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Judiciary Committee
March 15, 2017

[LB405 LB435 LB450 LB622]

The Committee on Judiciary met at 1:30 p.m. on Wednesday, March 15, 2017, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB622, LB405, LB450, and LB435. Senators present: Laura Ebke, Chairperson; Patty Pansing Brooks, Vice Chairperson; Roy Baker; Ernie Chambers; Steve Halloran; Matt Hansen; Bob Krist; and Adam Morfeld. Senators absent: None.

SENATOR EBKE: Good afternoon. We're going to try to get the preliminaries out of the way. We have a few more senators who will be joining us soon I believe. Welcome to the Judiciary Committee. My name is Laura Ebke. I'm from Crete. I represent District 32 and I chair the committee. I'd like to introduce, or have them introduce themselves, other senators starting over here because that's where they are.

SENATOR HALLORAN: Senator Steve Halloran representing District 33, Adams County, western and southern Hall County.

SENATOR HANSEN: Matt Hansen, District 26, northeast Lincoln.

SENATOR EBKE: Senator Patty Pansing Brooks will be along shortly if she's not here yet. Senator Baker will be along from District 30, Senator Morfeld from Lincoln. Senator Krist is here, is introducing a bill in Revenue right now but he'll be in, in a little while. And then Senator Chambers will be here as well. Assisting the committee today are Laurie Vollertsen, our committee clerk; Brent Smoyer, our committee counsel; and committee pages are Kaylee Hartman and Toni Caudillo. On the table over there you will find some yellow testifier sheets. If you are planning on testifying today please fill one out and hand it to the page when you come up to testify. This helps us to keep an accurate record of the hearing. And there is also a white sheet on the table if you do not wish to testify but would like to record your position on a bill. Could I see a show of hands of how many people are hoping to testify on LB622 in any capacity. Okay. So let me tell you how we're going to work this today. We're going to begin the bill testimony with the introducer's opening statement. Following the opening, we'll hear from proponents. Today we're doing things a little bit differently. Historically this bill has inspired a lot of interest from a lot of people, as it is today. Two years ago when we had the hearing on the earlier version of the bill it was scheduled for the last thing on the agenda because we knew it was going to be a big hearing and it made it late in the afternoon before we got to it. That proved to be a bit of a hardship to those who attended who had medical conditions that were exacerbated by the long day. So in talking to Senator Wishart and others, we decided that under the circumstances we would move this bill to the top of the list. However, moving it to the top of the list means that there are three bills following this hearing. So what we're going to do is we're

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going to have limited testimony to begin with. Let me get through all this. We're going to have...we're going to let Senator Wishart do her introduction of the bill and then we'll begin with proponents. Proponents will have an hour, three-minute testimony, then opponents will have an hour of three-minute testimony, and then neutral--typically there aren't too many neutral--we will go for up to 15 minutes. At that point we will allow Senator Wishart to close if she wishes. However, if there are still those who would like to testify verbally on the record, we will not close the hearing but we will suspend the hearing. We will move to the other hearings, the other three bills, and then at the conclusion of those three bills we will come back and take additional testimony, verbal testimony. But we're trying to, you know, kind of split the difference here. We want to give everybody the opportunity to talk. But we also...and we wanted to make the allowances for those who might have medical conditions or reasons for not wanting to be here for an extended portion of the day. But we also want to be respectful of those who might be testifying on the other three bills and give them an opportunity to hear their testimony and to hear the bills before it gets dark out. So that's the plan for the day, again, three-minute testimony. Just a reminder, I would ask that if you've got your cell phones, turn those to silent or vibrate mode at this point. We ask that you not talk on the phone while you're in the committee room. If you need to talk on the phone head out to the hallway. And then I'd ask...typically when we get big crowds like this it's not unusual for a lot of passion to be there and people want to start clapping. Please don't do that. That just delays our ability to get through the hearing in good order. The clock will start when Senator...when the first proponent comes up. So with that in mind, I think we've got all the preliminaries under the way. So, Senator Wishart.

SENATOR WISHART: Well, good afternoon, Chairman Ebke...Chairwoman Ebke, excuse me, and members of the Judiciary Committee. My name is Anna Wishart, A-n-n-a W-i-s-h-a-r-t, and I represent the great 27th District in west Lincoln. I am here today to introduce LB622, a bill that would establish the Medical Cannabis Act and provide for the cultivation, processing, and use of medical cannabis in our state. I introduce this legislation for multiple reasons. First and foremost, this is an issue that came up at doors during the campaign from people themselves or family and friends are struggling with a chronic illness and want access to this form of medical treatment. Additionally, I have been paying close attention to a ballot initiative to legalize not just medical but all cannabis in our state. I believe it would be to our benefit as a state that we work intentionally on addressing this issue in the Legislature where we can take the time needed to put in place a comprehensive, safe, and sustainable medical cannabis system. This morning I would like to walk you through the white-copy amendment I have introduced, AM496, so that you are familiar with the medical system that I am bringing to you today. My office and I worked with experts across the country to draft AM496 to make sure our Medical Cannabis Act is financially sustainable, regulated to protect public safety, and affordable and accessible to Nebraskans who will be utilizing this form of treatment. Again, AM496 is a white-copy amendment to LB622 and creates the following system. The Division of Public Health of the Department of Health and Human Services is responsible for regulating the Medical Cannabis Act. Section 17 in your

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amendment outlines the medical conditions that qualify under our system. I won't list all of them but they include cancer if the underlying condition or treatment produces severe or chronic pain, nausea or severe vomiting. Another ailment is glaucoma; Tourette's syndrome; severe and persistent muscle spasms, including those characteristic of multiple sclerosis; Crohn's disease; lupus; Parkinson's disease; Lyme disease; opioid addiction; epilepsy; post-traumatic stress disorder; anxiety; or any other illness for which medical cannabis provides relief as determined by the participating healthcare practitioner. [LB622]

SENATOR EBKE: Hang on just a second, Senator. Just for committee members, there is a...you found the copy of the amendment and the new summary is in your books. [LB622]

SENATOR WISHART: Yes. [LB622]

SENATOR EBKE: People were looking for them so I wanted to make sure they knew. Thank you. Sorry. [LB622]

SENATOR WISHART: Oh, okay. Yes, because I will be referring to sections as I go through this so you have an understanding of the amendment. Section 7 outlines the delivery methods for medical cannabis under our system which are liquid, pill or capsule, vapor, topical creams, and suppositories. And I want to emphasize that smoking is not included in our Medical Cannabis Act, nor are edibles other than in the form of pills or capsules. The department shall establish and maintain a registry program for patients and their participating healthcare providers, which is outlined in Section 22 and 30. The registry will include the following: the name and address; telephone number of the patient enrolling in the registry; and shall identify their participating healthcare provider; a copy of certification for the patient's participating healthcare provider that certifies the patient has been diagnosed with a qualifying medical condition and a description of the potential outcomes of using medical cannabis specific to the patient's medical condition. A patient and their participating healthcare provider will be required to recertify on an annual basis. The department shall register a designated caregiver if a person has been identified by a healthcare practitioner as having a developmental disability or physical disability and is unable to acquire or administer medication. So this caregiver will be designated to help them. And a designated caregiver must be at least 21 years of age, does not have a felony conviction for a disqualifying felony offense, and has been approved by the department. And Section 27 details the registry process for designated caregivers. And I want to point out that a designated caregiver is required under our act to go through a criminal background check. Parents and legal guardians may act as caregivers to patients under 21 and will not have to register as a designated caregiver but they, too, will have to go through a criminal background check as outlined in Section 28. Our system defines in this legislation and creates regulations for the growers which are called producers, the manufacturers which are called processors, and the distributors which are called

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compassion centers. The department shall register up to ten producers and processors per congressional district and eight compassion centers per congressional district as outlined in Section 33. Producers, processors, and compassion centers will be required to reregister every year. There will be a one-time application fee of \$25,000 for all of the entities. And then the producers and processors on an annual basis will pay a licensing fee of \$40,000 and the compassion centers will pay a licensing fee of \$25,000 on an annual basis. And these fees are for the cost of regulation and inspection and are outlined in Section 47. I want to note that as outlined in Section 39, a county, city, or a village governing body may adopt a resolution or ordinance prohibiting the operation of a producer, processor, or a compassion center or a zoning code limiting the amount of these entities. If every jurisdiction within a congressional district adopts a prohibition of producers, processors, and compassion centers, the department may register additional entities in other congressional districts up to the total amount allowed at the state level. The department shall consider the following factors when determining whether to register a producer, processor, or a compassion center: one, the technical expertise of the producer, processor, or compassion center in cultivating, processing, and distributing medical cannabis; the qualifications of their employees--every employee must be 21 years of age and will be required to undergo a criminal background check--the long-term financial stability of these entities; the ability to provide appropriate security measures on the premises; and the ability to meet the production, processing, and distribution requirements by the dates outlined in this act. And I will go through the time line of this act and how it will be put in place at the end of this testimony. Additionally, processors are required to contract with an independent laboratory that is approved by the department to test the cannabis being processed as to the chemical composition, contamination, and consistency and to report the range of recommended treatments for each medical condition and any risks of noncannabis drug interactions. Tracking numbers will be assigned by processors to any medical cannabis distributed by the processor. And employees of processors are required to have identification showing their employment status. Under our act, compassion centers shall require medical cannabis to be dispensed to patients by a licensed pharmacist. Prior to dispensing any medical cannabis, a compassion center shall verify that the patient or designated caregiver is registered; assign the dispensed medical cannabis a tracking number, the patient's name and contact information, and the chemical composition; properly package medical cannabis in compliance with federal poison prevention packaging; and provide no more than a 30-day supply of the recommended quantity. The use, possession, cultivation, or sale of medical cannabis or medical cannabis products by a patient, designated caregiver, healthcare professional, producer, processor, or compassion center for anything other than what is included in this act will be penalized pursuant to Section 42 through 46. And Section 51 establishes the Medical Cannabis Board of nine members who will be required to meet at least once each quarter to advise the department of the following: rules and regulations pertaining to medical cannabis, the policies of the department as they relate to medical cannabis, and recommendations for legislative changes regarding the regulation of medical cannabis. And most of the appointments of the board will be made by the Governor and approved by the

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Legislature. So let me walk you quickly through the time line of this act. The department will...so if this legislation passes, the department will accept applications for producers, processors, and compassion centers by November 8, 2018, and then processors will be required to begin supplying medical cannabis to compassion centers on or before May 1, 2019, and compassion centers are required to begin dispensing medical cannabis to patients on or before May 1, 2020. So that's the time line that we're looking at with this act. Now I would like to speak with you about the fiscal note that you've been provided. So the Fiscal Office has done a fantastic job of detailing this fiscal note, so I'll only mention a few key pieces. First, this fiscal note is based off of LB622 and would not account for increased revenue seen in the changes to licensing and application fees in AM496. These additional dollars in the amendment would generate enough annual revenue to offset any expenses from the department. Additionally, an important piece that is missing from this fiscal note is the sales tax revenue that will be generated from this act because medical cannabis would be subject to sales tax. Lastly, I want to direct your attention to a research document provided at my request by Legislative Research. It's the green document on your table. And I'll point out several key facts from this handout. Forty-four states have some form of medical cannabis, while Nebraska is one of six states that has no medical cannabis available. And no state, not one, that has passed medical cannabis legislation has then repealed it. According to the Journal of the American Medical Association, prescription painkiller deaths have dropped 25 percent in states with access to medical cannabis. Colleagues, thank you for your time. I want to be mindful of the committee's time and the people who are here, many who have driven far, some have flown to testify in front of you. So I would be happy to answer any questions. I will be here to answer more during closing. And since I see you every day, I'm happy to talk with you moving forward as well. [LB622]

SENATOR EBKE: Thank you, Senator Wishart. Senator Pansing Brooks. [LB622]

SENATOR PANSING BROOKS: Thank you for bringing this, Senator Wishart. [LB622]

SENATOR WISHART: I left you speechless. [LB622]

SENATOR PANSING BROOKS: You have--hard to do. I'm looking at the fiscal notes. And are there similarly situated states to Nebraska that it could be comparable? About what kind of tax receipts comes from medical marijuana? [LB622]

SENATOR WISHART: You know, it's something that we're looking into. What is hard is that each state allows for different...has different taxing systems. And so Colorado, for example, I believe they have an excise tax. They've generated \$35 million from their medical cannabis system. [LB622]

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SENATOR PANSING BROOKS: Alone. [LB622]

SENATOR WISHART: Alone. And so that's something that we are continuing to look into and I've talked with the Fiscal Office about trying to find some projections about what we would be able to generate in the state from revenue off of the sales taxes. [LB622]

SENATOR PANSING BROOKS: Okay, thanks, because it's clear that states do make money from this, from the sales. [LB622]

SENATOR WISHART: Yes. [LB622]

SENATOR PANSING BROOKS: Thank you. [LB622]

SENATOR EBKE: Nothing else? Okay. I guess we're good right now. Thank you. Okay, now and I see that...is there a Dr. Rachel Knox, is that who you wanted next? [LB622]

SENATOR WISHART: Yes. [LB622]

SENATOR EBKE: Senator Wishart has asked that she be next. And then we will start with other proponent testimony. And remember, we're doing this in a split fashion. So we'll do proponents, opponents, and then we'll come back later after the other hearings if there are still people to testify. So try to be...for proponents, let's try to be cognizant of those who might need to...for whom staying a long day might not be healthful. [LB622]

RACHEL KNOX: All right. Hi, everybody. I'm Dr. Rachel Knox from Oregon, cofounder of American Cannabinoid Clinics, and last week I had the distinct honor of speaking on this very subject to the United Nations. [LB622]

SENATOR EBKE: Spell your name for the record, please. [LB622]

RACHEL KNOX: R-a-c-h-e-l K-n-o-x. And I would like to thank Senator Wishart and staff for having me today. So to begin, I would like to give a very brief but high-level overview of the reason why cannabis medicine exists. And that's the very...the body's very own endocannabinoid system, okay? Discovered in the 1990s, we have now had decades of scientific purview that estimates that this system inside of all of our bodies is about a 600 million-year-old signaling system common to all mammals. It's an intricate network of receptors and ligands. Think of locks with fancy key holes and the keys that work in them that work together as a powerful

communication system that drives the balance in our bodies or homeostasis--the survival of the mammalian body. Its involvement in balancing the human body processes includes but is not limited to the regulation of pain relief, mood management, blood pressure and blood sugar control, appetite and feeding, sleep cycles, extinction of traumatic memories, inflammation, immunomodulation, neuroprotection, reproduction, and cancer immunosurveillance--this system controls it all. Thought leaders in cannabis research believe that it's the dysregulation of this very system that results in the internal imbalance that is the foundation of illness and disease. Okay. The receptors of the ECS, those are called cannabinoid receptors. They're throughout the entire body. The most well known and studied are the CB1 and the CB2 receptors. The CB1 receptor is the most abundant receptor in the brain out of all other types of receptors with the exception of the brain stem that controls our respiratory drive. All right, that's where the opioid receptors are and that's why we see a lot of respiratory depression and death with opioid overdoses. Cannabinoids are the ligands that interact directly with these receptors in the body. Endocannabinoids are the ones that our body makes on demand. And phytocannabinoids are cannabinoids that are found in botanicals like cannabis. These closely mimic the actions of the endogenous cannabinoids in their interaction with our bodies' receptors. There are 100 or so phytocannabinoids that have been isolated from the cannabis species alone. The broad range of effects that cannabis seems to evoke from within our human bodies can begin to be explained by the wide distribution of these receptors. And they go into our fat tissues, into our end organs, into our reproductive organs, and beyond. So alongside these increasing scientific discoveries, it's increasing use of cannabis by our very own population. Adults over 50 have become the fastest growing demographic of cannabis users in our country. There is a reported threefold increase in cannabis use by this demographic between the years 2000-2012, and by 2014 about 4 million senior citizens were using cannabis. It's now 2017. This is the same demographic that uses that disproportionate amount of pharmaceutical drugs and that often results in polypharmacy, so overmedicating with too many medications and this can cause a lot of unwanted side effects and even death. So this data might suggest that the aging population is turning toward some more natural solutions for their varied disease-related needs. And the other important topic to note today is that of the painkiller prescription epidemic. In 2015, the CDC reported that prescription opioid abuse had become an epidemic announcing that more than 500,000 in our country died from opioid overdose between 2000-2015. That's an estimated rate of 91 American deaths daily from opioid overdose. Medicare Part D actually reported that there was a decrease in opioid prescriptions in states that had active medical cannabis laws. They also saw a stark decrease in drugs that treated anxiety, depression, nausea, seizure, sleep disorders, and spasticity. The average physician in a medical cannabis state prescribed 1,800 fewer doses of painkillers from 2010-2013. It also saved Medicare Part D \$165 million across the 17 legal states at that time. [LB622]

SENATOR EBKE: Okay. We've got a red light. And I forgot to tell everybody... [LB622]

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RACHEL KNOX: The rules? (Laugh) [LB622]

SENATOR EBKE: Sorry about that. [LB622]

RACHEL KNOX: Because I didn't read anything. [LB622]

SENATOR EBKE: I was going back and forth on we have a three-minute light system here. But if anybody asks questions...Senator Morfeld. [LB622]

SENATOR MORFELD: I'm glad they started talking about the opiate epidemic. [LB622]

RACHEL KNOX: Yes. [LB622]

SENATOR MORFELD: It's an issue that I've worked on and passed I think one or two...at least one but I'm pretty sure two laws on so far and have a priority designation on a bill this year for that. I think it's well known based on the figures and from what we hear in the news that the opiate epidemic is severe. It kills people every day. When it comes to medical cannabis, how many instances of people dying from a marijuana over...I haven't heard of any. [LB622]

RACHEL KNOX: Correct. [LB622]

SENATOR MORFELD: So I'm curious if it actually happens. I mean is there such thing as a marijuana overdose that has led to death and, if so, how widespread is that compared to the opiate? [LB622]

RACHEL KNOX: The answer is no. You can overdose on just about anything. So in the medical world, we would consider somebody having excess adverse effects whether that's shortness of breath, rapid heartbeat, panic, anything that's really landing them into the emergency room with some of these symptoms that are uncomfortable to them, we would consider that an overdose for that particular patient. There are no documented deaths from overdoses due to cannabis. And in fact, with respect to the opioid epidemic we're seeing a 15-34 percent decrease in even hospitalizations from substance abuse-related problems. [LB622]

SENATOR MORFELD: So there is a correlation between... [LB622]

RACHEL KNOX: There is, absolutely. [LB622]

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SENATOR MORFELD: ...it actually decreasing deaths with the use of other very...not other--different dangerous drugs. [LB622]

RACHEL KNOX: Yes, and that's specifically in medical states...states with medical laws that also have accessible medical dispensaries. [LB622]

SENATOR MORFELD: And so how do doctors figure out dosage then with medical cannabis? [LB622]

RACHEL KNOX: With medical cannabis, so we do base a lot of how we dose cannabis based on the studies that have been done with our THC derivatives in the past. [LB622]

SENATOR MORFELD: So there are studies that have been done. [LB622]

RACHEL KNOX: Yes, there have. [LB622]

SENATOR MORFELD: Okay. Thank you. [LB622]

SENATOR EBKE: Senator Baker. [LB622]

SENATOR BAKER: Thank you, Chairwoman Ebke. Ms. Knox, a two-part question, what is the latest status with FDA? [LB622]

RACHEL KNOX: The FDA is not ready to legalize on a national level. [LB622]

SENATOR BAKER: Because of the inability to make an exact chemical formula each and every time it's produced? [LB622]

RACHEL KNOX: I don't know exactly the reason why. [LB622]

SENATOR BAKER: Okay. [LB622]

RACHEL KNOX: I will say that the United Nations, even the current administration, have made statements in favor of medical cannabis and that they would leave states' rights to determine their medical cannabis legislation alone and they would leave that to the purview of the state to decide. [LB622]

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SENATOR BAKER: Second question, are you aware of any other countries, industrialized countries that...where their drug administrations have approved...? [LB622]

RACHEL KNOX: There are many countries that are working on that. The biggest issue right now is how people are going to legalize. Are they going to legalize medicinally or recreationally? And I will tell you that the purveying thought is that recreational cannabis is something that people want to shy away from. But people worldwide are very curious about how to roll out responsible medical programs. And this is distinct from pharmaceutical distribution of cannabis derivatives. [LB622]

SENATOR BAKER: Thank you for your answers. [LB622]

RACHEL KNOX: Yes, absolutely. [LB622]

SENATOR EBKE: Senator Pansing Brooks. [LB622]

SENATOR PANSING BROOKS: Thank you. Thank you for coming, Dr. Knox. So you...was...did you say that 1,800 less doctor prescriptions of opioids... [LB622]

RACHEL KNOX: Per physician, yes. [LB622]

SENATOR PANSING BROOKS: ...in the states that allow...that have legalized cannabis? [LB622]

RACHEL KNOX: Correct. [LB622]

SENATOR PANSING BROOKS: And did you happen to have a portion of your testimony since I know you came...did you have just a quick summary of what you were going to say? Do you have something that you wanted to say because I thought we could...? [LB622]

RACHEL KNOX: Yes, so I really wanted to get out those opioid statistics because that's huge right now. I really was just going to say for this problem alone there is ample scientific and clinical evidence in favor of legalizing and using whole-plant cannabis medicine to address the opioid epidemic. And Senator Wishart mentioned several conditions that could benefit. There are decades' worth of literature, scientific purview that absolutely substantiates the continued study of whole-plant cannabis. [LB622]

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SENATOR PANSING BROOKS: And actually I think there's centuries of study. [LB622]

RACHEL KNOX: It goes beyond. And I think what's important for me as a medical doctor is the patient's right to choose. Big pharma is here. They're here to stay and they make many reputable medications. But there's a lot of medicine found in nature too. And for me, as a family medicine doctor by background who has treated people from cradle to grave, as we call that, the opportunity to engage in their health and wellness and to choose between good, natural medicine so they can care for themselves at home as well as what's available through the pharmacies. [LB622]

SENATOR PANSING BROOKS: Well, and I would add the doctor's right the choose to have something in their toolbox, their medicine kit. [LB622]

RACHEL KNOX: Absolutely. [LB622]

SENATOR PANSING BROOKS: I mean, maybe it won't be...it won't work for somebody, but why opioids... [LB622]

RACHEL KNOX: And that's true of everything. [LB622]

SENATOR PANSING BROOKS: ...are the go-to drugs, I mean, medicine is as much an art as a science in a way and so what works for one doesn't work for another. [LB622]

RACHEL KNOX: That's true and what's the stark reality is that people are using whole-plant cannabis legally, illegally, in all of these states in this country. And to have people like medical doctors who can feel comfortable and strong about giving those patients good advice, good education because right now the medical education on the endocannabinoid system and cannabis medicine is very poor. And people are coming to doctors for answers and we need to be able to give them good and honest and well-vetted answers. [LB622]

SENATOR PANSING BROOKS: And I thought it was interesting last time we heard this bill-- sorry about my voice--but we had somebody that was here from the military. And he brought his prescription in a can with the prescription on it from the military. And we passed it around. I mean we're not supposed to have props, but anyway it was very interesting because our U.S. Military is already prescribing that for some of our veterans right now. [LB622]

RACHEL KNOX: Yeah, and for some veterans that's the only medicine that's giving them back some quality of life. [LB622]

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SENATOR PANSING BROOKS: Yes. So I don't know if that man is here again. But anyway, thank you for coming today. [LB622]

RACHEL KNOX: Yes. Thank you very much for having me. [LB622]

SENATOR EBKE: Thank you, Doctor. Oh, Senator Krist. We have another question. Hold on, hold on. Got a question. [LB622]

RACHEL KNOX: I can talk all day. [LB622]

SENATOR KRIST: So you've...thanks for coming and I'll make a statement and then I'd like to ask you a question. Most of...have you read this bill? [LB622]

RACHEL KNOX: Yes. [LB622]

SENATOR KRIST: Okay. Most of the problem with this bill and with moving forward is obviously how to distribute, how the prescription is written, how do we guarantee the quality of the product, all those kinds of things. And any time we usually...the Legislature tells the Department of Health and Human Services to do something, they tend not to do it right the first time, that's just their habit, or do it at all which is another one of their habits. So tell me, in your travels, where do you see the best distribution of the prescriptions? Who's doing it right? [LB622]

RACHEL KNOX: My honest criticism is that nobody is doing it right. [LB622]

SENATOR KRIST: Okay. [LB622]

RACHEL KNOX: Nobody is doing it right. And one thing I didn't see in this bill and what I don't see in most bills is how to capture data. I think it's very unfortunate that Oregon, who's had a very longstanding medical program, almost two decades now, has no clinical data to direct patients, to direct legislation, to direct medical education. You know, what doses are effective, what strains, what combinations are effective for this for this condition versus another, what sort of adverse effects are people having? Maybe it's none; maybe it's some. We're not capturing that data and I think a strong medical program would be one that does that. [LB622]

SENATOR KRIST: We passed several years ago in a study formula at the University of Nebraska Medical Center. And I'm pretty aware of their findings so far, but I also believe that

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capturing those two, the data was derived from that study that was authorized within the state within the university and then going forward and being able to capture the data, is important for us to continue to monitor, which is our job... [LB622]

RACHEL KNOX: Absolutely. [LB622]

SENATOR KRIST: ...obviously to legislate, appropriate, and then apply some oversight. So I'd be interested in maybe getting some more of your ideas in terms of pitfalls as you have seen in other places... [LB622]

RACHEL KNOX: Yes. [LB622]

SENATOR KRIST: ...because we, not knowing history, you're doomed to repeat those bad things. So thank you for coming. [LB622]

RACHEL KNOX: Absolutely. And I'd be glad to help. Thank you. [LB622]

SENATOR EBKE: Thank you, Dr. Knox. Okay, next proponent. And let me...come on up. Don't be shy. Don't be shy and let's keep things moving. [LB622]

ALAN WORTH: (Exhibit 49) Let's see if I can get the formalities right here. I'm Alan Worth, W-o-r-t-h. I live at 3901 South 27th Street here in Lincoln. I'm here today to speak in support of LB622 and in favor of medical marijuana. Let me introduce myself just a little bit. I'm a person living with MS, or multiple sclerosis. I'm a leader of a local MS support group and I'm a retired physician. I would like to say a few words from each of these perspectives. I was diagnosed with MS in 2005 and that affects my life in many ways. One of the most troublesome problems is the muscle spasticity which results in muscle tightness, cramps, tremor, and/or pain, all of which interrupts sleep. I've tried three different medications that were prescribed to me, standard medications. One was ineffective, two were controlled substances, and I discontinued used of those two because of side effects. But there was a fourth drug and it was marijuana extract that I have been able to access on a few occasions. That drug was helpful and I did not experience any side effects from it. And so I want to ask you, why would you deny me access to a medicine that reduces my suffering? Why is the remedy 500 miles west of here and not here in Lincoln? I've been a leader of an MS support group here in Lincoln for about ten years and I hear a lot of stories about MS. I would estimate that 10 percent or more of my MS friends use medical marijuana with some regularity and considerably more would use it if it were regularly prescribed...legally prescribed and available. The National Academy of Sciences recently released a study on medical marijuana and I have introduced a news article referencing this

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study. MS is one of the diseases for which the benefit of medical marijuana is best documented. My MS friends do not use this drug because they saw it advertised on TV. They use it because they know it helps. And I would ask again, why make them go to Denver to get relief and then experience law enforcement risks if they bring it back with them? The third point I'd like to make is that, as a physician, this is just another drug. This is what physicians are licensed for and supposed to do. By denying its legal status, you make some head shop owner in Colorado the person in control of prescribing. And I don't see how that makes anything better either. So I think this is a chance to set things rationally right. There's sort of a little bit of a standing joke in MS circles: Medical marijuana coming soon to a state near you. And I would like to see that joke made irrelevant. [LB622]

SENATOR EBKE: Thank you, Dr. Worth. Any questions? Senator Baker. [LB622]

SENATOR BAKER: Thank you, Chairwoman Ebke. Sir, you say you've at times been able to acquire medical marijuana. [LB622]

ALAN WORTH: I have on a few occasions, yes. [LB622]

SENATOR BAKER: If I may ask, what form did you use? [LB622]

ALAN WORTH: This was an elixir. It was basically medicated drops. [LB622]

SENATOR BAKER: Okay. Thank you. [LB622]

SENATOR EBKE: Any other questions? Thank you for being here today. Senator Halloran. [LB622]

SENATOR HALLORAN: Doctor, maybe you can help me with this. The research is probably in its infancy, I would guess at some stage, if that's fair to say. But I guess part of my concern is about the efficacy of dosage, all right, because everybody's symptoms...you're a doctor. Everybody's symptoms or level of any given disease will vary and consequently dosages that would vary or should vary and the strengths of the medicines will vary or should vary. How do you rate your comfort level? It's not a fair question maybe, but, generally for the medicine field, how do we have a comfort that there's some level of efficacy? [LB622]

ALAN WORTH: One of the problems with marijuana is I think the dosing is a little haphazard right now. The medicines is a lot...you know, the edibles and the...other than smoking are sort of cooked up in home kitchens and some are a little stronger and some have a different strain. I

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hope that's something with experience and use gets more regular. I will say I don't think that if you get too little you just take more the next night and if you get too much you take a little less. I think there's a lot of self-regulation and that's how smoking works. You smoke until you get the effect and then you stop smoking. This bill doesn't allow for smoking marijuana. I think there will be some different forms coming. There's one called Sativex that's available for MS in maybe 25 countries. And it's sort of a mouth spritzer and the marijuana is absorbed directly through the lining in the mouth. And that's a very precise dosing. I understand Israel is getting into the medical marijuana export business soon and they have some more precise dosing methods coming. [LB622]

SENATOR EBKE: Senator Pansing Brooks. [LB622]

SENATOR PANSING BROOKS: Thank you. Can you speak to the THC issue that...so is THC necessary or not? And I know some people are... [LB622]

ALAN WORTH: As I understand it, there are like 50 different cannabinoids in marijuana. [LB622]

SENATOR PANSING BROOKS: Okay. [LB622]

ALAN WORTH: And THC and CBD are two of the most prominent ones, but there's a variety. And it may be the THC helps you and cannabinoid number 12 also helps you and you discover that this particular strain of marijuana is the best for you. It's kind of old-fashioned herbal medicine in some ways. [LB622]

SENATOR PANSING BROOKS: And when you talk about sort of self-regulation and taking it one night, that sounds so horrible if you're talking about an opioid. This is a totally different kind of drug. Could you speak to that? [LB622]

ALAN WORTH: Yeah, it's...you know, there's never been a fatal overdose. Most dispensaries would be able to give you pretty good general advice. And starting at a dose, it's unlikely to cause trouble and could give you advice on stepping it up in a way until you found your effective dose. [LB622]

SENATOR PANSING BROOKS: So I think most people think there have been overdoses of aspirin. So truly no overdose that anybody is aware of? [LB622]

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ALAN WORTH: Yeah, it's an extraordinarily safe drug. And people have died on overdose of table salt. [LB622]

SENATOR PANSING BROOKS: Yes. [LB622]

ALAN WORTH: It's so much safer than almost anything else people can try. [LB622]

SENATOR PANSING BROOKS: I think people just don't even get that. [LB622]

ALAN WORTH: Right. So unlike many medicines, sort of an individual experimental approach is much more benign than with most any other drug. [LB622]

SENATOR PANSING BROOKS: And before you retired, what was your...what kind of doctor... [LB622]

ALAN WORTH: Family medicine. [LB622]

SENATOR PANSING BROOKS: What? [LB622]

ALAN WORTH: Family medicine. I was a family practitioner. Yeah. [LB622]

SENATOR PANSING BROOKS: Thank you, Dr. Worth. Appreciate it. [LB622]

SENATOR EBKE: Thank you, Dr. Worth. Any other questions? Seeing none, thank you. [LB622]

VINCENT LITWINOWICZ: I know we're a little bit landlocked here, but maybe we can accomplish a similar...a blessing of the fleet. I was going to...my name is Vincent Litwinowicz, V-i-n-c-e-n-t L-i-t-w-i-n-o-w-i-c-z. I was going to pass these out but I made some...my periods turned into Ys I noticed. So I just...I don't want to irritate people. But there's no need to go into all the medical aspect; it's covered. But empirically for me, I tried smoking marijuana a couple years ago. I've since quit because I don't want to get in trouble. But I've noticed that whatever marijuana I've tried is better than the Marinol or dronabinol that I take now, which is just a synthetic THC. But there's clearly for me...there's more than one cannabinoid in the medicine that works and alleviates my pain and stiffness. And I'm bipolar as well so if I don't get good sleep, and I frequently don't, it causes serious problems with my other illness. And so...and in fact I have a doctor that will prescribe it for me. I get it at Walgreens here. Now I've noticed that

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I've...when I've been in...at times I've needed to be inpatient hospital, in a mental hospital. And it was almost weird. They would accommodate my desire for the Marinol at first...or the dronabinol, and then they wanted to get me on narcotics. And actually...and I don't know if I'm going to be clear right now because I'm actually tired as it is, but when I tried to get a prescription for it because it's the next best thing, Valley Road clinic, Lincoln Family Medicine, they said they don't prescribe off...for off-label uses on their medications. And I don't suspect that's always the case. And I didn't look into their financials and who donates and all that. But it's like they will give you...there's this overwhelming desire to give you narcotics for pain and so forth, but not something so safe as, you know, medical marijuana or the nearest facsimile to that that can be prescribed. And I've noticed that and it bugs me because I mean over-the-counter medications, you know, Tylenol and those other things, they don't work, first of all, and they kill your liver...you know, they burden the organs that process these drugs. And if you are already on other medication, like Depakote for my mental illness, which is processed through the liver, it increases the tax...the burdening on your body systems. And I will not take narcotics. So I don't understand this pushing for narcotics. I'm not exactly sure. It seems like it's coming from different corners independently. It's like we're going to keep...you know, this is the way we're going to solve this problem. I don't get...and so, that's all. Thank you. Any questions? [LB622]

SENATOR EBKE: Thank you for being here today. Any questions? Okay. Thank you. Next proponent. [LB622]

BENJAMIN MARKSMEIER: Do I need to spell my name? Probably better. [LB622]

SENATOR EBKE: Yes, please. [LB622]

