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Judiciary Committee
March 23, 2017

[LB397 LB502 LB606 LR27]

The Committee on Judiciary met at 1:30 p.m. on Thursday, March 23, 2017, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB397, LB606, LB502, and LR27. Senators present: Laura Ebke, Chairperson; Patty Pansing Brooks, Vice Chairperson; Roy Baker; Ernie Chambers; Steve Halloran; Matt Hansen; and Adam Morfeld. Senators absent: Bob Krist.

SENATOR EBKE: Okay. Well, good afternoon. Welcome to the Judiciary Committee. My name is Laura Ebke. I'm from Crete, representing Legislative District 32. I'm the Chair of the committee. I'd like to start off by having our members introduce themselves, starting on this side.

SENATOR HALLORAN: Good afternoon. Steve Halloran, District 33, Adams County, the western and southern portions of Hall County.

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

SENATOR EBKE: Senator Pansing Brooks is having a committee...a bill heard in another committee.

SENATOR CHAMBERS: Ernie Chambers, District 11 in Omaha.

SENATOR MORFELD: Adam Morfeld, District 46, northeast Lincoln.

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

SENATOR EBKE: Okay. And assisting the committee today are Laurie Vollertsen, our committee clerk; Brent...or Tim Hruza, sorry, one of our two legal counsels. Committee pages today are Kaylee and Miranda, both UNL students, right? Okay. And on the table over there you will find yellow testifier sheets. If you are planning on testifying today please fill one out and hand it to the page when you come up to testify. This helps us to keep an accurate record of the hearing. There's also a white sheet on the table if you do not wish to testify but would like to just record your position on a bill. We'll begin bill testimony with the introducer's opening statement. Following the opening we'll 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 and spell them for the record. If you're going to testify, I ask that we keep one of the on-deck

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chairs filled. Those are the chairs with the yellow tab on the back. If you have any handouts, please bring up at least 12 copies and give them to the page. If you don't have enough copies, the page can help you make more. We'll be using a light system today. How many are planning on testifying on the first bill, which is LB397? Okay. We'll go with a five-minute light system on this bill, and then we'll see where we are on some of the other bills. As a matter of committee policy, I'd like to remind everybody that we ask that you not use your cell phone, not talk on your cell phone inside the committee hearing room. You may certainly, if your phone rings, you may certainly step out in the hall and talk. Also, we would ask that you turn your phones to silent or vibrate mode so that they aren't distracting. Senators may use their phones or their computers in order to stay in contact with staff or to look things up as you're talking. So please make sure that your phones are on silent mode. Also, we ask that there be no verbal outbursts or applause during hearings. We like to keep things moving and those things tend to just distract. One more thing: As I said, Senator Pansing Brooks will be here in a little bit but you may notice that some are coming and going. That's fairly normal. It has nothing to do with the quality of the bill that we're hearing but, rather, other commitments that the senators have. In all likelihood, what we will do is we will hear the first two bills. We'll take a brief intermission, if you will, and then we'll move to the third bill. So with that, Senator Wayne, would you like to open on LB397? [LB397]

SENATOR WAYNE: Welcome. Thank you. Welcome because I'm used to... [LB397]

SENATOR EBKE: Welcome. [LB397]

SENATOR WAYNE: Anyway, (laughter) thank you. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e. I represent the 13th District, which is north Omaha and northeast Douglas County. And today I am introducing a bill that I think is relatively simple from a practitioner's standpoint: rules of evidence as they apply to termination proceedings for parental rights. Currently under law, rules of evidence only apply to adjudication, not to the termination hearing. Why that's important to me, I know this committee has recently dealt with the death penalty issue, and the reason I say that is because rules of evidence apply in criminal proceedings. So to the maximum of the death penalty, I think as a parent, losing your kid is almost like being sentenced to death. And we should have, at a minimum, the standards of rules of evidence to apply that it would in a criminal proceeding. Now, to the less extreme of death penalty, if a 20-year-old walks into the gas station and steals a piece of...a candy bar, Snickers, rules of evidence would apply in that proceeding. That means that there would be statements that cannot be used because they are hearsay upon hearsay. That also means that if they were involuntary statements you said or statements under coercion without being read certain rights, that statement cannot be used in a criminal proceeding except for limited circumstances. But yet in a termination hearing, all those come in. And what's more interesting is that you get adjudicated underneath rules of evidence and sometimes that hearing before a termination hearing will have multiple hearings. So you'll

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have caseworkers, you'll have probation officers if it's a kid. You'll have many state agencies and state employees working with people, working with individuals, getting statements, getting things that many parents don't know, that I represent oftentimes, that they will be used against them later at their hearing to lose their rights. They think they're working there to become a better parent, but at the same time every statement is being recorded. Everything is being written down. And then we show up to the termination hearing and oftentimes that person doesn't even have to be there. How it works in termination hearings is oftentimes you'll have just a caseworker testifying. But that caseworker is not the caseworker who was there on the family visits. That family visit person may not have...may, most of the time, have left. But because they wrote the report, that meets the foundational element in a trial to allow it in, even though the person who was actually there is not there. Now what's interesting in our system, I have a couple cases that are going on in juvenile for two years. I've had over five different caseworkers. But yet, if we go to a termination hearing, that one caseworker who is just now there in the last two months gets to come in and testify on everything. But if I go from the sixth floor in Douglas County, just down one level all the way to the second floor, if it was a criminal matter, none of those statements, none of that stuff would have come in. Now it's interesting because that young man or young woman with the Snickers has all these due process protections that we have said rules of evidence is important to make sure, and the purpose of rules of evidence, whether it's civil or criminal--and by the definition, juvenile is civil--the purpose of rules of evidence is to make sure that we have the best evidence possible. That's what's stated in rules of evidence. We want to make sure we have the most credible and best evidence possible to present to a judge or jury, but we don't hold that same standard when a parent loses their kid. That's just dumbfounding for me. Many states have rules of evidence that apply not only to adjudication proceedings but also the termination proceedings. We're not one of them. Some states go as far as to say you can't sit in front of the same judge because through the adjudication and all the other court hearings about permanent placement and everything else, a judge over two years will hear so much evidence that should not be allowed at trial that other states say you can't even hear it; we need a fresh new set of eyes. I did not take that approach, partly because of Douglas County. We already have judge issues, as you guys have figured out and passed to the floor adding an additional judge. But at a minimum, at a minimum when you're on trial to losing your kid, you should know the best evidence possible that we deemed as practitioners the rule of evidence should apply, should apply to that matter and that hearsay upon hearsay, that statements made involuntarily, statements that parents didn't know were going to be used against them should not be allowed unless they have full disclosure that's going to be used against them, such as a Miranda warning. And the most interesting part about this, and then I'll close and listen to everybody and come back up at my ending, the language that you see in this statute doesn't come from our civil statute. It comes from the Board of Mental Health. I copy it word for word. So before we can even put somebody away for mental health issues, a Board of Mental Health, who are not attorneys, apply the rule of evidence, but judges can't apply the rule of evidence for a parent losing their kid. That's unconscionable and we, as a state, need to make sure that we allow

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parents the safeguards to make sure, at a minimum, rule of evidence applies at their termination proceedings. And with that, I'll submit and answer any questions. [LB397]

SENATOR EBKE: Senator Chambers. [LB397]

SENATOR CHAMBERS: Senator Wayne, for a number of reasons, I'm very glad that you're in the Legislature, that you're doing the work that you're doing as a practicing attorney in an area where more attorneys who are concerned about true justice in the highest sense of that word are needed. It's good that you're willing to bring your experience, your knowledge to changing the statutes to make them what they should be. And it's an example of how people such as myself and others who want to see the right thing done cannot read all of the statutes and correct every problem that we see in it. This one I might not have even seen if I had read the statute because I'd be reading it for some other purpose. People like you, who are experienced, can zero, with laserlike focus, and say here's what we're talking about. I'm going to count the lines: five lines in the whole bill, then the repealers. This makes it possible for that one thing to be spotlighted. You explained it very clearly and I'm saying this so you'll be encouraged to keep doing this. And you cannot bring too many bills like this to this community...to this committee, and I think I'm speaking for all of us. So I'm pleased with your presentation. [LB397]

SENATOR WAYNE: Thank you. [LB397]

SENATOR EBKE: Senator Halloran. [LB397]

SENATOR HALLORAN: I think you may have a new nickname--Senator "Laser." (Laughter) [LB397]

SENATOR WAYNE: Thank you, I think. (Laughter) [LB397]

SENATOR HALLORAN: It's a compliment. [LB397]

SENATOR EBKE: Other questions? Okay. Thanks. [LB397]

SENATOR WAYNE: Thank you. I will be here to close. [LB397]

SENATOR EBKE: Okay. Thanks. First proponent. [LB397]

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SPIKE EICKHOLT: Good afternoon, Madam Chair and members of the committee. Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t, appearing on behalf of the Nebraska Defense Attorneys Association in support of this bill. As Senator Wayne stated in his opening, the termination of parental rights is not a criminal proceeding but many of our members do practice both in the criminal sphere and also in juvenile court. And additionally, many of these juvenile court actions, these adjudication and termination of parental rights, involve criminal cases. So our membership decided and our association decided to support this bill. I can't say it any better than Senator Wayne said. He clearly knows the subject area and the law. I would just add the best I can that the courts, appellate courts and the trial courts, the juvenile trial courts, do apply what's called a due process standard to termination actions, and it's sort of odd and sort of artificial because a person or an attorney can make evidentiary objections at a termination proceeding even though the rules of evidence don't apply. So as Senator Wayne explained, typically you have a single witness who narrates and summarizes what other people say. In any other type of proceeding, any criminal proceeding, any civil case, a divorce case, a contract case as tried, that's hearsay; it cannot be done. In a juvenile termination action, a lawyer for a parent can object on hearsay grounds and the juvenile court may or may not sustain that objection and not allow that evidence in. They usually do not because the appellate courts have said that the parents are simply entitled to due process with the rules of evidence serving as some sort of guidepost or advisory or suggestive to the rules what due process means. And it's our position as an organization that due process ought to mean, at a minimum, in the court proceeding that the rules of evidence apply. They apply in all criminal proceedings. They apply in other civil context, they apply in divorce actions, they apply in contract disputes. They apply in other things even outside the courtroom, as Senator Wayne explained, regarding mental health commitment actions. So for those reasons, the reasons that Senator Wayne explained, we support this bill. [LB397]

SENATOR EBKE: Any questions? Senator Morfeld. [LB397]

SENATOR MORFELD: And perhaps I should have asked Senator Wayne this and maybe I will in his closing. And perhaps I just missed it and you both said it. But what is the genesis for not having these rules apply in the first place? Is there some reason behind it? Everything you said and everything Senator Wayne said makes absolute sense to me, but. [LB397]

SPIKE EICKHOLT: The rules of evidence are rules, so unless the Legislature specifically stated they applied in all juvenile proceedings, then they would not necessarily apply. [LB397]

SENATOR MORFELD: Yeah. [LB397]

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SPIKE EICKHOLT: And maybe Senator Wayne can give a better example or explanation in his closing. But they apply in adjudications. That means when the person first sort of gets involved in the juvenile court, when the court... [LB397]

SENATOR MORFELD: Yeah. [LB397]

SPIKE EICKHOLT: ...first takes jurisdiction. They apply there because that is just such a fundamental and important basic thing, and I think it's also a statutory protection. But the courts...the Court of Appeals, I don't think that the Nebraska Supreme Court has ever spoke to it. The Nebraska Court of Appeals has said that because of the U.S. Supreme Court provides for due process in juvenile court proceedings, because being a parent is such a fundamental right, the court has said that even though the statutory rules of evidence don't apply, we're going to look at those for some sort of protections. That doesn't really answer your questions why they don't. I'm, frankly, not sure. [LB397]

SENATOR MORFELD: Yeah. I'm just wondering if there's legislative history or background on that or...okay. [LB397]

SPIKE EICKHOLT: I could only guess. [LB397]

SENATOR MORFELD: Okay. Thank you. [LB397]

SENATOR EBKE: Yes, Senator Halloran. [LB397]

SENATOR HALLORAN: Thank you, Madam Chair. Just for the sake of example, and I understand it can often be hearsay or a he said/she said and it can be hearsay evidence. But can you give me some examples of some hard evidence in a case like this that might apply? [LB397]

SPIKE EICKHOLT: Typically what you see happen is you have the initial adjudication hearing. That's when juvenile court and CPS gets involved in rehabilitating a parent with his or her child. You have oftentimes supervised visits at the early stage where somebody who works for HHS or a contract agency for HHS monitors or supervises the visits. And they keep notes. So the caseworker might note the parent arrived, I think the parent was intoxicated and I saw the parent kind of shake the child during the visit. So then that little snippet, that little witness from that observer that the parent at the time may or may not know they even recorded those notes, does not testify at the trial, six, eight, ten months later. Instead, somebody else just essentially reads from that person's notes. And then as an attorney, you can't...you're not able to question the person who wrote the notes because the person who's reading it is simply saying, I'm just reading

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what the person wrote down. That is such...you cannot answer that. That's very alarming for a court when you're trying to figure out what's in the best interest of this small child, why those parents should have their rights terminated. [LB397]

