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Judiciary Committee
February 08, 2018

[LB752 LB833 LB886 LB990 LB1047 LR293CA]

The Committee on Judiciary met at 1:30 p.m. on Thursday, February 8, 2018, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB752, LB833, LB886, LB990, LB1047, and LR293CA. 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: We're going to get started here. And what I would ask is that when the bill that you are testifying is up next, move to the front. If your bill is a long ways back and things are getting crowded, feel free to stand outside in the hallway, go down to the overflow room, or whatever. We've got a couple of on-deck chairs. Right now we have senators in the on-deck chairs but that's okay because they don't have too many people testifying. We're going to get started then. Good afternoon. Welcome to the Judiciary Committee. My name is Laura Ebke. I'm from Crete. I represent Legislative District 32. I chair the Judiciary Committee and I'd like to start off by having my colleagues introduce themselves, starting at that end today.

SENATOR BAKER: Roy Baker, District 30, southern part of Lincoln, southern Lancaster County, Gage County.

SENATOR KRIST: Bob Krist, District 10, that's Omaha, Douglas County, and the city of Bennington.

SENATOR CHAMBERS: Ernie Chambers, District 11, Omaha, Nebraska.

SENATOR HALLORAN: Steve Halloran, senator representing District 33, which is Adams County and the best part of Hall County.

SENATOR EBKE: Okay. And Senator Morfeld, Senator Hansen, and Senator Pansing Brooks will be along shortly, I am sure. Assisting the committee today are Laurie Vollertsen, our committee clerk, and Tim Hruza, one of our two legal counsels for the Judiciary Committee. Committee pages are Sam Baird from the University of Nebraska, a student there, and Rebecca

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Daugherty, who is a student at Doane University here in Lincoln. On the table over there you will find some yellow testifier sheets. If you are planning on testifying today, please fill one of those out and hand it to the page when you come up to testify at the table. This will help us keep an accurate record of the hearing. There's also a white sheet on the table if you do not wish to testify but would like to record your position on the bill. Also, for future reference, if you're not testifying in person on a bill but would like to submit a letter for the official record, all committees have a deadline of 5:00 p.m. the business day before the hearing. We'll begin bill testimony with the introducer's opening statement. Following the opening we will hear from proponents of the bill, then opponents, followed by those speaking in a neutral capacity. We'll finish with a closing statement by the introducer if he or she wishes to give one. We ask that you begin your testimony by giving us your first and last name, spell them for the record. If you're going to testify, I ask that we keep the on-deck chairs or the front of the room filled so that I have a sense of who's coming, who we need to get in there yet. If you have handouts, please bring up at least 12 copies and give them to the page. If you do not have enough copies, the page can help you make more. We will be using a three-minute light system. When you begin your testimony, the light on the table will turn green. The yellow light is your one-minute warning. And when the red light comes on, we ask that you wrap up your final thought and stop. There will be a buzzer that will go off shortly after the red light goes on, so that will be your end point. As you can see, we have a lot of people here to testify today. As a matter of committee policy I would like to remind everybody that the use of cell phones and other electronic devices is not allowed during public hearings. Those senators may use them to take notes or stay in contact with staff. And at this time I would like to ask everybody to take a look at their cell phones and make sure that they're in either silent or vibrate mode. Also, verbal outbursts and applause are not permitted during hearings. Such behavior may be cause for you to be asked to leave the hearing room. And one other thing, you may notice that members come and go. That has nothing to do with the importance of the bills being heard, but senators may have bills to introduce in other committees or have other meetings that they have to step away for. And with that in mind, we will begin our first hearing, LB1047, Senator Harr. [LB1047]

SENATOR HARR: Thank you, Madam Chair, members of the Judiciary Committee. My name is Burke Harr, H-a-r-r. And if the television cameras are ready, I am here on LB1047, which changes provisions to the Nebraska Uniform Power of Attorney Act, and this relates to banks

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and other financial institutions. LB1047 helps address a problem that sometimes arises when a financial institution requires its own form power of attorney. Often this is simply a matter of timing or it relates to some other issue that does not affect the validity of the underlying power of attorney but, rather, the form it takes. For example, Nebraska adopted the Uniform Power of Attorney Act in 2012. Following the passage of the uniform act, financial institutions changed power of attorney to comply with the act. Now parties encounter situations in which a financial institution will refuse a power of attorney, usually one executed before the uniform act, because it is not on financial institution's approved form, which has been updated to conform with the uniform act. This is a form over substance problem because it is not about the validity of the underlying authority but about the exact form that's used. LB1047 addresses this problem by adding agent's authority to the authority to execute powers of attorney required and necessary for interacting with the financial institution. The bill streamlines the process and bridges the gap by allowing agents to execute the bank's own form. Now in preparing LB1047 there were questions about letting agents essentially grant him- or herself a power of attorney. This is why the bill specifically states that the terms and conditions in the financial institution's power of attorney must be similar in scope to those in the power of attorney granting authority in statute. And in other words, someone with a healthcare power of attorney is not going to be able to order unrelated financial transactions with the financial institution. The bill authorizes the agent to do what they already have been authorized to do, which in this case would be interact with the institution. This is a focused problem to a larger...to a problem that we saw out there and this bill was brought to me by the Nebraska Bar Association. With that, I'd be more than willing to answer any questions, but I see there is someone after me who probably could answer your questions better than I can. [LB1047]

SENATOR EBKE: Any questions for Senator Harr? I see none. Thank you. [LB1047]

SENATOR HARR: Thank you. [LB1047]

SENATOR EBKE: First proponent. [LB1047]

KARA BROSTROM: Good afternoon. Kara Brostrom, K-a-r-a B-r-o-s-t-r-o-m, and I'm here on behalf of the Nebraska State Bar Association, attorney for the law firm of Baylor Evnen Curtis

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Curtiss Gruit and Witt here in Lincoln in the trust and estates practice group. LB1047 will solve an ever-increasing problem that agents under valid Nebraska powers-of-attorney are encountering whereby financial institutions are requiring such agents to execute their own power of attorney or a secondary power-of-attorney form. The problem to be solved by LB1047 was identified by the real estate, probate, and trust section of the Nebraska State Bar Association at our yearly meeting this past summer. This section is comprised of professionals who not only draft powers of attorney on a regular basis but also counsel clients when encountering financial institutions when acting on a principal's behalf. As a member of the group, I would like to provide you with an example that we encounter as practitioners. It's a typical scenario that when a principal is incapacitated, their agent acts on their behalf according to the terms and provisions of the power-of-attorney document executed by the principal when they have legal capacity, as well as a full understanding of the authority that they were granting under said power of attorney. In contacting a financial institution to handle a principal's financial matters, the agent is informed by the financial institution that they're requiring their own power of attorney be executed. This is problematic because the agent may not have such authority under the original power of attorney and the principal is now incapacitated. The agent is unable to act on the principal's behalf. LB1047 is the solution to this problem. The proposed legislation is in addition to the Nebraska Uniform Power of Attorney Act, specifically to the authority regarding banks and financial institutions. It clarifies that an agent is able to execute those powers of attorney required by particular financial institutions in order to act on behalf of the principal. Today I would like to highlight some of the language that has been included in LB1047. Specifically, it refers to powers of attorney that are required and necessary to interact with a financial institution; second, similar terms and conditions are required as to the secondary power of attorney that are in the original power of attorney; third, identification of the acting agent, as well as the successors that are identified in the original power of attorney; and lastly, it does not revoke the original power-of-attorney document. This is a proactive solution to allow agents to legally execute such powers of attorney as financial institutions may require. LB1047 protects the principals, protects the principal and ensures that their intentions are carried out by allowing the agent to execute specific authority as to banks and financial institutions as previously granted in the original power of attorney. I urge you to advance LB1047. [LB1047]

SENATOR EBKE: Thank you. Any questions? Okay, thanks. [LB1047]

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KARA BROSTROM: Thank you for your time. [LB1047]

SENATOR EBKE: Other proponents? I see nobody. Do we have any opponents to LB1047? I see no one. Anybody testifying in a neutral capacity? Guess not. Senator Harr. [LB1047]

SENATOR HARR: Just quickly, I think this is my last time in front of this committee this year. I just want to thank the committee for all that you guys have done, not just this year but over the last eight years, and I specifically want to thank Senator Ebke for the hard work you've done on this committee. And I know this isn't an easy one, so thank you very much. [LB1047]

SENATOR EBKE: Thank you, Senator Harr. We had no letters on this particular bill so that concludes the hearing on LB1047 and thank you... [LB1047]

SENATOR KRIST: Is that a caricature of you in the back of that? [LB1047]

SENATOR EBKE: It is. It's pretty cool. [LB1047]

SENATOR MORFELD: Can we have that entered into the record? [LB1047]

SENATOR EBKE: Thank you for being here today, Senator Harr. Next bill up, LB833. Senator McCollister, our honorary member, right? [LB1047 LB833]

SENATOR MCCOLLISTER: Yes, right. I'm glad it's honorary rather than regular. [LB833]

SENATOR EBKE: You'd be here with us tomorrow (inaudible). [LB833]

SENATOR MCCOLLISTER: No, thanks. (Laugh) Good afternoon, Chairwoman Ebke and members of the committee. I am John McCollister, J-o-h-n M-c-C-o-l-l-i-s-t-e-r, and I represent the 20th Legislative District in Omaha. Today I'm introducing LB833 to remove the 90-day limitation period for enforcement of a petroleum product lien and harmonize enforcement provisions for petroleum product liens with similar statutory agricultural liens pursuant to the Uniform Commercial Code. Currently the language found in LB...in Section 52-903 provides the

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enforcement of petroleum product liens shall be in the manner and form provided for the enforcement of secured transactions, as provided in Article 9 of the Uniform Commercial Code, except that such enforcement proceedings shall be instituted within 90 days after filing the lien. The 90-day limitation period was put in place with the passage of LB314 in 1987. Prior to that time, the period for enforcement was only 30 days. As originally introduced in 1987, LB314 contained no time limitation period and, just like LB833, provided for enforcement pursuant to Article 9 of the UCC. Legislative history also indicates that the current 90-day limit was introduced as an amendment at the public hearing for LB314. The record also indicates that introducers did not think it wise to mix statutory liens with the UCC liens, although they admitted then combining the liens that happened in the past had happened in the past. Ultimately the mishmash of statutory UCC lien statutes was discussed and it was agreed they should be streamlined. In 2001, however, the Legislature adopted LB54. LB54 did bring the perfection and enforcement of all statutory agricultural liens within the framework of Article 9 of the UCC. Since 2001, these statutory liens have been filed and perfected using a UCC-1 financing agreement, just like UCC liens. Grain prices have changed significantly since the 90-day limitation period was created in 1987. In the intervening 30 years, irrigation in Nebraska has increased considerably, which, in turn, has increased the amount of petroleum products sold as inputs. Farmers have also substantially increased their on-farm storage of harvested crops, so it's no longer unusual for farmers to hold grain on the farm from one growing season to the next, which means cash flow from operations is more irregular. With the current 90-day limitation period for enforcement, petroleum product lien has much shorter period of enforcement than other agricultural input liens. This inconsistency requires vendors who are used to having liens for up to a year on crops grown from other inputs--fertilizer, ag chemicals, or seed--to meet a much earlier deadline to enforce the petroleum product liens or risk losing, risk losing their claim. If the spring growing season is dry and requires early irrigation, it is possible the vendor would have to initiate enforcement proceedings before crops are even harvested in the fall. Furthermore, in its current form, the 90-day limitation period requires vendors having a petroleum lien to resort to enforcement measures which may include legal action before the crops are mature or before proceeds from crops may be available to pay the bill for their purchase of such products. In order to make the time period for enforcement of a petroleum product lien consistent with the other individual agricultural input liens and create a commercially reasonable time for enforcement, I urge your support for LB833. [LB833]

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SENATOR EBKE: Thank you, Senator McCollister. Any questions? I see none. [LB833]

SENATOR MCCOLLISTER: I waive. [LB833]

SENATOR EBKE: You're going to waive closing? Okay. So first proponent. [LB833]

TOM JEFFERS: Good afternoon, Senator Ebke, members of the Judiciary Committee. My name is Tom Jeffers, J-e-f-f-e-r-s. I'm a partner of the Lincoln law firm Crosby Guenzel LLP. I am here today to testify in support of LB833. Our firm represents many farmer-owned cooperatives across the state, as well as the Nebraska Cooperative Council. LB833 addresses an issue with the current statutory framework for crop input liens, which continue to be an issue for many of our clients across the state. As many of you may know, many farmers look to their local cooperatives for assistance in financing their operations. This financing often includes financing for crop inputs such as fertilizer, seed, other products, including petroleum products used directly in the production of crops. Statutory liens are an important tool utilized by cooperatives to protect themselves and to better ensure repayment of outstanding obligations. LB833 specifically addresses an enforcement provision governing liens for petroleum products and which currently provides, in my opinion, inconsistent treatment for such liens as compared to other statutory liens and even consensual liens. Section 52-901 provides for the statutory lien for the provision of petroleum products. 52-902 provides for the filing of perfection and that it be done pursuant to the Uniform Commercial Code, as with most of the liens in this state. And 52-903, which is the subject of LB833, governs the enforcement of such liens. Presently, there is a provision included which is unique to liens relating to the provision of petroleum products. It provides that enforcement of such liens shall be commenced within 90 days of the lien filing. None of the other statutory liens include such a short time frame for enforcement and my firm and our clients were convinced there is no good reason for this short time frame. One of the primary issues we've seen is that the 90-day period is unnecessarily restrictive and the unintended consequence is that enforcement proceedings may be required prematurely and, quite frankly, in many cases where enforcement proceedings may not otherwise be necessary. In most circumstances we've seen, cooperatives are not really interested in suing their patrons to foreclose these liens within 90 days. In some circumstances, crops are either still in the ground or, as Senator McCollister alluded to, market conditions dictate that they're not sold at market yet. Generally cooperatives

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are quite flexible in working out repayment with their patrons. The 90-day window can have the effect of forcing premature enforcement proceedings. Premature enforcement proceedings, in my opinion, impose unnecessary costs on both parties, the creditor and the debtor, so my cooperative clients, as well as their patron farmers, as well as the judicial system. And in my opinion, it's a waste of resources to require a creditor to initiate foreclosure proceedings to protect their collateral interests in crops when otherwise they wouldn't have a need to do so. Farmers who are members of cooperatives do generally pay their accounts. They have a pretty good track record in my firm's experience, and we handle a lot of them. Sometimes they do fall behind, however, and I can tell you that in the vast majority of those instances the parties work it out without the involvement of any formal judicial proceedings. The parties should be allowed more than 90 days to settle the account amicably. Better practice would be to treat petroleum liens as other statutory liens and consensual liens. Lastly, I'm not aware of any valid justification to treat these petroleum-type liens differently from the other liens that are on...in the statutes. For these reasons I would ask the committee to advance LB833 and at this time I would take any questions that the committee would have for me. [LB833]

SENATOR EBKE: Any questions for Mr. Jeffers? Senator Krist. [LB833]

SENATOR KRIST: Briefly speculate for me why anyone would have put a 90-day requirement on when these statutes were put together. [LB833]

TOM JEFFERS: Well, I could only speculate and I believe it would be based upon possibly an incorrect assumption that somehow there's a protection in that for the farmer. And in past times, perhaps there was. But in today's conditions, you know, farmers are not selling their crops as fast. They want the ability to carry the market, hold their crops. And in most cases that I'm aware, it is, you know, farmer-owned cooperatives that are providing these types of products on credit and they work with their patrons. Even in the case of past-due accounts, there's...I'm not aware of any instance where any of our clients have had any interest in filing judicial proceedings this early. You know, there's really no concern that this lien is going to carry off into the future, you know, indefinitely. These are crops and at some point they will be sold, usually within a year or a couple years at the longest, so. And once the collateral is sold, the lien is extinguished and it's no longer an issue. And in my opinion, the parties should be afforded the

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time they need to work our repayment amicably and hopefully, and I believe in most cases, avoid the need to use judicial resources. [LB833]

SENATOR KRIST: Thank you. [LB833]

SENATOR EBKE: Senator Pansing Brooks. [LB833]

SENATOR PANSING BROOKS: Thank you for coming, Mr. Jeffers. [LB833]

TOM JEFFERS: You're welcome. [LB833]

SENATOR PANSING BROOKS: I just wanted to say we don't usually get many people from your firm coming and testifying. Since it was the firm my dad and my uncle started, welcome. [LB833]

TOM JEFFERS: Yes, yes. Thank you. [LB833]

SENATOR PANSING BROOKS: Thank you. [LB833]

SENATOR EBKE: Any other questions? Thank you for being here today. [LB833]

TOM JEFFERS: Thank you very much. [LB833]

SENATOR EBKE: Next proponent. [LB833]

JOE KOHOUT: (Exhibit 3) Chairwoman Ebke and members of the Judiciary Committee, my name is Joe Kohout, K-o-h-o-u-t. I'm registered lobbyist appearing today on behalf of our client, the Nebraska Cooperative Council. I am...the page is passing around a letter form Rocky Weber, the president of the Cooperative Council, who unfortunately had a conflict out of the state to talk about tax implications of recent tax changes at the federal level that had been on his calendar for some time but was...thought the issue was significant enough that someone should appear on behalf of that. So I'm acting "in loco Rocky" this afternoon, Rocky Weber, the president of the

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council. So with that, Madam Chair, I would try to answer any questions that you might have.
[LB833]

SENATOR EBKE: Any questions? I see none. [LB833]

JOE KOHOUT: Thank you. [LB833]

SENATOR EBKE: Thank you. Are there any other proponents? Any opponents? Any neutral testimony? We have two letters, one from the Nebraska Bar Association and one from the Nebraska Petroleum Marketers and Convenience Store Association, in favor. You waived or...before you said...okay. [LB833]

SENATOR McCOLLISTER: You have a long agenda. [LB833]

SENATOR EBKE: Okay. That concludes the hearing then on LB833. Next up. Huh? Okay. Senator Brewer, LB752. [LB752]

SENATOR BREWER: (Exhibit 6) Thank you, Chairman Ebke, and good afternoon fellow senators, the Judiciary Committee. I'm Senator Tom Brewer. For the record, that is T-o-m B-r-e-w-e-r. I am here representing the 43rd Legislative District of western Nebraska. I'd like to introduce LB752. This bill is about the proper use of government power. You'll note that there have been a couple of amendments to this bill. I've been working with the stakeholders to try and get the language right and I guess part of that learning process is that you should bring in the stakeholders before you write the bill. The bill prevents private parties from using one of the most powerful tools of government, the right of eminent domain. This power is reserved for public purpose that have been subjected to multiple layers of oversight and public comment and input before it can be used. This power should not be used for private interest or for one group of private citizens to impose their will upon another. A great example of this is the "R" line. NPPD's project that will result in a 225-mile-long power line that will run through some of the most scenic and beautiful parts of Nebraska's Sandhills. This is my district and I strongly oppose the R-Project. The point I want to make is that this project has been subjected to dozens of public hearings with the NPPD and U.S. Fish and Wildlife. They have...there have been a number of

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public comment periods and meetings with NPPD Board of Directors. The process has been going on for years. The bottom line is NPPD will end up being forced to use their right of eminent domain for several places along the "R" line project. Even though many will say their voice was ignored, no one will be able to say their voice wasn't heard. Contrast this project with what...with a private wind energy development. In order to get the electricity produced by the windfarm out to the power grid or the interconnection line, will need to be built from the windfarm to the substation which then connects with the power grid. As it stands today, the law allows that private developer to ask one of our public utilities to build their interconnecting line. For a variety of technical reasons, this is usually a good idea. My only objection to this public utility being used for this purpose is if they are asked to use their power of eminent domain to accomplish this. If the wind developer is unable to get a voluntary easement to build the interconnecting line, they should consider setting their project somewhere the neighbors are more agreeable. I often hear about the least, the last, and the lost on the floor of the Legislature. What a person does on their own property is generally their business. When that in what they do does require the cooperation of their neighbors, that cooperation should be voluntary. I cannot imagine a citizen who is more marginalized and in need of our protection than the citizen who has their land forcibly taken from them by a division of state government acting on behalf of other private citizens. This is an inappropriate use of government power if there ever was one. I'll likely be followed by a number of testifiers who oppose this bill. I would ask all of them to work with me to ensure we can have language that will protect this important tool for the legitimate public use but at the same time protect the private citizens from having his neighbor use the power of the government against him. Subject to your questions, that concludes my testimony. Thank you. [LB752]

SENATOR EBKE: Questions for Senator Brewer? Senator Morfeld. [LB752]

SENATOR BREWER: Yes, sir. [LB752]

SENATOR MORFELD: Senator Brewer, thank you for bringing this. So reading through the bill, I'm just curious. So I'm trying to figure out the exact intent. So I get what you just said there, but is it also your intent to limit public power's ability to build transmission lines for a renewable energy project or...? [LB752]

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SENATOR BREWER: Good question. No, it's not. [LB752]

SENATOR MORFELD: Okay. [LB752]

SENATOR BREWER: Let me try and draw this imaginary picture for you. If you're familiar with the "R" line, what it does is goes from the power plant out by Sutherland and makes pretty much a northerly route up into the Sandhills. Then it makes a hard right and shoots across to the general vicinity of Neligh. [LB752]

SENATOR MORFELD: Okay. [LB752]

SENATOR BREWER: So think of a giant "L." Now obviously some of the opposition of that was they wanted it to go pretty much via direct, which would take us south of Broken Bow and not into the Sandhills. [LB752]

SENATOR MORFELD: Okay. [LB752]

SENATOR BREWER: But like I said in the testimony, they had a number of hearings. It was determined that that was the route that needed to be taken. And so that has had a process and I think it was a fair process. [LB752]

SENATOR MORFELD: Okay. [LB752]

SENATOR BREWER: What the concern is, is along the way there will be a number of landowners who will have their land bisected from where the windfarms are to hook into the main line. [LB752]

SENATOR MORFELD: Okay. [LB752]

SENATOR BREWER: The concern is that they will use NPPD's right of eminent domain to cross the land that is their neighbor's. [LB752]

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SENATOR MORFELD: Yeah. [LB752]

SENATOR BREWER: And that's the part where we have the situation that has been brought to me and it's hard not to feel their concern because it is of no gain of theirs and it is none of what they have asked that is being forced upon. [LB752]

SENATOR MORFELD: Okay. That helps me understand the intent a little. Thank you. [LB752]

SENATOR EBKE: Other questions? Senator Chambers. [LB752]

SENATOR CHAMBERS: Later, somewhere else, okay? A question later. [LB752]

SENATOR EBKE: Okay. [LB752]

SENATOR BREWER: You did pick up on the least, the last, and the lost. [LB752]

SENATOR EBKE: Think that's (inaudible) we pick up on. Anything else? Okay, thanks. You going to... [LB752]

SENATOR BREWER: Because I'm chairing Government, I'll waive closing. [LB752]

SENATOR EBKE: Okay. [LB752]

SENATOR BREWER: Thank you, ma'am. [LB752]

SENATOR EBKE: You bet. Thank you. Okay, first proponent of LB752. I see nobody moving. Going once. Opponents of LB752? And if there are other opponents, if you can move to the front and be prepared. [LB752]

DAVID LEVY: (Exhibit 7) Thank you very much. Good afternoon, Chairwoman Ebke and members of the Judiciary Committee. David Levy, D-a-v-i-d L-e-v-y, of the Baird Holm law firm, testifying in opposition to LB752 and its proposed amendments on behalf of BHE Wind,

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Sandhills Energy, and Geronimo Energy. LB752 seeks to undermine the renewable energy industry in Nebraska. By cutting off utility acquisition of rights of way for private renewable energy projects, LB752 would make renewable energy unnecessarily difficult and uncertain. This industry is critically important to one of your most difficult challenges as a Legislature: property taxes. As the report I handed out explains in much more detail, each megawatt of a wind or solar project pays about \$6,000 in property taxes annually for the life of the project. For an average-size wind project, this is approximately \$1.25 million. In a large county like Knox County, this can equate to a 20 percent addition to the tax base, meaning that, all else remaining equal, the county can reduce its levy rate by 20 percent. In a small county like Perkins County, for example, this can equate to a 50 percent addition to the tax base. More specifically to LB752, most renewable energy developers obtain private rights of way or easements as needed for their projects. However, that's not always possible and having the backstop of a utility being able to require the right of way provides very important certainty for the industry. Moreover, most utilities require a private renewable energy developer to dedicate to the utility with which it interconnects the easements and transmission line that connect the project to the grid. Whether generated by a private third party or a public utility, electricity is clearly a public good and its generation, transmission, and distribution and sale have clear public benefits. Most privately generated electricity in Nebraska is, in fact, sold to a public utility. Indeed, private entities cannot sell electricity to a third-party end user in Nebraska, thus, private generation is truly and directly for a public purpose, namely the use and resale by a public utility. Finally, Nebraska's largest electric utilities are members of the Southwest Power Pool. This is a large, liquid, open market for electricity that stretches from Canada to Texas. LB752 would restrict private entities' in Nebraska ability to participate in this market while not affecting public entities' ability to do so, in theory. In other words, it would discriminate against private business in favor of government business. That seems wholly contrary to what Nebraska is about. For the foregoing reasons, I respectfully urge you not to advance LB752 with or without any of its amendments. Thank you for your time and I'm happy to answer any questions you might have. [LB752]

SENATOR EBKE: Thank you. Any questions for Mr. Levy? Okay, thanks. [LB752]

DAVID LEVY: Thank you. [LB752]

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RICH LOMBARDI: (Exhibits 8 and 9) Members of the committee, my name is Richard Lombardi, registered lobbyist for a group called The Wind Coalition. That's L-o-m-b-a-r-d-i. I'm passing around two exhibits. One is from the Nebraska Farmers Union, who is in opposition to the bill, and a letter to the committee from John Hansen, the president of that association. I'm also passing around a time line look at this Legislature's accomplishments with regard to removing unique barriers for wind energy development, renewable electric development in the state, which has been a huge success story and the Legislature has been the lead in this. And as you will see, as this goes by, if anybody has any questions about whether or not changing statutes has impact, this shows about 3 billion reasons of impact of investments in rural areas of the state as a result of this. The various amendments that have been offered by Senator Brewer, the latest one has...it goes into an area of the law that this Legislature passed two years ago, LB824, in another committee on another bill of Senator Brewer's earlier last week. There was some compelling testimony actually by the Omaha Public Power District that indicated that without the passage of LB824 the flexibility that they needed in developing their tariff to attract the Facebook project, would might not have occurred. These, I think our concern from the industry that I represent, which are a number of the companies that have built in here, is that we don't have eminent domain power, we don't want eminent domain power. Our entire existence is based upon the fact that we have lease arrangements, voluntary, with citizens of the state. We have to pass through at least 52 different types of permits, including agreements with the various public power districts in the state, as well as county officials, as well as 15 different federal agencies, and we're just concerned that separating out renewable electric, to treat us like...not treat us like other particular businesses when it comes to this type of issues, is not good policy and certainly is contrary to over a decade of work by the Legislature. And so those are just two pieces of information I wanted to give the committee. And that's all I have, so. [LB752]

SENATOR EBKE: Thank you, Mr. Lombardi. Any...Senator Krist. [LB752]

SENATOR KRIST: So a lot of handouts that the pop... [LB752]

RICH LOMBARDI: Yeah, I'm sorry. [LB752]

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SENATOR KRIST: ...that most people will never see. So I just want to highlight on this handout, on the backside, for my colleagues, bring it to your attention. You all know I came in the Legislature sometime around 2009 or '10. It is...it's amazing to me that if you can mark a line in the sand in April of 2010 and that piece of legislation, the follow-on, LB104 and the follow-on, LB824, which was my collaboration, my introduction, but was brought to me by the industry, look at the amount of money that that has meant just in terms of escalating and promoting wind energy investment, that is truly a success story and it was the Legislature that followed through with that throughout. I would mark on my departure, be careful of interrupting that flow. I believe that if we regress and allow for the progress that's been made in that area to take any kind of a dip, we will be interfering with a large part of the potential electricity that will come back on to our grid and then possibly potentially be sold on a grid by our public power. We are so fortunate in this state to have public power and to have a public entity that is overseeing all of this and that legislation in 2010-11 was an earmark allowing for public power to get the energy that they needed, the electricity they needed from all points. And then the problem is distribution. So I'm really happy that the Executive Board referenced properly in this case and sent an eminent domain bill to this committee. And I'd ask my colleagues to be very careful and guard the...this industry in the future because there will be people that don't want it to succeed. That's all a big diatribe, I'm sorry, and you can respond to it if you'd like to. [LB752]

RICH LOMBARDI: It really has been rather remarkable when you think that if you live in Lincoln and Omaha, that almost overnight, almost a third to 40 percent of the electricity will be being supplied by renewable electric and resources, so it's been a huge success, not...would not, you're absolutely correct, would not have happened if the Legislature didn't take these steps. I mean, I represent the industry that was hesitant about coming in. They did not know anything about this market. It was so different than any of the other markets they dealt with in that this is...this...these were all, for the most part, collaborative bills between everybody. Thank you. [LB752]

SENATOR KRIST: Thank you, Mr. Lombardi. [LB752]

SENATOR EBKE: Senator Pansing Brooks. [LB752]

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SENATOR PANSING BROOKS: Thank you for coming, Mr. Lombardi. So I'm looking at this sheet that you handed out. [LB752]

RICH LOMBARDI: Yes. [LB752]

SENATOR PANSING BROOKS: And there are, looks like, 14 wind energy companies or projects or...I don't know how you describe it exactly. [LB752]

RICH LOMBARDI: Yeah. No, there's different projects and probably represents five or six different companies. [LB752]

SENATOR PANSING BROOKS: So the...do you have an estimate of how...what percentage of potential is here as shown? [LB752]

RICH LOMBARDI: Well, a very small fraction. [LB752]

SENATOR PANSING BROOKS: That's what I... [LB752]

RICH LOMBARDI: I do have another document that talks about the potential. Over 12 years ago, the Bush administration actually had a proposal they put forth--it's been kind of a guiding light here--about 20 percent renewable by 2030, and Nebraska's contribution would basically be around actually the amount of energy that we all consume as Nebraskans, that that was a target figure as to developing that. We're about...we're about halfway to that particular goal, but for Nebraska I think that the...that about 10 percent of the electricity is coming from a renewable resource right now. But the...I can tell you from the industry standpoint this is the wind in Nebraska. I don't need to...but the wind is so good in Nebraska that the capacity factors is...it is a prime spot but it has been a very uncertain market and I think that because of the work that this Legislature has done, it's made it...created a little bit more certainty and I think you can see the results by that graph. [LB752]

