

BOSN: We'll go ahead and get started. Before we do, can I see a show of hands of how many individuals are here in one capacity or another to testify on the combined hearing bills? That would be LB804 from Senator Lonowski, LB816 from Senator Storer, and LB755 from Senator Wordekemper. Just if you'll raise your hands-- 2, 4, 6, 8, 10, 11. OK. Perfect. Thank you, guys, very much. And we'll-- I'm going to do a little introduction on that, but I just wanted to set us off first on that. So good afternoon, and welcome to the Judiciary Committee. My name is Carolyn Bosn. I am the Senator from District 25, representing southeast Lincoln-Lancaster County, including Bennett. The committee will take up bills in the order posted outside of the room. And this is your public hearing opportunity to be part of the legislative process and express your position. If you are planning to testify today, please fill out one of the green testifier sheets. Specifically as it relates to the combined hearings, at the opening, if you will say which number-- which bill you are here in support of or in opposition to or the neutral capacity for, or if it's all 3 or 2 but not one, just let us know all of that information. You will still have 3 minutes to testify on that combined bill, and you would still need to fill out a green testifier sheet for each of the bills that you're here to testify regarding. When you come forward and state and spell your name, please, as I noted, for our committee clerk, who's trying to keep a record, let us know which bills you're here and in what capacity. For all bills, though, if you have an organization when testifying that is not listed on your sheet, or if you would please list all the organizations you're here to represent, that would be helpful. If you forget to do that, it will not be included on the committee statement. If you do not wish to testify but would like to indicate your position on a bill, there are yellow sign-in sheets on the back for each bill. These sheets will be included as an exhibit in the official hearing record. When you come up to testify, speak clearly into the microphone, stating and spelling your first and last name. We will begin each hearing today with the introducer's opening statement, followed by the proponents, opponents, and neutral testifiers. We will finish with a closing statement by the introducer if they wish to give one. Again, we're using a 3-minute light system for all testifiers. When you begin your testimony, the light on the table will be green. When the yellow light comes on, you have one minute remaining, and when the red light is illuminated, please wrap up your final thought and stop so that questions can be asked. Also, committee members may come and go during the hearing. This has nothing to do with the importance of the bills. It is just part of the

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process, as senators have bills to introduce in other committees. A few final things. If you have handouts or copies, please bring up 10 copies and give them to the page. Thumb drives, CDs, DVDs, oversized documents, books, lists of signatures, and similar items will not be accepted as exhibits for the record. Please silence or turn off your cell phones. Verbal outbursts or applause are not permitted and may be cause for you to be asked to leave. Finally, committee procedures for all committees state that written position comments on a bill to be included in the record must be submitted by 8 a.m. the day of the hearing. The only acceptable method of submission is via the Legislature's website at legislature.nebraska.gov. Written position letters will be included on the official hearing record, but only those testifying in person before the committee will be on the committee statement. You may submit a position comment for the record or testify in person, but not both. I will now have the committee members with us today introduce themselves, and I would also note that my vice chair, Senator Wendy DeBoer, from District 10, is not with us, but she is watching online. Senator Hallstrom.

HALLSTROM: Bob Hallstrom from Syracuse, Legislative District 1, southeast Nebraska, Otoe, Johnson, Richardson, Pawnee, and Nemaha Counties. Welcome.

STORM: Good afternoon. Jared Storm, District 23, Butler, Colfax, Saunders County.

STORER: Good afternoon. Senator Tanya Storer, I represent 11 counties, District 43, Dawes, Sheridan, Cherry, Keya Paha, Boyd, Brown, Rock, Blaine, Loup, Garfield, and Custer. I write them down to make sure I don't forget one.

HOLDCROFT: Rick Holdcroft, District 36, west and south Sarpy County.

BOSN: Sorry. Our other 2 committee members aren't with us quite yet. So, also assisting the committee, to my left is our legal counsel, Denny Vaggalis, and to my far right is our committee clerk, Laurie Vollertsen. Today, our pages are Kyanne Casperson, Kleh Say, and Thomas-- is it Guinan?

THOMAS GUINAN: Yep.

BOSN: Guinan. Thank you very much for joining us, all 3 of you. With that, we will begin the hearings on the joint combined hearing for

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Senator Storer, Senator Lonowski, and Senator Wordekemper, beginning with Senator Lonowski. Good afternoon and welcome.

LONOWSKI: Good afternoon, Chair Bosn, members of the Judiciary Committee. Let me start by saying this peer review bill must be a great idea. I'm Dan Lonowski, D-a-n L-o-n-o-w-s-k-i, and I represent District 33. Thank you for scheduling LB804 with 2 similar bills for a combined committee hearing today. I introduce LB804 at the request of a respected Hastings Police Department officer. This is important legislation. That is underscored by Senator Storer and Senator Wordekemper, who introduce similar bills today. LB804 establishes that communications made during a peer support counseling session between the designated peer support counselor and the law enforcement officer and emergency services employee or a member of the Nebraska National Guard are confidential, with specific stipulations, and those communications are not subject to disclosure in civil, criminal, or administrative proceedings. Many states have laws that make peer support communications for public safety personnel confidential or privileged. And there is also a federal law covering federal officials, specifically, the COPS, COPS Counseling Act. The Fraternal Order of Police conducted a study-- or conducts a study every 2 years on the topic of wellness. Consistently, the number one most effective resource for police officers in the whole breadth of wellness is peer support, because a trained peer support counselor helps officers walk through a number of problems and they can help provide direction for them. Public safety personnel deserves-- deserve an opportunity to talk through issues as they occur to alleviate mounting stress and pressure. With this in mind, strong peer-to-peer support counseling would be an immediate resource for them. The most critical element of successful peer-to-peer support counseling, however, is that the communication during a peer session remains confidential. Therefore, the individual seeking help can talk without fear or the details of his or her discussion being public. LB804 provides this protection to public safety personnel. Peer support can address personal, professional, or matters within their agency. The goal of LB804 is to make it easy as possible for anyone who needs help to be able to start at a place that is most comfortable for them. For many, that is within their own agency. Confidential peer support counseling offers the participant a low-barrier, culturally-attuned way to address stress, trauma, and mental health concerns, protecting their privacy and careers. When confidentiality is clear and trusted, officers are more likely to open up early, reducing the amount and the risk of burnout, misconduct, and long-term psychological injury. It provides a safe

space to process critical incidents, chronic stress, and trauma, which can lower symptoms of anxiety, depression, and PTSD over that amount of time. Confidential peer support also offers early, low-intensity intervention, listening and coping strategies that can prevent problems from escalating to crisis or even suicide risk. With all that those on the front line are dealing with, along with the incredible pressure they are under, now is the time for this legislation to be enacted. Thank you, Chair Bosn and members of the committee for your consideration of LB804. I respectfully ask the committee's support to advance LB804 to General File, along with the adoption of AM1749 I provided to the committee. AM1749 removes the Nebraska National Guard because they are under federal jurisdiction. There are already parameters in place for the peer support system within the Nebraska National Guard. I will waive my closing because I'm due in another committee to introduce a bill. Thank you. Are there any questions?

BOSN: Any questions for this testifier? Senator Hallstrom.

HALLSTROM: Is your amendment solely to your bill or have you worked with Senator Storer and Senator Wordekemper on trying to put together something that the 3 of you can agree on?

LONOWSKI: We, we have worked together. That's solely to my bill because they did not have National Guard in there. I included it, started doing some groundwork, and realized that wasn't, wasn't needed.

HALLSTROM: Thank you.

LONOWSKI: And also, I will-- I do have one testifier here, Captain Raelee Van Winkle, from Hastings Police Department that will be testifying later

BOSN: Awesome. Thank you very much.

LONOWSKI: Thank you.

BOSN: Thank you.

LONOWSKI: Appreciate it.

BOSN: Next, we will hear from-- we'll have Senator Wordekemper open on LB755. Senator Wordekemper. Good afternoon and welcome.

WORDEKEMPER: Good afternoon. Thank you, Chair Bosn and members of the committee. Members of the Judiciary Committee, my name is Dave Wordekemper, D-a-v-e W-o-r-d-e-k-e-m-p-e-r, and I have the honor to-- of representing L-- Legislative District 15. I'm here today to introduce LB755, which establishes a confidential peer support programs for emergency service personnel. As Senator Lonowski and Senator Storer have outlined, we're here with a shared purpose to provide critical mental health support protections for Nebraska's first responders. As you know, I spent my career as a firefighter. I can tell you that the things we see and experience on the job are difficult to process. These are situations that those outside our profession simply don't understand. You respond to tragedies, violence, loss, sometimes involving childrens and people you may know, and you're expected to move on to the next call, and the next one after that. The reality is that trying to navigate these experiences alone doesn't work for everyone. Sometimes, the most beneficial support comes from sitting down with a fellow first responder, someone who has been there, someone who gets it. I've seen many first responders helped tremendously by their peers through informal peer support, but right now there is a real barrier. The fear that what you share could be used against you in a disciplinary proceeding or legal matters. That fear keeps people silent when they may need help most. That's what LB755 addresses. We need to promote the use of peer support and ensure strong protections are in place so this practice can grow. First responders need to feel comfortable speaking about anything they're dealing with without repercussions and without fear of their private conversations being shared. And I want to be clear about a few things that make LB55 [SIC] comprehensive. First, we include detailed legislative intent within the bill itself for legislation of this matter. That intent is critical to proper implementation and judicial interpretation. Second, we've included improved retirees-- we've included approved retirees as eligible peer support personnel. It doesn't make sense for someone to retire and suddenly lose their ability to provide this support, especially when they are often the most experienced and have wisdom to offer. Third, LB755 explicitly allows for cross-agency peer support. This is important because sometimes a first responder may not want to speak with someone within their own department. A firefighter in Omaha might prefer to talk to a peer support specialist in Fremont, someone outside of their immediate circle. This is especially beneficial in western Nebraska where peer support programs may be sparse and someone in need of support needs to reach beyond their local area. Section 5 ensures those relationships are protected. Fourth, we've clarified

that peer support programs are optional, but if an agency adopts one, the confidentiality-- confidentiality protections and provisions in this bill apply. This gives agencies flexibility while ensuring consistency in protections. Finally, I want to note that this bill is not intended to interfere with critical incident stress management or CISM. Peer support is separate from CISM. While there are many-- while there may be some overlap and the bill acknowledges that, peer support operates differently. CISM falls under DHHS jurisdiction, and I certainly don't want DHHS involvement in peer support. There is plenty of trauma to go around, and these can and should remain distinct approaches. I want to emphasize what my colleagues have already mentioned. These 3 bills are not competing measures. Senator Lonowski, Senator Storer, and I have been working together. We're committed to taking the strongest elements from each proposal and amending them into one final bill. Our shared goal gives us this important measure to best opportunity to cross the finish line and actually help the people who protect our communities every day. I developed LB755 by working directly with peer support specialists at the First Responders Foundation and the Omaha Fire Department, the people who understand these issues firsthand. I believe that collaboration with practitioners combined with the collaborative work happening among the 3 of us senators and the committee will result in the strongest possible legislation for Nebraska emergency first-- service personnel. Be happy to answer any questions. I also will not be sticking around for closing. I have another bill, but I'm open to any questions.

BOSN: Any questions from the committee? Seeing none--

WORDEKEMPER: Thank you.

BOSN: Thank you very much for being here.

WORDEKEMPER: And I have 3 testifiers on my bill.

BOSN: OK. Perfect.

WORDEKEMPER: Thank you.

BOSN: Thank you. And last but not least, we will hear the opening statement for Senator Storer, on LB816.

STORER: Good afternoon, and thank you, Chair Bosn. This is, this is really kind of fun to see how this comes together. Because as you've heard-- well, first I will start. I am Tanya Storer, T-a-n-y-a S-t-o-r-e-r, and I represent Legislative District 43. As you've from

the previous 2 senators, the, the bills have kind of come to them from local police forces, emergency services, and the, the impetus of mine really came from the State Patrol. So all of these agencies are asking for very similar-- a very similar thing here. So I'll share a little bit. I don't think I'll be very repetitive here, but a little bit additional information on the basis and the need for this bill. It establishes confidentiality and privilege protections for communications between first responders and certified peer support team members. That is, that is the, the end goal. So just a little background to consider. Among over 4,000 EMS providers surveyed, 86% reported experiencing critical incident stress and 37% had contemplated suicide. A 2021 national survey of U.S. law enforcement found that 44% of active law enforcement officers were experiencing psychological distress, with over 11% reporting severe distress, and 31% of former officers reported psychological distress and 6.6% severe distress-- of former officers. First responders witness trauma that most Nebraskans will never see: fatal accidents, violence against children, overdose deaths, and human suffering on a scale that can take a profound roll-- toll. They carry these experiences while maintaining the professionalism and composure that we depend on them to have. Peer support programs have emerged as the most effective wellness resource for first responders. These programs pair trained colleagues who understand the unique demands of public safety work with personnel who need support. The 2021 national study found peer support to be the most effective wellness service accessed by law enforcement professionals, more effective than counseling, chaplain services, or other interventions. Many Nebraska agencies have already established their own peer support programs, recognizing their value. Yet, here's the problem. Without statutory confidentiality and privileged protections, first responders are reluctant to use these existing programs. They fear their conversations could be subpoenaed, used against them in disciplinary proceedings, or disclosed in litigation. This fear creates a barrier to seeking the help precisely when help is needed most. Let me be clear. This bill does not create or mandate a statewide peer support program. It simply provides legal protections for the peer support programs that agencies already have developed or choose to develop on their own. We're not building new infrastructure. We're protecting what's already working. Nebraska already recognizes this principle in a related context. For example, our critical incident stress management that you heard Senator Wordekemper speak to has confidentiality protections under state law, but CISM only addresses acute responses to specific critical incidents. Peer support is broader. It helps first responders manage

both professional and personal stressors before they reach crisis level. Several states have already enacted similar protections, recognizing that confidential peer support service saves careers, saves families, and ultimately saves lives. This bill will encourage first responders to seek help early, reduce the isolation that leads to burnout and crisis, and strengthen the workforce that keeps our communities safe. Most importantly, this legislation directly benefits Nebraska's first responders. It removes a barrier that prevents them from accessing support. It gives them confidence that when they're struggling, whether from witnessing a child's fatality, a cumulative weight of traumatic calls, or personal challenges that affect their work, they can talk to a trained peer without fear of professional repercussions. It allows them to get help before reaching a crisis point. The Nebraska State Patrol has made this a priority, and I urge your support. First responders protect us without hesitation and the least we can do is protect them when they need support. As has been stated by Senator Lonowski and Senator Wordekemper, we are working on combining these 3 bills. They all have the same intent, just slight variations in language, and we had hoped to have, maybe, a white copy amendment by today, but didn't want to rush that. But we will be providing you with an amendment that is acceptable to the 3 of us.

