students that are here today. Senator Geist mentioned in her opening that interior designers are not able to design HVAC systems for the rooms and things. And she also mentioned designing a restroom, that could cause problems. Are, are interior designers able to design plumbing and electrical because in a restroom you'd run into both of those situations too.

JENNIFER ANKERSON: No, sir. So whatever falls under, an licensed engineer would be plumbing design running all the HVAC to it. Anything that would be, that's beyond our scope. So if you, if we take that example as a restroom, if, if I-- if, if Leo A Daly had a project of a bathroom renovation, the team would currently be me as a senior interior designer, a mechanical engineer, an electrical engineer. Looks like they would, like with electrical engineering, things there. And that would be the team that would go through and work with the client, make the layouts, create the contract documents, create the layout of the, of the restroom in accordance with ADA and all applicable building codes. You know, each city has their own building codes standard, whether it's IBC 2018, whatever it would be, and also within their plumbing accounts. So now in my experience at Leo Daley, I would create that plumbing count based on city requirements or code requirements of IPC for International Plumbing Code and, and ensure that the life safety plan includes that plumbing count. Because especially for the city of Omaha, they have their own plumbing code. So there's some intricacies within there. And then we work with the electrical engineer and a mechanical engineer to ensure the layout is, well, one of the layouts comes from me as the interior designer. And then they would plumb their fixtures and then place their fixtures in documents. So the documents would look like an architecture plan. And the sets that go with that elevations sections, anything that would be involved in that. A life safety code plan, that includes all the regulations that we're required to abide by for the city that we're working within, and then mechanical sheets, plumbing sheets and [INAUDIBLE] sheets. Now those MEP sheets would be stamped by that professional, that licensed professional, not by me. That's not my scope. Does that answer your question? I'm actually, if I could add, right now with the state law as it is, I would not be able to stamp the drawings that I created. I would have to have a licensed architect at my firm stamp them, stamp them for me. So regardless of how much work I've done on that project, it is, it is another person's stamp on the project. With this bill under a certain amount of square footage within the defined scope of this bill, I would be able to stamp that set.

LOWE: OK. Thank you.

SANDERS: Other questions? Thank you for your testimony. Other proponents? Welcome.

LAURA EBKE: Thank you. Senator Sanders and members of the committee, my name is Laura Ebke. That's L-a-u-r-a E-b-k-e, and I'm the senior fellow at the Platte Institute. I'm pleased to be here today to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

testify in favor of LB471. The Platte Institute has maintained a firm position in opposition to new licenses, so this makes this a little strange, right? Absent clear and compelling public safety concerns in the interest of reducing, reducing barriers to employment and encouraging the free market to work. We recognize, though, that we do not live in a vacuum. Occasionally, some government imprimatur is needed to prevent barriers to employment and give consumers full service options. We thank the interior designers for reaching out to us several years ago to explore ways of achieving their goals short of creating the new, a new practice act. LB471, as introduced, seems to satisfy both the goals of the interior designers and the desire that many of us have to limit unnecessary regulation. In this instance, interior designers sought the ability to stamp or sign their design plans to be recognized by local building inspectors rather than needing to seek separate checkoffs by architects or engineers. What you see before you for consideration is, is a means for interior designers wishing to practice within that scope to voluntarily register with the state upon providing their certification by a national competent examination. LBB471 achieves these goals by placing registration under a newly named Board of Engineers, architects and registered interior designers, It also gives registered interior designers a voice on the board. Not all trained or experienced interior designers will choose to become registered. This bill does not exclude them from using the term interior designer. It merely prevents the use of registered. It will not allow them to stamp or sign their plans independently if they are not registered. LB471 is a good example of an effort to use the least restrictive means by, by this bill's proponents to accomplish the desired goals. We thank Senator Geist for introducing this bill and would encourage its advancement. And I would have, be welcome to, be happy to take any questions, if you have any.

SANDERS: Thank you. Will check to see if we have any questions.
Senator Lowe,

LOWE: Thank you, Vice Chair, and thank you, Senator, for being here. Are all architects, architects registered? I mean, because we have a division of the interior designers here.

LAURA EBKE: Well, any architect who is a practicing architect, I think it's safe to say that they're, that they need to be licensed in the state. Architects have a little bit different structure, But I mean, somebody who's gone to architect school doesn't necessarily have to be. I've got a friend who's going to engineering school right now who isn't going to be a professional engineer, so he won't go through the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

testing, but he will be working under other engineers. So it's, yeah, it's just a matter of what scope of practice you want, whether you have to be licensed.

LOWE: Thank you.

SANDERS: Are there any other? Senator, Senator Conrad.

CONRAD: Thank you, Senator Sanders. Good to see you, Senator Ebke.

LAURA EBKE: Sure.

CONRAD: I was just wondering and I know that there's volumes on this topic that you're really passionate about, but I was thinking about where this measure kind of falls within the hierarchy for occupational regulation. I know there's, you know, you talked a little bit about how this is a voluntary measure and it's consistent with least restrictive means, but just maybe to kind of take a broader picture.

LAURA EBKE: Yeah. You know, and, in another, in another bill that I'll be bringing, I'll show you the, the--

CONRAD: OK, all right.

LAURA EBKE: --pyramid.

CONRAD: We could bring it up then.

LAURA EBKE: But then, and I'd be happy to talk about that then. But, you know, this falls somewhere in the middle. It's not really government full government control, but it is an option for those who wish to be licensed or, or registered.

CONRAD: OK. Thank you very much.

SANDERS: Any other questions? Seeing none, thank you, Senator,--

LAURA EBKE: Thank you.

SANDERS: --for your testimony. Are there others, proponents? Opponents? Anyone against the bill? Opponents? Against? Welcome.

JON WILBECK: Thank you. Need my reading glasses here, one second. Well, good morning, Senator Sanders, members of the committee. My name is Jon Wilbeck. That's spelled J-o-n W-i-l-b-e-c-k. I'm the executive director of the Nebraska Board of Engineers and Architects. The board unanimously, unanimously voted to oppose LB471 at its January 2023

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

regular meeting. In the board's opinion, there are several technical issues with the bill, with LB471 as written, and I'll try to briefly summarize these. And these might impede enforcement or complicate enforcement of the act. First, turning your attention to Section 34 of the bill, which supplies a definition for the practice of registered interior design. Note that this definition is different than that that was introduced in AM43 last year. This bill does not make the unlicensed practice of registered interior design unlawful. It says that it is unlawful to use the title registered interior designer, but it does not say it is unlawful to practice registered interior design. The only other instance where the bill uses the phrase, quote, practice of registered interior design other than the definition is in Section 39, where it states that the registered interior design members of the board shall have been registered for at least ten years, which might appear to make them only eligible for appointment in the year 2033 at the earliest. If the practice of registered interior design by a nonregistered person isn't unlawful, and the definition is not materially used anywhere else, the board questions why that definition is even needed. Including an essentially unused definition for the practice of registered interior design may also create confusion between that practice scope and the practice of architecture. The board has concerns that the bill could be interpreted to prohibit a licensed architect from performing any work that falls under the proposed definition of registered interior design, unless that architect also applies to be listed on the registry. The board believes that using this definition of registered interior design is premature as there is an effort being undertaken nationally right now that will ultimately result in a clear definition of the scopes of practice of interior design, architecture and engineering, and what each, and what each practices' similarities and overlaps are. This effort is described in one of those handouts. A letter I wrote to CIDQ dated October 31 of last year and you all have copies of. There are also provisions referring to a registered interior designer seal, and the bill says the seal shall be placed on work subject to the act. But since it appears that the practice of registered interior design is not unlawful, the board interprets this, in that no work that comprises the practice of interior design is subject to the act. In other words, according to the bill, there is no work that needs a registered interior designer to place their seal on to. The other handout that you have is provisions in the act and the board's rules right now that spell out that anyone can perform planning and design services on projects where you take really two factors in play. Number one, the occupancy classification, the structure and the size that you're adversely impacting. So in the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

example of the bathroom, if that met, was under the square footage thresholds and for that occupancy classification and didn't touch things like the structural system, mechanical system, means of egress, that work is already exempt and no seal essentially is needed for that work. So that concludes my testimony and happy to answer questions.

SANDERS: Thank you. Are there any questions? Senator Raybould.

RAYBOULD: Yes. Thank you, Mr. Wilbeck, for coming to testify. I know one of the elements in this legislative bill also permits to have two interior designers on the board. Could you talk a little bit about that?

JON WILBECK: Yeah. I believe those provisions were included in AM43 last year. We just, at the time the board thought that having, you know, the interior designer's voice on the board was important. So that's really where that came about. And we kind of settled it, too, because if you just had one and they weren't able to come to the meeting, then you really couldn't have their input on at the meetings, so.

RAYBOULD: OK. Thank you.

JON WILBECK: Yeah.

SANDERS: Thank you. Any other questions? Seeing none, thank you for your testimony.

JON WILBECK: Thank you.

SANDERS: Other opponents? Welcome.

LENORA ISOM: Thank you. Good morning, everyone. I wanted to before I got started to take a minute and thank you for everything that you do for the great state of Nebraska. This is sometimes a thankless job. Not everyone wants to take up this torch and run with it. So I just thank you for what each and every one of you does for the state of Nebraska. And I want to talk about this issue today with the point of view of what is right for the state of Nebraska. But before I do that, I want to talk about it at, at the macro level, at the national level. My name is Lenora Isom. That's what you're all, you're all waiting for. L-e-n-o-r-a, and Isom is I-s-o-m. I am here speaking on behalf of myself, although I am a member of the Board of Engineers and Architects. I'm also involved with NCARB, the Architectural Regulation National group as well. But I'm here today just with my own point of view on this subject. So we've spoken a bit about the exam, the NCIDQ

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

exam. And as someone who likes to sort of get the factual basis of things, this is a very emotional topic. Students are going to school. They're being told by their educators, you can graduate and you can do these great things, and then they get into the real world, and in terms of regulation and the law, they can't necessarily do those things. So I like to take the emotion part out and just let's look at the facts. And so how do the exams compare? So I have experience with the NCARB exam, the architectural exam, and as, as a, as a state board, we all come together and form this national group. We all have equal representation. We vote on things. So we have skin in the game in terms of these national policies that we're accepting on a state level to sort of act on behalf of the health, safety, welfare of Nebraskans. And I will say that I personally helped set the cut score for four of the six current NCARB exams, so we get into it in a deep level. I attended the CIDQ annual meeting because I wanted to learn facts. I wanted to know what, how, how does this work here? And I understand they have maybe 30 item writers. So, so there is a group of folks that get together. However, I don't see the equality in state board oversight in terms of bringing this on as something that, that you're using rather than having your own state exam. And that, I think, is something that can be worked on as we move forward with this through the work of ICOR, which I'll talk about in a little, in a little, in a little bit. So NCIDQ versus CIDQ, so the exam is NCIDQ which is the national, the N is national, but the organization itself now is just CIDQ and that is because it is now an international organization. So that is the difference. The way that new members come into CIDQ is different in that it's my understanding, and I know Mr. Bruce can correct me if I'm wrong, but it's, it's the Exec Board that really chooses how these new stakeholders come into the organization. So for NCARB, the National Architectural Board and also for the engineering side of it, it's each, each state has an equal or, and also our, the non-state U.S. territories. So, and I understand that NCIDQ being a much younger organization, they need to open it up because you need members to do volunteer work and to build this thing up. So they have opened it up to, they have Canadian members, they have just municipal members versus state members. So really the equality in terms of oversight from a state point of view isn't the same. And I think that conversations need to happen to where, oh, shoot, I'm down to one minute. All right, sorry. I can answer more questions. So I really want to talk about the seal and exemptions. This bill does not change exemptions. And if we have to have a conversation about what can they do without a seal, we don't need to have a bill for that. We set that in our rules. So if it, is if it is an exempt project, it shouldn't be signed. As a regulator, if I see a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

seal, that tells me it's a nonexempt project, which means it has to have engineers and architects. So I think that we can't have the conversation about a seal without a conversation about exemptions and this bill doesn't do that. So for today, for the state of Nebraska, a seal is not the right answer. A registry? Absolutely. Let's have a, a state approved list of these folks have taken this exam. These folks have additional training and then we move forward. Iowa started with just a list and then they moved forward to the next thing. So, too many things that I want to talk about, but I'll answer any questions.

SANDERS: Thank you. Are there any questions? Senator Lowe.

LOWE: Could you continue on? [LAUGHTER]

LENORA ISOM: Yes, please. So as-- I pract-- I'm a licensed architect, but for the last eight years, I've practiced as a code official, as a regulator. So I don't ask for building permits. I was issuing building permits at a, at a small community. So a lot of these issues, a lot of these projects happen in municipal level cities or cities of the first class. But, you know, the majority of our state is second class or smaller, and that's where at the state board level, we have a lot of confusion over, you know, who needs to be working on this project. Not every project that gets a building permit is signed and sealed. In my small community, when I was a building official for five years, I only had two or three projects that were nonexempt that had to have a seal. Our smaller residential projects, they don't need it. Our smaller tenant, fit-out projects, they don't need it. So as long as it meets these minimum exemption limits that Mr. Wilbeck handed out to you, even an architect shouldn't be signing those. So an interior designer can legally do those projects already without a seal. And so the other thing is, you know, the state fire marshal is who looks at these projects in the communities that don't have a building official. So there's a level of education with them as well. If they start to see a seal on it, they're going to assume that that's the practice of architecture and, or engineering, and then is it a violation of the act? So I understand the emotion and I understand the desire to set yourself apart as somebody who's done a lot of education, a lot of examination and a lot of experience, but this current bill does not actually do that. And it would, I don't want to see another round of we think we have what we need now, but legally you don't. So, thank you for letting me finish.

SANDERS: Senator Raybould.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

RAYBOULD: Thank you for coming to testify. I have a question. So when you get a set of drawings and you see no seal, does that raise a flag for you?

LENORA ISOM: No. So then I check the list of exemptions, which, again, are unchanged per this law that they stay the same. And as long as it's under the square footage limit for the building type, then I can approve that permit without the seal. And if it, if it does fall under the practice of architecture, engineering or, you know, whatever else we would add to these exemptions or rules, then I would have to send it back to them and say, you need to have licensed professionals. And that's a big part of what the board does, is if there are projects that come through that, you know, we get a lot of lumber yards and things doing projects and then we're going to add this office and we're going to add this other stuff, and then it becomes a nonexempt project. And we say, you have to add licensed professionals. But again, if it is a, if the licensed professional that they could bring in could be an interior designer, this bill doesn't establish that criteria for them. So, again, just from a legal point of view, this bill doesn't fix. We did have the Zoom call with Senator Geist and one of the things I wrote down was, we want to remove the barriers for qualified professionals, but this bill doesn't actually identify those barriers. And so I don't like legislation, just feel-good legislation. I understand wanting to move forward. I think a registry is, is absolutely a great first step.

RAYBOULD: OK. Thank you.

SANDERS: Senator, Senator Lowe.

LOWE: Can a registry be established without legislation?

LENORA ISOM: No, but this current bill could be edited to strike all the other items and just create the registry, which again, Iowa, that is what they said. So that is what you would call a title act. You can legally use this title in the state. You can, a, a customer can call the state, say, tell me about the qualifications that this person has, because they may see the national qualifications and not really know what does that mean. And so it's, it's another level. You know, Nebraska, Omaha, we like to have one degree of separation with who we're hiring, right? So we want to know their qualifications. We want to know that they've done work for somebody that we know. And just a registry would be a great first step for that.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

LOWE: And say you get a set of plans, of residential plans for 20,000 square feet, which would not be an exempted amount, how many seals or stamps are on that?

LENORA ISOM: Well then, at minimum, you would need a licensed architect and licensing engineer because you probably got some structural issues on a home that big. And then as far as the, the, the plumbing and mechanical, we actually have a carve out that if, if you're the tradesperson, if they're registered with the state or licensed with the state, they can do that without that being a part of the set of plans. So there's sort of a subset under, under engineering that, that you can have different trades doing that work without it going, you know, after the fact is the pulling of the permit.

LOWE: So there would just be one stamp on the plans then?

LENORA ISOM: There would most likely be two.

LOWE: Two.

LENORA ISOM: Unless it was just a really big ranch style. And usually with that you've got second story, so you've got some structural that may go beyond what an architect can legally do.

LOWE: OK. Thank you.

SANDERS: Senator Raybould.

RAYBOULD: Just another follow up question. So do you think if we had a registry of interior designers, would that be enough to keep young graduates in our state?

LENORA ISOM: So keeping them in the state is really part of this national conversation that needs to happen. And that is what ICOR is doing. That's the interprofessional council on regulation, and that is bringing together architects, engineers, interior designers, landscape architects and surveyors. Because when you think about the built environment, that's what we're talking about here and that is what dirt are we moving around outside, what are we doing inside? It's, and it all, especially now with the way that we're designing with three, with 3D models, it's all very interrelated. And so the practice as a whole is changing right now. And so our laws are trying to catch up. And I understand that in some states you can move forward more quickly. But really, if we keep piecemealing this at a state level, when I have the NCORP certificate, I can be an architect in any state. You know, people who have the engineering certificate, they can be in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

it. That's really the sort of national reciprocity. And, and I think that as part of this ICOR conversation, you know, the level of work that needs to be done, a good part of that is interior design works, you know, sort of a carve out of the traditional 1960s era architecture, right? Every project I do, I pick the finishes. I mean, we can also do that, but not everybody wants to do that. We don't have as the same level of training on that, but legally, can I do it? Absolutely, I can. So as we're sharing these models and doing this work together, we need to collaborate. And when we're talking about legally who can do what, that is why if we get to that point, interior designers would need to be on the board. Because when we look at the unlicensed practice of all of these professions, what part of it, you know, would be interior design? What part of it would, in terms of bringing on licensed professionals, we try to decide who, you know, who is the best professional to bring in to ensure health, safety, welfare. So again, I, I, I understand the emotion. I understand, let's, let's take a great first step. I hope that answered your--

CONRAD: Yes

LENORA ISOM: your-- your question.

RAYBOULD: It did. Yes.

LENORA ISOM: OK.

RAYBOULD: Thank you very much.

CONRAD: Great testimony.

SANDERS: Thank you. Are there other questions? Seeing none, thank you for your testimony.

LENORA ISOM: Thank you so much.

SANDERS: Opponent? Welcome.

MICHAEL DRAIN: Thank you. Thank you, Senators. My name is Mike Drain or Michael Drain, M-i-c-h-a-e-l D-r-a-i-n. I am from Holdrege, Nebraska. I am a licensed professional engineer in the state of Nebraska. In terms of, in terms of the, the bill as proposed, I will say, first off, I am not an architect. And a lot of this does seem to be a question related to the overlap of the fields of architecture and interior design. And so as an engineer that does not have the expertise in the field of architecture, I would say that I would defer to, to the professions of architecture. If the architects are OK with

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

this, there wouldn't be any reason that Mike Drain shouldn't be. That doesn't mean that I know that they are, or that they're opposed, I'm just saying certainly, I would certainly rely on their judgment in that. I was surprised when I read the intent of the bill because when I saw this stuff about having to stamp work that was done, it made me wonder whether or not our issue isn't one of, not so much licensure or registration, whatever the term you might want to use, but whether, in fact, there was an issue with some, some local regulation, regulating entities requiring stamps for work that doesn't otherwise require it. You don't have to be a licensed professional engineer or architect to be the regulator that asks for the stamp. You just have to be one to provide the stamp, or conversely, whether or not the statutes just needed better clarification on the exemptions, the rules of what are the things that do not require a licensed engineer or architect to stamp. But that's also really not, not why I'm here and I am OK with and understand the premise of legal record, recognition for a profession, even if there is not a need for, for it, there may be a desire for it. As was pointed out, this is not a licensure or a registration that would be mandatory. It would, it's one that would be voluntary. But I'm OK with the recognition of those professions, and I do not wish to besmirch or belittle another, another profession, including that of interior design. So why in the world am I here? [LAUGHTER] Why am I in opposition? And it has to do with this. I think that in particular, I'm bothered by the idea that the approach to, to doing this, if, if the state is going to give a, a legal recognition to the profession of interior design, that I'm not sure that it is appropriate to do it under the Engineers and Architects Regulation Act and making, making that regulation be done under the board of, what is currently the Board of Engineers and Architects. I would point out that this is, this is the way we tend to do it generally in Nebraska. Is, is it for various professions that the state recognizes or regulates? It does it under its own separate title. Lawyers are managed under the Nebraska State Bar Commission, under Chapter 7 of our statutes. The medical professions are managed by State Board of Health and the Universal Credentialing Act. Geologists are, we have, you can get a professional geologist license under the Geologists Regulation Act, which is managed by the board of geologists. Surveyors are similar, certified electricians are similar. They all have their own separate code. And if there is a need to do this or a desire to do this, I would suggest that it is more appropriate to have a separate title act that would be for the purpose of interior design or regular, registered interior design that has its own board, which gets its own funding from its own members to oversee that. The rest of it, what should the code of practice be and what should not be a part of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

architecture and what should be a part of interior design? That probably can all be worked out. But I am concerned as an engineer that I see this board that regulates me will now have an expanded set which might dilute the focus on the current engineers and architects and also the funding. I notice even the interior designers, if you look at the statute, they're asked to pay less into the upkeep and management of the board than is asked of engineers and architects. And my time is up.

SANDERS: Thank you very much. Are there any questions? Seeing none. Oh, you do. Senator Lowe.

LOWE: Yeah. Thank you. And thank you for being here, Mr. Drain, driving all the way here from Holdrege. You had mentioned that part of the problem might be villages or communities not recognizing the exemptions. Could you go further into that view?

MICHAEL DRAIN: My guess is that there's others here, actually, Senator, who can do better than that. I am, while I'm a civil engineer, I do not practice in building. And so I do not have to meet building code requirements. I was surprised to hear that, but there's probably someone else in the room that can do a better job of that than I.

LOWE: All right. Thank you.

SANDERS: Thank you. Any other questions? I see none. Thank you for your testimony.

MICHAEL DRAIN: Thank you.

SANDERS: Others in opposition? Welcome.

