

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

Health and Human Services Committee
March 04, 2009

[LB214 LB417 LB444 LB621 CONFIRMATION]

The Committee on Health and Human Services met at 1:00 p.m. on Wednesday, March 4, 2009, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB417, LB444, LB214, LB621, and gubernatorial appointments. Senators present: Tim Gay, Chairperson; Dave Pankonin, Vice Chairperson; Kathy Campbell; Mike Gloor; Gwen Howard; Arnie Stuthman; and Norman Wallman. Senators absent: None. []

SENATOR GAY: (Recorder malfunction)...be interested on this commission. We'd appreciate that, so I'll turn it over to you. [CONFIRMATION]

BRADLEY KELLER: (Testimony via telephone with technical difficulty) Certainly. So to summarize the...I can hear a little bit of backup, so I hope that's okay on your side. [CONFIRMATION]

SENATOR GAY: Well, yeah. We'll work on that. Go ahead. [CONFIRMATION]

BRADLEY KELLER: That's not a problem. So my background is as a pediatric cardiologist. I did my undergraduate training at the University of Pennsylvania actually (inaudible) in the area of... (inaudible) [CONFIRMATION]

SENATOR GAY: Are you on a cell phone, Doctor? [CONFIRMATION]

BRADLEY KELLER: No, I'm not. I'm on a speaker on a land phone. [CONFIRMATION]

SENATOR GAY: Okay. You're cracking up a little bit here, but, well. [CONFIRMATION]

BRADLEY KELLER: I would change to a brand new telephone, but I think it should be okay. [CONFIRMATION]

SENATOR GAY: That sounds better, whatever you're doing now. [CONFIRMATION]

BRADLEY KELLER: All right. I might get (inaudible) a little bit. So my training as a pediatric cardiologist and then I've been NIH... (inaudible) [CONFIRMATION]

SENATOR GAY: Doctor? Hey, Doctor? [CONFIRMATION]

BRADLEY KELLER: Yes. [CONFIRMATION]

SENATOR GAY: For some reason you're breaking up like crazy on this phone. [CONFIRMATION]

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BRADLEY KELLER: I have a...will one of you try to call me back again? Let me do this...let me... [CONFIRMATION]

SENATOR GAY: Well, you know what. For some reason you're going in and out. [CONFIRMATION]

BRADLEY KELLER: Yeah. Well, let me do this. I can go to a different land line. [CONFIRMATION]

SENATOR GAY: Why don't you try that unless... [CONFIRMATION]

BRADLEY KELLER: I'll try that. Give (inaudible) and I'll call for the number. [CONFIRMATION]

SENATOR GAY: Let's try that. Maybe it's on our end or that end. [CONFIRMATION]

BRADLEY KELLER: We'll give it a try. Hold on. [CONFIRMATION]

SENATOR GAY: All right. [CONFIRMATION]

BRADLEY KELLER: Hello. [CONFIRMATION]

SENATOR GAY: Hey, Doctor? [CONFIRMATION]

BRADLEY KELLER: (Inaudible) [CONFIRMATION]

SENATOR GAY: We're no better unfortunately, but hold on one second. We got any ideas? He called back on another phone and we're still getting static on our end, I think. [CONFIRMATION]

CHUCK HUBKA: No, I don't. Because I mean we did it before and it worked perfect when I tried it here... [CONFIRMATION]

SENATOR GAY: Well, he called back on another phone, but. [CONFIRMATION]

CHUCK HUBKA: ...30 minutes ago. Is he on the phone now? [CONFIRMATION]

SENATOR GAY: Yeah. Hey, can you hear us fine, Doctor? [CONFIRMATION]

BRADLEY KELLER: I can hear you guys just fine. [CONFIRMATION]

SENATOR GAY: Go ahead and try again and we'll see what happens. [CONFIRMATION]

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BRADLEY KELLER: So my training is as a pediatric cardiologist, and then my research area...I can hear myself cutting in and out. [CONFIRMATION]

SENATOR GAY: We can hear you fine now. [CONFIRMATION]

BRADLEY KELLER: Can you hear this okay? [CONFIRMATION]

SENATOR GAY: Yeah. We're actually hearing you fine right now, so.
[CONFIRMATION]

BRADLEY KELLER: Okay, fine. So my training as a pediatric cardiologist. Then our research area has been in cardiovascular development, and that's where I backed up (inaudible) Department of (inaudible). [CONFIRMATION]

SENATOR GAY: Hey, Doctor? We got Dr. Schaefer here. I think she can do this for you because we just cannot hear what you're saying and we do have your...
[CONFIRMATION]

BRADLEY KELLER: Wonderful. [CONFIRMATION]

SENATOR GAY: But we appreciate that. But let's do that because otherwise this...we're not catching anything. We do have, like I say, your resume here. It's very extensive. I don't think there's a big problem. But Dr. Schaefer, I think, can tell us about you. So let's just do that and we appreciate it. And then if there's any...if we run into any kind of other questions... [CONFIRMATION]

CHUCK HUBKA: Senator, hang on just a second. There is one possibility. I had this happen once before. If he'll just talk a little slower and not get such a click going because... [CONFIRMATION]

SENATOR GAY: Yeah, let's do that. [CONFIRMATION]

CHUCK HUBKA: ...depending on the digital... [CONFIRMATION]

SENATOR GAY: Yeah. [CONFIRMATION]

CHUCK HUBKA: ...the digital phone lines and the digital equipment...
[CONFIRMATION]

SENATOR GAY: Yeah. [CONFIRMATION]

CHUCK HUBKA: ...he can actually talk faster than it's processing. So if he'll just talk at a

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pace slow rate... [CONFIRMATION]

SENATOR GAY: Oh, okay. Hey, Doctor? [CONFIRMATION]

BRADLEY KELLER: Yeah. [CONFIRMATION]

SENATOR GAY: Did you hear that? If you slow down a little we're thinking that digitally, you know, your voice is not coming back to us quick enough. So if you just...
[CONFIRMATION]

BRADLEY KELLER: That's fine. [CONFIRMATION]

SENATOR GAY: ...slow it down because you start out well, and then it all of a sudden gets to be as you start getting into a rhythm it's just jumbled, so. [CONFIRMATION]

BRADLEY KELLER: Would you like a North Carolina drawl or a...(laughter)
[CONFIRMATION]

SENATOR GAY: Yeah. That will work. And we just need general, quite honestly. So why don't we try that one more time and then if that doesn't work, Dr. Schaefer will cover for you. [CONFIRMATION]

BRADLEY KELLER: Okay. And I also have a cell phone if you need to call me directly.
[CONFIRMATION]

SENATOR GAY: What's that number? [CONFIRMATION]

BRADLEY KELLER: It is 412-478-6463. [CONFIRMATION]

SENATOR GAY: Okay. Thank you. Go ahead. [CONFIRMATION]

BRADLEY KELLER: Should I start from the beginning? [CONFIRMATION]

SENATOR GAY: Yeah. Start from the beginning. [CONFIRMATION]

BRADLEY KELLER: Okay. So basically, my area of research expertise is cardiovascular development, including the use of multipotent stem cells for cardiac repair. And so I've worked for 20 years using embryo models, mostly the chicken (inaudible) embryo models. But more recently I (inaudible) with the use of human embryonic stem cells. But now (inaudible) for cardiac repair in pigs. So I followed along these issues that's developed a regulation of stem cells, and I review grants at the NIH about that (inaudible) human embryonic stem cells or induced pluripotent stem cells for cardiac repair. I'll leave it that short. [CONFIRMATION]

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SENATOR GAY: All right. Well, let's see if we have any questions for you. I'll see if there's any questions. And like I say, we've got everything here in front of us. But any questions from the senators? I'm not seeing any questions. And then Dr. Schaefer, like I say, is here as well. I might...you did give us that cell phone number and if other questions...what the process is, is we will...if these nominations get voted out of this committee, which in most likelihood they do, then it will go to the floor. I may have a personal call with you to get some information so I can relay that to the full Legislature. So I may be giving you a personal call. And like I say, Dr. Schaefer is here, too, and we might just have her finish up for a few minutes what she knows and that would be helpful. So appreciate your patience. I don't see any questions from the senators right now, so we'll let you go. [CONFIRMATION]

BRADLEY KELLER: Well, I really appreciate (inaudible) although I do feel a little bit like a (inaudible). (laughter) Let me know if you need any additional information. [CONFIRMATION]

SENATOR GAY: All right. Thank you. [CONFIRMATION]

BRADLEY KELLER: Take care. [CONFIRMATION]

SENATOR GAY: You bet. Bye-bye. [CONFIRMATION]

BRADLEY KELLER: Bye-bye. [CONFIRMATION]

SENATOR GAY: Got anything to add, Dr. Schaefer? [CONFIRMATION]

JOANN SCHAEFER: Oh, I would just add that he's very well-respected, very well-funded and his career will help us tremendously on embryonic stem cell research which is what the general funds are for to go out as grants in the community. His expertise in knowing where the boundaries are will be greatly appreciated. He's, again, very well-respected and certainly has a history of cardiology research in stem cells that is very helpful. [CONFIRMATION]

SENATOR GAY: As I understand, so Creighton University and the medical center both nominated these people? [CONFIRMATION]

JOANN SCHAEFER: Yes, yup. [CONFIRMATION]

SENATOR GAY: Can you tell us how that process worked? I mean, we understand the bill was passed and... [CONFIRMATION]

JOANN SCHAEFER: Right. The bill required that the university submit the names. They

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submitted a number of names to me. I narrowed them down, interviewed them, talked to them in a variety of different contexts. We had a preliminary meeting just kind of organizationally here, not with the members yet until they're confirmed, just on the whos, whats, whens, and how we're going to build the grant process going forward. As soon as they are permitted to be on the committee, as soon as they are approved by the Legislature, we will be ready to move forward immediately with the funds that you've seen aside for this. This is the next step of the process, though, that we're engaged in is getting the Legislature to present its committee these candidates. They're all very qualified and like I said, university did half of them and Creighton did the other half.
[CONFIRMATION]

SENATOR GAY: So is there actually four people? We've got another one coming today? [CONFIRMATION]

JOANN SCHAEFER: Right. [CONFIRMATION]

SENATOR GAY: There's four, so two today, two tomorrow. And, hopefully, we can work this other thing out. How many people applied for these opportunities?
[CONFIRMATION]

JOANN SCHAEFER: The universities had to submit three apiece. So then I chose two, and then they come to you. [CONFIRMATION]

SENATOR GAY: Okay. All right. Any questions for Dr. Schaefer from the rest of us? Okay. I don't see any. We'll...1:15 is we're expecting a call from Dr. Spangrude.
[CONFIRMATION]

JOANN SCHAEFER: Spangrude. [CONFIRMATION]

SENATOR GAY: Spangrude. Anyway, we'll see how that goes. We'll tell him to speak slowly and... [CONFIRMATION]

CHUCK HUBKA: Senator, I went back to your old system. [CONFIRMATION]

SENATOR GAY: Oh, okay. We'll try that then. And then while we're waiting for a call in...and stay here, Chuck, so I don't screw this up. [CONFIRMATION]

CHUCK HUBKA: Yeah. [CONFIRMATION]

SENATOR GAY: While we're waiting for him to call in, we do have another nomination, Troy Hiemer, on the EMS board, and we will get to him right after this call. And then we'll go with LB417, LB444, LB214, and LB621. So those of you that are waiting for that, we won't even start those until 1:30 probably, just guesstimating. So relax a little,

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appreciate you listening into this. And so hopefully...is Mr. Hiemer here?
[CONFIRMATION]

TROY HIEMER: Yes. [CONFIRMATION]

SENATOR GAY: Oh, you are. I don't want to get started with you right away. Come on up, though, and then the minute I start you out here you know we're going to get a call. So we'll sit tight, but. [CONFIRMATION]

CHUCK HUBKA: Hello. [CONFIRMATION]

GERALD SPANGRUDE: Hi. Dr. Spangrude calling from the University of Utah.
[CONFIRMATION]

SENATOR GAY: Hi, Doctor. This is Senator Tim Gay and I've got... [CONFIRMATION]

GERALD SPANGRUDE: Hi. [CONFIRMATION]

SENATOR GAY: How are you? [CONFIRMATION]

GERALD SPANGRUDE: Good, thanks. [CONFIRMATION]

SENATOR GAY: Good. I've got Senator Arnie Stuthman, Senator Gwen Howard, and Senator Norm Wallman here. [CONFIRMATION]

GERALD SPANGRUDE: Okay. [CONFIRMATION]

SENATOR GAY: And we're here to learn a little bit about you for your nomination or appointment. And if you could...we do have your resume in front of us and it's very extensive. Thank you for that. But if you want to just tell us a little bit about yourself and how you could be of service on the committee, and then we may have a few questions for you. But I'll turn it over to you. [CONFIRMATION]

GERALD SPANGRUDE: Okay. Great. Well, I grew up in Montana. I don't know if that's relevant or not, but I'm always very proud to say that. (Laugh) And I went to the university there, majored in microbiology. Then came to the University of Utah for my advanced degree which was in experimental pathology. And my main focus in that degree was studying the function of the immune system. And so at the time I left Utah, I went to Stanford University as a postdoctoral fellow. I trained with Irving Weissman. Dr. Weissman is one of the major national and international figures in stem cell biology, although at the time he was mainly interested in lymphoid development. And so his interest and mine meshed really well in that level, and working together we were able to define mouse somatic portent stem cells and methods for isolation of those cells. And

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so as part of that work I pioneered many different techniques of characterizing, isolating, and differentiating this really well-defined now type of stem cell in mouse bone marrow. Dr. Weissman and his colleagues went on to characterize a similar cell in human bone marrow using the techniques essentially that we had developed together while I was a fellow in his laboratory. Then I spent a couple of years in Australia, again, doing lymphocyte development from stem cell populations, again, in mouse models before I came back to the U.S. And I worked for about five years as an intramural employee of the federal government at a research laboratory, again, in Montana before I returned here in 1994. And so since I've been here at the University of Utah my focus has remained on development of lymphocytes and in characterization of the stem cells that differentiate into lymphocytes. And so it's mainly focused on the immune system and clinically how the immune system recovers after bone marrow transplantation and what sorts of things that clinicians might be able to integrate into bone marrow transplant programs in order to accelerate the recovery of the immune system in patients who are treated for cancer. And so this is a medical school and I'm a member of the department of medicine actively involved in tour boards and conferences, although I'm a Ph.D. by training, very interested in the medical applications of stem cell biology. And so in particular in the context of adult stem cells, the bone marrow derived stem cell being the best described and best understood stem cell, I've decided in my career to continue focusing on bone marrow as an adult paradigm of stem cells and mainly to work in mouse models because the model organisms like the mouse give us tremendous control over the sorts of experiments that we can do and give us a lot more insights. And I think we're going to be able to derive from mainly human studies while we're still working out mechanistic sort of aspects to what regulates differentiation. So I'll stop there and I'll ask if you have any questions in particular for me. [CONFIRMATION]

SENATOR GAY: All right. Well, we'll see. Any questions from the senators at this point? Senator Arnie Stuthman has a question for you. [CONFIRMATION]

GERALD SPANGRUDE: Okay. [CONFIRMATION]

SENATOR STUTHMAN: Thank you, Doctor, for taking on this responsibility. What do you see in the future as far as when you accomplish the bone marrow stem cells, what do you see would be your next step as far as stem cell research? [CONFIRMATION]

GERALD SPANGRUDE: I think in terms of bone marrow, what we're having to learn how to do is we're going to learn how to manipulate and engineer bone marrow grafts to maximize anticancer activities that can develop from those grafts and to maximize recovery of the patient after chemotherapy. And so personally, I think that that area of research in terms of micro areas is essentially that's where I'm going to be for the remainder of my career. I think other areas of research that develop out of this, though, are certainly going to be understanding how the developmental programs happen from embryonic-type stem cells and what regulates the decisions by those stem cells to

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differentiate into specific lineages. [CONFIRMATION]

SENATOR STUTHMAN: Okay. Thank you, Doctor. [CONFIRMATION]

GERALD SPANGRUDE: Um-hum. [CONFIRMATION]

SENATOR GAY: All right. Thank you. Are there any other questions? I don't see any at this time. Like I say, we appreciate your service. It looks like you're more than well qualified to do this and it sounds like it's a new project for us, but just wanted to tell you thank you and the plan is we appreciate you doing this. And then this nomination will be forwarded to the full Legislature. So if there's other questions that come up, how could we reach you? [CONFIRMATION]

GERALD SPANGRUDE: Well, e-mail is good. [CONFIRMATION]

SENATOR GAY: I've got that. [CONFIRMATION]

GERALD SPANGRUDE: You have that address, and you can also call my office, 801-585-5544. Although I have to warn you that I spend most of my time in my laboratory actually doing science, and so you just have to leave a message on my voice mail and I'll get back to you. [CONFIRMATION]

SENATOR GAY: All right. All right. I don't see any other questions. We'll let you go. Thank you. [CONFIRMATION]

GERALD SPANGRUDE: All right. [CONFIRMATION]

SENATOR GAY: You bet. [CONFIRMATION]

GERALD SPANGRUDE: You're very welcome. [CONFIRMATION]

SENATOR GAY: Yup. Bye-bye. [CONFIRMATION]

GERALD SPANGRUDE: Bye-bye. [CONFIRMATION]

SENATOR GAY: All right. Troy, you kind of got the hint what's going on here. You're live and in person, so. (Laughter) [CONFIRMATION]

TROY HIEMER: Yes, sir. [CONFIRMATION]

SENATOR GAY: That's good. Go ahead and tell us a little bit about yourself, want to be on the EMS board. [CONFIRMATION]

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TROY HIEMER: Okay. I'm originally from Columbus, Nebraska. I know Mr. Stuthman and Senator Stuthman serve on the same fire department but volunteer. Been an EMS since about 2002, 2003. I work for Midwest Medical in Columbus. And just with the changing of the EMS direction and the licensures is one of the reasons I've been really interested in getting into the cert for the board. I'm hoping I can serve them well.
[CONFIRMATION]

SENATOR GAY: Okay. Let's see if there's questions for you. Questions from the committee? Senator Stuthman. [CONFIRMATION]

SENATOR STUTHMAN: Thank you, Senator Gay. Thank you, Troy, for accepting this position and the appointment to that Board of Emergency Medical Services. You know, and I think your services has a real value in our community working with the units there and I really appreciate that, so. And your willingness to serve on this board is very important to us, so thank you, Troy. [CONFIRMATION]

TROY HIEMER: Thank you. [CONFIRMATION]

SENATOR GAY: Any other questions? I've got a couple for you. How long have you been employed then with your current employer? [CONFIRMATION]

TROY HIEMER: Since around 2000. I started as a driver for them, and then went through school and just worked my way up the ladder. [CONFIRMATION]

SENATOR GAY: Are you originally from Columbus? [CONFIRMATION]

TROY HIEMER: Originally from Columbus, yes. [CONFIRMATION]

SENATOR GAY: All right. And then on this board what's your understanding of what the board does? [CONFIRMATION]

TROY HIEMER: I think there's a bunch of different things as far as, you know, what people from the general public bring for questions that comes in front of the board, as well as, you know, any misconduct with licensures is brought in front of us. Little side committees that are formed for ambulance operations to procedures in the field.
[CONFIRMATION]

SENATOR GAY: Yeah. And then, obviously, you'd be interested in...your line of work, you'd have some expertise there. [CONFIRMATION]

TROY HIEMER: Yes. [CONFIRMATION]

SENATOR GAY: We had a doctor in front of us last week who was going to be on the

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board. This is your first time on the board though? [CONFIRMATION]

TROY HIEMER: Yes, it is. [CONFIRMATION]

SENATOR GAY: So that's a tough question to answer without being there. Well, let's see. Any other questions? I don't see any. Well, thanks for coming. You heard what I said. I mean, what's going on is we'll forward this, we'll vote on this. It goes to the full Legislature. Any questions? Senator Stuthman. [CONFIRMATION]