BOSN: Thank you. Any questions from the committee? You mentioned other states are doing this. Are any of our neighboring states already participating in peer support programs such as this?

STORER: I would, I would be guessing to tell you specifically what states, but there will be some folks come up behind me that will be able to answer that question.

BOSN: Thank you.

STORER: Yeah.

BOSN: All right. With that, we will begin with our proponents. And if you'll just make sure, like I said, again, I'm here in support of this bill and this bill, I'm in the neutral capacity, or whatever it is. You can be in support of all 3, or opposed to all 3, or whatever combination thereof, but if you'll just make and tell us so that we can have an accurate record.

DEB HOFFMAN: Good afternoon. Chairwoman Bosn and members of the Judiciary Committee, my name is Dr. Deb, D-e-b, Hoffman, H-o-f-f-m-a-n, Psychologist and Wellness Coordinator for the Nebraska

State Patrol. I am here today on behalf of the NSP to offer testimony in support of LB816, introduced by Senator Storer. As a psychologist with 28 years of professional experience and the daughter of a police officer, I am unfortunately all too familiar with the stressors associated with the role of public safety and the effects those stressors can have on both officers and their families. First responders, emergency services providers, and the professional staff who support these same individuals often face significant stressors in their jobs. Some estimates are that an emergency responder will encounter an average of around 188-200 traumatic events over the duration of their career. For law enforcement, that number can rise into the hundreds of separate traumatic occurrences. A 2023 study found that operational and organizational stressors were rated by officers as more impactful than the physical dangers caused by the job and exposure to traumatic calls. This same study found that out of all the wellness services provided by agencies, peer support was rated as the most effective. In Nebraska, where 88 of our 93 counties are considered to have a shortage of mental health professionals and 29 counties have no practicing mental health professionals, trained peer support teams are uniquely positioned to help bridge this gap. The Nebraska State Patrol has employees, both sworn and professional staff, living and working across our state. Many of these employees have limited access or no access at all to a licensed mental health profession due to location, waiting lists, and caseloads. Though our agency has offered peer support as a resource since 2019, many individuals are hesitant to access it because there's no legal protection for what's discussed in these sessions. Peer support is not professional counseling or therapy. It's also not meant to take the place of those services. Instead, peer support provides trained peers who understand the unique and accumulated stress and trauma of the job. These trained peers comprehend or are familiar with the personal and family stressors often associated with these roles. Though peer support programs have demonstrated effectiveness, one of the greatest obstacles occurs when there's a lack of privilege for communication and interaction. This is why other states in the U.S. have enacted legislation providing protections for public safety peer support communication. This legislation helps increase the likelihood that those needing help will access peer support when they face a personal or professional crisis. To reiterate, this bill does not require any agency to create a peer support team if it's not already in place. Simply, it provides protections for those who do and will utilize such support teams. LB816 would give trained peer support members privilege in their communication, with a few exceptions. For those who seek

services, privilege would provide the assurance that they can share vulnerability openly, without fear that the information will be disclosed to others against their wishes or used against them in some capacity. In closing, I want to thank you for considering all the information I've provided and I want to thank each of you for the opportunity to testify before you today. Thank you for your dedication to the health and well-being of our first responders and emergency personnel throughout the state. I'm happy to answer any questions the committee may have.

BOSN: Thank you. Any questions for this testifier? Seeing none, thank you very much for being here. Next testifier. Good afternoon and welcome.

MAX HUBKA: Good afternoon. Hello, Senator Bosn and members of the Judiciary Committee. My name is Max Hubka, M-a-x H-u-b-k-a. I am a captain with the Lincoln Police Department and the command staff coordinator of our peer support program. I'm here today representing our peer-support leadership team seated in the back row and our police chief Michon Morrow. I'm here to speak in favor of LB755, LB804, and LB816. And I would like to thank the senators for introducing these bills. All 3 of these bills are a major step forward in a positive direction towards strengthening our first responder peer support programs and in turn, allowing our first responders to be healthier, perform better, and serve our communities more effectively. We know that first responders routinely encounter critical incidents, cumulative trauma, and emotionally charged situations that most people never experience. In order for first responders to be able to perform to their maximum potential, they need to have healthy ways to manage stress and process through that trauma. First responders are trained and expected to put others ahead of themselves and often operate within a culture that values strength, self-reliance, and professionalism. These factors can combine to make it very difficult for first responders to seek help when they need it. Concerns about being judged or experiencing negative career consequences can also create significant barriers to seeking help. Confidentiality in peer support programs addresses these barriers by fostering psychological safety for first responders in need of support. When first responders trust that their disclosures will not be shared with supervisors, command staff, or colleagues, they are more likely to speak honestly about the stress, stress and trauma they are experiencing. Without a clear and credible assurance that these conversations will remain private, the peer support program cannot achieve its core purpose: providing a safe, trusted space for first

responders to process traumatic and high-stress experiences and seek support before those experiences negatively impact their mental health, performance, or personal lives. The trust in a peer support program enables early intervention, which is critical in preventing burnout, substance misuse amongst employees, relationship problems, and more serious mental health crises. Clearly defined exceptions to confidentiality must also be enacted and are included in these bills. The bills require-- or excuse me-- include requirements for the mandatory reporting of information related to criminal activity, homicidal or suicidal ideations, domestic violence, child abuse, elder abuse, and more. These exceptions help ensure that peer support members operate responsibly and ethically while fulfilling the role of supporting their colleagues. Ultimately, confidentiality is a key to successfully supporting our first responders and enabling them to return day after day to fulfill their mission. Support for these bills communicates respect for the individual first responder, acknowledges the courage it takes for them to ask for help, and affirms that seeking support is a sign of strength, not weakness. By safeguarding confidentiality, peer support programs empower first responders to process trauma in a healthy way, support one another effectively, and sustain both their well-being and their ability to serve the community. By supporting and strengthening our first responders, we strengthen and protect our en-- our entire community. Thank you very much for your time, and for your support for these bills.

BOSN: Thank you. Any questions for this testifier? Senator Storm.

STORM: Thank you. And thank you for testifying. So can you kind of walk through it for me. If, if you have an officer that's struggling with something, do they come to you or another member, and then is it kind of informal or is this very much formal now, the way it's set up?

MAX HUBKA: I, I would say it's very circumstance dependent. We have a well-trained group of 12 members of our department that are part of our peer support leadership team. So if there is a-- an individual officer that we become aware of that is in need of some peer support, we would do a-- primarily a one-on-one check-in. Somebody that's familiar with them or relatable to them would be the person that would contact them, and then look at how they can either support them, or if there's a need to refer to a higher level of care or outside resources, we have processes that allow that, as well.

STORM: OK. Is there an issue now with people not feeling very comfortable doing this, because it can be leaked out? Is that--

MAX HUBKA: I think that's a barrier. We stress confidentiality within our team. The barrier is that it is not--

STORM: In statute.

MAX HUBKA: In statute. So we don't have that, that extra level of protection, so we stress confidentiality and we reit-- reiterate that with our employees as well.

STORM: Now if somebody is suicidal, does that get referred on to someone and will this bill address that? [INAUDIBLE]?

MAX HUBKA: Yes. I think the one of the exceptions of the bill is either future suicidal ideation or planning, or, or present suicidal threat. So that would be an exception, and our employees are, are trained and understand that immediate action would be necessary.

STORM: Or criminal acts.

MAX HUBKA: Criminal acts. There's several exceptions that are--

STORM: OK.

MAX HUBKA: --articulated in the bill, but we, we have those in there as exceptions to the confidential priv-- privilege intentionally, so that action is taken when time is of the essence.

STORM: Do most police departments have this, or is it just the bigger departments? Do you know?

MAX HUBKA: A peer support program?

STORM: Yeah. Is it pretty widespread through the state or--

MAX HUBKA: I think it's becoming more widespread. Our program at LPD began in the '80s, so we were one of the first adopters of the peer support model, and it's become really foundational to the department. So we're very fortunate in that way, and I think it's becoming more common practice across the state.

STORM: OK. That's all I have. Thank you.

BOSN: Thank you. Any other questions? Thanks for being here.

MAX HUBKA: Thank you for your time.

BOSN: Good to see you. Yeah. Next testifier. Good afternoon and welcome.

KEVIN ERICKSON: Good afternoon, Senator Bosn and the rest of the Judiciary Committee. My name is Kevin Erickson, K-e-v-i-n, last name spelled E-r-i-c-k-s-o-n. I appreciate your time and the opportunity to testify on LB755 today, and in also support of LB804 and LB816, because the importance of confidentiality protections for first responders in Nebraska is highly important. Because a clear peer support system that balances structure with flexibility also acts as a true early intervention tool instead of a last resort. Prior to my retirement as a police officer, I spent 16 years in the military and in civilian law enforcement, including a deployment to Afghanistan in support of Operation Enduring Freedom. During my time as a police officer and in the military, I saw many friends of mine struggle in silence because there was no set peer support system in place for them to go to, and also the need that asking for help is a strength. I hold a master's degree in forensic psychology and I'm currently pursuing my Ph.D. in criminal justice, where my dissertation will focus on the impact of peer support in first responders. I'm here today for one simple reason. Peer support only works when first responders trust it, and that trust only exists when confidentiality is clear. First responders, as mentioned before in other testimony, are routinely exposed to trauma as part of their job. And over time, that exposure affects mental health, job performance, decision-making. Peer support provides an early intervention tool and practical way for first responders to talk with someone who understands not only the work, but the culture. It is often the first step before seeking professional help. The problem is that without clear confidentiality protections, many first responders will not use peer support. They will worry that what they say can be used against them in court, they could be subpoenaed, documented, or administrative hearings. While that uncertainty exists, peer support programs become risky in their minds and people stay silent, referring-- or referencing unhealthy coping skills. That's why all 3 of these bills are important. This bill specifically, LB755, removes those uncertainties, making those communications confidential, meaning they cannot be used as evidence or forced in disclosure. I want to acknowledge that there are other bills and I am more than happy to work with those other senators on these bills so that we can make one supportive bill for first responders in Nebraska. In closing, this bill is about prevention and trust. It can give first responders a safe and structured way to ask for help before a problem can escalate. It supports agencies by

reducing long-term risks tied to untreated stress and trauma, and it supports public safety by keeping experienced and healthy professionals on the job. Other states around the Midwest have also adopted similar bills, and I can list those for you during questioning. Thank you for your time, and what questions do you have for me?

BOSN: Awesome. Thank you very much. Any questions for this testifier? Senator Storm.

STORM: So what states are doing this in-- around the states?

KEVIN ERICKSON: Currently, we have Iowa, Illinois, Missouri, Kansas, and those are the ones that I am 100% certain of.

STORM: So pretty much all the states around the center?

KEVIN ERICKSON: Yes, Senator.

STORM: OK. That's all I have.

BOSN: I have a couple of questions. So you said that you are working on a dissertation that sort of focuses essentially on this type of legislation. And I-- one of the paragraphs, I noted you were-- thought you were running out of time, so you skimmed some of these, and I--

KEVIN ERICKSON: I saw the yellow light.

BOSN: I was reading, and so I was like, oh, wait, he's not reading this. Can you tell-- it says, first responders are more willing to ask for help and to do it early, which does not compromise accountability or public safety. Can you flush that out a little bit and tell us a little more about that?

KEVIN ERICKSON: Absolutely. So when a first responder asks for help, when we have legal protections in place, they're going to be able to ask for help and say, I need some assistance. Now that doesn't cover up any type of misconduct, criminal conduct, or any type of legality issues or mandatory reporting requirements. So basically, it doesn't hide anything or cover up anything is what that meant. It provides them the assistance and if there's a mandatory reporting requirement or criminal conduct or something that's outlined in the bill to where they have to report without any consent, that's when that comes into place.

BOSN: And I assume anyone who would seek peer support help is told, here's the limitations of the confidentiality, before they start unloading some of the concerns that they may have.

KEVIN ERICKSON: Absolutely. So I am a peer support team member. I've done it for countless years. So the first thing you do is you introduce yourself and you say, this is a peer-support session. There are-- this is confidential. But in the event that we get into something that you tell me that might break those confidentiality rules, I'm going to stop the conversation. We're going to have-- we're kind of going to get into it just a little bit more before we move on. So then that way, they understand the parameters that they are getting into, that not everything is going to be covered, and--

BOSN: Sure. Thank you. All right. Thank you very much for being here and for the work you do.

KEVIN ERICKSON: Thank you so much.

BOSN: You bet. Next testifier. Good afternoon and welcome.

MATT TENNANT: Thank you. Good afternoon. My name is Matt Tennant, M-a-t-t T-e-n-n-a-n-t. I'm here on behalf of the Omaha Professional Firefighters Association, Local 385, where I serve as the peer support team coordinator. I've served in the fire service for 23 years, and currently, I'm a captain on the Omaha Fire Department. I also helped draft LB755. As public servants, we're exposed daily to difficult, [INAUDIBLE] traumatic experiences. Most civilians will experience 1-2 critical incidents over a course of a lifetime. A first responder will witness approximately 800 critical incidents over a 30-year career. These incidents don't simply disappear. They become burned into our memories, they consume our sleepless nights, and they slowly change the person-- the well-intentioned person that we were when we entered public service. Many first responders struggle with sleep issues, substance abuse, high divorce rates, burnout, PTSD, and suicidal thoughts. Over the past 11 years, the Omaha Fire Department's lost 6 members to suicide. Peer support exists to help firefighters and first responders manage the realities of this profession, both on the job and at home, as it affects our families, too. Peer Support is not therapy. It's first responders helping first responders, and it kind of serves as that bridge to higher levels of professional care. We've walked in their shoes. We know what they struggle with. We know the smells, the sights, and the sounds that they, they have experienced. Many therapists are not prepared for

working with first responders. They do not understand our culture, our dark humor, the things that we-- that would bring most people to their knees. The first therapist I saw cried through my first 2 sessions, which gave me a lot of confidence in my overall well-billing-- being. Over time, we've built a network of culturally competent clinicians who get us. They understand the culture. They understand what we do and what we see. For peer support to work, trust is essential. Firefighters must be able to speak honestly, without fear that their words will be later used against them in court or disciplinary proceedings. Without confidentiality and privileged conversations, peer support fails. The bills before you today address this critical gap. They're modeled after existing laws in surrounding states. They establish that peer support communications are privileged, much like protections already afforded to members of the clergy, the state CSI-- CISM team, and mental health providers. These pro-- protections allow firefighters to open-- openly talk about the stress, trauma, substance abuse, and emotional struggles that we deal with daily, and if needed we can guide them on to additional care. CISM debriefings already receive confidential protections. However, they represent only a small portion of what peer support actually is. Typically, debriefings with the CISM team follow large-scale incidents that involve multiple agencies. Peer support, by contrast, isn't tied to one specific critical incident or even job-related issues. Much of what we do is financial, marital issues, substance abuse, disciplinary proceedings, and burnout. By combining these 3 bills into one first responder confidentiality act, it will strengthen responder wellness, improve early intervention, and reduce long-term disability. On behalf of Local 385 and the firefighters I represent, I respectfully urge you to support these bills, and thank you for your time.