ANNE SINCLAIR: Good morning. My name is Anne Sinclair, spelled A-n-n-e S-i-n-c-l-a-i-r. I reside in Lincoln, Nebraska, and I'm employed by a design studio, Clark Architects Collaborative that has been creating architecture since 2010. I have six children, three under ten years of age. I was born in North Platte, Nebraska, and eventually moved to Lincoln, Nebraska, where I was raised. It has been my dream to be an architect and I am dedicated to making this happen. I have been approved to take the NCARB test, the Architect Registration examination. It's a multi-division exam used to assess your knowledge and skills regarding the practice of architecture and features six divisions. I am a nontraditional ARE candidate, in that I am utilizing my 22 years of on the job exposure and training to supplement the traditional educational requirement. Completing all six divisions is

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

required by all U.S. jurisdictions as a key step on the path to earning a license. The six tests will take over 33.5 hours to complete. The ARE is designed to assess aspects of architecture, architectural practice related to health, safety and welfare, focusing on areas that affect the integrity, soundness and health impact of a building. To reach my goal of passing the exams, I have been scheduling in 1.5 to 2 hours of study time, 5 to 6 days per week, by splitting up this time throughout each day. First thing in the morning, lunch hour and in the evening. Weekends, I am able to have more flexibility, but usually opt for full 1.5-hour study sessions first thing in the mornings. I have 22 years of experience and yet I am learning so much in my studies. In addition to becoming licensed, I need to demonstrate the ability to perform 96 key tasks in six program areas and report a total of 3,740 hours across the six areas. Nearly half of this documented experience, 1,860 hours, must be gained while employed by an architecture firm, legally practicing architecture and under the supervision of a licensed architect. Clark Architects has both male and female architects who have juggled family life, experience, experience requirements and study time to become licensed. The time, sacrifices and financial investment is not something any of us take lightly, but we have witnessed our colleagues get to the finish line time and again. Further, considering gender role in this issue, the college has 60 percent women and 40 percent men enrolled who will be figuring out their own paths towards licensure with the rest of us rallying around them. As women and men, mothers and fathers, we do this because we know the test and experience that, we know the test experience is very important. We must know this information for the health, safety and welfare for the people who will be in the buildings we help create. In comparison, interior designers attempting to receive the NCIDQ certificate have to complete 60 semester hours, which may be a two-year associate's degree. They also have to have 3,520 hours of experience in any area of professional practice. Half of these hours may be obtained during their time sitting in a classroom. An interior designer could possibly spend that time selecting furniture, flooring and not be qualified to draw the interior of a building. The certificate requires three exams over 11 hours. I am very concerned about this legislation. I would never consider practicing architecture without an architecture license and the rigorous training and experience that backs it up. Thank you for listening to my story and I am excited about my future.

SANDERS: Thank you. See if there's any questions. I see none. Seeing none, thank you for your testimony.

ANNE SINCLAIR: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

SANDERS: Welcome.

JEANNE McCLURE: Good morning. I am Jeanne McClure, J-e-a-n-n-e M-c-C-l-u-r-e. I'm the executive director of ACEC Nebraska. That is the American Council of Engineering Companies. We represent 48 engineering firms doing business across the state. We are the only organization representing the business interests of engineers, and we work to promote initiatives that create an enhanced business climate for our members. They are engaged in engineering and construction projects that propel Nebraska's and the nation's economy, enhance and safeguard the quality of life. We appreciate Senator Geist's efforts to bring all of the groups together to discuss this bill. Despite many meetings and discussion, ACEC Nebraska still sits in opposition of LB471. Licensure in protecting the health, safety and welfare of the public is the cornerstone of the practice of engineering. Engineers depend on rigorous and credible licensure to ensure that only qualified professionals are given the ability to seal plans for buildings, institutions, structures, roads and all the components that make up the spaces where the public trust that they can safely reside, meet, attend school, receive health care, shop and drive. To obtain a license to be a professional engineer or a PE in the state of Nebraska and attain the stamp that is needed to seal plans, there are rigorous criteria required and I've outlined those in my testimony here. But so it's a degree from an accredited program or a program that meets the NCEES Engineering Education Standard. Passage of the, both the fundamentals of engineering exam, which you take most likely maybe when you're still in school, probably junior-senior year that you can be working on that. Principles and practices of engineering, the PE exam, which gives you that, those two letters behind your name and, and also a structural engineering exam. I would say that the PE exam, I mean you need four-- you, you also need four years of engineering experience and you take that exam and you need both of those things to obtain your seal. And those are all required within Nebraska's engineering and architects by their board. Now, interior designers are valued members of the architecture, construction and engineering team. Working together with other professionals for the-- with the team works well. It, it is of great concern to us that this voluntary registration is being proposed to elevate certain interior designers and to let them market themselves as registered. While it's unclear what the seal of a voluntary registered interior designer would allow them to do, there are a couple of things that it will accomplish. It will create an unnecessary, voluntary registration that is confusing to the public and to code agencies. It will cause a contradiction in statute and it will create reciprocity for other states that leave

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

Nebraska with standards that are only as stringent as the state with the least rigorous requirements. I have another testifier that's going to come forward and go into some more detail from, from this written testimony here. But we would ask that the committee not consider this moving forward.

SANDERS: Are there any questions? Seeing none, thank you for your testimony. Welcome.

BRANDON DESH: Good morning. Thank you for the opportunity, Vice-Chairman Sanders and the rest of the committee. My name is Brandon Desh, B-r-a-n-d-o-n D-e-s-h. I'm a professional engineer in the state of Nebraska and ten other states. I've been practicing for 16 years and 20 years overall. I'm the legislative chair for ACEC Nebraska, that Jeanne just testified for, so I'll be continuing some of the testimony that we have as part of that organization. I wanted to first start, I think the things I've heard today related to the personal stories are important. And I appreciate, as Jeanne said, that we value the professional services that interior designers provide, and it is architecture to designer, maybe more overlap there than it is with professional engineering. But because this bill addresses engineers and architects that we felt like we needed to come in and oppose some things. And so I'll specifically talk about, first, just the process to become a professional engineer. And it's very similar to the testimony you heard from Anne related to the professional architecture license in the sense that it starts from the very beginning how students in high school determine if they have an interest in science and math, and that leads them to an engineering education program at some university. And those programs are very specific to science and math, specifically in the sense of, you get the opportunity, I guess you could say, to take four semesters of calculus, including differential equations, to start out in your first two years. Maybe you just stop there. In comparison to degrees I've seen for interior designers, it's, it's one semester of math to, to get that degree. So start with that little base of information. Then you move on to take classes such as statics and dynamics and theory of structures and fluid mechanics and all the different elements of how the world and the physics of the world work on structures both dynamically, which means in motion and statically, which means in place. And so engineers then start to in their second, third year, start to determine which specific area of engineering, professional engineering, ultimately hopefully, that they would like to practice in as they move along in their career, you know, five, ten years down the line. Starting to make that decision based on your interest and what kind of projects you want to work on in certain things. So in the

third and fourth year of your bachelor of science degree in engineering, you start taking real specific courses. For me, it was geotechnical engineering, which is the, anything from the ground down or, as Lenora said earlier, dirt, dealing with that. So we studied foundations and soil mechanics and coursework and all those things to, to allow us to be very specialized in that field of professional engineering. In addition to knowing what we don't know, I think that's a real important part of it is, we learn through those other core courses, through their structures and others, the things that we don't know and be able to then, within as we move forward into the Engineering Architecture Act and become professional engineers, you look back on that and you see that those things that we don't know are important to determine what we can practice in as a professional engineer. And it's very specific. So I, as I said, as a geotechnical, I'm a geotechnical engineer, so I practice in the area of soil mechanics and geotechnical engineering only. I work with structural engineers. And so I'll lean into my kind of own personal story about the interior space and the, the development and the design of that interior space. When I've worked with those structural engineers who not only get their degree, get their professional licensure through, as Jeanne said, fundamentals of engineering, professional engineering exam, they take a second eight-hour exam, structure engineering exam to become an SE, or a structural engineer, that's even more specialized in that area. And I think, excuse me, I think that's where this bill really is important. There's a couple of places, I say when they left, a couple of places where I get to the point where the identification of nonstructural and structural elements is that is identified as practice of interior design or not or practice of engineering or not. I think that's the key element we need to, from a health, wellness and safety of the public, how do you determine that without that education? I mentioned the PE licensure and then the SE licensure for most of the structural engineers to be able determine what that entails within the code of engineering. So I think if you take something away today, that would be the element from a public health wellness and safety standpoint is, that's the reason we have the Engineered Architect Act. That's the reason the engineers work through their thousands and thousands of hours of preparation to be able to identify that for that one purpose, the public health, wellness and safety. So with that, I can take any questions. I guess I had more here and I'm happy to share more.

BREWER: All right. Thank you for your testimony. Questions? Senator Lowe.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

LOWE: Thank you, Mr. Desh, for being here today. And you had mentioned you work in ten other states.

BRANDON DESH: No licensing.

LOWE: No licensing with that.

BRANDON DESH: Yes, that's correct.

LOWE: Have you worked with interior designers on projects in any of those states?

BRANDON DESH: Yeah. So that was my initial testimony is I work in geotechnical engineering specifically. So usually soils and interior design don't cross over too much. So I don't get the opportunity to do that. We do have others in our firm that do, and I'd say that they appreciate, as I said earlier, the opportunity to have them as a teammate. But the ultimate code regulation and ultimate engineering side of things, and you mentioned earlier, Senator, the plumbing, mechanical, electrical, all those would be additional, like professional, very expertise-driven PEs that are electrical PE or mechanical PE, and a structural PE. All those would work as a multidisciplinary team with the interior designer if they're doing an interior design project. If you, if I give you a chance, there's a project we just worked on here in downtown Lincoln that's a, the late 1800s building, a six-story, multistory brick building that's being renovated by the owner. And inside the building, they wanted to take the space from what used to be industrial, used to be a milk manufacturing and distribution plant, essentially to make it a brewery or a space for them to, to occupy in a way that could be more commercially driven. They wanted to remove floors within the building, the six-story building, they wanted to move portions of the floor. Working with the structural engineer, we had to then determine can the structures handle removing floors, adding loads to the walls. It was a multiple meetings to just determine the loading of the building and how that might be assessed. And there at the end of it really was, we were unsure and so we had to do some other engineering to, to further support the building. And just an example of the importance of that and how an owner could even drive potentially, hey, we just want to remove these things, but you really need that professional engineering guidance to, to make sure that's done safely.

LOWE: All right. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

BREWER: Additional questions? All right. Thank you for your testimony. Where are we, opponents, proponents? Opponents. All right. Next opponent. Welcome to the Government Committee.

MATTHEW KRUSE: Hello. Welcome back. Good morning, good morning. So that's good. Thank you, Senators, for your time. My name is Matthew Kruse, K-r-u-s-e. I'm also a professional engineer only in five states, so not, not the ten. And to get any questions out, I've had team members and people I represent work with architects and interior designers, but I have not personally. So with that, I'm here to testify on behalf of the Professional Engineers Coalition, also referred to as PEC in opposition to LB471, a bill to change the Engineers and Architects Act and create a voluntary registry for interior designers. For a reminder, the Professional Engineers Coalition is comprised of Nebraska Society of Professional Engineers, the American Society of Civil Engineers, the Professional Surveyors Association of Nebraska and Structural Engineers Association of Nebraska, as well as American Society of Mechanical, Mechanical Engineers is associate member. Through PEC and our consistent organizations, we speak with one voice on issues affecting engineers. First, citing the Nebraska Board of Engineers and Architects web page, the Nebraska Engineers and Architects Regulation Act governs the practice of engineering architecture in the state of Nebraska in order to help, to safeguard life, health, property and promote the public welfare through licensing and enforcement of state statute. The Engineers and Architects Act also ensures those who practice engineering architecture are qualified through education, experience and examination. As you've heard during the previous AC presenters, there's a rigorous education and testing for engineers. And with that as well as architects, and we do not understand the symmetry between a practice act that governs engineers, a practice act that governs architects and then a voluntary register title act for interior designers. We believe that this would lead to more confusion or a lack of understanding when discussing the different areas of study and scope of work. Now, this point is compounded by the changing of the Engineers and Architects Act to the engineers, architects and registration, registered interior design act. Our membership believes that this misunderstanding of differences of a practice or a license, professionals in the same grouping as compared to voluntary registered interior designer as set forth in the current bill. And also we believe the voluntary title act actually deregulates interior designers as the resis-- registration is voluntary and not required and we'll discuss this later in my testimony. One of the items that I would like to bring up is in regards to the coordinating professional

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

as currently in the proposed bill. For those of you who don't know, coordinating professional for an engineering and architecture project is an individual who coordinates and includes the review and coordination of those technical submissions prepared by others, including as appropriate and without limitations, consulting engineers, architects, landscape architects, surveyors, interior designers, and other professional professionals working on one project under the direction of this licensed coordinating professional. There needs to be a wide range of understanding and knowledge, heavily mathematics and technical aspects of the various parts of the project that a coordinating professional must have to understand potential consequences that can arise and with changes on a project. Overall, public reliance and confidence of professional license, architect and engineer, leading a complicated project that must uphold and protect the public safety and welfare of the coordinating professional. Currently, the coordinating professional is a licensed architect and a licensed engineer, as I mentioned, working under a practice act. Under the current, under the proposed changes there, there could be a voluntary registered interior designer that would be in this position. This, most likely would cause confusion or possibly the public lose trust in the aspects of having a volunteer registered individual as opposed to a professional licensed individual in this important role. The other items I'd like to touch on is the-- operates, as I mentioned, under the practice act for, for engineering and architecture. And we feel that a title act would be better served, either separated under a different board. You know, this current proposal offers to have or ensures that two register-- voluntary registered interior designer to fall on the license or to serve on the licensing board. And those individuals would then also be determining interpretation of the licensure act and vice versa, as well, engineers and architects going with an interior design. So we believe those should be kept separate. In closing, we believe that the current Engineers and Architects Act better serves the public to protect the public health and welfare of the public than what is currently being presented in this bill. Bless you. Thank you for your time.

BREWER: All right. Thank you for your testimony and the blessing. All right. Any questions? Any questions? All right. Seeing none. Thank you. OK. Any other opponents? All right. If, if you're not in the front row and you're planning to speak either as an opponent or in the neutral, you're in the wrong chair. All right, whenever you're ready, please.

SHEILA O'CONNOR: Good morning. Good morning. Thank you for your time this morning. I am Sheila O'Connor, executive director of the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

Associated General Contractors Nebraska Building Chapter, S-h-e-i-l-a O-'-C-o-n-n-o-r. My thanks and appreciation for hearing our testimony in opposition to LB471. The AGC Building Chapter is a leading association for the commercial construction industry. The Chapter represents 140 of Nebraska's top firms that build vertically in regional national markets. We oppose LB471 for the following reasons. This legislation is unnecessary. It is not regulated to protect the public from anything or anyone. It offers a solution to a problem that simply does not exist. I am unaware of a commercial construction project that has been diverted, delayed or canceled due to a lack of an interior designer. As executive director of the association, I have not been contacted by an interior designer, individual group or association regarding membership, collaboration, support or opposition of an issue impacting our industry. And to be fair, I have not reached out to them regarding the same topics. It's unclear to me why interior designers would ask for oversight in an industry when they're not highly visible in and from outward appearances are not actively involved in. Their procedure and technical issues as well. As the other half of the design and construction process, we question the need for the registry. This is not a reflection on the professional work of interior designers, but of whether our work is the reality. If enacted, how does this safeguard the life, healthy-- health and property and promote the public welfare of citizens of this state? Within the construction sector, there are an array of voluntary certifications individuals might earn. Also a learned level, level of competency determined via certi-- certification or test. Once achieved, and assuming one keeps up with educational units and paying renewal fees, these designations are professional accomplishments to be used for career and business development exam-- advancements. Excuse me. They do not have a place in state statute or rules and regulations as they, as they do not apply to all people in the given profession. Does this bill enhance public safety and well-being? Does it add anything that does not already exist? The answer is no to both questions. Anyone who might pass a designated competency exam, prescribed in the bill, voluntarily selects to pay a fee will be registered as an interior designer. Voluntary registration does not provide competency or a standard in the profession, profession, does not create a set of expectation that can be regulated and inspected or investigated for compliance or quality control and does not prove a level of formal education achievement, it will not increase or enhance public safety. We oppose any changes related to coordinated professionals. Currently, a project involving more than one licensed architect or professional engineer will have a designated coordinating professional for the duration of the project. Coordinating

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

professionals responsible for reviewing and coordinating the technical documents prepared by everyone else involved in the project for compatibility. On a commercial building project, this is a massive number of documents. The coordination and flow of these documents is vital to the construction side of the project, which is responsible for the construction, budget, scheduling, constructing and commissioning. We feel the coordinating professional should remain either a licensed architect or a professional engineer. Our opposition to a registered interior designer being allowed to act as a coordinating professional is not a reflection on the work of an interior design profession. The role of the coordinating professional should be filled by a professional that has a broader scope and perspective of the entire structure, documents and contractual requirements for the entire project. This is most relevant to commercial projects and likely not applicable to residential projects. The question remains, is there a need for this legislation in the interior design industry? We would suggest it's an industry of meeting contractual agreements and exceeding client expectations to build the profession versus relying on government regulation. Thank you for your consideration.

BREWER: All right. Thank you for your testimony. Questions? Questions? All right. Seeing none, thank you. OK. Additional opponents. Green sheet, there you go. Welcome to the Government Committee.

SARA KAY: Hi. Good morning, Chairman Brewer and members of the committee. My name is Sara Kay, and it's spelled, my name is spelled S-a-r-a. My last name is K-a-y, and I'm the executive director of the American Institute of Architects Nebraska Chapter. I've actually been doing this for 22 years. I can't believe I've been here that long. But actually I've been through this, the-- a lot of different proposals concerning this issue. It's been going on for about 30 years, I think, so. I think there are a lot, there are a lot of new people in the room, but I've been at it for a while. I also was going to say there are a lot of very, very talented, very smart people behind me too. I'm not an architect. I'm going to be upfront about that. I did have an architect that was going to be here this morning, but he had a serious family situation occur this morning, so he is not able to make it. A lot of what I was going to say has already been said. I was just going to indicate in case you're wondering what an architect does, they're trained to analyze, assess, design and achieve a complex building that would be from the exterior to the interior down to the smallest detail. And they also collaborate with interior designers, engineers, mechanical, structural individuals, really to protect the health, safety and welfare of the building. As you can see, it's a very, very

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

complex industry. It's, it's not simple at all. And as I said, interior designers are, are collaborators with the built environment, and they have a lot to offer through the process. I just wanted to mention that I know there are quite a few representatives from interior design practices here, and there are a lot of very successful interior design businesses and interior designers here today, and they've been doing this successfully without a voluntary registration or something similar. So kudos to them. Many of our-- I was going to also mention that a lot of my members work with interior designers and a lot of them hire interior designers on projects. In fact, I was just talking to one of them a couple of days ago and I asked him, well, how, how often do you work with an interior designer? And they indicated, oh, about 50 percent. And the architect indicated that there is an issue right now because interior designers are so busy, he couldn't find anyone to do his work, which, which is great for them. Just to let you know, I did do some research as well and the NCIDQ website indicates and Senator Geist and I have some different numbers here, but when I looked at the Nebraska site, it looks there, like there are 117 NCIDQ members That is like some kind of a voluntary database though, so I'm not for sure where to obtain the full, the full database of NCIDQ members. The website also indicated that there are 19 interior design businesses in Nebraska. Sounds like that's low. But again, this is from this database that have one, at least one NCIDQ member within those firms. I don't know how many employees there are. That was not, that was not on the website. I just wanted to mention again, mid- to large-size architecture firms, they all have interior design departments and they hire interior designers to work for those firms. I, this past week, AI, we did reach out to all of our medium and large-sized interior firms because I was wondering, how many interior designers actually do work for these architecture firms. So we came up with 98. So the firms employ about 98 interior designers. Looks like my light is coming on here. And that is not checking with our small firms, that's just our medium to large firms. And then also, I was just going to mention as well that we did, we'd love to continue to talk to the interior designers. We're totally open to that. We, we met with them just as recently as Monday, so we're completely opening-- open to doing that. I just want to remind you that there are, there are still 22 states that haven't adopted anything relating to this, and that includes our friends and neighbors in Kansas, South Dakota, North Dakota. And I do have knowledge that AI Iowa has not supported any of these, any of these measures. They've gone on record as being neutral. So there are lots AI Chapters across the country that have gone on as neutral. Just in closing, again,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

we're more than willing to work with, with, with the interior designers and the other entities.

BREWER: OK.

SARA KAY: Thank you. Any questions?

BREWER: All right. Questions? Questions? All right. Seeing none, thank you for your testimony.

SARA KAY: Thank you so much. Have a great day.

CONRAD: Thanks, Sara.

BREWER: Welcome to the Government Committee.

JUSTIN BRADY: Chairman Brewer and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist for the Metro Omaha Builders Association and the Home Builders Association of Lincoln. For full disclosure, our firm also does work for the architects of Nebraska. That's not why I'm sitting here, but I do want everybody to have the full disclosure of what our firm does. As I've worked on this issue, as has Ms. Kay, and others over the last, a number of years, it really comes down to, I see it as two issues. You have the issue of registering and you have the issue of what is their scope of practice. And those of you who either brought a scope of practice bill or have the opportunity to sit in or around the health committee, you know, there's nothing ever easy about a scope of practice bill. So I'm going to first focus on the registry. The homebuilders have no problem with there being a voluntary registry. They understand and believe that if that's something that professions come to ask the state to help them get the recognition they want, or need because of their extra education testing, that's fine. In fact, all contractors are required to be registered by the state. So we go through that process and it was started years ago to recognize those people who are coming, quite honestly from out of state, come doing some work and then leaving quickly before work was done. So I do see the advantage of having and the builder see the advantage of having a registry. Then you get to the issue of the scope. And yes, I won't pretend to be the expert and the homebuilders aren't near the expert the architects, engineers and interior designers are on that. Where does that scope fall that you sitting in your seat say, what do we do to protect the health, well-being of the public, but also not be a hindrance to barriers to entry? And as I've listened to this, part of me says, do-- you could

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

do more, so I volunteer registry to give them the recognition. And then, do we look at doing a true licensure act like the architects have, engineers have? There's also years ago, we did it with the landscape architects in a very similar situation. They have their own practice act where they're able to go to their board there and they have their scope of practice. So I do appreciate Senator Geist working on it over the years. I appreciate working with Senator Hunt on this. So, I mean, it is something that I do think where progress is being made and discussions are continuing, but with current form, they are opposed. But look forward to working with everybody to try to get there. With that, I'll try to answer any questions.