SENATOR HALLORAN: Right. I understand that. But I'm...what I'm asking for are some examples of some...what would be considered to be acceptable hard evidence that wouldn't fall into a category of notes taken and then submitted by someone else later in testimony. I mean what would be...well, I'll (inaudible). [LB397]

SPIKE EICKHOLT: Oh, for instance, perhaps photographs taken of a child's injury, we don't know who took them. We don't know when they were taken. We don't know what they're purportedly to depict. [LB397]

SENATOR HALLORAN: So that's not admissible. [LB397]

SPIKE EICKHOLT: It would be in a juvenile court proceeding because they... [LB397]

SENATOR HALLORAN: Okay. [LB397]

SPIKE EICKHOLT: ...any other type of evidentiary proceeding, someone needs to show and answer those basic foundational questions. This is a picture of a child taken on or about this date. We believe the injury was caused by X. Those are evidentiary foundational rules. Those don't apply in a juvenile court case. Somebody simply says those are some pictures. State offers those; defendant objects; court overrules the objection because the rules of evidence don't apply. [LB397]

SENATOR HALLORAN: But if we go with the course of what we're suggesting in this bill, then that would apply? [LB397]

SPIKE EICKHOLT: They would apply. That's right. [LB397]

SENATOR HALLORAN: Okay. [LB397]

SPIKE EICKHOLT: It's a matter of fundamental fairness. [LB397]

SENATOR HALLORAN: Hmm. [LB397]

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SENATOR EBKE: Other questions? Okay. Thanks. Next proponent. [LB397]

ROBERT McEWEN: (Exhibit 2) Chairwoman Ebke and the Judiciary Committee, my name is Robert McEwen, R-o-b-e-r-t M-c-E-w-e-n, and I'm the legal director at Nebraska Appleseed. Nebraska Appleseed is a nonprofit organization that fights for justice and opportunity for all Nebraskans, and I'm here today to testify in support of LB397. We support this bill because we believe it will ensure the juvenile court stakeholders are aware of the evidentiary rules that would be applied at termination and we believe that strict compliance with the rules of evidence is the most effective way a court can ensure the ascertainment of truth. And in turn, we believe this will lead to a more uniform and fair result at the trial court level. As the senator more eloquently put it than I did, parents have fundamental constitutional rights to the care, custody, and control of their children and, as such, their rights can only be taken from them as a last resort. Even the Nebraska Supreme Court has stated that parents have a commanding interest in having the juvenile court make an accurate decision regarding the termination of parental rights. The direct quote from the rules of evidence say that they exist to secure fairness in administration, elimination of unjustifiable expenses and delay, and promotion of growth and development of law...of the law of evidence to end...to the end that the truth may be ascertained and the proceedings justly determined. However, the current status of the law seems inconsistent, as mentioned before, because the rules of evidence do apply at the adjudication stage, which is an early proceeding where your constitutional rights are affected in a much less severe way, but they do not apply at the more constitutionally invasive termination of parental rights proceeding. So we support LB397 because the rules of evidence are more respectful of parents' constitutional rights and we do not believe that it should ever be proper to consider evidence in the termination of parental rights that's not reliable enough to consider at the adjudication or the initial proceeding when you're just legally taking the kids into foster care. Senator Halloran asked for a concrete example and the photographs and the hearsay of evidence is one. One other one could be expert testimony. And so Daubert, for Daubert/Schafersman test is tied to the rules of evidence, and so that is preventing junk science from entering the courtroom. And so you would have one of those hearings at the adjudication stage of a case in order for an expert to come in and testify on their scientific knowledge. That's not necessary at the termination of parental rights stage, or potentially not, even though the rules of evidence act as a guidepost, just because it's tied to the rules of evidence. So that's another example, is you could have junk science potentially coming in at the termination of parental rights stage, which would be prohibited at an earlier proceeding. So, in conclusion, we'd like to thank Senator Wayne and this committee for your time today and we respectfully request that you vote to advance LB397. [LB397]

SENATOR EBKE: Thank you, Mr. McEwen. Any questions? Senator Chambers. [LB397]

SENATOR CHAMBERS: Once again, welcome from Johnny Appleseed. (Laughter) And I've said I'm going to tell that story one day but not today. Another reason I think this is such a good

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approach, when you have a juvenile court bench comprising several different judges, they may each have a disposition, a temperament. Some are more...well, let me say there are different levels of dedication to how this is done. So instead of giving that general term "due process," which can mean different things to different people, very sincere differences, this is like due process is the skeletal frame, the rules of evidence are filling in the muscles, the nerves, the sinew, the blood. All of these things will be measurable whoever is handling a case. So if you are a judge who people say is overly lenient, I'm one who is overly harsh, you're able to look at how we decided the issues that were presented and we have an existing known standard by which we judge what has been done and you don't have that here and there and over there, which is why they call some courts kangaroo courts, because they move by leaps and bounds and you never know where it's going to rise and where it will come down. I'm very enthused about this approach and hearing the support for it. And I'm sorry to say that it did not occur to me to have taken an approach such as this. So the next best thing to having invented the wheel is to make use of the wheel by putting it on a wagon and getting a ride. So I'm going to take the ride. Thank you. [LB397]

ROBERT McEWEN: Absolutely. [LB397]

SENATOR EBKE: Other questions? Senator Halloran. [LB397]

SENATOR HALLORAN: Thank you, Madam Chair. I'm going to give you a little example and you can tell me from your experience, and maybe I can ask Senator Wayne later the same question, but this is a case from back home when I met someone door-to-door and it was a grandfather who was trying to get, he and his wife, grandmother, trying to get custodial care, foster care of their grandchildren. In this case, there was three children. One had fetal alcohol syndrome at birth, the other one was declared a meth addiction at birth, and the third one was a combination of those two. And I know every case is different but this, seems to me, to be something that would be a classic case for loss of parental rights. But it didn't happen. I guess my question is would those...the fact that those three children had diagnoses of those three issues, would...that would obviously be evidentiary I would assume. [LB397]

ROBERT McEWEN: It would be evidentiary in nature, but I don't know if this, because we may need to ask a doctor that question. But it's my understanding that the science around some of those diagnoses are pretty well-established and would...wouldn't be junk science, for example. [LB397]

SENATOR HALLORAN: Right. [LB397]

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ROBERT McEWEN: So they would be permitted under the rules of evidence or...whether or not they applied, or they should be. But it would be evidence that is not scientific like that, that would be allowable at the termination proceeding but not allowable at the adjudication proceeding. [LB397]

SENATOR HALLORAN: Okay. Thank you. [LB397]

SENATOR EBKE: Other questions? Thanks for being here. [LB397]

ROBERT McEWEN: Thank you. [LB397]

SENATOR EBKE: Next proponent. Any other proponents? Okay, how about opponents? [LB397]

SANDRA MARKLEY: (Exhibit 3) Senators, my name is Sandra Markley. I am here on behalf of the Nebraska County Attorneys Association. I've been a prosecutor in the juvenile court for 16 years and before that I was a defense attorney in the juvenile court, representing parents who abused and neglected their children, as well as a guardian ad litem. And I am here today to speak in opposition to LB397, which not only requires the strict rules of evidence at termination of parental rights hearings but also includes the language "in no event shall evidence be considered" that would be inadmissible in criminal proceedings, to be applied at motions and petitions for the termination of parental rights. We've heard from the proponents that this bill has been introduced to protect parents who abused and neglected their children, but I would submit to you today that we need to keep the law as it currently is to protect the children. Currently, although the strict rules of evidence do not apply, these hearings are considered dispositional in nature. And most often the rules of evidence are followed at the termination of parental rights hearings because due process rights, as has been pointed out before, are protected by the judges who hear the TPR. And there's lots of case law on point. And judges do, do a very good job at protecting the due process rights of parents. And as I see it, they err on the side of protecting the due process rights. Based on my 22 years of experience in the juvenile court, in my opinion, an immediate complication of this bill if passed would be that children, rather than caseworkers or their therapists, may have to testify against their parents at a TPR hearing. Currently the children are protected because their caseworkers and therapists are able to discuss the issues that are necessary to bring forth at the TPR hearing. The current law also allows judges to consider drug testing reports without the necessity and the expense of, and which would be thousands of dollars to the county, of bringing a drug technology expert in from out-of-state labs, because so often the drug tests are sent for confirmation to an out-of-state lab. Judges, of course, act as the gatekeepers and apply the strict rules of evidence when they believe that a parent's due process rights would be infringed. But they also have the flexibility to allow in evidence where common

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sense and the rule of law dictates that the evidence should be allowed. The judge should be allowed to continue using his or her own judgment with the flexibility of allowing or keeping out certain evidence that may not be admissible at criminal trials, at the TPR. In most cases, the judge who hears the termination of parental rights hearing has already been in the case for years. He or she is familiar with the children, familiar with the evidence that has already been presented at the disposition hearings and further disposition hearings, and familiar with the engagement, or the lack thereof, the lack of engagement on the part of the parent, and familiar with the act that brought the family before the juvenile court. Frequently, the family...the parents, by the time of the termination of the parental rights hearing, don't even appear at the TPR hearing. They're long gone and they haven't seen the children for months. Only 15 states apply the strict rules of evidence at termination of parental rights hearing and I'm not aware of any state that has the language that's being proposed to you today for your vote. Specifically, the words "in no event shall evidence be considered in such proceedings which is inadmissible in criminal proceedings" is very troubling. It appears that it requires judges to forget evidence that they already know, have already read, and have already heard at the dispositional hearings and applies a strict criminal standard to cases that are considered civil and dispositional in nature. Such language does not appear to give the judges any flexibility for situations where a parent may have been absent for a long period of time and isn't even present in court to make an objection. If this law that passes...if this law passes, prior TPR hearings that may have only taken six hours to adjudicate might take six days. This is a huge cost, not only to the county for witness fees, judges' time, defense attorneys, guardian ad litem time. All of this is paid for by the county. It's also a huge cost to people who have to leave their jobs and provide witness testimony for reports they may have written a year ago and have already been received into evidence at some point in time at an adjudication or a disposition hearing. This bill doesn't make financial sense and it would be an unfunded mandate for the counties. If a change is made, the change that makes the most sense to me would be to specifically state that all prior evidence received by the court in prior hearings shall be judicially noticed by the court. A change from the current evidentiary law, which has been in place for decades, deserves thoughtful consideration so that children who are affected do not suffer the unintended consequences. A change requiring the strict rules of evidence at the termination of parental rights hearing, which is akin to a sentencing hearing in criminal court, which does allow for...which doesn't have the strict rules of evidence applying, would be...it would be actually a stricter standard than criminal sentencing. It's not a change that protects children and it would impose a significant expense upon the counties. Thank you very much for your time and for listening. [LB397]

SENATOR EBKE: Thank you, Ms. Markley. Questions? Senator Morfeld. [LB397]

SENATOR MORFELD: Thank you, Chairwoman Ebke. Thank you for coming today. Justice is expensive, isn't it? [LB397]

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SANDRA MARKLEY: It is. [LB397]

SENATOR MORFELD: Yeah. Well, I don't think we should cut corners when it comes to that, so the cost argument isn't very compelling to me, particularly when I introduce bills that save the county money and they don't show up. But any time I introduce a bill that costs them more, they show up in force. [LB397]

SANDRA MARKLEY: Well, the county didn't send me. [LB397]

SENATOR MORFELD: Yeah. Well, you're with the county attorneys. You're making... [LB397]

SANDRA MARKLEY: Yes. [LB397]

SENATOR MORFELD: ...a county argument. So how many, in your experience, how many of these kids, where the termination rights are terminated...or, excuse me, sorry, the parental rights are terminated go into the foster care system? How many...a percentage of the cases, what's the percentage of the cases where the kids go into the foster care system after the parental rights have been terminated? [LB397]

SANDRA MARKLEY: Well, usually we don't terminate parental rights unless the children will be adopted. [LB397]

SENATOR MORFELD: Unless they will be adopted. [LB397]

SANDRA MARKLEY: Right. Correct. [LB397]

SENATOR MORFELD: So there's not a lot of kids going in the foster care system (inaudible). [LB397]

SANDRA MARKLEY: Well, they're all in the foster care system to begin with. [LB397]

SENATOR MORFELD: Yeah, because you're terminating. Okay. [LB397]

SANDRA MARKLEY: And...right. And then we try to rehabilitate and we spend years... [LB397]

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SENATOR MORFELD: Okay. [LB397]

SANDRA MARKLEY: ...rehabilitating. [LB397]

SENATOR MORFELD: Okay. [LB397]

SANDRA MARKLEY: And then if that doesn't work,... [LB397]

SENATOR MORFELD: Okay. [LB397]

SANDRA MARKLEY: ...then we need to free the children for adoption and then that's when we terminate. But we don't...I, personally, don't terminate parental rights unless there's going to be some adoptive parents stepping in. [LB397]

SENATOR MORFELD: Oh, really? [LB397]

SANDRA MARKLEY: I know it doesn't always happen that way. Something might fall apart, but that's just... [LB397]

SENATOR MORFELD: Uh-huh. I mean when... [LB397]

SANDRA MARKLEY: I just don't think it's fair to terminate parental rights when this child isn't going to be adopted. [LB397]

SENATOR MORFELD: Okay. Yeah, I mean I guess one of my concerns is that, number one, I agree if there's a really bad situation where parental rights need to be terminated, then that makes sense. But I also believe that there should be...I think there should be some time and some process afforded to that. [LB397]