BENJAMIN MARKSMEIER: (Exhibit 51) Benjamin, B-e-n-j-a-m-i-n, Marksmeier, M-a-r-k-s-m-e-i-e-r. Thank you for your time. Hi, my name is Ben Marksmeier. I proudly served my country for four years: two years before war, one year at war, and one in the hospital. At the age of 17, I stood up for my country when my...at the age of 17, I stood up for my country when they asked me to and I ran to the front of the line. I am a disabled veteran. Now I'm asking you guys for help, to help establish this law for our state so we can have the usage of medical cannabis, so people who deserve this medicine can utilize it lawfully. I am referring to the veteran groups--the people who risked life, limbs, and sanity; our physical and mental being; the natural warning signs that tell you you probably shouldn't be there, we were trained to be in that position; to oversee all odds, complete the mission. If death is looking at you in the horizon, an American soldier will stand between you and death's way. But we aren't Superman. The bumps and bruises we take are life altering and life ending. Not only does the physical pain truly never stop, it gets worse each year. You can't tell me that this does not come with pain, heavy stress. (Stands up and displays leg that has been amputated.) No. And tell me that this don't hurt. I don't want to have a

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conversation with you because it's just heartbreaking that you don't listen to me...from what I've gone through and what I've suffered from. It's just, if you don't listen to me, I don't want to talk to you, because the most heartbreaking thing about this is some people I tell my story to, they think I utilize cannabis just to get high or all the things that I sacrificed for my country, to only be called a criminal if I find relief in the safest way I know--through cannabis or its products. I have been on the methadone, the OxyContin, Neurontin. I've done acupuncture and many different forms of therapies. I've even been shocked to stimulate my nervous system's responses. That was not a pleasant experience. Ha-ha. Through all the experiences my injury has brought me, the drugs were the worst thing I have ever lived through. And Dr. Knox, she said everything on the hammer. I've never wanted to kill myself so bad, and I've lived through war. The mental and physical pain is just unreal. I even came home with one dog tag. I literally died on the field in Iraq. And like I said, the worst thing about all this was the pills. I can't truly describe or list how I feel on a day-to-day basis, not in the allowed time frame and you must understand that. But besides the muscle spasms, nerves twitching, joints and aches in muscles and many other unexplained pains, here are a few symptoms I suffer just from my daily neuropathy pain from my left leg. It is like a burning, stinging, stabbing, or even being shocked by electricity; a dead, dull feeling that tingles, but sometimes this tingle is like a group of balls always gathering around in my leg, spinning around, zapping me. It's like a cold or hot nail sometimes, depending on the day or the weather. The wind will hurt my leg and make me jump out of my chair. A doctor at a VA hospital in Omaha who has been working in the neuropathy field for more than 70 years, has basically said I have the most hypersensitive dull limb he's ever seen, which basically means you can touch my leg with a pen, a pencil, a feather, I can't feel it. I can't at all. The only thing I do feel is pain. Bluntly, just that's my feeling in my leg, my lower extremities is my pain. I would like my state representatives to stand up for us now, men like me, for the ones who stood up and answered the call of duty when their country asked them so you can...so we can utilize forms of cannabis to help cure a condition, or to simply just get us back some normalcy to life, so I could be allowed to play with my kids, run my business, and just basically live with less pain because, as I showed you and all the other stuff that's wrong with me, my life is not going to be pain free. Oh, red light. Sorry. Can I continue? [LB622]

SENATOR EBKE: That's okay. Why don't you finish? You're just about done, so, yeah. [LB622]

BENJAMIN MARKSMEIER: Appreciate it. Thank you, ma'am. Just to summarize it up, it's very hard for me to walk. You know, my foot always feels like shattered glass. Basically, you guys get the point about the pain. But what you really, truly need to know, this truly does save lives. And right now, doctors prescribe a lot of narcotics for a little bit of pain and it really needs to be reversed. Doctors need to be prescribed...be at least allowed to prescribe a little bit of cannabis for a lot of pain. And I would like to kind of mention, too, that this really did get really real for me last night. I got a citation last night. Right now my house could be getting invaded, searched without my permission...if they got a search warrant. Either way, I got a citation for the

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substance of cannabis herb and the concentrate form. And over these last years, the concentrate form...because last year--I don't know if you guys remember me talking last year--I did say I would like to do this in the most...do this as legal as is possible. You know, you really can't do this as legal as is possible because it's just illegal. And now the concentrates, I understand that's a felony on any amount. But I cannot describe the first time I utilized concentrate I almost cried simply because the feeling of relief. You guys have no idea when you wake up and stretch, you guys feel good. I don't stretch anymore in the morning--can't. I don't know what to say. And the worst part about all this--to be told that I can't utilize cannabis...basically what scares the crap out of me is I've got...to be told that I might have to go back to pills--the methadone, the Oxys, you've got like...if I go back on them, on the prescription pills, the narcotics, and they're called painkillers. They don't...you just need to get rid of that word "pain." They're killers. You guys...I'll have assault charges on my wife for beating her, not being a father because I am...when I was on the Oxys, the methadones, and all that, my ex-wife, granted, she's, you know, not the best one, but God bless her soul. She went through hell. I came back a mess--beat up, tattered up. And it wasn't the injuries I sustained. I handled this fine, with a smile because I signed up and it's just, hey, I got another leg to give. But the pills, man, I wasn't me. I told a 16-year-old that looked at me at Walmart one time, freaked out on him, called him an SOB, said stuff; I even told her mom she's a horrible mom for raising a kid like that because he looked at me. That is not me. And I've never been this way on cannabinoids...or cannabis, excuse me, on cannabis forms or nothing. I've never been like that ever. And I just, I truly can't explain what these narcotics do for people's souls. It's not physical. It's your soul. It's gone. So I appreciate your time. [LB622]

SENATOR EBKE: Thank you. [LB622]

BENJAMIN MARKSMEIER: I know I went over a lot. So thank you. [LB622]

SENATOR EBKE: Thank you, Mr. Marksmeier. [LB622]

BENJAMIN MARKSMEIER: Any questions? [LB622]

SENATOR EBKE: Any questions? Thank you for your service. Senator Pansing Brooks. [LB622]

SENATOR PANSING BROOKS: Thank you for coming and talking again today. [LB622]

BENJAMIN MARKSMEIER: Yes, ma'am. [LB622]

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SENATOR PANSING BROOKS: So did you have...you said you almost cried because the relief was so amazing, is that right? [LB622]

BENJAMIN MARKSMEIER: Uh-huh. [LB622]

SENATOR PANSING BROOKS: And do you know why last time...we had a veteran that was...that did have cannabis prescribed by the military somehow. [LB622]

BENJAMIN MARKSMEIER: I have no idea. When you said that...I mean I think I kind of remember seeing that can going around, but I don't know if it...I don't remember seeing U.S. Military and that... [LB622]

SENATOR PANSING BROOKS: It definitely was U.S. Military. [LB622]

BENJAMIN MARKSMEIER: Then I have no idea about that, no idea. [LB622]

SENATOR PANSING BROOKS: Okay. And I appreciate...I like that you said it's time for us to stand up to our call of duty... [LB622]

BENJAMIN MARKSMEIER: I think so. I mean... [LB622]

SENATOR PANSING BROOKS: ...and help those who have been serving us so valiantly. [LB622]

BENJAMIN MARKSMEIER: And it's just like I said, everything I've sacrificed, it's not me what I've sacrificed. If you guys have seen my beautiful boys... [LB622]

SENATOR PANSING BROOKS: (Inaudible.) [LB622]

BENJAMIN MARKSMEIER: The fact that...not even the physical pain. It's the mental pain, too, that war brings. I can't get up and run with my kid. And I'm not saying cannabis, you know, that don't cure it. But the feelings of stress of not being the best parent I can be is heavy. And I just, I don't know how to explain it so but... [LB622]

SENATOR PANSING BROOKS: Thank you for your service and time. [LB622]

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BENJAMIN MARKSMEIER: Appreciate it. [LB622]

SENATOR EBKE: Thank you very much. [LB622]

BENJAMIN MARKSMEIER: Anybody else? Thank you. [LB622]

SENATOR EBKE: Any other questions? Okay. Thanks. Next up. [LB622]

PAUL STANFORD: Hello. [LB622]

SENATOR EBKE: Hi. [LB622]

PAUL STANFORD: My name is Paul Stanford. I'm from Portland, Oregon. I'd like to thank Senator Wishart for inviting me and thank you, Chairwoman Ebke and Judiciary Committee, for hearing this important bill. I am not a doctor, but I work with doctors who have helped set up medical marijuana clinics where doctors help patients across a dozen of the medical marijuana states from Michigan and Rhode Island to the West Coast and Hawaii. We've helped about 270,000 Americans across the country get medical marijuana permits to be legal medical marijuana users in their state. What we've seen: The vast majority of people who come to our clinics are sufferers from chronic pain and most of those are already habituated to opioids or synthetic pain relievers. And they...those are very rapidly addictive; generally, in 72 hours or more someone begins to build up tolerance to that. And when people come back to renew their medical marijuana permit, we found that the majority of those, over half of them have completely quit using pharmaceutical painkillers. A percentage of them are able to just use the opioids for breakthrough pain events. Only a small amount, 5-10 percent, remain using opioids and prescriptions at about the same level that they had before. But we also see it works across a broad array of various conditions from spastic conditions like multiple sclerosis and cerebral palsy, provides relief, and to neurodegenerative diseases, gastrointestinal ailments. It helps with cancer. It's really amazing. You know, cannabis has been cultivated at least 5,000 years. The oldest written text, the Rigveda in India, and the oldest text in China both mention cannabis as a medicine. And some archaeologists have found its cultivation going back over 12,000 years, perhaps as much as 25,000 years. It's really the oldest cultivated crop. So for us to take one of the oldest crops and completely prohibit it for use, especially something that is not physically addictive--there's no withdrawal--seems to be wrong. And so I just urge the Judiciary Committee to pass this bill and I'm happy to be here and speak in support of it. Thank you. [LB622]

SENATOR EBKE: Thank you, Mr. Stanford, right? [LB622]

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PAUL STANFORD: Yes. [LB622]

SENATOR EBKE: Okay. Thank you. Any questions? Senator Halloran. [LB622]

SENATOR HALLORAN: Mr. Stanford, I'm sorry I missed it. Where are you from? [LB622]

PAUL STANFORD: I'm from Portland, Oregon. [LB622]

SENATOR HALLORAN: Portland, Oregon. Do you export? [LB622]

PAUL STANFORD: No, we cannot do that under federal law. It should be noted though that federal law does have an exemption for medical marijuana. The Controlled Substances Act is Title 21 of the United States Code, but Section 903 of Title 21, or 21 USC 903, it says explicitly that state laws take precedent over federal laws when it comes to drug regulation. So that's one reason the federal government hasn't cracked down on the states that allow medical marijuana. [LB622]

SENATOR HALLORAN: Okay. Thank you. [LB622]

PAUL STANFORD: All right. [LB622]

SENATOR HALLORAN: All right. [LB622]

SENATOR EBKE: Any other questions? [LB622]

PAUL STANFORD: Thank you. [LB622]

SENATOR EBKE: Okay, thanks. Next proponent. [LB622]

DICK CLARK: (Exhibit 52) Chairman Ebke, members of the Judiciary Committee, my name is Dick Clark, D-i-c-k C-l-a-r-k. Thank you for this opportunity to testify in support of LB622, the Medical Cannabis Act. I'm testifying in my individual capacity today, but I do have some public policy experience that I've got in my written version of the testimony. I won't rattle it off on the mike here to save time. But most of you know that I also campaigned against Senator Wishart in last year's elections. You might be a little surprised to see me here today. But I care about ideas, not politics, and this bill is a good idea. I'm the oldest of five boys in my family. We're all Christians. We're all Eagle Scouts. We all believe in liberty and justice for all, the American

dream, so on. Two of my brothers are also Type 1 diabetics. And my brother Trevor, the second oldest in our family, was diagnosed with that disease at age four. Management of his disease was particularly difficult, despite a dozen finger sticks a day, frequent consultations with skilled endocrinologists. He was hospitalized many times as a child, and was characterized by his doctors as a brittle diabetic, meaning that his blood sugars would wildly rebound between extreme lows and extreme highs. And although his diabetes became more manageable, all those swings in blood sugar took their toll, and as a teenager my brother began to suffer from diabetic neuropathy, characterized, as you've already heard from another neuropathy patient, as stabbing, burning pain in hands and feet, other sensations that are unpleasant. But Trevor was not a complainer. He was then in a bad car accident in high school. The doctor told him that the x-rays showed no fractures, so he tried to ignore pain in his lower back. He went on a 50-mile canoeing and backpacking trip with the Boy Scouts. But his pain over time became unbearable. More detailed scans showed two fractures in his spine that hadn't previously been visible to doctors. After nonsurgical management with a brace, the fractures had not healed and in fact become less stable. He had to undergo spinal fusion surgery with metal rods and cadaver bone paste used to make that part of his spine rigid to protect his spinal cord. His pain didn't go away. After visiting many doctors and cycling through the full array of dangerous narcotic pain medications, my brother was diagnosed with fibromyalgia, another chronic pain condition, in addition to his diabetic neuropathy. He was bedridden for about four years, totally disabled. Finally a doctor and family friend from church who had done medical missions in another country suggested some alternate herbal treatments for my brother including cannabis. And after promising early results, my brother moved to a state where medical cannabis was legal, Washington State. He was able to complete a bachelor's degree, able to physically exercise. And to give you an extent of his recovery, in 2015, he paddled a canoe 630 miles over two months to become one of only a handful of people to paddle the entire length of the Alabama Scenic River Trail from northeast Alabama to the Gulf of Mexico. He is now a product development director at a medical cannabis company in Colorado. This is a safe, effective medicine. It has a boarder therapeutic range than almost any other medicine in the pharmacists' cabinet. The distance between an effective dose and a toxic dose is great, so that allows some tinkering by a doctor to figure out an effective dose. It's safer than Tylenol or aspirin. We know that opioid prescriptions and opioid overdoses both decline in states where medical cannabis is legally available. Right now, we send men with guns to take away cannabis from patients. We send men with guns to punish the people who provide that product to the patients in need. To liberal legislators in this body, I would ask you to support this bill because it creates a legal means to alleviate suffering for these patients without the dangers associated with the black market. To conservative legislators, I would ask you to stand up for the principles of reducing government interference in the doctor-patient relationship and I would ask you to roll back this destructive, Progressive-era, big-government project--cannabis prohibition. Thank you for this opportunity to testify today. I'd be happy to answer your questions. [LB622]

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SENATOR EBKE: Thank you, Mr. Clark. Any questions? Thank you. [LB622]

DICK CLARK: Thank you. [LB622]

SENATOR EBKE: Next proponent. [LB622]

TIMOTHY MARK LOCKLEAR: I was given the CIB in Iraq... [LB622]

SENATOR EBKE: Could you give us your name and... [LB622]

TIMOTHY MARK LOCKLEAR: My name is Tim Locklear. Hi, everybody. Sorry. [LB622]

SENATOR EBKE: And since... [LB622]

TIMOTHY MARK LOCKLEAR: I'm Tim Locklear. I'm from Omaha. [LB622]

SENATOR EBKE: Spell it, please. [LB622]

TIMOTHY MARK LOCKLEAR: T-i-m, and last name is L-o-c-k-l-e-a-r. My dog is Boris. He's the one under the table, B-o-r-i-s. (Laughter) He's way cooler than me, man. And I'm super nervous, so my voice is going to sound funny, probably we could sound the same. Yeah, so the CIB on my hat, it's combat infantry badge. It was given to me because of the stuff I did in Iraq. And I came...see, my voice sounds funny, man. I came back and tried to learn how to be a civilian again. And the VA equipped me with some tools that helped and some other tools that destroyed my body inside and out. I can't really eat a full normal meal a lot--sometimes I can, sometimes I can't--because of the damage done to my intestines, my liver, my kidneys because of all of the barbiturates and pharmaceutical drugs. I'm not here to make a case why I'm so broken that you need to legalize pot, man. Like you should do it because it's ethical and right. All of you should do it because it's ethical and right. But these people back here are way more broke than me. I'm broke in here and some in here and some in here, but these people can't like walk and stuff, you know? And so they're a stronger case for me physically than my physical body. But I can make a case for my family, my six kids at home, my five girls and my one boy who when I can use medical cannabis they get to be with me. They get to hang out with me. They get to go to the park. And you know, my wife...sorry. My...one more time. My wife has said that she would rather be around me a little irritable on cannabis, just a little irritable, than what homeboy was talking about where it's like, that's not me--yelling at my beautiful daughters or screaming or wanting to punch stuff--that's not me, man. And that's that pharmaceutical drugs. Again, I'm not here to make a case against drugs or for drugs. You all need to make those decisions because

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you're ethical adults and in a place of power and we voted you in or we didn't. I guess that light means I should stop talking. Do you all have any questions or anything? I went to Iraq; that's where I was at. I live in Omaha. [LB622]

SENATOR CHAMBERS: You can talk until it gets red. [LB622]

TIMOTHY MARK LOCKLEAR: Oh, until it gets red? Oh, I just thought I saw it change. Well, cool. (Laughter) I got a service dog because he helps me function a little bit...a lot better without pills. And it's because of medical cannabis and my service dog that I'm able to be here today. Some of the...one of the deputies over there by the door, he's like, man, you all right, you all right? And what he doesn't know, I mean I appreciate your help, man, but like what he doesn't know is that me being here is a big deal. And me shaking a little or having trembling voice is a lot. I mean that's...this is what cannabis looks like--this. This is what cannabis users look like. Not...I'm an entrepreneur. I own my own business. I'm a father of six. We home school our kids. My kids are smarter than yours probably. (Laughter) No, I'm kidding. I mean I don't know. I guess that's the strongest case. It's illogical. I mean these folks back here are way smarter than me. They can make legal...this guy got up here and said things and he could talk way better than I could, way smarter than I could, way more eloquent. But when you juxtapose cannabis usage up against pharmaceutical drugs, I could just shut up and just look at the details. But when you juxtapose pharmaceutical drugs up against families, business owners--that's the red light--you see broken, hurting people. That's all I was going to say, so. Any questions? [LB622]

SENATOR EBKE: Thank you, Mr. Locklear, for being here. [LB622]

TIMOTHY MARK LOCKLEAR: Yes, ma'am. [LB622]

SENATOR EBKE: Any questions? Senator Pansing Brooks. [LB622]

SENATOR PANSING BROOKS: I'm sorry that I'm not very knowledgeable about the military. What is the CIB? [LB622]

TIMOTHY MARK LOCKLEAR: That's all right. CIB is a combat infantry badge. It's what given to Joes that go...infantry guys in the Army that see front-line stuff. [LB622]

SENATOR PANSING BROOKS: Wow. [LB622]

TIMOTHY MARK LOCKLEAR: It's sort of like, hey, you were blown up and here's this badge. It's supposed to be like an honor among the infantry guys, but for me it's a constant reminder that

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just a few pills away I could be that guy again that came back who was not the same dude. And now I can be predeployment Tim whereas before I was just...I was a mess. I was broken. Does that make sense? [LB622]

SENATOR PANSING BROOKS: Yeah. And so you said that sometimes you're irritable on cannabis. [LB622]

TIMOTHY MARK LOCKLEAR: No. No, no. I was saying that...well, yeah. Well, sure. Yeah, I'm sorry. I mean sometimes I'm irritable because I'm a human being... [LB622]

SENATOR PANSING BROOKS: Yeah. [LB622]

TIMOTHY MARK LOCKLEAR: ...and sometimes people are dumb and I get irritated, man. (Laughter) But I'm just saying...I'm saying when you compare irritation to what I was experiencing before,... [LB622]

SENATOR PANSING BROOKS: Yeah. [LB622]

TIMOTHY MARK LOCKLEAR: ...the blind rage dude was talking about,... [LB622]

SENATOR PANSING BROOKS: Yeah. [LB622]

TIMOTHY MARK LOCKLEAR: ...the inexplicable violent explosions where somebody would just be making a subtle little noise out of nowhere, just him putting his cup down right there, and you could just be on... [LB622]

SENATOR PANSING BROOKS: That is irritating. (Laughter) [LB622]

TIMOTHY MARK LOCKLEAR: It is irritating. It is irritating, but the point I'm trying to make is that that little, subtle thing right there could be a snap and it's inexplicable, it makes no sense, but then you get vets turned into criminals, you know. [LB622]

SENATOR PANSING BROOKS: So are you saying that on the opioids that's when you have that? [LB622]

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TIMOTHY MARK LOCKLEAR: Absolutely. When I personally used prescription medication that I was using to treat my PTSD, traumatic brain injury, and my body ailments, I was a violent person. I was a violent, angry person. I was inexplicably violent. [LB622]

SENATOR PANSING BROOKS: Thank you for your service. [LB622]

SENATOR EBKE: Senator Halloran. [LB622]

SENATOR HALLORAN: Great testimony. So you're on medical cannabis now? [LB622]

TIMOTHY MARK LOCKLEAR: When I have the opportunity to drive to states where it's legal, I do partake in medical cannabis,... [LB622]

SENATOR HALLORAN: Okay. [LB622]

TIMOTHY MARK LOCKLEAR: ...absolutely, as much as I possibly can. [LB622]

SENATOR HALLORAN: Sure. [LB622]

TIMOTHY MARK LOCKLEAR: And unfortunately, if I was to partake in this state it would be illegal and I don't intend to break the law right now, so, not today at least. [LB622]

SENATOR HALLORAN: Okay. Thank you. [LB622]

SENATOR EBKE: Any other...Senator Chambers. [LB622]

SENATOR CHAMBERS: My friend, it's not how you talk, it's not how you sound, it's who and what you are. And having been in the Legislature 43 years I've heard many things said about the veterans, how they risk their lives and so forth. And there are not many times we can directly do something that would benefit people who really need it. This is one of those times. And my colleagues hear me criticize them for praying every morning and then doing the devil's work the rest of the day in the Legislature. But this is going to be an opportunity as far as I'm concerned to have that kind of test, that litmus test that people speak of. And my final comment: For somebody who goes through so much, and the youngster there, to be able to cause and give so much laughter to other people is truly an amazing thing and a testament of the human spirit. So keep being what you are, keep doing like you do, and you've got a friend who will never betray you. [LB622]

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TIMOTHY MARK LOCKLEAR: That's right. Yep. [LB622]

SENATOR EBKE: Thank you, Mr. Locklear. [LB622]

TIMOTHY MARK LOCKLEAR: All right. Cool. [LB622]

SENATOR EBKE: Are there any other questions? Thank you to you and Boris. [LB622]

TIMOTHY MARK LOCKLEAR: Appreciate it, guys. Thanks. All right. [LB622]

SENATOR EBKE: Thanks. [LB622]

ILGA RAUCHUT: Hi. I'm terrified of public speaking so I'm going to be very brief. I'm here on behalf of my 27-year-old daughter who...my name is Ilga Rauchut, R-a-u-c-h-u-t. And I have a 27-year-old daughter who has intractable epilepsy. She's been on over a dozen different kind of medications, had brain surgery, tried diet. And I want my...I want her doctors to be able to try medical marijuana. And that's why I'm here. [LB622]

SENATOR EBKE: Thank you for being here today. [LB622]

ILGA RAUCHUT: Thank you. [LB622]

LIA McDOWELL-POST: (Exhibit 14) Thank you. My name is Lia, L-i-a, last name McDowell, M-c-D-o-w-e-l-l, Post, P-o-s-t. I have Complex Regional Pain Syndrome. It is one of the most painful diseases in the world. Twenty-five percent of the people that have it commit suicide the pain is so great. The reason I know this isn't because of what I read. It's because I've lived it for the last two years of my life. There was a time I was so hopeless I did not want to live. I truly thought my life would never be anything but dehumanizing pain. Luckily, I did not stop trying to get better and it sent me on a journey that changed my life. I want this opportunity to share it so others don't have to suffer like I did. Cannabis is part of my story. In fact, I believe cannabis helped save my life. I know it definitely improved the quality of it. At one point, I was on 15 different prescription medications. I was on a mixture of opioids, benzodiazepines, sedatives, which I later learned was the Molotov cocktail of overdose. I remember my head bobbing, drool dripping down my chin as my husband and teenage daughter sat and watched me hopelessly. I ended up at the Mayo Clinic in Rochester, Minnesota, and here is what one of my doctors wrote: The patient discussed with me that she is using both a cannabis cream as well as smoking cannabis to help with her neuropathic pain. I do not have a medical opinion on this use, but care should be taken if other opioid pain medications are added. Sadly, I know my doctor had an

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opinion, just like he had an opinion of the use of opioids, just like every other doctor that I have talked to on this journey knows and has an opinion on the use of cannabis for pain management. Did you know between 1999 and 2010, the percentage increase of death from prescription opioid pain relievers in women increased by 410 percent? Ironic we can be given prescription drugs that can kill us, but I can't take a...I can't use a plant that I can grow in my backyard. Cannabis is not the answer, but it is a tool that should be used in pain management just like prescription medication is a tool. Today I can happily say I take one prescription medication and it's not associated in any way with my illness. The only difference is I am a criminal for choosing to use it. Stress affects my pain level, so you can imagine what living in fear of consequences over a health choice must be like for me. Putting all this out for you to see is terrifying, but it's how strongly I feel about this issue not just for me but for everyone else. I use cannabis to manage my pain because that's all I can do is management. It never goes away. All I can do is my best with good intent to have the happiest life I can. I believe everyone should have that personal freedom. I tell my truth to take this opportunity to help improve the quality of life for the people that you serve. Thank you so much. [LB622]

SENATOR EBKE: Thank you, Ms. McDowell-Post. Any questions? [LB622]

LIA McDOWELL-POST: I'm lucky to be alive, folks. I really am. And this is my truth and it's their truth too. And if you see that mom out there with her little baby fighting for his life, that's what's real and you all can help make change. And that's what it's about is making change to help people. I know you can make change. I believe you can. I believe I can make change because this matters. [LB622]

SENATOR EBKE: Senator Pansing Brooks. [LB622]

SENATOR PANSING BROOKS: I just want to thank you for your courage in coming forward and for taking on this battle. It's very important. [LB622]

LIA McDOWELL-POST: It is. [LB622]

SENATOR PANSING BROOKS: It's why you're alive, to help do this for others and yourself. [LB622]

LIA McDOWELL-POST: Thank you. I believe that. [LB622]

SENATOR EBKE: Thank you for being here. [LB622]

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LIA McDOWELL-POST: Thank you. Appreciate it. [LB622]

SENATOR EBKE: Okay. Let me just...I'm going to suggest...we're going to have time for four or five more proponents. We have an on-deck chair where the lady in red here is sitting. Let's try to make your way there. As that one empties, move in there so that we can...we're close to the table. Go ahead, sir. [LB622]

FRANK SHOEMAKER: (Exhibit 53) Good afternoon, Madam Chair. On this March 21, 2017, I appear in support of LB622. My name is Frank Shoemaker, F-r-a-n-k S-h-o-e-m-a-k-e-r, and I live in Holbrook, Nebraska. Today we are interested in the positive effects of medical cannabis. Nausea is settled. Seizures cannot build to a cascade. Shaking is smoothed, pain is reduced, and medical cannabis can stop the violent, crazy, aggressive behaviors addiction creates. The drug war began in 1970 when Congress placed marijuana in Schedule I because it was considered to have no accepted medical use. Since then, many states have recognized the medical use of cannabis. Nebraska does not allow possession of any form of cannabis. The Medical Cannabis Act is proposed pursuant to Nebraska's police power to protect the health of its citizens reserved to it by the Tenth Amendment of our constitution. Modern medical research has discovered beneficial uses for cannabis in treating or alleviating the pain, nausea, and other symptoms associated with a variety of debilitating medical conditions. It is incumbent upon Nebraska's government to protect its citizens who have qualifying medical conditions. The FBI reports that 99 percent of cannabis arrests are made under state laws and changing state law will have the practical effect of protecting from arrest the vast majority of seriously ill patients who have a medical need to use cannabis. In the Cole Memo of August 2013, the Justice Department writes that if a state has an effective and robust medical cannabis system, that may affirmatively address federal priorities. Those are: diversion to other states and unregulated markets, protecting minors, and replacing illicit trade with regulated market tracking and accounting for revenues. The omnibus appropriations acts since 2014 prohibit the Department of Justice from using funds to block states that have medical marijuana laws from implementing their laws. Federal law is clear there shall be no federal prosecutions where a state enacts a medical marijuana law and a citizen is in strict compliance with that law. Title 21. USC Section 903, further prevents the federal government from interfering in the Medical Cannabis Act subject matter. The act provides patients medicine after serious consultation with a physician, a subject matter left to Nebraska to regulate. The regulated distribution of medical cannabis in over 30 states cannot be reconciled with the DEA's continued insistence the plant deserves its Schedule I status. Finally, Nebraska is not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. Compliance with the Nebraska Medical Cannabis Act does not put the state of Nebraska in violation of federal law. Thank you for the opportunity to testify. I'd take any questions. [LB622]

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SENATOR EBKE: Thank you for being here today. Any questions? I see none. Thank you for being here. [LB622]

FRANK SHOEMAKER: Thanks. [LB622]

SENATOR EBKE: Can I get a show of hands on opponents? How many people will be testifying in opposition? We might go just a few minutes longer on proponents just since there aren't...there don't seem to be too many opponents. [LB622]

ELIZABETH SHIELDS: (Exhibit 25) Ladies and gentlemen, good afternoon. Thank you for this opportunity to speak about an issue that is very important to us. I'm here today speaking on behalf of my son, Vincent Duran. We call him Vinnie. There's Vinnie. Vinnie was injured at birth living in Arizona. A few hours following delivery he started having seizures. They had to transport him to Children's Hospital. He spent his first month in the NICU. They treated the seizures with multiple drugs. They performed many invasive procedures. No one wanted to admit to me the truth. After having a whole team of specialists devoted to his care during that time, I expected some type of game plan. They had no plan. They sent us home on hospice with morphine and rescue meds to use if he had pain or started to have seizures again. They all had given up so easily. Wasn't there some other kind of treatment? Didn't they have any specialists that could help? I felt completely alone and scared to death that I would lose him, but I didn't give up hope. I read scholarly research about something called HIE which described Vinnie's birth perfectly. This brought me to a huge world of Facebook support groups with parents of kids exactly like Vinnie. Finally I found a name for this. At some point during birth his brain was deprived of oxygen which caused brain cells to die off. But how could I stop it? What could fix something so horrendous? This was my first child, my entire world. I refused to let this be the end for us. I kept reading and I discovered many benefits of cannabis. I realized in that moment that the responsibility had fallen on me to see if I could cure my son. There was not much research available at the time regarding cannabis due to it being so controversial. The studies I found discussed that cannabis is considered a neuroprotectant and could protect the damaged brain from further damage, and also has neuroregenerative properties, meaning it has potential to create new brain cells. We started treating Vinnie with cannabis oil and applied for a legal medical marijuana card for him. From what I saw, there was no real risks involved, only possible benefits. However, life had other plans for us. We relocated to Nebraska for a new job I accepted with Department of Corrections and also for better medical and therapy opportunities. I couldn't have been happier except for one thing: still no legal access here for medical marijuana as there is in so many states. The opportunities for Vinnie...sorry, yellow light distracted me. The opportunities for Vinnie are better here: a better cost of living and lower population which helped us decide to stay. However, we really do need full access to medical cannabis. I've seen the long-term effects that pharmaceutical drugs have on kids like Vinnie. I've seen the kids who are not progressing developmentally when, if given a more natural option, they may have been more

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successful. I've watched videos of children's seizures stopping immediately with cannabis oil. I've met parents who live with the regret of these harmful medications. I get it, that this is not something that someone would think about unless they were put in this type of situation. Vinnie is now 20 months old. He is pharmaceutical free, currently seizure free, and has had no further hospitalizations. He remains severely delayed. I do attribute our progress to cannabis oil at such a crucial time. I hope hearing our story you will put yourself in our shoes. Though it's not as bad as it could have been, it's not the life that most people picture when they dream of having children. I love Vinnie how he is. But we live in a world that does not understand him. I have to teach the world about him, unlike typical parents who teach their kids about the world. I've met many families who could benefit from legal medical cannabis access and hope you will consider moving forward in legalizing medical cannabis here in Nebraska. Thank you so much for your time. [LB622]

SENATOR EBKE: Thank you for your testimony. Any questions? Senator Pansing Brooks. [LB622]

SENATOR PANSING BROOKS: Last year we heard...or last whenever that was...heard testimony that people...that parents were told to do brain surgery. Were you ever...did they say do brain surgery rather than trying cannabis first? [LB622]

ELIZABETH SHIELDS: They did not mention surgery and they weren't on board with the cannabis either, but they had no other options other than just giving a bunch of meds. And they basically were acting like he was going to die. So I was like, well, what can I do? When you're left with nothing it's like there's no other option. Surgery wouldn't really do much because the damage was already done. The cells were missing. They described it as empty spaces. [LB622]

SENATOR PANSING BROOKS: Okay. And what's the difference of Vinnie before, when he's having issues, and then when he's on cannabis? Can you explain that difference? Or maybe you did, but (inaudible). [LB622]

ELIZABETH SHIELDS: Well, we got off of hospice, so that was the big one was that he was removed from hospice care. We know a lot of similar kids that didn't take the cannabis at that same time and they are constantly in the hospital, respiratory failure, constantly having really serious issues. Some of them have a trach. He doesn't have a feeding tube, doesn't have a trach--so, significant differences there. [LB622]

SENATOR PANSING BROOKS: Wow. Thank you for coming. [LB622]

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ELIZABETH SHIELDS: Thank you. [LB622]

SENATOR EBKE: Any other questions? Thank you, Ms. Shields. Thanks for being here.
[LB622]

SHANNON CORYELL: (Exhibit 8) These are some tough (inaudible) to follow but I'll try. My name is Shannon Coryell, S-h-a-n-n-o-n C-o-r-y-e-l-l. I'm 40 years old, single mom of two. My youngest is autistic. And my mouth is really dry. I'd like everyone to do me a favor. Make a fist. Tighten the muscles in your fingers, your hand, your forearm, bicep. And try holding that as long as possible. On January 15, 2007, I was taken to the hospital by ambulance for what I had originally thought was a really bad migraine. On the way to the hospital I felt like something was about to burst in my head. We pulled over at a gas station and my mom called 911. At that point I felt it happen. I jumped out of the car and started screaming. The ambulance arrived and the EMT immediately knew it was some sort of brain injury because my eyes were going side to side. I was taken to Lakeside Hospital and immediately had an MRI. The MRI showed bleeding on my brain from a burst of blood vessels and arteries that were all tangled up into a small mass. It's called an AVM, or an arteriovenous malformation. Since they were not a trauma hospital, I was transported to another hospital. Along the way, the paramedics had to start breathing for me because I had stopped. Upon arrival I was intubated. Everything was shutting down. I was given a 50-50 chance of survival and was later told I was as close to death as a person can get. My whole family was called to come and see me, including my two young sons. I did survive the night and started to stabilize. I was seen by a neurosurgeon who determined he could surgically remove the rest of the AVM because I wouldn't survive another episode. I was eventually transferred to Immanuel Medical Center for intense physical therapy, speech therapy, and occupational therapy. During this time I regained the use of my leg. We added aqua therapy to build up strength and I was eventually able to walk again. My toes are always curled when I walk and I have a limp from drop foot. I can't pull my toes back. Once I was finally released from the hospital a month later, I had to figure out how to navigate life with my new circumstances, how to take care of myself and my kids, how to drive, etcetera. And while I am thankful to be alive, I am still suffering with pain. If you are still tightening your arm and muscles, you can release it now. This is part of my pain. It feels like I am constantly in an arm-wrestling match. I also have frequent muscle spasms and shaking, especially in the cold. I have been prescribed muscle relaxers and strong pain meds. I have received painful Botox injections to try and relax the muscles. I see a chiropractor regularly. If there was a safer therapy, such as CBD, I would love to try it. I have also learned that CBD can also treat seizures. I was told by a doctor that I'm at a higher risk of developing seizures because I have a traumatic brain injury. This is terrifying. It would be sad and wrong that I wouldn't have access to this treatment only because I live in Nebraska and cannot afford to move my family and I. We as Nebraskans should have access to the same treatments that over half the country, including the nation's capital, has. There are a