BOSN: Thank you. And just for clarification, are you a proponent then, for each of the 3 bills, just so we have a clear record?

MATT TENNANT: Yes, I am.

BOSN: Perfect. Any questions for this testifier? Senator Storm.

STORM: Yeah. Thank you for testifying. So if a firefighter comes from like, Lincoln, do you--

MATT TENNANT: Mm-hmm.

STORM: Do you, do you help them--

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MATT TENNANT: Yes.

STORM: --or do you refer them to-- back to Lincoln?

MATT TENNANT: No. I've, I've helped--

STORM: How does that work? Or has it ever happened that way?

MATT TENNANT: Yes, I've helped many--

STORM: OK.

MATT TENNANT: --surrounding fire departments, Fremont, Lincoln, Bellevue. Like, another testimony was that sometimes our members aren't comfortable--

STORM: Sure.

MATT TENNANT: --speaking, you know, within the department, so they like to go and talk to somebody outside.

STORM: So you're open to any first responder that comes to you like that?

MATT TENNANT: Correct.

STORM: OK. Thanks.

BOSN: Any other questions for this testifier? Seeing none, thank you very much for your service and for being here. Next testifier. Good afternoon and welcome.

RAELEE VAN WINKLE: Chairperson Bosn and Judiciary Committee, my name is Raelee Van Winkle, R-a-e-l-e-e V-a-n W-i-n-k-l-e, and I'm the Operations Captain with the Hastings Police Department. Thank you for the opportunity to appear before you today. I also come to you as a spokesperson on behalf of SCALES. That's the South Central Area Law Enforcement Services, which consists of 18 agencies in the Tri-City area. This is a multi-jurisdictional investigative unit that handles major crime investigations, such as in-custody deaths, officer-involved shootings, homicides, and much more. I'm here to voice my strong opinion and support for LB804, as well as the other bills being introduced this session that collectively work to strengthen the-- strengthen and protect peer support services for first responders and law enforcement across Nebraska. I come here

before you wearing several hats. I'm a law enforcement leader, I supervise internal affairs for my department, and I am someone who personally oversees critical incidents, including officer-involved shootings-- excuse me-- and in-custody deaths. I've also witnessed and lived firsthand the mental health impact of smaller, repeated events that accumulate over time. These everyday calls, decisions, and exposures may not make the news, but they steadily take a toll on the people who respond to them. Law enforcement officers routinely experience trauma in ways that are different-- that are difficult to fully explain outside of our profession. We see violence, death, and human suffering as a part of our normal work environment day-to-day. Over time, the exposure affects judgment, sleep, relationships, and overall well-being if not totally addressed. In my opinion, peer support is one of the most effective tools we have to address that impact. Officers are far more likely to speak openly with trained peers who understand the realities of the job, the culture of law enforcement, and the weight of carrying authority and responsibility every day. There are, there are simply things that peop-- there are-- these are simply things that, things that people outside the profession, no matter how well-trained or compassionate, cannot fully relate to because law enforcement is just different. Trust is the foundation of peer support. Without clear, confidential protections, officers hesitate to use it. They worry that something said in the moment-- in a moment of vulnerability could later surface in an administrative or criminal investigation. That fear undermines the purpose of peer support. That is the gap current Nebraska law, LB804 and the related peer support bills are designated to address. This legislation provides clear and narrowly-tailored confidential protections for peer support counseling while preserving accountability. It includes important ex-- expect-- ex-- exemptions-- sorry-- for health and harm-- threats of harm, criminal conduct, mandatory reporting, and situations where disclosures is consented to. It does not create immunity. It does shield misconduct. Instead, it allows peer support to function as it's intended. As the person responsible for overseeing internal affairs investigations at my agency, I want to be very clear on this point. This legislation does not interfere with internal investigations or criminal prosecution. Evidence obtained through normal investigative processes remains available. Observations made during the course of employment are unaffected. Accountability mechanisms remain fully intact. What this legislation prevents is the use of confidential peer support conversations as a substitute for proper investigative work, either criminally or internally. Strong peer support leads to healthier

officers, better decision-making, improved retention, and ultimately, safer communities. Protecting peer support through thoughtful legislation like L, L-- LB804 and the comp-- companion bills is an investment to both public safety and, and accountability. For these reasons, I respectfully, I respectfully ask the committee to advance LB804 peer support legislation. Thank you for your time and consideration, and for your commitment, commitment to safety and well-being of those that serve our state.

BOSN: Thank you very much for your testimony. Any questions from the committee? OK. So for our committee clerk, do we need to update this green sheet or was this one OK?

LAURIE VOLLERTSEN: It's OK. I'll have to update it later.

BOSN: OK, all right. So am I correct, you're a proponent for each of the--

RAELEE VAN WINKLE: Yeah.

BOSN: --3 bills? OK. Just want to make sure we're getting a clear record. If you could write on your green sheet all the bills that you're in support of or testifying on behalf of, just so we make sure that we have it. Thank you very much--

RAELEE VAN WINKLE: Thank you.

BOSN: --for your testimony. Next testifier.

LEAH O'BRIEN: Good afternoon.

BOSN: Good afternoon and welcome.

LEAH O'BRIEN: Good afternoon, Senators, and thank you for the opportunity to speak in support of LB755. I also want to make a record that I am in support of all 3 of these bills. My name is Leah O'Brien, L-e-a-h O-'-B-r-i-e-n, and I am a licensed mental health clinician with 6 years' experience serving first responders in the states of Iowa and Nebraska through therapy and training, including peer support. I'm also the daughter and the wife of first responders, and I stand before you today representing all 3 of these roles. As a clinician, I understand that repeated exposure to trauma increases the risk of depression, anxiety, PTSD, substance use, sleep disorders, and suicide. First responders are exposed not once or twice, but hundreds of times over the course of their careers. And yet, despite knowing

this, many do not seek help until they are already in crisis. As a spouse and a daughter, I understand why first responders do not seek help. I've seen firsthand the culture of strength, responsibility, and silence. I've watched the toll that the job takes not just on the responder, but on their families. I've seen people carry things they were never meant to carry alone because they were afraid that speaking up would cost them their career, their credibility, or their reputation. That is why peer support matters, and that is why confidentiality matters. Peer support works because it meets first responders where they are. It's grounded in shared experience and trust, and I've heard from multiple first responders that peer support has been life-changing. But peer support only works when people believe they are safe to speak openly. Without confidentiality protections, people will filter what they say or they won't say anything at all. LB755 strikes an appropriate and thoughtful balance. It protects the confidentiality of peer support conversations while clearly outlining necessary exceptions for safety, mandatory reporting, and criminal conduct. This mirrors the ethical standards that are already used in mental health care and ensures that peer support is not a loophole but a legitimate early intervention tool. This bill does not mandate participation. It does not lower standards. It does not interfere with discipline or accountability. What it does is give first responders permission to ask for help before things fall apart. From a clinical perspective, early intervention saves lives. From a family perspective, it preserves marriages, parenting, and stability. From a workforce perspective, it reduces burnout, turnover, and long-term disability costs. LB755 sends a powerful message to our first responders-- we see the weight you carry, we value your mental health as much as your physical safety, and we believe that asking for help should never be punished. I respectfully urge you to support LB755. And thank you so much for your time and your commitment to those who serve our communities every day. And I am happy to answer questions.

BOSN: Thank you. Thank you for your testimony. Senator Storm.

STORM: Thank you. I guess I'm going to ask all the questions here. So as a mental health clin-- clinician here, can you kind of explain, I guess, briefly, how does it help somebody to walk into a group setting or a one-on-one and talk about their problems?

LEAH O'BRIEN: Sure. Well, I guess I speak from a point of privilege as working with first responders, coming from a father and a husband, so I get it. I get it. But like Matt said and many, many other first

responders, there's not a whole lot of clinicians out there who are culturally competent in working with first responders and may spend a lot of their time just talking about verbiage or their schedule, or what's the, what's the worst call you've ever seen? What's the best call you've ever seen? And so meeting with someone right at the get-go, maybe someone who is on that call with them or on the same shift and knows it is just-- is beneficial, right from the get-go. When I've done peer support training, I've always said, you know, you, you may feel like a therapist. You're not, but you may feel like one and you're just as good as one.

STORM: So does it help to just verbalize it for people?

LEAH O'BRIEN: Absolutely.

STORM: That's-- so if you can say it, it gets it out to--

LEAH O'BRIEN: Yeah.

STORM: OK.

LEAH O'BRIEN: And in our training, we do offer the resources that are out there. Hey, I'm your frontline defense, but here are the culturally competent clinicians who can take this further.

STORM: Right. So the worst thing they can do is hold that in?

LEAH O'BRIEN: Correct.

STORM: OK. Thank you.

BOSN: Thank you very much for your testimony.

LEAH O'BRIEN: Yes. Thank you.

BOSN: Next testifier. Good afternoon. Welcome.

MATTHEW JEFFREY: Good afternoon. Thanks. My name is Matthew Jeffrey, M-a-t-t-h-e-w J-e-f-f-r-e-y. I am in favor of what these 3 bills are trying to accomplish. So yep, LB755, LB804, and LB816. I've been a certified peer support specialist since 2019. I'm one of the founders and current board chairs of Nebraskans with Lived Experience, but I am speaking in a personal capacity today. I've experienced different forms of peer support during my recovery journey the past 12 years. Having a mutual relationship with someone that can relate to you, be

there with you through difficult times, and share about their experiences and recovery is life-changing for many individuals. Having someone trained to be that peer support can mitigate unintentional harm that informal supports might cause. The confidentiality that these bills provide will allow for open and honest conversations that are needed for recovery. Growing up around and being friends with the people that these bills benefit, it's easy for me to support and want this option for support and recovery available to them. Since there are 3 similar bills, it is clear that the senators see value and need for peer supports. I am going to focus, kind of pointing some stuff out with LB816. I think it's the strongest bill out of the 3, and not just because Senator Storer is the only one still here. But some of the-- point out some of the, the lines of things-- overall, it, it's great. There's certain things that I want to point out that I think should be considered. So on page 3, lines 10 and 11, talking about peer support team means a group of peer support team members serving one or more public safety agencies. I would wonder if that requires agencies to have 2 or more peer supports, especially if we're talking about a group. And with rural areas, what burden that would have if they have to have two or more versus just one. I believe that there should be more than just one peer support available, but that's something that I would consider. Page 3, lines 13 and 14, having successfully completed at least 24 hours of peer support training. I'd wonder if peer supports under this bill instead should be required to receive and maintain a-- the Nebraska state certification as a certified peer support specialist within a certain number of months of hire. And with that state certification, it's 60 hours of training, which I'm not sure what those people have [INAUDIBLE] already what those trainings look like for them. And then with-- same page, lines 21-23, with peer support trainers, should those trainers be approved by the Department of Behavioral Health Office of Consumer Affairs instead, because they are the ones that handle the peer support certifications? That would reduce burden of each agency having to approve trainers, and if there would be more standardized, what should a trainer be. And I do have some thoughts on the other bills, like wording-wise, but I'm very grateful for these bills. You know, I'm not in uniform like a lot of the amazing people here today are, but I do definitely see the benefit of, of these bills and I will answer any questions.

BOSN: Thank you. Any questions for this testifier? I just have a couple questions. You said you're an individual with lived experience, having used peer support?

MATTHEW JEFFREY: Yes.

BOSN: OK. So I assume you used peer support and found it beneficial, and then decided to pay it forward and become a peer support specialist.

MATTHEW JEFFREY: Correct. Yes.

BOSN: And you don't have to give me any details, but I assume it's safe to say you've now provided peer support as a specialist.

KEVIN ERICKSON: Yes, I have.

BOSN: OK, and do you find that having had that lived experience is beneficial to the individuals you're also talking with?

MATTHEW JEFFREY: Yes. It's something, because I worked as a peer support for like, 4.5 years. I've been a case manager the last 2 years or so, but still working with individuals. A lot of them will talk about how, like, going to see a therapist, they're like, they just know stuff from books. Like, they don't truly understand what it's like, which I-- you know, I understand the benefits of, of therapy and I've done it myself. But if they know that you've gone through a similar thing, like they don't have to try to explain themselves or justify anything. Like, they know you understand, and that reduces so many barriers to them opening up and talking about what's, what's really going on.

BOSN: Less time spent on sharing more stories and more time spent on moving forward?

MATTHEW JEFFREY: Yeah.

BOSN: Fair enough. Any other--

MATTHEW JEFFREY: And, and making less therapists cry.

BOSN: All right. Any other questions for this testifier? Seeing none, thank you very much for your testimony.

MATTHEW JEFFREY: Thank you.

BOSN: Yeah. Next testifier. Good afternoon and welcome.

LUCAS BOLTON: Good afternoon. All right. Good afternoon, Chairperson Bosn and members of the Judiciary Committee. My name is Lucas Bolton,

L-u-c-a-s B-o-l-t-o-n. I am the legislative representative of the State Troopers Association of Nebraska, STAN, and I am here today to testify in support of LB755, LB804, and LB816. I'm currently employed as a criminal investigator with the Nebraska State Patrol, and have served with the agency for nearly 10 years. First, I want to thank Senators Wordekemper, Lonowski, and Storer for introducing this legislation. The fact that 3 separate senators independently proposed substantially similar bills speaks volumes about how crucial this issue is. I'm going to be blunt. Without privilege, peer support is essentially useless in accomplishing what it is designed to do. Peer support only works when the people who need it most can trust it. Law enforcement is a tough profession. Troopers regularly experience critical incidents and trauma that the general public will never see. Peer support is meant to be an early intervention tool, one that helps an officer process what happened, stay connected, and when needed, get referred to professional resources before the issue grows into a catastrophic outcome that ends a career or harms a family. Unfortunately, historically, there has been a stigma in law enforcement about talking through stress, emotions, and personal struggles-- struggles. Peer support works because it's often delivered by a trained peer or colleague who has lived similar experiences-- people who can relate and help without judgment. It gives an officer an option to speak to a trusted peer they choose, rather than on-- the only option being a psychologist in a clinical setting. I'd like to share a personal anecdote that I've seen firsthand. Several years back, while I was helping investigate a critical shooting incident involving several troopers, I witnessed the peer support personnel reduced to essentially getting the involved officers some soda and food because everyone was too scared to have any form of communication, knowing those conversations were not protected. Now, I don't want to say that attending to the troopers' basic needs was not beneficial at the moment. I just firmly believe that's not the point of peer support. Anyone could have gotten them snacks. This did nothing to help them process the traumatic situation they had just been through. Peer support personnel were not able to communicate, assess needs, or connect them to the resources that may actually prevent future issues from stemming from these incidents. That's exactly why these bills matter. They establish confidentiality and privilege protection so officers can seek help without fear of their words later being used against them. They make it so those communications are not public records or discoverable through subpoenas in most circumstances. The only concern that we have, the union, is that these-- this privilege needs to belong to the officer

involved, not just the peer support personnel outside the exceptions outlined in these bill-- these bills. I believe that point should be stated clearly in legislation going forward. Let's be, be clear. These bills are not designed to give-- these, these bills are designed to give the needed benefits to the officers while also ensuring that they're not creating a get-out-of-jail free card. They include clear exceptions for public safety and accountability, such as threats of self-harm or harm to others, and mandatory reporting situations. At the end of the day, protecting peer support communication means more officers will actually use peer support, and they'll use it earlier when it can do the most good. This strengthens officer wellness and shows that Nebraska takes the realities of public safety work seriously. For those reasons, STAN respectfully asks you to advance this critical legi-- legislation out of committee. I thank you for your time and am happy to answer any questions you may have.

