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Government, Military and Veterans Affairs Committee
February 24, 2017

[LB299 LB320 LB482]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Friday, February 24, 2017, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB482, LB299, and LB320. Senators present: John Murante, Chairperson; Tom Brewer, Vice Chairperson; Carol Blood; Tom Briese; Mike Hilgers; and John Lowe. Senators absent: Joni Craighead and Justin Wayne.

SENATOR MURANTE: (Recording malfunction)...state Senator for District 49, which includes Gretna, and the northwest Sarpy County, and I'm the Chairman of this committee. We are here today for the purposes of conducting three public hearings. If you are here and 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 the room. If you are here and wish to express support or opposition for any of the matters before us but you do not wish to testify, we ask that you sign in on the sign-in sheets, again, located on either sides of the room, and state your support or opposition. If you do testify, we ask that you begin by stating and spelling your name for the record, that's very important for our Transcriber's Office. If...the order of proceedings is that the introducer will be given an opportunity to open. Then we will listen to proponent testimony, followed by opponent testimony, then neutral testimony, and the introducer will be given an opportunity to close. We ask that you listen very carefully and try not to be repetitive. We do use the light system in the Government Committee. Each testifier is permitted four minutes. When the yellow light comes on, you have one minute remaining and we ask that you begin concluding your remarks. When the red light comes on, your time has expired and we will open the committee up to any questions they may have of you. At this time I would like to request that everyone turn off or silence any cell phones or any electronic devices, anything that makes noise. If you have a prepared statement, an exhibit, or anything you want distributed to the committee, we ask that you provide 12 copies to our page. If you don't have 12 copies, that's fine, give what you have to the page and he will make copies for you. Our page is Joe Gruber from Omaha, but he's not here at the moment, but I'm sure he will be walking in shortly. Our committee members are, on the far right, state Senator John Lowe from Kearney, Nebraska. To his left, Senator Tom Briese from Albion. To his left, Senator Mike Hilgers from Lincoln. To his left, Senator Tom Brewer from Gordon; Senator Brewer is the Vice Chairman of this committee.

SENATOR BREWER: Almost Chairman. (Laughter)

SENATOR MURANTE: Four more years, Senator. To my right, Andrew La Grone is the committee's legal counsel. To my left is state Senator Justin Wayne; Senator Wayne represents Omaha and he will not be with us today. To his left, state Senator Joni Craighead; Senator Craighead also represents Omaha. To her left Senator Carol Blood; Senator Blood represents

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Bellevue. And on the far left is Sherry Shaffer; Sherry is the Government committee clerk. So with that, Senator Smith, welcome back to your Committee on Government, Military and Veterans Affairs.

SENATOR SMITH: Thank you and good afternoon, Senator Murante, and members of the Government, Military and Veteran Affairs Committee. For the record, my name is Jim Smith, J-i-m S-m-i-t-h, and I represent the 14th Legislative District in Sarpy County. I am here today to introduce LB482 which would allow for the adoption of the Government Neutrality in Contracting Act. LB482 proposes to ensure the efficient procurement of goods and services by governmental units to promote the economical, nondiscriminatory, and efficient administration and completion of publicly-funded construction projects. It is about the government being competent and fair stewards of the taxpayers' money. Under LB482, the State of Nebraska and its political subdivisions would ensure that requests for proposals, bid specifications, or the procurement procedures for publicly-funded construction projects would not include (1) a term that requires or prohibits, encourages or discourages bidders from entering into or adhering to a collective bargaining agreement relating to construction under the public contract; or (2) a term that discriminates against bidders or contractors based on status as party or nonparty to, or the willingness or refusal to enter into a collective bargaining agreement relating to construction under the contract. In a nutshell, LB482 prohibits government-mandated project labor agreements, or PLAs. A project labor agreement generally includes terms that set out wages, benefits, work rules, hiring pools, grievance procedures, and antistrike provisions. This is not a bill about the merits of a PLA. I can point you to studies that say PLAs are good; and I can point you to just as many that indicate they are not good. But as the title of the act indicates, the Government Neutrality in Contracting Act, it's about government neutrality in this process. Such contractual details should not be dictated by the government. Those are decisions that are best left to the primary contractor and to the free market. With public construction projects, the government is responsible for the funding and should only be concerned with procurement procedures that ensure the efficient use of those funds, overall cost of the project, time lines, etcetera. As far as the details that may be contained in a PLA, that is for the contractor to decide; that is for the free market to decide. In fact, nothing in LB482 prevents the awarding of a government contract from entering into a PLA or engaging in any other activity protected by federal law, including the National Labor Relations Act. Again, I want to stress this point, under the federal National Labor Relations Act, contractors may or may not enter into PLAs. LB482 does nothing to violate a contractor's right to make that decision. In some cases, entering into a PLA is in the best interest of that contractor in that project. LB482 disallows the government from making this decision as part of its procurement process. LB482 is not a labor bill. It is not about union versus nonunion. And it is not about the pros and cons of a project labor agreement. LB482 simply allows governmental bodies to give true consideration to the most qualified and responsible bidder by prohibiting the government from mandating, as well as forbidding PLAs. Again, thank you for your time and your consideration to LB482. Thank you. [LB482]

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SENATOR MURANTE: Thank you, Senator Smith. Senator Blood. [LB482]

SENATOR BLOOD: Thank you, Chairman Murante. Thank you, Senator Smith. I do have a few questions, and being a freshman senator sometimes I have to ask extra questions so I apologize in advance. [LB482]

SENATOR SMITH: That's fine, and also I will remain for closing and there may be some folks that follow me that can answer some of your questions as well, and if they do not, I will work to do that. [LB482]

SENATOR BLOOD: One of the last statements you have, I only got half of it written down, and it was time to ask a question, so I forgot to finish writing it down. One of the last things you said that this isn't about...really about anything but giving people the choice of whether they want to use a PLA or not, if I heard that correctly. [LB482]

SENATOR SMITH: This is about government setting out and searching for the best qualified bidder. [LB482]

SENATOR BLOOD: That's the words I was looking for--the most qualified is what you had said. [LB482]

SENATOR SMITH: Yes. [LB482]

SENATOR BLOOD: So when you say "most qualified," do you mean who's giving them the best price or do you truly mean who is the best qualified? [LB482]

SENATOR SMITH: That's for that proposal process. And I know, Senator Blood, you've sat in on many, many of these types of discussions at the city. And the proposal process can be very...can vary from project to project. [LB482]

SENATOR BLOOD: And here's my concern and I'm hoping you can answer this. You said it's really not about wages and benefits and the work pools, but it's always been my experience coming from the municipal background that that's indeed exactly what it's about because as a person who loves other human beings, I want to know that the contractor that we use isn't just somebody who is going to give us the best price, but also isn't going to be hiring an illegal immigrant to come and work on a project, or isn't going to be using equipment or circumstances that are going to endanger someone's life on behalf of the city, who isn't going to have so many subcontractors involved. We had an incident in Bellevue where we had a group of brick layers

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who didn't get paid. And it's because the subcontractor didn't pay them; they were subcontracted by another subcontractor who is contracted by the contractor. And in my personal opinion, I don't think the contractor should have been paid if he wasn't paying his workers. So what I worry about, and that was a long story, is if this isn't about wages, benefits, work rules, and you're saying it's discriminatory right now, how is the current law being discriminatory? [LB482]

SENATOR SMITH: I'm saying let's ensure that it's not discriminatory. And I think we both can probably differ with our opinions as to what the role of government is. [LB482]

SENATOR BLOOD: Um-hum. [LB482]

SENATOR SMITH: I believe as a...to be good stewards of the tax dollars, oftentimes micro management by government entities in defining how a contractor manages their project can interfere with the cost of the project. I believe that our general contractors, when given the right guidelines, can make their processes in hiring and managing their project inclusive of whatever the guidelines are set by the government entity that set that bid, but certainly allow them to manage that project and not have the government entity manage that project. So this is simply to say, no, we're not going to forbid you from using a project labor agreement, if you believe that that is in your best interest to fulfilling your obligations on this project, we simply are not going to mandate that happens. [LB482]

SENATOR BLOOD: But in some instances wouldn't you say that the PLA actually protects taxpayers in the way that we set the guidelines as to what the expectations are; we can give them a date as to when that project needs to be finished? If it's not finished by that date, we can say they aren't going to make as much as we originally agreed upon. Is that not true? [LB482]

SENATOR SMITH: Well, Senator Blood, I guess I did not want to go down that path, because as I mentioned, we can point to where project labor agreements are in the best interest of fulfillment of a particular project, sometimes they're not. And I think we can point to many, many horror stories in which there had been significant overruns in project labor agreements, as well as pointing to some of the situations you're talking about. [LB482]

SENATOR BLOOD: And I concur with that. I don't disagree with that at all. And what I found though is that the overruns were usually by the organizations that gave us the lowest bids. [LB482]

SENATOR SMITH: Perhaps in your city. But I don't think that necessarily represent the entirety. [LB482]

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SENATOR BLOOD: And I would definitely say that not everybody that gives the lowest bid is somebody who is going to take the municipality or the county or the state for a ride, but I saw it happen over and over again and that's my biggest concern about this bill is that...and I see where you're coming with...where you're coming from on this, and I don't disagree, but there are issues that need to be addressed. I'm almost concerned that we're taking a step backwards though. [LB482]

SENATOR SMITH: I would disagree. I would say it's a step forward. But that's our difference of opinion. [LB482]

SENATOR BLOOD: And I appreciate you helping me with this. Thank you. [LB482]

SENATOR SMITH: You bet. [LB482]

SENATOR MURANTE: Senator Hilgers. [LB482]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Senator Smith, for your opening. I just want to make sure that I understand, it was pretty clear from your opening how this works. But under current law, if a municipality wanted to say--we're going to do a bid and we don't want...we will not even accept a bid...or even look at a bid unless it has a PLA, or if it doesn't have a PLA, we won't accept any bid without a PLA. That's how current law is. So in other words, in that sense...scenario if municipality says we're going to solicit bids; we're only going to solicit bids that don't have PLAs and that's all they get. So they don't even consider PLA in that instance. Right? They kind of make this first cut before even seeing what the bids look like. That's current law. [LB482]

SENATOR SMITH: That's right. [LB482]

SENATOR HILGERS: And under LB482, as I understand it, it say...it prohibits not just...it says anything that requires prohibits encourages or discourages, so it's neutral, nondiscriminatory... [LB482]

SENATOR SMITH: Keep the government out of it. [LB482]

SENATOR HILGERS: So now under your scenario, practically speaking, if you're in Senator Blood's...Councilwoman Blood's shoes, back when she was on city council, now you might get some bids with a PLA, some without, and now you can decide which metrics are most important.

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Is it the consistency and quality of the workforce you're really worried about, or is it the price we're talking...is that an accurate understanding how LB482 would do? [LB482]

SENATOR SMITH: That's my understanding, yes. [LB482]

SENATOR HILGERS: Okay, thank you. [LB482]

SENATOR MURANTE: Thank you. Seeing no additional questions, thank you for your opening. [LB482]

SENATOR SMITH: Thank you. [LB482]

SENATOR MURANTE: We will start with proponent testimony to LB482. Are there any proponents? Welcome. [LB482]

ANNE KLUTE: Thank you. My name is Anne Klute, that's A-n-n-e K-l-u-t-e. Good afternoon, Chairman Murante and members of the committee. As I said, my name is Anne Klute and I'm the president and CEO of the ABC Cornhusker Chapter. Associated Builders and Contractors is a national trade association representing 21,000 employers in the construction industry including subcontractors and material suppliers belonging to 70 local chapters. The Cornhusker chapter, with offices in both Lincoln and Omaha, represents nearly 150 employees from across the state including those working in tri-cities, Norfolk, North Platte, and Fremont. ABC and its member companies believe safety is a core value above all. Nationally, ABC members spend more than \$1.1 billion annually to train construction industry professionals through a variety of training programs focused on workplace safety, craft and apprenticeship training, and project management. In Nebraska, the chapter's facilities offer high quality safety and training programs including occupational safety and health administration 10- and 30-hour training programs; first-aid CPR and AED certification; fall protection; excavation; and scaffold and safety courses among others. In 2016, 670 industry professionals were trained for the ABC safety training programs. Through our construction academy and Department of Labor registered apprenticeship program, we're doing our part to close the rapidly widening skills gap by training the next generation of construction workers in six crafts. The Cornhusker chapter has trained over 300 students in the 2016-2017 academic year in electrical, plumbing, HVAC, and carpentry. Last year, the chapter was named as a grantee for the vocational and life-skills program grant which was awarded by the Nebraska Department of Correctional Services. In 2016, 261 inmates received their OSHA 10-hour certifications in construction and general industry, and 61 students took the National Center for Construction Education Research core curriculum which is the foundational course for all trades classes taught through the ABC chapters. Through the grant, inmates and ex-offenders can take trades classes at ABC for up to 18 months following their

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release. One participant has already been hired and will continue his training in electrical at our ABC Lincoln education center. Many other students are expected to continue their training at our facility this year and classes have been scheduled at five Correctional facilities across the state for 2017. ABC's diverse membership is also bound by a shared commitment to the merit shop philosophy which is based on the principles of nondiscrimination due to labor affiliation and the awarding of construction contracts through open and competitive bidding. Furthermore, ABC values the highest level of personal and corporate standards of behavior characterized by responsibility, accountability, and integrity with demonstrated personal and industry professionalism by all participants. For these and other reasons, ABC strongly supports LB482 which prohibits the use of government mandated project labor agreements on publicly funded construction contracts. PLAs often discourage my members and many other contractors from bidding on projects where they are mandated which means public PLA projects could exclude 91 percent of the private construction work force from working on jobs paid for with their own tax dollars. As a result, competition is reduced and public construction costs go up. If over 91 percent of the Nebraska work force is limited by these restrictions, firms representing the other 9 percent likely will need to find resources from other states to complete the job. We feel it is our obligation to let Nebraska's skilled and trained workers have a fair opportunity to work on publicly funded contracts by guaranteeing the government will neither require nor prohibit the use of PLAs. LB482 will allow all qualified contractors to bid on public projects so that Nebraska taxpayers get the best construction product at the best possible price. I strongly urge you to support this legislation and guarantee a level playing field for my members of the Nebraska contractors. Thank you. [LB482]

SENATOR MURANTE: All right, thank you for your testimony. Are there questions? Senator Blood. [LB482]

SENATOR BLOOD: Thank you, Chairman Murante. Thank you for your testimony. I just have a question and I may have missed it, what is your number one reason for not bidding on PLAs? [LB482]

ANNE KLUTE: Well, from what my members have told me is it makes oftentimes they have to hire from other...the union halls or from other entities and (inaudible) have to use their own employees on some of the jobs. My members find that it increases the cost. And I would like to get some other... [LB482]

SENATOR BLOOD: How does it increase the cost? [LB482]

ANNE KLUTE: Well, for them they have to bid a higher bid because they're going to have to hire people from other places, they can't use their workers, possibly, is what I've been told by

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some of my members. I can also get some other answers from that, and we have a couple of our members here that can probably answer and speak to that more directly than I can as far as the cost and how it increases their cost. [LB482]

SENATOR BLOOD: Because it's my understanding PLAs are usually...they don't usually have to hire union or not union, a lot...I mean there's obviously more to it than that, so I'm a little confused on that. So you think the number one reason based on your conversations is having to hire people who maybe they'd have to pay more wages to? [LB482]

ANNE KLUTE: Well, no, I think that it has to do with the fact that they may have...may not be able to use their own employees on the jobs, is what I've been told. And they may have to...it may cost them more by having to hire other people to work on the job, that's my understanding of it. But as I said, we have another member here that is from a company...a firm and he will speak to that probably more directly than I can. [LB482]

SENATOR BLOOD: And is it then that they have to pay those people more money than they pay their own employees then is what you're saying? I'm just trying to clarify, I'm not... [LB482]

ANNE KLUTE: Well, I don't think they necessarily have to pay them more, but they have to pay benefits that they have to pay additional benefits for their employees because they have to pay the union benefits in addition to the benefits they are paying if they have to hire from the union halls. [LB482]

SENATOR BLOOD: All right, that did clarify some of it for me. Thank you. [LB482]

ANNE KLUTE: You're welcome. [LB482]

SENATOR MURANTE: Thank you. Additional questions? Seeing none, thank you very much for your testimony, appreciate it. [LB482]

ANNE KLUTE: Thank you. [LB482]

SENATOR MURANTE: Welcome. [LB482]

ALEXA TURNER: (Exhibit 1) Thank you. Good afternoon. Chairman Murante and members of the committee, thank you for holding this hearing and allowing me to testify in support of Senator Smith's bill, LB482, on behalf of the Associated Builders and Contractors. My name is

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Alexa Turner, spelled A-l-e-x-a T-u-r-n-e-r, and I work out of ABC's national office in Washington, D.C. By ensuring that project labor agreements can neither be required nor prohibited by a government entity, LB482 guarantees a level playing field in the procurement of taxpayer-funded construction projects. ABC believes PLAs should never be mandated by a government entity, whether state or local. Rather, the decision should be left to those participants at the most local level: contractors. The employers that would be conducting the work are free to voluntarily adopt a PLA if the firm trusts it would help promote economy and efficiency in contracting. LB482 does nothing to infringe upon the rights of private entities to adopt a PLA voluntarily. If passed, Nebraska will join 22 states that have taken similar action to safeguard open and competitive bidding of government contracts. Twenty of those states have enacted measures since 2011. A number of states, including nearby North Dakota, South Dakota, Arkansas, and Oklahoma decided to legislate in this area proactively. Government neutrality legislation was viewed as a responsible step in ensuring future projects would be safe from government mandates. Other states like Iowa, Virginia, and Michigan have had to legislate reactively after contractors and their workers had already been excluded from projects and costs increased due to reduced competition. Although some of these laws have been challenged from a legal standpoint by PLA proponents, all measures have been upheld by the courts. Most recently, in 2015, the U.S. Court of Appeals for the 9th Circuit upheld Idaho's law ensuring government neutrality in contracting. Many of the states that have taken action were prompted to protect state-funded projects from government mandates by an executive order issued by the Obama administration in 2009. EO 13502 strongly encourages federal agencies to require PLAs on a case-by-case basis on federal construction projects exceeding \$25 million. In response to this EO, ABC and the merit shop contracting community mobilized a campaign of effective public relations, political, legal, and legislative strategies to limit the impact of anti-competitive and costly government-mandated PLAs on federal projects. Fortunately, PLA mandates have been kept off of 99 percent of federal projects since the EO took effect. In fact, after issuing surveys for information related to PLAs, the U.S. Army Corps of Engineers and the VA decided against placing the agreements on two federal projects in Nebraska: the Strategic Air Command Center at Offutt Air Force Base and the Omaha National Cemetery. PLAs have been kept off of other projects that received Nebraska tax dollars, including TD Ameritrade Park in Omaha and Pinnacle Bank Arena here in Lincoln. Taxpayers in all states deserve efficient, accountable, and effective construction spending and investment in communities free from costly and discriminatory procurement policies. Nebraska and industry stakeholders will benefit from a bidding process open to all qualified contractors, regardless of whether or not they are willing to execute a PLA. We urge you to support this bill which will preserve Nebraska's open and fair bidding process. I appreciate your interest in this legislation and am happy to answer any questions. [LB482]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions?
Senator Blood. [LB482]

