

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

[LR6 LR18CA]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, February 1, 2017, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR6 and LR18CA. Senators present: John Murante, Chairperson; Tom Brewer, Vice Chairperson; Carol Blood; Tom Briese; Joni Craighead; Mike Hilgers; John Lowe; and Justin Wayne. Senators absent: None.

SENATOR MURANTE: My name is John Murante. I'm the State Senator for District 49, which includes Gretna and northwest Sarpy County, and I am the Chairman of this committee. We are here today for the purposes of conducting two public hearings. We'll be taking the hearings up in the order in which they appear on the agenda outside of this room. If you wish to testify on any of the matters before us, we ask that you fill out one of these green sheets of paper. The green sheets are located on either side of this room. If you are here and wish to state your support or opposition for either of the matters before us but you do not wish to testify, we ask that you fill out the sign-in sheet. The sign-in sheet is located again on either side of the room and I can assure you that your opinions will be given the same weight as if you had testified. If you do testify, we ask that you begin your testimony by stating and spelling your name for the record. That's very important for our transcriber's office. The order of proceedings will be the introducer of the proposal, will be afforded an opportunity to open. Then we'll proceed to proponent testimony, then opponent testimony, and then we will hear from anyone who wishes to testify in a neutral capacity on the proposal, and then the introducer will be afforded an opportunity to close. We ask that you listen very carefully and try not to be repetitive. If someone has already articulated a point which you wish to convey to us, again we ask that you fill out the sign-in sheet and suggest your support or opposition for the matters before us. In the government committee we do use the light system. Each testifier will be afforded three minutes of testimony. When the yellow light comes on, you have one minute remaining. When the red light comes on, we ask that you conclude your remarks and we'll open up the committee for any questions that they may have of you. I'd ask at this time that everyone turn off or silence any cell phones or other electronic devices, anything that makes noise. If you have a statement, an exhibit, or anything you wish to have distributed to the committee, we ask that you provide 12 copies to our page. If you don't have 12 copies, don't worry. Again, give it to the page and he will make copies for you and make sure that everyone on the committee has it. Our page for the day, who appears to have just snuck out...is just entering the room right now, Joe Gruber from Omaha, Nebraska, will be assisting us. And now I'd like to proceed with the introduction of members of the committee. On the far right is Senator John Lowe from Kearney, Nebraska; to his left, Senator Tom Briese from Albion, Nebraska; then Senator Mike Hilgers from Lincoln, Nebraska; to his left Senator Tom Brewer from Gordon, Nebraska; to my immediate right is Andrew La Grone. Andrew is the Government Committee's legal counsel. The gentleman walking behind me right now is State Senator Justin Wayne who represents Omaha, Nebraska; to his left State Senator

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

Joni Craighead who also represents Omaha; to her left, Senator Carol Blood who represents Bellevue; and to the far left is Sherry Shaffer. Sherry is the Government Committee clerk. And with our formalities having been dispensed with, Senator Ebke, welcome back to your committee on Government, Military and Veterans Affairs.

SENATOR EBKE: (Exhibits 1, 2, 3) Thank you, Chairman Murante, and members of the Government Committee. Seems like I spend a lot of time here. Thank you for this hearing today. For the record, my name is Laura Ebke, L-a-u-r-a E-b-k-e. I represent District 32, which is Jefferson, Thayer, Fillmore, Saline Counties. Before moving any further into LR6, I do want to explain three items which are either being passed out...yeah, they're in the process of being passed out to you. The first is a binder which contains general information about the Article V process along with written testimony from legislative districts across the state. Also in the binder are some quick summary points addressing common questions. The second item submitted to the committee is a 1987 report commissioned by the U.S. Department of Justice at the request of the Attorney General to study Article V. We have dropped this off to some of you already and we can get that to you if you don't have it. That report concludes that Article V conventions are limited and the process including ratification is saved. Should you want the entire 60-page document, my office would be happy to provide you with that after the hearing. Also submitted to the committee is the entire petition list of convention of state supporters here in Nebraska. It contains almost 4,500 names. The list is itemized by legislative district, so if you're curious, you can get your numbers from your district. This afternoon I'm visiting with you about the use of Article V of the constitution. LR6 calls for a limited convention of the states which would discuss and potentially propose amendments to the U.S. Constitution. Amendment proposals out of a convention are then returned to the states for ratification. It takes 34 states with matching resolutions to get a convention called. In order for amendments to be ratified, it would then take 38 states. Two of you on this committee, I believe heard the previous year's version of this resolution from the One Hundred Fourth Legislature. That was LR35. I assume by now, even if you are new to the Legislature, that you have some general idea of what Article V is and that somebody has talked to you about it. I've spent almost three years now completing a series of town halls, over 45 total, in efforts to inform the public around the state what it is that we aim to accomplish. I can go through the process of Article V at the end with questions if you'd like. LR6 matches resolutions passed in eight states and matches legislation moving in another 30 to 40 states. Our matching resolutions call for a convention to propose amendments in the following areas: fiscal restraints on the federal government, making government smaller, and considering term limits for Congress and other government officials. I think it's important today to move on and deconstruct some of the arguments that you will hear later. Some of you have heard, or will hear, about the so-called Con Con. You will hear opponents refer to this as a constitutional convention or a Con Con. This is incorrect terminology which has called great confusion over Article V in the modern era. When opponents say constitutional convention, they mean the convening to write a new government charter as was done in 1787. It is only a small c,

constitutional convention in the sense that it is a gathering which deals with the constitution. However, it is not a gathering to rewrite the constitution of the United States. Article V explicitly states that a convention can only meet for the purpose of proposing amendments. Nowhere in Article V does it say anything about a convention being able to gather to rewrite the very document in question. This is simply a constitutional process for the people, through the states, to address issues with the government. If opponents are going to make the claim that Article V states anything more than what is said, they must also be open to claims that other parts of the constitution are also open saying things that it does not. Equality between Congress and the state. We know that the intention of Article V is to provide amending power either to Congress or to the states. If you read the constitution, it's very clear that the proposal portion of amending the constitution has two options, either Congress through a vote of two-thirds of both houses can propose amendments, or a convention called by the states can propose amendments. Okay? But there is also a two-part method of ratifying any amendments to the constitution. Doesn't become a part of the constitution until it's ratified by the 38 states. We also note from the statements of our founders in the Federalist Papers and their memoirs that the exact intentions of Article V was that it was to be a process to amend the constitution. The 1987 Department of Justice report goes into all of these pieces of Article V. I would commend those to your reading. Opponents are also going to tell you that we don't control the process. They fear what is called the runaway convention. But somehow those attending the convention, elected, or appointed by the states, are going to either become corrupted or attending with nefarious motives or will become power drunk and go outside the bounds of the call of the convention is what they seem to assume. When considering this fear, I have never heard a legitimate reason or scenario under which any of this happens. It takes 34 states to trigger a convention. That means 34 states will have passed matching resolutions, meaning they're going to this convention with the same understood purpose. This majority of purpose simply is not going to overrun and allow 16 states to push them around. Keep in mind, we're also assuming that no other states in addition to those 34 are going to pass matching resolutions. I think it's likely that this caucus of states would be, you know, would be a few more in the end. Even so, opponents charging the runaway convention fear are mistaken on a few fronts. First, the numbers and purpose as I stated. Second, are we to assume that an assembly gathered for a stated purpose wouldn't be able to conduct itself in a civil fashion? Intergovernmental bodies gather all the time, and they have since the beginning of our history as a nation. Interstate...interstate compacts, the Uniform Law Commission. All of these are organizations, commissions, that meet and they have a specific purpose. They don't exceed their purpose, so why do we think that this would? I have lots of things that I could talk about. Let me just finally close with this notion of Senator Ben Nelson's conference of state's proposals in 1995, that will likely come up. Governor Nelson wanted to use Article V although the branding involved sounds very much the same. What he sought to do was something very different than a convention of states. What he wanted to do essentially was to create a quasi governmental body made up of all the state governors that would gather in a convention and propose amendments to the states to be ratified under the Article V process. There were a few

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

problems with that. First of all, he got it wrong in suggesting that governors act as the state commissioners to a convention. Secondly, he left the scope of the convention way too broad. I believe that, you know, his heart was probably in the right place. He saw some mistakes, some problems that needed to be fixed, but he was off on the process and the approach. And finally, I will mention the notion of gun rights. You will hear from some that this will take away your gun rights, that this convention is going to meet and that they're going to get rid of the Second Amendment. Well, if you read the purpose of the amendment...the purpose of the call, it has nothing at all to do with the Second Amendment. I guess I'm going to call it quits here. My staffer has put together many things, but I'm not going to bore you with those at this point, maybe I'll get it later. Let me just say one more thing. There was a convention of states simulation held in September in Williamsburg, Virginia. Senator Friesen, Senator Lindstrom and myself attended that process. There were members, legislators, and others from all 50 states that attended. And we were tasked with the purpose of trying to find out whether it could work, whether the process could work. And we split up since there were three of us from each state, we split up into three different committees to deal with the three primary purposes and we tried to come out with proposals which could then be taken up in a plenary session of the convention. You know, it's a simulation. People took it very seriously. We had a lot of very frank discussion. Some people got angry. And the fact that we did this, I think, really bolsters the point that a runaway convention is unlikely to happen. When you look at the group that was assembled there...these were people who were mostly like-minded, frankly. I mean with the exception of one guy from Montana. We had a...we were largely people who were in favor of the process and yet we couldn't agree on the details of what should be sent out. In a real convention, I think it's very likely that you will have a far more diverse group. There will be far more conversation and that anything that actually comes out of the convention is going to be something that represents a consensus rather than something that represents some sort of a drastic action. So with that, I would be happy to answer any of your questions or attempt to at least. [LR6]

SENATOR MURANTE: Thank you, Senator Ebke. So the question I would like you to address, my...one of the challenges I have. I agree with you with the practical impossibility of erasing the Second Amendment and things like that. That seems well beyond the scope of this. My concern is with maybe good sounding constitutional amendments, something that in 2017 maybe everyone could agree upon, but 150 years from now we have a new Supreme Court who interprets what we come up with in ways just like the Equal Protection Clause, which was enacted for a specific purpose and then 150 years later, is used for things that it was never intended to be used for. How can...can you address those concerns and the challenges that you think that presents. [LR6]

SENATOR EBKE: Sure. Well, I think the process, once we establish that the process works, the process then contributes to fixing things later, because if we find that there's some error that, you know, our children or our grandchildren don't like, then they learn about Article V conventions.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

They make the call nationwide and they can fix the problems that we created. I don't...I mean, sure you have this problem with a runaway Congress, so to speak, that is making it up as they go along. The constitution has changed and I don't have a copy of it with me but if you look at the annotated constitution, it's not one that you can carry around in your pocket, you know. It's thousands of pages and that's the constitution that Congress is largely following based on Supreme Court cases and other judicial decisions and sort of the practice that's occurred over the course of the last two hundred years. [LR6]

SENATOR MURANTE: Thank you. Senator Blood. [LR6]

SENATOR BLOOD: I hope you humor me. I have several questions. [LR6]

SENATOR EBKE: Sure. [LR6]

SENATOR BLOOD: I read through the Web site from every piece of information that was available and as I read it I wrote down questions. So the thing to me that I find really puzzling, and I'm hoping you have an answer for it, is that, how come we can't achieve constitutional change without passing formal amendments? You know, I look at the...the only example I could come up with quickly was the New Deal. Can't we achieve constitutional change without passing these amendments? [LR6]

SENATOR EBKE: Not if you abide by the notion that the constitution is the supreme law of the land. You can't change the supreme law of the land without the consent of the government. And that's a contract. Can you change a contract without formally changing it? [LR6]

SENATOR BLOOD: Or should you? That was also the question. [LR6]

SENATOR EBKE: Right. Yeah. I mean, this is...exactly. [LR6]

SENATOR BLOOD: So, and like I said, I have several questions. [LR6]

SENATOR EBKE: Go for it, yeah. [LR6]

SENATOR BLOOD: Because for me it helps me understand the concept better when I can ask questions that I'm not finding answered on the Web site. So couldn't this amendment potentially limit the federal government's ability to address, say, national security crises, natural disasters--

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

you know I come from Bellevue--harm veterans and the military a lot like sequestration did.
[LR6]

SENATOR EBKE: Well, I mean, it depends on which amendment you're talking about. If you're talking about fiscal restraint, keep in mind that Nebraska has already signed on to a balanced budget amendment process and that there's 28 states that have already...that are already in line for that. So six more states, you could have an actual balanced budget amendment being considered in convention and then sent to the states. I think the fiscal restraint opens the door to more discussion about, okay, how do you deal with these emergency situations. How do you deal with, you know, sort of an unusual national disasters or time of war or, you know, whatever, but that it'll...and it allows him rather than saying okay, as of, we had the convention in 2018, as of...you know the fiscal year beginning in 2020, we're going to have a balanced budget. I mean, that could certainly wreak havoc on the economy, but it allows a draw down, it...there's all sorts of possibilities out there and I don't want to predispose anybody to what's going to happen at a convention, but I think that a...that this allows for serious people to come together and talk about, okay, well, what if we did this rather than abide by the balanced budget amendment language that's already out there? [LR6]

SENATOR BLOOD: Well, and I think that you kind of actually hit it on the head. I mean, we're talking about...because the vast majority of the letters that I got were in reference to like balanced budget and the government being too big. And there was like some form letters that I got over and over again for those that were a pro. You know, I look back like when Clinton was President and we had a balanced budget. I mean, they're obviously capable of doing it. Do you see what I'm saying, it's that sometimes I question...I understand what the intent is and that those are good intents, but I look at...again, I go back to our military because that's my backyard. That, if indeed, an amendment that was a balanced budget amendment could potentially make it harder on the government and then when we have these complicated issues, ultimately don't they get thrown to the courts and are the courts really schooled in this type of thing and are we just creating a bigger problem? [LR6]

SENATOR EBKE: Well, here's what I would say to you. If you're worried about a balanced budget amendment, then we ought to have the convention of states process that I've brought sooner rather than later because the balanced budget amendment is much closer to actually being held, that convention for that. There are four or five...what you have to understand is there are four or five different Article V application processes floating around out there, and the balanced budget amendment folks are very close, much closer than we are right now, to getting there and they have specific language. And so if a balanced budget amendment per se is what you're concerned about, then we can address some of those issues of fiscal restraint without necessarily having a strict balanced budget. [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

SENATOR BLOOD: So that leads me to my last question. And again, I'm taking in everything that you're saying. I did read through a variety of the convention proposals and some of them want to impose measures that limit the power and jurisdiction of the federal government, which again I certainly do understand, but in some cases that would mean shutting down regulatory agencies like environmental protection, public health, and potentially based on the proposals that I read, even overturn some Supreme Court decisions. And I think that kind of goes back to what Senator Murante was talking about. I guess for me, there's no guarantee that this will not happen, just like there's no guarantee that it will happen. Why are we looking to make amendments that could potentially create a need for a bigger problem? [LR6]

SENATOR EBKE: Well, I'm not convinced that it will create a bigger problem. It comes down to what...who you want to decide. You know, what the government is supposed to do. If you want the folks who are involved in government to decide what government is to do, that's fine. But I think that this election has proven nationwide, not individually in individual districts necessarily, but it has proven nationwide that there is a certain frustration with the government. Okay. That citizens want to move the powers that government must...that government must engage in to a local level and to a state level, if necessary, but that they feel like Congress and the federal government is overstepping the boundaries. Now, I believe that there are certain things that the federal government must do, but I think that they're...and you'll hear from people behind me who will tell you about some of the things that the federal government has engaged in over time that have made their lives very difficult and ultimately trickled down into our state to stifle development. [LR6]

SENATOR MURANTE: Thank you. Senator Brewer. [LR6]

SENATOR BREWER: Thank you, Chairman. All right. We're going to try and put this in common man terms here, so if we take a look at the LR itself, what I'm going to do is just kind of read the heart of this. It says that the convention of states is limited to proposing amendments to the constitution of the United States that impose fiscal restraints from the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office of its officials or members of Congress. So that's the heart and soul of what we're talking about here. So there's nothing about the Second Amendment in there because I'm very partial to my guns so I just want to make sure we're clear on that. [LR6]

SENATOR EBKE: I'm with you. [LR6]

SENATOR BREWER: And we're going to need 34 and eventually 38 states to ratify that so all of those states are going to have to have a like document to this and is the verbiage essentially exactly the same or roughly the same, or...? [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

SENATOR EBKE: That portion and all the ones that I'm familiar with, and Mr. Meckler who is coming up behind me will be able to tell you if that's indeed the case in all of the states, but yes, ultimately this number one is going to be the same in every state. [LR6]

SENATOR BREWER: Well, obviously, the reason that I've taken an interest in this is because the district where I'm from, this is just...it and property tax fight it out for the number one most important thing, because of the fiscal restraints that they feel there needs to be because of where we're at with what now at twenty trillion and still spinning out of control. And the same thing with the limits of power. I, on the other hand, have folks who would like nothing more than to see federal agencies come up missing, so I'm not quite as concerned as Senator Blood is on that one. But what I'm trying to do here is make sure that we box this in so that that view that's going to limit what they can do, and part of that is to make sure we don't have some Crazy Ivan that comes in and gives us a nightmare later. But with your confirmation that that's the same verbiage, then I'm good. [LR6]

SENATOR EBKE: Sure. And I think it's important, Senator, to realize that...and I didn't mention this. You know, a lot of people have tried to compare this to, you know, what happened in 1787 this notion that the convention came together and, you know, just totally, you know, went off...went off the rails. The bottom line is that we live in a 2017. By the time this happens, we'll be generous and say it's going to be 2019 before we get all of them passed. You know, there is one thing that will keep...will be fundamentally different. In 1787, as the story goes, the delegates to the constitutional convention, you know, barred the doors. They locked the windows, closed all the windows in the middle of summer and, you know, in Philadelphia in 1787 which wouldn't have been pleasant. And then they also...they also only allowed one person to keep concurrent notes, James Madison. Well, there's something that's going to prevent that from ever happening again. We're all going to see what's going on as it's happening either through Facebook Live, through the media that's going to be there that's going to demand to be there, through tweets, through whatever. There's not...this isn't going to happen in a bubble. I don't see how it could possibly be and so if you had a Crazy Ivan who decided to do something crazy, you can be sure that Crazy Ivan's constituents back in, you know, Texas. We'll say Texas is a little crazy, right? Sorry, Mr. Meckler. We're going to say that this Crazy Ivan is going to do something, you can be sure that the people who sent him there are going to come back and, you know, pull his authority. [LR6]

SENATOR BREWER: Okay. So just as a parting thought here. We've got two options. One is two-thirds of Congress, one is two-thirds of the state. So as we look at...Congress would need to agree to fiscal restraints, agree to limit their own power and agree to their own term limits, or else it's going to have to be the states that do it. [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

SENATOR EBKE: Right. [LR6]

SENATOR BREWER: All right. Thank you. [LR6]

SENATOR EBKE: It's more likely, yep. (Laughter) [LR6]