SENATOR STUTHMAN: Thank you. I just have one more question, Troy. You know, we run up into this situation out in the rural areas. We're kind of rural area, but you get further west and stuff like that, you know, with the EMTs and the first responders and, you know, we have a real situation there because a lot of the EMTs work in the larger communities and there's no one there except a first responder. You know, we're hopefully trying to work something out so that, you know, we can give a service to an individual, you know, that is in need of a service or in need of transport so they can get something. And hopefully, you know, by you serving on the board you can give us some recommendations as to, you know, what is workable out there in the communities for the benefit of the individual that needs to be transported when there is no one there except a first responder. And it gets to be a real tough situation, but I think we got to keep in mind and I'm sure you feel that way, too, you know. [CONFIRMATION]

TROY HIEMER: Yes, I do. [CONFIRMATION]

SENATOR STUTHMAN: We've got to get the people to somewhere as soon as possible, so. [CONFIRMATION]

TROY HIEMER: Correct. [CONFIRMATION]

SENATOR STUTHMAN: So thank you for that, too, so. [CONFIRMATION]

TROY HIEMER: Thank you. [CONFIRMATION]

SENATOR GAY: I've got another...how big of an area does Columbus Fire Department serve? I mean, on your calls, how far out do you go? [CONFIRMATION]

TROY HIEMER: Well, the Columbus Fire, generally the Platte County area, they will do assists for other counties if called. They do a lot of intercepts from some of the smaller communities as well with Columbus Fire. Midwest Medical is who I work full time for. We service the whole state, as you know, the largest provider in the state. And, you know, we go everywhere--out of state, in state, so. [CONFIRMATION]

SENATOR GAY: I saw you're a Marine veteran. [CONFIRMATION]

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TROY HIEMER: Yeah, I served in the Marines, too. Yes, sir. [CONFIRMATION]

SENATOR GAY: Thanks for doing that. That's a...so you had Gulf Storm vet.
[CONFIRMATION]

TROY HIEMER: Yes, sir. [CONFIRMATION]

SENATOR GAY: Thanks for doing that. All right. All right. Well, I don't see any other questions for you. Appreciate your coming down here today. [CONFIRMATION]

TROY HIEMER: Thank you, ladies and gentlemen. [CONFIRMATION]

SENATOR GAY: And then if you got any questions on the process you can call our office or Senator Stuthman would be more than happy I'm sure to answer any questions you have, so. [CONFIRMATION]

TROY HIEMER: Okay. [CONFIRMATION]

SENATOR GAY: Thanks, Troy. [CONFIRMATION]

TROY HIEMER: Thank you. [CONFIRMATION]

SENATOR GAY: All right. Well, that's our...is there anyone from the public who would like to speak on any of these nominations? Okay. I don't see any. All right. With that, we'll close our appointments and I think it's fair enough to get started on our regular bills we have today. There's a few senators I know who had meetings and they may be joining us a little late. But I'm Senator Tim Gay from Papillion/La Vista area. And we'll introduce ourselves starting on my right over here. [CONFIRMATION]

JEFF SANTEMA: My name is Jeff Santema and I serve as legal counsel to the committee. []

SENATOR CAMPBELL: I'm Senator Kathy Campbell and I serve the 25th Legislative District in east Lincoln, and I apologize for being late, but I was at the Retirement Committee with a bill, so. []

SENATOR GAY: Yeah. []

SENATOR CAMPBELL: That's where Senator Pankonin is finishing up. []

SENATOR STUTHMAN: Senator Arnie Stuthman, District 22, which is Platte County in the north half of Colfax County. []

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SENATOR HOWARD: Senator Gwen Howard from District 9 in Omaha. []

SENATOR WALLMAN: Senator Norm Wallman, District 30, south of here in Beatrice. Wymore is my area. []

ERIN MACK: I'm Erin Mack, the committee clerk. []

SENATOR GAY: All right. Senator Campbell brings up a good point that I will bring up many times. We have senators who will be arriving late or may have to get up and go to other appointments they have or other bills they may have to be introducing. Don't take offense to that. They're just doing their work. We're still in the committee process where we have bills that we introduce in other committees. Senator Campbell had mentioned she had one in Retirement Committee. Senator Pankonin is the Chair of that committee and he is still in committee. Senator Gloor had another appointment. He will be joining us soon, but Senator Mike Gloor from Grand Island and Senator Dave Pankonin are also on the committee. Senator Pankonin is from the Louisville area. So if you could, though, and I know I haven't heard any cell phones go off, if you could shut down your cell phones, that's always appreciative. Also, we have a timing system here in our committee due to the length and the number of bills that we hear and the length sometimes of the bills. We don't limit times too much on...so we may hear as long as it takes. But we do limit testifiers to five minutes. If you're introducing a bill they get as long as they need, and Senator Friend is coming in. But he would get as much time as he needs to introduce, so you can relax for...but so he will take as much time as he needs to introduce or to close. But when you do come up, we have a five minute rule. And it's a green light until four minutes and a yellow light will go on. At five minutes a red light is on. We won't cut you off midsentence, but it's time to wrap things up at that point. The best testimony is probably that that's not repetitive again and again, because I think the best is just summarizing what you have to say and add some new information. Feel free to come up, though. To be on the record you must come up and testify or you can fill out a...also, everyone needs to fill out a testifier sheet. Print your name on that and fill that out, hand that to the clerk, and then spell your name because all this is being transcribed. And that's certainly helpful when she's going back and trying to put this all together, she needs to know who's going on. We may ask you a question. If we ask you a question, answer it the best of your ability. And then if there are no questions, then there's no questions. But with that, we'll get started. Senator Friend, you're here to introduce LB417. [LB417]

SENATOR FRIEND: (Exhibit 1) Thank you, Chairman Gay. Sorry I'm late. [LB417]

SENATOR GAY: Oh, that's all right. [LB417]

SENATOR FRIEND: Members of the Health and Human Services Committee, my name

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is Mike Friend, last name is spelled F-r-i-e-n-d, and I represent the 10th Legislative District in northwest Omaha. LB417 changes provisions under the Optometry Practice Act. The legislation proposes to enhance the authorized scope of practice for licensed optometrists in order to better serve patients throughout Nebraska. The proposed changes can be summarized as follows: Allow prescribing of any pharmaceutical agent rational to diagnosing or treating conditions of the eye, adnexa, or visual system, and remove present exclusions and lists of permitted conditions and drugs now contained in state law; also to allow pharmaceutical agents to be administered by injection as well as topically or orally by therapeutically certified licensees; also clarify that the practice of optometry includes prescribing and dispensing of cosmetic or plano contact lenses and contact lenses classified by the FDA as a drug. Another one is to create a new level of certification requirements for licensees which would authorize those doctors qualifying for such certification to perform minor surgical and nonsurgical procedures, including employment of laser procedures of the anterior segment of the human eye and adnexa. And finally, to authorize the Board of Optometry to establish additional requirements and qualifications for the proposed new level of certification. I want to thank the committee for the consideration here on this bill. I'd also like to point out that the Department of Health and Human Services is not taking...we got a letter here, and I think it's been distributed...is not taking a formal position on LB417. I wanted to read that in here. There's some testifiers behind me that are going to point out some of the...some of the...I don't even know if I'd call them issues...some ideas about this bill and the practical status of this particular bill. It's my understanding that, you know, we're looking forward to the 407 process. Until that's complete, I also don't think I'm overstepping my bounds by saying that I think that it's important to have this discussion here within your committee. And I'm not sure it's necessary at this point, but some may counter this to send this out to the floor at this time. Does that make sense? [LB417]

SENATOR GAY: Yeah, we do have the letter your referring to from the Department as...we do have that letter and that's a recommendation of the 407 review process... [LB417]

SENATOR FRIEND: Correct. Correct. [LB417]

SENATOR GAY: ...on this bill of what the bill would, the scope of the bill. So, all right, we have a...Senator Wallman, you got a question? [LB417]

SENATOR WALLMAN: Thank you for being here, Senator Friend, in this esteemed building here. (Laughter) [LB417]

SENATOR FRIEND: You're welcome. [LB417]

SENATOR WALLMAN: Do you think there is a need in real America for this? In Nebraska, specifically. [LB417]

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SENATOR FRIEND: Some of the discussion I had this summer indicates to me that there is. Now, I am not an...I have friends that are optometrists. We all do, and we know some of the problems. I know some of the problems that are occurring in my...if they can be considered problems, some of the concerns that are being raised in my area and in Omaha. But based on those discussions this summer, yeah, there could be some benefit to legislation like this in rural communities. [LB417]

SENATOR WALLMAN: Thank you. [LB417]

SENATOR GAY: Any other questions of Senator Friend? I don't see any right now. And then are you going to stay around, do you think or...? [LB417]

SENATOR FRIEND: I will waive closing only because I've got to go back to Revenue and do some stuff that you guys don't want to know about right now. (Laughter) [LB417]

SENATOR GAY: Yeah, except pass our bills. (Laughter) [LB417]

SENATOR FRIEND: There you go. [LB417]

SENATOR GAY: All right. I don't see any other questions. Thank you. [LB417]

SENATOR FRIEND: Thank you. [LB417]

SENATOR GAY: I'm sure there's proponents and opponents. How many proponents want to speak on this issue? Can you raise your hand? One, two, three, about four. How many opponents? About the same, about three or four on...okay. We'll hear from proponents first and come on up and... [LB417]

ROBERT VANDERVORT: (Exhibit 2) Chairman Gay, Senators from the Health and Human Services Committee, good afternoon. My name is Robert Vandervort. That's spelled V as in Victor, a-n-d-e-r-v-o-r-t. I'm here on behalf of the Nebraska Optometric Association to speak in support of LB417. We do not, as Senator Friend alluded to, we do not expect the Health and Human Services Committee to act on this bill this year. It is concurrently undergoing a 407 review. I am a doctor of optometry and I have been practicing in west Omaha for about 23 years. I also have a part-time practice at Creighton University Medical Center where I'm on the staff there in the department of surgery. LB417 has four basic components. First, it clarifies the scope of practice of optometry to include the sale of newly developed contact lenses that are medicated that are soon to be approved by the FDA. This is within our existing scope of practice. The bill also removes ambiguity for insurance reimbursement purposes for a few procedures that we have been routinely performing since 1986. Second, under the current scope of practice that we have right now, we are licensed to prescribe all oral medications to

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treat eye disease. However, there are two restrictions, using oral glaucoma medications and oral steroids. The bill would remove those two latter restrictions and bring us in line with the majority of states in the country. Third, LB417 would permit doctors of optometry to administer medications by any route of administration that's rational to their use. This would include injections into the eyelid or the outer portions of the eye. The bill, however, specifically excludes any injections into the eyeball itself. Fourth, LB417 would license doctors of optometry to perform certain minor surgical procedures on the eyelids and outer surfaces of the eye as well as perform a limited number of laser eye surgeries, eye procedures. It is important to understand that this bill specifically excludes, excludes all major eye surgery that's currently being done. It excludes LASIK; it excludes cataract surgery, corneal transplants, eye muscle surgery, or any type of laser or other procedure on the retina, as well as cosmetic eyelid surgeries. It excludes any surgery that requires an incision into the eye. The types of procedures that we are addressing in this bill involve things like draining sties or removing small skin tags from the eyelids, or performing very straightforward laser procedures to treat glaucoma, or to clear vision by a procedure called the laser capsulotomy. If there's one point that I would like you to take home from my testimony today, and that I'd hope you would remember, is that every single provision of this bill has been time tested for 20 years in other states. This is not ground breaking legislation. Furthermore, many optometrists in the state of Nebraska are already licensed in other states to provide the care that's being described in this bill. There are many benefits to the bill but in the interest of time, I'm only going to go over two briefly. First, optometrists are the front line providers of vision care in Nebraska. There's 311 optometrists licensed in Nebraska compared to only 106 ophthalmologists. Optometrists are in 68 towns and 49 counties compared to 14 towns and 11 counties for ophthalmology. Of the 106 ophthalmologists, 80 percent of them practice in the Omaha, Lincoln area. The other 20 percent are left to cover the rest of the state. LB417 is needed to provide all citizens of Nebraska with timely and convenient access to quality eye care. Second, the bill helps reduce the cost of healthcare both directly and indirectly. Directly, it reduces the cost by eliminating duplication of care. Right now we have to refer these patients out. They have another office copay, another bill to insurance, another bill to the Nebraska Medicaid system if the patient is on Medicaid. Indirect savings are also equally important. Patients have to travel many times hundreds of miles to get to an ophthalmologist, round trip multiple times to have these procedures or treatments, and when you add in a family member to drive them, you have lost time from work, and other issues that involve compounding costs to the families of these patients. It's not just a rural issue though. At my Creighton practice, we serve a number of poor and uninsured patients. These patients do not have transportation. They can't afford a second visit. They don't speak English, many of them don't, and they need interpreters. Arranging this for a second office visit becomes very difficult. In conclusion, the senators of the Nebraska Legislature passed enhancements of optometry's scope of practice four times in 35 years, each time over the vehement objections of ophthalmology and organized medicine. All four times we have resoundingly proven our critics wrong and the wisdom of the senators correct. LB417

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will be no different. It's a good bill. It's a time tested bill and will be good for the citizens of Nebraska. Thank you for the opportunity to testify. Thank you for your service to our state. If you have any specific questions about the bill I'd be happy to answer them. And I also have a copy of my testimony here, it's written. [LB417]

SENATOR GAY: Thank you. Any questions from the committee? Senator Gloor. [LB417]

SENATOR GLOOR: Thank you, Chairman Gay. Doctor, thank you for your testimony. Is there any difference in reimbursement by the third-party payers for procedures done by an ophthalmologist versus an optometrist? [LB417]

ROBERT VANDERVORT: At this...depends on the insurance company, but generally speaking, no. The allowables are equal between the two professions and we tend to try to fight for that equality. [LB417]

SENATOR GLOOR: And the same would be true in terms of state payments from Medicaid. [LB417]

ROBERT VANDERVORT: For Medicaid, yes, it would be the same. [LB417]

SENATOR GLOOR: Okay. Thank you. [LB417]

SENATOR GAY: I've got a question for you. You talked about the majority of the states, you said, bring into alignment with the majority...how many other states are allowing what you're asking? [LB417]

ROBERT VANDERVORT: Yeah. That was a reference to the removal of the oral glaucoma and steroid restrictions. There are 36 states right now that allow optometrists prescribe oral glaucoma medications. Over 20 states that include all orals, with no restrictions, including Iowa, Wyoming, which is also, were unlicensed. [LB417]

SENATOR GAY: Okay. And then I've got another question. You said also this would...can you describe, you said minor procedures not...it excludes all major. What kind of minor procedures are you talking about in English that we could understand? [LB417]

ROBERT VANDERVORT: (laugh) Okay. The most common ones would be little skin tags or almost wart like lesions that people can get on their lids, become bothersome to them. Another one would be, it's an infected oil gland, goes by the name of chalazion and the oil gland gets infected in the lid and it's, in essence if you can envision a nasty stie or a big pimple on your eyelid. The usual treatment for these is to warm compress them, sometimes oral antibiotics, but sometimes they just don't go away. And they

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become very, very disturbing to patients. They want them taken care of and you have to make a small incision into the gland, drain it out and medicate the patient. But it's...those would be the two most common types of procedures, small skin tags. The laser procedures are typically to treat glaucoma. And one called a laser capsulotomy. After...when a person has cataract surgery, the lens of the eye, inside of the eye is removed, and there's a coating around the lens called the capsule. And the artificial lens that's put back into the patient's eye sits inside that capsule. The capsule becomes hazy over time and blurs the patient's vision. What the laser does is just create a small opening in the capsule and restores the patient's vision, a very, very straightforward procedure, one that we're very familiar with. And I think on this issue of the lasers, it's important to understand, a laser is not some separate instrument of which we don't use or we're unfamiliar. All of the lasers we're using, the optics of the laser are focused through what's called a slit lamp. A slit lamp is a specialized microscope to examine the eyes. It's an instrument we use in our practices day in and day out. The laser is simply focused through those same optics. We're very familiar with the instrumentation, very familiar with what has to be done. We're obviously familiar with the anatomy, and also we've been taking care of these patients postoperatively for decades. So we're very comfortable with the complications, although rare, that can arise. [LB417]

SENATOR GAY: All right. Thank you. Any other questions? I don't see any. Thank you. [LB417]

ROBERT VANDERVORT: Thank you. [LB417]

SENATOR GAY: While this gentleman is making his way forward, we did receive letters of opposition from the Nebraska Medical Association and the Nebraska Medical Directors Association, and we have two neutral letters, one that Senator Friend mentioned from the Department of Health and Human Services, and the other one is from the Director of the Nebraska State Board of Health, so. Go ahead. [LB417]

DAVID KINCAID: (Exhibit 3) Chairman Gay and Senators of the Health and Human Services Committee, it's my pleasure to address you from the Nebraska Board of Optometry today. My name is Dr. David Kincaid, spelled K-i-n-c-a-i-d. I'm originally from Columbus. My practice is in South Sioux City, Nebraska. I have served there for 31 years. I am in my ninth year on the Board of Optometry and my fourth year as serving as the chairman. The purpose of the Board of Optometry in Nebraska is to provide for the health, safety, and welfare of the citizens of Nebraska by ensuring the licensers that we have are meeting minimum standards of proficiency and competency as well as to control the profession of optometry in the interest of consumer protection. Board members' duties include, but are not limited to, recommending the issuance or denial of licenses and changes in legislation; developing and administering regulations to enforce the laws governing our profession; screening complaints against licenses; and making recommendations to the Department of Health on disciplinary actions. I speak for the

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Nebraska Board of Optometry in favor of LB417 today. The board consists of Dr. Jim Kirchner from Lincoln, Nebraska, Dr. Kim Baxter from North Platte, Shelley Fastenau, our lay member from Bertrand, Nebraska, and myself. The public safety of the citizens of Nebraska has always been assured for the profession of optometry and we see no difference in this proposed legislation as well. I would like to remind the committee that each time the optometric profession has modified its law there have been those who have been in opposition. They have spread fear, alleged incompetence, and predicted dire circumstances for our patients. History has proven that this has not been the case. There have been no increase in disciplinary cases and no increase in complaints to the Board of Optometry resulting from any change in the optometric scope of practice in Nebraska. Historically low malpractice rates also bear out the competence of our profession and the job that the Board of Optometry has always done in regulating the profession and protecting the public welfare. LB417 charges the Board of Optometry with approving additional educational requirements that optometrists will need to meet to achieve and maintain licensure at this enhanced level. We will rely on accredited colleges of optometry and also boards of optometry from other states who have gone before us to develop the appropriate educational and testing procedures. The person testifying after me, Dr. Les Walls, is imminently qualified to address all optometric and education and training questions. Dr. Walls has served as a dean or president of three colleges of optometry, including the college in Oklahoma, and is past president of the National Board of Examiners in Optometry. He will also be able to give you an important perspective as a medical doctor, an M.D., a physician, as he has served as president of the Oklahoma Academy of Family Physicians, on the faculty of the University of Oklahoma College of Medicine and Oral Roberts University College of Medicine, and on the Residency Review Committee for the Oklahoma State Medical Association. With input from people like Dr. Walls, I am certainly confident the requirements that we're going to have to put forward for education and testing procedures that our Board of Optometry will develop, should fulfill our responsibilities and also the intent of the Legislature. I would like to present you with a written statement of Dr. W. Clay McLaughlin, the president of the Oklahoma Board of Optometry. That's one of my handouts here. LB417 is patterned after the Oklahoma practice act. Dr. McLaughlin's statement reflects on the quality of patient care that the Oklahoma optometrists provide for the citizens of Oklahoma with no public safety issues. I'm just going to read a couple of his paragraphs. This letter is to address your questions concerning utilization of interior segment lasers in optometric practice. Optometry has utilized laser technology in Omaha since 1988 with an unblemished record of safety for the public. During the past 20 years of laser use by optometrists in Oklahoma, the Oklahoma Board of Examiners in Optometry has had no formal or informal complaints from the public, Oklahoma state agencies, or any state or national society during that time. Again, I speak for the Board of Optometry in Nebraska. We stand in support of LB417. We're willing and able to responsibly interpret and administer the law as it applies to our profession, and we certainly are here to assure the competence of optometrists in Nebraska for the health, safety, and welfare for those citizens of Nebraska. Thank you.

