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Executive Board Committee
February 14, 2018

[LR277 LR286]

The Executive Board of the Legislative Council met upon adjournment on Wednesday, February 14, 2018, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR277 and LR286. Senators present: Dan Watermeier, Chairperson; Sue Crawford; Dan Hughes; John McCollister; and Jim Scheer. Senators absent: John Kuehn, Vice Chairperson; Kate Bolz; Ernie Chambers; Tyson Larson; and John Stinner.

SENATOR WATERMEIER: Welcome to the Executive Board Committee hearing. My name is Dan Watermeier. I'm from Syracuse. I represent the 1st Legislative District in southeast Nebraska. I serve as the Chair of the Executive Board. Our hearing today is part of the public process and your opportunity to express your position on the proposed legislation. The committee members may come and go during the hearing. We get called away for various reasons. It is not our intention to...not interested in the bill. It's just part of the process. To better facilitate today's proceedings, I ask that you abide by the following procedures. Please silence or turn off your cell phones. The order of testimony today will be introducer, proponents, opponents, neutral, and closing. If you are testifying, please make sure you fill out a green sheet. When you come up to testify, please hand the green sheet to the page. Please state and spell your name for the record at the start of your testimony. Each testifier will have five minutes to speak and at the end of four you'll have a yellow light; at the end of red, I'll ask you to close it up. If you are not testifying but do want to go on the record, please fill out one of the white sheets and the page will help you with that. Written materials may be distributed to the committee members. We would ask that you have 12 copies. If you do not, I'll have the page help you with that. To my immediate right is legal counsel, Janice Satra; to my left is Laura Olson, my committee clerk. Also helping me today is our page, Heather Bentley, from Miller, Nebraska. With that, I'll ask the members to introduce themselves that are here today.

SENATOR SCHEER: Jim Scheer, District 19.

SENATOR MCCOLLISTER: John McCollister, District 20.

SENATOR HUGHES: Dan Hughes, District 44.

SENATOR CRAWFORD: Good afternoon. Sue Crawford, District 45.

SENATOR WATERMEIER: All right. With that, we'll open up the hearing for LR277. Senator Schumacher. [LR277]

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SENATOR SCHUMACHER: Thank you, Senator Watermeier and members of the Executive Board. My name is Paul Schumacher, S-c-h-u-m-a-c-h-e-r, and I'm here today to introduce LR277, a proposal that we withdraw a series of resolutions that go back to the beginning of the last century asking for constitutional amendments, constitutional conventions regarding the U.S. Constitution. I certainly, until this was called to my attention, had no idea there were this many things that were still actually pending and almost all of which were passed by people who have long left the Legislature. And so this is a giant cleanup resolution. At the very least, and there might be a couple of controversial items in there from history, but at the very least those that are not controversial should be eliminated. You go back and you think about some of the implications of this, some of the earlier ones were talk...calling for a constitutional convention regarding the election of senators. Now since then that issue was addressed, but these particular resolutions calling for a constitutional convention or a constitutional amendment on the election of senators still pend, they're still active. And you think, well, what the heck? But one of the thorns that have stuck in the side of big states for a long time is how can the little states have two senators and we just have two senators. What if the tumblers came together and all of a sudden they said, well, we've got the magic number, let's call a constitutional convention to see if we could do something about that and elect senators-at-large or something--clearly not the intent of our Legislature, probably not any other legislature who has neglected to deal with these particular things. And there's just a litany of these things, some of which are hotly debated topics in our present Legislature. I did not realize that we had a proposal before the Congress to convert all the states to...away from winner-take-all to the way that Nebraska and Maine do it. That's pending before the Congress. That probably would be a bit of a debate in our Legislature were it to happen today. When I was in law school in 1976, I happened to work for Senator Carl Curtis. And Senator Curtis on occasion would bounce me on his knee and say, hey, son, look at this. And he would lament the failure to balance the federal budget. And he would look at the balance of trade and see that, you know, we weren't exporting as much as we were importing and that was going to lead to some problems. And he probably knew what he was talking about. He was a ranking member in the senate finance committee. And so he was attuned to those issues and he would lament, you know, if we lose this now, if we don't have a balanced budget now, if we don't tax as much as we spend, once we start down that road of (inaudible) financing, we will never be able to balance the budget. It will be an impossibility and there's no way out of it. Now if you'll look at, we do have a resolution in here pending calling for a balanced budget, no more federal spending than you have federal income except in case of a war. Well, we know today if you were to do that, you wouldn't want to word it that way in the very least because there are...we've gone down that road and you just can't throw it into reverse. And as a result, we'd probably, if we were to take a position on federal financing, we would not want to use the language that Carl Curtis and I would have used in 1976. And incidentally, in the resolution it says 1979 on LR106. That was 1976 for that particular one. And while I'm on that topic, in 1965 there were actually two resolutions proposed: LR42 and there was another one that I missed, LR14, that was also proposed. So what this basically says is, look, in the spirit of what must have been the founding

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fathers in the federal 1789 era, they certainly did not mean for these things to accumulate and never be cleared off the deck. And almost certainly the people sitting in our body today on any one of these issues would word...would have a different way of approaching some of these resolutions if they were to take them up today. So this is a simple proposal and it basically says let's clear the deck, let's pull back our resolutions, and if we're going to have these kind of very important things that could expand out into who knows what, if they actually were triggered, we should be conscious of them. Members of the Legislature in current vintage should have had a chance to consider them and, as such, you know, just pull them back. And if there, like I said in the beginning, if there is something controversial in here and the Executive Board feels, ah, well, we don't want to mess with that one because we don't have time to mess with it, it would be too controversial, consume too much time, then edit it out of here. But let's get rid of the ones that everybody can say, you know, we really don't care if...and one of them was something about polygamy and polygamists' cohabitation. We were opposed to that in 1911. Not sure what that means today, but we were opposed to it in 1911 and wanted a constitutional amendment on it, still want a constitutional amendment according to what's on record. So that's all I have. I'd be happy to answer any questions, but that's the general gist of the bill. [LR277]