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staggering number of overdoses and deaths from legal drugs and alcohol, yet this is illegal. Sorry, I'm out of breath. [LB622]

SENATOR EBKE: That's okay. Thank you for your testimony. Any questions? Okay. Thank you. [LB622]

AMY SWEARER: (Exhibit 55) May it please the committee, Madam Chairwoman, esteemed Senators, and fellow citizens, my name is Amy Swearer, A-m-y S-w-e-a-r-e-r, and I testify before you today in my individual capacity as many things: as a longtime resident of this state, as an ardent and principled conservative, as a devout and orthodox Protestant, as a student of law intent on speaking truth, and as a young woman and former Division I athlete who has spent much of my life dealing with a variety of medical issues. In the course of my life I have been prescribed oxycodone for endometriosis. I have been given Demerol, morphine, and Ondansetron without a second thought for migraine management. I have been handed legalized forms of methamphetamine to deal with the effects of a soccer career riddled with head injuries. I guarantee you I have been prescribed in the last few years at least half a dozen medications that I can personally attest to are more addictive, more expensive, and often less helpful than the products this bill would legalize for the citizens of the state of Nebraska. I know countless others who would, and who have today testified to a similar reality. Facts matter and they changed my mind on this issue. It matters that over 60 peer-reviewed studies have provided stunning support of marijuana's utility in treating a variety of health conditions. It matters that researchers from U-Penn, Georgetown, UC-San Diego, Columbia, Oxford, and universities all over the world have found that THC and CBD products have a significant medical value. It matters that your citizens are standing before you today pleading for a cheaper, effective, and relatively side effect-free option in the form of medical marijuana products. This bill came before the Unicameral last year and it did not pass. This is not just disheartening, it is absurd. The result of our absurdity is that people, these people, good, honest, hardworking citizens are suffering needlessly. It is with good reason that 29 states and the District of Columbia have undertaken to remedy this absurdity. We are arbitrarily depriving citizens of a basic form of natural liberty--the right to make medical decisions in their best interests, the right to pursue medications that have repeatedly proven to provide substantial relief for their ailments. Facts are funny things. They don't much care for our feelings. They don't care for our preconceptions or our assumptions or our fears. Facts persist. And these facts about medical marijuana are not going away. I implore this committee to base its decision on facts. The studies exist in droves and I've provided an overview of some of them for you. Read them. Visit a medical marijuana dispensary as I have in my home state of Washington. See the incredible amount of regulation that occurs in this industry. You will find you can know more about a CBD product than you can about any of the prescription medications in your bathroom cabinet. Talk to any of the hundreds of thousands of people--good, honorable Americans--whose lives have been changed for the better because their legislators were not afraid of facts, because their legislators put truth above unsubstantiated fears, knowing anything

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less than that is unconscionable. I respectfully submit this testimony for the committee, along with a compilation of relevant studies for your review in the hope you will pursue truth and reason above all else. Thank you for your time and for your consideration. [LB622]

SENATOR EBKE: Thank you. Any questions? Senator Chambers. [LB622]

SENATOR CHAMBERS: I just want to make a comment. I wish I had brought with me a pad that I've been keeping with me when I watch television so that I could give you the list of about 12 prescription drugs that are advertised on television. And I listen and I'm listening for one thing. One of the side effects can be fatal bleeding. It can be heart stoppage. In other words, as somebody touched on before, these products are known to be able to kill people. The people who will testify against this today wouldn't dare talk against the pharmaceutical companies and what they do. So when we live in a country where a product can be advertised on television as having the possibility of killing you, then we have something which the pharmaceutical companies are opposed to which has not killed anybody and people testify from their own experience the value of it in alleviating pain. We can see little babies, small children who were brought here last session that we saw wearing helmets because they had seizures. And it becomes almost a textbook example of what I tell my colleagues daily. It's pointless for me to...I don't come up there when they pray, but I watch them on television. The prayers are like blasphemy. They are like sacrilege. And I don't say prayers. But this is one situation where my colleagues can answer prayers. They don't have to ask Jesus. They don't have to ask God. And as I always say, we have a brain. And with that brain, we are able to think and we're able to arrive at logical conclusions relying on the facts that you talked about and do the right thing. And it's going to be a matter of whether that which is right, which is humane, which shows how we are our brother's and our sister's keepers, will those things prevail or will we listen to prosecutors, county attorneys, attorneys general who have never in their life taken a position that would benefit anybody's child, any person who is sick, and as I say, the last, the lost, or the least? So when people come before us of all ages, somebody as young as you are who can mention the head injuries you got playing soccer, I think we should take note of it and do something. And we'll have the opportunity to see whether your words have fallen on deaf ears. When my colleagues pray, I hope Jesus pays more attention to them than we pay to our brothers and sisters whom we can see. And as that book that they talk about says, how can you love not whom you have not seen...and I'll leave it at that. They can finish the other part of it. [LB622]

AMY SWEARER: Thank you, Senator. And if I may, I would also point out as a longtime and devout Protestant, that we are called to be the hands and feet of Christ. And part of that is caring for the least of these. And I firmly believe, based on the factual evidence, the data collected in peer-reviewed studies, and frankly the very sincere words of all of your constituents who are now in front of you, the vast majority of whom will testify to the efficacy of these products, that one of the ways in which we can and ought be the hands and feet of Christ is to allow them to

pursue medications that are actually helpful and that do alleviate suffering on Earth and that that is a very basic principle of Christianity, that where we can help we ought help. Thank you, Senator. [LB622]

SENATOR CHAMBERS: And thank you for the facts, ma'am--just the facts. [LB622]

SENATOR EBKE: Okay, we're going to take two more proponent testimony, then we'll move to opponent, and then we'll see where we go from there. [LB622]

SARAH DIMON: (Exhibit 2) Hi. My name is Sarah Dimon, S-a-r-a-h D-i-m-o-n. My daughter Anna is here and she's 15. Do you want to stand up, Anna? Hi. I do want to say that she's 15 and she's on spring break and she is here at the Capitol at a hearing and that should count for something. That's pretty impressive. So Anna has suffered from intractable epilepsy since she was 11 months old. Despite having seizures nearly every day for the past 14 years, she appears to be a regular teenager. You would never know when you meet her the daily challenges she faces medically, socially, and educationally. We've sought medical advice and treatments from all over the country. Anna is taking several medications every day that affect her vision, coordination, balance, energy levels, cognitive and motor skills. She is currently on a low glycemic index diet to try and control her seizures. She has undergone numerous tests, EEG studies, and four surgeries--one being a craniotomy, as you mentioned, in 2013 in an attempt to remove the affected tissue. That worked for a month, and they did come back. None of this has helped significantly, the medications being the hardest thing. I would love to know what she's like without all of those meds. It would be wonderful. Anna was accepted into the study at UNMC that was mentioned earlier where they're studying the effects and the tolerability of cannabis. We're really lucky to be in it. She's recently titrated up to the full dose of the Epidiolex. And finally we are seeing some results. Her seizures have begun to decrease in frequency and intensity. She is better able to engage socially, and there's been a noticeable change...huge improvement in her school work. Her teachers agree there have been a noticeable change in participation in class, attention to instruction, the level of her work. Family members have noticed a positive change in overall demeanor, ability and willingness to engage in conversations, and in her energy levels. We're so lucky to be a part of this study. The results early on in the process are extremely encouraging to improve the quality of Anna's life. This is a girl who had zero long-term goals prior to this year, and is now planning for a career as a makeup artist. I am very, very grateful, but I can't help but think, what will happen when the study ends? As it stands now, we will have to leave our home in Nebraska and all of our family and friends in order to have access to the first real positive medical intervention we have had. I am asking for your support of this bill not only for Anna but for a lot of the other kids who did not get into this study. I've met several of them. So thank you. Any questions? [LB622]

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SENATOR EBKE: Thank you, Ms. Dimon. I understand that the Epidiolex is a fast-track for FDA approval. [LB622]

SARAH DIMON: I hope so. It's encouraging. [LB622]

SENATOR EBKE: Is that...my understanding of that, it's actually covered in LB167 so that as soon as the FDA approves it, it will be legal in Nebraska. [LB622]

SARAH DIMON: Yay. Thank you. [LB622]

SENATOR EBKE: Senator Pansing Brooks. [LB622]

SENATOR PANSING BROOKS: I just want to thank you for coming, Ms. Dimon. Anna is...has a long history of incredible women from whom she is the offspring. And I know her grandmother and her great-grandmother. And I just wish her so well. And I'm proud of you for coming and fighting. Thank you for taking the time. And thank you, Anna, for coming. [LB622]

SARAH DIMON: Thank you. [LB622]

SENATOR EBKE: Thanks for being here. [LB622]

SARAH DIMON: Thanks. [LB622]

BRENDA POTRATZ: (Exhibit 37) Hello, Chairman Ebke and members of the Judiciary Committee. I'm Brenda Potratz, B-r-e-n-d-a P-o-t-r-a-t-z, and I'm from Lincoln. What do you picture when you think of the person who is in support of legalizing marijuana in the state of Nebraska? A bored young person, someone who wants to get high to escape their worries, an old hippie? I don't really think I fit the typical image. I am a 61-year-old, conservative, former businesswoman with a Fortune 500 company. I also am a woman that has the misfortune of having been diagnosed with the debilitating disease rheumatoid arthritis, which has also led to a lot of other autoimmune conditions. This is a disease that destroys you from the inside out. I visited numerous specialists as well as alternative doctors and healthcare providers. I am taking a drug that without insurance would cost \$40,000 a year. But guess what? The pain is still there. I have prescriptions for various painkillers, none of which truly do the job. When we were visiting our sons in Washington State, I decided to give cannabis a try. I went to a dispensary, where it was perfectly legal, and began to ask questions. The young man asked me how much I smoke. And I replied, none. He pressed further: Well, what about back in the day? And I...I've never tried cannabis. I didn't want to. I didn't want to get high. I was that person that thought that it was

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a gateway drug, something we shouldn't allow, until it affected me. I was able to experiment with a pure CBD ointment which provided immediate relief. I also tried a tincture in my tea before going to bed at night which took the edge off my pain, so that I actually got a full night's sleep for one of the first times in years. I knew exactly what I was getting because it was labeled, because it was legal. I implore you to legalize cannabis for medical use in the state of Nebraska, not for the bored young person, the guy who wants to get high to escape his worries, or the old hippie. Do it for people like me who have exhausted all other options for their pain and know this works. Thank you very much. Do you have any questions? [LB622]

SENATOR EBKE: Thank you, Ms. Potratz. Questions? Senator. [LB622]

SENATOR CHAMBERS: Is this your statement? [LB622]

BRENDA POTRATZ: Yes. [LB622]

SENATOR CHAMBERS: Whether I have my glasses on or off, did you...is this 61 a correct number? (Laughter) [LB622]

BRENDA POTRATZ: Thank you. [LB622]

SENATOR EBKE: Charmer. [LB622]

BRENDA POTRATZ: (Inaudible), yeah. [LB622]

SENATOR EBKE: Any other questions? Thank you for being here today. [LB622]

BRENDA POTRATZ: Thank you. [LB622]

SENATOR PANSING BROOKS: Thank you. [LB622]

SENATOR EBKE: Okay, we're going to proceed with opponents, opponent testimony. [LB622]

BRAD RICE: (Exhibit 56) Good afternoon, Chairperson Ebke and members of the Judiciary Committee. I am Colonel Brad Rice, B-r-a-d R-i-c-e, the superintendent of the Nebraska State Patrol. I am here today on behalf of the Nebraska State Patrol to offer testimony in opposition to LB622, and share some of the State Patrol's concerns with the bill. The main reason that the State Patrol opposes LB622 is that we are generally opposed to any legislation that would

legalize marijuana. Drugs have no place in Nebraska. As a state, we are already fighting hard to prevent the opioid epidemic from coming to Nebraska and heroin use is increasing nationwide. While LB622 would only allow marijuana to be used for medical purposes, there is a significant risk that medical marijuana would nonetheless be used for recreational purposes. And whether used for medical or recreational purposes, marijuana has led many down the path of addiction. Aside from the public health concerns related to drug addiction, there are also public safety concerns; for example, increased drug supply and use generally leads to non-drug-related criminal activity. In addition to the State Patrol's general opposition to legalizing marijuana, the agency has some specific concerns with the bill. First, LB622 may create a conflict with the Concealed Handgun Permit Act and purchase permit act. Under the act, one of the disqualifiers for firearm possession is known drug use. Firearm purchase permits are checked through the National Instant Criminal Background Check System, or NICS. This process determines the eligibility of an individual to purchase a firearm. At a recent training seminar, the NICS team advised that an individual's participation in a medical marijuana program would prohibit possession of a firearm under federal law. I would also encourage the committee to consider the ability of law enforcement to access the proposed medical cannabis registry for the purpose of verifying eligibility to purchase or possess a firearm under federal law. Law enforcement is required under the purchase permit act and Concealed carry Handgun Permit Act to ensure the applicant not be prohibited under the federal firearm laws. Allowing law enforcement access is essential to ensure the assigned duties and responsibilities in issuing permits can be performed. Under the Concealed Handgun Permit Act, it is the duty of the permit holder, when contacted, to immediately inform law enforcement, or any first responder, that they are carrying a concealed handgun. This information is also available through the Department of Motor Vehicles database. The Department of Health and Human Services should be allowed to share information regarding registration with law enforcement and first responders in a similar manner. First responders may need the information to assist in addressing the medical needs and care required for the patient. This information would prevent law enforcement from needlessly citing a person, if they are a lawful participant in the Medical Cannabis Act. It would seem appropriate that if someone wants to use the Medical Cannabis Act as a defense to a criminal charge regarding the possession or distribution of marijuana, that this should be an affirmative defense. Evidence of the manufacturer, dispensary, or patient's participation in the medical cannabis program can be presented by the individual claiming the defense. This would avoid the issue of registry documents being admitted into a court proceeding without the consent of the patient. Section 40 states that a caregiver would be guilty of a Class IV felony if they transfer medical cannabis to someone not listed on the registry. If medical cannabis is to be treated as a medicine, it should not be transferred to anyone whom it is not specifically prescribed. Current law prescribes that prescription medication stay with the person for whom they were prescribed and further transfer is not permitted. Harmonization with existing laws concerning prescription medication is vital to prevent and identify illegal distribution. Within Section 8, the delivery of medical cannabis is limited to specific forms, which do not include smoking. However, it is unclear if the use of

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liquid or oil within edible food would be permissible. If the committee advances this legislation, we would respectfully request that this be clarified in an amendment, and prohibited. This clarification would allow an officer who encounters an edible cannabis product outside of pill form, to immediately identify it as an illegal product. In closing, I would like to express my appreciation for your ongoing support of public safety and public safety initiatives. I would be happy to answer any questions at this time. And I sincerely apologize for going over. [LB622]

SENATOR EBKE: Thank you, Colonel Rice. Any questions? Senator Morfeld. [LB622]

SENATOR MORFELD: Thank you for coming out today, Colonel Rice. In the beginning of your statement here you state that you are "generally opposed to any legislation that would legalize marijuana. Drugs have no place in Nebraska." So if one of us on this committee brought up a piece of legislation would ban alcohol, would you come and testify in opposition to that as well? [LB622]

BRAD RICE: Sir, you are asking the wrong person for that. I am a teetotaling Baptist (laughter) and, personally, I am against alcohol in any form. [LB622]

SENATOR MORFELD: So you would come in opposition to that? [LB622]

BRAD RICE: I would defer to the Unicameral, if the Unicameral proposes it. [LB622]

SENATOR MORFELD: Okay. What about, for instance, I don't know, maybe the Baptists have a position on opiates too. Maybe I...(laughter) maybe I brought legislation. I mean one of the things I'm passionate about is, you know, combating this opiate epidemic. And what if I brought legislation saying that all opiates are illegal in the state of Nebraska, including opiates that are prescribed by a doctor? Would the State Patrol also come in opposition to that? [LB622]

BRAD RICE: Well,... [LB622]

SENATOR MORFELD: Because that's a drug and it's very well documented to be dangerous. It's killing people every single day. [LB622]

BRAD RICE: I agree it's documented to be dangerous and I would defer to the folks we have to research to provide me the proper documentation and research before testifying either way. [LB622]

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SENATOR MORFELD: And who are those people? [LB622]

BRAD RICE: Well, we ask various folks up and down from the...within my organization to take a look at how these different pieces of legislation would affect our daily operations; what would it take us to enforce such an act, both manpower-wise, fiscally. [LB622]

SENATOR MORFELD: Uh-huh. Yeah, my concern with your testimony, Colonel, is that I've done some research on this and I asked the doctor a little bit earlier, I mean, tell me about the documented cases of people dying from a marijuana overdose. And I've done my own research here today and before, and there are no documented cases that we've seen so far. And we have much more dangerous drugs out there: alcohol, and I appreciate you being consistent in your principle, both religious and otherwise; and then also with actual legalized drugs based on a doctor's prescription. And my concern here is that there are a lot of people in this room, I'm sure there's people that use it recreationally, too, but there's a lot of people in this room that have severe medical needs. And there's been documented evidence and not just, you know, whacky blogs and other research that show that this can actually be used for medicinal purposes and be effective. And your testimony here today just seems very contradictory given the actual drug overdose problems that we have, both alcohol and actual legalized medicines and otherwise, and it just doesn't logically follow. And I'll ask the same questions from everybody else, but I would also suggest that your department, if we did legalize...well, this is medicinal marijuana so it would still be illegal for recreational, but I would say that might have a little less work to do actually and be able to focus on some real crime. And I know that you already do that and I know that you do a good job of it because I feel safe in this state and I appreciate that. But I'd like to see more resources put towards that violent crime and not crime like this. And that's my concern, is I feel like our resources are misplaced. I feel like the men and women that put their lives on the line every day in your department, you included, could have more time and energy to focus your time and resources. And things like this is a distraction from a lot of the real problems in our society. But now I'm making a statement. Feel free to respond or not. Thank you for coming today, Colonel. [LB622]

SENATOR EBKE: Any other questions for Colonel Rice? Senator Chambers. [LB622]

SENATOR CHAMBERS: Colonel Rice,... [LB622]

BRAD RICE: Yes, sir. [LB622]

SENATOR CHAMBERS: ...I don't think anybody hates the proliferation of guns as much as I do. But when I read your opposition to medical marijuana, medical cannabis, because it might conflict with the prohibition of possession of a firearm by somebody who's using drugs, that's

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very weak. I don't think you heard the testimony today. I don't think you've seen the little children who are suffering. And if there are doctors who will confirm that medical marijuana has helped little children who would have innumerable seizures in one day, you would say, because of the concealed handgun permit, those children having the seizures is just the price we pay to make sure that no drugs are in Nebraska. That's basically your position when we strip away everything, isn't it? The hand...concealed handgun prohibition on those who use drugs is so important that we should deny to the children a medication that would help them. That's your position, isn't it? [LB622]

BRAD RICE: No, sir. I think what I was referring to in my testimony there is if this proceeds out of committee, that's an example of one of the things we would appreciate the committee to take a look at. [LB622]

SENATOR CHAMBERS: Could you speak a little louder? I can't... [LB622]

BRAD RICE: That would be one of the things we would appreciate the committee to take a look at and rectify when it comes out. [LB622]

SENATOR CHAMBERS: Well, you're... [LB622]

BRAD RICE: It's our job to make sure that every time we issue a concealed handgun carry permit that it is done to the right person at the right time, at the right time, and all the necessary qualifications are met by law. I'm just simply pointing out here in my testimony that we see that if it moves forward that could be a possible problem. [LB622]

SENATOR CHAMBERS: I understand your position from law enforcement, but we're the policymakers... [LB622]

BRAD RICE: Yes, sir. [LB622]

SENATOR CHAMBERS: ...and our view is much broader than that of a police officer, whether he is a patrolman on the beat or a colonel and superintendent of the State Patrol or the director of the FBI or the CIA. The welfare of the citizens is what we're more concerned about and not the narrow concerns of law enforcement, not to disparage you. But I would tell you that if the Legislature legalizes the use of medical marijuana, it has nothing to do with what you're talking about because...well, let me ask a question first. If a person is taking prescription opioids, would they be denied a concealed handgun permit? [LB622]

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BRAD RICE: No. [LB622]

SENATOR CHAMBERS: A drug is a drug is a drug, and you're saying that if the policy is that this drug is legal, although it's been known to cause death, it has no relevance to the concealed handgun permit. This far less lethal substance that has been shown to help people with ailments that none of these okay opioids can help, that should be treated more harshly than the opioids which have killed. And sometimes the legal opioids result in killing by people who want to obtain those drugs. So can you tell me the difference between not being concerned about the legal opioids clashing with the prohibition against a handgun, concealed handgun permit, and our legalization, the policymakers, of the use of medical marijuana? How would that conflict with this concealed handgun permit? Wouldn't they both be on the same footing? [LB622]

BRAD RICE: If I understand your question correctly, Senator, I think we're talking the same language. The point I'm trying to make is, as it stands right now, this would...the use of marijuana would prohibit us from a...by Federal Firearms Act to...from issuing a concealed hand carry. [LB622]

SENATOR CHAMBERS: But if we don't give you access to the people on that registry, then all you do is carry out the law as this Legislature laid it out. And if you don't know whether somebody is using medical marijuana and you have no way of knowing, shouldn't you just issue the permit? [LB622]

BRAD RICE: Well, if the information is not available to us, it's not available to us. [LB622]

SENATOR CHAMBERS: And you would issue... [LB622]

BRAD RICE: So we would just...we would use all the information we had at our resource... [LB622]

SENATOR CHAMBERS: And if you have no... [LB622]

BRAD RICE: ...and not make a guess. [LB622]

SENATOR CHAMBERS: If you have no access to that registry, then you just issue the permit, all other things being equal. Isn't that true? [LB622]

BRAD RICE: Yes, sir. [LB622]

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SENATOR CHAMBERS: And you've done your job. [LB622]

BRAD RICE: Yes, sir. [LB622]

SENATOR CHAMBERS: I don't want you to feel, with all the problems that law enforcement has, I don't want you to feel that you have to go around trying to create additional problems. Did you hear the testimony today? [LB622]

BRAD RICE: I did, sir. [LB622]

SENATOR CHAMBERS: I'm not being judgmental, but from what I've read about you, you are a deeply religious person. Is that true or false? [LB622]

BRAD RICE: Well, I would like to think so, yes, sir. [LB622]

SENATOR CHAMBERS: And one of the hallmarks of being religious is compassion, I thought. I'm not religious at all. I don't even have a heart. A hard...(laughter), really, a hard life makes a hard man, and I've lived a hard life. But I'm very concerned about children, little children, old people, sick people and those who are suffering, and my intellect tells me I have no right to be comfortable in the presence of other people's suffering if I can do something to alleviate it. So using my brain as a policymaker, I mentioned earlier I watch television and I don't see law enforcement doing anything about these legal pharmaceutical products, which in the advertisements by the company will acknowledge can kill you. And the only reason they give those side...they tell those side effects, the federal law would not allow them to advertise on television if they don't give the side effects. Are you concerned about legalized so-called medicines, one of the side effects of which is fatal? That doesn't bother you to have those things advertised on television and be sold, for your opinion? And if you don't want to give it, you don't have to. [LB622]

BRAD RICE: Well, Senator, we're concerned, we're concerned, we're very concerned about, in this case, in your example, proper prescription drug usage and we're working with the Attorney General's Office to try to educate, recognize it, and take steps to alleviate any future problems, future addictions. So you know, we recognize that there is a drug problem in the country and we're going to do everything we can within the powers that the Unicameral gives us to take the appropriate steps to make... [LB622]

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SENATOR CHAMBERS: A couple of sensitive questions: You're a grown man and so am I. You're a man of the world and so am I. And we expect to be treated like adults and to assume the responsibilities of adults. Who appointed you superintendent of the State Patrol? [LB622]

BRAD RICE: Governor Ricketts. [LB622]

SENATOR CHAMBERS: Did he instruct you to come here and speak against this bill? [LB622]

BRAD RICE: He did not. [LB622]

SENATOR CHAMBERS: Did the Attorney General instruct you to come and speak against this bill? [LB622]

BRAD RICE: No, sir. [LB622]

SENATOR CHAMBERS: Did either or both of them suggest that you speak against this bill? [LB622]

BRAD RICE: No, sir. [LB622]

SENATOR CHAMBERS: Why didn't you come in a neutral position as one giving information rather than assuming a position, a highly political position, on a subject about which you are no more informed, technically speaking, than I am? Wouldn't it have been more circumspect to come here to give information, as an enforcer of the law, inform of us possible difficulties, then let us work our way through that instead of saying, my job might be harder--and you get paid well and you have benefits--my job would be harder if as a law enforcement person so I'm against this bill because it would make my job harder? Might it not have been more circumspect to come here in a neutral capacity to give us information and answer questions we might have relative to law enforcement instead of having to get into an exchange like this? Your opinion? [LB622]

BRAD RICE: My opinion, Senator, is your concern is duly noted. [LB622]

SENATOR CHAMBERS: Say it again? [LB622]

BRAD RICE: Your concern is duly noted. I understand. I understand what you're saying to me and what you're asking me. [LB622]

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SENATOR CHAMBERS: And do you...have you followed me closely enough to know that I have not condemned you or said you don't know what you're talking about when it comes to law enforcement? I stuck to what you said... [LB622]

BRAD RICE: Yes, sir. [LB622]

SENATOR CHAMBERS: ...about the concealed handgun permit and am saying don't worry about that, do the job that you're required to do under the laws of the state and don't go outside of that. And when we set a policy, the onus is on us for any untoward consequences. If we legalize the use of medical cannabis, you cannot, under the laws of Nebraska, arrest a person who is using a substance that we said is legal simply because the person is using it. Would you agree with that? [LB622]

BRAD RICE: Yes, sir. [LB622]

SENATOR CHAMBERS: It's not even a law enforcement matter. But you have now made it a law enforcement matter because you said, "if we pass this law." You and I can have another conversation another time and maybe I can make more clear what I'm trying to say to you. I hope you have not taken anything I've said as a disparagement of you as an enforcer of the law. I'm just saying, and it might can be said giving advice, being given advice by an elder. So take this to heart, sonny. (Laughter) I'm not offended by what you said, but I want people in this room to maybe get an understanding of the fact that you're not being and it's not your intent to be insensitive, unmindful of what their concerns are today, or the kinds of decisions that we have to make. But should a decision be made a certain way, there might be an implication of law enforcement and we can deal with that. But the next time, and it's not an order because you don't work for me except as a member of the public who pays your salary as people always say, just like I work for you, but I pay you a better salary than you pay me (laughter) at \$12,000 a year. And that's about all that I will say. [LB622]

SENATOR EBKE: Senator... [LB622]

BRAD RICE: Thank you, Senator. No offense taken. Thank you. [LB622]

SENATOR CHAMBERS: Okay. [LB622]

SENATOR EBKE: Senator Hansen had... [LB622]

BRAD RICE: Appreciate the conversation. [LB622]

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SENATOR EBKE: Senator Hansen had a question. [LB622]

BRAD RICE: Yes, sir. [LB622]

SENATOR HANSEN: Thank you, Chair Ebke. Thank you for coming, Colonel Rice. I guess I'm just curious, do you consider your agency fully staffed at the moment or do you feel like you're understaffed for the duties you've been assigned? [LB622]

BRAD RICE: Okay. I have a hard time hearing sometimes with the background, so say it one more time. [LB622]

SENATOR HANSEN: Do you have the full staffing you need for your agency at the moment? [LB622]

SENATOR EBKE: Are you fully staffed? [LB622]

SENATOR HANSEN: Are you fully staffed? [LB622]

BRAD RICE: No, we're not fully staffed, no. [LB622]

SENATOR HANSEN: Okay. [LB622]

BRAD RICE: I'm really sorry. I'm having a hard time (inaudible). [LB622]

SENATOR HANSEN: Not a problem. I was just curious. And I'm glad Senator Chambers asked the series of questions about the instant criminal background check. I had just seen a couple fiscal notes from your agency recently that... [LB622]

BRAD RICE: Yes. [LB622]

SENATOR HANSEN: ...required multiple investigative officers in addition to duties. I wanted to know what, if any, connection that was to your current staffing levels. [LB622]

SENATOR EBKE: Any other questions? Okay. Thank you. Thank you, Colonel Rice. [LB622]

BRAD RICE: Thank you. [LB622]

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SENATOR CHAMBERS: One question. I'm doing a "Columbo" on you. One minute, sir. I want this on the record in front of everybody. Did you offer to sit down with me and have a cup of coffee? [LB622]

BRAD RICE: Yes. [LB622]

SENATOR CHAMBERS: Does the offer still stand? [LB622]

BRAD RICE: It sure does. [LB622]

SENATOR CHAMBERS: Did everybody hear that? [LB622]

CROWD: Yes. [LB622]

BRAD RICE: When, sir? [LB622]

SENATOR CHAMBERS: We'll work that out when nobody is around. (Laughter) [LB622]

SENATOR EBKE: Okay. [LB622]

BRAD RICE: Thank you. [LB622]

SENATOR EBKE: Next opponent. [LB622]

DAVID LOPEZ: Good afternoon, Chairwoman Ebke and members of the Judiciary Committee. My name is Dave Lopez, D-a-v-e L-o-p-e-z. I am an assistant attorney general appearing on behalf of the Attorney General's Office and the Nebraska County Attorneys Association in opposition to LB622 and AM496. And I'm pleased to have the opportunity to do so. By way of background, our office generally, and I personally, have had significant exposure to the legal issues surrounding state-level marijuana legalization. I, along with a team of AAGs, have managed the state of Nebraska's litigation challenges to Colorado's marijuana regulatory scheme both in the United States Supreme Court and in the U.S. Court of Appeals for the Tenth Circuit. Through that work we have become familiar with the provisions of federal law which control this issue and which Congress has seen fit to retain as law. Our fundamental objection to this legislation is simple: Marijuana remains outright illegal as a Schedule I drug under the federal Controlled Substances Act. That means that under federal law it has a high potential for abuse, no currently accepted medical use and treatment in the United States, and a lack of accepted

safety for use under medical supervision. Unless and until Congress modifies this clear prohibition, any regulatory scheme by the state of Nebraska to facilitate, promote, license, or tax marijuana products, even for medicinal purposes, would be preempted and illegal under federal law. The Legislature should not expose the state in this way. There are also serious policy ramifications to state-level marijuana legalization as are enshrined in federal law. If anything, those policy rationale...the policy rationale justifying marijuana status as a Schedule I drug when the CSA was passed are stronger today, given the unprecedented levels of potency, variety, and availability now nationwide. In Colorado, for example, a state with a, quote unquote, well-regulated medical and recreational marijuana system, significant amounts of sanctioned and unsanctioned marijuana have been diverted through interstate trafficking and to youth within Colorado. Black market activity has increased and criminal organizations have exploited a relaxed enforcement environment. The result is that Colorado and other legalizing states have effectively torn a hole in a national drug control system that remains the law of the land. This is not a system that is working even relative to the enforcement priorities that the previous federal administration issued to contain it. To conclude, I urge the committee to take stock of the uncertain enforcement environment into which it would pass this bill. It is well known that under the previous administration, so-called enforcement priorities were issued which effectively served as a green light for state-level marijuana legalization and its proliferation. The new administration will undoubtedly adopt a new approach to this issue which could well be significantly more restrictive than that of its predecessor. By way of anecdote, even the Colorado governor himself has urged his legislature to hold off on current efforts in their legislature to expand certain aspects of Colorado's marijuana system, at minimum...until the enforcement position at the federal level is complete. At minimum, this Legislature should defer consideration of this profound step, illegal as it remains under federal law, until that time as well. And I'm happy to answer any questions. [LB622]

SENATOR EBKE: Thank you, Mr. Lopez. Any questions? Senator Pansing Brooks. [LB622]

SENATOR PANSING BROOKS: Thank you for coming, Mr. Lopez. So you said that Colorado is pulling back on their...on some of their regulations, but that's on recreational. So has any state pulled back their laws after passing them on medical marijuana? [LB622]

DAVID LOPEZ: Not that I'm aware of. And just to clarify regarding Colorado, I don't believe that they've pulled back any aspect of it. There are several legislative attempts that we're aware of that would expand both on the recreational front and on the medical marijuana front in terms of delivery that their governor has encouraged their Legislature to hold off on this year, at least in this session, until the enforcement position is clear from the federal level. [LB622]

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SENATOR PANSING BROOKS: I think that, from what I know, the regulations that people are looking at don't have to do with medical marijuana. They have to do with recreational. And worrying about that rather than...I haven't seen any states that are saying that we should not be continuing...or that they would not want to continue with their medical marijuana laws (inaudible). [LB622]

DAVID LOPEZ: No, I understand. Our position is a little more fundamental than that and applies with equal force, both on the medical marijuana front and on the recreational marijuana front. The CSA doesn't make a distinction between medical marijuana and recreational marijuana. It's a Schedule I drug either way. So our position is simply a legal one regarding its continued illegality under federal law such that the regulatory scheme that this bill would create would be preempted. [LB622]

SENATOR PANSING BROOKS: Clearly, you enforce laws on all sorts of other drugs. Isn't that correct? So why would medical marijuana be any more difficult for you to also regulate and enforce (inaudible)? [LB622]

DAVID LOPEZ: Well, it's not a question of the difficulty at the state level of regulating it. It's, again, it's a difficulty of reconciling whether putting state actors, as this bill would at HHS, in the business of affirmatively facilitating what amounts to federal contraband, in that position. So it's not...our position certainly isn't one of the difficulty of regulating it. It's, rather, one of the legality of creating a system that would promote it. [LB622]

SENATOR PANSING BROOKS: Okay. But it was stated earlier the federal law allows state laws to preempt on drugs for states. [LB622]

DAVID LOPEZ: Uh-huh. [LB622]