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SENATOR BLOOD: Thank you, Chairman Murante. You just said, and I just want to make sure that it's clear on the record, that PLAs are voluntary. Yes? They must be because they weren't used on... [LB482]

ALEXA TURNER: There was talk about including a government mandate of PLA projects on the projects I mentioned. But the procuring entities that were going to build those projects decided against using a government mandated PLA. [LB482]

SENATOR BLOOD: Because it's not mandatory, it's optional, right? [LB482]

ALEXA TURNER: They opted not to. But there was consideration to put a government mandated PLA on those projects. [LB482]

SENATOR BLOOD: So right now, PLAs in Nebraska are not...you don't have to do it, it's optional... [LB482]

ALEXA TURNER: No, but our members deal with the threat of PLA mandates and want to be able to plan that they can bid and compete on all projects. [LB482]

SENATOR BLOOD: And what would you say that...for your organization, because I'm kind of keeping track here, what is the number one reason that your organizations aren't bidding on PLAs that they think that are out of reach? [LB482]

ALEXA TURNER: So most of our members are nonunion contractors or merit shop contractors and they have chosen not to be affiliated with (inaudible) organization. If required to sign a PLA, they would have to recognize the union as a sole representative of their employees; they would have to pay into union pension and benefit plans and often maintain their own, which makes double benefits coming out of their pocket. And there are costly...other costly provisions following union work rules. And oftentimes in other states we find that employees then will have to pay into...and as Anne said, they have to oftentimes get their workers from the union hiring hall. [LB482]

SENATOR BLOOD: And how is that? I'm truly am asking these things because I don't understand. I hope you don't think I'm attacking you in any way. You say that it makes them pay double benefits? [LB482]

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ALEXA TURNER: Um-hum. So when you have to sign a PLA, you would often have to pay into the existing union pension and benefit plans, and if you're already maintaining your own for your own employees, you're paying into those plans as well. [LB482]

SENATOR BLOOD: But you're only paying into those plans should you hire labor...union labor. [LB482]

ALEXA TURNER: Well, oftentimes PLAs require you to hire from the union hire hall. [LB482]

SENATOR BLOOD: And how much...is it because they're maybe making a better hourly wage than what's being paid in the organization? [LB482]

ALEXA TURNER: No. And when you say they have to...can you clarify your question? [LB482]

SENATOR BLOOD: Well, I've heard this now twice, so is the concern that when I hire somebody who is maybe a member of the union, and maybe I pay \$20 an hour, but union is \$25 an hour, is that part of the concern that you probably have to pay them a better living wage? [LB482]

ALEXA TURNER: No, we have a contractor here, as well as an employee from a merit shop company that will testify to the fact that their companies invest very significantly in their workers and they care about their workers and they want the best for them. [LB482]

SENATOR BLOOD: So that part has got nothing to do with the formula that you're talking about? [LB482]

ALEXA TURNER: No, they are costly provisions related...when you keep your own employees and your own staff, to have to hire from somewhere else that's a cost. And when you're paying into benefit plans that aren't your own, that's also a cost. [LB482]

SENATOR BLOOD: How do the work standards affect you? I've heard that a couple of times, if they set in the PLA that they have a certain expectation for work standards or safety standards, is that a negative? [LB482]

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ALEXA TURNER: Can you just...I mean, contractors are going to work to a high standard so that they get the project done safely and efficiently. And so I don't think a PLA is necessary to ensure that that would happen. [LB482]

SENATOR BLOOD: Okay. Thank you. [LB482]

ALEXA TURNER: Thank you. [LB482]

SENATOR MURANTE: Thank you. Any additional questions? Senator Hilgers. [LB482]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Ms. Turner, for your testimony today. When you said...that you said under the threat of a PLA, is that what you meant by that the fact that if...in some cases, the governmental entity may not...that's part of the bidding process require a PLA, I think you put in the references Pinnacle Bank Arena... [LB482]

ALEXA TURNER: Yes. [LB482]

SENATOR HILGERS: ...but in some cases they might under current law. [LB482]

ALEXA TURNER: Yeah, yes. [LB482]

SENATOR HILGERS: And so in those instances, your members may not bid...may not even have the opportunity to put in for a bid without going under those conditions. So is that what you were referring to when you said that? Help me out. [LB482]

ALEXA TURNER: Well, the threat is also oftentimes when we know a project is coming there is talk that the government would like to put a PLA on that project. And so in that case there was speculation that there would be and there was some conversation back and forth from both sides. And so our members had to mobilize to say we won't bid on these projects if they contain a PLA. [LB482]

SENATOR HILGERS: Okay, thank you. [LB482]

SENATOR MURANTE: Thank you. Seeing no additional questions, thank you for your testimony. [LB482]

ALEXA TURNER: Thank you for your consideration. [LB482]

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SENATOR MURANTE: Still on proponent testimony for LB482. Welcome. [LB482]

BRANDON LEE: Good afternoon to the members of the committee. My name is Brandon Lee, B-r-a-n-d-o-n L-e-e. Thank you for the opportunity to testify in support of LB482. I'm the safety director at Willmar Electric Service. I've been with Willmar Electric Service since 2008. My duties as safety director include, but not limited to job site inspections, documenting and resolving accidents and safety violations, and training employees on OSHA standards. I finished two years of ABC apprenticeship classes before pursuing a bachelors degree in business administration. I currently teach year one and year two apprenticeship classes. I've had occasional breaks away from Willmar Electric Service because of military deployments and military training. Willmar Electric Services is pro military and does an outstanding job supporting me, along with other military coworkers when military obligations arise. Willmar Electric Service received the Patriot Service Award in 2013 for providing outstanding patriotic support and cooperation to its military employees. Willmar Electric Service believes that each employee is crucial to the team's overall success, and as a result, puts emphasise on providing a safe workplace, paying fair wages, and providing opportunities for growth motivating each employee to become an effective and enthusiastic worker. As a Willmar Electric Service employee, I can tell you how true this is, and as a safety director I can attest to the culture of safety that the company has fostered through extensive educational opportunities and high standards for training. As a participant in ABC's step program, Willmar Electric Service has committed to achieving...is committed to achieving world-class safety in construction and boasts a total recordable incident rate below the industry average. Willmar Electric Service stresses safety because the company believes that everyone should go home in the same, if not better shape than they came to work in. Last year, Willmar Electric Service, Nebraska region, qualified for the step gold award because the incident rate in 2015 was 8 percent below the national average. Project labor agreements are not necessary to guarantee safely built, qualify construction projects. Instead, they're used on public projects discourages capable contractors like Willmar Electric Service from taking part in the bidding process. My colleagues and those employed by contractors that are discouraged from bidding on PLAs should not be shut out of the working on projects paid for with their own tax dollars. I ask you to support this legislation to ensure all members of the construction community have a fair chance to compete for and work on publicly funded projects both now and in the future. [LB482]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? Senator Blood. [LB482]

SENATOR BLOOD: Thank you, Chairman Murante. Sorry, I have a lot of questions today. I'm trying to understand this. And thank you for your service by the way. I keep hearing this word "discouraged from bidding." How are you discouraged from bidding? What is preventing you from bidding on this? [LB482]

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BRANDON LEE: Being a safety director, I don't know if I can answer that directly. [LB482]

SENATOR BLOOD: Okay. [LB482]

BRANDON LEE: But I know with a PLA if it comes out of the safety or whatever, you could always look at a union versus a (inaudible), that's what's concerned you as a safety or the cost or whatever is important. [LB482]

SENATOR BLOOD: I guess I'm just really trying to pinpoint...I keep hearing discouraged from bidding, discouraged from bidding, but I'm not really hearing anything concrete and that's what I'm trying to get a grasp on, truly what I'm trying to get a grasp on. [LB482]

BRANDON LEE: I don't know if I can answer that question. [LB482]

SENATOR BLOOD: Okay. I appreciate it. Got to ask. [LB482]

SENATOR MURANTE: All right. Are there any additional questions? Seeing none, thank you for your testimony, much appreciate it. Still on proponent testimony. Welcome. [LB482]

BRUCE PETERSEN: Good afternoon. My name is Bruce Petersen, B-r-u-c-e P-e-t-e-r-s-e-n. I'm the vice president of finance for Electronic Contracting Company. We have five offices in three states: Wichita, Kansas; Kansas City, Missouri; and Springfield, Missouri; Omaha and Lincoln. There's been a lot of questions about discouragement on a PLA and for...so I wanted to sit down and shed some light on that. There's two things that would discourage me as a contractor from bidding on a PLA and they have to do with employee benefits because the PLA mandates employee benefits be deposited into union funds. And we used to have a union contract in Kansas City and also here in Lincoln. And we saw the same thing happen with our employees when they would go to another jurisdiction. We would have a job or a series of jobs and over the course of a year our employees may work 400 hours. In Topeka, when they were based out of Kansas City, 400 hours isn't enough to vest in those benefit plans. And so when the company is paying out benefit dollars, I want my employees to benefit. And many of our jobs aren't large enough to be able to vest in those benefits that we would be paying under a project labor agreement. The other item that is of concern, which a lot of contractors aren't even aware of, if a particular pension plan is underfunded, there's a withdrawal liability. And so once you start paying into that fund, if you stop, you may unknowingly have opened yourself up to additional payments to satisfy that withdrawal liability. It's not going to be the union halls that are going to launch a lawsuit against you, it's going to be the benefit fund managers and they're fulfilling their fiduciary duties to act on behalf of the funds to go collect any potential withdrawal liabilities.

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And so those two factors weigh heavy when you're considering whether or not to bid a project. Now, we do a tremendous number of prevailing wage projects and in those instances the wage rate is defined, the amount of the benefits per hour is defined, and anything in excess can be paid to our employee on their paycheck or into a retirement fund on their behalf. But the big point is, they get the benefit of that; it's not paid into a fund that they're never going to vest in. So I guess I would accept any questions on those points. [LB482]

SENATOR MURANTE: All right, thank you very much for your testimony. Are there any questions? Senator Hilgers. [LB482]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Mr. Petersen, for your testimony. And just correct me here, but it seems like there's a more basic issue which is you currently...how many employees do you currently have? [LB482]

BRUCE PETERSEN: One hundred and seven. [LB482]

SENATOR HILGERS: And so if you go bid a job you use, typically, one of those...a number of those 107 on that job. [LB482]

BRUCE PETERSEN: Um-hum. [LB482]

SENATOR HILGERS: Those are people you've hired. [LB482]

BRUCE PETERSEN: Yes. [LB482]

SENATOR HILGERS: You've trained? [LB482]

BRUCE PETERSEN: Yes. [LB482]

SENATOR HILGERS: You've worked with on other jobs, presumably. [LB482]

BRUCE PETERSEN: Yes. [LB482]

SENATOR HILGERS: You trust them. [LB482]

BRUCE PETERSEN: Yes. [LB482]

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SENATOR HILGERS: And I'm an employer so I understand the value of having people you chose. So you've got this group, you now have to...you go and want to do a PLA. Now, those are union individuals, so now if you're forced to go hire another set of individuals you haven't worked with. In that instance, is that what would happen? [LB482]

BRUCE PETERSEN: Not necessarily; I mean, if we can staff the project, it's not a problem. We take that into consideration when we bid a project. You know, what's the time line? Do we have the staff in place to be able to cover this? Is it during a busy time of our season? The PLA would require you to...if you need to hire additional staff, go through the union hall first. That's not a deal stopper. They may not have anybody on the bench anyway. Then you have a labor shortage all the way through. So I guess it's less of a concern for me than who's going to benefit from the fringe benefit payments. If I'm paying the money, I want my employees to benefit from the fringe benefit payments. [LB482]

SENATOR HILGERS: Okay. Thank you. [LB482]

SENATOR MURANTE: Thank you, Senator Hilgers. Senator Blood. [LB482]

SENATOR BLOOD: Thank you, Chairman Murante. Can you estimate for me...and I'm just looking for a window of estimation, what percentage of contracts are PLA that you come across as far as contracts that you guys broach when you're looking for jobs? [LB482]

BRUCE PETERSEN: In Nebraska, it's really low. [LB482]

SENATOR BLOOD: What percentage would you say that is? [LB482]

BRUCE PETERSEN: Probably 2 percent. [LB482]

SENATOR BLOOD: So approximately 2 percent of the contracts that you look at are potentially PLAs. [LB482]

BRUCE PETERSEN: Um-hum. [LB482]

SENATOR BLOOD: All right, thank you. [LB482]

SENATOR MURANTE: Thank you. Seeing no additional questions, thank you very much for your testimony. [LB482]

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BRUCE PETERSEN: Thank you. [LB482]

SENATOR MURANTE: Additional proponents wishing to speak on LB482? Welcome.
[LB482]

STEVE BOWEN: (Exhibit 2) My name is Steve Bowen, last name is B-o-w-e-n; I live here in Lincoln, Nebraska. I've been an electrical contractor for 44 years and I'm now retired. I've been through a lot of experiences bidding on projects. In fact, it's hard to stand anywhere in Lincoln where you can't see a project that I built. So I've been hearing some of the testimonies, so I thought I might be able to fill in some things. There have not been very many PLAs in Nebraska which is a good thing. The few that I know about have been horrible disasters. The cost overruns on those projects have been unbelievable, actually. The project went from \$40 million to \$140 million for instance. So I think because of that and because it happens almost every time that they're tried, they're not tried very often. So it doesn't happen in Nebraska very often. But as a merit shop contractor, I don't want the...ever see them happen again ever. And as a contractor, I don't want to be forced to work with people who are actually working against me on a regular basis to put my company out of business. So I think this is a very good bill. It protects the taxpayers of the state and it protects the workers of the state as well. Are there any questions?
[LB482]

SENATOR MURANTE: Thank you for your testimony. Senator Blood. [LB482]

SENATOR BLOOD: Thank you, Chairman Murante. Part of being a freshman senator is I have to ask lots of questions. And I'm glad you come with so much experience because I think you know the answers to some of these questions. So, you had talked about that the PLAs that you've been exposed to in Nebraska and yet they were horrible disasters, can you give me those examples of what you're talking about, which projects? [LB482]

STEVE BOWEN: Well, Nebraska City power plant, the Cooper Nuclear Power Plant, those go back a ways, of course. Those are the ones that are...that really scream out to me as projects that had project labor agreements on and the cost overruns on those projects are legendary. [LB482]

SENATOR BLOOD: Isn't it true though in your experience--and I'm only speaking from my municipal experience, so I'm sure you're more worldly on this point--that in these agreements, they can put in that if it's not done by certain date that then there's a percentage of decrease in what they'll get paid? And they can put in the contract that they can't go over a certain amount or there's a cushion of the limits they're allowed to use. Is that not true that they can't do that in the contract? Or do PLAs disallow that? [LB482]

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STEVE BOWEN: Well, one other thing that you should know about PLAs is every PLA is unique. There isn't...there may be, let's say, a standard beginning, but each PLA is unique to itself. As for putting provisions in the contract that you mentioned, yeah, that could be done, but I don't understand why you think that changes anything. [LB482]

SENATOR BLOOD: Well, my experience in the changes in the fact that we're talking about overages and costs and what I'm hearing are those are things that lots of times are controlled within the contract and some of these examples, and I don't know because I have to research it, and they didn't write good contracts. [LB482]

STEVE BOWEN: One of the things that you...one of the things you need to understand is when you have a PLA, there's a pretty good chance...there's an overabundance of corruption involved. And because of that, these cost overruns are going to be allowed to take place because that's part of the corruption. [LB482]

SENATOR BLOOD: What type of corruption? [LB482]

STEVE BOWEN: Stealing millions and millions and tens of millions of dollars from the taxpayers or ratepayers. [LB482]

SENATOR BLOOD: I still don't understand how do they steal millions and millions from taxpayers? I know because they go...they overrun... [LB482]

STEVE BOWEN: Because they have...because they have a corrupt organization in place. [LB482]

SENATOR BLOOD: Who is the corrupt organization? The cities or the power organizations? Who are the corrupt...I don't understand what you are saying. [LB482]

STEVE BOWEN: I'm trying to make it as plain as possible. It would involve the people who are funding it; who are managing it. [LB482]

SENATOR BLOOD: Oh, okay, so the public entity that writes the PLA is the one that is corrupt? [LB482]

STEVE BOWEN: Ones that agree to it, yes. [LB482]

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SENATOR BLOOD: Okay. Thank you for clarifying, I wasn't trying to push you, I was just trying to understand. [LB482]

STEVE BOWEN: No, no, it's where the money comes from. [LB482]

SENATOR BLOOD: Okay, thank you. [LB482]

STEVE BOWEN: That they use other people's money, of course. [LB482]

SENATOR MURANTE: Any additional questions? Seeing none, thank you for your testimony. [LB482]

STEVE BOWEN: Sure. [LB482]

SENATOR MURANTE: Welcome. [LB482]

JAY BUCHANAN: (Exhibit 3) Thank you. My name is Jay Buchanan, it's spelled J-a-y B-u-c-h-a-n-a-n. I'm also here as a member of the ABC group which is Associated Builders and Contractors, the Cornhusker chapter. Chairman Murante and members of the committee, thank you. Again, my...my role is I'm the general manager of Signature Electric, which is an electrical contracting business based in Omaha. My wife, Lori, and I own the business. We just celebrated, last year, our 40th year. We serve a variety of clients including residential, commercial, industrial, and institutional and are very proud of our Better Business Bureau Honor Roll and A1 rating. We take our business and responsibility seriously. Like many small businesses across the country, we struggle to maintain daily to remain competitive and we work very hard to earn a modest profit. In the past few years, our net profit in 2015 was a meager 1.5 percent. And last year, we actually had a negative 1.5 percent. I just ask, put things in perspective how many people in this committee would invest in our firm. Right? So we're looking for modest returns. And in that process as you talk about there's lots of risk in this business. One thing we're proud of, we pay competitive wages, offer rich benefits, and invest in each one of our employees. But the rising labor costs, benefit costs, taxes, increased regulation have consumed my wife and I and our management team the ability to deliver reasonable return on investment. We're overwhelmed. From a business perspective...and I should add that we're overwhelmed, but we come with a lot of experience, knowledge, and skills to manage the day-to-day activity. From a business perspective, I would not be able to bid on a project that would force me to agree to costly and restrictively provisions as a condition of working on a project. They're high and extensive today. Lori and I are proud support...we proudly support the merit shop philosophy and believe the marketplace should determine winners, not government. It is for this reason we oppose