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[LB417]

SENATOR GAY: Thank you, Doctor. Senator Stuthman. [LB417]

SENATOR STUTHMAN: Thank you, Senator Gay. Thank you, Dr. Kincaid for coming and testifying. I do have one question as far as, you know, this LB417 it charges the Board of Optometry with approving additional educational requirements. Can you explain that part of it? [LB417]

DAVID KINCAID: Well, certainly, in past legislative efforts we have had to be certified at different levels and in Nebraska there are two levels of optometry at this point in time, those that are diagnostically certified only. They use diagnostic drugs for pupil dilation and pressure readings and also those that are therapeutically certified that prescribe medications and so forth. The Board of Optometry is positioning optometry in Nebraska to have one level of optometry level licensure. And I think this certification process that we'll have to go through certainly will include education, probably didactic education as well as a laboratory or hands on. [LB417]

SENATOR STUTHMAN: So doctor, in other words the ones that are in the field of optometry, are they going to have to have additional education, that they're going to have to take additional education to meet the requirement to continually be certified? [LB417]

DAVID KINCAID: Yes, and certainly we'll use those accredited colleges of optometry to provide that education, as well as following the pattern that other states like Oklahoma has had. They had a several weekend there...I'm not exactly sure what it was at this time, but we will follow a pattern such as these states have done before us. [LB417]

SENATOR STUTHMAN: So achieving the educational requirement, the additional component of that, can be done, you know, with their work in, under consideration. [LB417]

DAVID KINCAID: Absolutely. Absolutely. [LB417]

SENATOR STUTHMAN: Okay. Okay. Thank you, Doctor. [LB417]

SENATOR GAY: Senator Wallman. [LB417]

SENATOR WALLMAN: Thank you, Chairman Gay. Thank you, Doctor, for coming. Your organization, you have upgrades, I mean, seminars every couple of years anyway, do you? [LB417]

DAVID KINCAID: Right. Optometry has...we have to attend 16 hours of continued

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education per year. [LB417]

SENATOR WALLMAN: Thank you. [LB417]

SENATOR GAY: Any other questions? I don't see any. Thank you, Doctor. [LB417]

DAVID KINCAID: Thank you, Senators. [LB417]

SENATOR GAY: Senator Dave Pankonin is here and, of course, Senator Mike Gloor came in too, so we're full force now. Thank you. We said you were in Retirement Committee so, dealing with that. [LB417]

LESLEY WALLS: (Exhibit 4) Mr. Chairman and members of the committee, my name is Lesley L. Walls. I'm both an optometrist and a medical doctor. I reside in Tulsa, Oklahoma, and I volunteered to come to testify for LB417, and I'm not being paid except direct expenses. [LB417]

SENATOR GAY: Could you spell your last name? Could you spell out that? What's your last name? [LB417]

LESLEY WALLS: Spell my name? [LB417]

SENATOR GAY: Yeah. [LB417]

LESLEY WALLS: L-e-s-l-e-y, middle initial L, last name like the four walls around you, W-a-l-l-s. [LB417]

SENATOR GAY: Okay. Thank you. [LB417]

LESLEY WALLS: In fact, my career has been both in medicine and optometry and I've been on the faculty of both medical schools and optometry schools my entire career. I was the Dean of the College of Optometry in Oklahoma at the time the practice act was expanded to include the things in the law that's before you now. That was back in 1988. I really think in my opinion that LB417 will help bring the Optometric Practice Act here in Nebraska in line with the education and training of the fine optometrists of Nebraska, and many of which have been my good friends for many years. My expertise is in medical and optometric education, and so I'll try to limit my talk to that and be done in less than five minutes. I've been on the curriculum committee in both medical schools and optometry schools, and so I understand curriculum. Medical school by the very nature of the beast has to prepare people to take care of heart disease, strokes, cancer, and life threatening things. And the medical school curriculum is based really on that fact, and subspecialty training in ear, nose and throat and things like ophthalmology are not emphasized. As a matter of fact, it's usually in electives during the fourth year that a

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student can get exposed to this kind of subspecialty training and very few students take it. The general medical school curriculum usually is between a half a day and three weeks. At the University of California at Davis where I attended, we had one half day of ophthalmology during our four years. On the other hand, optometry school is devoted heavily to ocular training, not to say that at the expense of other important things like general pathology, pharmacology and the things that you have to know to work in the healthcare system. So it's there, but the courses in ocular anatomy, ocular physiology, and the ocular pathology and the things that go on, there's no way to compare that to a medical school curriculum because it far exceeds it. And I'm not slighting medical education. I don't have an ax to grind, but there's just not enough time with all the vital organ things, hearts and lungs and brains and stuff that have to be taught in the medical education. And the preoptometry requirements are very parallel to medicine and the preoptometry tests parallels that of medicine, and the students as far as IQs and everything you can go, grade points, are very equivalent to those who go into medicine. Another thing that I think is important is that the clinical education of an optometrist doesn't have to parallel that of an ophthalmologist any more than me as a family doctor, my education would have to parallel that of a general surgeon. I did not train in general surgery, but I was exposed to a lot of surgery in medical school in my residency, and as a matter of fact, did a large amount of outpatient surgery not being trained in surgery. It goes with the education and training and likewise an optometrist can do a lot of the procedures, use the medications that ophthalmologists use on an outpatient basis. In summary, I would like to point out that ophthalmologists are vital to the healthcare system, desperately needed because of the surgical expertise they have, because of treating complicated ocular infections, and ocular trauma, very important. But likewise, optometrists are vitally needed and they're widely distributed in the rural communities and usually are the best educated and trained in most rural communities to deliver quality eye care. So I'm here in support of LB417 and I would be happy to answer any questions. And Mr. Chairman and members of the committee, I thank you very much from the bottom of my heart for the time that you've taken to listen to me. [LB417]

SENATOR GAY: You bet, and thank you for coming. Any questions from the committee? Senator Campbell. [LB417]

SENATOR CAMPBELL: Thank you, Senator Gay. Doctor Walls, in your experience since you are both a medical doctor and practitioner of optometry, how often would you say that there would be complications that might arise from the procedures that were described? [LB417]

LESLEY WALLS: Senator, that's an excellent question, and there's no question that any time you do procedures there can be complications arise. Part of the education and training is how to handle those complications. And so the state board will make sure...you know, that they make sure that the curriculum covers this. And one of the things I found as a family doctor and as an optometrist that when you need help from

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the subspecialists who, they have more expertise than I do, they're very happy to help with the patients. And I can assure you out in this great state of Nebraska, the optometrists and ophthalmologists on an individual basis are working very well together. It's politically that they have trouble. (Laughter) [LB417]

SENATOR CAMPBELL: Thank you, Doctor. [LB417]

LESLEY WALLS: Did I answer your question, Senator? [LB417]

SENATOR CAMPBELL: Yes, yes, you did. [LB417]

LESLEY WALLS: Thank you. [LB417]

SENATOR GAY: Any other questions? I think they'll all be good today though, probably, so. I don't see any other questions for you. Thank you. [LB417]

LESLEY WALLS: Thank you very much for your time. [LB417]

SENATOR GAY: You bet. All right, any other... [LB417]

LESLEY WALLS: And you do have a copy of my written statement. [LB417]

SENATOR GAY: Yes, yes, thank you. Other proponents? [LB417]

CHRISTOPHER WOLFE: (Exhibit 5) My name is Dr. Christopher Wolfe; it's spelled W-o-l-f-e. I'd like to begin by thanking the Health and Human Services Committee for allowing me to express my support of LB417 and my qualifications utilizing the additional authority that would be granted by this bill. I was born and raised in Nebraska. I completed my undergraduate work at the University of Nebraska at Omaha and am a recent graduate of Northeastern State University Oklahoma College of Optometry. Currently, I practice in Omaha with my father, Steven Wolfe. Dr. Walls has just given you an overview of current optometric training and how that training compares to medical education. Like medical doctors, dentists, and podiatrists, all of whom are allowed to perform surgical procedures within the state of Nebraska, my education included rigorous course work in systemic anatomy, physiology, pathology, immunology, and pharmacology. Like a dentist, whose medical education and surgical expertise relates to a patient's mouth, my education and training has uniquely prepared me to treat most eye diseases through medical and minor surgical means. During my training, I provided eye healthcare to patients with eye diseases spanning from the eyelids to the back of the eye, which routinely included the minor surgical and laser procedures that's included in LB417. After this training, I returned to serve patients in Nebraska because I have a great deal of pride in this state and the people in it. I regularly have patients who would benefit from the procedures I have the knowledge,

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education and training to provide safely and effectively. But rather than providing that care for them, under today's Nebraska law, I have to send those patients to another provider whom they have no relationship with, where they will have to incur another charge and pay another copay in order to have one of these simple procedures done. Just the other day I had a patient come into my office with angle closure glaucoma, which is a rapidly progressing condition that causes eye pain, brow pain, nausea and vision loss, which can become permanent vision loss due to a sudden increase of pressure inside her eyes. I effectively reduced that pressure with topical medications, but I could not finish the job by performing a simple laser procedure to prevent this from occurring again. That procedure is one I routinely performed during my training, and I am currently licensed in the state of Oklahoma to perform. I am confident that not only are optometrists qualified to provide this additional care, but in some cases we have more experience than our medical counterparts. In fact, my final rotation director informed me that I had more experience performing these procedures than the young ophthalmologist he had hired the year before. This enhancement of optometric practice will serve Nebraskans across the state by encouraging the best and brightest optometrists to practice right here. And we need to continue to attract top healthcare providers to our state, especially those who specialize in primary care services like optometrists. But unless Nebraska's law is updated to allow new graduates to fully utilize the range of education and training they receive today, they may not choose to practice in our state, and that would be a disservice to our citizens. LB417 will afford patients greater access to care without the burden of long drives and extra copays. And furthermore, these patients will benefit from safe, effective procedures performed by qualified and trained doctors. Our healthcare system in Nebraska will see greater cost efficiencies with fewer office visits required for this routine care. And again, I thank you very much for allowing me to address you today and thank you for your time. If you have any questions for me, please feel free to ask and I encourage the committee to support LB417. [LB417]

SENATOR GAY: All right. Senator Gloor. [LB417]

SENATOR GLOOR: Thank you, Chairman Gay. Dr. Wolfe, you mentioned that the state of Nebraska will realize and this isn't a quote, but paraphrasing, greater cost efficiencies. Explain to me the cost efficiencies as you see them. [LB417]

CHRISTOPHER WOLFE: Well, as an example, the patient that had angle closure that I described in my testimony, came into my practice and was billed an office visit, and subsequent procedures that I had to do to determine that she actually had this condition going on. So I treated her with medication to bring down that pressure, but in order to prevent that again I had to send her to another doctor, and he had to perform the same office visit, the same procedure to determine that this condition was going on and then another procedure to open that angle up so this doesn't happen again. So it was duplicated all the way up until that final procedure. And that's where...in addition to other

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drives, and I'm speaking specifically from Omaha, but in Omaha, when those cases arise, that whole insurance system was duplicated up until that procedure was done. [LB417]

SENATOR GLOOR: Okay. Thank you. [LB417]

CHRISTOPHER WOLFE: You're welcome. [LB417]

SENATOR GAY: All right. Senator Campbell. [LB417]

SENATOR CAMPBELL: Thank you, Senator Gay. Doctor Wolfe, first of all, thank you for coming back to Nebraska. [LB417]

CHRISTOPHER WOLFE: My pleasure. [LB417]

SENATOR CAMPBELL: In your knowledge of the training that you've had, is it relatively new for optometrists to have the training to do the procedures that are being asked for in this bill, or has it been a long time that you've been trained in this? [LB417]

CHRISTOPHER WOLFE: Well, absolutely not. In fact, like Dr. Walls referenced, back in 1988 the college of optometry where I was trained was providing this education. And so, no, I mean, 20 years in Oklahoma. Now, I can't speak specifically to other schools, but I do know that ASCO or the Associations of Colleges of Optometry have for a long time now, close to ten years, certify, you know, had a statement that said that they do ensure the background information to these procedures and the theory based on these procedures. [LB417]

SENATOR CAMPBELL: Thank you. [LB417]

CHRISTOPHER WOLFE: You're welcome. [LB417]

SENATOR GAY: Any other questions? I don't see any. Thank you. [LB417]

CHRISTOPHER WOLFE: Well, thanks again. [LB417]

SENATOR GAY: You bet. Thank you. Other proponents who would like to speak on this issue. I don't see any other proponents, then. We'll hear from opponents who would like to speak. [LB417]

TOM GRAUL: (Exhibit 6) Good afternoon, Chairman Gay, and members of the committee. I thank you for the opportunity to speak with you today. My name is Dr. Tom Graul, G-r-a-u-l. I'm an ophthalmologist and a glaucoma specialist in private practice here in Lincoln. I'm currently the president of the Nebraska Academy of Eye Physicians

and Surgeons, an organization of 87 Nebraska ophthalmologists whose mission is to promote the highest quality medical and surgical eye care for Nebraskans. I'd like to begin by saying that optometrists are an integral part of the eye care system in this country and our state, and will become more important as the need for eye care increases with our aging population. In my practice of seven subspecialists, we work together with optometrists for the benefit of our patients. I'd like to talk to you today about how LB417 may affect the quality and safety of healthcare for Nebraskans. This committee and our legislature are being asked to determine whether education matters for health professionals that perform complex procedures on our eyes and prescribe and administer potentially dangerous medicines. LB417 would allow optometrists to prescribe any pharmaceutical agent, including oral glaucoma medicines and oral steroids such as Prednisone. These medicines have significant systemic side effects, and when used improperly and without full knowledge of a patient's medical history, may result in significant illness or death. Ophthalmologists, even with their full medical education, rarely prescribe these medications. LB417 would allow optometrists to administer medicines and diagnostic agents by injection. Ophthalmologists, even with a full medical education, rarely administer medicines by intravenous line. One invasive diagnostic test administered intravenously that this legislation would allow is fluorescein angiography. It is performed primarily by retina specialists for the diagnosis of retinal vascular disease and macular degeneration. This test can cause patients to faint and carries the risk of heart attacks and life-threatening allergic reactions, complications which require immediate care by a medical doctor. LB417 would allow optometrists to perform surgical procedures to the front aspect of the eye and the lids. Many minor surgical procedures appear to be easy, because they can be performed in a brief amount of time. However, quick should not be confused with simple. Any surgical procedure to the lids carries risks of bleeding, infection, lid malfunction, cosmetic deformity or inadequate incision of a cancerous lesion. Surgical procedures to the front of the eye carry risks of vision threatening infection and vision limiting scarring. LB417 would allow optometrists to use lasers. Lasers are surgical instruments used to cut, burn or vaporize living tissue. Laser surgery permanently alters tissue and thus can cause permanent damage, vision loss or blindness. Without thorough training and experience, lasers can be extremely dangerous. Laser surgery demands much more than mechanical skill. It requires the judgment that only comes from mentored apprenticeship received during a three-year ophthalmology residency. As a subspecialist myself, other highly trained ophthalmologists often refer patients to me for some of the same laser treatments that optometrists would be allowed to perform under this legislation. This concerns me greatly. Surveys indicate the public is not in favor of surgery by practitioners without a medical education. In a 2005 National Consumer League survey, more than 90 percent of respondents preferred an ophthalmologist to perform advanced eye procedures including injecting medicines, laser, and surgery. In 1998 the Oklahoma Legislature permitted laser surgery by optometrists despite public opposition. Since then, 27 states and the District of Columbia have rejected legislative attempts by optometry to gain surgical privileges. Forty-nine of 50 states reject the

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scope of practice for optometrists that is present in this bill. Why should Nebraska enact a law that is contrary to this national standard of care? In December, 2004, the Veteran's Administration issued a directive declaring that only ophthalmologists will perform laser eye surgery on veterans in VA facilities. Again, we must ask, why should our state enact a law that is contrary to a national standard of care? There is no public outcry for this legislation because there is no shortage of medical and surgical eye care in Nebraska. As you will hear from Dr. Peters, access to an ophthalmologist in our state is excellent. The skills needed to perform surgery with a scalpel or laser, inject a medicine, prescribe a narcotic, require the foundation of a medical education and medical internship, and the specialized surgical training that only an ophthalmology residency provides. Nebraska deserves medical and surgical eye care by the best qualified and best trained doctors. We strongly believe that LB417 compromises patient safety and quality healthcare for Nebraskans. Thank you for the opportunity to discuss our concerns. I'd be happy to take any questions. [LB417]

SENATOR GAY: Thank you, Doctor. Any questions from the committee? I don't see any. [LB417]

TOM GRAUL: Thank you very much. [LB417]

SENATOR GAY: Thank you. Other opponents. [LB417]

JOHN PETERS: (Exhibit 7) Good afternoon, ladies and gentlemen. My name is John Peters. I am a solo, private practice ophthalmologist from Omaha where I have been in practice for over 15 years. During that same period of time, I have served as a volunteer faculty member at the University of Nebraska Medical Center, and I am actively involved in the education and training of ophthalmology residents with lectures, inpatient consultations, trauma call and emergency surgery. I am here today to testify against LB417. For the sake of brevity, I will limit my testimony for the most part to the issue of access to care, as this is frequently espoused by optometry as justification to expand its scope of practice, while not advancing education, training, and skills to that of the currently held requirements which are only fulfilled by an ophthalmologist. For a perspective, I would like to first make the point that the vast majority of eye procedures are non-emergent, and can therefore, be scheduled electively and be performed by the ophthalmologist under optimal conditions. In practice, I would also argue that those rare cases that are emergencies are exactly the ones that should be performed by an individual with the highest level of training and experience, an ophthalmologist. As in other states with rural populations, achieving this level of service is potentially problematic, so let us review some of the circumstances. There are currently 96 active ophthalmologists in the state of Nebraska with 40 primary locations throughout the state. Additionally, ophthalmology services are provided on a regular basis at a total of 47 satellite clinics within Nebraska. The providers, locations, and frequency of those clinics are listed on pages 3 and 4 of your handout. When considering the adequacy of

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geographic coverage of such services, it can be helpful to evaluate, among other details, a given distance or radius from existing clinic locations. To that end, I have provided a map on page 5 and I'm not providing the poster that I have listed in the testimony. I've included a 30-mile radius encircling each of the primary and satellite clinics in our state. This map demonstrates excellent coverage of the state's population. If one prefers a mathematical representation of this coverage, consider that 99.3 percent, and there's a typo on your map that says 5, it's 99.3 percent of Nebraska's population is within 30 miles of an ophthalmologist's primary or satellite clinic, and 99.8 percent are within 50 miles. Additionally, 63 percent of the state's population lives in a town with an ophthalmology primary or satellite clinic. In regard to access, the Nebraska Academy of Eye Physicians and Surgeons has received zero complaints from patients, consumer groups, insurance companies, healthcare facilities, or even directly from optometry. If there were complaints, we would gladly work with those involved to address that situation. In considering the issues of access, we commonly hear from our patients that they expect to receive their care from an experienced and highly qualified individual, and they frequently say they want the best. This bill's provision runs contrary to that expectation. The public expects, and deserves, the highest quality of care and assurances that these standards are being met. Currently, such individuals must complete the rigorous training of medical school, internship, and ophthalmology residency, and the public has been well-served in this capacity. Conspicuously, to the best of our knowledge, there is nothing in this bill that elevates the training, education, and skills of optometrists to match that of ophthalmologists who currently provide the services mentioned in the bill. In fact, optometry specifically requests in this bill that they provide their own regulation. Their request occurs without meeting the appropriately high standards that have been required for decades. I would agree that in some areas of life under particular circumstances, convenience trumps quality. But in this room today, we are not discussing easily exchangeable and equivalent commodities such as things like gasoline or coffee or paper. As Dr. Hejkal will discuss in his testimony, we are talking about two distinct professions, with different levels of training. We are talking about the health of our citizens. I think you would agree with me that for the consumer of medical care, quality and expertise are crucial, and we know from various surveys and studies that consumers are not always able to readily discern the qualifications of their providers, yet they overwhelmingly desire that a licensed medical doctor perform the type of procedures requested in this bill. Such providers, namely physicians and surgeons, are developed through a necessarily lengthy and arduous process to ensure their knowledge, skills, and training will serve the public in a safe and effective manner. They are not created by legislation. With this in mind, I ask you to please join us in protecting the citizens of Nebraska by opposing LB417. [LB417]