BREWER: All right. Thank you, Justin. We'll see if we have any questions. Questions? Questions? All right. Seeing none, thanks for your testimony. OK. Any additional opponents? Anybody in the neutral? Welcome to the Government Committee.

MATTHEW BARUSCH: Thank you, Chairman Brewer, members of the committee, for the opportunity to speak to you today. My name is Matthew Barusch, M-a-t-t-h-e-w B-a-r-u-s-c-h. I'm the director of Government Affairs for the Council for Interior Design Qualification. Our organization administers the NCIDQ exam, the national certification for interior designers in the U.S. and Canada. We are also members of the Inter Organizational Council on Regulation with the other national design credentialing organizations. I've been invited by the interior designers today to speak to you about our exam, and it's my hope to be a resource to the committee as you consider this bill, which would, would help protect the health, safety and welfare of the public. CAQ is a nonprofit organization whose membership is comprised of state interior design regulatory boards from across the United States and Canada. We develop and administer the three-part NCIDQ exam, a means of minimal competency assessment that offers the state and public assurance that interior designers are qualified to practice in a manner that protects health, safety and welfare. Internationally recognized as the industry standard for interior design certification, most of our certificate holders practice in commercial code-based environments like office buildings, hotels, hospitals, schools. NCIDQ certified interior designers are required to undergo formal education and thousands of hours of paid supervised experience to be eligible for the examination, which tests interior designers' knowledge of core competencies, competencies required for professional practice in the industry. To sit for our examination, candidates must possess a minimum of 60 semester or 90 quarter credit hours of post-secondary interior design coursework that encompasses a certificate, degree or diploma from an accredited institution. In addition, each candidate

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

must possess a minimum of two years of work experience gained under the supervision or sponsorship of a design professional to be eligible to sit for the exam. And also effective February 1, 2024, in order to be considered for NCIDQ eligibility, we are going to have minimum hours requirements for various buckets of experience, including programming and pre-design, schematic design, design development, construction documents, professional practice and contract administration. The NCIDQ exam itself consists of three parts, the fundamentals exam, the professional exam, and the practicum exam taken over 11 hours. Our exam verifies several core competencies required for practice, including building systems, life safety and building codes, construction standards, contract administration, design application, professional practice, fire safety, ADA compliance, project coordination and much more. Exam questions, including-- include subject matter routinely addressed by interior designers pertaining to fire protection, fire ratings, life safety, means of egress, permit requirements, regulatory documentation and building systems coordination. Students are eligible to take the fundamentals exam during the last year of their education program, but you do need to have satisfied the eligibility, the experience requirements in order to take the practicum and the professionals exam. Our exam also ensures that interior designers understand how their work impacts and is impacted by the work of other design professionals like architects and engineers. Interior designers do not design spaces in a vacuum, and our exam ensures that our certificate holders are able to safely integrate with the work of other professionals on a project. CIDQ regularly updates the exam to ensure exam questions are current and relevant. The blueprints for each of our examination sections outline the competencies being assessed appear on our website along with their relative scoring weight within each section. And I only brought a single copy today, but I'd be happy to make more copies available to members of the committee. While the exam is not easy, passage is possible with the proper combination of education, experience and a commitment to appropriate preparation. CIDQ publishes the pass rates following each administration and they remain relatively consistent over time. In 2022, the pass rates for each of the three sections were between 48 and 65 percent for each three sections, and that information is again available on our website as well. I'd also like to speak briefly to our involvement in ICOR, the Inner Organizational Council on Regulation. ICOR consists of the four design credentialing organizations, CIDQ, the National Council of Architectural Registration Boards and CARB, the Council for Landscape, Architectural Registration Boards, CLARB and the National Council of Examiners for Engineering and Surveying, NCEES. ICOR convened at the Practice

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

Overlap Task Force in January of this year with the intent to take a critical look at the areas of practice overlap between the design professions. That exercise is a multiyear effort, I'm sorry, I'm out of time. I'll just finish. That exercise is a multiyear effort and is designed to provide guidance on these areas for regulatory boards to utilize. It is not intended to draft scope language for each profession. In fact, it is not a current, is just designed to identify where the overlap areas are and CIDQ, or CIDQ and CARP did our own exercise to that effect, which is what helped guide some of the--

BREWER: See the gavel. The gavel means done.

MATTHEW BARUSCH: Thank you for your, for your-- an opportunity to speak today. And I, I'm happy to answer any questions.

BREWER: All right. I think if you go into this many acronyms--

MATTHEW BARUSCH: Yeah.

BREWER: --you're about going to hand something out. I'm sorry. I was taking notes and trying to keep up. Somewhere in that pile of letters, I lost track of exactly what, where I was on this, so. All right, let's see if we got any questions for you. Senator Raybould.

RAYBOULD: Thank you, Mr. Barusch, for coming down. So to help clarify something for those that have the voluntary registry, the states that have a voluntary registry--

MATTHEW BARUSCH: Sure.

RAYBOULD: --of interior designers, do they have their own separate and distinct board for interior designers rather than trying to merge it with the engineers and the architects?

MATTHEW BARUSCH: Sure. So we have, I believe, 26 member boards and the majority of our member boards are joint disciplinary boards, so boards that oversee engineers, architects and interior designers. The combinations vary from state to state, but there do, there are standalone boards in states that just, just regulate interior design. But with the overlap in the professions is general and with the bureaucratic efficiency that allows for a combined multidisciplinary board, that is why we see predominantly multidisciplinary boards as part of our membership.

RAYBOULD: OK. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

BREWER: Additional questions? All right. Thank you for your testimony. We are on the neutral. Anyone else before I have Senator Geist close? Senator Geist, come on up.

GEIST: You probably feel like you just sat for a 11-hour exam, so thank you for your patience and your attention. There are just a couple of things I do want to clarify, and then I'll let you move on. Senator Hunt is correct. I did not cosign your bill. However, it's only an oversight because I work behind the scenes and got a number of my colleagues to cosign your bill. I believe we had that conversation and so it's simply an oversight on my part. So you're correct. However, I was supportive of your bill. You just didn't know it. [LAUGHTER] Let's see. One of the things I'll let you know is that the graduates from the two programs recently in Lincoln and Kearney, 48 percent of those graduates of this program from the interior design have actually leave the state, 48.7 to be exact. I'll also say I, I don't believe this is an emotional issue. I think it's a business-related issue. And people are coming at this at a, in their mind to improve their business opportunity, not because they're emotional about wanting to have credentials behind their name or a registry, it's because they want to improve their opportunity for business. Also, I'll let you know that the portion that was in the legislation previous about coordinating professional is no longer in this legislation. So the current amendment that we built on, AM43, and then the current language that's in this bill, eliminates the coordinating professionals. So that is not even part of the conversation that we're having right now. And you can also see that among the people testifying, even in opposition, there's some level of agreement, there's some level of disagreement, so we're committed to continue to work on this and find where we can all find agreement and push this forward. So I appreciate your time and your attention and I'm open to any questions.

BREWER: All right. Thank you, Senator Geist. And just so it goes in the record correctly, Senator Geist says that Senator Hunt is correct. [LAUGHTER]

GEIST: I did. I did.

BREWER: All right. Questions for Senator Geist.

GEIST: Go ahead.

HUNT: Thank you, Chairman Brewer, and thank you, Senator Geist. I don't need to have the last word on this, but I think supporters of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

the bill should know that we never had a vote on this bill in the past--

GEIST: Correct.

HUNT: --so there's nothing on the record. But the anti-abortion women in the body withdrew their support of this bill because of the work I was doing for abortion support. So that was a verbal conversation. It wasn't any record vote or anything like that. But thank you very much.

GEIST: There's only one. As I looked on, on the record of the last session, there was only one person who withdrew their support. And I was not one of those because I support this legislation. I think it's very pro-women business and I support it. Otherwise, it wouldn't be that way.

BREWER: Additional questions? Senator Lowe.

LOWE: Thank you, Chairman, and good to see you back.

BREWER: Thank you.

LOWE: And Senator Geist, I just have a comment that we had a young lady who was studying interior design and she was doing a work study in Grand Island, living with us in, in Kearney and then commuting back and forth to Grand Island to do her work study. And she helped my wife redesign a kitchen. So I'm not sure if I'm in favor of it or not, it's going to cost me a bit of money, but thank you to the interior designer.

GEIST: It does require financial obligation, yes.

BREWER: OK. Additional questions. Before we close, we do have letters. Six proponents, one opponent, zero in the neutral. With that, we will close the hearing on LB471 and reset. Now before we, well, we'll clear the room real quick and that way I'll have a better head count here, so. All right. Let's finish getting everybody emptied out that is not going to speak on the next two bills, which would be LB16, and LB43. All right. Well, that took a little longer than we-- [RECORDER MALFUNCTION]-- a head count when I did my intro, I had a handful of hands. We decided to go 5 minutes. And I don't know where everyone else, whether they decided to talk after I asked that question or came in later, but in order-- because we have no choice, we have to end this in order to go into the next hearing. So for, for here on out, we're going to be in three-minute time, not five minute. So just be

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

aware of that. With that, we will welcome up for the introduction of LB16, Senator Tom Briese. Welcome to the Government Committee.

BRIESE: Thank you, Chairman Brewer. And good morning, Chairman and members of the Government, Military and Veterans Affairs Committee. I'm Tom Briese, T-o-m B-r-i-e-s-e, I represent District 41, and I'm here today to present LB16. For those of you who were here last year, LB16 should look very familiar. It is, with the exception of a few minor cleanups over the interim, the same bill as came out of this committee in 2022, under the auspices of AM1936 to LB709. That amendment in 2022 combined my earlier LB263 and LB709 and LB1153 and exited the committee on a 7-0-1 vote. Unfortunately, timing was not with us and the bill ran out of time on the last day of General File debate last year. LB16 really is a workforce bill. It is not the answer to all of our workforce problems in this state, but it certainly can help by reducing barriers for entry into occupations that Nebraska needs by people who are coming from other states. It has three primary elements that I want to talk briefly about. The first element is universal recognition, which was found in last year's LB263. The universal recognition portion of this bill would provide one-way recognition by Nebraska licensing boards for purposes of licensing in Nebraska. If you're licensed in another state that licenses an occupation with the same scope of practice and have at least one year of experience working with that license, you will be granted a Nebraska license to practice that occupation here. A couple of caveats. We assume that in any occupation that has a compact which Nebraska and the other states, state are parties to, the compact's multistate licensing would be the first go-to for licensing. Also, if you are a military veteran with a military occupational specialty that has a civilian counterpart, universal recognition will recognize you for licensing in Nebraska. Also, if Nebraska requires a jurisprudential exam for licensure, those coming from other states can be required to take Nebraska's exam. Finally, if you come from a state that doesn't license a particular occupation but can document three years of experience practicing in that occupation, you will be eligible for a license in Nebraska. Again, our recognition is based upon scope of practice, not the name of the license. And if the scope of practice in the originating state was broader than allowed in Nebraska, Nebraska scope, scope will apply. If the scope of practice in the originating state was less than Nebraska's, our licensing boards could require additional training before granting full licensure based on recognition. And you may hear from some occupational groups that universal recognition is bad because Nebraska's standards are so much higher for education or experience.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

It is true that education hours and experience can vary widely from state to state. I believe that the post-licensing experience, again for licenses have the same scope of practice, can make up for any differences in prelicensing education and experience. I would encourage you to ask those representing occupations using those differences as a reason that you should oppose to really show real data which demonstrates unequivocally that the public or consumers are in more danger in other states than in Nebraska. Historically, we have seen and heard a number of anecdotal worst-case scenarios about what might happen if we accept those who don't have the same level of training that initial licensees in Nebraska must have. Finally, with respect to the universal recognition element, Senator Sanders' LB389 and Senator Murman's LB390, both carried at the request of then Governor Ricketts in 2021, already created a significant universal recognition regime for military spouses who were teachers and for many healthcare-related occupations covered by the Uniform Credentialing Act in the COVID-19 aftermath. The bill before you simply brings more occupations and more people under the umbrella. I would argue that if universal recognition is safe for many healthcare-related occupations that directly impact public health and safe-- safety, then it should be good, good for virtually every other occupation. The second element of the bill is a second chances bill, which was the essence of LB709 in last year's Legislature. It was also the subject of an interim study in 2021. It would first require licensing boards and/or statutes to specify offenses that would outright exclude someone with a criminal record from being licensed by that board, making licensure of that person a direct and substantial risk to public safety. The goal with this portion of the bill is to eliminate some of the outdated moral turpitude or good moral clauses and bring clarity to the statute and provide less discretion to the board whose membership can shift and priorities change over time. You will note that licensing for those who have been incarcerated still has a three-year waiting period. In other words, the applicant will have to keep his or her nose clean for at least three years after the end of their sentence in order to be eligible. With both the universal recognition and the second chances portion of the bill, it is important for you to remember that the only thing this bill does is to define what the state can do with respect to licensing. A license does not guarantee that someone will be hired. A license does not mean that a potential employer can't run their own background check or have their own standards for whether or not they will hire someone with a particular background. All we're trying to do is make sure that the state doesn't get in the way unnecessarily. The third element of the bill deals with the Electrical Board. In discussions with the electricians and the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

board over the last few years, some of the language from the main portion of the bill did not mesh easily with the language of the Electrical Board, especially in the discussions of apprenticeship, registrations, journeyman licenses and so forth. There was also a desire to make some minor changes to the board's structure of the Electrical Board. In the end, at the recommendation of Bill Drafters, occupations regulated by the Electrical Board have been removed from LB16 Chapter 84 language and integrated into Chapter 81, which applies to the Electrical Board. Aside from the Electrical Board occupations, you will see that several other occupations or professions have been outright excluded from the language of LB16. Attorneys who are regulated by the Judicial Branch and whose inclusion would present a separation of powers issue perhaps, law enforcement as regulated by the Crime Commission, anything regulated by the Board of Architects and Engineers whose national testing requirements have largely created a de facto system which allows for liberal recognition, and anything regulated by the Department of Banking and Finance, of Public Accountancy Acts, the State Real Estate Commission, or the Department of sure-- of Insurance. Those occupations were deemed to be beyond the scope of this bill, in large part because they are governed by significant federal regulation. I think we handed out an amendment here, AM180, that also adds the Real Property Appraiser Board under the umbrella of real estate and the Real Estate Commission. Those behind me will probably talk a little more about the history of universal recognition and second chance bills around the country, as well as about the results of states that-- the results that states that have implemented this policy have seen. And we really do have a workforce crisis in this state. We hear it everywhere we go. It's front and center in our state, one of the biggest issues holding back economic growth in Nebraska. And I believe that this is a bill that can take us on some steps in the right direction in addressing that crisis. With that, I'd be happy to try to answer any questions. Thank you.

BREWER: Thank you, Senator Briese. I was real quick like going through the opposition letters. It appears if you take out the massage therapy piece of this, you have virtually no letters in opposition. Why, why have they come in quite so strong against this bill? Does it really negatively affect them?

BRIESE: I, I don't believe that it does. I, I guess I'd like to hear from them and understand what their concerns are, really. I think--

BREWER: I just-- it just seemed interesting to me.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

BRIESE: --when one looks at one-- when we have to compare scope of practice and at least one year's experience in the field in a different state, it seems like we're protecting the safe-- health and safety of Nebraskans sufficiently and opening this up to additional entrance into our workforce. And I think that's always a good thing, but I'd be curious to hear what they say.

BREWER: All right, thank you. Let's see if you have questions. Senator Raybould.

RAYBOULD: Senator Brewer, this is a question for you. And, and since I'm new to this, I mean, I, I have received a letter from a licensed massage therapist that has served on the state board for ten years that would address some of Senator Briese's questions on why they would be concerned about this. And I don't know if it was submitted to you or not, or if you had seen a copy of it.

BREWER: It may be, I'm going through them now looking.

RAYBOULD: Or if we have a licensed massage therapist planning to speak on this, then I think we should give them that opportunity.

BRIESE: OK

RAYBOULD: But I didn't know.

BREWER: Well, let's do this.

RAYBOULD: OK

BREWER: Why don't we push through. If we don't get any, then we'll grill him at the end.

RAYBOULD: OK.

BREWER: That will give us time to [INAUDIBLE].

BRIESE: I'm gonna waive closing [LAUGH].

RAYBOULD: That sounds fair enough. I look forward to that.

BREWER: OK, more questions for Senator Briese on LB16? You will stick around for close?

BRIESE: I will try my best to be here.

BREWER: All right.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

BRIESE: You bet

BREWER: We'll, we'll try our best to--

BRIESE: Sounds good

BREWER: --have questions ready for you.

BRIESE: Thank you.

BREWER: All right, we will start with proponents to LB16. Laura, welcome back to the Government Committee.

LAURA EBKE: Thank you, Senator Brewer and members of the Government Affairs Committee. My name is Laura Ebke, that's L-a-u-r-a E-b-k-e. I am the senior fellow at the Platte Institute, and I speak today in support of LB16, which should probably be no surprise to anybody who has been here for a while. We thank Senator Briese for introducing this bill this year. I also want to thank Senator Sanders, Senator Brewer and Senator Conrad on this committee who have cosponsored it. I've handed a number of things out for you to take a look at, and you can look at them now or later. But at the very end, the last thing that I added was a series of questions and answers. And maybe those will spur questions for you-- for someone later. LB16, as Senator Briese pointed out, has a couple of components. Universal recognition of licensure from other states is a significant portion of it, and this committee has considered the concept of univers-- universal recognition in the last two Legislatures with Senator Andrew La Grone's LB1187 in 2020, and then Senator Briese's LB263 in 2021, with it being combined into LB709 in 2022. The essence of universal recognition, which continues to gain traction around the country, and I think there's a map there someplace, is that people who are skilled in their occupations don't lose those skills because they've crossed state borders. The second portion of the bill, the second chances, grew out of an interim study this committee did in 2021, which Senator Briese mentioned, LR191, seeking to understand some of the problems with occupational licensing for those with criminal convictions on their records. We needed to consider these issues for two reasons. First, those who have paid their debt to society should not be excluded from succeeding in that society upon release. And second, we were observing that many states, including our neighbors in Colorado, Iowa, Kansas and Wyoming, had already started implementing laws prohibiting licensing boards from denying licenses to ex-offenders unless the board determines that the record is directly related to the license sought. During LR191's open, opening hearing-- open hearing on

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

October 20-- in October 2021, the record showed that there were only two state licensing agencies that were concerned with what might happen if some of the so-called fair chance licensing was introduced. LB16 is a workforce bill. We have talked about workforce for years in this, in this Legislature, and we have workforce needs today. And while education and trying to keep our kids here is a piece of that, so is being able to attract experienced workers into our state and making it easier for those who are here but have made mistakes in their lives to chase-- we need to let them chase their dreams. So we would encourage a rapid advancement of LB16 to General File, and I would be happy to try to answer any questions you might have.

BREWER: Well, for forcing you to go with the Reader's Digest version on no notice, that's a pretty good job keeping on time. Thank you. All right, questions for Laura. Yes, Senator Raybould.

RAYBOULD: Senator Ebke, have you heard some of the concerns from the licensed massage therapists in the state of Nebraska?

LAURA EBKE: Yes.

RAYBOULD: And their request is that there be a carveout specifically for them and their concerns about licensing qualifications are not as strict or rigorous as some in the state of Nebraska. And it all directly relates to an unfair reputation of massage, licensed massage therapists relating to human trafficking.

LAURA EBKE: Sure. I understand their concern. I think if you look at the record, and I didn't-- I don't think I brought-- I think that's the one thing I didn't bring with me. But the massage therapists in Nebraska have well above the mean in terms of the required number of hours. So then the question becomes one of scope of practice. And that's what we want to focus on is, is somebody inherently better because they've had more hours, even though they have the same scope of practice as someone across the, you know, across the state lines? You know, we don't, we don't advocate for any kind of illegal activity. But I think that that's, I think that, that saying just the hours, you know, unless they unless they've got data that proves that people are inherently more in danger because of, because of fewer starting license hours, I think that-- I think that that's in many ways a way to increase the number of hours and increase the kind of the, the sense that that, that, that our, that our licensing is somehow better. I'm not sure that it is.

RAYBOULD: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

BREWER: All right, additional questions? Thank you, Laura.

LAURA EBKE: Thank you.

BREWER: All right, next proponent to LB16. Welcome to the Government Committee.

NICK SMITH: Good morning, Chairman Brewer and committee. My name is Nick Smith, spelled N-i-c-k S-m-i-t-h, I'll be speaking as a proponent for the universal recognition part of LB16. I was born and raised in Nebraska, went to college down in Texas, graduated in 2012 from Abilene Christian University with my bachelor's degree. The next six years, I coached college football, mentoring young men in both Texas and Nebraska. 2017, I finished my master's degree in educational administration from the University of Nebraska-Lincoln. The following year, in 2018, with a bachelor's degree and a master's degree, I finished-- I enrolled in a yearlong alternative teaching certificate program in Texas that is accepted in seven different states. This is a yearlong teaching program that included six formal observations and 12 classroom and educational courses. To finish that certification in Texas, I passed the state-required content test and also a professional resources exam. I went on to teach three years as a full-time special education teacher in one of the most sought after school districts in central Tex-- in Central Texas, Leander Independent School District. In December of 2021, my wife and I needed some extra help from family to take care of our son, who was born with a disability, so we moved back to Nebraska. I was hoping with the teacher shortage I'd be able to easily transition into the Nebraska teaching system. I reached out to Lincoln Public Schools' human resources, and they immediately offered me a position after an interview and review of my resume. I then contacted Nebraska Department of Education and was told I could not teach in Nebraska because I did not meet state certification requirements. It was frustrating that a school district was excited and satisfied with my resume and interview, but the state would not let them hire me. That started a seven month process to get back in the classroom. Last spring, with the passing of LB1218 and endless phone calls with Nebraska Department of Education, I was finally granted an alternative teaching certification. This allowed Lincoln Public Schools to hire me in October. However, under the current certification requirements, I still have to require-- or complete my education degree, which is over 30 more credit hours within three years. With a family and a teaching salary, that is time and money that I don't have. I hope that this bill can help out-of-state teachers who have credible teaching

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

experience be able to move to Nebraska and have a smooth transition to the classroom. Thank you.