SENATOR PANSING BROOKS: So how does...I don't see how that... [LB622]

DAVID LOPEZ: I'm familiar with the provision they cited. They're simply wrong about the purpose of that particular legal provision of the CSA. What that provision is saying, I can get you the exact cite, it's escaping me now,... [LB622]

SENATOR PANSING BROOKS: That would be great. [LB622]

DAVID LOPEZ: ...but what that provision is saying is that the CSA won't prevent...won't preempt a state law within the realm of drug enforcement unless there's a positive conflict, and

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that's direct statutory language, with a provision of the Controlled Substances Act. When it comes to marijuana, there's absolutely a federal...a positive conflict such that the preemption would apply. The Supreme Court has considered that in Gonzalez v. Raich in the mid-2000s and found that and concluded that, that holding, in the context of a California law that was medical in nature as well. So I understand, I understand how... [LB622]

SENATOR PANSING BROOKS: Okay. [LB622]

DAVID LOPEZ: ...that language can be attractive, but it simply doesn't serve the purpose they claim. [LB622]

SENATOR PANSING BROOKS: I guess I just have...I can't understand the morbid fear of allowing a doctor to prescribe something. I don't think heroin should be available either to people. And just because they can, or meth, all the Class I substances, those should not be available to people to recreationally use. But when we hear story after story of people in need and children being helped by this, for us to stand firm on because the federal government is backing big pharmacy and is deciding that this is really what we need to do, when we hear story after story of people whose pain and suffering is alleviated with something that isn't even dangerous, I think that's abysmal. I don't understand this hardline stand. You can comment if you want. [LB622]

DAVID LOPEZ: I understand, Senator. I don't question or minimize in any way the struggles and challenges that so many people who have testified here today are dealing with. [LB622]

SENATOR PANSING BROOKS: Do you think that doctors should not be able to prescribe medication that they think? Why does the Attorney General's Office know better than a physician what should be prescribed? [LB622]

DAVID LOPEZ: We don't claim to. My role here today with regard to this particular legislation is more circumscribed and is simply to advise the committee as to the legal environment as it pertains to federal law that controls in this particular issue. [LB622]

SENATOR PANSING BROOKS: Well, we know that it's illegal, clearly, and my heart breaks with these people who are trying to follow the law. And yet I'll tell you, if I had a child with that, those kind of seizures, I'd be doing anything I could to alleviate that pain and suffering. Thank you. [LB622]

DAVID LOPEZ: Thank you. [LB622]

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SENATOR EBKE: Thank you. Other questions? Senator Chambers. [LB622]

SENATOR CHAMBERS: Were you instructed by the Attorney General to come here today? [LB622]

DAVID LOPEZ: I was, Senator. [LB622]

SENATOR CHAMBERS: And you were instructed by the county attorneys' organization to come here today? [LB622]

DAVID LOPEZ: We were authorized to represent this testimony on their behalf. [LB622]

SENATOR CHAMBERS: You said something different. You were instructed by the Attorney General to come. Let me rephrase the part about the county attorneys. Were you instructed by them to come or you volunteered to come and speak on their behalf? [LB622]

DAVID LOPEZ: We were willing to speak on their behalf on their request, Senator. [LB622]

SENATOR CHAMBERS: So you volunteered to come for the county attorneys. [LB622]

DAVID LOPEZ: That's a fair assessment. [LB622]

SENATOR CHAMBERS: Do you carry identification... [LB622]

DAVID LOPEZ: Yes. [LB622]

SENATOR CHAMBERS: ...that will identify you as an employee of the Attorney General's Office? [LB622]

DAVID LOPEZ: Other than a business card and a driver's license, no. [LB622]

SENATOR CHAMBERS: Do you have identification which identifies you as a federal agent charged with enforcing federal law? [LB622]

DAVID LOPEZ: No, because I'm not. [LB622]

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SENATOR CHAMBERS: Would you charge me in any court in this state with violation of a federal law only? [LB622]

DAVID LOPEZ: In a court of this state? [LB622]

SENATOR CHAMBERS: Yes. [LB622]

DAVID LOPEZ: No. And I'll confess, Senator, at the outset that I'm not a prosecutor and I don't practice criminal law. I'm a civil litigator. [LB622]

SENATOR CHAMBERS: Well, let me ask you a question. [LB622]

DAVID LOPEZ: Yes. [LB622]

SENATOR CHAMBERS: You came here representing the County Attorneys Association. Is that true? [LB622]

DAVID LOPEZ: We are offering this testimony on their behalf at their request. [LB622]

SENATOR CHAMBERS: Are county attorneys prosecutors? [LB622]

DAVID LOPEZ: They are, Senator. [LB622]

SENATOR CHAMBERS: And somebody who is not conversant with what prosecution involves was sent here to represent the prosecutors? [LB622]

DAVID LOPEZ: I understand your point, Senator. [LB622]

SENATOR CHAMBERS: (Inaudible). [LB622]

DAVID LOPEZ: The scope of our testimony doesn't pertain to criminal...to prosecution issues. [LB622]

SENATOR CHAMBERS: I'm not asking what you understand. I'm asking you a question. Let me state it and see if you agree or disagree. Somebody who is not conversant with the ins and

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outs of prosecution was sent here to represent prosecutors who are conversant with the ins and outs of prosecution. Is that correct or is that incorrect? [LB622]

DAVID LOPEZ: That's a fair assessment, Senator. [LB622]

SENATOR CHAMBERS: Okay. Now whatever the federal government says is a violation of the federal law is of no concern to you in terms of your duties as a state law officer. Is that true or false? [LB622]

DAVID LOPEZ: That's false. [LB622]

SENATOR CHAMBERS: Okay. Tell me how it's false. [LB622]

DAVID LOPEZ: The reason it's false is...let me back up. It would be true if your question pertained to what the state of Nebraska and you, as the policymakers in the Legislature, are obligated to criminalize under Nebraska law. The federal government can't control that. But when it pertains to the state creating a civil regulatory scheme that would affirmatively promote and facilitate the industrialization of a commodity that is illegal under federal law, then federal law would preempt that regulatory scheme and the Attorney General's Office has a statutory role in addressing the constitutionality of that law. [LB622]

SENATOR CHAMBERS: So then what the Attorney General's Office should do is not try to enforce federal law. The Attorney General, if anything, would challenge the constitutionality of that law in a Nebraska court. Is that what you're telling me? [LB622]

DAVID LOPEZ: Of which law? [LB622]

SENATOR CHAMBERS: A law that you say, like this if we passed it, it would be preempted by federal law. So any state law that the Legislature would enact which in the Attorney General's opinion is preempted by federal law, would the Attorney General bring a suit to have that law struck down, that state law struck down? [LB622]

DAVID LOPEZ: We have specific express statutory authority to do so. That's not something that we've considered at any length with this particular litigation...or legislation at this stage, given it hasn't been passed. [LB622]

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SENATOR CHAMBERS: And how does that state...when you say you have specific authority, you mean a state law... [LB622]

DAVID LOPEZ: Yes, Senator. [LB622]

SENATOR CHAMBERS: ...says what you're saying. [LB622]

DAVID LOPEZ: Yes, Senator. [LB622]

SENATOR CHAMBERS: Generally, not asking for a quote, how does that law read? [LB622]

DAVID LOPEZ: The statute would permit the Attorney General to file an action for injunctive relief naming, I believe, the Secretary of State as a defendant to engage special counsel to defend the constitutionality of the provision. It would first...and again, you'll forgive me if I'm getting some of the procedure out... [LB622]

SENATOR CHAMBERS: That's... [LB622]

DAVID LOPEZ: ...but it would require someone from the executive branch, I believe the department head, who would be charged with enforcing the law in question to first request an Opinion from the Attorney General's Office. [LB622]

SENATOR CHAMBERS: So the Attorney General, on his own or her own, cannot do that. That would be arrogating to that office a power that it does not exercise under the state law. Isn't that a correct statement? [LB622]

DAVID LOPEZ: I, without having reviewed that provision very recently, I believe that's correct, Senator. [LB622]

SENATOR CHAMBERS: And that person who would make the request would be the Governor. [LB622]

DAVID LOPEZ: Or one of his designees. [LB622]

SENATOR CHAMBERS: But it would originate with the Governor's wishes being expressed either directly by the Governor or a designee of the Governor, but it would have to come as a

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request from the executive department and not originating with the Attorney General because he or she had an opinion about that particular law. [LB622]

DAVID LOPEZ: I believe that's correct, Senator. [LB622]

SENATOR CHAMBERS: Does the federal government enforce any state law that you know of? [LB622]

DAVID LOPEZ: Not...well, not that I'm aware of. [LB622]

SENATOR CHAMBERS: Right. So if we enact this law, do you think the Governor would instruct the Attorney General's Office to bring a lawsuit to strike it down? [LB622]

DAVID LOPEZ: I don't know. [LB622]

SENATOR CHAMBERS: Would that be filed in federal court or state court? [LB622]

DAVID LOPEZ: I don't know. I don't know whether that statute controls whether it would need to be filed in a state court or whether it could be federal court. It would inherently have a federal question to it, so it... [LB622]

SENATOR CHAMBERS: Did you know that I'm on this committee before you came here? [LB622]

DAVID LOPEZ: I was aware of that, Senator. [LB622]

SENATOR CHAMBERS: And there's such a thing as being prepared, correct? [LB622]

DAVID LOPEZ: Yes, sir. [LB622]

SENATOR CHAMBERS: The questions that I'm asking you could be anticipated by somebody coming before a committee with somebody like me on it. Isn't that true? [LB622]

DAVID LOPEZ: I don't know even if you pass the legislation, Senator, that we would know unless we conducted the legal analysis, depending on the final language of the bill, as to whether a state court or federal court would be an appropriate forum for that action. [LB622]

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SENATOR CHAMBERS: No, I mean this line of questioning. The prosecutors sent you here. You know what I think they were doing with you? Do you get along with the people in the County Attorneys Association? (Laughter) [LB622]

DAVID LOPEZ: I don't know many of them, Senator. [LB622]

SENATOR CHAMBERS: Do you think they may have sent you as a lamb to the slaughter as a joke? (Laughter) [LB622]

DAVID LOPEZ: It wouldn't be the first time that's happened. (Laughter) [LB622]

SENATOR CHAMBERS: Now I'm going to become more specific, and here's why I'm doing this. People need to know that simply because somebody says he or she is from the Attorney General's Office, that doesn't mean that person knows everything about the law. [LB622]

DAVID LOPEZ: Absolutely. [LB622]

SENATOR CHAMBERS: When a position is taken on a law such as this, a bill such as this, there's a lot of speculation and surmise even on the part of those in the Attorney General's Office that would lead them to take a position against the bill. Is that a correct statement? If it's not surmised, then you know for a fact that everything you say is absolutely true. [LB622]

DAVID LOPEZ: It's not speculation with regard to our legal position that the creation of a state regulatory scheme that would affirmatively facilitate marijuana would conflict with duly enacted federal law and then be preempted. [LB622]

SENATOR CHAMBERS: And I... [LB622]

DAVID LOPEZ: That piece of it is not speculative. [LB622]

SENATOR CHAMBERS: I couldn't hear everything you and Senator Pansing Brooks were discussing, but I saw specifically where Trump's people said they are not going to do anything with reference to medical marijuana; that they might deal with states that have legalized marijuana for recreational purposes but they explicitly exempted medical marijuana. You didn't hear that? [LB622]

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DAVID LOPEZ: Senator, I'm not sure they've been that concrete yet. I believe that they're...I believe that the statements from the Department of Justice have not yet fully articulated what the enforcement priorities will be for the new administration. [LB622]

SENATOR CHAMBERS: Well, they don't fully articulate anything up there and you know it like I do. (Laughter) But for our purposes, this is an issue where reasonable people could differ as to the interpretation of what the administration has said so far. Would you agree with that? [LB622]

DAVID LOPEZ: That's fair. [LB622]

SENATOR CHAMBERS: And we, as policymakers, could arrive at a different conclusion from that of the Attorney General's Office. Do you agree with that? [LB622]

DAVID LOPEZ: That is absolutely fair. [LB622]

SENATOR CHAMBERS: Are you coming here to express a political position of the Attorney General's Office? It can't be a legal position because everything is too murky. Let...that's commentary. Might it have been better to come here in a neutral position and then all the theorizing, all the surmising, all the speculating could be done? And there wouldn't even be anything other than just a back-and-forth sharing of opinions. But when you come here against it and you represent the office of the chief law officer in the state who if requested by the Governor to challenge a law we pass, then it's a different matter. And I want it clear for the record, if I can get it clear, did the Attorney General tell you to come and tell us that if we would enact this law, this bill, as it's written, he would request that the Governor instruct him to file an action to have this struck down as being contrary to federal law? [LB622]

DAVID LOPEZ: That was not among my instructions, Senator. [LB622]

SENATOR CHAMBERS: So then what is your opposition based on? Why are you opposing it? [LB622]

DAVID LOPEZ: Even without the Governor initiating or his representative initiating that kind of a process, we still have an obligation to advise the Legislature on whether we see a legal defect in potential legislation. This legislation in particular is akin to legislation that we've challenged in the state of Colorado. So given that, it was determined that we should come and testify in opposition. [LB622]

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SENATOR CHAMBERS: The FDA had made it clear and the Washington, D.C., Appellate Court made it clear that sodium thiopental had no legal use in this country and it could not be imported into this country. The Attorney General was familiar with that. And despite that, he advised the Governor to go ahead and try to import these drugs. I tried to make it as clear to the Attorney General, even ridiculing him, that the head law officer was himself advising the Governor to violate the law; that whereas his office joined a lawsuit against the state of Colorado because they had legalized marijuana for recreational use when it would have been against federal law, he joined that lawsuit against Colorado, another state, but he was going to...he was advising this Governor to violate federal law to bring sodium thiopental into this state. It seems to me he would have been more concerned about what's happening in this state and what he's doing as the Attorney General here in violation of the law. And finally, the U.S. Attorney told him, if you bring it here, you're violating the law. Oh! He knew he was. He has contempt for the law when he has a political position, which was to carry out executions. That's why anything that comes from the Attorney General's Office...notice I'm saying his office, not you. You were instructed to come here. You do what your boss tells you to do or you're out of here. Your boss was advising the Governor and the director of Corrections to violate federal law; entered an agreement, not a contract, with a scumbag in India, and I say that because he had tricked this state before on these drugs; give him \$54,000 without a contract, don't write any way in the agreement for the state to recoup the taxpayers' money if he doesn't produce the drugs, just give him the money. And that's what was done by this Attorney General. So when he sends people here, as he sent you here, then understand that there are three branches of government and we're one of them. And the Attorney General showing his elastic legal ethics is not going to deter us from doing, as policymakers, what we ought to do simply because he, who is willing to violate federal law and advise the Governor to do so, says he doesn't like this. They sent you here as a lamb to the slaughter. The Attorney General ought to come himself. Colonel Rice could have sent a captain. He could have sent a lieutenant to speak for the State Patrol, but he came. The Attorney General dared not come here. He sent you because he's not as knowledgeable about the law as he wants to pretend. He is a political appointee. You are a professional attorney. You are behaving, to the extent that you're allowed to, as an ethical professional trained in the law, trained in the ethics of your profession, doing those things that you know or should know are in compliance with the Code of Professional Responsibility, and that's the kind of person I perceive you to be. [LB622]

DAVID LOPEZ: Thank you, Senator. [LB622]

SENATOR CHAMBERS: The questions that I asked you were for the purpose of putting things on the record, not to disparage you at all. We know you work for the Attorney General. We know that you couldn't tell him, I'm not going down there. But I wish, so that I didn't have to do this to the Attorney General by proxy though an innocent person, he would come himself instead of having his underlings lurking outside the Chamber on issues that he did not speak against during

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a hearing. He could be here today. Then he would at least have credibility when he makes his attacks when a bill is being considered by the Legislature. I sympathize with you. I'm old enough to be your father, maybe your grandfather, and I hate to see young people who've got talent, who can make a place for themselves in the world, being put in a position, because they need a job, to undergo what they really shouldn't have to. But since, my friend, you came here doing your job, I was sent here by the people to do my job. And I can't get at your boss because he hides. He's not here. He said, you be the stalking-horse. That's the horse that goes out there to draw the fire so these other people are safe. And when the stalking-horse is attacked, the others can flee in safety. If I call you SH, that stands for stalking-horse, (inaudible). [LB622]

DAVID LOPEZ: I'll keep that in mind, Senator. [LB622]

SENATOR CHAMBERS: I think I have asked all the questions I want, and it was for the record, not to in any way malign you. And I hope you understand that. [LB622]

DAVID LOPEZ: Thank you, Senator, I do, and I appreciate your questions. [LB622]

SENATOR CHAMBERS: Okay. [LB622]

SENATOR EBKE: Senator Krist. [LB622]

SENATOR KRIST: I'm going to follow along the same mode of question. And you know I'm not a lawyer, but what happened after we passed the repeal of the death penalty still grates in my craw. In a news conference very shortly after that, it was said that the Attorney General and the Governor will continue with the executions. We overrode the veto. The death penalty was gone. They were going to continue with the executions. Now if I bought that drug and I had it or had it delivered here in the state of Nebraska, what would the Attorney General do with me? [LB622]

DAVID LOPEZ: I can't comment on that, Senator. [LB622]

SENATOR KRIST: No, yeah, you can. You're a lawyer. [LB622]

DAVID LOPEZ: Senator, I'm not... [LB622]

SENATOR KRIST: You can tell...you tell me, if I had that drug in my possession in the state of Nebraska, what would you do to me? [LB622]

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DAVID LOPEZ: Senator, I appreciate the question. I understand the point. I'm not... [LB622]

SENATOR KRIST: You refusing to answer the question? [LB622]

DAVID LOPEZ: I'm not trying to evade the question but I'm not briefed on that particular issue and I'm not at liberty to comment on it in this hearing. [LB622]

SENATOR KRIST: Another reason why the Attorney General should be sitting in that chair than anybody else. [LB622]

DAVID LOPEZ: I understand. [LB622]

SENATOR KRIST: Okay. So let me follow the question with another question. Do you think the chief law enforcement officer of this state should have condoned the director of Corrections buying the drug, knowing that it was illegal, the DEA said it was illegal? [LB622]

DAVID LOPEZ: Senator, I appreciate the question. I'm not briefed on that issue and I'm not at liberty to comment on it in this hearing. [LB622]

SENATOR KRIST: Sounds like the Fifth. [LB622]

DAVID LOPEZ: Well,... [LB622]

SENATOR KRIST: Whatever. [LB622]

DAVID LOPEZ: ...I understand your question, Senator. [LB622]

SENATOR KRIST: It just berates...okay, I'm done. [LB622]

SENATOR EBKE: Thanks. Senator Morfeld. And let me just remind everybody that we do want to try to get through the other opponents before too long. [LB622]

SENATOR KRIST: Or not. [LB622]

SENATOR EBKE: Or not. [LB622]

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SENATOR MORFELD: I really enjoyed staying with you until 9:00 p.m. last night. [LB622]

SENATOR EBKE: I know last night was wonderful, but. (Laughter) [LB622]

SENATOR MORFELD: In any case, thank you for coming today, Mr. Lopez. You know, I won't belabor too much about what Senator Krist said, but it is interesting and fascinating to me how I talk to people in my district in particular and they talk about how they get picked up with some of these minor drugs, such as marijuana and other things, and they serve jail time in some cases for it and yet some of the top elected officials of our state can illegally purchase drugs in violation of federal law and not be held accountable as well. In any case, I was doing some research and if we didn't have this arcane public firewall on my computer, I might actually be able to get to the... [LB622]

DAVID LOPEZ: I've struggled with it as well. [LB622]

SENATOR MORFELD: Yeah. Well, I'll have a call into somebody after this I guess. But in any case, I was trying to get the specific congressional language. But are you familiar with, I think it's called, the Rohrabacher-Farr amendment? [LB622]

DAVID LOPEZ: Yes. [LB622]

SENATOR MORFELD: Okay. My understanding, and again, because of the firewall, I couldn't get to the specific authorization language, is that it's been reauthorized until April 28, 2017. [LB622]

DAVID LOPEZ: Uh-huh. [LB622]

SENATOR MORFELD: Is that correct? [LB622]

DAVID LOPEZ: Uh-huh. [LB622]

SENATOR MORFELD: In my understanding of this, and I read the language and it was the renewal of the old language so I'm assuming... [LB622]

DAVID LOPEZ: Right. [LB622]

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SENATOR MORFELD: ...it's the new language, is that it makes it so that the federal government, Department of Justice cannot enforce, you know, illegal possession types of actions against states that have legalized medical marijuana. Is that correct? [LB622]

DAVID LOPEZ: It's an appropriations rider. It passed, I believe, in 2014. What it does is prohibits the Department of Justice, the federal Department of Justice, from expending funds to interfere with the implementation of state laws regarding medical marijuana in, I believe, a specifically delineated set of states where they already have. [LB622]

SENATOR MORFELD: It's actually specifically delineated. It says any other state. [LB622]

DAVID LOPEZ: Okay. And that... [LB622]

SENATOR MORFELD: Based on what the language I'm seeing, and again I... [LB622]

DAVID LOPEZ: I don't have the provision in front of me. [LB622]

SENATOR MORFELD: Okay. [LB622]

DAVID LOPEZ: I'm happy to assume that it would apply to any state that has legalized medical marijuana. [LB622]

SENATOR MORFELD: Okay. [LB622]

DAVID LOPEZ: And...and... [LB622]

SENATOR MORFELD: I'm hearing a "but" though, so what's your (inaudible)... [LB622]

DAVID LOPEZ: No. Well, well, it is effective as far as it goes in terms of preventing federal enforcement to enjoin states...well, it's effective as far as it goes in terms of the appropriations rider. What it doesn't do is repeal marijuana as a Schedule I substance under the Controlled Substances Act. It does not repeal that underlying prohibition. And it's an appropriations rider. It does have to be reauthorized, just as you observed. [LB622]

SENATOR MORFELD: But it is in federal law even if it is an appropriations rider. [LB622]

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DAVID LOPEZ: It's absolutely federal statutory law, yes. [LB622]

SENATOR MORFELD: Okay. So it is in federal statutory law and it's saying the Department of Justice--I just want to make sure we get this for the record--... [LB622]

DAVID LOPEZ: Yeah. [LB622]

SENATOR MORFELD: ...the Department of Justice may not enforce these types of legal actions against people in states that are using...that have authorized medical marijuana. [LB622]

DAVID LOPEZ: It prohibits the Department of Justice from spending funds to interfere with the implementation of state medical marijuana laws... [LB622]

SENATOR MORFELD: Okay. [LB622]

SENATOR LOPEZ: ...as an appropriations rider that has to be reauthorized annually or through a CR or however they do it. [LB622]

SENATOR MORFELD: Okay. I just want to make sure that's on the record. I think that's all I have for now. Thank you, Chairwoman. [LB622]

SENATOR EBKE: Senator Morfeld. Any other questions? Senator Pansing Brooks. [LB622]

SENATOR PANSING BROOKS: That would have been nice to discuss when I'm talking about state preemption, but that relates to that, that the state law (inaudible)... [LB622]

SENATOR CHAMBERS: Excuse me. Could you croak just a little louder? (Laughter) [LB622]

SENATOR EBKE: Pull your microphone down. [LB622]

SENATOR PANSING BROOKS: Okay. Sorry. [LB622]

DAVID LOPEZ: I appreciate the point, Senator. It doesn't modify our position on preemption as it relates to the CSA provision. [LB622]

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SENATOR PANSING BROOKS: It may not but it's a lack of information as I'm discussing something with you on a law you understand quite well. [LB622]

DAVID LOPEZ: It's not...it's not pertinent to the preemption position under the CSA. [LB622]

SENATOR PANSING BROOKS: If I'm asking you a question, it is pertinent, so. [LB622]

DAVID LOPEZ: Okay. [LB622]

SENATOR PANSING BROOKS: Thank you. [LB622]

DAVID LOPEZ: I understand. Thank you, Senator. [LB622]

SENATOR EBKE: Any other questions? Thank you, Mr. Lopez. [LB622]

DAVID LOPEZ: Thank you. [LB622]

SENATOR EBKE: Next opponent. [LB622]

TERRY WAGNER: Good afternoon, Senator Ebke, members of the committee. My name is Terry Wagner. I'm the sheriff of Lancaster County and I'm here on behalf of the Nebraska Sheriffs' Association in opposition of LB622. The opposition from our association stems from a couple of different avenues. Number one, every state that has legalized medicinal marijuana, every state that has recreational marijuana started with medicinal marijuana. And we feel that if medicinal marijuana is legalized it will just be a matter of time before recreational marijuana is legalized as well. Secondly, we talked a lot about or a lot of testimony was given to deadly narcotics that are prescribed. Most of the deaths and overdoses that we have seen have been drugs that have been diverted, either stolen from medicine cabinets or stolen from family members or those kinds of things. I get that they're dangerous and they kill people, but I think that the possibility of diversion of medical marijuana is just as great as the diversion of opiates today and the OxyContin and some of the other opiates that are being heavily abused are diverted from legally prescribed or people are doctor shopping, one of the two. So those things really drive our opposition to medicinal marijuana. And I'm...I only heard one testifier talk about synthetic Delta-9-THC, which is an FDA-approved synthetic THC prescription, and I'm...that's the other opposition is that this is not FDA approved. I think some of the edibles and some of the shatter that we're seeing coming out of Colorado have greatly differing amounts of THC content that really make it pretty dangerous. So for those reasons, we oppose this bill. The rest of the

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reasons I'll not restate from my colleagues. Be glad to answer any questions the committee might have. [LB622]

SENATOR EBKE: Thank you, Sheriff Wagner. Senator Morfeld. [LB622]

SENATOR MORFELD: Thank you for coming today, Sheriff. Would you oppose a state official such as me attempting to obtain a legal substance? [LB622]

TERRY WAGNER: I'm sorry, I don't think... [LB622]

SENATOR MORFELD: Are you opposed to a state official such as me obtaining a legal...illegal substance, it's illegal under federal law? [LB622]

TERRY WAGNER: Yes, I would oppose that. [LB622]

SENATOR MORFELD: So are you opposed to the Governor who did the same thing? [LB622]

TERRY WAGNER: I don't have any knowledge of that. I read about it but I don't know much about the workings of all that. [LB622]

SENATOR MORFELD: Okay. Assume it's true based on everything that's been in the newspaper. [LB622]

TERRY WAGNER: I would say that's...I'm opposed to that. [LB622]

SENATOR MORFELD: You're opposed to that as well. [LB622]

TERRY WAGNER: Yeah. [LB622]

SENATOR MORFELD: The problem that I have here with the law enforcement community is some of the hypocrisy that I see. [LB622]

TERRY WAGNER: Okay. [LB622]

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SENATOR MORFELD: In addition, I just (laugh)...I fail to understand how we can sit here and talk about the opiate. How many people have you seen...how long have you been sheriff? [LB622]

TERRY WAGNER: Twenty-one years. [LB622]

SENATOR MORFELD: Twenty-one years. How many people, in your 21 years, have you seen die from a marijuana overdose? [LB622]

TERRY WAGNER: None. [LB622]

SENATOR MORFELD: How many people have you seen die from opiate overdoses? [LB622]

TERRY WAGNER: A number. [LB622]

SENATOR MORFELD: A number. [LB622]

TERRY WAGNER: I don't have an exact number,... [LB622]

SENATOR MORFELD: Okay. [LB622]

TERRY WAGNER: ...but I've seen a number of people die. [LB622]

SENATOR MORFELD: You know, I'm having a hard time here so (laugh), number one, I feel like we got half the facts from the individual that just testified earlier, and the only reason why I was alerted to that was because I had some law...or, excuse me, now I think a current attorney and a law student, message me something and I had to look it up on-line. And now we have law enforcement officials coming up and talking about how dangerous this is when, in fact, we have numerous studies showing, reputable studies, not just, you know, random on the Internet stuff, reputable studies showing that there are medicinal purposes for this, medicinal purposes, and we have a ton of people in this audience who have had to go to other states, Nebraskans who have had to go to other states to use this. And then you bring up synthetic marijuana, which is a completely different thing than what we're talking about here. We're talking about something that is prescribed by a doctor that is very well laid out on what kind of form it can and can't be used in. I just...I don't understand where you're coming from and I don't appreciate some of the folks that have come in here in opposition who are fairly high-level officials that are either completely

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ignorant as to what's in this bill or deliberately confusing the facts or not stating the facts.
[LB622]

TERRY WAGNER: Okay. Was there a question in that statement? I don't know what you want me to say. [LB622]

SENATOR MORFELD: There...it was more of a statement, but I guess my question for you is...I think I've made my statement. [LB622]

SENATOR EBKE: (Laugh) Okay. [LB622]

SENATOR MORFELD: Thank you, Sheriff. [LB622]

SENATOR EBKE: Thank you. Any other questions? [LB622]

TERRY WAGNER: Thank you. [LB622]

SENATOR EBKE: Thank you, Sheriff. Next opponent. And just a reminder, do we have any other opponents besides...okay, one more. We're running short on time. We got how many, two, one? Make it...we're not going to be able to do that. We're already 15 minutes over on the one-hour time. So we're going to do two more after Doctor here, and then we'll...so combine efforts maybe. [LB622]

TOM WILLIAMS: Okay. [LB622]

SENATOR EBKE: Thank you. [LB622]

TOM WILLIAMS: (Exhibit 58) Good afternoon, Senator Ebke and members of the Judiciary Committee. My name is Dr. Thomas Williams, T-h-o-m-a-s W-i-l-l-i-a-m-s, and I am the Chief Medical Officer and director of the Division of Public Health in the Department of Health and Human Services. I'm here to testify in opposition to LB622. There are many issues surrounding the use of medical marijuana. One of the most prominent is the lack of conclusive research. For example, in 2015 LB390 created a pilot project which provided funding for UNMC and Nebraska Medicine to conduct research using cannabidiol to study the safety and efficacy in treating intractable seizures and treatment-resistant seizures. The outcome of this research will bring valuable information to the discussion, but the research is not yet complete. Also, cannabidiol and all forms of marijuana is not approved by the FDA at this time except for

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research. Because of the lack of conclusive research there is no existing standard for therapeutic dosing, dispensary marijuana not been formally investigated for safety and efficacy and THC content varies as well, no monitoring for impurities or at least consistently is performed, and there is no post-marketing surveillance. There are a number of safety concerns related to the use of medical marijuana. Every drug or chemical substance has interaction with other drugs and has side effects, some of which may be detrimental or even life-threatening. Descriptions about the relationship between marijuana and various psychopathologies are abundant in medical literature. Anxiety, dysphoria, negative emotional responses, depression and suicidal ideation are a few but cause and effect has not been conclusive. It is also unknown about marijuana's desirability and efficacy when the patient is addicted to legal or recreational drugs or alcohol. There are also other factors of this bill that involve public health. Citing recent New England Journal of Medicine and World Health Organization publications, a Clinical Chemistry journal editorial this month notes, "In states with legalized cannabis, traffic safety has ascended the scale of immediate urgency because cannabis associated traffic accidents and fatalities have risen rapidly." Also, unlike alcohol, the blood level of THC associated with impairment is highly individualized and no single blood or oral fluid, quote unquote, legal limit number is currently known and probably will be unknowable. Laboratory testing involving THC and metabolites is very complex and not generally understood. It is an area of personal interest as a pathologist subspecialty boarded in and practicing clinical chemistry. At this time it is unknown if the medical use of marijuana during pregnancy, in pediatrics, in adolescent populations, and in older adults is safe. There does exist at this time an FDA-approved synthetic THC, Marinol, intended for use in AIDS-associated anorexia and cancer-associated nausea and vomiting. Finally, LB622 creates a complex infrastructure of a registry of patients, manufacturers, compassion centers and dispensaries, inspection provisions, formulations of cannabis allowed, and a seven-member compassion board. This infrastructure gives extensive new authority, responsibility, and development for DHHS Public Health, which includes a significant fiscal impact and a very short implementation time. AM496 further complicates the bill, allowing for additional insufficiently researched forms of marijuana. The amendment increases the number of processors and more than quadruples the number of potential sites requiring licensure and inspection, adding to the fiscal note. Thank you for your time and I'm happy to answer any questions. [LB622]

SENATOR EBKE: Thank you, Dr. Williams. Any questions for Dr. Williams? Senator Pansing Brooks. [LB622]

SENATOR PANSING BROOKS: Dr. Williams, do you know how safe brain surgery is? I'm just wondering if there's like a statistic on how...there has to be a high risk that somebody could die in brain surgery. [LB622]

TOM WILLIAMS: It would depend on the type of operation, I believe, Senator. [LB622]

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SENATOR PANSING BROOKS: Okay. If you were going to open the skull and take out a part of the brain, is there a risk that someone could die? [LB622]

TOM WILLIAMS: There is a risk. [LB622]

SENATOR PANSING BROOKS: Is there? [LB622]

TOM WILLIAMS: Always. There's a risk for everything. [LB622]

SENATOR PANSING BROOKS: That's what I thought. So you would prefer that people go through brain surgery rather than having the risk of attempting...having a doctor prescribe medical marijuana to see if, by chance, it might work for a child. You would prefer that they go forward and have brain surgery instead. [LB622]

TOM WILLIAMS: I would prefer that they didn't have brain surgery, of course. [LB622]

SENATOR PANSING BROOKS: Okay, but if they're... [LB622]

TOM WILLIAMS: But there are other medications as well. [LB622]

SENATOR PANSING BROOKS: Okay. So if you had a child with 360 seizures a day, what would you recommend? [LB622]

TOM WILLIAMS: I would...I believe that that is being addressed if the FDA does go ahead and pass a provision. [LB622]

SENATOR PANSING BROOKS: If. [LB622]

TOM WILLIAMS: If it does pass a provision. [LB622]

SENATOR PANSING BROOKS: So you'd be satisfied, if you had a child like that, to just wait, wait and see what happens. [LB622]

TOM WILLIAMS: Senator, I have heard the testimony today and it's very compelling and it's very moving. There also are people who aren't here to testify. One of them is a lady named

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Kristine who lived in Denver, Colorado, and last year was killed by her husband after he ate an edible marijuana product. They are now suing the distributor. [LB622]

SENATOR PANSING BROOKS: Was it laced with something or I mean... [LB622]

TOM WILLIAMS: You know, part of the issue is that marijuana is a very difficult drug to clinically evaluate. THC has a very short half-life in the blood and there are other metabolites that are being looked at that can potentially be useful. But a lot of the lack of conclusions and lack of research that exist are because of those difficulties. And in fact, there was just a paper published in January. This is published by the National Academy of Sciences. It's called "The Health Effects of Cannabis and Cannabinoids: The Current State of Evidence and Recommendations for Research." [LB622]

SENATOR PANSING BROOKS: Okay. [LB622]