SANDRA MARKLEY: Oh, there is. Yeah. We try very hard. [LB397]

SENATOR MORFELD: Yeah. But I mean you're saying that there is, but you're like, on one hand you're saying that there is and you're saying most could take, what, six hours, and then it could turn into six days... [LB397]

SANDRA MARKLEY: No. No. [LB397]

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SENATOR MORFELD: ...in the normal process. [LB397]

SANDRA MARKLEY: Sir, I'm sorry. [LB397]

SENATOR MORFELD: Yeah. [LB397]

SANDRA MARKLEY: I'm talking about the TPR trial itself. [LB397]

SENATOR MORFELD: The TPR trial? [LB397]

SANDRA MARKLEY: Yeah. [LB397]

SENATOR MORFELD: Okay. [LB397]

SANDRA MARKLEY: Yeah. We...yeah. [LB397]

SENATOR MORFELD: Okay. So a TPR trial that could go for six hours could possibly go for six days if we... [LB397]

SANDRA MARKLEY: If you have to call in each visitation specialist, each UA tech, rather than just being able to introduce the reports. [LB397]

SENATOR MORFELD: Okay. Okay. [LB397]

SANDRA MARKLEY: But you know if there's a report like a psychological evaluation that's going to be introduced at the TPR hearing, I always call the psychologist. So we would... [LB397]

SENATOR MORFELD: Okay. [LB397]

SANDRA MARKLEY: ...a judge would never allow or I can't imagine a judge would allow a psychological evaluation in without the actual psychologist being there. [LB397]

SENATOR MORFELD: Okay. [LB397]

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SANDRA MARKLEY: So, for the most part, we follow the rules of evidence but there are certain times when it's just not practical and the evidence has been admitted already. [LB397]

SENATOR MORFELD: Okay. [LB397]

SANDRA MARKLEY: So the judge is aware of it. [LB397]

SENATOR MORFELD: Okay. [LB397]

SANDRA MARKLEY: It's just... [LB397]

SENATOR MORFELD: That answered my question. [LB397]

SANDRA MARKLEY: And then...and then I...I heard that question before about where did this come from and why is it this way. [LB397]

SENATOR MORFELD: Yeah. [LB397]

SANDRA MARKLEY: It's because this is a dispositional hearing, you know, just as in criminal law. The preliminary hearing doesn't require the strict rules of evidence, neither does our detention hearing. The adjudication does require the strict rules of evidence, both in criminal and juvenile, but then disposition hearings are more like criminal sentencing, which again... [LB397]

SENATOR MORFELD: Yeah. [LB397]

SANDRA MARKLEY: ...do not require the strict rules of evidence. [LB397]

SENATOR MORFELD: Okay. Thank you for your time. [LB397]

SANDRA MARKLEY: Uh-huh. [LB397]

SENATOR EBKE: Senator Chambers. [LB397]

SANDRA MARKLEY: Yes. [LB397]

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SENATOR CHAMBERS: Now when a parent or parents are at one of these hearings to determine whether parental rights would be taken away, can you think of...well, I won't phrase it like that. It would be difficult for me to think of any crime that is committed where the punishment is to lose parental rights, where there is no connection between what the person is being sentenced for and any harm to the children. You...so that would be a heavy penalty/punishment. And I know how easily black parents lose their children. I work on cases like that. I just had one brought to me today where a woman was threatened. I'm not going to go through it all because you know how tangled it can get. She had done everything she was told to do, then she went to court. And when she got there they said, oh, by the way, this matter has been canceled, and she still didn't get her children. They're still away. She doesn't know why it was canceled. She was told to do certain things, which she had done. She was ready to document that she's at court and she sits there for a time and then she wonders when they're going to get to her, and that's when they tell her it's canceled. And it's not that somebody who worked with the court, the juvenile court, or with any of these agencies saw her there and came and told her this is...she was seen sitting there and that's how she got the information. But here's what I want to ask you. You said it's not likely that a judge would allow the admission of a psychological evaluation without having the psychologist there. Is that what you said? [LB397]

SANDRA MARKLEY: Yes, in my experience. [LB397]

SENATOR CHAMBERS: But that can be...but that can be done, can't it? [LB397]

SANDRA MARKLEY: Probably could. I mean it could. I just don't know how likely it is in the other counties. [LB397]

SENATOR CHAMBERS: Could it be done with...if this were enacted into law, could that be done? [LB397]

SANDRA MARKLEY: Doesn't appear so. [LB397]

SENATOR CHAMBERS: And do you think it would be better to have the psychologist there or not to have the psychologist there or just let it be, comme ci, comme ca or hit and miss? [LB397]

SANDRA MARKLEY: I think it's better to have the psychologist there, so I always make sure I do. [LB397]

SENATOR CHAMBERS: So if we were going to try to anticipate all of the individual cases where it would be good to use the rules of evidence, we would almost write us a treatise on how

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to handle these cases and go specifically this, this, and this is allowed; that, that, and that is not allowed. Whatever we did not include in the "that is not allowed," it would be allowed, except that it might be in this list of what...in other words, back and forth, this creates more certainty, more predictability, and I would like you to explain--I didn't want to ask questions while you were speaking--why you say this would lead to children not having their rights protected. [LB397]

SANDRA MARKLEY: Well, if they are forced to testify at a TPR against their parent, I, you know, I just don't think a lot of them could do it. But there are some states, as you suggest, you know, there are some ways to go about protecting without making...without using the wording and the verbiage that's proposed. For instance, in South Dakota an out-of-court statement, not otherwise admissible by statute or rule of evidence, is admissible in a child abuse or neglect proceeding. Well, you know, different states just have different exceptions that might be applied so you might look at what some other states do in order to have a balance where, you know, you wouldn't have to bring in every drug test, test, test that ever tested. [LB397]

SENATOR CHAMBERS: You mean pick and choose, pick and choose and have a patchwork quilt by something... [LB397]

SANDRA MARKLEY: I'm just suggesting that other states have some very good laws that pertain to termination of parental rights that I think better serve children. [LB397]

SENATOR CHAMBERS: Have you seen any states' provisions which, standing alone, would accomplish what this proposal intends to accomplish? Or would you have to take a little from here, a little from there, and a little from someplace else, based on your research of this area, looking at the laws in other states? [LB397]

SANDRA MARKLEY: I think the law as we currently have it and has been there for decades and protects children and is a good law. [LB397]

SENATOR CHAMBERS: My last comment: Are you speaking...you're not representing the County Attorneys Association or are you? [LB397]

SANDRA MARKLEY: Yes. Yes, I am here for them. Yes. [LB397]

SENATOR CHAMBERS: Oh. I don't have any more questions. Thank you. [LB397]

SANDRA MARKLEY: Okay. [LB397]

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SENATOR CHAMBERS: Okay. [LB397]

SANDRA MARKLEY: Thank you. [LB397]

SENATOR EBKE: Any other questions? Okay. Thank you. [LB397]

SANDRA MARKLEY: Thank you. [LB397]

SENATOR EBKE: (Exhibit 1) Are there any other opponents? Do we have anybody speaking in a neutral capacity? Senator Wayne. We have one letter of support from Amy Miller of ACLU Nebraska. [LB397]

SENATOR WAYNE: Thank you again, Judiciary Committee. I just want to touch on a couple things. There was mention of it being a high cost to the counties. I would like you to turn to the fiscal note. In the fiscal note, line 1, or you look at any fiscal notes and any conversation notes on the first page, the Supreme Court estimates that this is going to cost...or has minimal impact to courts' operation and judicial workload. What's more important I think are the next two notes or line items entered in on the note: The Department of Health and Human Services estimates no fiscal impact. Why is that important? Because that's where most of our caseworkers go through and they also have attorneys that represent the state. So if those attorneys are not saying they're going to have impact, I'm not quite sure where the counties are coming in because they're also involved in every one of these proceedings. What's most important I think is line 3: Douglas County estimates no fiscal impact on this bill. They have the highest number of children in juvenile, the highest number of termination proceedings, yet they came back and said there is no fiscal impact. So I'm not sure where the cost to the counties are going to come from. The costs are going to be attorneys sitting down and making sure the best evidence comes first, and that's what we should have in any termination proceedings. Now when I did look at this bill I did do research and found...I had found 16 states, but we can disagree on 16 or 15. But the reason I chose the language that I chose is because our courts have consistently held that rules of evidence should be a guideline in termination proceedings. "Guidelines" doesn't really give me a lot of surety and there's been actually dissenting Opinions which are saying the Legislature needs to go ahead and adopt this because it will make it clear for us, as the Supreme Court or Court of Appeals. And the reason I settled on this language is because this language comes from, and I'm talking about in the event, blah-blah-blah, at the end of the bill about criminal proceedings, is because that comes out of Nebraska Statute Section 71-955. Why is that important? Because there's already case law out there on what this means. So to Senator Chambers' point, we don't have to go out and write a treatise. We know what rules of evidence applies to as it relates to civil proceedings, because they've been around in this state since the Bar Association. They tweaked them, yes, but there's always case law on point. But that specific language, as it applies in

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criminal proceedings, is also defined by our courts because this statute that I cited, 71-955, is part of the Mental Health Board Act. And so if the mental health board can follow the rules of evidence and they are not practitioners of the law, I have every confidence and belief that a judge can figure out what it is, and I have every confidence and belief that all the attorneys, whether it's me on the defense side, the prosecutor, or the Department of Health and Human Services' attorney can sit down and figure out what the best rules of evidence. Now as a practical attorney, a practicing attorney, I'm not going to object to every drug test because typically there's going to be 100, 150. But sometimes I do want to call that person who's going out to administer that drug test because when they say a "no show," I might need to ask that person, did you attempt to call them? Yes. Did my client call you back? Yes. And you couldn't come back out to test it, right? Correct. That's a big difference than just offering the evidence and saying, ah, no show. Maybe they overslept because they changed their jobs from first shift to third shift. That's something I want to be able to call that witness and object to. But if I'm a good attorney, which most of the colleagues that I practice with are, we're going to get that ahead of time and we're going to stipulate to, hey, they tried to reach out, couldn't answer the phone, they overslept, called them back within an hour, tried to get the drug test done but couldn't. That makes a world of difference to that judge versus I just ignored a drug test. And the threat of not allowing that in will make sure that person shows up to testify. That's critical. That's real due process. So in the example of Senator Halloran's three children, now in that case they could...the prosecution could immediately go to what they call a dual proceeding where adjudication and termination happens at the same time, which is ironic because rules of evidence apply there because adjudication applies there. But if you get your right terminated six months later, for some reason it no longer applies because it's a separate proceeding. But there's nothing in the law that says they can't combine them, but it has to be severe cases, and maybe that was one of those examples. But in that case, we would have a Daubert proceeding or we would at least make sure that the expert meets this criteria of being an actual expert. Why is that important? Because, one, it gives the judge the best evidence before them that these...they met all the criteria and they do have fetal alcohol syndrome, they are...have meth in their system, and here's all the evidence behind it. But what's important about the rules of evidence is that any statement that was made inadmissible that sometimes doctors rely on because of that visitation note, so when you go to a psychologist evaluation they have what's called collateral data. Sometimes they can take that in but under some rules of evidence you can't. That's important because that limits that doctor, that expert, to what the judge really needs to know. So in this case it would still come out that the expert would be allowed to testify underneath the scenario you gave, but to me, I would argue that it's a better piece of evidence because it did go through the higher standard of rules of evidence. So that judge has, I think, a better obligation to lean towards that. And I do think, to Senator Chambers' point, we cannot create a patchwork. In Douglas County, we have six different judges in juvenile court and some of them may read it differently. I may go in one court and that would be not allowed, and go into another court and allowed. I don't think that's fundamentally fair for the people that we serve. So I think it's critical. And with all due respect, I don't buy the argument

that it's going to cost more because Douglas County said it wouldn't even impact them at all and they have the highest number of children. [LB397]

SENATOR EBKE: Senator Chambers. [LB397]

SENATOR CHAMBERS: If I seemed dismissive after I ask the question, are you representing the County Attorneys Association, I didn't see anything in the statement that indicated that was the capacity in which the person was testifying. And the heading is Office of the County Attorney, Hall of Justice, Papillion. So that would have been the Sarpy County Attorney. And it lists L. Kenneth Polikov as their Sarpy County Attorney. That was why I decided I would ask that question, because on the second page, the first little paragraph, it talks about the inconvenience to people who might have to leave their job and come and testify. Then it makes this statement, which is highly political. It's one that NACO will often use, "This bill does not make financial sense and would be an unfunded mandate for the counties." When you see the words "unfunded mandate," that is that political red flag where the counties often say we don't want to be told to do anything, yet they want to exercise certain prerogatives. So when that kind of conversation, when that kind of language is introduced into a discussion of this kind, it automatically diminishes the value of it. And then when I find out that the witness was representing the county attorneys, then it lost, not the person, but the testimony lost all credibility because I've been here for years and I can recognize when it's the representation of the county attorneys and a person is not speaking in anything other than a representative capacity. So I discount the value of a lot of this and I'd ask the question about the research done on laws in various states and should we take a little from here and a little from there as kind of a litmus test. So I didn't hear anything in that testimony, and as you pointed out from what we can see in the fiscal note, a lot of that can be discounted in terms of cost. And that is not what ought to lead us in our determination of policy. We have to determine what is appropriate, first of all. Then people can talk about the cost. And cost alone should not be the determining factor because if it was we wouldn't be putting so many people in prison for the trifling reasons that we do and having mandatory minimum sentences if we were going to go by cost. That's all that I would have, though. [LB397]