BREWER: All right, thank you. Questions? Yes, Senator Raybould.

RAYBOULD: Thank you, Mr. Smith. So with the alternative teaching-- is it a license or is it a certificate or--

NICK SMITH: In Texas, it's a license. It grants you full certification.

RAYBOULD: But in Nebraska, you were granted--

NICK SMITH: An alternative permit.

RAYBOULD: And is that, is that a temporary-- requiring you in three years, you must complete all the 30 hours of educational requirements?

NICK SMITH: Yes, ma'am.

RAYBOULD: So if after three years, if you don't complete that--

NICK SMITH: I don't think I'll be a teacher.

RAYBOULD: OK. Thank you.

NICK SMITH: Yeah.

BREWER: All right. Any more questions? Thank you for your testimony. All right, next proponent. Welcome to the Government Committee.

JASMINE HARRIS: Thank you. Good morning, Chair Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Jasmine Harris, J-a-s-m-i-n-e H-a-r-r-i-s, I'm the director of public policy and advocacy at RISE, and I requested this testimony be included as part of the public hearing record that shows we are in support of LB16. RISE is the largest nonprofit organization in Nebraska, focused solely on rehabilitative programming in prisons and reentry support. And our overall mission is to break generational cycles of incarceration. We thank Senator Brieser for introducing this legislation and Senator Ebke for her continuous work to eliminate another barrier that people have been justice-involved experience when they are trying to do what everyone has asked them to, which is to become a law-abiding and productive citizen. In our program, we have over 600 individuals that have graduated and approximately about 180 graduates released in the community. On staff, we have employment

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

services, and while our overall goal is to ensure that we're connecting people with those employment opportunities. We are currently expanding this program and department to provide even more meaningful services for employment and career pathing. Our graduates are hired in several different industries that include the food industry, hospitality, retail, manufacturing, construction and others. What we do know is that employment is one of the biggest challenges that people deal with when coming out of incarceration. That is why we have dedicated resources to work on employment readiness, job placement and job creation through entrepreneurship. LB16 ensures that we can take this a step further to help justice-involved individuals move towards a meaningful career trajectory versus a job they took just to survive. Last year, when Senator McCollister introduced this piece of legislation, our director of youth and family programs, Alana, testified with her personal story. I've included a copy of her testimony in this exhibit, but I do want to highlight for those who don't remember and give an update on where she is and why she can't testify today. Alana was formerly incarcerated and during this time she earned over 40 certificates. She was a personal trainer, an electrician, a yoga instructor in the facilities that she was incarcerated at. And then when she came out in Nebraska, she could not take any of those jobs. This licensing here could have saved Alana time and money and the feeling of despair and discouragement, because what she did, she went to school. She was encouraged to change her majors from continuing studies to sociology to clinical neuropsychology. She did all of these. She received all of these praises and was unable to then get jobs in those fields, even with the encouragement of faculty and advisors. She was also told that she was the best applicant from medical schools that she interviewed with, but she just could not get that because of that felony conviction. Her story is not the exception. And what I want to update is she was finally accepted into a program in the University of South Florida in Tampa. She had to leave Nebraska to be able to follow her dream. And there's only two programs that she knows of that is offered across the country that combines her passions of medical anthropology, neuroscience and biomedicine. She is brilliant, and she was able to follow her path because places like Florida have, have-- dang, I'm out of time. But I think you get my gist.

BREWER: Actually, finish your, your, your thought there.

JASMINE HARRIS: Yeah. She is now able to, you know, combine these. And she had to leave Nebraska to go to a state that has incorporated these fair chance licensing laws into their, into how they help people then for-- continue to become a part of the community, to therefore show

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

that they have rehabilitated themselves and are now able to continue moving forward in life in a positive direction.

BREWER: All right, thank you. OK, questions? Senator Raybould.

RAYBOULD: Well, you didn't finish the Alana story yet. So what did she end up-- did she become an electrician or--

JASMINE HARRIS: No. She worked--

RAYBOULD: --did she go to medical school or--

JASMINE HARRIS: Yes, she worked with RISE. She developed our youth and family programs which cultivated a community of folks who were able to start processing the impact of incarceration on them and their families with a focus on neurobiology. She's now at the University of South Florida in Tampa. She started this January. She has a full ride scholarship there, and she's going to be teaching a class on the work that she did with RISE and how neuroscience, biomedicine and medical anthropology all feeds into the impact of incarceration of folks here.

RAYBOULD: OK, great. Thank you.

BREWER: All right, additional questions? Thank you for coming in. Thank you--

JASMINE HARRIS: Thank you

BREWER: --for your testimony. All right, next proponent to LB16. Spike, come on up.

SPIKE EICKHOLT: Will do, sorry. This is this, and I got a statement too.

BREWER: Welcome back to the Government Committee.

SPIKE EICKHOLT: Thank you. Good morning, members of the committee. Chair Brewer and members of the Government Committee, my name is Spike Eickholt, S-p-i-k-e, last name is E-i-c-k-h-o-l-t. I'm appearing on behalf of the ACLU of Nebraska in support of LB16, and we want to thank Senator Briese for introducing the bill. I kind of want to pick up and highlight some of the points that the previous testifier, Ms. Harris, just mentioned, and that is the part that we really like about this bill, is the second chance component of the bill. You've got a copy of my written statement, so I'm not going to read from it. But this idea of providing for a second chance or reentry opportunities

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

for people who are system-involved, coming out of prison or people who have criminal records is really important. And I think what Senator Briese has got here on the bill is really, is really good as well. It's on pages 8 and 9 of the bill, that basically provide for if somebody does have a record, that before they perhaps commit to an educational program or if they're considering their future employment opportunities, that they can submit sort of a request to an oversight-- to, to, to an occupation licensing board to make sure that their records don't have any prohibition for them. That's good, because the people who will take advantage of this are people who want to work, right? People make mistakes. Over 2,000 people in our state come out of the prison systems, right? And I looked at the recent facility study of our prison system that talked about the new prison. And almost half of the population is going to be released in some point within the next three years. So you have a significant number of people who are-- have made a mistake, been found guilty, done their time, and they want to get back in the community. For those people who really want to work and really want to do something other than perhaps just basic manual labor, this gives them an opportunity to pursue a profession or some similar career. There's a concern, obviously, that perhaps could be-- is legitimate, that people with criminal records who have done some bad things might do them again. I would submit that the people that would take advantage of this sort of precertification inquiry, or whatever you want to call it, are reformed folks. If you are sort of living back with your parents and you're stealing catalytic converters all night and you're still selling that kind of stuff and you're living that lifestyle, you're not going to bother writing to see if you can be a barber. You're not going to send a letter in to see if you can be a cosmetologist. That's not your interest. You don't have that mindset. This is something that will engage folks who are meaningfully ready to reenter society and be productive citizens. And I can answer any questions if you have any. My time is getting close, you've been here for a long time today. But we do support the bill and we again thank Senator Briese and the cosponsors for introducing it.

BREWER: All right, thank you, Spike. Let's see if we don't have any questions for you. Senator Raybould.

RAYBOULD: Thank you, Mr. Eickholt, for coming down. Do you have any concerns about carving out massage therapists because of some of the requirements in the state of Nebraska and some of the concerns that have-- they have highlighted?

SPIKE EICKHOLT: I haven't seen what massage therapists' concerns are.

RAYBOULD: OK.

SPIKE EICKHOLT: And I, admittedly, my impression that they may have been, they may have-- I can't speak for them.

RAYBOULD: Yeah.

SPIKE EICKHOLT: It's not fair. But my hunch or impression was that they were more concerned with the universal recognition component of the bill. If they have concerns about sort of, well, people with a criminal record shouldn't be massage therapists, I think the bill does provide for that if their prior record is an actual threat to the health and safety of the people who they may, if they're a massage therapist, sort of work with their clients. And I don't think that's every criminal record. I don't-- arguably, I don't think it's ever a felony. And I've made this speech before, and I don't mean to get on a soapbox, but just because the Legislature makes something a felony does not in today's day and age, does not necessarily mean that's an inherently bad thing to do.

RAYBOULD: OK, thank you.

SPIKE EICKHOLT: Sorry.

BREWER: And I just, I went through real quick and looked over our 20 letters in opposition, 13 of them came from the massage therapy community. Ironically, eight of them are identical letters. But that's kind of, you know, a pretty heavy number. Normally, it's kind of a mix of different issues that folks have. But 13 to 20, you know, that's a little, little heavier on the massage therapist side. All right, any other questions? All right, thank you.

SPIKE EICKHOLT: Thank you.

BREWER: Proponents of LB16. Come on up. Welcome to the Government Committee.

JON NEBEL: Thank you for having me. My name is Jon Nebel, J-o-n N-e-b-e-l, I'm a business representative for IBEW Local 22 in Omaha and president of the Nebraska State Council of Electrical Workers, representing over 5,000 workers and their families in Nebraska. The path to universal recognition, I want to first thank Laura and Senator Briese and his staff and the Platte Institute for taking the year's time that it has taken to get to this point. And I think for us, we always wanted to get to a path for universal recognition, and it was a matter of accomplishing three things: find a pathway for out-of-state

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

people that did not have a state license from the state they came from, maintain the public's confidence in the license that we carry, and also not affect any of the reciprocity agreements we have with other states currently with our license. I believe we've done that. We've, we've taken language of federally recognized Department of Labor apprenticeship training to, to use as verification from the states that do not carry a state license. So in the-- at the end of the day, this bill will do a lot to, to grant more people an electrical license in Nebraska coming from out of state in those types of states. And also, as we move forward with some board reforms, we felt it best to have representation on the Electrical Board. So that's why you see that language as well. I'm available for any questions.

BREWER: All right, thank you for your testimony. All right, any questions for Jon? All right, Jon, thanks for coming in.

JON NEBEL: You bet.

CONRAD: Thank you.

BREWER: All right, we are still on proponents to LB16. Come on up. Welcome to the Government Committee.

MEAGAN FORBES: Mr. Chair, and members of the committee, thank you for the opportunity to testify today in support of this bill. My name is Megan Forbes, I am senior legislative counsel at the Institute for Justice.

BREWER: Can I have you spell it?

MEAGAN FORBES: Oh, sure. Yes, Mr. Chair. M-e-a-g-a-n F-o-r-b-e-s.

BREWER: Thank you.

MEAGAN FORBES: The Institute for Justice is a nonprofit public interest law firm. We work to protect civil liberties, including economic liberty. And we support both the recognition component of this bill and the fair chance licensing part of this bill. I'm going to speak a little bit about the research that we have done related to fair chance licensing, because I think that might be helpful to discuss today. And what we did at the Institute for Justice is we published a report studying collateral consequences in licensing for people with criminal records in all 50 states. And we found that Nebraska's laws were, were behind when it came to the protections that were afforded to people with criminal records. So this bill significantly improves the protections for people with criminal

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

records. It addresses the poor standards that we found in Nebraska's law and improves the standards that people will have as they're going through this application process. I want to note that this bill is good for workers and it's good for the state. Through public records, we've been able to see in other states that these reforms are quite impactful, both for workers and for businesses. To offer a couple of examples, since Ohio enacted reforms in 2021, the state has issued licenses to 2,014 applicants and denied licenses to only 50. We also saw encouraging numbers in North Carolina, where since 2019, the state issued licenses to 18,300 people and only 151 applicants were denied licenses, which was the denial rate of about 1 percent. So these are-- these numbers represent people who may have been precluded from pursuing their calling before. And we think that it's really important to, to make sure that the state is not standing in people's way. So in closing, we thank the committee for considering these important issues, and we ask the committee to support this bill. And I'm happy to answer any questions the committee may have.

BREWER: All right. Thank you, Meagan. Let's see what we have for questions. Senator Raybould.

RAYBOULD: Thank you very much, Ms. Forbes, for testifying. And I don't mean to be repetitive, but throughout all the work that you've done and all the states that you have examined, have you ever heard that some of the concerns that are being raised by our licensed massage therapists on the level of training we require in Nebraska versus some of our other surrounding states?

MEAGAN FORBES: Senator, I have heard about the human trafficking component when it comes to licensing massage therapist. And the license in and of itself is really what, what people would say helps prevent against the human trafficking component. So I think having a license here would actually help prevent the human trafficking issue. And, you know, we at the Institute for Justice would say inspections may be a better approach than licensing, because then the government is actually going into the facility and making sure that human trafficking is not going on there. And if a person's licensed, that would still be happening as well.

RAYBOULD: And I think part of the information in LB16 says, if you have two years of experience in your field and you may not be licensed. For example, I know they gave an example of five states: Wyoming, Kansas, Oklahoma, Minnesota and Vermont do not have licensed massage therapists. So if they've been working for two years in Kansas, they can just come into Nebraska. But that's not the standards

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

that we have established in the state of Nebraska to have the educational requirements and the years of experience as well. So this would allow those states to be able to transfer in without some of the requirements. And the concern is, of course, related to human trafficking.

MEAGAN FORBES: Yes, Senator.

RAYBOULD: OK.

MEAGAN FORBES: And I understand that concern. And again, I think that, that the ability to get the license here is really what would help prevent human trafficking, and really more so the, the ability of, if the board is inspecting, to have the inspections even more so than the license. But those are people who are coming in and then would be under government oversight. So, so that, that would address the human trafficking component.

RAYBOULD: Thank you.

BREWER: All right, any additional questions? Thank you for your testimony. We are still on proponents to LB16. Any additional proponents? All right, we will transition to opponents to LB16. Anybody here in the neutral?

RAYBOULD: Opponents--

BREWER: OK. I need you to be paying attention now, all right? Come on up, have a seat.

DANIEL ROSENQUIST: Thank you.

BREWER: Whenever you're ready.

DANIEL ROSENQUIST: Thank you. Good morning, Chairman Brewer and members of the committee. My name is Daniel Rosenquist, I'm a family physician in Columbus and the current president of Nebraska Medical Association. I'm testifying in opposition to--

BREWER: Could you spell your name?

DANIEL ROSENQUIST: Oh, sorry. D-a-n-i-e-l R-o-s-e-n-q-u-i-s-t.

BREWER: OK.

DANIEL ROSENQUIST: I'm testifying in opposition to LB16 on behalf of the NMA. And I've also been asked to represent the opinions of the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

Nebraska State Athletic Trainers Association and the Nebraska chapter of the American Massage Therapy Association with this testimony. To be clear, our opposition is addressed to Section 9 of the bill and not to the provisions regarding the State Electrical Board. Nebraska standards for professionals, particularly health care professionals, should dictate the qualifications for providing services to Nebraska patients. LB16 would override those standards and allow other states to set licensure requirements for Nebraska. From the perspective of the NMA, we struggle to find the need for this legislation as it relates to our, to our physicians. It is our understanding the department currently turns around physician license applications in 5 to 7 days. The longest delays and barriers to practice happen during the credentialing process required by health insurers, not with state licensing. While we can understand and appreciate the goal of attracting health professionals to move to Nebraska, there is nothing in this bill that incentivizes that to happen. With the rise of telehealth, the practical effect of LB16 is very likely that a provider will remain in their office in another state and use this law to provide telehealth services to Nebraskans. While the NMA strongly supports telehealth, we have strong reservations about out-of-state providers using relaxed licensing laws to siphon patients from Nebraska providers and facilities. Because they do not have an established relationship with the patient, care by out-of-state providers can lead to fragmentation, disruption of care and lower quality of care. It is also likely patients will see an increase in surprise billing as these providers may not be credentialed with an in-state or in-network with a Nebraska health insurance carrier. Protecting patient safety is our primary concern. While the bill does not permit a professional to obtain a license if they have past licensure revocation or pending disciplinary measures against their license elsewhere, there is nothing in the bill about how Nebraska is to become aware if a credentialed-- credential holder receives discipline in another state while they are actively licensed in Nebraska under the method of LB16. This very issue is one of the reasons Nebraska entered into the Interstate Medical Licensure Compact in 2017. The compact requires ongoing reporting of discipline to member states, of which there are nearly 40. The compact, as most compacts do, also provides for a method of expedited licensure, again, raising the question of the need for this bill, at least to physicians. The NMA, along with the state-- Nebraska State Athletic Trainers Association and the Nebraska chapter of the American Massage Therapy Association, respectfully ask the committee not to advance this bill as written. We would be happy to work with the committee and Senator Briese to see if we can resolve our concerns before the bill

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

is advanced. Thank you for your time, and I'd be happy to answer questions.

BREWER: All right, thank you for your testimony. Questions? Senator Halloran.

HALLORAN: Thank you, Chairman Brewer. Thanks for your testimony. Could you introduce yourself again? What's your--

DANIEL ROSENQUIST: I'm a family physic-- Daniel Rosenquist, family physician from Columbus, and the current president of the Nebraska Medical Association.

HALLORAN: OK, thank you. But you're not a licensed lobbyist per se?

DANIEL ROSENQUIST: Correct.

HALLORAN: OK. Have you expressed these concerns directly to Senator Briese?

DANIEL ROSENQUIST: Through the association, I think we have, yes.

HALLORAN: OK. All right, thank you.

BREWER: All right. Additional questions? Senator Raybould.

RAYBOULD: So thank you, Doctor Rosenkranz [SIC]. Just for the record, you're willing to work with Senator Briese to, to improve the bill?

DANIEL ROSENQUIST: Absolutely.

RAYBOULD: OK.

DANIEL ROSENQUIST: He's in our neck of the woods so-- in my neck of the woods, anyway.

RAYBOULD: That's wonderful. Thank you.

BREWER: All right, additional questions. All right, thank you for your testimony. All right, I'm double checking here. You're an opponent?

BECKY OHLSON: Right.

BREWER: All right. Welcome to the Government Committee.

BECKY OHLSON: Thank you. My name is--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

BREWER: Whenever you're ready.

BECKY OHLSON: My name is Becky Ohlson, B-e-c-k-y O-h-l-s-o-n, I'm the current chapter president of the American Massage Therapy Association Nebraska chapter. So I'm speaking on behalf of our board and all of our members, and we're asking for opposition to LB16. So we're kind of feeling like a broken record. With respect, we've asked Senator Briesse each time to exclude us from all of the previous bills. So we feel like we're here once again for whatever reason. LB16 has many issues. The most egregious is that massage therapy-- or for massage therapy, is from pages 9 and 10, which require the Board of Massage Therapy to issue a license to anyone who has worked in the profession in another state who hasn't had their license revoked and isn't under investigation, regardless of their training or lack thereof. And it allows people from no-license states to practice here after three years. So Nebraska is a 1,000 hour entry level licensure. All licensed massage therapists are health care professionals. Our education is on anatomy, physiology, pathology, massage theory, practice and more. We have a national board exam, continuing education and all that is required. This is not the case in many states. So Kansas and Wyoming, for example, they have no licensure at all. So you guys could go down there right now and, and set up as a business as a massage therapist. This letter in the bill states that a person can do this for three years in Kansas, move then to Nebraska and be qualified as a healthcare profession in, in the state. And if you don't want to wait three years, you can actually go to California, buy your license, present it into Nebraska, and then start working here also. So obviously, this is not what Nebraska public or the healthcare system has come to know about massage therapy. We've been regulated since the 1950s. This bill is going to blow a giant hole in the protective net of our state licensure. Nebraska actually already has a reciprocity process-- reciprocity process, and it was just updated last year. So-- and this was more for the military. It allows actually a temporary credentialing for the military spouse. And they can actually work while they gather up all their reciprocity information in order to gain full licensure. So the licensure is for protecting the people from the things they don't know that they don't know. And LB16 creates those dangerous loopholes in licensing massage therapists, creating discrepancy in competence and professionalism while opening the doors to bad actors. AMTA Nebraska asks you to oppose LB16. Thank you.

BREWER: All right, thank you. OK, questions--

BECKY OHLSON: Yes,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

BREWER: --on LB16.

CONRAD: I have a quick--

BREWER: Senator Conrad.

CONRAD: Thank you. Thank you, Senator Brewer. Thank you for being here, and clearly your colleagues are well organized. And I know our office has heard a lot from people who practice in, in your field. And I really appreciate the engagement and outreach. And in just trying to sort through some of the additional concerns, can you tell me, do you have a sense, or maybe you could check with your national colleagues as well, in the states that have a lesser standard or requirement for licensure or, or practice, what are really the main concerns? Are people being injured? Are-- I know that you've mentioned kind of a public safety, like an illicit front kind of, kind of inquiry. But are there other kind of documented data or information about public welfare and safety--

BECKY OHLSON: Right.

CONRAD: --and in care.

BECKY OHLSON: Personal injury stuff, I would say I don't have the data--

CONRAD: OK.

BECKY OHLSON: --right now on that.

CONRAD: OK.

BECKY OHLSON: But we could find some.

CONRAD: Kind of keep talking about that.

BECKY OHLSON: But it is the illicit businesses--

CONRAD: OK.

BECKY OHLSON: --that do kind of-- you hear more about. So Florida, for example, had sponsors that were regulated as a massage parlor, was what they were called down there. And they actually were raided. And this was actually from 2017, but there was 41 spas raided, 500 human traffickers were arrested, 15 percent of them actually were convicted. And then within the same report, 13 of those are still practicing, are still open for business. So it can happen down there, and if those

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

Florida people want to come up to Nebraska and do that, they can probably do that very easily.

CONRAD: OK. I, I appreciate the response and definitely want to keep the conversation going about the other data. I mean, I think that there isn't a member of the Legislature who doesn't care about doing the right thing on human trafficking, right?

BECKY OHLSON: Sure.

CONRAD: And so I appreciate you raising it. And I'm, I'm hopeful we'll find maybe a good way to work through that.

BECKY OHLSON: Yeah.

CONRAD: Thanks.

BREWER: All right, any additional questions? Thank you, Becky. All right, any additional opponents? Welcome to the Government Committee.

MICHELLE WEBER: Thank you. Good afternoon. My name is Michelle Webber, M-i-c-h-e-l-l-e W-e-b-e-r, I'm here today on behalf of the Nebraska Veterinary Medical Association. We've communicated our desire to Senator Briese's office to have veterinary technicians removed from the bill. In Nebraska, veterinary technicians are individuals who perform animal health care tasks designated by licensed veterinarians pursuant to 38-3321. We shared a report with Senator Briese's office that shows that the veterinary technician profession has been long-challenged by the lack of cohesion in uniform standards throughout the United States. In Nebraska, to be a veterinary technician, you have to have graduated from an American Veterinary Medical Association-approved veterinary technician program, generally a two-year associate's degree, and have a passing score on the national veterinary technician examination. There is a licensed veterinary technician that's a part of our Board of Veterinary Medicine and Surgery that helps to ensure that veterinarians and veterinary technicians serving the public meet minimum standards. These standards do vary significantly state to state. And NVMA felt strongly that our State Board of Veterinary Medicine and Surgery should be able to have that role in protecting health and safety and setting the standard for that state. And for those reasons, respectfully asks to be removed from the provisions of LB16. Thank you.