TOM WILLIAMS: And in places in here it says, "This lack of evidence-based information on the health effects of cannabis and cannabinoids poses a public health risk." Now they are advocating not whether it's safe to use, not who can use it or anything else. They are advocating that we figure that out. [LB622]

SENATOR PANSING BROOKS: So all the other doctors in all the other states in all the other places that are doing it are just dead wrong. Is that right? [LB622]

TOM WILLIAMS: I didn't say that they were dead wrong but... [LB622]

SENATOR PANSING BROOKS: Okay. Well,... [LB622]

TOM WILLIAMS: ...I did say that the state of research is such that it becomes an unknown quantity in many ways when we actually look at these products. [LB622]

SENATOR PANSING BROOKS: How can we have something that's been around for literally millenniums and say we don't know it: Oh, we have no idea whether this works or not? [LB622]

TOM WILLIAMS: Well,... [LB622]

SENATOR PANSING BROOKS: We have no idea about whether or not somebody is going to be...number one, we have a lot of anecdotal evidence,... [LB622]

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TOM WILLIAMS: We do. [LB622]

SENATOR PANSING BROOKS: ...but number two, it's been studied for a long time. And I would disagree about this hue and cry that this is so dangerous. [LB622]

TOM WILLIAMS: Well, for... [LB622]

SENATOR PANSING BROOKS: And let the doctor decide this. Morphine is dangerous. Opioids are dangerous. [LB622]

TOM WILLIAMS: The difference with what we're talking about now is building an industry with multiple producers and processors across the state, and we have to regulate that. Our division has to regulate that, and the statutes are rather broad, which I think is good, but all of the states are now struggling with how they do it and how to measure the product. The FDA manufactures drugs under what they call good manufacturing practices. Those are extremely regimented manufacturing processes which all drug manufacturers have to abide by. And if they don't abide by them carefully, they can be fined and fined big time. [LB622]

SENATOR PANSING BROOKS: Thank you, Dr. Williams. [LB622]

TOM WILLIAMS: I'm sorry? [LB622]

SENATOR PANSING BROOKS: Thank you very much. I appreciate it. [LB622]

SENATOR EBKE: Okay. [LB622]

SENATOR PANSING BROOKS: Thank you. [LB622]

TOM WILLIAMS: Okay. I'm sorry. [LB622]

SENATOR EBKE: Senator Chambers. [LB622]

SENATOR CHAMBERS: Good afternoon, Doctor. [LB622]

TOM WILLIAMS: Good afternoon, Senator. [LB622]

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SENATOR CHAMBERS: I'm glad to be here and talk to you. Are you glad to be here and talk to me? [LB622]

TOM WILLIAMS: I'm not so sure. (Laughter) [LB622]

SENATOR EBKE: And he's honest. [LB622]

TOM WILLIAMS: But I'm glad I'm not an attorney. (Laugh) [LB622]

SENATOR CHAMBERS: What is...do you have a specialty? [LB622]

TOM WILLIAMS: I do. I'm a pathologist. [LB622]

SENATOR CHAMBERS: A pathologist. And just in general, what would be the difference between a pathologist and a neurosurgeon? [LB622]

TOM WILLIAMS: A lot. [LB622]

SENATOR CHAMBERS: Let me ask you this. Could a pathologist do what a neurosurgeon does? [LB622]

TOM WILLIAMS: Not legally. [LB622]

SENATOR CHAMBERS: Could a neuro...as far as knowledge. As far as knowledge and dexterity in the use of the tools of a neurosurgeon, could a pathologist do what a neurosurgeon does? [LB622]

TOM WILLIAMS: I think a pathologist could be trained to do neurosurgery. [LB622]

SENATOR CHAMBERS: Could a neurosurgeon do what a pathologist does? [LB622]

TOM WILLIAMS: A neurosurgeon could be trained to do pathology. [LB622]

SENATOR CHAMBERS: Which would be the more easy, for the neurosurgeon to function as a pathologist or a pathologist to function as a neurosurgeon? [LB622]

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TOM WILLIAMS: I'm not sure that I know the answer to that question. I think they're both very challenging specialties. [LB622]

SENATOR CHAMBERS: And they are sufficiently different so that to be competent in one would not automatically make a person competent in the other. [LB622]

TOM WILLIAMS: Absolutely correct. [LB622]

SENATOR CHAMBERS: So there are many branches in the practice of medicine, and to the layperson they may seem to overlap. But for those trained, they know that there are sharp lines of demarcation that would prevent one in a certain specialty from acting in the other for reasons other than competition. [LB622]

TOM WILLIAMS: Yes. [LB622]

SENATOR CHAMBERS: Okay. Now how long were you...are you still a practicing pathologist, I meant actively? [LB622]

TOM WILLIAMS: No. [LB622]

SENATOR CHAMBERS: Okay. When was the last time you did something that could be called practicing pathology? [LB622]

TOM WILLIAMS: October 31 of last year. [LB622]

SENATOR CHAMBERS: And where were you working at that time? [LB622]

TOM WILLIAMS: Methodist Hospital in Omaha, Nebraska, and Children's Hospital and several other hospitals in greater Nebraska. [LB622]

SENATOR CHAMBERS: Was most of your work done in Nebraska? [LB622]

TOM WILLIAMS: Mostly, yes. [LB622]

SENATOR CHAMBERS: A good percentage of it? So you would be well known in the medical community in Nebraska. [LB622]

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TOM WILLIAMS: I believe so. [LB622]

SENATOR CHAMBERS: And you have been...have you been confirmed by a committee yet to be the Chief Medical Officer for the state? [LB622]

TOM WILLIAMS: HHS, yes. [LB622]

SENATOR CHAMBERS: You've gone to that hearing? [LB622]

TOM WILLIAMS: That's done but the Legislature has not confirmed yet. [LB622]

SENATOR CHAMBERS: Did the committee advance your name to the Legislature as far as you know? [LB622]

TOM WILLIAMS: I know I've passed the committee, but I don't know the technicalities of what constitutes leaving the committee and being advanced. I'm not legislatively familiar with that. [LB622]

SENATOR CHAMBERS: Tell me why you decided to come here and speak against this bill. [LB622]

TOM WILLIAMS: Because I am against the bill. I think that there are issues involving safety at several levels, which I...and I realize we're short on time but I'm concerned about the production of a medication that's impure, which can have different potencies. We need to divide...define a laboratory means of measuring that. The laboratory field in cannabis testing is rather in its infancy. Labs are spooling up now. I was on the Colorado Web site this morning and they're still having meet a pesticide working group. So I think that that potency is a significant issue. There's evidence that in other states that have done it that traffic fatalities have increased during the medical marijuana era. [LB622]

SENATOR CHAMBERS: Okay. I see why you're against it. You're old enough to be familiar with thalidomide, aren't you? [LB622]

TOM WILLIAMS: I am. [LB622]

SENATOR CHAMBERS: Is it still on the market? [LB622]

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TOM WILLIAMS: I am not sure. I think it has a limited use but I don't know what it is. [LB622]

SENATOR CHAMBERS: But there was a time when thalidomide was not considered to be hazardous. [LB622]

TOM WILLIAMS: That's correct. [LB622]

SENATOR CHAMBERS: Yet all the medical profession, it was being prescribed by doctors. It had been cleared by the FDA. Yet it had tragic consequences... [LB622]

TOM WILLIAMS: It did. [LB622]

SENATOR CHAMBERS: ...to...as we know. [LB622]

TOM WILLIAMS: It did. [LB622]

SENATOR CHAMBERS: So the mere fact that something is cleared by the FDA doesn't mean that it is without hazard. Isn't that true? [LB622]

TOM WILLIAMS: It doesn't mean that it's absolutely free of hazard, but I think in general it can be argued that the FDA does a pretty thorough job in premarket surveillance and testing, and the investigation of medications. [LB622]

SENATOR CHAMBERS: I'm going to ask the question again. Were you trained in the law? [LB622]

TOM WILLIAMS: No. [LB622]

SENATOR CHAMBERS: There's a certain obfuscation in the way you answered... [LB622]

TOM WILLIAMS: Oh. [LB622]

SENATOR CHAMBERS: ...that makes me think you're also a lawyer. [LB622]

TOM WILLIAMS: I don't know, is that a compliment? [LB622]

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SENATOR CHAMBERS: I'm going to try to ask the question as simply as I can. The mere fact that the FDA clears a drug does not ensure that that drug can be used without hazard to the patient. [LB622]

TOM WILLIAMS: That's true. [LB622]

SENATOR CHAMBERS: Okay. Do you ever watch the commercials on television? [LB622]

TOM WILLIAMS: I do. [LB622]

SENATOR CHAMBERS: And you've seen numerous drugs that are on the market that are being advertised and being prescribed by doctors, and one of the side effects will be fatal, sometimes fatal bleeding, fatal heart stoppage, fatal rise in blood pressure. So it's known that a side effect from these drugs can be fatal. But you're not opposed to those drugs being used, are you? [LB622]

TOM WILLIAMS: I think that the side effects of those drugs are partly known because the drugs are pure preparations and they have been carefully evaluated in pre- and postmarket surveillance. [LB622]

SENATOR CHAMBERS: I'm going to ask the question as simply as I can. You're not opposed to those drugs being used, are you,... [LB622]

TOM WILLIAMS: No. [LB622]

SENATOR CHAMBERS: ...or being prescribed? [LB622]

TOM WILLIAMS: No. [LB622]

SENATOR CHAMBERS: Have you ever seen where somebody died as a result of using medical cannabis? [LB622]

TOM WILLIAMS: I just cited an example where somebody died. It so happened that someone who died was not the patient,... [LB622]

SENATOR CHAMBERS: Somebody died how? [LB622]

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TOM WILLIAMS: ...which is one of my concerns about medical cannabis. [LB622]

SENATOR CHAMBERS: They died how? [LB622]

TOM WILLIAMS: This is a story in Denver where a lady called the 911 center because her husband had been consuming a marijuana edible. He was hallucinating and he begged her to shoot him. And by the time the police arrived, he actually had shot her. [LB622]

SENATOR CHAMBERS: That's not from med...that's not from marijuana. [LB622]

SENATOR PANSING BROOKS: I know. [LB622]

SENATOR CHAMBERS: Was marijuana given as the cause of that person's death? [LB622]

TOM WILLIAMS: It is alleged that marijuana is the cause of that person's death, yes. [LB622]

SENATOR PANSING BROOKS: Excuse me. I have some facts about this case. [LB622]

SENATOR CHAMBERS: Say it again. [LB622]

SENATOR PANSING BROOKS: I have some facts. The prosecutors contend that Kirk killed his wife as a result of increasing marital stress, not consuming marijuana. [LB622]

SENATOR EBKE: Okay. [LB622]

SENATOR PANSING BROOKS: He initially pled not guilty but has changed to not guilty by reason of insanity. Toxicology reports showed that the concentration of THC in his blood was less than half that of the legal limit that qualifies as stoned driving. Thank you. [LB622]

TOM WILLIAMS: Which is 5 nanograms for a male in Colorado, which is too high. [LB622]

SENATOR CHAMBERS: So now, Doctor, you and I are having the exchange. One case and you didn't get it right, but that causes you to be against any medical use of marijuana. That is a correct statement of your position, isn't it? [LB622]

TOM WILLIAMS: I...no, it's not. [LB622]

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SENATOR CHAMBERS: Tell me. Correct me. [LB622]

TOM WILLIAMS: Well, for example, HIDTA data from Rocky Mountain data shows from 2009 to 2012 the yearly marijuana-related traffic deaths increased by 48 percent. [LB622]

SENATOR CHAMBERS: From what traffic deaths? [LB622]

TOM WILLIAMS: That was before (inaudible). What? [LB622]

SENATOR CHAMBERS: Traffic deaths? [LB622]

TOM WILLIAMS: Yes. [LB622]

SENATOR CHAMBERS: I'm talking about the use of. If this substance is administered to a child, the child is not going to drive the car. [LB622]

TOM WILLIAMS: Well, there's... [LB622]

SENATOR CHAMBERS: The marijuana didn't cause the... [LB622]

TOM WILLIAMS: ...there is concern in the literature, Senator, respectfully, about the developing pediatric brain with use of marijuana. [LB622]

SENATOR CHAMBERS: Well, you know what? You are a disingenuous person. You might think I'm a fool, but I'm not. [LB622]

TOM WILLIAMS: I'm not thinking that, Senator. [LB622]

SENATOR CHAMBERS: If it's one thing I understand, it's language. And I know the difference between a person being killed because he or she was run over by a car and being killed as the result of ingesting a substance. Now, are these doctors who are currently prescribing...let me not presume anything about you. I got to build a net with a very fine mesh to hold this slippery fish. (Laughter) Now are you aware of your own personal knowledge or from information you've derived from sources you consider credible that there are doctors who prescribe medical cannabis? [LB622]

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TOM WILLIAMS: Yes, there are. [LB622]

SENATOR CHAMBERS: Are they behaving unethically, in your opinion? [LB622]

TOM WILLIAMS: It probably depends which state they're in. [LB622]

SENATOR CHAMBERS: I'm asking you for your opinion, based on the nature of the substance being prescribed. State lines are not anything other than artificial demarcations on a map of geographic area. So it doesn't matter where the state is. I didn't say is it legal or anything like that, but let's put it that way. If it's legal for a doctor to prescribe medical cannabis and this medical cannabis is as unproven as you apparently feel it is--I'm asking for your opinion--are the doctors who prescribe that medical cannabis behaving unethically? [LB622]

TOM WILLIAMS: No. [LB622]

SENATOR CHAMBERS: Are they violating their Hippocratic Oath? [LB622]

TOM WILLIAMS: No. If the medical cannabis is legalized and the product can be made as safely as possible, if you pass this bill, our department will do the most that we can to assure that the product is safe. It's the responsibility of our department to do it. But I do have and we have significant concerns about how difficult that is to do, both operationally and scientifically. [LB622]

SENATOR CHAMBERS: Am I to gather, from what you have said in your obfuscatious manner, that reasonable doctors can disagree as to the efficaciousness of medical marijuana? [LB622]

TOM WILLIAMS: Especially now, given the lack of research we have. [LB622]

SENATOR CHAMBERS: And when it comes to a subject where the conclusion to be drawn is based not just on opinion but study, research, observation, and experience, then you have two doctors who have an equal amount of each of those and yet they disagree, could it be said that each doctor's opinion is as good as the other doctor's opinion? [LB622]

TOM WILLIAMS: Reasonable people can disagree. [LB622]

SENATOR CHAMBERS: So with the state of the medical profession being what you've just explained to this layperson that it is, you would come here and testify against a bill instead of

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coming here to give your opinion and information to the committee. Rather than that, you give a definitive conclusionary assertion that--and I might be misstating so stop me if I am--that there is no proved--most people say proven but it should be proved, I like grammar, too--proved or proven legitimate medical use for what has been called medical cannabis. Is that your opinion? [LB622]

TOM WILLIAMS: My opinion is that the research is significantly lacking. [LB622]

SENATOR CHAMBERS: But there is research. There is research... [LB622]

TOM WILLIAMS: There is research. [LB622]

SENATOR CHAMBERS: ...that would suggest that it is efficacious. Otherwise,... [LB622]

TOM WILLIAMS: I agree. [LB622]

SENATOR CHAMBERS: ...these ethical doctors that you've acknowledged exist would not prescribe it. [LB622]

TOM WILLIAMS: There is research that suggests that and there's research that also presents hazards for doing it. [LB622]

SENATOR CHAMBERS: Did you come here to testify against this bill on your own, or did the Governor suggest it? [LB622]

TOM WILLIAMS: Our opinion and my opinion concurs with that of the Governor. [LB622]

SENATOR CHAMBERS: I didn't understand you. [LB622]

TOM WILLIAMS: My opinion concurs with that of the Governor. [LB622]

SENATOR CHAMBERS: Your opinion concurs with the Governor's? [LB622]

TOM WILLIAMS: Yes. [LB622]

SENATOR CHAMBERS: Did you and the Governor discuss it? [LB622]

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TOM WILLIAMS: No. [LB622]

SENATOR CHAMBERS: Then how do you know your opinion concurs with his? [LB622]

TOM WILLIAMS: Not this bill we didn't discuss, but I do know that that's his opinion. [LB622]

SENATOR CHAMBERS: But without discussing it. [LB622]

TOM WILLIAMS: Everyone knows that's his opinion,... [LB622]

SENATOR CHAMBERS: Everybody? [LB622]

TOM WILLIAMS: ...respectfully submitted. [LB622]

SENATOR CHAMBERS: You are tricky. I'll stop now because... (Laughter) [LB622]

SENATOR EBKE: Thank you. I would let my colleagues know that we have a number of people in the overflow room and we have people that are starting to wait for LB450. So let's attempt to keep moving, get what we need on the record but otherwise... [LB622]

SENATOR CHAMBERS: Message received. [LB622]

SENATOR EBKE: Okay. [LB622]

TOM WILLIAMS: Okay. Thank you. [LB622]

SENATOR EBKE: Thank you, Senator and Dr. Williams. Next opponent. And what we will do, how many people are planning on testifying in a true neutral capacity, true neutral, not sort of proponent neutral or opponent neutral but a true neutral, because I don't want to gyp you out of time but I'm not...I will cut you off if you are obviously a proponent or opponent and you say you're neutral. So we're going to get this one done by 5:00. [LB622]

KURT GOLD: Senator Ebke, honorable members of the Legislature, I'm Kurt Gold, K-u-r-t G-o-l-d. I'm grateful to be here. This is a great day I think in Nebraska. I am a physician. I started training a long time ago in California as a pediatrician and now I am...I'm speaking on invitation from the Nebraska Medical Association and also I'm a member of the American Society of

Addiction Medicine and I am a Big Red Nebraska fan for 20-plus years here. I am board certified now in physical medicine, in rehabilitation, in pain medicine, and addiction medicine. I am speaking against LB622 with amendment, which I consider to be version 2.0, because I'm very much in favor of version 3.0, which I hope to be able to help to write and I hope people are in this room who can help me. The patients that I serve have already failed conventional care. I think those who have already testified here today are an accurate and truthful representation of my patients. And I hope I can convey some information and not try to push the bill one way or the other, as Senator Chambers has suggested. If you survey my patient population, I've done so, I learned, for example, this month nearly half of those who I see have considered suicide before coming into my care, and of those, half have already attempted suicide one or more times. These are desperate and difficult patients and they suffer greatly. And they range from multiple sclerosis to heroin addicts and also physicians who provide care for us. I want to have CBD available for these patients. I am probably the number one prescriber of Marinol in the state of Nebraska, and I use THC because it's effective in my practice for nausea and anxiety. I don't find it as effective for pain. But I do believe CBD has promise. The problem with Marinol, even though it's FDA approved and has appropriate indications, is that it doesn't do for my patients what I would like it to do. I think medical marijuana, which also contains CBD oil, has a better benefit because of the CBD, not the THC. And what I'd like to do is pledge, as a physician, and if I can just report on what I have found. Some of you have seen the survey that I passed off in the last weeks when I learned about this bill. And of the 47 physicians who have responded to my question, are you in favor of medical marijuana in a nonsmoked form, 43 percent have said yes. So a significant minority are already in favor of medical marijuana as is. I want something better. You've already passed and made possible for Nebraska to be studying CBD oil. That drug is not FDA approved but I hope it will be within a couple of years. And I would like to do what I can to help facilitate accessing that drug for my patients and those who so desperately need it. I'd like to take your questions. [LB622]

SENATOR EBKE: Any questions for Dr. Gold? So you're opposition? [LB622]

KURT GOLD: I'm opposition to version 2.0... [LB622]

SENATOR EBKE: Okay. [LB622]

KURT GOLD: ...because I want version 3.0. [LB622]

SENATOR EBKE: Okay. So you want something better. [LB622]

KURT GOLD: Yes. [LB622]

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SENATOR EBKE: Okay. [LB622]

KURT GOLD: The problem is the dose,... [LB622]

SENATOR EBKE: Right. [LB622]

KURT GOLD: ...the dose. [LB622]

SENATOR EBKE: Okay. [LB622]

KURT GOLD: The studies that have been cited, the big studies, the ones that show increased disability and decreased IQ over time, are based on a very, very low dose. And what we have now available to the public is unbridled, very, very high-dose THC. So when I was in high school, Acapulco Gold was, you know, 20 percent THC and that was the richest bud you could buy. Now we've got Colorado over 32 percent. And when you start concentrating the medication--I consider it a medication--when you start concentrating it then there's some issues. So what I'd like to see in version 3.0 is addressing some THC:CBD ratio, some control, some idea, because the side effects that I have seen include nausea, abnormal thinking, paranoia, ataxia, nausea, vomiting, and of course hallucinations. This is what I've seen with just the pure THC that Senator Morfeld referred to, right? I would like to see plant source, because it's less expensive and I think it's doable and I think we have the energy. I think we have the passion here in this room to get it done right the first time. Anything I can do to help with that, I will. [LB622]

SENATOR EBKE: Thank you, Dr. Gold. Senator Pansing Brooks. [LB622]

SENATOR PANSING BROOKS: Well, thank you for coming, Dr. Gold. I think if you would work with Senator Wishart and if you have some way to change this to make it stronger or if you know of some sort of ratio that could initially be used, then I think--she's nodding her head, yes--it would be great to have you work with her. Thank you. [LB622]

KURT GOLD: Of course I'd do that. Also, don't let our friends from the Coast escape without my card, okay? Right? Because I do want to see all those studies. We need the help. I spoke with the investigators at the Med Center this week and we will not have the epilepsy results for a couple of years, we're two years out, but there are other studies on Epidiolex. We've already talked about the Sativex. And Israel has already found the endogenous cannabinoid. So we now know what the endorphin looks like biochemically. [LB622]

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SENATOR EBKE: Thank you, Dr. Gold. Any other questions? Okay. Thanks. We have one more opponent. [LB622]

JONI COVER: I'll talk fast. [LB622]

SENATOR EBKE: Okay. [LB622]

JONI COVER: (Exhibit 59) Good afternoon. My name is Joni Cover, J-o-n-i C-o-v-e-r. I'm here today representing the Nebraska Pharmacists Association in opposition. I did hand out my comments but just kind of highlight a couple of things. You know, I appreciate Senator Wishart bringing this bill. Senator Ebke, I applaud you for LB167 because I think that's a good bill and a good sort of a precedence for our state. Our board and our members have gone back and forth on this issue because, you know, we truly believe that there are patients that have been helped by medical marijuana. However, we have some just fundamental issues with how do we deal with the fact that we're being asked to provide a Schedule I controlled substance? So can we reschedule it? And then what does that mean? So there's some big...some sort of bigger policy discussions. The other thing that we have a big issue with is just the quality of the product. I know that my colleagues in Connecticut, because Connecticut has been down this road for a while, pharmacists are very integral in providing medical marijuana. They've done a lot of research and I have spoken with Senator Wishart about let's look and see what they do because I think that they've got some good models. And one of the things that they've told me is I wish we had done some quality provisions in the bill before we passed it because now we're having to go back and try to put that in place and it's difficult. The other thing I would maybe offer is that we consider reporting if we, you know, move forward with medical marijuana, that we report it to the Prescription Drug Monitoring Program, because it would be good to know which of our patients are taking those substances because they do interact with other medication. So just some things to think about and so for that reason we're here in opposition and I have committed to Senator Wishart that I'm happy to work with her. So if there's any questions, if Senator Ebke will let you ask them, I will try and answer them. (Laugh) [LB622]

SENATOR EBKE: Any questions for Ms. Cover? I guess not. [LB622]

JONI COVER: Thank you. [LB622]

SENATOR EBKE: Thank you. Okay. Do we have any absolutely neutral testimony, you don't care one way or the other? Thank you. Okay, I'm going to read the letters in. [LB622]

SENATOR PANSING BROOKS: How many are going to stay for later? [LB622]

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SENATOR EBKE: (Exhibits 1, 3-7, 9 and 10) Yeah, we will go later. I'm going to read the letters into the record. If you want to stay until all the other hearings are done, we will continue to take testimony. But we need to...we've got several other bills we need to move on to. So the letters of support for LB622: Nora Tonnie, Ellen Rainbolt, Shelley Gillen, Neeley Gentry, the Nebraska Democratic Party Veterans and Military Families Caucus, Shari Lawlor, Ann Wineinger, Samantha Corey. And, Senator Wishart, if you want to make your way up here that would be fine if you want to close. [LB622]

SENATOR WISHART: You know, I'll close when everybody else is done. [LB622]

SENATOR EBKE: (Exhibits 11-13, 15-24, 26-36, 38-46, 48, 50, 54 and 57) Close later? Okay. How many people are planning on staying--maybe we should see--to testify later? Okay, so we'll do that later then. Okay. Dixie Placek; Cecelia Lawless; Sherri Wright; Teresa Moberly; Megan Loudon; Jason Warbelton; Pat Stoakes; Nichole Davis; Rebecca Blake; Jamie Carlson; Marc Bowman; Rebecca Bartlett; Tommy Garrett; Marcia Houchin; Kaleigh Nelsen; Teri Hoefler; David Swarts; Landis Slepicka; Angie Jones; Amy Miller of the ACLU of Nebraska; Sierra Mongeon; Eric Carlson; Carolyn Vigneri-Ho; Zach Mauldin; Ty Geiger; Paula Moon Bohaty; Dylan Murphy; Richard Norton, Jr.; Monty Stoakes; Merissa Didrickson; Katherine Graf; Dexter Schrod of the Students for Sensible Drug Policy, UNL College of Law; Blake Henrickson; Josie Kranz; Michael Chittenden; Tim Mikulicz; and Richard Hedrick. That concludes the letters of support. Okay. So we're going to take a five-minute break so that anybody who wants to step out can, so that our staff can get up and move around, and then we will proceed with LB405. [LB622]

BREAK

SENATOR EBKE: Let's get started again. So we are going to open the hearing on LB405. Senator Baker, there aren't as many people sitting here. Okay. [LB405]

SENATOR BAKER: Are you ready? [LB405]

SENATOR EBKE: Ready. [LB405]

SENATOR BAKER: Chairwoman Ebke, fellow members of the Judiciary Committee, my name is Roy Baker, R-o-y B-a-k-e-r. The subject matter that led to LB405 was brought to me by the State Patrol and it made sense to me, so I agreed to carry the bill. The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby. Nebraska implemented the collection of DNA from individuals convicted of a felony or other specified

offenses with LB190 in 2010. LB405 clarifies specific portions and updates using state statutes. LB405 provides specific language addressing nonqualifying samples and the collection of each sample. LB405 provides consistency with regards to the manner that DNA profiles are collected and processed. And with that, I would close my opening. [LB405]

SENATOR EBKE: Any questions for Senator Baker? I see no questions. First proponent. Go right ahead. [LB405]

JASON LINDER: (Exhibit 2) Chairperson Ebke and members of the Judiciary Committee, good afternoon. My name is Jason, J-a-s-o-n, Linder, L-i-n-d-e-r. I am the forensic lab manager of the biology unit at the Nebraska State Patrol Crime Lab, and I am here today to testify in support of LB405. In 2010, LB190, expanded the DNA database to include the collection of DNA from convicted felons. This DNA database is part of the FBI's Combined DNA Index System, or CODIS. Since Nebraska's participation with CODIS, over 475 criminal case investigations in Nebraska have been aided. In addition to the collection of DNA from all felons, Nebraska law provides for collection of certain misdemeanor offenses. This includes crimes such as stalking, false imprisonment, and violations of the Sex Offender Registration Act. There are significant safety measures within both state and federal law to protect the privacy of those persons who have samples stored within the CODIS database. The database does not contain personal identifying information. The testing does not diagnose or allow for the searching of medical diseases, or the genetic predisposition of diseases. Access to the database is restricted to qualified DNA forensic scientists, and the release of information is tightly regulated and restricted. As the gold standard of identification, DNA is used not only to implicate the guilty, but also to exonerate the innocent. The purpose of LB405 is to clarify portions of the DNA Identification Information Act. Laboratory staff work diligently to ensure that only DNA samples from eligible convicted offenders are accepted into CODIS. However, even with the safeguards that are in place, it is still possible that a nonqualifying convicted offender sample could be entered into the database. These types of errors are rare, but, for example, have occurred as a result of a court order. Often this error will not be discovered until a CODIS hit occurs, resulting in the arrest of the individual. LB405 would clarify that a nonqualifying sample entered in this manner would not invalidate the hit. In addition, LB405 provides language exempting crime lab staff from being criminally liable when a nonqualifying sample is entered into the database. This exemption does not apply if the entry was done as a result of intentional misconduct, gross negligence, or reckless conduct. LB405 allows for the recollection of a sample at no cost to the individual if the original sample does not generate a useable DNA profile. I would like to stress that our laboratory exhausts all options prior to requesting the recollection of a sample. LB405 provides clear language stating the use of the DNA data within CODIS is limited to identification markers for law enforcement use only. While the testing we perform does not generate data that is informative regarding medical disease or genetic predisposition to

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disease, this clearly prohibits any such use. In closing, I would like to thank Senator Baker for bringing this bill forward and I'll be happy to answer any questions you may have. [LB405]

SENATOR EBKE: Thank you, Mr. Linder. Any questions? Senator Pansing Brooks. [LB405]

SENATOR PANSING BROOKS: Thank you for coming, Mr. Linder. I was just wondering, you talked about the markers. What are the different kinds of identification markers you're looking for? [LB405]

JASON LINDER: So we're looking for areas of the DNA that are generally noncoding. And by that I mean they do not code for a specific gene that would have any impact on a physical trait. [LB405]

SENATOR PANSING BROOKS: Can you give me an example of a noncoding marker? [LB405]

JASON LINDER: Well, they're called a locus. And for example, the name of one would be THO1 which is just the scientific name for the region of the DNA that would be tested. I don't know if that's answering your question. But they're short tandem repeat. So they're areas of the DNA that just repeat over and over again and we simply count those repeats. [LB405]

SENATOR PANSING BROOKS: Okay. And how long do you keep those? Did you say that? I'm sorry, I was trying to catch up here. [LB405]

JASON LINDER: The samples that are provided are kept indefinitely. [LB405]

SENATOR PANSING BROOKS: Okay. All right. Thank you very much. [LB405]

SENATOR EBKE: Any other questions? Okay. Thanks for being here today. [LB405]

JASON LINDER: Thank you. [LB405]

SENATOR EBKE: Other proponents? Anybody else testifying in favor of the bill? Okay. Opponents? [LB405]

SPIKE EICKHOLT: Good afternoon, Madam Chair, members of the committee. Spike Eickholt, S-p-i-k-e, last name E-i-c-k-h-o-l-t, appearing on behalf of the Nebraska Criminal Defense

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Attorneys Association opposed to the bill. And I should specify that we're opposed to only one provision of the bill and that is on page 3, Section 3 of the bill. I did meet with Senator Baker and talk with him a couple of times earlier this week and I also did talk to Captain Jahnke at the State Patrol regarding their intent of the bill. Page 3, Section 3, I think that when Mr. Linder just spoke he explained that the reason they want to have this is to protect the State Patrol Crime Lab staff from being prosecuted due to perhaps a mistaken collection or some sort of mistaken sample that is submitted to them. But we are concerned about the breadth or the language of this statute or this proposed provision in this bill, because it looks, if you read it, that any arrest, conviction, sentence, or incarceration is not invalidated due to the mistake or a mistake in a DNA sample, record, or its inclusion into the database. So in other words if...we feel it's too broad: if a DNA sample is mistakenly collected, perhaps if it's collected in the field and law enforcement mislabels a sample. I did write a letter on behalf of the ACLU where I attached a Denver, Colorado, incident that just happened a couple of years ago where a man was jailed for 60 days and charged with sexual assault due to a mistaken DNA collection. If that would happen, presumably this bill would prohibit that arrest or even conviction from being invalidated. So we're concerned about that breadth. In my practice as a criminal defense attorney, I had two instances when a client of mine was originally charged with a felony but later convicted of a lesser misdemeanor offense. The jail in Lancaster County did not realize that when they were doing their jail sentence they were not serving a sentence for the felony charge, the original felony charge. By statute, at least by statute then, the jail is responsible for collecting that DNA sample. So they collected it from my clients even though they had not been convicted of a felony, only a misdemeanor. Now in both instances my clients were able to contact me. We were able to simply destroy the sample before it went to the state lab. That is another concern that we have, that we should not give the state the ability or protection inadvertently to somehow encourage the state to improperly collect or more broadly collect DNA samples if it's not supported by law. And we're also concerned of on page 3, Section 3, regarding the prohibition of persons not criminally liable or also the civil liability as high as it is, because it would not allow for the prosecution civilly or criminally for a simple mistake. And when you're dealing with DNA we feel that this should be...the state should be very careful as it can be in the collection and use of it. [LB405]

SENATOR EBKE: Okay. Any questions for Mr. Eickholt? I see no questions. Thanks for being here today. [LB405]

SPIKE EICKHOLT: Thanks. [LB450]

JOHN LINDSAY: Senator Ebke and members of the committee, for the record, my name is John Lindsay, L-i-n-d-s-a-y, appearing on behalf of the Nebraska Association of Trial Attorneys. Our objection to this bill is limited to page 3, lines 23-25. The rest of the bill we have no position on. But that would provide that no civil liability would arise for carelessness on the part of the law

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enforcement agency. I think Mr. Eickholt actually just gave an example of the type of thing that can happen when that carelessness...when there's no incentive to reduce that type of carelessness. Disruption in someone's life and the example he gave, I think 50 days, spending time in jail, an accusation that's never going to go away all because of a mistake. In that case, the question has to be who is in a better position, first, to prevent that: the person from whose DNA was..or not that person's DNA but mistakenly labeled, who is in a better position--that person or the agency who controls that sample and has the obligation to properly take care of that? We would urge that if the bill is to move forward that those subsection (b) of subsection (2) of Section 3 be deleted. Be happy to answer any questions. [LB405]

SENATOR EBKE: (Exhibit 1) Any questions for Mr. Lindsay? Guess not. Thanks. Any other opponents? Do we have anybody testifying in a neutral capacity? We have one letter for the record from Amy Miller of the ACLU of Nebraska, opposed. Correct? Okay. Senator Baker. [LB405]

SENATOR BAKER: I've had conversations with Mr. Eickholt and Mr. Lindsay and also Mr. Linder and the State Patrol. And if they're...they seem to be believing they can work something out, if that's the case, we'll bring back an amendment. If not, we'll see what happens with it as it is. Thank you. [LB405]

SENATOR EBKE: Great. Thank you, Senator Baker. Any questions? Okay. Thanks. That closes the hearing on LB405. Senator Chambers, we'll open the hearing on LB450. [LB405]

SENATOR CHAMBERS: Madam President...I meant Madam Chair, excuse me... [LB450]

SENATOR EBKE: Hang on just a second. I think there's...I think we've got...are there more people out there? Oh, they're just talking. Okay. Sorry. Senator Chambers. [LB450]