BOSN: Thank you for your testimony. Any questions for this testifier? Seeing none, thank you for being here.

LUCAS BOLTON: Thank you.

BOSN: Next testifier. Good afternoon and welcome.

EMILY OSTDIEK: Good afternoon. My name's Emily Ostdiek, E-m-i-l-y O-s-t-d-i-e-k. I'm in support of LB755, LB804, and LB816. I'm a police officer with the Hastings Police Department. Law enforcement is a profession where words matter. Talking about what we see and feel could carry career or even legal consequences. Many officers stay silent not because of they don't need help, but because they're afraid of what asking for help might cost them. Today, I'm here to encourage you to support legislation about peer support confidentiality. Research shows officers experience hundreds of traumatic events throughout their career. Most citizens experience only 1-3 in their lifetime. And on top of that, shift work, staffing shortages, and the pressure of holding it all together-- like I am today. I cannot speak for other officers, but I can speak to my career. I've been an officer for just 6 years. In that time, I've seen more trauma than most people experience in a lifetime. I've responded to fatal car crashes, unattended deaths, multiple suicides, including multiple youth suicides, I've seen children neglected, abused, and have held the reality of a child's death, and I've being strangled by a DUI suspect. And I continue to work my shift after every one of these calls. These experiences just don't disappear when the call ends. They follow us home, they show up in our sleep, our relationships, our patience, and

sometimes when we don't recognize until years later. I've attended multiple trainings on peer support due to my passion and belief in what it could do for my peers. Peer support confidentiality is important because I've seen firsthand what it does to my peers not to be able to speak about what they've experienced due to legal reasons. I believe peer support will impact officers for the better, not only for their careers, but also in their personal lives. Legislation around peer support matters because it creates a refuge. It allows officers to speak confidentially with peers who understand the job, people who have been there, who have seen similar things, who know what it's like to carry this weight. It allows officers to say, I'm not OK, before spiraling into burnout, substance use, suicide. Peer support confidentiality could help take the hesitation away for officers from getting help that they need before it's too late. We wear uniforms proudly, but there's a human underneath of it. There's a parent, a spouse, a son, or a daughter who wants to continue to serve their community, but who may need help or support to keep going-- the support that only can be given by those who have walked in their shoes. If we want officers to protect and serve at their best, we must also protect them. Peer support confidentiality could help officers take the first step towards help. I encourage you to support legislation that protects peer support confidentiality. It could save someone's career, family, and life, and much more. Thank you for your time today.

BOSN: Thank you very much for your testimony. Any questions for this witne-- testifier? Sorry. Thank you for your service and for being here. Next testifier. . Good afternoon and welcome.

JUSTIN HUBLY: Good afternoon, Senator Bosn, members of the Judiciary 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 frontline state employees. They work over 400 different jobs at 43 different code and noncode agencies in all 93 counties. You may not know that that includes the airport firefighters, the Lincoln Airport here, who work at the National Guard base, but also our Nebraska State Patrol communication specialists, otherwise known as 911 dispatchers, in North Platte and in Lincoln. And so I'll briefly just add our voice to the chorus of supporters of this bill. You've heard from people why peer support is important. We'd like to specifically say thank you for including 911 dispatchers. I don't know about you. I get lots of phone calls every day, mostly from people who I like and I still don't answer the phone. Our 911 dispatchers answer every single call they

take on our behalf and every single one of them is difficult. Nobody calls 911 to say how are you doing and hope you're having a great day. So thanks for including them in this. Lastly, I'd just like to add a little personal experience on behalf of confidentiality. I have literally represented hundreds of state employees in front of the Nebraska State Personnel Board in administrative hearings. And from my perspective, there's no reason why we need that confidential information on either side, either party, to make a case. And I think any attorney who would try to get that information to do that is probably not very good at their job. No disrespect to attorneys. And so on behalf of our union and our 8,000 folks, we'd encourage you to support all 3 bills: LB755, LB804, LB816. Thank you.

BOSN: Wonderful. Thank you very much. Any questions for this testifier? Thank you for being here. Anyone else to testify in any capacity on any of these 3 bills? Good afternoon and welcome.

DALE HILDERBRAND: Thank you, Senator Bosn. My name is Dale Hilderbrand, D-a-l-e H-i-l-d-e-r-b-r-a-n-d. I'm a police lieutenant with the City of Grand Island Police Department. I'm also here to represent the Fraternal Order of Police, Lodge 24, with Grand Island Police Department. We are here in support of all 3 bills. To keep this short, all of the previous speakers have made very great points, and there's no sense repeating them. These 3 bills work together to remove the final roadblock to allow this program to work the way it was designed. As it is now, people are afraid to speak because they're afraid of political fallout or administrative issues being brought in and, and damaging more. By having the confidentiality, it allows the program to work as it's designed to get that person the help that they need, to guide them where they need to go, to get what they need to move forward. There's no protections in here for criminal or other actions, but these 3 bills will help the program move forward. I thank you very much and thank everybody else for what they spoke. And any questions?

BOSN: Thank you. Any questions? Senator Rountree.

ROUNTREE: Thank you so much, Chair Bosn. And thank you so much for being here to testify. I missed a lot of the testimonies, but I think you probably summed it up. But I would just like to ask, tell me about the political fallout. I mean, the stress and emotions of PTSD is real, regardless of what you have behind your name. So could you just talk to me a little bit about [INAUDIBLE]?

DALE HILDERBRAND: In our jobs in emergency services, there's lots of political things, especially with law enforcement, relating to a critical incident, let's say a, a use of force--.

ROUNTREE: OK.

DALE HILDERBRAND: --where somebody gets hurt. There can be political fallout from the governmental side wanting demands and answers and holding people responsible without the facts being known. By the person being able to converse and get the assistance they need, they're not worried about that conversation being pulled politically to make them a scapegoat in an incident.

ROUNTREE: Just worried about being well.

DALE HILDERBRAND: Correct.

ROUNTREE: OK. Thank you.

BOSN: Thank you. Thank you for being here.

DALE HILDERBRAND: Thank you.

BOSN: Any other testifiers? Final call. All right. Senator Storer, are you doing a trifecta closing?

STORER: Looks like I've been [INAUDIBLE] closer.

BOSN: Welcome back.

STORER: Thank you. I don't have a lot more to add. I do want to express my appreciation for those that came to testify because they are boots on the ground, literally, and can best express the need for this legislation. And so, I, I thank them not only for their testimony, but for their service. Just a couple of things I guess I wanted to circle back on. I think Senator Storm had had a question on making sure that this didn't preclude appropriate-- information that, that need-- needed to be-- what exclusions there were. And I just wanted to point those out, and I thought I had them here in front of me-- that it does have an exception. I think it's on page 5 of the bill, Section 4. So the, the things that, that would not be protected is the need to report child abuse or neglect, reportable abuse, neglect, or exploitation of vulnerable adults, and anything that causes the peer support team member to believe that the recipient of peer support has committed a criminal act would, would not be covered.

So those, those things have been taken into consideration, certainly. And then there was some mention, and I hope I get this right, but of-- just to make sure there's not any confusion, DHHS has a certified peer support program that is separate from this. So those are, those are 2 different programs. This, this bill is specific to peer-to-peer support programs, programs for emergency services and in need of that protection and privilege. So, a couple things just to clarify. Happy to answer, answer any additional questions anybody has.

BOSN: Any questions? I maybe have one. There was a testifier who spoke about using sort of a standardized qualifications for what constitutes a peer support specialist. Have you thought about how to standardize that or what that might look like?

STORER: I mean, there's some broad definitions of what peer support means in the bill. I think there was an effort to not get too specific because agency to agency sort of has some of their own internal protocols for how they choose to certify their peer support team members. So, I mean, I think it's somewhat intentional that we didn't want to get overly specific on that. But this is not, again, a mandate for anyone to have a peer-to-peer support group, only provisions that when there's a formally organized peer support group that they have those privileges.

BOSN: Thank you. Thank you very much. Oh, I should say before we conclude, as far as testifiers for this, there were-- so for LB804, starting with that one, there were 12 proponents, no opponents, and no neutral testify-- or online comments submitted. For LB755, there were 4-- excuse me-- 7 proponent comments submitted and one neutral comment, no opponent comments submitted. And for LB816, there were 4 proponent comments submitted, no opponent, and no neutral comments submitted. And that will conclude our combined hearing on LB755, LB804, and LB816. All right. Next up, we have LB795 with Senator DeKay. Before we get started, can I see a show of hands how many individuals are here to testify regarding LB7-- what did I say it was-- LB795. No one?

HOLDCROFT: Pretty simple bill, huh?

DeKAY: They all are.

BOSN: All right. You have the floor, sir.

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DeKAY: Good afternoon, Chairwoman Bosn and members of the Judiciary Committee. I miss this place.

BOSN: I know.

DeKAY: For the record, my name is Senator Barry DeKay, spelled B-a-r-r-y D-e-K-a-y. I represent District 40 in northeast Nebraska. I am here today to introduce LB795. LB795 proposes a couple changes to the Uniform Controlled Substances Act. First, the bill would add Bromazepam as a Schedule I controlled substance. Bromazepam is a designer drug that is in the same class of drug as Xanax, an existing regulated Schedule IV drug. However, Bromazepam has never been approved for medical use. Bromazepam was first detected in the United States recreational drug supply in 2019, and is increasingly found in counterfeit pills, often being passed off as a legitimate prescription medication like Xanax, which raises the risk of unsuspecting users who might overdose. Additionally, Bromazepam is also increasingly being found mixed with fentanyl and other opiates. Unfortunately, opiate reversal medications like Narcan are ineffective against Bromazepam's effects, making combined overdoses particularly lethal. Currently, 6 states have designated Bromazepam as a Schedule I substance at the state level. Virginia, Nevada, New Mexico, North Dakota, West Virginia, and most recently, Kentucky. Additionally, the Drug Enforcement Agency has initiated rulemaking to designate Bromazepam as a Schedule I substance at the federal level. On January 14, 2026, Bromazepam was temporarily designated as a Schedule I substance for 2 years, with the options to extend for another year while federal rulemaking takes place. These actions are in response to increased numbers of law enforcement seizures, overdoses, and death relating to this drug that are happening across the country. For example, in terms of fatalities, between April 2021 and July of 2025, the DEA became aware of at least 240 overdose cases involving Bromazepam nationwide, of which 189 of these cases were associated with a fatality. Because Bromazepam is available without prescription, many users are unaware of its dangers until they take it and potentially overdose. Scheduling the drug gives law enforcement and prosecutors the necessary tools to remove it from circulation and hold traffickers accountable. Additionally, action on this bill would help bring clarity at the state level, now that Bromazepam is illegal at the federal level. Finally, in addition to the piece on Bromazepam, LB769 [SIC] would make a number of technical corrections to the Uniform Controlled Substance Act. During the interim, it was determined by the Nebraska State Patrol that 3 substances listed in the act are spelled wrong. The Bill Drafters worked with the Nebraska

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State Patrol to confirm the correct spellings and ask that LB769 be a possible vehicle for those corrections to be made to the statute. The 3 substance are 2, 5-DMA, number two is brorphine, and number two is psilocin. And I have a handout from the Bill Drafter explaining the changes, which you can also see on pages 7, 9, and 18 of the introduced copy of the bill. With that, I would try to answer any questions that you might have. Thank you.

BOSN: Questions for-- Senator Holdcroft.

HOLDCROFT: You said LB769. Did you mean LB795? Is it this bill?

DeKAY: LB795.

HOLDCROFT: LB795. OK. So we're talking about this bill.

DeKAY: Yeah.

HOLDCROFT: I mean, as far as [INAUDIBLE].

DeKAY: There's a, there's a misprint in my opening. My bad.

HOLDCROFT: I was just making sure that, you know-- I was paying attention.

DeKAY: I appreciate--

HOLDCROFT: I wanted you to know I was paying attention.

BOSN: He can't help himself.

DeKAY: I would just-- I said that just to see if you were following.

HOLDCROFT: Very good.

STORER: Senator Storer.

STORER: Thank you, Chair Bosn. So really, this is just getting our state legislation aligned with federal. Is that-- am I clear understand--

DeKAY: With several other states, and federal that has a 2-year act in place, with an option of a third year, to see where it's going to go from here. But other-- like I said early-- in the testimony, there are 6 other states that have passed similar legislation as this, and there are other states on the horizon planning to do the same thing.

STORER: OK. Thank you.

BOSN: Senator Rountree.

ROUNTREE: Thank you, Chairwoman Bosn. And thank you so much, Senator DeKay. Have we had any issues here in Nebraska? Have we had overdoses? Have we had deaths? What negative impact have we seen in our state, thus far?

DeKAY: Not significantly in Nebraska. But with every illegal substance that starts to pop up, we're trying-- we are trying to be proactive to keep issues from this occurring in Nebraska, and hopefully keep people safe and, and not be subject to overdosing on a, a substance that they don't have the correct information on-- what it is.

ROUNTREE: And you said this is-- is this similar to Xanax, which is a prescription type?

DeKAY: Yes. Yeah.

ROUNTREE: And this is?

DeKAY: And this is a, this is a copycat of Xanax, and so it carries some of the same characteristics. But where Narcan and overdose drugs like that will offset what the effects are of an overdose taking place with Xanax and fentanyl, this-- Narcan will not affect Broma-- Bromazepam, so.

ROUNTREE: OK, so this is not something that you can get over the counter. This is something on the--

DeKAY: This would be, this would be a black market drug.

ROUNTREE: Black market.

DeKAY: And this is a drug just starting to be found mixed with fentanyl and other drugs, and people are unaware of what they are actually purchasing.

ROUNTREE: And this was something that the State Patrol had identified?

DeKAY: What's that?