SENATOR EBKE: Thank you. Senator Baker, do you have a question? [LB397]

SENATOR BAKER: Thank you, Senator Ebke. Senator Wayne, you obviously have a good first-hand experience in this, so back to the question about whether or not a child would be brought into the courtroom more. Is it permissible under the Nebraska Evidence Rules for a child to be deposed and have that brought in? [LB397]

SENATOR WAYNE: That can happen today under current law. [LB397]

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SENATOR BAKER: Okay. [LB397]

SENATOR WAYNE: Under current law, and typically what I will do and most attorneys will do, too, is we'll do what's called an in camera motion, in camera where it will only be the attorneys, typically a guardian ad litem, and the judge, not where they're crossed in front of their parents to make sure the child is safeguarded. That happens now and it also happens in criminal proceedings, whether it's sexual assault against a parent, that child still may have to testify. That likely doesn't happen but there are safeguards that attorneys can use to make sure that that testimony stays private. And then sometimes the court will limit the conversation to only those in the room; that they can't even go back out sometimes and share with their client because of the effect that it could have on that relationship. But, yes, there are safeguards today... [LB397]

SENATOR BAKER: Okay. [LB397]

SENATOR WAYNE: ...in current law that deal with that. [LB397]

SENATOR BAKER: Okay. Thank you. [LB397]

SENATOR EBKE: Any other questions? Okay. Thank you, Senator. [LB397]

SENATOR WAYNE: Thank you for the time and I ask for your support on this bill. [LB397]

SENATOR EBKE: Thank you, Senator Wayne. That closes the hearing on LB397 and we will proceed to LB606 and Senator Riepe. Can I see a show of hands of how many people are planning on testifying on LB606? I don't see any hands. Okay. Go ahead, Senator. [LB397 LB606]

SENATOR RIEPE: Okay. Thank you, Chairwoman Ebke, members of the Judiciary Committee. I am Merv Riepe, it's M-e-r-v, last name is Riepe, R-i-e-p-e. I represent Legislative District 12, which includes Millard, Omaha, and Ralston. I come before you today to introduce LB606, a healthcare reform bill to aid low-income Nebraskans obtain healthcare. As many of you know, many of low-income Nebraskans lack adequate access to affordable healthcare. There's no shortage of physicians, dentists, and other medical professionals ready, willing, and able to donate their time to care for underserved patients. LB606 creates the Volunteer Care Act and empowers doctors by removing barriers for physicians, dentists, and other medical professionals to donate their time to care for low-income patients. As an incentive, LB606 allows medical professionals to receive continuing medical education credits, or CME credits, for their volunteerism. Malpractice allegations often pose a significant barrier to volunteerism. LB606

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protects healthcare practitioners by making them agents of the state as the provider cannot be named as a defendant in any action arising out of services provided within the scope of the act. Other states have seen success regarding volunteer healthcare programs like LB606. In 1992, Florida was the first. Florida has approximately 25,000 volunteers participating in the program. These volunteers provided low-income patients with nearly 470,000 free visits in 2014 and more than 2.2 million visits since 2010. The Florida Department of Health reported \$2.6 billion worth of goods and services donated since 1992. Florida reports spending on the program roughly \$1 per free patient visit. Kansas passed similar legislation in 2016. Everything that is happening at the federal level is happening quickly regarding healthcare. I want to do something to help low-income Nebraskans access healthcare services. I believe LB606 is the first step to address access in healthcare services...of healthcare services for low-income Nebraskans. I request your support to move LB606 to General File to help bring additional healthcare services to low-income Nebraskans. Thank you. [LB606]

SENATOR EBKE: Thank you, Senator Riepe. Senator Chambers, question? [LB606]

SENATOR CHAMBERS: This is really an immunity bill, isn't it? [LB606]

SENATOR RIEPE: Yes, sir. [LB606]

SENATOR CHAMBERS: And immunity says that if a person is negligent, he or she is not responsible for being negligent. Isn't that what it says? [LB606]

SENATOR RIEPE: Well, I know there's going to be some attorneys that follow and they will dispute this, but I was always told that you can't provide immunity to cover negligence. [LB606]

SENATOR CHAMBERS: Well, what is it immunity from? [LB606]

SENATOR RIEPE: Well, this immunity I think is intended to be that they are now agents so they would have to go...it's like the Good Samaritan Law. I think that's the intent of the use. [LB606]

SENATOR CHAMBERS: And what would that mean as you understand it and how would it apply? Here's what I'm looking at. [LB606]

SENATOR RIEPE: Yes, sir. [LB606]

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SENATOR CHAMBERS: This kind of language would never be utilized and wouldn't be brought by you here if we were talking about how hospitals treat people, would it? We're talking about low-income people specifically, aren't we? [LB606]

SENATOR RIEPE: Well, this would be a vehicle. The question gets to be is hospitals are not included in this because they do provide some charity care. [LB606]

SENATOR CHAMBERS: But, no, I was giving an example. [LB606]

SENATOR RIEPE: Okay. [LB606]

SENATOR CHAMBERS: You don't have an overall immunity for the hospitals because they deal with people other than low-income. [LB606]

SENATOR RIEPE: Yes. [LB606]

SENATOR CHAMBERS: This bill deals specifically with low-income people, doesn't it? [LB606]

SENATOR RIEPE: Yes, it does, sir. [LB606]

SENATOR CHAMBERS: So they can be subjected to inadequate care and the ones who provide it are immune from the consequences of their negligence, aren't they? [LB606]

SENATOR RIEPE: Well, I suppose that's an option, but I think of the 25,000 volunteers--I look to the Florida program--these providers, physicians and everything, they still have their reputation to maintain. And I would give them credit for being willing to volunteer, because this is not something that's going to be...if it's continuing medical education, it's not money. [LB606]

SENATOR CHAMBERS: Well, I'm not talking about the altruism that might be involved or any of that. That means nothing to me. I'm looking at a bill which says if a person is damaged as a result of negligent treatment by one of these providers who, in other words, did not provide services that met the standard of care in the community, you don't have to meet that standard when you're dealing with low-income people. Hospitals must meet that standard whomever they are dealing with. When the prisons provide medical care through their medical, whatever they want to call it, facility or employees, they have to provide care that meets the standard of care in the community. You are saying when you deal with low-income people, whatever that means,

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then you don't have to meet the standard of care. You can fall below that standard and you're not responsible for it. So if you're a dentist and you're supposed to pull what be called not an incisor but an eyetooth and you pull a molar, then that...you're not liable for that. [LB606]

SENATOR RIEPE: Well,... [LB606]

SENATOR CHAMBERS: It doesn't even say you have to be medically capable in here, or does it? Does this bill say that a person who provides this medical care has to meet the standards that any physician providing that care would have to meet or it can be a lower standard. This bill says it can be a lower standard, doesn't it? [LB606]

SENATOR RIEPE: The standards that would be required of the professionals is up to the licensing boards of those physicians and dentists, so the standard there shouldn't be any lower. The intent is not to provide...have a program of a lower standard of care. [LB606]

SENATOR CHAMBERS: They why do you put immunity in? [LB606]

SENATOR RIEPE: Well, the immunity is to...because, they, if they work for an organization or they work for themselves, their personal liability insurance, as I understand it, limits them from doing some of these things that are outside of their employment. [LB606]

SENATOR CHAMBERS: But what you and I are looking at is the care given to these low-income people. Who will be liable if not the provider of the substandard care? If that person isn't liable then nobody is liable. Isn't that true? [LB606]

SENATOR RIEPE: I don't believe so. I believe that they're an agent of the state. And anytime that you're an agent, the agent, the person that you're an agent of would be, then that liability would go to that person. So that the state has some need for an oversight of these practitioners. [LB606]

SENATOR CHAMBERS: Would the state have to waive its sovereign immunity in order for a person to sue the state for the negligent conduct of one of these people? [LB606]

SENATOR RIEPE: Well, not being an attorney and so I have to yield on that. My sense is that the state would then move into the position of being liable. We'll hear some more from a trial attorney that's going to follow me. [LB606]

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SENATOR CHAMBERS: So there isn't a lawyer who's going to follow you. [LB606]

SENATOR RIEPE: Yes, there is. [LB606]

SENATOR CHAMBERS: Speaking for the bill. [LB606]

SENATOR RIEPE: No. He's going to be speaking in opposition of it. (Laughter) [LB606]

SENATOR CHAMBERS: Well, that's why I'm asking you these questions. [LB606]

SENATOR RIEPE: Well, he's going to have to answer that. That question might be his reason for being in opposition. [LB606]

SENATOR CHAMBERS: Well, I'm in opposition and I don't gain anything from it. But I'm low-income. The people I serve are low-income. [LB606]

SENATOR RIEPE: I understand that. [LB606]

SENATOR CHAMBERS: I've seen substandard care given. And when you are going to separate out low-income people, they can be part of a test, for all we know, a medical experiment, for all we know, and this bill doesn't exempt any kind of substandard care from being provided. It's like saying you have carte blanche to do what you feel like doing that day. If you've been out on the town and you're a little shaky, well, you're just dealing with these low-income people, they can't sue you anyway, so just do the best you can. We're going to hope for the best. And you'll probably treat most of them in such a way that the care will be okay, but the few that will suffer and be victims, don't worry about them because they can't do anything. So let's say that one of these low-income people is, in fact, damaged. Say a nerve in the jaw is severed. Where is that person supposed to go to have that taken care of? Go to the emergency room in a hospital would you say? Is that what you envision? [LB606]

SENATOR RIEPE: I would assume that that's the next level, given the physician, if he or she is, as we'll say, in over his or her head, then they would need to refer them. They may refer them to a special endodontist, someone that does root canals, and they would be in the volunteer program and not necessarily send them to the emergency department. That wouldn't be the... [LB606]

SENATOR CHAMBERS: Is this... [LB606]

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SENATOR RIEPE: ...I'd hope that wouldn't be the first referral. [LB606]

SENATOR CHAMBERS: Is this bill prioritized? [LB606]

SENATOR RIEPE: No, sir, it's not. [LB606]

SENATOR CHAMBERS: It's not? [LB606]

SENATOR RIEPE: No, sir. [LB606]

SENATOR CHAMBERS: Oh, well, I don't have any more questions. (Laughter) But I will make this comment. [LB606]

SENATOR RIEPE: I think they're fair questions. I'm not disagreeing with that. [LB606]

SENATOR CHAMBERS: I will make this comment. When you're going to rely on the opponents of a bill to explain the bill, then something is a little askew in that. [LB606]

SENATOR RIEPE: Well, I...excuse me. I was hoping to say that I would like to have an attorney give an interpretation of that, regardless of which side of the equation. They can talk about immunity better than I, a nonattorney, can talk about that. [LB606]

SENATOR CHAMBERS: Okay. I don't have any more questions. Thank you. [LB606]

SENATOR EBKE: Any other questions? Senator Halloran. [LB606]

SENATOR HALLORAN: So just a brief overfly of this. So this is looking for some...in a hospital clearly there's income, revenue stream... [LB606]

SENATOR RIEPE: Yes, hopefully. [LB606]

SENATOR HALLORAN: ...in a hospital. And part of that revenue stream, I mean that revenue stream has to be applied to all the various costs, and part of that cost in that revenue stream would apply to malpractice insurance, right? [LB606]

SENATOR RIEPE: Absolutely. [LB606]

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SENATOR HALLORAN: I mean it's... [LB606]

SENATOR RIEPE: It's an operational expense. [LB606]

SENATOR HALLORAN: Okay. In a field of volunteerism, which is what we're looking at here, where people are willing, professionals are willing to offer their expertise in medical care, there's no revenue stream to offset buying malpractice insurance for that, right? I mean fundamentally is that right? [LB606]

SENATOR RIEPE: There would be no...it's volunteerism. [LB606]

SENATOR HALLORAN: It's all volunteerism. [LB606]

SENATOR RIEPE: There would be no revenue stream. [LB606]

SENATOR HALLORAN: So if we don't grant something like this then there will be far less volunteerism or no volunteerism or at least there wouldn't be an incentive for more volunteerism. Is that...? [LB606]

SENATOR RIEPE: Our interest is to try to get a program that we can promote that would encourage more volunteerism for low-income patients. [LB606]

SENATOR HALLORAN: Which should generally be a benefit to people who can't afford healthcare. [LB606]

SENATOR RIEPE: Absolutely it will be a benefit if we can get those volunteers to be...and then connect them with the people that are in need. And the intent is to have one standard of care and not a standard of care for low-income and a standard of care for, quote unquote, high income. That's not the intent in any way. [LB606]

SENATOR HALLORAN: Right. Thank you. [LB606]

SENATOR RIEPE: Thank you. [LB606]

SENATOR EBKE: Senator Riepe, did you carry this for someone else or did this come out of your own? [LB606]

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SENATOR RIEPE: No, this came out of an interest from some reading in terms of just trying to...you know, my pet is healthcare reform. [LB606]

SENATOR EBKE: Sure. [LB606]

SENATOR RIEPE: I had Right to Shop, which also promoted transparency and pricing in healthcare. As you know, I'm a recovering hospital administrator... [LB606]