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SENATOR PANSING BROOKS: Well, thank you for your work, and Mr. Levy's, and Bluestem's and...so I presume you have a graph that would extend it beyond this year to show projects that are still in the works. I just get interested in seeing... [LB752]

RICH LOMBARDI: There's quite an evolution happening with regard to you...you hear about the Facebook project because that...50 percent of the Fortune 100 companies I have made a commitment to 100 percent renewable. So there's a new dynamic that is happening there. On the backside of this is a cumulative of the economic impacts, the number of construction jobs, as well as wages and taxes paid, too, so. [LB752]

SENATOR PANSING BROOKS: It's huge. Thank you. [LB752]

RICH LOMBARDI: It is huge. Thank you very much. [LB752]

SENATOR EBKE: Other questions? I see none. Thank you for being here today. Are there any other opponents to LB752? Is there anybody here speaking in the neutral capacity? Oh, we've got somebody. Opponent? Neutral, okay. [LB752]

SHELLEY SAHLING-ZART: Good afternoon, Chairman Ebke, members of the Judiciary Committee. For the record, my name is Shelley, S-h-e-l-l-e-y, Sahling-Zart, S-a-h-l-i-n-g, hyphen, Z-a-r-t. I'm vice president and general counsel for Lincoln Electric System and I am here today testifying on behalf of the Nebraska Power Association in a neutral capacity on this bill. The Nebraska Power Association is a voluntary organization that represents all of Nebraska's publicly owned electric utility systems, including municipalities, public power districts, public power and irrigation districts, rural public power districts, and cooperatives. We'd like to thank Senator Brewer for working with us to address some concerns we had on the introduced copy of the bill. To your point, Senator Morfeld, there were some unintended consequences that would have pretty significantly impacted some of the day-to-day operations that we do today. We knew his focus was more the wind energy projects and we asked him to sort of narrow the focus of the bill to that, which is what the amendment does. With that amendment we are neutral. I would say that in terms of eminent domain, he described that as a powerful tool. It may be a powerful tool. It's also a tool that we don't take lightly and we use very

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seldom. We do have to use it some...occasionally in siting distribution and transmission lines, but I'm happy to say that I think all of the major utilities successfully negotiate our rights of way and our easements about 90 percent of the time. Occasionally we do have to resort to that power of eminent domain and condemn a property, but it's not something we choose to do. We do hold lots of public information meetings and hearings trying to seek people's input. And while people are often not completely happy with the final result, we do strive pretty hard to make sure that their voices are heard and that they're participating in our processes. So it is an important tool. I'd be happy to answer any questions. But again, we are supportive of AM...or we are neutral with AM1824 on the bill. [LB752]

SENATOR EBKE: Okay, thank you. Questions? Senator Krist. [LB752]

SENATOR KRIST: What proportion...thank you. And thanks for coming. What proportion of, and settlement, are these electrical connections or easements underground as opposed to above ground? [LB752]

SHELLEY SAHLING-ZART: Oh, boy. That's tough to answer. I would say on a transmission basis when we're talking 115,000 volts or above, those are typically all going to be overhead just because it's cost prohibitive. I mean it's much more expensive to put hose underground. We do here in Lincoln. Just in the last few years we had a section that we did bury. Some of it ran very near the Capitol so we were trying to protect some of the Capitol viewshed. But typically those lines are going to be overhead. And in metropolitan areas or municipal areas like Lincoln, we actually have a program here in Lincoln where we're trying to slowly over time convert more of our overhead distribution facilities to underground, though I would caution you that doesn't necessarily always make them more reliable. There are trade-offs in that. I mean, you know, from windstorms and everything, it's much more reliable from that standpoint. But when there's an underground outage it's a little more difficult to locate where that outage is. You have to dig into the ground, you have to disrupt property to get in and repair that. So they take a little longer to repair, so there are trade-offs in that, but I don't know if that answered what you were getting at. [LB752]

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SENATOR KRIST: It does and it...I guess the point you made is the point that I'd like to make and many times it's not economical to do it and many times it's better in the "municipal-politan" area; at least in the Omaha area, we see a lot of that going underground, so you're saying the same thing, particularly with the sewer separation project going on and new utility lines being put in. So thank you very much. [LB752]

SHELLEY SAHLING-ZART: You're welcome. [LB752]

SENATOR EBKE: Other questions? I see none. Thank you. [LB752]

SHELLEY SAHLING-ZART: Thank you. [LB752]

SENATOR EBKE: Anybody else testifying in a neutral capacity? I don't see anybody moving our way. We have four letters, one from Rocky Weber of the Nebraska Cooperative Council in opposition; another from Vanessa Silke of the Northeast Public Power District; one from Thomas Rudloff of Elkhorn Rural Public Power District, and one from Matthew Gregory (phonetic), all in opposition. That concludes our hearing on LB752. We will move to LB...LR293CA. Senator Wishart here yet? [LR293CA]

_____: She's on her way (inaudible). [LR293CA]

SENATOR EBKE: Okay. Stretch. [LR293CA]

_____: Yeah, it'll be a (inaudible). [LR293CA]

SENATOR EBKE: That's fine, that's fine. We're not going to...we're not going to adjourn. [LR293CA]

SENATOR MORFELD: Let's just go to mine. [LR293CA]

SENATOR EBKE: Let's go (laugh)...yeah, you're pretty funny. Can I see a rough show of hands while we're waiting who is here testifying in favor of LR293CA? Okay, how about in

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opposition? Okay. Okay, that's fine. The plan, the plan here is that as soon as Senator Wishart gets here, we'll get started. When we get done with the hearing on LR293CA, we will take a five-to-ten-minute break so everybody can get up, stretch, and then we will push through on the last two bills, so. Okay. Senator Wishart is here so we will begin the hearing on LR293CA. Senator Wishart. [LR293CA]

SENATOR WISHART: Well, thank you for your patience. [LR293CA]

SENATOR EBKE: Absolutely. [LR293CA]

SENATOR WISHART: (Exhibit 15) Good afternoon, Chairwoman Ebke 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 27th District in west Lincoln. I am here today to introduce LR293CA to put the question of the legalization of medical cannabis on the ballot for Nebraska voters to decide. This resolution, if passed by the Legislature, would place the language in this resolution on the November 2018 ballot that would give Nebraska residents the constitutional right to use medical cannabis, subject to rules and regulations determined by the Legislature. Last year I came before this committee with LB622, a bill that would legalize medical cannabis subject to rules laid out in the bill. I want to thank this committee for your advancement of LB622 last year. As you are aware, LB622 currently resides on General File after one round of debate. Unfortunately, I was unable to show the ability to surpass a filibuster on LB622 so I am back this year with a second option. If some of my colleagues are uncomfortable voting in support of a medical cannabis system, then at least they should let their constituents have a vote. Nebraskans deserve a chance to vote on this issue. I would like to turn the committee's attention to a memo I distributed that summarizes a poll conducted by FM3 and commissioned by the Marijuana Policy Project, which is the largest organization working solely on marijuana policy reform in the United States and has successfully run ballot initiatives in states such as Minnesota, Maine, Massachusetts, Nevada, and California. This poll conducted in February of 2017 showed that 83 percent of likely Nebraska voters support medical marijuana conceptually and 77 percent support a medical marijuana ballot measure in the state. Voters from across the political spectrum express strong support for a potential ballot initiative, including 68 percent of the Republican voters polled, 84 of Independent voters, and 87 percent of Democrats. It was split appropriately, this poll was split

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appropriately, among young congressional...excuse me, among congressional districts and counties and the poll had a higher sampling of Republicans than the state averages. David Drozd, University of Nebraska at Omaha specialist in data compiling and analysis, said this poll seemed methodologically sound. While these numbers, especially the percentage of Republicans who support medical marijuana, may surprise you, these numbers come at no surprise to me. I have heard overwhelming support from Nebraskans across the state, veterans, mothers of children with epilepsy, grandmothers and grandfathers with arthritis, cancer patients, people suffering from multiple sclerosis and Parkinson's, and conservative county commissioners tired of their jails being filled with sick people. You will likely hear from many of them today. I want to thank the committee again for your past support on this important issue. I encourage you to vote in support of LR293CA and advance it to the full Legislature for debate, and I'd be happy to take any questions. [LR293CA]

SENATOR EBKE: Thank you, Senator Wishart. Questions for the senator? I see none. Thank you. [LR293CA]

SENATOR WISHART: Okay, thank you. [LR293CA]

SENATOR EBKE: First proponent. And just to let everybody know, we are going to run a pretty tight clock because we've got a lot of people here, so. [LR293CA]

AMY MILLER: (Exhibits 16 and 17) Good afternoon. My name is Amy Miller; it's A-m-y M-i-l-l-e-r. I'm legal director for the ACLU of Nebraska and we're happy to come before the committee on this issue yet again. Obviously, for the ACLU, there are some very concrete constitutional principles involved: your personal autonomy to make private decisions with the aid of your doctor without the government's interference; ending the culture of mass incarceration that has put too many people behind bars for addiction; and the racial disparities. The handout that's coming around shows how starkly marijuana laws impact especially African-American and Latinos in contrast to white people. But today I'm going to focus instead in my limited time on the arcane issue of the Tenth Amendment, which just doesn't get enough attention, I think. This is a key issue for Nebraska. We're third in the country for marijuana arrests per capita, something that I think is shocking to most people and is a clear explanation

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why Senator Wishart's measure needs to move forward. Given the fact that we've heard testimony in opposition in the past and a lot of times that circles around whether or not this would get us into hot water with the federal government, making sure that I talk about the Tenth Amendment is to make sure that this body feels clear that we are on safe grounds to move forward with legalizing medical cannabis in Nebraska. The Tenth Amendment of course says the power is not delegated to the U.S. by the constitution nor prohibited by it to the states, are reserved to the states or to the people. Now both this body as a state or the people by ballot initiative can choose to legalize marijuana. It's not just the random opinion of the ACLU though. There's strong case law support indicating that Congress has already chosen to leave this up to the states. When the Congress first passed the Controlled Substances Act in 1970, it knew that Nebraska and 18 other states had laws that only made possession of less than an ounce an infraction. Congress chose to take no action to address that. And as the U.S. Supreme Court said in the 1989 case, cited on the last page of my testimony, when Congress is silent on an issue with...coupled with awareness of the...awareness of state laws, it is clear that there is no federal interest. Nebraska can move forward with this and, as many states have already done so, ensure that Nebraskans have access to what is medically necessary for their best health, indeed, maybe for their lives. We urge you to advance this bill once more and take this to the people so that the voters can speak as to whether or not we want to have this right in Nebraska. [LR293CA]

SENATOR EBKE: Thank you, Ms. Miller. Questions? As I've noted every time you've been before this committee, I love the Tenth Amendment, so thank you for mentioning it once again. Okay, thanks. [LR293CA]

AMY MILLER: Thank you, Senator. [LR293CA]

SENATOR EBKE: Next proponent. [LR293CA]

SHELLEY GILLEN: (Exhibit 7) Good afternoon. My name is Shelley Gillen, S-h-e-l-l-e-y G-i-l-l-e-n. I am here today to make a desperate plea for my son Will, who we affectionately call "God's Will." Our family has been begging and pleading with all 49 senators in our Legislature for five years now to help our child. Will was 11 years old when we started asking for help. He will be 16 in just a few months. Will has a diagnosis called Lennox-Gastaut syndrome which is a

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rare and catastrophic seizure disorder in which he suffers from hundreds of multiple types of seizures a day. Although Will is 15 years old, he is cognitively about a 2-year-old, still wears diapers, is completely nonverbal, and is also legally blind. We have tried multiple FDA-approved pharmaceuticals, special diets, a surgically implanted vagus nerve stimulator, homeopathy, neuro-feedback, and chiropractic treatments, and still nothing has worked. Our only option left is a very invasive brain surgery procedure and which we have been informed by physicians would still not be a guarantee. In addition, we have heard all of the arguments: it's a gateway drug; it needs to be FDA approved; it will send the wrong message to our youth; it will get into the hands of the abuser; it's federally illegal. Our family finds all of these arguments to be nothing short of insulting. Many of the FDA-approved meds Will has been on are gateway drugs themselves, as well as having horrendous side effects, even death. Several he has been on are highly addictive and one he is presently on, if we were ever able to ween him off, it would be more difficult than weaning him off of heroin. As for it sends the wrong message to our youth and/or it will get to the hands of the abuser, what about Will? Doesn't he count as part of that youth? Doesn't his life matter? Why are we more concerned with protecting the potential abuser rather than those who are innocently sick and suffering? It's federally illegally. Forty-six other states have decided that their most vulnerable citizens are worthy of a relief option, rather than waiting around for our federal government to do something. My son almost died last summer. He had fallen from a seizure and had internally lacerated his liver. But by God's grace and mercy, he survived the surgery and came home with an 18-inch stapled surgical site from the lower part of his chest to his groin. How much longer will he have to suffer or, even worse, will he still be alive to ever have the option of legally trying this noninvasive medical treatment? Please open your hearts and minds, become educated, and act quickly. [LR293CA]

SENATOR EBKE: Thank you, Ms. Gillen. Questions? Senator Pansing Brooks. [LR293CA]

SENATOR PANSING BROOKS: Thank you for coming. I know it's really difficult each year. And there are so many of us with you and I just...we're...this may be the way to do it, I don't know, is this amendment. So thank you for this. You're such a wonderful, faithful mother... [LR293CA]

SHELLEY GILLEN: Thank you. Appreciate (inaudible). [LR293CA]

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SENATOR PANSING BROOKS: ...doing what's right and proper for your child and we should be supporting that work that you're doing. [LR293CA]

SHELLEY GILLEN: Thank you. [LR293CA]

SENATOR EBKE: Other questions? Thank you for being here again today. [LR293CA]

SHELLEY GILLEN: Thank you. [LR293CA]

SENATOR EBKE: Next proponent. [LR293CA]

DAVID SWARTS: (Exhibit 18) My name is David Swarts, D-a-v-i-d S-w-a-r-t-s. (Inaudible.) [LR293CA]

SENATOR EBKE: Go right ahead. [LR293CA]

DAVID SWARTS: Okay. In 1972, Nixon's National Commission on Marijuana and Drug Abuse released its official report, called marijuana a signal of misunderstanding. In effect the report stated that the real marijuana problem was not the drug but the war on drugs. This report was ignored and cannabis was left in Schedule 1. Raphael Mechoulam, the grandfather of cannabis research, studied cannabis at the Hebrew University of Israel and in 1964 identified and synthesized delta-9-tetrahydrocannabinol. He conducted research proving the effectiveness of cannabinoid treatments for seizures in kids--this was over 30 years ago, nobody paid any attention because there wasn't any money in it--and also for the appetite and prevention of nausea in children during cancer treatments. How dangerous is cannabis? People around the world have used cannabis for thousands of years and its health benefits, safety, and efficacy are well documented with evidence-based science. In spite of that, the U.S. has not allowed research involving positive benefits of cannabis since the early 1970s. A case of cannabis ingestion causing death has never been documented. Based on deaths attributed to a substance, cannabis is safer than alcohol, safer than tobacco, safer than peanuts, safer than aspirin, safer than ibuprofen, safer than Tylenol, safer than caffeine, and even safer than sugar. How do we justify punishing people for using, growing, or marketing a plant that is safer than any prescription drug and has

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more characteristics of an herb than a drug? Some say that cannabis needs to go through FDA approval process before it is used in cannabinoid health programs. If that's the case, will it finally be considered safe as OxyContin and the whole group of hydrocodones...or opioids, I mean? According to the Center for Disease Control, from '99 to 2016, sales in prescription opioids quadrupled. Overdoses deaths involved prescription opioids were five times higher in 2016 than in '99. Eighty-seven children died from opioid poisoning in 2015. One hundred Americans die each day from overdoses of prescribed medicines, 100 Americans each day. Who's going to jail for that? In 2007, Purdue Pharma, the producer of OxyContin, paid \$600 million in fines after they pleaded guilty to misleading doctors and patients and they face a suit in Kentucky where they may pay additional \$1 billion, which is just a third of their annual revenue. Several studies determined that states with medical marijuana dispensaries have up to a 30-percent decrease in opioid overdose deaths. This only makes sense because those states' citizens have access to a much safer source of pain relief. [LR293CA]

SENATOR EBKE: Thank you, Mr. Swarts. Questions? Okay, thanks. Next proponent.
[LR293CA]

LIA McDOWELL POST: (Exhibit 19) Hello. Thank you so much. My name is Lia, L-i-a, McDowell Post. [LR293CA]

SENATOR EBKE: Go ahead. [LR293CA]

LIA McDOWELL POST: Here we are a year later and I'm still a criminal. [LR293CA]

SENATOR EBKE: Could...did you...could you spell your name for us. [LR293CA]

LIA McDOWELL POST: L-i-a. [LR293CA]

SENATOR EBKE: Thank you. Okay. [LR293CA]

LIA McDOWELL POST: You need the rest? [LR293CA]

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SENATOR EBKE: Yeah, go ahead. We got (inaudible). [LR293CA]

LIA McDOWELL POST: Let's start again. I've given up drinking alcohol, smoking cigarettes, sugar, gluten, caffeine, high blood pressure medicine, antipsychotics, antidepressants, antiepileptic drugs. I've given up opioids, benzodiazepines, and sedatives and I'm still a criminal. I decided to take an alternative medical path that is natural and backed by research and, most importantly, it works for me, and I'm still a criminal. I have spent another year managing a chronic illness called complex regional pain syndrome, busting my ass every day to do what I must do to be more than the nothingness my pain wants me to be, and I'm still a criminal. You all have had a year to make change happen and I'm still a criminal. Last year when I spoke, it was about me. In a year, it's become a collective voice. It is the voice of the mother I met last year at the State Capitol whose daughter was on a high school tour. Her daughter was in a wheelchair and said her doctor would prescribe medical cannabis for her pain if it was legal. It was for the woman I met who had been a caseworker for the state of Nebraska. Her daughter died of a rare cancer and dared to meet death on her own terms with the aid of medical cannabis. It is for the woman who had her daughter in a medical study at UNMC on the effects of medical cannabis on seizures in children who told me it is working. It is for my 41-year-old nephew who is suffering through his sixth round of cancer since he was six years old. Last week, when his oxygen level dropped to 20 while getting a chemotherapy treatment, I thought it was the end of his journey, but it wasn't and he's still alive and kicking and he's fighting today. But when the only thing that changed in his treatment plan was the addition of a fentanyl patch, an opioid, it's hard not to see the connection between his journey and mine. I think to myself, what if medical cannabis could help him? It helped me. Why shouldn't he have the right to choose his course of medical treatment, especially for pain management that comes with radiation and chemotherapy? Why shouldn't any of these people, why shouldn't any of these people have that freedom? I just...I don't understand. It is time. We all need to come together and make a change to this archaic way of thinking. Medical cannabis is about freedom of choice. Will you be the people that stand in the way of this freedom or will you help make it a necessary change? I implore you, I will get on my knees and beg you to put medical cannabis to vote and allow the people of Nebraska to rise up and have a voice. Thank you so much. [LR293CA]

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SENATOR EBKE: Thank you for being here today. Questions? (Applause) Please, no. Questions? Okay, thank you for being here. [LR293CA]

LIA McDOWELL POST: Thank you. [LR293CA]

SENATOR EBKE: Next proponent. [LR293CA]

CHRISTINA HITZ: (Exhibit 20) Hello, Senator Ebke. Judiciary Committee members, my name is Christina Hitz, C-h-r-i-s-t-i-n-a H-i-t-z. Seven years ago my son was diagnosed with a rare form of intractable epilepsy. He has different kinds of seizures ranging from a few-second-long (inaudible) seizure to a five-minute-long generalized tonic-clonic seizure. He's 19 years old now and six-foot-four. There have been multiple holes in our drywall caused by his body smashing against the walls during seizures. Over the last seven years my son has been prescribed eight different antiepileptic medications, seven of which are psychotropic. He has a vagus nerve stimulator, known as a VNS, implanted in his body. He is not a candidate for brain surgery. My son has experienced side effects such as slower thinking, trembling hands, drowsiness, poor balance and coordination, inability to sweat and subsequent overheating, as well as weight gain, weight loss, memory and speech problems, and rage. Published side effects also include hallucinations, unusual thoughts, problems with walking, deadly rashes, flu-like symptoms, aggression, suicidal thoughts, lack of speech comprehension, tingling skin, hair loss, ringing in the ears, drooling, and liver damage. Last spring my son was accepted into UNMC's medical cannabidiol pilot study. Epidiolex is the brand name of the investigational drug containing cannabidiol, or CBD, which has no known psychoactive properties. The researchers have added Epidiolex to the cocktail of medications my son was already taking. He takes it orally twice a day. It looks like olive oil. I keep track of his seizures on-line on a Web site called Seizure Tracker and I have been documenting this way since 2015. The year prior to starting CBD oil, my son had 60 seizures. In ten months since he's been taking Epidiolex, he's had three. Epidiolex has caused minimal side effects for my son. There is no drug out there that will take away my son's intractable epilepsy. However, it is clear to me that medical cannabis such as Epidiolex is a much-needed option for my son and potentially many others. Whether LR293CA gets on the ballot or not, I implore you to revisit Senator Ebke's LB167 from last session which would reschedule Epidiolex from a Schedule 1 to a Schedule 5 and allow it to be used legally in

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Nebraska contingent on FDA approval. In closing, I'm asking you, as one Nebraskan to another, to do the right thing. It is right in my opinion to continue to offer my son the best medicines to combat his disease. I'm very thankful for the opportunity to have my son in this study. I implore you to provide all Nebraskans with the same opportunities to be benefited by this medicine. And any questions that you might have, I appreciate. Thank you for your time today. [LR293CA]

SENATOR EBKE: Thank you for your testimony. Senator Pansing Brooks. [LR293CA]

SENATOR PANSING BROOKS: Thank you. Ms. Hitz, first off, thank you for your calm testimony. I, as a mother, would never be this calm were I in your position, but I admire your resolve to attack this very thoughtfully. What I am wondering is, you are asking that it be just...are you asking that it be available to everybody or be part of what doctors could prescribe? [LR293CA]

CHRISTINA HITZ: I am in favor of medical cannabis available to everybody as prescribed by doctors. [LR293CA]

SENATOR PANSING BROOKS: Okay, so as prescribed, so, like heroin, like meth...I mean you aren't in favor of heroin being just out for everybody to use whenever you want. [LR293CA]

CHRISTINA HITZ: That's correct. [LR293CA]

SENATOR PANSING BROOKS: And so you are asking that it be one of the tools in a doctor's toolkit. [LR293CA]

CHRISTINA HITZ: Exactly. [LR293CA]

SENATOR PANSING BROOKS: Hmm, very reasonable of you. Thank you. [LR293CA]

CHRISTINE HITZ: Thank you for your question. [LR293CA]

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SENATOR EBKE: Just as a point of clarification, my LB167 last year was actually wrapped into the committee bill, Senator Morfeld's bill, LB487, and Epidiolex will be rescheduled if the FDA reschedules it, it's an automatic. [LR293CA]

CHRISTINA HITZ: Thank you so much. [LR293CA]

SENATOR EBKE: Sure. [LR293CA]

CHRISTINE HITZ: I'm excited to hear that. [LR293CA]

SENATOR EBKE: Yeah, okay. Okay, any other questions? I guess not. Next proponent.
[LR293CA]

CARL MUNFORD: (Exhibit 21) Good afternoon. I appreciate the opportunity to come talk to everyone on the committee. My name is Carl Munford; that's C-a-r-l M-u-n-f-o-r-d. I came down with eight handouts. I thought that would be enough. I was mistaken. So some of you will get the pretty blue folders and four of you will not. I apologize for that. First off, I would like to mention the fact that the...my opinions are based on written testimonies or written findings by, among others, the CDC, U.S. Health and Human Services, the AMA, the FDA, and the DEA. On the...okay, I'll have to scratch that till everyone gets a folder. The FDA and a lot of our politicians, especially on the federal level, I know I'm sailing into hostile waters, I realize that, however, there are millions of veterans who suffer from PTSD, the effects of chemical warfare from the first Gulf War and the contamination of the sand over there that has retained a lot of those toxins. I am one. Here is one right in the flesh, okay? I suffer from all of the ailments for...from posttraumatic stress disorder to neurological disorders, all brought on by exposure to toxins and chemicals that were designed to either kill or cripple human beings. That's their only purpose. And out of the Gulf War of the almost 750,000 troops that were sent over there, over 600,000 are now permanent disabled from their exposure. Now many studies and the American Legion being one of the largest veterans groups, are...have decided that they want to back the use of medical marijuana. I know if it was available to me, I'd be probably a lot less pain, I would not have the nightmares and the sweats and joint pain that I have now. I was on OxyContin and hydrocodone for over ten years. That's what the VA prescribed. That was their fix-all for pain.

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And I went off of that several years ago and decided to live with the pain. I made a choice out of desperation to go to Colorado for several weeks last year and the medical cannabis they had there is 50 percent CBD and 50 percent THC and that beat every, every, every synthetic drug that I'm being given, hands down. [LR293CA]

SENATOR EBKE: Thank you. [LR293CA]

CARL MUNFORD: Right now, this bag, over 13 prescriptions, is what keeps me sane, keeps my blood pressure down, basically just keeps me alive. If medical marijuana was legal here, I would not need this, many veterans would not need it. Veterans deserve better. And in closing, I had a lot of information but there's no way I could cover all of it. There's just too much. In closing I would like to mention the fact that on June 10, 2013, that a highly decorated combat veteran, Sergeant Daniel Somers, could not get what he needed to ease his pain and his nightmares, but on the date I mentioned he took his pistol out and shot himself in the head. He was only 30 years old. This is a decorated war veteran. He was so desperate he had to do that. He couldn't get the care he needed. Medical cannabis would have done that. I have buried a child who suffered from seizures. If medical cannabis was available, she would probably still be alive today. No one should have to bury a child. [LR293CA]

SENATOR EBKE: Thank you. [LR293CA]

CARL MUNFORD: I now ask this committee in its compassion and wisdom to approve the measure that we are speaking of today and I want to thank you very much for your time. [LR293CA]

SENATOR EBKE: Thank you, Mr. Munford. Thank you for your service. Any questions? I see none. Thank you for being here today. [LR293CA]

CARL MUNFORD: Thank you. [LR293CA]

SENATOR EBKE: Next proponent. [LR293CA]

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DEBRA GRANT: Hello. My name is Debra Grant, D-e-b-r-a G-r-a-n-t, and, as everyone else, I'm coming before you. I have MS. I have PTSD. I have arthritis from my neck all the way down my spine. I have a calcified spine. I have depression. All of these things that I have--and I have restless leg syndrome, which is merciless--all of these things that I have, the medications that I would need contraindicate each other. And so for some of my problems I cannot have medications--pick and choose. I was diagnosed with the MS in approximately 2011. After having had a fall, a really bad fall through a crawl space, I broke ribs, my back. I have degenerative disc disease and lost discs in my spine, so I have an extreme amount of pain. Up until 2010 when I had the fall, I was very active, went to seven concerts that year, held down a convenience store job where I was the only person on my shift. And I had a very active life with my children. I was able to swim, run, jump, play, do whatever. After that fall, everything just completely demolished in my life, all right? And I can't stand for more than five minutes without having extreme back pain. I drop things constantly. I have tremors. I have muscle spasms other than the restless leg syndrome. I try to work really well on the PTSD through moving to a very small town where there's no stress, no fears. My question is why we are prohibited from having a God-given plant that is provided to us for free, that needs no form of going to big pharmacies to alter and charge us for. This plant was given to us as all the other plants. It is up to us to utilize it for the good of humankind. I'm asking, the first time that I'm here, asking to just be heard and understand that when you have pain, if you don't understand...if you don't have it, you don't understand. To have pain at my age, to not be able to play with my grandchildren, is insane, to have to stop constantly and say I have to sit down. I thank you very much for your time today. [LR293CA]

SENATOR EBKE: Thank you, Ms. Grant. Any questions? Thanks for being here today. [LR293CA]

DEBRA GRANT: Thank you very much. [LR293CA]

SENATOR EBKE: Next proponent. Anybody else speaking for the bill? Move on up. Make sure we keep these front seats filled, please. [LR293CA]

JOSEPH GUINAN: Good afternoon. In 2014 I was in a car accident that resulted... [LR293CA]

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SENATOR EBKE: Could you give us your name and spell it, please. [LR293CA]

JOSEPH GUINAN: Oh, Joseph Guinan, G-u-i-n-a-n. In 2014 I was in a car accident that resulted in the entire right side of my face being shattered pretty much like an eggshell. A three-hour surgery ended up lasting eight hours. Now I have about 70 percent nerve damage on the right side of my face, PTSD, depression, glaucoma. And before the opioids really started to take over my life and affect everything, because I was on Percocet, OxyContin, hydrocodone, anything, I didn't truly understand the benefits of cannabis until firsthand experience and it changed my life. The fact that there's families uprooting to move to states with legalization, to split up their families like that, no one would just do that just to do it. There's an actual cause, there's a reason behind it. There's people suffering. Everyone is dealt a different hand in life. We should be able to play the cards we want. If cannabis helps someone get through the day and make life easier and pain free and stress free, they should have access to it. We wouldn't have vet...we wouldn't have 22 veterans killing themselves a day if there wasn't an issue with the pharmaceutical companies. And when we have pharmaceutical companies lobbying to keep legalization from happening while they also get FDA approval for synthetic cannabis, there's an ethical double standard. And as someone who uses cannabis, and I'll continue to use it even though it's illegal, I'm going to do it because it gets me through the day and it make me who I am, makes a better person. It's not the stereotypical storyline that everyone was fed growing up and it's really time to be the change, especially for all of you have the power to allow us all to make the decision if we want it legal or not. If the bill is put to the people and it doesn't pass, it doesn't pass. But if it does pass and there's families that can find closure or comfort, relieve a parent from worrying about their child, there shouldn't even be a question about that. And I don't mean to come off, I don't know, angry or anything like that. It's just the social stigma of being a cannabis user is way outdated and doesn't apply to everyone. You can abuse cheeseburgers just like any other substance. You can abuse drinking. We have 480,000 people die every year because of smoking tobacco. But tobacco companies lobbied, they had laws passed, and now we have cigarette and chew cans that say "may cause cancer." The ethical dilemma between selling a legal product that says "can cause cancer" or "drink responsibly" waives all of them of any rights or any responsibilities. [LR293CA]