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government mandated project labor agreements. As a Nebraska contractor, I want the opportunity to compete on projects paid for with my tax dollars and should be able to do so on a level playing field. PLAs add costly requirements and provide certain contractors with distinct competitive advantage. PLAs do not provide meaningful benefits to our clients, nor are the PLAs aligned with our company's core values. This legislation is important to me because it will enshrine fair and open competition in Nebraska statute and ensure that future publicly-funded projects are free from government mandates such as a PLA. I strongly urge each and every one of you to support LB482 and help create a level playing field for all Nebraska contractors. And I appreciate the opportunity to testify today. I'd be happy to address some of the issues that have been brought up if I have time. Any objection? [LB482]

SENATOR MURANTE: You do have time. [LB482]

JAY BUCHANAN: Senator Blood, you addressed the low price issue. That really stands away from what we're talking about in this proposal. If we look across the world and across the nation, Boeing, GD-General Dynamics, Lockheed, on and on and on, are overrun and they're also the low price bidder. So there's not a correlation between lower price and quality. There's not a correlation between overruns and low price. (Inaudible) to the quality issue you first addressed, Senator Blood, our company takes seriously the training efforts and one of our core value is continuous learning by ourselves and others and we invest very heavily in our trade. Our core values are craftsmanship, professionalism, and teamwork, besides our ethics statements. So my name and my wife's name is on our...on the projects that we do, the quality we deliver, and the price...and many of these we win and sometimes lose money on projects. We just concluded a major project we lost money on. We were the low bidder. Some projects we are, as the low bidder, make money on. That's the job of management to ensure that we accomplish that. We have a strong relationship with our team; we have 52 employees. We like the relationship with our employees; they're part of our family. We can have a relationship that is meaningful and we don't like to have third-party intervention with regard to who is on our team and how our work is performed. [LB482]

SENATOR MURANTE: Okay, thank you very much for your testimony. Are there any questions? Seeing none, thank you for coming down today, much appreciate it. [LB482]

JAY BUCHANAN: You bet. [LB482]

SENATOR MURANTE: Are there additional proponents wishing to speak on LB482? Seeing none, opposition testimony to LB482. Are there any opponents? Welcome. [LB482]

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KEVIN HILTON: Thank you. Senator, thank you for...and committee members, thank you for the opportunity to speak on this. My name is Kevin Hilton, that's H-i-l-t-o-n; I represent the North Central States Regional Council of Carpenters. We have three locals here in Nebraska: Local 427, Local 1308, and a Millwrights Local 1463. Just want to...first of all, we are in opposition to this bill. We believe that this bill actually is a prohibition to an important tool used by proprietors to award contracts. Actually agree with Senator Smith when he says that there are times when PLAs are advantageous for a proprietor and there are times when they are not advantageous for a proprietor. That's why I think it's important to allow for local governments to utilize that tool when it is advantageous. It's interesting to me, well, because I think a PLA becomes advantageous according to the size, the scope, certain conditions that that project would require to be done efficiently, economically, and on time. There are a number of different conditions to any project that would discourage a contractor from not bidding. It could be that, say, on a school project that requires workers to work overnight instead of during the day; that would discourage certain contractors from bidding. There are also size and scope issues where contractors that are overwhelmed may not necessarily bid on a project simply because that project doesn't fit what it is that they do. That shouldn't be a consideration for a proprietor when they are making a decision to their own benefit on how the project needs to be done. And so, PLAs are actually...have been utilized in the private sector for a number of years, not always, in fact, sometimes very sparingly. But when they are utilized in the private sector, they are utilized in a marketplace that is highly competitive, that does not allow for cost overruns, that does not allow for increased costs because of the competitiveness of our market. Just as another contractor came up and spoke, our industry does not allow for much by way of profit margins, it is a very competitive place. So where PLAs are utilized, they're not...they're certainly not utilized in a way that would put a proprietor at a disadvantage. In fact, they're selected so that that job would be done on time and would meet the specifications of the proprietor. In this case, we're talking about local governments being that proprietor. And they should have all the tools that the private sector has to be able to make decisions that are best for the taxpayer dollars. They are elected by the same people, the same constituents that elect you all. They are accountable in the same way and are stewards over that taxpayer dollars. And so they should have all the tools necessary to make wise decisions on how to manage and award capital projects. And that's why I don't believe that prohibition of one of those tools is responsible. And so like I said, I would just speak against it. And I would be willing to answer any questions that you might have. [LB482]

SENATOR MURANTE: Thank you very much for your testimony. Senator Hilgers. [LB482]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Mr. Hilton, for coming down here to give your testimony and perspective. [LB482]

KEVIN HILTON: Sure, thank you for having me. [LB482]

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SENATOR HILGERS: I heard you use the word a couple of times--prohibition on. And I guess my question is...it's not how I read...it's not how I read LB482. I don't read it to say that a municipality, a governmental entity can never actually, except to have a PLA as part of their project. [LB482]

KEVIN HILTON: Sure. [LB482]

SENATOR HILGERS: In fact, what it is really prohibiting is prohibiting those entities from mandating that only PLAs can be submitted in a bid. So the way that I read LB482, I just want to understand what your prohibition comments are coming from, is that...it says it prohibits the governmental entity in the RFP from either requiring or prohibiting, encouraging or discouraging a PLA. So in other words, as long as the RFP doesn't say it has to be PLA, then a PLA could...I mean there could be a PLA that could be chosen and the governmental entity has all those tools and options that you referenced. So with that, when you say prohibition, what are you referring to? [LB482]

KEVIN HILTON: Well, I think that because it strikes at the nature of a project labor agreement, that the project labor agreement is, in fact, is an umbrella agreement that would cover all the trades that are actually doing work on that project. In the cases where a project labor agreement are advantageous is because of the nature of an umbrella agreement over all the trades so that all the contractors are working under the same rules, so to speak. In some of those cases, it works well and makes sense. [LB482]

SENATOR HILGERS: But just so...and I just want to make sure I'm on the same page, because I hear your point if what you're saying the bill does is that it prohibits the governmental entity from even accepting a bid that has a PLA, that's what I hear you saying is that we don't want that. And I get that point and I probably would agree with you on that point. But I don't read LB482 to do that. What I read is LB482 is saying--we can accept...we can accept from all as long as on the front end we don't only require that it's only the bid...we will only accept bids from only PLA or vice versa, or we'll only accept non-PLA bids. So I guess that's what...I guess that's the disconnect, I just need you to help me... [LB482]

KEVIN HILTON: Yeah, I understand what you're saying and I think that...I mean, the proponents for this bill are, if I'm not mistaken, actually supporting the bill because the PLAs...if a PLA is in place, it requires that they would actually work under that agreement if they're selected to be on that project. That's the nature of the PLA. So if you would prohibit or actually not require that a contractor where a PLA is in place that a contractor would work on that project without being under the PLA, it really doesn't...it undermines the whole nature of a PLA in the first place. [LB482]

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SENATOR HILGERS: So just so I'm clear, because you have more experience with these than I do, so I appreciate that comment. So...but could...so they would...if they want...if the municipality wanted to have a PLA in place in the contract; they received a bid from a contractor that wasn't...was not...didn't want to be part of a PLA, they may not have bid it in the first place, are you saying that there might be an instance where the governmental entity would choose a PLA...want to have a PLA, but then accept a bid from a contractor who doesn't want to be part of PLA and that would refuse to be part of the PLA, is that sort of the problem? Am I hearing...I just want to make sure I'm hearing you right. [LB482]

KEVIN HILTON: Sure. So if a project labor agreement was put in place by a municipality, and RFQs were put out and responded to by contractors, part of the provision of that would be that they would work under the agreement of the project labor agreement. So it would be...so the contractor would have choice whether or not they wanted to bid on that project, if they wanted to work under the rules that were negotiated by the proprietor. [LB482]

SENATOR HILGERS: So they could bid on it, but the proprietor, to use your terminology, could determine whether or not they wanted to accept that bid. [LB482]

KEVIN HILTON: Sure. [LB482]

SENATOR HILGERS: Okay, thank you very much. [LB482]

SENATOR MURANTE: Thank you. Additional questions? Senator Blood. [LB482]

SENATOR BLOOD: Thank you, Chairman Murante. And thank you, Senator Hilgers, for always bringing up more questions in my head. So...and hopefully you'll know the answer to this, so right now there's nothing in state law that really encourages or discourages the use of this type of tool, is there? [LB482]

KEVIN HILTON: No, not that I know of. [LB482]

SENATOR BLOOD: And so in your experience, what percentage of PLA contracts do you guys (inaudible) bid on? What would you say the percentage of the contracts are? I had that one gentleman say about 2 percent for his business. [LB482]

KEVIN HILTON: I have been working in Nebraska for five years and we have not worked under a PLA since I've been here. [LB482]

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SENATOR BLOOD: That's interesting. All right, thank you. [LB482]

SENATOR MURANTE: Thank you. Seeing no additional questions, thank you very much for your testimony. [LB482]

KEVIN HILTON: Thank you. [LB482]

SENATOR MURANTE: Welcome. [LB482]

SUSAN MARTIN: (Exhibit 4) Good afternoon, Senator Murante and members of the committee. My name is Susan Martin, S-u-s-a-n M-a-r-t-i-n; I'm the president of the Nebraska State AFL-CIO representing 23,000 union members across the state of Nebraska. First I must say, it's much nicer to be sitting in this hearing room rather than the Business and Labor hearing room. The chairs are much more comfortable. [LB482]

SENATOR MURANTE: We get that a lot actually. [LB482]

SENATOR HILGERS: Are we just nicer here? (Laughter) [LB482]

SUSAN MARTIN: I think it's the chairs that are much more comfortable. [LB482]

SENATOR MURANTE: I'll be sure to pass that along to Senator Albrecht. [LB482]

SUSAN MARTIN: Okay, thank you. Many employees would be negatively impacted by the provisions contained with LB482. We do stand in opposition of LB482. It would create prohibitions against the use of project labor agreements with specific language about requests for proposals or bid specifications for public contracts that do not contain anything relating to requirements or adherence to collective bargaining agreements. This would unfairly discriminate against workers who are operating under a collective bargaining agreement and would set a poor precedent for how the state of Nebraska or other political subdivisions would work to establish good relationships with the workers they do contract with to provide vital contracting services. LB482 is not a good way to make public policy. There are few points that I think are important to consider as you weigh this legislation. First, there is nothing in state law currently that encourages or discourages the use of project labor agreements. This means there is nothing in state law that currently encourages or discourages the use of collective bargaining labor. We think that this is the way it should stay. Labor unions are not asking for special treatment or privileges, we are just asking that you not enact this legislation, a policy that would place workers and our members at an unfair disadvantage when it comes to bidding for contracts.

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Second, project labor agreements may provide benefits that we feel are getting overlooked and this legislation would do away with those benefits. Project labor agreements help to establish clear boundaries and expectations for a project, whereby a contractor and workers agree to the establishment of minimum terms and conditions for employment. These clearly established expectations lead to higher productivity, better work for better pay, as well as standardizing rules for work hours, safety, drug testing, and all the others. All of these factors lead to projects that are done to the benefit of all the parties, the contracting agency, the contractor or subcontractors, and the workers. Third, project labor agreements can be used by public project owners like school boards or city councils to set goals for creating local jobs. They may include provisions for targeted hiring and apprenticeship ratios. By including requirements for local workers to enter union apprenticeship programs, the project labor agreements can be used to help local workers gain skills, which is one of the Nebraska Workforce Development goals of focusing on Nebraska's skilled workforce. Finally, project labor agreements provide accountability. Because there are clearly defined standards for the employment and the work that will be done, this means that there is an established benchmark which can be used to make sure the work is done on time, under budget, and accurately. To close, I'd just say again that the provisions of LB482 are presented as a means to help increase efficiency and reduce costs, when in fact we'd argue that it's not the case. LB482 is more simply an attempt to put labor unions at a disadvantaged position when it comes to bidding for contracts and reiterate again that this is not good public policy. Thank you for the opportunity to testify this afternoon. [LB482]

SENATOR MURANTE: And thank you for your testimony. Are there questions? Senator Hilgers. [LB482]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Ms. Martin, for your testimony. [LB482]

SUSAN MARTIN: Yes. [LB482]

SENATOR HILGERS: I just...I want to...just so I understand, again, because you put this in your testimony that this would prohibit the use of PLAs. [LB482]

SUSAN MARTIN: Because of the collective bargaining. [LB482]

SENATOR HILGERS: Can you explain that? [LB482]

SUSAN MARTIN: Because LB482 has the language in there that...that...about the collective bargaining. I'm sorry, I don't have the (inaudible) in front of me. [LB482]

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SENATOR HILGERS: No, that's...well, and we can have a conversation outside. [LB482]

SUSAN MARTIN: Yeah, sure. [LB482]

SENATOR HILGERS: I just...I just...because at the end of the day, my understanding of how this works, I looked pretty closely at the language that it does not prohibit the municipal entity from using a PLA. [LB482]

SUSAN MARTIN: Right. Thank you. [LB482]

SENATOR HILGERS: And in fact, you've listed a number of reasons why they might want to do that. And so long as...so long as there's no prohibition, would the AFL-CIO support this if it was convinced that there's nothing in here that actually prohibited municipalities from using PLAs? [LB482]

SUSAN MARTIN: That's something we can discuss, absolutely; I'd be willing to do that. I think our biggest thing is, right now there's nothing in there now that encourages or discourages. And so we're just asking it to remain the same. [LB482]

SENATOR HILGERS: And so...you and...so I can do my research after. You referenced the collective bargaining section as the one you had... [LB482]

SUSAN MARTIN: Yeah. [LB482]

SENATOR HILGERS: Okay, thank you. [LB482]

SENATOR MURANTE: Okay, are there any additional questions? Seeing none, thank you very much for your testimony, much appreciate it. [LB482]

SUSAN MARTIN: Thank you. [LB482]

CHRIS CALLIHAN: Forgive me, I'm going to use my phone to try to read this, so we will see how this works. Good afternoon, Senators. My name is Chris Callihan. I am representing IBEW Local 265 and Lincoln Building Trades here in Lincoln. I guess I want to point out that its...right now the state statute, basically, isn't saying that it's favored to one. But I think from our standpoint, you're seeing...so we'll use that number, 2 percent of contracting is being awarded through PLA. And I think you could probably say that's probably being activated or actuated

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through the actual municipality or city, that's your...the one we want to protect. Give them that ability to actually do that, because as I'll go through my testimony, I mean, it should be that city, municipality, power district, state, county to determine if they want to set a PLA in place for a specific reason or for a specific standard. Okay? I'm testifying today in opposition of LB482, the Adopted Government Neutrality in Contracting Act. I think it already is neutral because they can choose to accept the bid that has a PLA scripted to it, or they can actually present one themselves or not. That already is neutral by nature from the way I can tell. And of course I'm not an attorney, but that's what I'm reading. PLAs have been around and used by public and private entities in the process of capital construction and maintenance projects since the 1930s. The contracting government agencies, such as the state of Nebraska, or maybe even a school board, or even a private company can decide to include in the various construction documents which maybe already...which would be basically a project labor agreement, to meet any requirement, provision, or standard that they see that they want or need for their work or specific project. They can write a PLA stating that they want a certain percentage of minorities employed within that project covered by the PLA. You could see the University of Nebraska draft a PLA requiring that all construction workers wear Adidas shirts and sweatshirts. I mean, it's whatever they decide to determine in there. You could see an entity write a PLA just requiring contracting companies to utilize apprenticed-trained programs. It requires access to basic health insurance to their employees. PLAs can set standards that do not choose the winner or the outcome of that bidding process they have established. This is not a union or nonunion concept or idea. This is a good business model that makes sense to have in the toolbox for both our government agencies and private companies in Nebraska. It should be their choice to utilize this great tool by outlining project labor agreements, which is basically what you're limiting them to do, you're taking away tools that another collective board or entity in our state may or may not want...may or may not want to use in making government work better and possibly even cost less for our citizens. I do not want to say...I do want to say that the Pinnacle Bank Arena wasn't a PLA. It did establish bidding standards through a point system for being a local contracting firm, for offering health insurance to your employees, and for offering a retirement plan, and couple of other qualifications or standards. Also I wanted to say, I know within the IBEW, our benefits do reciprocate from local to local. So me being a 265 Lincoln hand, I could go work in San Francisco or Texas and all my benefits that I'm earning there, both my insurance and my pensions, reciprocate back to my home plans. So that system is built in. So our contractors aren't losing out...or more importantly, as an employee, I'm not losing out because it's going to someone else's plan to benefit plan or funds. Thank you for your time today and for all the work you do for our state of Nebraska. [LB482]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? Senator Hilgers. [LB482]

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SENATOR HILGERS: Thank you, Mr. Chairman. Thank you for your testimony. Two quick questions: one is, the 2 percent number, it's the second time I've heard it. Is that 2 percent of all projects or 2 percent of public projects, do you know? [LB482]

CHRIS CALLIHAN: I don't...I just...it's a number that's been referenced twice, so I just used it as a template. I mean, I...to reciprocate what he said, is I've never personally worked with one, I've never even dealt with one before so I don't...it's not common practice in Nebraska. Whether that's good or bad, I mean, I think it's truly up to that municipality or city or county to choose. Because again, a PLA isn't necessarily scripted to say you have to use that union, or you have to use their CBA. You can set that agreement to say whatever you want for whatever provisions, standards, safety, minority requirements, steel-toed boots, whatever you would want as a standard, it's your choice. [LB482]

SENATOR HILGERS: So my second and last question is, there seems to be a disconnect, at least from my view of how the statute reads, which in my view, that it allows...it continues to allow municipalities to have this tool in their toolbox. Whereas some of the opponents who think that it...yeah, I think he used the word "outlaw," one of us is right. I could be wrong. But if we had a conversation after and IBEW was convinced or satisfied that this didn't outlaw that tool from the toolbox, would IBEW be neutral? [LB482]

CHRIS CALLIHAN: I think we would definitely be open to it. I mean, I just...I think true neutrality is basically saying that we are not going to endorse, support, or, you know, enforce it on you. It's something that that state...again, that city, state, county, if they choose to could set one in place. And it doesn't...like I said, doesn't necessarily have to be part tied to a union. [LB482]

SENATOR HILGERS: Okay, thank you very much, I appreciate it. [LB482]

CHRIS CALLIHAN: Thank you. [LB482]

SENATOR MURANTE: Thank you. Senator Blood. [LB482]

SENATOR BLOOD: Questions and more questions. Thank you, Chairman Murante. So this is kind of an opinion question. But one of the things that I saw a lot with contracts involving, and it drove me insane, is a contract would go to the lowest bidder, and then it turns out the lowest bidder would have subcontractor after subcontractor after subcontractor. In your opinion, and there may not be an answer to it, do PLAs protect against that or it doesn't really matter? [LB482]