ROUNTREE: Was there something the State Patrol identified? I know they identified the corrections to the spellings. [INAUDIBLE].

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DeKAY: Yes, they identified the corrections on the spelling, and Bill Drafters worked with them about that.

ROUNTREE: All right. Thank you.

DeKAY: Thank you.

BOSN: Any other questions? Thank you very much. Are you staying to close?

DeKAY: I will try to. I've got-- I'm supposed to be in another hearing--

BOSN: That's fine.

DeKAY: --right now, so.

BOSN: I don't that there's any--

HOLDCROFT: You've got to set your priorities. Who--what's more important? Which committee is more important?

BOSN: Don't answer that.

DeKAY: Well, we won't talk about the committee. We'll talk about the bill, so.

BOSN: There you go. Anyone here to testify in support, in support of LB795, also known as 767? 69. Anyone in the neutral capacity? Anyone opposed? I assume now you want to waive. All right. Thank you very much, Senator DeKay. Before he concludes, I will note for the record there were no position comments received on LB795, and that concludes our hearing on that bill. Next up, we have LB727 with Senator Kauth. Good afternoon and welcome.

KAUTH: Good afternoon. Thank you. My name is--

BOSN: Before you get started, can I see a show of hands of anyone that's testifying in some capacity on this bill? Sweet. Repeat. All right. Thank you.

KAUTH: My name is Kathleen Kauth, K-a-t-h-l-e-e-n K-a-u-t-h, and I represent LD 31 in the Millard area. This bill, LB727, was actually brought to me by a police officer in my district. It is to allow, not mandate, but allow police officers to carry epinephrine, either in an--and the bill states actually in an EpiPen format. However, I

received a notice from DHHS that they would like to amend it to include the nasal spray, also known as Neffy, because it's just a little bit faster and easier. So I, I will work with the committee on figuring out that amendment. Epinephrine is used to halt severe allergic reactions, anaphylaxis. Your throat closes up, you swell up, you get hives, your blood pressure drops precipitously. It is-- it happens fast. It can be bee stings, it can be any insects, it can be touching a plant that you're not used to and you go into a shock. It can be food. Police officers are not actually allowed to carry this. They can carry Narcan, but not epinephrine. And I think giving them the ability to, should they so choose-- the bill also indicates that they would need to have some training, because it is something you need to be able to recognize the signs and symptoms. But allowing police departments to make that decision on whether or not to carry it, I think is very important. I've actually carried one since I was 8 years old. And when I was 8 years old, it was called a shot kit, and there was an actual syringe and a tiny vial, and you had to draw it and inject yourself, just in case. So the EpiPens and the, the Neffy are so much quicker, easier, and safer. It's something that everybody should have available to them, so thank you.

BOSN: Thank you. Any questions? Senator Holdcroft.

HOLDCROFT: There must be a cost that goes with this. Is there a fiscal note? Are you ask--

KAUTH: There's no fiscal note, because it's not a mandate. This is something police departments can choose to, to have with them. They would have to purchase it on their own. Again, that's something that, within their budget, they could make that decision.

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

KAUTH: And I will stay to close.

BOSN: All right. Anyone here to testify in support of LB727? Opposed to LB727? Neutral capacity, LB727. And to close. She's waiving.

KAUTH: Consent calendar awaits.

BOSN: There we go. Thank you very much, Senator Kauth. Before we conclude our hearing, I will note for the record, there were 6 proponent comments submitted, no opponent, and one neutral comment submitted for the record. That will conclude our hearing on LB727. And next up, we have our own Senator Storer on LB7-- excuse me-- LB817.

STORER: Thank you. And hello, again. Yeah. This is a-- I don't want to jinx this, but, you know, things are-- we're moving through things today here in Judiciary.

BOSN: Don't jinx it.

STORER: Good afternoon, Chair Bosn. My name is Tanya Storer, T-a-n-y-a S-t-o-r-e-r, and I represent Legislative District 43. I'm here today to introduce LB817. This is legislation that directly addresses a-- what I would consider urgent public safety crisis facing Nebraskans and our, and our nation, and that is the fentanyl epidemic. Fentanyl has fundamentally changed the landscape of drug enforcement and public health in our state. This synthetic opioid is up to 50 times more potent than heroin and 100 times more potent than morphine. Just 2 milligrams, which is about the amount that could fit in the tip of a pencil, can be lethal. We are seeing fentanyl-laced pills disguised, disguised as prescription medications, counterfeit Xanax, Percocet, and even Adderall flooding our communities. Young Nebraskans, who think they're taking a legitimate pharmaceutical, are instead being poisoned by a substance manufactured in labs, with no quality control and deadly consequences. Fentanyl use results in far more overdose deaths than all other drugs combined. Our law enforcement officers, prosecutors, and first responders are encountering fentanyl cases with increasing frequency, yet our current statutes have not kept pace with this evolving threat. Under current Nebraska law, a straight possession with intent to distribute a controlled substance offense under section 28-416 is a class 2A felony punishable by zero to 20 years in prison. However, we have recognized that certain substances are so dangerous and so prevalent in our communities that they deserve enhanced penalties. For methamphetamine, cocaine, and heroin, we have created substance-specific and weight-specific enhancements. A dealer caught with 140 grams of methamphetamine, which is less than a half a pound, can be convicted of a Class IB felony, carrying a mandatory minimum of 20 years in prison and up to life in prison. Yet, under our current law, a fentanyl dealer can be convicted of, at most, a Class II felony, unless someone dies as a result of distri-- distribution. This creates an unconscionable disparity. Fentanyl is considerably more dangerous than methamphetamine, cocaine, or heroin. Yet, a fentanyl dealer will receive a much lighter sentence than dealers of these other substances. So this bill makes 3 changes. First, it creates the same 3-tier felony structure we currently apply to cocaine, heroin, and methamphetamine. 140 grams or more would be a Class IB felony, 20 years to life; 28-140 grams, a Class IC felony; and 10-28, a Class ID. This weight-based approach uses the same

detectable amount mixture rule consistent with our exist-- existing controlled substance statutes. This is critical because fentanyl almost always comes in a pill form, with each pill containing a mixture of fentanyl and fillers like sugar. Rather than attempting to isolate pure fentanyl, which would be impractical for law enforcement, this approach measures the entire mixture containing a detectable amount of fentanyl, ensuring uniform application and clear guidance for prosecutors. By establishing these weight thresholds, we create parity with the other most dangerous drugs in our communities while accounting for fentanyl's unique characteristics and extreme potency. Second, the bill provides a comprehensive definition of fentanyl that includes all isomers, esters, ethers, salts, and fentanyl-related substances. This language tracks directly with Section 28-405 of our controlled substance schedule and ensures that the statute addresses not only current fentanyl variants, but also emerging analogs that traffickers continually develop to evade prosecution. Finally, this bill adds the new fentanyl subsection to the list of offenses eligible for firearm possession and overdose death penalty enhancements under subsection (17) of Section 28-416. This means that if a person is trafficking fentanyl and knowingly possesses a firearm, or if their distribution of fentanyl directly and approximately [SIC] causes death or serious bodily injury to another person, they will face enhanced penalties up to the next higher penalty classification. The bill also makes a conforming change to Sections 28-1354 and 28-1701 to ensure consistency throughout Nebraska's Criminal Code. So this isn't about creating new categories of crime. We already have the penalty structure for methamphetamine, cocaine, and heroin. LB817 simply ensures our most lethal drug receives the same treatment. It gives prosecutors clear, enforceable tools to target major traffickers and hold them accountable for devastation they're causing our communities. I urge your support for LB817 and ask the committee to advance the bill. Appreciate your attention and happy to answer any questions I can. There will be some testifiers following me that can probably ask more tech-- answer more technical questions.

BOSN: Thank you. Any questions? Senator Storm.

STORM: Thank you. Thank you, Senator Storer. So was this brought to you by a law enforcement agency or was this on your own?

STORER: Prosecutor.

STORM: Prosecutor? OK. Thanks.

BOSN: Is he a good prosecutor?

STORER: I'm probably a little biased on that answer, but yeah. A prosecutor on the felony drug docket, so--

STORM: OK.

STORER: Yeah. Familiar with, with the issue.

BOSN: Any other questions? All right. Thank you very much. First, can I see a show of hands? I think I forgot to ask on this bill. How many are here to testify in some capacity? One, two, three. All right. Thank you very very much, so we will start with our proponents. Anyone here to testify in support of LB817?

JORDAN OSBORNE: Good afternoon, Chairperson Bosn and members of the Judiciary Committee. My name is Jordan Osborne, J-o-r-d-a-n O-s-b-o-r-n-e. I am an Assistant Attorney General with the Nebraska Attorney General's Office in the Criminal Appellate Section. Prior to working at the AG's Office, I was a Special Assistant United States Attorney for the Southern District of Iowa, exclusively handling high-intensity drug trafficking area cases in federal court. The Nebraska Attorney General's Office supports LB817, which creates weight enhancements for fentanyl that are consistent with the existing weight enhancements for cocaine, crack, heroin, and methamphetamine, meaning the same weight thresholds apply for each level of enhancement and the penalties are likewise ident-- identical across all of these controlled substances. In addition, the fentanyl weight enhancements are based on the presence of any mixture or substance containing a detectable amount of fentanyl on certain thresholds, which is the same language used in Nebraska for weight enhancements of cocaine, crack, and heroin, and it is the same language used in the federal code for weight enhancement for fentanyl. The phrase mixture of substance means that for all of these controlled substances, penalties for distribution or possession with intent to distribute such substances are based not on the weight of the controlled substance itself, but rather on the weight of entire substance, including the dilutant or carrier medium, which the United States Supreme Court has held is a rational sentencing scheme in *Chapman v. United States*. It's a 1991 SCOTUS case. The fact that the carrier medium may constitute nearly the entire weight of the total substance is an unavailing argument, as the Supreme Court in *Chapman* noted that the same point could be made about drugs like heroin and cocaine, which are often heavily diluted, but that Congress clearly intended that dilutant, cutting agent, or

carrier medium to be included in the weight of those drugs for sentencing purposes. The same is true in Nebraska, because the weight enhancements for cocaine, crack, and heroin likewise, refer to any mixture or substance containing a detectable amount of that substance. The inherent dangers, the inherent dangers of mixing fentanyl with other substances is well known. According to the National Center for Health Statistics, which is part of the Centers for Disease Control and Prevention, overdose deaths involving synthetic opioids other than methadone, which includes fentanyl, fentanyl analogs, and tramadol rose to 73,838 deaths in 2022, and accounted for over 90% of the total opioid deaths that year. The fact that fentanyl may be-- may comprise only a small portion of the entire substance does not change the fact that because of its extreme potency, its presence enhances the dangerousness of the substance and makes overdose deaths more likely to occur. This bill acknowledges the significant dangers fentanyl poses to the community by establishing weight enhancements for fentanyl that are consistent with those for other highly dangerous substances such as cocaine, crack, heroin, and methamphetamine. We support this effort to protect public safety. And I welcome any questions the committee may have.

BOSN: Thank you. Any questions for this testifier? Senator Holdcroft.

HOLDCROFT: Thank you, Chairwoman Bosn. So fentanyl-- as you mentioned, fentanyl is typically mixed with other drugs--

JORDAN OSBORNE: Typically.

HOLDCROFT: --to make it more potent. So how, how easy or hard is it to determine the weight of the actual fentanyl? Is that what we're going to try and do here with this? Are we just saying the same thing with the substance?

JORDAN OSBORNE: The test, the test here would be just to detect the presence of fentanyl in the substance, as opposed to doing some additional testing to determine the purity or the exact quantity of the fentanyl in the larger substance. Here--

HALLSTROM: Who has-- sorry. Who has the capability to do that? Does the Highway Patrol do that, or is it-- any, any law enforcement, do they have the capability?

JORDAN OSBORNE: Well, law enforcement wouldn't be the one doing the test. It would be either the state lab or some other contracting lab, like UNMC.

HOLDCROFT: OK.

JORDAN OSBORNE: It would be a laboratory analyst doing the, the drug testing.

BOSN: Senator Rountree.

ROUNTREE: Thank you, Chairwoman Bosn. And thank you so much for your testimony. By increasing this weight allowance or the composition and making it a different class so that we have enhanced penalties, do we think that that's going to reduce the negative impact that we're seeing right now by getting more people out off the streets that are distributing for a longer period of time? Is it going to reduce the impacts?

JORDAN OSBORNE: Well, I guess I, I, I don't know that I can say that it will change the, the deaths. I will, I will note, and it's not in the handout that I-- I handed out a CDC report that goes through 2023. I, I have seen indications that in 2024, and I think also in 2025, there have been significant improvements in, in the overall fentanyl deaths. So I think that we're trend-- we're, we're starting to trend in that direction, and this would help assist moving that direction.

ROUNTREE: Thank you.

BOSN: I think if I could just clarify Senator Holdcroft's question. One of the things that makes fentanyl unique is that it takes-- like, a grain of sugar is considered a lethal dose. Right?

JORDAN OSBORNE: Right.

BOSN: So you mix it, and we had legislation last year that dealt with that fact. Because you're frequently receiving fentanyl mixed with Adderall or Tylenol or all these other-- you know, oxy, things like that. Is it the weight then, of the actual pill? If there's a detectable amount of fentanyl in it, then that weight-- we're not dividing that weight for, oh, there was only one grain of fentanyl in it but the pill itself weighed this much. We're saying the pill with the fentanyl--

JORDAN OSBORNE: Yes.

BOSN: --is the weight that equals 140 grams or more.

JORDAN OSBORNE: Yes.

BOSN: OK.

JORDAN OSBORNE: We're talking about the, the entire substance, not the pure fentanyl. And, and the, and, and the reason why this is important with respect to fentanyl is like what you just said-- a very small quantity that is inside of a larger substance can cause an overdose fatality.

BOSN: And so right now, as it stands, you know, I haven't done these cases in years, but my recollection historically was-- using cocaine as an example, there would be some fentanyl in there, but you couldn't enhance it based on the fentanyl. You would enhance it based on the--

JORDAN OSBORNE: The cocaine.

BOSN: --exceptionally hazardous cocaine levels--

JORDAN OSBORNE: Right.

BOSN: --equaling 157 grams or more, right? And you wouldn't-- you would just say, also in possession of fentanyl, which is a Class IV felony.

JORDAN OSBORNE: Right.

BOSN: Years ago, it was a Class IV. I don't know what it is right now. But you get my point. You weren't exceptionally hazardous due to the presence of the fentanyl. It was only based on the cocaine--

JORDAN OSBORNE: Right.

BOSN: --if that were, in fact, what was cut with it.

DEB HOFFMAN: Right. So here, if, if, if there's fentanyl present but there's not cocaine, crack, heroin, or meth, there's some other substance. Now, it can be enhanced because of the fentanyl.