SENATOR GAY: Thank you. Are there any questions? Senator Gloor. [LB417]

SENATOR GLOOR: Thank you, Senator Gay, and thank you for your testimony, Dr. Peters. In your experience, do members of the general public really understand the

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difference between ophthalmologists and optometrists? [LB417]

JOHN PETERS: In a particular survey that was performed, over 30 percent of the public was not able to discern the difference between the two. [LB417]

SENATOR GLOOR: Okay. Thank you. [LB417]

JOHN PETERS: And I'd be happy to provide the details of that survey if you should require it. [LB417]

SENATOR GLOOR: That would, in fact, be much appreciated. [LB417]

JOHN PETERS: I'm happy to do so. [LB417]

SENATOR GAY: Any other questions? I don't see any. Thank you. [LB417]

JOHN PETERS: Thank you. [LB417]

SENATOR GAY: Thank you. [LB417]

THOMAS HEJKAL: (Exhibit 8) Chairman Gay, Senators, my name is Dr. Thomas Hejkal, T-h-o-m-a-s H-e-j-k-a-l. I'm professor, vice chair and director of residency training for the Department of Ophthalmology at the University of Nebraska Medical Center. I have held that position as program director for 13 years. Although I am employed by the University, I'm not speaking as its representative today. Any opinions I express are my own. I'm here to speak in opposition to LB417. After serving as program director for over 30 residents in my tenure, I can assure you that to achieve the competence to safely perform the procedures included in this bill, and to safely prescribe or administer the drugs included in this bill, requires extensive training and experience not only in medical problems of the eye, but also in medical problems that affect the whole person. Ophthalmologists receive this training; optometrists do not. Ophthalmologists are medical doctors as you've heard, physicians. They must successfully complete four years of medical school. Optometrists do not go to medical school and do not get general medical training. After medical school, four years of residency training are required to become an ophthalmologist. The first year is one of intensive training in general medicine. Under the careful supervision of teaching physicians, residents are responsible for the care of sick patients in the office and in the hospital. They manage patients with multisystem diseases. Optometrists get none of this experience. For example, while optometry students will learn in course work in the classroom about possible complications of steroids such as Prednisone, they do not get experience seeing and managing these complications. However, when the ophthalmology resident orders Prednisone, he or she can effectively counsel the patient, monitor for side effects, because in medical school and residency the

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ophthalmologist has seen and managed patients with high blood sugars, bleeding ulcers, osteoporosis, psychosis, all of these things that can be serious side effects of steroids. Other drugs used to treat eye conditions can also cause serious life-threatening side effects. Except for high level narcotics, this bill has no restrictions on what medications can be prescribed by the optometrists. A doctor must have the knowledge and the practical experience achieved in medical school and the first year of residency to safely utilize these medications. Optometrists have no general medical training and experience caring for seriously ill patients, and allowing anyone without this training to prescribe these medications is a disservice to our citizens. Ophthalmologists receive extensive supervised surgical training and optometrists generally do not. In the three years of training following the general medicine year, ophthalmology residents personally examine some 10,000 patients who have a complete range of eye problems. Then under direct supervision, they gradually progress to independently perform eye surgery by the time they finish. Our residents average a total of 700 to 800 surgical cases, over 45 laser procedures of the type specified in this bill, and over 90 surgical cases involving the eyelid and surrounding structures. Optometrists do not get this sort of training and are not qualified to safely perform these procedures. Eye surgery, even with lasers, is not simple. There is little room for error. For example, in a laser treatment for glaucoma, which would be allowed in this bill, missing the mark by even a few thousandths of an inch can make the glaucoma much worse instead of better. Besides learning the technique, it may be even more critical to have the skill and judgment to determine whether or not a procedure is necessary, identify patients with increased risks, evaluate and manage complications. And without this expertise, patients are at risk of unnecessary procedures, complications that put the patient at risk for losing sight. I respect my optometry colleagues. I work with some of the best optometrists in the business. I believe they are important in eye care. I have trained former optometrists who went back to medical school to become ophthalmologists. I can assure you that those optometrists needed just as much training and experience as our nonoptometrist residents to achieve competence. Legislation cannot replace education needed to ensure the best healthcare for Nebraskans. Thank you for allowing me the opportunity to speak in opposition to LB417. I'd be glad to answer any questions. [LB417]

SENATOR GAY: Thank you. Senator Wallman. [LB417]

SENATOR WALLMAN: Thank you, Chairman Gay. Thank you for testifying, Doctor. What is the median age of ophthalmologists? Do you know, in Nebraska? [LB417]

THOMAS HEJKAL: I don't know. [LB417]

SENATOR WALLMAN: Roughly, just roughly. [LB417]

THOMAS HEJKAL: I don't have a clue about the median age of ophthalmologists. I don't know. I don't know. [LB417]

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SENATOR WALLMAN: Well, I was just wondering you know, thanks. [LB417]

THOMAS HEJKAL: Sorry. We could probably get that information but I don't have it on. [LB417]

SENATOR WALLMAN: That's okay. [LB417]

SENATOR GAY: Senator Pankonin. [LB417]

SENATOR PANKONIN: Thank you, Chairman Gay. Doctor, thank you for coming today. As I'm aware, or we're all aware, this is going to 407 review and do you see some middle ground of some procedures that may, that may be changed? And I'm going to preface that question with another step. Unfortunately, in my own busy life, the number one...and I'm not saying this is correct maybe, but convenience of, you know, one doctor's appointment and then go to another one. It's terrible say, I don't have time for it if at all possible. If a one stop can do more, that's what I want. Obviously, I want the competency as well. Do you see some...do you see, because you're in the educational field, do you see some movement to where some changes may happen in a 407 review? [LB417]

THOMAS HEJKAL: I see some possibilities for that but the things that are included in this bill I think I would... [LB417]

SENATOR PANKONIN: Too broad in your opinion? [LB417]

THOMAS HEJKAL: Much too broad. [LB417]

SENATOR PANKONIN: Okay. But do you see some procedures that could be? [LB417]

THOMAS HEJKAL: Possibly. [LB417]

SENATOR PANKONIN: All right. Thank you. [LB417]

SENATOR GAY: All right. Hold on. Senator Gloor. [LB417]

SENATOR GLOOR: Thank you, Chairman Gay. Doctor, can you tell me, what are, in layman's terms, what are some of the complications of some of the, like Prednisone drops and some of the other things we're talking about here? [LB417]

THOMAS HEJKAL: The Prednisone drops are not so much the issue. The complications that can be included, though, with the drops are cataracts, increased risk of fungal infections and viral infections in the eye. And this is already permitted in our

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current law for optometrists to prescribe drops. What this bill is requesting is oral medications and even injectable medications such as long-acting steroids which can cause severe problems with long-term glaucoma that can be very difficult to manage. The oral medications, as I mentioned, can cause bleeding ulcers; they can cause osteoporosis; they can cause depression of the immune system. They're fairly significant side effects that are fairly common. [LB417]

SENATOR GLOOR: But how is the ophthalmologist going to know about these side effects? I mean, if I end up with a bleeding ulcer, I'm not likely to call my ophthalmologist, who I trust dearly. I'm more likely to go to some other practitioner for treatment of those particular illnesses. [LB417]

THOMAS HEJKAL: Certainly. The ophthalmologist, though, is aware of patients who, after seeing these patients, handling these patients in the hospital, in the office, during medical school, during residency, is much more intimately aware of the possibilities. People who are at risk for these complications can prescribe other medications that may...such as Zantac to help prevent the possibility of ulcers with the medication of steroids and other things to help protect the patient and certainly counsel them about these things because they've seen these problems. [LB417]

SENATOR GLOOR: Okay. That helps. Thank you. [LB417]

THOMAS HEJKAL: Sure. [LB417]

SENATOR GAY: All right. Any other questions? I don't see any. Thank you. [LB417]

DAVID BUNTAIN: Senator Gay, members of the committee, I'm David Buntain, B-u-n-t-a-i-n, registered lobbyist for the Nebraska Medical Association. And I want...I'm here to make one very simple point and that is, that this is often portrayed as an issue of the ophthalmology versus optometry. And I want to make the point for the committee that this bill is a matter of concern to all physicians in the Nebraska Medical Association not just our eye physicians and we have...our members have concerns about this proposed expansion and scope of practice. I'd be glad to respond to any questions. [LB417]

SENATOR GAY: All right. Thank you. Any other questions? I don't see any. Thank you. [LB417]

DAVID BUNTAIN: Thank you. [LB417]

SENATOR GAY: Other opponents. Any other opponents who want to speak? All right. We'll close it for opponents. Anyone neutral who would like to speak on this issue? [LB417]

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JONI COVER: Good afternoon, Senator Gay, members of the committee. My name is Joni Cover, it's J-o-n-i C-o-o-v-e-r, and I'm the executive vice president of the Nebraska Pharmacists Association. I appear before you today in a neutral capacity basically to let you know that the Pharmacists Association has not been a part of the discussion on therapeutic contact lenses with the Nebraska Optometric Association as of yet. That's not a slam against NOA, it's just we don't know what they entail. We are checking with our national organizations and we are checking with the other states. I do know that there are some other states who have no problem with optometrists dispensing them. I do know there are some states that do have a problem and we're just trying to get more information. I appreciate that the NOA asked on the 407 review committee that a pharmacist be a part of that because we are talking about dispensing a new kind of therapeutic contact lens and we appreciate that, so. I just wanted to merely come forward and say that we are a part of the discussion and I thank you very much. [LB417]

SENATOR GAY: All right. Thank you, Joni. Any questions? I don't see any. Thank you. [LB417]

JONI COVER: Thanks. [LB417]

SENATOR GAY: Anyone else neutral on this issue? I don't see anyone else coming forward. And Senator Friend waived his closing, so we'll close the public portion of LB417. Thank you all for coming on LB417. Senator Christensen is waiting in the wings I see over there for LB444. Senator Christensen, go ahead. [LB417]

SENATOR CHRISTENSEN: Thank you, Chairman Gay, and fellow senators and members of the Health and Human Services Committee. I'm Mark Christensen, M-a-r-k C-h-r-i-s-t-e-n-s-e-n. I represent the 44th Legislative District and I'm here to introduce LB444. LB444 adopts the Escort Service Accountability and Licensing Act. This act defines escorts and creates a licensed structure for escort agencies and their employees. It is the intent of the bill to bring accountability to the industry and lessen the potential for crime and the negative secondary effects that such businesses cause in the communities. LB444 would additionally provide a new tool for law enforcement officers as they seek to curb illegal activity connected with the industry. On March 22 of last year, the Lincoln Journal Star ran a front-page article by Deena Winter, titled "Police struggle with escort enforcement." This article will be provided to you in a packet put together by a testifier following me. In the article it discusses how some escorts are just fronts for prostitution, and without regulation of the industry it is difficult for police to bring enforcement. Police Chief Tom Casady explains how some escort operators have kind of a don't ask-don't tell policy between them and their employees, which makes it difficult to go after the escort operator. The Lincoln Police Department has attempted to address regulating escorts with model ordinances from Wichita, Kansas, but have been unable to accomplish any regulation with the city council. LB444 is loosely based off the

idea from a draft of an ordinance the Lincoln Police Department was working on. The article from the Lincoln Journal Star rightly pointed out that legal escorts can do almost anything short of having sex: from lap dances to nude massages. In addition, it points out that escorts don't have to hit the streets for clients; they can advertise. In the packet I mentioned earlier, we will provide copies of examples of advertisements currently in the yellow pages. It becomes clearer when you look at these advertisements, that some are most likely pushing the envelope between the legal and illegal activity. The private nature in which employees of escort businesses would create a climate where the line between legal and illegal activities is easily crossed. Assistant Police Chief Jim Peschong said in an article: It's kind of like we're choosing to turn a blind eye to prostitution. Though prostitution and other crimes are notoriously connected with these businesses and are serious enough to address the issue, our study has led us to another modern problem, and that is called human trafficking. Evidence is emerging nationally and internationally that some of these types of escort businesses are engaging in the exportation of women and underage girls and boys through human trafficking. Recently I read in the newspaper about two Fremont girls who ended up in Iowa through human trafficking. In that incident, an Iowa man was convicted under Iowa's human trafficking laws. Several testifiers following me will address the aspects of these businesses, including Dr. Hampton from the University of Nebraska who has worked at the federal level and internationally, regarding human trafficking. In light of these findings, the Escort Service Accountability and Licensing Act creates four new misdemeanors. LB444 makes it unlawful for a person to operate an escort agency without a license; for an escort agency to employ an individual who is not a licensed escort agency employee; for a person to hold themselves out as an escort agency or use or display the word escort agency without a license; and for a person to act as an escort agency employee without a license. The violations of operating without a license, hiring someone without a license, and holding oneself out to an escort agency would be a Class II misdemeanor. A violation of acting as an escort agency employee without a license would be a Class IV misdemeanor. This act defines escort by defining certain activities or service employees of a business that would have to engage in or furnish to designate an escort. Only licensed agencies and individuals would be allowed to operate in Nebraska. Fingerprints, criminal background checks, and other personal information would be required at the time of application. No felons or persons who have committed several misdemeanors would be allowed an escort agency license or escort agency employee license. An application for an agency license would also require an agency to have an address and information about the property and neighboring properties. An initial application fee for agency license would be \$1,000, with a \$500 annual renewal. Initial application fee for an employee license would be \$200, with a \$100 annual renewal. In addition, LB444 requires that an individual in the industry be the age of majority, which is currently 19 of age. Also LB444 would require an escort agency to maintain an up-to-date registry of all patrons for the preceding seven years. I know that there will be...has been a stigma placed on this bill. I've heard about the joking directed towards the bill and at me for bringing what seems to many to be a

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frivolous moral crusade. However, I ask the question: What is so funny about the human misery, disease, and self-destruction which comes from prostitution? What is so funny about theft and other crimes that bring blight and cost to our communities? What is so funny about an industry ripe for the exploitation of women and underage girls and boys, which is the stench we call human trafficking? These things aren't very humorous. If we are going to allow escort businesses in Nebraska, shouldn't we make some effort to regulate the industry so that they are not flaunting our prostitution laws by advertising everything short of prostitution in the yellow pages? At the very least, shouldn't we demand that some real pressure be put on them not to cross the line into illegal activity? I know that this is an uncomfortable topic that some would like to just not have to deal with, but I hope you can have a serious, constructive discussion today about the idea of LB444, which would bring some accountability to these businesses and some deterrents to further expansion of illegal activities connected in this industry. I encourage you to advance LB444 to General File and I thank you for your consideration. I'd be glad to answer any questions. [LB444]

SENATOR GAY: Thank you, Senator Christensen. Senator Stuthman. [LB444]

SENATOR STUTHMAN: Thank you, Senator Gay. Senator Christensen, can you explain to me the difference between--and I've been reading the bill while you was giving your opening--an escort and an escort agency employee? What would be...what is the difference there as far as the individual escort or the agency employee? [LB444]

SENATOR CHRISTENSEN: Well, you could have someone that's working in the agency that's just lining up the work for the people that would be just an employee versus the one that's actually going out and seeing the clients. [LB444]

SENATOR STUTHMAN: And that individual would be identified as the client, would be the escort? [LB444]

SENATOR CHRISTENSEN: The client would be whoever is hiring them. The employee going out, or the escort, would be the one going out to see them. [LB444]

SENATOR STUTHMAN: Okay. Thank you. [LB444]

SENATOR GAY: Senator Gloor. [LB444]

SENATOR GLOOR: Thank you, Chairman Gay. Senator Christensen, I understand the intent of what you're trying to accomplish, I believe, as well as some of the expectations behind licensure and background checks and so on and so forth. And I don't understand why you're going to keep a list of clients for seven years. I don't understand that component of your bill. Could you explain that to me? [LB444]

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SENATOR CHRISTENSEN: Well, I don't know if I can explain. That was kind of in the model legislation that also would allow checks if people have come in illegally, underage, different things, and lied about their ages. It gives the police the ability to check on that and see if there's been. Also in the human trafficking, it's quite often linked through the activity of different clients bringing people through, and it would be able to track...it was just a tool they said that helps in the tracking of what's going on with bringing people through to be trafficked. But probably somebody behind me can better answer that question. [LB444]

SENATOR GLOOR: Thank you. [LB444]

SENATOR GAY: Senator Wallman, did you have a question? [LB444]

SENATOR WALLMAN: Yeah, thank you, Chairman Gay. Welcome to this committee here, Senator. [LB444]

SENATOR CHRISTENSEN: Thank you. [LB444]

SENATOR WALLMAN: And I know Captain Jim Peschong personally and for a long time. Was this a concern of his, the escort services? [LB444]

SENATOR CHRISTENSEN: The escort service? Well, I'm referring to his article. I didn't talk to him personally. [LB444]

SENATOR WALLMAN: Oh, okay. I didn't either. [LB444]

SENATOR CHRISTENSEN: But you'll get a copy of that article that he had. [LB444]

SENATOR WALLMAN: He usually sends me stuff if he's concerned. Thank you. [LB444]

SENATOR GAY: Senator Campbell. [LB444]

SENATOR CAMPBELL: Thank you, Senator Gay. Senator Christensen, I wasn't sure from the article--and I have to tell you my memory fails me here--did the Lincoln council not enact it or not take it up or...? [LB444]

SENATOR CHRISTENSEN: It's not enacted as I understand. They didn't get it passed. [LB444]

SENATOR CAMPBELL: But they did propose it, you're saying. [LB444]

SENATOR CHRISTENSEN: I know they had discussions on it. I don't know if it was

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voted down or just wasn't dealt with. I'm sure somebody behind me can answer that though. [LB444]

SENATOR CAMPBELL: Okay. Because the purpose of the question would be, is this an issue that's better left to the municipalities across the state to deal with it through an ordinance or is it a question of what we need to handle at the state level? [LB444]

SENATOR CHRISTENSEN: Well, if you're going to go after the human trafficking side of things, then you're going to have to go on the statewide level. Nebraska is in the center of the United States. They have found four already in human trafficking in this state, just by accident, not by necessarily going after it. And the university has done a lot of research on there. I think you'll be able to visit with the gentlemen from there, and I hear they are the leading researchers on the problem of human trafficking. [LB444]

SENATOR CAMPBELL: Thank you, Senator. [LB444]

SENATOR GAY: Senator Howard. [LB444]

SENATOR HOWARD: Thank you, Mr. Chairman. Thank you, Mark, for bringing this bill that's not scope of practice. (Laughter) I'm wondering, in looking at this, you've got Class II misdemeanor for one section and then another Class IV misdemeanor. How would you envision enforcing this? How would you know if a crime had been committed, if the bounds had been overstepped? [LB444]

SENATOR CHRISTENSEN: Well, if it comes down to, one, just not being registered. If the police have a sting or they arrest somebody, you know, they can...that tells them what they can go do. Restate the question. [LB444]

SENATOR HOWARD: Well, I'm just wondering how you're going to enforce your bill and if there are penalties involved. Would it be a matter of reporting? Someone is going to call the police and say this has happened? What would you envision? [LB444]

SENATOR CHRISTENSEN: Well, I think once you have the licensed agencies, you'll be able...the police will be able to track things. But if they run across...you know, they run that sting in Omaha where they caught an individual and they're prosecuting. They'd be able to check the validity of the organization and then actually go see if they are registered and how it works. I guess that's the way I see it, so I'm just providing the police a tool to be able to use in their stings to apply this. [LB444]