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CHRIS CALLIHAN: I think it's one of the tools that you...that a city or county could have in the toolbox, so to speak, to try to address those type of issues. I think PLA could be one bidding standards. I think one of my personally...and since I've been in the industry, is that we rely too much on that one phrase--the lowest responsible bidder--on the one word, the lowest. [LB482]

SENATOR BLOOD: Right. [LB482]

CHRIS CALLIHAN: "Responsible" needs to be in there too. And that's responsibility of the...isn't necessarily from labor standards, that's just wages and health benefits; that's safety, that's qualifications. Do you have the current qualifications to require for that specific scope of work? I mean, there's a lot of things in there you could put in "local" local product, American-made product. [LB482]

SENATOR BLOOD: Window of time. [LB482]

CHRIS CALLIHAN: Yeah. I mean, a lot of different things and you could... [LB482]

SENATOR BLOOD: Penalties for not getting it done in time. [LB482]

CHRIS CALLIHAN: Yeah. Yeah, I mean, you can definitely have those. Those should be in there. I mean if you construct a project, you take an agreement to build a project, you should be able to finish within the time frames that allotted and agreed upon. [LB482]

SENATOR BLOOD: All right, thank you. [LB482]

CHRIS CALLIHAN: I hope that answers your question. [LB482]

SENATOR BLOOD: Yeah, I have a tendency to think out loud, so you helped me. [LB482]

CHRIS CALLIHAN: I do the same thing. Thank you. [LB482]

SENATOR MURANTE: Thank you. Any final questions? Seeing none, thank you for your testimony. [LB482]

CHRIS CALLIHAN: Thank you. [LB482]

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SENATOR MURANTE: Welcome. [LB482]

GREGG RHOADES: (Exhibit 5) Thank you. My name is Gregg Rhoades, R-h-o-a-d-e-s, and I am here representing the Cement Masons Local 538 of Nebraska. All of the testimony, I'm not sure I'm smart enough to be in this room, but we are going to try. A couple of things off the bat, we are in opposition of this bill and I'll get to the many reasons why. I do find it ironic with some of the figures that are being passed around here today that only 2 percent of the projects in the state of Nebraska fall under a PLA. That means 98 percent do not. And the young lady that testified earlier said that 91 percent of her members, ABC members, don't work on PLAs. What I took that to mean is that the other 9 percent are accomplishing all this work. I call that efficiency. I call that a great use of taxpayer dollars that only 9 percent of the construction population is accomplishing these large projects. Having said that, the reason that I'm opposed to this bill is I believe it raises more questions than it answers, and I'll beg your indulgence here. The bill is called the Government Neutrality in Contracting Act. Under bullet point A there, I can only assume that Mr. Smith feels that the current system is not neutral. Well, if you're not neutral, you're biased. Can the committee or Mr. Smith, and now may not be the appropriate time, explain the reason why they feel the current system is biased? If it is biased, towards whom? Toward what entity or individual is it biased? Bullet point number B, section 2, Mr. Smith states that the act will provide efficient procurement of goods and services. Again, can the committee or Mr. Smith state why they feel that the current system does not accomplish this? We've heard testimony that only 9 percent of construction workers are accomplishing the work on these PLAs. To me that is efficient procurement of goods and services when you have 9 percent of the work force accomplishing all of that. Bullet point number C, section 2 again, Mr. Smith states that this bill wants to promote nondiscrimination, efficient administration, and completion of the construction projects. On that we agree. However, again the question begs to be asked is the system that is currently in place not accomplishing this? Bullet point number D, section 4, states that proposals of bid specifications cannot contain a term, t-e-r-m, and here's where I start drifting, what exactly is that term? Is it a word in the statute? Is it a word in the...let me see here, LB482, what exactly does that word "term" refer to? Does it refer to an entity? Does it re...what I'm trying to figure out is what that word "term" under section 4 means. It's used multiple times, so I'm confused as to what that word "term" says this bill, if adopted, will not contain a...then it goes on, section 4, number 1--a term that requires, prohibits, encourages, or discourages better...I don't understand what that word "a term" means. Okay? All right. Section 4 again, number 2, Collective bargaining agreements, in more of a...he drafted the bill, I'm curious as to what Mr. Smith likes or dislikes about collective bargaining agreements. I have worked with, for, on collective-bargaining agreements for 33 years. I can tell you this, the trades that work under these PLAs, safety records are second to none. Every trade that I'm aware of that's ever worked on a PLA has a registered apprenticeship program with the Department of Labor. ABC and other people say, well, we have a program, too. And that may be accurate, but let's look at graduation rates of those programs. That's the key, senators. The key is not someone who walks in here and

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says I have a Department of Labor registered apprenticeship program, we're qualified; ask them how many people they graduate from that program. That's your key; that's your litmus test on that. Okay? [LB482]

SENATOR MURANTE: Your time has expired, do you just want to wrap up what you're... [LB482]

GREGG RHOADES: I'm trying; I'm trying. I got about eight more pages. (Laughter) [LB482]

SENATOR MURANTE: If you'd like to submit them for the record, we can... [LB482]

GREGG RHOADES: I got about eight more pages. The one gentleman, the proponent of the bill, spoke of corruption; that got my attention. I hope it got all the senators in this room's attention, that's against the law, and if he's got some knowledge of that I would think he would share it with all of you. That's a heck of a statement. But I digress again. But we're opposed to this bill. I see no merit in what is drafted here. Again, I find it ironic and if we just...I'll dumb it down, which is easy for me to do, look at the crowd you have in here and we're talking about 2 percent of the work in Nebraska done by, according to the other proponent, by 9 percent of the work force. But look at the crowd we got. What am I missing? Why are they so fearful of a PLA with those numbers? It's not as if 50 percent of the work is being done. It's not as if 75 percent of the work is being done and they're missing out. It's 2 percent. I'm done. [LB482]

SENATOR MURANTE: All right, thank you very much. Are there questions? Seeing none, thank you very much for your testimony. [LB482]

GREGG RHOADES: I was waiting for the questions, I prepared for this. (Laughter) Thank you. [LB482]

SENATOR MURANTE: Welcome. [LB482]

STEVE SIMPSON: Thank you, Senator; and thank you, committee members. My name is Steve Simpson, S-t-e-v-e S-i-m-p-s-o-n; I am the president of Lincoln Building and Construction Trades Council. I come before you in opposition to this bill. I've heard this before and I'm trying very hard, Senator, because you asked us not to be repetitive, so I'm going to try to go in a different direction if I can. It appears as though we've got a bill in place or being introduced today as a solution to a problem that doesn't exist. We've had people sit up in front of us and tell us...and I'm going to be honest with you, I've been around...I've been in representation now for 12 years in the state of Nebraska. I think 2 percent is a pretty high number, if you want the truth.

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I think we're probably looking at more closely to 1 percent. In the case of municipalities, or in this case I would say OPPD, NPPD, would be probably the two that would be the majority of the contractor...if you will, the elected officials who require a PLA on a job. With that being said, most of the time they don't, they hire the contractor that they give the contract to, that contractor does the PLA from that point on, which is allowed under this bill and that's fine. So the majority of this would go under OPPD or NPPD in the case mostly with the nuclear power plants. The examples I got with those is they set it up because they have a...I don't know if everybody is aware of this, but you can't just walk on to a nuclear power plant, which is probably good. You have to know what you're doing; you have to go through training. You have to have all that in place. This has been placed in position by those municipalities, by the people who run OPPD, the elected officials of OPPD to put people in place to make sure that they're going to be trained before they even walk on the job. They want them walking on to the job ready to start day one. They don't want to walk on the job, get trained, and then...on the clock, and then go to work. That would be, in my opinion, not looking after your fiduciary responsibility. So that is where we are today. The rarity that this happens I find it to be almost comical that we're in front of you today to be able to talk about this. I've come before the...a few committees in the Capitol before and I've heard a lot about too much government regulation and overreach. We got to let the states make the decisions for themselves and leave the federal government out of it. This is the same thing only the next level down. This would be the state reaching down and taking the ability of the elected officials at the lower levels to be able to make the decisions that they feel is...they're the experts on. No offense, but that is what it is. I'd be willing to take any questions. [LB482]

SENATOR MURANTE: Thank you very much for your testimony. Are there questions? Senator Briese. [LB482]

SENATOR BRIESE: Thank you, Senator. Thank you for being here. So if I understood correctly, your testimony is of the 1 or 2 percent of projects covered by a PLA in Nebraska, the majority of those are not required of the governmental entity anyway? [LB482]

STEVE SIMPSON: No. No. If the bid has gone out, for example, Hayes Mechanical may get an outage at a power plant, Hayes Mechanical requires the PLA; they're the ones that set up the PLA, it's not required by OPPD. [LB482]

SENATOR BRIESE: Okay, thank you. [LB482]

SENATOR MURANTE: Thank you, Senator Briese. Seeing no additional questions, thank you very much for your testimony, much appreciate it. [LB482]

STEVE SIMPSON: Thank you. [LB482]

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SENATOR MURANTE: Still on opposition testimony to LB482. Are there any additional opponents? Seeing none, is there any neutral testimony? Seeing none, Senator Smith. [LB482]

SENATOR SMITH: Thank you, Senator Murante and members of the committee. It has been a very good discussion, I think. Some very good comments have been made on both sides and I hope people have a better understanding today, maybe, maybe not, of what a PLA is. But I want to make certain to thank these folks that came and testified, whether they testified in support or opposition to this bill, those that are involved in the trades. I think we should...we have a great deal...we should have a great deal of appreciation for people that choose the trades. It's kind of a dying career, it seems like, in our society and I wish more people would choose those. And the people that choose to pursue them, I think they should be credited a great deal and I think they should be compensated very well as well. I think what we agree to is that we want a highly skilled work force. We want our workers to go home safe; that they are not harmed on the job. That there are safe work practices employed by our employers. We want them well compensated and we want them to have good benefits that helps them to choose to go into the trades. We want projects. We want construction projects in our country and in our state. And we want growth. And more than anything we want jobs. So those are good things and we agree with those. The only thing that we differ in, I believe the two sides here, is the role that government has on establishing a prehire agreement called a PLA. And I think the last testifier, frankly, summed it up quite well. Can we push that decision down to the experts? Can we push it down to those that know best when it's appropriate and when it's not. And I would dare say that the government entity is not necessarily the right one to make that decision many times. We heard that we know that sometimes a PLA is appropriate, but how do we restrict the overuse of a PLA when it is not appropriate? There's nothing in this bill that restricts the use of bidding standards. If it is, please point it out and we will make certain that that language is clarified. I believe in lowest and most responsible bids. In my company, that's the way we sometimes get them because we're not the lowest bidder. Every company believes they're the best and they have the best work force. No different here. So I love it when we say--most responsible. I think it's a good thing. And oftentimes that points to contract labor. I mean that points to collective-bargaining. I believe that. In Revenue Committee, we have an apprentice tax credit bill. I really hope we can find money because I think that's a very important thing to encourage apprenticeships into the trades. But the question is the role of government in making that determination. Since 2011, 40 percent of states have enacted some type of legislation or have put in place executive orders to restrict PLA requirements. I don't necessarily know if that's the right approach to go. What I say in my opinion is establishing a nondiscriminatory language neither prohibiting nor encouraging PLAs is the best path forward. Let that determination be made by the private sector and not government. That's what I'm suggesting here. Let us be good stewards of the taxpayers' dollars. Let's place the burden on the private sector that tends to do a better job of managing risk than the government. And I think that's...in closing if there is confusing language in terms of not matching up with the intent of this bill, I'm more than happy to work with the committee in

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getting it straightened out. But again, I want to make certain that those that are behind me from the trades, especially those from the collective bargaining...I'm not your enemy. I really believe that we need to have a strong work force; we need to work together to create jobs and make certain people are well paid and well compensated for choosing the trades. So thank you.
[LB482]

SENATOR MURANTE: (Exhibits 6-12) Thank you, Senator Smith. Seeing no final questions...before we close the hearing, I do have letters of support for LB482 from Bruce Petersen of the Electronic Contracting Company; David Chapin, the president of Willmar Electric Service; Jean Petsch, the executive director of the Associated General Contractors; Matt Litt, the director for Americans for Prosperity-Nebraska; Wendy Birdsall, the president of the Lincoln Chamber of Commerce; and David Brown, the president and CEO of the Greater Omaha Chamber of Commerce; and a letter of neutral from Nathan Leach representing himself. That closes the hearing on LB482. We'll proceed to the next item on the agenda. Senator Ebke, welcome back to your Committee on Government, Military and Veterans Affairs. [LB482]

SENATOR EBKE: (Exhibits 1, 2, 3) Thank you, Chairman Murante. Members of the Government, Military and Veterans Affairs Committee, for the record my name is Laura Ebke, that's spelled L-a-u-r-a E-b-k-e, I represent District 32. Today I'm going to ask you to think outside the box just a little bit because that's what LB299 asks us to do. You will recognize a lot of the things that I'm going to discuss today, but you may have never thought about them in the context of occupations. First let me say that while I have long been interested in some of these issues, LB299 did not originate with me, although I've taken it on willingly and enthusiastically. It was originally being worked on in a former senator's office with the assistance of Lee McGrath, an attorney with the Institute for Justice. Mr. McGrath will testify behind me to help provide more context and perhaps to clarify questions that I might muddy up. At its core, here's what LB299 seeks to do: It seeks to give the Legislature 12 options in the regulation of occupations rather than the more binary notion we have today of licensed versus not licensed and we'll get back to how that's accomplished in just a few minutes. But let me tell you first what LB299 does not do. It does not trump federal law. As much as we might like it to, it doesn't. The bankers association and others have expressed concerns about licensure of banking executives being removed and getting crosswise with federal regulators. LB299 would change neither the standards that individual businesses, including banks, can have for their employees, nor does it negate federal regulatory requirements. It would not change other statutory language. If there is existing reason why particular regulations, registration, or supervision must exist, this doesn't have to change that. The Nebraska Accountability and Disclosure Commission was apparently concerned that lobbyists were included in the complete list of occupations found in the bill. However, there's nothing in the bill which would automatically get rid of existing registration. It does not create a wild-west mentality. LB299 seeks to do this: first of all, if you look at Section 15 of the bill, it lays out the intent--occupational regulation shall be construed and applied to

increase economic opportunities, promote competition, and encourage innovation. It shall be the policy of the state of Nebraska to protect the fundamental right of an individual to pursue an occupation and to use the least restrictive regulation to protect consumers from present, significant, and substantiated harms that threaten public health and safety when it is necessary to displace competition and to enforce an occupational regulation against an individual only to the extent that the individual sells goods and services that are included explicitly in the statute that governs the lawful occupation scope of practice and so on and so on. LB299 would require a regular review of occupational regulations and boards with an eye to whether those regulations are using the...and again, least restrictive means possible and will provide recommendations for changes to the Legislature regularly. There are several ways to do that. The way drafted with a new paid office of oversight, think of it as sort of an Ombudsman's office for boards, which is called the Office of Supervision of Occupational Boards and which had a fairly significant fiscal note with the potential for two or three employees; or as presented in an amendment which I offer for your consideration which would have a much smaller fiscal note because it keeps those functions more limited and within what we're calling the Legislative Office of Occupational Regulations. The reality, I think though, is that much of the work under this umbrella, the Legislative Office of Occupational Regulations, could be supervised by the Executive Board or the Performance Audit Committee and much of the leg work could be accomplished by those who are already employed by the Legislature during the interim periods which would save us the rest of that money, or a good chunk of it anyhow. One of the additional bonuses that would be associated with LB299 is that it would open the door to some occupations to some with a criminal history who might not otherwise be able to get a state licensure. As Chair of the Judiciary Committee, one of the frustrations for us in our justice reinvestment efforts has been trying to figure out how to lower recidivism. Much research on the topic finds that those who have been released and able to find work which allows them to support themselves reasonably well are less likely to offend. LB299 would also allow those with a criminal history to petition occupational boards to determine whether or not their criminal history would prevent them from being eligible for licensure or any other government issued certification or recognition even before they take the necessary classes or pay any fees. Nothing in this bill requires that those with a criminal history be eligible for every type of occupation, what it does, however, is demands that some thought be given to whether there really needs to be a limit to what those with a criminal history can do occupation-wise under the auspices of the state. So I want to talk about one more thing, and then I'll take questions or let Mr. McGrath come up and talk a little bit about some of the legal reasons why moving to this kind of framework is a good idea, as well as try to clarify anything that I might have misspoken on. Let's talk about what least restrictive regulation means. As a general rule today, we think of ourselves as having a binary choice with respect to licensing of occupations, with a few exceptions I suppose. You're either licensed or you're not. What this bill would do is open up the options we've got as policymakers. If you look at Section 6 on page 2 of the bill, and also look at the hierarchy of occupational regulations, you see the big chart here, or you've got a smaller version of it that was handed out, we now have 12

options when thinking about occupations. Private governance at the top, offers the least restriction. Pure market competition--an example, my son and the neighbor's son each decide to go into business this summer mowing lawns. They each put fliers on people's doors advertising their services, telling about their experience, what kind of equipment they'll use, their prices. And the consumer decides for themselves which one, if either, they want to hire. Move to the next section, you have third party or consumer creative ratings and reviews. The boys both create Facebook pages for their fledgling businesses. They ask their customers to fill out comment cards. They use those comments or Facebook ratings to promote further. Someone in the next neighborhood sees a comment about one of the boy's services and decides to hire him for their yard work. Private certification--again, private certification, it's voluntary. Maybe there's a local nursery or garden shop that offers lawn specialist certification. One of the boys goes and gets certified and can use that certification on his fliers the next summer. The other boy doesn't get certified, but still has a bunch of happy customers who are happy to let him take care of their yards. Both can still do their thing, but one has added an additional credential and it's up to the customer whether or not that credential is important. And then fourth--specific private civil cause of action to remedy consumer harm--one of the boys runs over and breaks a couple of sprinkler heads. If the customer can't work out a deal with the boy, they have the option of taking him to small claims court...or calling me, I guess, if it's my son. (Laughter) For some things, public regulation may be necessary. For instance, we want to protect people from deceptive trade practices under the Uniform Deceptive Trade Practices Act. One of the boys claims that his method of lawn care will result in the greenest lawn in the neighborhood. Of course, he didn't say that he'd be bringing in a big bucket of spray paint. We can regulate the process of providing the specific goods or services to customers. We could stipulate, for instance, that certain herbicides can only be applied with a particular type of sprayer and can only be sprayed when the wind is below a certain threshold instead of licensing the person who is doing the application. We can provide for public inspection. We could create a system of spot-check inspections, a process for applying herbicides. Or we could have mandatory bonding or insurance. We could require that our lawn care guys if they want to do a little trimming of trees near the house show proof that they have insurance or adequate bonding to cover them should they pull the electric lines down and leave the whole neighborhood without electricity. That said, we're probably a little outside the realm of teenage lawn guys, but stick with me, okay. This is, I would argue, better than licensing the tree trimmers because it gets to the responsibility for damages that we want rather than actually trying to license the people who are doing things. We want to make sure that somebody is responsible for the harm. And in some cases, we may, as policymakers, decide that there's good reason for a little more government control in the occupation. Maybe we want to know how many teenage lawnmowers there are and we want to be able to have a list in case something goes wrong somewhere and we need a list of suspects. We can have them register. In other words, give notice to the government, not permission from the government, just notice to the government that they are engaged in the practice of lawn mowing. For all intents and purposes, this addresses the concern that the NADC had because