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SENATOR EBKE: Okay. Thank you very much for being here. Any questions? Senator Baker.
[LR293CA]

SENATOR BAKER: Thank you, Senator Ebke. Just one question, what form do you use marijuana? [LR293CA]

JOSEPH GUINAN: I use CBD and the actual flower. [LR293CA]

SENATOR BAKER: Thank you. [LR293CA]

JOSEPH GUINAN: But again, those who do see the benefits are being backed into a corner. And if a parent is backed into a corner and they have to choose between their child's health and breaking the law, there's no question that I would support any parent that would look out for the best interest of their child. Thank you. [LR293CA]

SENATOR EBKE: Other questions? [LR293CA]

SENATOR PANSING BROOKS: I have a question. [LR293CA]

SENATOR EBKE: Oh. Senator Pansing Brooks has a question. [LR293CA]

JOSEPH GUINAN: Oh. [LR293CA]

SENATOR PANSING BROOKS: I'm sorry I missed...CBD...what's the actual flower?
[LR293CA]

JOSEPH GUINAN: The actual cannabis flower. [LR293CA]

SENATOR PANSING BROOKS: Oh, okay. [LR293CA]

JOSEPH GUINAN: There's a male and female plant. [LR293CA]

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SENATOR PANSING BROOKS: Okay. All right. [LR293CA]

SENATOR EBKE: Okay. [LR293CA]

SENATOR PANSING BROOKS: Thank you. And I'd be violating the law if it were my child, too, so. [LR293CA]

SENATOR EBKE: Other questions? [LR293CA]

SENATOR PANSING BROOKS: Probably get in trouble for that one, but... [LR293CA]

SENATOR EBKE: Okay. Okay, thanks. Next proponents. [LR293CA]

SENATOR PANSING BROOKS: Senator Pansing Brooks would now break the law.
[LR293CA]

AUTUMN SKY BURNS: (Exhibit 22) Good afternoon. My name is Autumn Sky Burns; that's A-u-t-u-m-n S-k-y and B-u-r-n-s. And I'm a resident of Papillion, Nebraska, which is in LD14. Good afternoon, members of the Judiciary Committee. And special thanks to Senator Wishart for being aware that many Nebraskans are suffering unnecessarily and she responded proactively. I am grateful to be able to be a voice of support for LR293CA for those who are afraid of the stigma of being associated with medicinal cannabis and who are comfortable attaching their name to the issue publicly. Last year when I was campaigning for city council and knocking on doors, Senator Wishart introduced LB622 to allow medicinal cannabis, and I wrote a letter to the editor in support due to my family's history of Alzheimer's. Papillion is a small city so the letter did not go unnoticed. The bill had already caught people's attention and when they saw me supporting it publicly, they saw me as a safe person to confide in. They asked how they could contact their senators without having their names attached. They were supportive but scared of the thought of being called a "pothead" or a "stoner." But when I was in the comfort of their own living room, man, they spilled all. At first I was floored by what they told me. Please believe me, a large percentage of our population is already using this medicine and they're risking becoming criminals. I want to share the story of "Rick" and "Linda"--not their real names--both in their

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mid-60s, both have lived in Papillion over 40 years, given a lot to the community, and are users of medicinal cannabis. Linda has been in constant pain since her early 20s and a few years ago decided enough had become enough. She wasn't interested in starting on opioids but too much of her day was spent immobile, in pain. They drive to Colorado, ensured me they aren't too worried about getting pulled over because they figure they aren't the right demographic for the police to be looking for. This is a common thing I hear. People are assuming that they will not get caught except people do get caught. In 2016 Nebraska courts had 5,726 cases filed for violations of statutes regarding cannabis. So we gave records to over 5,000 Nebraskans who are using a product that is completely legal for anyone, not just the sick, a few hundred miles away to the west and in eight other states and medicinally for over 30 more. Don't you see something wrong with that? Why are we creating criminals when other states are seeing patients? So I began to educate myself even more. I started talking to my multiple friends and peers that have left Nebraska in search of medicinal cannabis to treat their various ailments. I bought books, read research study after research study, and even spent \$1,000 of my own money to fly to Arizona to attend the Cannabis Conference to learn more about what successful medication programs look like. I will skip some of it because I see the red light and you guys have what more of it, what you need. But what I want to end with is physicians are the ones who follow literature and know what treatments are best for different conditions. The literature on medicinal cannabis is evolving rapidly now and because of this it is not a decision that should be in the hands of the Legislature. Instead, it should be with physicians. I fundamentally believe that our government is of the people, by the people, and for the people. Please allow us to have a chance to vote on having access to medicinal cannabis. It takes the weight off each individual senator and their personal beliefs. If we are trusted enough to decide on whether or not we should have a death penalty, we should definitely be trusted enough to make decision regarding medicinal cannabis. All Nebraskans deserve access to safe, regulated medicinal cannabis, to have the ability to stay here at home with their families, with their support networks, and not be forced to move to another state in the middle of a healthcare crisis to seek medicinal cannabis therapies. Does anyone have any questions? [LR293CA]

SENATOR EBKE: Okay. Thank you. Any questions? I see none. Thank you for being here.
[LR293CA]

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AUTUMN SKY BURNS: Thank you for your time today. Absolutely. [LR293CA]

SENATOR EBKE: Next proponent. And again, if there are more proponents, move to the front, please. [LR293CA]

JANE STANLEY: (Exhibits 23 and 24) Hello, Senators. Many of you already know me, you already know my stance on cannabis here in Nebraska. The packets I am giving you is more scientific proof, not only scientific proof but I have included 11 patents... [LR293CA]

SENATOR EBKE: Oh, can...I'm sorry. Can you give us your name and spell it for the record. [LR293CA]

JANE STANLEY: Oh, I'm sorry. I'm sorry. Jane...Minister Jane Stanley, J-a-n-e S-t-a-n-l-e-y. Now the first two patents that are on your page...think maybe somebody didn't get part of their packet. The first two are on a neuroprotectant of cannabis extracts. The next one is the use of cannabis for epilepsy, in fact, the next one, two, three, four, five patents are on treating epilepsy with CBD and THCV. The next three are patents on cancer and THC and CBD. The last two pages are children who...before and after and how cannabis has helped them. There's another information on how many deaths of cancer we have in the United States: 1,852,000 people are diagnosed every year with cancer and 580,000 will die. I want to thank you again for bringing this up. We need cannabis here for our health, for our children's health, to use to prevent disease, as an herbal supplement, as a nutrient plant, and for religious sacrament. By not legalizing cannabis, you and the court systems are violating our inalienable human and civil rights to use, sell, and grow cannabis by enforcing an unconstitutional political policy of prohibition and your own opinions on what cannabis is. I have been studying cannabis for nine years. On the first page you will also see THC, CBD, CBC, CBN, and some others, and what they treat. We need to understand that cannabis, full-spectrum cannabis, works together to put our bodies into homeostasis. When we start to separate these, it is less effective and not as many people get the help they need. Legal states, 11 percent decrease in veteran suicides. Dr. Larry Wolk talked...medical official, Colorado Public Health Department, said since legalizing no large, troubling public health trends have popped up. The state has seen \$135 million in taxes and fee revenue just last year. And this is also from recreational. Chief John Jackson of Greenwood

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Village, Colorado, Police Department said a fallacy of legalization is it would give law enforcement time back to focus on more serious, complicated crime issues and bigger drug problems. Two years, two months into full legalization, we are not seeing that. Denver saw a 2.2 drop in violent crime in the year after the first legal recreational cannabis sale in Colorado. Overall crime dropped 8.9 percent in the same period. According to figures of the Drug Policy Alliance in Washington, violent crime dropped 10 percent from 2011 to 2014. Medical Cannabis laws that track records for academics and recreational pot legislation associated with stable of the following...falling of violent crime rates. [LR293CA]

SENATOR EBKE: Okay. [LR293CA]

JANE STANLEY: In 2004... [LR293CA]

SENATOR EBKE: Excuse me, sorry, we have a lot of people here, so but thank... [LR293CA]

JANE STANLEY: I understand. [LR293CA]

SENATOR EBKE: Thank you. We've got your written testimony and appreciate that. Any questions? Okay, thank you. Next proponent. [LR293CA]

JACOB CHRISTENSEN: Hello. My name is Jacob Christensen and I'm a resident of here of Lincoln, Nebraska. [LR293CA]

SENATOR EBKE: Could you spell your name, please. [LR293CA]

JACOB CHRISTENSEN: J-a-c-o-b and then C-h-r-i-s-t-e-n-s-e-n. So I prepared a written statement. Hello. My name is Jake Christensen. I'm a resident of Lincoln, Nebraska. I'm a hardworking small business owner and a single father raising three brilliant young gentlemen ages 12, 10, and 7. I'm an active member of the community and have voted in every single election since turning 18. With all these blessings I have in my life, I suffer from a mild form of depression and I know I'm not alone. Yes, clinical depression is a very serious illness. People with this condition have long-term, often debilitating feelings of sadness and low self-esteem.

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There can be suicidal thoughts and depression makes ordinary tasks such as going to work, cooking, cleaning, and even personal hygiene very difficult. Once a doctor has evaluated the symptoms, prescription medications are routinely prescribed. There are many types of antidepressant medications and I'm going to name a few, forgive me on the pronunciation: tricyclic antidepressants; MAOs (sic--MAOIs), monoamine oxidase inhibitors; SSRIs, selective serotonin reuptake inhibitors; SNRIs, serotonin/norepinephrine reuptake inhibitors; and a few others. A recent analysis published in the Journal of American Medical Association, January of 2010, stated that antidepressants are only effective for those with severe depression. So for those patients with mild to moderate depression, have no benefits with prescribed medications. However, these medications are prescribed with alarming frequency to those patients who may not benefit at all. To add insult to injury, the side effects from antidepressants can be serious and unacceptable for many people. Sometimes the side effects are worse than the symptoms of depression. Here are some of the side effects from common medications, and I have taken these from the medication Web sites: blurred vision; constipation; difficulty urinating; worsening of glaucoma; impaired thinking; fatigue; high blood pressure. MAO inhibitors have weakness, dizziness, headaches, tremors, deadly if mixed with certain other drugs. SSRI: loss of appetite, weight loss, insomnia, nausea, nervousness, headache, and sexual problems. SNRIs: loss of appetite, weight loss, insomnia, fatigue, headache, sexual problems, liver failure, and high blood pressure. For me and my doctor, this is the only option at the moment. However, today you have a great opportunity to make Nebraska truly a place for the good life, a good life, a great opportunity, as quoted by Pete Ricketts. Twenty-nine states have approved the use of medical marijuana. Why hasn't Nebraska? Although cannabis can't cure depression, there is a growing body of evidence that prove it does, indeed, offer relief that pharmaceuticals cannot. I will close with three main reasons Nebraska should improve, approve medical marijuana use. The benefits far outweigh the risks. It is safer than pharmaceuticals. Legalization means regulation ultimately providing higher quality and safer products. And finally, the choice should be mine and my doctor's. The choice of prescribing medical marijuana should be in the hands of the medical community and their patients. Thank you. [LR293CA]

SENATOR EBKE: Thank you, Mr. Christensen. Questions? I see none. Thank you for being here today. Next proponent, step on up. Is there anybody else that's going to be speaking in a proponent position for the bill? If you are, please get up to the...you need to use her? Okay, so

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just one, one more proponent? Two? Okay, you need to move to front, please, so we can transition quickly. Okay. Go ahead. [LR293CA]

JESSICA POWELL: Good afternoon, Senators. I appreciate you guys taking the time to listen to us in our defense on why we should have this bill on the ballot and legal marijuana. [LR293CA]

SENATOR EBKE: Oh, can you give your name and... [LR293CA]

JESSICA POWELL: I'm sorry. [LR293CA]

SENATOR EBKE: That's okay. [LR293CA]

JESSICA POWELL: Jessica Powell, and I am a resident... [LR293CA]

SENATOR EBKE: Spell it, please. [LR293CA]

JESSICA POWELL: J-e-s-s-i-c-a, Powell, like the colonel, P-o-w-e-l-l. [LR293CA]

SENATOR EBKE: Thank you. Go ahead. [LR293CA]

JESSICA POWELL: I'm also a resident of Douglas County, Omaha, Nebraska. And a little background, I have seven and a half years of experience in pharmacy benefits. I also have two years as a patient transfer coordinator and I also have some years in financial management, so I know how a lot of these processes work. I also have the experience of being a person that suffers from chronic pain. I've been in 23 car accidents, let alone other things that's happened like falling down the steps. I also suffer for some emotional depression as all my family has passed away. So when it comes to legalization of marijuana, I really feel like it would be more of a safe, effective treatment. I myself has been told by psychiatrists that medications that they would want to prescribe me, they can't due to the nature of my job responsibilities. That's a horrible thing to have to hear and have to deal with. I've also been served basically a psychological...I got basically a cocktail, cocktail of medications that are used for depression. At one point in time I took those cocktails and it landed me in a hospital. I feel like if we had marijuana as a choice, an

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option of treatment, I feel like it would be more safe and effective. I feel like I would be able to function more efficiently and I wouldn't have to worry about the chemical effects of most of like the white medications that we take that basically will put you out, you can't function. And if you have like serious jobs, it's kind of hard for you to maintain. One of the things I also like to bring up is that it saves us in medical costs; and not only that, it helps our doctors to do their jobs efficiently. Because people feel like they'll be penalized as soon as they state that they use marijuana for therapeutic treatment, they are not going to willingly admit, say, hey, doc, this is what I use, which means our doctors cannot efficiently treat their patients with the best medicines for that patient because they can't, they won't know what that patient is using, because that patient has to first be up and honest. And a patient can't be up and honest if they feel like the next step for them is jail or the next step for them is CPS and their kids when they're trying to help themselves therapeutically medicate so that they can be a functioning member of society. And with all the other treatments we have out here, I'm just asking, I'm begging that we please at least take a look or at least put this on the ballot so that people like me can keep continuing to serve other people, you know, people like me, people like young people can get the treatments that they need maybe to help with their depression, maybe to help with seizures, maybe to help with eating. Pregnant women, a lot of medications they give to pregnant women are harsh. Some of them you have to take in the rear end. That's not comfortable when you're pregnant. And some of those can help you not to eat even more that they're supposed to help. And if you would legalize marijuana, then maybe that would help some of those mothers get the relief they need so that they can have healthy babies. [LR293CA]

SENATOR EBKE: Okay. [LR293CA]

JESSICA POWELL: I appreciate your concern and I appreciate you guys taking the time. I know it's been a long day because I can see it on your faces. But again, I appreciate you hearing us out. Thank you. [LR293CA]

SENATOR EBKE: Thank you for being here today, Ms. Powell. Any questions? Okay, thanks. Next proponent. [LR293CA]

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EDWARD WILLIAMS: Hello, greetings. My name is Edward Williams, W-i-l-l-i-a-m-s. I'm a disabled veteran and I had a diagnosis last year that when I was going in for depression to do some questionnaires with the VA, they gave me the PTSD test. They told me I had PTSD but it was under control because of my cannabis use. I've been using cannabis since I was 16. It helps with my neuropathy; it helps with my arthritis. I fell 30 feet when I was in the service so my back is a mess. I have degenerative disc disease, spondylitis, and the list goes on. This actually helps me. It could help a lot of other people in this state. And I'd like to thank Senator Wishart for trying to push this in so it could be voted on and I hope you allow the citizens of Nebraska to voice their opinion on this important subject that could help tens of thousands of Nebraskans, maybe even more. I don't have much else to say. [LR293CA]

SENATOR EBKE: Great. Well, thank you, Mr. Williams. Any questions? Okay, thanks. [LR293CA]

EDWARD WILLIAMS: Thank you. [LR293CA]

SENATOR EBKE: Other proponents? I'm going to assume this is our last proponent unless I see somebody in the chair up here before he gets done. [LR293CA]

FRANK SHOEMAKER: (Exhibits 25 and 26) Afternoon, Chairwoman. Nice to be here. My name is Frank Shoemaker, F-r-a-n-k S-h-o-e-m-a-k-e-r, and I'm from southwest Nebraska. I have materials but I don't think I'm...I'll touch those in a second. But what I wanted to do is suggest to you a hypothetical is that maybe you folks will be here the rest of your lives and you'll be protected, but I'm assuming that in a couple of years you'll be out there like me, a citizen, and let's just say that you're married and your spouse has a stroke and she's taking medicines and they're causing side effects and she's hospitalized and a friend comes to you and says, why doesn't she take this piece of chocolate and try it? And she does. And all of a sudden the symptoms she was experiencing from the pharmaceutical drugs go away as she takes this piece of chocolate. And so you're faced with this situation. What do I do, my spouse? And so I go to...so you...I go to Colorado and I buy and I come home and she takes it and she starts on a regimen, taking this, and she's off all the pharmaceuticals that she's been prescribed and you're a criminal. You're a criminal. I'm a criminal. You have the possibility to change that, at least to

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give the citizens of Nebraska an option, a chance. The handouts I give to you are...the front and back page just shows the number of pharmaceutical pills, the reduction of those pills in states that have reformed cannabis law. And then the other is an article which talks about the...our Attorney General and what he's been doing in this field. And if you will go back to the last...I see I gave mine away, but the last, last couple pages there of that article you'll see some boxes and they'll be the responses of the federal DEA and you'll see in there they're saying that all this information here about all these terrible things that marijuana does, we can't trust any of it because the information...I wish I had it to read to you, but basically it just says...on page 7, I believe: Preliminary results suggest that medical marijuana laws lead to a significant decrease in arrest rates for violent crimes among both juveniles and adults. Initial estimates also point to a reduction in arrest rates for property crime, which is likely driven by a decrease in burglary and theft arrests among juveniles. Adults living in states with medical marijuana laws experience a significant decline in drug abuse violation arrests. Potential mechanisms to explain the decline in arrest rates include increased security at dispensaries and homes; decreased level of alcohol consumption that accompanies the implementation of medical marijuana laws. So that's all I have and I thank you for your time. [LR293CA]

SENATOR EBKE: Thank you, Mr. Shoemaker. Any questions? Thanks for making the trip. [LR293CA]

FRANK SHOEMAKER: Thanks. [LR293CA]

SENATOR EBKE: Okay, I see no more proponents, so do I now see some opponents? [LR293CA]

_____: (Inaudible.) [LR293CA]

SENATOR EBKE: Proponent yet? [LR293CA]

_____: Proponents. [LR293CA]

SENATOR EBKE: Proponent? [LR293CA]

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_____: I don't know. I think they're on their way from the overflow room. [LR293CA]

SENATOR EBKE: More proponents? They're going to check and see. [LR293CA]

SENATOR BAKER: Where's the overflow room, Senator Ebke? [LR293CA]

SENATOR EBKE: (Room) 1126, I think, right? It's really quiet in here. Senator Wishart, do you know, are there...do you have any idea? Nobody's in there? Okay. Okay, so it doesn't sound like we have a...not any overflow? [LR293CA]

SAM BAIRD: There's people in there but (inaudible)... [LR293CA]

SENATOR EBKE: Nobody, no proponents? Okay. So let's move to opponents, opponents of LR293CA. Come on up. Come on up. Don't be shy. Somebody come up. [LR293CA]

RYAN POST: Good afternoon, Chairwoman Ebke and members of the Judiciary Committee. My name is Ryan Post, R-y-a-n P-o-s-t, and I am an assistant attorney general with the Nebraska Attorney General's Office. The Attorney General is opposed to LR293CA. If this constitutional amendment were passed by the Legislature and then the electorate, it would need to have enabling legislation. Federal law would preempt any enabling legislation that the Legislature would enact that is in conflict with the federal Controlled Substances Act. Unless and until Congress modifies this clear prohibition, any regulatory scheme by the state of Nebraska to facilitate, promote, or license marijuana products, even for medicinal purposes, would be preempted and illegal under federal law. The Legislature should not expose the state in this way. I'm happy to answer any questions you may have. [LR293CA]

SENATOR EBKE: Thank you, Mr. Post. Any questions? Senator Baker. [LR293CA]

SENATOR BAKER: Just one: Sir, do you realize how fortunate you are that Senator Chambers is not here? [LR293CA]

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RYAN POST: Well, I've testified many times when he was here, so he's always been very nice to me. [LR293CA]

SENATOR EBKE: Senator Krist. [LR293CA]

SENATOR KRIST: So a few years ago we gave an exception to the rule for medical experimentation by UNMC. Those results are not totally known yet. But if the state of Nebraska, if the Legislature, if the people of Nebraska would vote that we should develop enabling legislation, you're telling me that the Attorney General's Office would take action against the Legislature when the law is put into place? [LR293CA]

RYAN POST: I can't commit to that at this time. I mean there's a number of different ways that question could come up, whether it comes up with a criminal defendant raising challenge to a conviction, whether it's a civil action by a private individual in opposition to the law the Legislature may pass, or whether it's the Attorney General himself. And we would just have to take it as it comes, so. [LR293CA]

SENATOR KRIST: I wish you'd look internally because you tried to buy drugs that were illegal to be put into this country so we could carry out the death penalty, so start with yourself, look in the mirror. [LR293CA]

RYAN POST: Understood, Senator. [LR293CA]

SENATOR KRIST: And that's the Chambers speech for the day. [LR293CA]

RYAN POST: Okay. [LR293CA]

SENATOR EBKE: Any... [LR293CA]

SENATOR BAKER: A shorter version. [LR293CA]

SENATOR KRIST: Shorter version. [LR293CA]

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SENATOR EBKE: Any other questions for Mr. Post? Okay, thanks for being here. [LR293CA]

RYAN POST: Thank you. [LR293CA]

SENATOR EBKE: Next opponent. And if there are other opponents, make your way to the front, please, so that I know what to expect here. Okay, thanks. Go ahead. [LR293CA]

THOMAS WILLIAMS: (Exhibit 27) Thank you. 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 am here to testify in opposition to LR293CA. There are many issues surrounding the use of medical marijuana. One of the most prominent is the lack of conclusive research. Studies have produced at best inconsistent findings. A large Journal of the American Medical Association meta-analysis published in 2015 concluded that further large, robust, randomized clinical trials are needed to confirm the effects of cannabinoids and to evaluate cannabis itself. A National Academy of Sciences report published in 2017 reached the same conclusion and opined patients may be unaware of viable treatment options and providers may be unable to prescribe effective treatments. Also, cannabinoid and forms of marijuana are not approved by the FDA at this time except for research. There are potential risk for the products. Because of the lack of conclusive evidence or research, there is no existing standard for therapeutic dosing. Dispensary marijuana has no national standards for safety and efficacy and the THC content--that's tetrahydrocannabinol--varies in a 2015 JAMA study greatly with both overdosing and under-dosing found in edibles. The study noted that edibles can contain much more THC than the natural plant, increasing the risk of unexpected side effects such as decreased short-term memory, panic, paranoia, and even acute psychosis. The FDA has approved synthetic cannabinoids Marinol and Syndros for therapeutic uses in the United States, including the treatment of anorexia associated with weight loss or AIDS or cancer patients. The lack of physician knowledge regarding cannabis prescribing is a significant (inaudible) problem. For example, a report aired just this month on NPR details virtual absence of knowledgeable prescribers in Massachusetts, where medical marijuana has been legal for six years, noting that both Dana-Farber Cancer Institute and Massachusetts General Hospital Cancer Center said they had no experts on staff to speak with authors of the report. As a prescription medication,

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currently it would be required for medical marijuana and patient/prescriber information to be reported in the Nebraska Prescription Drug Monitoring Program. LR293CA provides for the people of Nebraska to have the right to use or consume medical cannabis products, regardless of form, to treat or relieve any medical condition or illness. It is unclear how the public will be protected if this resolution and subsequent vote were to pass. Finally, possession and use of marijuana is prohibited by federal law and a vote for or against this resolution does not change that fact. Thank you for your time, and I'm happy to answer any questions that you may have. [LR293CA]

SENATOR EBKE: Senator Morfeld. [LR293CA]

SENATOR MORFELD: Thank you for coming today. Doctor. [LR293CA]

THOMAS WILLIAMS: You're welcome. [LR293CA]

SENATOR MORFELD: So to summarize your testimony, I mean, most of your concern is that...a lack of research. [LR293CA]

THOMAS WILLIAMS: That's a...that is a good part of my concern. [LR293CA]

SENATOR MORFELD: Would you say it's like 50 percent, 60 percent, (inaudible)? [LR293CA]

THOMAS WILLIAMS: I would say it's probably 50 percent at least, I think. [LR293CA]

SENATOR MORFELD: Okay. [LR293CA]

THOMAS WILLIAMS: And can...if I can elaborate, I think part of the concern beyond that is concern about the product and concern about physician knowledge about prescribing the product. [LR293CA]

SENATOR MORFELD: Okay, so, and I'm not being flippant here,... [LR293CA]

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THOMAS WILLIAMS: No. [LR293CA]

SENATOR MORFELD: ...I mean, so would you, would you write a joint letter of support for federal research into marijuana, more federal research? And you can...you're the doctor. [LR293CA]

THOMAS WILLIAMS: Right. [LR293CA]

SENATOR MORFELD: You can outline all of the things that need to be researched to get you comfortable with the medical benefits and maybe pitfalls of marijuana. [LR293CA]

THOMAS WILLIAMS: I think everyone in the scientific community believes that research is critical. [LR293CA]

SENATOR MORFELD: Okay. And so you'd be in favor, you... [LR293CA]

THOMAS WILLIAMS: I would be in favor of that. There are barriers to it that are at the federal level and then it's a Schedule 1 drug at this time. [LR293CA]

SENATOR MORFELD: Yeah. [LR293CA]

THOMAS WILLIAMS: I don't the merits, the legal merits or even the scientific merits, of how to approach that. [LR293CA]

SENATOR MORFELD: Yeah. [LR293CA]

THOMAS WILLIAMS: But there was a National Academy of Science report last year then that was a primary recommendation... [LR293CA]

SENATOR MORFELD: Okay. [LR293CA]

THOMAS WILLIAMS: ...is we need research. [LR293CA]

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SENATOR MORFELD: Well, and, Doctor, I guess my concern is, is that the opponents of medical marijuana or marijuana just in general, they always point to, well, the lack of research, the lack of research, when the same advocacy groups that oppose marijuana are the ones that are advocating against actual research and the ability to have that research on the federal level. So it just seems like a very...and I'm not saying that you're one of those opponents of research on the federal level. [LR293CA]

THOMAS WILLIAMS: I...yep, I haven't encountered that, so. [LR293CA]

SENATOR MORFELD: I'm just saying it's a very disingenuous, circular argument that I often see, and so I'll look forward to drafting that letter with you and we can send it together. [LR293CA]

THOMAS WILLIAMS: I probably need permission. [LR293CA]

SENATOR MORFELD: Pardon? [LR293CA]

THOMAS WILLIAMS: I probably need permission, but personally I'd be in favor. [LR293CA]

SENATOR MORFELD: That's fair. You are employed by somebody. I agree. I understand. [LR293CA]

THOMAS WILLIAMS: Yeah. [LR293CA]

SENATOR MORFELD: Thank you. [LR293CA]

THOMAS WILLIAMS: Thank you. [LR293CA]

SENATOR EBKE: Other questions? Senator Krist. [LR293CA]

SENATOR KRIST: Have you read or been involved with the UNMC results? [LR293CA]

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THOMAS WILLIAMS: I haven't. I have been indirectly involved, Senator. I've talked to Dr. Kratochvil about it. I believe that is the gentleman involved. I don't know where the study is at this time. It's been probably mostly...most of a year since we talked and at that time the study was ongoing. [LR293CA]

SENATOR KRIST: I would find your objections much more credible if you could tell me where we are within our own research as the Chief Medical Officer for Nebraska. [LR293CA]

THOMAS WILLIAMS: Well, the study was accruing patients and it's for a rarely...a fairly rare disorder, and so I...at the time we talked it was an ongoing study. Probably they will wrap the study up when they have enough patients and draw conclusions at that time. I would be happy to talk to him about it if that would satisfy you and report to you what I've found. [LR293CA]

SENATOR KRIST: Well, I think...I think it's well within your job description to do that. And I also differentiate between two discussions here and I think you can only put singles...I know you can only put single subjects on the ballot to keep it very simple. But we don't even have to talk about medical marijuana. We could talk about CBD oils and the CBD oils do not come from marijuana, they do not come from a plant that has a high concentration in THC, so. And I guess where I'm going with all this is we've heard that kind of testimony over and over again in the last four, five, six years. There has been no real productive research done that anybody can get behind, maybe or maybe not, yet the medical community and big pharma is giving us a synthetic version of THC that it says solves a lot. We're going to give big pharma an opportunity, a free pass to put synthetic THC on the market and we're going to prohibit the use of medical marijuana from an actual plant. Doesn't smell right to me, (inaudible) unintended. [LR293CA]

THOMAS WILLIAMS: Well, synthetic THC I think more follows the traditional pharmacological model of medicine. [LR293CA]

SENATOR KRIST: No question. [LR293CA]

THOMAS WILLIAMS: In other words, it's a pure compound which can be studied as a pure compound. The variation in plants and plant products are many, many cannabinoids. And both in

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its pure form and its metabolized form, cannabinoids are extremely complex molecules and that, my familiarity with that is more on the laboratory side and that's the problem in the laboratory (inaudible) side as well. So I think being able to have a relatively pure compound that can be synthesized, measured, and dosed and applied in patients in a predictable manner and then assessing what happens is the usual medical model and that's probably why it's more attractive to them. [LR293CA]

SENATOR KRIST: So we're going to perpetuate the use of opioids and of big pharma developing a synthetic version of something that we already have instead of studying the plant that's the... [LR293CA]

THOMAS WILLIAMS: Well, that's what I think should happen. And my understanding is that because of the limitations on research, there is, I believe, and I should check this to be sure, that there is basically one localized farm in the south that for the government can produce a plant that can be studied. And there are many plants and many varieties of plants. And there was a study, for example, talking about the product, which I mentioned, that was in JAMA in 2015 where they look at edible cannabis products in three cities and they actually measured the THC content to see if it was reasonably close to what was provided by the growers and the dispensers of the plant. And they found that some of it had very, very little THC and some of it had a lot, from 50 milligrams of THC up to 1,200, running the risk of either under-dosing or overdosing patients and it's just...because it's a very complicated product, it is harder to study and it's harder to standardize and it's harder to prescribe. [LR293CA]

SENATOR KRIST: Well, we just need to get busy and figure out how to do it. [LR293CA]

THOMAS WILLIAMS: Agreed. [LR293CA]

SENATOR EBKE: Any other questions? Senator Pansing Brooks. [LR293CA]