SENATOR WATERMEIER: All right. Thank you. Is there questions from the committee?
Speaker Scheer. [LR277]

SENATOR SCHEER: If you don't know, I don't need a long answer because we only have a short period of time. But just out of curiosity, and I'm not an attorney so I'll be a friend, when we changed from a Bicameral to a Unicameral, did it void anything that would have been passed before that time period? [LR277]

SENATOR SCHUMACHER: I don't think so and, if it did, we certainly didn't notify the Congress that that was...I don't think that...no. And I think that's 99 percent correct. [LR277]

SENATOR SCHEER: That's the shortest answer you've given (laughter). [LR277]

SENATOR WATERMEIER: All right. [LR277]

SENATOR SCHUMACHER: You said keep it short. [LR277]

SENATOR WATERMEIER: Thank you. [LR277]

SENATOR CRAWFORD: Do you know what power you have? [LR277]

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SENATOR WATERMEIER: Further questions from the committee? All right. Thank you, Senator. [LR277]

SENATOR SCHUMACHER: Thank you. [LR277]

SENATOR WATERMEIER: All right. We'll open up the floor for those in...proponents of LR277. Come on up. Welcome. All right. Welcome. [LR277]

JANINE HANSEN: Thank you very much, Senator and Senators. My name is Janine Hansen. I'm from Nevada and I'm the state...the national constitutional issues chairman... [LR277]

SENATOR SCHEER: (Inaudible) spell your name for us, please. [LR277]

JANINE HANSEN: J-a-n-i-n-e, Hansen, H-a-n-s-e-n, and I'm the national constitutional issues chairman for Eagle Forum. This is a very interesting issue because it crosses all political boundaries. There's many conservatives that are opposed to constitutional conventions, like national Eagle Forum, the John Birch Society, the National Association of Gun Rights, Gun Owners of America, Campaign for Liberty, the National Republican Committee passed a resolution opposing constitutional conventions. And I was just looking up on the Farm Bureau four states that I could find--New York, Utah, Iowa, and Illinois--have all passed resolutions. There may be others but I haven't been able to find those. On the left we have groups like Common Cause, League of Women Voters, People for the American Way, and other groups that represent many people, like the AARP and the American Federation of State and Municipal Employes and the AFL-CIO. I started on this issue many years ago when I was a young woman. I've been at the Nevada legislature as a volunteer lobbyist most of my adult life working to oppose a constitutional convention. In Article V we know that it says that Congress shall call the convention after the states have applied. We've never done that in the United States before. The only way we've ever passed an amendment to the United States Constitution is through the traditional means of having Congress send it out to the states. There is very little information in Article V to tell us specifically how that would operate. And there's a lot of people that have ideas about how it would do. Some, for instance, the convention of states is telling us that each state would only have one vote. Now that might be great for Nebraska and Nevada, but I don't think California or New York or Texas or Florida are going to like that reason very...that very much. And what would happen if there is a dissension about how we select delegates and how states are represented? You know the U.S. Supreme Court has had many decisions on one person, one vote, which changed the way we did it. In Nevada we used to have one senator from each county. Now they're all proportional. The proposals in the U.S. Senate from Senator Hatch and Senator Ervin which passed during the '70s and '80s in the U.S. Senate proposed that we would be represented in a constitutional Article V convention proportionally, just like the

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electoral college, which we're all glad we have. It has especially an advantage for small states. And so that's the proposal that has been promoted in the U.S. Congress. And you don't think Congress is going to sit back and say, oh, we'll just do whatever you want. But what may happen if we have a disagreement between the large states and the small is that it may go to the Supreme Court. And I don't think I want the Supreme Court making more decisions about our constitution right now. That's a little scary. You know, we don't know what will happen. They're the least representative body that we have in the U.S. government. So I'm very...I applaud you. I want to tell you that last year three states passed a resolution like this. Nevada was the fourth state. Well, in 2016 Delaware passed one and last year New Mexico and Maryland both passed them. And in Nevada, in my state, it was an incredible bipartisan effort. We had a unanimous vote in the state assembly and a unanimous vote in the state senate, all Republicans and all Democrats, and it's quite close. The senate was like, you know, 10-11, so it was very close. And we had a unanimous vote rescinding all previous Article V applications, including for a balanced budget amendment. So I appreciate your efforts here because the constitution is at risk. We don't know what will happen. And because it's at risk, that's the most important document that has maintained our form of government throughout all these years and it's not...we shouldn't do anything recklessly. We should be careful. We should be cautious. We should be aware that we may be the ones who are deciding the future for our generations. And of course one last issue...I see I'm out of time. [LR277]

SENATOR WATERMEIER: No, you've got a minute. Go ahead. Why don't you clean it up. Go ahead. [LR277]