SENATOR MURANTE: Everyone, let's try and keep any expressions of support or opposition, no matter how much we may like what Senator Brewer has to say, let's keep any expression of support or opposition to a minimum just so we can get through this as orderly as possible. Senator Hilgers. [LR6]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Senator Ebke. I appreciate the work that you have done with the town hall bringing this to the floor. I think this is a very worthwhile important conversation. Also appreciate the aims that you're trying to reach, but along with Senator Brewer. So I have some questions and the questions are...relate to what you've touched on, which is this idea of a possibility of a runaway convention. And it could very well go as you would say, which is very reasonable people looking for consensus. You could have all of our constituents or the constituents of the members using Facebook or other means to keep them in line, but it could also go other ways. There could be dynamics. We haven't done this in a couple hundred years. There could be dynamics that could change in ways that we hadn't foreseen. And so my concerns, the series of questions that I want to pose to you is to explore some of the legal boundaries that we could use or would be available since they exist that would help cabin that. So you discussed one already with Senator Brewer which is this notion that all of the resolutions have to match up. And just on that point, it's my understanding...and just tell me if this is right, they require 34. If 33 have identical language but one is not and it doesn't address all of these or it addresses...or maybe addresses something else, then that's not sufficient to actually trigger the convention. Is that right? [LR6]

SENATOR EBKE: Yes. Now, there are some states, I believe, who have added things on in addition to these three, but Congress would probably only...and I'm going to have to defer to Mr. Meckler because he knows that other states have done. But you know in that instance I would say Congress would probably not call it for those extra things, they would call them for the ones that 34 have actually agreed on. [LR6]

SENATOR HILGERS: Okay. That makes sense so we have A, B, and C here, 33...34 agreed to A, B and C, but you know some other state has D, E, and F, we'll address A, B, and C. [LR6]

SENATOR EBKE: Right. [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

SENATOR HILGERS: So the convention gets called. How many people go to the convention?
[LR6]

SENATOR EBKE: That's up to the states. The states...this is a convention of states, so the states would determine how many they send, so they might send three, they might send five. The important thing to remember is that every state is one state, one vote, just as it is in any other interstate compact or convention. [LR6]

SENATOR HILGERS: Now, I've heard this idea of maybe...no, I don't think I have the right terminology, but it's maybe a commissioner's note or something that sets out the authority of the state delegation. So what would...so Nebraska sends our delegation, however many it might be, they go. Other than the resolution is there anything that binds them explicitly to just the topics for the convention? [LR6]

SENATOR EBKE: Well, the commission certainly binds them. We don't have anything else yet. Some states have...when they introduced their resolution, their application, have also included a binding agreement and that's something that, you know, if we pass this, we should certainly look at. Perhaps some, the Government Committee could have an interim study on how to bind the commissioners or delegates or whatever you want to call them to the convention. [LR6]

SENATOR HILGERS: And what's the term, is it commissioner statement, is that kind of the term of ours? [LR6]

SENATOR EBKE: Yeah. There have been all sorts of ways to refer to it, but commissioner's statement. [LR6]

SENATOR HILGERS: So there would be...to do that we would have to have a separate statute that would bind the delegates to do it. [LR6]

SENATOR EBKE: A separate...yeah. Right. [LR6]

SENATOR HILGERS: Okay. Without...we didn't have that, wouldn't they be generally...well, there must be some need to have that statement to bind them, but what's the difference between that binding them and the resolution binding them? [LR6]

SENATOR EBKE: Well, I mean, they are given a particular commission just as with any other commission to have specific goals or, you know, they've got a specific task in mind. Now when it comes to the...you know, what holds them, you know, Indiana, I believe it was, and again I'm

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

going to have to defer to others who are more familiar with what other states have done. Indiana, I believe, has imposed some misdemeanor or felony penalties on anybody who deviates significantly from the commissioners statement or the binding, so. [LR6]

SENATOR HILGERS: So let's say Nebraska sends its delegation. There's this commissioner's statement that binds them and says if you don't do this, you go to jail. Would...but let's say the delegates we send decide that they're going to get rid of the Second Amendment and they do any way and they're outside of their commission. Just play this out. I know you're skeptical of this action, but... [LR6]

SENATOR EBKE: Okay. [LR6]

SENATOR HILGERS: ...try to deal with the possibilities that occur so we get to address them with the rules we have. Let's say that happens, what recourse would Nebraska have? Could Nebraska sue? Could Nebraska either sue the individuals or more importantly void anything that they do at the convention? [LR6]

SENATOR EBKE: Well, okay, first of all, you're assuming that a majority of those who attend from other states are going to abide by what the Nebraska commissioners have proposed. [LR6]

SENATOR HILGERS: Yes. [LR6]

SENATOR EBKE: If you do that...I mean, I'm skeptical that it's going to happen, but certainly Nebraska would have to decide up-front what its penalties for this and we could certainly chose not to ratify. I mean, that's the big thing is that if something were in the unlikely event that something truly unusual were to actually get kicked out of the convention, you still have the ratification process. Now many of you remember that Nebraska had not ratified the Twenty-seventh Amendment. It took 200 years for the ratification of the Twenty-seventh...what became the Twenty-seventh Amendment. Happened, I think, in 1990 or thereabouts and Nebraska finally ratified it even though it was part of the constitution last year. So, it's not going to just rush through. You're not going to have 38 state legislatures, full legislatures, just jump right on and ratify, especially anything that is as controversial as something like a Second Amendment. [LR6]

SENATOR HILGERS: Well, and that's my last question if I can continue, Mr. Chairman. Because I agree with Senator Brewer and I agree with what you just said which is the ratification process that seems to me you're not going to get 38 states to ratify a serious modification of the Second Amendment. But, and this might be a better question for someone behind you, but

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

historically, my understanding is when the initial constitutional convention occurred, that they also had ratification rules and that going into that convention the ratification process was that it had to be unanimous. So based on that and maybe some other things that I'm not aware of, Rhode Island decided not to go because they thought, well, shoot, it's got to be unanimous. They went at the convention, Rhode Island wasn't there and they changed the rule for ratification so it had to be...was less than unanimity was required. What would...what mechanism would stop a similar adjustment to the ratification process occurring at this convention? [LR6]

SENATOR EBKE: Well, the Articles of Confederation had no other means. I mean Articles of Confederation was a very loose alignment of the states. And they didn't have a means for actually ratifying. And so any major changes to the Articles of Confederation did have to be done from a...as a unanimous measure. However, the states were all acting independently. These were all independent states, remember, in 1787 that had just kind of bound themselves loosely under the articles. And so in 1787, when they came together, the states were all acting as sovereign entities when they went to the constitutional...what became the constitutional convention. And they created the national charter at that point, okay? Article V of the constitution, our ratification process...our proposal and ratification process of amendments now is under a national charter. We have a defined way in which amendments to that charter can be made. [LR6]

SENATOR HILGERS: Okay. So the argument is because of the amendment to the constitution, we already had the constitution in place and that already spells out what the ratification process is, if they wanted to change that ratification process that itself would be an amendment requiring 38 and that's not in there.. [LR6]

SENATOR EBKE: Exactly...and that isn't in the...yeah. [LR6]

SENATOR HILGERS: Okay. Thank you very much. I appreciate it, Senator. [LR6]

SENATOR MURANTE: Thank you, Senator Hilgers. Are there any additional questions? Seeing none, thank you very much for your opening. [LR6]

SENATOR EBKE: Thank you. [LR6]

SENATOR MURANTE: And we'll proceed to proponent testimony, all those in favor of LR6. Welcome back. [LR6]

MARK MECKLER: Thank you. Mr. Chairman, honorable members of the committee, my name is Mark Meckler, M-e-c-k-l-e-r, and I'm the president of Citizens for Self-Governance and

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

Convention of States Action, a sponsoring entity for this project nationally. Wanted to give you a bit of national perspective because I'm traveling all over the country promoting this initiative all over the country. This initiative started three years ago, roughly. We've now passed it in identical form in eight states. We're pending this year in legislatures of somewhere between 35 and 39 states. So with the threshold being 34 states, there are enough states in play potentially to get it across the finish line this year, being realistically probably in the next couple of years. The reason we're pursuing this project philosophically is because the American people are asking for it. Today, 72 percent of Americans when polled say that the federal government is too big, and does too much. This is not a policy argument. This is not a partisan argument. This is not about what should government do or what they should not do. This is not about Obamacare or levels of taxation or regulation. This is about a much simpler and more fundamental question to our American republic. This is about the question of who decides. The founders answered that very simple question with these three words, "We the People" decide. That's what the founders intended that "We the People" would have the power to decide. And the founders were very enamored of state legislatures. They believed that you, state legislators, are the closest level of government to people and they entrusted you with the most power in our system of governments. That's the way this country was originally structured. And specifically in regard to Article V they gave you extraordinary powers that no one else in the federal government has, no one else in this country except for you sitting here today in this committee hearing, has the power to call a convention, to propose amendments, and ultimately to ratify those amendments to reform our government in a way that is more suited to the people. Over the last specifically 115 to 120 years, the government in Washington, D.C., has drifted further and further away from the people of this great country. Today so many people say, when we say who decides, they say, Washington, D.C., decides. And on average, I don't know exactly what it is in this state, but I've traveled in 40 states in the last two years, on average state budgets are controlled 65 percent by the federal government. So your constituents have essentially a 35 percent vote on how you guys do your jobs. That's not what the founders intended. I'll close with this and then take questions. September 15, 1787, Colonel George Mason stood and addressed the assembly there at the constitutional convention. This is two days before the end of the convention. These men are ready to go home. They're pretty much packing up and ready to go. And he said, we have a fundamental problem with the document as proposed. We have given the power to the federal government through Congress to propose amendments should they deem them necessary. But we failed to give the same power to the people acting through their states. And then he asked them a question which I think is the fundamental question facing us here today. He asked, are we so naive that we believe that a government which becomes a tyranny will propose amendments to restrain its own tyranny. I wish we had video of that day because I'm sure they all laughed. No government that becomes a tyranny...in all of human history has ever restrained its own tyranny. It's not within human nature to do so. Mason's comments were obviously so profound and so obvious to the men in attendance that Madison's notes reflect something really unusual. They debated everything at that convention, except for this. Madison's notes indicate no debate. Now

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

they also indicate something else quite unusual at that convention which is they indicate that his proposal, Mason's proposal, to include the second clause of Article V giving you the power I previously described, was adopted unanimously. So I'm here before you today to ask that you stand in the shoes of the founders, that you fulfill the obligation that they gave you to restrain the federal government when it exceeds the bounds that they originally imposed upon it by the constitution. I'm happy to take questions, Mr. Chairman. [LR6]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions?
Senator Blood. [LR6]

SENATOR BLOOD: You said you've been traveling all over the United States talking on this subject. [LR6]

MARK MECKLER: Yes, ma'am. [LR6]

SENATOR BLOOD: I'm curious, who funds this? [LR6]

MARK MECKLER: The Convention of States project is funded by approximately...I can't get you an exact number, but in excess of 70,000 grass-roots donors all over the country. [LR6]

SENATOR BLOOD: So who is your biggest donor? [LR6]

MARK MECKLER: I don't know any individual... [LR6]

SENATOR BLOOD: Anybody that initiated this or...? [LR6]

MARK MECKLER: No, I initiated this project, Senator. [LR6]

SENATOR BLOOD: Okay. Thank you. [LR6]

MARK MECKLER: Yes, ma'am. [LR6]

SENATOR MURANTE: Thank you, Senator Blood. Senator Hilgers. [LR6]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Mr. Meckler, for being here and for all your work. How many did you say...how many states have passed? [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

MARK MECKLER: Eight states have passed. [LR6]

SENATOR HILGERS: Eight, and then how many are under consideration? [LR6]

MARK MECKLER: There will be somewhere between 30 and 37 this session. [LR6]

SENATOR HILGERS: And they don't...these resolutions don't expire do they unless it's in the text of the resolution. This, we could pass it now and in ten years at the 34th threshold, and away we go. Is that how it works? [LR6]

MARK MECKLER: That is correct, though Oklahoma is the only state so far that put a sunset clause in their resolution and they put a five-year sunset clause in that resolution, and it would have to be renewed after five years. [LR6]

SENATOR HILGERS: Could you speak to the line of questions I had with Senator Ebke about the value of these commissioner statements and whether or not, in your view, they would be needed as an additional check, or on the delegates or whether or not just the resolution limits would (inaudible). [LR6]

MARK MECKLER: Yes, Mr. Chairman, Senator, so the structure of the convention itself is set by the resolution that you pass and the other states pass. I described that as the rails of the convention. So the convention must exist within the rail set by the law of the convention. That law is set by the resolutions, the identical resolutions passed by the states, meaning that generally speaking anything that would be discussed outside those resolutions would be outside the scope and would be nongermane. In legislative parlance anybody could raise their hand, make a point of order and say that issue is not germane for this convention, that should be upheld by the chair. So that's the first level of protection. The second level of protection is that each commissioner generally carries with them a commission that you would draft telling them what their authority is. That commission can give the full authority to the edge of those rails as set by the resolution or you could limit their authority. That's up to an individual state to do so. It's also important to remember that just according to standard agency law, when you appoint an agent as the agent of your state to go attend this, as a part of your delegation as a commissioner that attend the convention, they're limited by standard agency law. In other words, they have no actual or apparent authority in legal parlance to do anything beyond what you allow them to do and any action which they would take would not only be revocable, it would actually be null and void. It actually would not exist as a legal action. And then some states have gone so far, Indiana being the first state to do it, as to impose what are called delegate limitation acts or faithful delegate acts by a separate piece of legislation as he suggested. Indiana has imposed felony criminal penalties for any commissioner that exceeds the authority granted in their commission. [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

SENATOR HILGERS: Thank you. [LR6]

SENATOR MURANTE: Thank you, Senator Hilgers. Senator Wayne. [LR6]

SENATOR WAYNE: Thank you for testifying and coming today. My background is I'm an attorney and so words mean a lot, especially as we start as you quoted notes to give context as to what the words meant during the founding days. So looking at this resolution, and I'm looking at specifically the first section, physical restraints on federal government, and the second part, limit the power and jurisdiction of the federal government. Since we're building our record for history, what are power and jurisdiction definitions that you believe or other states have defined in that section? [LR6]

MARK MECKLER: Sure will. I would say specifically what that's referring to is what are traditionally referred to in our founding document in the constitution as being enumerated powers. And what we've seen over the course of our country's history is the Supreme Court that has broadly interpreted the enumerated powers far beyond anything that the founders intended. It's pretty easy for us to determine the founders intent by reading the federalist papers. There was an incredibly robust written debate that took place during the time of the founding. We're very blessed to have that record. And so specifically what that's referring to is any attempt to take the enumerated powers of the federal constitution and return it to something closer to the original intent. [LR6]

SENATOR WAYNE: So those enumerated powers have been interpreted over the last 200 years, if not longer, if you go all the way back to England and some of the same language was used. Cite an example of power and jurisdiction. [LR6]

MARK MECKLER: Sure. So I think one of the most cleanly and well-crafted original enumerated powers is in the commerce clause. And the commerce clause was intended to give the federal government power to restrict or to control interstate trade, to regulate the flow of interstate commerce. That language had very specific meaning in 1787. First of all, it's important we understand what the meaning of the word "regulate" was. And we all know what the meaning of the word "regulate" is today. It was very different in 1787. In 1787 if you had asked Dr. Franklin or one of the other men at the convention what the word "regulate" meant, he would have said to regularize or to smooth out, to make flow. Today we think of regulations as something the government issues to control something, but that was not the intent nor the common language usage at the time of the founders. So number one, what they meant by the interstate clause was the power to smooth out or regularize trade. Commerce was also defined differently in 1787. Commerce actually meant the shipment of physical goods. So the intent, the narrowly crafted intent of the interstate commerce clause in 1787 was to smooth out the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

shipment of goods across state lines. Historical context is important. Why would the founders have cared about this? In 1787 at the time of convention, New York and New Jersey were close to military blows over trade. And so they understood that they needed a neutral arbitrator over the shipment of goods across state lines. Today, interstate commerce means something quite different and the interstate commerce clause has been determined to mean virtually everything in the American economy, including...first of all, commerce means business today, which is not what it meant then. And today, the Supreme Court has determined that not doing business is actually business, is actually commerce, giving the federal government the power and ability to regulate just about everything. And let me give you one more specific and then back to you for a follow up. Thomas Jefferson, who was a great proponent of public education, founded the University of Virginia, was approached by one of his friends and told that he should get federal government funding for the University of Virginia when he founded it. And Thomas Jefferson, a great proponent of public education, said we can't do that because it would require an amendment to the United States Constitution to have the federal government involved in education. Today, the Department of Education runs under the federal judiciary, the Supreme Court's interpretation of the commerce clause. No amendment has been had. [LR6]

SENATOR WAYNE: So, and I don't believe in a public debate with the public at these meetings, but for the record it was the commerce clause that allowed my generation or generation above me for my dissent allowed to vote. And so that was used as the basis for the voting act. And so when you think of commerce and you say it's all encompassing, then aren't we allowing those representatives to go in and use all encompassing to define what commerce is and maybe restrict some of this legislation because in 1775, 1787, I wasn't in a room where people looked like me in the room. [LR6]

MARK MECKLER: As far as I'm aware... [LR6]

SENATOR WAYNE: Because of the commerce clause and the expansion that was given by the Supreme Court that changed...that fundamentally changed how America worked. So how do we deal with those situations? [LR6]

MARK MECKLER: Senator, I'd be happy to review those cases. I'm unfamiliar that a commerce clause is being used to further voting rights. Those cases as far as I'm aware are descendants of the Thirteenth and Fourteenth Amendments. [LR6]

SENATOR WAYNE: They were actually started off with the commerce clause and later in the 1990s we started referring back to the Thirteenth or Fourteenth Amendment. [LR6]

MARK MECKLER: Again, I'd be happy to review those cases. [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

SENATOR WAYNE: But I guess my general question is, you used the word power in jurisdiction. Those are broad. [LR6]

MARK MECKLER: Yes, they are. [LR6]

SENATOR WAYNE: So why witness that kind of amendment apply to the power and jurisdiction of the federal government? [LR6]

MARK MECKLER: The question is not just the power and jurisdiction. It's the word "limit" the power and jurisdiction of the federal government. In other words, directly in relation to the Second Amendment, theoretically in a convention the protections afforded to the citizens under the Second Amendment could be broadened, but they could not be shrunken because that would require further regulation, further control by the federal government, there would be an expansion of the power of the federal government. [LR6]

SENATOR WAYNE: Thank you. [LR6]

MARK MECKLER: Thank you, Senator. [LR6]

SENATOR MURANTE: Thank you, Senator Wayne. Any final questions? Senator Briese. [LR6]

SENATOR BRIESE: Thank you. Thank you, Senator, and thank you for being here. We talked earlier about the ratification process and if something extremely objectionable comes out of a constitutional convention, how many states does it take then to stop that from being implemented, from becoming part of the constitution? [LR6]