SENATOR PANSING BROOKS: I don't know. So far, listening to, oh, this is a complex molecule, and, oh, these are amazingly difficult chemicals to study and we can't be sure, of course there's a wide range of whether it's got more THC or not or not as much THC. We aren't

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willing to even look at it to regulate it. Do you believe that it should be a Schedule 1 drug and why is that, if you do--because I presume you're going to say yes--so why is that, that it should be a Schedule 1 drug... [LR293CA]

THOMAS WILLIAMS: That's...well... [LR293CA]

SENATOR PANSING BROOKS: ...along with morphine, heroin? [LR293CA]

THOMAS WILLIAMS: Whatever. I think that what needs to happen is that it needs to be researched. I don't know if that in and of itself is a legal complete barrier to doing it or not, but I think that there's agreement in the scientific community that it needs to be researched. [LR293CA]

SENATOR PANSING BROOKS: And how long have we known about and have people been using marijuana or some form of that drug? [LR293CA]

THOMAS WILLIAMS: Obviously a very long time. [LR293CA]

SENATOR PANSING BROOKS: Yeah. [LR293CA]

THOMAS WILLIAMS: And by the way, I want to be sure that it's...that I and we acknowledge and respect the testimony that's here today because people have come and they've exercised their right to share things that are very intimate in their lives. And it's a complex problem. If it wasn't, we wouldn't be here. But I think that research will help, having a product that's standardized will help, and having physicians... [LR293CA]

SENATOR PANSING BROOKS: So do you have an idea of how to promote that research or what to do about it? What can we do as Nebraskans? If you're...I mean you've said that the UNMC studies is about one particular dose. So what do you offer to do? [LR293CA]

THOMAS WILLIAMS: I think the research needs to be a product that can be in chemical ways that standardize probably disparate products that have different levels of marijuana in it. I think it

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probably should be a double-blind study where people who are administering the product and taking the product are not aware of whether or not it has THC in it. That can be a problem because THC and other cannabinoids produce effects that placebo...which means you would need to use a placebo to do that. In other words, you would need to have some sort of a drug that doesn't have THC and some sort of a drug that does have THC or a cannabinoid. And the person taking whatever the placebo is would not be able to tell that it's a placebo. [LR293CA]

SENATOR PANSING BROOKS: Well, could the Department of Health set up such a study? [LR293CA]

THOMAS WILLIAMS: There...I think...I have read that there are ways to do it but it's challenging and it would need to be large. [LR293CA]

SENATOR PANSING BROOKS: Of course. It's complex, it's challenging, just like the molecules, but it is very aggravating because we've heard this for so long. We have people who are in actual pain and to act as if the argument of a gateway drug, oh, it's going to be so terrible where all these horrible things are going to happen, wouldn't you agree that if it becomes legal, that a doctor can then prescribe it just like heroin or morphine or any of the other drugs that are terrible on the street? But once it's prescribed, that's an appropriate way to have a drug distributed, wouldn't you agree? [LR293CA]

THOMAS WILLIAMS: My understanding is that it would be. But let me read something to you. This was in January this year. It's a fairly recent report and it was on NPR and it's a patient in Massachusetts talking about using medical marijuana. And the article starts: In Massachusetts, medical marijuana has been legal for six years, but it's still a challenge for cancer patients to get a state-issued marijuana ID card and then figure out what kind of cannabis to use. Patient said: I was flabbergasted that there was no real resource A, B, or C, and here's how you do it, she said. What I liken this to is you need chemo, now go figure it out, and... [LR293CA]

SENATOR PANSING BROOKS: Well, so why is that a statement on your behalf against this because all it is, is we know that every state has encumbrance after encumbrance, barrier after barrier. So of course somebody is having trouble getting access or getting the card or...there's

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just...we know that the large pharmacies are putting up every barrier possible, so that doesn't surprise me that you have that. And what about the studies that are happening internationally? We know that these...this drug has been studied significantly overseas. So what about those studies? Do we...we don't take any of those studies as valid or appropriate? [LR293CA]

THOMAS WILLIAMS: Well, let me just finish one thing. Prior... [LR293CA]

SENATOR PANSING BROOKS: Well, I'd really rather have you finish what I was going...asking you, so. [LR293CA]

THOMAS WILLIAMS: Okay. [LR293CA]

SENATOR EBKE: (Inaudible) answer your question. [LR293CA]

SENATOR PANSING BROOKS: (Inaudible) my question. [LR293CA]

THOMAS WILLIAMS: I am not, I am not personally familiar with those studies. [LR293CA]

SENATOR PANSING BROOKS: Okay. [LR293CA]

THOMAS WILLIAMS: And I...so I can't speak to it. [LR293CA]

SENATOR PANSING BROOKS: Okay. Well, I hope you might check into some of those with me because I understand that they all exist, so. [LR293CA]

THOMAS WILLIAMS: I think that for physicians, that there is a challenge in understanding what they're prescribing. In the article I mentioned, in Massachusetts, in one particular dispensary they had 130 products and 50 different items. And some of the things that they sell, maybe you know what these are but I don't know what all these things are, it was referred to today, some of them are... [LR293CA]

SENATOR PANSING BROOKS: Of course I don't know what they are. ` [LR293CA]

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THOMAS WILLIAMS: ...are oils, flowers, hash, shatter, or rosin which can be smoked or "vaped," and edibles including baked goods, candies, and gummies. We don't learn that stuff in medical school right now, and so it is a challenge. I would like to simply be sure that it's understood that just because a doctor can prescribe it, doesn't necessarily mean that a doctor is knowledgeable. And, you know, I think in the medical profession, were this to be an option for us to help patients, there is...we have some work to do to learn about it. [LR293CA]

SENATOR PANSING BROOKS: Thank you. [LR293CA]

SENATOR EBKE: Senator Morfeld. [LR293CA]

SENATOR MORFELD: So in talking about that training, I'll have to look at that NPR article. I listen to NPR a lot, so I was searching to find it. But I guess as an attorney, I...we have something called continuing legal education I have to take, ten credits a year. You know,... [LR293CA]

THOMAS WILLIAMS: Um-hum, right. [LR293CA]

SENATOR MORFELD: ...it's sometimes a little annoying, but, you know, I do learn something. I mean I'm assuming medical professionals have continuing medical education? [LR293CA]

THOMAS WILLIAMS: Fifty hours a year for Nebraska. [LR293CA]

SENATOR MORFELD: Fifty hours? [LR293CA]

THOMAS WILLIAMS: Yeah. [LR293CA]

SENATOR MORFELD: Oh, well, I'm (inaudible). [LR293CA]

THOMAS WILLIAMS: What do you have? [LR293CA]

SENATOR MORFELD: I have ten. [LR293CA]

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THOMAS WILLIAMS: Oh, see? [LR293CA]

SENATOR MORFELD: I have ten, yeah, and I have to sit here all day and listen anyway. But in any case (inaudible)... [LR293CA]

SENATOR EBKE: Does this count? [LR293CA]

SENATOR MORFELD: What? [LR293CA]

SENATOR EBKE: Does this count? [LR293CA]

SENATOR PANSING BROOKS: No. [LR293CA]

SENATOR MORFELD: I...no, it doesn't. I've... [LR293CA]

SENATOR PANSING BROOKS: No. [LR293CA]

SENATOR EBKE: It doesn't count? [LR293CA]

SENATOR MORFELD: I've had many conversations with the judiciary about that. Any case, so 50 hours a year, I mean, I don't see how you guys can't learn. [LR293CA]

THOMAS WILLIAMS: I...well, I...no, I...I think you need to need to find credible trainers. [LR293CA]

SENATOR MORFELD: Okay. [LR293CA]

THOMAS WILLIAMS: In this particular article,... [LR293CA]

SENATOR MORFELD: I'll help you find them. [LR293CA]

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THOMAS WILLIAMS: ...person-to-person, the doctor, this patient who finally found to help her was... [LR293CA]

SENATOR MORFELD: Okay. [LR293CA]

THOMAS WILLIAMS: ...had been a professional musician before they went into emergency medicine... [LR293CA]

SENATOR MORFELD: Okay. [LR293CA]

THOMAS WILLIAMS: ...so they knew how to prescribe marijuana. [LR293CA]

SENATOR MORFELD: Now I am being kind of flippant so I'll stop there. [LR293CA]

THOMAS WILLIAMS: No, that's good. [LR293CA]

SENATOR MORFELD: Thank you, Doctor. I appreciate it. [LR293CA]

THOMAS WILLIAMS: But the article also said that about 1 percent of Massachusetts, 25,000 doctors are registered and that they had an on-line curriculum last June and only 27 professionals took it. [LR293CA]

SENATOR MORFELD: Okay. So there are some curriculum but maybe not as much interest as there needs to be. [LR293CA]

THOMAS WILLIAMS: There...but it would be...it would be very early in development. [LR293CA]

SENATOR MORFELD: Okay. [LR293CA]

THOMAS WILLIAMS: Yeah. [LR293CA]

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SENATOR MORFELD: Thank you. [LR293CA]

SENATOR EBKE: Okay. Any other questions? Thanks for being here, Doctor. [LR293CA]

THOMAS WILLIAMS: All right. Thank you. [LR293CA]

SENATOR EBKE: Next opponent. And again, if there are other opponents, please move to the front. [LR293CA]

MONICA OLDENBURG: Good afternoon. My name is Dr. Monica Oldenburg, M-o-n-i-c-a O-l-d-e-n-b-u-r-g, and I am an anesthesiologist practicing here in Lincoln. Prior to relocating to Lincoln with my husband and six kids, I was in private practice in Colorado for ten years. Seven of those years we had medical marijuana and three with recreational and medical. The two major chemicals of interest in the marijuana plant are THC and CBD. CBD gets less attention due to the lack of high with use but has some potential to help with spasticity and epilepsy. There's a medication, Epidiolex, currently undergoing FDA trials with potential for approval for the treatment of childhood seizures. The other component, THC, is much more concerning secondary to its ability to get one high. There is no FDA regulation ensuring THC content or purity in medical marijuana. One major concern I have with this bill is approval of medical marijuana in all forms. Are you familiar with joints, blunts, dabs, "vapes," hash, wax, shatter, and "budder," b-u-d-d-e-r? Do you know what the THC concentrations in any of these? Since the 1990s, a typical joint has tripled the THC concentration it contains. This is no longer Woodstock weed. A typical joint in Colorado has a THC content of around 17-20 percent. Some of the concentrates have THC concentrations between 40 and 90 percent. Unfortunately, we have no good long-term studies on the effect of high-potency marijuana and this bill says nothing about limiting the THC content. Teen use is my primary reason for advocating against this bill. The teen years are a time of rapid brain development and some of the research studying regular teen use of marijuana, they're frightening. There's a potential IQ drop that's not recovered with abstaining from marijuana in adulthood; teens using regularly have increased risk of psychosis, schizophrenia, anxiety, and depression; marijuana impairs short-term memory and judgment and distorts perspective. Contrary to popular myth, marijuana is addictive and there's an increased risk of addiction the earlier one begins use. You may wonder what this has to do with medical

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marijuana and in states with legal medical marijuana one third of the 12th graders say the source of their marijuana is another person's medical marijuana prescription and another 6 percent have their own prescription. That's 40 percent of teen use. How do you plan to handle kids with medical prescriptions during school hours? The school district I previously resided in made front page of the local paper for city schools approved medical marijuana for qualified students that allowed administration of medical marijuana during school hours. About two years ago my eight-year-old came to me and said, do you need medical marijuana to get out of bed? And I said, tell me more. She then went on to tell me that one of her classmates brought her father his medical marijuana so he could get out of bed in the morning. I'm not sure what it was prescribed for, but he was an able-bodied 35-year-old professional body builder. I have a couple issues with this. Number one, an eight-year-old has access to a potent drug. Next, to this child, marijuana use is normal and safe. And finally, this impaired gentleman was using marijuana and then driving his daughter to school on the same roads I was driving with my children. In conclusion, I implore you not to legalize any type of marijuana until you have good answers to these questions: how we reliably ensure that teens and younger do not have access to this drug as their brain develops; what limits do we need on the THC concentrations; how we handle children with medical prescriptions in the public schools; how will you determine roadside impairment; and is there a good laboratory test with reliable, reproducible serum levels of THC and its metabolites. The predictable jokes aside, there are serious implications for children. The decisions we make today will impact generations to come. Thank you. [LR293CA]

SENATOR EBKE: Senator Morfeld. [LR293CA]

SENATOR MORFELD: Thank you for coming today, Doctor. I guess to address a few of your questions, how do we keep other drugs and alcohol and guns and weapons out of the hands of children right now? How is this any different? [LR293CA]

MONICA OLDENBURG: Well, I think we just have to really go slowly on stuff. We don't have all the research. And I know every...nobody wants to hear this, but I do believe in the research and I am excited to hear that the...one of the people that spoke today that her child is on this trial for the CBD oil. I think there is a lot of potential. But I think we have to slow down and make sure we're getting stuff with known purities and make sure we have reproducible so you don't

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one day get one thing and another day get another thing. You want, and a parent, I would want the same product every day, too, and there's not a lot of that reliability. [LR293CA]

SENATOR MORFELD: Yeah. I mean I...there certainly is inherently a risk with anything you do. I mean I remember, because I was hyperactive, they had me on Dexedrine and all kinds of other things which I guess are the equivalent of speed, and that had an impact on...based on the research I've seen, it has an impact on your development and some other things but that didn't stop...I just...I have a hard time understanding how we have legalized alcohol, we...not saying that it shouldn't be legalized, but we have legalized alcohol, for better or for worse, we have opiates that are out there, there's more awareness on the dangers of that, so I think that's a fair point, how that should, the argument that there could be some danger should get in the way of actually going out and doing the research and actually giving people the cure that they need. And I think that while maybe there isn't as extensive of research as we would like, there is research out there that is showing very promising benefits of this drug. [LR293CA]

MONICA OLDENBURG: I think one of the problems really is the potency because if you look at those, a lot of the studies, like the gentleman, the physician before me was saying, there's one place where they're getting it and they're not able to get the high-potency stuff, to the best of my knowledge. And that's the real concern is some of these stuff have THC contents of 90 percent, which like a normal, like most people are...were thinking it was more like the marijuana use in the '60s, '70s, these are really high potency. And that's the concerning part is we don't know these potencies, we don't have the research, and we're not necessarily able to get it, which I think is a problem because I truly believe we should have this research and be able to say yea or nay and say let's get the data, let's look and be able to then make a good decision, because right now we're kind of just saying, okay, it should be fine, but let's actually look at the data and find it and really be able to see. But they're not able to, to the best of my knowledge, get those high-potency (inaudible) and that, again, in all forms is what really concerns me. It really does. [LR293CA]

SENATOR MORFELD: Yeah. Well, and I see what you're saying. I guess my concern, and I'll just end with a statement here, is that a lot of the opponents have had very...that I have seen have very little interest in actually getting that information and actually seeing research done and supporting research on the federal level for that. So these arguments ring very hollow to a

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lawmaker like myself when they have stalled time after time, they--I'm saying the royal "they" in terms of the opposition--have put together roadblocks and barriers time after time to that research needed to make those informed decisions. Now we're at the point where quite frankly there's so much support in the state--77 percent--that if it gets on the ballot this will pass. And so the time for thoughtful research and supporting that research has come and gone and here's where we're at and this is the reality and it's not just the political reality. It's the reality of people that are suffering. And so I'll just say that and I appreciate your comments about that.

[LR293CA]

SENATOR EBKE: You want to flip? [LR293CA]

SENATOR CHAMBERS: Say it again? [LR293CA]

SENATOR EBKE: You want to flip for who goes first? [LR293CA]

SENATOR CHAMBERS: No, ladies are always first as far as I'm concerned. [LR293CA]

SENATOR EBKE: Thank you, Senator Chambers. Okay, I'm going to...I'm going to step in. So if you read the language, the language of the proposed amendment says: The people of Nebraska have the right to use or consume medical cannabis products, regardless of form, to treat or relieve any medical condition or illness, subject only to the laws, rules, and regulations regarding the authority of medical professionals to recommend and dispense medical cannabis so long as such laws, rules, or regulations preserve or facilitate the right to use or consume medical cannabis. It seems to me that medical professionals will still be a part of this, okay, so would you argue...I mean if you are a...I don't know. What's your specialty? [LR293CA]

MONICA OLDENBURG: I'm an anesthesiologist. [LR293CA]

SENATOR EBKE: An anesthesiologist, okay. Well, if you were...this isn't going to work. But if you were a pediatrician, let's just say you're a pediatrician and somebody comes, you know, somebody who is 95 years old comes in and that they...you know, would you prescribe something for them for dementia? I mean, would you feel comfortable doing that? [LR293CA]

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MONICA OLDENBURG: I don't know that that's really an indication to the best of my knowledge. [LR293CA]

SENATOR EBKE: Well, I mean, imagine...well, my point here, and I'm not making it well, my point here is that, you know, will physicians prescribe something just because they can or will they do the research and find out how to prescribe it and make sure that it's appropriately prescribed? [LR293CA]

MONICA OLDENBURG: I would hope as a physician through medication that I administer I have to know side effects, I have to know who it's appropriate for, who it's not appropriate for, and what dosage to give, so I would hope...I try not to ever give a medication that I don't know all those,... [LR293CA]

SENATOR EBKE: Sure. [LR293CA]

MONICA OLDENBURG: ...the answer to all those. So I would hope that... [LR293CA]

SENATOR EBKE: Sure. [LR293CA]

MONICA OLDENBURG: ...if you're going to be prescribing, you'd educate yourself. [LR293CA]

SENATOR EBKE: Sure, okay. Well, that's fair enough. Senator Chambers. [LR293CA]

SENATOR CHAMBERS: Doctor, do you...are you of the opinion that the opioid addiction problem has reached epidemic proportions in this country? [LR293CA]

MONICA OLDENBURG: Absolutely. [LR293CA]

SENATOR CHAMBERS: Are you aware that people in the medical profession, even some in the pharmaceutical industry, have laid a lot of the responsibility on the doorstep of doctors who prescribe and over-prescribe? [LR293CA]

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MONICA OLDENBURG: And I would agree with that. [LR293CA]

SENATOR CHAMBERS: And the opioids that they, and I won't give brand names because they...the opioids that have been prescribed have all been FDA approved, they are legal drugs, and doctors have prescribed them. Since doctors have contributed to an epidemic that is leading to deaths by overdoses in the hundreds, and the numbers continue to grow, why should I listen to doctors who are going to tell me medical cannabis is dangerous when they can't show me where marijuana, even marijuana, has killed anybody? [LR293CA]

MONICA OLDENBURG: It's hard because I think there has been a lot of irresponsible use of opiates. [LR293CA]

SENATOR CHAMBERS: Could you speak a little louder, please? [LR293CA]

MONICA OLDENBURG: Oh, it's hard. I think there has been a lot of irresponsible prescribing with opiates and I know in a lot of states it tended to be certain prescribers and they had like the pill mills. Texas had a really big problem with that. And what's...I think we're now more aware of that and everybody is very cautious in their use now and we're trying to make sure we do things appropriately. I'm not sure exactly how you want me to answer. [LR293CA]

SENATOR CHAMBERS: It's now how I want you to answer. I want you to... [LR293CA]

MONICA OLDENBURG: The... [LR293CA]

SENATOR CHAMBERS: ...just...well, let me... [LR293CA]

MONICA OLDENBURG: I think... [LR293CA]

SENATOR CHAMBERS: Let me move to something else. [LR293CA]

MONICA OLDENBURG: I think most of us are for research. I think most physicians...
[LR293CA]

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SENATOR CHAMBERS: Are you aware, and I've read articles--I read everything I can get my hands on, that doesn't mean everything that I can get my hands on--that there are doctors who are persuaded by salespersons from the pharmaceutical industry to try new drugs and then tell that salesperson how they work on the patients. Are you aware of that being done? [LR293CA]

MONICA OLDENBURG: I think there's been kind of a movement, again, away from that, that we're not supposed to be getting swayed by the pharmaceuticals. There's not a lot of free lunches. [LR293CA]

SENATOR CHAMBERS: But the pharmaceutical industry has persuaded the FDA to make legal many drugs that are deadly. Let me tell you why I say that. The only way a prescription drug can be advertised on television is if all of the side effects are included. That's why these drug companies tell you the side effects. And there are numerous drugs. I was taking notes where they say it can possibly be fatal; the drugs that are legal, that are prescribed can kill you when the ailment for which you're taking them will not kill you. There is one drug, and I won't mention it because people would laugh and I'm trying not trying to be funny, but they say if you have a problem with your hearing, with your sight, or if your throat swells, then stop taking it. But there are some men who would...I mean...oops. (Laughter) But here's the way I look at that. Let's say that I was in that situation and my eyes started failing and I remember what they say so I run to the telephone and I can't see but I can count the...where the numbers would be and I punch in the numbers but by now my hearing is gone and I don't know if anybody is on the other line, but in case they are I'm going to say something to them, and I can't speak. It might sound facetious, but this is what you can gather from all of these drugs that are advertised on television. And they...they advise you to see your doctor but they're legal. The pharmaceutical industry spends, they say, millions--I'd say billions--on influencing politicians who are not doctors but who want the money to go on with their campaigns. Please don't take personally what I'm going to say now. I have less confidence when doctors tell me about the dangers of medical cannabis when nothing that the doctors approve of addressed the problems of the children in the way that medical cannabis has been shown to do. When they say, when doctors say it doesn't work for everybody, no drug works for everybody. You don't know how it's going to work on anybody. But you go with the generality and that's the only way you can do with things because all of us may have different chemical reactions so you say generally this will work in such-and-such a way. I

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think the pharmaceutical industry is opposed to medical cannabis because once it is allowed to be used a lot of these quack prescriptions that the doctors give, that the doctors who speak against medical cannabis will support, will go down the tubes. And I don't think the pharmaceutical industry is really concerned about the health of the public. They're interested in their bottom line and that guy they call the...well, he was very arrogant and even medical people didn't like him, and pharmaceutical people. He jacked up the price of some drug that was really needed many, many times and then he joked and laughed about it. His job was to make money. If I had the power to legalize what we're talking about, I would do it in a heartbeat. I can't think of any...I like all living creatures, great and small. I like all living things, even dandelions, and the reason I do, because a dandelion was...I was cutting grass and the dandelion, I heard this little voice, and so I turned off the lawn mower and the dandelion said, I understand that you're green, that you believe in a clean environment and so forth. And I said, well, yeah. Since a dandelion talked to me and nobody was watching, I answered. And the dandelion said, well, why do you treat us the way you treat us? I said, what do you mean? Well, you dig us up out of the ground but we're hearty and some of us will grow again. I said, well, it's a matter of appearance. You're...you don't do any harm. If we looked at you the right way, a sea of gold would be considered beautiful, because if it was real gold we would fight and kill for it. So the dandelion said, then why don't we reach an accord? And I said, well, what are you talking about? The dandelion said, can't you just give me a haircut, since you're a barber, without killing me? I say, well, I'm cutting this grass for somebody else, but here's what I noticed, since we're being frank. When I was doing that and just giving haircuts, then those dandelions must have said, here's a place, this is a sanctuary yard because all we'll get is a haircut, and the next day they would have told their uncles, their aunts, their cousins, and there were more dandelions than ever before. So then I asked this dandelion, do you have within your ranks somebody you would describe as a philosopher or a thinker? And the dandelion said yes. So I said, well, let me talk to your thinker and I'll see if I can be persuaded. So this dandelion approached me and the dandelion said, I exist, I cast a shadow, let me live. And I haven't killed a dandelion since. Here's the point I'm getting to. There have been various, they were called, weeds that were demolished because people didn't understand that they might be the basis for some medication. They'll go to another country and find out that these various plants do provide a kind of natural mediation that the pharmaceutical companies will exploit and make money from. So I'm saying all that to get around to this. I see the heavy hand of the pharmaceutical industry in this. I saw where the

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Trump administration is talking about allowing people to make use of drugs that have not gone through all the FDA tests. If a person is desperate enough and their condition is serious enough-- I'm paraphrasing--and that person wants to try this drug, they're going to be allowed to do it. Now parents are responsible for their children. I know there are parents who would abuse their children, that couple who did it to those 13 children. But we cannot draw a generalization about all parents and the relationship they have to their children from those two lunatics who did what they did to their 13 children. So I'm puzzled why doctors, they will say this is anecdotal information, but when I go for a checkup, I'm not a doctor, they ask me about my symptoms, they take my word for what I say, and they prescribe on the basis of the information from a nonmedical person who could even be lying but then call it anecdotal information where parents mention that there were these seizures and the children would be given the medical cannabis and the condition would be alleviated. I don't understand how grown people could watch children who are going through the torment that they do and there's something that will benefit them and it has not killed any of them and they'll say, don't do it because the pharmaceutical industry has not told us that it's all right. Not one of these doctors is engaged in determining whether a drug is efficacious or not. They go by what the pharmaceutical industry tells them. Some of them are even wise enough to take advice from pharmacists who know far more about compounding medications and what they're going to do than the doctors who prescribe them. So without being insulting, are you saying that you disbelieve what parents say that medical cannabis does in alleviating their children's condition? [LR293CA]

MONICA OLDENBURG: Not at all. I actually...I was the one that brought up the Epidiolex because I think it is kind of an exciting area. [LR293CA]

SENATOR CHAMBERS: So then you're in favor of this being allowed. [LR293CA]

MONICA OLDENBURG: I am absolutely in favor of research to see where we're going with this. And if it becomes an FDA-approved thing where we have trials and we have evidence that this really is working, I think it's excellent. [LR293CA]

SENATOR CHAMBERS: But here's...here's what I have to tell you. The FDA said that sodium thiopental could not be imported and it was used to kill. And the Governor and the Attorney

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General of this state were trying to import it anyway and the FDA said no, so they don't care about FDA approval. When the FDA has taken a position they don't like, they disregard it. And as a result, they spent \$54,000 to a trickster who said he'd send them the sodium thiopental and he never sent it and they never got the money back. It makes me cynical about all the kind of things that I'm hearing. I'll tell you what I would do then I'm through. I wasn't here asking questions before. [LR293CA]

SENATOR EBKE: You're fine. [LR293CA]

SENATOR CHAMBERS: If I had a child who was sick--and I used to tell people in the public schools where they used corporal punishment don't touch my child; I will die and go to hell ten times before I let an adult put his or her hands on my child in anger or violence; I'm my child's father; I buy their clothes, I buy their food, I provide shelter; I'm the one who takes them to the doctor; don't you put your hands on my child; if you have a problem, call me--if I knew where I could obtain that substance, I would risk going to jail in a minute. I'd go wherever I had to go to get it. And I wouldn't care who knew it. I'd hope I wouldn't have to go to jail. And if it wouldn't disrupt my child's life too much, then I would move to a place where I could legally obtain it. Do you understand how desperate people can be when they watch their child suffering and feel that it's needless because there are ways to alleviate that suffering? If the parent deliberately inflicted that kind of suffering on the child, that parent would go to jail and should. But I have doctors coming and saying, well, we know all that, yeah, yeah, yeah, but we're not convinced because we haven't had enough tests and we don't know where it's going. [LR293CA]

MONICA OLDENBURG: Well, I think we're lucky right now because these things are in trials and parents like the woman that spoke earlier, their kids are able to get some of that relief right now. I think that's a great thing that we're able to see and we're seeing does it happen. Sure sounds like it and that's...I think that's a great thing. [LR293CA]

SENATOR CHAMBERS: And since I don't want to be argumentative, I appreciate your letting me be what I've been in talking to you and I don't have any more questions or comments. Thank you. [LR293CA]

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SENATOR EBKE: Other questions? Senator Pansing Brooks. [LR293CA]

SENATOR PANSING BROOKS: Thank you for coming, Doctor. So how long do you think we should wait for these trials, because if they keep...if we're right and if the pharmaceutical companies are just paying people to push it off and to test something that's very particular and doesn't affect everybody, as you said, how long should we wait on this as legislators? [LR293CA]

MONICA OLDENBURG: Should...the hard part is, like I said, I think the teen brain is the one that's really hard. [LR293CA]

SENATOR PANSING BROOKS: I understand that. We should be very careful and the doctors... [LR293CA]

MONICA OLDENBURG: It's... [LR293CA]

SENATOR PANSING BROOKS: ...should be trained in giving that medication to a teenager. [LR293CA]

MONICA OLDENBURG: It's (inaudible). [LR293CA]

SENATOR PANSING BROOKS: But we've heard about parents who have multiple seizures a day, whose children are beating their heads into drywall, but we should still wait because no doctor could see that kind of case and realize that something else needs to be tried. Is that correct? Nothing else should be tried? [LR293CA]

MONICA OLDENBURG: I'm not sure of the question. But I think we do have this trial and that, like I said... [LR293CA]

SENATOR PANSING BROOKS: Yeah, for how many people are in that trial? [LR293CA]

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MONICA OLDENBURG: You know, if I had the choice, I'd let everybody be in it that could be in it, you know, as long as we can make sure, you know, we're getting the random... [LR293CA]

SENATOR PANSING BROOKS: Okay. My worry is how long we're supposed to wait. And we keep hearing from all of you that we should wait. Every encumbrance is set forth and every barrier and it's just...it's very sad. It is...it is just...and it's because this has gone for so long that we're at this point where the people are saying, enough, if you won't move on it, we'll bring a constitutional amendment and we will have the people vote. And it's because too many people have set up these barriers. Law enforcement has said it's a gateway drug. We don't see more crimes coming from those communities that have medical marijuana. So it's easy to come, and I appreciate you're saying "I'm in favor of it, but..." That "but" is huge to the lives of so many people and I just...I appreciate your coming. Thank you. [LR293CA]

MONICA OLDENBURG: I would say the hard part with teens though is we're waiting and we're trying to see because it's...as with most medications, one of the things you see is it's about a 20-year lag in effects, and that's the hardest part is the waiting to see. But cigarettes, how long did we have cigarettes and everybody thought it was safe and we had all the big tobacco people testifying that there was no addiction to (inaudible). [LR293CA]

SENATOR PANSING BROOKS: People didn't think they were safe in the '20s. I had...my grandfather was a doctor and was warning my mother not to be smoking, so that is not true. So anyway, but of course the companies were coming forward, you're right, the cigarette companies and the tobacco companies were coming forward, and we were all listening to those companies, just like we're all listening to the pharmaceutical companies now. Thank you so much for your testimony. [LR293CA]

SENATOR EBKE: Thank you, Doctor. Okay, thanks. Are there any other opponents? Opponents? [LR293CA]