JANINE HANSEN: Okay, one thing: Nebraska receives about--I checked it--about 32 percent of its budget from the federal government. Now if--and my state is similar and many states receive between 19 and 49 percent of their budget from the federal government--if you had a constitutional convention which passed something like COS wants, fiscal restraints or the balanced budget amendment, which Nebraska has already passed, what would that mean for your state? You know, there's two ways to balance a budget and I know all of you know that. One is to reduce spending. One is to increase taxes. And I haven't seen Congress doing real well on that recently and so I don't have a lot of confidence in them. But I don't have confidence in my own state legislature to make sure. And can you imagine what would happen if you passed a balanced budget and Congress said, okay, well, we'll just cut off all your spending, all the spending to the state, so 32 percent of Nebraska's money from the federal government is gone? You would have a crisis. You would have a catastrophe, just like Nevada would have, in your state if that's how they decided to balance the budget. So if you're really interested in doing that, you have to refuse federal funds and you have to start the process. Thank you very much. I appreciate being here. [LR277]

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SENATOR WATERMEIER: Thank you, Ms. Hansen. Amazing--you came from Nevada for this issue? [LR277]

JANINE HANSEN: Yes. I am from Nevada. I... [LR277]

SENATOR WATERMEIER: But you came here specifically for this issue? [LR277]

JANINE HANSEN: Yes, I did. [LR277]

SENATOR WATERMEIER: Thank you so much for coming and attending and paying attention to Nebraska. [LR277]

JANINE HANSEN: Thank you, and thank you for allowing me to testify. [LR277]

SENATOR WATERMEIER: Are there questions from the committee? Senator McCollister. [LR277]

SENATOR McCOLLISTER: Yeah. And thank you for making the trip here, Ms. Hansen. [LR277]

JANINE HANSEN: You're welcome. [LR277]

SENATOR McCOLLISTER: It's very nice of you to do that. Thank you for your testimony. I have heard from some constitutional scholars that once you have agreed to a particular provision, your rescission is ineffective. Can you address that issue? Is that... [LR277]

JANINE HANSEN: That once you... [LR277]

SENATOR McCOLLISTER: That once you approve or make application or approve an issue and it goes to a convention of the states, it's not possible to rescind that. Is that the case or am I missing... [LR277]

JANINE HANSEN: Well, I'm not a constitutional scholar but I would say this. During the '70s, '80s, and '90s, many states passed a call for a balanced budget amendment. In fact, we were at 32. There needs to be 34 states in order to...that enact the provision in Article V that Congress would call a convention. What happened at that point in time, I was part of that. We went to many states and had...and got rescissions. And we know that the balanced budget amendment

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people recognized that because they had to start over in many states in passing that again. Utah is one of them. About 16 states passed rescissions. So their count right now, if we're looking at the proponents of a constitutional convention, for the BBA4USA, their count is now 28. Had the four states I mentioned not passed rescissions, their count right now would have been 32 states. So perhaps there's disagreement, but the people who were promoting this, who agree with it, have accepted those rescissions. And after all, one legislature can't bind another. So if you do something here, in two or four years they can decide to do something else. And so that's what's happened with these rescissions. And there is a movement across the country to rescind many of these. In fact, this week we had New Mexico just defeated an Article V constitutional convention. Idaho just rejected it, and so did Virginia, so there's an active controversy. But the proponents themselves have accepted the rescissions. [LR277]

SENATOR McCOLLISTER: Thank you very much. [LR277]

SENATOR WATERMEIER: All right. Thank you. Further questions from the committee? Thank you, Ms. Hansen, for your testimony. [LR277]

JANINE HANSEN: Thank you very much. [LR277]

SENATOR WATERMEIER: Yeah. [LR277]

JANINE HANSEN: It's been a pleasure to be here. [LR277]

SENATOR WATERMEIER: Very good. Further proponents on LR277? Welcome, Ms. Fry. [LR277]

RENEE FRY: (Exhibit 1) Thank you. Good afternoon, Chairman Watermeier and members of the Executive Board. My name is Renee Fry, R-e-n-e-e F-r-y. I'm the executive director of OpenSky Policy Institute, and we're here in support of LR277. So we're here primarily because of the rescission to the BBAs. I mean I think it makes sense to clean the slate, as Senator Schumacher indicated. I have looked back at some of those proposals and some of them do seem a little bit silly in today's...you know, in 2018. But we are here primarily because of the rescissions to the balanced budget amendments. A federal balanced budget amendment would require the federal government to spend no more than it receives in a given year. So the problem with this is that going into debt at the federal level actually works to stabilize the economy during recessionary periods. During an economic downturn, businesses and consumers spend less, which leads to job losses. At the same time, expenditures for unemployment benefits and other benefits, such as SNAP and Medicaid, increase. These increases in federal benefits help

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cushion the blow to the economy and keep the purchases of goods and services from falling further. This helps the families that receive the benefits but also helps preserve the remaining jobs and incomes of those who produce or sell groceries, healthcare, and other services. This is why Macroeconomic Advisers, an economic forecasting firm, found that rescissions would be deeper...recessions--excuse me--would be deeper and longer under a constitutional balanced budget amendment. Had one been in place for FY 2012, they found that the effect on the economy would be catastrophic and would have doubled the unemployment rate. This is also why more than 1,000 economists, including 11 Nobel laureates, issued a joint statement condemning a constitutional balanced budget amendment that was considered by Congress in 1997, warning that it would mandate perverse actions and would aggravate recessions. The U.S. is one of the strongest, most resilient economies in the world, in large part because we have been able to borrow and deficit spend when times call for it. We have recovered from the last recession better than most countries because we're able to borrow and spend in order to avoid deep budget cuts that harm many other nations. If a family was unable to increase their debt, we would not be allowed to borrow for college, health emergencies, or to buy a home. The Social Security Trust Fund is deliberately building up assets to help pay for the retirement of the baby boomers. Under a balanced budget amendment, the trust fund would never be able to use saved balances to fund benefits because they were not raised in the current year. It was already mentioned that four states in the last two years have passed similar resolutions. And with that, I'd be happy to answer any questions. [LR277]