MARK MECKLER: Sure. Mr. Chairman, Senator, the founders were very wise and they set a very high bar. It is a super majority required to ratify anything that comes out of convention. Convention itself takes 34 states to call, obviously, a super majority in and of itself, and then anything that comes out of convention is just a suggestion to the states. It requires 38 states to ratify. It's important to flip that math on its head, in my opinion. It only takes 13 states to stop anything that came out of the convention that either side of the political aisle didn't like. If you look across the country today, a lot of people complain because we're a very divided country. From my perspective it's the very best time to hold a convention such as this because there are 13 states on either side of the political divide that would stop anything that either side would find exceptionally offensive, meaning if founders vision holds true, has to be something widely accepted by the American public in order to reach that very high threshold of ratification. [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

SENATOR BRIESE: Thank you. [LR6]

MARK MECKLER: Thank you, Senator. [LR6]

SENATOR MURANTE: Thank you, Senator Briese. Senator Hilgers. [LR6]

SENATOR HILGERS: Thank you, Mr. Chairman. On that point, do you know how many in Nebraska, how many votes it takes in the Legislature to ratify a constitutional amendment? [LR6]

MARK MECKLER: My belief is it's simple majority. There are a couple of states that require supermajority. One would be Kansas and the other is Maine. I'm unaware of any others that require supermajority. [LR6]

SENATOR HILGERS: Thank you. [LR6]

SENATOR MURANTE: Thank you. Seeing no additional questions, thank you very much for your testimony. Appreciate it. [LR6]

MARK MECKLER: Mr. Chairman, thank you. [LR6]

SENATOR MURANTE: Additional proponent testimony. Welcome. [LR6]

MARK ADAMSON: Thank you. Thanks for allowing me a moment to speak with you today. My name is Mark Adamson, M-a-r-k A-d-a-m-s-o-n, and I am a small business and businessman here in Nebraska. And I have not done this kind of thing before. I apologize if you were expecting me to read from the text, but I would rather look you in the eye and kind of give you a grassroots report if I could and tell you a little bit about why I am so...such a proponent for convention of the states. For me to do that I've got to give you a little bit of background. I'm a small business owner. I actually have two stores in Gretna, Nebraska, and you look like you need a haircut to me. (Laughter) [LR6]

SENATOR MURANTE: Thank you for your testimony. (Laughter) [LR6]

MARK ADAMSON: I own six haircut salons in the greater Omaha and Gretna area. I employ...I actually employ 40 people. I would hire five more today, five more today, if the government would get off my back. These people pay taxes. You know, and I will remind you that, you know,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

back in the old days, decisions about politics took place in barber shops. Maybe that was a better time because it was a community level, not some national level. But I am being taxed and regulated to death in my stores and that's a true statement. I would be happy to talk in detail if you want to ask questions, but with five minutes to speak to you I just have to give you some background. In addition to owning six stores in the greater Omaha area, I'm a very fortunate man and I have a big job in the real world. I am director of orthopedics, physiatry, physical, and occupational therapy for a very well-known health organization. On that end of my life, I employ 130 people. I have 11 doctors that work for me, eight surgeons. We do about 1,000 patient visits a week, about 50 surgeries a week. I have three ORs right in my building. I would be happy to discuss with you what overreaching federal government has done on a detailed level if you want me to from a medical perspective and what it's doing to my doctors. You know, what I would...I don't have much time. I have to tell you the regulations are killing us. It's absolutely destroying our medical system. If you want me to talk to you in broad terms about it, I will. If you want to talk about direct threats to our system in terms of how we operate, I'd be happy to do that. But I will tell you this, it takes courage, courage to be a businessman today to own a small business. I make a payroll every Friday, every Friday. I am very aware of what the costs of government are to the penny, if you really want to know. It takes courage to be a doctor today. I've noticed that along with all the regulations and paperwork that you're pushing down our throats--I don't mean the state level, I'm talking about a federal level--there's no tort reform that's gone along with that. My physicians are under siege. You would not believe the things that we're being asked to do. Let me take it to a small level for a family practice doctor, family practice doctors don't make big money, folks. You know, in order to install some of these EMR systems and stuff that we're...electronic medical record systems and such that we have today, for a small privately owned family practice, that's probably a forty to fifty thousand dollar investment to just be compliant with the federal government. What do those doctors do? Those older physicians retire. They used to mentor the younger guys. They now retire. And as the lines form in our physician offices, you're going to find that PAs, mid-levels we call them, nurse practitioners and others, are now treating you instead of a doctor. And as we follow this through, you're going to find that foreign-trained are going to be brought in and that's what we're going to have, you know. As a small business owner, I'm devastated by the things that are happening. Do you know it took me seven weeks to get a permit...just to get a permit. In my medical practice we're offering a big institution full benefits, \$500 if you refer a full or a part-time employee. This is a place that people used to want to work. I can't hire in my hair salons. I can't hire people because, look, I'm trying to put this in the...a simple man in the simplest terms I can. The greatest threat to my business is not my competition. It is not my competition. It's the federal government and I'll tell you why, because for jobs that pay \$15 an hour and less, and most of my front office desk jobs are like that in the medical practice, and most of my jobs in my hair salon are like that, I can't compete with what the federal government will provide in terms of entitlements. When I have employees over Christmas, when I have to make it as a retailer telling me that they cannot work extra hours or even full-time hours because they would be threatening their federal housing, or

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

threatening their ability to gain entitlements, you're crippling me as a business. I would like to say that the federal government would help me because I employ people. That has not been my experience. Try to get a signed permit, etcetera. And I'm sorry for running over. I'm sorry for feeling passionately about this. [LR6]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions of Mr. Adamson? Seeing none, thank you very much for coming down today. Much appreciate it. Additional proponent testimony on LR6. Mr. Winterer, welcome back to the Government Committee. [LR6]

KERRY WINTERER: Thank you. Well, I think I have been here before. [LR6]

SENATOR MURANTE: I think you have too. [LR6]

KERRY WINTERER: (Exhibit 4) Afternoon, all. Chairman Murante and committee members, my name is Kerry, K-e-r-r-y, last name Winterer, W-i-n-t-e-r-e-r. I reside at 13407 Ellison Circle, in Omaha. I've served as the chief executive officer of the Nebraska Department of Health and Human Services from 2009 until 2014. I was an elected member of the State Board of Education from 2006 until 2009. I am now a semi-retired practicing lawyer. I'm here to testify in favor of LR6. And I want to talk to you a little bit about state government. You all are involved in state government and I'm sure can identify with what I have to say. My experience in state government has led me to the conclusion that our national government has expanded to the point where it now not only greatly exceeds the restrictions imposed on it by the clear language of the Constitution, but its reach now fundamentally interferes with the ability of states to govern themselves. When I became CEO of DHHS I was dismayed to learn that most of our time, most of our time if not all of our time, was spent administering federal rules and complying with federal requirements. At that time, we received more than 50 percent of our funding from the federal government and I assume that that number has not gone down in the last few years. Every dollar of those funds came with arcane and changing compliance requirements. In the case of Medicaid, for example, we often wanted to tailor the requirements of our program to better serve citizens of Nebraska, but, if we could do that at all, we had to apply to the federal government and in a very arduous process maybe they'd say yes, and maybe they'd say no, but we never knew for sure. Some would argue that these federal funds, the state should not complain if it chose to accept the funds. That's not a realistic position. Imagine the state of Nebraska withdrawing from Medicaid, which it could have done. It's not a mandatory program, and the problems that that would cause. But the problem goes beyond spending federal funds. The result of the national government's compliance requirements not only determines how federal funds are spent, but also dictates how state revenues are spent. I know the Legislature is responsible for determining how state funds are to be spent, but I wonder if you realize to what extent the national government is

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

actually dictating to you how the funds you are responsible for are spent. I want to address the specifics of any of the potential proposals that is included in the Article V regulations. Those specifics would be for the convention to address. The fact simply is that the federal government as it currently exists is no longer a branch of limited powers. Congress, aided by an unaccountable fourth branch of government, the regulators, has pushed the federal government into areas for which it has no authority in the Constitution. This has also been facilitated by the courts who have interpreted certain clauses such as the commerce clause and the general welfare phrase to authorize Congress to regulate activities of the country that I would argue the language of the Constitution and the founders' intention do not allow. Some would dismiss the idea of the convention of states as a radical or fringe effort. It is, in fact, a main street and legitimate idea. It is provided for in Article V of the Constitution and is as legitimate a mechanism to amend the Constitution as the method used to amend the Constitution 27 times. I know I'm out of time. Just let me leave you with this. I don't see how the states will be able to reassert themselves as a co-partner with the federal government nor how the federal government will be reduced to its place as a government of limited powers. Congress will not do it. As much as individual members of Congress may profess to favor limiting government, Congress as an institution will not effectively act to do so. You have my statement there. There's a little bit more in the testimony if you care to read that, but I'd be happy to take questions or discussion. [LR6]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for coming down today. Much appreciate it. [LR6]

KERRY WINTERER: Thank you. [LR6]

SENATOR MURANTE: Welcome. [LR6]

DAVID McPHILLIPS: Thank you, Chairman. My name is David McPhillips, M-c-P-h-i-l-l-i-p-s. I used to lay awake restless about the problems in Washington, D.C., that I was powerless to effect about how our national debt, now on the brink of \$20 trillion, could cause a collapse destroying the life savings of me and my fellow Nebraskans. I toss and turn thinking about how far away we were from the limited and the enumerated powers and the checks and balances built into our constitution. We have presidents doing Congress's job with just a bone and a pen. We have Supreme Court justices changing our social fabric here in Nebraska inventing new rights and ignoring plain language in laws to enforce their political will. And we have Congress delegating authority to unelected executive agencies, which exercise all three powers of government. To paraphrase James Madison, Federalist 47, the accumulation of all powers, legislative, executive, and judicial in the same hands is the very definition of tyranny. I first tried to make a difference by calling and writing my Congressmen in D.C. but they were too far away and out of touch to impact. I felt hope after reading Mark Levin's, The Liberty Amendments,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

about an Article V convention of states. This was not a constitutional convention to eliminate the work of our founding fathers, but a way for you, our state legislators, to help craft proposed amendments to the U.S. Constitution. Amendments that can restore the intended balance of power between the states and the federal government, a balance that has been warped by court rulings and amendments from American's so-called progressive era. I felt hope after learning that Senator Ebke was working on a convention of states resolution right here in Nebraska. I talked directly with her about how to make an impact and we started by conducting the town hall in my district. This is the way that government should work at the state and local levels where the citizens can access their legislators. My newly discovered hope had went a long ways. The feds' war on poll and subsidies for wind power have threatened to fundamentally transform up to 33,000 acres of land in my county. I joined the local group initially most concerned with the desolation that the wind turbines would cause to our homes. Further research caused us to hire an attorney to address our safety concerns. We utilized a law dating back to the 1880s that allowed us to pass safety regs at the township meetings. People with the most at stake debated the issues and ultimately passed the safety regs in all six townships. This illustrates how regulation should be passed and how decisions that affect Nebraskans should be made. Without amendments from a convention of states to limit the power of the federal government, our efforts could be defeated, for example, by stricter mandates and increased subsidies. Hope inspired me to join...to help a colleague run for legislature against the incumbent. Because he was from my area and I knew him, I was willing to spend time on his campaign. This newly elected peer is now a co-sponsor of this very resolution. He is someone who the people in the district know and can easily contact. This is where government is most effective, not in D.C. And I built relationships with people all across the state in my role as district captain for Convention of States. I've talked to seniors who have seen the light go dim on the city upon the hill and to millennials who have only been able to read about an America rich in opportunities. To conclude, primary author of the constitution, James Madison, Federalist 45, the powers delegated by the proposed constitution to the federal government are few and defined. Those which are to remain with the states are numerous and indefinite. I ask you on behalf of thousands of other Convention of States' supporters right here in Nebraska to use the tools that our founders gave to you, our state legislators, to help return intended balance back to the Constitution. Thank you. [LR6]

SENATOR MURANTE: And thank you. Are there any questions? Seeing none, thank you very much for your testimony. Welcome. [LR6]

LAUREL HANSEN: Thank you. Hello, Nebraska legislative committee. For the committee, I'm Laurel Hansen, L-a-u-r-e-l H-a-n-s-e-n. Thank you for hearing my testimony today. It's a pleasure to be here. What a privilege you have to consider signing the resolution for convention of states. You have the chance to be a part of our country's story that will be told to future generations. What is decided about this resolution could very well change the direction of our nation. As you know, our country has walked down a slippery slope for several decades. We're

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

losing our power of states, we're losing our voice as a nation, we're losing our independence as Americans. We bear an ever growing burden of an oppressive and controlling government and it is my firm belief that opposing the convention of states is a sad and dangerous mistake. So I am here to encourage you to support this resolution. I know you care deeply about our country and you want to see it prosper, so let us keep in mind what my favorite author, C. S. Lewis, aptly said about times like this. We all want progress, but if you're on the wrong road, progress means doing an about-turn and walking back to the right road. In that case, the man who turns back soonest is the most progressive. Holding such a convention gives us hope for a brighter future, a hope we would not realize without making our voices heard to the federal government. We have the great opportunity to stand together as a nation and turn our country back in the direction the framers of our constitution embarked upon 230 years ago. I've heard opposition to this resolution and much of what I hear is the years of convention could become out of hand. I've also heard sound reason that this would be extremely unlikely to happen. There are wise safeguards built into this process which would prohibit anything outrageous and un-American from occurring at such a convention. This isn't an issue that one political party is behind or one race or one religious group. This is an issue that concerns Americans because it's about where we are as a nation, who we are. America has been the land of the free and the home of the brave. Will we be brave now to do what we can to guide the freedom for the future? As you consider this resolution, please picture what the future could look like if the convention is held and what the future could be if the convention never happened. Which future do you want for your children and grandchildren? If they do, it is they who will reap the consequences, whether they're good or bad, of our decisions today. Will there be a land of the free and a home of the brave for them? Thank you. [LR6]

SENATOR MURANTE: And thank you very much for your testimony. Are there any questions? Seeing none, thank you very much. Welcome. [LR6]

THOMAS SCHWENDTNER: Hello. Good afternoon, Senator Murante and other members of the committee. My name is Tom Schwendtner and I will spell my last name for the recorder, S-c-h-w-e-n-d-t-n-e-r. I am a resident of Bellevue, Nebraska, a retired Air Force officer and a life member of the NRA, and a concerned citizen of the United States. Thank you for the opportunity to share my thoughts with you on the filing of the application of LR6, a resolution to the Congress for the convention of states to propose amendments to the United States Constitution. For the benefit of the committee and in the interest of time because some of my testimony is repetitive, okay, it will remain in the written record, but I will refrain from reading it today. With regard to the second of the three agendas of areas of the application that is the proposed amendments that might limit the power and jurisdiction of the federal government, let me offer some related thoughts on our Second Amendment right to keep and bear arms which shall not be infringed. Our Second Amendment rights have come under attack by politicians, bureaucrats, and others with gun control agendas. See the District of Columbia v. Heller and McDonald v.

Chicago, before the Supreme Court in 2008 and 2010, respectively, or more recent cases, more than 80 of them so far being heard at the federal level in which Second Amendment rights are being aggressively defended with due cause. In McDonald, Justice Alito opined that the supporters of the plaintiff to include a Second Amendment rights advocacy group of the LGBT community, viewed those rights as especially important for women and members of other groups that may be especially vulnerable to violent crime. Second Amendment rights belong to all citizens regardless of their age, race, gender, faith, or sexual orientation. David Kopel of the Independence Institute observed that the Second Amendment reinforces our rule of law and the anti-tyranny structure of the U.S. Constitution by ensuring that the government cannot disarm the people. Within a convention of states then, we may hope to see amendments proposed that would serve to curtail future attacks on our Second Amendment rights through unwarranted ordinances or regulations or worse, policy focused legislation originating from the bench. Alexis de Tocqueville, the ninth century French diplomat, political scientist and author of the masterpiece Democracy in America, observed that the greatness of America lies in her ability to repair her faults. Convention of states would demonstrate to the citizens of the United States and the world that we have the willingness and the means to repair our faults through an approved constitutional process. I thank Senator, Dr. Laura Ebke, and the cosponsors of LR6 to include Senator Brewer, a member of the committee and a veteran like myself, for leading this noble effort on behalf of the citizens of Nebraska. I recommend that the committee vote this resolution on to the General File for legislative approval to formalize its submission to Congress. If approved and submitted, Nebraska will join eight other states which have already passed legislation to submit their applications to Congress. With this committee's help, approval of LR6 may be a historic moment in our state's history. Members of the committee, may Almighty God grant you wisdom and courage in your considerations. Thank you for your service to our state and our country in this effort. From the preamble to the Constitution of the state of Nebraska, we the people are grateful to Almighty God for our freedom. May Almighty God bless the people of the great state of Nebraska and the United States of America. [LR6]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions?
Senator Brewer. [LR6]

SENATOR BREWER: Thank you, Mr. Chairman. Actually I just wanted to let you know that that has been an issue that obviously from the very first time I started to research and study this as a concern with the Second Amendment and you have done the best job of explaining of why that concern isn't valid, so thank you for your service and thank you for your testimony. [LR6]

THOMAS SCHWENDTNER: Yes, sir. [LR6]

SENATOR MURANTE: Continuing on proponent testimony. [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

LARRY STORER: Thank you, ladies and gentlemen. My name is Larry Storer, S-t-o-r-e-r, from Omaha, Nebraska. Some of you may have seen me before. I like to shoot my mouth off. (Laughter) But a year ago, I testified to a Select Committee and I started off about this same way that I carry that pocket constitution and every time I read the Declaration of Independence and the Constitution, I think of people like this. That's what it's about. It's not about the guys with the money or the jobs or the businesses or the foundations that are behind them. It's about that young lady that testified, or it's about me. I'm just a working man, retired, a taxpayer, a fed-up taxpayer, and I wouldn't be here if I believed that my federal government was taking care of business. I don't believe they can take care of any business, obviously. I read a lot about it so I'm not ignorant, but sometimes I think our state government is falling into that same thing. I have had a project for two to three years that I've been involved in, in this city, and with my own senators with everybody going up to the Attorney General and the Governor. And an awful lot of people seem to think that they don't need to listen and they don't need to reply. Many e-mails, of course, don't get replied to because I don't represent your district, for example. But knocking on the door today I got some of that same attitude that, well, why are you talking to me about a year...Senator Harr's citizen. But that's not what that was designed to allow. You're supposed to represent all of us. Okay? So for a committee like yourselves to refuse to pass this out of committee and for somebody on the senate floor to filibuster it out of consideration is totally against what that constitution stands for. I don't have time to go through the Declaration, but if you read it in context of what's going on today, that's exactly what this is for. And to give Article V, gives me a chance to convince you to do your business under Article V, which is the "or". Read it. Read what "or" says, read what the founding fathers said about that. It takes it out of your hands and their federal government hands and puts it back into my hands as a citizen forming a committee. Your hands as a committee, that's maybe representing us. You take it to Congress, you send it to Congress and say, we need this. We don't want you doing it anymore because you don't get it done. So we're going to do it. Has nothing to do with the Second Amendment. Let's not meddle the facts. Keep it simple. If the states don't agree on it, it doesn't happen. Go back in time. How did it happen? How did we change from the...how did we get to the Articles of Confederation. Thirteen states had to argue it out, didn't they? So the people that are against this because you're going to close the doors and rewrite the bogey man constitution, they're calling us all liars, cheats, cabals, hucksters. Now, you have a historic opportunity here to be part of history. Omaha and Nebraska is in the center of the country. Let's lead the way. [LR6]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you for coming down today. Welcome. [LR6]