BREWER: All right, thank you, Michelle. Questions? Questions? All right, thanks for your testimony. All right, still on opponents to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

LB16. Anybody here in the neutral for LB16? Come on up. Welcome to the Government Committee.

BECKY WISELL: Good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Becky Wisell, B-e-c-k-y W-i-s-e-l-l, and I am the Deputy Director of Licensure and Environmental Health for the Division of Public Health within the Department of Health and Human Services, DHHS. I'm here to testify in a neutral capacity for LB16. There are technical issues with the bill that would make implementation difficult for the department. LB16 creates three new methods of applying for an occupational license. Key provisions of these methods do not align with requirements in existing statutes for professions and occupations regulated under the Uniform Credentialing Act, UCA, pertaining to the issuance of a credential, issuance of a temporary credential to a military spouse, criminal background checks and verification of lawful presence. LB16 includes the statement, "This section provides a method of obtaining an occupational license or government certification in addition to and not in conflict with other methods under other provisions of law." However, it is not clear whether UCA requirements would take precedence over the requirements in the Occupational Board Reform Act, OBRA, in instances where the requirements do not align. For example, it is not clear whether applicants using these new methods of obtaining a license in Nebraska would be subject to criminal background check requirements in the UCA. This lack of clarity is especially concerning because it could create potential risks to public health and safety. Examples of other areas where the UCA and OBRA do not align include LB16 authorizes boards to issue licenses, but the professional boards under the UCA do not issue licenses. They make a recommendation to the DHHS Division of Public Health, which has the authority to issue a license. LB16 sets out criteria for not approving an application. However, there are other grounds for denial or disciplinary action set out in UCA, Sections 38-178 and 38-179 for professions and occupations. It is not clear whether applicants using these new methods of licensure would also be subject to the grounds for denial or disciplinary action set out in the UCA, or whether DHHS would be authorized to offer an initial probationary license, limited license, or to take other measure--disciplinary measures as set out in the UCA. LB16 sets out different timeframes for making decisions on applications than for applications under the UCA. Under current Nebraska Regulations for DHHS administrative hearings, Title 184, Chapter 1, a decision to either issue or deny an application must be made within 150 days after an application is complete. Having different timeframes for these new

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

methods of licensure is problematic. LB16 authorizes issuing licenses to individuals who may have little or no formal education or training in the practice of an occupation, placing the health and safety of Nebraska citizens at an increased risk. Currently, all licenses issued under the UCA require the applicant to have completed specific education or training to ensure the applicant has met minimal educational competencies to practice the profession. Only one of the three methods included in LB16 requires education, training or an exam-- or passing examination.

BREWER: All right.

BECKY WISELL: I see my time is up. So to summarize, we respectfully request that clarification be added to the bill if it is moved forward. Thank you, and I am happy to answer any questions.

BREWER: Well, you're, you're a state agency we need to hear from. So you are going to get to finish yours there.

BECKY WISELL: All right.

BREWER: So don't worry about that. First off, thank you for coming in neutral. I really think state agencies coming in that way, you can tell us the story of, you know, the strengths and weaknesses and that. But I just think it gives the presenting senator a fair chance where the state agency comes out in opposition and it makes it really difficult for the bill to have life. And so in all fairness, I think this is the right way to go. All right, let's see if we have questions for you.

BECKY WISELL: OK.

BREWER: Questions? Senator Raybould.

RAYBOULD: Thank you, Ms. Wisell, for coming in. And the question to you is, are you willing to work with Senator Briese to help do some cleanup in his bill to make it better and to comport with the public safety and other elements you have identified?

BECKY WISELL: Yes, we will work together with Senator Briese.

RAYBOULD: That's great. Thank you.

BECKY WISELL: Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

BREWER: All right, any other questions? All right, thank you for your testimony.

BECKY WISELL: Thank you.

BREWER: OK, we are still in the neutral. Anyone else here in the neutral capacity? All right, with that, we will invite Senator Briese up and we will go ahead and read in. We have 20 letters in opposition. We have five proponents and one in the neutral. With that, Senator Briese, you're welcome to close on LB16.

BRIESE: Thank you again, Chairman Brewer and members of the committee. And I want to thank the testifiers who came in on all sides here. It's great to hear from everybody and hear their concerns, hear their support, whatever the case may be. We did hear requests for carveouts. And, you know, one should always be reluctant to carve anybody out when you-- implementing something like this, or the next person is going to want it, the next person, the next person. If there are justifiable reasons here for a carveout, I'm certainly willing to look at them. And again, what I tend to go back to is the scope of practice similar? And that will be up to our licensing board to determine that. I trust them to do that. And we're going to require a certain measure of experience in the states-- in the states from which they're coming from as well that, in my opinion, overcomes any deficiencies in training or education or other requirements in those states. I think the, the experience can overcome that. But again, if there are justifiable reasons to carveout, carve something out, I'm willing to look at that. As far as the massage therapists, we talk about the trafficking aspect. If those are legitimate concerns, you know, I'm certainly not one to disregard that. And so I would entertain some additional thoughts on that, perhaps. And as far as the physicians and telehealth, we could presumably take care of that by having some sort of a resident-- residency requirement of these applicants here, so that particular scenario would, would not take place. Beyond that, again, I certainly appreciate the comments there. And, and as far as DHHS, yes, those are-- I'm under the impression that this bill defers to existing statute. And I thought that would be fairly simple. Well, existing statute controls. But it sounds like there are some areas we're not clear if existing statute would dictate or if this would-- how the interplay between the two. So I'd be willing to listen to those folks and see if we can clear up some confusion. But anyway, that's all I have for today. And thank you for entertaining me. I'd be happy to try to answer any questions. I didn't want to be flippant about trying to be here for closing, but I've got three bills at 1:30 I have to introduce, so anyway.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

BREWER: I'm with you. I'm kind of in that same boat today. OK, questions for Senator Briese. Senator Raybould.

RAYBOULD: Thank you, Senator Briese. And I'm glad you're willing to work with a number of organizations to make it better. But I have to tell you that listening to Ms. Ohlson, who is the chapter president of the licensed massage therapists, there is a real concern, and I know that you've reached out to them and they've reached out to you, that I would like you to reconsider. And I'm happy to send to you a letter that I received from someone who has been practicing, a licensed massage therapist for 23 years, has been on the board for ten years and has been part of the National Task Force on Human Trafficking to say that this problem is real. This problem-- Nebraska is ripe for this because we're all-- we're-- along I-80 corridor and, and the concerns are real. And I think the licensed massage therapists are just saying, please take this into consideration because this is a real issue when you have someone who could come in with two years of experience, or say they have two years of experience and set up a shop. It puts all licensed massage therapists at risk. And certainly they work so hard to be a health care professional and be recognized as such. So-- and so, I know you're willing to work with a number of the groups who have spoken today, and I, I think I encourage you to, to work with the licensed massage therapists.

BRIESE: Thank you for those comments. And to the extent this bill exacerbates or potentially exacerbates that problem there, yes, we have to take a hard look at it and make sure that we don't add to the serious issue there.

RAYBOULD: Thank you.

BREWER: All right. Any additional questions for Senator Briese? Senator Briese, thank you for your closing.

BRIESE: Thank you, everyone, again.

BREWER: And that will finish up our LB16 and we will reset for our next bill, which is LB43. All right, let's go ahead and get started so that we may actually get a moment for lunch. All right, let's see. We are now on LB43, Senator Sanders, whenever you're ready to begin your opening.

SANDERS: Thank you, and good afternoon, Chairman Brewer and committee members. For the record, my name is Rita Sanders, R-i-t-a S-a-n-d-e-r-s, and I represent District 45, which includes much of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

Bellevue-Offutt community in eastern Sarpy County. Today, I'm introducing LB43. I'd like to thank the Platte Institute and the Pacific Legal Foundation for bringing me this bill. LB43 is simple, two sentence amendment to the Administrative Procedures Act. AM273 will make it even shorter. Section 2, as amended, would read like this: In interpreting as state statute of agency or agency regulation, a hearing officer or judge shall not defer to the state agency's interpretation of such statute or regulation, and shall interpret the statute of regulation starting at the beginning or de-- de novo on the record. Section 3 says this. "In actions brought by or against state agencies, after applying all customary tools of interpretation of a statute or regulation, the court or hearing officer shall resolve any remaining doubt in favor of a reasonable interpretation which limits agency power and maximizes individual liberty. That's it. I will offer some context. In 2019, a case named Prokop v. Lower Loup Natural Resources District, Nebraska Supreme Court Justice Pap-- Papik gave an opinion that the principle of deference seemed, and I quote, to be in tension, if not outright odds with the Nebraska version of the Administrative Procedures Act, end quote. Justice Papik-- Papik called for reexamination of the deference per-- just lost my space-- precedent. LB43 is an attempt to offer clarity in the Administrative Procedures Act towards deference. Deference is a legal concept by which courts are expected to defer to the administrative agency's interpretation of a statute of regulation. To be clear, this is not always expected of courts. This is only when all other customary tools of judicial interpretation have been used, such as case law or legislative intent. Deference is not used if statute or regulation language is plainly incorrect or inconsistent. If a statute or regulation is still vague after that process, deference is used. This legal concept raises some important questions about separation of power and the primary purpose of our government to protect individual liberties. For example, in criminal cases, courts interpret vague criminal law against the government because it would be unfair to imprison someone for an unclear law. It would make sense to keep this tradition similar to baseball. When a base runner reaches the same time as the outfielder puts his foot on the bag, the tie goes to the runner. The problem with deference in these instances is that it grows administrative agency power and it raises separation of power concerns. Most administrative agencies are under the purview of the Executive Branch, which the Legislative Branch has authorized to carry out specific functions. Judicial deference breaks the notion of separation of power in our system by deferring definitions of legislative intent to an executive agency. I have brought an amendment for your consideration. It is a simple cleanup amendment that removes

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

some redundant language to better clarify the process-- the purpose. This is AM273. Also in front of you is a list of recent cases using deference in Nebraska. The top three cases chose to use deference in their ruling. Additionally, I want to thank the Nebraska State Bar Association and the Department of Administrative Services for coming to us to discuss their concerns. We also reached out to the Administrative Office of the Courts when we introduced LB43 to-- in effort to seek input. In summary, LB43 gives guidance to the courts so that the courts can judge statutory and regulatory matters in a way that levels the scales of justice between the government and the people. This can be complex issues, so I encourage you to ask questions of the subject to the experts following me to learn more about the legal intricacies of this bill. Thank you for your time, and I'm happy to answer questions. But I think the experts be-- following me would be probably the ones that would have your answers.

BREWER: All right.

SANDERS: Are there any questions for me?

BREWER: Thank you, Senator Sanders. Questions? All right, we're going to grill those after you then.

SANDERS: Thank you very much.

BREWER: You bet. All right, first proponent to LB43. Laura, welcome back.

LAURA EBKE: Thanks. I'll be here this afternoon too. Chairman Brewer and members of the Government Committee, my name is Laura Ebke, L-a-u-r-a E-b-k-e, I'm the senior fellow at the Platte Institute, a free market think tank here in Nebraska. And I come in support of LB43, and thank Senator Sanders for introducing it. Others, including my colleague from the Civic Legal Foundation, will provide more of a legal background for adding this leg-- this language to the Administrative Procedures Act. I want to provide just a bit of insight from a more constitutional or philosophical perspective. We were all taught about the separation of powers among the three branches of government: Legislative, Executive and Judicial when we were in school. That separation is critical to protecting individual liberty and our republic's continued life. State agencies, generally under the umbrella of the Executive Branch, derive their powers from authority granted by the Legislative Branch. The question raised by this legislation is this. If there's a dispute in the courts or in some quasijudicial administrative hearing about regulatory-- about

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

regulation or statutory meaning, who should grant-- who should the court or hearing officer listen to? Deference to an administrative agency grants powers to an unelected branch of government to define its own powers. The bill says that rather than go to the agency for definition, the court should use customary tools of interpretation, like the statutes wording, its legislative history, legislative hearing records, and so on. Suppose those things don't provide clarity for deciding a dispute. And in that case, the court should resolve the remaining doubt in favor of an interpretation that limits agency power and maximizes individual liberty. In the end, if the Legislature didn't make clear what powers were being granted to a regulatory agency, that reflects a failure of the Legislature, not a grant of power to the agency. In that instance, judges can decide that the tie goes to the lib-- goes to liberty until the Legislature is more specific. So we urge the advancement of this bill to General File. I think it's a great cleanup.

BREWER: Laura, you must have been a-- done a good job because you went from me being really confused on this to it's starting to gel and kind of make a little more sense.

LAURA EBKE: Yes.

BREWER: That's a good sign--

LAURA EBKE: Yeah.

BREWER: --I think. All right. Any questions for Laura on-- yes, Senator Conrad.

CONRAD: Yes. Thank you, Senator Brewer. Good to see you, Senator Ebke. Gosh, I really wish we would have had a chance to serve together. I think it would have been so fun to debate all of these meaty issues. But in this role--

LAURA EBKE: Yes.

CONRAD: --we still have the opportunity. So thank you. You know, I am open-minded and intrigued and interested about the bill for a lot of different reasons, looking at a host of recent rulings out of the Nebraska Supreme Court that touch upon these issues. But I want to just really ask kind of two kind of threads for follow-up questions. One, I am not sure that it would be, and maybe I misheard you at the end, this would seem to me to represent a pretty major shift in our jurisprudence rather than a cleanup. Now, maybe--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

LAURA EBKE: Well, it would-- well, it would-- I suppose that's one way to look at it.

CONRAD: OK.

LAURA EBKE: And I guess the way I look at it is it would clarify things for the Judicial Branch--

CONRAD: OK.

LAURA EBKE: --as to how they should interpret.

CONRAD: Very good. And then the, I guess, kind of the other thread would just be around, and maybe I'm misunderstanding it and there will be some folks that come later. But this is part of this kind of longstanding, broader-- on the federal level, we call it Chevron deference, right? So and I know that's been controversial and is squarely in the Supreme Court's crosshairs, I think, even this term. But the reason being-- I'm trying to just tick back through my administrative law roots, and I'm a little rusty, but like judicial efficiency expertise from the agency. I mean, help me to remember and maybe just draw a picture, and maybe if there's folks behind as well, like, what the public policy reason is for granting that, that, that deference.

LAURA EBKE: I suspect that it's just ease.

CONRAD: Yeah.

LAURA EBKE: I mean, you know, that, that, that you got to find a definition and rather than trying to look at, you know, look back at all the legislative history and--

CONRAD: Right.

LAURA EBKE: --you know, and I think that that's probably, probably that. But my colleague from the Pacific Legal Foundation--

CONRAD: Very good.

LAURA EBKE: --will be able to tell you much more about that.

CONRAD: No, very good. I really appreciate it. Thank you. It's a very interesting bill, thank you.

BREWER: All right, additional questions? All right, thank you, Laura.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

LAURA EBKE: Thank you.

BREWER: All right, still on proponents to LB43. Come on up, go ahead.

DANIEL DEW: Chair Brewer, members of the committee, my name is Daniel Dew, D-a-n-i-e-l D-e-w. I'm the legal policy director at Pacific Legal Foundation. We're a nonprofit law firm. We've been around for about 50 years now litigating across the country for constitutional rights. We have three cases up before the U.S. Supreme Court just this year. Thank you for taking the time to take up this important issue. When people walk into courtrooms, they're often greeted by a depiction of Lady Justice who is blindfolded and, and carrying the scales of justice, indicating to those who enter that, that justice is blind and that, that, that justice will be done in their case. Unfortunately, these deference doctrines that we've been talking about instructs Lady Justice to peek her blindfold and put a thumb on the scale of justice in favor of the most powerful party you can think of. And that is, that is the government. Many states are rethinking this doctrine, 11 states have gone away from it, including just last year, two states won through a Supreme-- a state supreme court decision, one through legislation that looks very similar to the piece of legislation you see before you today-- have done away with this. We've heard about Justice Papik's criticism of this. Former Attorney General Peterson actually signed on to an amicus brief arguing that deference should be done away with at the federal level. The justification is that agencies are the experts in these really technical areas. The problem is, is that our, our courts are the experts in interpreting law. So while an agency may have an opinion on what their regulation means, what we really want to do with our laws and regulations, which, which have the same effect of laws, we want to put people on notice of what the law requires or what the law prohibits. And if a citizen or a business has to guess what an agency interprets the law or regulations mean, then we're not really giving them that fair notice. So that's what this is about. This is about fundamental fairness, the presumption of liberty. It's been talked about the rule of lenity. We also do the same thing with contract law. Ambiguous provisions are interpreted against the drafter because we want to, we want to encourage clarity. The attorney general from Tennessee recently talked about the law that was passed there, and he said that they've seen a difference in the way that their agencies are acting. They're being more clear in their drafting because they know they're not going to get the benefit of the doubt anymore. I have more, but I'm happy to answer any questions because I know our time is short.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

BREWER: All right. Thank you for that. Let's see if we have any questions. Questions? All right. Oh, I'm sorry, Senator Raybould.

RAYBOULD: Thank you so much for being here today. I'm not an attorney, so I'm trying to get my hands around this. Is there one case that you can summarize quickly, that-- a simple case where it doesn't dive down that rabbit hole of legal issues, but where you could say where the judge gave too much deference to an agency?

DANIEL DEW: Sure. Absolutely. So there was actually a case that, that could relate to this committee. It was a federal case, but, but I implied the deference. And it was where a former member of-- a military veteran was denied benefits because the, the, the agency changed its interpretation of, of the rules. And when the veteran appealed that, the court, instead of going through the interpretation and looking what had done-- been done previously, they just deferred to the agency. And that's part of the problem, is that you don't know what an agency is thinking at any given time. And if you're giving them deference, they can change their mind and always win. And it actually incentivizes them to write ambiguous provisions because they can always win. So that's, that's part of the problem.

RAYBOULD: OK, thank you.

BREWER: All right, additional questions? Yes, Senator Conrad.

CONRAD: Thank you so much. I think this is a really interesting bill. And just maybe it would be helpful for the committee if, just to draw upon your expertise a little bit more while we have you in the hot seat. But as I'm understanding the, the approach, it wouldn't remove avenues for appeal, it would just change the standard review that we've seen, perhaps analogous to other types of cases that make their way before the court. So just help us to maybe get an understanding about how the agency's-- whatever happens in the Administrative Procedure Act below, you know, how the agency's determination or position or information is, is then still presented to the court as a consideration in an array amongst the issues before them as it works its way up on appeal with the different standard. Does that make sense?

DANIEL DEW: Yeah, it makes, makes total sense. And I would just note that in Nebraska law, the Legislature has already instructed the courts to look at things de novo dozens of times. So this isn't--

CONRAD: Right.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

DANIEL DEW: --isn't going above and beyond what it's already done in other areas. And so what would happen is, is the, the administrative agency would make its determination. If the, the party, either party appealed up to the district court, it would go to the district court and it would be just like any other appeal. They would look at things, look at things de novo. That's not to say that the government always loses by any means, because they are the experts and they do litigate in this area a lot. And so the court should, should look at their expertise and consider that. But what it's saying is, is we're not just going to say government, you win, anymore.

CONRAD: Yeah. No, I think that's, that's really helpful. And I'll tell you, in previous civil rights practice and obviously, like, working as a government watchdog, a lot of the litigation that we brought forward was against government actors, right? And it was, I think-- I can think of many examples wherein the, the agency and then later the court's decisions really had, but I think kind of tipped the scales away from, from individual rights and individual liberty and just trying to, to kind of think through, you know, how that might work here, but would be probably a pretty dramatic shift, I'm thinking, just in terms of administrative law. I mean, you know, Chevron's been kind of the standard for decades. Do you have a sense from maybe other states that have moved in this direction just what that did for administrative efficiency or judicial efficiency or anything in, in, in kind of that regard?

DANIEL DEW: Yeah, I don't have any statistics--

CONRAD: OK.

DANIEL DEW: --on it, but I know that talking to many judges, they appreciate it because, you know, their, their Supreme Court has--

CONRAD: [INAUDIBLE]

DANIEL DEW: --decided long ago that they were going to defer. And now that, that was the standard that they were stuck with, they were forced to, even if they, if they saw the agency's interpretation is not the best interpretation of the regulation, then they, they still had to give deference to the agency. And I will note that, that while Nebraska does do what we call our deference, meaning they, they defer to the regulation interpretation of an agency's own regulations, they have never given Chevron deference--

CONRAD: OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

DANIEL DEW: --or deference to the enabling statute, is my understanding of the case law in Nebraska.

CONRAD: No, I appreciate that clarification. Sorry, I was talking in broad strokes there. But and then just because I'm not familiar with the legislative history on it, but just saw this little snippet from Justice Papik's comments in a recent case, Do you know, I mean, other-- so my understanding is the, the existing legal landscape is that this is part of our jurisprudence. This is a precedent that's been part of Nebraska's Supreme Court jurisprudence going forward rather than a definitive policy statement by the Legislature. Is that fair? And then this would switch that.

DANIEL DEW: Yes, that is my understanding.

CONRAD: All right. Thank you.

BREWER: All right, any additional questions? All right, thank you, Dan, for your testimony. Next proponent to LB43. Welcome to the Government Committee.