SENATOR EBKE: That's right. [LB606]

SENATOR RIEPE: ...in the sense that I think if we don't reform healthcare, we're going to end up with a system that we aren't very happy with. So that's sort of what fires me up. [LB606]

SENATOR EBKE: So walk me through this. I decide that my husband should go and volunteer... [LB606]

SENATOR RIEPE: Uh-huh. [LB606]

SENATOR EBKE: ...as a physician. (Laugh) What does he do? How does he get enrolled to volunteer? I mean does he just do it or is there a registration kind of thing? [LB606]

SENATOR RIEPE: This would be set up. It would be through the Department of Health and Human Services. That would be the coordinating piece. And that's why there is a fiscal note of about \$50,000-some. And I go back to the Florida example of saying that for \$1 for every free visit. So as they say in Florida, is the juice worth the squeeze, and I would argue that, yes, it is, that the risk that we take is worth it. [LB606]

SENATOR EBKE: Okay. And so he has gone through this registration or whatever is administered through HHS. And then...and so he's authorized then to give this free care in particular places? I mean do we have...or through his own workplace or how does...? [LB606]

SENATOR RIEPE: The thought is that this would be in his or her normal workplace. [LB606]

SENATOR EBKE: Okay. Okay. And the one-hour of continuing education is an interesting...is an interesting element of this. Why if they're doing what they usually doing? [LB606]

SENATOR RIEPE: Well, we just picked up on that on the Florida program... [LB606]

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SENATOR EBKE: Okay. [LB606]

SENATOR RIEPE: ...because we were trying to do, at one time I, quite frankly, was interested in looking at tax credits but that... [LB606]

SENATOR EBKE: Sweeten the deal for them? [LB606]

SENATOR RIEPE: ...that seemed to be maybe overdriving our headlights on this thing. [LB606]

SENATOR EBKE: And... [LB606]

SENATOR RIEPE: So that's why we went back to the continuing medical education. [LB606]

SENATOR EBKE: Sure, kind of sweeten the deal for volunteering. And so it seems to me that, okay, so they become an agent of the state. And it looks like in Section 7, is it, the state can then be sued, so the oversight through the Tort Claims Act and so forth, correct, for if there's any malpractice type of things that arise out of this? And so all this does is it prevents the individual practitioner from being named as an individual defendant. So they're volunteering. It's not their individual malpractice insurance but, rather, it falls to the state. Is that...? [LB606]

SENATOR RIEPE: There is recourse at the state level. [LB606]

SENATOR EBKE: So it's not as if there's no recourse for somebody who feels that they've been (inaudible). [LB606]

SENATOR RIEPE: Maligned. Exactly. [LB606]

SENATOR EBKE: Okay. [LB606]

SENATOR RIEPE: That's right. [LB606]

SENATOR EBKE: Okay. Okay. Thank you. Any other questions? Okay. Thank you. [LB606]

SENATOR RIEPE: Thank you very much. [LB606]

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SENATOR EBKE: Do we have any proponents for this bill? Proponents, those speaking for the bill? Okay. I don't see any. How about opponents? [LB606]

JOHN LINDSAY: Senator Ebke and members of the committee, for the record my name is John Lindsay, L-i-n-d-s-a-y, appearing as a registered lobbyist on behalf of the Nebraska Association of Trial Attorneys. Senator Riepe mentioned that he was a recovering hospital administrator, and I should make clear while I'm a licensed attorney I consider myself a recovering lawyer, so I'll try to answer any of those questions. But let me...I think after visiting a little bit with Senator Riepe this morning, I think I get what the intent is. Our concern is, don't think it gets there. I think it's more a drafting issue. The...I believe that the intent is when you have a volunteer lawyer...excuse me, volunteer healthcare provider providing services to low-income, that the state would step in and cover the liability, if any, on the part of that healthcare provider. As I read it, though, it's not...it wasn't clear to us until I had a chance to visit with Senator Riepe a little bit. I don't think, from my discussion with him, that his intent is to protect against negligence but, rather, have someone else step into the shoes of who would be responsible. Now some of the problems in getting there are, for example, on page 3, lines 13 to 15, that it would prohibit that healthcare provider from being named as defendant. If you are suing someone and alleging an agency, I believe both parties must be included. So it might inadvertently defeat the intent of the bill just because of some of the procedural issues. There are other issues, for example, the statute of limitations. Statute of limitations in professional negligence is two years or a year from date of discovery. Statute of limitations under the State Tort Claims Act, I believe, is two years and...two years, without that within a year of recovery (sic--discovery). So I think there's some things that have to mesh together to achieve the intent. But as the bill is written now, Nebraska Association of Trial Attorneys would be in opposition. And I would say that we'd be happy to work with Senator Riepe over the interim. Since the bill is not prioritized and won't be out on the floor as a prioritized bill this year, be happy to work with him over the interim to at least get the bill in a position where the committee can make that policy choice of does the state want to step into the shoes of providing that, in effect, that liability coverage. With that, I'd be happy to answer any questions. [LB606]

SENATOR EBKE: Questions for Mr. Lindsay? Senator Chambers. [LB606]

SENATOR CHAMBERS: If I had not worked with Senator Riepe and come to an understanding of what he meant as opposed to what's written, and I were to go by what is in this bill and you were to go by what's in this bill, what conclusion would you draw from reading the bill as it's written? [LB606]

JOHN LINDSAY: I think it would absolve volunteer physicians or healthcare providers from liability because of the procedural implements. [LB606]

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SENATOR CHAMBERS: And all I can go by is what is here. And when Senator Riepe had nobody speaking for the bill then it was difficult for me to understand that there is an outcry or a great desire to provide volunteer services, but those who would volunteer are worried about liability. Nobody is here saying this is a good bill. And as I read it, it's not a good bill. But when he said it's not prioritized, then I don't worry about it this session because it's not going anywhere. And maybe it will just go away on its own. But if it comes back then maybe Senator Riepe will have had the opportunity to talk to others and raise some of the issues that were discussed here. But never will I accept a bill that came from another state and say it works there. They don't have anybody in that state like me. These kind of bills wind up as law. Apparently this is the law somewhere and it's very bad law. But things in Florida are not standards of anything of quality as far as I'm concerned. So I don't have any questions of you, knowing what I know from hearing you that you and Senator Riepe are going to talk about it, I suppose. But anyway, it's not designed to go anywhere in this form. Okay. [LB606]

SENATOR EBKE: Any other questions? Thanks for being here. [LB606]

JOHN LINDSAY: Thank you, Senator. [LB606]

SENATOR EBKE: Do we have any other opponents? Do we have anybody testifying in a neutral capacity? Senator Riepe. [LB606]

SENATOR RIEPE: Thank you, Chairman Ebke. I will be quick. The intent of this was to be helpful, to try to promote reform, to try to promote access to healthcare to low-income folks. With that, the recovering attorney and the recovering hospital administrator will try to get together during the interim and try to see if we can come up with something that clarifies this and is viewed as something that wants to help people and certainly not to protect people from negligence. That is never our concern or never our interest. Thank you. [LB606]

SENATOR EBKE: Thank you, Senator Riepe. Do we have any letters? No letters on this one, so that closes the hearing on LB606. We're going to take five minutes. [LB606]

SENATOR RIEPE: Thank you. [LB606]

SENATOR EBKE: Yep, that you, Senator Riepe. We're going to take five minutes and we'll return about ten till.

BREAK

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SENATOR EBKE: Okay. We're going to restart, get started on the hearing for LB502. Senator Brewer. [LB502]

SENATOR BREWER: Thank you, Madam Chairman, and good afternoon, fellow senators of the Judiciary Committee. I am Senator Tom Brewer. For the record, that's T-o-m B-r-e-w-e-r. I represent the 43rd Legislative District of western Nebraska. I want the senators of this committee to think about something. This constitutional...the constitutional rights citizens need, the constitutional rights citizens need to have permission for their government to allow them to exercise those rights. Do you see a state issuing permits before for you to be able to use Facebook posts? Do you need a permit to have...to keep police from searching your home? Did Madam Chairman of this committee have to attend a class and pay for a state-issued permit to vote in the last election, or did the Nineteenth Amendment protect her right to do so? How is the government...how is it that the government thinks that it can give permission for someone that is already guaranteed a right under the constitution? I know you are going to hear the argument that this is invalid because the only constitutional right that...this is the only constitutional right that involves deadly weapons are of the Second Amendment and, as such, it is therefore justified the state should regulate this constitutional right different. This argument isn't supported by law. The federal Seventh Circuit Court of Appeals in December of 2012 case of Moore v. Madigan ruled 2:1 that the Second Amendment right to bear arms must be interpreted as included in the right to have a concealed weapon in public to have it ready to use and to, therefore, have it for self-defense. The U.S. Ninth Circuit of Appeals ruled in Peruta v. San Diego by a 2:1 vote in February of 2014 that the Second Amendment requires states to permit the use of concealed carry for self-defense outside the home. In the District of Columbia v. Heller case, the U.S. Supreme Court held 5:4 decision that the Second Amendment to the United States Constitution protects an individual's right to possess a firearms for traditional lawful purposes, such as self-defense. You'll hear that the citizenry having less-restrictive access to carry a concealed weapon will cause an increase in gun violence. This argument isn't supported by facts. Most adults who carry concealed weapons are law abiding and do not misuse their firearms. My first draft of this speech had a raft of studies and statistics but in my research it became clear that all I needed to do to refute the "blood in the streets" argument is to look at the state of Vermont. The Green Mountain State residents have enjoyed constitutional carry since the constitution was enacted. According to the FBI's 2015 statistics, Vermont is the safest state in the country with violent crime rate of 118 incidents per 100,000 residents. The idea that law-abiding citizens who carry concealed weapons cause crime is a lot like comparing the use of cars and blaming them in incidents of drunk driving. There are already laws on the books that govern criminal behavior. Criminals already have constitutional carry. They are going to carry guns no matter what the laws we put on the books are. After all, they are criminals. The bill doesn't put guns in the hands of people the law already prohibits from having guns. All 50 states have a form of concealed carry, despite the constant echo from the nation's gun control groups, the concealed carry laws that began to be enacted in the 1980s and '90s did not lead to, again, the "blood in the streets"

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concerns. This argument has proven to be false. The same is the case with the states that have adopted permitless carry laws. Twelve states have permitless carry laws of open or concealed carry: Alaska, Arizona, Arkansas, Idaho, Kansas, Maine, Mississippi, Missouri, Vermont, West Virginia, Wyoming, and most recently New Hampshire. Three other states have a more restrictive form of it. Several states have similar legislation being considered by their legislatures this year. I brought this bill because I strongly believe in the constitution and in the restoration of individual's firearms liberties. I think law-abiding gun owners deserve their right to fully uphold within the state laws that have been created. The fees Nebraska charges for concealed carry permits are just another way that the government is telling you that your constitutional rights has somehow become a privilege that the government has allowed you to have. I disagree with this. It's why we have a Twenty-Fourth Amendment and why we don't have a poll tax anymore. As I said to begin with, a person shouldn't have to get a permit for the government to exercise a constitutional right. Subject to your questions, this concludes my testimony. Thank you.
[LB502]

SENATOR EBKE: Thank you, Senator Brewer. Senator Chambers. [LB502]

SENATOR CHAMBERS: Senator Brewer, I'm a practical politician. Is this bill prioritized by anybody? [LB502]

SENATOR BREWER: It is not. [LB502]

SENATOR CHAMBERS: Oh, thank you. I don't have any questions. [LB502]

SENATOR BREWER: Thank you, sir. [LB502]

SENATOR EBKE: Senator Chambers. Any other questions? Okay. [LB502]

SENATOR BREWER: Thank you. [LB502]

SENATOR EBKE: First proponent. [LB502]

CHARLES COX: I didn't provide a copy of my testimony because I e-mailed you all fact sheets, with the exception of you, Senator Chambers, because you've chosen not to have an e-mail address. I don't know why you've decided to make it more difficult for constituents to communicate with you, but it is what it is. My name is Charles Cox, C-h-a-r-l-e-s C-o-x. I'm the executive director of Nebraska Gun Owners. And before I begin, I want to thank Senator Brewer for introducing this bill. Senator Brewer has a long history of serving his countrymen in various

capacities, especially through his service in the military. I am very grateful that he has continued this pattern of service in the Legislature. At the heart of LB502 is a simple concept. The rights recognized by both the Nebraska and U.S. Constitutions are not rights at all if they are subject to arbitrary bureaucratic restrictions. Do I need a permit, do I need to apply for a permit in order to come here to this chamber and engage my right to free speech, as I am right now? What about my right to not have soldiers forcibly quartered to my home? Do I have to go get special training and beg permission for my right to be free of unreasonable search and seizure? Of course not. For over 200 years the various institutions of government in the United States have recognized that the right does not exist if you have to be permitted by the government to engage in it. Yet for some reason the right to keep and bear arms is frequently subjected to unconstitutional restrictions that make a mockery of the intentions of our founding fathers. One such mockery is our state's requirement that gun owners metaphorically grovel before the government and beg permission to carry a concealed handgun. LB502 will fix this problem. LB502 is titled the Permitless Concealed Carry Act, and it has sometimes been referred to as a constitutional carry bill. This is because if passed the bill will cause Nebraska to become a constitutional carry state. That is to say that Nebraskans will be allowed to exercise their constitutional right to carry a gun, open or concealed, without a permit. To be clear, this bill only addresses carrying a concealed handgun without a permit. That's because all the other elements of constitutional carry have already been achieved in state law. The reform is simple common sense. It's already legal to openly carry a handgun in Nebraska, so why does putting my jacket on make me suddenly a criminal? Why? Does it make my handgun somehow more deadly. It's your sacred duty as elected officials to protect the rights of your constituents. It's my duty as a part of Nebraska Gun Owners to report your actions for or against this bill or your inaction to gun owners in your district. A great deal of our issue discussion in coming legislative sessions and election seasons will revolve around how you handle this bill. It's also worth noting that gun owners will be watching this bill very carefully. They'll be also involved of any attempts to weaken LB502 via the amendment process. This applies to any potential committee amendments, floor amendments, and any support for said amendments. What this comes down to is LB502 is your chance to stand up for the inalienable rights of your constituents. They expect you to protect those rights, so I pray you use this opportunity wisely. [LB502]