SENATOR WATERMEIER: All right. Thank you. Questions from the committee? Thank you, Ms. Fry. [LR277]

RENEE FRY: Thank you. [LR277]

SENATOR WATERMEIER: Further proponents on LR277? [LR277]

KATHY WILMOT: And they're color coded so you can't lose them on your desk. [LR277]

SENATOR WATERMEIER: All right. Welcome. [LR277]

KATHY WILMOT: (Exhibits 2-4) Thank you for this opportunity to be here. My name is Kathy Wilmot, K-a-t-h-y W-i-l-m-o-t. I appreciate this opportunity. It's one of the freedoms I have under the constitution and, as an individual who loves our country--and I wish to protect our constitution and I want to live by it--it's important, I think, for this previous call for conventions to be rescinded. And I thank Senator Schumacher for bringing this item forward. During testimony offered by individuals such as Mark Meckler, Tom Coburn, and even Senator Ebke, who has been promoting yet another call for an Article V constitutional convention of states,

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they've made comments to the effect that, you know, there could be a slight possibility of a runaway but we do have to do something. And I say, what? Even though it's reckless? Our constitution was written to place restraints upon our government and those restraints are in writing now. But we the people, in many cases, have failed to enforce that. New words on paper won't be enforced any more than the words on paper that we have now. And given the fact that proceedings of a convention are so unknown, I think it's very reckless to have anything on the books that would allow that. Robert Kelly, general counsel for convention of states, in March of 2014 was promoting his COS call for a convention and he stated, and I have the video--I'd be very happy to share that--but he stated their call actually opens every section of the constitution. You see, they reference subject matter and those subject matters are totally wide. And likewise, the old call of Nebraska, if it's joined by 33 other states, would open a convention and we have no guarantee it would really remain limited. So I ask that you not be fooled, either, by the LB1058 faithful delegate bill that was heard last week. It contains all kinds of smokescreens telling legislators that you'll be the ones to choose the delegates, you can tell the delegates what to say, what to do, and you can even go so far as to charge them with a felony if they don't. But that's not true. Delegates to a federal-level convention would not be answerable to the legislatures. In addition, we have experts that have warned that Congress will be in charge of all the decisions of any convention, including how many delegates, whether the votes for the states will be based on the electoral college formula or by the population. And when reading Article V, it's very clear. It says Congress shall call. You know, I loved English and we had a teacher that made us diagram those sentences. And if you'll diagram Article V of the constitution, it's very clear who's going to control this. True experts have spoken and warned of the dangers. Former Justice, Chief Justice, Supreme Court, Warren Burger said: There is no way, any more than the Continental Congress could control the convention in Philadelphia, to put a muzzle on a constitutional convention and, once it meets, it'll do whatever the majority wants, and I wouldn't favor that. In 2014, then-Supreme Court Justice Antonin Scalia said, "I certainly would not want a constitutional convention. Whoa! Who knows what would come out of it?" Now you may have heard a different quote from the Convention of States people. They use an earlier one, several years earlier, before he had so much experience. He did support it at one time, but through experience he realized, and with the changes in our country, it wasn't wise. Looking at history we find the delegates to the convention of 1787 voted that their proceedings would be in secret. And I ask you, what would happen if that's what the delegates would decide? You know, when that gavel falls, they set the rules, they make those decisions. And even in a day where we have cell phones, everybody thinks, oh, word would get out, but I have seen some pretty secret meetings and word doesn't get out and one of them was with ALEC in Georgia. They wouldn't even let the media in. Congressional Research Service's report in 2016 discussed the constitutional status of a convention and some of those scholars believe, quote: A convention is, in effect, a premier assembly of the people, a representative body charged by the people with the duty of framing the basic law of the land, for the purpose there devolves upon it all the power which the people themselves possess. This is still quoting: In short...for the particular business of amending and

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revising our constitution, the constitution (sic--convention) is possessed of sovereign powers and, therefore, is supreme to all other governmental branches and agencies. So I encourage you to please protect all of us, protect my grandchildren, please. I've got ten of them. I want them to have as much of a country like I had as a child. I know after 9/11 they'll never have all those freedoms as kids, but it's important to me and I ask you, please, support this and let's clean up the books and walk away from these dangerous ideas. Thank you. [LR277]

SENATOR WATERMEIER: Thank you, Ms. Wilmot. Questions from the committee? Thank you for your testimony. [LR277]

KATHY WILMOT: Thank you. [LR277]

SENATOR WATERMEIER: Further proponents of LR277? [LR277]