STEVE RIESE: Thank you. Good afternoon, Chairman Murante, and members of the committee. I'm Steve Riese, spelled R-i-e-s-e. I live in Plattsmouth. I'd like to say a few words about a topic that's a little different, about national security and how it relates to the convention of states. And Senator Blood, this might address one of the questions you had earlier in a little

bit different dimension. You think about what the greatest threat to our national security is, it's not ISIS, it's not the Russians and it's not the Chinese. Coalition of national security heavyweights that was led by a retired admiral, former chairman of the joint staff, Mike Mullen, said that our greatest threat to our nation's security is the country's long-term debt. And I don't think most Americans would have that at the front of their thoughts. That coalition, by the way, includes former Secretaries of States, Secretaries of the Defense, national security advisers, so it's not just myself and the good admiral saying that, but we believe that the runaway U.S. debt is a significant and even an existential threat to our nation. The relationship between our economy and our security is enormous and complex. A recent report, the Congress states that security is achieved not only by the military means but by the whole of the government economy. That report outlines a number of dramatic changes in recent decades including the prospect of an unsustainable debt burden that forces us to change our thinking about security. We no longer rely on traditional hard power that is buying things, buying the weapons, but now must rely on soft power, ability to generate an economy and project our national values around the world. Admiral Mullen's organization mentioned--that I mentioned in the opening--further says the debt burden would allow...or would slow the economic growth, reduce income levels, and harm our national security posture, constrain funding for a strong military, and the part that surprises most people, for an effective diplomacy. The individual share of the federal debt per taxpayer is about \$167,000. That's incredibly daunting, but the lost opportunity cost of servicing that debt through hundreds of billions of dollars annually is outrageous. Furthermore, the crushing future of fiscal bondage under the federal government which we place upon our children is unquestionably and morally wrong. A few numbers, very quickly, are helpful. The GDP about \$19 trillion. Our debt is about \$20 trillion, a ratio of 1.06. Hasn't been that high since right after World War II. CBO says it's going to be 145 percent, that's 1.45 of GDP by the middle of the century. Interest payments on the debt are going to rise to more than \$800 billion annually in the next ten years. We have unfunded liabilities well in excess of \$100 trillion. Some estimates put that at \$1.5 million per each of our kids and unborn grandkids--unborn in my case, hopefully soon, but unborn kids--\$1.5 million each that they owe when they're born. So when does that debt become untenable? No one can say for certain but a treasury department economist wrote, the critical point is when the government is borrowing just to pay the interest, borrowing to pay the interest, and that point CBO says is less than ten years away. So how does all this doom and gloom affect national security? The interest payments on the debt preclude our discretionary spending on defense. Crushing debt works against the U.S. achieving a healthy and growing economy. It's a necessary element of our national power, our security. And the weakening of our nation does not happen at a single point in the future, but here and now continuously by degree. I realize I'm out of time here. The rest of these comments are in the written testimony, but I do want to say that this is not a new topic. It's not something Admiral Mullen invented. Two hundred years ago, Thomas Jefferson wrote in a number of letters and I'll just get to the point here, the end of the statement. I place economy among the first and most important of our Republican virtues and public debt has the greatest of dangers to be feared. So that's not us saying it today, that was

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

Thomas Jefferson saying that. And what we do say today, again back to Admiral Mullen, we keep looking away hoping that it will get better and it gets worse. So I ask for your affirmative votes both here and on the floor. Thank you. [LR6]

SENATOR MURANTE: Thank you very much for your testimony. Senator Blood. [LR6]

SENATOR BLOOD: Thank you for testifying and I hope that you threw your name in the ring for the position that's open in your district. [LR6]

STEVE RIESE: I understand there are a few names to that ring. (Laughter) [LR6]

SENATOR BLOOD: It seems like you're very passionate. I'm going to propose to you the same question that I proposed to the Senator. Why do you think that we can't achieve constitutional change without passing four more amendments? [LR6]

STEVE RIESE: Senator, let me ask a definition there first. To pass constitutional change requires the constitutional amendment process. If...I think what you're saying and that your question earlier had to do with the balanced budget we achieved in the '90s through cooperation of Congress in the way things are supposed to work. They're not working that way. So the...in my mind the need is to get a forcing function on to the Congress to do their job. We've had to do that in a number of areas. You may be familiar with the BRAC Commission that they used to close bases. Congress wouldn't do that because they have too much of bringing home the bacon in their district, they couldn't agree to do that until they gave them an all or nothing vote that says, you either take all these bases to be closed or none of them, the BRAC Commission. Sequestration was another way. You force Congress's hand to do the job they're supposed to do and that's part of what this does. They're not doing it. We have the evidence of it's going on. I won't even say, on, decades of mismanagement, fiscal mismanagement and the debt is getting to an untenable level. [LR6]

SENATOR BLOOD: And I certainly don't disagree with any of that. And I really am trying to get this in perspective of my head. So one of the concerns, and again I said the same thing to the senator and I'm addressing it to you only because you kind of touched down on some of this is that....if we have complicated questions about a balanced budget amendment, and ultimately those complicated questions would go to the courts, and are you concerned because judges by nature, obviously, aren't schooled in this area, would you be concerned what would happen once they went to court? [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

STEVE RIESE: Senator, I'm really not concerned because the nature of the proposed amendments that I've read, and I'm not by any means schooled in this area, have been very simple, straightforward, relatively easy to interpret, they have clauses for emergency. For example, one of the proposed languages I read a couple of years ago had clauses in there that if there were national emergency on the order of war or something like that, that the absolute requirement for balanced budget would be suspended. The proposal in the resolution, as I read it, talks about fiscal restraint. It doesn't consider it has to be a balanced budget amendment, although that's certainly a possibility, but fiscal restraint. You get the house back in order to get away from a position where we're borrowing money just to borrow more money, which is...which I don't think anybody can agree is healthy. [LR6]

SENATOR BLOOD: And again, don't disagree with that. I get the balanced budget amendment in work from I think the original presentation that was presented today is kind of where I've gotten that from. So I do worry, and I know we've addressed it a little bit and I guess I was never concerned about the Second Amendment when I read through this information, but I still do worry about the dynamics of the convention because, you know, it's really easy to predict the Liberals are going to move as a unified flock much like they do in Congress, and then look to pick maybe some weak-minded Republicans off. Are Nebraska legislators going to find like-minded conservatives from other states because what we're talking about right now is something that we seem to be in agreement with, but whose to say that something in print in another state means verbally to them what it means to us? So I still see things that I'm concerned about and I'm not hearing the answers yet, so I may ask the same questions over and over again and it's not because I'm not listening. It's because, I guess, I'm looking for a light bulb. [LR6]

STEVE RIESE: Right. Two parts to that, I believe, Senator. One is that I watched a little bit of the practice convention that Senator Ebke mentioned earlier, the simulation. And the discussion was very deliberative, every word was challenged. They have the words on the screen and senators from around the room would challenge the words and they got through it in a very formal, deliberative process, and it was not anything that would rush to judgment, anything like that. That gives me a little bit of confidence that the outcome product of this would be something then that 38 states could look at...at least 38 states could look at and say, yes, we can sign up to that in a way that is meaningful for the long term. The other answer to the question is to put it in the context of a decision process of what are we comparing the convention of states' outcomes against, and that is, basically the steady state, the status quo, the do nothing option, which is as we've described, a losing proposition. So if we don't do something, then we know we have a failed outcome. We know we're headed to a situation...and I don't use the term existential threat lightly. That is a...in the business I'm in, that is a very serious term, but the economists say that we're headed in that direction. And the effect on our national security, which is the point I'm trying to make here, is tied to the economy. And so the economy has to be strong and robust to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

project that national security and the alternative of not doing anything, just isn't...it's unacceptable. [LR6]

SENATOR MURANTE: Okay. Thank you very much. Senator Brewer. [LR6]

SENATOR BREWER: Thank you, Chairman. Thank you for your testimony. Your testimony was kind of a wake-up call because you're right. It really should be about the future of the country and the debt is probably that single biggest issue because we can't field an army, we can't do the things we have to do if we have no resources. The collapse of the Soviet Union should be that wake-up call that we kind of think about. But along those lines, and maybe back to what Senator Blood is talking about, too. In 2007, I was working at Offutt aboard the 4B. That's the 747, looks like Air Force One. Its primary purpose is survivability of our country. From then which at that time our national debt was in that seven trillion range and now it's in the twenty range and from that time to now, we have half of the ground combat forces that we used to have, but keep in mind how far we've gone in debt. And we have half of our carrier battle groups parked in Norfolk because we can't take them to sea. So point well-taken. Thank you. Thank you for your testimony, sir. [LR6]

STEVE RIESE: Yes, sir. [LR6]

SENATOR MURANTE: Thank you very much. Thank you very much for your testimony. Much appreciated. [LR6]

STEVE RIESE: Thank you. [LR6]

SENATOR MURANTE: How many more proponents do we have to speak? Okay. We have a few seats up front. We're moving in a pretty orderly fashion, but if you want to come up front, if you intend to testify, there's a few seats open just to expedite the process a little better. Welcome. [LR6]

S. WAYNE SMITH: (Exhibit 5) Good afternoon, Chairman and committee. My name is S. Wayne Smith, that's S., Wayne, W-a-y-n-e, Smith, S-m-i-t-h. Some constitutional scholars think the nation has entered an age of post-constitutional soft tyranny. The government is too large and is doing many things not authorized by the constitution. Article I gives the federal government about 21 powers. The Tenth Amendment says: The powers not delegated to the United States, nor prohibited by it to the states, are reserved to the states or to the people. The states are the parties to the constitutional contract that created the central government. There was no central government until it was created by the states. However, the states act as if they were created by

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

the federal government. Almost all federal law is not the product of our elected officials, rather, of the unelected heads of federal administrative agencies. These agencies operate as a fourth branch of government. Thousands of rules and regulations are issued by unelected bureaucrats bypassing Congress. These agencies often possess legislative, executive, and judicial powers many of which are unconstitutional. The reported national debt, again reported, is around \$20 trillion. Well that is one-tenth the actual liability of over \$200 trillion, including the unfunded liabilities. Congress doesn't have the will to do what is necessary to reduce spending. As interest rates normalize and the aging population puts more pressure on entitlements, it will become increasingly difficult to deal with the spending problem. The convention of the states will be an opportunity to put a lid on spending and taxes. We need term limits for members of Congress and federal officials. We don't need career politicians and bureaucrats who continue to do things to entrench themselves. Congress will never voluntarily give up power. Mitch McConnell has already indicated that term limits will not be on the agenda in the Senate. The only way to reduce federal power, establish term limits, and impose fiscal restraints and recover some of the powers taken over by the federal government is for the states to hold an Article V convention of the states. Thank you very much. [LR6]

SENATOR MURANTE: And thank you very much. Are there any questions? Seeing none, thank you very much for your testimony. Much appreciated. [LR6]

BRUCE HANSON: (Exhibit 6) I have written testimony from previous that I'd like to just enter into the record. [LR6]

SENATOR MURANTE: Sounds great. [LR6]

BRUCE HANSON: I'll provide that other testimony later. Chairman Murante and members of the Government, Military and Veterans Affairs Committee, thank you for this opportunity to speak on behalf of LR6, the convention of states. My name is Bruce Hanson, B-r-u-c-e H-a-n-s-o-n. I am a retired geologist and live in Stanton, Nebraska. I believe that LR6 will open the door to several constitutional amendment possibilities which could in turn lead to incalculable benefits to those who will come after us. Numerous ideas are being floated for amendments to improve our federal government by making it less vulnerable to the ill effects of universally imperfect human nature. Excellent discussions of some of these ideas can be found in the books The Liberty Amendments by Mark R. Levin and Broken But Unbowed: The Fight to Fix a Broken America by Governor Bruce (sic: Greg) Abbott. And I even have a few such ideas myself. But LR6 has the same well-defined agenda as all corresponding legislation introduced in other states and not all the amendment ideas are within the scope of LR6, so such ideas will have to wait for a later convention. So I will say a few words about limiting terms of federal office. The U.S. Senate and the U.S. House of Representatives passed bad legislation and failed to pass

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

good legislation for a great variety of reasons, many of them interrelated but it must be acknowledged that federal overreach beyond constitutional limits is an important factor. The sheer volume of legislation which must be debated and voted pushes bill writers toward bundling numerous totally unrelated bits of legislation together for more expeditious passage. In addition, they can usually be persuaded to include in a bundle the must-haves of a few legislators who would not otherwise vote for the bundle. Another possibility is that the bill writer being opposed to most of what is in a bundle will make sure to include some parts known to be can't have for certain legislators. Thus, legislation unable to attract majority support on its own merits can be passed while legislation enjoying majority support can fail to be passed. Further complicating the bundling picture is the role of campaign funding and determining who votes for what. The legislative leadership exerts a disproportional influence on legislation through the role as gatekeepers for major party campaign funding. Meanwhile, individual legislators who are able to do so pass smaller campaign-related favors to allies. Feeding campaign-related money into this system at various points are the special interests. This further increases the likelihood of popular legislation not passing or unpopular legislation passing. It is logical that imposing term limits on U.S. Senators and U.S. Representatives would increase the role...decrease the role of campaign funding in determining individual legislator's votes. For example, a two term limit would result at any point in time of a body including 50 percent, excluding prospect of retirees, of legislators who can't run for their seats again and who will, therefore, be less susceptible to the persuasions of campaign funders and their colleagues. Meanwhile, the voter will be much more likely to be offered a choice between two or more incumbents and will thus be encouraged to research the candidates instead of mechanically voting for our legislators. Applying term limits to appointed federal officials, particularly the Supreme Court, would, in my view, increase fairness and responsiveness without sacrificing stability or institutional memory. Fairness would be increased because the court's turnover would become much more regular much less the result of demographic accident. Also, the ages calculation entering into nominations by the President would be largely removed. Responsiveness would be increased because at any point in time the court would be populated by a mix of appointees of the last several administrations. Stability could be preserved by setting the court's term limits at twice or more the duration of a Presidential term limit. The institutional memory will, in my view, be increased because more experienced jurors would have a greater chance of being nominated for court vacancies. In summation, term limits for federal officials are one of the important beneficial constitutional amendment ideas that could be proposed by the convention of states. Please support LR6. [LR6]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions?
Senator Blood. [LR6]

SENATOR BLOOD: Thank you for testifying. As I listen to people testifying, sometimes things come to mind. So I just kind of have a general question for you and I'd like your opinion on it. So I agree we need term limits at the federal level. There are people that have made a career out

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

of being politicians there and I think it's time for them to go. But I look at the term limits that the voters brought forward in Nebraska and I don't disagree that we need term limits. But what I'm seeing is that as opposed to the senators being the voice of the people and having influence on policy, there seems to be an increase in lobbyists and special interest groups having more influence over policy. So if indeed they were to do term limits at the federal level, what do you think or how do you think we could prevent that from happening at the federal level when I see it happening in our own backyard? And I know it's a very big, long question. It just came to mind while you were talking. [LR6]

BRUCE HANSON: You're kind of getting into political philosophy and I'm not very...not an expert in that area. [LR6]

SENATOR BLOOD: Well, sure you are. You're a voter. [LR6]

BRUCE HANSON: But if there are so many dollars in search of votes and half of the candidates are out of the race, they can't run again, then you're going to have more dollars going after the same number or after half as many votes. So it could be that...and the buy offs might have increased as a result of term limits. I don't know. But in general, I think there are a variety of abuses that grow out of familiarity and we could make a deep cut into them by having term limits for federal (inaudible). That's my opinion. [LR6]

SENATOR BLOOD: Thank you. [LR6]

SENATOR MURANTE: Thank you. Any final questions? Seeing none, thank you very much for your testimony. [LR6]

BRUCE HANSON: Thank you. [LR6]

SCOTT CHARETTE: Chairman Murante, Senators. [LR6]

SENATOR MURANTE: Welcome. [LR6]

SCOTT CHARETTE: Thank you. Name is Scott, last name is Charette, C-h-a-r-e-t-t-e. I come to Nebraska by way of California and Nevada. I worked for the Jet Propulsion Laboratory in California and NASA. And I sold it all and came out here and opened up an organic farm, so I'm a small business owner. So I want to talk to you about convention of states and also to add maybe a liberal spin. And I know that's a bad word here...appears to be a bad word. I am liberal in Nebraska; I am conservative in California. As a small business owner, the taxes...and there's been

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

testimony already presented that taxes are killing people. And, Senator Blood, you did bring up something that struck me and that I've thought about often. I don't want to return back to the days of Love Canal. I don't think anybody in this committee does back to wanton polluting and to roll back federal regulation to where this is allowed to happen here in the states again. I don't think anybody is to that point. I think we have to take a commonsense approach to it and...and what sold me on convention of states was the fact that we as the states are picking out the subjects that we want to talk about. As long as we stay in that framework I think that we'll be fine. As a father, I look at the amount of debt that we keep piling on and this debt didn't just happen from one administration. And again, Senator Blood, that was something that you brought up. In 1993, we did have a balanced budget. You're absolutely right. But I think that's the exception that proves the rule because if you look back, since the New Deal we've only passed tax cuts. We haven't passed tax increases except for 1993 and that's when we had the balanced budget amendment. So I think that was the exception that proves the rule. If we look at a track record, we would call that an anomaly, not the normal. So I think that just if we were looking at it as a trend line even, there's no way we're going to go back. We had one instance of where we had a budget surplus since the New Deal--one instance. I don't think we're going to go back there. I think it was an anomaly. I honestly do and I don't think it's going to change. So as a father, as a businessman, as a new Nebraskan, I ask the committee to pass LR6. That's all I have. [LR6]

SENATOR MURANTE: Thank you very much for your testimony. Any questions? Seeing none, thank you very much for your testimony again. Continuing on. Welcome. [LR6]

CAMERON MURPHY: Howdy. So my name is Cameron Murphy, C-a-m-e-r-o-n M-u-r-p-h-y. And my Senator is right here, Senator Hilgers. So, nice to see you. And when I...this is a really important thing to pass...and one thing people are seeming to get hung up on is this idea that whatever comes out of there is automatically going to become law, become part of the constitution. You know, if it was up to me, I would have a convention of states every year. Why not, right, because it still has to be ratified? And ultimately what we're talking about here is a return to federalism. And a little over eight years ago, I was in school down in Texas. And one of the folks, they were there from Canada. And we were watching the inauguration of President Obama. And she had a remarkable comment. And she said, you Americans are amazing; you crown your royalty every four years. And I'm like, I took exception to that. I'm like this is America. We don't have royalty. You know, of, by, and for the people. She's like, no, you do. And it was interesting as the more I've thought about it and as I've grown and matured, you realize that we do have an aristocracy and we do elect the new royalty every four years. It's quite amazing actually. And then over time, the power has removed farther and farther away from the people and more into this ruling class and centralized in Washington, D.C. And then we get what we call ivory tower syndrome. And some people would say that the state house has ivory tower syndrome, but I would say well at least it's a lot shorter tower. (Laugh) And you can see this all the time. So people have talked about overregulation. And I was working over at Novartis, now