SENATOR HOWARD: Some kind of clout to put some enforcement into it? [LB444]

SENATOR CHRISTENSEN: Correct. [LB444]

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SENATOR HOWARD: You know, you hear stories about housewives that...not that I have any familiarity with this, but you do hear these stories about individuals that sort of set up a business. (Laughter) And I'm wondering if that would sort of curtail that, but. [LB444]

SENATOR CHRISTENSEN: Well, you would hope so. And if they got caught doing that and didn't have a license, you've got more grounds to come after them. Because, one, even if they don't catch the act, you now have them because they're not registered. [LB444]

SENATOR HOWARD: Okay. It's interesting...interesting idea. Thank you. [LB444]

SENATOR GAY: Any other questions? I have a question, Senator Christensen. So and to follow up with Senator Campbell's question, can municipalities currently pass an ordinance on the escort service portion of it? [LB444]

SENATOR CHRISTENSEN: I'm sure they could. Yes. [LB444]

SENATOR GAY: They can. Okay. [LB444]

SENATOR CHRISTENSEN: Yeah. [LB444]

SENATOR GAY: And then maybe you...I'm going to ask this question to you, but if you feel this university person can answer it better. Is human trafficking a separate issue though, or the correlation between the two I'm kind of not getting. Do you think he will explain that? [LB444]

SENATOR CHRISTENSEN: Well, I guess what they're...as has been explained to me, and I'm sure he can explain it better behind me, is the fact that in moving them through the state they make the connections through the escorts that they're using right now to send out through people, and they move them and they trap them into...it's kind of a trapping industry. I read some stuff the other day on the Internet how this works with the human trafficking. For an example, one of them they said mail order brides. They'll come over here with the promise of a husband and then now that they've got them here and they've got them trapped and indebted, they force them to work it off into prostitution to get out from underneath them and get them trapped into this industry. And they move them across the United States so that they're not caught. It's part of the movement within that industry. But I think they can better explain that behind me. [LB444]

SENATOR GAY: And then do you know, is the State Patrol or somebody working with federal officials on trafficking issues, though, now that...do you know anything about that? That they're probably... [LB444]

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SENATOR CHRISTENSEN: I've heard they are. I don't know if...I believe we have someone here from that department but I'm not positive. [LB444]

SENATOR GAY: All right. Any other questions? I don't see any. Thanks, Senator Christensen. [LB444]

SENATOR CHRISTENSEN: Thank you. [LB444]

SENATOR GAY: All right. How many proponents will be speaking? About five, six, about seven people. Are there any opponents here today? About four opponents. Okay. All right, we'll hear from proponents first. While we're getting ready to hear, about 3 o'clock I'm going to be leaving. I've got a family commitment that I've got to go to, and I will turn it over to our Vice Chairman Senator Pankonin, and like I say, people are coming and going on other bills, too, so. Okay. [LB444]

AL RISKOWSKI: (Exhibit 1) Well, thank you, Senator Gay. My name is Al Riskowski. It's R-i-s-k-o-w-s-k-i, from Nebraska Family Council. How I got involved in this was interesting enough. I was looking under excavating contractor--we have some farm ground--and I ran across escort services about four years ago. And when I read the large ads I was just amazed. And inside the packet there are a number of ads I photocopied right out of the yellow pages. The top one is out of the current Windstream yellow pages. If you open it up, you'll see these tremendous ads that are in here, of madams and mistresses. And they're referring to, in many of them, they'll go wherever you want them to go: a hotel, a home, wherever you want 24 hours a day. With a number of the telephone numbers are 601s, which I'm told is Cricket. You don't have to have a contract in order to get those telephone numbers. One thing if you'll notice, if you go through all of them, none of them have an address or any kind of identification: only a phone number that they want you to call. And so when I saw that I wondered, what is this? And the first person I went to was Police Chief Tom Casady, and he confirmed my assessment that escort services are often associated with prostitution. I called him and said can you be here today, and he was not able to be here today. But he said if you would just refer to my article of a year ago, he said I tell you all about it. And this is the article. This is a photocopy out of the Lincoln Journal Star that Senator Christensen referred to about a year ago. And this was one of his top three priorities, was to get some sort of legislation done here in the city of Lincoln; however he was not able to accomplish that. But he did give me the legislation that he was attempting to get passed. And in reality, it is a better piece of legislation to be introduced into the state than rather a municipality, because a number of these escorts, they advertise all up and down the interstate, and they need to be approached as a statewide multistate-type organization. I sent the bill to Colonel Bryan Tuma who was the superintendent of the Nebraska State Patrol. He reviewed LB444. He sent me back a letter and I put a little quote in here from him that they technically reviewed it, and any changes that he

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suggested, we made to this bill at this time. We also spent a number of time, Senator Christensen's office and myself, an afternoon with John Gale, the Nebraska Secretary of State, talking about the bill. He made some suggestions. We made those changes. As well as Mike Behm, the chair of the Crime Commission, we sat down with him. We took into account his suggestions, as well, in regard to this bill. As Senator Christensen inferred, not only is prostitution a problem with this type of agency, but we firmly believe that a number of them are using underage runaway children, as well as human trafficking, as employee. One thing that I discovered is that the state of California is closely watching escort-type services for this very reason. They have identified them as to be a prime carrier of these type of individuals. Currently, the United States Department of Health and Human Services is designated as the agency responsible for helping victims of human trafficking. The HHS definition of human trafficking not only includes illegal immigrants that are brought to the United States, but teen and preteen U.S. citizens who are runaways. The Rescue and Restore campaign is being launched. "Look Beneath the Surface" is its current theme. Could I ask for just a couple more minutes? I usually don't but I--if you want to shut me off you certainly can--just to go through a couple things here quickly. [LB444]

SENATOR GAY: I'll let you have one or two, but if I do that to everybody... [LB444]

AL RISKOWSKI: Okay, thank you. I understand and I've not ever, you know, I've never asked for that before, but this is one kind of a unique situation for me anyway. [LB444]

SENATOR GAY: All right. Go ahead. [LB444]

AL RISKOWSKI: Thank you, Senator Gay. They have a campaign called "Look Beneath the Surface." And someone else will be referring to that a little more and talking about that. But they, HHS is defining what is happening, as the current day equivalent to slavery. That's the way HHS is defining what is happening. And they've developed a Web site that explains how escort-type agencies are able to force children and young women to perform their services. There are 14 in the Lincoln yellow pages that advertise that I counted recently. There are many more in Omaha. Like I said, a number of these advertise in multiple cities here in the state of Nebraska. I have an article in here by one of the escort service owners, spoke to Lincoln Journal Star..., called herself Reese DeBaccio--not her legal name--from Allure Entertainment. Allure Entertainment advertises, that I found, in Lincoln, Omaha, Council Bluffs. She states in there, this is an ugly business. And I believe that it is an ugly business. As Senator Christensen made reference, I put in your packet a man, sentenced to 25 years, picked up two teenage girls who ran away from Fremont. They picked them up and forced them into prostitution in Council Bluffs. This is just a very recent story. It's in your packet. Also six men were caught in a sting operation--this is just recently in the Omaha World-Herald--and are being currently prosecuted, and they used advertisement as would be done through a escort-type service. Also probably one of the most popular cases or well-known cases is

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the ex-New York governor, about two years ago, who through escort service was caused to leave his occupation as a governor. Escort-type services are certainly immoral. You know, if they would function within the law this bill would create a minimal standard for them to follow. If any of the employees are caught in prostitution, it would give local authorities a means to prosecute the agency. And that's one problem that Chief Casady mentioned to me, is that they may catch an individual in prostitution but they can't go after the agency itself, because they tend to create this buffer zone between them. This would provide a responsibility and accountability by that agency for the actions of those employees. It would also provide a second point, and that is if in fact we can identify some runaways or human trafficking being involved, it will help them get the help that they deserve, because these kind of individuals don't belong in jail. They need to be brought out of the system and provided some help. And the HHS has set up a hot line, a resource to assist with this need. And so I believe that this bill is a reasonable first step to take here in the state of Nebraska in regard to helping to control this difficult and dark issue. Thank you. Any questions? [LB444]

SENATOR GAY: Thank you. And let's see if there's any questions for you. I don't see any. One thing I do want to say and I'm going to be leaving soon. But you know, we have two other bills and I allowed you to go over a little. We had 12 people that want to talk on this bill, alone, and for those of you waiting on the next two bills, we could easily be here until later. I don't want to cut anyone off. [LB444]

AL RISKOWSKI: Yes, I understand. [LB444]

SENATOR GAY: But that's why we have had a light system all year and I'd hate to start breaking our own rules, since these people are going to be here for the rest of the balance. So with that, any questions? I don't see any for you. Thank you. [LB444]

AL RISKOWSKI: All right. Thank you. [LB444]

SENATOR GAY: And then I will turn this over to Senator Pankonin. Thank you, Senator Pankonin. [LB444]

SENATOR PANKONIN: Thank you, Senator Gay. Next proponent testifier. [LB444]

RON HAMPTON: If I could allow my colleague--I'm Ron Hampton from the University of Nebraska--to come up, we could do it together if that would be okay? [LB444]

SENATOR PANKONIN: That would be fine. [LB444]

RON HAMPTON: All right. Thank you, Senators, for the opportunity to come and testify today in support of LB444. First of all, let me say that we're very pleased that you've already put on the books several pieces of legislation with regard to human trafficking.

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[LB444]

SENATOR PANKONIN: Sir, I'm going to have you both spell your names out for our clerk and transcriber. [LB444]

RON HAMPTON: Okay. I'm sorry. That's Ronald Hampton, H-a-m-p-t-o-n R-o-n-a-l-d. [LB444]

DWAYNE BALL: And I'm Dr. Dwayne Ball, D-w-a-y-n-e B-a-l-l. [LB444]

SENATOR PANKONIN: Thank you. [LB444]

RON HAMPTON: I'm chair of the marketing department. And you say, what's marketing got to do with this bill or human trafficking? And let me assure you that this is truly a very complex marketing system in play. These are expert marketers buying and selling, if you will, human beings. In many cases providing those kind of services. And our specific passion and interest began about four years ago in this area of human trafficking; that is, slavery. And we were subcontracted with the International Organization of Migration, which is funded by the USAID, the State Department, United Nations, and various European organizations in order to combat trafficking. And so we have done three intensive studies in the context of just trafficking of individual victims outside the boundaries of Ukraine as well as four other, if you will, eastern European states, including Belarus, Moldova, Bulgaria, and... [LB444]

DWAYNE BALL: Romania. [LB444]

RON HAMPTON: ...Romania. Thank you. It's a good thing that Dwayne is with me. Our findings...and I'll let Professor Ball talk about the findings. [LB444]

DWAYNE BALL: Okay. Well, first of all, when we arrived four years...what's relevant here is that what you think you know may be wrong. We did the first scientifically designed study of the amount of trafficking anywhere in the world as far as we know. And when we arrived in Ukraine, we were given secondary data that showed that about 600 young, mostly young women came back to the Ukraine after having been trafficked abroad into the sex industry. Generally, they were offered a job abroad either by a friend or through a contact or through an ad in the newspaper. When they got there the passport was taken away. They were beaten and then subjected to sex slavery, and then somehow managed to make their way back to the Ukraine. And so fewer than 600 women like that, a year, were coming back into the Ukraine, and so I believe that the government there concluded that this was not a huge problem; it was certainly a terrible one, but consisting of perhaps of a few thousand. That was wrong. They thought it was primarily women being trafficked into sex slavery. That was wrong. They thought that this was the primary way in which people were trafficked, and they were trafficked

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abroad rather than within the Ukraine. That was wrong. We encountered surprise after surprise as we did study after study. Our current estimates are, which have appeared in the Trafficking in Persons report issued by the U.S. State Department in the Ukraine section, are that over 100,000 Ukrainians have been trafficked in the past few years. We estimate that at least 22,000 have been trafficked. We used a scientific survey approach. That is, we talked to the people who would know, who have been trafficked, household members, family members, and people we called babushkas who are the grandmothers that stay at home and know everything that goes on in the neighborhood. And the estimates converged very conveniently to about 22,000 to 35,000 per year over the past five years, being trafficked in the Ukraine; two-thirds of whom...being trafficked out of the Ukraine; two-thirds of whom surprisingly were men being trafficked into labor, slavery in probably Poland and Russia. But there's still a huge number of young women being trafficked and being fooled into sex slavery. So, you know, just about everything you might think you know is wrong. And the application of this research to Nebraska is that if you've got four cases of runaway teenagers who have been trafficked, you are only looking at the tip of the iceberg, in all likelihood. [LB444]

RON HAMPTON: Now let's bring that to Lincoln, Nebraska, the state of Nebraska, if you will, in the context of that. Many...since we're talking about demand site here in the context of escort services, if you...I'm looking at a major finding from Sex Trafficking of Women in the U.S., and this was done by Dr. Raymond at the University of Massachusetts and Dr. Hughes at the University of Rhode Island. And this is their comment if I may be able to read this to you. "Sex businesses in the five regions we investigated are prolific and diverse." They "...are advertised in a variety of ways including in print media such as mainstream English language newspapers and periodicals...." They are often called such things as "escort services, massage parlors, health clubs, brothels in hotels, rented houses and apartments..." etcetera. In each of these, this word "escort services" comes through very loud and clear in each of the five regions of the U.S. that this particular group of researchers studied. This study came out in the year 2001. The interesting thing about those individuals who were participating in those brothels, that particular sex industry, suggested that children under the age of--or children, what we title children in this state--13 percent of those were children. That's not just women. It's very young girls, if you will. In the context of that, that is appalling. Again I applaud us for at least even being hearing this issue brought forward in terms of that. This is not a mark against legal escort services, per se, if they're there. It is a mark against trafficking of human beings in the state of Nebraska, and we already know that it does exist and we know it's just the tip of the iceberg. [LB444]

SENATOR PANKONIN: Thank you, sir. A quick question for you. Do you have specific examples in Nebraska of people you think have been trafficked that have worked at escort services? Do you have anything specific? [LB444]

RON HAMPTON: For us, no. You know, we're on the international level in terms of

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doing this research, and in fact, our goal, if I can make this statement with regard to that, our goal is to host, if you will, a conference in October 29, 30, and 31. It will be the first of its kind in terms of bringing researchers together to study human trafficking to bring this about. We'll bring in the foremost authority on human trafficking in the world, that is Kevin Bales. He's going to be our keynote speaker. We've invited the Secretary of State to come, as well, and we hope that that will certainly happen. But we have a very strong interest in this area and we'll know more facts from something like that. Because law enforcement will be there, the legal area will be there, the social areas will be there, cross-discipline. But I cannot point to a single individual...I can talk to individuals and tell you about individuals all day long, but none from Lincoln or the state of Nebraska at this point. [LB444]

SENATOR PANKONIN: Okay. [LB444]

DWAYNE BALL: I can point to a story in the Lincoln Journal Star, I think it was some months ago, of a case where two teenage runaway girls were picked up in Omaha by a fellow, and taken into Iowa. [LB444]

SENATOR PANKONIN: We had that referenced. [LB444]

DWAYNE BELL: Yeah, you have that one. [LB444]

RON HAMPTON: That's the only one we were aware of. Yes. [LB444]

SENATOR PANKONIN: Okay. Any other questions for these gentlemen? Thank you for testifying today. Appreciate it. Any...well, yes, thanks for getting the chair. Any other proponent testifiers? Come forward. Welcome. [LB444]

MAX GRAVES: Thank you. My name is Max Graves, G-r-a-v-e-s. And thank you for the opportunity to share for a few minutes here this afternoon. I work for Center for Legal Immigration Assistance. It's a program at United Methodist Ministries here in Lincoln. And we assist immigrants in complying with the federal immigration laws of both immigrants and refugees. We help them from the simplest forms to the rather complex forms that they must comply with, the (inaudible) immigration laws. Our priority though is helping victims of domestic violence. And so we help them as they cooperate with the police department in basically convicting and arresting the abusers. It's because of our connection with domestic violence that we have come across some possible trafficking issues. Now I want to make it very clear that we have not at this point been able to gather enough evidence to actually write a T or trafficking visa, but we've seen enough partial evidence to make us certainly suspect that this kind of activity is going on, at least through the state of Nebraska. Let me just give you just a couple of examples here this afternoon. We know a lady very well that came to the United States from Mexico. Her boyfriend came into the country before she did, and as she came into Arizona from

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Mexico, she was, along with several other women, picked out to go to a particular house. They were in the house about three days, and these women--there were about four or five of them--were continuously, on a daily basis, sexually assaulted and raped. She then was transported all the way to New Jersey, where her boyfriend was. Once she got to see her boyfriend, she was very surprised to find out that he already knew about these rapes and sexual assaults, and he basically wanted nothing to do with her, so he abused her and she was forced to leave him, and she ended up in Nebraska. She made a police report in Lincoln and that's how we got to know about her situation. She believes, although we don't have enough evidence to actually go ahead with this trafficking visa, but she believes that her boyfriend paid the person who brought her in the United States, which many times is \$4,000 to \$5,000, that part of that payment was the sexual favors that she was forced to give to this individual, in the form of rape actually. So that's just one case. Again, the evidence is not as solid as what we would like but this is what we've seen. Another instance is a 12-year-old girl from Guatemala. She was living with her uncle and for whatever reason, I'm not sure why, but he wanted her to leave Guatemala and come to the United States. She was actually tricked into traveling with another individual, and this person brought her to the United States, but in the meantime he raped her once and actually tried a second time to rape her. And whether or not that was a direct payment or not, she didn't know. We talked to her about it but she was not aware of all the circumstances. But here is a 12-year-old, one of the sweetest little girls you ever want to meet, that has gone through a horrible situation. And we're not, again, sure of all the reasons why that was but she's certainly gone through a horrible ordeal. The third case we know actually less about. This person is from Mexico but we do know she came to Lincoln and was forced to work at a restaurant and received no salary whatsoever. She too was forced to give sexual favors to the owner of the restaurant. We thought this actually was a case strong enough to pursue but we lost contact with her and so we've never been able to follow up with that particular case. We again suspect that trafficking is certainly...well, we know it's a huge international problem and more than likely will rear its ugly head even more in the state of Nebraska. [LB444]

SENATOR PANKONIN: Thank you. [LB444]

MAX GRAVES: Thank you. [LB444]

SENATOR PANKONIN: Any questions for this testifier? I just have one. You know, we're on this bill specifically on escort services, and so I'm going to ask it again. You have not specifically seen human trafficking involved with Lincoln escort services... [LB444]

MAX GRAVES: No. [LB444]

SENATOR PANKONIN: ...in your knowledge? [LB444]

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MAX GRAVES: No. [LB444]

SENATOR PANKONIN: Okay. Thank you. Any other proponent testifiers? Welcome. [LB444]