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that's exactly what lobbyists do. They don't get permission from the government to lobby, they pay their fees and they register with the government. We can have government certification of teenage lawn mowers. The teenagers bring their mowers to the state Capitol each March or given a section of landscape to mow and prepare for summer and they receive a certification from the state. Perhaps we also have them take a written test on safe mowing practices. That's possible, right? Now we're definitely outside the realm of teenage lawn guys, but for some cases we may also need to grant speciality licenses for medical reimbursement purposes. We don't operate in a vacuum. Medicare and Medicaid and assorted insurance companies are going to have expectations that if they're paying physicians or pharmacists or hospitals for services that the people who are receiving or working for those receiving medical reimbursements actually have some sort of medical training or verifiable credentials. Outright occupational licenses are defined in Section 8 of the bill on page 3. They are exclusive and require to perform a particular service legally. And we have a lot of them in Nebraska and around the country. And that said, we will always have licensing of some sort and this bill does not take that option away. But there are people from a lot of quarters from former President Obama to Governor Ricketts to some of the people behind me who think that we need to rethink the way that we do things where occupations are concerned. Partially from an economic perspective to encourage the market to work, but also from a legal perspective to protect the state from antitrust litigation as the result of excessive control of an occupation for the circumstances. Finally, let's talk about the fiscal note and some amendments that I'm offering. The original fiscal note is in large part a reflection of the creation of that Office of Supervision of Occupational Boards. This office would, if created, be something of an Ombudsman for licensing issues, nevertheless it is not absolutely critical at this time, so in the interest of reducing the fiscal note, I offer AM337 as a means of getting rid of that new office in the bill and reducing the fiscal note for the cash funds. Remaining in the fiscal note is the Legislative Office of Occupational Regulations which reflects the General Fund's dollars in the fiscal note in large measure. I would suggest, however, as I mentioned before, that this office could be housed and managed with mostly existing funds, managed through the Executive Board and Performance Audit Committee, or a newly created committee, if you will. If we think about it, a task force could be created made up legislative aids and committee legal counsels who have much more down time during the interim to engage in these reviews. The second amendment I offer you is AM363. This amendment is brought as a result of conversations with the Nebraska Bankers Association. It verifies that nothing in this bill would pre-empt any credentials required in federally regulated areas. If you have any questions for me now, I'd be happy to try to answer them. If not, I encourage you to listen carefully to those coming behind me, presumably on both sides of the issues. Ask lots of questions. It's a conversation that I think we need to have if we believe in free market economics and in giving people as many opportunities as possible to work in their chosen field. Thank you. [LB299]

SENATOR MURANTE: Thank you, Senator Ebke. Senator Blood. [LB299]

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SENATOR BLOOD: Thank you, Senator Murante. And thank you, Senator Ebke, on your bills because they always make me have to learn and work hard to study them and I appreciate that because it's a great learning experience. And so I actually have like six or seven questions on the bill. [LB299]

SENATOR EBKE: Ask away. [LB299]

SENATOR BLOOD: Okay. And I think you may have answered one of them. When I was reading through this this morning, one of my concerns is that there was some conflicts with federal laws that might come into play, especially when you're talking about pilots and nuclear engineers if these requirements were reduced. So AM363 addresses that? [LB299]

SENATOR EBKE: It addresses that because this is just state licensure. [LB299]

SENATOR BLOOD: Okay. So would this bill also allow the director of Office of Occupational Regulations, that's what it phrased, right? Office of... [LB299]

SENATOR EBKE: Right. [LB299]

SENATOR BLOOD: ...to change the requirements someone would need in order to obtain an license in the field like nuclear engineering? [LB299]

SENATOR EBKE: No. [LB299]

SENATOR BLOOD: It wouldn't? Okay. [LB299]

SENATOR EBKE: Well, what...what...we have a routine, a five-year review of all the boards. Okay? It's still up to the...it would still be up, ostensibly, to the occupational boards to determine what the requirements are. But it would be the office that if...if it remained, okay, and see that, that was what was removed in the AM337. [LB299]

SENATOR BLOOD: So, okay, there's a lot of stuff in here, I just want to make sure I ask this right. So once the office has reduced these requirements that they chose though, couldn't this bill allow for it to be substantially harder to reverse that decision through legislation because the legislative office...or the occupational regulations can require that new legislation prove evidence of substantial and present harm? [LB299]

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SENATOR EBKE: Well, the Legislature always has the ultimate authority here? And if we find that there is a reason...any recommendations will come to the Legislature. Okay. So any change in licensure can still come to the Legislature. [LB299]

SENATOR BLOOD: I'm sorry, I didn't hear the last part. [LB299]

SENATOR EBKE: In any licensure questions, any change in licensure status would still have to come to the Legislature. So that's why you have this legislative oversight office...or the oversight committee which would then make recommendations. They would do the research, they would do a review, and then they would come to the Legislature with recommendations. [LB299]

SENATOR BLOOD: Okay. So there is a substantial cost even changing some of it out, but isn't this...am I reading this wrong? Because when I read this, what I see is another government agency that's going to cost money that will micromanage other agencies that are already doing the job of overseeing these professions? [LB299]

SENATOR EBKE: Well, what you might find though is that some of those agencies don't need to exist anymore. Over the course of the five-year review, you might find that they don't need to be in existence, we don't need to be regulating and so in the long term we save money. [LB299]

SENATOR BLOOD: Aren't those covered by state statute every two years already? [LB299]

SENATOR EBKE: And that's...well, but we aren't reviewing them the way...in this manner. [LB299]

SENATOR BLOOD: Okay. So we're more reviewing about are you doing your job or not? And this is more is there a need for... [LB299]

SENATOR EBKE: This would be whether or not there is another way to look at things, whether it is necessary to license or whether or not some other means of registration or other public means of control can be had. [LB299]

SENATOR BLOOD: I think I counted like 172, I counted them quick. [LB299]

SENATOR EBKE: At least that. [LB299]

SENATOR BLOOD: Is that right? What's the... [LB299]

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SENATOR EBKE: Yeah, yeah, I think that's (inaudible). [LB299]

SENATOR BLOOD: Professions in this bill. Do you know how many proponents you have in support of this bill that pertain to the professions or how many are opposed, have you gotten a lot of contact? [LB299]

SENATOR EBKE: I've gotten a few contacts from people who are concerned about it. I mean, I think a lot of it is people don't...haven't really...can't really figure out what it is and what the goal is. This doesn't get rid of any board tomorrow. [LB299]

SENATOR BLOOD: Right. I'm aware of that. [LB299]

SENATOR EBKE: What it does is, it allows for sort of a deep-dive examination of whether or not the way we are doing things is the most economically beneficial. [LB299]

SENATOR BLOOD: So hearing that, do you have examples of someone who maybe has been harmed by allowing these boards the ability to make decisions or requirements in any way, be it financially or professionally? [LB299]

SENATOR EBKE: Well, there are all sorts of...there are three or four pieces of legislation, you may have one this year, that are dealing with occupational licensing in different ways. The question is, for instance, last year we did the hair braiding bill. [LB299]

SENATOR BLOOD: Right. I remember that. [LB299]

SENATOR EBKE: Senator Fox is actually here and will testify, maybe to that. And so there are lots of instances where, you know, I saw a video the other night, I was poking around the Internet and saw a video of...in a prison, where they are training people to do barbering and cosmetology. The problem is that in some states, and I haven't done a real dive into Nebraska, but in some states if you have criminal record, you can't get a license. [LB299]

SENATOR BLOOD: Right. [LB299]

SENATOR EBKE: And so...so do they need a license or can we get by with a registration or a certification that they've got the experience of private certification? [LB299]

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SENATOR BLOOD: And I applaud you for addressing that issue because that is an issue in Nebraska. That's actually the second part of my question, other than someone that didn't know they had...a criminal record would bar them from getting a license, I haven't been able to come up with examples of people who have actually been harmed by allowing these boards to make the decisions. And sometimes I wonder...we always talk about government overreach and big government, and I'm hoping that someone comes up after you that can help me...or maybe you, when I read this bill, and granted, we haven't had a whole lot of time to read it, I kind of see this creating bigger government in hopes that we can create a smaller government. [LB299]

SENATOR EBKE: I don't think that...that's not my intent at all. [LB299]

SENATOR BLOOD: All right. [LB299]

SENATOR EBKE: And when you look at the...if you include the amendment, okay, which completely strikes that whole board, that whole oversight board, it's not creating new government. The added cost, if you look at the fiscal note, is a General Funds cost...the General Funds cost would be roughly, during the current...the current biennium, \$137,000 and \$245,000, I would say that that's still over estimating, especially if you can pull some of that into current staff time during the interim in terms of the reviews. [LB299]

SENATOR MURANTE: Okay, thank you very much. Senator Briese. [LB299]

SENATOR BRIESE: Thank you, Senator. Thank you for bringing this, Senator. Would it be fair to say that the Legislative Office of Occupational Regulations created by this bill really has no hammer, but it's there to help shape and guide legislation relative to occupational licensing? [LB299]

SENATOR EBKE: I think that's entirely fair. I mean, we have...the Legislature still has the power. [LB299]

SENATOR BRIESE: Sure, okay. Thank you. [LB299]

SENATOR MURANTE: Thank you. Senator Hilgers. [LB299]

SENATOR HILGERS: Thank you, Mr. Chairman; thank you, Senator Ebke. I love this chart. I love your opening. But why don't we just take this chart, print your opening and give it to every senator and tell them, get at it...learn this and get at it. Because isn't...I mean, at the end of the day, that's our job. So why not just do it through the normal legislative process by educating and

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learning. I'm going to tape this on my wall, I love it. But why create a whole new mechanism?
[LB299]

SENATOR EBKE: Well, because we've already got it in place. With all the boards that we've got, we would need to...part of this is the conversation. I think it's important for us to continue to have a conversation and to rethink...and this is nationwide. We think of things as...as you're licensed or you're not. And so I think we need to expand the way that we think of these things. But beyond that, I mean, yeah, we can tape it up on the wall, and that's a good idea actually, (laughter) and put it on all of our desks, on all the podiums on the floor and...and I think that's a great idea, but I still think that we, you know, we need to put a structure in place or some sort of a systematic way of reviewing the things that we already have in place so that...because otherwise, if we don't have this ongoing review, government has a tendency and government agencies and boards and all, they have a tendency to fall into sort of a...I don't know what I want to say, but you get what I'm saying. [LB299]

SENATOR HILGERS: Oh, and by the way, I didn't mean to (inaudible) about literally printing off your opening and giving it to people. [LB299]

SENATOR EBKE: Yeah, no, no, no, I get that, yes. [LB299]

SENATOR HILGERS: But I do think, I mean this is incredibly educational, because we don't live in a binary world. I mean this is very nuance and can actually be very targeted to the problems we're trying to solve. So I just...there's part of me that thinks what you're saying makes a lot of sense from the new organization. Part of me thinks it's an extra level of bureaucracy, but also maybe it sort of pushes on to someone else the obligation that we have as senators and policymakers to go through all this. [LB299]

SENATOR EBKE: Sure. [LB299]

SENATOR HILGERS: But to your point, it's a conversation I appreciate you making. [LB299]

SENATOR EBKE: Which is why, without too much heartache, we were able to get rid of the board, we just deleted the board and the big dollar numbers and why I would argue that as legislators we could certainly do most of the legislative oversight ourselves, you know, you'd have a legislative oversight committee and you have a task force of...honestly, I think we've got a lot of committee counsels who aren't very, very busy...most of them; maybe you are, Andrew, during the summer (laughter). [LB299]

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SENATOR HILGERS: He's chasing down to Judiciary. [LB299]

SENATOR MURANTE: Speak for yourself, Judiciary Committee. [LB299]

SENATOR EBKE: Well, yeah. But...but, you know, walk through the Capitol in July and August and, you know, it's not that people aren't doing things, but they could probably do other things too. [LB299]

SENATOR HILGERS: They're going to volunteer under Chairman Murante's bill. [LB299]

SENATOR EBKE: Okay, there you go. [LB299]

SENATOR MURANTE: Any additional questions? Senator Blood. [LB299]

SENATOR BLOOD: Quick one, don't worry. [LB299]

SENATOR EBKE: Okay. [LB299]

SENATOR BLOOD: So I'm going through my notes, you had said that it doesn't automatically get rid of boards or regulations, but could it? [LB299]

SENATOR EBKE: Well, ultimately. I mean, the bill itself doesn't, it just provides a process for analyzing. [LB299]

SENATOR BLOOD: But the office... [LB299]

SENATOR EBKE: But the office itself couldn't, the office still has to bring it to the Legislature. [LB299]

SENATOR BLOOD: So it has potential. [LB299]

SENATOR EBKE: Sure. I guess. [LB299]

SENATOR BLOOD: All right. Thank you for that clarification. [LB299]

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SENATOR EBKE: Well, I mean, you know, ultimately the Legislature is still responsible for this. This just gives us a way to look at things and to take...have a process for analyzing. [LB299]

SENATOR BLOOD: So the requirements couldn't be reduced either then without the Legislature? [LB299]

SENATOR EBKE: Right. [LB299]

SENATOR BLOOD: Okay. Thank you. [LB299]

SENATOR MURANTE: Senator Lowe. [LB299]

SENATOR LOWE: Thank you, Chairman. Thank you, Senator, for being here and a real quick question. Do your sons travel and how much do they charge? (Laughter) [LB299]

SENATOR EBKE: I don't know. We're still negotiating for the summer. [LB299]

SENATOR MURANTE: All right. Seeing no additional questions, thank you for your testimony. [LB299]

SENATOR EBKE: Thank you. [LB299]

LEE McGRATH: My name is Lee McGrath, that's L-e-e M-c-G-r-a-t-h. Mr. Chairman, members of the committee, thank you for the opportunity to testify in favor of LB299. I'm Lee McGrath, I'm the legislative counsel for a public interest law firm called the Institute for Justice. This is my favorite state Capitol, so thank you for being...doing all the idiosyncratic things that you do here in Nebraska. The Institute for Justice was...helped Senator Fox last year, free braiders. And since that, there have been three salons opening in Omaha and two here in Lincoln that we're thrilled about. This bill is not a substance bill, it is a process, it is a process bill. It creates two processes: one for the Legislature and one for the boards. The one for the Legislature is to...is both a sunrise and sunset process when you get a new proposal or you want to look at existing proposals. Historically, there have been very few states that have been good at sunrise reviews--Washington state, Utah, Nevada are just a handful of them of the 25 states that have enacted sunrise review. Most states have been very bad at sunset reviews. This bill is different and it has cause for optimism because it is...in the sunrise process, in the sunset process it is offering legislators more than just the binary choice of wild, Milton Friedman, embracing free markets, the most anti-competitive restrictive type of regulation that you can choose which is occupational licensing. If

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you are concerned about fraud, go to the Deceptive Trade Practices Act, that's the right regulation. You don't need to license someone. If you are concerned about asymmetrical information, go to private certification or government certification to address that knowledge gap between the seller and the buyer. I am perfect...I do not lose any free market sleep at night knowing that the city of Lincoln inspects the cleanliness of restaurants here. I'm also happy that the city of Lincoln chooses not to license the busboy, the cook, and the chef because the right regulatory choice is inspection. These choices will become more apparent to senators I think...looking at this pyramid, this inverted pyramid of least restrictive regulations in a sunrise process and in a sunset. This idea of least restrictive regulations is not new. You've been using it in First Amendment law for decades. You can enact types of regulations that restrict speech, like protesting, but you must do it in the least restrictive way. You are borrowing that idea of least restrictive way from the First Amendment and putting it in your analysis of how you want to regulate labor markets. Secondly, this bill is an important step toward addressing some antitrust exposure, after the North Carolina dental board case, it is most likely the case that many of your board members are personally exposed to antitrust litigation, having a systematic review of licenses may help reduce some of that exposure. The other big process, and perhaps, Senator Blood, this is what gets you excited, is the other process that goes in front of the boards themselves. And this is the process of someone coming in and saying--I want to know if I can work and whether my past that I've paid...crimes that I've paid the dues on, is going to come and haunt me in the future. The landmark...the...why this bill is so important is it does something that no other state will do...has done. Other states are considering it and I can speak to that. It says to that offender--come into in front of the board on day one and you can ask, you can ask the board to determine on day one whether your past is going to influence whether you can work and whether you're going to be qualified or disqualified; and the burden is on the board to show that there's some relevance as to why they would disqualify you. I believe once a person has paid his dues to society and is finished his term, he should have the right to vote and he should have the right to work. And he should be free, just as all Nebraskans are free to pursue their calling. And that is not just a philosophical argument, it is an argument... [LB299]

SENATOR MURANTE: Your time is up, if you could just wrap up... [LB299]

LEE McGRATH: I will. [LB299]

SENATOR MURANTE: Thank you. [LB299]

LEE McGRATH: One more point...this is good public policy. States that have high barriers to entry have costs. They have costs in terms of unemployment; they have costs in terms of less competition; they have costs in terms of high...high...higher prices. But one of the costs for states with high barriers to entry is that they have higher recidivism rates. And so by reducing...using

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this sunset process to reduce barriers to entry, you are going to lower cost, you are going to lower unemployment, and you are going to lower recidivism. Mr. Chairman, thank you. [LB299]

SENATOR MURANTE: All right. Thank you very much for your testimony. Senator Blood. [LB299]

SENATOR BLOOD: Thank you, Chairman Murante. Mine are actually, I think, clarification questions. So you're saying...and first of all, I worked for the prison system for six years so I'm empathetic to the recidivism rate and struggles that felons have to deal with trying to find work. With that said, one of the things you said is the offender can come in to a board, not so...to...you're talking about the regulating board or are you talking about the director...the Office of Occupational Regulations? Who is that person going in front of? [LB299]

LEE McGRATH: Mr. Chairman, Senator Blood, the offender can petition a board directly. [LB299]

SENATOR BLOOD: So instead of creating all of this extra government, why couldn't a statute just be written that says when a felon comes out of the prison system, they have the ability to go and petition... [LB299]

LEE McGRATH: That's what this bill...Mr. Chairman... [LB299]

SENATOR BLOOD: I mean, just that part... [LB299]

LEE McGRATH: That's what the bill does. The bill has two components. [LB299]

SENATOR BLOOD: Well, it's not just about felons though. [LB299]

LEE McGRATH: It has two...Mr. Chairman, Senator Blood, it has two components. It has one process for the Legislature, which is the sunrise/sunset, using this least restrictive pyramid. It has a second process that felons...that offenders can use. [LB299]