BOSN: Right. OK. Thank you. That answers my question. Any other questions in mind of that? Seeing none, thank you for being here.

JORDAN OSBORNE: Thank you.

BOSN: Next proponent. Good afternoon. Welcome.

MARTY KLEIN: Thank you. Good afternoon, Chairperson Bosn and members of the Judiciary Committee. My name is Marty Klein, M-a-r-t-y K-l-e-i-n. I'm the Hall County Attorney, and I appreciate the opportunity to testify in support of LB817. I do note-- it's not in my handout, but I'm also testifying as a member of the Nebraska County Attorney Association, who also supports this bill. During my tenure with the Hall County Attorney's Office, like Ms. Osborne, from the Attorney General's Office, I served as a Special Assistant United States Attorney with the District of Nebraska, prosecuting exclusively drug task force cases in federal court that came from my county. In my role there and in my work as a Hall County prosecutor, I've seen firsthand the devastating impact of fentanyl-- that fentanyl was having in our communities. We're encountering it with increasing frequency in overdose deaths, serious felony cases, and in the disruption it causes to families and neighborhoods. Fentanyl is not just another drug. It's uniquely lethal, as Ms. Osborne just got done talking about, and it's spread, and it's spread into our communities, has accelerated faster than other-- than our other current statutes were designed to address it. It's lagging behind. Nebraska has long recognized that drug penalties should be proportional to the scale of the offense. Under Nebraska Statute 28-416, substances like cocaine, crack, heroin, and methamphetamine are subject to graduated penalties. They get worse the more you have. However, fentanyl is not currently treated in the same manner and as a result, our existing laws do not adequately distinguish between low-level offenders' conduct and large-scale trafficking of fentanyl. LB817, in our opinion, corrects that gap by applying the same quantity-based framework to fentanyl that already exists for other highly dangerous controlled substances. The bill uses the established language of a mixture and substance containing a detectable amount of, which is already familiar to Nebraska courts and is consistent with federal law. This approach has been upheld as a rational and constitutional method of prosecution and sentencing. From a practical standpoint, the absence of weight-based enhancement for fentanyl weakens our ability to deter and appropriately punish higher-risk-- or higher-level traffickers, the individuals responsible for bringing in large quantities of fentanyl into the Nebraska communities like mine. Because of fentanyl's extreme potency, even the small amount mixed into other substances, substances dramatically increases the risk of overdose and death, regardless of how diluted it may be. LB817 provides prosecutors, courts, and juries with a clear and consistent tool to hold fentanyl traffickers

accountable in proportion to the harm they cause, while aligning fentanyl offenses with Nebraska's existing statutory structure. For these reasons, I respectfully request the committee to advance LB817. Thank you for your time, and I am happy to answer any questions this body may have.

BOSN: Thank you. Any questions for this testifier? Seeing none, thank you for being here.

MARTY KLEIN: Thank you.

BOSN: Yes. Next proponent. Anyone else here to testify in support? Moving on to opponents. Anyone here to testify in opposition?

SPIKE EICKHOLT: Good afternoon, Chair Bosn and members of the committee. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t. I'm appearing on behalf of the ACLU of Nebraska and the Nebraska Criminal Defense Attorneys Association in opposition to LB817. I did visit with Senator Storer last week about this and explained our opposition. What the bill does is it makes it a crime and it puts fentanyl and any mixture or substance containing a detectable amount of fentanyl-- as you've heard the testifiers talk about-- on the same sort of tier step level, as far as if you are caught with a significant amount or dealing a significant or possession with intent to deal that amount. The top tier is 140 grams. That's 5 ounces. That's less than half of a pound. There's concern that we have with this is not so much the criminalization and categorization of fentanyl. It's the mixture or substance containing a detectable amount of that. That substance can be something that's completely legal. It can be sugar. It can be packaging or some other substance that the-- well, maybe not packaging, but it would be some other thing that the fentanyl is with. 5 ounces is easy to get to. 10 grams is easy to get to. It can also be a controlled substance. That thing can also be something that's already illegal. So the issue we have is a policy issue when it comes to legal things. You can have a very small amount, maybe not even a weighable amount of fentanyl-- have it, possess that thing that it's in with the intent to deliver to somebody else, and you're looking at 20 to life, fairly easily, if you have at least 5 ounces. The other concern we have is more of a technical concern, and I did raise this with Senator Storer. Admittedly, I'm not sure what the answer is, but if you look at the way this bill is laid out, it provides for this scenario. Because as you heard the testimony, many times, fentanyl is sort of mixed with other controlled substances that are on this sort of step-up tier, like cocaine and that sort of thing. Someone stopped

on the interstate with 5 pounds of cocaine. They're charged with Count 1: Possession with Intent to Deliver at least 140 grams of cocaine. At the lab, they detect fentanyl. This bill allows, I think, for a second charge, a second count, a possession of a substance with a detectable amount of fentanyl, at least 140 grams. I think we have a double jeopardy argument. I know, in the federal system,--at least, I talked to some lawyers who practice-- they typically charge it as one count, kind of an enhanceable thing. When you asked earlier, Senator Bosn, and referenced your bill that you got passed last year with the enhancement, this is different. This is a substantive new crime. It's not a step-up enhancement. Senator Storer asked what kind of solutions we had. And at the time, I didn't really have one. But if the committee's gonna consider-- but that would be more appropriate to have an enhancement for the other drugs or other substances that fentanyl might be in there, instead of a substantive crime. We see this. I understand that they provide-- we provide for it with cocaine and with heroin. We don't with methamphetamine. We actually have a, a required purity test for methamphetamine itself. You can't necessarily just have the weight of the thing. Even if we have it, we oppose that. We talked about-- you've heard about the disparity in prosecution, when people have just a sin-- insignificant amount and getting a very lengthy sentence, and this is just a perpetuation of that problem.

BOSN: Any questions for this testifier? Senator Hallstrom.

HALLSTROM: I don't want to venture into an area that I don't know much about, but just in general, isn't it a problem, a real problem, that other items are laced with fentanyl and we're having overdoses and deaths resulting from that?

SPIKE EICKHOLT: Ab-- absolutely, yes.

HALLSTROM: And if that's the case, then why, why would we stand up and protect a small amount of another substance if the fentanyl is laced within that, unknown to the person that gets them and threatens their, their life.

SPIKE EICKHOLT: Because to prove this, what the state would have to show is that you possessed something with the intent to deliver that to somebody else, and that something had a detectable amount of fentanyl. You remember a few years ago, when the State Patrol crime lab had that incident where the tech was stealing items. That made it into the market. Some of the people who were distributing that thought they were simply selling cocaine. They didn't realize there was a

detectable amount there. This doesn't make a distinction between having fentanyl itself-- and someone who probably should know what it is-- and having something that might have a detectable amount in it.

HALLSTROM: And the danger that's associated with it, there's a concept of ignorance is not an excuse under the law.

SPIKE EICKHOLT: Well, there is, but in the criminal law, you at least have to have some kind of mens rea. The problem that we see is the disparate impact that's going to have on the person who is going to be very easily charged up with a life sentence or a de facto life sentence, and perhaps not being on the same level as someone who's at the same penalty, who is intentionally transporting fentanyl into the state.

HALLSTROM: But isn't that the problem of the state and being able to prove up on their case?

SPIKE EICKHOLT: Well, as written, we don't see that as a problem of the state. I think the state can fairly easily show it. And the courts have affirmed this kind of sentencing-- or this kind of element scheme, as you've heard the proponents say. I understand what you're saying. It's bad. We're not saying it should be decriminalized. For instance, if you look on page 12 of your bill, we-- you-- this committee and this body has added various definitions-- iteration of fentanyl. We've never opposed that. We're saying it's not a problem. The problem that we see is a problem that developed, particularly in the '80s and '90s, when you heard about the problem with charging people with insignificant amount of cocaine with crack, and people getting decades in prison. This provides for that scenario.

HALLSTROM: Thank you.

BOSN: I just want to make sure I'm understanding and I, I can be wrong in this particular instance. I could be wrong a lot, but in this particular instance, there's a greater chance. My recollection is historically, the county attorneys would charge if there was cocaine mixed with heroin in the same-- which I suppose you can't--

SPIKE EICKHOLT: Right.

BOSN: Methamphetamine and cocaine in the same, I would charge it as two counts, one cocaine, one methamphetamine. And you're saying you couldn't do that under this scheme?

SPIKE EICKHOLT: No, I think you probably could on simple possession.

BOSN: OK.

SPIKE EICKHOLT: Because you just have to show they had an amount and they had it. They knowingly and or in-- and intentionally possessed it.

BOSN: So what was your example then, where you were saying it's a double jeopardy issue? I'm not squaring them.

SPIKE EICKHOLT: The example I tried to give was, say someone is caught with a significant amount of cocaine.

BOSN: OK.

SPIKE EICKHOLT: And they're possessing with intent to deliver. And they are charged with possession with intent to deliver, a Class 1B felony, because it's at least 140 grams.

BOSN: But they specify in the count, cocaine.

SPIKE EICKHOLT: Right.

BOSN: OK.

SPIKE EICKHOLT: The way I think this is laid out, if they later-- if the state later or even at the same time, [INAUDIBLE]-- not even later, but at the same time, detects an amount of fentanyl in that cocaine, the way I see this, I think the state could try to charge or could charge a second count up under this new law-- possession of a substance, albeit a controlled substance, with a detectable amount of cocaine-- or with a detectable amount of fentanyl in it.

BOSN: But so wouldn't that just be a second count? So you'd have the count of possession with intent to deliver--

SPIKE EICKHOLT: Right.

BOSN: --cocaine, possession of intent to deliver fentanyl.

SPIKE EICKHOLT: Right.

BOSN: How does that make a double jeopardy issue? You're possessing both. You're intending to deliver both.

SPIKE EICKHOLT: That's right. Well, the argument I would make is that somehow, you have-- I can't commit the second count unless I commit the first one. I can't possess the cocaine with intent to deliver. And in the second count, that's considered just a substance with intent to deliver, so that's the argument I make. Admittedly, I don't know if it's a winning argument, but I see it being raised, and I certainly would.

BOSN: OK. But how does that differentiate between the case I gave you as the initial example of I have a pill, it's got cocaine in it, and it's methamphetamine in it. I-- it's one pill.

SPIKE EICKHOLT: Right.

BOSN: It has both in there. I can't possess the cocaine without the meth, I can't possess--

SPIKE EICKHOLT: Right.

BOSN: --the meth without the cocaine in that one pill.

SPIKE EICKHOLT: Because I think the lab person can at least identify that there's cocaine here, and that's bad, you can't have it. And they can say, and there's meth here, and that's bad that you can't have it. You're committing both things at the same time. Here, it's cocaine, and then we bring cocaine back over here to get it back to 140 with fentanyl in it. In other words, you are piggybacking on the charge in Count 1 to support Count 2.

BOSN: So it's a weight issue. Am I--

SPIKE EICKHOLT: It's a weight issue because of the way that fentanyl is equivocated--

BOSN: OK.

SPIKE EICKHOLT: --with anything with a detectable amount of fentanyl that weighs that.

BOSN: OK.

SPIKE EICKHOLT: And that's different from your example, because you could-- I could say, I knew it was cocaine, I didn't know it was meth. And the jury might believe that, because they are sort of separate. They might not, but that's it. That's something you can argue.

BOSN: OK. I understand your argument now. Senator Hallstrom.

HALLSTROM: So it's a wait issue, so you want us to wait or refrain from taking action because you might have a defense that might be valid against whatever law we pass.

SPIKE EICKHOLT: No, it's a weight, spelled w-e-i-g--

HALLSTROM: I understand.

SPIKE EICKHOLT: Oh, OK [INAUDIBLE]-- you are being clever. OK [INAUDIBLE].

BOSN: He can't help himself.

HALLSTROM: I was trying to be clever.

SPIKE EICKHOLT: He is never very clever with me, so that's why I was taking [INAUDIBLE].

BOSN: Oh, ouch.

SPIKE EICKHOLT: Not to me, but with me.

BOSN: Any other questions for this testifier? Seeing none, thank you. Any other opponents? Anyone else here to testify in opposition to LB817? All right. Senator Storer, welcome back. While she's making her way up, I will note, for LB817, there were 2 proponent, 1 opponent, and no neutral comments submitted online.

STORER: Thank you, again. I don't have much to add other than that, that discussion really illustrated even more-- with more clarity to me the challenge with fentanyl and why it's important that we actually add a provision for an enhancement because it is never going to be possessed or delivered in its purest form in the same weight that those other-- cocaine, heroin, methamphetamine would be. So-- well, you know, there, there is a, there is a interesting thought process and Spike and I did visit about this. It-- again, this is getting it into parity, and to do nothing is, is not the answer. I do know that. So I appreciate your time. Any other questions, I'm happy to answer.

BOSN: Questions for this testifier? Seeing none, thank you.

STORER: All right. Thank you.

BOSN: That will conclude our hearing on LB817. Next up, we have Senator Hallstrom on LB877. While he's making his way up, I will note for the record, there was 1 proponent comment submitted, no opponent comments, and 1 neutral comment submitted. Could I see a show of hands of how many individuals are here to testify regarding LB877? One? OK.

HALLSTROM: Madam Chair Bosn, members of the Judiciary Committee, my name is Bob Hallstrom, B-o-b H-a-l-l-s-t-r-o-m. I'm here before you today representing Legislative District 1. I'm here today to introduce LB877. The bill is our annual update of the Nebraska Uniform Controlled Substances Act to conform the state controlled substances schedules to the federal controlled substances schedules, including temporary additions thereto. I've provided in my testimony a brief description of each schedule that's contained within the federal Controlled Substances Act, and there are similar schedules under the state, a schedule of controlled substances as well. And I've described what a Schedule I controlled substance is, which, in general, they have no currently accepted medical use in the United States, a lack of accepted safety for use under medical supervision, and a high potential for abuse. Schedule III controlled substances are those that have a potential for abuse less than the drugs in schedules I and II, and have a currently accepted medical use in treatment in the United States. Abuse may lead to moderate or low physical dependence or high psychological dependence. Schedule IV controlled substances have a low potential for abuse relative to substances in Schedule III, have a currently accepted medical use in treatment in the United States, and abuse may lead to limited physical dependence or psychological dependence related to substances in Schedule III. I've gone through the substances in the bill that are being changed. Since I can't pronounce half of the words, I'll just let my written testimony speak for itself. But we-- I do want to express my appreciation both to the Nebraska Pharmacists Association, and particularly, to Celeste Laird, with the Nebraska State Patrol. Celeste has helped us for many, many, many years, in terms of combing through the federal controlled substances to make sure that we're picking up on all of the permanent or temporary placements on the federal side that need to be updated on state law. A couple of things. And I have-- last year, you might remember I sponsored and we passed LB230, which had to do with the regulation of Kratom. And there were some kratom products that had less than 2% alkaloid components that were prohibited under that regulation. Everything else from the natural derivative and less than 2% was approved, subject to some guardrails and, and parameters that were put into place. I have, in the bill, the criminalization and

placement in Schedule I of what we call 7-OX, and-- or 7-OH. Excuse me. And we have gotten a number of emails. I don't know if any of you have received emails. But basically, I think there's a, a misconception as to what we're doing. We, in fact, based on the definition of 7-OH that we have with the greater than 2%, we are actually proposing to criminalize only those things that are prohibited under LB230 from last year. Now the late breaking news on this is that the State Patrol, after we introduced the bill, made us aware that they have some issues with regard to whether or not they have the proper testing equipment to be able to detect and identify the 7-OH products. And as a result, I am going to recommend, I think, with the approval of the State Patrol, for the moment, that the definition or the references to 7-OH, which appear on page 11 and 18-- specifically, item 129 on page 18-- be proposed for elimination by way of amendment, which I will prepare and present to the committee so that you can move a clean bill forward in that regard. Any questions?