JUSTIN HUBLY: Good afternoon, Senator Brewer, members of the committee. My name is Justin Hubly, J-u-s-t-i-n H-u-b-l-y, I'm the executive director of the Nebraska Association of Public Employees, AFSCME Local 61. Our union represents over 8,000 public servants who work for more than 40 different code and noncode agencies who work in all 93 counties in Nebraska. Good to see you again. We're here today to testify in favor of this bill. You may or may not know that one avenue of due process for state employees is through the Nebraska State Personnel Board. Final orders of the Nebraska State Personnel Board are subject to judicial review. And so it's not uncomm-- I shouldn't say it's common, but we do have cases from time to time that go through the State Personnel Board that then get reviewed by court. And unfortunately, the court will give deference to an agency's interpretation of their own administrative rules and also statutes. And when that happens, as the previous testifier said, sometimes state agencies and their attorneys have gotten very smart to write ambiguous rules. And secondarily, they've learned to make legal arguments that say, well, we interpret this this way. And I've been around just long enough to watch them change their interpretation of their own rules as they see fit. And unfortunately, when it goes either before the Personnel Board, a hearing officer, or eventually to the district court, we see judges sometimes give that deference, and we would just love to have the cases reviewed de novo on the record. And that's what Section 2 of this bill does and why we're in support. We actually

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

don't take a position on Section 3. Individual liberty and all that statement sounds kind of super political and politically charged. We just want a simple, fair manner for folks to get their due process. And honestly, Section 2 is really great commonsense legislation. We thank Senator Sanders for bringing that forward. We have three cases pending right now before the District Court of Lancaster County, the most I've ever had at one time. And I'm fearful in two of those cases, some public servants-- and they're not disciplinary cases, it's about actually overtime pay and being on call of the Department of Transportation. The hearing officer ruled in the employee's favor, the State Personnel Board overturned the hearing officer. We're now asking the court to review that decision. And I'm very fearful the court, because of the legal precedents in Nebraska, will have to give deference to the Department of Transportation's reading of a rule that they didn't even write. So that's why we think this is a commonsense piece of legislation. Be happy to answer any questions.

BREWER: All right, questions? Questions? I keep going back. [LAUGHTER] All right, thank you for your testimony.

CONRAD: It's tempting.

JUSTIN HUBLY: Thank you.

BREWER: OK, next proponent to LB43. All right, opponents to LB43. Welcome to the Government Committee.

TIM HRUZA: Good afternoon, Chair Brewer, members of the Government, Military and Veterans Affairs Committee. My name is Tim Hruza, last name spelled H-r-u-z-a, appearing today on behalf of the Nebraska State Bar Association in opposition to LB43. And I want to preface all of my remarks to say that the bar position-- the Bar Association takes no position on the policy proposed here whatsoever. I visited with Senator Sanders' staff and I-- our concerns, I think, are technical in nature with sort of how the proposed legislation overlays with existing statutes and some confusion that might be created. So let me first start by clarifying that there are two pieces of the bill, right? Section 2 of the bill focuses on contested cases, and then how a judge or hearing officer interprets those things. I am no expert in this area, right? I'm a lobbyist. I'm a lawyer, but I'm a lobbyist. I've never taken an appeal of a contested case. But my understanding from the folks who we've talked to there in our government practice section, lawyers in the, in the civil procedure section as well of the Bar Association, raised concerns about some potential conflicts. Because as I understand the way it operates, Nebraska is not

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

necessarily a Chevron deference state. We, we do require, and I'm looking at 84-917 3(b) (i) that clearly states that a contested case that's taken up on appeal is reviewed de novo on the record. And I think that-- I'm not sure what this adds to it except for the hearing officer provision, which hearing officers in Nebraska too, at the agency level, are the ones that are creating the initial record in a lot of instances. So they're not really reviewing any sort of record or any sort of appeal. But a hearing officer is the person that creates the record that then goes up to the court to review. So there's some confusion in the way that that language is worded. I think it can be worked out. I just think it takes more work than, than kind of what's proposed in this one provision. And it also matters too as to where these would get codified, right? So the APA is very lengthy. I mean, I brought the book because there's a ton, and you'll see, you see my Post-its, but there's potential conflict with different provisions. So there's also obviously, this deals with contested cases, but there are declaratory judgments under the APA that have a specific constitutional analysis and those sort of things. I want to make sure, I guess, when we put this in there, that it doesn't conflict with those. Finally, and I know my time is running out, but I do just want to hit on Section 3 too, the maximizing individual liberty concern. Again, taking no po-- no position on the policy provisions, but the concern about providing that sort of vague language in, in an area of law where, again, we think we're already reviewing it de novo, we do give deference to an agency's own interpretation of their rules and regulations that are often-- that authority is often given to them by the Legislature in the statute to create. So absent them, you know, there are concerns about how that may cause confusion in interpretation under the current regime of statutes that we have and then the case precedent we have. No problem at all with changing that, obviously. But we do just want to make sure that we have a thoughtful approach to how we place this in the statutes and where it is, to kind of iron those concerns out. With that, I'll take any questions that you might have. Thank you for your time.

BREWER: All right, thank you, Tim. Senator Raybould.

RAYBOULD: Thank you, Mr. Hruza, for explaining it so well. The question I've been asking a lot of people today, are you willing to work with Senator Sanders to help make this bill better and clear up some of the language that might cause greater confusion?

TIM HRUZA: Absolutely. I had a meeting with Senator Sanders' staff yesterday, kind of talked through some of those things. We've been

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

exchanging emails. What I, what-- I have not seen the amendments, so I apologize that I'm not-- if there is one that's out there. But we've had discussions. Absolutely willing to help however I, however I can in terms of clarifying or making sure that we don't codify an inconsistency, I think, is the concern from the lawyers.

BREWER: All right. Any additional questions for Tim? Yes, Senator Conrad?

CONRAD: Thank you, Senator Brewer. And thanks, Tim. It's good to see you. And I was wondering what the Bar Association's take on this might be and, and I think you did a good job of laying out some really complex considerations in a really short period of time. And you don't have to answer off the top of your head, if you don't know. But I would be interested if the Bar Association's or its practice sections who were reviewing this measure had a sense about how Section 3 might work, right? So when you're looking at, like, what it says or delineates as the customary tools of interpretation, I'm thinking are canons of construction, right? And kind of how those come into play in judicial analysis. And then that last part, and maybe I'd push back a little bit or correct the record for my friend Mr. Hubly, who was here before, I see individual liberty as completely nonpartisan rather than political, and would hope that that would be the, the goal for, for all of us, actually. But I'm trying to understand, so in Section 3 where it says you use your, your customary tools of statutory interpretation, but then it says the hearing officer resolves any remaining doubt in favor of individual liberties. So do you have a sense about how that works? I mean, it almost seems like, like a priority system of some sort. You use the traditional tools and then if there's a tie, then the tie goes to individual liberty. But there's rarely, if ever, a tie when you use those canons of construction, right?

TIM HRUZA: Right. So thank you. I apologize, I kind of ran out, because the first part really does deal with the APA and contested cases. The second one is much, in my opinion, a much broader application. I think we did have some pretty good discussion at the legislation committee on that second piece. The comment that I have obviously from lawyers is that it could potentially overly vague and that it throws sort of a wrench in the gears of what we would expect, right? So one of the testifiers before mentioned how you interpret contracts and how you interpret provisions there. The same goes with how we're doing a statute that, you know, may be vague or when you get to the point where you're looking at legislative history, right, if you get through those first few steps. Lawyers typically know how all

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

of that works, because we've got-- you got federal case, you got SCOTUS case law that goes back decades. And then we have state case law that layers, layers over top of that, we've adopted in a lot of situations. I think the real concern from the attorneys was, when you take these pretty well-known pieces of statutory interpretation or case precedent that has developed over the years and you kind of throw in this new wrench of maximizing individual liberty for all remaining doubt, which I'm not-- I think most of our case-- most of our interpretation, like, precedential interpretation-- I don't know what I want to call them, like ideals or whatever, like how those those formulas or those checkboxes have developed over the years, ultimately result in a resolution of the question, right? I'm not sure what would constitute remaining--

CONRAD: That's--

TIM HRUZA: --doubt from a court. And that's-- there's concern about the confusion that would give, or frankly, maybe too much control to a court where you don't really want that. You want, you want to look at the legislative history and the court to be considering that only, not necessarily throwing in a new, new provision. So, again, we have no problem. And the conversation was very clear, if the Legislature wants to reconsider Nebraska's-- and we don't have an adopted Chevron deference, but if it really is a focus on that and kind of reworking that, it can be done. It's just doing it with these two sections with a couple of sentences probably doesn't take into account the whole, the whole, the whole picture and how it will all work together. I, like I said, I've committed with-- to Senator Sanders and her staff to work on this, happy to do that throughout the session, over the interim, with stakeholders as well. I just, I think Nebraska's a little bit more unique maybe than what some other states have in, in that instance.

CONRAD: OK. No, I-- that's really helpful. And I'd appreciate more thinking in that regard as well, because what I'm worried about is it almost in its current form, you just never get to that, the traditional tools, the traditional canons of construction and statutory interpretation will find a dispositive answer for the court before you get to that higher consideration of individual liberty. That's what I'm a little bit worried about. Maybe I'm overthinking it.

TIM HRUZA: I know enough to be dangerous, right? I, I said I'm a lawyer, but I'm not--

CONRAD: Yeah.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

TIM HRUZA: --practicing right now. I just, when-- I don't know how when you get to the legislative history of legislative intent--

CONRAD: That's [INAUDIBLE].

TIM HRUZA: --where you're going to have remaining doubt--

CONRAD: That's my point.

TIM HRUZA: --to inject that into it, and then how that, how that helps lawyers, litigants and courts interpret statutes, right?

CONRAD: And perhaps it's aspirational. Maybe it's a strong reminder to all stakeholders that that would-- really should be kind of a North Star guidance. But just making sure that that's perhaps clear, I think, is a technical issue that we'll have to work through.

TIM HRUZA: Sure.

CONRAD: Thank you. Thank you. Very interesting.

BREWER: All right, additional questions for Tim? All right, thank you for your testimony. All right. Opponents? Any additional opponents. Anybody here in the neutral? Welcome to the Government Committee.

PHOEBE GYDESEN: Chairman Brewer, members of the committee, my name is Phoebe Gydesen, that is P-h-o-e-b-e G-y-d-e-s-e-n. I'm an assistant attorney general testifying on behalf of the Attorney General's Office in a neutral capacity. The purpose of my testimony is to provide some additional information regarding judicial review under Nebraska's APA and our office's role under that act. So to kind of echo the previous testifier, APA hearings are conducted somewhat like mini trials. Witnesses can be sworn and provide testimony, questions can be asked, evidence may be presented by all the parties. And then based on that evidence and testimony, hearing officers issue rulings or recommendations, both of which eventually become final appealable orders. So the end result is a final decision, which is then appealable to the district court. APA hearings are conducted by hearing officers and not judges, and it's only on appeal where a judge would eventually hear the matter. And it's also only on appeal where the standard of review would be de novo on the record. And Nebraska Revised Statute 84-917 (5) (a) provides that review of an appeal from a contested case under the APA shall be conducted by the court without a jury de novo on the record of the agency. The Section 2 appears to get rid of concepts commonly referred to as Auer and Chevron deference, which are technically only applicable to federal administrative

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

agencies or interpretations of federal law. The Attorney General's Office believes that judge-made law at the federal level has caused some significant problems that are inconsistent with our democratic republic. However, in Nebraska, our state Supreme Court does not use Auer or Chevron deference per se as the applicable standard of review in state agency APA hearings. In fact, Nebraska courts do apply the principle that an agency's roles cannot exceed its statutory authority. And the Nebraska Supreme Court has stated that in de novo review on the record of an administrative order, the court is required to make independent, factual determinations based on the record and reach its own independent conclusions with respect to the matters at issue. The Attorney General's Office also has statutory responsibility to review all proposed agency rules for both constitutionality and statutory authority before approval by the Governor. And where a statute is found to be plain and unambiguous, the court does not resort to agency interpretation in order to construe the statute. Additionally, we believe that there are some circumstances where the public may have relied on a longstanding agency interpretation which could justify the court's consideration of the agency's interpretation. On Section 3, this section proposes a new standard that we haven't seen in other circumstances. It's unclear to us what customary tools of interpretation might be. That's a term of art. So it's also unlikely to be clear to the public or courts. While the Attorney General is supportive of the principle described in Section 3, we just have some concerns about the clarity and workability of that language. We would be happy to work with Senator Sanders on this if she would like. Thank you for the opportunity to testify. I'd be happy to address any questions you might have.

BREWER: All right, thank you. Let's see if we have questions. Senator Conrad.

CONRAD: Thank you so much for being here. And I'm sorry, I may mispronounce your last name.

PHOEBE GYDESEN: Oh, that's fine.

CONRAD: Gid-sen [PHONETIC]

PHOEBE GYDESEN: Gydesen, yes.

CONRAD: Gydesen. Very good. Sorry. Thanks for being here, Ms. Gydesen. So just to kind of try and sort through the different perspectives from supporters and that you're bringing forward from a neutral perspective. So would, would the Attorney General's position be that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

Justice Papik's comments in the concurring opinion that they brought forward, that perhaps we don't specifically utilize Chevron or Auer-type deference, but in name only, perhaps, we don't utilize that, but that the courts do utilize a significant amount in deference to state agency decisions for different purposes?

PHOEBE GYDESEN: I think it is, it's a little bit different--

CONRAD: OK.

PHOEBE GYDESEN: --than in Chevron and Auer deference.

CONRAD: Right.

PHOEBE GYDESEN: In Chevron deference, and there is actually a court-- or a Nebraska Supreme Court opinion that talks about what Chevron deference is. And then first, you look to congressional intent under Chevron deference. And here, it's on-- in Nebraska, it's only where the language is plain and unam-- or is not plain or is ambiguous that you would get to a potential deference to an agency's interpretation.

CONRAD: Right.

PHOEBE GYDESEN: So I think it is, it's a slightly different test.

CONRAD: Right. And you know, whether it's under that approach or the new one proposed in this legislation, the point of all of this is to help each stakeholder kind of sort through these contested matters that come before state agencies or before the courts themselves, really to provide that that kind of legal framework that you kind of check back and forth to, to make your best argument. So having clarity for all stakeholders, I think, I'm guessing the Attorney General would be supportive of, because it would help to ensure a smoother administration of justice and ensure that all parties kind of know what the rules of engagement are, right?

PHOEBE GYDESEN: Sure. Yeah. I, you know, I think we would be supportive of clarity. We just don't know that there's necessarily--

CONRAD: OK.

PHOEBE GYDESEN: --we're seeing a lot of-- unclarity is not the word.

CONRAD: No, I know what you mean.

PHOEBE GYDESEN: But a lack of clarity--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

CONRAD: I know what you mean. Yes, lack of clarity. Yes.

PHOEBE GYDESEN: --in interpreting the statutes. And you know, you have your, your canons of construction--

CONRAD: Yes.

PHOEBE GYDESEN: --you have your statutory interpretation rules. So we're just not sure that the language of the bill as drafted creates more clarity.

CONRAD: OK. No, I think that's very interesting and helpful. And maybe if we put our heads together on this, we can make a case for some CLEs or something.

PHOEBE GYDESEN: Yes. And as I mentioned before, we would be happy to work with--

CONRAD: OK.

PHOEBE GYDESEN: --Senator Sanders' office to try and address some of the concerns we have.

CONRAD: Thanks.

BREWER: All right, any other questions? All right, well--

PHOEBE GYDESEN: Thank you.

BREWER: --tell Mike Hilgers hi for us.

PHOEBE GYDESEN: Will do.

BREWER: All right. Anyone else in the neutral? All right, we will ask Senator Sanders to come on up and close.

SANDERS: Thank you to all the testifiers for the subject expertise. In the end, this bill offers some clarity to the Judicial Branch so that the scales between government and people can be level. I know I'm standing between you and what's left of lunch, so thank you for your attention. I encourage you to advance this to General File after we've worked on it a bit. Any questions for me?

BREWER: Questions for Senator Sanders?

SANDERS: Thank you very much.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

BREWER: All right, with that, go and have a quick lunch. We'll see you back here at 1:30.

CONRAD: Julie is-- Julie is mentioning--

BREWER: Oh, yes, letters. All right, read into their official record on LB43: one neutral, one proponent, two opponents.

[BREAK]

BREWER: Good afternoon and welcome to the Government, Military and Veterans Affairs Committee. I am Senator Tom Brewer, representing the 43rd Legislative District. I serve as Chair of this committee. The committee will take up bills in order that they are posted on the agenda. Your hearing today is your public part of the legislative process. This is your opportunity to express your position on proposed legislation before us. The committee members may come and go during the hearing. It's just part of the process. And I know this afternoon, I am the first to open across and down the hall, so this will be an accelerated opening. Ask that you abide by the following procedures to better facilitate today's meeting. Please silence or turn off your electronic devices. Please move forward to the reserved chairs when it's time for you to testify on a given bill. The introducing senator will make the initial statement, followed by proponents, opponents and those in the neutral. Closing remarks are reserved for the introducing senator. If you're planning to testify, please pick up one of the green sheets. Fill it out legibly and be ready to turn it in when you come forward to testify. If you wish to have a record of attendance but not testify, there is a white sheet that you can fill out. If you have handouts, we're asking for ten copies. If you don't have ten copies, the pages can help you with that. When you come forward to hand in your green sheet, you can turn in your handouts at that time and they'll make distribution for you. When you come up to testify, we'd ask that you would speak into the microphone and clearly state your name and then spell your name, first and last. That is for the official record. We're going to be using a light system. How many are here to testify? All right. You're getting 5 minutes today. So 4 minutes, green, one minute, amber, and then we'll have the red. No displays of support or opposition to bills, vocal or otherwise, is authorized in public hearings and that's also to show respect to whoever is in the chair. Let's see. Committee members will introduce themselves, starting on my right.

SANDERS: Good afternoon. Rita Sanders, representing District 45, the Bellevue/Offutt community.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

AGUILAR: Ray Aguilar, District 35, Grand Island.

LOWE: John Lowe, District 37, Kearney, Gibbon and Shelton.

HALLORAN: Steve Halloran. Good afternoon. Steve Halloran, District 33, which is Adams, Kearney and Phelps County.

BREWER: Senator Sanders is Vice Chair. Dick Clark is the legal counsel and Julie Condon is the committee clerk. And this afternoon we've got Logan and Audrey. All right. We're hitting on all cylinders. With that, I'm going to hand the con over and grab my stuff and run for the other group.

HALLORAN: We'll miss you, Chairman.

BREWER: Yeah, I'm sure you will.

AGUILAR: You want your glasses?

BREWER: Yeah. I might need readers somewhere along the way.

SANDERS: Hello, Senator Halloran.

HALLORAN: Hello, Chairperson Sanders.

SANDERS: If you'd like to go ahead and open. Do we have all our-- we've got everything ready to go.

HALLORAN: I'm ready when you're--

SANDERS: We are, we are good to go.

HALLORAN: You are ready?

SANDERS: Yes, sir.

HALLORAN: Good afternoon, Vice Chair Sanders and members of the Government, Military and Veterans Affairs Committee. For the record, my name is Steve Halloran, S-t-e-v-e H-a-l-l-o-r-a-n, and I represent the 33rd Legislative District. When I first introduced LB268 this year and last session as LB1096, my primary motive was to increase competition in local government investment pools in Nebraska. At the time, there were two private local government investment pools in Nebraska created under the Interlocal Cooperation Act. In learning about those pools, I saw a couple of concerning practices. First, the pools had high fees compared to other states, which cut into the profits earned by the participants. Second, their annual report

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

indicated that investment managers were using fees from his political subdivision participants to subsidize the very associations that encouraged their members to participate in the pool. I would have to refer to that as a kickback-- 29 states, including 8 with private pools like ours, making sure political subdivisions get the best deal by establishing a state administered pool. A state-administered investment pool provides a number of advantages for local entities, but chief among them is the benefit of competition in the market. I'm pleased to say that since LB268 was introduced on January 10, a new investment pool has been created. Given this new development, I would ask that you, that you hold LB268 in committee at this time. I believe in small government and I'd like to see what effect the competition provided by this new pool can have on the other local government investment pools, before adding an additional responsibility to the State Treasurer. Thank you for consideration and I hope others follow my lead in pulling bills occasionally.

SANDERS: Thank you, Senator Halloran. Are there any questions for Senator Halloran? Seeing none, thank you. You're going to-- are we close--do we close on this as well then? Do we still have our test--

HALLORAN: They'll be proponents and opponents.

SANDERS: OK. All right. Moving on to proponents on LB268. Welcome to the Government Committee.

CHRIS DeBOW: Thank you, Madam Vice Chair. Members of the committee, staff and guests, my name is Chris DeBow, it's C-h-r-i-s, last name is DeBow, D-e-B as in boy, o-w, and I'm here to testify in support of LB268. I'm a managing partner at Public Trust Advisors. We assist state and local governments with their investment management needs and we currently oversee in excess of \$68 billion nationwide for over 5,000 governments. A local government investment pool, we like to use the acronym LGIP or LGIP, is a program that allows governments of any size to come together and invest their funds collectively as a group. Similar to two governments that might share in a procurement contract to purchase pencils, for example, an LGIP is essentially the same, but kind of in the investing avenue. The local government investment pools are generally reserved for, say, operating funds or bond proceed funds, very short term funds in nature. They are not created to invest pension funds. Those are completely different types of fund structures. A local government investment pool would also allow a government, for example, to put in a dollar today and then perhaps take that dollar out tomorrow and earn a tiny bit of interest. So we, we refer to that as having daily liquidity. As Senator Halloran

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

mentioned, there are currently 29 states that have a state-sponsored local government investment pool and eight of those states have both a state-sponsored program, as well as private programs in the state. In our research, we've, we've concluded that in the states where there are both state sponsored and private funds, the state sponsored program is the largest in the state and offers the lowest expense ratios. And the lower your expenses are, all other things equal, the higher the return will be for the governments in terms of interest income. So given our national research, a state sponsored LGIP would generally have a total annual operating expense anywhere from 0.05 percent 0.15 percent. And these are significantly lower than the two existing programs in Nebraska. In any market, competition will drive prices and better services. We want Nebraska political subdivisions to have the best return and best experience that they can. For these reasons, this is why we support LB268. This does conclude my formal remarks. I'm happy to answer any questions if there are any, Madam Chair.

SANDERS: Thank you. Are there any questions? I see none. Thank you for your testimony.

CHRIS DeBOW: Thank you.

SANDERS: Are there other proponents? Opponents? Welcome.