SENATOR BLOOD: So which process is the Office of Occupational Regulations? [LB299]

LEE McGRATH: It is the advisory group that advises the Legislature...that does the leg work on the sunrise process and the sunset process. It is the legislative side of this, not the offender side of this. [LB299]

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SENATOR BLOOD: So I really am trying to get this clarified and I hope you don't feel I'm being rude, but I'm really having a hard time with this working in my head because you're...the organization that you represent, your goal is to help these felons, is that kind of where you're coming from? Or is your goal to, in general, take the felons out of the picture and you're talking about making it easier to gain access to certification and licensure? [LB299]

LEE McGRATH: Mr. Chairman, Senator Blood, Institute for Justice is advancing model legislation like this. And one of the great benefits is that it helps people who are offenders pursue happiness. The very definition that Jefferson wrote about is the pursuit...in the pursuit of happiness is to fulfill one's potential and to pursue one's calling. And so we are...we absolutely want people to have a second chance. Additionally, we are advocates of the least restrictive regulation. We think...there may be market failures; government has a role in labor markets, but it should be a role that is targeted to real problems and it is a role that uses the least restrictive type of regulation. [LB299]

SENATOR BLOOD: Okay, again, trying to clarify this in my head because I'm still not there, so I keep hearing "least restrictive," then, of course, you got the felon part of it, but yet then you're creating more government to oversee the government that you want to be least restrictive. That to me there's something missing. If we want government to be least restrictive, why are we creating more government to tell it to be least restrictive? [LB299]

LEE McGRATH: Mr. Chairman, Senator Blood, the purpose of the...the purpose of this legislative office is analytical. It is to review proposals for new regulation, and it...as the way...as Utah, Nevada, Washington state effectively do. It is also to do sunset reviews. So it's to see whether existing law can be modified or repealed. So it is a small investment of...an analyst, who as Senator Ebke suggests, are somewhat idle over the summer, to provide legislators with research as to whether the state of Nebraska can reduce the type of regulations it currently has. [LB299]

SENATOR BLOOD: And so what type of skills do you envision that those people that are doing the analyzing should have in order to participate in that? [LB299]

LEE McGRATH: I think that this is...that what they should be most interested in finding out is the type of market failure that is systematic in a certain occupation. So for example... [LB299]

SENATOR BLOOD: Can you give me an example. [LB299]

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LEE McGRATH: So for example, in finance, one might be concerned about...in banking or accounting one might be concerned about fraud. So the question that the analyst might ask is how best do we deal with fraud? Do we deal with it through a deceptive trade practices act? Is that effective? Or is licensing...what Nebraska currently uses, and its state component of licensing, not the federal component, and it is to review how best to...if you think...if fraud is the problem, how best to regulate fraud. [LB299]

SENATOR BLOOD: And how does that help people get jobs? You're talking about...this was the example that you gave and we're saying this is about taking away hurdles for people to get jobs, how does that example help people to get jobs? [LB299]

LEE McGRATH: It helps jobs because what occupational licensing does, Mr. Chairman, Senator Blood, occupational licensing puts barriers to entry. It establishes hurdles. And not everyone gets over those hurdles. In fact, unemployment in Nebraska and across the United States is between a half of a percent to one percent higher because of occupational licensing in this country. And so what this does is say--wait a second, we're concerned about these hurdles. Yes, we're concerned about fraud, but maybe there's a way to address fraud, or some other consumer protection, without using a type of regulation that causes unemployment, causes higher prices, reduces opportunity. [LB299]

SENATOR BLOOD: But isn't our unemployment rate substantially lower than the national rate in Nebraska? [LB299]

LEE McGRATH: You're...and I don't know what your unemployment rate is, but I know that your use of occupational licensing is almost exactly the national average. It is...occupational licensing is the largest labor institution in the United States...24.6...24.6 of all Nebraskans need an occupational license before they can work, and that is more than three times the 7.4 percent who are union members and a multiple of the number of Nebraskans who earn...less than one percent of Nebraskans earn the minimum wage. So this is the biggest labor institution in Nebraska, as it is in the United States and it has costs and harms by putting hurdles in front of people. [LB299]

SENATOR BLOOD: So again, I want to go back to that, this will be my last question, because I know Senator Hilgers is over there being very patient. You keep saying "harm" and I'm still not hearing, really, I hear examples that are figurative, I guess I want to hear a concrete example. I'm not seeing...I have a military spouses bill, and for me that bill makes sense because I know that the military spouses don't choose to move to Nebraska. Unlike me, if I choose to move to a state I move because I make that choice. If I'm an unhappy spouse in the military, the chances are they're not going to stick around in Nebraska, we lose that income. So if we remove the hurdle

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for them, it's by giving them a temporary license until they can get their license in six months to a year. So things like that that makes sense for me, that's an example. I walk you through the process. I'm not hearing examples in Nebraska where this is preventing anybody from getting a job with the exception of the felons. So that's what I need is I need to hear an example. [LB299]

LEE McGRATH: Mr. Chairman, Senator Blood, last year Senator Fox, you passed a bill that has created jobs. Previously, hair braiders experienced harm because they could not work outside of the gray market; now they can. There...with half a percent to one percent higher unemployment in Nebraska, you have thousands of people who cannot enter medical professions, who cannot enter the trades, who face barriers to entry that you might...that are animated by a concern for public health and safety, but might be...but you might be able to address by a less restrictive way and regulate for those health and safety concerns in an alternative way. [LB299]

SENATOR BLOOD: But why would we just not ask the boards to oversee those licenses to make those considerations as opposed to creating another layer of government? [LB299]

LEE McGRATH: Because it is your responsibility, not the boards' to establish the...to establish regulations of labor markets and regulate and so...it is putting the responsibility right where it belongs, which is with you, to establish regulations as to the qualifications necessary and the type of regulations you people should...personal qualifications people should have before they can work. [LB299]

SENATOR BLOOD: I think we're just going to go round and round, because I'm asking the same question. One more time, so indeed that's the legislative power, we have the ability to request that the board make those considerations, why do we need another level of government to get involved to tell us how to do our job when we know how to do our job through state statute? [LB299]

LEE McGRATH: I'm sorry, Mr. Chair... [LB299]

SENATOR BLOOD: I guess I...I guess I don't understand and you keep saying it's our legislative responsibility, and I agree with you. [LB299]

LEE McGRATH: Thank you. [LB299]

SENATOR BLOOD: I don't understand the extra layer of government. [LB299]

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LEE McGRATH: The extra layer of government is not an extra layer of government. It is...what this bill does is it takes away what previously was an extra layer of government, the office of supervision of occupational boards, that has been removed by the amendment. What remains is a charge for analysts over the summer to do sunset review process using this pyramid, inverted pyramid, as the lens at looking at existing regulations. [LB299]

SENATOR BLOOD: Thank you for attempting to help me with some of this. [LB299]

SENATOR MURANTE: Senator Hilgers. [LB299]

SENATOR HILGERS: Thank you, Mr. Chairman; thank you, Mr. McGrath. Two very quick questions on reference points: You referenced a study that tied recidivism with levels of occupational licenses. [LB299]

LEE McGRATH: Yes. [LB299]

SENATOR HILGERS: Can you send that to the committee? [LB299]

LEE McGRATH: Absolutely. [LB299]

SENATOR HILGERS: Thank you. And the second question was you referenced, I believe, it was a north California dental board decision or North Carolina dental board. [LB299]

LEE McGRATH: Did I say California? [LB299]

SENATOR HILGERS: No, no, you may not have. I didn't write it down fast enough. [LB299]

LEE McGRATH: Mr. Chairman, Senator Hilgers, in January of 2015, the United States Supreme Court came out with a decision in North Carolina Dental Board Examiners versus the Federal Trade Commission (North Carolina State Board of Dental Examiners v. Federal Trade Commission). In that decision the immunity that board members enjoy, who serve on licensing boards, was put in great jeopardy. That decision...when boards are controlled by market participants, as I assume every board in Nebraska is, they do not automatically have immunity from antitrust litigation. So what the Supreme Court did in its decision of January of 2015, it treated boards differently than it treats you. You have immunity. If this body votes to put a highway on one side of Omaha versus another side of Omaha, you cannot be sued by the people in Omaha who are disadvantaged competitively. You have sovereign immunity, you have Parker

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immunity from antitrust litigation. The decision by the Supreme Court separates you from active market participants who serve on boards. They now no longer enjoy automatic immunity from antitrust. The North Carolina board members were personally sued, and even more importantly, the Texas Board of Medical Examiners was recently sued in a big case brought by Teladoc. [LB299]

SENATOR HILGERS: Do you have the cite for that case? [LB299]

LEE McGRATH: I will send it...I will send you both the North Carolina Dental Board case, the Teladoc case, and Professor Levinsky study on recidivism. [LB299]

SENATOR HILGERS: Thank you, Mr. McGrath. Thank you. [LB299]

LEE McGRATH: My pleasure. [LB299]

SENATOR MURANTE: Thank you. Seeing no additional questions, thank you very much for your testimony. [LB299]

LEE McGRATH: Mr. Chairman, thank you; members. [LB299]

SENATOR MURANTE: Additional proponents? Welcome. [LB299]

NICOLE FOX: (Exhibit 4) Chairman Murante, members of the Government, Military and Veterans Affairs Committee, I'm Nicole Fox, N-i-c-o-l-e F-o-x, and I am director of government relations for the Platte Institute and I'd like to thank Senator Ebke for introducing LB299 and I'm here today to testify in support of that bill. Just as a side note before I get started: I'd be happy to discuss...I...some of you may know in my former life I worked in healthcare and I am a licensed professional and I'd be happy to share any of my experiences as far as barriers to entry into the profession and some alternatives to licensure after I conclude my testimony. So Nebraska faces a workforce shortage, and occupational licensing creates a significant labor force issue. Currently, nearly 200 different occupations in Nebraska require a government license affecting nearly one in four workers, as Mr. McGrath just mentioned. This is negatively impacting small businesses trying to hire employees, potential entrepreneurs wanting to start a business, and individuals seeking a means to earn an honest living. A component unique to LB299 that differs from other occupational licensing reform bills introduced this year is how it includes provisions to address occupational licensing issues of those with a criminal record so that they may be able to more easily enter the workforce. Reform of occupational licensing laws to reduce...lessen burdensome regulation is an economic issue that does need to be addressed. Occupational licensing laws were

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initially created as a means of protecting the public from negligent and unqualified practitioners; but more and more, instead of protecting the public from harm, we now understand that occupational licensing is making it difficult for new workers to enter the workforce. For those individuals wanting to move to Nebraska from another state, they often must seek additional education despite having a license in another state in good standing. LB299 suggests using the least restrictive means of occupational regulation in Nebraska's current and potential future regulatory efforts. What will need to be evaluated with current occupational licenses is whether the licenses we have are truly needed to protect the public, or instead if certification or registration would be more appropriate to demonstrate that a minimum level of competency has been achieved in order to obtain an entry-level position in a given field. Occupational licensing costs money and some will even describe these costs as a tax to be able to enter the workforce. For some individuals and families, the cost of tuition to meet educational requirements associated with occupational licensing creates significant financial barriers. For small businesses, the fees charged for occupational licensing are often used to pay government workers to do the work that employers could do themselves. An example of this would include background checks. This extra paper pushing costs money. Often the cost is passed on to consumers by raising the price of goods and services. A study by the Heritage Foundation showed that occupational licensing reform could save Nebraska households over \$900 annually. Occupational licensing also costs time. For workers, that time comes in the form of months and even years to complete minimal education requirements, and this is time those individuals could be working. For businesses, it means delays that must be endured while waiting for inefficient government paper pushing, time invested to find qualified workers, and decreased productivity and profit when job positions remain open. LB299 encompasses three components to help make Nebraska's job licensing requirements less cumbersome and more competitive with our neighboring states so that we keep individuals from leaving our state in search of work elsewhere. First, it provides for a sunrise process to evaluate legislation that proposes new occupational licenses. Second, it provides for a sunset process to evaluate existing occupational licenses. And thirdly, it provides for a process for those who have served jail time for a criminal offense to be able to undergo a process to get a determination as to whether the criminal history would be a disqualifier from obtaining an occupational license. LB299 accomplishes not only a reduction in bureaucratic red tape for Nebraska workers, it also decreases the current size of government and aims to halt the growth of government in the future. The Platte Institute for Economic Research strongly supports occupational licensing reform as a means of lessening burdens for those trying to enter the state's workforce. Again, thank you, Senator Ebke, for your leadership on this important bill. I strongly ask that you advance LB299 out of committee. And with that, I'm happy to take any questions or discuss my experiences. [LB299]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for coming down today. Welcome. [LB299]

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MATT LITT: Thank you, Chairman Murante and members of the Government, Military and Veterans Affairs Committee. My name is Matt Litt, M-a-t-t L-i-t-t, and I'm the Nebraska director of Americans for Prosperity. And on behalf of our organization and activists across the state, we urge your support for LB299, an act that would not only remove harmful barriers to opportunities for Nebraskans, but also reduce the costs of goods and services for families across our state. To paraphrase, since some of the things I was going to say have been stated, according to the University of Minnesota professor, Morris Kleiner, 24.6 percent of all workers have a license in Nebraska, while 8.3 percent have a certification just to be able to work. So it's nearly a quarter of workers in our state have some kind of state-mandated requirement to be able to work. And this is a large increase from only a few decades ago when, roughly, 1 in 20 workers required a government license. Nicole just mentioned that the...a report from the Heritage Foundation found average Nebraska households could spend an extra \$942 a year because of occupational licensing laws and the effect on the costs of goods and services. So passing this law would act...would essentially be a tax cut for Nebraska families as those are adjusted. An aspect of occupational licensing that is often overlooked, yet it's been discussed quite a bit already, is recidivism, which is especially pertinent to the current state of affairs in Nebraska and the discussions that have been going on about Corrections. Often avoiding recidivism depends on a key factor which is finding a job. As David Barnes, the policy director of Generation Opportunity, is a network partner of our organization, he points out: "The sad fact is that when an employer wants to give somebody a second chance, laws at the state level can make it difficult to do so. One way this happens is through denial of occupational licenses to those with a history of criminal...history in the criminal justice system." In the study that Lee had mentioned from Stephen Slivinski at Arizona State found that recidivism rates to be nearly 10 percent higher in states that restrict people with criminal records from obtaining licenses and conversely states that have lower licensing burdens see recidivism decrease by more than 4 percent. But most importantly, re-entry into the criminal justice system is costly to taxpayers, but most importantly it's costly to families, neighbors, and communities across the state whose loved ones, friends, and members are denied the opportunity to better their lives. LB299 makes strides in addressing this problem. I strongly urge you to send this bill to the floor for debate on behalf of our organization activists and happy to attempt to answer any questions that I can. [LB299]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? Senator Blood. [LB299]

SENATOR BLOOD: Twice I've heard it referred to...I was just curious to give a number. You're talking about how it can ultimately save taxpayers money. And can you give me an estimate or how that would save taxpayers money. [LB299]

MATT LITT: Yeah, so my understanding of the report from Heritage Foundation, which I will get and send to you so you have the full copy of it, is that because of the constraints it puts on

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people entering and that raises the cost of goods and services because of the lack of competition within those areas increases the price on consumers. [LB299]

SENATOR BLOOD: Can you give me an example? [LB299]

MATT LITT: And so by...so in Nebraska we have, and I don't have it up here with me, but from a report from Institute for Justice, there's over 40 occupational licenses that affect low to moderate income individuals. And so those various services where there is licensure, those costs are increased. [LB299]

SENATOR BLOOD: What is 1 of the 40? [LB299]

MATT LITT: Cosmetology, which is typically the go-to. It looks like Lee is, maybe, getting it now, for a copy. [LB299]

SENATOR BLOOD: Sorry. [LB299]

MATT LITT: I have barber, cosmetologist, title examiners, massage therapists, you know, on and on. So I can also make sure you get a copy of this. [LB299]

SENATOR BLOOD: So things that are regulated because they deal with chemicals or health issues or...can you give me an example of maybe something that is nonsensical. I mean, I kind of understand if somebody is going to be touching my naked body with massage oils why I'd want them to be certified...not to offend anybody, or why someone using hair dye that can ultimately make me go bald or... [LB299]

MATT LITT: Well, this legislation doesn't prevent those types of regulations from staying in place. It does provide, as been mentioned before, systematic review to find a least restrictive means of having consumer protections and public safety protections. [LB299]

SENATOR BLOOD: All right, thank you. [LB299]

SENATOR MURANTE: Thank you. Additional questions? Seeing none, thank you for your testimony. Are there additional proponents who wish to testify on LB299? Any additional proponents? Opposition testimony to LB299? [LB299]

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BRUCE RAMGE: (Exhibit 5) Good afternoon, Chairman Murante, and members of the Government, Military and Veterans (Affairs) Committee. My name is Bruce Ramge, spelled B-r-u-c-e R-a-m-g-e, and I am the Director of Insurance for the state of Nebraska. I'm here today representing both the Nebraska Department of Insurance and Governor Ricketts' code agencies in opposition to LB299. First, I would like to express my appreciation to Senator Ebke for tackling the issue of occupational licensure reform. It is a significant undertaking and an important one to the future of the growth of Nebraska's economy. I have no doubt that Senator Ebke shares Governor Ricketts' sentiment that he shared during the State of the State Address, "unnecessary regulations hamper job growth." Governor Ricketts has acted on this statement. The Governor tasked agencies to review all regulations and eliminate burdensome requirements including unneeded barriers to employment. Occupational licensure reform is also a key component of the Governor's legislative package, including eight bills reducing burdens on over 20 regulated professions. However, while the administration and Senator Ebke share similar goals, we differ on the approach to occupational licensure reform. The administration is focused on more targeted reforms while LB299 creates a new state agency and a new division of the Legislature for the purpose of reducing regulatory burdens. The creation of these two additional bureaucratic layers seems counter-intuitive to the stated goal of reducing barriers to entry. Let me share an example from the Department of Insurance's perspective. As part of the gubernatorial directive to review regulatory burdens on industry, my staff and I determined that the fees for insurance producers were too high and as a result I was able to reduce the fee by \$10. The insurance code allows me to lower the fee by issuing a guidance document that became effective January 1, 2017. If LB299 was adopted, it would appear that the new Office of Supervision of Occupational Boards would need to review and affirm this decision for compliance with LB299. Now, I'm sure the office would have approved this decision, but it would have been an additional hoop for an agency to jump through to affect this change. On the flip side, sometimes an agency must proceed in a manner to tighten requirements or proceed with enforcement actions to comply with federal actions, judicial actions, or to respond to immediate concerns for the safety of the public. I am concerned by the language in LB299 providing this new office the ability to exercise control over my agency regarding decisions on rules, regulations, and enforcement actions of insurance producers. I have been appointed by the Governor and confirmed by Legislature to enforce the insurance laws of Nebraska. The Department of Insurance does not adopt rules and regulations or take enforcement actions lightly. But when an enforcement action is needed to protect Nebraskans, my agency will proceed with all due diligence. To have another agency whose sole purpose is to review these decisions seems counterproductive to the safety of Nebraskans. I'm concerned that other agencies share these...excuse me, I'm certain that other agencies share these concerns as well. Certainly, when an agency adopts unreasonable rules or proceeds with unreasonable enforcement actions, the individuals involved are typically not shy about contacting elected officials or taking agencies to court, which are needed and existing checks and balances on outlawed administrative actions. The Ombudsman Office can and already has a role in the checks and balances as well. In addition to these high-level concerns,