SENATOR EBKE: Thank you, Mr. Cox. Any questions? Senator Chambers. [LB502]

SENATOR CHAMBERS: Are you aware that courts have said that until a law is declared unconstitutional it's constitutional, and there's a presumption that a law enacted by the Legislature is constitutional? You don't have to answer. That's a hypo...not a hypothetical but a rhetorical question. If the gun owners think these laws are unconstitutional, why don't they just go to court and have them struck down? [LB502]

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CHARLES COX: You shouldn't be subject to having to be arrested or, you know, having you go to appear in court to defend your rights. The law should just reflect the rights that you have. The constitution reflects those rights. Currently state law is in contradiction to that. [LB502]

SENATOR CHAMBERS: Does your organization have any lawyers as members? [LB502]

CHARLES COX: I have no...probably. [LB502]

SENATOR CHAMBERS: Well, you don't have to wait until you're arrested. You can seek a declaratory judgment. And as one who could be affected negatively by a law, you can bring an action for a declaratory judgment to have an act of the Legislature, which would infringe on your rights and subject you to a criminal punishment, you can go to court and file for a declaratory judgment. And the court can declare the law unconstitutional. [LB502]

CHARLES COX: Well, that may be but state law should reflect the constitutional rights of citizens. It's that simple. [LB502]

SENATOR CHAMBERS: Well, we think it's constitutional or we wouldn't pass it. [LB502]

CHARLES COX: It is unconstitutional to infringe on the Second Amendment rights of citizens by requiring that they apply for a permit. [LB502]

SENATOR CHAMBERS: But if we pass a law and says you can't do this, then you can't do it. And if you do it, you go to jail. [LB502]

CHARLES COX: Yeah, that's unconstitutional. [LB502]

SENATOR CHAMBERS: So then you ought to...okay. I don't think I'm making myself clear so I don't want to argue with you. But thank you. [LB502]

CHARLES COX: Thank you. [LB502]

SENATOR EBKE: Any other questions? Okay. Thank you. [LB502]

CHARLES COX: Thank you for your time. [LB502]

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SENATOR EBKE: Next proponent. Hang on just a second. How many people are testifying on this bill in any position? Okay. Thank you. [LB502]

JOHN KEISER: (Exhibit 12) My name is John Keiser, K-e-i-s-e-r, first name J-o-h-n. First, I would like to begin by thanking Senator Brewer for introducing this bill. The right to keep and bear arms is the only specific right stated in our state's constitution. The other three are life, liberty, and the pursuit of happiness. It was included by name because the right to keep and bear arms is important and that makes this bill important. Your actions on this bill will be reported to your constituents, as will any actions on amendments to the bill. LB502 is written how it ought to be. It removes the last barrier between Nebraska and true constitutional carry. We already have legal open carry. It is senseless, arbitrary, and unconstitutional to continue requiring permits for concealed carry. I would like to cite some case law regarding the process of a government turning an individual's right into a privilege, and selling it back to them in the form of a permit. "No state shall convert a liberty into a license and charge a fee therefor." It was Murdock v. Pennsylvania in 1943. "If the state converts a right into a privilege, the citizen can ignore the license and fee and engage in the right with impunity," Shuttlesworth v. City of Birmingham, Alabama in 1969. And we can't forget our nation or our state's constitution in this debate either. The right to keep and bear arms shall not be infringed. "Infringe" doesn't mean eliminate entirely. "Infringe" means to encroach or limit. If demanding that law-abiding citizens buy permits to carry firearms is not an infringement, then I really don't know what is. I don't only oppose permitting on legal grounds. I care about limiting gun violence. I just don't think that taxing people to carry guns is a tactic that is worthwhile. The people that conceal guns to commit crimes do not care whether there is a permitting process in place. And the people that obtain their permit despite the process in place were never a threat to begin with. All our permitting process has done in Nebraska in ten years is take \$100 each or more from 50,000 Nebraskans wishing to exercise their God-given right to self-defense. [LB502]

SENATOR EBKE: Thank you, Mr. Keiser. Any questions? Okay. Thank you. Next proponent. Any other proponents? Opponents. [LB502]

COURTNEY LAWTON: (Exhibits 13, 14, and 15) My name is Courtney Lawton, C-o-u-r-t-n-e-y L-a-w-t-o-n, and I am here to testify on behalf of Nebraskans Against Gun Violence, so thank you for having me, too, the Chair and committee. Since 2003, the National Rifle Association and other firearm industry lobby groups have been pushing legislation in states to loosen regulations concerning where and how deadly weapons, in particular handguns, can be carried. Their goal has been to wipe out permitting requirements and regulations that ensure that the well regulated clause of the Second Amendment be completely negated in favor of gun sales. Starting in 2003 and continuing into this year, 11 states have wiped out regulations about how people carry handguns. Four of the states that enacted so-called permitless carry laws have seen their gun mortality rates soar. Alaska is the state, hands down, with the highest mortality rates from guns.

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In 2003, Alaska wiped out concealed permit requirements. In 2005, you'll see that on the CDC chart that I gave you, in 2005 their gun mortality rate was 17.5 deaths per 10,000 people, and by 2015 that rate had soared to 23.4 deaths. Wyoming, who eradicated their concealed weapon laws in 2011, saw their gun mortality rate jump from 13.4 deaths in 2005 to 19.6 deaths in 2015. Arkansas, which eliminated their concealed weapons laws in 2013, saw their gun mortality rate climb from 15.7 deaths in 2005 to 16.9 deaths in 2015. Finally, in our neighboring state of Kansas, which has enjoyed relatively low gun mortality rates of 9.3 deaths in 2005, they suddenly saw an alarming increase to 11.4 deaths in 2015 the same year that permitless carry laws were enacted. If we are to compare Nebraska's firearm mortality rate to other states' rates, Nebraska will find itself consistently in the lowest ranking of gun mortality rates in the nation. Today our gun mortality rates are on a par with far more densely populated states, like California and Massachusetts, as well as states like Hawaii, Rhode Island, Connecticut, and New York. All of these states, including Nebraska, share two qualities: gun control measures that include vigorous handgun permitting and a lack of firearm preemption laws. Outside of cost in human lives that unpermitted firearms represent, we also need to consider the financial burden to the healthcare industry. According to Spitzer et al. from the American Journal of Public Health, from 2006 to 2014, the cost of initial hospitalization for firearm-related injuries averaged \$734.6 million per year. May I continue, please? [LB502]

SENATOR EBKE: Um... [LB502]

COURTNEY LAWTON: I only have like three more sentences. [LB502]

SENATOR EBKE: Okay. That's fine. [LB502]

COURTNEY LAWTON: Okay. Medicaid paid one third and self-pay patients one quarter of the financial burdens. These figures substantially underestimate the true healthcare costs of gun violence. Senator Brewer said that this bill would result in expenditures of \$82,000 and a projected revenue loss of \$119,000. Of course, we can also project escalating healthcare costs to those who are shot and survive, of which, according to the same journal, Nebraska taxpayers can expect to subsidize their share of the nationwide costs of the \$2.7 billion to Medicare and Medicaid alone for the treatment of gunshot injuries. This bill is bad. It's bad for healthcare costs, it's bad for public safety, and it's bad for Nebraskans. [LB502]

SENATOR EBKE: Thank you. To be fair, Senator Brewer didn't say it; the Fiscal Office did on the numbers,... [LB502]

COURTNEY LAWTON: Oh, okay. [LB502]

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SENATOR EBKE: ...on the dollars. That's not something that... [LB502]

COURTNEY LAWTON: Okay. [LB502]

SENATOR EBKE: ...the senators create themselves. [LB502]

COURTNEY LAWTON: Right. Okay. [LB502]

SENATOR EBKE: Okay. Any questions for Ms. Lawton? Okay, thanks. [LB502]

COURTNEY LAWTON: Thank you so much. [LB502]

SENATOR EBKE: Next opponent. [LB502]

MO NEAL: Hi. I promised you all last month I'd be back. [LB502]

SENATOR EBKE: Well, welcome. [LB502]

MO NEAL: (Exhibit 16) (Laugh) I'm Mo Neal, M-o N-e-a-l, and I'm here as a representative of Nebraskans Against Gun Violence and as a citizen of Lincoln and the state of Nebraska. I promised last month I'd show up when these stupid NRA murder lobby bills came, and I'm here. Senator Brewer, it's not personal, but I really sometime would like to find out why you feel the need to be constantly armed and loaded for action. I want to be able to walk the neighborhoods of any city in America without worrying about all the guns around me. NRA bills just keep chipping away at the constitutional right of a well-regulated militia. LB502 regulates nothing by becoming so widespread. Unless you are a known felon, you can have a permitless concealed carry weapon. That is not regulated but a Wild West show waiting to be a crawler on CNN. During the March 8 hearings on LB501, LB556, LB637, and LB666, Senator Halloran asked several times for statistics on gun violence. He seemed unaware that the collection of data has been outlawed for some time. Attached are links to nonprofit research sites on gun violence data: GunViolenceArchive.org, which link is filtered for only in Nebraska crimes and ConcealedCarryKillers.org/Nebraska. These are cases of permitted licensees committing crimes in nice Nebraska. That good guy myth needs to be put to rest. I rely on the good sense of the Judiciary Committee to keep this bill where it belongs and to not pass it out of the hearing. A couple more comments. When you go to Gun Violence Archive, two of the last events with guns on March 14 and 16, I believe it was, one you know about the guy shooting the gun off that went through the drywall and hit the child's room in the apartment next door. The other one was in Omaha, I believe, and was a 63-year-old grandfather who decided a parking lot with three

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grandchildren present was a good place to unload his nine millimeter and it fired and hit him in the leg. I don't trust these people either way, so just take your time and look at those. And Carl Heng was convicted of the concealed permit carry...as a concealed permit carry owner of murder on August 24, 2015. So there is one in Nebraska. [LB502]

SENATOR EBKE: Senator, questions? [LB502]

SENATOR HALLORAN: No. [LB502]

SENATOR EBKE: Any questions? Okay. Thanks for being here. [LB502]

MO NEAL: Thank you. [LB502]

SENATOR EBKE: Next opponent. [LB502]

JUDY KING: Hi. My name is Judy King, J-u-d-y K-i-n-g, and I oppose this bill. There are many people killed every year by guns in Nebraska and currently there...people who are on the terrorist watch list have a history of drug-related arrests and alcohol-related arrests and they can own all manner of guns. According to Mary Pfeiffer, who is a psychologist, she said that guns are used in suicide and domestic violence situations and most of the victims of mass murderers are women and children. We need more permitting, not less, of the rights of gun owners and more background checks. Women and children and all other Nebraskans should be able to go to movies, jobs, theaters without a worry permit. [LB502]

SENATOR EBKE: Thank you. [LB502]

JUDY KING: That's all I have to say. [LB502]

SENATOR EBKE: Any questions? Thanks for being here. Any other opponents? [LB502]

SHERI ST. CLAIR: I'm Sheri St. Clair, S-h-e-r-i S-t. C-l-a-i-r. I'm here as a private citizen. From what I can figure out one third of Americans own guns and two thirds do not. As one of the two thirds that are in the majority of nongun owners, I'm opposed to any legislation that makes it simpler and easier to obtain and carry weapons, especially concealed weapons. Thank you. [LB502]

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SENATOR EBKE: Okay. Are there any questions of Ms. St. Clair? Okay. Thank you. Other opponents. Do we have any neutral testimony? [LB502]