KAREN BOWLING: (Exhibit 2) Good afternoon. I'm Karen Bowling, B-o-w-l-i-n-g, and I'm the associate director with Nebraska Family Council. I want to thank you for the opportunity to address the Health and Human Services Committee this afternoon and to express our support of LB444, which would require escort services accountability. The intent of my testimony this afternoon is to put a face and a name, more of a personal story, about tragic victimization of predominantly women and children. I view LB444 as a starting point to recognize the tragic increase of sexual victims in America. Nebraska Family Council became interested in this issue after purchasing an older home, just six blocks of here in the core of the city, to host our offices. As we began to meet our neighbors and have dialogue with local enforcement, we began to discover increased prostitution. The story I want to tell first is Debbie who lives in the neighborhood, has served time for prostitution. She began to tell more of her story: A middle-aged woman trying to survive. And she was lured into an escort service, helping to turn tricks, as she would call it. Then those turning tricks in a local, what I'm going to call fronted service, increased to where she could do tricks up and down I-80 to increase her financial support. Why that was important to her: She had also, because of the trauma she had sustained, become a meth addict. A month ago I viewed a documentary on MSNBC, "Look Beneath the Surface," produced by the U.S. Department of Health and Human Services Administration for Children and Families. And in the brochure I have there, that gives you some of the information. Some of the statistics from their findings: an estimated 200,000 to 300,000 sex-trafficked victims in the United States. The alarming fact is, their view, the primary entrance into sex trafficking and the sexual victimization of minors, both girls and boys and women, are escort services and massage parlors. These so-called services often go under the radar because they have no permanent address. This can make regulatory enforcement difficult. In conversation with Sarah Greenback (phonetic) in Washington, D.C., with the Polaris Project that the U.S. Department of Health and Human Services is assisting with, on the issue of sexual victimization of children and women, some of their research reveals interstates are prime for sex-trafficked victims. They believe I-80 is included. They prey on children, disgruntled teenagers who run away from home. It's not just the international, but the national. They often introduce these victims to a lesser victimization through an escort service whose role is to break them down. They promise their way out through financial gain but the promise is a smokescreen. The next jump is trafficking. As I mentioned, I've included the brochure, and approximately 600,000 to 800,000 victims according to the U.S. Department of HHS, more than half are children. Let me tell you about a 14-year-old girl from Oklahoma who tells her personal story, along with her family, in the documentary. A Midwest family, much like probably you and I, middle class, mom, dad,

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siblings, even a churchgoing family. She befriended a new student at her high school. What she didn't know was that the new friend was a traffic victim herself. Her john registered her for school in hopes of identifying young girls who are vulnerable. This 14-year-old had a disagreement with Mom and decided to seek out her new friend. Her friend, who really is a victim also, told her how she could make some extra money. So let's meet at a house and clean. Once again, it was a screen. It was an escort service massage. I won't give you the details but you know the rest of the story. She was victimized, broken down at the escort facility, and then sex trafficked. It took her family two and a half years to find their daughter. This was a typical family, a family that could have been in Lincoln, Nebraska, Omaha, Columbus, who found themselves in a nightmare. Her mom said, I never dreamed that this was possible to a small-town girl from the Midwest. In the documentary, Mayor Gavin from San Francisco has seen such an escalation of sexual victimization of children and women that they now require escort services to list a permanent business address. Mayor Gavin reinforced that the primary entrance into human sex trafficking is escort services and massage parlors. That is why they have begun a concentrated effort to minimize the victimization. The enforcement has become more effective since escort services are required to have a business address. These victims are young boys and girls and women. I've ordered the "Look Beneath the Surface" DVD and it's on back order. Once that documentary comes I will give it to Senator Gay so you may view it. To the HHS Committee I ask that you help us protect Nebraska's greatest resource: our children. [LB444]

SENATOR PANKONIN: Thank you. [LB444]

KAREN BOWLING: Help us protect women. I encourage you to advance LB444 out of committee so it can have its full hearing in the Legislature. Remember the Debs and the Katies. Thank you. [LB444]

SENATOR PANKONIN: Okay. Are there any questions? Ma'am, there might be a question. Is there any questions? Seeing none, thank you. [LB444]

KAREN BOWLING: Okay. Thank you. [LB444]

SENATOR PANKONIN: Okay. Further proponents. Welcome. We might just have you straighten that microphone in front of you. Appreciate that. [LB444]

KIMBERLY HASSEBROOK: Okay. Hello. My name is Kimberly Hassebrook, which is H-a-s-s-e-b-r-o-o-k. I grew up in Lincoln, Nebraska. I am now a student in Minneapolis, Minnesota, and this past school year I've gotten involved with anti-sex trafficking groups in Minneapolis. One is Release, which is an organization on campus and one is Breaking Free. And I'm just here today to represent a face. I'm a young person. I have met these young people through Breaking Free, which is one of five organizations that houses women who have been prostituted. And I just think about one girl who, she was

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like 13 or 14, and she was...she, at this graduation that Breaking Free has, she talked about her being free from prostitution, and that's who we're dealing with. One thing to understand is that the average of entry into prostitution is 12 to 14 across America. That's ridiculous. Twelve to 14--that's across America. It's also in Lincoln, Nebraska. Also...okay, pimps will target vulnerable girls. So they...a girl will run away from home. Maybe there's abuse in the home. Maybe she just doesn't like what her parents did and she'll run away from home. In the first 24-48 hours, she will be approached by a pimp. And this pimp will prey on her vulnerability. He'll like tell her she's beautiful. And he will say, you know, you're my boyfriend and they'll have this relationship, and then after awhile he'll say, you know, you need to go work for me. And this is where the escort services come in. One U.S. agency says that with...a girl will be working for an escort service for six months and then will go into prostitution because there's greater financial gain and social stress to do that. So I just encourage you. And one more story is Teresa. She's from Michigan. She was from a middle-class family and her family was moving around a lot. She went to high school and she got to know these guys, and this one guy was like, hey, I'll take you home today. And so she went home...and so she was on the way home and he went to his house instead, and then they ended up raping her and they took that rape and said you need to work for us. And so she was living in her own home. She couldn't tell her parents because, you know, she was so scared because they used psychological and physical violence against them. And she was living in her home and they would come in at night and pick her up and go and take her to different johns, different people that would buy her sexual acts. And then finally her parents moved away from there so she was able to get free. So I would just encourage you. Don't see these women and different people that are working for escort services as criminals. We need to see them as victims, these girls and people in our own communities that are victims of sex trafficking and the sex industry. [LB444]

SENATOR PANKONIN: Thank you for your testimony. Questions? Senator Stuthman. [LB444]

SENATOR STUTHMAN: Thank you, Senator Pankonin. Kim, do you feel that there is this problem in smaller communities in Nebraska? [LB444]

KIMBERLY HASSEBROOK: Oh, I would totally agree. And one thing to understand is that some Hispanic people might be trafficked in to work in different fields and different meatpacking plants, and in order to really get ahold of this we need to look at it globally and across the state. Because they know how...they are going to be tipped off and they are going to move quickly. They're going to move from Lincoln to Omaha, from Omaha to Columbus, very quickly, so yes. [LB444]

SENATOR STUTHMAN: It really touched my heart when you talked about, you know, the 12- to 14-year-olds. You know, these kids are just children. They're just children, you know. [LB444]

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KIMBERLY HASSEBROOK: Yeah, that's right. [LB444]

SENATOR STUTHMAN: And if they get, you know, talked into something when they've had, you know, problems at home or something like that, but, you know, that's where it really all starts, in my opinion. I mean, that's where the parents, you know, need to love their children. [LB444]

KIMBERLY HASSEBROOK: Yes, and it's sad because it might happen--it doesn't discriminate--it might happen to a middle-class citizen, and that's something I know that you guys care about, and so thank you. [LB444]

SENATOR PANKONIN: Okay. Thank you. I don't see any other questions. Appreciate you coming today. All right. Still taking proponent testimony. How many other proponents do we have after this one? All right, you're the last. Okay. [LB444]

DAVE BIDALES: Senator Pankonin, members of the committee, my name is Dave Bidales. I'm the executive director of Family First, a nonprofit research and education organization located here in Lincoln. Before I came to Family First I was State Assistant Attorney General for nine years and acted as a policy advisor to Governor Johanns for two legislative sessions. I'm here today to express Family First's support for LB444. Back in 1976, the United States Supreme Court, in a case called Young v. American Mini Theatres, signified its approval of efforts to regulate sexually-oriented businesses. The court stated that because these businesses have clearly documented negative secondary effects, government has, and I quote, "a substantial interest in protecting and preserving the quality of life for its community against these adverse secondary effects." A review of studies from across the nation have shown that when sexually oriented businesses move into a community, the community suffered from a statistically significant increase in crime, especially sexual crime, including prostitution, rape, indecent exposure, and child molestation. Although we deal here with escort services, the same type of harmful secondary effects can arise from these businesses as well. Because these businesses often operate without a permanent address, law enforcement has a greater difficulty of protecting the public from the harms associated with these escort services. LB444 provides law enforcement with a tool to deal with the illegal activity associated with these businesses. The problems associated with sexually oriented businesses, for those that operate from a particular location--and in the case of escort services, those that don't--are universal to these businesses. And it's these problems, the negative secondary effects, that form the constitutional basis for regulating these types of businesses. I therefore urge the committee to advance LB444 to General File for debate by the entire Unicameral. Thank you. [LB444]

SENATOR PANKONIN: Thank you for your testimony. We'll see if there's any questions. Seeing none, that concludes proponent testimony. Now we will begin to take

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opponent testimony on LB444. Welcome. [LB444]

KELI HUPKA: Good afternoon. My name is Keli Hupka, K-e-l-i H-u-p-k-a, and I am a licensed massage therapist and business owner testifying on behalf of the Nebraska State Board of Massage Therapy in opposition to LB444. We are opposed to the use of the term "massage" and "massage therapy" in this bill as it relates to escort services. Massage therapy is a licensed and regulated profession in the state of Nebraska, which requires completion of 1,000 hours of approved curriculum through an approved institute, and passage of a state-administered licensing exam. Our study and training includes physiology, anatomy, pathology, and health service management. A thorough examination and licensing procedure ensures that our clients can expect to receive safe and aboveboard therapeutic massage, which is defined by the massage therapy practice act as follows: a physical, mechanical, or electrical manipulation of soft tissue for the therapeutic purpose of enhancing muscle relaxation, reducing stress, improving circulation, or instilling a greater sense of well-being. Licensing and regulation ensure that massage therapists do not have affiliation with escort services. Any affiliation with such a service as defined in LB444 would be in violation of the Nebraska Health and Human Services Regulation and Licensing for massage therapists which reads as follows. Sexual misconduct: A massage therapist must under no circumstances engage in sexual acts with clients. Such unprofessional conduct includes but is not limited to providing sexual stimulation as part of the massage therapy, committing an act with a client punishable as a sexual or sexual-related offense. We are deeply concerned that the language included in LB444 relating to unlicensed massage therapists implies that an individual who becomes licensed as an escort agency employee would be allowed to offer or provide massage as a service, and the board's position is that the health and safety of the public would no longer be protected by the Massage Therapy Practice Act. We are also concerned about the safety of our licensed massage therapists who may encounter clients confused by the ambiguous language surrounding escort services. Senators, thank you for your time this afternoon. I would be happy to answer any questions you might have. [LB444]

SENATOR PANKONIN: Thank you for testifying. Any questions? Senator Stuthman. [LB444]

SENATOR STUTHMAN: Thank you, Senator Pankonin. Keli, thank you for your testimony, and I had questions originally in the opening of this bill as far as the thought of the massage therapists. Do you know of any instances when there are some massage therapists that are involved in the escort service, even if it's not legal? Or have...do you... [LB444]

KELI HUPKA: We pretty much follow the rules. (Laugh) [LB444]

SENATOR STUTHMAN: Okay. I mean, that's the issue that I'm concerned... [LB444]

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KELI HUPKA: We go to schools for the rules and to be regulated. [LB444]

SENATOR STUTHMAN: To be regulated. Yeah. [LB444]

KELI HUPKA: Yeah. We want legitimacy in our profession. [LB444]

SENATOR STUTHMAN: And I would hope that everyone follows the rules, so. [LB444]

KELI HUPKA: Yes, we hope so. (Laughter) [LB444]

SENATOR STUTHMAN: But I just had that, you know, because they mentioned that in the bill. [LB444]

KELI HUPKA: Yeah. And if you talk to any massage therapists, they're not too keen on the nontherapeutic license...or nonlicensed massage therapy in the yellow pages. None of us like that. It gets very confusing for people looking for a legitimate therapist. [LB444]

SENATOR STUTHMAN: But there is the issue that there are some in the yellow pages then. [LB444]

KELI HUPKA: Yes, there is. [LB444]

SENATOR STUTHMAN: Okay. Thank you. [LB444]

SENATOR PANKONIN: I have another question. Senator Gloor. [LB444]

SENATOR GLOOR: Thank you, Chairman Pankonin. And thank you for giving testimony. Actually when I read through this and then I went back to check the language, I thought there was protection built into it to differentiate between somebody who just was an escort offering massage versus somebody who was a licensed therapist, massage therapist. And it does say an escort means someone who provides massage for a patron without a massage therapy license. So to me, when I read through this, it's trying to make it clear that that's inappropriate. And I would think your organization would...I'm not sure what you're looking for with language but it appeared to me that Senator Christensen was trying to differentiate people who with licenses and legally were offering massage as opposed to people who just used it as a come-on. So you might want to visit with him a little further. I can't imagine he would be objecting to that at all. [LB444]

KELI HUPKA: Of having it removed or...? [LB444]

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SENATOR GLOOR: Well, having the words changed in the manner that you would be more comfortable with. But it would be clear to me, I'm telling you, reading through this it was clear to me there's a big differentiation between just using the term "massage" as an escort versus a licensed massage therapist. [LB444]

KELI HUPKA: Okay. John will be covering that part, so any... [LB444]

SENATOR PANKONIN: All right. Thank you for your testimony today. Next opponent. Welcome. [LB444]

JOHN WOLCOTT: (Exhibit 3) Thank you, Senator. Thank you, Senators, for allowing me to testify to you. My name is John Wolcott. I'm the government relations subcommittee chair for the American Massage Therapy Association of the state of Nebraska. If I may respond to your questions. We're concerned about this bill basically on three parts. The primary part is the language you mentioned: massage. The Escort Services Act would allow massage versus massage therapy. And what that essentially does to the massage therapists is undermines 50 years' worth of work that the AMTA has done trying to distance our trade from prostitution. And the way we've done that is by creating some of the highest standards in the country for licensed massage therapists. A thousand hours of classroom training is only equaled by the state of New York. All other states either have no requirements or significantly less. We're also required to pass a national exam plus review from the Massage Therapy Board every two years for continuing education credits. What this bill would essentially do is create a legal loophole, from our perspective, allowing someone to pay the \$1,000 a year to become a licensed escort and completely bypass all of that training and supervision that we have worked so hard to establish. That's our primary concern is that the language, the inclusion of the word massage at all in this bill disrupts our entire trade and everything that we've worked so hard to build. The second point is that there are already laws within the Uniform Licensing Act and within the definition of massage to prosecute people from performing massage without a license. So if they don't have a license and they're providing a massage, whether that ends up into a sexual liaison or otherwise, they can still be pursued under the current laws without any additions. And that might be the key to helping this cross our barriers between the definition of massage and this bill. Those are my key points. I'd be glad to answer any questions that you have. [LB444]

SENATOR PANKONIN: Thank you, Mr. Wolcott. [LB444]

JOHN WOLCOTT: Did I spell my last name? It's W-o-l-c-o-t-t, just to make sure. [LB444]

SENATOR PANKONIN: Thank you. We'll see if there's any questions, otherwise I've got one. [LB444]

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JOHN WOLCOTT: Oh, great. [LB444]

SENATOR PANKONIN: Knowing Senator Christensen like we do, I'm sure he would be willing to work with your group on language to make this bill better from your perspective. And under that scenario, would you be in favor of this bill if your questions were answered on some of the language of classification, I guess you would say? [LB444]

JOHN WOLCOTT: We'd be really in favor of this bill if the language...it's...you know, what is it...Section 2, paragraph b, subsection 4...(sic)--Section 2(2)(a)(iv)...if that were eliminated, if any reference at all to massage were completely done away with. The tools, as I said, already exist for the enforcement of massage without a license. [LB444]

SENATOR PANKONIN: Okay. Because I could see the point like you've just stated that actually this legislation may help further to protect your industry... [LB444]

JOHN WOLCOTT: That's true. [LB444]

SENATOR PANKONIN: ...and the proper...or the more therapeutic use, obviously, of massage therapy. [LB444]

JOHN WOLCOTT: That's true, and you know, it's always been complicated for us because sometimes these prostitution groups do get defined under unlicensed massage, and it becomes increasingly ambiguous and dangerous for our entire profession. [LB444]

SENATOR PANKONIN: Would be the contact then for Senator Christensen if he wanted to... [LB444]

JOHN WOLCOTT: I'd be a good place to start, yeah. [LB444]

SENATOR PANKONIN: Okay. And he's back there nodding his head so you might make sure you get his...your information to him so that, that would be a possibility,... [LB444]

JOHN WOLCOTT: I will. Thank you, Senator. [LB444]

SENATOR PANKONIN: ...because he's very good to work with on that sort of thing. Thank you. [LB444]

JOHN WOLCOTT: Thanks very much. [LB444]

SENATOR PANKONIN: Okay. Further opponents. Good afternoon. [LB444]

HELEN MEEKS: (Exhibit 4) Good afternoon, Senator Pankonin and members of the committee. My name is Helen Meeks, H-e-l-e-n M-e-e-k-s, and I'm the administrator for the Licensure Unit within the Department of Health and Human Services Division of Public Health. We are here to testify in opposition to LB444. And our opposition lies basically in three areas. Number one, the services to be regulated appear to be more of a law enforcement activity than a health-related activity since this bill is void of any provisions that relate to protecting public health and safety. And so to put it over into the Health and Human Services licensing entity poses concern for us from that perspective. Secondly, the issuance of a license to perform a service that arguably is illegal would give the appearance or could potentially give the appearance that we are legalizing it by saying they now have a license to do it, and that is concerning. Thirdly, unlike all other professions that we regulate, professions, occupations, businesses, entities, there are requirements on which you have to demonstrate in order to obtain that license. Those requirements may be some initial kinds of experience or training, demonstration of competency maybe through passing an exam or activities for continuing competency. And LB444 doesn't have any of those, so again it's just odd that it would be viewed as something that should be placed in the licensing arena for things that are typically health or health-related. Further, in order for us to administer LB444 there would need to be established several new systems and procedures. For example, we are not currently required to determine for any licensed profession, occupation, or business whether, one, the applicant has failed to remit any kind of taxes or fees or fines or penalties that would be assessed by the state of Nebraska with respect to the operation of that business, and that's one of the requirements in this bill. Secondly, we are not required right now to determine whether an applicant that is a corporation is in good standing under the laws of its state of incorporation. Again, that would be a new procedure that we would have to figure out how to do because we are not required to do that at this point. And then thirdly, we're not required to determine whether an applicant or any of their partners, officers, stockholders, directors, and all of the people who could be involved in that business have been convicted of a felony or a misdemeanor as required by one of the sections of the bill. And you can see in my written testimony, we pointed out those sections. So those are things that we would be concerned about from an administer ability standpoint in terms of this bill. LB444 sets out specific requirements for providing information to be collected regarding the physical location and configuration of the premises of an escort agency, but yet there are no requirements for any type of on-site inspection that the department would do in order to determine whether such premises actually conformed to the submitted diagrams and whether they were within the distance. There appears to be an indication that these escort agencies would not be able to locate within a certain proximity to other kinds of settings, such as religious institutions, schools, parks, public recreation areas, etcetera; yet the bill is void of language that would authorize inspection to validate conformance or lack of conformance to what appears to be implied--a 100-foot property line restriction. We

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understand that, given the broad span of licensing activities that we currently do, we understand that it's reasonable to think that it would be appropriate to place the licensing of escort agencies and escort agency employees within the Department of Health and Human Services. However, the regulation of escort services to the extent provided in this bill seems to be overreaching and such regulations have no discernible public health, safety, and well-being purposes. We're not trying to discount any of the issues that have been brought up about human trafficking, none of those things. We're not trying to discount that. Instead, the regulation of escort services seems to be related more to crime prevention and should be handled accordingly in accordance with the criminal code that exists already in our state. If we were given this bill there would need to be additional resources within our agency in order to perform these services. Thank you. I'll answer any questions. [LB444]

SENATOR PANKONIN: Thank you. Thank you, Ms. Meeks, for attending today, testifying. Any questions? Senator Campbell. [LB444]

SENATOR CAMPBELL: Thank you. Ms. Meeks...and this may not fall under your knowledge in terms of the licensure, but as I sat here and I have listened to the testimony, would you think there might be a federal law with regard to human trafficking? In the department, has that ever been discussed? [LB444]