SENATOR CHAMBERS: Madam Chair, I am Ernie Chambers. I represent the 11th Legislative District in Omaha. And to the honorable shreds of the committee remaining, I'm going to handle my bill in the following manner. We've had a somewhat long day and people have waited to testify. So I'm going to simply read my statement of intent, make a few comments, and leave the bulk of the time for those who testify. You all can ask me questions after the hearing or at any point. And I'm going to read the statement of intent so the record will show what my rationale is. But before I do, let me mention this. I have received phone calls from people who will--and when I make it plural, I mean it--that since the last time I offered this bill, they had a loved one who left this world in a very difficult set of circumstances and it was not just difficult for the one leaving but for the ones who were around and couldn't do anything. So for anybody who wants to testify on this bill, even against it, it's the kind of issue which is not easy. And people can have

honest differences of opinion. I will not condemn anybody for disagreeing with what I'm proposing here. And on a subject like this we need as much public discussion as possible. Those who are opposed to the bill, to the very idea, I hope would feel free to put their comments into the record so that we have a complete record of what was said and it will be clear that there is more than one opinion on this subject. But with all due respect to everybody else, the one opinion that is correct is mine. (Laughter) Now here I will go. LB450 is denominated the Patient Choice at End of Life Act and provides that actions taken in compliance with the Act "shall not, for any purpose, constitute suicide, assisted suicide, mercy killing, homicide, or elder abuse." Its sole aim is to allow a person to choose a manner of dying--when death is certain and imminent--that is peaceful, humane, and dignified. When it comes to the most significant and portentous decision in a dying person's life, no third party--including the government--has the right to interfere with, impede, or countermand the wishes of the person. Pointless, needless pain--wholly useless agony--and suffering and the loss of personal dignity is neither good or ennobling, nor does it comport with the concept of human dignity. For the government to withhold from such a person the right and means to carry out his or her final decision is totally unjustified, inexcusable, and unacceptable. For a person so situated to be deprived of the right to face death in the manner of his or her choosing because others find the decision to not set well with them, is not only insensitive and wantonly cruel, it constitutes, in my opinion, moral perversion. This act is "planted thick" with rules, regulations, protections, and safeguards to prevent and severely punish any abuse or violation of its provisions that result in harm to the person seeking to use its provisions. For example, it is a Class III felony for anyone to forge a request for a prescription of life-ending medication for another person or to conceal or destroy the rescission of a request for such medication written by another person. Everything involved in the process must be totally voluntary and uncoerced in any form, fashion, or manner. The patient must express his or her request for life-ending medication, both orally and in writing, and must self-administer the medication without the assistance of any other person. I'm digressing from the statement. This would mean that in some cases the person who might wish it more than anybody else will not be able to make use of this bill because he or she cannot self-administer. A senator with whom I had served, he was a former senator, had ALS, he was in the last stages, he could not speak, he had trouble swallowing. But he could tap out a message. And he tapped out a message to me. He was able to recognize me. And he had made it clear that he knew the bill would not help him because he could not self-administer it. His family was willing to have him go the way he chose. But because the bill requires the self-administering, some people, and I'm repeating that for emphasis, will not be able to take advantage of the provisions of this bill even if they desire to do so. But continuing with that digression, I don't know if this is called palliative care, but some people are given control of medication that is coming intravenously and whenever they think they need it, they can administer it that way even though they couldn't bring it to their mouth. And some are known to have taken themselves out of the world in that fashion. And I wish that I could have crafted a piece of legislation which did not require stratagem or trick in order for its beneficial purposes as viewed by some people to be beneficial will be defeated to

complete this. An attending physician, as well as a consulting physician, must concur and document their belief that the patient is competent to make medical decisions and is acting voluntarily. Otherwise, no prescription can be written. Any reference to "physician-assisted suicide" is inaccurate on both counts. As noted, no person may "assist" a person in the administering of the medication. Suicide is the negation of, or giving up on life. The patient, here, is neither negating nor giving up on life but, rather, choosing the manner of his or her inexorable, inevitable, imminent death. Meaningful life, both as to quality and duration, is not an option. A person in such circumstances is not dealing with abstract speculation, but is in the inescapable embrace of impending death and may be experiencing a type and degree of mental and physical suffering which equates--I have to readjust my specs--to torture and, if inflicted by the state or the U.S. government as punishment for a crime, would be prohibited by the United States and Nebraska Constitutions on the basis of its being both cruel and unusual punishment. The only thing the suffering, dying patient has done to "deserve" such a wantonly cruel fate is to have lived and contracted the condition that is slowly and excruciatingly draining away, not only life, but human dignity and peace of mind. All of those who find the relief provided by the Patient Choice at End of Life Act to be abhorrent, are completely free to reject it for themselves, but they have no right to stand in the way of others seeking the solace they may obtain therefrom. And in keeping with what I said, that's all I will say. But if somebody has a burning question that you want to ask me I will answer. [LB450]

SENATOR EBKE: Senator Baker. [LB450]

SENATOR BAKER: Thank you, Chairwoman Ebke. Senator Chambers, you've probably anticipated what people opposed to this would say. And did you think maybe that one or two things that come to mind that your opponents are going to say...that opponents would say. What's your response to those? [LB450]

SENATOR CHAMBERS: Well, it would depend on what they would say. [LB450]

SENATOR BAKER: Well, I'm assuming you've anticipated. [LB450]

SENATOR CHAMBERS: Well, why don't we let them say it because maybe they haven't...it hasn't occurred to them I might be giving them credit for... [LB450]

SENATOR BAKER: Good point. (Laughter) [LB450]

SENATOR CHAMBERS: ...or blame for something that no one would say. But when I close... [LB450]

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SENATOR BAKER: All right. Fair enough. [LB450]

SENATOR CHAMBERS: ...any question that you might have of me I will answer. [LB450]

SENATOR EBKE: Senator Halloran had a question. [LB450]

SENATOR HALLORAN: Yes, Senator Chambers, I don't know if this is a burning question or not. [LB450]

SENATOR CHAMBERS: Strike "burning," any question. [LB450]

SENATOR HALLORAN: Any question? Okay. [LB450]

SENATOR CHAMBERS: Yes. [LB450]

SENATOR HALLORAN: When death is certain and imminent, can you put some more definition to that, some clarity to that? [LB450]

SENATOR CHAMBERS: In the bill, the first few pages contain definitions and it says that for a person to make use of this bill there must be a diagnosis and a prognosis that the condition is terminal, that the person in the best medical judgment has no more than six months to live, that the person is competent, which means not under a psychological or psychiatric condition or depression that would hinder his or her ability to make a decision knowingly. There can be no coercion, no pressure, but totally voluntary. And the reason I use the term "imminent," when you have six months or less to live, that means it's upon you, you not only can feel death's foul breath, you can smell it. And I say that for a reason. I got a call the first time I brought a bill like this decades ago where the family of a woman wanted me to know that she could not eliminate waste the ordinary way and her breath smelled like feces. People did not want to be around her. They tried to hide the disgust that they felt. But after a while when they had to be around, some just chose not to be around her. So there can be a very degrading, dehumanizing set of circumstances which the person who is suffering wants not to continue suffering. [LB450]

SENATOR HALLORAN: But you'd have to agree, every case is different. Would there be second opinions? [LB450]

SENATOR CHAMBERS: Say it again? There must be a consulting physician who agrees first with the diagnosis and prognosis that it's a fatal...I meant a terminal situation, fewer than six

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months to live, that the person is mentally capable of making the decision. If there are any questions about any aspect of that, the consulting physician must refer that person to a mental health provider who would then take an assessment before any prescription could be written. If it's determined from that assessment that the person is not totally mentally capable of making this decision, then there can be no prescription written. [LB450]

SENATOR HALLORAN: Before it goes on to the mental evaluation, though, is there a second opinion on the physical condition of the individual? I had a friend once that was diagnosed to live six months, no more. Thank God he lived for five more years. [LB450]

SENATOR CHAMBERS: There is no way to do things with precision. That's why it says in the best medical judgment. And then the consulting physician would have to agree. So I would never say this is a bill that has that kind of precision. Nobody knows what might or might not happen. [LB450]

SENATOR HALLORAN: One more question, on the last sentence of your...of the intent, statement of intent, and this might have been printed up before you gave your priority bill. [LB450]

SENATOR CHAMBERS: It was because the bill was exactly the same, this one, as the one done before. And Cindy corrected it but wasn't able to get one to all of you because I didn't want her to walk around the table during that other discussion. [LB450]

SENATOR HALLORAN: It would have been a pleasure to have her walk around the table. She's a lovely lady. [LB450]

SENATOR CHAMBERS: Say it again? [LB450]

SENATOR HALLORAN: It would have been a pleasure to have her walk around the table. She's a lovely lady. [LB450]

SENATOR CHAMBERS: Oh, that's all right. I'll tell her that. She'll be happy. She'll say, at least somebody appreciates me. (Laughter) And I'll say, as opposed to whom? [LB450]

SENATOR HALLORAN: That's all I have. [LB450]

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SENATOR EBKE: So, Senator Chambers, just to clarify, I mean you talk about the consulting opinion, that would be a second opinion, correct? [LB450]

SENATOR CHAMBERS: Yes, yes, a second opinion. [LB450]

SENATOR EBKE: Okay. [LB450]

SENATOR CHAMBERS: But the reason I use consulting, I want to use the words that are in the bill. [LB450]

SENATOR EBKE: Right, right. But that would be the second. Any other questions? [LB450]

SENATOR CHAMBERS: Oh, and one other thing. After the lapse of three months, there could be an attempt by the person to have the prescription written and then they go through the same steps again. So the fact that the person was determined maybe not to be competent for any reason doesn't mean there is not another opportunity. After three months there could be a reevaluation. [LB450]

SENATOR EBKE: Okay. Thank you, Senator Chambers. First proponent. [LB450]

AMY MILLER: (Exhibit 4) Good evening, Senators. My name is Amy Miller; that's A-m-y M-i-l-l-e-r. I'm legal director for the ACLU of Nebraska and we appreciate Senator Chambers for bringing back this legislation. Since we last had the conversation about the past versions of the bill, another state has been added to the states in this country that allow individuals to choose with their physician that most essential private decision about when it is time to end their life. Now, I have provided you in our written testimony with a U.S. Supreme Court case where the ACLU was involved on behalf of a woman in a permanent vegetative state. The case went all the way up to the U.S. Supreme Court and the court did recognize that an individual has a constitutionally protected liberty right to decline further treatment. In that individual case there was not a strong record established about that patient's wishes and so that individual patient did not gain the right that her family was seeking for her. But that's why LB450 is so important. Because it provides such strong documentation requirements, because it requires such a strong record and reporting requirements to safeguard against abuse, we would not end up with future patients like the unfortunate woman who was not able to have her wishes carried out. Now, there has been prospective legislation in some states as well as litigation. The Montana Supreme Court recently held in 2009 that patients also have this right to decline treatment and obtain the necessary assistance to end their lives with dignity. We don't think there needs to be a civil rights lawsuit in Nebraska. Almost all of us who have had an aging parent, family member, friend who

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has faced that very tragic last, painful months of their life, public opinion polls indicate very squarely most people understand this is one of the most essential personal questions that ought to be left up to individuals without government interference. For those reasons we urge you to support LB450 and advance it to General File. [LB450]

SENATOR EBKE: Any questions? Senator Halloran. [LB450]

SENATOR HALLORAN: Does public opinion really matter on such a private issue? [LB450]

AMY MILLER: I think it does because it does reflect the common understanding of those fundamental constitutional rights that we all have. I also think that as with many constitutional issues--the death penalty, marriage equality for same-sex couples--the courts often look to see what is the prevailing sense and what is the shifting opinion. And so that's one reason why you've seen more and more encroachment, for example, on death penalty with limitations as the court has said it is clearly now no one agrees with the fact that we should execute people with developmental disability. So when we have the cultural awareness of the bulk of people recognize this as a personal and private right, that's where courts tend to follow. [LB450]

SENATOR HALLORAN: Is it a shift in the public opinion that the courts look at, or a shift in court's opinion that they look at? [LB450]

AMY MILLER: They usually happen simultaneously. For the death penalty example--there not being a lot of litigation on this specific issue so I'm sorry, I don't mean to evade, but there's not very many cases on this question--the death penalty context, for example, they look to see how many states have abolished the death penalty, how many other nations have abolished the death penalty. So that tends not to be court decisions; that tends to be them looking to see what elected representatives have done, theoretically carrying out the wishes of the people. [LB450]

SENATOR HALLORAN: Okay. I won't express my personal opinion because I think far too much of that's been done today when asking questions. So I will end with that question. [LB450]

SENATOR EBKE: Any other questions? Okay. Thank you, Ms. Miller. [LB450]

AMY MILLER: Thank you. [LB450]

SENATOR EBKE: Next proponent. [LB450]

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JENNA HYDE: (Exhibit 5) Hello, my name is Jenna Hyde, J-e-n-n-a H-y-d-e. I'm an undergraduate social work and gerontology student at the University of Nebraska at Omaha. I am currently in the process of completing a 512 hour practicum with Asera Care Hospice and I've been with the agency since January 9, 2017. I am writing here on behalf of the National Association of Social Workers to inform you that we support LB450, regarding the adoption of the Patient Choice at End of Life Act introduced by Senator Ernie Chambers. There are a couple of reasons why the NASW supports this bill. Social Workers are guided by a code of ethics which includes a core value stating that we must respect the dignity and worth of the person, as well as an ethical responsibility to allow for client self-determination. According to the NASW Code of Ethics, "Social workers promote clients' socially responsible self-determination. Social workers seek to enhance clients' capacity and opportunity to change and to address their own needs." It also states that, "Social workers respect and promote the right of clients to self-determination and assist clients in their efforts to identify and clarify their goals." These ideas would be upheld by allowing individuals with terminal illnesses to determine how their lives end and to be able to die with their dignity intact. I can tell you from my experience in hospice that the dying process can be agonizing, painful, and protracted. If the patient has the desire, I feel that they should be allowed to end their suffering on their own terms. There is no reason for a dying person to wait in pain until their condition becomes too much for their body to handle. This is no way to live and the person's quality of life is diminished. I ask you to stand with the NASW in support of the passage of LB450, so that these patients can experience the dignified and painless death that they deserve. Thank you for your time and your consideration. [LB450]

SENATOR EBKE: Thank you, Ms. Hyde. Any...are there questions? I see none. Thank you. [LB450]

JENNA HYDE: Thank you. [LB450]

SENATOR EBKE: Next proponent. Do we have any other proponents? I see no one standing. Any opponents? [LB450]

MICHAEL CHITTENDEN: (Exhibit 6) Good afternoon, Senators. My name is Michael Chittenden, M-i-c-h-a-e-l C-h-i-t-t-e-n-d-e-n. I'm the executive director for The Arc of Nebraska. We're here today to oppose LB450. While we appreciate the painstaking effort that Senator Chambers went to try to preclude anybody from...with intellectual disability being a part of this bill in the choice to end life, we have concerns because of historical precedent. As you can see in my...the testimony I'm handing out and as part of that you will also see the...as I call it, the mother ship, The Arc of the U.S. also has their issues with the choice of to end life with physicians being involved. We are concerned of a long and documented history of people with IDD being denied basic human rights and medical care. We have a long and documented history

of our constituents being unduly influenced by authority figures such as doctors, healthcare workers, social workers, families, guardians and conservators, and even friends resulting in a true lack of informed consent. The current system of healthcare, particularly as we move towards managed care, provides economic incentives for the rationing of healthcare and could lead to the unfortunate encouragement of physician-assisted suicide. And I know that Senator Chambers doesn't like that term, but a physician would be involved so there is some assistance there. And finally, society has often incorrectly perceived that people with IDD by definition have a poor quality of life. Historically medical professionals have often suggested euthanasia as a viable treatment for an IDD. It's for those reasons and many more that we do not want this LB450 to continue on. The issue really becomes an unintended consequence. Whether we like it or not, people can collude. It may be against the law but murder still happens. People still die. People still break the law. And so a guardian or family member or friend, whatever, could, with proper instruction and people who have a similar like mind, could collude to assist somebody in taking a pill that they really don't want to take. With that, I'm open for any questions. [LB450]

SENATOR EBKE: Any questions? Senator Pansing Brooks. [LB450]

SENATOR PANSING BROOKS: Thank you for coming, Mr. Chittenden. Do you feel like we need to do more to protect the rights of developmental and intellectual and maybe developmentally disabled...? [LB450]

MICHAEL CHITTENDEN: I don't think there's anything that can be done more. The issue becomes once you open the door to the possibility of somebody prescribing a pill and being able to...for that person being able to take it... [LB450]

SENATOR PANSING BROOKS: I know. I'm just looking at section one of your testimony. [LB450]

MICHAEL CHITTENDEN: Yes. [LB450]

SENATOR PANSING BROOKS: You're saying that long history of people being denied basic human rights and medical care. [LB450]

MICHAEL CHITTENDEN: Yes. [LB450]

SENATOR PANSING BROOKS: Do you think we need to do more now? [LB450]

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MICHAEL CHITTENDEN: Right now, could we do more? We can always do more. Yes. The...you know, we don't... [LB450]

SENATOR PANSING BROOKS: Then please approach one of us. [LB450]

MICHAEL CHITTENDEN: Yeah...well, we do. We approach Health and Human Services constantly, that committee, in how we can do better because we are at the whim and will of Legislature for funding for appropriate, you know, lifestyle choices. We're...they're forced into poverty through Medicaid just to have the ability to have a physician involved in their life and so forth. So there's a lot of issues that could come out of that. But for this particular one, yeah, we are worried about coercion. And even though coercion would be illegal as stated in Senator Chambers' bill, doesn't mean it wouldn't happen. [LB450]

SENATOR PANSING BROOKS: Thank you. [LB450]

MICHAEL CHITTENDEN: Thank you. [LB450]

SENATOR EBKE: Thank you, Mr. Chittenden. Any other questions? Okay, thank you. [LB450]

MICHAEL CHITTENDEN: Thank you for your time, Senators, (inaudible). [LB450]

SENATOR EBKE: Next opponent. [LB450]

STEPHEN DORAN: (Exhibit 7) Senators, thank you very much. Hello, my name is Stephen Doran, S-t-e-p-h-e-n, last name Doran, D-o-r-a-n, and I'm grateful for the chance to address you. I'm a practicing neurosurgeon in Omaha. I'm a member of the clinical faculty at the Nebraska Medical Center and I'm representing the Nebraska Medical Association and I'm grateful to you for the chance to be heard today. I echo Senator Chambers' opening comments that this is an issue that people of goodwill can differ on and I think everyone in this room has a shared desire to reduce the suffering of terminally ill patients. I really believe we all have good intentions. And as a neurosurgeon, I've been privileged to accompany patients and families through this journey. But LB450 has some flaws in it and it attempts, despite the reassurances to the contrary, it fails to ensure competence and it fails to eliminate coercion. And I think everyone here would agree that a patient suffering from mental illness may have impaired judgment and may not have the ability to give truly informed consent. For example, an evaluation by a mental health practitioner is only optional under this law and the presence of coercion is ruled out or ruled in by a single private conversation with a patient. In addition, this bill requires competency at the time of the evaluation and receipt of medications, but there is no assessment of competency or lack of

coercion at the time the medicine is actually ingested which could be weeks or months later. You know, one of the primary arguments used to support--and I apologize but I think the term is appropriate--physician-assisted suicide is that there's...it is really no different than withholding or withdrawing care. But this argument is inherently flawed also. You know, our laws have long distinguished on the base of intent. It's the difference between homicide and self-defense. So when a physician withdraws care, he or she is really only intending to respect the patient's wish to no longer receive treatment. But with assisted suicide the physician must necessarily intend that the patient be made dead. The physician freely wills or intends the death of the patient and is aiding and abetting the patient in killing themselves. So why does this matter? It matters because human beings are intrinsically valuable. This is a self-evident truth. The assisted suicide is contrary to our fundamental criminal laws that absolutely forbid a private citizen from intentionally taking a human life. This truth is rooted in secular moral theory, this truth is consistent with the common law, and this truth is at the basis of longstanding medical ethics. The desire to reduce suffering is a good desire, but this law unfortunately is a misguided attempt to achieve this goal. It does not provide adequate protection against coercion. It does not provide for adequate evaluation of mental and emotional competency. It is contrary to the common law that forbids a private citizen from taking a human life. It is contrary to secular moral theology. It is contrary to longstanding medical ethics. And it is contrary to the fundamental truth that human beings are intrinsically valuable. [LB450]

SENATOR EBKE: Thank you, Dr. Doran. Any questions? Senator Halloran. [LB450]

SENATOR HALLORAN: Thank you for your testimony. Bear with me on this a little bit. Is there a difference between getting adequate doses of pain medications that inevitably may hasten death and assisted suicide? Is there difference between...what would the difference be here? [LB450]

STEPHEN DORAN: Yes, that is a very good question and there's a very significant difference between the two. It comes back to the idea of intent. In prescribing medications to relieve pain that might, as a secondary effect, hasten death, the primary intention...the intention is to relieve pain. The death, if it occurs, which oftentimes I think that's an overstated circumstance, is not the desired intent. It's a secondary side effect. However, in physician-assisted suicide, there, by definition, has to be an intent for the person to be dead. It's an intention between the two things. It's radically different. [LB450]

SENATOR HALLORAN: How about the definition of...we kind of discussed that earlier a little bit, but definition of terminal diagnosis, how reliable is that? [LB450]

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STEPHEN DORAN: It is not reliable at all. I mean your own personal example that you gave is very typical. There's very few conditions that can be precisely defined within such narrow parameters as six months or less to live. And if you look at studies, say, example from Oregon, there's examples of patients who receive medications who don't consume them for many months or even a year or more later. So that definition of imminent death, terminal illness is a moving target and really is very difficult to pin down. [LB450]

SENATOR HALLORAN: Thank you for your answers. Appreciate it. [LB450]

STEPHEN DORAN: You're welcome. [LB450]

SENATOR EBKE: Senator Halloran, any other questions? I have a question. I have a husband who is a physician as well and one of the things that oftentimes happens at end of life is the question of what kind of suggestions, subtle or unintentional even, and the respect of, okay, when is the patient actually making their decision. Do you want to address that at all? [LB450]

STEPHEN DORAN: Well, I think that I've seen families and patients where a patient will say things like, oh, I don't want to be a burden and, you know, I just...or I don't want to be in pain or things like that. And those statements are sometimes either misinterpreted or overinterpreted in a way by other family members. And so...and those thoughts, those emotions, those feelings vary as the illness progresses. And I think it's important to realize that and it speaks to the point here, for example, that competency is evaluated initially but not later. How can we assume that the person who, by this bill, was declared competent initially is still competent when they take those medications because those desires, those things change with time? And there's no way we can guard against that. It's like the medication is handed out and it's just lost. It's gone and it can be used in whatever manner the patient or the family chooses to use it. [LB450]

SENATOR EBKE: You would agree, I presume, that these end-of-life questions are tough though for everybody. [LB450]

STEPHEN DORAN: They are extraordinarily tough. I would agree. And I would venture to gather that everyone in this room has been in that situation. And I would consider it a privilege in my job as a neurosurgeon to be able to walk that walk with people. It's one of the most difficult but yet one of the most rewarding parts of my practice. It's never easy, never easy. [LB450]

SENATOR EBKE: Any other questions for Dr. Doran? Thank you for being here today. [LB450]

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STEPHEN DORAN: Thanks. [LB450]

SENATOR EBKE: Thanks. Other opponents. [LB450]

HELEN STANTON CHAPPLE: (Exhibit 8) Good afternoon. My name is Helen Stanton Chapple; that's spelled C-h-a-p-p-l-e. I am a nurse who has worked in hospice and critical care but right now I'm an associate professor at the Center for Health Policy and Ethics at Creighton University, but I'm not speaking for the university. I'm a nurse ethicist and anthropologist. I've specialized in issues of death and dying for 30 years. My book, No Place for Dying: Hospitals and the Ideology of Rescue, was published in 2010. About 16,000-17,000 people die in Nebraska each year. Most of them want to die at home but not very many do. The proponents say that they would like to give individuals a choice without government interference. The problem is that most terminally ill persons don't know that they are in that state and no one else does either until it's too late for them to make these choices, or any choices sometimes. Suffering through bad dying is something that no one who wants and solving bad dying is a complex problem that needs more visibility. But this bill doesn't fix bad dying and it can make it worse. How? By sending a message that the lives of persons who are dying now are less valuable to us and our fellow Nebraskans than those with the privilege of dying later. This bill can only be used by an elite minority of dying people: those who have always been able to speak to a trusted physician, those who are still healthy enough to make their own choices, and those who have always had the luxury to plan and control their own future. So far the state has yet to step up to its duty to all Nebraskans who are approaching the end of their lives. We need a statewide template for out-of-hospital DNR orders. Most states have this. We do not. We need wider access to palliative care. If this bill should come into law, the state would be reinforcing the deepest fears of anyone facing death--that they present an unwanted burden to everyone. Rather than providing the state mechanisms that enabled patients' goals for care to be honored, this bill would tell Nebraskans that dying could not possibly be an important or meaningful time of life and that it's not worth protecting. People with advanced age or chronic illness can exercise real choice but they need several things. They need reassurance their lives are deeply valued by their communities regardless of their state of health. They need realistic, reliable communication from their providers regarding these choices and how they might change based on the patient's changing condition. They need information regarding treatment options and advanced planning that's available to them at every stage, and realistic access to palliative care and hospice regardless of where they live in Nebraska. Thank you for your time. [LB450]

SENATOR EBKE: Thank you, Ms. Stanton Chapple. Any questions? Senator Halloran. [LB450]

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SENATOR HALLORAN: Not a question but just a comment, thank you for what you do. Palliative care and hospice care is so crucial not just for the dying but for the survivors. And I thank you for what you do. [LB450]

HELEN STANTON CHAPPLE: Yes. Thank you. You're welcome. [LB450]

SENATOR EBKE: Any other questions? Okay, thank you for being here today. Next opponent. [LB450]

LLOYD PIERRE, JR.: (Exhibit 9) Good evening, Senators. My name is Lloyd A. Pierre, Jr.; that's L-l-o-y-d, "A" is middle initial, and Pierre, P-i-e-r-r-e, Jr. I'm a family physician from Bellevue, Nebraska. I take care of patients of diverse backgrounds and health statuses from babies in the womb to patients who are about to die. I care for those about to die with wonderful nurses and doctors in a hospice setting as I'm the medical director of one of the hospices in Omaha that actually takes care of patients in the region, in Iowa and Lincoln, for example. I ask you to refer to my testimony from last year on the same bill. My testimony then is still valid from a medical capability standpoint in that palliative care is still viable and the most medically acceptable and reasonable way of caring for patients with terminal illnesses who are suffering physically or psychologically. The ability to provide good palliative care in the state of Nebraska for terminally ill patients still stands. What has changed in the last year that I can even address personally is illustrated in my mother's story. I harken back to the story I started with you last year about my mom. She had fallen in January of 2015 and she broke three of her neck vertebrae and suffered a compression injury to her spinal cord that left her quadriplegic. Recall that she had been paralyzed in her upper and lower extremities due to the fall and she could not breathe on her own and, therefore, had to be intubated. Her first surgeon in Arizona where she had fallen suggested that we "consider her quality of life" and wanted us to consider taking out her tube and let her die prematurely. Despite the shock and depression she was in and, of course, yours truly, she asked for a surgical procedure to decompress her spinal cord. We had to bring her back to Nebraska to get the surgical procedure to decompress her spinal cord. It was a partial success in that it relieved the pressure on the cord but she was still so weak that she became ventilator dependent and complete rehabilitation was just insurmountable, yet she was being cared for at Madonna Rehab right here in Lincoln. At that time, she was on a ventilator machine receiving air via tracheostomy tube. She was very weak in her limbs and so she was mainly confined to her bed and a specialized wheelchair. We would take her on long walks around the Madonna campus and she enjoyed the sun in her face and of course the crisp fall Nebraska air. Well, she lived to enjoy another Thanksgiving since I talked to you guys last about this...sorry, to you senators about this last, and Christmas with us, her family, and her friends. She was happy to see the Cubs win the World Series and the other events of an exciting year. She basically unfortunately came down with a case of pneumonia that just weakened her so much that she just couldn't go on and she passed away quietly and pain free at Madonna Rehab surrounded by a wonderful, caring

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staff of nurses, respiratory therapists, med aides, and one of my daughters who wants to become a nurse. I was unable to be there at the time because we were back and forth between Omaha and Lincoln and it just happened while we were on the way. We were back...on the way back to Lincoln. But you know what, that was the way to die--with the dignity that is inherent in all of us. Were there times that she would feel tired and depressed about her situation? Of course. She was lonely often. We weren't able to be there at all times with her, okay? I was back and forth between Lincoln and so was my family between Lincoln and Omaha. So there were a lot of times when she was lonely and there was nobody in the room with her and she was sad and depressed but...and we saw how she suffered unable to even scratch her own nose. You know, there were times when we would...she would say that she was having a hard time with her state in life. I felt she was really ready to go many times during our visits. She just...you know, just, I'm tired of this. She would say it in Spanish, of course, because she's Hispanic. But she felt no reason to end her life prematurely and no one at that facility asked her to do so either or even considered that. Now let's contrast that reality with...that we just experienced by my little story with a possible future under the law as proposed by this bill. Can you imagine what it would be like for her medical care providers to be obligated by law that would force them to tell her that, you know what, Mrs. Pierre, you can you can ask for somebody to end your life, we can arrange that, especially when she's in a depressed mood and when she's feeling tired, okay, and sometimes confused. That would deprive her of her own dignity and also would violate the dignity of her medical care providers. Why? Because violating the dignity of another entails violation of your own dignity; because physician-assisted suicide involves others in suicide--doctors, pharmacists, nurses, etcetera--it also involves a violation of their dignity. In addition, it would even violate the promise of those who took a Hippocratic Oath to first do no harm, which many of these people have done here in this room. Then to make matters worse, can you imagine, you know, according to your bill it would say when no family members are around if she ever said that she wanted to do something like this, which we know she wouldn't, Mrs. Pierre, are you being coerced to do this? Now this is after you just went over and told her, hey, you can do this; at a very weak moment she would be asked that question. And then suppose she just said, in a weak moment, yes. And then later now you got to come back and ask her this other question: Oh, by the way, is anybody coercing you to do this? Well, of course not. Nobody else has talked to her other than you guys. Seems a little schizophrenic. Seems contradictory. Bottom line is I deal daily with patients who have illnesses that are sometimes associated with increased pain and stress and depression. It causes them to have difficulty thinking clearly and they change their minds often even about the type of medication they want us to use. It can get very complicated, yet it is my dedicated call to seek solutions to their problems by treating the causes of their illnesses. So I work with them to find ways to help them despite all the confusion and the complexity. That's what we're taught to do as medical care providers. We are there to help, not to kill. I'm almost done. In many ways, medicine is an exact science. It is an art that requires, in this context, patience and compassion and well-thought-out principles of palliative care. In other ways, however, it is not an exact science. It is actually hard to treat every patient exactly the

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same way, as you you've heard just now. Therefore, trying to kill a person with medications is not always an exact science. Things can go wrong and a person could still have excruciating pain if this cocktail, for example, fails in some way. And then the pain that they were trying to avoid they would suffer. Finally, what is the purpose of this bill? In its opening paragraph are the following words: "A bill for an act relating to public health and welfare." Like my mother would say: What? Read the whole bill carefully. It is really not a bill for public health and welfare. It really does not serve the common good. I don't have time to get into exactly defining what the common good is, but most of you by...you have gut instincts about that. Its exceptions are narrow and actually ineffective. Please don't let fear, depression, despair, and misinformation or a lack of information about palliative care medicine lead to unnecessary, misguided legislation. Thanks for listening. [LB450]

SENATOR EBKE: Thank you, Dr. Pierre. Any questions? I see none. Thank you. [LB450]

LLOYD PIERRE, JR.: Thanks. [LB450]

SENATOR EBKE: Other opponents. [LB450]

KATRINA BURTON: (Exhibit 10) My name is Katrina Burton, K-a-t-r-i-n-a B-u-r-t-o-n, speaking in opposition. The New York Task Force on Law and Life, a study published in 1994 and cited in Supreme Court cases states that, "Contrary to popular opinion, suicide is not usually a reaction to an acute problem or crisis in one's life or even to a terminal illness. Studies that examine the psychological background of individuals who kill themselves show that 95 percent have a diagnosable mental disorder at the time of death. Depression, accompanied by symptoms of hopelessness and helplessness, is the most prevalent condition among individuals who commit suicide," terminally ill or not. "This is especially true of the elderly..." The state of Oregon, whose Death With Dignity Act is similar to LB450, has collected data on this issue since 1998. According to the Oregon statistics, of the 1,127 patients to date who have ingested the pills and died as a result, 90 percent were over the age of 55. Every person to whom LB450 would apply would be seeking a form of suicide. We can, based on this reputable New York study, assume that in the neighborhood of 95 percent of those patients should be referred for psychiatric evaluations. Yet the Oregon studies show that, of these patients who have ingested to date, only 57 were referred for psychiatric evaluation; that's 5 percent. In the Supreme Court case Washington v. Glucksberg, additional research is cited indicating that many people who request physician-assisted suicide withdraw that request if their depression and pain are treated. The New York Task Force expressed its concern that, because depression is difficult to diagnose, physicians and medical professionals often fail to respond adequately to seriously ill patients' needs. The tables and data provided in your packet support the concern of the task force by showing that, even though the number of people ingesting suicide pills has increased by 830

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percent over the past 19 years, the number of referrals, with one exception, is five or fewer people per year. These people, the terminally ill which include the elderly and individuals suffering mental illness, need our protection. They need our protection from indifference, prejudice, and psychological and financial pressure to end their lives. They need our compassion. They need to know that they are valued members of society and that even in their terminal state they have something to offer. These terminally ill do not need legal permission or assistance in ending their lives. They need counseling, they need our support, and they need our love. The New York task force concluded that "existing legal prohibition on assisted suicide should not be changed." I agree with this conclusion for the sake of my family, my loved ones, and the well-being of the citizens of this great state of Nebraska. I've included something else from the Oregon study and it's a list of reasons that individuals gave for seeking assisted suicide and a list of symptoms of depression. And if you look at those you can see similarities. Thank you. Any questions? [LB450]

SENATOR EBKE: Thank you. Any questions? Okay. Thanks. [LB450]

KATRINA BURTON: Thank you. [LB450]