GREGORY LAUBY: (Exhibit 28) Good afternoon, Senator Ebke and members of the committee. My name is Gregory C. Lauby, G-r-e-g-o-r-y, "C" as in cat, L-a-u-b-y. I am opposed to LR293CA because I believe it will prevent the very remedy that all the people that have

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testified here today say they need and want and they deserve and it will instead preserve the very restrictions that are being used to prevent them from gaining the improvement in their health they so desperately need. And before I start detailing what specific problems I have with the language and how this sort of ruse is being accomplished, in my opinion, I just...I have to make a comment about the testimony that has preceded me in opposition to this bill. If the language of the Attorney General and his logic is applied in absolute contradiction to what you heard two years ago on March 6, 2016, when Professor Mikos from Vanderbilt, a nationally known expert on constitutional law as it applies to medical marijuana bills, explained that the state is not obligated by either supremacy doctrines or preemption to use its resources to enforce federal regulations under the Controlled Substances Act. And I think those of you that were on the committee at that time probably remember some of that testimony. If you don't, it's in the record or I will be happy to supply a...his full...several constitutional Law Review articles on the subject. If the logic of Dr. Williams is applied, and I remember him a year ago when he came in and opposed placing cannabidiol on Schedule 5 even if it was FDA approved, that logic and the logic of the anesthesiologist rules, cities would not be able to dispense water. Let me just talk about the language. Number one, I call your attention to the fact that it protects the right to use or consume medical cannabis products. That's not medical cannabis. IN the first place, there's no such thing as medical cannabis. There's a wide variety of cannabis cultivars and varieties and I don't know of any of them that are called medical. And it's not the plant. The plant is...parts of the plant are defined as marijuana and that's what's on the controlled substance list and that's what's illegal. Products are something, to me, at least, come from a manufacturing or a laboratory process. They are not created by the sun and the wind and the soil the way a plant is. And I think what most people are trying to tell you here is we need access to the plant and its extracts, not something that is produced by a pharmaceutical company that doesn't contain the full range of the complex molecules that the natural plant does. So that's, that's the first problem. The second is that it leaves the existing law, rules, and regulations in place to subject either the people of Nebraska or the medical professionals who are going to have to dispense the medical product. Dispense is a phrase of art that's in the Controlled Substances Act right now. It's a felony to dispense a Schedule 1 even if you're a licensed pharmaceutical business. So you're...this appears to put that prohibition right into the constitution. I don't see that that's an improvement. It also, as Senator Wishart has indicated, leaves it totally subject to the future rules

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of the Legislature and this Legislature has not advanced any modification or improvement yet. I don't know who is going to trust them to do so in the future. Anyway, I... [LR293CA]

SENATOR EBKE: Thank you. [LR293CA]

GREGORY LAUBY: ...I see my red light is on. I've overstayed. I apologize. [LR293CA]

SENATOR EBKE: That's okay. Thanks. Questions? I see none. Thank you. [LR293CA]

GREGORY LAUBY: Thank you. [LR293CA]

SENATOR EBKE: Other opponents? I see nobody moving this way. Are there...is there anybody testifying in a neutral position? And if there's anybody else speaking in a neutral position, please move forward. [LR293CA]

BILL HAWKINS: Senator Ebke, Chair, senators of the Judiciary Committee, I thank you for being here. My name is Bill Hawkins, B-i-l-l H-a-w-k-i-n-s. I am an organic farmer, poor farmer, and herbalist and I have been using cannabis for the last 40 years. I have for the last 30 years had...I have Lyme disease that is causing tremendous pain in my older years, plus I'm a poor farmer, so I've worked hard my life. And I use cannabis every day and if I was addicted to opiates, my liver and everything else would be in bad shape. I spent five years taking care of both my parents dying of lung cancer and liver cancer. After that, I learned the pharmaceuticals and I appreciate Senator Chambers bringing up the dangers of pharmaceutical drugs. That is a proven fact. What I...I thank Senator Wishart for bringing this bill to you, this resolution. And this body, this Judiciary Committee has shown compassion for these people. We have been here for four years begging you for this safe alternative to these kids that have no other alternative except for a brain surgery. This bill is not...or this resolution is not about medical cannabis. It's about the people's right to vote on that issue and yet our Attorney General's pathetic defense has been about not enough studies, it's not safe enough. This anesthesiologist came in here and just talked about the potencies of cannabis. I've been interviewing people all over this country and this state about this issue. The potencies are out of control and yet we don't have one overdose. Every agency in this world is trying to find one overdose from this plant. Last year this Chief Medical

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Officer through a question of Senator Brooks's--actually, I'm sorry to say this--lied straight out that it was an overdose when a man shot his wife. That's the only thing they can come up with. This is a safe alternative to all kinds of problems and the defense is whining and complaining not enough research. It's the most researched drug there is out there right now. The safety is proven. GW Pharmaceuticals' Epidiolex--I read Lancet journal, I read JAM magazines, I read these articles--it has side effects right now because it's a pure CBD, not the symbiosis of the whole plant. It has diarrhea, nauseous, and other side effects right now. But the real sad thing right now from this compassionate company is that the projected cost of this drug for these kids that have no other alternative is \$30,000-60,000. That's what it's going to cost them to get diarrhea and nauseous from that pharmaceutical drug. Please vote on this. You have the opportunity to set this as a priority bill through the Judiciary Committee to make sure this gets voted on and debated on the floor. If you don't prioritize it, this bill will die after it comes out of committee and will not even be voted on. Give the people the right to vote on this subject. Thank you, and I appreciate your time because you are compassionate people. [LR293CA]

SENATOR EBKE: Thank you, Mr. Hawkins. [LR293CA]

BILL HAWKINS: Questions? [LR293CA]

SENATOR EBKE: Any questions? I see none. Thank you. [LR293CA]

BILL HAWKINS: Thank you. [LR293CA]

SENATOR EBKE: Next neutral testimony. [LR293CA]

MICHELLE SCHINDLER: Hi. Thank you for having this hearing today. My name is Michelle Schindler, M-i-c-h-e-l-l-e, Schindler, S-c-h-i-n-d-l-e-r. I'm here on behalf of my mom and my deceased father. He passed away New Year's Eve from metastatic cancer. So long story short, Republican, never...you know, he drank and he smoked cigars and, you know, he wasn't in for weed and he kind of believed some of the stereotypes about it. But he had some injuries and so they gave him Oxy. And Oxy destroyed his liver. So then he was placed on dialysis. And then we found out he had Stage 4 metastatic cancer. And so then they first, the first drug that they put my

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dad on was fentanyl. So he was on fentanyl to control the pain because he was in Stage 4. Going into dialysis, he fell and broke his hip so he had to be hospitalized. They gave him more fentanyl. They said, oh, that's making him crazy, because it didn't work, so they gave him morphine. That didn't work. Then they gave him methadone and Dilaudid. And so they let him go home but he had to be hospitalized because he overdosed on all those drugs because he's on dialysis and it couldn't clean out his body. And so then my son lives in Colorado Springs and my family, who is Republican, and my...we seriously considered asking my 19-year-old son to bring back drugs from Colorado for my dad. I mean, we seriously like considered should we ask him to bring back drugs for my dad because my dad was dying and he was overdosing from prescriptions that he had and they were telling us this is just so he's kept from pain while he's dying. And we couldn't take him to Colorado because he was dying, but we would have if we could have. And so I don't know if this should be a constitutional amendment. I just...I don't know where it fits in state policy. But people are in pain and it's not just kids. I mean he was a 76-year-old man and somebody against smoking pot and paid taxes all his life and followed all the laws. He just didn't want to be in pain. But we couldn't get it and I begged doctors and no doctor could give it to me. But there's people...I don't...we didn't want it for a drug. We wanted it so my dad could die in dignity and instead we had him in diapers overdosing on drugs and we couldn't say goodbye to him because he was...couldn't get all the chemicals out of his body. And I know none of you want that. I know none of you want that. So I just beg you to think of your parents or your husband or your wife. That's all. [LR293CA]

SENATOR EBKE: Thank you, Ms. Schindler. Any questions? I see none. Thank you for being here today. [LR293CA]

MICHELLE SCHINDLER: Thanks. [LR293CA]

SENATOR EBKE: Okay, do we have any other testimony on LR293CA? I'm not seeing anybody moving, so Senator Wishart waives closing. That closes the hearing on LR293CA. We're going to take five, ten minutes max for...since we've been sitting here for three hours and let people stretch and things. For those of you who have never been to the Capitol before, there are restrooms at each corner. There are...there's drink machines and things like that just right around the corner. You go down to the middle and turn left, so. [LR293CA]

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BREAK

SENATOR EBKE: Okay, everybody, thank you. We've made it in ten minutes. That's great. Okay, so we're going to start back up here with LB990 and Senator Wayne. [LB990]

SENATOR WAYNE: (Exhibits 5-7) Thank you, Chairwoman Ebke and the members of the Judiciary Committee. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent District 13, the mighty 13th, which is north Omaha and northeast Douglas County. I tried writing an opening for this for three days now and I just couldn't do it. The reason is this is one of the most passionate bills that I've probably had in the short year and a half that I've been here and I've actually worked on this bill for over a year. The reason I worked on this bill for over a year is because I was trying to find a measured approach to the issue of gun violence in my community without harming the criminal defense world, of which I operate every day. Many of you know that I am a juvenile attorney and many times that I'm not here I am back in Omaha still practicing as an attorney. This is something I struggle with and so I will ask the committee to bear with me for a few minutes as I explain juvenile, not just for the record but for many people who don't understand how juvenile law works. Juvenile law is different than any criminal or civil law that you've ever been a part of. There's only three ways you really go into juvenile court. First is through a neglect case in which the parent is charged and that deals with the parent. Why is that different? Let's say a parent is drinking and driving or hits their kid. They could be charged criminally and be found not guilty because that is by a standard of reasonable doubt, and then charged by the same state in juvenile and be found guilty for juvenile neglect because it's only clear and convincing, preponderance evidence standard. The second way is through a status offense, which is often heard of and this committee is familiar with from the years. Truancy is a good example of a status offense where a kid just doesn't follow the law and must comply with the law. The other or the last way, typical last way or general last way, there's some weird exceptions we can get into, but the general last way is through delinquency. Delinquency is where as an adult you commit a crime but because you are under the age of 19, we call it a delinquency offense and you are sentenced into juvenile. And it's not sentencing because the goal of juvenile is rehabilitation, and I want to keep that in mind because many of my testifiers will talk about who may oppose this bill, rehabilitation. And as an advocate for my clients, that is what I argue, rehabilitation. But as a policymaker sitting down here, I have to balance

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rehabilitation with the safety of the public. That is a different role than when I am operating as an attorney. Once a kid is...takes a delinquency offense, he can plead true or not true to the offense and they have what's called a mini-trial called an adjudication. At that adjudication there are two things that can happen. One, that child can be sentenced to probation or that child can be released without any rehabilitation services. Probation for a juvenile is not punitive; however, it is rehabilitative. They are offered counseling service; they are offering the family and loved ones supports systems and, in fact, many times those support systems are demanded and ordered by the court. When those support systems fail, the judge could order a child to go to Youth Rehabilitation and Treatment Center. For boys it is in Kearney; for young ladies it is in Geneva. At that point it is still not punishment but rehabilitation. After all those services are done and we come to the end of probation, there's only two things that can happen. You either satisfactorily terminate your probation or you are what we call "unsat," unsatisfactorily termed. The legal difference? One seals your record, one does not. The practical difference? Nothing. I have text messages, phone calls from current parents that I represent who are begging me to file motions to "unsat" their kid, the reason being their kid gets to come back home and Probation no longer has to go into their home and have to watch over their kids. That is occurring more and more in juvenile because kids and parents, the best way to get the cops and Probation out of my house is to just be "unsat." And these parents don't care sometimes about the regular record are sealed or not. That's a huge concern. But even if the sealed record occurs and they finish satisfactorily, I struggle with clients that I represented. What about the safeguard from a policy perspective? What about the insurance policy that when that kid turns 19 they can't go purchase a gun? Well, the answer is, whether that record is sealed or unsealed, whether that kid finishes satisfactory probation or unsatisfactory, at the age of 19 that child can go buy a long rifle that is legal in the state of Nebraska. That child can be...have possession of a firearm regardless of their juvenile record because the Nebraska Supreme Court has made it clear that a juvenile adjudication has not impact on your civil liberties or civil rights. That includes gun ownership. What made me come to a stopping point and say I had to do something is the case that is before you regarding the 17-year-old who shot at a sheriff. That is currently on appeal in the Supreme Court. That kid is now 18 years old. When that kid turns 19, regardless of whether he's finished his probation satisfactorily or "unsat," he will be able to purchase a long rifle and have possession of a firearm. So I spent a year researching how to do this. Twenty-six other states create and have prohibited juveniles from purchasing a gun. Out of those 26 other states, all of them, it is almost a...it is a

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lifetime ban. I don't like that approach. I believe that children can change and I believe in the science, research that says that if children...child's brain is not fully developed until around the age of 25. So what this law is designed to do is to put a pause on the purchase and the ability to possess a firearm until that juvenile who commits a serious offense, i.e. felony, until they're 25 years old. Now there's a safeguard in that. At any point, whether a juvenile or an adult, that juvenile or adult can petition the court and say, I have rehabilitated myself, I want my gun right back. That is the safeguard that I added in to those who make a mistake and learn from it. The second safeguard that I put in, we are only creating the prohibited person to be a Class III the first offense and then a Class IIIA second-offense felony. Why did I pick those two? Because if you're still under 19, those both start back in juvenile court and you remain getting rehabilitated and the rehabilitative services. It is truly when you are 19 that it becomes maybe an issue. But the reason I picked those two levels of offenses is neither one of those have mandatory minimums. A regular mandatory minimum prohibited person is a mandatory three. Many of you know I am against mandatorics so I was not going to impose that in this situation. I have worked with almost every party that I can think of to draft a bill that meets the needs of everybody. But if people take the hardline position that there can be no criminal new offenses, that we can never create a new juvenile crime, in the state of Nebraska you would hear testimony that we find kids who are 18, 19 years old, 17 years old, with long rifles, AK-47s in their home, and there is not one thing the state can do to charge that person. This is a tough issue, but this is my priority issue this year. Yes, I've introduced 32 bills, but I am telling this committee this is the one that will start changing the juvenile system to make sure that after kids create serious offenses, there is a pause, there's a check, there's an insurance policy to make sure that our public safety is still number one. This is the most measured approach. And I've heard defense counsel say this is the most conservative approach to reaching this level of insurance. Across the river you're prohibited for life; California, prohibited for life; Oregon, not until you're 35. We are taking an approach to a serious issue that affects our community and this has been a year in the making. And there are some amendments, or one amendment to clarify a couple things that I will bring to the committee. We have to do something. We have to do something that is only not punitive but rehabilitative and this is the best approach that I can come up with. And with that, I'll answer any questions. [LB990]

SENATOR EBKE: Questions? Senator Chambers. [LB990]

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SENATOR CHAMBERS: Senator Wayne, you gave me a copy of your bill today and it was the first time I saw it. I think there's a misnomer that's misleading because I was misled. Where it says, "Create the offense of possession of a firearm by a prohibited juvenile offender". It creates the impression that you're talking about somebody who is under the age of 18 who, after he or she has been adjudicated, may be allowed between that time and 25 to come into possession of a weapon. I'm telling you how I misread the bill and you get the...when you see the word "juvenile," you don't think about somebody who no longer is below a certain age. And then when see that it affects somebody who is 25, at that point the person is no longer a juvenile. So from your explanation, you're talking about the offense that was committed while the person was a juvenile. [LB990]

SENATOR WAYNE: Correct, sir. [LB990]

SENATOR CHAMBERS: That's where it is, and that's why sometimes the placement of words can mislead. You know very well what you meant. Can I tell you who enlightened me? I listen to and learn from anybody. I wasn't able to catch you today, but two police officers stopped me as I was leaving the Chamber and we discussed it and I mentioned my opposition to the bill. Then they explained what the bill does. And if you're going to address this problem...and by the way, you said the guns in your community--mine too. I am so frustrated. As I told those two gentlemen and I've said it here, I had contacted starting locally, police chief, county attorney, mayor, Governor, Colonel of the State Patrol, FBI, ATF, Homeland Security, everybody I could think of and most of them I didn't even get a professional courtesy response. And I would tell them in my approach to them, there are young people, at least one who told me when I went in the barbershop--I'm saying this for the record--and it's where I live. I've lived in my community all my life. I've never lived more than five miles away from where I was born. I've traveled around but I, like the swallows who return to Capistrano, I always come back home. I went in the barbershop and something had happened, a shooting. And I said who can...who in here can get me a gun if I want one? And I think they thought I really wanted one. He said, Senator, if you give me the money, I'll get you a gun quicker than I can get you a candy bar. And he wasn't trying to impress me. He meant that if I gave him the money he would come back with a gun for me. And when I would read things, when I'd attack and be critical of the police and the federal people, they would say, well, they didn't know how to track the guns down. I said then deputize

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these young teenagers because they know where the guns are. The gun supplier is the spider; the gun is the spider web. And again, this is for the record to try to make some people here understand how we take every angle we can to try to get people to understand. This young man would go to church and they had prayer meeting. He'd say lord, take the cobwebs out of my life. Lord, take the cobwebs out of my life. So this old deacon got tired. He said, young man, let me tell you. Don't ask God to take the spider webs out of your life. You kill the spider. Well, when we take guns, we are not doing anything to really get at the root cause of the problem. The ready availability, the accessibility, the fact that people even in their sub-teens can get these guns is what's going to make it practically impossible for us to arrive at a solution. So you have not said it and I would not say it. This is not a cure-all. We don't have a cure-all. We don't have a law enforcement machinery we can trust who will help us solve the problem. There are things I won't share with law enforcement. I know criminals. Some of my best friends have been criminals. But I won't tell the police because I don't want them killed when they have contact with the police. And if I told the police he's a criminal, then they kill and they say, well, Senator Chambers said he's dangerous and I didn't use the word. So you had tried to make it clear to everybody here how you grapple with this problem. I'm saying this. I'm more than twice your age probably. I've been grappling at least as long as you've been in the world and maybe longer and I don't have a solution. I know of avenues that could be pursued if we had people in law enforcement who would genuinely work with us and when you call them, they wouldn't treat you worse than the one you're calling them to deal with. So I'm going to do the very best I can to put the best interpretation on what you're presenting. And I'm not sure that I'm 100 percent convinced yet. You've had the benefit of working on it for several years and this is where you are. I need some time to digest it, to think about a Class III or Class IIIA Felony because I don't like harsh punishments for anybody. I like punishments to fit the crime. And too often the punishment does not fit the crime. So with that having been said, I'm not going to have questions for you. I'm not going to have questions for the people who testify, unless it's just to try to get some information that I really need. I'm putting it on the record so my views will be known and nobody will think that I'm being dismissive by not asking questions because I usually grill people. But the issue is too serious. You've worked too hard. There are some people in law enforcement who I think--and I can be deceived--who I think as hopeless as I see things being, I can have hope. A hard life makes a hard man, but sometimes there might be a little chink in the armor and that will allow that one little thing come in that may bring a shred of hope. I'm hoping, I'm pulling for you, and

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as I say, unless there's something that really occurs to me I'm not going to have any questions.
[LB990]

SENATOR WAYNE: Well, I appreciate, Senator Chambers. And a not voting is better than a no vote. So I appreciate. (Laugh) I learned that the first year from you, so I appreciate that.
[LB990]

SENATOR EBKE: Other questions? Okay. Let's move to the first proponent. And can I see a show of hands of anybody who's planning on testifying on LB990. [LB990]

SENATOR CHAMBERS: If all these are for his bill, I might (inaudible) a little nervous.
(Laughter) [LB990]

SENATOR EBKE: Go right ahead. [LB990]

AARON HANSON: Chairwoman Ebke and members of the Judiciary Committee, my name is Aaron Hanson, A-a-r-o-n H-a-n-s-o-n. I'm a sergeant with the Omaha Police Department and I'm representing the men and women of the Omaha Police Officers Association. We did submit some written comments, but I'm just going to freewheel this because this is something that's very...I'm very passionate about. I'm going to try to bring it from my heart. I've been with the Omaha Police Department for 21 years. The last three I've been assigned to the Gang Unit. And those last three coincided with the time period where I have my own teenage sons and so issues involving juveniles, juvenile offenders, youth, specifically teens, seems to take on more weight and more reality to me as a father of teenagers than it would have when I was not a father of teenagers. When we look at the issue of juvenile offenders who have committed serious felonies or DV assault misdemeanors, we like the fact, we're supporters of the fact that we've put so much emphasis on rehabilitation. I have personally mentored young people from challenged backgrounds like many police officers have and many people in this room have and I've seen how hard it can be for a young person to get a job when they're saddled with a criminal record. I've seen it firsthand. I've begged employers to give a kid a second chance. Sometimes you're successful; sometimes you're not. So that's where the juvenile rehabilitative approach is very good. But what we found is that there's an unintended loophole that has arisen in which young

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juvenile offenders who have committed serious offenses, there are a core group of them that we're catching over and over and over with firearms. And we start all over every time we get them with a firearm. And LB990 seems to be a very balanced approach to deal with that. The felony classifications, if they're a juvenile, takes them back to juvenile court. It allows for either natural maturation of the juvenile at age 25 or military service, i.e, structure; or an actual decision, determination from a judge that the individual has rehabilitated for them to not be considered a juvenile prohibited person anymore. That's balanced. When this really became an issue that it was clear that this loophole at least needed to be brought to your attention to be considered was two issues: The 17-year-old in western Douglas County that shot at the deputy, and I don't question the decision to send him to juvenile, but the fact that he could have a firearm shortly is very concerning; and also the example of the young 12-year-old boy who was involved in the homicide in Miller Park--same situation. I don't question whether or not it was a good choice to send him to juvenile. But it is concerning that today either of those two could possess a long gun, a military weapon, military style rifle, or shotgun, or if they're outside the city limits of Omaha on their 18th birthday they could possess a handgun. And so we hope that LB990 really addresses that unintended loophole that we've found. And I'll take any questions you might have. [LB990]

SENATOR EBKE: Questions? [LB990]

SENATOR CHAMBERS: Did you finish what you wanted to say? [LB990]

AARON HANSON: I did. [LB990]

SENATOR CHAMBERS: Oh, okay. I don't have any questions. [LB990]

SENATOR EBKE: I see none. Thank you for coming in. [LB990]

AARON HANSON: Thank you. [LB990]

SENATOR EBKE: Next proponent. [LB990]

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JIM MASTELLER: Pardon my voice. I'm sick today. [LB990]

SENATOR EBKE: Uh-oh. [LB990]

JIM MASTELLER: My name is Jim Masteller, J-i-m M-a-s-t-e-l-l-e-r. I'm here on behalf of the Nebraska County Attorneys Association and the Douglas County Attorney's Office to testify in support of LB990. We consider this to be a commonsense measure. The way I think about this is imagine two 17-year-olds. One of them commits an armed robbery. Another one commits an armed robbery, very similar facts. They get assigned to two different judges. One is retained in the district court by one judge. One is transferred to the juvenile court by the other judge. Even though their crimes are virtually identical in terms of the acts, the legal consequences are dramatically different, of course. That 17-year-old who was retained in the district court and convicted of a felony is going to be a lifetime prohibited person unless that prohibition is removed by the Parole Board. However, the 17-year-old who committed the armed robbery and was transferred to juvenile court would only be prohibited from possessing a firearm during the pendency of his probation which could terminate before he turned 19 and certainly at the age of 19 when the juvenile court lost all jurisdiction over him there would be nothing prohibiting that person who committed an armed robbery to then possess a firearm. So this is really trying to treat similarly situated individuals similarly. So when we have individuals who are committed who convict...who are...who commit similar crimes, whether it's a subsection (2) under the juvenile code which is felony or an actual felony in district court. I think Justin Wayne has a commonsense approach. It does acknowledge that there is a difference between a juvenile adjudication and a felony conviction in adult court by virtue of the fact that they're treated actually quite a bit differently. That 17-year-old who is retained in the district court as an adult, if that person can...possessed a firearm at any later point in his life, he would be convicted of a Class ID felony, punishable by not less than a mandatory minimum three years in prison. I think Justin Wayne has specified that a first offense for someone who...let's say my juvenile who did an armed robbery and went to juvenile court, if he turns 19 or 20 and then possesses an assault rifle or a handgun with an extended magazine, he would in fact be guilty of a crime but it would only be a IIIA felony. And if it's second offense, it's a Class III felony. Obviously, as you know, a IIIA felony is punishable by zero to three and a class III felony is punishable by zero to four. So these are not significant penalties but hopefully they'd be enough to dissuade individuals from

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possessing firearms until they reach the age of 25 and are then allowed to do so. And I do like the fact that Justin Wayne did include, I almost call it, a safety valve. If someone did commit a felony in juvenile court or it was adjudicated as such but it's not a significant one, like, let's see, a felony theft by shoplifting, that's the type of person who can then petition the juvenile court or district court, if they're over 19, to get their gun rights restored. So I'm happy to take any questions. [LB990]

SENATOR EBKE: Any questions for Mr. Masteller? I see none. Thanks for being here. [LB990]

ANTHONY CONNER: Good afternoon. My name is Anthony Conner. It's A-n-t-h-o-n-y; last name is C-o-n-n-e-r. I am the vice president of the Omaha Police Officers Association. I have been a police officer for close to 18 years and I've been in uniformed patrol my entire career, working mostly northeast and northwest Omaha. On a personal note, I am from north Omaha. I grew up in District 11 near 45th and Fort and I currently live in Senator Wayne's district, District 13. I am here to show support for LB990. LB990 is designed to address the public safety loophole that allows juvenile offenders who commit serious crimes such as felonies and domestic violence crimes from possessing a gun until they achieve the age of 25, join the military, or are deemed rehabilitated by a court. Unlike other states who deal with juvenile offenders of serious crimes and treat the juveniles like an adult and make the juvenile offenders a prohibited person for life, LB990 gives minors an opportunity to retain their gun rights after turning 25, joining the military, or truly being rehabilitated. I see LB990 as a win-win for Nebraska and, more specifically, for north Omaha, as this bill shows compassion while allowing the juvenile to earn their gun rights back after becoming adults and being rehabilitated. Also, this bill will hopefully slow down the manipulation of juvenile gang members by older, more experienced gang members who try to convince the juvenile to take the gun charge when they're caught in a car with a gun. It also ensures the young juvenile offenders are given a clear societal expectation that they should not possess firearms until they are truly matured and rehabilitated. And with that, I'll take questions if there's any questions from you. [LB990]

SENATOR EBKE: Questions for Mr. Conner? I see none. [LB990]

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ANTHONY CONNER: Okay, thank you. [LB990]

SENATOR EBKE: Thanks for being here. [LB990]

ANTHONY CONNER: All right, thank you. [LB990]

JIM MAGUIRE: Good afternoon, Senator Ebke. Senators of the Judiciary Committee, my name is Jim Maguire; it's J-i-m M-a-g-u-i-r-e. I'm president of the Nebraska Fraternal Order of Policy. I want to thank Senator Wayne for introducing this important legislation. What Senator Wayne has done is provide responsible gun legislation with a very commonsense approach. No one is saying that the people that this would affect cannot own a gun. What it is saying, we just want to have protections to ensure that we have no further issues. Along with me being a...part of the Nebraska Fraternal Order of Police, I'm also a Douglas County deputy sheriff and I'm very well aware of the situation that happened back in 2017 regarding a 17-year-old who decided to ambush two of our deputies and he struck one of them. And that juvenile officially turns 18 this month and he will be able to, if this stays currently in the juvenile setting, eh will be able to own a gun within one year, and in our opinion that is...it is unacceptable. And we need to ensure that these folks that have done these types of crimes do not have the ability to possess any type of a firearm until they're able to show that they are responsible for their actions. That's all I have. Thank you. [LB990]

SENATOR EBKE: Thank you, Mr. Maguire. [LB990]

SENATOR CHAMBERS: Not a question: At last I've got the chance to ruin the reputation of a police officer. This is the second issue in one legislative session that we have worked together on. [LB990]

JIM MAGUIRE: Yes. [LB990]

SENATOR CHAMBERS: Now take that back and see what happens to you. (Laughter) [LB990]

JIM MAGUIRE: Yes. [LB990]

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SENATOR EBKE: I see no other questions. Thank you. [LB990]

JIM MAGUIRE: Thank you. [LB990]

SENATOR EBKE: Any other proponents? [LB990]

GREG GONZALEZ: Good afternoon, Senator Ebke and members of the Judiciary Committee. My name is Deputy Chief Greg Gonzalez, G-o-n-z-a-l-e-z. I'm here representing the Omaha Police Department. And on behalf of Chief Schmaderer, we want to support LB990. Over the past years, we want to definitely commend the Unicameral, specifically this committee, for taking steps to ensure minor transgressions by juveniles do not continue to haunt juveniles into their adulthood. The Omaha Police Department supports the objective of giving status offenders a second chance. We firmly believe that's important. However, due to the serious nature of firearms, the Omaha Police Department, and I think like other folks in this room, do believe enforcement options should continue until the age of 25 to ensure past juvenile transgressions do not repeat themselves into adulthood. LB990 keeps an enhancement option available to ensure juveniles have sufficient maturity, as was mentioned today, until the age of 25 prior to the restoration of their firearm rights. Therefore, we support LB990 and here for any questions. [LB990]

SENATOR EBKE: Thank you, Deputy Chief. [LB990]

SENATOR CHAMBERS: Just a comment. [LB990]

GREG GONZALEZ: Got to have one for me. (Laugh) [LB990]

SENATOR CHAMBERS: We've got along well in the past. You and I are going to have to stop meeting like this. [LB990]

GREG GONZALEZ: I know it. [LB990]

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SENATOR CHAMBERS: But so far it hasn't ruined his reputation. And I just want to say at this point, I have said very harsh things about the police in general, some officers specifically, and I'm not changing the way that I feel, my general attitude. But I can work with anybody and when people come with an idea that's going the same direction that I think we ought to be going, I'm not going to refrain from going and working with that person just because we may have had differences in the past. I don't remember whether this youngster and I have had differences because we always wind up smiling at each other. And I probably have said something like I hope it doesn't ruin his reputation that we get along. But when I can find officers who show me that there is a sincere effort to do something, I don't look for miracles. I take what I can get at that point. And we all know that this is such an ingrown problem, we're going to have to take it a step at a time, a task at a time, and understand that life is hard by the yard but a cinch by the inch. So I'll take this inch and work from there. So thanks for coming. [LB990]