HELEN MEEKS: I've not been involved in any type of discussions. I would think that there are just in terms of general provisions that exist already in state and federal laws. And as many of the people who testified, they talked about, in some instances, where once the situation was brought to the light of law enforcement there were prosecutions: the situation involving the young girls from Fremont, you know. So there probably are laws already in place. [LB444]

SENATOR CAMPBELL: Thank you. I'll check into that. [LB444]

HELEN MEEKS: Okay. Thank you. [LB444]

SENATOR PANKONIN: Anything else? Seeing none, thank you. [LB444]

HELEN MEEKS: Thank you. [LB444]

SENATOR PANKONIN: Any other opponent testimony today on LB444? Seeing none, anyone in the neutral position that wants to testify? Senator Christensen, come on forward to close. [LB444]

SENATOR CHRISTENSEN: Thank you, Chairman and committee members. It's been long and I appreciate your time. Just quickly on Helen's concern, I'm glad to work with her on regulations, more things we need to take care of that way, you know. I think we

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can check with the Secretary of State to make sure corporations and things are that way. That's a real simple phone call and things that way can be done, but if we need more structure, glad to work with her on it. Glad to work with John and work on any language that maybe could improve this with their concern. And, you know, I just want to end saying I'd like to make a positive impact upon Nebraska, how we can take care of our women and children and make this just a better place to live. [LB444]

SENATOR PANKONIN: Thank you, Senator. Any questions? Senator Howard. [LB444]

SENATOR HOWARD: Well, it's not really a question. Thank you. Thank you, Senator Pankonin. But I was just going to tell you that the first year I was down here, which would have been 2005, I remember Elaine Stuhr had a bill regarding human trafficking on the floor. It may be worth it to you to check into that and see if there were some things that you wanted to use from that. [LB444]

SENATOR CHRISTENSEN: Okay. [LB444]

SENATOR HOWARD: Thank you. [LB444]

SENATOR CHRISTENSEN: Also I would reference Section 12 that says, "Nothing in the Escort Services Accountability and Licensing Act shall be construed to permit or authorize conduct or activity prohibited by the Nebraska Criminal Code." I think that was maybe missed. [LB444]

SENATOR PANKONIN: Okay. Thank you. [LB444]

SENATOR CHRISTENSEN: Thank you. [LB444]

SENATOR PANKONIN: That will close the hearing on LB444. We will now move to LB214. Senator Cornett. You're not Senator Cornett. (Laughter) [LB444]

ANDREW ZIMMERMAN: (Exhibit 1) I am not. Good afternoon. My name is Andrew Zimmerman, A-n-d-r-e-w Z-i-m-m-e-r-m-a-n. I'm here to introduce LB214 on behalf of Senator Cornett who had to go to a Revenue Exec Session. She apologizes. Senator Cornett represents Legislative District 45, including the city of Bellevue and Offutt Air Force Base. And today I'm here to introduce LB214. This bill is being brought to the committee with the intent of improving public safety. Currently, in the law, there are two general distinctions when describing for the purpose of licensing individuals who provide manicures and pedicure services. Currently, anyone performing work on the natural nail, including polishing and trimming, could be defined under the term "manicure," and are not required to be licensed under the Department of Health and Human Services. Any individual who performs the additional services, such as applying false nails, are defined under nail technology and are required to complete several safety coursework

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through accredited universities and apply for licensure to practice in the state through the Department of Health and Human Services. It is the intent of LB214 to basically include all services done on nails under the definition of nail technology. This would, in effect, require all individuals wishing to provide manicure and pedicure services to meet the necessary requirements to obtain a license to operate in the state from the Department of Health and Human Services. This would include coursework and the passage of a safety exam, and a fee for licensure. Lastly, the amendment that was handed out, AM561 to LB214, is simply additional modifications to current definitions in statute to ensure that if LB214 advances it will be uniform throughout the statutes dealing with cosmetology and nail technology. Thank you for hearing the testimony. There will be speakers after me that can answer questions. And Senator Cornett will not be able to return for closing. [LB214]

SENATOR PANKONIN: Okay. Thank you. Any questions? Seeing none, we'll have proponents of this bill, LB214. Any proponents? There's two. Okay. Welcome. [LB214]

PAM ROWLAND: (Exhibit 2) Thank you. Thank you, Senators, for your time this afternoon. My name is Pam Rowland, P-a-m R-o-w-l-a-n-d. I've been a licensed nail technician for 15 years and a nail technology instructor for 14 years. I'm here today to share some interesting facts about LB214. Nail technology has changed a lot over the past 5,000 years since the first recorded manicure. The first evidence of nail care recorded in history was about 3,000 B.C. in Egypt and China. Ancient Egyptian men and women of high social rank, such as kings and queens, stained their nails as a sign of importance. What I have them passing out to you now that I kind of want to just take an extra minute to explain is kind of our packet. The first exhibit for LB214 is Exhibit A, and that was shared with myself from the state of Arizona, and it points out different documentation of disciplinary actions. There's just one I'd like to point and reference to, and that's a woman who on her birthday went and had a pedicure with a friend. This was about 1 o'clock in the afternoon. This one was also diabetic. She sustained, during the pedicure, a cut on the leg. They used a pumice stone too abrasively to scrub the leg, and received a cut. About 1 o'clock she had a red spot about this big. By 5 o'clock, the red spot is this big and she's in the emergency room. Nine o'clock at night it's covering the entire leg and they're discussing amputation. She contracted, in the foot spa, and it was recorded by Arizona, the flesh-eating bacteria. The woman did refuse to have her leg amputated; did have a lot of antibiotic therapy and did keep her leg, but she is now crippled on that leg. These are some of the infections that we're finding in these tubs. On Exhibit B is just a sample letter of client health record information that Arizona did mandate that all nail technicians and salon owners did have to have customers fill out because they had trouble tracking this. Exhibit C is a letter from a podiatrist in support of LB214. Exhibit D is a letter from King Research, Mr. Murphy. Those of you that have all had salon services, I know you've seen the little jar of blue stuff. He is the president of that company which a lot of, a majority of the salon owners will use for disinfection purposes. Exhibit E is a letter from one of our major

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manufacturing companies, OPI products, from the National School Division director, Teresa Lewis. Exhibit F is the letter from the State Board of Cosmetology and it does outline their support. And I'm not going to take the time to go over it but they do have the grandparenting requirements that they're introducing. And then lastly, Exhibit G, which are the photographic pictures that you have from two videos that I wanted to show today, so we were told that we weren't allowed to do that so we did quickly make pictures. I encourage you to go watch those two videos. They are 2 minutes 30 seconds, and the other one is 3 minutes 30 seconds. But you need to hear some of the testimony from those women and some of the different bacteria that are found in these foot tubs when they're not properly disinfected. Please pay close attention to the 18- or 19-year-old girl who was permanently scarred the worst over every ounce of her body from the knee down. Red scars that will never go away from some of these boils and lesions from the improper disinfection going on with pedicuring. Today there are more nail technicians and nail salons than ever. There's approximately 1,000 licensed nail techs in Nebraska; 300 licensed nail salons. In 2007, the nail industry market figure was about \$6 billion in service alone, with artificial nail services and pedicuring accounting for 90 percent of the overall piece of that service pie. The estimated average monthly income made on retail is about \$1,000, with nailcare items being 8 of the 10 most sold items. The number of licensed nail techs in the U.S. is about 347,000; licensed salons is about 59,000. Did you realize that the geographic breakdown shows us that 100 percent of the United States holds licensure for nail technology, but that the state of Nebraska is the only state that does not participate in this and does not require licensure for manicures and pedicures, which is a part of our industry, a part of our nail technology. With the recent scare of infections and lawsuits from unsanitary pedicure services in 12 states, such as Texas, Illinois, California, to name a few, and the CNN and CBS videos that you'll be watching if you haven't watched them already, clearly document LB214 is in need of immediate passage for Nebraska public safety. The U.S. average weekly income for nail techs is about \$550-750 a week, and the monthly average is about \$2,200. So what I'm trying to say is we just need to step into that piece of the pie, also, with that revenue. I've just got two paragraphs left. Just to share with you, the state of Iowa, in January 2007, eliminated their 40-hour manicure license and required anyone performing services on natural nails, meaning manicures and pedicures, or nail enhancements meaning the artificial nails, to complete the full 325-hour nail technology curriculum. That's what we're proposing with LB214 for Nebraska. Tara will share with you some of the benefits to this licensure passing. And on closing I just want to thank you and ask for your help to make our clients feel safe and, like twentieth century kings and queens, and give our career, nail technology, the professionalism it deserves. So I implore you with great urgency to pass this bill, LB214, forward. With these facts, how can you not? I will answer any questions at this time and thank you. [LB214]

SENATOR PANKONIN: All right. And it looks like we do have some questions. I'll start with Senator Wallman. [LB214]

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SENATOR WALLMAN: Thank you, Chairman. Yes, I noticed here...I usually...I don't do this. You'd be very well-advised to do this free for the senators in the Capitol to get you to vote for something. (Laugh) But in regards to that, I noticed body art. Do you also...would want tattoo artists under this? [LB214]

PAM ROWLAND: We don't do body art in pedicuring. We do nail art on the toenails. We do nail arts and painting of flowers or we can adhere rhinestones or things like that, but that's as far as our nail art goes. [LB214]

SENATOR WALLMAN: And you have licensure right now? No, huh? [LB214]

PAM ROWLAND: We have licensing in nail technology but not manicures and pedicures. So anyone can give a manicure or pedicure. I could train my daughter. Anyone could do that. And they could do it out of their home. [LB214]

SENATOR WALLMAN: Thank you. [LB214]

SENATOR PANKONIN: Senator Stuthman. [LB214]

SENATOR STUTHMAN: Thank you, Senator Pankonin. I'm very...to tell you the truth, I'm really ignorant about some of this stuff, (laughter) but now, a pedicure, that's the feet, right? [LB214]

PAM ROWLAND: Pedicuring is the feet. And a lot of salons have full what we call foot spas or tubs and the chair massages. And then in the tub it's basically like a bathtub with a jacuzzi. And so the tub holds about 5-6 gallons of water, and water circulates. What happens is that some salons or unlicensed people are not taking all those components apart, cleaning behind those jets, cleaning the screen, and you have a buildup of green...and one of the pictures in there shows skin, debris, green mold, and that's where that infection is breeding. [LB214]

SENATOR STUTHMAN: Well, the thing that I have a concern with, if you're working on the feet part of it, what the heck are you getting all the scars and everything on the leg? [LB214]

PAM ROWLAND: On the leg, because the feet are submerged in the tub usually from about, oh, below the knee down. That's how...it's like a bathtub. [LB214]

SENATOR STUTHMAN: But if they're having problems with things that occur from the foot to the knee, for gosh sakes don't put it in the water. (Laughter) [LB214]

PAM ROWLAND: No, it's all over the foot too. The top of the foot as well. [LB214]

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SENATOR STUTHMAN: Okay. Thank you. [LB214]

SENATOR PANKONIN: Thank you, Senator Stuthman. Senator Campbell. [LB214]

SENATOR CAMPBELL: Yes. My question is, you keep referring to 1,000 licensed nail techs and 1,000 licensed nail salon. If the salon is licensed, does that necessarily mean that everybody that works in there has a license? [LB214]

PAM ROWLAND: If they're doing manicures and pedicures, no. [LB214]

SENATOR CAMPBELL: Okay. [LB214]

PAM ROWLAND: It would probably fall under that salon owner making sure that that, you know, practices...things...disinfection is going on. But here's the other problem we have is finding a lot of unlicensed workers working in these facilities, as well. [LB214]

SENATOR CAMPBELL: Okay. So what causes a license of a salon versus the license of an individual? I understand the individual's license. I don't quite understand a salon being licensed. Could you kind of explain that? [LB214]

PAM ROWLAND: Why would we want like a natural nail salon to be licensed? So that we could go in and check those pedicure tubs for the safety of the public. [LB214]

SENATOR CAMPBELL: Got it. Thank you very much, Senator. [LB214]

SENATOR PANKONIN: Senator Howard. [LB214]

SENATOR HOWARD: Well, I can't resist. (Laughter) He stirred me up. How do we know if a place...if the technologist is licensed? You know, you see these places at malls, and a lot of times they have lines of women that are doing this work. I'm sure you know what I'm talking about. There's one at Crossroads Mall in Omaha. How do we know if these people are licensed and that it's sanitary? [LB214]

PAM ROWLAND: Well, the best thing you can do is you need to look for their...their establishment license should be posted. And as a consumer, the best advice I can give women is to ask to see the license so that it's done by a licensed nail technologist, not just someone who quickly learned how to do manicures and pedicures. Just ask to see that license because they'll be posted. [LB214]

SENATOR HOWARD: All right. Thank you. It makes me real suspicious. [LB214]

SENATOR PANKONIN: Well, thank you for your testimony. Very interesting. [LB214]

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PAM ROWLAND: Thank you. [LB214]

SENATOR PANKONIN: All right. Do we have any other testifiers in favor of LB214? Welcome. [LB214]

TARA BURMOOD: (Exhibit 3) Good afternoon. My name is Tara Burmood; that's B-u-r-m-o-o-d. I've been a nail technician for five years, and I'm a nail instructor and that's just under a year I've been doing that. I would like to speak to you today about the importance of sanitation and disinfection on pedicure tubs. Before I get started I would like to give you the Web site to the news article on the unsanitary pedicure tubs, which you'll find that in the exhibit sheets under Exhibit G. In this article, you will see the severity of the outcome. Please, it is so imperative that you take the time to watch this. I wish I could play them for you now but we were told no for this meeting. So let me get started. Because services that could result in the transmission of germs and infectious diseases or poor safety hazards are performed in salons or spas, nail technicians must remain strict infectious control safety standards. These standards are mandated by law, and which that's why I'm here today to ask, as a professional nail technician, to stand behind us, as we need you to mandate this by law so it will regulate the ecology of each salon or spa. The law guarantees the cleanliness, the sanitation, the hygienic handling of tools, the equipment, and the adherence to the first aid and safety procedures. By attending to these standards, nail technicians can help eliminate the transmission of germs and demonstrate a genuine concern for health and safety of clients who visit the salon or spa. An infection occurs when a disease-causing pathogen, bacteria, or a virus enters the body. Infection and the growth of the parasite organism within the body's microorganisms are referred to as pathogens, and that includes viruses, bacteria, and fungi. An object that contains pathogens is considered contaminated. To prevent cross-contamination, all pathogens needs to be removed from objects decontaminated. Common means of spread of infection in a salon include contact with open sores, contact with contaminated hands and implements usually due to improper cleaning between clients, exposure to coughing or sneezing, use of common drinking cups or towels, exposure to unsanitary conditions, and use of manicure tables and pedicure tubs that are not properly disinfected. It deeply saddens me that Nebraska is the only state that doesn't have a law on manicures and pedicures, and that any given person in a facility can perform my job as a professional nail tech and not have the proper education behind them. Out of 50 states, 13 of them have had outbreaks due to improper sanitation and disinfection laws. So let's not be the fourteenth state, and mandate these laws, so we, as professional nail techs, knowing that our state of Nebraska stands behind us. I would like to thank you for the time, and again I urge you to view the following sites on these issues. And I'm available for any questions at this time. I also have the benefits of the licensure bill for LB214. And my next person up to speak, Tammy Johnson, was unable to come today so I just wanted to put into...her testimony, and it's written. [LB214]

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SENATOR PANKONIN: Into the record? We can do that. [LB214]

TARA BURMOOD: Yes. Thank you. [LB214]

SENATOR PANKONIN: If you want to give that...we'll get that to the clerk. And first, are there any questions for this testifier? Seeing none, thank you for coming today. [LB214]

TARA BURMOOD: Okay. Thank you. [LB214]

SENATOR PANKONIN: Is there any other testifiers as...I see we have one here for Helen Meeks, but is there anybody in opposition? You're testifying in opposition then. LB214, opposition testimony. [LB214]

HELEN MEEKS: (Exhibit 4) Thank you again, Senators. For the record, I'm Helen Meeks, H-e-l-e-n M-e-e-k-s, administrator with the Licensure Unit within the Division of Public Health, Department of Health and Human Services. We are testifying in opposition to LB214, and I think that there needs to be some points of clarification. This bill changes the definition of nail technology to include cosmetic acts on natural nails. We're not talking about the artificials. So it's bringing in the natural nails. That's what this bill would do. Would require persons who are going to do nothing but natural nails, manicuring and pedicuring services, to be licensed as a nail technologist. Currently, those individuals who provide manicuring or pedicuring services on natural nails are not required to be licensed as nail technologists, nor are they required to be licensed as cosmetologists. Additionally, this bill would allow nail technicians to provide cleansing, stimulating, manipulating, exercising, or similar acts to a customer's arms up to the elbow, and the customer's legs up to the knees. Currently, licensed nail technologists are limited to providing the services to the client's hands and feet. We acknowledge some of the outbreaks that have been talked about; however, we're not aware of any evidence relating to public harm by unlicensed persons providing manicuring services, specifically polishing, coloring, tinting, and cleansing natural nails. We know that some of these things have been reported in other states, and I think that's one of the factors that probably the committee needs to really try to make a distinction between. Are the outbreaks that you have heard about, are they limited to salons that do natural nails? What we are seeing is, given the concerns about the lack of sanitizing of the pedi tubs or the foot spas, we believe that...we have already...we are already looking at our regulations, regulatory changes. And of course, we would be working with the Cosmetology Board to increase the sanitation procedures for foot spas, because that's part of the...that's the culprit here, the spas themselves where people go in and get these services, whether they're done on natural nails or artificial nails. The regulations would apply, we recognize, to the currently regulated nail salons that are licensed to provide services involving artificial nails; however, these settings are not precluded from providing services that may involve the natural nails. Although we believe this approach will address the issue of sanitation of foot spas without creating another category of

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licensure, again we acknowledge that it would not cover settings that only do natural nails, and we acknowledge that. LB214 may result in requiring persons who only apply polish to natural nails to be licensed. This type of requirement, we believe, is overreaching and unnecessary from a public health standpoint. Additionally, LB214 has several technical concerns that need to be addressed to allow us at the department to better administer the bill if it were passed. And it's in my written testimony so I won't bore you with all of the details. But, for instance, the definition of cosmetology that's found in law already means the practice of performing for compensation. Therefore, if a person right now provides cosmetology services without compensation, he or she is not required to be licensed. And so given the definition of nail technology, does it include this term for compensation? There is an inconsistency. And we pointed out three or four other places that are technical issues and we certainly are willing to work to try to address those. Based on the information that has been provided, we at the Department of Health and Human Services would encourage the committee to not advance this bill. Thank you. I would be happy to answer any questions. [LB214]

SENATOR PANKONIN: Thank you again, Ms. Meeks. Questions? Senator Stuthman. [LB214]

SENATOR STUTHMAN: Thank you, Senator Pankonin. Ms. Meeks, is your department at the present time responsible for inspecting any of these spas? [LB214]

HELEN MEEKS: Yes. [LB214]

SENATOR STUTHMAN: Are you doing it? [LB214]

HELEN MEEKS: We are. [LB214]

SENATOR STUTHMAN: Why are we having the trouble then? [LB214]

HELEN MEEKS: That's part of the reason why we've said we need to strengthen the existing regulations. We go in and inspect, and right now all of the salons that are already licensed, when we inspect them they may not have a problem as been identified, but that doesn't mean we are in there every day. We cannot be. And as many clients as they are serving, they're supposed to be cleaning the spas, the tubs, between each client. There are certain kinds of approved products that they are supposed to be using for sanitation. Do we catch all of them? Of course not. We might have missed some. But we feel very strongly that our regulations that we currently have need to be strengthened to provide for greater activities related to the sanitation of these foot spas because of some of the problems with infection that exist. But whether or not they exist only in those that are unlicensed, that's where we're seeing we don't...you know, that's a distinction that needs to be made. This would require licensing. What we are trying to do is better regulate the ones that are already licensed by strengthening those sanitation

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regulations. But this would bring in a whole different category of licensure for those places that just do natural nails, fingernails or toenails. [LB214]