CULLEN HEROUT: Good afternoon, Senator Ebke, members of the Judiciary Committee. My name is Cullen Herout, C-u-l-l-e-n H-e-r-o-u-t. I'm a licensed mental health practitioner here in the state of Nebraska and I'm here to voice my opposition to LB450, the Patient Choice at End of Life Act. My opposition to this bill stems from my concern over the lack of attention given to mental health problems that a patient may be experiencing. I wish to make three points about this. One, I'm concerned with the wording of the bill, specifically as it relates to the referral to a mental health specialist, particularly in Section 7(3) and in Section 8(3) discussing the role and duties of the mental health specialist. In both cases, the law hinges on an interpretation of the phrase "impaired decisionmaking," a concept that the law does not define and a concept that is left up to the physicians and the mental health specialist to determine. Second point, the recent reports to come out from the state of Oregon and the state of Washington, the annual end-of-year reports required under their respective Death With Dignity Acts, indicate that referrals to mental health specialists are not happening. The most recent report comes from Oregon released just a few weeks ago for the year 2016. Of the 133 persons receiving a prescription for lethal medication, only 5 of them were referred for mental health assessment. The most recent report coming from Washington State released this past August for the year 2015 indicates that of the 213 patients receiving a prescription under their physician-assisted suicide law, only 8 were referred for counseling. That is under 4 percent in both cases. Now these reports are asking us to believe that of the hundreds of people with a terminal illness receiving prescriptions pursuant to these laws, only a dozen of them were suffering from psychological distress that warranted a mental health referral. That rate is six or seven times lower than the general population. The laws indicate that a physician or a consulting physician is under no obligation to refer to a mental

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health specialist if he or she does not see it necessary, an assertion that nobody could check or refute. And the yearly reports demonstrate that the referrals are simply not happening. Allowing physicians to ignore the potential distress being experienced by patients at the end of a terminal illness is one more way that persons with mental illness are mistreated. The yearly reports also-- as I'm sure you know, perhaps I've read--have lists of primary concerns listed by patients receiving prescriptions for end-of-life medications. These lists identify the primary reasons that patients choose to go through with physician-assisted suicide. In both states, the lists are nearly identical. They include concerns such as the loss of autonomy, being unable to enjoy activities of daily living, and fear of being a burden to others, all concerns which seem to me that they could be perhaps of psychological nature. Conversely, inadequate pain control was identified as a concern in only one-quarter to one-third of cases indicating that most persons are seeking physician-assisted suicide for reasons other than the ability to handle physical pain. If this is the case, we would expect to see more referrals for mental health assessments. I stand in opposition to LB450 because this bill, like all the others being proposed around the country, does an extremely poor job of protecting people experiencing psychological distress at the end of their lives. And I see that my light is red. Senator Ebke, with your permission I'd like to make one final point. [LB450]

SENATOR EBKE: Here we go. [LB450]

CULLEN HEROUT: Senator Chambers made...in his opening statement noted that this bill limits people...patients from receiving medications who are only able to do it self-administering, that only patients who can self-administer the medications can receive these prescriptions. The state of Oregon currently, who has long been a pioneer in these end-of-life ideology and legislation, currently has a bill on the docket--it's SB893--which would allow for the expansion of the Death With Dignity Act to include persons other than the patient administering the medication. So it seems clear to me that the advocates and proponents of these end-of-life legislation are not satisfied with simply the self-administering, that they would like to take it further. So just... [LB450]

SENATOR EBKE: Thank you. Any questions? I see none. Thank you. Next opponent. [LB450]

NATE GRASZ: Chairperson Ebke and members of the committee, my name is Nate Grasz, N-a-t-e G-r-a-s-z. I'm the policy director for the Nebraska Family Alliance and I'm here to express our opposition to LB450. We can all agree that end-of-life decisions are incredibly difficult. Currently, these difficult decisions are handled by patients, their families, and their doctors. But legislation like LB450 compromises the doctor-patient relationship and creates more problems than solutions. Alarming, states who adopt physician-assisted suicide have overall higher suicide rates, taxpayers are forced to pay for those who choose assisted suicide, and mental

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health concerns such as feelings of hopelessness and depression are not taken seriously when the lethal drugs are prescribed. Policymakers are often told to look at Oregon as the example of how these laws can work, but each of these concerns are validated by data from Oregon's public health reports. For example, reports from the Oregon Public Health Division show Oregon's overall suicide rate had been comparable to the national average, but by 2007, ten years after assisted suicide was legalized, Oregon's suicide rate was 35 percent above the national average and by 2010 it was 41 percent above. Legalizing assisted suicide also presents a conscience issue for taxpayers. The Assisted Suicide Funding Restriction Act signed by President Clinton in 1997 prohibits the use of federal tax dollars for physician-assisted suicide, instead leaving states to foot the bill for the doctor visits and lethal drugs. Oregon's 2016 summary report showed that nearly 70 percent of patients who had utilized the Death With Dignity Act were on Medicare, Medicaid, or some form of government insurance. California, upon adopting their own version of this bill, budgeted 2.3 million taxpayer dollars for physician-assisted suicide as a result. Should Nebraskans who oppose assisted suicide also be forced to fund it? We can agree that doctors have a responsibility to make sure their patients are not choosing physician-assisted suicide over real treatment due to feelings of hopelessness or depression. However, last year in Oregon, less than 4 percent, just 5 out of 133 patients who died from ingesting a lethal dose of medication, were referred for psychiatric evaluation. We believe that we should respond with true compassion and care, not a prescription for death. Therefore, we respectfully ask the committee to oppose LB450. Thank you. [LB450]

SENATOR EBKE: Thank you, Mr. Grasz. Any questions? Guess not. Thank you. [LB450]

NATE GRASZ: Thank you. [LB450]

SENATOR EBKE: Are there any other opponents? [LB450]

PAIGE EDWARDS: (Exhibit 11) Good afternoon, Judiciary Committee members. My name is Paige Edwards. I'm the vice president and representative of the University of Nebraska-Lincoln's Students for Life. This pro-life organization seeks to defend human dignity of every single life. We ask that the members of the Judiciary Committee do the same by not advancing LB450, adopt the Patient Choice at the End of Life Act. Philosopher Immanuel Kant stated that all rational beings have an intrinsic worth. The proposed bill undermines this worth by endorsing a form of suicide rather than answering with other treatment options. Similar legislation is proven to have detrimental effects in other states. The state of Oregon passed similar measures, and saw an increase in teen suicide rates and suicide rates overall. One study found a definitive correlation between the passing of assisted-suicide legislation and overall suicide rates of a state, an increase by 6 percent. Government-endorsed suicide may desensitize a population to the idea of suicide and even give some sort of stamp of approval. There are a host of reasons assisted and

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prescribed suicide legislation should be denied. Suicide rates increase, it removes incentive to continue research and treatment for late stages of terminal illness, and it removes incentive for research and improvement of palliative care. We should seek to advance our capabilities in relieving pain and in treating terminal illness. We should seek to provide multidisciplinary treatment options, such as counseling and treatment for depression, even in the final stages of life. Every human has dignity no matter what. No illness or disability can take away that dignity from any person. From newborns to the elderly to the sick and dying, they all share human dignity. The advancement of LB450 undermines that innate human dignity. UNL Students for Life asks that the Judiciary Committee looks to other organizations such as the American Medical Association and the American Nurses Association who also strongly oppose assisted suicide and prescribed suicide. We ask that you do not advance this bill. As a society, we can simply accept the concept of society (sic), or we can provide mental and physical treatment or counseling for any ailing person. Thank you for your time and consideration. [LB450]

SENATOR EBKE: Thank you, Ms. Edwards. Any questions? Senator Baker. [LB450]

SENATOR BAKER: Thank you, Chairwoman Ebke. Ms. Edwards, your group is...what's the name of your group again? [LB450]

PAIGE EDWARDS: UNL Students for Life. [LB450]

SENATOR BAKER: Okay. Just out of curiosity, does your group have a position on the death penalty? [LB450]

PAIGE EDWARDS: We, under our governing organization, we cannot have a definitive stance on the death penalty. But a lot of our students in the group are anti-death penalty. [LB450]

SENATOR BAKER: Thank you. [LB450]

SENATOR EBKE: Any other questions? Thanks for being here. [LB450]

PAIGE EDWARDS: Thank you. [LB450]

SENATOR EBKE: Are there any other opponents? And then if there's anybody planning on testifying in the neutral capacity, if you want to move on up and be set. [LB450]

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JEFF KANGER: Thank you, Chairwoman Ebke, members of the committee. My name is Jeff Kanger, K-a-n-g-e-r. I'm the associate director of pro-life and family at the Nebraska Catholic Conference. The Catholic Conference represents the public policy interests of the three bishops in Nebraska. And the NCC is here strongly oppose LB450. As I prepared my marks and considered my testimony, I considered a variety of angles, many of which you've heard: the negative impact this bill could have on the elderly, disabled, and poor; the component of physician mandates; narrow exemptions; pressures placed on a physician and the subsequent witnesses asked to participate; market incentive created for termination; and ultimately, implicit pressures placed on a patient. Considering the multitude of concerns, I step back and kind of asked a question I've heard many of you folks ask at various points in time on bills: What does this bill fix? What are we seeking to do, or what's the underlying question? And as I reflected on that, a topic that came to mind was the question of how we deal with suffering, particularly end-of-life suffering, and it's a tough one and I appreciate the sincerity that all parties testifying today have approached this topic with. And so LB450 is an attempted response to that question and the response is essentially a state approval of doctor-prescribed suicide. But that's the wrong answer for a good question because it's not treating the underlying suffering. It's ending a person's life and those things are different. So is there a better way to treat suffering without simply ending someone's life prematurely? And I'd submit to you that the answer to that question is yes. And another way of framing the effort here is in a profit-driven health system, how do we have patient-driven care? You don't do that by a market pressure where perhaps doctor-prescribed suicide is cheaper, where those that have a well-thought-out concern for their family say, does my continued life place a burden on someone? You're sending a signal by advancing LB450 that the public policy of the state of Nebraska is to reduce the value of life and dignity in a market-driven system. And that's a substantial message with this bill and I ask you to gravely consider that component of the legislation. There's a lot of definitions. There's been a lot of effort put into it. But there's a public policy statement that's being made with advancing this legislation and please respectfully consider that. Thank you. [LB450]

SENATOR EBKE: Thank you. Any questions? Senator Morfeld. [LB450]

SENATOR MORFELD: Thank you for coming today, Mr. Kanger. And while I disagree with you on your guys' position on this bill, I respect where you're coming from. In terms of easing suffering of folks, I wish you guys were here for the medical marijuana legislation earlier. I think that that would ease a lot of suffering for a lot of the people that packed this room. One of the things that I heard from several different people that testified today, and maybe I missed it because I just had to jump out real quick to take a call, is hearing about the intrinsic value of every life. And I've heard the Catholic Conference make that statement several times. I mean is that a correct statement that the Catholic Conference believes in the intrinsic value of every life? [LB450]

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JEFF KANGER: Yes. [LB450]

SENATOR MORFELD: And so one of my questions, and this is an issue that's come up and I'm just trying to find consistency here, would you agree that particularly everyone deserves medical care, whether it be mental health or medical health issues? [LB450]

JEFF KANGER: That everyone deserves medical care? [LB450]

SENATOR MORFELD: Yeah. [LB450]

JEFF KANGER: I think people and having access to medical care, whatever that means, is an important part of life. But even as we're discussing today and the subject matter I want to be careful because the definition of medical care could be interpreted... [LB450]

SENATOR MORFELD: Yeah, and I'm not getting to the medical marijuana issue necessarily. [LB450]

JEFF KANGER: No, no, and I wasn't...I'm sorry, Senator. Go ahead. [LB450]

SENATOR MORFELD: No, you're fine. [LB450]

JEFF KANGER: I just want to be careful what we're defining medical care as. [LB450]

SENATOR MORFELD: Yeah, and I think that to a certain extent you guys have been consistent on that, supporting things like Medicaid expansion and other things in the past. I think my concern is that we're talking about the intrinsic value of everyone's life and that having medical care and ensuring that they receive that medical care and it not end their life necessarily is important, but yet the Catholic Conference has come out in opposition to LGBT folks being able to get psychological care and not then being able to be referred to another psychologist after suffering the indignity of not receiving that care, and has actually held up the psychological regulations...psychologist regulations for the last eight years. And so when we're talking about the intrinsic value of everyone's life and when we're talking about respecting the dignity of everybody's life, I would hope that you take that back and that you would actually live that out with everybody in our community, not just some, whether they're dying or living or just trying to receive psychological help. Thank you. [LB450]

JEFF KANGER: Thanks. [LB450]

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SENATOR EBKE: Any other questions? Thank you for being here today. [LB450]

JEFF KANGER: Thank you. [LB450]

SENATOR EBKE: (Exhibits 1-3) Do we have any other opponents? I don't see anybody standing up. Do we have anybody in the neutral capacity? I see no movement. Senator Chambers, would you like to close? And while you make your way over there I will read letters into the record. We have a letter of support from Anne DeVries and Nancy Meyer and a letter of opposition from Sandy Danek from the Nebraska Right to Life. [LB450]

SENATOR CHAMBERS: Madam Chair, members of the long-suffering committee (laughter), I am here to give my closing. I'm one of those individuals who is not a one-ideaed person. I look at the panorama of human life and the things that people can encounter that might make life so unpleasant it may seem not to be livable. Groups will come here against something like this. But then, as Senator Morfeld touched on, those very groups are the ones who will be opposed to members of the LGBT community receiving certain psychological help. And maybe because they can't receive it they've been made to feel that they're not a part of the human race so they commit suicide. And those groups say good enough for them, good riddance. I'm interested in helping everybody. I'm not judgmental when it comes to things like that. I'm judgmental on myself. I have a very high standard that I have to comply with. I must. And that means I have to do things to help people who I know are my enemy if they have a problem which falls within the area that I as an elected official have pledged to help alleviate. So I in a sense am better than all these people. I don't see them when we're talking about giving assistance to those who need it in every regard. They don't come out and challenge the Governor on things he says and does. If they really care about quality of life, and these doctors especially, why won't they say anything when the Governor, in order to get the funds to give a tax cut of various kinds, says he's going to cut Medicaid reimbursement? There are some physicians who will not accept Medicaid or Medicare patients because they don't get enough pay for it. There are pediatricians who are pointing out that there are many poor people. And for those who don't understand it, pediatrics deals with not just short people like Senator Halloran and myself, but short and young people. And you won't see this group saying, Governor, do not cut the Medicaid reimbursement that pediatricians receive, pediatric dentistry. See, I'm talking about the little ones, not grown people and old people for whom they seem to express so much concern. They don't care even about the little ones. So I'm going to fight tooth and nail to stop the Governor's cuts on Medicaid reimbursement. They don't mention that. If I was like them I would say my intent is to make it possible for people who feel that life is unbearable to find a way to get assistance to ease gently into that good night. But I have to be alert and sensitive to all of those areas where human beings have problems. And anything that would demean a person, cause him or her to feel degraded, debased, subhuman, lacking in common decency, is where I have to labor. That's why I, who have no hint of religion, will try to save the life of those who feel the religious people and other

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righteous ones feel that these people should not live; they're not worth salvaging. Well, let those people who can assume that attitude follow it. But it won't stop me from looking at everything born of a woman as a human being and entitled to human dignity, not just when it's popular, not just when everybody is going to pat you on the back and say wonderful, wonderful. I mean it when I say I'm interested in the last and the lost and the least, the ones who cannot give me anything in exchange, the ones from whom I can receive no help because they can't help themselves. And those are the ones that I'm concerned about and I will be there and do all that I can. I have had conversations with people who wanted to be helped out of this life. I've talked to family members of such people. We had a young man here last year or the year before, whenever the last time was that I brought this bill, who pleaded with people to understand what it means to have a loved one who is dying and wants to leave. She was a beautiful woman; he was a handsome man. And they planned how this would be done and it was strictly up to her how to do it. Some people who have utilized, where it's legal, legislation such as this have had what they call going-away parties--family, friends, all come when that person has decided that he or she is going to leave. And then the person ends his or her life. They should have the right to do it. It's not for me or anybody else, who am hale and hearty, feeling no pain, no pressure, no anxiety, no depression, to say for somebody who is going through agony every single day, who cannot eliminate waste, who will have so-called medical professionals showing that they're impatient with them, that they're tired of them, the doctors who have to go eat lunch in a hurry. I've been at hospitals in emergency areas. And I've seen the looks of contempt on the faces of these people wearing the scrubs, wearing the stethoscopes as they enter these rooms where very sick people are. And it can be a strain to have to be around people suffering all the time, but that's when we should be Academy Award-winning actors and actresses and know that what we're doing is not for us, it's for these people we're supposed to be helping. How hard is it for me if I am filled with contempt to pretend that I care? That's what I say I'm about. That's what I'm paid to do. But instead of that, they'll come out of the woodwork to say I think they ought to suffer so let them suffer and let me decide that they should suffer needless agony, pointless suffering. But let them get a headache and they'll do everything they can to alleviate it. Am I being judgmental? I think so. But I think the proper judgment can be lodged when the circumstances justify it. And I'm sure all these people who profess to be Christians...and Jesus said you know the tree by the fruit it bears. Will a man gather fruit from a thistle? You're not asked to be blind and simpleminded. But here's one of the things that they didn't want to talk about that the doctor must do, and I guess they believe that all physicians are corrupt. On page 6, beginning in line 11, "The attending physician shall confirm that the requesting adult is making an informed decision by discussing with him or her: (a) His or her (medical) diagnosis and prognosis; (b) The potential risks associated with self-administering the aid-in-dying medication to be prescribed; (c) The probable result of self-administering such medication; (d) The possibility that he or she may choose not to obtain the medication, or may obtain the medication but may decide not to self-administer it; and (e) The feasible alternatives or additional treatment opportunities, including, but not limited to, comfort care, hospice care, palliative care, and pain control. (6)(a) The attending physician shall

confirm that the individual's request does not arise from coercion or undue influence by another person by discussing with the individual, outside of the presence of any other person, except for an interpreter, whether or not the qualified individual is feeling coerced or unduly influenced by another person. (b) If an interpreter is present during the confirmation required by subdivision (6)(a) of this section, such interpreter shall not be: (i) Related to the individual by blood, marriage, or adoption; or (ii) Entitled to any portion of the individual's estate upon death of the individual under a will or any operation of law." It requires two witnesses. Neither witness can be entitled to benefit from the death of this person. The attending physician cannot be a witness. The one who may be the operator of a facility where a person is located cannot be a witness. All of these people who are involved must document their participation and what was done and be aware of what the law requires and confirm and certify that those provisions of law were indeed honored. There are severe criminal penalties for people who violate this law, felony-level penalties. So, I am not naive. I know the kind of state Nebraska is. I know the kind of groups who oppose legislation like this and I would feel much more kindly toward them if they were as zealous in supporting legislation to help the ones whose lives they say they care so much about. I go places where elderly people are who have family members who won't come to see them. I've been to places where there will be feces remnants on the rungs of chairs, feces on the table. You all don't know what happens when old people have dementia and what they do as they slowly slip away from this world and no longer are aware of who they are, what they are, what they are doing, and the people paid to take care of them are disgusted and don't indeed take of those who cannot take care of themselves. And all of them are religious. Am I condemning people for disagreeing with me? Of course not. What difference would it make anyway? All I want to make clear from all that I'm saying right here: I shall not be deterred, I shall not be daunted, I shall not be dissuaded from bringing this bill again and again and yet again. And I can only do it three times because I only have three more years left in the Legislature--maybe. I'd be presumptuous to think that I have three years left on this earth and maybe I have don't. Maybe I don't have three minutes. Maybe the next sentence that I give and exhale I will not inhale again. I don't know when I'm going to croak. Nobody does. But I'll tell you what, I will croak doing what it is that I believe, not what somebody else dictates to me, not a church, not a political party, not another person. And I conclude with the mantra from the greatest thinker, the greatest philosopher ever produced by America: Popeye the Sailor Man--I am what I am and that's all that I am. And I will forever, as long as I have control of my mind, be what I am. And if that means that I'm the subject of contempt, of scorn, of hatred, I'm strong. Weak people engage in those kind of emotions and they need somebody on whom to vent. And I am that living, walking, breathing villain in Nebraska that everybody gets so much enjoyment out of hating. And it doesn't hurt me. Their contempt doesn't hurt me at all. And if they would accept advice from one wise enough to understand the nature of hatred by being the recipient of it so often, hate kills the hater and does not harm the one hated in the least, unless you convert that hatred to action that hurts the individual. I'm the one who says we're all brothers and sisters. I'm the one who says we are our brothers' and sisters' keeper. And I'm the one who will put actions behind my words, not these

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people. You won't see them again. And I don't expect to see them again until I bring this bill again. And I say such is life. If you all have any questions you want to put to me now about the bill or any aspect of it or anything said by any of those who are opposed to it, I'll answer those questions. And I know you've been here a long time. So if you don't have questions I'm not offended. [LB450]

SENATOR EBKE: Any questions for Senator Chambers? Senator Halloran. [LB450]

SENATOR HALLORAN: Do you think I'm not a caring person, Senator? [LB450]

SENATOR CHAMBERS: Say it again? [LB450]

SENATOR HALLORAN: Do you think I'm not a caring person, Senator? [LB450]

SENATOR CHAMBERS: I think you're more caring than people would realize and more than you want to let on. I've studied you. I know you better than you know yourself, sonny. [LB450]

SENATOR HALLORAN: Well, it wasn't a smart question to ask, but it was...but a lot a times we're the brunt not just from you but other folks as well, but we're the brunt of broad generalizations about who we are and how caring we are or aren't, and I think just from a personal perspective, personal story. And we all should take care of our own so this is nothing special, but...and I give my wife more credit than myself on this... [LB450]

SENATOR CHAMBERS: And she's due more credit... [LB450]

SENATOR HALLORAN: She is due more credit? [LB450]

SENATOR HALLORAN: ...because she has to put up with you and you're lucky to have a person as good as she is. [LB450]

SENATOR HALLORAN: It's way above my pay scale when I (inaudible)... [LB450]

SENATOR CHAMBERS: Right. [LB450]

SENATOR HALLORAN: But she, some nine years ago...ten years ago my mother had several strokes and the option was to put her in a nursing home or a care facility or have one of the...her children move in with her in her home and keep her in her home. My wife, again I was tagging

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along, but my wife opted to do that with me for nine years. And we watched Mom slowly deteriorate over time. But it was quality time for her and for us and she died gracefully, graciously. There was some pain, but thanks to hospice that pain was managed and she died with a great deal of dignity and...but during those nine years, those were caring, loving years and I'm glad that she was able to not take her own life during that time. [LB450]

SENATOR CHAMBERS: Did she ever express the wish to do so? [LB450]

SENATOR HALLORAN: She did and that passed in a day, maybe two days. [LB450]

SENATOR CHAMBERS: Then suppose she made it clear to you that that's what she wanted. [LB450]

SENATOR HALLORAN: She did on several occasions. [LB450]

SENATOR CHAMBERS: Say it again? [LB450]

SENATOR HALLORAN: She did on several occasions. [LB450]

SENATOR CHAMBERS: Well, there are instances where people can have a condition, and as everybody would acknowledge, they say things that they may not mean. They might mean it then, but they don't always mean it. There's a lady who has dementia; sometimes she knows me, sometimes she doesn't. Sometimes when she sees me she wants to say what bad things she'll do to me. I know she doesn't know me. I know that she's wherever she is that's different from where she had been before. So I discount everything that she says. If she said, if I had a gun I'd blow my brains out, I wouldn't give it to her. If she said, I had that black pill, I would take it, I wouldn't give it to her. This is a person who obviously is not competent to make a medical decision or judgment about what ought to happen. But you let it be somebody who is as clear thinking as I am and I'm speaking to you as I'm speaking now and I say I'm ready to go. There was a guy named David Niven, I believe he's the one. He played the sophisticated individual. He committed suicide and he left a note. He said, I did everything I wanted to do, I enjoyed everything I wanted to enjoy, there's nothing left for me, so I'm leaving. Do you think he was crazy or that he knew what he was saying? [LB450]

SENATOR HALLORAN: No, I don't think he was. But... [LB450]

SENATOR CHAMBERS: So some people... [LB450]

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SENATOR HALLORAN: But quickly back to my story though, my mom had serious enough health conditions that she might have met the criteria in your bill. And she might have on several occasions over those nine years expressed to me, her son, that she wouldn't mind going. And... [LB450]

SENATOR CHAMBERS: But this bill specifically says age and disability are not a basis for utilizing this bill. [LB450]

SENATOR HALLORAN: She had extreme health problems, not just mental, not just dementia. She had some extreme health problems that would have qualified. [LB450]

SENATOR CHAMBERS: Would she? And you brought it up so I'm asking you, do you think the doctor who evaluated her, given all of her circumstances that you describe, would say that she was competent to make a judgment such as that which would entail a prescription that would result in her death? [LB450]

SENATOR HALLORAN: Would the doctor have judged her competent? [LB450]

SENATOR CHAMBERS: Do you think the doctor would have concluded that? Would that have been the prognosis? [LB450]

SENATOR HALLORAN: The doctor was wise enough not to challenge her competency. You don't know my mother. [LB450]

SENATOR CHAMBERS: So then he knew that she was competent. [LB450]

SENATOR HALLORAN: Anyway, I rest my case. I appreciate your testimony. [LB450]

SENATOR CHAMBERS: Okay. [LB450]

SENATOR HALLORAN: Thank you, sir. [LB450]

SENATOR CHAMBERS: But you don't change my mind. [LB450]

SENATOR HALLORAN: Nor you mine. [LB450]

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SENATOR CHAMBERS: I know that. You're like the Rock of Gibraltar. [LB450]

SENATOR EBKE: That's why we have you seated on opposite sides of the table. (Laughter)
[LB450]

SENATOR HALLORAN: Okay. [LB450]

SENATOR CHAMBERS: But there's more understanding, I believe, that passes between him and me than between me and a lot of other people where it seems there is understanding. This man could never get an Academy Award for the best actor but he could get an Academy Award for the best supporting actor. I know him. And one of these days he's going to tell you all that I know him. [LB450]

SENATOR EBKE: Okay. Any other questions? Thank you, Senator Chambers. [LB450]

SENATOR CHAMBERS: Thank you. [LB450]

SENATOR EBKE: That concludes the hearing on LB450. We are going to move to LB435. I am going to introduce that bill and Senator Pansing Brooks will try to...no, maybe she won't preside. She'll try to preside based...and then after that's over with we'll take about a five-minute break and let anybody who wants to come back in to testify, if there's anybody out there on LB622.
[LB450]

SENATOR PANSING BROOKS: Senator Ebke, LB435. [LB435]

SENATOR EBKE: Thank you, Senator Pansing Brooks and members of the Judiciary Committee. My name is Laura Ebke, L-a-u-r-a E-b-k-e. I represent District 32. This hearing is on LB435. I introduced LB435 on behalf of the Department of Corrections. Director Frakes, I believe, will be following and testifying after me and answer any questions. LB435 presents two changes dealing with escape provisions. They are two simple changes, but they are big changes. On line 28 of page 2 of the bill we're changing escape from a Class III felony to a Class IIA felony. On line 3 of page 3 we're changing escape to a felony "when the actor employs force, threat, deadly weapon, or other dangerous instrumentality to effect the escape" from a IIA felony to a Class II felony--I think that's right--in the case on page 2 going from Class III felony to a Class IIA I believe. In the case on page 2 going from Class III to IIA we'd be making the punishment possible by anywhere from 4 up to 20 years and up to a \$25,000 fine. On page 3 the change would provide range of a 1 year minimum to 50 years maximum. Little bit of history on the legislation, this is new legislation this year. This statutory change is requested by the

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Department of Corrections. It's to address recent escapes in 2016. The last time escape was addressed legislatively was in LB605 in 2015 by Senator Mello. There in Section 46 of a wider ranging Corrections bill, escape facilitated through violence was increased from a Class III felony to a Class IIA felony. I understand that some of these changes will elicit some input here. I'd be happy to try to address those questions but, as I said, the Department of Corrections representatives are behind me. There is no priority on this bill. [LB435]

SENATOR PANSING BROOKS: So do these increases in penalties deal with all escapes from juvenile facilities from everywhere? [LB435]

SENATOR EBKE: I think there's...you know, I honestly have to go back. Just Corrections facilities, I believe, so. [LB435]

SENATOR PANSING BROOKS: Okay. You want me to ask that of them? [LB435]

SENATOR EBKE: Ask them, yeah. They'll know. [LB435]

SENATOR PANSING BROOKS: Okay. Thank you, Senator Ebke. Okay. Proponents...or any other questions? Proponents. Welcome, Director Frakes. [LB435]

SCOTT FRAKES: (Exhibit 2) Good afternoon, Senator Pansing Brooks, members of the Judiciary Committee. My name is Scott Frakes, F-r-a-k-e-s. I'm the Director of the Nebraska Department of Correctional Services and I'm here today to provide testimony in support of LB435. Thank you, Senator Ebke, for introducing LB435. LB435 is legislation proposed by the department which increases the penalty for escape when the underlying crime is a felony from a Class III felony--that sentence, I must say that again--increases the penalty for escape when the underlying crime is a felony from a Class III felony which carries a maximum penalty of 4 years imprisonment and 2 years post-release supervision, to a Class IIA felony with a maximum sentence of 20 years. LB435 also increases the penalty for escape if force, threats, or weapons are used to effect the escape from a Class IIA to a Class II felony, which carries a maximum penalty of 50 years. I requested that LB435 be introduced because escape poses a unique security risk to the public and my staff and I have a duty to protect both. Escape previously carried a maximum penalty of 20 years when the underlying crime is a felony, which was then reduced to 4 years as part of LB605 in 2015. I support LB605 and the justice reinvestment and this bill does not change that fact. But I also have concerns that a four-year maximum term is not sufficient deterrent for some individuals. The escape statute covers a wide array of potential conduct, from situations involving a walk away from a work release program to a violent escape from a secure correctional facility. LB435, by increasing the maximum penalty for escape, sends the message that escape is a serious offense but still provides judges the flexibility to determine

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the appropriate sentence within the allowable range of 0 to 20 years. Thank you for the opportunity to testify in support of LB435 today. I will answer questions. [LB435]

SENATOR PANSING BROOKS: Thank you, Director Frakes. Senator Chambers. [LB435]

SENATOR CHAMBERS: Director Frakes, there have been escapes where your employees were implicated, yet I've not seen you bring a bill to charge them with a criminal offense. So why not do something about preventing the escapes instead of trying to punish the one who escapes? And I'm going to give, as I often do, one of my analogies. Aesop was a slave. He was deformed but he was very clever. So this guy out of Rome wanted to find out if Aesop was really as witty as people said. He said to Aesop, if I buy you would you escape? Aesop said, if you had captured a bird and placed that bird in a cage and left the door open, would the bird remain in the cage or would the bird fly away? So if you know that you have a situation where the only thing on a person's mind is to get out of it, isn't there some responsibility on the department to make escape more difficult than it obviously is right now? And you don't have to give an answer that it seems like I might be fishing for. I want your opinion. And let me ask it a different way. Is the department doing everything that you, based on your professional judgment and experience, can be done to prevent these escapes of the type that have occurred recently? [LB435]

SCOTT FRAKES: Yes, I believe we are. But there is always opportunities to learn from every event and opportunities to identify new issues, to learn from other events that happened across corrections systems in America to see if there's something that we haven't seen, haven't paid attention to, a change that would... [LB435]

SENATOR CHAMBERS: And if you learn from other events, what does that mean will happen to your conduct? In order for a person to have learned, what does it mean? How will that learning be reflected in the conduct of the one who learned? [LB435]

SCOTT FRAKES: If the learning is effective, performance should improve. [LB435]

SENATOR CHAMBERS: Right. And they say Einstein said the definition of insanity is to do the same thing over and over and expect a different result. So now I have the \$64 question. A bad incident happened at Tecumseh; it may have been Housing Unit 2. And it was described in various terms by the media, by you, by the Governor. Was anything learned from that incident, no matter how we would characterize it, whether it's called a riot, a disturbance, an incident, or whatever? Was something learned from that situation? [LB435]

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SCOTT FRAKES: So far we've learned that actions taken after the disturbance in May of 2015 improved our ability to contain, isolate, respond to, and resolve the incident, as well as manage the incident. We've also identified things that we still need to do better, especially in terms of communication, communication between various agencies that are involved. In terms of the specific events within that living unit on that day, we still have a criminal investigation and we have an external review that will be...actually two different external reviews that will be occurring, one... [LB435]

SENATOR CHAMBERS: When you say on that day, because a couple of incidents happened out there, which one, that first one or the most recent one? [LB435]

SCOTT FRAKES: March 2, the most recent. [LB435]

SENATOR CHAMBERS: Okay, the most...on that day. Well, let's talk about what happened on this day in the same housing unit. You know what I'm talking about, don't you? [LB435]

SCOTT FRAKES: Are you talking about the assault of staff today? [LB435]

SENATOR CHAMBERS: Say it again? [LB435]

SCOTT FRAKES: The assault of staff that occurred today. [LB435]

SENATOR CHAMBERS: And was at least one and maybe two in need of hospitalization? [LB435]

SCOTT FRAKES: Two went to a community hospital to be assessed. That's all I have at this point. That's all the information I have. They left under their own power. [LB435]

SENATOR CHAMBERS: Was it Housing Unit 2? [LB435]

SCOTT FRAKES: It was. [LB435]

SENATOR CHAMBERS: That's where the most recent uprising or whatever it was called occurred, is that true? [LB435]

SCOTT FRAKES: That is where the event happened on March 2. [LB435]

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SENATOR CHAMBERS: Okay. And this is still the month of March. [LB435]

SCOTT FRAKES: It is. [LB435]

SENATOR CHAMBERS: And another bad incident happened today. [LB435]

SCOTT FRAKES: It did. [LB435]

SENATOR CHAMBERS: Are you going to say in this situation, as you did in the other, that if somebody does something on the outside they blame the person, if it happens on the inside they blame the institution? When the institution is the custodian and the institution controls the situation, the institution has the responsibility to ensure that things don't happen. And they, if they...when I say institution I mean the people in charge. If they have experience they are aware of some of the conditions that can exist that will facilitate outbreaks and would facilitate what happened today. Now what are you going to do, make the inmates the total victims? You don't have to answer that question, but it's the kind of question that's going to be asked. You and the Governor will stand side by side and say this is not failing on the part of the institution. It's not a failing on the part of the director. It's a failing on the part of some bad people you have here. Well, by definition you only have bad people there. But I'm not going to pursue this line of questioning with you. I just want to let you know that there are little birds that talk to me. And usually their information is accurate. And I will say that my patience is wearing thin. I'm just one person in the Legislature. But as you know from the grillings we have participated in, we have dealt with some of these issues for more than two years and we have dealt with them intensively. We have had long hearings, long exchanges, long interrogations of you, a seven-hour interrogation of Governor Heineman, and still the problems persist and grow increasingly severe. And there are people in the Legislature who even want to give you a pass and say, well, don't blame what these officials do because there are problems in prisons all over the country, But I'm concerned about the problems right here. [LB435]