GREG GONZALEZ: Appreciate your time. Any other questions? Thank you. [LB990]

SENATOR EBKE: No questions? Thanks for being here. [LB990]

GREG GONZALEZ: Take care. You bet. Thank you. [LB990]

SENATOR EBKE: Next proponent. Do we have any other proponents? Okay, first opponent. [LB990]

SPIKE EICKHOLT: (Exhibit 8) Good afternoon, Madam Chair and members of the committee. My name is 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 the bill. You're going to be receiving here shortly a copy of my statement. Our first fundamental objection to this bill is, and our argument and a point that I've made earlier this session, and that is that this is another felony crime that's actually enhanceable that's being added to the criminal code. The proponents have explained that this law is needed and I would just submit that they're only explaining part of how this will work in practice. This will create a new felony crime, a new status offense for people who were adjudicated as juveniles up until the age of 25. There are already a whole series of criminal laws that deal with firearms and some of those, as you've already heard, have pretty

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serious consequences. There is nothing in this bill that limits prosecutors to only charging this proposed crime in the event that someone is arrested for an offense. In other words, you could have a situation where a juvenile is adjudicated at age 17 for a felony shoplift, say. At age 20 they commit a misdemeanor crime of domestic violence. Age 22, they're caught with a gun. Under current law that person is an adult for simple possession of a firearm. That's a mandatory minimum of 3-50. And then this new crime will be added as an additional charge. That's the frustrating point. That's the argument that we continue to make because we already have overlapping, layered offenses that can be piled on for people who do make bad decisions, who do make mistakes, and that's part of the reason and part of the problem that we see with our criminal justice system, the overcriminalization of conduct. As I...and this is laid out in my testimony, the different offenses that could apply and already be prosecuted. The second reason that we're opposed to this bill is that this bill at least goes counter to the spirit of a number of other different bills that this committee has worked on over the law few years with respect to sealing of juvenile records. At least the principle behind those bills are that if a person commits a crime when they're a juvenile they should be able to sort of start again when they're an adult. And here, this is a status offense that will happen and carry with somebody after they become an adult and be used against them in the adult world. And finally, and I did talk to Senator Wayne about this, I didn't work with the bill on him at all, but he did mention that he did the bill and what it meant to him, and I do appreciate and I will acknowledge that it is a measured, more narrow approach. Senator Halloran had a bill that was in LB556 that was actually amended out by this committee last year, it's on the floor now, which has a different provision in it. I acknowledge that what Senator Wayne did is reasonable compared to other and earlier efforts and I understand why he did that and he does, he is a practicing criminal defense attorney, we do work with him, and I think he sees the issues for what they are. But the concern that we have is that once this is in the books, it won't stay that way. If it's ever changed, the penalties will be increased. The first time someone is unhappy with a kid only getting three years' prison, some of the same people in this room are going to come down here and ask for the penalty to be increased. As soon as somebody is 26 years old and instead they can't be charged under this, they're going to boost the age up because that's what happens. Things only get more punitive. The laws only get broader. And that's why we're opposing this at inception. [LB990]

SENATOR EBKE: Thank you, Mr. Eickholt. Senator Chambers. [LB990]

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SENATOR CHAMBERS: Mr. Eickholt, you and I generally agree on things. I had said when I was speaking to Mr. Wayne, I'm becoming convinced but I still have my options open. I mentioned the penalties. I'm always worried about the penalties. But Mr. Wayne knows that he and I can talk about things and bills like this can be massaged. But I'm basically looking at the approach and the impact it can have on the proliferation, the utilization of guns in the community, and trying to find a way to deal with those people when they're very young. So I think there's work that can be done on this bill, just as I have brought bills that I thought were the best I could get but they were still beyond what was...would be acceptable and work had to be done. So I think any approach like this is a work in progress, but it's moving in the right direction. I haven't seen an effort like this put forth before, so I'm going to work with Senator Wayne. I'm sure he'll work with you and we'll all come together and see what we can come up with. And you all know that lately I've been on a biblical tear. The verse, there's one verse that says: Oh, how wonderful it is when brethren dwell together in peace. Maybe this will make us all brethren, we will dwell together in peace, and we'll come up with something that we can all live with whose ultimate aim is to benefit young people who do make mistakes and should not be carrying around a boulder or dragging around an anchor for the rest of their life. And I don't want penalties stacked on top of penalties, but the main thing, I believe, is to make this start, and I think it is going in the right direction. [LB990]

SENATOR EBKE: Okay, thank you. Next opponent. [LB990]

CHRISTINE HENNINGSEN: Thank you. Good afternoon. My name is Christine Henningsen, C-h-r-i-s-t-i-n-e H-e-n-n-i-n-g-s-e-n. I direct a project called Nebraska Youth Advocates at UNL's Center on Children, Families, and the Law. I'm also a previous public defender in Douglas County and also currently practice juvenile defense. I'm here today in opposition to this bill. I've been here on other occasions talking to you about adolescent brain research and why we have to take a different approach with youth and this Legislature has made numerous reforms in order to avoid the criminalization of adolescents. This bill is a step backwards in these efforts. Creation of a new felony based on a juvenile adjudication will not create a deterrent effect among youth and it won't make us any safer. By and large, creating new offenses doesn't enhance public safety. It just pushes young people further into the system. I also commend Senator Wayne for the intent behind this but...and I also want to work on issues of how young people are

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getting guns into their hands. But I don't think creating a new felony that will open them up for incarceration and also open them up for further punitive interventions is a step forward. To respond to Mr. Masteller's example about two individuals who have the same crime but one was processed in district court and one was in juvenile court, the reason that happens is because we have put forth certain criteria that county attorneys or judges are to consider when deciding if a case should be handled in juvenile court or adult court. It's not based on the offense alone but individualized factors like amenability to treatment, any previous history they've had, a series of things that take an individualized approach. So, yes, it is very, very possible that two youth with the same crime would be handled differently and that is the intent behind our transfer statute, to make sure we are dealing with these appropriately. So any case that's been in juvenile court, there has been...did a felony, there has been a determination by a county attorney, either by direct file in juvenile court or not asking to transfer the court to...the case to adult court or a judge saying it should be...stay in juvenile court. So either a county attorney or a judge has made a determination that juvenile court is most appropriate for that youth. And also, a juvenile adjudication is not a conviction. It has never been treated as a conviction and we shouldn't go forward and use that in the criminal code. There's also the ceiling statute which says that youth can say that this had never happened before and it's not accessible to law enforcement except for investigation or prosecution, it's not accessible to judges except in sentencing. To then be able to use a sealed record as an element of a criminal offense in the future is in exact contradiction with our juvenile code. There's a lot of contradictory language in this bill and in our current juvenile code that need to be worked out before we can have a workable solution. [LB990]

SENATOR EBKE: Any questions? Senator Chambers. [LB990]

SENATOR CHAMBERS: Did you have a chance to finish what you wanted to say? [LB990]

CHRISTINE HENNINGSEN: I did, thank you, Senator. [LB990]

SENATOR CHAMBERS: Oh, okay. Okay. [LB990]

SENATOR EBKE: Okay, thanks. [LB990]

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CHRISTINE HENNINGSEN: Thank you. [LB990]

SENATOR EBKE: Next opponent. [LB990]

JULIET SUMMERS: (Exhibit 9) Good evening, Chair Ebke and members of the Judiciary Committee. My name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s. I'm here representing Voices for Children in Nebraska and we are somewhere between opposition and neutral. So I testified similarly, or someone from our office testified similarly, to Senator Halloran's bill last year. And our issue that we're really concerned about homing in on, massaging, if you will, Senator, is that piece about the sealing of records and what a sealed record coming out of a juvenile adjudication means, what it should mean for the youth who have earned it, and what they are able to count on as they try to move forward from their past. So you have a copy of my written testimony before you. As Ms. Henningsen noted, the legal effect of a sealed record coming out of the juvenile court in our statute is that it's deemed never to have occurred. That seems to me to be in direct contradiction of then utilizing that adjudication, that case as an element of a new felony crime. I do also respect that this is a more moderate approach than has been taken in other places. I also think Nebraska has a lot to be proud of in terms of our juvenile reform. And I think you heard witness to that today from law enforcement that the rehabilitation and the community development efforts that they are undertaking, in part due to the encouragement from this Legislature, is really working. So I'm not opposed to trying steps in the opposite direction, but I'm very concerned about the issue of the sealed record. And in particular, on the second page of my testimony I would highlight that this bill as drafted contemplates not just dangerous felonies, as you heard about armed robberies, etcetera, but any juvenile adjudication for a felony offense could then later give rise to this prohibited juvenile offender status and that could include, as this committee knows, not just dangerous offenses but also a shoplifting if you have a taste for designer jeans that could...you could have a high enough value shoplifting to qualify it for a felony adjudication in juvenile court. And if that child were to make amends and do everything ordered by the court in order to complete their rehabilitative process and follow through, then she should get the benefit of that fully sealed record as promised by the statute for that critical period when you're applying for college, you're applying for your first full-time jobs. That's that period from 19-25. We want to honor the efforts that youth make to rehabilitate and protect that for them. I did speak with Senator Wayne. I had the opportunity to speak to both him and

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Sergeant Hanson and they were very receptive and we had great conversations. I'm really hopeful that we can continue to work and work with this committee to take into consideration the amendment that I have written here which would simply include that youth who has not had the record of such adjudication sealed pursuant to our Nebraska code. I believe that this amendment would clarify that a sealed record is a sealed record, regardless of the underlying charge, and it keeps the discretion with that juvenile court judge to say, are you someone who I truly believe is moving on from this or are you someone that I am concerned is going to continue being a danger to our community? If so, that juvenile court judge doesn't have to seal the record and it could give rise to this then status until the age of 25. So I've gone over my time. Thank you, committee members. I'd be happy to take any questions. [LB990]

SENATOR EBKE: Questions? Senator Chambers. [LB990]

SENATOR CHAMBERS: When people see a bill introduced, they come and they must testify based on the form of the bill that is before them. That doesn't mean that is written in stone and the purpose of the hearing is to give people the opportunity to help us massage it and come up with the best that we can. So I'm willing to work with you, as I will with Mr. Eickholt, and we're...and Senator Wayne and I, and he would say unfortunately, are in the Legislative Chamber together every day and maybe all the things I've been doing today was punishment in advance for him. But we get along. He's very reasonable. I think the officers who testified are reasonable to the point of realizing that if we have to decide as policymakers to massage this bill, the thrust of it may be the same, but there will have to be some smoothing out, some modifications, but it won't all be done here and Senator Wayne and I ultimately may not see eye to eye on everything. But I have not seen an approach of this kind that was aimed specifically at the gun problem in our community and we both know this is not a panacea but we're working. And I hope that those who have been interested in this area, you, Spike--I mean Mr. Eickholt--will work together on it and try to come up with the very best thing. So I appreciate your coming. [LB990]

JULIET SUMMERS: Thank you, Senator. [LB990]

SENATOR EBKE: (Exhibits 1-4) Other questions? I see none. Thanks for being here. Are there any other opponents? Is there anybody testifying in a neutral capacity? That would suggest that

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we're done, Senator Wayne, and as you come up I'm going to read the letters. We have a...two letters of support, one from Robert Sanford of the Nebraska Coalition to End Sexual and Domestic Violence, one from Timothy Dunning, Douglas County Sheriff; and then opposed, one from Juliet Summers, Voices for Children, and one from Spike Eickholt of the ACLU of Nebraska. [LB990]

SENATOR WAYNE: Thank you, Chairwoman Ebke. Let me start off by saying...we'll start off with the sealing of the records issue. My bill as currently written complies with the current statute. So statute two, which the opponents quoted twice now, and the statute is 43-2,108.05, after a record is sealed, the person--this is subsection (2)--after the record is sealed, the person whose record was sealed can respond to any public inquiry as if such record never occurred. Public inquiry, that means when you ask for a job. That means if somebody asks you have you ever been convicted. Now we turn to section (3) of the same statute: A sealed record is accessible to law enforcement officers, county attorneys, city's attorneys in an investigation, prosecution, and sentencing of crimes, and there's more after that. The only time this record is accessible is if they committed the crime that we are putting in place, which is the prosecution of the current crime. That falls exactly in line with the current statute. Now if those opponents want me to introduce a bill to change the current statute, that's a different bill. But this bill currently complies with the law and that's why we crafted it so narrow, because it uses the word, the current sealed law for juvenile court is prosecution, and that's exactly what would happen in this case if they were to commit this crime of a juvenile prohibited person who has a firearm, possession of a firearm. The second thing, and this is where I think I know many of them are practicing attorneys or former practicing attorneys, but as a current practicing attorney there's a solution already in the bill. Section on page 4, section (4) of my bill says: Prior to reaching the age of 25, a person subject to the prohibition of subsection (1) may file a petition for exemption of such prohibition. And if under the age of 19 I can do it in juvenile court, so guess what as a practitioner I do? I sit there. My kid is doing really well in juvenile court. He's going to or she is going to get satisfactory termination. I file a petition saying I don't want the prohibited person to apply to my client in juvenile court, which is under this statute. Under this statute, the judge will look at the factors, and there's a list of three or four factors, and decide. That's currently what we can do. We're solving the problem that they're raising. It's already in statute. It's already in this bill. But I will be more than happy to sit down and work with anybody. But if the goal is to say

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we can't have a new offenses at all, then come to me with a different solution to make sure that the 19-year-old kid doesn't do a rolling drive-by down the street of my mother, the one I used to represent, because as advocacy for my client, sorry, Mom, I've got to do my job. But as a policymaker, I have to weigh my mom's ability to live in her house safe with the client's need of being able to have a sealed record. We have to balance that. And what we heard here today and every one of the opponents said, this is one of the most measured approaches in the country, not just Nebraska, in the country. You're not a lifetime ban. Even in juvenile court you can petition the court. And let's say the judge says we're not ready to make that decision in juvenile, we're going to seal your record but we're going to keep this gun prohibition on you for a little bit. At 21 you can petition the district court and have another chance at it. I don't limit the number of chances. You can petition the court every year and say, look, I finished my second year of college now, I'm ready, Judge. You can keep doing it. And no matter what, at age 25, it's over with. I can't stress that this year this will be my priority bill because we have to do something in our community to give the officers the tools that they need. Now, Senator Chambers, your reputation is your reputation but I can tell you the law office of Justin Wayne is probably only doing civil cases after this hearing. I won't get another criminal client to call me and say, you had every cop down there testifying in favor of your bill. So a slight plug: If you have custody disputes, please call me now because I don't know a lot about them but I'm sure I'm going to have to take them. (Laugh) My point is this is against my nature. I'm a criminal defense attorney. But I also have to get out of the role of what I practice every day and say as a policymaker how do I balance it. And I think we're making a fair approach at doing this and with this committee's support I know we can make a difference in our community and I look forward to working with the committee counsel and any state senator or community activist to make this bill better. [LB990]

SENATOR EBKE: Senator Chambers. [LB990]

SENATOR CHAMBERS: Senator Wayne, you've been in the Legislature long enough to know that as far as I'm concerned, once an area of the law is opened, I don't just look at the change that's being offered here, but I will look at the underlying law and may see the opportunity to make changes even there. So what I'm looking at goes beyond what you've just offered. But this offers a guideline, a road map, but it also allows me to look at some things that exist in juvenile law which would be germane because of this being introduced. So I want that on the record so

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nobody will think I'm saying I'm limited to just the terms in the bill. And I still say, after all I've heard, I haven't seen an approach offered like this which holds so much promise. And we know it's not a panacea. That's about the third time I've said it so I won't say it anymore. And we will work together. [LB990]

SENATOR WAYNE: Thank you, Senator, long as you don't yell at me behind me and during a floor...you know. [LB990]

SENATOR EBKE: He could sing to you? [LB990]

SENATOR WAYNE: He hasn't sang to me yet. I haven't got that honor yet. [LB990]

SENATOR EBKE: All right. [LB990]

SENATOR WAYNE: I'm working on it. [LB990]

SENATOR EBKE: (Exhibits 1-14) Okay. Any other questions? Okay. And this closes the hearing on LB990. As we get ready to move to LB886, the clerk tells me that I forgot to read the letters in on LR293CA. So for the record we had the following letters of support for LR293CA from Jennifer Graham; from Byron (sic) Line...Bryon Line of the Nebraska Democratic Party Veterans and Military Families Caucus; one from Roger and Teresa Moberly; one from Paula Bohaty; one from Neeley Gentry; one from Patrick Brown. We have letters in opposition from Daniel Lynch of the Police Chiefs Association of Nebraska; Robert Rhodes of the Nebraska Medical Association; one from Ed Rieker; one from Jose and Mary Quintero; and one from Maggie Ballard. And then we had two neutral letters, one from Nick Faustman of the Cancer Action Network and one from Brian Krannawitter from the American Heart Association. With that done...(laugh) okay. With that done, we will start our hearing on LB886. Senator Morfeld. [LB990 LR293CA LB886]

SENATOR MORFELD: Thank you, Senator Ebke. Members of the committee, my name is Adam Morfeld, for the record spelled A-d-a-m M-o-r-f-e-l-d, representing the "Fighting" 46th Legislative District, here today to introduce LB886, a bill to protect student journalists at high

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schools and state colleges and universities across the great state of Nebraska. The protection of student journalists' First Amendment rights in our K through 12 schools and state institutions of higher education is critical in the development of current and future civic leaders. While I was in high school in Sioux Falls, South Dakota, I was nearly expelled for starting an alternative student publication, so this is an issue that I've experienced first-hand, while not in Nebraska but I've heard of stories of this gone awry in Nebraska as well. As a representative of Nebraska's largest university, I represent many student journalists who will be the next generation of civic leaders to build a strong and robust democracy. This starts with protecting their First Amendment rights in government institutions in particular. The student journalism protection act works in the following ways. It will guarantee high school and university students have access to their First Amendment rights regardless of whether the media is financially supported by the institution. Furthermore, this bill will protect student journalists from disciplinary action for exercising their First Amendment rights. Additionally, the student journalism protection act ensures that professors and teachers of journalism cannot be punished for protecting their students' First Amendment rights. Finally, LB886 promotes independence between student media and the educational institution by stating that no publication or expression by the students shall be deemed an expression of the institution's policy. Beyond the immediate implications, this legislation will also foster relationships between Nebraska public high schools and postsecondary institutions. As outlined within the bill, public high schools shall attempt to form relationships with postsecondary institutions to learn about and train in mass media law and journalistic ethics. It is important to note that there are a few exceptions within the bill, found in accordance with the First Amendment. Student journalists will not be protected in instances of libel or slander, unwarranted privacy invasions, violations of federal law, or inciting violence or substantial disruption of the orderly operation of the institution. Various states have implemented legislation to protect student journalists. In fact, in North Dakota and Iowa passed similar pieces of legislation in 2015 and 2016 respectively. Kansas, a state with protections on the books since 1992, recently reaped the rewards of preserving First Amendment rights. At Pittsburg High School in southeastern Kansas, the student newspaper, led by an incredibly bright and savvy student journalist, published an investigative article that highlighted their principal's faulty credentials and questioned the legitimacy of her resume, eventually leading to that principal's resignation. This was all because under Kansas law high school journalists are protected from administrative censorship. Had a similar situation occurred in a Nebraska school, it's very likely

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that this investigative effort would have never come to light. The First Amendment should not carry with it any political agenda. Instead, the First Amendment ensures a free press for young Nebraskans. And when it comes to exercising their rights in state's institutions of K through 12 and higher education, it is critical to teach the incredible power of the First Amendment and its consequences as well at an early age to ensure informed civic leaders. I'd like to thank Michael Kennedy from the Nebraska Collegiate Media Association, as well as Frank LoMonte with the Student Press Law Center, who have assisted me in this legislation and contributed their careers to ensuring the free press for students across Nebraska and the United States. I'd like to also thank the countless students and educators who have reached out to me, many of whom are here today to testify for their commitment to building the next generation of civic leaders and being the next generation of civic leaders themselves. As paraphrased from one of my favorite songs in high school, never underestimate the power of a question, and sometimes silence can be its own kind of violence. It's time to ensure that students have a voice and that it is free and not unnecessarily impeded by state and local administrators regardless of how well-meaning they may be. I urge your favorable consideration of LB886 and I'm willing to listen to any suggestions or questions that you may have. [LB886]

SENATOR EBKE: Thank you, Senator Morfeld. Any questions? Senator Chambers. [LB886]

SENATOR CHAMBERS: You make me think of the Pied Piper. I look at all those who are supporting you and if you can maintain this kind of relationship with these young people, that verse that says a little child shall lead them may come to fruition by...and it also says old men for counsel, young men for war, and it would apply to women too. Sometimes we get set in our ways as we get older. We are accustomed to doing things a certain way. We have a certain way of thinking about things. But generations that come behind us see a different world. They have different thoughts. They have confronted different problems. And although there is a certain sameness about everything that people go through, when it comes down to the practical, down here on the ground living, there are different problems that different generations confront. And if we who are old can be flexible enough, first of all, to remember how it was when we were younger, the thoughts that we had that we felt were valid and worth being listened to and people would not pay attention. And sometimes our childhood thoughts turned out to be true, but the old people forgot that we had said this some time before and they didn't listen. So what I think all

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old people should do, and I'm the oldest one in the Legislature so I can give this advice to my people in the Legislature who are not my age... [LB886]

SENATOR MORFELD: One-third your age. [LB886]

SENATOR CHAMBERS: ...but they're older than these youngsters, there is a lot that we all can learn from each other. Louie Armstrong sang a song and he talked about these children, they will learn much more than I'll ever know, and that's the way it is. They all in this room know more than I know or will ever know about those electronic gadgets. (Laughter) I have no desire to learn about them. A lady who works in my office is very proficient, but some of the things she tells me almost persuade me that I should learn something about it. So without saying what my view will be ultimately on the form of the bill, they have at least two friends at court right now. And I think that even though it's late in the day, you're going to be able to compile a record through your testimony that will be of value. The fact that you stayed here for this long a period of time indicates you have some of the stuff of what it's going to take to be a journalist. Things don't always go your way. You're going to have to be inconvenienced. But it's for a greater good, something far more important, and you'll get to go to bed tonight, be refreshed in the morning. You'll be glad that you stuck it out. And this is indeed a good young man that you have leading you. And I will collect from you when the hearing is over. (Laughter) [LB886]

SENATOR MORFELD: Thank you, Senator Chambers. And I'd just like to note that I actually didn't ask anybody to come and testify today, so I think it's pretty incredible that we have this much interest from our young people here so. [LB886]

SENATOR CHAMBERS: And just one other thing. The fact that I won't be asking questions doesn't mean I'm being dismissive. I want to hear what you all have to say. But if I have a question or two, I might ask. But if I don't ask any, I'm not being dismissive. [LB886]

SENATOR MORFELD: Thank you, Senator. [LB886]

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SENATOR EBKE: Any other questions or comments from...Senator Hansen? (Laughter) Okay. Thank you, Senator Morfeld. First proponent. Can I just see a show of hands, how many of you are planning on testifying either way? Okay. Go right ahead. [LB886]

MICHAEL KENNEDY: (Exhibits 12 and 13) My name is Michael Kennedy, M-i-c-h-a-e-l, Kennedy, K-e-n-n-e-d-y. I serve as executive director of the Nebraska Collegiate Media Association and I am speaking today solely in that capacity. For transparency sake, I want to make it clear I'm employed as an instructor of journalism and adviser at one of the state colleges. Senator Ebke, esteemed committee members, thank you for the opportunity to testify on behalf of LB886, Nebraska's student journalism protection act introduced by Senator Morfeld aimed at providing fundamental First Amendment protections for students, protecting journalism educators from retaliation by superiors, protecting the institutions, and arming young Nebraskans with the necessary tools to engage in public discourse in a civil, ethical, and responsible manner. LB886 is perhaps one of the most important pieces of legislation you'll consider this session. The bill is divided into two sections. Section 1 provides protections for Nebraska's colleges and universities; Section 2 does the same for Nebraska's public high schools only. With strong support from four state media organizations, the Nebraska Academic Freedom Coalition, and two national media organizations, LB886 is good legislation. It is strong legislation that derives its strength from three key components. First are the fundamental First Amendment protections I alluded to earlier and which are clearly articulated in subsections (2), (4), and (5) in both sections of the bill. Second but no less important is a clear explanation of the student expressions that the bill does not protect. Pointing to subsection (3), which appears in both sections, this bill is not a get-out-of-jail-free card, entitling students to publish or broadcast whatever they please. The third strength is the invaluable civics and media literacy education students will earn, an education taught by professional, ethical, and responsible teachers and media advisers. Some of these students and teachers will testify shortly. I draw your attention to the handout bearing the headline, "Strong journalism programs are essential to civics, media literacy." That article appears in the current on-line edition of the American School Board Journal, published by the National School Boards Association. Finally, we understand, people hear "students" and "freedom" in the same sentence and they get a bit nervous. I can appreciate that. But the truth is LB886 includes ample safeguards to allow school authorities to step in when necessary, and over

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the years, as that article points out, similar laws in other states, including our neighbors, have proven to be safe and effective. Thank you. I'll be happy to answer any questions. [LB886]

SENATOR EBKE: Thank you. Are there any questions? I see none. Thanks for being here. [LB886]

ALLEN BEERMANN: Good afternoon, Chair Senator Ebke and your colleagues on this committee. I'm Allen Beermann, A-l-l-e-n B-e-e-r-m-a-n-n. I have the privilege of serving as the executive director of the Nebraska Press Association, representing about 200 newspapers in print in this state. We...our association has gone on record of supporting this bill for the reason that we believe strongly that if you accord responsibility and people have the opportunity to exercise responsibility they will act with responsibility. And, Senator Chambers, you and I are probably the two in this room who can give definition to the word "older." [LB886]

SENATOR CHAMBERS: (Laugh) Yes. [LB886]

ALLEN BEERMANN: I would be happy to answer any questions that you may have. We do strongly support this bill. [LB886]

SENATOR EBKE: Thank you, Mr. Beermann. Any questions? Don't think so. [LB886]

ALLEN BEERMANN: Thank you for your courtesy. [LB886]

SENATOR EBKE: Thank you. Next proponent. [LB886]

JANELLE KESTERSON: Good afternoon, Chairman and committee members. It's been a long day. [LB886]

SENATOR EBKE: Yes, it has. [LB886]

JANELLE KESTERSON: My name is Janelle Kesterson, J-a-n-e-l-l-e K-e-s-t-e-r-s-o-n. First, I'd like to thank you all for allowing me the opportunity to testify in support of LB886. I

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graduated from Chadron State College in 2016 with a degree in communication arts. I was also an editor for The Eagle, the campus' student-run publication. During my tenure at The Eagle, I learned many things. I learned that there are times when the correct decision about whether or not something belongs in a newspaper is not clear-cut. I learned that being a journalist means not being afraid to put my name in print over words that may upset people. Being a journalist means being a watchdog of the government and others in power. The watchdog concept, according to which the media is expected to monitor the activities of government, is one of the core journalistic beliefs. The phrase, as it applies to journalism, is attributed to Edmund Burke, who was referring to the political power possessed by the press in the late eighteenth century. Furthermore, in the 1971 landmark United States Supreme Court case New York Times Company v. United States, Justice Hugo Black stated, "In the First Amendment, the Founding Fathers gave the free press the protection it must have to fulfill its essential role in our democracy. The press was to serve the governed, not the governors." "The press was protected so that it could bare the secrets of the government and inform the people." High school and college students are essentially governed by administrations. To that end, should they not be awarded the same right to be informed of their government's doing? The student journalists who dutifully report on administrations are playing their role as the watchdogs of their government. While working for The Eagle, there were times when my peers and I felt compelled to fill our role as watchdogs and we were able to do so without censorship. We did so with the backing of a trusted adviser who taught us how to be responsible and ethical about our reporting, and we learned that real journalism includes signing our real names, checking our facts, correcting our errors, verifying our sources, and considering the ethical and legal implications that our words may have. With the guidance of our adviser, we had a safe venue to explore our role and someone to hold us accountable for it and correct mistakes that could have had potential legal implications. This education has proved invaluable to me as I have continued my career in journalism. After graduating from Chadron, I was hired at the Aurora News-Register. Almost immediately after stepping into my role, I was faced with decisions about how the newsroom would handle controversial stories. Had I not been given the opportunity to learn and practice, adhering to strong journalistic principles in college, I would have been ill-equipped. But instead, I was able to step into my new position without hesitation. During a time when the public's distrust of the media is growing, fueled by public political divide and fake news controversy, it is more important than ever that we protect student journalist's right to learn how to practice ethical

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journalism. It is unrealistic to expect students to know how to adhere to the highest journalistic standards when entering the work force if they have not been afforded the right to truly learn them in high school and college. This bill is important, as it will protect students' rights, but it's even more important as it is protecting the next generation of ethical, responsible watchdogs. As Justice Black stated, the press fills an essential role in our democracy. Nebraska needs LB886 to protect a facet that plays a vital role in our own democracy. [LB886]

SENATOR EBKE: Thank you, Ms. Kesterson. Any questions? Thank you. [LB886]

JANELLE KESTERSON: Thank you, guys, for your time. [LB886]

TORRI BRUMBAUGH: Hello. My name is Torri Brumbaugh, T-o-r-r-i B-r-u-m-b-a-u-g-h, and I'd first like to thank you for allowing me to share my voice on this legislation. I currently am the managing editor at Chadron State College for The Eagle. And honestly, I haven't been here for long. I've been a part of the newspaper for almost less than a year. Our staff is fairly young and fairly new to the world of journalism. But thanks to our predecessors and our adviser, we know our place in the world and our role as journalists. Our role as journalists is not to write cute fluff pieces about campus events, although that's my favorite thing to do, but to hold people responsible for their words and their actions. Like I said, we are fairly new to the news world, but we have high standards and we strive every week to live up to those standards. A valid argument against LB886 is that essentially students are kids and kids are stupid. I am a resident adviser at our college so I live in a dorm full of kids and I can attest that, yes, they are pretty stupid. But, however, I'm sure at one point you were also those stupid kids. And if you think about it, how else do you learn? I...one of my most valuable things about being at college is that I get to make mistakes. I get to make a mistake and learn from it. I get to publish a spelling error and learn from it. I get to spill coffee on my shirt on the way to the Capitol Building for the first time and I get to learn from it. So having a publication in a format where students are able to make mistakes and learn about libel and learn how to copy-ed and look for those types of mistakes is incredibly valuable, especially as you walk into the work force. In my short time at The Eagle, we have definitely experienced pushback from administration in a way when we handle delicate situations, like a hazing incident involving four of our wrestlers last semester. Information was withheld from us until press time and it seemed as though our voices weren't heard because it