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LB299 also contains issues related to the formation of a new agency. Section 18 allows for the new office to collect fees, however LB299 does not create a new cash fund to accept the needed fees to cover its costs, it will need General Funds to begin operation. Agencies will be assessed fees by the new office, which can be passed along with a fee increase to the regulated licensees, which again, would actually create additional regulatory burdens on regulated industry. Again, I very much appreciate Senator Ebke bringing forward this proposal and providing this forum to discuss regulatory reform in Nebraska. I suggest that we continue to work together to find targeted reforms in areas where reform is needed. Should I... [LB299]

SENATOR MURANTE: Yeah, just wrap it, yep. [LB299]

BRUCE RAMGE: Okay. So to that end, I know that the code agencies will continue to improve processes and seek reforms when unnecessary barriers are identified, and I know that the administration looks forward to working with Senator Ebke, members of this committee, and members of the various committees of jurisdiction to that end. [LB299]

SENATOR MURANTE: All right, thank you very much for your testimony. Are there questions? Senator Briese. [LB299]

SENATOR BRIESE: Thank you, Senator. Thank you for being here. It appears that the Office of Supervision of Occupation of Boards has been amended out of this. Do you still have the same concerns? [LB299]

BRUCE RAMGE: I would have to visit with the Governor's Office and get back to you, because my testimony relates to the initial... [LB299]

SENATOR BRIESE: You bet. And then if the legislative office of occupational regulations could be staffed and operated with current staff without really any sort of substantial fiscal note, would that also alleviate your concerns (inaudible)? [LB299]

BRUCE RAMGE: Well, there are other concerns as well. For example, there are existing safeguards and checks and balances in state government already. For example, we have the Administrative Procedures Act where if a license is denied or someone is aggrieved by one of our actions, they can request an administrative hearing and if it's still unhappy, they can take that decision to district court. There's also the Ombudsman Office that is responsive to people who are aggrieved by actions of the agencies. And, ultimately, if it's a matter that's in the code...or in the insurance...or in the state laws, ultimately, they can come here to the Legislature and ask for a change in the laws. [LB299]

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SENATOR BRIESE: Okay, thank you. [LB299]

BRUCE RAMGE: You're welcome. [LB299]

SENATOR MURANTE: Thank you. Additional questions? Seeing none, thank you very much for your testimony. [LB299]

BRUCE RAMGE: Thank you. [LB299]

SENATOR MURANTE: Welcome. [LB299]

CHRIS CALLIHAN: (Exhibit 6) Good afternoon, Senators. Thank you, again, for taking the time to be here and listen. My name is Chris Callihan, I'm the executive director of the Nebraska Chapter of American Subcontractors Association. I'm testifying today in opposition on behalf of the members of our chapter in regards to LB299. The Occupational Board Reform Act can change procedures for rules and regulations bill introduced by Senator Ebke. It is our position that licensing requirements and their current divisional oversight are adequate. From our standpoint, we think that there could be added provisions or testing requirements to protect our industry. Contractors have invested time and energy, money into training of their skilled workforce. That is actually a good thing from an industry standpoint, cultivating and creating a skilled workforce within our respective industries. That skilled workforce is what allows them to safely operate within Nebraska's construction industry and continue to thrive and grow. License requirements help create minimum standards for a occupation or career path for an individual. As an electrician, I was challenged to learn my tradecraft not only to be good at it, but also to be safe while doing it. I had to learn the National Electrical Code and how it applies to the work that I was doing each day. It is the government's responsibility to keep its citizens safe, both physically and financially, from unqualified businesses and/or persons doing work that they are not fully trained or qualified to do. And the gentleman before me did touch base with it, you guys already have, as legislators, already have oversight. It's not like your divisions are running rampant. I mean, you have oversight of them already. From my standpoint, they said the skilled trades was quoted as being hard to fill those jobs. They are hard to fill, but that's not due to license requirements. It's hard to find people that are interested in the actual skilled trades. Right now as an electrician, when I got into the entry level, all I had to do is talk to "XYZ Electric" that I wanted to get employed and learn this career path or this trade. I went down to the state of Nebraska, got a \$20 license for apprenticeship and I was off and running. There is no barrier; it's \$20. I mean it...and I spent the next five years learning this craft and trade. I took the Nebraska state exam, passed it, I spent \$50, upgraded to journeyman wireman, that license in the state of Nebraska now allows me to go to 14 other states. That's not a bad thing, that's a good thing. That's me, if I need work, I can go work in Montana and my paycheck comes back here and

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keeps the economy going here. That's still paying my mortgage, still paying my bills, my livelihood here. I do want to point out that they keep talking about sunset clauses. I mean, it's going away isn't it? Line 30, Section 11, that's when everything starts to list 172 licenses, not limited to though, is also coded in there. So it's not just those 172. What other licenses are there? I mean, chiropractors, how many are we actually going to sunset? Of all the proponents that talked today, where are the employers saying that it is a burden and it's hard for me to find help? How is it...where are they right now? The association is on behalf of those same employers, they're not here. We have outside interests that are trying to apply pressure to change rules to fix something that's not broken. I think we're doing an adequate job and the market already handles that qualifications. More than likely, the market is one that actually probably pushed in the past to create those license requirements and the protections of those same customers or citizens. I thank you for your time and help with this matter and I'd be open to any questions or concerns the committee might have. [LB299]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you for coming down, appreciate it. [LB299]

CHRIS CALLIHAN: Thank you. [LB299]

SENATOR MURANTE: Welcome back. [LB299]

STEVE SIMPSON: Thank you. Again, my name is Steve Simpson, S-t-e-v-e S-i-m-p-s-o-n, I am coming before you now as the business manager for the Elevator Constructors Union in Omaha, Nebraska, and all of Nebraska for that matter. I'm not going to be able to speak to you about the hair weaving. I'm not going to be able to speak to you about the dog grooming, about 171 of the 172 that are listed in the current bill. But I can talk to you about elevators and that's a public safety issue. And that's one thing that we're not looking at right here is that we've talked about some of these things as if they're a hindrance. Every single union contractor in the state of Nebraska has come to me and said they want to have licensed elevator mechanics. The union supports it. The nonunion has come to me and said they support licensed elevator mechanics. The worldwide companies in this country, the Schindler, the Otis, the Thyssenkrupp, the KONE elevator companies. The worldwides want elevator licenses. The local companies, the O'Keefes, the Schumacher elevator companies, they want elevator licenses. And this is why: elevators are terribly unforgiving. There are people that get killed on an elevator every single day in this country. Right now you can go to the First National Bank tower in Omaha, Nebraska, and ride that elevator up, it runs about 28 miles per hour, top speed, with quarter-inch clearances the whole way. That's what we do. That elevator goes from top to bottom every single day and puts more mileage in one day than you put in your car in a year. I would guarantee you that and I can show it to you and I'll show you the equipment room where they keep track of the amount of feet

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that it goes through in one day. This is a bill that would come and take a look at this current license that we have and decide whether or not on another level of government and decide whether or not we should sunset this license. I don't know how any...and with due respect to the legal counsel who apparently has lots of time on their hands in the summer, I don't know how they're going to be able to be experts in looking at every single license in the state of Nebraska when it covers the gamut of elevators, hair weaving, cosmetology, massage therapy, electricians, chiropractors, I think it might even dabble into attorneys. I get that there may be a reason for this with some of the other...with some other things, I get that. I'm coming to you about the elevators. That's all I can talk about--elevators and escalators. If you have any questions, I'm the only person in the room that can answer any questions about how an elevator or escalator runs. I've got scars on my hands to prove it. [LB299]

SENATOR MURANTE: All right, thank you very much for your testimony. Senator Blood. [LB299]

SENATOR BLOOD: Thank you, Chairman Murante. It's getting late, I forgot your name, I'm sorry. First of all, I'm probably never going to ride an elevator again because you scared the heck out of me. (Laughter) So when it comes to safety guidelines, doesn't that come down from the federal government as far as...don't they revisit that every year and they hand that down to the state who hands it down to the counties and municipalities and then they create their own ordinances? So the safety aspect of it is outside of the licensure, yes or no? [LB299]

STEVE SIMPSON: There are codes, but every state adopts the codes. [LB299]

SENATOR BLOOD: Right. [LB299]

STEVE SIMPSON: And currently the code that we are under has been adopted by the Elevator Safety Board...or the conveyance safety board that's in place, which is also in place due to our license. It's all related. So the current code that's in place is not the current current code that's out there. [LB299]

SENATOR BLOOD: Right. [LB299]

STEVE SIMPSON: It trails several years. And they also have the authority to take a peek at this code and say, okay, this would be too much of an hindrance on the building owners to be able to adopt this code, this would become expensive so we're going to carve this portion out of the code and move forward from there. [LB299]

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SENATOR BLOOD: And it's not unusual for, especially, municipalities to be behind on what the most recent code is to get it adopted, I mean, that's just something that happens. But the concern that I have is that do these safety codes talk about what the expectation is when it comes to workplace safety and... [LB299]

STEVE SIMPSON: Yes. Yes. [LB299]

SENATOR BLOOD: Okay. And so if indeed it were to say the standard was that this elevator person needed so many hours of training to make sure that when they were in the elevator shaft and doing the quarterly lubrication that they had to have this expectation to make sure that nobody was hurt in the process. [LB299]

STEVE SIMPSON: The codes would more go towards what would an elevator...how an elevator should stop when the cables break on it. For example,... [LB299]

SENATOR BLOOD: It's more mechanical? [LB299]

STEVE SIMPSON: ...if it smashes or electrical, that sort of thing. The licensing deals with what's set up as far as what's a requirement to be a journeyman. Again, it's not hard to get in my trade; we just ran a recruitment, we got 49 people who showed up and are on my list to get hired. We just have to have an opening for them to go. [LB299]

SENATOR BLOOD: You have a lot of people aging out in that career, don't you right now? Baby Boomers getting closer. [LB299]

STEVE SIMPSON: Not really. I'd say our average medium age currently is probably about 45. [LB299]

SENATOR BLOOD: Thank you. [LB299]

SENATOR MURANTE: Senator Lowe. [LB299]

SENATOR LOWE: Senator Blood, they're not ageing out, they're riding the elevators (inaudible). Are you saying that a license...you prefer a license over a certificate of competency of training? [LB299]

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STEVE SIMPSON: Well, in order to get a license in the state of Nebraska, currently, you have to have that certificate of competency. That's a requirement to get that license. So, you can come in as a...the only people who get licenses in the state of Nebraska are journeymen or mechanics. So you have to come in and learn the trade and go to school to get it. [LB299]

SENATOR LOWE: So they're already qualified before they get the license? [LB299]

STEVE SIMPSON: They passed their mechanics exam and are capable of getting the license, correct. [LB299]

SENATOR LOWE: Okay, so is there a need for the license then since they're already qualified? [LB299]

STEVE SIMPSON: Well, we also have people...and I could point them out in the middle of the state, near Kearney, who has installed elevators in...out at Cabela's out there that do irrigation in the summertime in Kansas. They're not elevator guys. They don't know anything about elevators; they bought a kit and they went and installed the lift at the Cabela's out in Kearney. This was, oh boy, probably 20 years ago, because I happened to be out there at the time. And they had to get it inspected so our guys had to go out there and actually fix it. So the inspection process could have saved the riding public. But what happens if those people are currently working on an elevator? We have places in other parts of the state where people will pull out a print and jump out elevator doors which can't run if they're open, but if you'd jump them out electrically, they will run. And I've witnessed these doors going by...the elevator going by, again, at 10, 15 miles an hour because it wasn't as big as an elevator or as long a trip, wide open. But what do you do when you peek your head...when people see an open elevator shaft, they want to know what's going on. They'll peek in it down or up. If the elevator came by at that time, and it's happened, not in this state, but it has happened in other states. It's a dangerous trade. [LB299]

SENATOR LOWE: Could that not have happened with a licensed elevator man too? [LB299]

STEVE SIMPSON: Well, what's happened since we've gotten the license is there's people that try to work on these elevators and they've been told you have to get a license and then they go out and hire somebody who is qualified to work on the elevator to do the work because they don't want to take on the responsibility of...where the restriction would be for them to deal with any...you know, they don't want to...okay, if you need a license, we're going to get the people who know what they're doing to work on the elevator. [LB299]

SENATOR LOWE: Thank you. [LB299]

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SENATOR MURANTE: Thank you, Senator Lowe. Seeing no additional questions, thank you very much for your testimony. Welcome. [LB299]

GREG LEMON: (Exhibit 7) Thank you. Good afternoon, Chairman Murante, members of the Government Committee. For the record, my name is Greg Lemon, L-e-m-o-n. I am the director of the Nebraska Real Estate Commission appearing today in opposition to LB299. I know it's been a long afternoon, I'll try to be brief, a long, snowy afternoon, you probably want to get home. Try to make three main points. The first, Senator Blood did a very good job of making for me which was, the premise of this bill seems to be there's too much government regulation, there's too high a barrier to entry to occupational licensing. The solution seems to be...to create more government or put more layers of regulatory oversight in place. I mean, that doesn't seem to me to be good common sense, Nebraska government good common sense, Nebraska thinking. Secondly, the type of oversight you're putting in place: the general premise of occupational licensing for years has been that the people that practice the occupation have a good handle on what the standard should be for the practice of that occupation so you have boards of engineers governing the engineers, boards of real estate people governing real estate, also with members of the public on those boards to provide a balance. The new law seems to shift that into saying that government knows better how to regulate industry than the industry does. And I guess, you know, I'm getting to be an older guy, and the old school thinking, you know, the conservative business friendly thinking was that the industry knew what was good for industry, but apparently the new thinking is that government knows better what's good for industry. The third thing is the problem, I mean, the problem it seeks to address. The bill seems to take a sledge hammer approach. There's a list of, I don't know how many professional occupations, they try to make a laundry list, include every one of them. And with the assumption that there's a big problem that needs to be addressed by a big solution that affects all these boards and commissions. And I can't speak for the standards for everybody else, but I'll try to briefly say how you get a real estate license. You have to have a high school diploma; you have to take 60 hours of classes. It's not 60 semester hours like three hours is a whole semester, 60 clock hours. You can take the classes in two weeks. You have to have a...take the license exam and you have to pay the license fee and you have to get a criminal background check. So it's not...and people that have real estate licenses help people through real estate transactions, financing, contracts, closings, the whole gamut, and so it's an important thing. If you have a license in another state and you want to do business in Nebraska, you have to take a three-hour Nebraska license law class which is available on-line and once again go through a...go through a criminal background check. As far as the criminal background checks, the real estate commission...and I think most other licensing boards have provisions that say we can withhold a license if you have criminal background. But we also...at least we have...what we call an informal special appearance. Most of the people that come in were viewed based on the time that they've been, you know, the time it's been since the last offense, the criminal record. Most the people that come in get approved. Lastly, I might...I see my light is on, I'll try to be quick. You know, every law is a balancing act. This law seems to

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be trying to shift the balance to saying everybody has the right to work, there shouldn't be a burden there. But the flip side to that is that when people go to somebody that has a professional license, they have an expectation that that person will provide the expertise that they need to do something that they don't understand how to do: child custody, building a high-rise building, making an elevator work, and people have an expectation that those things are going to happen. And you can certainly say, well, you can just go...if they don't work, if they're not any good, you can go in after the fact and sue them. But the idea behind professional licensing...and we always say we'd rather education than regulate is that we would like to prevent those bad things from happening by having people with the proper understanding and education performing those services. Thank you. [LB299]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thanks for coming down today, much appreciate it. [LB299]

GREG LEMON: Thank you. [LB299]

SENATOR MURANTE: Welcome. [LB299]

KEN ALLEN: Welcome, Chairman Murante, members of the Government Committee; thank you for the time. My name is Ken Allen, that's K-e-n A-l-l-e-n; I'm with the Board of Barber Examiners, those people that everybody is picking on. There's been a lot of things, I'm not going to echo what's been said because there's been a lot of things said. LB299 has already been addressed in LB36 for the most part with a lot less government. This bill, LB299, does so much more, adds those extra layers of government that most of us small agencies are already doing; if not, LB36 will cover those. So, LB299 as proposed, and I have not seen the amendment, I apologize, but I have not seen the amendment, so nonetheless if LB36 goes through, LB299 probably just needs to be killed. The Nebraska Legislature gave the Board of Barber Examiners...granted them the rights to govern our industry in late 1920s, okay. What this bill, LB299, would do would, basically, what good am I? If we're going to have two layers overseeing what we do and my board does, what good are we? We don't need more government. We are running a pretty good ship the way it is. Our records speak for themselves. I think with...you know, there's a part in there, Section 15 of LB299 that talks about fair, competitive, rah, rah, rah, you know, most of us do that. We all want more economic growth; we all want that. But anytime you put...you decrease regulations, you also deregulate...or cut down safety. And that is an issue with my industry. And I think a lot more out there too because that is my job to go around inspect every shop in the state of Nebraska and look for things that aren't supposed to happen--illegals working; people without license, and that's going to be another whole new creation, people working without license; safety issues; contagious diseases; they're all there, I see them everyday. Yes, we violate them. Yeah, that's where we're at. Anyway, in closing I'd like to

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summarize that LB299 does mirror LB36 and I would recommend that either the two get together; but this bill as proposed is not going to help the state of Nebraska. Are there any questions? [LB299]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thanks for coming down today. [LB299]

KEN ALLEN: All right, thank you. Oh, could I add one more quick thing? [LB299]

SENATOR MURANTE: Yes. [LB299]

KEN ALLEN: I have not seen the Ombudsman, I don't believe there's been any complaints, at least not in our industry, I think that's a pretty good tool to use to see if there is an issue, if there is a problem. And most of us are pretty good about regulating our own little statutes, regulations. And all statutes have to go through the legislative body and through all the rules and regulations, so with hearings and whatnot, I think LB299 could probably just go away if LB36 comes in. Thank you. [LB299]

SENATOR MURANTE: Thank you very much for your testimony. Additional opposition testimony to LB299? [LB299]