GAVIN GEIS: Senator Watermeier, members of the Executive Board, my name is Gavin Geis, G-a-v-i-n G-e-i-s, and I'm the executive director for Common Cause Nebraska. We are in support of this bill. We think it's simple public policy to keep these discussions current and not hold Nebraska to past commitments, some commitments that could get to be over 100 years old. I'm not sure if all of you are familiar with the story of the Twenty-seventh Amendment. I know this is not an amendment, but I think it parallels some of these to a certain extent. So the Twenty-seventh Amendment, if you're not brushed up on your social studies, it prohibits salary changes from taking effect until the next set of terms for our federal representatives. It was initially put in...initially put out there for the states to adopt in 1789. It did not become an amendment until 1992, so it was initially put out there in 1789 and it floated around just in the ether until 1992 when it was adopted. So it floated for nearly 200 years, or over 200 years, until it was adopted. And that was a-okay, that was all right. The court said that's okay, and that was because the court said that's a political discussion that we don't wade into, we don't talk about those things, that's a political debate. And I see no other...I see no reason why the courts wouldn't say the exact same thing for topics like these. It's why the courts...I see no reason why the courts would wade into a topic like this, why this couldn't wait for 200 years, why Nebraska couldn't have something sitting out there like some of the ridiculous ideas that Senator Schumacher put out there that could sit around for 200 years and we just don't take them off the books and suddenly someone decides, well, let's talk about that. And then we are responsible for putting that into effect and we play a part in doing that. So let's make these current. Let's just wipe the books clean and let's make these current discussions, even when some of these topics are ones we're debating today, like a balanced budget, like an Article V convention to talk about a balanced budget. Let's make it a current discussion, not something that happened 20 years ago, 30 years ago, whatever it is. Let's have it be a discussion that legislators today talk about, not something that legislators that have passed away talked about. The courts aren't going to wade into this. They're not going to

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help us out. They didn't help out the people who were discussing an amendment from 1789...wanted them to wade into. They're not here to help us on these political questions. They're not going to save us from topics like these. We can only save ourselves. Let's clear the slates. Let's put sun...we can't put sundowns, we can't put sundown provisions on these things. We can only do that going forward, right? We can talk about sun...maybe we should talk about sundown provisions on all of these resolutions going forward, but we can't do it on the past ones. All we can do is put a cutoff date on all the things we've done before, be realistic about talking about these in the future, and move forward. So I like said, this is just good public policy to leave the past where it was, close the book, and have a spirited debate about whether this is good for Nebraska or not today and not leave this gigantic 100 years of history open for who knows what will become of it 100 years from now. Who knows? Thank you. That's all I have to say. Thank you. [LR277]

SENATOR WATERMEIER: All right, very good. Questions from the committee? Thank you, Mr. Geis. [LR277]

GAVIN GEIS: Thank you. [LR277]

SENATOR WATERMEIER: Further proponents to LR277? [LR277]

JOHN CARTIER: (Exhibits 5 and 6) Afternoon, Senators. [LR277]

SENATOR WATERMEIER: Yeah, welcome. [LR277]

JOHN CARTIER: Members of the Executive Committee, for the record, my name is John Cartier, spelled J-o-h-n C-a-r-t-i-e-r. I am testifying in support for LR277. My official capacity is director of voting rights for Civic Nebraska. Civic Nebraska deals mainly with election policy research and nonpartisan election legislation. However, we have also taken a strong stance in opposition against calls for an Article V convention for concerns over the future impact that a convention might have on our right to vote. I'm going to bring up briefly LR6 because I'm not convinced under our current system for Article V that you'd be able to limit any convention to one particular topic. So I think it's prudent to bring up the language in LR6 that simply states amendments limiting the federal jurisdiction. We take issue with the broad scope that language could encompass and what possible proposals could be generated by a convention under this wide umbrella. First, federal jurisdiction is inherent to protecting the right to vote. The United States is a state-centered election system where elections are conducted by the individual states; therefore, a violation of voters' rights would be at the hands of the state or political subdivision of the state. Under this structure, federal jurisdiction is necessary to provide a remedy for the voter and ensure future violations do not occur. After issues in Douglas County with polling

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places being moved without notice and voter confusion, Department of Justice came into Nebraska to investigate and sent Department of Justice attorneys to observe elections in 2014 and 2016. Nebraska does not have an explicit statute giving nonpartisan election observers the right to observe at polling sites. Federal jurisdiction is necessary to ensure federal observers are present to prevent disenfranchisement of voters on election day. Now proponents of an Article V convention have sort of given us their playbook throughout the years. Through a discussion of possible proposals, given some insight on what they envision limiting federal jurisdiction to encompass, you'll see the Texas Governor Greg Abbott, through that handout I provided you, he's a vocal proponent of Article V convention. He had nine different amendments he wanted passed by a convention, two of which are very concerning as it relates to voting rights. One is the prohibition on administrative agencies. This would directly impact the Election Assistance Commission that provides additional rules and regulations as it relates to the few areas of elections standardized across the nation, including: the federal voter registration card; overseas, the military voting; and election equipment and technology considered accessible under the Help America Vote Act. A similar proposal was introduced and passed by the body of the convention of states simulation, allowing for a regulation proposed or an existing regulation to be brought to a vote where one-quarter of the House of Representatives or Senate transmit written declarations of opposition. Voters, we rely on these regulations set forth by the EAC and repealing existing regulations could seriously jeopardize the accessibility of elections for voters with disabilities, military voters overseas, and voters across the nation. Now the second proposed amendment to limit the federal jurisdiction includes allowing the repeal of a federal law by a vote of the states. Governor Abbott's amendment would require two-thirds of states to vote for repeal, 33 states. The amendment passed by the convention of states proposes even lower threshold of three-fifths, 30 states. To provide context to the danger of this, the population of the 33 least populated states accounts for 28 percent of the nation's population. For 30 states, the distribution is 23. This proposal is significantly distressing for voting rights as three major pieces of federal legislation have shaped state protections. This is the Voting Rights Act of 1965, the National Voter Registration Act of 1993, and the Help America Vote Act of 2003. Proponents may counter with the odds of this happening are very low. It is incredibly important to note that the Voting Rights Act provided numerous protections to minority voters, eliminated policies aimed at disenfranchising key demographics, and was passed in the face of overwhelming opposition. Sixty years later we have seen the importance of this legislation. The effects were seen almost instantly of voter registration participation by African-Americans in elections in the south increasing exponentially. I imagine the negative impact of legislation kill switch, as proposed by Governor Abbott in convention of states, could have had on that historic piece of legislation. This is why Civic Nebraska joins ranks of both prominent constitutional scholars and founders, all who have shared serious concerns for what a second constitutional convention brings. As Senator Schumacher has pointed out, over the decades, Nebraska has seen fit to pass resolutions invoking convention, Article V, for various reasons. The most discussed was in the '70s which sought to impose federal government balanced budget amendment in the constitution.