ROBERT HALLSTROM: Thank you, Senator. Vice Chair Sanders, members of the committee, my name is Robert J. Hallstrom, R-o-b-e-r-t H-a-l-l-s-t-r-o-m. I appear before you today as a registered lobbyist for the Nebraska Bankers Association to testify in opposition to LB268. I appreciate the fact that Senator Halloran has indicated that things have changed in the marketplace and that there probably is no need for this legislation at this point and that it will not go forward. And I'm, I'm really grateful for the fact that most of my 5 minutes will be spent on introducing the parties on who-- on whose behalf I'm testifying in opposition to the bill. They include the Nebraska Association of County Officials, the Nebraska Association of County Treasurers, the Nebraska Independent Community Bankers Association, the Nebraska Association of School Boards, the Nebraska Council of School Administrators and the Nebraska Public Agency Investment Trust. In appearing today and I will probably soften my remarks, I've provided you with my written testimony. For those of you who are returnees from the committee last year, as you might expect with the bill number changed, it's very similar to what we presented last year, but just some basic core messages that we'd like to give to the committee. We don't think the legislation is necessary. There is

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

an alternative out there, as Senator Halloran noted, under the Interlocal Cooperation Act, for local political subdivisions to band together or pool for purposes of investment. That ought to be the preferred route, not to work under the auspices of the State Treasurer to provide an apparent air of credibility to expand the scope or breadth of the, of the pool. As far as the banks' interests are concerned, we would maintain strongly that the safest place to keep your money is in the local bank. We have \$250,000 FDIC insurance coverage and on top of that we're required by statute to collateralize or securitize any deposits in excess of \$250,000 with a statutory list of collateral. Interestingly enough, one of the things that we've discovered over time is that the local treasurers, who are rightfully very conservative in nature for the most part, are typically telling the banks, even though you've got a laundry list of statutory permissible collateral, that they'd really like you to stay at the top end in terms of safety with regard to treasuries and bonds and so forth. But yet under this proposed type of pool, if you look at the types of investments that are traditionally involved, they're going to be, probably, much riskier than those local political subdivision treasurers would invest in directly. And again, when they're telling us we, we want to limit what you can use for collateral purposes, we question getting into riskier undertakings. With regard to the existing pools that are out there that Senator Halloran referenced, the Nebraska Public Agency Investment Trust and the Nebraska Liquid Asset Fund, those are both being run and operated. And I think one of the keys from their perspective is it's under local control rather than being under the auspices of the State Treasurer or state oversight. So with that, again, we, we appreciate Senator Halloran's stance in, in not pursuing the legislation and would be happy to answer any questions that the committee might have.

SANDERS: Thank you for your--

ROBERT HALLSTROM: Thank you.

SANDERS: --non-testimony testimony.

ROBERT HALLSTROM: Yes.

SANDERS: Are there any questions? I see none. Thank you very much.

ROBERT HALLSTROM: Thank you.

SANDERS: Are there any other oppositions? Neutral? Senator Halloran, do you want to close? He waives closing. Thank you. This closes our

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

hearing on LB268. We'll now take LB304. Oh, we-- for the record, LB268, we have zero opponent-- zero proponents, 37 opponents and zero neutral. Welcome, Senator Linehan.

LINEHAN: Good afternoon, Vice Chair Sanders and members of the Government Committee. I am Lou Ann Linehan, L-o-u A-n-n Linehan, L-i-n-e-h-a-n. I am from Legislative District 39, which is Elkhorn and Waterloo in Douglas County. I'm introducing LB304. Political subdivisions are not required to disclose what lobbyists or lobbyist groups they're, they're paying for and LB304 will promote transparency and accountability in local government. Through LB304, political subdivisions will be required to disclose the annual membership dues they pay. I think they already do lobbyists. The lobb-- but-- so I'm more focused here on lobbying organizations, the organizations that-- OK, so I sit on an Education Committee. So we have the school administrators, we have the school boards association, we have-- there's a lot of them. And I don't know who pays the dues and that's what I'm looking for here. Who, who pays the dues and how much are they? The disclosures would have to be made on the political subdivisions website. If a subdivision has no website, then these disclosures must be made available upon request by any member of the public. Therefore, I ask the Government Committee to forward this bill to General File so that we can promote trust in our local governments. Thank you and I am happy to answer any questions. So it's just a transparency. I'm not saying they can't do anything, they should or couldn't, but I just want people to know. And part of this was brought up last year, when I think it was the School Boards Association nationally got in trouble. And then I think Nebraska said-- they came in and made amends. But I think their, their dues to the National Association-- and I could be wrong on this. I could be very wrong, but I think it was \$36,000 a year. So, so that's obviously coming from somewhere and then they've got-- some of the lobbying, some of the associations, many of them-- NACO, they have a building. So how much is all this costing, I believe, the taxpayer, but I don't know.

SANDERS: Well, thank you for bringing this bill forward. Are there any questions for Senator Linehan? Senator Raybould.

RAYBOULD: Thank you, Senator Linehan. Have you made inquiries with like, the school boards or those to get more information or NACO? And I would think NACO would be pretty-- an open book on, on how much they paid to the National Association of County Officials and things like that or if they're not [INAUDIBLE].

LINEHAN: And they, and they could be.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

RAYBOULD: Oh, OK.

LINEHAN: But I, I do remember asking somebody that was on a school board and they told me on the school associations, the school is paying them. So that's what I don't know. And no, I haven't done a lot of research.

RAYBOULD: OK.

LINEHAN: But I just-- I think it's-- just for transparency, we should know what dues are being paid and to whom.

RAYBOULD: OK. Thank you.

LINEHAN: You're welcome.

SANDERS: Are there any other questions? I see none.

LINEHAN: Thank you.

SANDERS: Are you-- will you stay for closing?

LINEHAN: I will, in case, unless the other hearing goes awry.

SANDERS: We'll play it by ear. OK. Thank you. Are there any proponents? Welcome back.

LAURA EBKE: Thank you, Senator Sanders and members of the Government Committee. My name is Laura Ebke, L-a-u-r-a E-b-k-e, and I am the senior fellow at the Platte Institute, a free-market think tank in Nebraska. We promote transparency in government actions whenever possible. I come in support of LB304 and thank Senator Linehan for introducing it. We're all familiar with the engraving on the north side of the Capitol, that the salvation of the state is the watchfulness in the citizen. Watchfulness is best accomplished in the sunlight. At all levels of governance, whether it be local school boards and city councils, airport authorities, utility districts or state and national governments, people do people things. Think about people things and there-- some of them are good and some of them are bad, right? Preventing less acceptable people things can be aided by an, an insistence on transparency in official actions. Public entities spending public dollars should be transparent about how that money is spent, whether the local school board, the local NRD, the local power district, the local airport authority, or the state legislature. If public funds pay dues to organizations, that ought, that ought not to be something that the entity is ashamed of having the public see.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

Likewise, if it's important for local subdivisions to engage other assistance and sometimes it probably is, through private lobbying, that information should be easily discoverable by the public. Now, while one can typically find that information via the Nebraska Accountability and Disclosure Commission website and I see Mr. Daley is here, with enough digging and it does require some digging and it requires that you know what you're looking for. More transparency from the local subdivisions would help to engender more confidence that no one is trying to hide anything. So we encourage the advancement of LB304 to General File. Do you have any questions? Please ask.

SANDERS: Thank you. Are there any questions?

CONRAD: I-- sorry.

SANDERS: Senator Conrad. Yes.

CONRAD: Thank you, Senator Sanders. Thank you, Senator Ebke. Good to see you. I like Senator Ebke day in the Government Committee.

LAURA EBKE: Yes. I'd say that it's Senator Ebke--

CONRAD: This is a good thing.

LAURA EBKE: --day in the, in the--

CONRAD: It's a, a celebratory day, but you got right to the point on one of the questions that was kind of percolating as I was reviewing the legislation, kind of looking at the fact that most, if not all of these expenditures will be reported through either the A&D or the Clerk's Office for the, the lobbying disclosures. It's really just your proposal along with Senator Linehan's proposal is to just to make this information a little bit more readily available, to take what's already happening in terms of disclosure and reporting and, and just kind of line it up for the individual entity of government that's, that's paying those, those dues or lobby fees.

LAURA EBKE: Right. Yeah. I mean, I think as a former school board member, I can't imagine why we would have been ashamed of having a member of the Nebraska School Board Association, you know, on the-- on there. And, you know, and then a, and then a link to that on the page that says we paid this much in dues. I think that, you know, the problem that you have with the NADC website and the lobbying reports and so forth, is that you have to, you have to go through a lot of clicks. And, and I think that the, the subdivisions where they have, where they do have the websites could make it a whole lot easier by

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

just, you know, one click away. It doesn't have to be on their front--home page, but it, it could be on the second page you can click.

CONRAD: No, I, I appreciate that. Thank you. It reminds me of an effort way back in the day, in my prior term of service, where there was all kinds of information about state budgets and agency budgets in a lot of different places. And trying to kind of pull that together in kind of a one-stop shop to help citizens keep track of what dollars were being spent in their name on what kind of thing. So I'm feeling like some, some parallel threads with that so--

LAURA EBKE: Yep. Absolutely.

CONRAD: --thanks.

SANDERS: Thank you. Are there any other questions? I see none.

LAURA EBKE: Thank you.

SANDERS: Are there any other proponents? Opponents? Neutral? Welcome.

FRANK DALEY: Thank you, Vice Chair Sanders and members of the Government, Military and Veterans Affairs Committee. My name is Frank Daley, D-a-l-e-y. I serve as the executive director of the Nebraska Accountability and Disclosure Commission and we're appearing today in a neutral capacity as to LB304. Let me start out by saying that we have no problem at all with the concept that Senator Linehan is trying to promote. I've spoken with our staff and we've been speaking back and forth and the concern we have right now is if this were to pass, we don't know where in the statutes it's going to land. It's not clear if it's supposed to be in the Accountability and Disclosure Act or somewhere else. If it's landing in the Accountability and Disclosure Act, we need to be sure that our terms are harmonized so that if a word is used in this bill in a certain way, it's used the same way in the Accountability and Disclosure Act by way of example. We're using the term lobbying. Well, if it's in the Accountability and Disclosure Act, the term lobbying is defined and it applies only to matters before the Legislature. And so, if Senator Linehan is looking at lobbying in a broader sense, we have to change the term somehow to miss it. So at any rate, that's our only concern. We've been talking to the staff. We agree we're going to talk further to be sure if we can figure out where this is going to go and if work needs to be done if it's going to go in the Accountability and Disclosure Act. So I do want to thank Senator Linehan and her staff for being so approachable and working this out. Thank you for the opportunity to talk.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

SANDERS: Thank you. Let's see if there's any questions for you. Are there any?

FRANK DALEY: Thank you.

SANDERS: Senator Halloran has one.

FRANK DALEY: Yes, sir.

HALLORAN: Thank you, Vice Chair Sanders. Thank you, Mr. Daley, for being here. So aside for-- from all the important things that you're pointing out that, where the language has to be compatible in various parts of the statutes, what about software program? I mean, are you going to have to, to be doing some programming to be a click away for some of this?

FRANK DALEY: And the answer is probably not. And I say that because the lobbyist registration and reporting program is actually the Legislature's program. So, you know, I suppose if there's a fiscal impact, it may very well lie with the Legislature, the Clerk of the Legislature's Office. And it also seems to be based upon the language of the bill. It would simply be, for the most part, the political subdivisions putting it on their website, which I don't think would have much of a fiscal impact anywhere.

HALLORAN: Well, just so you know, for some of us, few people that are more computer illiterate than others, a click away is a nice expression, but, but for me it seldom happens. And I'm not good at mining for gold, but any-- anything you can do to make it very crisp and clean and truly a click away would be, would be helpful.

FRANK DALEY: Well, I understand what you're saying. I consider my grandchildren to be my tech experts.

HALLORAN: Thank you, sir.

FRANK DALEY: Thank you.

SANDERS: Thank you. Any other questions? Thank you, Mr. Daley.

FRANK DALEY: Thank you, folks.

SANDERS: Are there any other in the neutral? Any other testimonies in the neutral? I see none. Senator Linehan, do you want to close? We do have our online summary for proponents-- three, zero opponents, zero neutral. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

LINEHAN: Thank you. And I really want to thank Senator Ebke, who did a much better job of opening than I did. I appreciate that. And I thank Director Daley for being here. He did try to call my office and my staff came to me and said, well, where does it go in the law? I'm like, well, I don't know. Just look at the bill. It doesn't say. So either there's the-- we have a lot of new people and we have a lot of new people in bill drafting and we have a lot of bills introduced, so we will clean this up. And we're more than happy to work with Mr. Daley who's always pleasant and always approachable and helpful. So we will bring those answers back to you.

SANDERS: Thank you. Any-- are there any questions for Senator Linehan? Seeing none, good luck with the rest of your day. [INAUDIBLE].

LINEHAN: Thank you.

SANDERS: Thank you very much. This now closes our hearing on LB304. Takes us to our, our third bill, our third hearing, LB41, Senator Ben Hansen. Welcome.

HANSEN: Good afternoon.

SANDERS: Hi.

HANSEN: I'm a little bummed.

CONRAD: Oh.

HANSEN: Senator Brewer isn't here. He was--

CONRAD: We're not enough.

HANSEN: No, it's because, in a way, I kind of wanted to help-- not make fun of him, but he is just in HHS and he sat in a chair and it was extremely low. So he's, he's testifying like this on the table and so I wanted to, I wanted to help him out and kind of do the same thing, but oh, well.

SANDERS: Welcome anyway. Senator Hansen.

HANSEN: Thanks. All right. Vice Chair Sanders and members of the committee, my name is Ben Hansen, that is B-e-n H-a-n-s-e-n and I represent the 16th Legislative District. Today, I bring LB41 for your consideration. For those of you who were on the committee previously, you might notice this bill looks familiar to a bill that was passed out of your committee last year. Let me share the background for those

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

members who are new to the committee and maybe a refresher for the others. LB41 would help provide a more predictable regulatory environment for Nebraska's charitable organizations by ensuring state agencies and other state governmental officials do not exceed their legislative authority as it pertains to filing or reporting requirements placed on them. Like I said, the contents of this bill are LB823 as was amended and voted out of the Government, Military and Veterans Affairs Committee last year. The amended version is what was introduced this year as the green copy. I will in a second, because I didn't do it now, hand out an amendment for clarification at the suggestion of DHHS. This would help make sure that those receiving federal grants still adhere to the requirements for funding. America is the most charitable nation on earth even now, despite just moving past a global pandemic, a continuous economic downturn and a year marked with division and partisanship. The charitable sector, throughout the country and especially Nebraska, has answered the call by providing relief to the citizens and communities through virtual learning, food assistance and much more. We must empower the charitable sector to respond to big problems that government can't handle or that the private sector can do better. And we must also encourage philanthropy, philanthropy to work alongside large scale government initiatives, driving efficiency and innovation along the way. We do this by allowing charitable organizations to focus on their missions, not on mandates that could jeopardize their important work. Let me be clear. This bill does nothing to reduce the requirements and disclosures that are currently required of charitable organizations, but it does reaffirm that all new filing or reporting requirements placed on charitable organizations must first be approved through the legislative process. In other states, we have seen an increasing call for charitable organizations to disclose an increasing number of details about their operations, governance and grantmaking beyond what the legislatures has required. Thirteen states have enacted this legislation in just the last three years, including Iowa, Kansas, Missouri and South Dakota. These states have made it welcoming for charities and created a predictable regulatory environment. It's better to be proactive because philanthropy serves as a vital part of the Nebraska community. According to a 2019 economic impact report commissioned by the nonprofit Association of the Midlands, Nebraska nonprofits generated more than \$12 billion in annual revenue and hold more than \$23 billion in assets. While these totals are large, the majority of nonprofits are striving to achieve large mission, mission, missions on small budgets. This is one indicator of the passion and efficiency used by nonprofit leaders and staff to achieve their missions. Nonprofit organizations play a vital role in Nebraska's

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

economy. Not only do they benefit the community through goods and services, but they also serve as a major employer, providing jobs to over 90,000 people across the state and paying out \$3.9 billion in wages. I believe our charitable organizations in Nebraska should be highlighted, commended and encouraged, not drawn into overburdensome regulations that haven't been authorized by this legislative body. There is no downside to passing, passing this legislation, but without it, there could be a chilling effect on the vital contributions of philanthropy in our state. New private foundations and charities may not emerge to solve community problems and existing foundations could spend down their assets or move to other states with more favorable philanthropic protections in place. I ask you to support LB41 and advance the bill to General File for consideration to the full Legislature. Thank you for your interest.

SANDERS: Thank you. Are there any questions for Senator Hansen?

CONRAD: I, I have one, Senator Sanders.

SANDERS: Senator Conrad.

CONRAD: Thank you so much. Hi. Good to see you, Senator Hansen. In reviewing the legislation and I was listening to your opening and looking at the statement of intent, but do you happen to know in the other states maybe that have moved in this direction, like what types of filing requirements are being put on nonprofit organizations that you find to be onerous or burdensome or that you're concerned about? Because I see, you know, it recognizes the Attorney General's long standing oversight of charitable entities. And of course, there's filing-- tax filings and other kinds of things. I'm just trying to understand, like what, what, what's an example of the reporting requirements or perhaps if you're not aware, maybe it's just an effort to get out in front of it before those are imposed?

HANSEN: Both.

CONRAD: OK.

HANSEN: And there might be somebody behind me to answer better--

CONRAD: OK.

HANSEN: --but I do have a couple examples.

CONRAD: OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

HANSEN: Like, for instance, in, in Massachusetts, the AG has required extensive reports, including types of solicitation activities and addresses of fundraisers and board members. This private info was made-- they're trying to make public. Connecticut is dealing with a lawsuit over the state's erroneous requirements, as well.

CONRAD: OK.

HANSEN: And actually, in Indiana, similar things are--

CONRAD: OK.

HANSEN: --paid fundraisers must register annually with the state to provide notice to the state before any solicitation campaign.

CONRAD: Yes. I know that.

HANSEN: Stuff like that. You mean-- and so--

CONRAD: Yes.

HANSEN: --this isn't necessarily a Democrat/Republican thing. So sometimes we're seeing some states, I think, put overburdensome rules and regulations on certain charitable organizations that maybe they don't like or maybe there might be some other kind of intent, but yeah. In a way, it's kind of a little bit of both, what you're asking.

CONRAD: No, that's helpful. Thank you so much.

SANDERS: Thank you. Are there any other questions? Thank you. Will you stay for close?

HANSEN: Yes.

SANDERS: Thank you.

HANSEN: Thank you.

SANDERS: Do we have any proponents on this bill? Welcome.

MEGAN SCHMIDT: Hello, Vice Chair Sanders, members of the committee. My name is Megan Schmidt, spelled M-e-g-a-n S-c-h-m-i-d-t. I serve as the director of government affairs for the Philanthropy Roundtable and I'd like to submit my testimony in support of LB41. The Roundtable is a community of donor-- donors who are committed to advancing opportunity and personal responsibility through effective charitable giving. Our donors consist of private, community and family foundations

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

nationwide. As Senator Hansen mentioned, this bill is the same bill as LB823 as amended out of committee last year. This legislation allows Nebraska charitable organizations to focus on their governance and grantmaking instead of being subjected to the uncertainty of additional filing and reporting requirements. This bill is simply adding a layer of transparency and calls for any proposed filing or reporting requirement to go through the legislative process first. The Attorney General would still have full investigative and prosecutorial authority to go after any bad actors. We hear about transparency a lot. We hear from opponents that this legislation will take transparency away from the process and lead to less charitable giving, harming them in the process when in fact, that's just not true. LB41 opens up the channels of transparency by allowing multiple parties to have a voice to the process. Why should agencies be allowed to unilaterally impose filing or reporting requirements? Shouldn't the Legislature be aware of what requirements are being imposed upon these charitable organizations? Shouldn't nonprofits want a seat at the table and have a chance to voice their opinion for or against any new requirement that would be imposed on them? Let me be clear. The Roundtable is not against transparency. The Roundtable is not against additional filing or reporting requirements. What we are against is a state agency having the ability to take unilateral executive action without legislative oversight. In other states, we have seen an increasing call for charitable organizations to disclose an increasing number of details about their operations, governance and grants making. For example, the attorney general in California issued a mandatory survey, in 2021, to sponsors of DAFs or donor advised funds located or registered in the state, demanding information that covered a sweeping array of confidential financial data of DAF-sponsoring organizations, which are themselves, public charities, without any evidence of fraud or abuse. This year, they are considering issuing regulations that are unfounded. In Hawaii, the state attorney general's office subpoenaed documents relating to all of the nonprofit's financial accounts, simply because it opposed the construction of the 30-meter telescope. And in Massachusetts, as Senator Hansen just described, organizations must file extensive reports with the state's attorney general, which includes a 15-page form. This includes names and addresses of fundraisers and board members. I would encourage each of you to think about a charity in your local community. These charities are able to thrive and focus on their mission because they aren't being burdened by unnecessary regulation. This legislation ensures these charities can keep doing what they do best: funding programs and distributing money related to their mission. A couple of months ago, I spoke with someone who ran a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

foundation and while they fund multiple projects, one of their major funding priorities is research that would find a cure for Parkinson's disease. It's a wonderful cause and a great reminder that they are able to fund this research and their other priorities because they're not spending a considerable amount of time complying with filing the reporting requirements. If the state agency to were implement-- were to implement new requirements, that could put this project or one of their other priorities in jeopardy. If more regulations are implemented against these charities in the future, it will make it harder for them to fulfill their mission. Their resources are diverted to complying with mandates instead of helping those who need it most. As Senator Hansen mentioned earlier, 13 states have enacted this legislation so far. Lawmakers must ensure any new requirements are closely scrutinized to ensure they are based on solid evidence of widespread need. When such burdens are sought by unilateral executive action, legislators have the responsibility to challenge the overreach that directly hurts the communities they represent. Again, the Roundtable believes there needs to be transparency to gain public trust. However, we also believe there should be accountability for those imposing filing and reporting requirements on charities. This bill isn't changing the regulatory structure that's already in place, it's simply ensuring it doesn't expand over the following years under future administrations. We want to go on record expressing our support for LB41 and appreciate Senator Hansen introducing the legislation. We ask you to advance the bill and happy to answer any questions you all may have. Thank you.

SANDERS: Thank you. Perfect timing. Are there any questions?

CONRAD: I have one.

SANDERS: Senator Conrad.