JOHN MARKEY: Chairman Murante, members of the committee, thanks for the opportunity. It looks like we're running low on members now. My name is John Markey, J-o-h-n M-a-r-k-e-y. I'm here to speak in opposition to LB299. I've been licensed as a journeyman electrician since 1994 after completing an electrical apprenticeship and passing a licensing exam. Many licensed journeymen in Nebraska follow a different path either by earning a degree in an electrical technology in a community college and then entering the trade, or by just entering the trade and learning on the job. Regardless of path, one must work a certain number of hours to become eligible for the licensing exam. States and localities have a compelling interest to protect their residents from hazardous situations. In doing so, they must regulate and license certain occupations when improperly practiced from lack of knowledge and experience, they can cause great financial harm, bodily harm, or even death. I've seen first hand how dangerous an electrical system can be when improperly installed. As a first-year apprentice, I went to a grain elevator along with the journeyman I was working with, this would have been about 1990. Earlier that day, two men installing a grain chute were killed by touching a seemingly innocent abandoned plumbing pipe that extended about a foot through the wall near where they were working. On the other side of the wall, this pipe was resting on an electrical conduit that was not grounded. This metal conduit run was missing a 90 degree piece where the conductors were exposed and one of those conductors had worn through on the sharp edge of the pipe energizing that conduit, and

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because of the missing piece, I had no return path and the fault could not blow the fuse like it is supposed to. The installation was very old and it took many years for this insulation to wear out. The journeyman I was working for at the time, this incident just stands out in my mind, but he thought it dated back to the '50s, demonstrates the hazards of allowing improperly trained and unprofessional people to install potentially dangerous systems. Also as reported a few months ago in the Lincoln Journal Star that a number of Lincoln homeowners had discovered that fly-by-night roofing contractors had covered over roofing penetrations for both furnace vents and plumbing vents. These were discovered by licensed technicians performing maintenance on their HVAC systems. When these vents were blocked, dangerous levels of carbon monoxide or sewer gas can build up in a house leading to serious illness or death. Fortunately, no one was harmed in these incidents, but, again, it shows the dangers of allowing the practice of certain occupations without commonsense regulations and licensing. We expect occupational boards to be made up of experts in the field and to create standards for licensing based on their experience and knowledge. We need to allow these board members to effectively do their jobs. LB299 lists 172 occupations that are regulated and licensed in Nebraska. Among these are engineers, architects, pharmacists, teachers, bank executives, dentists, elevator inspectors, master plumbers and electricians, all these occupations can cause great harm if improperly practiced. Many of these occupations are fully capable of creating tragedies that I just described earlier. This bill would create an office of supervision or occupational boards that would exercise control, as I read it, would exercise control over occupational boards and...basically, as I see it, redirect the priorities, protect the fundamental right to pursue an occupation, and to use the least restrictive regulation to protect consumers. This duly created board cannot possibly know enough about the 170-plus occupations to make competent decisions regarding requirements for licensing. These would be arbitrary mandates placed on an occupational board and would politicize their efforts. Everyone has the right to pursue a career in the occupation of their choice. No one disputes that, but to operate with the level of authority and autonomy in a certain field of works, such as a lawyer in the legal field, a doctor or nurse in the medical field, or a journeyman or a contractor in the electrical industry, one must reach a certain level of competence and be able to prove it through an exam. These license occupations are open to all people willing and able to put in the time and effort it takes to become knowledgeable and skilled in their practice. The fields of work these occupations are a part of... [LB299]

SENATOR MURANTE: Your time is up, can you just wrap up what you have right now.
[LB299]

JOHN MARKEY: Okay, yeah. [LB299]

SENATOR MURANTE: Thank you. [LB299]

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JOHN MARKEY: I just made the point that these occupations are part of the fields that provide opportunities that don't need licensing. There's plenty of work opportunities for everybody. [LB299]

SENATOR MURANTE: Understood. Thank you very much for your testimony. Are there any questions? Seeing none, thanks for coming down, much appreciate it. Welcome. [LB299]

DAN SWEETWOOD: Welcome, Senator Murante, committee, I know, be really quick here, I promise. I got to get back to Omaha too. My name is Dan Sweetwood, that's S-w-e-e-t-w-o-o-d. I've been fortunate to be the director of the State Board of Public Accountancy for the last 14 years. I'm not going to touch on some of the comments from Director Lemon and Director Allen, fellow noncode directors. I think we touched on it very well. I think some of you have a good grasp that some of the issues that are going on here. I don't think any of us will...would argue that this is open for further discussion. Maybe there are some avenues that we could sit down from the CPA standpoint. It's a profession, a long-standing profession. In 1957, you the Legislature, created the attest function, the ability to create financial statements of how important, obviously, on the governmental side to the private side of certified public accountants in this state that attest to those numbers. They obviously have, yes, the education is tough, the exam is tough, and the continuing education is tough, but that's part of a profession if you look at it that way. But again, my board is always open to listen, to discussion, we changed some experience requirements recently to allow for others to join the profession. I can't imagine the legal counsel or the people of what I heard of the amendments for them to get a grasp of the standards, let alone of accounting standards, how they're created, the ability, the reasons why they're there, I can't imagine the people that would be charged with that, let alone the 172 professions. I can barely grasp the accounting standards sometimes. It's a very complex world when we talk about professions. And that's all I have. [LB299]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? Seeing none, thanks for coming down today. Welcome. [LB299]

TED HUSCHER: Thank you. Chairman Murante and committee members, my name is Ted Huscher, I'm the president of the Nebraska Geological Society. And on behalf of the Nebraska Geological Society, we'd like to thank the committee for the opportunity to make our position clear on LB299, the Occupation Board Reformat. And to be concise, the Nebraska Geological Society supports efforts to facilitate interstate movement of professionals in pursuit of their geology career, provided that the public is protected from actions and services of those unqualified to provide those services. Efforts to encourage more people to pursue careers in science and in geology in particular, and finally efforts to provide second chances for people who have had felony convictions. The Nebraska Geological Society does, however, have serious

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concerns about and opposes several aspects of the bill as introduced. These concerns are and include, for one, the creation of additional layer of bureaucracy to be paid for by Nebraskans and that would seem to, in part, duplicate the function of the Governor's Policy Office. Two, the empowerment of this new bureaucracy, the Office of Supervision of Boards, to overrule the determination of enforcement actions without the technical background necessary to understand the severity and consequences of the actions in question. Three, the emphasis only on the cost of professional services rather than a balance between the protection of the public and the cost. Four, the duplication of services by a new legislative office of occupational regulation that could be provided by the existing Legislative Research Office and the possible use by the proposed Legislative Office of Occupational Regulation of Individuals that may not have the technical background regarding the true impact of changes to the statutes or rules and regulations related to a specific occupation. In particular, the Nebraska Geological Society urges a modification of the bill to remove the authority of that office to overrule enforcement actions by a board. Current licensure requirements for geologists are, one, assure that those licensed have a minimal, technical qualification to serve and protect the public; and two, provide a well-measured frame work for enforcement against those that jeopardise the public by not having solid geologic knowledge. As a matter of background regarding the profession of geology as practiced in Nebraska under the current statute for licensure, the following should be noted: one, geologists work affects public safety, especially in regards to groundwater quality, geologic hazards, and subsurface conditions. Two, the work of geologists is important to Nebraska agriculture through input on water resources management. Three, geologists work...whose work does not affect public safety are specifically exempt from licensure requirements. Four, geologists who are not registered can still work under supervision of licensed geologists. Five, a majority, that is 31, of states have registration for geologists including neighboring Wyoming, Kansas, and Missouri. Six, registration provides a way to assure the nonscientific public that the geologist has adequate qualifications, not that consumer rating would not likely...excuse me, note that consumer ratings would not likely reflect an informed understanding of the qualifications or lack thereof of a person offering geologic services. Seven, registration statutes provide a mean to penalize those who put the public at risk by providing consultation on subjects they're not qualified to consult on. Eight, Nebraska offers reciprocity or comity with almost all other states that have similar licensing requirements, thus facilitating interstate transfer of jobs. Nine, those Nebraska firms that have licensed geologists are more competitive in other states that require licensure. And finally, ten, licensure establishes more clearly defined responsibilities and liability in legal proceedings. Again, we'd like to thank the committee for hearing our concerns this afternoon. [LB299]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for coming down today. [LB299]

TED HUSCHER: Thank you. [LB299]

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SENATOR MURANTE: Is there additional opposition testimony? Is there any neutral testimony? Welcome. [LB299]

KIM ROBAK: Senator Murante and members of the committee, my name is Kim Robak, K-i-m R-o-b-a-k. I'm here today on behalf of the Nebraska Medical Association in a neutral capacity. Three points: number one, it is...we want to thank Senator Ebke for the conversation, it's a great idea to have the least restrictive means of regulating and licensing entities. The healthcare arena is a different arena. It is not the free market system, although we would like it to be. And anybody who has been involved with Obamacare knows that there are unintended consequences when we do things with regard to licensure of medical practitioners. We have interstate compacts. We have licensors in other states and we have telemedicine. So it has an impact what we do in this state with regard to licensure; the same thing with hospitals. So we need to...it would be our contention that if you are going to move forward on this bill that you do it in a piecemeal fashion and that the medical arena be carved out of this particular piece of legislation. Secondly, if you want to look at industry, it's not licensure that's the issue but regulation. And there are at least five bills this year that add requirements to doctors and hospitals on how we practice. So if we could just not adopt those bills every year, that would be very helpful, or if there would be ways to reduce the amount of restrictions and regulations that you place on us, we would be thrilled. Number three, any organization or group is only as good as its members. So if you create this board and that board doesn't do its job, then you're in the same place you are today with every board or license entity that we have in place. It would be helpful if you simply told the Department of Health and Human Services or the agencies that you actually create laws for that it is your intention that they have the least restrictive means of licensure and that that's their goal and then that would be in law and then they can enforce it as part of the laws that they have to enact and put in place. So with that I'd be happy to answer any questions. [LB299]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? Seeing none, thank you for coming down. Are there additional neutral testifiers? Seeing none, Senator Ebke. [LB299]

SENATOR EBKE: Thank you, Chairman Murante and members for sticking it out. I was hoping to be briefer but I just can't. First of all, let me say that what we've seen here today is still...and a lot of people are stuck in the notion that you're either licensed or you're not, and yet we've had people talking about registration; we've had people talking about certification and that fits well within the frame work established in LB299. It's not either/or. It doesn't have to be either/or, it can be any one of those things. And nothing in LB299 requires that you get rid of...you know, just throw the floodgates open to the free market on every issue. And certainly, in the medical arena, as I suggested, there are the licensures for healthcare fields. The administration's targeted reform in a number of bills is all well and good and I will support those bills, I think it's a good notion that we are looking at occupational licensing more broadly, but it still validates the binary

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licensure versus no licensure notion. The administration has said...has lent credibility and validity to the notion that the state gets to decide whether you get to work or not. Okay? And it doesn't always have to be that way. Rules and regulations of agencies are not addressed here. Agencies can still issue rules and regulations in terms of practice. It's simply the occupational licensure that's addressed. A number of those who testified referred back to the occupational boards and I understand that. That was in the original bill. The amendment removes all mention of the occupational board and a significant portion of the fiscal note. We can negotiate or discuss the rest in terms of the legislative oversight. This is ultimately a process bill. It's a way of looking at things on a regular basis. It's not going to get rid of anything tomorrow. If we passed it and it went into effect in July, it wouldn't get rid of anything. It would start the process of looking at the agencies, the boards that we've got and determining whether or not we're employing the least restrictive means of licensure or other regulation. Professional licensing doesn't necessarily guarantee good results. And I'm all for education; I think the more education you've got the better. I think people ought to go back...I've got a husband who's got a medical license and I think...it's a good thing for him to go take his CME credits. It's not a bad thing to have ongoing training, but the question is, do all professions need to have that ultimate licensure or can we do it in some lesser way either through registration or other regulation through certification? Public safety was mentioned a number of times. Nothing here removes the ability of the state to maintain public safety. Some sort of public safety protections are needed and they'll always be there. The question is whether or not it requires an individual's license to maintain public safety or whether we can regulate what's going on in the profession in terms of...like we talked about elevators. Why can't we inspect the elevators? We do. Why do you have to have a...why do we have to have an ongoing licensure of those who are working on it? They're certified, that's adequate isn't it? If they're certified mechanics to work on elevators, that may be adequate if we have the ongoing inspections. And there's nothing from haircare salons to restaurants, there's nothing that stops us from still having inspections. The question is, whether we're going to license the people who work there. There was some suggestion that this process would be overwhelming. Keep in mind, this is 20 percent of the licenses each year is what we call for. Certainly, there is room to wiggle in that one. But I suspect that what we'll find is that a fair number of the license, for instance, in the medical professions that we may say--no, we're already using the least restrictive or we don't want to look at that anymore carefully. Okay, so I guess that about covers it. Sunsets, again, one last thing, the sunsets don't necessarily mean that anything goes away. It isn't an automatic go away. What it does is it sunsets the time that the current paradigm is in effect and it allows the Legislature to systematically examine whether they are still engaged in the least restrictive option available. So I thank you all for your time. I thank those on both sides who testified today. If you have any questions, I'd be happy to try to address them. [LB299]

SENATOR MURANTE: Well, Senator Ebke, thank you for bringing this. I think it's an important bill. I think you're absolutely correct. The question on the table is not whether or not

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occupational licenses should exist in the state of Nebraska, the question is, of occupational licenses that exist in the state of Nebraska, should there be a review of them, and if so, by whom? In my view, the answer to the first question is absolutely yes. And the answer to the second question it would appear to me is this is part of our legislative function. We create these boards and commissions and I make the observation that yesterday was our once-every-four-year review of every board and commission in the state of Nebraska. We already review every board and commission in the state. So perhaps adding your concept into part of that process where the Legislature does come back and review these things, whether it's done by this committee or we divvy it out among the standing committees of the Legislature, perhaps that's an avenue we can go down. But, certainly, we can talk about that. [LB299]

SENATOR EBKE: Absolutely. [LB299]

SENATOR MURANTE: Come up with a solution that hopefully can be agreeable to everyone. [LB299]

SENATOR EBKE: Great. [LB299]

SENATOR MURANTE: Thank you very much for your bill and thank you for being here today. [LB299]

SENATOR EBKE: Thank you. [LB299]

SENATOR MURANTE: (Exhibits 8-20) And before we close the public hearing, I do have a letter of support from Brittany McAllister of the Board of Certification of Nutrition Specialists. And opposition from Patricia Timm, the president of the Nebraska State Board of Education; Joe Moore, the president and CEO of the International Health, Racquet and Sportsclub Association; Marc Brennan, the president of the Nebraska Speech-Language-Hearing Association; Cindy Cronick, Nebraska Dental Assistants Association; Frank Daley, the Nebraska Accountability and Disclosure Commission; John Gale, Secretary of State; Mark Quandahl, Director of the Department of Banking and Finance; Sara Kay, Executive Director of American Institute of Architects-Nebraska Chapter; Brad Rice, Colonel of the Nebraska State Patrol. (And also from David Becker, Geologist from Omaha, Nebraska.) I have a letter in neutral from Nathan Leach, representing himself. And another letter in neutral from Diane Jackson, the Chair of the Nebraska State Board of Health. So with that we will close the hearing on this bill and move to Senator Lowe who is keeping us from our weekend. Senator Lowe, welcome to your Committee on Government, Military and Veterans Affairs. [LB299]

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SENATOR LOWE: I'll see how fast I can do this. It's a long road home today. Thank you, Chairman Murante and the members of the Government Committee. My name is John Lowe, that's J-o-h-n L-o-w-e and I'm here today to introduce LB320. I was asked to bring this bill to the Department of Administrative Services. This is an omnibus bill for the department. Inflation has changed the cost of doing business and these changes to reporting requirements better reflect these real-world changes. This bill also updates the real property purchasing threshold which has not been modified since it was established in 1992. Lastly, this bill changes some of the languages of necessary statutes to better reflect the needs and goals of the department. The language changes are modifying the term "materiel division" to "materiel administrator" to ensure the statute clearly refers to the head of the division. At the end of the day, this bill streamlines the government and maintains accountability, while allowing for savings for the government. Thank you for your time. I will be happy to answer any questions and I'm sure the officials of the Department of Administrative Services will be more than happy to answer your questions. [LB320]

SENATOR MURANTE: He looks really excited about it, actually. (Laughter) Thank you, Senator Lowe. Any questions? Seeing none, thank you. Welcome back. [LB320]

BO BOTELHO: (Exhibit 1) Thank you, Senator Murante. Members of the committee, my name is Bo Botelho, B-o B-o-t-e-l-h-o; Chief Operations Officer for the Department of Administrative Services. First, I'd like to thank Senator Lowe for bringing our bill. And I realize it's 5:00 on a Friday and this is the not so fast and exciting DAS omnibus bill so I will go quickly. There's four components to the bill. The first one adjusts the bidding thresholds for commodities. Currently, there are...basically, there's two numerical thresholds for commodities: currently \$10,000 and \$25,000. Anything above \$25,000 has to be a formal bid process; anything between \$10,000 and \$25,000 is an informal bid process. And below \$10,000 is director purchase authority by the agencies. This will raise the upper threshold from \$25,000 to \$50,000 which is consistent with the services threshold. The informal bid will go up from \$25,000 to \$50,000; and direct purchase authority will be \$25,000 and below. The benefit of this is allow our procurement staff to focus on the higher dollar procurements, strategic sourcing, and I think we'll get more savings from that. And the low dollar threshold procurements will stay with the agencies and it will help them move their purchases through quicker. Secondly, what it will do it adjust the purchase threshold for real property currently set at \$10,000 in 1992 and attach that threshold to the capital construction threshold which can be adjusted every four years. The real property threshold will be 10 percent of whatever the capital construction threshold is at that time which currently that threshold is \$640,000. Ten percent of that would raise the \$10,000 to \$64,000. Again, that can be adjusted every four years in accordance with the economy and current costs. The third thing that it does, it will...it modifies the requirement for quarterly status reports and final reports and construction projects. Currently, this is set at \$500,000 which was the capital construction threshold eight, ten years ago. And what this will do, it will make a mechanism so that threshold

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will be attached to the capital construction threshold which is what it needs to be and it will also be adjusted with the capital construction threshold every four years. The last thing this does, it changes the term "materiel division" to "materiel administrator" in Section 81-161.05. This fixes a global terminology change made some years back that should have referenced the administrator and not the division...the individual and not the agency itself. With that I'll have any...happy to answer any questions you may have. [LB320]

SENATOR MURANTE: All right, thank you for your testimony. Are there any questions? Seeing none, thanks for coming in. [LB320]

BO BOTELHO: Thank you. [LB320]

SENATOR MURANTE: Are there additional proponents wishing to speak? Any opposition testimony? Any neutral testimony? Recognized to close. [LB320]

SENATOR LOWE: I have a very long closing. I'll waive (inaudible). [LB320]

SENATOR MURANTE: (Exhibit 2) Thank you. That closes...wait, we do have the letter from Nathan Leach, representing himself. And that closes our public hearing and ends our hearings for the day. Thank you. [LB320]