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wasn't...we were going to taint the college's image. But at the same time, as our duty as journalists, we were supposed to show this is what happened; this type of action will not be validated at Chadron State College and swept under the rug; we will hold you accountable for your actions. And in the end that is our job as journalists. So I think having fearless journalists who are not afraid to push the boundaries and ruffle some feathers is what we need in the college and high school level. Thank you. [LB886]

SENATOR EBKE: Thank you, Ms. Brumbaugh. How many of you are here from Chadron? [LB886]

TORRI BRUMBAUGH: There's just two of us. [LB886]

SENATOR EBKE: Are you driving back tonight? [LB886]

TORRI BRUMBAUGH: Yeah. [LB886]

SENATOR EBKE: Wow. You get gold stars for today. (Laughter) Okay. So any questions? Is the other person from Chadron going to testify? [LB886]

TORRI BRUMBAUGH: Well, actually, there's...sorry, from Chadron State College essentially it's Janelle, who just testified... [LB886]

SENATOR EBKE: Oh, okay. [LB886]

TORRI BRUMBAUGH: ...and she's in Aurora now. [LB886]

SENATOR EBKE: Okay. Okay, and you. [LB886]

TORRI BRUMBAUGH: Yeah, so it's just me. [LB886]

SENATOR EBKE: So you're driving back by yourself? [LB886]

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TORRI BRUMBAUGH: Yes. [LB886]

SENATOR EBKE: Wow. Okay. Thank you. Thank you. [LB886]

TORRI BRUMBAUGH: We're...yeah, we'll make it work. [LB886]

SENATOR EBKE: Thank you. Okay. [LB886]

SENATOR MORFELD: Drive safe. [LB886]

SENATOR EBKE: Drive carefully, yeah. [LB886]

TORRI BRUMBAUGH: Thank you. [LB886]

SENATOR EBKE: It's a long ways. [LB886]

MADISON POHLMAN: Hello. My name is Madison Pohlman, it's P-o-h-l-m-a-n, and I'm a prelaw student here at UNL. In high school, I was editor-in-chief of my student newspaper, and I'm here to support LB886. The things I learned throughout my time in the journalism program were valuable, real-life lessons. I was taught to question things I didn't think were right and how to keep asking questions until I got a real answer, things that professional journalists learn and do every day. I also learned that students weren't supposed to lose their First Amendment rights at the schoolhouse gate, but every month when it came time to publish my stories I got to relearn that in reality we did. Though, of course, no one ever came out and said it, I got the impression that the school's image was a lot more important than the things that were actually going on in the hallways. And because of this, things that questioned school policy or topics deemed too inappropriate were pulled before it was sent to press. This meant that instead of causing change within the school, issues were covered up and allowed to continue happening. I often remember back to my year as editor-in-chief. My in-depth section wanted to do a spread on gender-based insults and one writer wanted to create a survey that asked students if they had ever used or been called a variety of different insults. Before administering the survey we needed to get it approved, and not to our surprise, it was immediately rejected due to inappropriate language. But

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the fact that students who actually use the words offensively were not reprimanded suggested that it was okay to call people these words but not to discuss it and find a solution to it. Our goal with the story was to shine light on an issue that was happening to female students at our school every day in hopes that things would change, because no one else was doing anything to fix it. Our administration's lack of seriousness and action on this topic and refusal to allow us to act showed that our work on issues like this was more important now than ever. Senators, if you went into high school journalism classrooms across the state of Nebraska you would find some of the brightest, most dedicated, and most responsible students the state has to offer. And if you asked them about their experiences with censorship, I can guarantee you would hear hundreds of stories just like mine. This bill, as I'm sure you know, places all responsibility on students. The student journalists I know and have spoken to are ready to hold this responsibility and to use it wisely. So I ask you, is the state of Nebraska ready to help create an educated and responsible generation of people who are able to question issues they see in their schools, societies, and daily lives? Or will we continue to fall behind our neighboring states, three of which already have these protections and one with a similar bill in progress, by not preparing our young people for the type of critical thinking that is so vital to creating a free and responsible society? Thank you. [LB886]

SENATOR EBKE: Thank you, Ms. Pohlman. Questions? Senator Hansen. [LB886]

MADISON POHLMAN: Yes. [LB886]

SENATOR HANSEN: Thank you, Senator Ebke. And thank you for coming. Thank you for your testimony. Thank you for your advocacy. I'm asking this on behalf of Senator Pansing Brooks in spirit, because she's not here. [LB886]

MADISON POHLMAN: Okay. [LB886]

SENATOR HANSEN: Are you saying that you believe young students should have all of their constitutional rights? (Laughter) [LB886]

SENATOR EBKE: It's an inside joke. [LB886]

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MADISON POHLMAN: Yes. [LB886]

SENATOR HANSEN: No, in all seriousness, thank you for your work and thank you for kind of bringing First Amendment issues to the forefront. Thank you. [LB886]

MADISON POHLMAN: Thank you. [LB886]

SENATOR MORFELD: I think Senator Chambers is texting Patty Pansing Brooks right now. (Laughter) [LB886]

SENATOR EBKE: Thank you. [LB886]

MADISON POHLMAN: Thank you. [LB886]

SENATOR EBKE: We get a little punchy late at night. [LB886]

SENATOR MORFELD: Yeah, 6:00. [LB886]

SENATOR EBKE: Okay, 6:00 we start silly. [LB886]

EMILY SEATON: (Exhibit 14) Okay. My name is Emily Seaton. That's E-m-i-l-i...oh, goodness, okay, E-m-i-l-y--it's been a long day--S-e-a-t-o-n. I just want to start off by thanking all of you for your time today. I am currently a freshman at South Dakota State University. I am a reporter, well, photographer and videographer for the student newspaper there. But most importantly, I am a graduate of Millard West High School, 2017. And I could stand here and tell you that I'm proud to be an alumni of Millard West High School, but that would be a lie. I never experienced true disappointment until I stood in front of the Millard Public School board members and asked them to save the job of my journalism adviser, and I plead and begged, only to have them dismiss me completely. Ms. Lisa Lukecart was my journalism teacher for three years. She is the person who pushed me to turn my talent into a career. She is the person who taught me how to turn my passion into drive and that is why I'm here today. Lukecart was removed as a journalism adviser by administration because she stood up for the students' First Amendment rights. Many

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people may think that this bill is only a precaution just in case something like this happens, but I'm here to tell you that it already has. As the former photo editor of the student newspaper, I am here to tell you that Millard West administration wrongfully censored the students of the student newspaper, the Pawprint, over an opinion story about politics, which we, the student journalists, stood up for. We were censored over one opinion article that discussed why teachers should keep their political beliefs out of the classroom. The principal made us remove the article from our Web site and it was not until we reached out to the Student Press Law Center that we got the story published for good. Additionally, our principal decided he could change any stories without telling us. He had to approve everything we did, which in the journalism world timeliness is really key to success. He also said that he could edit our stories all the way down to punctuation. Lukecart helped us stand up for what was right, and the administration retaliated by telling her she had been reassigned next year and would no longer be the journalism adviser. The important thing to note here is that it was indeed retaliation. Lukecart's performance as a teacher had always been an excellent rating until the 2016-2017 school year when she was given the worst possible rating. The ironic part about this is that we had just won a state journalism championship mere weeks before her reassignment. Additionally, we won multiple national awards, which is extremely hard to do. This issue is not something that should have gone unnoticed but, unfortunately, it did until June 18, 2017, when The Washington Post published an article about the Student Press Law Center, and the Pawprint was used as a featured image and mentioned in the article as someone who faced issues with administration. Additionally, on November 29, 2017, CNN published an opinion article mentioning how Millard West reassigned Lisa Lukecart after we had just won state journalism. I felt defeated when the principal took control. I know my peers, ones that looked up to me, were defeated and I felt like I failed them. However, I realize I did not fail them; the administration did and the law did. Section 2(5) is by far the most important piece of this bill. It talks about how an adviser cannot be retaliated against for protecting a student journalist or refusing to do things that violate their First Amendment rights. If the government is not allowed to censor student journalists, then why do we allow administration to censor their students? We need to act now to prevent this from happening to other student journalists and their advisers because I feel horrible for those stuck in a school district that does not care about their students. I feel ashamed that I am an alumni of a high school in Nebraska that allows this. I'm here today to ask that you take what I've said to heart and apply it for this bill. And thank you for your time. [LB886]

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SENATOR EBKE: Thank you. Questions? Guess not. Thanks for coming. Are you driving all the way back to Brookings? [LB886]

EMILY SEATON: No, I'm not. [LB886]

SENATOR EBKE: Okay. [LB886]

EMILY SEATON: I'm staying for the weekend. [LB886]

SENATOR EBKE: Okay. [LB886]

TREVOR LUECK: (Exhibit 15) I'm Trevor Lueck, a junior from Millard West High School. That's spelled T-r-e-v-o-r L-u-e-c-k. Before I start, I would like to thank you, Senators, for taking the time to listen to my story and for helping push for our rights as student journalists. As a member of the Millard West Pawprint staff, I learned invaluable information that I cannot thank my adviser, Ms. Lisa Lukecart, for enough. She taught me how to become an award-winning writer and to, after her removal, rebuild the Millard West newspaper. I, along with another former student, are the coeditor-in-chief of the new Millard West Catalyst, and everything we have done this year to remake the name of the paper was taught to us by a woman that the school removed from her eight-year-long post as the adviser to the Millard West Pawprint. In her time as the adviser, Ms. Lukecart helped publish many stories deemed controversial, most even being removed from our Web site by administration. From stories about athletics versus activities, to stories about having another entrance to the school, the administration had issues with all of them. At the end of the day, they caused changes in the school. There is now a second entrance to the school in the back of the building and an equal representation of all Millard West activities at pep rallies. Our story even prompted the superintendent to investigate issues with laptops, and because of it the issues were fixed. If Lukecart didn't fight for these stories, these constructive changes to our school would never have happened. This bill would ensure student journalists can make a school better. That is the point of journalism--to invoke a change in the way things are...things that are unjust are run. As I stand here, I'm taking in all this information. I'm watching how people talk about this bill and I'm going to use it when I write a news story about it for the current student newspaper. Ironically, me writing this story will undoubtedly catch the

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attention of the Millard West principal and will...sorry, and will cause him to read it and input his personal opinion on a hard news story based solely on facts. He will most likely censor it and now allow me to publish it. Student policy says we can't criticize school officials and administration. I again will probably have to sit across from him in his office as he grasps for any falsification. This will be my second time sitting in his office as he scours my story. The first time I spent almost an entire class period in his office, and when he couldn't find any false statements he told me that my opinion of wanting there to be equal sexual education for LGBTQ-plus people as there is for straight people is an issue best dealt with in a psychology class. He told me I should change my entire story to make this change because sexual orientation is a psychological issue, not a sexual health issue. Then he went on to talk about how he went to a Catholic school growing up, and right before I was leaving to go back to class he decided that the word "sexual education curriculum" needed to be changed to "sexual education policy." As it so happened, I changed that one word. I tried to meet my principal in the middle. But after a long night of working on the layouts for the newspaper, my editor accidentally chose the wrong version of my story to place on the page. So when we got the papers, I along with half the class missed educational instruction time trying to right a mistake with a few sharpies and 1,000 copies of the newspaper. We changed every single paper, crossed out "curriculum" and wrote "policy," trying to fix that mistake. I know that this bill will not remove prior review and I don't think students should have free rein to write about anything. But when the principal tells us, along with the school board and the superintendent, that a school newspaper is no place for politics, that's an issue. High school is a time when teens are growing and they need a reliable source of news to form their own opinions from. If we were biased, I could totally understand not wanting a one-sided newspaper. But we were not. We attended the Trump rally, the Clinton rally, women's march, mayoral race, talked about immigration, and I even met Bernie Sanders, a person who was running for President. We were never biased. We were told politics had no place in a high school newspaper and we could not do an in-depth on a Divided America. We fought to publish it and won numerous awards for our quality reporting. Everyone deserves a right to express themselves, and when a teacher stands up for her students' rights as a journalist she should to be thrown aside like a sack of potatoes. She should get praised for standing up for those rights. I have no doubt that if this bill passes, Ms. Lukehart will be remembered as a hero. She sacrificed her job when she could have easily sided with the administration and not had any of these issues. That is not what teaching is about. It's about training the next generation to be

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better than the previous, to make a change in society and educate the young minds of today. The school district should be ashamed to have removed Ms. Lukecart from her post. I am ashamed that I couldn't stop it. That's why this bill is so important, so this never happens to another teacher again. Thank you for your time. [LB886]

SENATOR EBKE: Thank you. Questions? Thanks for being here. [LB886]

TREVOR LUECK: Went a little over time. Sorry. [LB886]

SENATOR EBKE: That's okay. Been here this long, well, I wasn't going to stop you. [LB886]

DAVID MOSHMAN: (Exhibit 16) My name is David Moshman, D-a-v-i-d M-o-s-h-m-a-n. I'm a professor emeritus of educational psychology at UNL and am speaking as president of the Academic Freedom Coalition of Nebraska, AFCON, which supports intellectual freedom for students, teachers, and researchers in Nebraska schools, colleges, and libraries. In 30 years of defending academic freedom, we've repeatedly learned of and addressed issues of student press censorship in secondary and higher education across Nebraska. We have supported bills such as this one for most of our history and strongly support LB886. I'd like to focus here on two issues raised by opponents of LB718, a higher education free expression bill heard last week in the Education Committee, which equally apply to LB886 and have been raised in past hearings on its predecessors. The issues are: one, institutional academic freedom; and two, the relation of the bill to the First Amendment. We believe both issues are important but that neither is an obstacle to either LB718 or LB886. Starting with the first issue, academic freedom is historically and fundamentally concerned with the autonomy of educational institutions, especially with respect to legislative coercion. But LB886, like LB718, falls squarely within a limited and well-established area of legitimate regulation. Governments at all levels may protect and promote the basic civil rights and civil liberties of all persons. There is no academic freedom exemption from such laws for educational institutions. Turning to the second issue, why do we need a law protecting free expression when we already have the First Amendment? There are at least two reasons. First, students and teachers shouldn't need to go to federal court to defend their First Amendment rights. All Nebraska schools and colleges should be required under Nebraska law to respect free expression at least to the extent required by the First Amendment. And second, a

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state may legitimately decide to protect free expression beyond the constitutional minimum set by the First Amendment. LB886 goes beyond the First Amendment in its protection of free expression but only in a limited way. Applying only to student journalism, it restores a First Amendment standard that previously governed public education from 1969, when the U.S. Supreme Court set the standard in Tinker, to 1988, when it largely removed First Amendment protection for curriculum-related expression in Hazelwood. Regardless of what the U.S. Constitution requires, it is good social policy to protect and promote free expression, including freedom of the student press. As of next Tuesday, February 13, AFCON will have been defending intellectual freedom in the academic institutions of Nebraska for 30 years. If you'd like to give us a truly awesome birthday present, just pass this bill. (Laughter) [LB886]

SENATOR EBKE: Thank you, Professor Moshman. Any questions? Thanks for being here today. Next proponent. [LB886]

COLEMAN BAUER: My name is Coleman Bauer, that's C-o-l-e-m-a-n B-a-u-e-r, and it feels really good to be in a soft chair finally. It's been a long day. (Laughter) [LB886]

SENATOR MORFELD: It's your taxpayer dollars at work. [LB886]

COLEMAN BAUER: Yeah. I'd like to thank the committee for taking the time to hear our testimony. I'm a student at Doane University. I am also an editor of the student media and I've been involved in journalism since high school. I prepared a lot of reasons why this bill should pass, but other people have said that far better than I have, so I won't repeat what's already been said. What I would like to say, though, is that this bill goes far beyond protecting student journalism. It protects students and members of college and high school communities in general. For example, beginning of my freshman year at Doane there was a report of an incident of hazing that the student media reported on. Later, the public safety office confirmed this to be true. To my knowledge, no other organization ever reported on this incident. Now maybe it's just me, but I believe hazing is a pretty serious offense. Had the student press not been present or had it been censored, this would have gone unnoticed by the majority of the community. Another thing I'd like to touch on is the protection this would lend to advisers of student press. I have had excellent advisers and instructors from my first high school journalism class till present. Now

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these people are often somewhat unconventional. They're not always the administration's favorite people. But they are effective and wonderful instructors. They deserve the protection that they need to train students to properly become responsible and professional journalists. Without that, the future journalists will not be prepared for their very important role in today's society. Finally, I would leave you with one thing. The framers of the United States Constitution valued freedom of the press so highly they put it in the First Amendment. If they value this liberty so much then surely it should extend to colleges and high schools, public or private. Thank you for your time. [LB886]

SENATOR EBKE: Mr. Bauer, sit there. I need to take a picture for your mother. (Laughter) [LB886]

COLEMAN BAUER: She'll appreciate it. [LB886]

SENATOR EBKE: I know she will. Just for a little background information, Cole Bauer and I had the same journalism teacher in high school. I had her for her first year teaching; he had her, her last year teaching. So we were trained in the same way. And Mr. Bauer is my nephew so. Okay. Any questions? Thanks. [LB886]

COLEMAN BAUER: All right. Thank you very much. [LB886]

SENATOR EBKE: Thanks for waiting all day. [LB886]

ANGELA WOLFE: (Exhibit 17) My name is Angela Wolfe, A-n-g-e-l-a W-o-l-f-e, and I am here representing the Nebraska High School Press Association. I am submitting to your guys our official statement in support of LB886. We have been here for a very long time and you are very intelligent people so I won't read this to you. But I do want to kind of highlight a few things from the statement to just kind of point out a little bit about what we do. I do want to point out that even though I'm here representing the Nebraska High School Press Association, I am also a journalism adviser for the Omaha Public Schools and that is what the Nebraska High School Press Association is all about, is we are a professional organization that supports advisers all over the state of Nebraska. Right now we have a membership of over 85 advisers and we have

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influence over hundreds of Nebraska high school students. We...our major goal is to just provide support to these advisers, no matter where they are around the state. And I know that one of the biggest issues you have when you hear "journalistic freedoms" and "high schools" and working with advisers from across the state and working with school districts, I know that sometimes school districts don't hire people who understand all of media law and ethics, and they don't...you know, sometimes it's an English teacher and they're like, oh yeah, by the way, you're going to run the high school newspaper. And so that's where we are here and we provide resources. We have a conference that we run every year. We have a partnership with the University of Nebraska. We have over 700 high school students that come in. We have run workshops there about libel and privacy laws. We have run workshops about student life after Hazelwood. We have workshops on law and ethics, legal issues, all sorts of things. And we have a mentorship program where we send out a JEA, the Journalism Education Association, member. We have a mentor that will go all over the state of Nebraska to help new advisers. And so when you're sitting there thinking, well, if we give these freedoms out who is going to be there to help these advisers know what are the laws, what are the ethics, I'm here to tell you that that's us. We're there. We are right here in the state of Nebraska. We have this network of highly qualified advisers all over the state of Nebraska. We have advisers in Scottsbluff. We have advisers in Grant Island. And if you haven't spoken to advisers from all over Nebraska, these are some of the most hardworking, talented, knowledgeable people that I've ever worked with. And they are so supportive of each other and are willing to go out of their way to drive to people to let them know, you know, this is how this is supposed to work. And so if...I know you're going to hear a lot from students today but I want you to know that the support from the adults, the gatekeepers, that we're there too. And so, one, we are absolutely in support of this and we would just ask you to vote yes. This is a wonderful thing for students. And just know that we're there and we are there to support each other as well. Thank you. [LB886]

SENATOR EBKE: Thank you. Questions? [LB886]

ANGELA WOLFE: Thank you. [LB886]

SENATOR EBKE: Next up. [LB886]

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CHLOE FOWLER: It's a lot scarier now I'm actually up here. Okay. Hi. My name is Chloe Fowler, C-h-l-o-e F-o-w-l-e-r. In a world where it is becoming increasingly difficult to decipher what is fake news, as a student journalist it is more critical than ever for us to have our First Amendment (inaudible) constantly evolving and changing. Good evening, ladies and gentlemen of the Judiciary Committee. I am 16. I am a student, captain of the debate team, tennis player, an activist, managing editor of my school's three yearbooks--not one, not two but three--and a journalist. My brain is still growing and my passion is being questioned in terms of its authenticity. I am lucky enough to go to a high school in which I have the freedom to write and report about what I find important in life and I am lucky enough to have the opportunity to testify for this bill here today. There are 135 students and two amazing advisers in my school's department, and there are countless others, other student journalism departments across the state, and our freedom to research and write about what we want is at stake. The difference between fake news and the truth is being blurred every single day. This bill will have a positive influence on students in Nebraska by allowing us to have a confident voice in the community, a positive impact amongst our peers, and to give us the tools we need to make the world a better place. However, the harsh realities of modern society places a limitation on our freedom. It is stifling us, and we will not be stifled. This bill represents the importance of the freedom of speech. This bill brings attention to important humanitarian crises that are underrepresented in media. This bill protects our First Amendment and this bill keeps people safe. It is important to take this bill into consideration as it will have a positive influence on students like myself and the other hundreds in the state of Nebraska. And I just have one question: Does anybody know if it's snowing out because, if so, I kind of have to go home. (Laughter) I'm an hour...I live in Omaha, so I kind of have to go home immediately. And I don't have a signal on my phone because I'm in Lincoln and AT&T is pretty spotty. And with that, I'll take any questions. [LB886]

SENATOR EBKE: I'm looking to see if it's snowing. [LB886]

SENATOR MORFELD: AccuWeather says no. [LB886]

SENATOR EBKE: Okay. [LB886]

CHLOE FOWLER: Okay. [LB886]

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SENATOR MORFELD: No precipitation for 120 minutes. [LB886]

CHLOE FOWLER: Okay. Cool. [LB886]

SENATOR EBKE: Any questions? Thanks for being here. When you do go home, drive safely. [LB886]

CHLOE FOWLER: I hope. I hope I'll be able to make it home safe. [LB886]

SENATOR EBKE: It will be good. [LB886]

CHLOE FOWLER: I have a yellow bug so. [LB886]

SENATOR EBKE: Okay. Next up. [LB886]

JUSTINE GARMAN: Excuse my little helper. She's getting hungry. It's been a long day. [LB886]

SENATOR EBKE: Well, she's been really good today. [LB886]

JUSTINE GARMAN: Yes, she has. My name is Justine Garman, J-u-s-t-i-n-e G-a-r-m-a-n. I am a proud OPS educator. I've taught journalism at Benson High School for 13 years, 6 of which I have been the yearbook and newspaper adviser. I wish that this bill would have been passed six years ago. For five of my six years, my students and I were retaliated against every day. We were bullied. My job was threatened. I had an exemplary record until I took over. The same principal who wrote me those letters of reference, who came and watched my classes, all of a sudden deemed me unfit, not for stories dealing with school budget but because my students had a picture of a girl with a bellybutton ring in the yearbook under different piercings under student fashion for that year. We would deal with snarky comments written on their prior review sheets. She would pull my students into the office and she would lecture them and try to persuade them to change their mind, one on one. I couldn't go with her because I wasn't protected, and I'm still not protected until this bill is passed. Instead, I had to call their parents, advise their parents,

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encourage them to be proactive. I had to visit with the students before and after school because again, as an OPS employee, I couldn't do that, I couldn't go with her. Instead, I just watched them be bullied. By passing this bill, you're going to protect them, you're going to protect me. She's not going to get kicked off the dance team two weeks later because she's now unfit to represent my school when she was fine until that bellybutton ring photo. And that's just one example of the five years that I've dealt with it. I will tell you this year it's different. We have a new administrator who follows our school board policy which contains the language that's in this bill. The only difference is the language that's in this bill protects me and her from retaliation. Our school board doesn't offer that to us at this point. Our principal has become a big part of our journalism team. Our students are writing hard news stories with the help of him. He encourages them. He, you know, lets them come in, available for interviews, gives them questions to suggest, and the difference is they're not afraid. My students are not afraid. They're not afraid to go talk to him. They're not afraid to walk down the hall. I'm not afraid. I don't need the Omaha Education Association to step in on my behalf several times or to keep detailed (inaudible) logs of when I spoke with the principal or when my student submitted things. So just please keep this in mind and please know that by passing this they're not going to run amok. They can't just publish whatever they want. It's not fake news. (Laughter) They have to...they have to abide by the law. And it gives me a chance to work with them to push them but at the same time make sure that they're learning the skills that they need, which you know in today's media a few of them need to go back to high school and learn that lesson. So thank you. Any questions? [LB886]

SENATOR EBKE: Thanks for being here. Let me ask you as a teacher, what was your major? [LB886]

JUSTINE GARMAN: I majored in language arts 7-12,... [LB886]

SENATOR EBKE: Okay. [LB886]

JUSTINE GARMAN: ...so I took specific classes in English, journalism, speech, drama, debate. I wanted to major in only journalism education but that wasn't an option for me. [LB886]

SENATOR EBKE: But you have an endorsement in journalism? [LB886]

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JUSTINE GARMAN: I do. [LB886]

SENATOR EBKE: Okay. [LB886]

JUSTINE GARMAN: And then I also do attend national conferences every year and study up on this. And so thank you. [LB886]

SENATOR EBKE: Great. Thank you. Next up. And if more are going to testify, move up to the front. [LB886]

McKAYLA VERMEER: First off, I would like to thank the committee for giving me the time and the opportunity to testify today, and I would like to thank Senator Morfeld, even in his absence right now, for introducing the bill. My name is McKayla Vermeer, M-c-K-a-y-l-a V-e-r-m-e-e-r. I'm a sophomore at Bellevue East High School and I'm in my third semester as a member of our newspaper staff, the Tom Tom. And I'm also in my second semester of being the features editor. I'm going to try to keep this testimony short because I know you've listened to a lot of the same thing today. Basically, what I'm here to say is that students should be able to practice their First Amendment rights inside of school because it gives them opportunity to practice for if they become a professional journalist. In an institution like a school, which is a controlled environment, they are able to learn what it's like to be an actual journalist. And I don't know if students are able to learn what it's like to be a journalist if they don't get all the rights as a journalist, within reason, because I do understand schools have different policies and whatnot. As my newspaper adviser always tells us, our job is to report the truth. And sometimes the truth is not always what people want it to be, but that doesn't mean it should be changed. Just this year our school publication was forced to cite a source as anonymous even though the person quoted was willing, consenting, and in understanding of what we were intended to do with his statement. Yes, the quote he gave was on a controversial subject but it still should not have been censored. Even if students don't go on to pursue journalism, using their First Amendment rights in school would be able to teach them to be a better citizen in the long run because they'll know their rights and they know how to use their rights. I've heard teachers and other adults alike call journalism and journalists in general disgusting and unworthy of people's time, and if that makes

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me disgusting then so be it. But I would rather be disgusting while enjoying my First Amendment rights. [LB886]

SENATOR EBKE: Thank you. Any questions? Have a good day. Thanks. [LB886]

McKAYLA VERMEER: Thank you. [LB886]

SENATOR EBKE: Next up. [LB886]

JULIE ROWSE: (Exhibit 18) Good evening. My name is Julie Rouse, J-u-l-i-e R-o-w-s-e, and a copy of my testimony is being distributed right now. Thank you for this opportunity to speak to you all today. I currently teach responsible, ethical journalism in my introductory journalism classes in Bellevue Public Schools. I reinforce these concepts in my production classes as students generate story ideas, then report and write those stories. They have a solid foundation of what good journalism should look like. And then I teach them Hazelwood v. Kuhlmeier and I feel the air leave the room. When I explain that this Supreme Court ruling allows censorship for "reasonable pedagogical concerns," they realize that broad language says they cannot report certain stories. My students are incredibly lucky to have a principal that trusts me as their adviser and generally trusts them. We don't run into censorship issues often, though the reason for this is because they self-censor. At a time when current educational research points to student voice as transformational in true learning and growth, publications such as the one I advise could be the gold standard for student achievement. Publications teach collaboration, communication, critical thinking, research, and writing--all skills deemed necessary for long-term career success in a 2015 survey by the American Association of Colleges and Universities. Yet the undercurrent of potential censorship at times turns our publications into little more than public relations vehicles for our building and our district, denying students the opportunities to truly develop those skills. Or as one of my students put it, "our publications need to be more than coddling our school, and restaurant reviews." Lawmakers are often concerned about what a bill will cost, and the good news for the Unicameral is that LB886 is revenue neutral. It costs taxpayers nothing in terms of dollars of cents. There is a great cost, however, in not advancing LB886. For the past 30 years, student journalists have been taught a journalism that didn't ask them to hold people accountable, in favor of a journalism that often only required them to make schools look good. This brand of

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journalism is difficult to reconcile with the Society of Professional Journalists' ethical mandate to "give voice to the voiceless." This brand of journalism does not serve students; it serves school districts. This brand of journalism is dangerous. It is not hyperbole to posit that the future of our democracy depends on quality journalism, and quality journalism depends on students at the high school and collegiate level learning foundational, responsible, ethical journalism from the beginning of their journalistic careers, which is exactly what LB886 calls for. Thank you for your time. [LB886]

SENATOR EBKE: Thank you, Ms. Rowse. I asked the question before. Is your endorsement in...are you endorsed in journalism? [LB886]

JULIE ROWSE: I have the same endorsement... [LB886]

SENATOR EBKE: Same endorsement? [LB886]

JULIE ROWSE: ...in language arts. Most of my language arts were in journalism,... [LB886]

SENATOR EBKE: Okay. [LB886]

JULIE ROWSE: ...but I've attended other trainings and involved... [LB886]

SENATOR EBKE: Sure. [LB886]

JULIE ROWSE: ...with the Journalism Education Association. [LB886]

SENATOR EBKE: Then that's primarily what you teach though is journalism? [LB886]

JULIE ROWSE: That is. Journalism. [LB886]

SENATOR EBKE: Okay. Great. Thanks. [LB886]

JULIE ROWSE: Yep. Any questions? [LB886]

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SENATOR EBKE: Okay. Thanks. [LB886]

JULIE ROWSE: Okay. [LB886]