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

GSK. And one of the old-timers there he told me, he said, you know, we needed more regulation a long time ago because we were doing things that we probably shouldn't have been doing. But, you know, after we put the belt on, we decided we needed some suspenders. But now we've got the staple gun, the tape, you know, nails, screws, you name it, to hold your pants up. And sometimes it just becomes overkill. So...and this is why we need to move on this and pass it and ideally we should have one every year so we can...as new ideas come forth, right, it would really help to bring power back to the people, back to the states, states' rights reinstitute federalism, and it would just make...I think it would make the country a lot better place. And we talk about the long term, you know, for me and my sons. We know that Social Security, Medicare, that stuff, I know it's not going to be there for me. It's a broken promise. I already know that--take it to the bank, because you can't afford it. It's just reality. You know, it was a faulty system built on a faulty premises. And so with that, since I have the red light on, I'll go ahead and...if you guys have any questions for me I'll go ahead and take them, but that's about it. [LR6]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you for coming today. Much appreciated. Additional proponent testimony to LR6. Senator Hilgers. (Laughter) Seeing no additional proponents, we will proceed to opponent testimony. Ms. McLarty, welcome back to your Committee on Government, Military and Veterans Affairs. [LR6]

BRI McLARTY HUPPERT: (Exhibits 7-9) As always, thrilled to be here. Good afternoon, members of the committee. My name is Bri McLarty Huppert; that's spelled B-r-i M-c-L-a-r-t-y H-u-p-p-e-r-t. I'm here in my official capacity as the director of voting rights with Nebraskans for Civic Reform. We are a nonpartisan, nonprofit advocacy organization that works to create a more modern and robust democracy. Specifically we're here to testify in opposition to LR6 on two points, the first that's kind of already been touched on is this concept of a runaway convention. What we'd like to point out specifically, I'm passing out a document that's from the Center on Budget and Policy Priorities. And starting on page 6 you'll see a really detailed explanation from some constitutional scholars about the ability to limit the scope and their interpretation that it cannot be limited. And that's based on their information and the documents and citations that they provide is one of the reasons we're testifying in opposition, believing that the scope cannot be limited. Additionally, looking at what happened in the simulation of the convention of states in Williamsburg, they adopted what is called the Mason's Manual as what would be their guiding legislative rules for debate as well as for how the business is conducted within this convention of states. Part of that manual includes the motion to suspend the rules. And as we've seen here in the Legislature, motion to suspend the rules would give them the opportunity to go outside of that scope, and limited scope in which it was called. Once the convention of states is called, they are their own governing body. This provides them a mechanism for going outside the limited scope that's included in LR6. Now I'm also including a letter from Chief Justice Warren Burger and his constitutional interpretation. Being the Chief

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

Justice, I think he says it a little better than I myself, a lowly law school grad. Beyond the actual limiting scope that we have some issues with, we have some specific issues with the language limiting federal jurisdiction. In our three points, the first one broadly given that we litigate on voting rights, we have a state-centered election systems where the states are actually the ones that conduct elections, therefore, any violation of an individual's right would be by the state or political subdivision of the state. We find federal jurisdiction to be very important when it comes to litigating those rights of the individual voter. For example, in 2012 when there was issues within Omaha, Department of Justice was able to send federal observers to Nebraska to be able to remedy the situation as well as observe subsequent elections. We have two additional points. The second would be some of the proposals that have been brought up by Governor Greg Abbott, a proponent of the convention of states, as well as those actually put out by the simulation in Williamsburg. The first is the ability to overrule and actually take back regulations that have been passed by federal agencies. For us, that would be like the Election Assistance Commission which determines things like the federal voter registration form as well as what technology is considered accessible for individuals with disabilities. The second would be the ability to repeal federal legislation. Governor Abbott has a two-thirds. The simulation actually had a lower one, making it three-fifths. We have specific issues with this given the fact that three major pieces of legislation--the Voting Rights Act of 1965, the National Voter Registration Act of 1993, and the Help America Vote Act of 2003--give specific protections for individuals. And we'd just like to note before closing that in 1965, that was not a very popular piece of legislation, the Voting Rights Act. And it would have only taken 30 states to actually repeal it. So with that, I'm out of time but I'm happy to take any questions or further expand on some of our opposition. [LR6]

SENATOR MURANTE: Senator Hilgers. [LR6]

SENATOR HILGERS: Thank you for your testimony this afternoon. [LR6]

BRI McLARTY HUPPERT: Yes. [LR6]

SENATOR HILGERS: Appreciate you being down here. I understand the substantive concerns you have. But on the procedure, you probably...you may have been here when we had the back and forth on the ratification process. [LR6]

BRI McLARTY HUPPERT: Yes. [LR6]

SENATOR HILGERS: It seems to me that this is...whatever amendment comes out...and I understand you're saying the rules can be suspended and that is possible I would imagine. But

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

whatever comes out does ultimately need to be ratified, it seems to me, by 38 states. And so what is the response to that ratification point as a break on a runaway convention? [LR6]

BRI McLARTY HUPPERT: Okay. So I'm going to put it into context. For example, let's say they were to suspend the rules and break and do an amendment that allowed for voter ID. That would go actually and contradict what is the Twenty-fourth Amendment which is the prohibition of a poll tax. Our position is that requiring an ID, requiring someone to pay \$26.50 here in Nebraska would constitute a poll tax. We're now looking at stripping past amendments and protections for individual voters. Yes, it would require ratification, but we have some statistics in there that say the top ten states with population are about 51 percent of individuals in our nation. For...I think the three-fifths is 30 states. That's only about 23 percent of our population. The higher one requiring 33-34 states is only about 28 percent. So you're talking about a small minority of the population when it's a state-by-state ratification. While unlikely, not something I'm willing to gamble when it comes to voting rights. [LR6]

SENATOR HILGERS: So just to be clear, I appreciate that very much. [LR6]

BRI McLARTY HUPPERT: Yes. [LR6]

SENATOR HILGERS: So just you and I are on the same page, that there's...because that was one concern before I came to the hearing was, you know, what this...the notion that 38 states had to ratify it might, you might be able to undo that requirement somehow. And I'm not convinced that you can. So what I'm hearing from you, tell me if...that you agree, is that you agree with me that there's...that the 38 states would still be ratified. Your point is just that it may be not representative of the population. Is that... [LR6]

BRI McLARTY HUPPERT: I'll actually go back and point to I think it's on page 8 or the last page, where they specifically cite to some historical reference with Article V, there was...with the Articles of Confederation there was a similar Article V, kind of being able to call a convention. And I think was mentioned earlier with Rhode Island, there's a little bit more historical information there that I cannot remember for the life of me right now that talks a little bit about how they changed the ratification rules. [LR6]

SENATOR HILGERS: And that's the Rhode Island example. [LR6]

BRI McLARTY HUPPERT: Yeah, exactly. And I think that's on page 8 of the Center on Budget and Policy Priorities document. [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

SENATOR HILGERS: Okay. Thank you. [LR6]

SENATOR MURANTE: So I want to follow up to make sure that I'm clear as well. Are you suggesting that if there was an Article V convention, that the Article V convention could use Mason's rules to suspend the constitution as it is currently constructed? [LR6]

BRI McLARTY HUPPERT: That is based on the proposal of the proposed rules that the simulation did. So they listed I think about 14 specific rules and then had that catch all where anything not governed by these 14 rules would fall under the Mason's Manual, which includes a motion to suspend the rules very similar to the Robert's Rules of Order. [LR6]

SENATOR MURANTE: That didn't really address. So is there anything that, in your view, that the Article V convention can do to lower the number of states necessary to ratify a constitutional amendment without actually having that amendment ratified by 38 states? [LR6]

BRI McLARTY HUPPERT: Hold on, I'm trying to think. Okay, yes, they could lower what would be required to ratify and I believe that they would be able to change the 38. I can ask a constitutional scholar and get back to you on that. [LR6]

SENATOR MURANTE: Well, then what you're...if what you're saying is true, then an Article V convention does not merely have the authority to propose constitutional amendments to the states for ratification. It has the authority in and of itself to amend the constitution. Is that what you're suggesting? [LR6]

BRI McLARTY HUPPERT: I would suggest that it has the power to determine what would be considered ratification from anything that came out of the convention, that convention of states. I will make sure. I'm going to check with our constitutional scholars. [LR6]

SENATOR MURANTE: That would seem to me to be explicitly in violation of the constitution. [LR6]

BRI McLARTY HUPPERT: Yep. We would say that as well, which is probably why we're opposed to it. [LR6]

SENATOR MURANTE: Okay. Senator Blood. [LR6]

SENATOR BLOOD: Okay, now that I'm more confused. [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

BRI McLARTY HUPPERT: You're welcome. [LR6]

SENATOR BLOOD: Is it Bri? [LR6]

BRI McLARTY HUPPERT: Yes. [LR6]

SENATOR BLOOD: So the four questions that I have based on what I just heard and I guess I need either a yes or a no and hopefully it can be answered in that fashion. [LR6]

BRI McLARTY HUPPERT: I'm a lawyer, so good luck. [LR6]

SENATOR BLOOD: A convention can write its own rules. [LR6]

BRI McLARTY HUPPERT: Yes. [LR6]

SENATOR BLOOD: Set its own agenda. [LR6]

BRI McLARTY HUPPERT: Yes. [LR6]

SENATOR BLOOD: Can choose a new ratification process. [LR6]

BRI McLARTY HUPPERT: Yes. [LR6]

SENATOR BLOOD: And no other body has clear authority over the convention. [LR6]

BRI McLARTY HUPPERT: Yes. [LR6]

SENATOR BLOOD: All right. [LR6]

BRI McLARTY HUPPERT: From the constitutional scholars I've talked with. [LR6]

SENATOR BLOOD: Thank you. [LR6]

BRI McLARTY HUPPERT: Of course. [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

SENATOR MURANTE: We're going to check into whether the Article V convention can actually change the ratification... [LR6]

BRI McLARTY HUPPERT: I will put asterisk, follow up with more information for you. [LR6]

SENATOR MURANTE: Okay, thank you. Senator Brewer. [LR6]

SENATOR BREWER: Okay. You've probably put a new meaning to fast-talking lawyer here. (Laughter) So let's go (inaudible). [LR6]

BRI McLARTY HUPPERT: To be fair, I was fast talking before I was a lawyer. [LR6]

SENATOR MURANTE: I can confirm that. [LR6]

SENATOR BREWER: Okay. When we talk the 38, that would mean 76 bodies, governing bodies across the country and that, just using ranger math which isn't great, but that's like 2,800 people. So I'm still a little confused when you're using it some of these numbers that go clear down to 23 percent on population. But I guess we'll have to sort that out later. Now in the beginning you talked about the legal experts that had... [LR6]

BRI McLARTY HUPPERT: Starting on page 6 of the Center on Budget and Policy Priorities document. [LR6]

SENATOR BREWER: Does it list who they are here? [LR6]

BRI McLARTY HUPPERT: Yes, there's actually a couple quotes including ones from the Chief Justice Warren Burger. I think there's a constitutional scholar from Harvard Law as well as an additional Supreme Court justice. I think they have specific quotes on there as well. [LR6]

SENATOR BREWER: All right. Okay. Well, we will continue to read through that. I guess that's all I got. [LR6]

SENATOR MURANTE: Thank you, Senator Brewer. Senator Wayne then Senator Blood. [LR6]

SENATOR WAYNE: So if you heard the line of questioning, obviously I have concerns about some voting rights. [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

BRI McLARTY HUPPERT: Yes, of course. [LR6]

SENATOR WAYNE: But if this passes and the states...the threshold to require a convention, at that point, do you think Nebraska should pass this in order to be a part of the conversation, or not even be a part of the conversation? [LR6]

BRI McLARTY HUPPERT: I think regardless of whether or not Nebraska passes it, as a state, we would be part of the conversation. I don't necessarily think that conversation should happen in an Article V convention given the unpredictability of it. I think we have a different avenue through the general amendment process that would ensure a limited scope, and that would be where our Congressional representatives would have a say in it. [LR6]

SENATOR WAYNE: That didn't quite answer my question. So if a convention was called, would you want Nebraska to participate in that convention or not? [LR6]

BRI McLARTY HUPPERT: Yes, I would want Nebraska to participate. [LR6]

SENATOR WAYNE: So we would have to pass this resolution if all the other states did it or the threshold was met, we would have to pass a similar one just to make sure we're a part of the conversation. [LR6]

BRI McLARTY HUPPERT: I don't believe that's true. If you were to want to bind the commissioners that were sent, then I believe you would have to pass that. But I don't believe you have to pass this resolution to be invited. I think being a state you're invited. [LR6]

SENATOR WAYNE: True. [LR6]

BRI McLARTY HUPPERT: The state legislature would have to make decisions about who gets to go, so that's kind of up to the state to figure out how that would even work. [LR6]

SENATOR WAYNE: So besides the voter issue which I'm still trying to get there with you on...well, I guess this goes back to the general question and the numbers you were throwing around. Ultimately how this works and my understanding of reading it, and I consider myself a constitutional scholar for those who don't know, (laughter) but 26 states would need to reach an agreement. And then would it go back to the 38 states for ratification, correct? [LR6]

BRI McLARTY HUPPERT: Where did you get the 26 from? [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

SENATOR WAYNE: Well, because... [LR6]

BRI McLARTY HUPPERT: So you're saying it would be a majority is what would be required to send it out. [LR6]

SENATOR WAYNE: Right. [LR6]

BRI McLARTY HUPPERT: That would be up to the convention to decide if they wanted a majority or a higher threshold to be able to present it to the rest of the states. [LR6]

SENATOR WAYNE: But either way, it would still have to go back to the states for ratification. [LR6]

BRI McLARTY HUPPERT: Correct. [LR6]

SENATOR WAYNE: So with that threshold being so high, and again, I got to look at this from a historical context, right, and I said this earlier, my historical grandfathers weren't at this convention so I have obviously some concerns about it, not this convention, but similar conventions. So I have concerns about the minority. But my bigger concern is if this happens, I want to make sure we're at the table. So would you be willing to make sure that...back to my original question, would you be willing to make sure there we're at the table if this were to move forward? [LR6]

BRI McLARTY HUPPERT: I would say if it were to get to the 34 necessary to be able to call this then, yes, we would be working as NCR to make sure that fair representation would be sent to the convention, yes. [LR6]

SENATOR WAYNE: Thank you. [LR6]

SENATOR MURANTE: Senator Blood. [LR6]

SENATOR BLOOD: This wasn't my initial question but I've got to ask, how would you ensure that? I mean working towards doesn't mean it's definitive. [LR6]

BRI McLARTY HUPPERT: And I would say that's probably at the heart of our opposition is that we can't ensure that. And so I mean if this...if the train were to leave the tracks, then yes, we would try as hard as possible to ensure that there is fairness in who's sent and that we don't kick

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

out anything that has some long-lasting and ramifications, like Senator Murante said, consequences that are unforeseen 50-60 years down the road. But the best way to ensure that doesn't happen is to not pass this. [LR6]

SENATOR BLOOD: It took the Supreme Court to get the poll tax off the table. I mean, we're hearing these things. I'm concerned. But that's a whole other question. How do you feel about the sunset clause that Oklahoma implemented? [LR6]

BRI McLARTY HUPPERT: I would say, in not watering down our opposition, a sunset clause would make a little more sense just because how long things have been lingering out. I mean we're talking right about a specific political climate. It could change in five or ten years. Some of these could already be addressed. Then all of a sudden you have a trigger calling an Article V convention to address something as broad as limiting federal jurisdiction. Right now we may be talking about overburdensome tax regulations. But in five years those could have been addressed and now we're talking about something completely different. So yeah, I think a sunset would be the smartest course of action if the committee were to go forward with this. We, of course, would ask you not to and to just not advance it to the floor. [LR6]

SENATOR MURANTE: Thank you, Senator Blood. Senator Wayne. [LR6]

SENATOR WAYNE: So the fear is the fear of the unknown, is that a fair statement to say? [LR6]

BRI McLARTY HUPPERT: Yes. [LR6]

SENATOR WAYNE: I guess I don't know what I'm asking. Has there been a president or something in recent...the last three decades, the last 30 years, that has carried 38 states? [LR6]

BRI McLARTY HUPPERT: I'd have to look into that but I think the vagueness and how broad sweeping this is and the unpredictability that we don't have answers about how...like Nebraska gets to decide who goes from our state, but we don't know how Iowa is going to decide who goes from that state. We can't ensure fairness the way that we have right now in Congress where it's a nice balance of individual states as well as by population. One state, one vote is disconcerting to begin with. [LR6]

SENATOR WAYNE: Right. [LR6]

BRI McLARTY HUPPERT: So I think the unpredictability is the problem. [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

SENATOR WAYNE: The unpredictability, but we can predict that, at least to my knowledge and I'm...I call myself pretty politically smart. I don't recall something passing in 38 states that I can recall like that. So there is a safeguard of the 38 states. So we know for sure that hasn't happened. But we're still...I'm with you with the unknown. It more of how the convention and the procedures of the convention, not necessarily the second step of the ratification process. [LR6]

BRI McLARTY HUPPERT: Yes. And that is one safeguard, true. But we can't always just rely on a safeguard. Another safeguard would be to go through the process that we already have, which is a constitutional amendment that we definitely know can be limited in scope, that you have elected representatives who will vote on it. And so we have that equal representation of both state and population. So there is an unpredictable path to get some of these things done. And for us at NCR, we're not willing to jeopardize voting rights and some of the protections that are enshrined in the constitution as well as the case law from it on hoping that all the safeguards happen. [LR6]

SENATOR WAYNE: And I'm playing devil's advocate here because I think we're in agreement here... [LR6]

BRI McLARTY HUPPERT: Oh, of course. [LR6]

SENATOR WAYNE: ...more for the record. But you also agree that there is an ability or we should be working on an ability as a backup plan without lessening your position to make sure safeguards and procedures are in place that if this were to happen, we can hold who we send there accountable to stay within the framework that we design? [LR6]

BRI McLARTY HUPPERT: Yes. [LR6]

SENATOR WAYNE: Thank you. [LR6]

SENATOR MURANTE: Senator Brewer. [LR6]

SENATOR BREWER: Thank you, Chairman. All right. So let's backtrack a bit here. Before I pointed out that the issue is the people are upset because we were unable to have fiscal restraints, that's why we're pushing the 20-plus in the hole. We are concerned because of over-reaching powers and we're concerned because we have no limits on the amount of terms, number of terms that someone can be in office. And the option besides using the legislators that have done the very things that we're talking about is to go through the other option, which again was 38. But