BOSN: Any questions for Senator Hallstrom? Senator Rountree.

ROUNTREE: Thank you so much, hairwoman Bosn. And thank you so much Senator Hallstrom. Those were the concerns and emails that I've been getting as well, so I was going to just make that motion [INAUDIBLE].

HALLSTROM: Yeah. I, I think it's a misconception, number one, but number two, we're going to propose to take it out of the, out of the bill, so it should become a nonissue.

ROUNTREE: OK. Thank you.

BOSN: Any other questions? Seeing none, thank you very much. First proponent. Good afternoon and welcome.

RYAN MCINTOSH: Good afternoon, Chair Bosn, members of the committee. My name is Ryan McIntosh, R-y-a-n M-c-I-n-t-o-s-h, and I appear before you today on behalf of the Nebraska Pharmacists Association to testify in support of LB877. We appreciate Senator Hallstrom's leadership on this legislation, which, as he described, updates the Nebraska Controlled Substances Schedule to mirror that on the federal level. Senator Hallstrom's written testimony "apsely des"-- aptly describes each of the changes being made, so I will not provide redundant testimony in that regard. With regard to LB795, also known as 769, Senator DeKay's bill, I did not testify on that bill. We have not reviewed that with the full committee of the Nebraska Pharmacists Association. At this time, we have no objection to that bill. I

suspect that we will support it. And I have spoken to the Nebraska State Patrol who is seeing that, one, does appreciate-- we already had this bill ready to go, 3-parted, prior to the spellings being caught. So we absolutely support that, that correction. With regard to the substance that's being added via LB795, the Nebraska State Patrol is, is picking that up on the streets. It is a problem. It has been added to the federal temporary schedule, and the State Patrol has no issue with adding that to the Nebraska Schedule. So I suspect I'll be in touch with each of you soon, with our support for incorporating the 2 bills into one. And as Senator Hallstrom did, I do also want to give a special thanks to Celeste Laird from Nebraska State Patrol for her ongoing support, and, and she does an outstanding job each year of getting all these substances tracked, updated over to the Pharmacists Association to put into bill form-- and most of which I cannot pronounce. So with that, we appreciate the ongoing partnership we do have with the Nebraska State Patrol, and would urge the committee to advance the bill with the change that Senator Hallstrom mentioned. Thank you.

BOSN: Thank you. Any questions for this testifier? Seeing none--

RYAN McINTOSH: Thank you.

BOSN: Thank you for being here. Next proponent. Moving to opponents. Anyone here to testify in opposition to LB877? Neutral capacity? All right. Senator Hallstrom. He waives. That will conclude our hearing on LB877. Next up, we have LB831 as our final bill for the day. Can I see a show of hands who's here to testify in some capacity? 1, 2, 3, 4. All right. Thank you. We'll start with our opening statement from Senator Hallstrom, but I will note while he's making his way up, there were no proponent comments submitted, 2 opponent comments submitted, and no neutral comments submitted for the record. Welcome back.

HALLSTROM: Madam Chair Bosn, members of the Judiciary Committee, my name is Bob Hallstrom, B-o-b H-a-l-l-s-t-r-o-m. Appear before you today representing Legislative District 1 to introduce LB831, a measure designed to bring fairness, predictability, and common sense to our civil justice system regarding exposure to ethylene oxide, or EtO. Before I get to the provisions of the bill, it's important to first understand the unique role this substance plays in our lives. Ethylene oxide is not just another chemical. It is a critical pillar, pillar of modern medicine. It is used to sterilize 20 billion medical devices annually, nearly half of all medical supplies in the United States. In fact, 95% of all surgical instruments depend on EtO for

sterilization. Without it, the life-saving procedures Nebraskans rely on, from C-sections and heart valve repairs to cancer biopsies, would face disastrous disruptions. Currently, our healthcare businesses face a dual threat. On one side, the EPA recently proposed new restrictive regulations that the FDA warns could lead to a 30-50% reduction in sterilization capacity, causing immediate shortfalls of critical devices. LB831 addresses this by codifying 3 essential legal principles. First, it reinforces the bedrock rule that a plaintiff must have an actual, present physical injury to bring a lawsuit. This prevents a potential flood of litigation based on the mere possibility of future harm. Second, it establishes that if a healthcare business is in substantial compliance with federal safety laws, which are most stringent, they should not be held liable. Businesses should not be punished in state court for following the strict rules already set in place by the federal government. Finally, it requires plaintiffs to plead with particularity. This means they must provide specific facts up front, rather than using the court system for fishing expeditions. This ensures our judicial resources are safe for those who are truly injured. I respectfully ask the committee to advance LB831 to General File. Would be happy to address any questions that you might have. I would note on any specifics that I'll have some witnesses or testifiers following me who are probably better well-versed at this moment on this issue. I would also note that we do have an existing provision in state law that was passed during the midst of COVID that uses this very concept, that if you're in compliance at that time with the federal public health guidances that were sent out with regard to COVID, that you would not be liable for COVID exposure incidents in the absence of gross negligence or willful misconduct. And gross negligence and willful misconduct is a concept that is scattered thoroughly throughout the statutory provisions of Nebraska law, thanks to our friends at the Trial Lawyers Association. Be happy to address any questions.

BOSN: Questions for Senator Hallstrom? Seeing none thank you.

HALLSTROM: Thank you.

BOSN: All right. We'll start with proponents. Anyone here to testify in support of LB831?

DAWSON BRUNSWICK: Good afternoon, Chairwoman Bosn, and members of the Judiciary Committee. My name is Dawson Brunswick, spelled D-a-w-s-o-n B-r-u-n-s-w-i-c-k. I'm here today as the president of the Columbus Area Chamber of Commerce to testify in support of LB831 on behalf of

the Chamber, our 700 members, as well as the Nebraska Chamber of Commerce and Industry. And I want to thank Senator Hallstrom for introducing this bill. This is my first time addressing Judiciary, and that's typically because economic development doesn't come up often here, but I can assure you that LB831 at heart is an economic development bill. When businesses choose to locate in Nebraska, they're making long-term decisions to invest hundreds of millions of dollars in facilities, equipment, and their Nebraska workforce. They are making these decisions based on clear regulatory and legal frameworks. It's important that Nebraska maintain its reputation as a state that businesses can rely on for that stability. LB831 provides certainty and fairness in how claims against ethylene oxide sterilizers are handled, and this largely deals with the EPA rule change back in 2022 to help these employers understand their risk and plan responsibly. Without predictable rules, these companies may be forced to divert resources away from job creation, innovation, and further investing in the Nebraska communities they call home. If our medtech manufacturers are unable to maintain these sterilizer processes in Nebraska, those businesses will have to utilize EO [SIC] sterilization in places that continue to operate. Not only will it impact our existing businesses, it will lead to Nebraska being left out of conversations when it comes to new equipment, expansions, and community investments. You may be wondering why me, as the Columbus Chamber is here, and that is because, specifically, we are home to BD in Columbus. They are not just another ethylene oxide sterilizer, nor are they just an employer of over 2,000. BD is a true community partner that's been investing in Columbus and Nebraska for over 75 years. They've partnered with our organization when it comes to workforce housing, child care, and other shortages to help our community grow. And when it comes to their manufacturing processes, BD is known to use the best available technology to benefit their employees, their communities, and their clients. The stability and predictability of Nebraska's legal and regulatory frameworks allow them to continue to invest in Nebraska, in which Columbus has seen over \$145 million in new investment and 170 new jobs since August 2025. And I would note, BD did collaborate with the Chamber, with Columbus Community Hospital, as well as our East Central District Health Department during that 2022 period where those rule changes were coming out, to make sure they were being very upfront with the community as to what they were doing to address the rule change. And I thought both were going to submit a letter as well. In closing, I'd ask that you support LB831. View it as an opportunity to enhance the legal and regulatory framework here in Nebraska to provide stability

for our medtech industry. Thank you for your time. I'm happy to answer any questions.

BOSN: Thank you. Any questions for this testifier? Senator Holdcroft.

HOLDCROFT: Thank you, Chairwoman, Chairwoman Bosn. So just for my own education, so it-- for the sterilization piece of this, is it done in gaseous form? Do you have to have, like, a machine to do this?

DAWSON BRUNSWICK: I'll be honest, Senator, I will defer to a rep later on that specific question. I'm happy to speak about all the great things B does-- BD does for their employees and our community. On that specific process, I, I am not going to be your expert there.

HOLDCROFT: OK. Thank you.

BOSN: Are you a Columbus native?

DAWSON BRUNSWICK: I am not. I've been in Columbus for about 5 years, so I, I don't have the same experience that you do, Senator.

BOSN: That's all right. I've been to BD many times. All right. Any other questions? Seeing none, thank you for being here.

DAWSON BRUNSWICK: Thank you, all.

BOSN: Next proponent. Good afternoon and welcome.

ROB OWEN: Good afternoon, Chairperson Bosn and members of the Judiciary Committee. For the record, my name is Rob Owen. That is R-o-b O-w-e-n, and I'm the executive director of BioNebraska. On behalf of BioNebraska and its membership, I'm here testifying in support of LB831, and would like to thank Senator Hallstrom for his leadership on this legislation. As background, BioNebraska is a nonprofit trade association dedicated to supporting, growing-- and growing the biosciences in Nebraska. There are over 140 BioNebraska member organizations across the state, ranging from startups all the way to large multinational corporations, including BD. BioNebraska's membership is also quite diverse. Members represent the human health, animal health, renewable fuels, agriculture, and biomanufacturing sectors. According to recent statistics, there are roughly 19,000 jobs in Nebraska directly associated with the biosciences, with an average wage of \$90,000. If you compare that to the average wage of the private sector in Nebraska, \$60,000-- BioNe-- or the biosciences in Nebraska are creating high-quality, high-wage jobs, which is important

to growing our economy. As such, we all should do all we can to invest in the biosciences. And by we, I mean everyone: the state, the private sector, nonprofits, colleges, and universities. For Nebraska to be the bioscience state, everyone needs to be invested. LB831 can be one of those investments. As we know, industry-- any industry-- desires clear rules and consistency in today's business world. LB831 provides just that. I should say this is my first time in front of the Judiciary, Judiciary Committee, too, being in economic development. But LB831 establishes that if a healthcare business, which includes manufacturers, sterilizers, transportation, and such is in substantial compliance with federal safety laws, they should not be held liable under state law for ethylene oxide exposure. This would allow healthcare businesses to operate in Nebraska with certainty and the safeguards needed against surprise and unsubstantiated lawsuits, which take time and resources. With such certainty and assurances, current healthcare businesses could entertain expansion and relocation to Nebraska, which would create more of the high-quality, high-wage jobs-- again, \$90,000. As we have heard, hundreds of thousands of medical, hospital, and laboratory processes rely on ethylene oxide to sterilize devices and equipment to protect millions of patients from infectious diseases each year. Ethylene oxide sterilization is highly regulated, and device manufacturers, hospitals, and sterilizers follow "rigulous"-- rigorous controls established by EPA, OSHA, and other government agencies, to protect patients, workers, and the environment. Device manufacturers and sterilizers responsibly capture, remove, and destroy ethylene oxide with the best available technologies on the market today. In many instances, companies exceed current mandates of 99% destruction, often achieving levels of 99.9% and higher. LB831 is a worthwhile investment for Nebraska. It would give today's healthcare businesses some of the needed assurances and certainty to operate and grow in Nebraska. With that, thank you very much for allowing me to testify, and I'm happy to answer any questions. I should mention, Senator Holdcroft, if I'm not mistaken, ethylene oxide is gaseous, and that's one of its great properties. It's able to permeate the wrappings in the bo-- or the-- what's the word-- wrapping-- right-- of medical devices, so it can get in there. And there's not any other substi-- there's no substitutes for that ethylene oxide. That's what makes it so important.

BOSN: Senator Hall-- Holdcroft. Sorry.

HOLDCROFT: Yeah, that's, that's great, but it's also a carcinogen, so somehow you have to contain it. So I'm, I'm just interested in how it works, really. I mean, honestly, you must have to put the, you know,

the scalpels or whatever you're trying to sterilize into a box or something that then exposes it to ethylene oxide, but then must evacuate it. Otherwise, the, the, the individual is going to be exposed to it.

ROB OWEN: Correct. Again, I think the next testifier will give you the exact details, but I think, under the federal regulations and such, they're getting rid of 99.9 or more of that ethylene oxide. But I think, again, as we've heard, there's no substitute for this, and everyone's doing the best they can, you know, to go forward. But it's important that business knows what the rules are and operate. And I think if we have this as an investment for Nebraska, you have companies like BD and others that would be much more likely to expand and relocate.

BOSN: Any other questions? Senator Rountree.

ROUNTREE: Thank you so much, Chairwoman Bosn. And thanks so much for the testimony. It's good to see you again. We're looking at the possibility-- it might have been something with Senator Hallstrom, but I will ask the same question about the flood of litigation this prevents. If this is going to be an FDA-type or EPA reduction, it's going to impact nationwide, will it not? So have we had any issues here in Nebraska?

ROB OWEN: That-- I don't believe we've had issues in Nebraska. I mean, there is limited capacity in this country for ethylene oxide, and I think that is one of the concerns. Again, the important role that it plays in sterilizing medical devices, and there's limited capacity right now for it. So any way that that limits legis-- or lawsuits or such would limit that capacity. It's a wor-- it's a countrywide thing. I mean, it would be-- not devastating, but it would be impactful across the world.

ROUNTREE: Thank you.

BOSN: Thank you very much for being here. Next proponent. Good afternoon and welcome.