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Proponents have gotten close to this 34-state threshold. However, over the years, other states have seen the wisdom in rescission legislation such as LR277. Today I urge the members of the committee to follow suit, advance this bill out of committee and to pass it on the floor so we can join our sister states who have decided that Article V convention has too little to offer while putting too much at stake. I think it's fair to say in our hyperpartisan climate, today's political landscape is not conducive to a second convention. Should we have the misfortune of finding out in firsthand experience what a convention today would look like, I think it's safe to say it would hardly become the magical bullet proponents believe it is for solving national debt or runaway campaign finance. Thank you. [LR277]

SENATOR WATERMEIER: All right. Thank you, Mr. Cartier. Car-tee-air (phonetically), is that correct? [LR277]

JOHN CARTIER: Car-tee-ay (phonetically). [LR277]

SENATOR WATERMEIER: Cartier, excuse me. Questions from the committee? Thank you for your testimony. Further proponents of LR277? All right, seeing none, those in opposition to LR277? [LR277]

LARRY STORER: Good afternoon. [LR277]

SENATOR WATERMEIER: Welcome. [LR277]

LARRY STORER: My name is Larry Storer, S-t-o-r-e-r, 5105 Lafayette Avenue, Omaha, Nebraska, District 8, and I'm here to counter some of what you've heard this morning. I imagine it's the same well-researched speech that I heard last night from the same people, and last week from the young man that was sitting right here. And I'm here to try and say things very simply. I'm going to try not to get angry and to scold you. But I do want to point out that this is in no way a federal thing. Article V specifically states the "or" provision for convention of states to propose and only propose amendments. After that, we have to follow the same rules on ratification. But in either case, ladies and gentlemen, it comes back to your responsibility to do that. You need to pass the resolution so that the people can be educated about this on the floor without a filibuster, because there's too much incorrect and probably, let's...I'll call it wise. So let me read off my thing here. I'm not a progressive. I am a conservative. There were people at the meeting last week for "conservative day" at the Legislature that bought into this same stuff. Eagle Forum is one of them and they are trying to tell you that people like me are working for George Soros and that is not so. It's a lie. Did you get your red brochures that week from them? Did you get the blue one from the Liberty Ladies? Eagle Forum is listed in there. So all of those

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bigger voice. She has a bigger voice. Kathy Wilmot has a bigger voice because she's probably the one that's actually getting funding from George Soros and outside sources. This is not a federal issue. It's a state issue, okay? Has no business telling us that it is a federal issue. Okay. Last night, Kathy Wilmot herself presented erroneous information with a machine gun-like approach and very good training on how to identify body language and make you look like the bad guy. There were some members from the Conservative Coalition there who I have over the last two years attempted to converse with them about LR6, and Doug Kagan's group, the Nebraska Taxpayers for Freedom, and many of those other institutions listed in the Liberty Ladies brochure at the conservative function day and they lobbied you. Now I have been taking the Hillsdale College thing on the constitution. I'm a college graduate. I am 75 years old. I can read and I can understand what the founding fathers said. They put it there for us to have a voice. When government is broken, as she used the words, and they will not pass the amendments that all of these organizations want them to pass to fix this and to fix that, what course do you have other than revolution? They put that in there, thanks to George Mason, so that we could have one more step before the revolution, which appears to be working out right now, our voice through you. And if, in my opinion and many others', the grassroots people that are not lawyers, if you don't support that constitutional provision in Article V, you don't support the constitution of either federal or state, therefore, maybe each and every one of you that's against it, as Walter Brennan said, you're either for it or against it, the constitution, this constitution, Kathy Wilmot, not a new constitution. Now some of the legal beagles have told them to try and say certain things. Many of the legal references she refers to are out of date. The CRs are out of date. So it's bad information. So don't place your vote on killing LR6 based on what she said. That's a taxpayer to you. I didn't speak on the floor for 30 years, which she claims to do. But that gives her no right to come in here and override our constitution, this constitution. We are not proposing a new constitution, which she claims. Thank you. [LR277]

SENATOR WATERMEIER: All right. Thank you for your testimony, Mr. Storer. Are there questions from the committee? Thank you for your testimony today. [LR277]

LARRY STORER: I would like to just make a comment, too, that they seem to get a lot of questions,... [LR277]

SENATOR WATERMEIER: I'm sorry, I'll have to hold your...the comments down. [LR277]

LARRY STORER: ...lot of questions and more time than the people on my side do. Thank you. [LR277]

SENATOR WATERMEIER: (Exhibits 7-11) Thank you for your testimony. Further opponents on LR277? Anyone here today in the neutral on LR277? Senator Schumacher to close. Oh,

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excuse me. I'm going to enter some letters into the record, but you come on up, Senator. There's a few letters here that are in support of LR277: Joanna Martin; Howard Burnette; Sue Long; Bill Lucas; and Bob Hallstrom of the National Federation of Independent Business in opposition. All right, Senator, close? [LR277]