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

you don't support that. What you support is going back to the old system that got us to where we are now. [LR6]

BRI McLARTY HUPPERT: I'm not speaking to the fiscal restraint nor the term limits. I'm talking specifically about the broad language of the federal jurisdiction and the possible limiting that power and saying that we do need that power to protect voting rights. And some of the proposals that have been brought forward by the convention of states would put that in jeopardy and that's why we're in opposition. [LR6]

SENATOR BREWER: All right. That's the only question I have. Thank you, Senator. [LR6]

SENATOR MURANTE: Thank you. Any final questions? Seeing none, thank you very much for your testimony. [LR6]

BRI McLARTY HUPPERT: Thank you. [LR6]

SENATOR MURANTE: Welcome. [LR6]

RENEE FRY: (Exhibit 10) Thank you. Good afternoon, Chairman Murante and members of the Government Committee. My name is Renee Fry, R-e-n-e-e F-r-y, and I'm the executive director of OpenSky Policy Institute. I'm testifying in opposition to LR6. The need to use great care with taxpayer dollars is critical at all levels of government. However, LR6's call for fiscal restraint could cause incredible damage to our state and national well-being. Many proponents of a convention of the states want a federal balanced budget amendment requiring the federal government to spend no more than it receives in a given year. 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 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 the recessions would be deeper and longer under a constitutional balanced budget amendment. Had one been in place for FY12, 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. An alternative method of fiscal restraint that was adopted by the convention of the states simulation

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

was a supermajority requirement to increase the national debt. This would be equally bad because it would require a balance or a surplus in any given year to avoid increasing the debt by the end of that year. But it actually could end up being worse under a variety of circumstances because there are timing problems. For example, the Treasury will borrow in most months to pay daily expenses of federal programs because revenues come in irregularly. This provision could make that practice unconstitutional even if the budget was balanced over the course of a year. Furthermore, the delegates to the convention passed an amendment that would have eliminated the federal income tax, which makes up 47 percent of federal revenues, and would have imposed a supermajority requirement to raise federal taxes. Such an outcome would require us to cut our federal budget in half, which would have a destructive impact on Nebraska's economy. Federal dollars accounted for nearly \$3 billion and 31 percent of the state budget in FY16. Of that \$3 billion, K-12 and higher education funding alone accounted for about a third. Without federal funding for education, Nebraska taxpayers would be responsible for an additional \$613 per adult if we were to make up the lost revenue. Such a loss of federal funding would likely exacerbate current frustrations with local property taxes. A significant amount of federal dollars came to Nebraska through defense-related spending as well. In FY15, the Department of Defense spent \$1.5 billion in Nebraska. Over \$783 million of those dollars directly pay for 16,776 personnel, with another \$700 million going to jobs in the private sector through contracts with the Department of Defense. Furthermore, individual Nebraskans receive billions in direct federal aid. In 2015, Nebraska farmers received \$779 million in federal payments, and Nebraskans received \$8.1 billion in Medicare and Social Security funds. Just imagine the impact on your constituents of cutting all of these programs in half. I realize that I'm about out of time...I'm out of time. I would just mention that we appreciate the concerns about the federal debt and improper spending. This is why we support efforts over and over again to improve the transparency of tax incentives and other tax expenditures at the state and local level, so that the spending of taxpayer dollars are known and can be evaluated on their merit. With that, I would be happy to answer any questions. Thank you. [LR6]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions?
Senator Brewer. [LR6]

SENATOR BREWER: All right, let's backtrack a little bit here. [LR6]

RENEE FRY: Yes. [LR6]

SENATOR BREWER: We're \$20 trillion in the hole. What you're saying is that we shouldn't balance our budget because it would too negatively impact everything in general. [LR6]

RENEE FRY: That's not what I said. [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

SENATOR BREWER: Okay. Clear it up. [LR6]

RENEE FRY: So the ability for the federal government to be able to take on debt during a recession is really critical. So the states do not have the same power. And so when we go into a recessionary period, if you look at the last recession for example, the federal government was able to take on debt which really helped the economy and keeping job losses down. The state received \$550 million in federal stimulus which also allowed us to help keep job losses down. Had we had to make \$550 million in additional cuts at the state level we would have had to significantly cut teachers, other state employee jobs, university, and so on and so forth. And so it's really a backstop to be able to take on debt during recessionary periods. And that really helps keep the economy afloat. [LR6]

SENATOR BREWER: How long have we been in debt...I mean how long have we been in a recession? [LR6]

RENEE FRY: How long have we been in a recession? [LR6]

SENATOR BREWER: Right. [LR6]

RENEE FRY: Well, we've been out of a recession for a few years. [LR6]

SENATOR BREWER: Okay, so we're spending the money even though we're not in a recession. We're still going in the hole every year, is that a fair statement? [LR6]

RENEE FRY: Sure. [LR6]

SENATOR BREWER: So at what point is too much? We're at \$20 (trillion); it'll be \$40 (trillion), \$60 (trillion), \$80 (trillion). The point being we can keep printing money and we can keep spending money. But is there a point you see that as being a bad thing to where it's a point of no return? [LR6]

RENEE FRY: So debt isn't inherently bad. Currently our federal interest payments are about 1.4 percent of GDP which is near a 50 year low. And the CBO shows that interest rates will rise to about 3 percent of GDP in a decade which is still about the average that it was between 1985 to 1995. I mean I would say that, for example, if families were not able to take on debt we would not be allowed to borrow for college, health emergencies, or buy a home. And a balanced budget amendment would make it very difficult to pay out Social Security, for example. Social Security is deliberately building up assets to pay for the retirement of the baby boomers. And under a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

balanced budget amendment or a mechanism that would limit the debt, the trust fund would never be able to use its saved balances to fund benefits because they were not raised in the current year. So I'm not suggesting that debt is a good thing. What I'm saying is debt is not inherently bad and having a balanced budget amendment with strict timing requirements could cause a lot of problems for our economy which is why a thousand economists have come out against balanced budget amendment. [LR6]

SENATOR BREWER: Well, the thousand economists need to knock on more doors because I'm telling you, I think the idea of restraint has got to be there or within reason. And where we're at now the people are concerned that \$20 (trillion) is a horrible number and that \$30 (trillion) and \$40 (trillion) and \$60 (trillion) are going to get worse. And that's why I think there's a concern for the option to do something different. [LR6]

RENEE FRY: And I'm not suggesting that we should...that debt is a good thing, right? But I think that there are times where having the government...federal government have the ability to go on into debt does keep us from doing more economic harm. The other point that I would make that I mentioned earlier that I think is particularly problematic, under...you know, if you look at what the convention on the state simulation did, as I said, they would have eliminated half of our federal income tax...excuse me, all of our federal income tax which is half of our federal revenues. So again, I mean if you look at what we're spending that money on, you would have to cut defense. You would have to cut...I mean in half, right? Medicare, Social Security, education all would be on the table--significant cuts. Our concern is that even...whether it's a balanced budget amendment or what transpired in the convention of the states, either would cause significant economic problems for our state and country. So having a discussion about fiscal restraint makes a lot of sense. The provisions that have been put forward though that could come into place under a convention of the states could cause great economic harm. [LR6]

SENATOR BREWER: All right. Thank you for your testimony. [LR6]

SENATOR MURANTE: Thank you. Senator Hilgers. [LR6]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Ms. Fry, for your testimony. Really appreciate it. What I'm hearing is a conversation about what the scope of...what with the potential downsides are of a balanced budget amendment. Isn't that an argument to be heard in the convention itself rather than here? In other words, you could imagine a convention of states where people say exactly what you say and argue it and a lot of people forcefully would put forward that argument I'm sure and say, hey look, you can't just have a balanced budget amendment. You've got to have all these accommodations. But what we're doing is not necessarily crafting a scope of the amendment or what we're considering. What we're

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

considering is whether or not to have a convention regarding these larger topics at which those conversations could take place. So I guess what would be your response to the question of shouldn't we have that conversation...isn't that a separate conversation than what we're having today which is whether we should have the convention at all to have that second conversation where your arguments are...would be heard? [LR6]

RENEE FRY: I mean that conversation can already take place, Senator, without a convention of the states, right? [LR6]

SENATOR HILGERS: Well, it... [LR6]

RENEE FRY: I mean we don't need a convention of the states to have that conversation. I think if you look at, you know, the previous testifier mentioned some legal scholars that have been concerned about runaway convention. Maybe one of the most notorious who was concerned was Justice Scalia who had serious concerns about a runaway convention. And I think fundamentally there's no way to control what comes out of that convention and so I'm looking at what has been proposed, what has been discussed, and things that have been discussed are concerning to me from an economic standpoint and what the impact would be. So you know, I did go to law school but I certainly am not here in that capacity. I'm here in a fiscal capacity but I think that there are much smarter legal scholars that have expressed grave concerns about limiting the scope of the convention. And so that concerns me and some of these ideas that have been put forward concern me as well. [LR6]

SENATOR HILGERS: And I think, just a brief follow up, I think we are having that conversation. I think the frustration with people who have put forward to have the constitutional convention is that that's all we're doing. We're just talking about it but no one is doing anything about it. So I understand the idea that this is a conversation that takes place in a convention vehicle where you can actually do something about it as opposed to just talking about it and not getting anywhere. I guess the question...I understand you're not a legal scholar. I went to law school, I'm a practicing attorney, and I don't...this is all new to me as well, so. But do you have any reason...or do you have any additional points on that ratification discussion that we had? In other words, that seems to me to be a break on so-called runaway convention. Do you have any additional thoughts on that or any reasons to disagree that that would not be an effective break on the convention? [LR6]

RENEE FRY: From what I've read, and I think part of the concern and concern from legal scholars, is that the rules can change. The convention has the ability to change those rules. And so it isn't necessarily going to be 38 states ratifying. It's also unclear how many votes each state would get. There are a lot of questions that haven't been answered. And we don't have precedent

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

for this since the 1700s. And at that time, they did change the rules. And so I think there's a lot of concern that, yes, we can say, oh, well, 38 states have to ratify it, but those rules could change. The convention could change those rules. [LR6]

SENATOR MURANTE: And following up Senator Hilgers' argument, for example, we in the Legislature have the capacity to suspend the rules. We can go upstairs, in the event that we ever vote on anything, (laughter) and we go we can go upstairs and suspend the rules. What we cannot do is suspend the constitution. We can't go upstairs and say we're going to make a motion to suspend the rules to change the number of votes necessary to override a gubernatorial veto. We can't do that. Every interpretation I've ever seen on any standard of rules, whether it's Robert's Rules or Mason's rules, when you're suspending the rules, you are suspending those rules--the rules with which you are abiding by. You are not suspending the governing documents which pretty much authorizes the use of Mason's or Robert's Rules or the rules of the Legislature or whatever they may be. So my question for you is if we determine and received the clarification that there is nothing an Article V convention can do to amend the constitution to change the number of states necessary to ratify a constitutional amendment or in and of itself change the First Amendment or any provision of the constitution, would that change your testimony or is that just a component of your opposition? [LR6]

RENEE FRY: It would not change my testimony. [LR6]

SENATOR MURANTE: Okay. Thank you. [LR6]

RENEE FRY: And again, if you look back at the initial convention, my understanding is that they did change the number of votes for ratification. And I think it's unclear... [LR6]

SENATOR MURANTE: And in that initial convention, were they operating under the constitution that we currently use? [LR6]

RENEE FRY: No. [LR6]

SENATOR MURANTE: Okay. Thank you. Senator Wayne. [LR6]

SENATOR WAYNE: So I love these philosophical discussions. That's why I ran. To have these conversations and not vote on things. (Laughter) So right now, there's nothing in the rules or the constitution to prevent a runaway Congress, right? We're worried about the runaway convention but right now they have authority to be a runaway Congress, correct? [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

RENEE FRY: I'm not sure I'm understanding your question exactly. [LR6]

SENATOR WAYNE: So the fear of about the convention is that they can vote and change things, including add amendments, etcetera, etcetera. But Congress can currently do that. Isn't that the argument, that we can already have this conversation via Congress? [LR6]

RENEE FRY: Sure. [LR6]

SENATOR WAYNE: So theoretically then we can also have a runaway Congress. [LR6]

RENEE FRY: Sure. [LR6]

SENATOR WAYNE: So why isn't there the same opposition to the current system, because they're both...can run away? [LR6]

RENEE FRY: So I'm here specifically about the provisions in...I mean my primary testimony was not concerns about the runaway Congress. My concerns is how fiscal restraint would be interpreted. And the two ways that I've seen that being interpreted are a balanced budget amendment which Congress has taken it up and has not moved forward with that, or with as we saw in the simulation with supermajority requirements to increase debt which could cause problems simply from a timing issue, let alone the whole...let alone any type of recessionary period. And so my primary concerns are let's say that it doesn't run away, right, and that we just deal and we have a vote on a balanced budget amendment or a supermajority requirement to increase debt in conjunction with elimination of the federal income tax, that scares me in and of itself because of the impact it would have on the economy. [LR6]

SENATOR WAYNE: But it's a theoretical "scareness" instead of...are you opposed...would you be willing to say a budget amendment except for when Congress declares that there's an emergency or a recession? Would that cover your...? [LR6]

RENEE FRY: No, because if you look at the timing it's often, you know, several months before we...before the metrics start coming in that we're in a recessionary period and the likelihood that we would actually be able to respond quickly to get a supermajority of Congress to take action to raise the debt, I'm not really confident that that would happen in a timely manner. [LR6]

SENATOR WAYNE: That's fair. And then the last question I guess I have is, is it the budget amendment or the fiscal restraint itself, or is it because of how we'll get to zero? And here's what I mean by that, is it because historically for the last 50 years we've cut, cut, cut versus raise

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

taxes? Would you be in a different position if it was the opposite where we always raised taxes to meet the needs of our people versus cut. So what I'm asking you is, is it the budget amendment itself, or how we're actually getting there, the issue? [LR6]

RENEE FRY: I think the answer...I mean I guess I don't know exactly how to answer that because it's hard to know if we had been doing things different where would we be today sort of thing. But the balanced budget amendment inherently is saying that you cannot spend more than you take in in a given year causes all sorts of problems with respect to Social Security and Medicare that... [LR6]

SENATOR WAYNE: That's because we won't raise things to make sure it happens. So I guess my...there's a theory and then there's a practical aspect of it. Are we against--and I say "we", "you" and I think I'm with you on this--are we against it in theory? Are we against it because of the practice is my question? [LR6]

RENEE FRY: In practice it would create huge economic turmoil in the country. [LR6]

SENATOR WAYNE: Thank you. [LR6]

SENATOR MURANTE: Okay. Seeing no additional questions, thank you very much for your testimony. [LR6]

RENEE FRY: Thank you. [LR6]

SENATOR MURANTE: Much appreciated. Still on opposition testimony. Mr. Geis, welcome back to your committee on Government, Military and Veterans Affairs. [LR6]

GAVIN GEIS: (Exhibit 11) Senator Murante, members of the committee, my name is Gavin Geis; that's G-a-v-i-n G-e-i-s, and I'm the executive director with Common Cause Nebraska testifying in opposition here. And I'm coming at it from a little bit of a different perspective. Our organization nationally and then the states actually discuss the possibility of taking up an Article V issue. There's--you may know; you may not know--but there is a push in other states to use an Article V convention to talk about campaign finance so this isn't the only sort of Article V convention being talked about. There's campaign finance and as an organization we would love to talk about campaign finance at the constitutional level. We'd absolutely love it. And so we were approached by an organization and said, okay, we'll look at it seriously. And what I've passed out here...basically we looked at it seriously. We looked at it from both angles. Can we do this responsibly? Can we back this responsibly or can we not? And at the end the day we came

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

up with this is kind of the short list. They go deeper than this but we came up with these questions that we just couldn't answer in a responsible way that there are legal scholars on both sides of these questions that say they have the answer, they have the gospel truth, they know what it is, and they both have legitimate evidence. So we said let's just...first, we can't advocate for an Article V convention for campaign finance, but also that we should go to the states and at least talk about a little restraint and consideration, what the problems are with the convention, why it spooked us away from it. Like I said, it's a topic that we would love to talk about. But we decided it wasn't responsible to do it and that it wouldn't be for the best interests of anybody. So just a couple things that I want to...just a few things have been thrown out there that as though they would be givens, that we'd know what was going on in the convention. As some have noted, those rules are not constitutionally given, the initial rules, so we don't know if there will be a gag order. We don't know if there will be open hearings, public testimony. We just don't know that. I'm not saying there won't be. Like I said, I don't have gospel truth here. All I know is what I don't know and that's almost everything. There are theories. Some of those theories are big. They have a big book of rules, but they're still theory. So that's what I'd leave you with. We just don't know. We'd love to do this ourselves but it would be irresponsible. Happy to answer any questions. [LR6]

SENATOR MURANTE: Thank you very much for your testimony. Senator Hilgers. [LR6]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you for your testimony. One of the unanswered...one of the questions that's not on your unanswered unanswered list, I think it's answer is this ratification concept. [LR6]

GAVIN GEIS: Yeah, let's talk about ratification, for sure. [LR6]

SENATOR HILGERS: It seems like that question is answered to me. [LR6]

GAVIN GEIS: It was answered to you? [LR6]

SENATOR HILGERS: I think so. You tell me. Do you think it's unanswered? [LR6]

GAVIN GEIS: What? Oh, no, no. Whether it's answered whether they can change ratification or (inaudible) is...which angle are you looking at here? [LR6]

SENATOR HILGERS: They're tied into...fair. Thirty-eight... [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

SENATOR MURANTE: How about this: Senator Hilgers, why don't you ask a question and then he'll answer it and we'll go from there. [LR6]

SENATOR HILGERS: Yeah. The constitution requires 38 states to ratify. [LR6]

GAVIN GEIS: Yes, right. For sure. [LR6]

SENATOR HILGERS: And it seems to me, and tell me if you agree, that there's no question that the convention could not change, that they could propose an amendment that could then be ratified as Senator Murante has noted. [LR6]

GAVIN GEIS: And I would agree somewhat and then give you a shrug because there are those who have argued, not just here but outside, that it could be changed. Once again, I don't have gospel truth. All I have is question as far as that being a worry. There are some that argue that a minority, if you got 38 of the smallest states given whenever this is ratified and only you need a simple majority in those states to pass it, you could have a relatively small portion of Americans represented in whatever came out. You would actually have less than a majority. So that's something to worry about. [LR6]

SENATOR HILGERS: No, I understand that. So I guess my question is...I mean this is a theme throughout. We've never done it, so let's never do it. And so to me what this says is let's just forget there's an Article V process at all because we can't answer these questions. [LR6]

GAVIN GEIS: I have...I have a thought for... [LR6]

SENATOR HILGERS: Hold on one second. [LR6]

GAVIN GEIS: Okay. I have a thought for you though. I do. [LR6]

SENATOR HILGERS: It seems to me the only way to answer these questions is to do it. [LR6]