CONRAD: Thank you, Senator Sanders. Thank you for being here. Appreciate your testimony and the overview of the landscape in, in other states from your vantage point. I'm trying to just understand and get up to speed on the language of the bill. Where-- and if there's other folks that could better answer, too. I don't know your background exactly, but you know, what jumps out to me when I read it is language like a compelling state interest. That's a legal standard, a heightened scrutiny that we typically reserve for fundamental individual rights. I'm not seeing or understanding or perhaps it's beyond the four corners of the legislation itself. What is the fundamental individual right or liberty that you're trying to protect by invoking this higher standard of review?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

MEGAN SCHMIDT: It's interesting. In Nebraska, it's one, I think, of only two states where we use the word compelling. We usually say under state or federal law.

CONRAD: OK.

MEGAN SCHMIDT: So I-- I'm not sure--

CONRAD: OK.

MEGAN SCHMIDT: --especially since this is the second year we've written this. I don't remember the reasoning of why we put compelling.

CONRAD: OK.

MEGAN SCHMIDT: It's a great, it's a great question. And I'm happy to go back to our attorney and get you an answer within the next 24 hours.

CONRAD: Yeah, no rush.

MEGAN SCHMIDT: But we usually say state or federal law.

CONRAD: Sure. Yeah. It just-- it jumped out at me as perhaps out of place with this legislation, which I think is probably more economic--

MEGAN SCHMIDT: And that's an easy amendment. We can take-- that's an easy amendment.

CONRAD: --would kind of be more of a rational basis kind of.

MEGAN SCHMIDT: Yeah.

CONRAD: OK. All right. That's something that I was just trying to, you know-- and I suppose on the flip side of that coin, there's a First Amendment right to associate, right, which is kind of part of, of nonprofits' work in government. So I, I-- the language itself is just surprising to me in this context. Thank you.

MEGAN SCHMIDT: Yep.

SANDERS: Are there any other questions? I see none. Thank you for your testimony.

MEGAN SCHMIDT: Thank you so much.

SANDERS: Do we have other proponents? I see none. Opponents? Welcome.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

ANNE HINDERY: Senator Hansen, I probably look like somebody that's kind of crouching down, as well.

SANDERS: Welcome.

ANNE HINDERY: Thank you. Good afternoon, Vice Chair Sanders and members of the Government, Military and Veterans Affairs Committee. My name is Anne Hindery, A-n-n-e H-i-n-d-e-r-y, and I'm with the Nonprofit Association of the Midlands or NAM. NAM is a nonprofit association with more than 780 organizational members dedicated to strengthening the collective voice, leadership and capacity of nonprofit organizations that enrich the quality of community life throughout Nebraska and western Iowa. We help nonprofits help their communities. There are over 13,000 nonprofits in our states, each trying to make a difference. We bring them together so that, so that members can benefit from collective strength. Thank you for the opportunity to testify on LB41. We appreciate the bill sponsor's intent in the nonprofit sector. However, we do have concerns about hampering reasonable transparency and accountability of the nonprofit sector. This is why NAM is opposed to LB41. Here are the reasons why: this proposal is not needed. LB41 is a solution to a problem that simply does not exist in Nebraska. Charitable, charitable nonprofits are not afraid of the government. We work in partnership with them. The filing and reporting requirements are not a burden on nonprofits. We have not had any members or any not-yet members come to us and express concerns on current regulations or fear of future regulations. Balance is needed to ensure the public trust. The charitable sector provides-- values privacy, but it also values reasonable transparency and accountability. The Nebraska public relies on nonprofits not only to provide essential services, but expects nonprofits to manage finances, engage with government, and remain politically nonpartisan. The current privacy-transparency balance in our state is reasonable and we do not see a need to change these requirements at this time. Then there's the law of unintended consequences. The legislation would freeze all existing reporting requirements in place, subject to legislative action. This means that any reasonable reforms that charitable organizations truly seek and want, such as using technology to simplify reporting requirements and adapting to the new needs of the sector and public would be delayed or subject to political forces that are not appropriate when working with nonpartisan nonprofits. So the bottom line: the charitable nonprofit sector is not asking for legislation designed to protect our organizations. We work with government to promote and protect the public good and rely on the public trust that this bill would undermine. Thank you for the opportunity to testify. NAM appreciates the committee's work and we

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

are always available to provide insight and data from the nonprofit sector. Thank you for the opportunity to speak today and I'm happy to take any questions.

SANDERS: Thank you. Are there any questions? Senator Halloran.

HALLORAN: Thank you, Vice-Chair Sanders. So you've got 780 organizational members. Those are individuals?

ANNE HINDERY: No, those are organizations--

HALLORAN: Those are organizations?

ANNE HINDERY: --with thousands of employees.

HALLORAN: Wow. That's further than I can count. OK.

LOWE: You can borrow my shoes.

HALLORAN: Thank you.

SANDERS: Thank you. Are there any other-- Senator Halloran-- Senator Lowe.

LOWE: Twins.

SANDERS: I'm sorry.

LOWE: Thank you, Vice Chair. And thank you, Ms. Hindery. You have 780 organizations.

ANNE HINDERY: Correct.

LOWE: How large is the smallest one?

ANNE HINDERY: Oh, thousands of emp-- oh, how large is the smallest one?

LOWE: Smallest one.

ANNE HINDERY: The majority of nonprofits in the state of Nebraska have budgets under \$50,000 and may either be all volunteers or have one employee.

LOWE: OK. So what you're saying is NAM believes that nonprofits, no matter how small or how large, should have to comply with new reporting requirements of maybe 20 different government agencies--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

ANNE HINDERY: That's--

LOWE: --even though you're just a one-man operation?

ANNE HINDERY: You know, that really has never been an issue in our state and that's also where the role of NAM is: we help nonprofits with different issues. You know, we've worked a lot in the policy arena in the last few years with all the regulations and opportunities through the-- with the pandemic.

LOWE: No matter how much time or energy it takes to do all this?

ANNE HINDERY: Um-hum.

LOWE: OK.

SANDERS: Thank you. Are there any other questions? Senator Conrad.

CONRAD: Thank you so much, Senator Sanders. Good to see you, Anne. Thank you for being here. You know-- and I think maybe that's-- just to follow up on Senator Lowe's question. What I'm, I'm just trying to understand and I appreciate Senator Hansen saying it was both, kind of looking at what was happening in other states and to be more protective or preventative, kind of forward-looking, I guess, in Nebraska. Some of the examples mentioned previously, I know, they were always surprising to me as I was talking to colleagues in other states, having worked in the nonprofit sector where they do have like onerous registration and reporting requirements for fundraisers and things like that. And we don't have those here in Nebraska. Do you have a, kind of, general sense, have you heard anything bubbling up in, in terms of your work about, you know, issues in the public trust or otherwise that might prompt an effort to have a regulatory scheme like that in Nebraska? I've never heard anything like that, but I didn't know if maybe your ear is closer to the ground, if you've heard some of that.

ANNE HINDERY: I, I have not. But nonprofits of all sizes and missions are always constantly trying to do that balance, you know, to ensure the public trust, work with governments for providing services, provide services to the private sector, businesses and their families. As far as like fundraising regulations, it sounds like it might be onerous, but we're part of the National Council of Nonprofits.

CONRAD: OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

ANNE HINDERY: There's 44 groups like us across the country and they have resources. There is a group called Harbor Compliance--

CONRAD: OK.

ANNE HINDERY: --that can do-- they are in all states if you need to register. So quite frankly, even if I'm in Nebraska, but I fundraise in Iowa, I would have to register in Iowa.

CONRAD: Right.

ANNE HINDERY: And so it wouldn't be totally foreign and it's, it's not that cumbersome.

CONRAD: OK. All right. And then-- yeah. And to Senator Lowe's point, I mean, I think capacity is a really important issue because we know that there are really hard working, caring people in the nonprofit sector that are really stretched thin in terms of their time on the administrative side and in trying to pursue the programmatic or the mission-driven work, as well. I like, also just trying to think through, you know, having worked in nonprofit agencies and led one for eight years now, maybe our work was a bit different because we didn't take government funds, but I don't think the state of Nebraska ever came to my organization and said, you have to file a report about something outside of taxes or employment kind of things that every business has to do. But like, I'm just trying to think through any sort of instance in Nebraska that a state agency could require me to file a report.

ANNE HINDERY: Yeah. I'm not aware of any. You know, it's different from state to state, but Nebraska's a state, regulates nonprofits very little and quite frankly, taxes us very much compared to our counterparts in other states, especially in regards to sales tax. But so, I'm not seeing that as an issue.

CONRAD: OK. All right. Thanks.

ANNE HINDERY: Thank you.

SANDERS: Any other questions? Senator Halloran.

HALLORAN: Thank you, Vice Chair Sanders. Is, is part of your mission-- first, are you a nonprofit yourself?

ANNE HINDERY: Yes. We're a 501(c)(3) charitable organization.

HALLORAN: That's good. I, I would be--

ANNE HINDERY: Yeah.

HALLORAN: --concerned if you weren't.

ANNE HINDERY: I would, too.

HALLORAN: So part of your mission-- and don't let me put words in your mouth. I'm trying to ask the question. Is part, part of your mission is to help other nonprofits through the red tape--

ANNE HINDERY: Yes.

HALLORAN: --of bureaucracy?

ANNE HINDERY: Our mission is to really support nonprofits. We do that in a lot of different ways, through training, education, group purchasing. Our signature program is something called Guidelines and Principles. It's free for any 501(c)(3) in the state and it helps-- it's an online tool, an assessment tool and it helps you understand what are the legal requirements, what's recommended for nonprofits, because we're small-- we're businesses just like any others. We just have a different bottom line. And so you need to understand, what are you legally required to do as a nonprofit? What should you be doing as best practice? Because what we see with nonprofits that's different from, maybe, traditional businesses-- as I like to say, you wouldn't buy a Dairy Queen because you like ice cream, but a lot of people start nonprofits because they're very passionate about issues. So they need to understand the business sense and so we help them with that.

HALLORAN: So what are the dues?

ANNE HINDERY: It ranges, based on the size of the budget, anywhere between \$50 a year to, I think, it's \$1,200 for the highest level.

HALLORAN: OK. So at some level, your business model depends upon some level of bureaucracy. I'm not trying to be smart here, but at some level your business model depends upon a significant-- some significant amount of bureaucracy that you-- that you're-- part of your service is to help other nonprofits work their way through.

ANNE HINDERY: Well, they need to understand their business model and have a business plan, just like anybody else, so they can focus on their mission. If, if you don't have a business plan and understand

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

your legal obligation and financial obligations, it's going to be hard to continue to provide these services.

HALLORAN: But you help them with, with requirements for licensing and--

ANNE HINDERY: We help them understand what they are. We don't do it for them--

HALLORAN: I-- no, I understand.

ANNE HINDERY: --but we say, here's the legal requirements.

HALLORAN: OK. Thank you.

SANDERS: Senator Lowe.

LOWE: I just want to say that sometimes you do start an ice cream shop because you like ice cream, because I did.

ANNE HINDERY: Did you really? I had no idea.

HALLORAN: He also owned a bar.

LOWE: Well, that's--

ANNE HINDERY: I'll have to visit both.

CONRAD: All right.

SANDERS: No other questions? Thank you for your testimony.

ANNE HINDERY: Thank you very much.

SANDERS: Are there other opponents?

AGUILAR: That was a gotcha.

SANDERS: Neutral testifiers? Welcome. Welcome to the Government Committee.

BO BOTELHO: Thank you. Good afternoon, Vice Chair Sanders and members of the Government, Military Affairs Committee. My name is Bo Botelho, B-o B-o-t-e-l-h-o, and I am general counsel for the Department of Health and Human Services. I'm here to testify in a neutral capacity for LB41. The Department of Health and Human Services had concerns that the bill, as originally drafted, would prohibit the agency from

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

passing on federal funding requirements, should those requirements conflict with the reporting restrictions in the bill. Many of the grants and programs administered by the Department are federal in nature and utilize in whole or in part federal funding. In order to maintain federal funding, the department must fully comply with the federal requirements attached to those grants and programs. Failure to do so would jeopardize federal funds and can require the use of state funds. The amendment proposed by Senator Hansen makes clear the department can still pass through federal reporting requirements as well as federal funds. The department thanks Senator Hansen for entertaining the department's concerns and bringing the proposed amendment. We respectfully request that the committee address the federal funding requirements before advancing the bill. Thank you for the opportunity to testify today. And I'll be happy to answer any questions.

SANDERS: Thank you. Are there any questions? I see none. Thank you for your testimony.

BO BOTELHO: Thank you.

CONRAD: Thank you.

SANDERS: Are there other neutral testifiers? I see none. We'll close. Senator Hansen. I also wanted to-- the additional comments for the hearing record. Proponents, one; opponents, nine; neutral, two. For the record.

HANSEN: Thank you.

SANDERS: Welcome back.

HANSEN: I like this committee.

CONRAD: We do, too. Come visit us more often.

HANSEN: So one thing-- I just wanna bring up a few points. I had to look it up, but so far, from my understanding, there have been no report of concerns from a nonprofit in the states that have passed a bill such as this. I think if we're concerned that this might infringe upon their ability to do certain things. So far, we have not heard of anything. And last year, we did work with the Attorney General's Office to address all their concerns and from my understanding, everything's good with their office, as well. And we do take legislative actions on many things to help make sure that we do-- sometimes get ahead of things. You know what I mean, see what's going

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

on in other states. And I think this is a good example of, of one of them. I'm not a huge fan of making rules or regulations ahead of, you know, certain issues, but I think this is a good example of when we should. Senator Lowe had a good question about--

HALLORAN: Ice cream.

HANSEN: Well, that-- now, see that's stuck in my head now. But we don't know until it happens sometimes. And so we do want to get ahead of things sometimes, because next, you know, we could be in Nebraska, the Attorney General's Office going after the NRA or the ACLU and now we're stuck. And so this way, at least it helps protect our nonprofits and solidify in, in statute if we need to, their ability to do their job and raise funds and not divulge private information if they, if they don't want to. And I'm glad the previous testifier brought up a business plan, because just like any good business plan we do-- you set rules and regulations to protect your business and to make sure you can do your job. And I think that's again, another good example of that with this bill. So with that, I will take any questions.

SANDERS: Ice cream.

HALLORAN: You scream, we all scream for ice cream.

HANSEN: I do, I do like this committee.

HALLORAN: Rocky Mountain. Rocky Road. So maybe a word-- I won't put words in your mouth, but it's a preemptive action, right? It's a preemptive action looking into the future. We don't know what will happen, but as you very clearly stated, we want to prevent that from happening or if it does happen, we want statutes in place to deal with it.

HANSEN: Yes. And if you look at the opposition, it's a little confusing when we look at the opposition because they feel like it's not needed, whereas I feel like it is. You know, it's not needed until it is and by then, it's too late. Or some of the opposite-- opposition even said that we don't put any rules on us or regulations on us. But we're not. We're actually trying to protect them from too many rules and regulations. So.

HALLORAN: Just so you know, we love you, too, Senator Hansen. And we will keep this in mind when we exec that you said you love this committee.

HANSEN: Did I say love or like?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

HALLORAN: You love us.

HANSEN: Oh, man. All right. I'll take it.

CONRAD: It's been elevated.

HANSEN: I'll take it.

SANDERS: Thank you, Senator Halloran. Are there any other questions?
Senator Conrad.

CONRAD: Thank you so much, Senator Sanders. And you are always welcome to come visit us in the Government Committee. It's good to see you, Senator. You could tell we don't have any fun at all as we're wading through these.

HANSEN: Maybe it's because the Chairman is gone.

CONRAD: We're a little more freewheeling without Colonel Brewer here, maybe. But, you know, I see this, Senator Hansen, almost like a, perhaps, like a companion bill to a measure that Senator Sanders is working on to try and protect privacy for nonprofit donors. And this is more kind of at the organizational level, perhaps, so I'm just trying to see some connections there. But the one thing that I'm kind of looking at and I would love if you could talk with your supporters who brought this forward in other states, you don't have to answer off the top of your head, but just kind of want to make sure I have a clear understanding of some of the potential separation of powers issues, just in terms of the Legislature saying, hey, Attorney General, you can or cannot do that because that is important, I think, for checks and balances. But there are also some limits on what we can tell other branches of government to do. Right.

HANSEN: You bring a good point--

CONRAD: OK.

HANSEN: --and that's what the Attorney General brought up last year.

CONRAD: OK. Very good.

HANSEN: And so that was why we amended it to address their concern.

CONRAD: OK.

HANSEN: And I believe that's on, you know, on page 2, I think, line 19.

CONRAD: OK.

HANSEN: It does not restrict the powers, duties, remedies or penalties available to the Attorney General or Secretary of State and under statute of common law, including but not limited to issuance of a civil investigation, demand or subpoena.

CONRAD: OK. All right. So.

HANSEN: It kind of addressed that same concern, because it's almost the same thing.

CONRAD: It's almost like a carve-out there, to address the separation of powers issue.

HANSEN: Yeah, to make sure, you know, they really do need to investigate for a legitimate reason.

CONRAD: Yes. Like--

HANSEN: And this kind of gives them the ability to do this. We're not, kind of, cutting off their ability to do their job.

CONRAD: Right. Right. Because I know that they have important oversight functions on charitable organizations, whether that's the governance piece or the fundraising or basic tax things. Right. Make sure people are paying their payroll and stuff like that. So then really, with that language that would exempt out, to address the potential separation of powers issues, the directive that is to other state agencies really, that they can't require a report or other sort of information. Is that a fair reading?

HANSEN: Yeah and for onerous, onerous reasons.

CONRAD: OK. All right.

HANSEN: Political reasons. You know, maybe, this is the kind of thing we're trying to get ahead of.

CONRAD: OK. Got it. Thanks.

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

HANSEN: Thank you.

SANDERS: Good luck with the rest of your day, Senator Hansen.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

HANSEN: Thank you.

SANDERS: Off and running.

HANSEN: I'm going to need a nap [INAUDIBLE].

CONRAD: I was going to say, you might hopefully, have a-- an earlier evening.

SANDERS: This closes the hearing on LB41 and will now start the hearing on LB312. Senator Lowe. Welcome.

LOWE: Thank you. And finally, we get to the consent agenda portion of today. Thank you, Vice Chair Sanders and the members of the Government, Military and Veterans Affairs Committee. My name is John Lowe, that's J-o-h-n L-o-w-e, and I represent District 37, which is made up of Gibbon, Shelton and Kearney. LB312 was requested by the state Treasurer's Office in cooperation with the state Auditor's Office to sync up the withholding and potential redistribution of state aid, specifically highway allocation in two statutes, as related to noncompliant governmental units. Currently, upon notice of the noncompliant cities and villages of the Auditor's Office-- from the Auditor's Office, the Treasurer's Office withholds state aid. The cities and villages have six months to become compliant. If they do, the State Treasurer releases the funds to the city or village. If after six months, the city or village remains out of compliance, the Auditor's Office notifies the Treasurer's Office and the funds are then redistributed. As currently written, in 19-2907, it directs the forfeited funds to the other cities and villages in the county where the delinquent city is located. Where, in Section 13-522, it distributes the forfeited funds to other recipients of state age-- aid, which is all cities and villages of Nebraska. The goal of this bill is to have 13-522 language match that of 19-2907 and the forfeited funds would be distributed to the other communities in the same county as the delinquent city. In addition to those changes, a provision was added that a city or village that remains out of compliance for 12 months from the notice by the Auditor's Office, that city or village would be removed from the distribution. Once compliance is reached, they would be added back in. This is being requested due to the village of South Bend being out of compliance for the last, roughly four years, with no indication of that changing. The processes to withhold and redistribute is tedious. Removing the city or village from distribution eliminates a continuous withhold and redistribute process, saving time and resources for the treasury staff. Again, the city or village could be added back to the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

distribution if they finally become compliant. I'm happy to answer questions, although they may be a little groggy after today. However, after testifying-- after I'm done testifying, Heidi Wallace, deputy director of the treasury management, who can answer any questions you may have.

SANDERS: Are there any questions?

LOWE: Any questions about ice cream?

SANDERS: Are there any questions for Senator Lowe? I see none. Thank you.

LOWE: I will stay to close, too.

SANDERS: Thank you. Proponents. Are there any proponents? Welcome to the Government Committee.

HEIDI WALLACE: I'm going to be a bit repetitive with Senator Lowe, but good afternoon, members of the Government, Military and Veterans Affairs Committee. My name is Heidi Wallace, H-e-i-d-i W-a-l-l-a-c-e. I'm the deputy director of treasury management, and I'm representing the State Treasurer's Office, Treasury Management Division. I'm here today in support of LB312. We requested the introduction of this bill in cooperation with the state Auditor's Office to synchronize the highway allocation withholding procedures in statutes 13-522 and 19-2907, as well as to add the provision for continued noncompliance with the abovementioned statutes. There are two goals at this request. The first is to synchronize the withhold and redistribution process in 19-2907 and 13-522. If the city or village remains noncompliant after the six-month escrow period and forfeits their highway allocation funds or other state aid. In 19-2907, if a city or village forfeits their state aid, it's redistributed to the other cities and villages in the county where the delinquent city or village is located. In 13-522, those forfeited funds are distributed to every city or village that receives state aid. We are requesting to update 13-522 to agree with the provisions of 19-2907. When we redistribute to every city or village in the state receiving state aid, it can amount to mere cents. In the 25 years I've been in my position and responsible for this process, it's generally the smaller villages that remain noncompliant past the six-month escrow period, which means the amounts being redistributed are, are small. The second is to add the provision to both statutes to remove the non-compliant city or village from the distribution after the 12 months from receiving the notice from the state Auditor's Office the city or village remains out of compliance.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 9, 2023

This will allow our staff to avoid the continuous withhold and redistribute process. Should the city or village become compliant, they would be added back to the distribution and resume receiving highway allocation or other state aid. Currently, we are withholding and redistributing highway allocation funds for the village of South Bend and have been for about four years and there doesn't appear to be an end in sight. Since 2019, we have redistributed just over \$57,000 that should have gone to South Bend and we continue to hold. In closing, I'd like to thank Senator Lowe for introducing this bill on our behalf of the state Treasurer's Office and the state Auditor's Office, and also thank you to the committee members for hearing my testimony.

SANDERS: Thank you.

HEIDI WALLACE: Questions?

SANDERS: Are there any questions? We see none. Thank you for your testimony.

HEIDI WALLACE: Thank you.

SANDERS: Are there other proponent? I see none. Opponents? Neutral? Closing? He waives closing. Thank you and that ends the hearing for LB312. I think he wants to go get ice cream or something.

CONRAD: You're a very efficient Chair, Vice Chair.