SENATOR SCHUMACHER: Thank you, Senator Watermeier, just briefly. I think we all realize the reality of 33 days and nothing that is controversial is going to get a priority from the Speaker or a consent calendar item because we just don't have that time. However, there is merit in this bill. And while there may be a couple spots of controversy in it, I would ask the committee to use its common sense. If it looks like it's overburdened with an item that has too much controversy, take it out of there, handle that some other time. If balanced budget is a sticking point, should Senator Ebke or someone bring a measure like she has proposed in the past for an Article V convention, you make sure you don't have a conflicting one and you repeal this one. But I think there's...if we can monitor batting 80-90 percent, we'll have done well and done a public service. And so I just ask you to not let go of this opportunity and to get rid of what we know shouldn't be on file with the Congress. [LR277]

SENATOR WATERMEIER: All right. Thank you. Senator Crawford, question? [LR277]

SENATOR CRAWFORD: Thank you, Chairman. Thank you, Chairman Watermeier, and thank you, Senator Schumacher, for this interesting bill. Do you think if we took the last two off it would be a consent calendar bill? Is there anything... [LR277]

SENATOR SCHUMACHER: What are the last...what are...I don't have my sheet. [LR277]

SENATOR CRAWFORD: The last two are the balanced budget ones. [LR277]

SENATOR SCHUMACHER: Okay. [LR277]

SENATOR WATERMEIER: LR106 and LR538. [LR277]

SENATOR SCHUMACHER: And the other one is which? [LR277]

SENATOR CRAWFORD: I didn't know...so the last two are the ones that relate to balanced budget amendment. Is there anything above that, that you think is any controversial at all? [LR277]

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SENATOR SCHUMACHER: You know, I suppose if you got somebody who wanted to pick at something, you could always find something. I couldn't predict what it might be but, nevertheless, it would be good just to say we're cleaning the slate, but I think we have had enough of headwind on balanced budget amendment to know that that probably would be enough to take it out of the safe zone. [LR277]

SENATOR WATERMEIER: Does that... [LR277]

SENATOR CRAWFORD: That...yes, thank you. [LR277]

SENATOR WATERMEIER: All right. Senator McCollister. [LR277]

SENATOR McCOLLISTER: Are you done, Senator? [LR277]

SENATOR CRAWFORD: Yes, thank you. [LR277]

SENATOR McCOLLISTER: Some of the arguments the proponents brought here today is that you can't limit the agenda of a convention, so if that's the case, now you may approve a...you mentioned the balanced budget, but then it...mission creep and it...something else comes up. Isn't that correct? [LR277]

SENATOR SCHUMACHER: Well, I personally think it's correct but I haven't been hired to wear a black robe, and ultimately that probably would come out of the U.S. Supreme Court to decide that issue. It's...no one knows. It's never been done and the founding fathers were not terribly clear on the subject. We do know that the original constitutional convention came out of what looked like a limited call on the Articles of Confederation and all of a sudden they all got together in a room in Philadelphia and the Articles of Confederation went bye-bye and we had a whole new constitution. So I would think that that is a concern and every one of these little things that you put out there in the matrix, if all of a sudden you start plugging them together with other things in the matrix, looks like everybody wants everything considered and it may make it easier to do that. This is uncharted territory. We do know for a fact, though, that there's probably the vast majority of the items on that list of that are being repealed here are...probably no longer would get the votes up in the Chamber. [LR277]

SENATOR WATERMEIER: Thank you, Senator McCollister. Senator Crawford. [LR277]

SENATOR CRAWFORD: Thank you, Chairman Watermeier, and thank you, Senator Schumacher. Just for clarification for the record, and for those who may be paying attention in

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other, through other forums, your bill in no way restricts the future ability of state legislatures to pass constitutional conventions. It's just wiping out old ones that we might argue are out of date. [LR277]

SENATOR SCHUMACHER: Yeah, it all looks toward the past. It doesn't limit the future. In fact, the same topic can come up again before the body but maybe with a little more modern language. Maybe if something was passed 30 years ago that had it phrased one way or thought this is the way we want to fix it, maybe that same problem is going to be fixed with a little different thing. It just clears the slate, is no restriction. [LR277]

SENATOR CRAWFORD: Thank you. Thank you. [LR277]

SENATOR WATERMEIER: All right. Further questions? All right. Thank you, Senator Schumacher. That will close the hearing on LR277 and I will open up the hearing for LR280...oh, I'm sorry. Are you ready to roll? (Inaudible), are you ready? You're ready. Okay. Senator Krist, LR286. Welcome. [LR277 LR286]

SENATOR KRIST: (Exhibit 1) Thank you, Senator Watermeier. I'm just going to hand out my introduction, my intro, because it's very short, very sweet, and I think that if you have any questions, then we can go from there. But for the record, my name is Bob Krist, B-o-b K-r-i-s-t. Thanks for this opportunity. I represent the 10th Legislative District in northwest Omaha, along with north-central portions of Douglas County, which includes the city of Bennington, and I appear before you today in introduction and support of LR286. LR286 resolves that at the statewide general election in November of 2018 the question of calling a convention which shall be submitted to the electors of the state of Nebraska upon the official ballot for the calling of a state constitutional convention to revise, amend, and change Article VIII and any other revenue provisions of the Constitution of Nebraska with any amendment proposed by the state constitutional convention submitted by 25 percent of the duly qualified and elected delegates to the state constitutional convention. Then a little bit of language down below against the calling of the state constitutional convention would have the same language for "for a constitutional convention," which is what we're suggesting would keep it simple on the ballot. If a majority of electors vote for calling a convention, the Legislature shall at the next session write the enabling clause, basically enabling legislation. So I'm going to give you just a real quick background on why I think this is important. In the early 1900s the state had a constitutional review convention where they actually did update our constitution in a couple spots. In 1990s, '95, under Senator Kristensen's leadership, we had another total review of the state constitutional convention. This really is about Article VIII and all revenue-related issues within the constitution. Let me give you an example. You all know the mantra. We're supposed to provide free education in common schools of the state for K-12. Well, that's no longer the case. We have to do that by federal law