DICK CLARK: (Exhibit 17) Chairman Ebke, members of the Judiciary Committee, my name is Dick Clark, D-i-c-k C-l-a-r-k. I'm here today representing the Nebraska Firearms Owners Association. Thank you for this opportunity to testify in a neutral capacity on LB502. First, I'd like to thank Senator Brewer for introducing legislation designed to protect the right to keep and bear arms. The NFOA supports the concept of constitutional carry. Just some background: For many years, as you've already heard from the senator, only one state allowed the concealed carry of firearms without a permit. That was Vermont. But since June 2003, 14 other states have recognized that there's been a change in culture. We don't live in a world anymore where open carry is generally preferred by the general public to concealed carry. Concealed carry of firearms mostly goes unnoticed and is now considered more polite, I think, under most circumstances, while open carry tends to draw attention and can be disruptive. You've already heard the number of states that have some form of constitutional carry. In my written testimony that I've distributed, I've got the list for you there but I won't recite that. You should notice, though, that on that list three of our neighboring states do have laws enabling some form of constitutional carry. I'm testifying in a neutral capacity on the bill because NFOA is a grass-roots organization and our membership has raised several concerns about the particulars of the bill as introduced by Senator Brewer. We've already discussed these items with the senator. For our members, the principles of equal protection under the law, uniform enforcement of the law, and clarity of the law are each very important. Our concern that taking many but not all of the conditions applying to permit holders and putting those in another area of law complicates Nebraska's gun laws and makes it more difficult for gun owners to follow the rules. It would be far simpler to incorporate these conditions and restrictions by reference to the existing statutes. We're also concerned about the lack of uniformity relating to the duty to inform emergency responders during an official contact under this bill, versus the Concealed Handgun Permit Act. We feel that either everyone should have a duty to inform or that no one should, and that complicating the rule makes it more difficult for police officers, paramedics, firefighters, and other emergency responders to recognize when a gun owner is or is not complying with the law. It also creates legal privileges for permitless carry over carry by permit holders who have subjected themselves to the CHP application process. We did not play an active role in the drafting or introduction of this bill but we are grateful for our good relationship with Senator Brewer and we're happy to work with the senator and this committee on the bill. Thank you again for this chance to speak on it. [LB502]

SENATOR EBKE: Thank you, Mr. Clark. Any questions? [LB502]

DICK CLARK: Thanks again. [LB502]

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SENATOR EBKE: (Exhibits 1-11, and 18) Thanks for being here. Any other neutral testimony today? Okay. Senator Brewer. Do we have any letters? I'll read the letters. In support: Twyla Witt, Ron and Lynette Nash, and Kathy Wilmot. In opposition, Jason Emerson of the Church of the Resurrection; Tessa Foreman, Nebraskans for Peace; Mary Sullivan, National Association of Social Workers, Nebraska Chapter; Todd Schmaderer, the Omaha Police Department; Nancy Meyer; Paula Bohaty; and April Jorgensen. (Also Virginia Wright in opposition.) And in a neutral capacity the ACLU of Nebraska. Senator Brewer. [LB502]

SENATOR BREWER: I'm ready for questions. [LB502]

SENATOR EBKE: Any questions for Senator Brewer? Okay. (Laughter) That closes the hearing on LB502. We will move to LR27. Welcome, Senator Bolz. [LB502 LR27]

SENATOR BOLZ: (Exhibits 10-12) Thank you. Good afternoon, committee members. My name is Kate Bolz; that's K-a-t-e B-o-l-z, and I am here to introduce LR27. LR27 is a resolution stating that it is the position of the Legislature that refugees deserve protection regardless of race, ethnicity, religion, age, or sex, and that their contributions to Nebraska are valued. Nebraska has been one of the most welcoming states in the nation for refugees, resettling more refugees than any other state on a per capita basis during fiscal year 2016. Immigrants contribute to our communities. They are often entrepreneurs. And I have an article about one such entrepreneur that I will share with the committee. I would also like to note that the resolution highlights the level of vetting refugees go through. According to the U.S. Committee on Refugees and Immigrants, the process can take up to 24 months and has 11 checkpoints. And I have an infographic illustrating just how rigorous those vetting activities are. I come from a family of immigrants myself. My family immigrated from Germany. I'm proud of the work that the resettlement agencies in our state do, proud of my relationships with refugees in our community. And I'd be happy to answer any questions about this legislative resolution. [LR27]

SENATOR EBKE: Okay. Any questions of Senator Bolz? [LR27]

SENATOR BOLZ: Thank you. [LR27]

SENATOR EBKE: Not yet? Okay, first proponent. [LR27]

HANA MUSLIC: (Exhibit 9) Hi. My name is Hana Muslic, H-a-n-a M-u-s-l-i-c. I'm speaking to you as a proud, lifelong Lincolnite. I am a student at the University of Nebraska, a reporter for The Daily Nebraskan; I am a volunteer at the Friendship Home of Lincoln and the Lincoln Center for People in Need; I am a Delta Gamma sorority sister; I am an employee of the

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university; and I am active in local politics. I am also a refugee. I was only 11 months old when my parents and I escaped the war-torn city of Sarajevo, Bosnia and Herzegovina, in 1996. Covered by jackets and a bulletproof vest, my parents waited until I was asleep and hid me away in the backseat of their car as they began their escape from the capital city, which had been besieged for four years by the Army of the Serbian Republic. The civil war that followed the breakup of the former Yugoslavia had sparked the genocide of Bosnian Muslims, the ethnic group that my family and I belong to. With the help of Church World Service and the sponsorship of Pastor Bud Christenson at Sheridan Lutheran Church, my family and I were resettled in Lincoln. Since 1996, we have lived here, with my parents becoming citizens in 2002. We work here, two of us at nonprofits, we go to public school here, we are friends with our neighbors, we volunteer, we support local businesses, we pay taxes, and we vote. We contribute to society here in Lincoln and to the state of Nebraska as a whole. If the people of this state hadn't opened their arms to my family and I back then, we could have been part of the 14,000 people killed in Sarajevo during that time. Now there are refugees from countries in the Middle East, Africa, Asia, and Latin America in the exact same situation we were in. They need a safe place to call home. Please keep my story in mind when voting on this resolution. Please keep the amazing, historical connection that Nebraska has with welcoming refugees alive. Thank you.
[LR27]

SENATOR EBKE: Thank you. Any questions? We're glad to have you. Thanks. Next proponent.
[LR27]

SHAMS AL-BADRY: Thank you, Senator Bolz, for bringing this bill. And thank you all for being here. I am a refugee. My family and I left Iraq in 1991. Sorry, I should start off with my name. I'm Shams Al-Badry; first name is S-h-a-m-s, last name is A-l-B-a-d-r-y. I am a refugee. My family and I left Iraq in 1991 due to the Gulf War. I was a few weeks old. We lived in the United Nations camp in Rafha, Saudi Arabia, for three years. During this time, my parents and others waited patiently to have their name read to leave the refugee camp. A lottery system predicted our fate. We were one of the lucky families. Our name was selected and we were relocated to Lincoln, Nebraska, a land foreign to me and my family. Upon arriving to Nebraska, we found out that Catholic Social Services sponsored us and several other families that had just arrived from the same refugee camp. My parents were so thankful for Catholic Social Services and the services they provide us that they named my younger sister who was born here after our caseworker: Shanon. Nebraska is a place that we call home, a place that is safe and welcoming. Soon after graduating from the University of Nebraska-Lincoln, I joined Teach for America in AmeriCorps' program. I was placed in Kansas City to teach at a Head Start program. I, too, was a student of a Head Start program in Lincoln. The parents reminded me so much of my parents. They were there to ensure that their children were learning and safe. Soon after my commitment I knew I wanted to move back to Nebraska to give back to the community that gave me and my family so much. I started working as an undergraduate academic adviser. I worked with families

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in the foster care system and, in addition to that, I'm a fellow for RESULTS, an organization focused on ending poverty. With RESULTS, I had the opportunity to meet Senator Fischer, in D.C., a couple of weekends ago, and other elected officials' offices to discuss the effects poverty has on Nebraskans as well as Missourians. I know that in itself is a privilege that I would not have been granted elsewhere. Nebraska isn't only home to me. It's home to thousands of refugees from all over the world. Many local grocery stores and auto shops are owned by refugees from all over the world and contributing members of society. They have created places of worship, community centers, and created their own medical practices in Lincoln. Their kids are here and they're pushed to have a better education, an education that may not have been possible elsewhere. We are encouraged to give back to our community, to change the narratives of refugees. I encourage you to support LR27. We have vetted them. We need to ensure that they, too, feel safe in Nebraska. Thank you for your time. [LR27]

SENATOR EBKE: Thank you for being here today. Any questions? Thanks. Next proponent. [LR27]

TODD RECKLING: (Exhibit 13) Good afternoon, Chairwoman Ebke and members of the Judiciary Committee. My name is Todd Reckling, T-o-d-d R-e-c-k-l-i-n-g. I'm the vice president of program at Lutheran Family Services in Nebraska. I'm here today to testify in support of LR27. I want to thank Senator Bolz and the other nine senators that signed onto this resolution for their efforts to protect the rights of refugees and to welcome them to the state of Nebraska. As the largest refugee resettlement organization in Nebraska, Lutheran Family Services resettled our first refugees over 40 years ago. Lutheran Family Services' mission is to express God's love for all people. Refugees are vulnerable children, adults, and families who have spent years in refugee camps after fleeing persecution, torture, and trauma. They have endured extreme hardships. But due to their resilient nature they keep going and sacrifice everything for the opportunity to find safety, hope, and a new start to life here in Nebraska and in America. We appreciate the senators' efforts to welcome all refugees regardless of race, color, religion, ethnicity, age, or gender. Refugees are in the United States legally and deserve the same protections and welcome as others receive. LFS is proud to welcome stranger and to care for our neighbor. We are thankful for the senators for acknowledging through this resolution the significant contributions the refugees have and continue to make to our economy, our culture, and our communities across Nebraska. Thank you. [LR27]

SENATOR EBKE: Thank you, Mr. Reckling. Any questions? I see none. Thank you. [LR27]

TODD RECKLING: Thank you. [LR27]

SENATOR EBKE: Next proponent. [LR27]

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STEVEN ABRAHAM: (Exhibit 14) I'm a clergy. Giving clergy three minutes is a tough thing, but I'm going to do my very, very best. My thanks to the Judiciary Committee for hearing my testimony this afternoon on LR27. On a daily basis I'm tasked with making Judaism, an ancient tradition, meaningful in a time for which we live. That mandate, unfortunately, cannot only apply to those topics for which everyone agrees. [LR27]

SENATOR EBKE: Oh, could you give us your name, please. [LR27]

STEVEN ABRAHAM: I'm sorry. Rabbi Steven Abraham. [LR27]

SENATOR EBKE: And spell, please. [LR27]

STEVEN ABRAHAM: S-t-e-v-e-n Abraham, A-b-r-a-h-a-m. [LR27]

SENATOR EBKE: Thank you. [LR27]

STEVEN ABRAHAM: The legacy of my grandparents was World War II; my parents, Vietnam and civil rights; and the present issue of my generation will be how we treat the widow, the orphan, and the stranger, a topic that is discussed no fewer than 36 times in the Torah. Do we open our hearts and our hands to those in need or do we clench our fist? The question of how we must grapple with this and struggle with since the founding of our country: How does our religiosity affect our identity and our beliefs as Americans? Shortly after the founding of the United States, the newly elected President George Washington went to Rhode Island. The synagogue in Rhode Island, the Touro Synagogue, wrote to him: Deprived as we have been of the invaluable rights of free citizens we now, with a deep sense of gratitude to the Almighty disposer of all events, behold a government, erected by the majesty of the people--a government which to bigotry gives no sanction and persecution no assistance. President Washington replied: For happily the government of the United States which gives to bigotry no sanction, to persecution no assistance, requires only that those who live under its protection should demean themselves as good citizens in giving to all occasions their effectual support. May the children of the stock of Abraham, who dwell in this land, continue to merit and enjoy the good will of the other inhabitants. The Torah, the Old Testament, teaches: You shall not wrong nor oppress the stranger, for you were strangers in the land of Egypt. The Torah was written at a time when we had no home and we were citizens of the world, in its infinite wisdom believing that we would one day forget these watershed events in our history, outline the compassion and empathy we must have for a stranger living amongst us. As Jews, as Nebraskans, and as Americans, we have a moral obligation to speak out against injustice and wrongdoing. God could have created a world without hate, fear, and intolerance, yet that world would have robbed us here today of the opportunity to teach our fellow citizens and, most importantly, our children about love,

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compassion, and pluralism. Members of the Judiciary Committee, I thank you for your time and strongly encourage you to support LR27. [LR27]

SENATOR EBKE: Thank you, Rabbi. Any questions? Guess not. Thank you. [LR27]

STEVEN ABRAHAM: Thank you very much. [LR27]

SENATOR EBKE: Any other proponents? [LR27]

JEAN AIME SHABANZA MBIYA BONDO: (Exhibit 15) Good afternoon. My name is Jean Aime Shabanza Mbiya Bondo. It's too long. I cannot spell it. Yes. [LR27]

SENATOR EBKE: (Laugh) It's written out, right? [LR27]

JEAN AIME SHABANZA MBIYA BONDO: I live here in Lincoln. I am here today to speak in support of LR27. Thank you for this opportunity. I came to the United States with my family as an immigrant under diversity lottery program. My wife and I, we left our careers, other family members and everything we owned and the world we knew behind when we had to leave our home. We are thankful for the support and the welcoming we received here but I have to tell you it has not all been good or easy. Being an expatriate, refugee, or immigrant is stressful especially in this country. It is not easy to learn a new language. It is not easy to work at a job when you know you have more to offer. You see, I was the manager on payroll service at the Congolese ministry of budget, but my first job here were in Ohio, Columbus, at Holiday hotel as janitorial staff. When I came in Nebraska I worked on meat process at Farmland for a couple months. Before, I worked at Saint Elizabeth Regional Health Center because I needed to provide support to my family and support family in my home country. I have started a nonprofit organization to help refugees because my experience is very similar to them, their story. So many things here are different than in the Democratic Republic of Congo, my country. It was hard, confusing, and my wife and I often felt very alone. First we were in Ohio. But when we came to Lincoln, Nebraska, we knew this could be home. We knew this could be home because people have welcomed us and have helped us. Today I want to thank Senator Bolz. I remember I served her like page in this building in 2013. I worked for my internship. And also I thank all senators who have signed to support this resolution. Feeling welcome and feeling like you are wanted in communities is important to being successful. I decided to work every day with refugees and immigrants who suffer stress. Being a refugee or immigrant is stressful and that stress does not end when you...each, every day, American dreams. When there are ugly statements in the news and we hear about violence towards some immigrants and refugees, we all feel scared. We all worry for our family members. We all suffer discrimination, especially when we are people of color, like me, or certainly know neighbors who do that. We are currently working with other U.S.-born and