GAVIN GEIS: Yes and no, because proponents are coming forward with just this language and saying let's talk about these things. Why aren't they coming forward with a suggestion that let's have a convention to figure out what the rules of convention would be? Why don't we pass that so we know what it would look like? We're kind of being asked to trust this sight unseen. Let's talk about these issues and hope it can be restrained instead of saying let's talk about the rules or

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

let's pass an amendment that delineates the rules. We'd still have to talk about the issues, but we're asked to be...just take this. We'll do our best. Don't worry about the rules. We got it. [LR6]

SENATOR HILGERS: I don't think that's what they're saying. They could have done that but they didn't and so now we've got a process in front of us. And if we do this we'll get a lot of these questions answered. [LR6]

GAVIN GEIS: Hopefully. Once again, big shrug, we don't know if what would come out would be gospel truth either. [LR6]

SENATOR HILGERS: Fair enough. [LR6]

SENATOR MURANTE: Thank you, Senator Hilgers. Senator Blood. [LR6]

SENATOR BLOOD: So I'm looking at your unanswered unanswered questions. I assume you didn't have the hiccups, you meant to do that. [LR6]

GAVIN GEIS: Yes, yeah. No, but yeah. [LR6]

SENATOR BLOOD: I'm going to ask you the same questions I asked the young lady that was several people before you. So yes or no, convention could write its own rules. [LR6]

GAVIN GEIS: Maybe. Like I said, I don't have gospel truth. [LR6]

SENATOR BLOOD: Set its own agenda. [LR6]

GAVIN GEIS: Maybe. [LR6]

SENATOR BLOOD: Could choose a new ratification process. [LR6]

GAVIN GEIS: Some argue it. [LR6]

SENATOR BLOOD: No other body has clear authority over convention. [LR6]

GAVIN GEIS: Maybe. [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

SENATOR BLOOD: I'm more confused. Thank you. [LR6]

GAVIN GEIS: No problem. [LR6]

SENATOR MURANTE: He has that effect on us in Government Committee. [LR6]

GAVIN GEIS: Sometimes my goal. [LR6]

SENATOR MURANTE: Thank you, Mr. Geis, very much. Are there any additional questions?
Thank you very much. [LR6]

GAVIN GEIS: Thank you. [LR6]

SENATOR MURANTE: Welcome. [LR6]

KATHY WILMOT: (Exhibit 12) Thank you. My name is Kathy, K-a-t-h-y, Wilmot, W-i-l-m-o-t, and I thank you for this opportunity to speak in opposition to LR6. I do agree that we have serious issues that need to be dealt with. I do not think this is the avenue that would be wise to use. Someone said maybe we could do away with Article V. No, there's a method there we've used before that could be used again. In the 1990s is when I started researching this subject thanks to Governor Nelson and Governor Leavitt of Utah. And today's proponents always want to call this something other than a constitutional convention. I look at Black's Law Dictionary and that's what it calls this. Any time that you are framing or revising or amending that constitution, that's what it is. And I think Shakespeare said, a rose by any other name would smell the same. And so, you know, it's a word game. But I can even move past that because as I look at some of the Congressional Research Service documents, happens to be from 2014 by Thomas Neale, specialist in American national government. He revealed that the constitution is silent on the mechanics of an Article V convention. And he quotes: Congress has traditionally laid claim to broad responsibilities including establishing procedures, setting the amount of the time allotted, determining the number and selection process for the delegates, setting internal convention procedures including the formula for allocation of votes among the states. And he also...they found that it would probably be based on the Electoral College formula. That leaves Nebraska and smaller states in one heck of a shape. So we've been arguing back and forth about...and you've been told...I smelled a little smoke in the room a while ago when a heard you all told that, boy, you are the one and only ones, you know, that can call a convention. You don't call; you apply. And Article V tells us that it's actually the Congress that calls for that. And in the Necessary and Proper Clause it also says that when Congress has a duty then they have all the powers necessary to carry that duty out. And just something tells me that the fox in the henhouse

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

isn't going to back out and give you all a chance to decide these things. Scalia is often misquoted as being for a convention. That was 1979. He actually in 2014 said certainly not. Justice Warren Burger said basically the same thing. We're told that it will never exceed those amendments subjects but I believe history tells us otherwise. I've heard the discussion today we didn't have a constitution when it...when the first Congress met. However, we often look back at precedents and the precedents there did change the ratification. It changed the whole reason for being there. Wrote us a wonderful constitution. And again, we're talking our constitution and I'm not willing to gamble. And then there is Robert Kelly, Convention of States staff counsel. And he admitted on video, I have that, that their call is not narrow. It actually opens every section of the constitution. That's concerning. Go back to the proven way and, to me, stop the whole thing about the convention. Then I ask, what does Wolf PAC, the Young Turks which is a liberal media of George Soros, Code Pink, and others have in common with the Convention of States and Citizens for Self-Governance? And it's a convention and again, that is...I don't understand why. And I've heard a lot of things today. I've heard the answers given to you when you ask questions by some of the introducers and others: Probably it would work; I'm skeptical; I don't know what would happen; once we establish the process works. In other words, no one really knows. I can't tell you exactly how it would work, neither can they. And again, this isn't summer vacation we're talking about and where to take it. This is our constitution. I think it's a tremendous gamble. And let's work in another way to solve our problems. And I guess I missed my red light. Sorry. I have a lot more to say. [LR6]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions?
Senator Brewer. [LR6]

SENATOR BREWER: Thank you, Chairman. All right. Let's take a look at how you would fix the situation. If you have a government that does not listen to the people, spends way more money than they have, has overreaching powers, how are you going to bring them in to check with the people? [LR6]

KATHY WILMOT: I'm going to use the constitution I have because there are limits on congress now and we fail to back that up. And I'll use the example of education. I was on the State Board of Ed for eight years and we all know that education really is not a power given to Congress. In fact, I heard someone state earlier that the courts interpreted that they are. Courts don't make laws. Courts interpret. And there is no law on the books that says the federal government has any jurisdiction in our education. And we're allowing that. Not only do we allow that...and I know you're all here now, but past Legislatures I've been here and said please do not mandate assessment. Please do not mandate standards. You don't understand what it's going to cost. And they turn to me and say but the federal government says. You know, why don't our AGs, why don't we stand up and say live by the constitution? We're taking this power back. We have allowed, we're guilty of allowing that overreach. [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

SENATOR BREWER: All right. Sounds good in theory but our problem is without term limits and if the people that are out there in power do not listen to people, do not do what we've asked and if the system is such that you really can't get them out because their war chest is so great that the common man really can never run and have a chance, so now we're boxed into this scenario where they're spooling out of control, they're spending way, way more money than they're ever going to figure out how to get back in the till, they're adding regulations and part of the reasons we struggle at the state level is because of the things that we're forced and it's the same thing with businesses. Now, and I still got to argue with you on with...the way I read it, it is a convention of states, so. Reading Article V, and I'll be glad to stay afterwards and get schooled from you on the language piece of this, but you can see why people are frustrated and why Article V was put there. So that's the kind of back and forth. I was hoping you'd give me a different Article V process. But I think it's more fixed than people realize. If they read through it it's pretty black and white. [LR6]

KATHY WILMOT: Well, first of all, you asked about that the term limits thing. And I've always told people we do have term limits. We always have. If they aren't doing right, pay attention, speak out, vote them out. And we saw a great example of that this election and I'll just leave the politics out of it because I know nobody wants to go there probably with me. The other thing is, you know, when we talk about the...and I should have pointed that out. I got nervous. But when we talk whether it's a convention of states, an Article V convention, on the Congressional Research document, they actually used if you want to say the convention of states language, they said that it's silent on the mechanics of an Article V convention. But still, Congress would probably be the ones in charge. So, see, I don't think it matters what you call it. No one really knows. And I have yet to see Congress, when they have the duty and the power to say, gee, we just don't really feel like today, why I don't I leave it up to you guys? I think we're in trouble with that. [LR6]

SENATOR BREWER: Well, I guess the part I share with, I agree with what you're saying as far as the election though. But I will also tell you it is that groundswell from the people that's pushing to take action. [LR6]

KATHY WILMOT: My thought is I think of the groundswell we have for this convention of states. Senator Ebke has told us how many miles she's traveled. Meckler told you he's traveling and traveling. Of course, you asked where his money came from and we didn't hear. But the thing is if we would put our efforts into this type of thing, stopping it in a safe way, I think we as people would be amazed with the difference that we could make instead of sitting back and kind of whining and expecting somebody to come up with some magic bullet. I'm an idealist I guess. [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

SENATOR BREWER: I like the constitution, and Article V is part of it. [LR6]

KATHY WILMOT: Well, and...but there's another part of Article V and that is a process to do amendments which we've done. And I'm not saying do away with Article V. It's there for a reason and we've used it. [LR6]

SENATOR MURANTE: Thank you, Senator Brewer. [LR6]

SENATOR BREWER: Thank you, sir. [LR6]

SENATOR MURANTE: Is there any additional questions? Seeing none, thank you for coming down today. [LR6]

KATHY WILMOT: Thank you. [LR6]

SENATOR MURANTE: Much appreciated. Additional opposition testimony. How many more opponents do we have? Okay. Welcome. [LR6]

KEN SMITH: (Exhibit 13) Thank you. And I notice I don't get a welcome back because I have never been here. I appreciate the welcome and here we go. Good afternoon, Chairman Murante and members of the Government, Military and Veterans Affairs Committee. My name is Ken Smith; that's K-e-n S-m-i-t-h, I'm a staff attorney in the Economic Justice Program at Nebraska Appleseed. I appreciate the opportunity to testify today in opposition to LR6. As an organization that advocates for low-income families across Nebraska, we see LR6 and a constitutional convention of the states as potentially jeopardizing critical services Nebraska provides its communities. Adopting some of the proposed amendments would likely result in significant cuts to federal funding for various programs the state depends on to keep Nebraskans safe, healthy, and thriving. Systems like our child welfare system, our newly created infrastructure bank, our education and public safety systems, and other investments our Legislature has made over the years could be drastically impacted if some of the proposed amendments to the constitution were adopted. Furthermore, we join the other opponents with a sense of skepticism that a constitutional convention could or would be limited to the proposed issues laid out in LR6 or other state resolutions for the reasons that we've gone into. I would just say, and a lot of this is covered also in that CBPP handout from a previous testifier but there are...because of the lack of precedent in this area, there are fundamental questions that are unanswered about the process, questions about allocation of votes, whether states get one vote, whether votes apportioned based on population, whether they're based on individual states or the delegates from those states, how delegations are chosen to represent states, whether the convention would need a supermajority to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

propose an amendment or whether maybe they could do so with a simple majority. You know, just echoing what other testifiers have said, there are no established procedures, there is no formal mechanism that could limit the scope of the convention. And moreover, and I think this is a point that might speak to the ratification issue and other issues that have been brought up, there is no entity including our court system that has clear authority over a convention. So it's unclear whether the courts or anyone else could intervene if a convention did go off the rails, so to speak. I know that people have quoted different jurists and scholars have spoken against it. I know they have quoted the late Justice Scalia who has said that he would certainly not want a constitutional convention. He said who knows what would come of it. So because the convention has the potential to drastically alter the constitution, to impact the rights and freedoms that are the hallmark of our democracy, we would ask the committee to vote to indefinitely postpone the resolution. And with that, I'd answer any questions or try to. [LR6]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? Seeing none, thank you for coming down today. Much appreciated. [LR6]

KEN SMITH: Thank you. [LR6]

SENATOR MURANTE: Additional opposition testimony. Welcome. [LR6]

ED RIEKER: Thank you. [LR6]

SENATOR MURANTE: Have you filled out a green sheet? [LR6]

ED RIEKER: I did. [LR6]

SENATOR MURANTE: Okay, great. [LR6]

ED RIEKER: Must have left it back there. Give it to you. My name is Ed Rieker; that's R-i-e-k-e-r. I'm just a common man. I'm not a lawyer. I guess having come to this hearing has convinced me even more of why I'm opposed to LR6. I...Senator Wayne I think brought this up very well when he said that words have meanings and they do. And words can become points of discussion and contention and the interpretation has very, very significant impact on the results. I haven't heard anybody convince me yet that this can be controlled. And that's a major concern that I have. Our constitution has served us for about 240 years, give or take. We have a provision in the constitution whereby we can change the constitution via amendments. We just had a pretty significant election, in my opinion, probably the most significant election in my lifetime and maybe the most significant election in the history of our country. I'm a bit confused why we

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

would want to jump the gun and try to make major changes when we haven't even seen how this is going to play out. We have a president who just nominated, by the liberals term anyway, a radical judge to the Supreme Court. We don't know how this is going to play out. We have a tried-and-true method in place right now to change and amend our constitution. It would be a terrible day for us to wake up after this Article V convention and hear on CNN or MSNBC that they won and they've changed our constitution to who knows what and we don't know. We don't know how they could change the constitution. Regarding how do we change it, Senator Brewer. I think you're a classic example of how we change it. You fought all kinds of odds and you changed the representation. And I'm proud to say that I helped you do that. And that's how our system works. And I think from my perspective, I hope you'll vote no on LR6. It'd be a pretty sad day if we wake up some morning and find out the bald eagle that we all revere is a bald eagle in a cage. Thank you. [LR6]

SENATOR MURANTE: Thank you very much your testimony. Are there any questions? Senator Brewer. [LR6]

SENATOR BREWER: Thank you, Chairman. All right, let's just narrow it to one issue. Do you think that the current sitting Congress, regardless of how this election turned out, will ever self-discipline to put term limits on themselves? [LR6]

ED RIEKER: I'm in a unique position to answer your question. I will answer your question. I'm in a unique position because I'm an independent businessman and I have the opportunity and I exercise that opportunity to call my Congressman and my Senators. And they know me by name and they know me by face. And I do believe that the calls that I make have an impact on their decisions. I'm one person. We're a country that votes people in and out. You guys are all voted in. Some were voted out. And I would like to think that if we as the citizenry call your offices and express our concern or our displeasure that that will in fact have an impact on how you vote. So to answer your question specifically, Senator, no. But I think with the prodding of the people, which is my job--that's not your job, that's my job--to make sure that that Senator or Congressman or state legislator hears from me. [LR6]

SENATOR BREWER: All right. Thank you for your testimony. [LR6]

SENATOR MURANTE: Thank you, Senator Brewer. Any additional questions? Seeing none, thank you for coming down today. Much appreciated. Welcome. [LR6]

LONA FERGUSON: (Exhibit 14) Welcome to you, all of you, Senator Murante. My name is Lona Ferguson, L-o-n-a F-e-r-g-u-s-o-n. I might say I'm a little nervous. I feel like I'm on the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

stand rather than a citizen coming before you telling you how I feel. May I sit down, please?
[LR6]

SENATOR MURANTE: Please do. [LR6]

LONA FERGUSON: As Billy Joel would say, and so it goes. That's what I've listened to. You know there's anger in this room? I've seen it. I've been a little bit angry. And I'm going to stray a little bit from where I came from in the first place. Actually I had very little time to put this together. I found some quick facts about the Constitutional Convention and not the one that they're talking about but the original one. Actually, you know, maybe the people that have been in and out of this room would have constituted that whole population that went to that convention at that time. I think now we've got a whole lot more that would probably be attending if given the opportunity. Actually they started with the grand convention, I found out, of all the states which was not 50, to discuss improving the Articles of Confederation. And you attorneys probably know that. I didn't. And I did graduate and had some college but not an attorney. And out of that was in the Annapolis Convention in 1786. The Constitutional Convention convened in the statehouse, the Independence Hall in Philadelphia--I thought that was interesting also--on May 14, 1787, to revise the Articles of Confederation. They didn't go there to actually even talk about a new constitution. But after that gavel goes down, the beast that arises is unknown because rules can be changed. And I think you all know that. You brought that up, Senator Murante. There's rules. But what they gave us was a constitution. And I haven't heard one word about that constitution or what it represents. What does it represent? A republic, if we can keep it--I always remembered that one--if you can keep it. What is a republic made of? Law, not rules. When someone threatens my republic, I become a little bit nervous and a little bit angry because we've had that republic for more than 100 years, more than 200. We're working on something very big. Is that my green now...warning. So I better get down to business here. Between 1973 and 1992, which is almost history itself now, according to the Congressional Research Service, 41 bills have been introduced into Congress to try and fill in the details of how a convention of states would work. And so far, they cannot be agreed on. No way. So we've got no conclusive evidence of how this would and could work unless we use history concerning the first convention in 1786. And what did they do? Hello, we're going to give you a new constitution. And they did. Thank God they did. By mid June the delegates had decided to write that new constitution rather than amend the Articles of Confederation. As one attorney has said to me many times and I'm going to repeat this: When the gavel falls, the convention is its own animal. I thank you for the time and I will take some questions. I know I haven't given you much verbally, but I do appreciate the conversation that's gone on. But I think it strays a little bit. I've heard let's see...let's limit...let's put term limits into effect. That's the last time we were here that was the big deal...or no, it was balancing the budget. Now it's term limits. When they meet, if they meet without it being a practice, what are they going to give you? And I'm holding each one of you

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

responsible for the state of Nebraska. This is my state. This is my country. I'm taking names and I'm going to stand for the republic. Thank you very much. [LR6]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? Seeing none...excuse me, Senator Hilgers. [LR6]

SENATOR HILGERS: Thank you, Ms. Ferguson, for coming down and your testimony. You and I have talked about this before. This is a prelude and then a question. My understanding, because I have similar concern, what happens if they just go there and they just create a new constitution? And my understanding, we've talked about those commission statements, that the commission statements for the initial delegates were much broader. They were essentially...had the authority to bind states by creating a new constitution. So the first time around they did have the authority to do it whereas this contemplates (inaudible). So that leads me to my question which is if you were convinced that there was a...this ratification mechanism or some other break to...such that a new constitution could not from whole cloth be formed, would that allay your concerns? [LR6]

LONA FERGUSON: I'm going to answer that honestly: no. And I'm going to tell you why. First of all, I think that our forefathers were very, very intelligent. Today, I'm not so sure that we always elect those that have that intelligence because they fought. They came from a war. George Washington was just...remember, he was in that war. He had a lot to lose and he did. Most of those people were broke when they died. They didn't have a lot of money. Okay, so they've got this Article V thing going. Why do you think they put something in there that hadn't been tried that was questionable? They just come from a war. You know what, I think I looked at this. I've gone to meetings. I've looked at this because I'm going to tell you something. About a year ago, maybe a year and a half ago I actually thought maybe our country was going down the tubes really fast. We're not in very good shape and I don't care if debt is good, bad, or ugly. We're not in very good shape. I looked at it. Then it kind of dawned on me, maybe they did this so there wouldn't be more blood. Maybe they did this so actually there would be a body that could actually save us from going through what they had just gone through. I don't know, maybe I'm wrong. But I'm going to tell you when you go out on the street and you start talking to people...I was at the inauguration. You didn't hear what went on there. I've asked several of my friends, did you hear the booing? I didn't hear any booing. There was lots of booing, not at the new President, at those walking on that stage. Did you hear the, put her in jails? No, you didn't. It was muted. And I'm not lying. I can draw up a few friends that were there with me and they would tell you the same thing. Our debt, I heard from directors of departments, and then I'm going to leave because I've talked too much. Do you know this? If you don't spend it, you're going to lose it. We blame a lot of people for a lot of things. We don't take care of problems. We throw money and we want change, but we never identify the problem. That's my ending statement. Thank you so very much. [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