BOBBY PATRICK: Madam Chair, members, my name is Bobby Patrick, B-o-b-b-y P-a-t-r-i-c-k, and I'm here on behalf of AdvaMed, the MedTech Association. Our more than 650 members manufacture the medical devices, diagnostics, and other technologies that save and improve patient lives every day in every state throughout the country. And

today, I'm here in support of LB831, and I'll echo much of the testimony from the previous testifiers. I'll just note a couple of things for you, and then I'm happy to answer any questions. Sterilization is the final critical step of manufacturing, and its EtO is used for half of all medical devices on an annual basis, so 20 billion devices a year. And for most of them, there is no alternative. The EPA has designated EtO as a hazardous air pollutant, as was noted before. And as a result, in 2024, it updated its national emission standard for hazardous air pollutants or a standard called NESHAP, and this is among the strictest emission rules in history, requiring a reduction of emissions of more than 90%, and bringing the levels of EtO to at or below what is considered to be an acceptable risk, as designated by the EPA. The NESHAP requires continuous monitoring, so any changes in EtO emissions are tracked and noted. Further, both the current and form-- most recent presidential administrations have noted that a breakdown in the EtO supply chain is a threat to national security because of its impact on both patient access, as well as to medtech manufacturing. This bill recognizes that meeting this very high federal standard brings predictability. And then I can answer a couple of preemptive [INAUDIBLE] to questions. So Senator Holdcroft, in regards to your question about how EtO is used, it is-- so think of like a giant bank vault that's airtight. Pallets of medical devices are put on there in boxes and in wrapping. And as noted before, the benefit of EtO is it can penetrate through that and it doesn't damage the devices-- like plastic or electronics-- like heat does. The EtO-- the proper amount of EtO is put into the vault, it's in there for however long it needs to be, and then it's removed and destroyed. And then the amount above-- no. Whatever the amount that is left is then emitted. It's a small amount. 99.94%, I think, is what's destroyed, so it's a very small amount that's emitted.

BOSN: Any other questions for this testifier? OK. So if I can just kind of try and wrap my head around what we're-- all your references to EtO, or ethylene oxide, for those of us who are go-- didn't maybe catch that. This is a substance that's used to sterilize equipment that's being manufactured, or is it equipment that is in hospitals, or is it both?

BOBBY PATRICK: Excellent question, Madam Chair. So, EtO is used to sterilize medical devices as a last step of manufacturing in the manufacturing facility. So typically, it's nearby where the medical devices were manufactured. And most of the time, sterilization facilities are nearby where the manufacturing is, so you're going to want that that way. So primarily it's used in that space, and that's

what the niche-- the rule that I'm referencing covers. There are some hospitals, although a diminishing number, that will use EtO on a smaller scale, but they have a different rule on this. So.

BOSN: So this doesn't really apply to that.

BOBBY PATRICK: Correct.

BOSN: OK. So going back to your manufacturers, for example, we used Becton Dickinson, or BD, as one of the examples. Am I understanding your testimony that there are federal regulations that sort of guardrail how much can be released into the air after the sterilization process has ended? And I think you said 99.4% has to be completely eliminated and then the 0.6% essentially is allowed to go into the air

BOBBY PATRICK: Madam Chair, yes, it's a very strict standard, and it was just passed in 2024. That's correct.

BOSN: OK. And there's nothing in this legislation that negates that or undercuts that requirement.

BOBBY PATRICK: Madam Chair, that is correct. It, it leans on that as a strong standard. Correct.

BOSN: OK. And so, is it-- I, I don't know. Is EtO existing in other capacities, as well, or is this in the air now? Tell me about it.

BOBBY PATRICK: Yeah. Madam Chair, thank you for the question. So EtO is a naturally-occurring gas, as well. It is expelled by a number of sources. Humans expelled it as part of our respiratory process. It also is emitted from trucks, and it just exists in the ambient air, as well, at varying levels.

BOSN: I think that answers my questions. Any other-- Senator Storm.

STORM: Yep. Thank you. Thank you for testifying. So you mentioned BD in Columbus. Is there any other place in Nebraska that manufactures?

BOBBY PATRICK: Not to my know-- Senator, not to my knowledge.

STORM: Just BD in Columbus?

BOBBY PATRICK: That's correct.

STORM: And they make needles, hypodermic needles. Is that correct, or do they make a variety of products?

BOBBY PATRICK: Senator, BD makes a variety of products. And here, I believe it's needles among other, other products. Yeah.

STORM: OK. All right. Thank you.

BOSN: Senator Storer.

STORER: While we're-- this is a good little learning session. I-- to follow up with just the questions of the gas, and how you-- if I understood correctly, that at the end of the sterilization process, 99.4%, I believe you said, is destroyed. So how do you destroy the gas?

MAX HUBKA: Thank you, Senator, for the question. I don't know that. I-- that was-- at one point, I had a vague understanding of how that worked. Over time, I've sort of lost that. But it is a process that is used at large commercial sterilizers throughout the country. And that was-- there's a significant-- there's, there's different scrubbers and things like that, that are done, too, as it's, as it's pulled out. So it's, it's done in various steps as, as it's pulling out of the sterilizer.

STORER: Thank you. And I do believe there's a-- well, I know there's a BD Manufacturing in Broken Bow, as well. I would presume they would use this.

BOSN: That prompted another question of mine, though, unless any of my other colleagues have questions. Tell me, what are other states doing as it relates to this? Are we in line with them? Would this put us in line with them? What can you tell us?

BOBBY PATRICK: Yes. Thank you for the question, Madam Chair. So the, the-- Utah passed similar legislation in 2024, Nebraska would be the second, and other states are looking at legislation as well. So you would be a early adopter.

BOSN: All right. Thank you very much for being here. Next proponent. Anyone else here to testify in support? All right. We'll move to opponents. Anyone here to testify in opposition to LB831? Good afternoon and welcome.

ELIZABETH GOVAERTS: Good afternoon. My name is Elizabeth Govaerts, G-o-v-a-e-r-t-s. I'm here on the Nebraska Association for Trial Attorneys. I'm here to oppose LB831. I'd like to talk to-- about initially, the procedural infirmities that I find with this bill. And I wonder if there's a way to accomplish something here, but I don't think this is it. I'll go to what I consider the moral and ethical things later. But just from a procedural standpoint, what this bill does is create so many hurdles that it is effectively an immunity bill. First of all, it requires a-- these are negligence cases, first of all. Similar, sometimes nuisance cases, but essentially, this case speaks-- the bill speaks to its-- therefore, personal injury, negligence cases. And the burden of proof in negligence cases is greater weight of the evidence, in all negligence cases. This bill requires, inexplicably, a greater burden of proof, greater weight of the evidence. I mean-- sorry, clear and convincing, which will be familiar to you, Senator Bosn, because that's a higher standard used in juvenile courts that doesn't apply to negligence cases. Substantial compliance with federal law, we're talking about predictability here. BD knows what the rules are. The rules are they have to comply with the EPA and federal law with respect to safety. And they have to comply with that law, otherwise they get fined, and so they got to do that anyway, and they have to do it in Nebraska and in every other state of the union. In Nebraska, in negligence cases, compliance with the law can be evidence of the absence of negligence or negligence, if you're not complying with it, but it is not dispositive. This law seems to want to make compliance with law dispositive. That is inconsistent with Nebraska law. However, because this is an important-- I mean, there's got to be a balancing act. I'm a plaintiff's lawyer. And I am even willing to say that there may be some circumstances, like the COVID-- when there was an emergency. If this is an emergency, if we are having trouble sterilizing plastic medical equipment, then maybe some type of law like this is necessary. But I don't even think this could stand constitutional scrutiny. Does it give rise to a separation of powers issue? This is creating a particular pleading requirement, and in Nebraska, that is the Judiciary's job, not the Legislature's job. I don't even think this would-- the Supreme Court would just not like that. I'm finished, I see.

BOSN: You're out of time, but let's see if there's any questions, if that's all right. Any questions for this testifier? All right. I have a couple from Senator DeBoer, who's-- oh, go ahead. I'm sorry.

ROUNTREE: No, I just wanted to-- thank you so much, Chair. And thank you for the testimony. I wanted to hear the rest of it as well, with that, but are we like getting to a preventative measure? Is this what we're looking at here, being able to keep someone from-- if they've been duly harmed, would we still have access to [INAUDIBLE]?

ELIZABETH GOVAERTS: Yeah. Here's the-- I-- let's big picture this a little bit, if that's OK. In 2022, the EPA identified that the Columbus plant had unsafe levels of EtO and intervened. IMy understand-- this-- I have not had one of these cases, so I've learned on my feet here, but It seems to me that they determined that there was a 4-mile radius around that plant that had dangerous levels. The closer you get to the plant, the higher the levels. And BD has taken heroic measures since that time to correct that. And in the meantime, the EPA found out that EtO was about 30 times more carcinogenic than they initially thought it was for years. So here's-- and this bill has a retroactive application. So we know that prior to 2022, the air around the plant wasn't safe. We know that. And so, what are we doing here for the people who-- and BD's been using EtO at that plant for 20 years. Here's some questions I think need answered before we can do this. And again, I'm not even saying it shouldn't be done, but here's what we need to know. There's 25,000 people in Columbus. How many people were exposed? Has there been a public health study about cancer rates? We know very well what cancers are associated with EtO-- typically breast cancers and the lymphoma type of cancers. They're particularly dangerous, dangerous for children, who may not know what effect a 20-year exposure to EtO has on them. But we do know EtO alters DNA. So it is an important part of the process. And, and one thing I have done are medical malpractice cases. And I know that hospital-borne infections and contaminated instruments kill a lot more people than EtO do. And so you can understand the import of what BDO [SIC] is doing at that plant. They're creating safe medical equipment. It's critically important, but I still don't hear why, why Nebraska and why just this one defendant, if you will, just this one corporation should have a whole special system just for them where point by point is contrary to existing Nebraska law. I wish we could count on corporations and big business to protect their communities and their people. We know they don't, without guardrails and checks. Part of that is the federal governor-- government and the EPA, and part of that's us. I would point to Senator Storer's very commendable leg-- legislation that she has worked very hard on to try to protect kids from the social media platforms. In 1996, the big tech managed to get themselves immunity. And think of what's happened since 1996 till

now, about, with social media? Who even thought that would happen, but it is harming our kids. And they knew it was harming the kids, and they also knew they got themselves immunity so they could do whatever they wanted to. So there's got to be some check here. There also has to be sterile medical equipment. So all I'm saying is, this is not a good bill, even if its intentions are good. I've stood in front of the Supreme Court, arguing about pleading requirements. We're a notice pleading jurisdiction. This isn't going to, this isn't going to stand up anyway. So let's figure out-- let's get a whole bunch of questions answered, and then let's figure out how best to protect the people in Columbus, who we know were exposed to this gas-- poison carcinogen-- for 20 years, and let's see if there was harm, and then go from there.

ROUNTREE: Thank you so much.

ELIZABETH GOVAERTS: You're welcome.

ROUNTREE: I appreciate it. Thank you, Chair Bosn.

BOSN: Any other questions for this testifier? I just have a question from Senator DeBoer, who's unable to join us today. Her question specifically deals with pleading with particularity. She wants to know if that would be your take of it, is that would result in a dismissal for failure, failure, and whether or not you think the reading of this would mean that's dismissed with or without prejudice, if you didn't plead with particularity.

ELIZABETH GOVAERTS: Oh, right. If, if this were the law, if you didn't plead with particularity, which is not our system in Nebraska, and if you couldn't prove that, it's dismissed with prejudice. The problem is, as you can imagine, human beings don't have access to BD's files and their plant to get this information that they're requesting. There's no way to get it except for by discovery. And so, eventually, these may be things that you have to prove, but it's impossible to know those things pre-suit. And it is an insurmountable hurdle, and it's also not required by the law.

BOSN: Thank you. Any other questions? All right. Thank you for being here.

ELIZABETH GOVAERTS: Thank you.

BOSN: Next opponent. Anyone else here to testify in opposition? Anyone here to testify in the neutral capacity? All right. Senator Hallstrom, come on back up.

HALLSTROM: Madam Chair Bosn, members of the committee, thank you for your patience and attention this afternoon. Appreciate the witnesses coming in. It's not very often that we do get to hear something in the Judiciary Committee that has economic development overtones. Becton-- BD is a big deal in Nebraska in a medical tech manufacturing arena, and that's why-- Utah was the leader. Nebraska has an opportunity to be a leader in this area by providing these particular protections and guardrails on this particular type of product and medical sterilization procedure, and I think we ought to move towards that. I am aware that the trial lawyer representatives have talked to the representatives who brought the bill to my attention. I would be more than willing to sit down. My understanding is that rather than talking about whether we ought to plead with particularity, or whether we should have a preponderance of the evidence, or a clear and convincing standard, that the proposal left about one line in the bill, so I'm not sure that was going to be acceptable to, to me, but I haven't seen that proposed amendment or emasculation of the legislation. So with that, I'd be happy to address any questions that you might have.

BOSN: Any questions for Senator Hallstrom?

ROUNTREE: I do have one, Madam Chair.

BOSN: Senator Rountree.

ROUNTREE: Thank you so much, Madam Chair. And Senator Hallstrom, thank you so much. I, I wanted to come back and ask that question again. The flood of litigation, where would that come from? Would this be from the people who are within that 4-mile radius around the plant who could have been impacted by the emissions? Would it be from the individuals who are working in the plant?

HALLSTROM: Well, in either case, the 4-mile radius was specific, I presume, from the witness' testimony--

ROUNTREE: OK.

HALLSTROM: --to, to BD. It could be any other type of situation or--

ROUNTREE: Right.

HALLSTROM: --scenario that would arise that if there was an undue level of concentration in, in the air that they were exposed to, that that would give rise to a potential cause of action. And in this case, you know, we're-- and we've done it again during COVID. We've done it

in other situations where-- as, as I started out in my testimony, you can go through the statutes galore, and whenever an immunity-- I think they, they word-check immunity. And when they see immunity, there's an immediate amendment to put gross negligence and willful misconduct in. So that has been a, a consistent, standard response to immunity bills. We do have gross negligence and willfulness misconduct built into this. The other issue that I would just raise in passing, to the, to the last witness, in terms of making a carte blanche statement that this has retroactive application, the application, which we've done, to my knowledge, in a number of different situations, has to do that if a case has been filed but has not been taken to final judgment. I just did that last year in a paternity action on the criminal side. I think we've got other examples of where that partial retroactivity is, is, is something that we've done and, and it's been applicable.

ROUNTREE: Thank you.

BOSN: Any other questions for Senator Hallstrom? So it's my understanding that you're open to having some conversation with the Trial Attorneys and your-- the proponents of the bill to try and see if there's some workable--

HALLSTROM: Always.

BOSN: Perfect. All right. That will-- did I say how many comments we had on this one? Just in the event that we-- I didn't, there were no proponent, 2 opponent, and no neutral comments submitted, and that will conclude our hearing on LB831 and our hearings for today.

HALLSTROM: Thank you.

BOSN: Thank you.