SCOTT FRAKES: As am I. [LB435]

SENATOR CHAMBERS: And this bill is what I call a peewee. It's of no great consequence and I doubt that it will go anywhere so I'm not going to ask any questions on that. And I've used the time that I will probably take on this bill in my pleasant exchange that I had with you. Thank you, Mr. Frakes. [LB435]

SCOTT FRAKES: Thank you. [LB435]

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SENATOR PANSING BROOKS: Thank you, Senator Chambers. Did you have something? Any other...yes, Senator Halloran. [LB435]

SENATOR HALLORAN: Thank you, Madam Chair. Thank you, Warden. How many inmates do we have down at Tecumseh? [LB435]

SCOTT FRAKES: We were at... [LB435]

SENATOR HALLORAN: Approximately, that's fine. [LB435]

SCOTT FRAKES: A little over a thousand. [LB435]

SENATOR HALLORAN: A little over a thousand? [LB435]

SCOTT FRAKES: One thousand and twenty I think today. [LB435]

SENATOR HALLORAN: And they're...I would assume they're housed...I have not unfortunately been down to see the location. I want to do that one of these days. But are the inmates...they're divided into different locations, right? I don't mean cells necessarily but when they're out of their cells they're not all together in one location, right, in one group? [LB435]

SCOTT FRAKES: That's correct. There's three general population living units, two of which have four galleries, 64 beds in each gallery, so 256 beds per living unit. The third living unit is configured slightly differently and has a total of 384 beds divided among six galleries. [LB435]

SENATOR HALLORAN: So roughly the 1,000 is divided into three. [LB435]

SCOTT FRAKES: And then we have a restrictive housing population that takes it to 1,000. [LB435]

SENATOR HALLORAN: Okay. So roughly 250 people are, inmates at any given time are intermingling with each other from...during times of the day, certain times of the day. [LB435]

SCOTT FRAKES: Under normal operations, yes. [LB435]

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SENATOR HALLORAN: Okay. Is there any way that you can think of, either here in Nebraska or any other place in the United States where we incarcerate people, where they have absolute control over every inmate? [LB435]

SCOTT FRAKES: There are locations, which I would include the restrictive housing unit at Tecumseh, where you have the greatest amount of control possible in terms of physical plant security, control of movement, people move in restraints, they do not move freely, under escort. And yet in those type of settings, supermax settings, both staff and inmates have been killed in the history of corrections. So there is no location where you can house someone and be absolutely sure that they won't cause harm to someone else. [LB435]

SENATOR HALLORAN: Okay. I mean your intent is to not have these incidents happen. I mean it's not something willfully that you're...I know some people think that there's some degree of laxness in management. But the fact that you have 250 people in any one of these locations at the prison where people intermingle and there's logically no way to absolutely control everyone's actions or individual actions or interactions between any two of them, it seems like a high probability that you're going to have some problem from occasion...on occasion where inmates decide to do something that causes bodily harm to one another or to the correctional officers, I would assume. I'm not asking for an answer for that, but I mean it just logic...logic would...and a lot of people think I'm not logical. But it seems common sense would suggest that that kind of interaction is going to happen from time to time, even under the best of circumstances. I'm not asking a question there. I'm making a statement and I apologize for that. But thank you for your testimony. [LB435]

SCOTT FRAKES: Thank you. [LB435]

SENATOR PANSING BROOKS: Thank you, Director Frakes. Well, the rumor mill is buzzing around and what I'm hearing is that there were four people assaulted, four officers or staff, and that two were seriously injured, is that correct? [LB435]

SCOTT FRAKES: As far as the extent of the injuries, I still don't know. I know that they went to a community hospital in Tecumseh to receive treatment or assessment. And I haven't gotten a report back to hear the extent of their injuries. They went...I don't know if staff drove them or they went in their own vehicle, but they didn't go by ambulance. [LB435]

SENATOR PANSING BROOKS: And contrary to what Senator Halloran said, I don't think that the general feeling is bad management, but there's a lot of things where your hands are tied--lack of programming, understaffing, all of those issues we've talked about, overcrowding. It's that whole vicious circle. But we all have to do something and get this figured out. We know that

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from testimony in the past that Tecumseh is staffed by the "newbies," those who are most new in corrections. Do you know if those officers who were assaulted were being trained or were some of the newest officers? [LB435]

SCOTT FRAKES: I believe one of them was a newer staff and that was just based on a comment that was made as I was leaving. But other than that, no, I don't know specifically the history. [LB435]

SENATOR PANSING BROOKS: Okay. And do you know when you're going to send a release out, later tonight or...? [LB435]

SCOTT FRAKES: Yes. It's out. [LB435]

SENATOR PANSING BROOKS: Okay. [LB435]

SCOTT FRAKES: Yes. [LB435]

SENATOR PANSING BROOKS: All right. Hopefully we will get that. Going back to the bill at hand, I'd like to know...I'd like to ask that question again. So does this deal with all facilities, juvenile facilities; every facility that you would escape from, these penalty are this kind of increase? [LB435]

SCOTT FRAKES: Anyone that was adjudicated under a felony would be impacted. [LB435]

SENATOR PANSING BROOKS: Okay. [LB435]

SCOTT FRAKES: So not knowing enough about our juvenile system, if there are juveniles held with felony convictions in that system, it would apply. [LB435]

SENATOR PANSING BROOKS: Okay. In light of LB605 it seems like a large leap, especially for some of the juvenile offenders. So do you have a comment on that? [LB435]

SCOTT FRAKES: Well, this is...you would rarely see me come to testify in support of increasing sentences. In many cases I believe that more flexibility and a wider range in terms of the ability to assess and determine when people can go on parole is to all our advantages. In this case and particularly with the lesser offense--lesser doesn't seem like the right word to use when we're still talking about a potential 20-year sentence--but I do believe that this would serve as a

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strong deterrent. Fortunately we do not have many escapes from major, fully secure facilities. But it's less than a year ago that we had one, so. But in terms of providing a strong deterrent to those that are in our work release and our Minimum B community custody level facilities, WEC, I do believe this would serve as a very strong deterrent. And the change that happened in LB605 did take away some of that deterrence. It would be my hope that that combined with other good practices, in terms of classification and security assessments and making sure that people understood the impact of that decision, that we would not increase the use but actually deter the event. [LB435]

SENATOR PANSING BROOKS: Okay. So your intent wasn't necessarily to deal with the juvenile facilities like YRTC and Geneva. [LB435]

SCOTT FRAKES: No, that wasn't my intent. It was focused on adult corrections is what my intent was. [LB435]

SENATOR PANSING BROOKS: Okay. All right. So would you be willing that there be a change of that if there was some agreement at some point? [LB435]

SCOTT FRAKES: Yes. [LB435]

SENATOR PANSING BROOKS: Thank you. Okay, any other questions? Thank you for coming, Director Frakes. [LB435]

SCOTT FRAKES: Thank you. [LB435]

SENATOR PANSING BROOKS: Good luck with everything. Okay. Next proponent. Proponents. [LB435]

SPIKE EICKHOLT: You said proponents? [LB435]

SENATOR PANSING BROOKS: I did. Proponents. [LB435]

SPIKE EICKHOLT: I'm an opponent. [LB435]

SENATOR PANSING BROOKS: Okay. Opponent. [LB435]

SPIKE EICKHOLT: I couldn't hear you. [LB435]

SENATOR PANSING BROOKS: Who can? [LB435]

SPIKE EICKHOLT: (Laugh) Good afternoon. [LB435]

SENATOR CHAMBERS: You don't speak for all, do you? [LB435]

SPIKE EICKHOLT: (Laugh) No. Good evening, Madam Vice Chair and members of the committee. Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t, appearing on behalf of the Nebraska Criminal Defense Attorneys Association in opposition to LB435. I did meet with Senator Ebke earlier this week to explain that we would be opposed. And the reason we are opposed, some of the committee members have sort of already mentioned and I think the Vice Chair already did, and that is because just last biennium the Legislature did adjust the penalties for escape. And that was in LB605 and then again in LB1094. The structuring of the penalties that exist in 28-912 with the Class IV, unless a person is being held on a Class...felony offense, a Class III, and then if a person uses a weapon or uses some sort of dangerous instrument, a Class IIA, those were deliberately chosen by the Legislature. Senator Mello, if I recall, had an amendment to the original LB605 that sort of readjusted a number of different felony offenses and this was one of them and I would encourage the committee...and we have taken this position as an organization really all year when we oppose the increase in penalty. And I would strongly urge the committee to not adjust this penalty by increasing it again not only because it sort of undoes...or begins to unravel what effort was made with LB605, but also becomes a benchmark or a watermark or whatever metaphor I'm trying to use that encourages the increasing in other penalties. Director Frakes explained that the reason that his office and he is proposing an increase of penalties is because there's not a deterrent enough factor. I would again remind the committee that even though there are some crimes that are listed in this statute, there are a whole series of other offenses that the state can and does charge people in escape cases. I can't remember the other inmate's name, but Armon Dixon was charged with escape along with a number of other offenses. Just three or four weeks ago he received a 30- to 60-year sentence consecutive to his 200- or 300-year sentence that he was already serving. If that's the problem inmate, then we would submit that increasing the penalty does not address that, that the escape problem that might be happening at the Department of Corrections is not because this lack of significant penalty. It's because it's symptomatic of something else that's wrong with the Department of Corrections. To answer Senator Pansing Brooks's question, this would apply to juvenile facilities. On page 2, line 7 in existing law, this statute applies to any facility or custody of persons under charge for a conviction of crime or found to be delinquent. That would include jails, the YRTC, the youth detention centers. And if the person is held or detained on a felony charge, as page 2, line 29 indicates, then that would be the enhanced or increased proposed penalty in this bill. So for that additional reason we also oppose the bill. [LB435]

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SENATOR PANSING BROOKS: Does anybody have anything to ask Mr. Eickholt? So theoretically if a juvenile escaped under this bill, he might not have had an attorney under the first part and then they're going to have even more significant penalties, could that be correct? [LB435]

SPIKE EICKHOLT: That could be, if that juvenile is being held on a felony charge... [LB435]

SENATOR PANSING BROOKS: Yeah. [LB435]

SPIKE EICKHOLT: ...before they're even appointed a lawyer or has an opportunity maybe to have seen that lawyer if they try to escape or do escape. [LB435]

SENATOR PANSING BROOKS: Thank you, Mr. Eickholt. [LB435]

SPIKE EICKHOLT: Thank you. [LB435]

SENATOR PANSING BROOKS: (Exhibit 1) I hate to beat the dead horse but...okay, any other opponents? Neutral testimony? Senator Ebke. We have one letter, while you're walking up, of opposition from Amy Miller from the ACLU. [LB435]

SENATOR EBKE: I just want to make one point of clarification because I hadn't actually looked at this today before I came up here. If you take a look at the bill, the bill is...the bill only changes language with respect to the felony. So we just cross out the current felony and add the new. So the language isn't changing anything else, just the penalty. [LB435]

SENATOR PANSING BROOKS: The increase, but one of them is a mandatory minimum. Isn't it? [LB435]

SENATOR EBKE: No, no. [LB435]

SENATOR PANSING BROOKS: IIA to II is a minimum 1 year to 50 I think. [LB435]

SENATOR EBKE: I don't think it's a mandatory minimum. [LB435]

SENATOR PANSING BROOKS: Isn't a Class II... [LB435]

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SENATOR EBKE: I don't think it's a mandatory. [LB435]

BRENT SMOYER: Just IC and ID. [LB435]

SENATOR EBKE: No, it's not a mandatory I don't believe. I think just the IIICs...ICs and... [LB435]

SENATOR PANSING BROOKS: Yeah, Class II, minimum 1 year imprisonment, maximum 50. [LB435]

BRENT SMOYER: That's just a minimum. [LB435]

SENATOR EBKE: But it's just a minimum, not a mandatory minimum. [LB435]

SENATOR PANSING BROOKS: Oh, you're right. Sorry. I'm very sorry. [LB435]

SENATOR EBKE: Okay. So I'm done, unless anybody wants to... [LB435]

SENATOR PANSING BROOKS: Does anybody have a question? [LB435]

SENATOR EBKE: Okay, we'll resume LB622. [LB622]

SENATOR PANSING BROOKS: Okay. [LB622]

SENATOR EBKE: Okay, so if there is any further testimony...are they out there? Okay. I'm going to give people about five minutes to rearrange. Are you here as a proponent? Okay. Let me get people in, okay? Okay, so we're going to resume the testimony on LB622. Proponents. [LB435]

AMY MILLER: (Exhibit 32) Good evening, Senators. My name is Amy Miller; that's A-m-y M-i-l-l-e-r. I'm legal director for the ACLU of Nebraska and we want to sincerely thank Senator Wishart as well as the cosponsors of this legislation on this committee: Senator Ebke, Senator Hansen, Senator Krist, Senator Morfeld, and Senator Pansing Brooks. I know that you've had a very long day but I wanted to provide you with the world's most dry constitutional provisional chatty moment because you were left with the impression by the representative of the Attorney General's Office that there is a federalism problem here and there is absolutely not. So the testimony that I've handed out does quote the not-frequently-discussed Tenth Amendment to the

Bill of Rights. You'll find that on the third page of my testimony. And just so...to remind us all of that least-discussed amendment, "The powers not delegated to the United States by the Constitution, nor prohibited by it," the constitution, "to the States, are reserved to the States respectively, or to the people." That means unless Congress specifically says, Nebraska, thou shall not, thou shall, if you wish. That is why, despite the fact that the Attorney General was sort of skirting around it making it sound as if...that our hands are tied and we can't do anything, that's why the majority of states have done something, because there is no federal prohibition on the states regulating marijuana in this matter. Now you heard testimony regarding the federal law, the Controlled Substances Act, also known as the CSA. When that was first passed in 1970, Congress knew what the situation was across the states. Congress knew that states including Nebraska treated marijuana as simply an infraction. Congress could have written into the CSA: And by the way, any state laws that dip below these federal penalties are unconstitutional, improper, and we now order that all marijuana be punished accordingly. They did not. That's why legal scholar after legal scholar has said if one of these cases is finally taken up by the U.S. Supreme Court, there will be an absolute protection for the states under the Tenth Amendment. If you look at footnote number 4, I have also provided you with the fact that the U.S. Supreme Court has heard the siren call that the Attorney General was suggesting to you. And the Supreme Court has repeatedly denied and refused to take cert. They don't think the federal government has grounds to stop states like Nebraska from passing laws of this sort. Finally, I have given you a handout. The reason this is so essential is that Nebraska is third in the country for most marijuana possession arrests per capita. We're only behind New York State and Washington, D.C. We see this as a key issue not only to protect patients' right to make choices with their doctors, but also to undo the harms that incarcerating people with medical conditions may result in. Thank you so much for hanging in there for a very long evening. I am sorry that I have taken additional time but I am happy to answer any questions about this dry federalism question if you have any. [LB622]

SENATOR EBKE: Thank you, Ms. Miller. Does anybody have any...Senator Morfeld. [LB622]

SENATOR MORFELD: I got the face, so. [LB622]

SENATOR EBKE: I'm next. [LB622]

SENATOR MORFELD: No, I'll ask after. [LB622]

SENATOR EBKE: No, go ahead. I just...I was going to be next. [LB622]

SENATOR MORFELD: Amy and I can text, e-mail, chat. [LB622]

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SENATOR EBKE: No, go ahead. Go for it because I'm going to ask a question too. [LB622]

SENATOR MORFELD: Oh, do you...oh, okay, got that. (Laughter) Just trying to lighten things up a little bit. Earlier when I talked to Mr. Lopez from the Attorney General's Office, I noted the amendment--I can't remember the name of it--that was put into an appropriations bill. I deal mostly with state law, so I have to admit on the federal level maybe I don't know the difference between a law that is enacted in appropriations bill and law that's enacted outside of appropriations bill. A law that's enacted inside an appropriations bill still has the force of federal law, correct? [LB622]

AMY MILLER: It does and you're right. Since 2014, Congress has officially ended all federal prosecutions for state law protections involving medical marijuana. So Congress would have to affirmatively remove that protection. I know Mr. Lopez referred to the fact like, well, those appropriations bills come up periodically. Yes, they do and it is still the current state of federal law that that is not happening, that that there is no funding at all for the feds to come swooping in and, say, prosecute someone in Nebraska if we were to offer these necessary protections to someone who was ill here. [LB622]

SENATOR MORFELD: Okay. Thank you for the clarification. [LB622]

SENATOR EBKE: Do you have a question? [LB622]

SENATOR PANSING BROOKS: Yeah. Thank you for these statistics and for clarifying that. I'm really pleased that you did that. Thank you. [LB622]

AMY MILLER: You're welcome, Senator. [LB622]

SENATOR EBKE: Ms. Miller, you have mentioned one of my favorite things to talk about. I love the Tenth Amendment--that's like my favorite--and the notion of federalism. Do you think that with the state binding itself to the decision of the DEA and the FDA and Controlled Substances Act, are we as states somehow ceding our rightful authority to the federal government? [LB622]

AMY MILLER: At a larger philosophical level, yes, because I think... [LB622]

SENATOR EBKE: Because it's late and we might as well talk philosophy. [LB622]

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AMY MILLER: Right. I think at a large philosophical level, yes. I think states have been very submissive to the federal government on these issues for too long. But the states are the ones that bear the burden then when our prisons are overcrowded at 200-300 percent because we're prosecuting people for drugs. From a legal perspective, though, allow me to say that you have not affirmatively waived your rights to make the decision to reverse course and to start allowing medical marijuana or medical cannabis in Nebraska. [LB622]

SENATOR EBKE: Wonderful. Thank you. Any other questions? Thank you for being here tonight. [LB622]

AMY MILLER: Thank you. [LB622]

SENATOR EBKE: I promise not to get too philosophical. [LB622]

BRENDA KENKEL: (Exhibit 61) Hello. My name is Brenda Kenkel, B-r-e-n-d-a K-e-n-k-e-l, and I am in favor of LB622 because my family has high medical needs that medical cannabis has been proven to help. My husband and two of my children have epilepsy. My son Korben is 9 and on his last EEG he was having absence seizures every 10 to 15 seconds throughout the day. Those would last up to three seconds. Again, every 10 to 15 seconds he was having some type of a seizure. He started off only on one medication, however, the seizures increased each day so they added Lamictal, which...and then another. They just added Depakote. The doctor is reluctant to prescribe this as a combination, as these three medications are not conducive to long-term care. Korben's neurologist says that it's the last resort medicine. This is all due to the side effects being so severe. Later I'll talk about the side effects. Now my husband has had seizures since he was three years old and he has been on phenobarbital, Depakine, and very harsh drugs also as a child and into adulthood. I also wanted to talk about my stepdaughter Caly who is 12 and she was having seizures all but 30 minutes in a day. And that 30 minutes is not all together; it's spread out throughout the 24 hours. She is now taking Depakote and Lamictal and we also spent \$200,000 on a surgery to put in a vagal nerve stimulator, which is basically a pacemaker for the brain. She has an electrical charge sent to her brain every five minutes to try and interpret the seizure activity. There was hope that she would be able to decrease those harsh drugs she is on but that has not happened. The vagal nerve stimulator also limits the personal...the person physically. They are not allowed to play sports or get into rough sporting matches. So that probably would not work for my son that's nine. Along with epilepsy, she also has reactive attachment disorder and PANDAS. These are two disorders that attack the brain also and...such things as oppositional defiant disorder, obsessive compulsive disorder, extreme behavior issues, fight or flight syndrome, posttraumatic stress disorder, extreme anxiety, all that have been treated with antipsychotics and antianxiety medicines to no avail. So looking at the side effects of Depakote, there's 20. Several of them are life threatening such as ruining their liver, suicidal

thoughts, memory loss, loss of consciousness, heart rate increase. There's 15 for Lamictal; 5 for Zarontin. For medical cannabis, there's only four and none of them are life threatening. Common uses of medical cannabis are...we talked about earlier. So Caly would be able to be helped with posttraumatic stress disorder, anxiety, and her seizures with a medicine that has four side effects compared to her combination of drugs has 35 side effects which she has demonstrated most of the years that she has taken...as she has taken these medications. I also wanted to talk about seeing the veterans earlier, the PTSD and how CBD oil can help with PTSD. Not only veterans experience PTSD but our children that have been abused or reactive attachment disorder. And people that I've talked to around the United States that have other kids with reactive attachment disorder have found that their children are more laid back and not as angry and it helps their PTSD. I also...we have all seen how the oils work on-line. And if you can...if you have not seen such videos, go to YouTube and type in cannabis epilepsy. In the case of helping seizures, grand mals do cause brain damage every time they occur. They can even cause death. It is called SUDEP, sudden unexplained death in epilepsy. I have several friends that have children that have grand mals to the point of needing an ambulance one to two times a week, sometimes five times a week. This parent...these parents have tried every possible treatment allowed to them legally in the state of Nebraska. They have had no luck and plan to move to Colorado or Iowa as now that they...their legislation have offered another location to get treatment. I know if my children get to the point where medication is not working, I will not hesitate to move to those states. [LB622]

SENATOR EBKE: Thanks. You've had the red light for quite a while. [LB622]

BRENDA KENKEL: Okay. [LB622]

SENATOR EBKE: You've got everything written, right? [LB622]

BRENDA KENKEL: Yep. [LB622]

SENATOR EBKE: And you've got links for us. So we appreciate it. We've got a lot of people who have been here for a long time. So thank you for being here. Anybody have any questions? Thanks for being here tonight. Next proponent. Do we have any opponent testimony? Everybody is a proponent? Or any neutral? And we have another letter for the record, okay. [LB622]

SENATOR PANSING BROOKS: How many more are there? [LB622]

SENATOR EBKE: Just the people in here. Three. Okay, go right ahead. [LB622]

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MARC BOWMAN: (Exhibit 22) Thank you, Senators. My name is Marc, M-a-r-c, Bowman, B-o-w-m-a-n. I come here in support today for my daughter Isabel. That's a picture of her. She is 13 years old, soon to be 14. She started having seizures when she was six days old. We are on medication that she's stable, but she's not developing cognitively. She's about the age of a one-year-old. I want to mention today I heard some things about how marijuana affects the developing kid brain, child brain. But what about the not-so-normal brain, the pediatric epileptic brain, the pediatric autistic brain, what does that do? I don't think they addressed that, those issues. A lot of focus is on the FDA approving things, but what about clinical tests on children? They don't usually do that but we get medications to use because they work with adults. Also with the FDA approval, to a point it doesn't mean something because FDA does not approve steroid injections in the epidural. They approve it for your muscles, but we're treating people in pain clinics with epidural steroid injections here in Nebraska and all over. Dosing: Dosing is another thing that I remember two years ago or last year on the floor the senator talked about how dosing is specific. No, it's not. They start with a low level. They have a therapeutic range. And they start low and work up until you get to something that's working or until you see side effects. And then the engineering of the plant, you know, we're an ag state. Now is the time. Why don't we be a leader at this? Why don't we take it on and you can develop the plant and you can have...varies of...you know, GW Pharmaceuticals, they grow plants from 1 percent THC to 25 percent THC. We can do that here and we can develop those things, those the strains of plant that work with different people. And lastly, I'm concerned that pharmaceutical...Aristotle said that the whole is greater than the sum of the parts. You know, you see pharmaceuticals are going to come in here and take those 60 cannabinoids and license each one of them and they...how many different combinations can you get, like the lottery? Sixty times 59 times 58 or whatever. And they're charging the state \$2,500 or so per person. And then lastly there I saw a ranking of the states on their health system. Every state--I looked at two of them--every state that's ranked above Nebraska in healthcare has a medical cannabis system. [LB622]

SENATOR EBKE: Thank you. Any questions for Mr. Bowman? Thanks for staying. Oh. [LB622]

SENATOR PANSING BROOKS: Do you happen to have those statistics? That would be good to have. [LB622]

MARC BOWMAN: I did e-mail something and it's the Commonwealth Fund. [LB622]

SENATOR PANSING BROOKS: Okay. [LB622]

MARC BOWMAN: Theirs was 2014 and US News and... [LB622]

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SENATOR PANSING BROOKS: Maybe Senator Wishart has it. [LB622]

MARC BOWMAN: And US News and World Report. [LB622]

SENATOR PANSING BROOKS: Thank you for coming. [LB622]

SENATOR EBKE: Thanks for being here, Mr. Bowman. [LB622]

DAVID SWARTS: I'm David Swarts. I'm from Palmyra, Nebraska. I'm here to support... [LB622]

SENATOR EBKE: All right. You want to spell it, please? [LB622]

DAVID SWARTS: (Exhibits 29 and 62) I'm sorry. D-a-v-i-d S-w-a-r-t-s. [LB622]

SENATOR EBKE: Thanks. [LB622]

DAVID SWARTS: And what I say might not look anything like what I've handed you because everybody has done a good job today of talking and they've covered about everything. I think it's very apparent that cannabis has medical value. It's very safe and it's effective from what we've heard here today. Dr. Thomas Williams' testimony really shows how...demonstrates a lack of knowledge that many Nebraskans have and I think senators are in the same place. They don't understand the hundreds of cannabinoids and the terpenes and how they interact and work better than just a single. Another person talked about using THC when he was actually using a synthetic and not whole plant. It makes a lot of difference whether it's whole plant or whether you're an isolated. Sativex is a 6 percent THC, 6 percent CBD. And they talked about the high THCs. That's not necessarily what you want for medical cannabis. That's what they thought of three years ago, but it's more of a balance. The balance gives you a better feeling and it actually...it'll work better with the balance of those two. So the high THC isn't really a factor in this. I think that most of the people aren't familiar with the 1973 studies in Virginia with rodents where they injected them with cancer and the results, when they gave them THC, the...got smaller, the cancer cells got smaller or were completely eliminated. I think you spoke of Raphael McCollum of the Hebrew University. That was supported by the U.S. And he actually discovered that cannabis was effective for seizures in children 35 years ago and it's taken this long for us to start understanding that. Nobody talked about the U.S. patent, Department of Health and Human Services, that lists cannabinoids as a neuroprotectant and antioxidant. It's effective against Alzheimer's, ALS, cirrhosis, and autoimmune diseases. Then I don't know. Nobody has brought up the story about Charlotte Figi, this one that really started this. If you haven't watched that, that

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CNN video, you should...everybody should watch that. Cannabis is actually, we talked about again, safer than FDA drugs. It's safer than caffeine. It's safer than peanuts. It's safer than aspirin or Tylenol. People die from these things every day. Nobody ever...nobody dies from cannabis. What about children? Marc spoke a little bit about the developing brain. And what I'm concerned about, a drug is a drug like we talked about. How many students are on drugs and especially if they're in the system for ADHD. Maybe that's the real gateway drug. We actually talked about cannabis being an exit drug and we're using it to get off of the codeines and the hydrocodone and things like that. FDA approved doesn't mean it's safe. And I think this drug is so safe...and I wouldn't even call it a drug, but it's so safe that it doesn't need the FDA approval to show it's safe. It's so complicated, like Marc said, it would be so many studies. And it's been demonstrated as safe. That why they do the FDA studies, to show it's safe. If it was grown...required to be grown organic, that to me would be more important than FDA approval. And the people that are opposing this...would be opposing this would be pharmaceutical companies because they're losing market share in every state. There are less opioids used. There's less opioid deaths and they're losing a lot of money because often the cannabis medicines are...they're safer, more effective, and cheaper. [LB622]

SENATOR EBKE: Thank you, Mr. Swarts. [LB622]

DAVID SWARTS: I think I've got a red light. [LB622]

SENATOR EBKE: Yeah, got a red light. [LB622]

DAVID SWARTS: Okay. [LB622]

SENATOR EBKE: Any questions? Okay. Thanks. Thanks for waiting all day. [LB622]

BILL HAWKINS: It has been a long day, Chairman Ebke and members of the Judiciary Committee. I appreciate you staying here. My name is Bill Hawkins, B-i-l-l H-a-w-k-i-n-s. I'm here in support of Senator Wishart's bill. I've worked with her and her staff and I want to thank her very much and her staff for trying to come up with a real compassionate care bill for Nebraska's citizens, the most vulnerable citizens in our state. Last year when Senator Garrett's bill failed, I watched my friend Alice's (phonetic) mother crush to the floor with such despair and just start weeping and other people who could not understand the system and all of a sudden their hopes and dreams were crushed. And so I appreciate you really understanding this and really helping with the false truths I think they're called now. You heard the opposition was just law enforcement and the Attorney General's Office and the Governor, executive branch exercising maybe undue pressure into the Legislature to influence what you do. And I personally object to the amount of time, it's almost obsessive, that he has dealt with on this issue in the last

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three or four years, the amount of resources and just constantly researching and getting experts and fighting this issue when he should be supporting it because, as testimony has said, it can reduce opiate use by 30 percent. And you would think he would be on board with that. It would clear out the prisons and right now we have four unsolved murders in our prison system that we're trying to fix. And so this shouldn't be a priority for him to eliminate compassion care for these kids. There's cannabis use all over Nebraska. Only these kids that have to go through Health and Human Services, they're the ones that can't access it. Everybody else can access it and so it's not like it's going to be left over. But I strongly encourage you to help this bill get through and move quickly because in the constitution, the second half of the Legislature was reserved for the people. And the people have the right, if they don't get the right answer to their problems, to petition the government and take it to the vote of the people. And so we are exercising that right and we've read our constitution. And so, you know, for a message to the Legislature: We would appreciate these protections because this bill gives protection for the patients, the doctors, and gives compassionate care and shows you care for the citizens of Nebraska. So I strongly urge you to move this along and I appreciate your time. [LB622]

SENATOR EBKE: Thank you, Mr. Hawkins. Any questions? You said that you had a petition effort in process? Or you're just thinking about a petition effort? [LB622]

BILL HAWKINS: There is a petition that has been filed, yes. [LB622]

SENATOR EBKE: It's been filed. Okay, so you're collecting signatures? [LB622]

BILL HAWKINS: Yeah, we're organizing it and moving through the process. [LB622]

SENATOR EBKE: Okay, great. Any other questions? Okay. Thanks. [LB622]

BILL HAWKINS: Thank you very much for your time. [LB622]

SENATOR EBKE: Any other proponents? Any opponents? Anyone in the neutral? Senator Wishart. Welcome to Judiciary. [LB622]

SENATOR WISHART: Well, we were in Appropriations Committee until about 8:30 last night, so. [LB622]

SENATOR EBKE: Three of us can beat you. We were in Education until after 9. [LB622]

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SENATOR WISHART: I know. Those of you on both of these committees, late nights. Well, I won't take long to close. I just want to say in summary, I'm happy to work on this legislation. I think the...I know that the...I've never felt more compelled than after this hearing to get this passed. So I'm willing to work on some of the details. What I'm not willing to do is take sort of the standard, well, this is such a complicated thing, you know, oh, it's too complicated for us to do. That's what all of us were elected to do. That's why we invest in a Department of Health and Human Services. It's so that we deal with these complicated systems to protect public safety and support the welfare of Nebraskans. And so I'm willing to put my heart and soul into this, put a lot of energy into it, and create a really good medical cannabis system for the state. I'd be happy to take any follow-up questions. [LB622]

SENATOR EBKE: Questions? [LB622]

SENATOR CHAMBERS: Do you all hear this child speaking? A little child shall lead them. Lead on, my child. [LB622]

SENATOR EBKE: This is your priority legislation, correct? [LB622]

SENATOR WISHART: Absolutely. [LB622]

SENATOR EBKE: (Exhibit 60) Okay. So the committee should be aware of that. We have another letter that came in, in opposition, while we were recessing or whatever we were doing, from Lorelle Mueting. Are there...Senator Halloran. [LB622]

SENATOR HALLORAN: Thank you, Madam Chair. Thank you for bringing this bill to the committee. You very artfully circumvented my ability to ask a question because it was going to get in a little bit to the meat of the complexity. There's a lot of moving parts here. [LB622]

SENATOR WISHART: Absolutely. And I'm happy to get into that with you this evening or if you want to talk later on as well. [LB622]

SENATOR HALLORAN: Let me ask you this question, because there are so many moving parts--there's compassion centers, dispensaries, manufacturers, producers, laboratories--involved in this rather complex bill and circumstance. So I guess my question is, is there company that you're aware of that grows cannabis in another state that...because this was extracted from some other state. [LB622]

SENATOR WISHART: It's a compilation of several states that we've looked in their systems and we've looked at what's worked best in those and pulled that together. [LB622]

SENATOR HALLORAN: Is there any company that...and I don't...honestly don't know that's why I'm asking the question. Is there a company in some other state that deals with growing cannabis or dispensing cannabis that, for lack of a better term, in business labor we would call it franchising that would be familiar with all this, have the mechanisms in place that parallel everything that you're talking about doing here? Otherwise we're starting from scratch, right? [LB622]

SENATOR WISHART: Yes. [LB622]

SENATOR HALLORAN: I can't believe that you want to do that. [LB622]

SENATOR WISHART: No, although I do support Nebraskans having the ability to start their businesses through the system. But there are companies that I can imagine would be very interested in starting a processing center or a production center or a dispensary that work in other states. We have been in touch with a gentleman who actually graduated from Lincoln East. There was a Journal Star article written about him. He now owns a business in Oregon and he is somebody who has said that he would love to come back to Nebraska and start a business here. [LB622]

SENATOR HALLORAN: I'm not very artfully asking the question because it is kind of late, but the attempt to ask the question is whether there's someone that you know of or that you've...they've thought through this a little bit and have anticipated the question at some level that would be interested and has the experience, has the mechanisms, has the wherewithal to grow the product and fulfill all of these obligations which is quite technical--I mean there's a lot of stuff here going on--that you have talked to that would be ready to just start a turnkey operation in Nebraska. [LB622]

SENATOR WISHART: Well, like that gentleman that I mentioned in Oregon, he would be somebody who would be interested in coming back. [LB622]

SENATOR HALLORAN: He's producing it in Oregon? [LB622]

SENATOR WISHART: Yes, he produces it. He grows it and produces it in Oregon. We have had other companies reach out to us on this. But at this point, you know, I've really said you're really going to need to wait and go through the process that everybody will have to go to when we pass

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this legislation. And the department looks through the qualified companies and makes that selection. [LB622]

SENATOR HALLORAN: Okay. I'd love to visit with you another... [LB622]

SENATOR WISHART: Yes. [LB622]

SENATOR HALLORAN: ...and not consume any more of the committee's time. But there are a lot of...as I say, a lot of questions to answer. [LB622]

SENATOR WISHART: Lots of details, yes. [LB622]

SENATOR HALLORAN: Okay, thank you. [LB622]

SENATOR WISHART: Thanks, Senator. [LB622]

SENATOR EBKE: Okay. Well, I guess that closes the hearing on LB622. [LB622]