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immigrants and refugees to create even more of a sense of community for immigrants and refugees in Nebraska. We had to leave our birth land but we want to succeed here. We want to contribute to our new home. I thank you for making this statement to support refugees and immigrants. Resolutions like this help all Nebraskans to know we are a state and welcome refugees. I am part of this welcome community and I am inviting you to visit us in our office and together we can end poverty and welcome refugees and immigrants in this country. God bless everyone. Thank you again. [LR27]

SENATOR EBKE: Thank you for being here today. [LR27]

JEAN AIME SHABANZA MBIYA BONDO: You have question? [LR27]

SENATOR EBKE: Senator Pansing Brooks. [LR27]

SENATOR PANSING BROOKS: Thank you for being here, Jean Aime Shabanza Mbiya Bondo. [LR27]

JEAN AIME SHABANZA MBIYA BONDO: Thank you. [LR27]

SENATOR PANSING BROOKS: I just want to say to you and to others that we're grateful that you're here. We...I admire you so much because I know what courage it has taken and what trauma you have had to go through to leave your homeland. And there are so many stories of refugees who have been working in their own country and in very respected jobs. And then you have to come here, take whatever there is to be able to get a job and work. And I admire your struggle and your courage and all of you and your families. And I just wanted to say that so many of us will stand with you and support you. [LR27]

JEAN AIME SHABANZA MBIYA BONDO: Thank you very much. [LR27]

SENATOR EBKE: Any other questions, comments? Okay, thank you for being here today. [LR27]

JEAN AIME SHABANZA MBIYA BONDO: Thank you. [LR27]

SENATOR EBKE: Next proponent. Any other proponents? [LR27]

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PETER BARBER: (Exhibit 16) My name is Peter Barber, P-e-t-e-r B-a-r-b-e-r. I am a little sick. I am a graphic designer but in my free time I volunteer with both Lincoln Literacy and Lutheran Family Services to teach two weekly classes to a wide range of students, many of whom are refugees. One class is specifically for women from the Middle East and North Africa. And before teaching that class, I had never had an actual conversation with a Muslim. I'm not sure I'd ever spoken to one at all and I wasn't sure what to expect. My students, however, melted my assumptions and my fears with their warmth, their curiosity, their intelligence, and their drive. They speak more languages than I do. They have seen more of the world than I have. They're funny. They tell good stories. They aren't afraid of hard work. They tell jokes over meals. They insist on sharing with others, eager to practice English and build a life in their new home. I know this because I've been invited into their homes, into the home of an elderly Muslim woman who is deeply proud of her time in the United States, who passionately lists off all the reasons why her adopted homeland is the best in the world as she gives me cookies she has saved for just this moment. I've also been welcomed into the home of a Yazidi refugee family from Iraq. The father of the family served in the U.S. Army as a translator, risking his life day after day alongside our soldiers to aid their missions. They've only lived here a few months, but their son already has a job, their oldest daughter has been accepted to SCC, and they are successfully navigating the maze of the American medical system as they try, as they care for their disabled youngest daughter. Watching the incredible tenderness and love they show her has taught me a lot about family. So it is for them, for my students, for their families, and for the countless contributions they make every day to our city and state that I strongly support this resolution in favor of refugees. They've made my life better. Thank you. [LR27]

SENATOR EBKE: Thank you, Mr. Barber. Questions? Okay, thank you. Next proponent. [LR27]

JUDY KING: Hi. My name is Judy King, J-u-d-y K-i-n-g, and I'm here to support LR27. We are all immigrants or refugees, except for the Native Americans. And I wouldn't be here in this country if we wouldn't have allowed immigrants or refugees. We can look around this great state and the Swedes, Czechs, Germans and Russians, Hispanics, Japanese, from where I came from at the other end of the state, more recently Middle Eastern, African, have contributed to the population, to what we have called the good life. We are an area in the United States that has required hardworking, independent individuals due to our climate and our location and so forth. Immigrants have contributed in significant ways to our livelihood. Please let us be proud of our members of the Legislature to have the courage to pass this and show that they believe that protecting refugees regardless of race, ethnicity, religion, age, or sex, and appreciating their contributions in this state is a trait we hold high in Nebraska. Thank you. [LR27]

SENATOR EBKE: Thank you, Ms. King. Any questions? Guess not. [LR27]

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DARCY TROMANHAUSER: (Exhibit 17) Good afternoon. My name is Darcy Tromanhauser, D-a-r-c-y T-r-o-m-a-n-h-a-u-s-e-r, and I'm the program director for Nebraska Appleseed's immigrants and communities program. I'll be really brief. Our main point today is simply to highlight the strong Nebraska community support for refugees and to bring a sense of that into the room today. Nebraskans have shown overwhelming support for refugees in recent months and years. First hundreds, then thousands of Nebraskans came together in the past few months in multiple candlelight vigils for refugees across the state in Omaha, Lincoln, Kearney. Similarly, a year ago, more than 30 Nebraska community and faith organizations signed onto a letter expressing strong support for resettlement of Syrian refugees in November 2015 and hundreds more attended vigils in Lincoln and Omaha, not to mention the many Nebraskans who volunteer directly to serve as local family to newly arriving refugees. Positivity of these crowds is reflective of our experience at the local community level in many towns across the state. We repeatedly hear about the positive contributions that refugees make to Nebraska communities. So LR27 recognizes Nebraska's history and its values and the economic, social, and cultural contributions of refugee Nebraskans. So we urge the committee to advance LR27. Thank you. [LR27]

SENATOR EBKE: Thank you, Ms. Tromanhauser. Any questions? Thank you. Next proponent. [LR27]

DANIELLE CONRAD: (Exhibit 18) Hi. Good afternoon, Chairman Ebke. Chairwoman Ebke, members of the committee, my name is Danielle Conrad, D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d. I'm here today on behalf of the ACLU of Nebraska. Just a few brief points: The ACLU is proud to stand in solidarity with our Nebraska neighbors that are immigrants and our Nebraska neighbors that are refugees. They have enriched our communities. They have contributed to our economy. And Nebraska has such a proud and long tradition of being a welcoming place for immigrants and refugees. Recent federal actions which are misguided do not align with these Nebraska values and these Nebraska traditions and they also implicate some of our most deeply held and deeply cherished constitutional values and protections as enshrined in the First Amendment, the Fifth Amendment, and in other aspects of federal law. So today we thank Senator Bolz for her strong leadership in bringing forward this important resolution and extend our gratitude to the broad list of cosponsors as well. We would offer a technical amendment and ask that if the committee seeks to advance this resolution forward that they would include a copy to be sent to our federal delegation as in line with past practice. And we thank you for your time, attention, and leadership and would be happy to answer any questions today. [LR27]

SENATOR EBKE: Any questions? Guess not. Thank you. [LR27]

DANIELLE CONRAD: Thank you. Thank you very much. [LR27]

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SENATOR EBKE: Next proponent. [LR27]

SARA SAWATZKI: (Exhibit 20) Hello. My name is Sara Sawatzki; it's S-a-r-a S-a-w-a-t-z-k-i. Thank you for allowing me to...the opportunity to testify today and to thank Senator Bolz for introducing this resolution in support of refugees. One year ago today I stepped off a plane in Athens, Greece, on my way to a month-long volunteer trip on the island of Lesbos where over 1.5 million refugees have traveled through since the fall of 2015, risking their lives to cross six miles of rough Aegean Sea from Turkey in flimsy, inflatable boats. There's a place on the island hauntingly referred to as the life jacket graveyard. It houses some 750,000 life jackets that refugees wore on their journey to Lesbos, and the harsh reality is that most of them are fake, filled with nonbuoyant material. What I saw on Lesbos was heartbreaking. These were people who would give anything to be able to go back home but for many of them their homes no longer exist. When I came back to Lincoln, I was determined to help welcome families locally. I was born in this town and I've lived here the majority of my life, but I had no idea what a wonderful refugee resettlement history we have here. In June I worked with S.E.H.R. Mission in Omaha, helping to provide supplies and food for incoming families. In December my coworker and I sponsored a Yazidi family from Iraq through Lutheran Family Services, and just this past weekend I helped bring supplies to a wonderful family from Syria and had the distinct honor of being able to make sock puppets with their children. But here's the amazing thing, and I think this is the thing that unites all Nebraskans. We are astonishingly good at welcoming neighbors. And all the supplies that I received for these families came from dozens of people. And what surprised me most was how people from all sides of the political spectrum participated. Even in times of great divide, we can still join together and treat other humans with respect and dignity and show that Nebraska is a welcoming state. Welcoming families in Nebraska has been the single most enriching experience of my entire life. Whether I'm cooking in a kitchen with the mother of a Yazidi family, communicating only through a series of awkward pantomimes, taking the kids ice skating for the first time, helping them apply for their first jobs, or just sitting around drinking chai and chatting for hours and learning each other's cultures, all of these experiences have enriched me. It has been an honor to be a part of a community that helps refugees in my hometown, to be a symbolic life jacket for them, lifting them up and helping to keep them afloat so that they can thrive and enrich our beautiful city that I am proud to call home. The reality is that refugees should never be used as pawns in a political game. This is a very human issue, and so I'm asking you today in a world where refugees are left with no choice but to jump into uncertain waters, please, be a life jacket and lift them up with your support for this resolution. Thank you. [LR27]

SENATOR EBKE: Thank you. Questions? I see none. Thank you. Are there any other proponents? Do we have any opponent testimony? Or proponent? Okay, hurry up. [LR27]

ALEXIS STEELE: (Inaudible.) [LR27]

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SENATOR EBKE: Okay, just bring it up and...yeah, you...yeah. [LR27]

ALEXIS STEELE: Good afternoon, Chairperson Ebke, honorable Senators, and fellow Nebraskans. [LR27]

SENATOR EBKE: Fill it out when you're done. [LR27]

ALEXIS STEELE: Should I fill this out first? [LR27]

SENATOR EBKE: Yeah, just go ahead and give your testimony. You can fill it out when you're done. And just make sure you spell your name so she can get it on. [LR27]

ALEXIS STEELE: Sounds good. My name is A-l-e-x-i-s, Alexis, Steele, S-t-e-e-l-e, and I am the immigrant staff worker/attorney with Justice for our Neighbors, a nonprofit law firm here in Nebraska. And I'm here today on behalf of my organization to express support in favor of LR27 because it expresses a simple but important message in sensible support of our refugee Nebraskans. Despite recently popular rhetoric contending the danger of welcoming refugees, statistics demonstrate that refugees are far from dangerous members of our community. In part this is because of the extremely intense vetting process refugees must pass before even being considered for relocation to the United States. Earlier this month, my colleague, Charles Shane Ellison, testified before this body on the rigors of the interviews, background checks, and repeated biometric checks, so I will not exhaust the thoroughness of this process. Quite notably, though, the rightly named Cato Institute estimates that the likelihood of being harmed by a refugee is 3,000 times less likely than being struck by lightning. So supporting LR27 is not only sensible because refugees pose an extremely low risk, but also because of how much refugees add to our community. Nebraska has had the tradition of welcoming refugees since...for a long time--since the 1980s--and since then we have been home to over 100 different languages spoken, Cornhuskers from dozens of different countries and innumerable cultures united by the underlying value of freedom and hard work. Considering the extreme hardship that refugees have survived, the tenacity and spirit that refugees apply to making their lives here in Nebraska is unimaginable and we are richer for it. I'm convinced that if the Capitol Building were rebuilt today, it would be topped perhaps by a refugee alongside the Sower because of that spirit that is so Nebraskan. And with that, I encourage you to support LR27 and thank you so much for your time. [LR27]

SENATOR EBKE: Thank you. Any questions? Thanks for being here today. [LR27]

ALEXIS STEELE: Thank you very much. [LR27]

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SENATOR EBKE: (Exhibits 1-8 and 20) Are there any other proponents? Going once. Okay. Do we have any opponents? Anyone speaking in a neutral capacity? Okay. We'll read letters into the record. In support we have: Ron Todd-Meyer with Nebraskans for Peace; Kaleigh Nelson, the National Association of Social Workers, Nebraska Chapter; Nancy Meyer; Kathleen Grant, the Omaha Together One Community; Andrea Paret; Jan Gradwohl; Jim Otto of the Nebraska Restaurant Association and Nebraska Retail Federation; Mary Boschult of the League of Women Voters of Lincoln and Lancaster County; and Mary Pipher, and that's it. Senator Bolz. Senator Bolz waives. That closes the hearing on LR27 and it also closes the last hearing of the Judiciary Committee for the First Session of the One Hundred Fifth Legislature. Thank you for being here today. [LR27]