NATHANIEL SMITH: Hello. My name is Nathaniel Smith, N-a-t-h-a-n-i-e-l, and then Smith, and I go to Omaha North High School, which resides in District 11. And I along with all my student journalist peers are in strong support of passing LB886. Now people have been saying things that is very repetitive so I'll just keep it short and say two things that no one else has said. Last year at North, Mary Beth Tinker personally came to our school and inspired many students to continue to be engaged in government by expressing their opinions, either verbally or through the press. Listening to her speak convinced me to be more serious about journalism and reporting. When I'm practicing journalism with the limited freedom I have in Nebraska, it's never a real lesson in civic engagement. And then also as a man of color I am a direct witness to the underrepresentation that goes on in publications. Even though our student body is predominantly people of color, administrators that proofread our papers may cut out touchy subjects that many students of color have to deal with, like racism, poverty, or police brutality, because it's too sensitive for us kids to read. Nebraska's student journalists are falling behind compared to neighboring states. There is still a window to catch up, but that window is closing fast. I thank all of you for listening to me and representing me in the state. [LB886]

SENATOR EBKE: Thank you, Mr. Smith. Any questions? Guess not. Thanks. [LB886]

NATHANIEL SMITH: Thank you. [LB886]

SENATOR EBKE: Thanks for being here today. Next up. Any other proponents? [LB886]

FRANK LoMONTE: (Exhibits 5 and 19) Good evening and thank you so much for your patience and your fortitude. My name is Frank LoMonte. That's spelled F-r-a-n-k L-o-M-o-n-t-e. I'm a First Amendment lawyer and a media law professor. I'm here on my own nickel speaking for myself, not my institution, and I'm drawing on almost ten years that I've spent as the executive director of the Student Press Law Center in Washington, D.C., where it was my privilege to take many hundreds of telephone calls from some of the people that you've heard

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here and others like them around the country, including those Pittsburg, Kansas, students who did that amazing and courageous piece of journalism that is rightly acclaimed all the way across the country. Thank you so much for the civics lesson that you have given these young people today. The substantive consideration that you have given to all these bills is something that will stay with them for the rest of their lives. The fact that they have seen that you can come in, you can make a well-researched, fact-based argument, and can actually make positive public policy change will be a transformative experience for them. So I really thank you for that. There are 13 states right now, 13 states around the country, that have bills comparable to LB886 on the books. One-third of all the high school students in America already have the benefit of this level of protection today. These bills are passing all over the country with overwhelming and often unanimous bipartisan support because it's the consensus of every organization involved in the teaching of journalism and civics that after 30 years of federally legalized school censorship that the right amount of press freedom in schools cannot possibly be zero. The New Voices campaign, of which LB886 is an example, has been endorsed by the Society of Professional Journalists, the Association of News Editors, the American Bar Association, the National Conference of Teachers of English, and many, many more organizations like them because they recognize that this bill restores a common-sense, middle ground to the governance and oversight of student media that we lost when the Supreme Court decided the Hazelwood v. Kuhlmeier ruling. These laws are not risky or experimental or untested. They've been on the books nationwide a combination of 180 years in states, a diverse array of states. There's no evidence at all that students run amok with their freedom or cause harm with the very limited degree of freedom they have, and it is limited. Nothing in this bill in any way alters the authority of a principal to preapprove a student publication to remove material that's harmful, illegal, or presents any liability risk. That authority is undisturbed. The language in the bill about substantially disruptive speech comes right out of the Supreme Court's Tinker standard. It is a standard that schools are comfortable with after 50 years of experience with Tinker. It is a flexible, adaptable standard that could be used in accordance with local conditions on the ground, and it gives lots of elbow room, ample elbow room to remove the content that schools actually have a legitimate reason to remove. We're all alarmed today to see the climate on college campuses where First Amendment rights and values are declining. There's no secret or mystery as to why. Students don't arrive at college and suddenly abandon their convictions about the First Amendment. They lose them because they watched the First Amendment devalued in their own

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lives, in their own K-12 educational lives. This bill restores the opportunity for students to actually experience the First Amendment, not as something that is a dusty relic in history books but that is meaningful and relevant in their own lives. I have many stories I could share with you from my experience at SPLC. I'm happy to just make myself available to answer any questions that you have because I've worked every day with these laws for the last decade. Thank you. [LB886]

SENATOR EBKE: Thanks for being here. Senator Chambers. [LB886]

FRANK LoMONTE: Yes, sir. [LB886]

SENATOR CHAMBERS: Did you come all the way from Washington, D.C., to attend this hearing? [LB886]

FRANK LoMONTE: I actually, sir, I came from Florida. I've just started a new job. And, no, Madam Chair, I'm not driving there tonight, so thank you very... (Laughter) [LB886]

SENATOR EBKE: Oh good. I'm glad. (Laughter) Catch a train or something, right? [LB886]

FRANK LoMONTE: But I just recently started a new job so I, in fact, came a little bit further than that, Senator Chambers. [LB886]

SENATOR CHAMBERS: And it was pursuant to an invitation from Senator Morfeld? [LB886]

FRANK LoMONTE: I did, yes. [LB886]

SENATOR CHAMBERS: He's going to be hard to live with from now on. You should have left well enough alone. (Laughter) [LB886]

FRANK LoMONTE: This is very deep in my heart, Senator, and it's... [LB886]

SENATOR CHAMBERS: But thanks for coming, though, seriously. [LB886]

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FRANK LoMONTE: ...I'm delighted to be here. [LB886]

SENATOR CHAMBERS: Okay. [LB886]

SENATOR EBKE: Absolutely. Thank you for being here. Anybody? I guess not. [LB886]

FRANK LoMONTE: Okay. Thank you, Senators. [LB886]

SENATOR EBKE: Not many of us left. We're a hearty few I guess, huh? Are there any other proponents? Do we have any opponents? [LB886]

SENATOR CHAMBERS: You mean we have Luddites still running around here? That was just for the... [LB886]

SENATOR EBKE: I guess we didn't wear them out. [LB886]

SENATOR CHAMBERS: ...that was just for the consumption of the committee members.
(Laughter) [LB886]

JOHN BONAIUTO: (Exhibit 20) Senator Ebke, members of the committee, John, J-o-h-n, Bonaiuto, B-o-n-a-i-u-t-o, representing the Nebraska Association of School Boards. I usually hang around the Education Committee and being in Judiciary this afternoon I learned a little bit. And it's been I think a good experience up to now. (Laughter) [LB886]

SENATOR EBKE: You learned more in Judiciary than in Education, right? [LB886]

JOHN BONAIUTO: Absolutely, Senator. (Laugh) [LB886]

SENATOR EBKE: There you go. [LB886]

SENATOR MORFELD: Welcome. [LB886]

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JOHN BONAIUTO: The School Boards Association takes this issue very seriously, takes First Amendment rights very seriously. The letter that you will be receiving from John Spatz, the executive director of the association, has two standing positions that were not created for this bill. This is something that the school boards delegate assembly had passed and has had on the books for a number of years. The first one deals with school board authority as the publisher for student publications and curriculum. The second one is directly speaking to constitutional rights and responsibilities. There's a balance here and that is something that is critical when we're looking at student publications. As I listened to some of the testimony, I hope that the journalism advisers and teachers are aware of what school board policies a district may have, because I've given you two examples of policies that the school boards policy service recommends that boards adopt. The first one on student publications sets some basic parameters, but in that last paragraph it says persons, other than students, that have a problem and feel that something was done in a publication they do not agree with, there is a complaint procedure. And the last sentence deals with students, if they feel that they were censored, that there is a due process procedure. And then the other policy is on...deals with student expression. What I would say is that it's really important for boards to have good policy. And I know that we don't get it right all the time, but we try very hard to make sure that teachers and advisers are protected. We want students to have a good learning experience that should be fun. And what I would ask is that this bill be held in committee and the School Boards Association would be happy to work with Senator Morfeld in looking at this if there's some way. And I'm speaking for K-12, you know, and I think it's different in K-12 than it is in higher ed. And so with that, I'll conclude my testimony. [LB886]

SENATOR EBKE: Senator Chambers. [LB886]

SENATOR CHAMBERS: You're not as old as I am, but I want to tell you, Sonny, the times, they are a changing. [LB886]

JOHN BONAIUTO: You are right. (Laugh) [LB886]

SENATOR CHAMBERS: How long have these policies been on the books that you mentioned with the association, if you know? [LB886]

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JOHN BONAIUTO: Senator, these are within the last ten years. [LB886]

SENATOR CHAMBERS: Okay. Last ten years? Do you drive a car? [LB886]

JOHN BONAIUTO: Yes, Senator. [LB886]

SENATOR CHAMBERS: How old is your car? [LB886]

JOHN BONAIUTO: It's not very old, Senator. [LB886]

SENATOR CHAMBERS: So with automobiles and everything there comes an upgrading, an updating, more efficiency, and they take into consideration the condition of roads, speed limits, congestion, and all of these things because the purpose of the car is to get you from point A to point B as efficiently and safely as possible. Things that may have been really outstanding and eye-popping when the first Model T came into being would not be so now, and the Model T would be a relic as far as driving. But when it's a part of the development of the automotive, I would say, society, it cannot be erased. It should not be erased. So sometimes policies that served their purpose a long time ago are no longer suitable for what is happening today. And policies cannot create reality. Policies have to adapt to reality. And we cannot modify conduct simply by writing words on paper. You cannot compel a society of people who think, to think a certain way or to behave a certain way. And if that attempt is made, something erupts called a revolution. Now if you're dealing with a group of automatons that can be programmed to behave a certain way on command, you will always be in charge. But we who are older have to realize that people are coming after us who see the world with different eyes. They face different problems. They have different desires. Their goals are different. And we who are older can learn from them. And I recognize the fact that organizations that have a lot of old people will tend to develop old ways. And these things should not be discounted, and that's why we should serve sometimes as counselors, advisers, but we cannot lead anymore. We are too slow to lead. People with more vim, vitality, forward-looking vision are what move the world, society, and civilization forward. But I give you youngsters--I'm old, you're kind of...you're young compared to me but you're old compared to this constituency--we can hope that they will recognize the fact that we have actually seen things and lived experiences that they never will, never can, and may not think they

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would want to. But if they would take the time to listen to some things they may find a kernel of wisdom here and there. But even if they don't right now, they do have a memory bank. And I think it was Mark Twain who said, he was amazed at how much more intelligent his father became the older he, Mark Twain, became. So we have to let young people be young people. We have to remember, if we can think that far, to how it was when we were younger. And whatever we offer in the way of guidelines should be to help direct growth, not stifle it, and just get out of the way sometimes. Now, I'm not a gardener. I'm not an arborist (phonetically)...arborist. I don't even know how to pronounce the word. But I know one thing. When I was growing up they had what was called a trellis and if you'd start a vine down here it grow...it finds its way. And no two vines will grow exactly the same. So the trellis provides a framework but the vines grow according to the nature of the vine. So in the interest of full disclosure, I'm not prepared to hold the bill in committee until some old mossbacks such as myself get around to looking at it with fear and trembling. We fear anything new. We fear anything different because deep down is the fear that we're going to be left behind. But we don't have to be left behind if we're flexible. I respect the fact that you came here, that you stated your view, but I wouldn't be fair or forthright if I didn't let you know that, as a member of the Legislature, we have paramountcy when it comes to setting the law, setting the policies, regulating the schools, and determining what is going to be made available to our students, what the limitations are on what administrators can do in restricting them. So I do want to see a coming together where there can be mutual sharing of ideas. But in the young we find a hope for forward moving. Older people tend to live in the past, to look back, and either manufacture a life that they never lived and take credit for it or spend a lot of time regretting not having done what they should have done, wishing that they may have done differently, and getting caught up in our old ways and hindering the forward move of youth and life itself. So I don't want you to view me as an enemy, but if you view me as an enemy, and I don't mean where we're going to fight each other. [LB886]

JOHN BONAIUTO: No. [LB886]

SENATOR CHAMBERS: You wouldn't have a chance. (Laughter) [LB886]

JOHN BONAIUTO: I know that, Senator. [LB886]

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SENATOR CHAMBERS: No. I'm just kidding. But, you know, I don't want you to think I'm hostile toward... [LB886]

JOHN BONAIUTO: No. [LB886]

SENATOR CHAMBERS: ...what you all are doing. I was trying to be gentle in saying. [LB886]

JOHN BONAIUTO: Yeah, and you are. And what I would say is, regardless of how this unfolds,... [LB886]

SENATOR CHAMBERS: Uh-huh. [LB886]

JOHN BONAIUTO: ...if there is a new law that deals with this area then our association would adjust, revise policies, and we would help school board members understand it and learn how to work with it. [LB886]

SENATOR CHAMBERS: Good. [LB886]

JOHN BONAIUTO: And that is exactly...I agree with what you're saying. [LB886]

SENATOR CHAMBERS: And I thought that would be the case, but we're just putting some things on the record so if people look... [LB886]

JOHN BONAIUTO: Yes. [LB886]

SENATOR CHAMBERS: ...at this hearing, the transcript, they will know we did have an exchange and came to an understanding. [LB886]

JOHN BONAIUTO: Yes. [LB886]

SENATOR CHAMBERS: Okay. [LB886]

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JOHN BONAIUTO: Thank you. [LB886]

SENATOR CHAMBERS: That's all that I had. [LB886]

SENATOR EBKE: I've got...I've got a couple questions. [LB886]

JOHN BONAIUTO: Sure, Senator. [LB886]

SENATOR EBKE: Okay. First of all, do you have any sense of how many of the school boards in the state have adopted some sort of similar policy? This is a template, right? [LB886]

JOHN BONAIUTO: It is a template. This is a model policy. And I talked to the policy service director and I did not ask for a number, but I will get that for you, Senator, because the association does policy reviews and works with districts all across the state and tries to make sure they have current policies. And I'll find out what that number is and then I'll get us how old some of these policies are. [LB886]

SENATOR EBKE: Yeah. Yeah. I'm just kind of curious. The other thing is... [LB886]

JOHN BONAIUTO: Sure. [LB886]

SENATOR EBKE: ...I notice this, the one policy, I don't know, I don't know which page is page one and which...the one, the one... [LB886]

JOHN BONAIUTO: Uh-huh. [LB886]

SENATOR EBKE: ...that talks about it as being part of the curriculum under the supervision. Do we have any sense of how many official publications may not actually be part of a curriculum but may be more of an extracurricular? [LB886]

JOHN BONAIUTO: And that's another area where I don't have any data on that. And it varies so much. Prior to the hearing on this bill, I visited with Senator Baker a bit and they do not have

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journalism at Norris, which I did not realize and...but in some districts it is outside of the regular school curriculum. [LB886]

SENATOR EBKE: Yeah. Those are just questions that as we were... [LB886]

JOHN BONAIUTO: Sure. [LB886]

SENATOR EBKE: ...as I was looking at this I wondered, okay, well, which schools actually have a journalism program, which seems to be one set of circumstances versus where it's an extracurricular program and may be supervised by the PE coach or you know. I mean... [LB886]

JOHN BONAIUTO: Yes. [LB886]

SENATOR EBKE: ...you don't know exactly who's doing it but it may be an official publication or semiofficial publication, so at least published by the school. So I mean I'm just kind of curious how that might play out. If you've got...if you can...if you can tap into any of that information, I'd be curious. [LB886]

JOHN BONAIUTO: We could do a quick survey. Our technology, we could send something out. [LB886]

SENATOR EBKE: So you can send an e-mail. [LB886]

JOHN BONAIUTO: Yes. [LB886]

SENATOR EBKE: There we go. [LB886]

JOHN BONAIUTO: Exactly, we're there. (Laugh) So we will do that. [LB886]

SENATOR EBKE: A little Survey Monkey thing going on. That will work. It works, yeah. [LB886]

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JOHN BONAIUTO: Very good. [LB886]

SENATOR EBKE: Okay. [LB886]

JOHN BONAIUTO: And thank you for your time and this is not...doesn't have anything to do with the bill but my son is...was a journalism major, has a degree in journalism, was the editor-in-chief at his university newspaper, and a reporter in Washington, D.C., so. [LB886]

SENATOR EBKE: All right. There we go. Senator Hansen has a question, I think. [LB886]

SENATOR HANSEN: Yes. Thank you. [LB886]

JOHN BONAIUTO: Sure. [LB886]

SENATOR HANSEN: Thank you, Senator Ebke. And thank you for coming here. So I guess I was trying to process through your testimony. You talked a lot about the issues but I never actually heard what your opposition to the bill as drafted is. [LB886]

JOHN BONAIUTO: Senator, this, the bill, broadens things enough that I think it would create some situational issues as you're dealing with students in various areas and to the point where there's some question, is this creating more gray area. When you're talking about protection and we want to protect students, we want to protect journalists and advisers, but we're not sure if this isn't creating more gray area. And that's something that we would sure be interested in talking more about it. [LB886]

SENATOR HANSEN: Sure. Sure. I appreciate your coming in here and asking to continue the discussion, but I guess I was just looking for what the issue was. So it's just a matter of local control or...? [LB886]

JOHN BONAIUTO: Well, that's some of it, but in visiting with folks that have journalism as part of the school program, they were concerned that it was going to create more question in dealing with issues with censorship of students, whether the school has authority, doesn't have authority.

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So that was the questions that we were getting and so we felt that it was important, at least at this stage, to oppose the bill. [LB886]

SENATOR HANSEN: Okay. Thank you. [LB886]

SENATOR EBKE: Questions? [LB886]

JOHN BONAIUTO: Thank you, Senator. [LB886]

SENATOR EBKE: Thanks for being here. [LB886]

JOHN LINDSAY: Senator Ebke, 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. As you might expect, our opposition is directed at Sections 1 and 2, subsection (6), which one of the early testifiers said it was for...it provides protection for school districts and for colleges by saying that they not be held responsible in any civil or criminal action. I think the other...last week when I think a good discussion here in the committee where we talked about other parts of the Bill of Rights, we talked about the Eighth Amendment in the enforcing the provision against the unconstitutional, excessively high bail. We talked about the Sixth Amendment, making sure that juveniles are entitled to counsel as required by the Sixth Amendment. We touched on the third amendment as well and talked a bit about the second amendment. But there's an amendment that's often forgotten that I have brought up before that is the Seventh Amendment, which the founders thought that a trial by jury of your peers was significant enough to be included in the Bill of Rights. And that is that they go further and talk about every triable fact should not be reexamined by a court except at common law, as provided in the common law. So our concern here is, and it's not real clear, I think the only person unprotected under this bill is the student journalist, if we're going to talk about freedom from somebody else's Seventh Amendment rights. As I read it, everybody else does not have liability. The student journalist would be responsible. And I think somewhere it should probably tell the student journalist that, that they're on the line for decisions. The bill, I mean it's well drafted as far as laying out what the duties and obligations are, but one of the things it talks about, if you look at the language, is that they're not responsible for libel, slander. But one of the things is it does not authorize an

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unwarranted invasion of privacy. Makes you wonder what's a "warranted" invasion of privacy. And you can imagine at certainly the high school level some decisions that are made that we read about in newspapers about things that were posted on Twitter or Snapchat or Instagram or for, as my kids tell me, Facebook, which is just for old people like me apparently. But stuff that is posted there that...I see my time is up. [LB886]

SENATOR EBKE: Keep going. Finish your sentence. [LB886]

JOHN LINDSAY: That when we see that there's a learning experience that's involved and part of that learning I think is the responsibility for the free exercise of your First Amendment rights. I would just urge that as the committee views this bill that you weigh not just First Amendment rights but way those against all other rights guaranteed by the constitution. [LB886]

SENATOR EBKE: Thank you, Mr. Lindsay. Questions? [LB886]

SENATOR MORFELD: I just thought I could sneak immunity by on this one. Didn't work. (Laugh) [LB886]

SENATOR EBKE: Senator Chambers, do you have a question? [LB886]

SENATOR CHAMBERS: Mr. Lindsay, you and Senator Morfeld have a good working relationship, don't you? [LB886]

JOHN LINDSAY: Yes, we do. [LB886]

SENATOR CHAMBERS: And you all will work it out. [LB886]

SENATOR MORFELD: Yeah, no problem. [LB886]

SENATOR CHAMBERS: That's so nobody will panic here based on the exchange that's going forward. [LB886]

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SENATOR MORFELD: Yep. [LB886]

JOHN LINDSAY: Yes. [LB886]

SENATOR CHAMBERS: That's all that I have. [LB886]

SENATOR EBKE: Okay. Thank you. Okay. Thanks. [LB886]

JOHN LINDSAY: Thank you. [LB886]

SENATOR EBKE: Other opponents. Is this the last or are there others? All right. [LB886]

TOM VENZOR: (Exhibit 21) Good evening, Chairwoman Ebke and members of the Judiciary Committee. My name is Tom Venzor, T-o-m V-e-n-z-o-r. I'm the executive director of the Nebraska Catholic Conference which represents the mutual public policy interests of the three Catholic bishops serving in Nebraska. LB886, which seeks to establish additional free speech protections for student journalists and media adviser, has problematic constitutional implications as applied to private religious universities and colleges and, as such, we respectfully oppose this aspect of the legislation. Notably, the Nebraska Catholic Conference raises the issue to the extent that we represent St. Gregory the Great Seminary, which is a private religious seminary located in Seward. LB886 would force private educational institutions to assist in the production and dissemination of student speech with which they disagree. Such a compulsory act violates the First Amendment free speech clause right not to be compelled by the government to convey messages with which the institution disagrees. LB886 would also deprive a private educational institution of the freedom to take adverse action against members of its community because they engage in expression contrary to the beliefs of the institution...to the beliefs of the institution violates the institution's Free Speech Clause right to expressive association. Further, LB886 would deprive a religious educational institution of the ability to discipline a student media adviser or the student that engages in conduct contrary to the mission of the school violates the institutional autonomy of the school, which is protected by the free exercise and establishment clause of the First Amendment. Where those involved are ministers, for example, certain faculty and all seminary students, it also violates the ministerial exception acknowledged by the United

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States Supreme Court. Finally, while Section 1(3) proposes to limit the rights created by this bill, those limits hardly begin to address the constitutional issues of this bill that I've discussed as applied to private educational institutions. With that, we request that the legislation strike any reference to private postsecondary religious institutions. And I thank you for your time and consideration. [LB886]

SENATOR EBKE: Thank you, Mr. Venzor. Questions? [LB886]

SENATOR CHAMBERS: Take some advice from Dr. Chambers. You're new in your job. When you see some of these bills I would recommend six Hail Marys, ten Our Fathers, and talk to me the next day and we will come to an arrangement, even though sometimes we differ. [LB886]

TOM VENZOR: Uh-huh. [LB886]

SENATOR CHAMBERS: And I'm willing to talk to you about any legislation that we have. [LB886]

TOM VENZOR: I appreciate that. [LB886]

SENATOR CHAMBERS: Because we had kind of a little rough patch the other day and I don't want you to think that means that we cannot talk. [LB886]

TOM VENZOR: No. No. And I know my predecessors had a very good relationship with you. And while we disagree substantially on many things, I know that there's always an open door. So thank you, Senator. [LB886]

SENATOR CHAMBERS: Okay. [LB886]

SENATOR EBKE: Can I ask a question? Does... [LB886]

TOM VENZOR: Yep. [LB886]

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SENATOR EBKE: ...does the seminary publish a newspaper? [LB886]

TOM VENZOR: Yeah. So when it comes to the definition of what school-sponsored media means, I think in page 2, line 5, and also again what a student journalist is, I think you have a pretty broad definition here that could encompass any number of things that the seminary produces. For example, I know they do have a...kind of an appointed student journalist who's suppose to, you know, record events. They may publish things for their Web site. They may publish things from time to time, for example, for the Catholic diocesan newspaper. They have other things like social media. I think those are the types of things that could fall under the definition of school-sponsored media. [LB886]

SENATOR EBKE: Hmm. Okay. Other questions? Guess not. Thank you. [LB886]

TOM VENZOR: All right. Thank you for your time. [LB886]

SENATOR EBKE: (Exhibits 1-4, 6-11) Thanks. You bet. Anybody testifying in a neutral position? I don't see anybody. Senator Morfeld, you don't want to waive? [LB886]

SENATOR MORFELD: I'm just going to say one or two things and exercise my First Amendment. You know, I just wanted...I know it's late and I appreciate everybody being patient or some people anyway, (laughter) in staying tonight so I do appreciate that. You know it's always surprising to me to see how afraid adults are of what our young people will say. And I think it's even more surprising given the fact that some of the most offensive statements have actually come from adults, I think, in the last year or two that I've seen anyway on the national level. And so I think that, if anything, we need to give our young people the opportunity and the experiences, both good and bad, when it comes to journalism and exercising their First Amendment rights, because they're important lessons to be had. I did find several of the different stories that were told tonight that I hadn't heard before, somewhat disturbing, something that I'll look into. I took good notes on those and I'll be reaching out to those school districts. I think the thing that's been a little bit disappointing to me is the last two days I've had two or three schools indicate to me that, well, if this law passes it will just be too much trouble and they might shut down their journalism program altogether. And you know, come on, you've got to be kidding

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me? You're in the business of educating our children and just because young people will finally have the power to express themselves without you providing prior review on everything they say, with some exceptions, you're going to shut down the program. Now who looks childish now? You do. And that's the thing that I think was frustrating with me about this bill is I heard that from at least two or three other districts and, you know, that's the wrong approach, in my opinion. Also, I just want to note that Mr. Nathan Leach says hello. (Exhibit 3) He is not testifying in the neutral capacity on this bill. He's in support. And he did bring up a good point, actually, that in some cases in particularly his case, I believe it was at Kearney High, the student council resolution that they had passed had been censored and they have been barred from sending that on to the Legislature in support of some LGBT issues that were before this body. So I am considering an amendment that would explicitly state that student councils are allowed to, number one, have a voice, and number two, to communicate that voice to the legislative bodies or other governmental bodies. With that being said, I'm happy to close. I want to thank everybody for coming out tonight. I really do appreciate it. It's really inspiring. And I'd be happy to answer any questions from the committee. [LB886]

SENATOR EBKE: Okay, I'll ask a question or two. Yeah, take notes. No. You know, I started down the path with Mr. Bonaiuto and asked the question about what happens...and I come from an urban area...or a rural area. You're the urban guys, right? And you have big school districts... [LB886]

SENATOR MORFELD: Uh-huh. [LB886]

SENATOR EBKE: ...that are naturally going to have people who are teaching journalism that's actually part of a curriculum. So the question, I don't think that...I don't think the Lincoln Southwest or any...or Crete or Fairbury are going to shut down their journalism programs. [LB886]

SENATOR MORFELD: Uh-huh. [LB886]

SENATOR EBKE: But what about, I don't know, Thedford or some...you know, that may not have a program, per se, but has it as an extracurricular thing (inaudible)? [LB886]

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SENATOR MORFELD: It's more of an informal after-school type of program. [LB886]

SENATOR EBKE: It's more informal, but the school may still may support it but it's an extracurricular and it really is not part of an actual class. [LB886]

SENATOR MORFELD: Yeah. Yeah. So I think that that's a really good point, actually, and perhaps what we need to do is maybe narrow the scope a little bit in terms of what consists of a program and what that looks like. I'd be happy to look at more of the definitional language and play around with that a little bit to really be able to adapt to the very large and established journalism program that I know exists in some of our schools in Lincoln all the way down to, you know, essentially an after-school club that is probably a volunteer activity of a PE coach or an English teacher. [LB886]

SENATOR EBKE: Yeah, and I'm not, you know, I'm not in any way questioning the bill. I mean I'm all for, I'll cosponsor. But what I am saying... [LB886]

SENATOR MORFELD: Counting three votes so far tonight. [LB886]

SENATOR EBKE: There we go. You got three votes on the committee. [LB886]

SENATOR MORFELD: Four including mine maybe. Okay, four. [LB886]

SENATOR EBKE: Four? [LB886]

SENATOR MORFELD: Yeah. [LB886]

SENATOR EBKE: Got four? But here's what I would say is that we need to think about, you know, beyond the Class A and B schools. You know, when you get to a smaller school that may not have somebody that's actually doing a lot of teaching... [LB886]

SENATOR MORFELD: Yeah. [LB886]

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SENATOR EBKE: ...because part of this and what I heard from a lot of the young folks was, you know, you don't learn to be responsible unless you got the chance to practice. But how do you learn... [LB886]

SENATOR MORFELD: Yeah. [LB886]

SENATOR EBKE: ...to be responsible if there's not someone at least giving you some guidance? [LB886]

SENATOR MORFELD: Absolutely. [LB886]

SENATOR EBKE: So... [LB886]

SENATOR MORFELD: Yeah. And I think that if you heard from the young people today and then some of the advisers and teachers. [LB886]

SENATOR EBKE: That makes me feel really old when we want to say young... [LB886]

SENATOR MORFELD: Yeah. I mean I feel old compared to some of these folks. And most of you are old enough to be my parents or my...actually, I think you're older than my grandpa. [LB886]

SENATOR CHAMBERS: (Inaudible). [LB886]

SENATOR MORFELD: See, I'm positive you're older than my grandpa. But, yeah. So I think that I am happy to work with the committee and some of the experts both in the opposition and some of the national folks in figuring out what's that right balance. And I'd be interested in contacting North Dakota and Kansas too and seeing how it's played out. [LB886]

SENATOR EBKE: I mean I just think that there is...it's different, that there's got to be a different standard maybe or at least... [LB886]

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SENATOR MORFELD: Yeah. [LB886]

SENATOR EBKE: ...for some of the schools in the K-12 arena,... [LB886]

SENATOR MORFELD: Yeah. [LB886]

SENATOR EBKE: ...public school arena than there is for higher education, because I think that's... [LB886]

SENATOR MORFELD: Yeah. [LB886]

SENATOR EBKE: ...just a different animal, so. [LB886]

SENATOR MORFELD: Definitely. [LB886]

SENATOR EBKE: Okay. [LB886]

SENATOR MORFELD: And I think Mr. Lindsay brings up a good point. We didn't give enough immunity so we'll just give immunity to everyone. [LB886]

SENATOR EBKE: Give more immunity to everybody... [LB886]

SENATOR MORFELD: Yeah. (Laugh) [LB886]

SENATOR EBKE: ...no matter what? Okay. Any other questions? Okay, we have letters. (Exhibits 1-4, 6-11) We have letters in support from Elaina Ewing; David Swartzlander of Doane University; Nathan Leach; Jim Timm of the Nebraska Broadcasters Association; Shelby Schmidt; Jenni Benson, the Nebraska State Education Association; Ashley Weed; and Amy Miller of the ACLU of Nebraska. Opposed we have Stan Carpenter of the Nebraska State College System. And in the neutral we have Greg Adams from the Nebraska Community Colleges Association. And with that, we will close the hearing on LB886. [LB886]

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SENATOR MORFELD: Thank you. [LB886]

SENATOR EBKE: Thank you very much for sticking with us today. [LB886]