SENATOR MURANTE: Thank you very much for your testimony. Much appreciated. [LR6]

LONA FERGUSON: And thank you for all that you do. [LR6]

SENATOR MURANTE: Is there additional opposition testimony to LR6? Welcome. [LR6]

DONNA GOULD: Thank you all for letting me testify in front of you today. My name is Donna Gould, D-o-n-n-a G-o-u-l-d. I live here in Lincoln, Nebraska. I have a...I work for a big food company in the area and my husband is an entrepreneur. He employs 20 people in his small business. I have a lot of the same concerns that many other people have talked about so I'm not going to go through. I had a nice statement written but I'm not going to go through all of that again. You know, my concerns are also around the rules and what can be done during the convention, also around the wording, about limiting the power and jurisdiction and what that really means. You know, I would also say we've already got a process in place. We elect people to follow through with that process and I would say if they're not doing what we ask them to do, that's on us as voters. I hear the argument about money and about war chests and the challenge for someone in my position and my husband's position, an ordinary person to run for office. I think there's an answer to that that isn't term limits. I think the answer to that is campaign finance reform. I'm not a fan of term limits. I think if someone is doing a good job for me and the citizens want to keep that person in power, in place as their representative then I think they should have the right to do that. And I see some of the stuff that's happened in Nebraska since term limits again with the money coming in and some of the expertise being lost of folks that have sat in the body for a long time and have expertise in various areas and instead of the money coming in and special interests coming in and filling in those gaps. I will say I do have one other question that maybe hasn't been addressed about the convention and that's around the appointed delegates and how those folks would be appointed and how that would happen. You know, the thing about you know my Senators and Representatives is I get to vote for them and they're accountable to me. I have some concerns about if folks are appointed to go to something like this where they can make sweeping changes. How are those folks accountable to me? Who picks those people? Who are they going to be? What's their background? What's their responsibility? And who are they ultimately going to be accountable to? And so that's another big concern that I didn't hear specifically addressed here. So I guess that's all I have. I'd be happy to answer any questions. [LR6]

SENATOR MURANTE: Thank you very much for your testimony. Senator Brewer. [LR6]

SENATOR BREWER: Thank you, Chairman. All right. Let's take a look at your concern: campaign finance. The way things are right now, who would have to change campaign finance? [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

DONNA GOULD: Oh, absolutely, our senators and representatives. [LR6]

SENATOR BREWER: Do you think they'll do that? [LR6]

DONNA GOULD: Well, it's my responsibility to find folks that will do that and vote them in. [LR6]

SENATOR BREWER: All right. And if I have it right, you trust Congress more than the 38 legislative bodies that would send this group of individuals that would be part of that. [LR6]

DONNA GOULD: I trust...and whether or not my...the person I vote for doesn't always...isn't always the person that gets elected. But I can always call them. I can talk to them, I can make appointments. I feel like they are accountable to me as a constituent. And, no, I don't feel like someone who is appointed that doesn't have any accountability back to me and that I don't necessarily have a say in who they are, I don't feel like that would be as good. [LR6]

SENATOR BREWER: But the 38 legislative bodies are elected by the people where they're as close as they can get, as opposed to Congress which is levels separated. [LR6]

DONNA GOULD: Yeah, I understand what you're saying. But it still...again, I vote for my representative here in this body and I hear what you're saying. But I still...there's a lot of other folks that represent a lot of other districts that aren't mine. And it's the same in Congress as well. But I do trust the fact that I have that direct accountability versus someone who would be appointed. [LR6]

SENATOR BREWER: Okay. Thank you for your testimony. [LR6]

SENATOR MURANTE: And following up on that, if...I think the short answer to your question is who would represent Nebraska and how they would be selected would be determined by the Legislature. If the Legislature determined that those representatives would be elected by the people, would you support LR6 at that point? [LR6]

DONNA GOULD: I still would not, no. I think there are so many, still too many questions around the rules. And, yeah. [LR6]

SENATOR MURANTE: Okay. Thank you. Senator Briese. [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

SENATOR BRIESE: Thank you, Senator, and thank you for being here. It's my understanding that it takes 34 states to apply for this call of the convention before Congress can make the call. Only eight states have done it so far. And so we're a long ways off. From an opponent of this measure, do you feel that there's any benefit to doing this maybe simply to send a message to Congress? [LR6]

DONNA GOULD: I don't. I think it's a slippery slope I guess. And, you know, I think the message that I can send to Congress is something that lately I've been doing on a regular basis which is calling my Representatives. [LR6]

SENATOR BRIESE: Okay. Thank you. [LR6]

SENATOR MURANTE: Thank you. Any final questions? Seeing none, thank you very much for your testimony today. Much appreciated. [LR6]

DONNA GOULD: Thank you. [LR6]

SENATOR MURANTE: Additional opposition testimony to LR6. Are there any additional opponents? If there are any additional opponents I'd ask that you come to the front of the room. There's plenty of open spots at the front for people to sit in the on-deck circle. Welcome. [LR6]

PACKY COLGAN: (Exhibit 15) Hi, my name is Packy Colgan; that's P-a-c-k-y C-o-l-g-a-n. And I'm actually doing something kind of unconventional. A friend of mine actually wanted to testify but he was unable to make it. So he wrote up a testimony and I said I'll read it for you. [LR6]

SENATOR MURANTE: (Laugh) Okay. I've never heard that one before. That's good. [LR6]

PACKY COLGAN: So that's what I'm doing today. Most of the main points expressed have already been said, but I want to go to the ending here where it was a little different. He says, "I have not always been pro gun. For a long time, guns seemed to be more trouble than they were worth. Years ago, an intoxicated stranger walked into my home and locked the door behind him. I had a horrifying moment where I realized that I may not be able to protect the people that matter most to me. Luckily the situation resolved itself in a peaceful manner; however, I will never forget what it felt like to feel powerless in my own home. As a gun owner, the idea that my fundamental constitutional rights, particularly my Second Amendment rights, could be endangered by this convention deeply concerns me. Having the capability to protect myself and my loved ones is truly important to me. It scares me to think that I could lose that right. It may seem a little far fetched that calling for a convention of states could threaten our right to bear

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

arms, but that is not a risk that I am willing to take. I urge you to oppose this resolution." So I came to speak on behalf of him and then as well as this convention in general. It was just a very shocking thing for me to realize existed. And I very much am a supporter of grassroots movements and I love those movements. But I hear a lot of propagating from both sides. And the risk to me is very high for what could happen or couldn't happen. It seems like people are convinced certain things can and won't happen and other people think the exact opposite and they all seem equally qualified to say such. So I agree with my friend here in the sense this convention seems to pose more risk than reward. And I'm open to question or concerns. [LR6]

SENATOR MURANTE: All right. Thank you very much for your testimony. Senator Brewer. [LR6]

SENATOR BREWER: You walked in the breach, so here we go. (Laughter) Were you here in the beginning? [LR6]

PACKY COLGAN: Yes, I've been here for the entire thing. [LR6]

SENATOR BREWER: You are a very good friend. (Laughter) [LR6]

PACKY COLGAN: I know. I even got off work for it. [LR6]

SENATOR BREWER: Wow. I need some friends like that. So you've read Article V. [LR6]

PACKY COLGAN: Yes, I have, about three sentences that contain Article V. [LR6]

SENATOR BREWER: And you heard the discussion about the Second Amendment and...well, first off, the fact that we're addressing just three issues in the resolution. So you're in the category that this thing spools out of control and even states like Wyoming, Texas, Alabama, Georgia, all of them decide they don't want guns anymore. And that's a reasonable concept to you? [LR6]

PACKY COLGAN: Well, that's only 3 states and it takes 12 from what I'm hearing. [LR6]

SENATOR BREWER: Well, I can run...we can go Kentucky, Tennessee. We can go a long time. [LR6]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

PACKY COLGAN: But there are also people from the other--sorry to cut you off--there are people from the other states who would be arguing maybe to suspend the rules to do those things. And to me there's so much unknown that that's the main concern. [LR6]

SENATOR BREWER: I think there's a lot of unknown because people are turning it into unknown because of confusing issues. The reason I ask about reading the articles is there's defined numbers and quantifiable things here that are getting thrown out in this minutia. And I think that's why we're in this point of hysteria almost about the possibilities. I'm just trying to get back to the defined numbers we talked about and the real limits on what you can and can't do. But I tell you what, if you were here in the beginning then I'm good. Thank you for your testimony and for being a great friend. (Laughter) [LR6]

SENATOR MURANTE: Thank you very much, Senator Brewer. Seeing no additional questions, thank you very much for coming down today. Much appreciated. [LR6]

PACKY COLGAN: Have a good one. [LR6]

SENATOR MURANTE: (Exhibits 16-22) Additional opposition testimony? Is there any neutral testimony on LR6? Before we close, everyone is going to have to bear with me as this list is rather lengthy. I have letters of support of LR6 from Nate Grasz of the Nebraska Family Alliance; of John Orr, from Blair, Nebraska; and from the following people: Glen Flint; Carol Umbeger; Robert Neuhaus; John Salzman; Jennifer Darrow; Ernie Sears; Michael Barnes; Justin Fader; Martin Campbell; Mary Mladovich; Robert Merrill; John Harms; Jason Swanson; Dan Bulling; Colin Fury; John Garlock; Aaron Kobza; Gene Wendt; Eric Kamler; Victoria Troastle; Randy May; Mike Nicolén; Roger Fahrenholz; Mike Miller; Joe and Lisa Schmit; Jennifer Smydra; Jean Kruse; Sara Jackson; Ben Backus; Judy Hoxworth; Jon Schuetz; and Mark Schulte. I also have letters of opposition from Zane and Pat Gideon; Nancy Carr; Ron and Lynette Nash; and Mark Intermill of the AARP. And with that, Senator Ebke. [LR6]

SENATOR EBKE: Well, thank you members of the committee for your patience and for this very full hearing today. Let me address just a couple of things. I promise it won't be long. First of all, Senator Briese, you asked about the question of whether or not requesting...having the applications could send a message to Congress. We have a very good example of that and I will argue that the policy was bad, but nevertheless in 1893, Nebraska was the first state to apply for a convention of the states for the purposes of calling for direct election of U.S. senators. Over the course of the next...well, whatever, 1913, 20 years, we had a number of other states over three versions of that. Nebraska signed on to two of them and as they approached...as one of the versions got close to reaching the third number, the Congress decided to take it upon themselves to do that. So I think that that's a good point. And they also say that there have been a number of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

applications submitted by the state of Nebraska. In 1965, LR42 was a convention to discuss electoral votes. In 1976, LR106 was an application for a convention for the balanced budget amendment. In 1978, LR152 was an application for a convention to consider a pro-life amendment. There were some others as well in the '60s and before, but I won't go through them all right now. Let me just make one or two more comments. I promise. First of all, for those who argue that the original convention was somehow a runaway, was somehow improperly done, doesn't that then suggest our whole Constitution is illegal. That our Constitution that wasn't properly...wasn't proper is somehow invalid. Nobody here would argue that. The Constitution is the Constitution. We now operate under the Constitution as a charter of government. So the runaway convention thing to me is sort of a false flag. You know, which of the 27 amendments which we've got under Article V because that's the only way you can amend, which of those 27 amendments would you do away with, and argue that's an inappropriate way. We just have another way that's never actually been executed of proposing amendments. One last thing. As I drove around the state, I had a lot of people asking me, and by the way I did it on my own dime, on my own time, left my kids and my husband at home and didn't get anything for it. Okay. Let me just say, why did I do it. And as I was traveling most of the time I was saying for my kids, today is for April 6. April 6 is the due date of my first grandchild and I don't want to leave the next generation with less hope than we have today. And I think that's what our fiscal...our fiscal irresponsibility is bound to do. Thank you, Mr. Chairman. [LR6]

SENATOR MURANTE: Thank you, Senator Ebke. And that closes the hearing on LR6. We will proceed to the last item on the agenda. It would appear that the Larson boycott of the Government Committee continues. Mr. Eickmeier. [LR6]

JOSHUA EICKMEIER: Would you like me to begin? [LR18CA]

SENATOR MURANTE: Fire away. [LR18CA]

JOSHUA EICKMEIER: Good afternoon, Chairman Murante and members of the Government, Military and Veterans Affairs Committee. [LR18CA]

SENATOR MURANTE: Okay, hold on one second, Josh. We're almost clear. [LR18CA]

JOSH EICKMEIER: Okay. It was a good dry run. I felt really good about that delivery. Check. Mike check. [LR18CA]

SENATOR MURANTE: All right. Go ahead. [LR18CA]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

JOSHUA EICKMEIER: Good afternoon, Chairman Murante and members of the Government, Military and Veterans Affairs Committee. My name is Joshua Eickmeier, J-o-s-h-u-a E-i-c-k-m-e-i-e-r, and I'm here representing Senator Tyson Larson. I come before you today to present LR18CA, a constitutional amendment that would change the age of eligibility to run for public office to the federal voting age. Currently, in Nebraska the age of eligibility to run for member of the Legislature is set at 21 years. The age to run for Governor and Lieutenant Governor is 30 years. And the age to run for chief justice or judge of the Supreme Court is 30 years. LR18CA would lower the minimum age to run for any public office, whether elected or appointed, to 18 years. This amendment would be placed on the November 2018 general election ballot. I'd like to offer you some history on why the age is currently set at 21 for the Nebraska Legislature. When George Norris envisioned the Unicameral in 1934, the standard voting age across America was 21 years old. The fact that George Norris realized it would be a disenfranchisement of an individual's right to not let them serve in the new Nebraska Legislature I believe this is very telling. However, when the Twenty-sixth Amendment was ratified in 1971, the minimum federal voting age dropped to the age of 18, leaving the Nebraska Constitution behind in the intent of its makers. This effort is an attempt to return the balance to the Nebraska Constitution that George Norris envisioned 80 years ago and to provide potential opportunities to qualified individuals in other important elected and appointed capacities. If 18 years old is old enough to exercise their right to vote they should have the opportunity to serve as an elected member of the Legislature or any other office. Limiting individuals' ability to run until they are 21--let alone 30--restricts that person's right to represent the issues and ideas that are important to them and their potential constituents. Furthermore, it limits the voters' right to elect the person they consider to be the best candidate for the job. If voters feel an 18-year-old would be the best person to represent them, those voters should have the opportunity to choose that person. More than 20 other states allow individuals who are at least 18 years of age to serve in an elected or appointed position of state government. The same opportunity should be extended to those who are at least 18 years old in Nebraska as well. Individuals who already hold the right to vote who meet qualifications and are motivated to serve should have the opportunity to make their case to voters. Just because one is young does not mean they are unfit to serve. I believe such a statement is discounting the people of Nebraska. Nebraskans should be able to choose whom they believe will best represent them regardless of age. This issue is a core First Amendment issue. We are currently infringing not only the First Amendment rights of those individuals that are not able to run for these offices, but also the First Amendment rights of those that are not able to possibly elect the best suited person to represent them in public office, including the Nebraska Legislature. Giving those who are eligible to vote the ability to run for office ensures that our residents have the ability to fully participate in the democratic process. Thank you for your time and consideration today. And I, on behalf of Senator Larson, urge your support of LR18CA. [LR18CA]

SENATOR MURANTE: Thank you very much. We traditionally do not ask questions of staff members. Senator Hilgers. [LR18CA]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

SENATOR HILGERS: I'm just curious whether this would apply to delegates to a convention of states. [LR18CA]

SENATOR MURANTE: Cheeky comments only. Senator Blood. [LR18CA]

SENATOR BLOOD: Was there a fiscal note that was to be included in this? [LR18CA]

SENATOR MURANTE: I don't think so. [LR18CA]

SENATOR BLOOD: Thank you. [LR18CA]

SENATOR MURANTE: All right. Excuse me, Senator Lowe. [LR18CA]

SENATOR LOWE: Why would anybody want to be in office and not be able to drink? (Laughter) [LR18CA]

JOSHUA EICKMEIER: That should be one of the requirements. Are you asking for an amendment? [LR18CA]

SENATOR MURANTE: Thank you very much. [LR18CA]

JOSHUA EICKMEIER: Thank you. [LR18CA]

SENATOR MURANTE: Is there proponent testimony to LR18CA? Seeing none, is there opposition testimony to LR18CA? [LR18CA]

KATHY WILMOT: I worked in a prison for almost 24 years and I guess I would oppose this for the reasons that we found, I guess, in the prison system. We used to only hire individuals at least when they got to the age of 21. And because of a dwindling work force, etcetera, we were finally forced to lower the ages of our workers. And there's something to be said for experience and seasoning in a work world and all the various things that come with life, I guess. And I know that probably my grandchildren right now would be saying, Grandma! But you know, I got some smart grandkids, but I got some that need to probably mature a little bit more. And I just think it's worth looking at individuals that would be guiding our future, setting our laws, making some of the decisions like that we've just been talking about, wrestling with. I just believe leaving the age group up there, allowing them to have some more experiences and maybe even go to college or somewhere else and kind of learn a little bit more about our government before they're

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 01, 2017

actually governing would be wise. And that's probably the best I can say because we did, in the prison system...and we had some good people. We had people that had a lot of experience technically, but there was a maturity level that we needed especially in the prison system that we certainly didn't find as we dropped our age limits. That's it. [LR18CA]

SENATOR MURANTE: Thank you very much. Senator Brewer. [LR18CA]

SENATOR BREWER: Thank you, Chairman. All right. I guess the only thing I would throw out is, you know my last couple of commands I had thousands of 18-, 19-year-olds that were making life and death decisions. To think that they could serve, they could come back home and then not be eligible, even though they had probably matured ahead of their years, I guess I would be a little troubled by that. So... [LR18CA]

KATHY WILMOT: And I had a son in that category. And I would say that, yes, he is one that due to the leadership training--you know, he got a lot of leadership training, eventually was a captain--and probably wise beyond his years. But we're talking about just a whole layer of people of that age that didn't all have that experience and laying their life on the line for our future. Again, I just think it's wise to wait a little longer. [LR18CA]

SENATOR BREWER: Okay. [LR18CA]

KATHY WILMOT: And I wouldn't want to insult especially the military. Like I said, my son...hope he doesn't listen to this. I had one in and one out and I do see differences in the two of them. [LR18CA]

SENATOR BREWER: I understand. All right. Thank you. [LR18CA]

SENATOR MURANTE: Thank you. Any final questions? Seeing none, thank you very much for your testimony. [LR18CA]

KATHY WILMOT: Thank you. [LR18CA]

SENATOR MURANTE: (Exhibit 1) Is there additional opposition testimony to LR18CA? Seeing none, is there any neutral testimony? Seeing none, I assume you waive closing. And he waives closing. That ends the...excuse me. I do have a letter of opposition from Bub Windle, Nebraska State Bar Association. And that closes our public hearing on LR18CA and ends our hearings for the day. Thank you very much. [LR18CA]