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and by federal rule from 0-21. So we keep looking at the constitution and saying, you know, boy, we wish we could update that, but those are the current parameters that we should be looking at. The other part of it is that we in constitution, by the constitution, are tied to providing that education for in the common schools of the state and how we do that is basically in an appropriations process. I think that, and you've all heard me say it, I think, before, we have this three-legged stool: income tax, property tax, and sales tax. And we now have seen when times get good and times get bad how we have taken pot out of the dollar (sic). Well, we have an issue right now...the dollar out of the pot. We have an issue right now where most of education funding is coming from property taxes. So constitutionally we need to review how that happens and what we could potentially do and we've been allowed to handle it within the appropriations process which means, in fact, that about five years ago 30 percent...approximately 30 percent of income tax was going to education, which relieved the burden on property tax to a certain extent. I think that's a perfect issue to talk about within Article VIII to make sure that we're continuing to go down a track of using the state revenue and taxation process to pay for things by priority and it's time to review, I think, Section (sic--Amendment) Eight and any other revenue issues within the constitution. Pretty clear, pretty simple. It would be a good discussion on the floor, I think. It would be a good thing for us to all think about because even though that constitution was drafted by learned men and women and they did a great job putting it together, it stays static unless we look at it and use it in a dynamic environment. So that is my plea. That is my intro. I will sit for any questions. [LR286]

SENATOR WATERMEIER: Okay. Thank you. Questions from the committee? Senator Crawford. [LR286]

SENATOR CRAWFORD: So you mentioned the education issue. I think there are issues like intangible tax and some other issues like that that are...have been changes in technology, changes in how the economy works that we could look at in terms of those provisions. So is there any other specific example besides the education funding that you have in mind as you...for this conversation? [LR286]

SENATOR KRIST: No, but I think that your example leads to many other discussions about what should we do and shouldn't we do in terms of taxing. Let's talk about the Internet sales tax. Let's talk about other tax processes that are out there. We changed, basically in the '60s, we changed the whole tax base basically, by statute, and how is that working for us and should we allow to do that again? You know, I think it's all part of the discussion. [LR286]

SENATOR CRAWFORD: Great. Thanks. [LR286]

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SENATOR WATERMEIER: All right, thank you. Further questions? Thank you, Senator Krist. [LR286]

SENATOR KRIST: You bet. [LR286]

SENATOR WATERMEIER: All right. I'll open the floor up for proponents of LR286. Proponents? [LR286]

LARRY STORER: I'm sorry. Opponents? [LR286]

SENATOR WATERMEIER: Proponents, those...seeing none, those in opposition to LR286? We need a form for each LR, so we'll have you fill it out afterward so it goes on the record. [LR286]

LARRY STORER: I put it down on both form, on both of them (inaudible). [LR286]

SENATOR WATERMEIER: Well, we need a form for each one for our clerk because they're two different resolutions. You can take of it afterward. All right, just make sure you clearly spell your name again for the record. [LR286]

LARRY STORER: All right. I am basically opposed because, like some conservative groups, it's a Unicameral but we the people are the second house. Seventeen organizations here that lobby you claim that. So if we're the second house, we should be able to... [LR286]

SENATOR WATERMEIER: Can you spell your name for the record, again? I'm sorry. [LR286]

LARRY STORER: S-t-o-r-e-r. [LR286]

SENATOR WATERMEIER: Okay. [LR286]

LARRY STORER: We should be able to amend the constitution without a constitutional amendment...I mean convention--is that the right word, "constitutional convention"--for the state. [LR286]

SENATOR WATERMEIER: Article...your testimony is in opposition... [LR286]

LARRY STORER: Yeah. [LR286]

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SENATOR WATERMEIER: ...to the ten... [LR286]

LARRY STORER: I'm in opposition to it, yes. [LR286]

SENATOR WATERMEIER: ...to the Article VIII that...which is explicitly... [LR286]

LARRY STORER: Yeah. [LR286]

SENATOR WATERMEIER: ...referenced in LR286. [LR286]

LARRY STORER: Yeah. [LR286]

SENATOR CRAWFORD: From the Nebraska... [LR286]

LARRY STORER: I'm against the constitutional convention state thing, state convention. Okay? [LR286]

SENATOR CRAWFORD: Oh, okay. [LR286]

LARRY STORER: If we the people are the second house, we shouldn't need that. That's my point and I'll leave it at that. [LR286]

SENATOR WATERMEIER: Okay. [LR286]

LARRY STORER: Thank you. [LR286]

SENATOR WATERMEIER: All right. Any other questions from the committee? Thank you for your testimony. Are there further opponents to LR286? Those in the neutral? Senator Krist to close. Senator Krist waives closing. We will close the hearing...oh, no letters? Okay, we'll close the hearing on LR286. Thank you, Senator Krist. [LR286]

SENATOR KRIST: Thank you. [LR286]

SENATOR WATERMEIER: All right. [LR286]