SENATOR STUTHMAN: Is there any recourse of the individuals that have been harmed from, you know, the spas because of the bacteria that was in them? I mean, can you shut them down if there was evidence that they were... [LB214]

HELEN MEEKS: The ones that are currently licensed, yes. We have a range of penalties that we could impose, including we could revoke their license. That's already in the law right now. We have that option. We can suspend them for a period of time, revoke them, whatever. So that provision already exists. [LB214]

SENATOR STUTHMAN: Okay. Thank you. [LB214]

SENATOR PANKONIN: Senator Campbell. [LB214]

SENATOR CAMPBELL: Thank you, Senator Pankonin. Ms. Meeks, I want to make sure I really understand this very clearly. If a salon is only doing natural nails but they have the spa with it, then you are going in there to inspect... [LB214]

HELEN MEEKS: No. Right now, if they are only doing natural nails we are not inspecting them. [LB214]

SENATOR CAMPBELL: And even if they have the spas. [LB214]

HELEN MEEKS: That's correct, because the current statute exempts them from having to be licensed if the services that they are going to be providing are only to natural nails. [LB214]

SENATOR CAMPBELL: I just have to say from a comment, I mean I think we're missing some people out there with the increasing interest of people. Okay, gentlemen, you don't have to listen...(laughter). But with the increasing interest, I think among women of the whole natural nail, a lot of the salons are catering to those people and they're giving full service, absolutely the whole thing. Thank you. [LB214]

HELEN MEEKS: Okay. All right. Thank you. [LB214]

SENATOR PANKONIN: Ms. Meeks, before you leave I would kind of a follow-up to Senator Campbell. If you don't like this legislation but you think there is a problem, what do we need to do? I think that's what Senator Stuthman was maybe getting at too. If you don't like this bill, what's your solution, what's your idea? [LB214]

HELEN MEEKS: Well, certainly, what our solution is, for the ones that we are currently

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regulating, is to strengthen the regulations as it pertains to sanitation. We are not proposing...we are not here to say we think that we need to go further, obviously, for those that are not currently regulated. If that's the decision that the committee makes, I mean that the Legislature makes, then obviously we'll have to enforce that law. But that's not our position at this point in time. [LB214]

SENATOR PANKONIN: (See also Exhibit 5) Okay. Thank you. I think that's it. Other opponent testimony on LB214. Anyone in a neutral capacity wanting to testify on LB214? Seeing none, we will close the hearing on...because Senator Cornett is not going to close as was indicated. And we will now move to LB621. Senator Wightman. [LB214]

SENATOR WIGHTMAN: (Exhibit 1) Good afternoon. Thank you, Senator Pankonin, members of the Health Committee. I'm here to open on LB621. I have got a frog in my throat. I am John Wightman, spelled J-o-h-n W-i-g-h-t-m-a-n, representing the 36th Legislative District. I am presenting the committee an amendment to LB621 for your adoption. LB621 as amended by AM547 (sic) would exempt the individuals who restrict their scope of activities to applying alternating pressure with specific fingers, thumb, and hand techniques in order to stimulate reflex points on feet, hand or outer parts of the ear of the human body from the licensing requirements established for massage therapists. Persons who engage in this practice are called reflexologists. And I might say that prior to a few months ago I didn't know what a reflexologist was. (Laughter) Under LB621 reflexologists could not hold themselves out to be massage therapists or do massage. I'm offering AM547 (sic) to LB621 after working with the Nebraska Chiropractors Association who had objections to the use of the word "manipulation" in the original or green copy of LB621. Apparently manipulation has a very established meaning in the chiropractic practice. The language of the proposed amendment is more specific to the practice of the reflexologist and is used in the laws of other states. Health professionals are licensed by the state to protect the individuals from harmful health practices. Applying alternative pressure with the hands to simulated reflex points on the feet, hands or ears on the human body does not present harm or endanger the health, safety or welfare of the public that would require regulation by the state of Nebraska. Because of this clear absence of harm or danger to public, I do not see the need for a costly and time-consuming review under the regulation of a health professions act. The scope of practice of massage therapists is not changed by LB621. The absence of the risk to the public is acknowledged in the 2003 American Massage Therapy Association issued model state code proposal for new and revised massage legislation on a state level. This model law calls for an exemption for reflexology or more specifically, "persons who restrict their," and I'm going to use the word manipulation because it is used and that's a quote, "persons who restrict their manipulation of the soft tissues to the body otherwise to the hands, feet and ears and cannot hold themselves out as massage therapists or do massage." This clearly demonstrates that those at the national level within the massage field and other states recognize the difference between reflexology and

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massage. We have a handout, I think, that is being distributed summarizing the laws across USA, the United States, on the issue. In overview, 27 states in some form or the other exempt reflexology from the massage therapy laws. Eight states do not regulate massage therapy or reflexology, and two states have a separate law on reflexology. So you can see out of the 50 states, some 37 of them treat reflexology different than massage. It is important to note that of the states surrounding Nebraska, none of them require reflexologists to be regulated under a massage law. If you'll look at the list I think you'll find that Colorado, Iowa, Missouri, and South Dakota have all exempted reflexologists from a massage law. Two others, Kansas and Wyoming, of the surrounding states do not have a massage law at all. So I would be happy to answer any questions you may have. I think more of the technical field of reflexologists would be better asked of some of the witnesses who will follow me. And we do have one testifier from my district who is a reflexologist. And then we have a couple of people from the National Reflexologist Association who will follow me, and obviously, they will know more about reflexology than I do. But I still will be happy to try to answer any questions you may have. [LB621]

SENATOR PANKONIN: Senator Wightman, thanks for being with us and I'm glad you could see the very topics that the Health Committee gets into today. Right? (Laughter) Any questions for the good senator? Seeing none, we'll...are you going be here to close? [LB621]

SENATOR WIGHTMAN: I will probably stick around. [LB621]

SENATOR PANKONIN: Okay. Thank you. All right. We will now have proponent testimony on LB621. How many proponents do we have today? Three. [LB621]

CHRISTINE ISSEL: We have a number, but only three of us are going to speak. [LB621]

SENATOR PANKONIN: And that's fine. That will work just great. Welcome. [LB621]

CHRISTINE ISSEL: (Exhibit 2) Thank you. My name is Christine Issel, and that's C-h-r-i-s-t-i-n-e, last name I-s-s-e-l. And I'm actually from Sacramento, California, and I'm legislative council consultant for the American Reflexology Certification Board. We actually certify practitioners across the nation. And I know it's been a long afternoon for you, so there will be two people following me, both from Nebraska. And so I will also be representing the Reflexology Association of America, which is a membership organization, and we've given you pamphlets or packets with all the information and testimonies in it. And I just want to say that reflexology is not massage. And to prove my point, if you go out to the information desk, this is from the National Multiple Sclerosis Society: clear thinking about alternative therapies. And on page 3 it says: Alternative therapies come from many disciples and traditions. They include acupuncture,

aromatherapy, blah blah blah, all the way down to reflexology and various schools of massage among others. So they agree that we're not the same. Reflexology and massage may have touch in common, but both should be treated differently. One would not place an institution who gives facials in the same category as a plastic surgeon, though both perform cosmetic services on the face. And these professions require different definitions, educations, scope of practices, standards, and licensing requirements. And it's the same for reflexology and massage. Placing reflexology under massage is a restraint of trade because it forces practitioners to invest their time and money in an education they do not want in order to practice what they do want to do. The reflexology field has separate schools and educational programs with hours of reflexology training that surpasses what is taught in massage schools as reflexology. It has its own state, national, and international reflexology organizations. It has the national nonprofit national certification program designed to protect the public through the recognition of competent practitioners. And it has over 300 different separate research studies from around the world proving the efficacy and safety of reflexology. Furthermore, only in America is reflexology actually linked to massage. In all the other countries of the world they're two totally separate disciplines. I don't know why that's happened here, but that's just the way it has been. A separate study in Iowa by the Department of Health in 2004 found reflexology and massage to be separate modalities, and they exempted reflexology from the massage law there. And I have included this study in the packet for you, so hopefully, that may save some time for you in review. At the National Institutes of Health National Center for Alternative and Complementary Medicine they do separate reflexology and massage. And in case there's a concern about public safety, the risk to the public is virtually nonexistent. In a 2007 survey of the four largest insurance companies for the massage and bodywork field showed that no one had ever received a claim of malpractice against a reflexologist. So because there's no tools involved and it's simply our hands, the risk is virtually nonexistent. So that's all I have to say. If you have any questions... [LB621]

SENATOR PANKONIN: Thank you for being with us. I think we do have some questions. Senator Stuthman. [LB621]

SENATOR STUTHMAN: Thank you, Senator Pankonin. How long has this reflexology been in existence? [LB621]

CHRISTINE ISSEL: Well, it's been in existence since the 1920s as it is in its current form today. Before that, the application of pressure to the feet for the health of the individual has been throughout all cultures and since the beginning of time, but as a recognized profession, since about the 1920s. And it was started with two physicians here in the United States. [LB621]

SENATOR STUTHMAN: I had never heard of it. The only thing I knew about reflexology was the fact that when we were kids in school you'd tap below the knee so your foot

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would come up. (Laughter) [LB621]

CHRISTINE ISSEL: Different kind of reflex. [LB621]

SENATOR STUTHMAN: Oh. Thank you. [LB621]

SENATOR PANKONIN: Senator Wallman. [LB621]

SENATOR WALLMAN: Thank you, Vice Chair. Yes, in this...if I want to have this done, what's the average person...do they do it once a month or? [LB621]

CHRISTINE ISSEL: Well, it depends because we do it basically for stress reduction. So if an individual feels they need it once a month, that's their decision, but they could have it once a week if they could afford it or once a year. You know, it's totally up...between the client and the practitioner. [LB621]

SENATOR WALLMAN: Is it real expensive or? [LB621]

CHRISTINE ISSEL: I don't know what people would charge right now. I know that reflexologists if they're only doing reflexology in Nebraska, they're doing it on a donation basis because otherwise they'd have to be licensed as massage therapists. [LB621]

SENATOR WALLMAN: Thank you. [LB621]

SENATOR PANKONIN: Senator Campbell. [LB621]

SENATOR CAMPBELL: And maybe we should just ask the people from Nebraska, that might be easier for you. But in other parts of the country, they practice alone rather than in a spa or a doctor's office or... [LB621]

CHRISTINE ISSEL: I would say the vast majority do, yes, practice as individuals, their own practice, yes. But there is like in the beauty industry there is a growing population of people who are doing it in the spas. [LB621]

SENATOR CAMPBELL: Thank you. [LB621]

SENATOR PANKONIN: Seeing no other questions, thank you. Thanks for coming from California. [LB621]

CHRISTINE ISSEL: My pleasure. Thank you very much. [LB621]

SENATOR PANKONIN: All right. Next proponent. Welcome. [LB621]

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CYNDI SMITH: Hi. Thank you for having me. I'm Cyndi Smith. I'm from Lexington, Nebraska. I'm the one who asked Senator Wightman to sponsor this proposal. In fact, I became very concerned because I did attend an accredited reflexology school. And then I did take my national boards which requires taking a very long test, and then we also had to do practical test. And in the meantime I'm working on completing my client documentation form of which will be judged by the certification board. And as I was doing that, which, by the way, I need to have 30 clients and I have to work on them three times and document everything, I found out that in order to do reflexology in Nebraska I needed to have a massage license. And I'm not interested in having a massage license, although I have some best friends who are massage therapists and my daughter is one, too. I really see no need to spend my time and money on massage. I have had a lot of anatomy and physiology in my schooling and, by the way, I am a retired x-ray tech so I know a lot about the health field. And after I retired I really missed the health field, although x-rays on the diagnostic end, reflexology is more on the helping end, and that's the part that I really enjoy. Some of my other concerns with not having our own reflexology exemption for massage is that there are people who don't want to disrobe. My parents are two of them who are uncomfortable with that. And we do have a Muslim population moving into Lexington, and I'm sure you know what that entails. We do only work on the hands, the feet, and the outer ears. I have a chiropractor and my massage therapists who hope that when this bill is passed that they can send their clients to me because...and they even said that they would give me a room in their offices to work with them. So I do have support there. I guess that's about all I wanted to let you know is my concerns and why I feel that we need to be exempt from massage therapy. [LB621]

SENATOR PANKONIN: Okay. Senator Campbell, do you have a question? [LB621]

SENATOR CAMPBELL: Yes. Thank you, Senator Pankonin. Could you explain how you got interested this? I mean, what brought you to this practice rather than...and how did you even become knowledgeable about it? [LB621]

CYNDI SMITH: I can't remember it was so long ago, but I couldn't look into it because I was raising four children, so I couldn't go off to school to learn reflexology. I just knew it was an alternative complementary method for the health field, and that's what really interests me. I am interested in natural homeopathy and things like that, and that's where I got my interest. [LB621]

SENATOR PANKONIN: Senator Wallman. [LB621]

SENATOR WALLMAN: Thank you, Senator. Yes, in regards to this with...and I have friends who have MS, other children, has this really helped them do you feel? [LB621]

CYNDI SMITH: Um-hum. [LB621]

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SENATOR WALLMAN: It does? [LB621]

CYNDI SMITH: Um-hum. I'm not going to say...it doesn't heal... [LB621]

SENATOR WALLMAN: Um-hum. [LB621]

CYNDI SMITH: ...or cure, but I do have a couple of MS clients who have come to me and they've gotten feeling back in their feet. [LB621]

SENATOR WALLMAN: Wow. [LB621]

CYNDI SMITH: They can feel better instead of the gravelly feel that they have. [LB621]

SENATOR WALLMAN: Um-hum. [LB621]

CYNDI SMITH: And they haven't had any setbacks either, so. [LB621]

SENATOR WALLMAN: Wow. You going to have an office... [LB621]

CYNDI SMITH: It is a wonderful complementary modality. [LB621]

SENATOR WALLMAN: Are you going to have an office in Lincoln? (Laughter) [LB621]

CYNDI SMITH: No, I don't. (Laughter) [LB621]

SENATOR WALLMAN: Thank you. [LB621]

SENATOR PANKONIN: I've got a quick question. And this is a new field for me today, like Senator Stuthman, this is a new one and maybe Senator Wightman until a little while ago. But I'm curious about the ears and the sensitivity or you manipulate the outside of the ear and that helps in what way? [LB621]

CYNDI SMITH: There are pressure points on your ears. Just like on your hands and your feet there's reflex points and they just follow the nerve back up to your spine and into your brain. And so when you press on those points, those certain exact points, that sends a signal through the nerve to your spine and into your brain and it relaxes. It unblocks any blockages that might be causing the nerve to not transmit properly. [LB621]

SENATOR PANKONIN: Okay. Thank you. I see no other questions. You're free to go. We'll have the next proponent. Good afternoon. [LB621]

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CONNIE YOUNG: Good afternoon. I'm not sure how to say your name, so I appreciate the opportunity to be here and being able to address this issue. My name is Connie Young, C-o-n-n-i-e Y-o-u-n-g. I may have to read this because I'm so nervous. [LB621]

SENATOR PANKONIN: Well, first of all, don't be nervous. Just relax, just relax. [LB621]

CONNIE YOUNG: All right. I currently teach research writing at UNO, the University of Nebraska in Omaha. And I wish to be a reflexologist because I studied starting in Hong Kong when I lived there for eight months, and I found it to be an effective way to reduce my own stress. It's not working right now. (Laughter) My experience with reflexology has been so profound that I want to give others this beneficial way to reduce stress. However, I have learned I must be a massage therapist to do that here in Omaha, Nebraska. I actually studied in Colorado and Indiana and lived there before I came here, and I moved here in 2003. So this has been a hard thing for me. Unfortunately at 57 years of age and having 20 hours toward a Ph.D. found me discouraged and disappointed that I would need to become a massage therapist in Nebraska to perform reflexology on clients. The thought of having to do massage or actually be massaged (laugh) did not appeal to me at all. I do not want to deal with unclothed bodies. Feet and hands, that's okay. All right. So stimulating feet and hands with the thumbs and fingers to reduce the stressful conditions that are afflicting people, and due to the current economic situation, would be a dream for me. I ask you to allow me to do what I desire to do without having to become a massage therapist because I don't want to go back to school again. Thank you so much for your time. Do you have any questions? [LB621]

SENATOR PANKONIN: Yes. Thank you, Ms. Young. Senator Campbell. [LB621]

SENATOR CAMPBELL: Thank you, Senator Pankonin. Did all of this...has this come from the ancient or from Chinese or Japanese origin? Is that how you got to know it? [LB621]

CONNIE YOUNG: Yes, and Egyptian hieroglyphics even show people manipulating the feet or using stimulation of the feet. And doctors' tombs have these kinds of hieroglyphs. And almost every ancient practice they have done some kind of foot reflexology, although it wasn't called reflexology, of course, until current times in 1920s. [LB621]

SENATOR CAMPBELL: Were you licensed then in Indiana? [LB621]

CONNIE YOUNG: No. I did not have a license, did not need a license in Indiana or Colorado. And that's where I learned...I learned the Asian method in Hong Kong. And then I came to the International Institute of Reflexology, which is in Florida, and I did different seminars in Indiana and Colorado to do their 1,000 hours of credits to get reflexology training. And I was certified. What I might add here is that I was certified by a doctor from Indiana who came here to Omaha to have a seminar in reflexology, and

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there were several massage therapists there. And to my disdain, I guess I would use that word, these massage therapists were certified to be able to offer reflexology to their constituents in spas and whatever. And they were certified within a two-day seminar where they only spent four hours talking about reflexology and how to do it. And this doctor said, oh, you'll figure out your own style and I was appalled because I knew more about reflexology than they could find out in those four hours. And so it really discouraged me that here I was. They were...that's all I'll say about that (laugh). [LB621]

SENATOR CAMPBELL: Thank you. [LB621]

SENATOR PANKONIN: Okay. Senator Wallman has a question. [LB621]

SENATOR WALLMAN: Yes. Thank you, Vice Chair Pankonin. Yeah, this has really got my interest here. If you do my ears, can I hear better? (Laughter) [LB621]

CONNIE YOUNG: Maybe. I don't do ears. I only do hands and feet. I found ears a little bit disconcerting. (Laughter) [LB621]

SENATOR WALLMAN: Thank you. [LB621]

SENATOR PANKONIN: Okay. I think that's it for questions. Thank you. [LB621]

CONNIE YOUNG: Thank you. [LB621]

SENATOR PANKONIN: Is there any other proponents for LB621? Seeing none, are there any opponents? Anybody opposed that wants to speak? Come forward, please. [LB621]

GAIL LORENZEN:: I've been sitting so long. [LB621]

SENATOR PANKONIN: We know how that works. (Laughter) [LB621]

GAIL LORENZEN: I was going to say I'm a teacher by profession and I just want to say, why don't you guys get up and move around a little bit? [LB621]

SENATOR PANKONIN: Welcome. Well, go ahead and state your name and spell it for us. [LB621]

GAIL LORENZEN: Thank you. My name is Gail Lorenzen, G-a-i-l L-o-r-e-n-z-e-n, and I am the public member on the Massage Therapy Board. And as the chair of that board I'm here today to testify in opposition to LB621 referring specifically to item 5 that would exempt reflexology from being...or a reflexologist from being licensed as a massage therapist. As Ms. Hubka told you earlier in her testimony, massage therapists have

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worked hard to become a licensed profession in the state of Nebraska and see further exemptions as weakening the boundaries that protect the public as well as the profession. We realize that the focus of reflexology is limited to the soft tissue of hands, feet, and ears. However, we feel those areas are covered within the massage therapist scope of practice as defined in the Massage Therapy Practice Act as follows: That massage is the physical, mechanical, and electrical manipulation of soft tissue for the therapeutic purposes of enhancing muscle relaxation, reducing stress, improving circulation or installing a greater sense of well-being. In earlier testimony I heard how the two were very different. And yet as I read this definition I find the words manipulation and soft tissue and reducing stress that are commonalities between the two groups of folks. If the state were to consider the exemption of reflexology from the massage therapist legislation, we would further request that it be delayed until the next massage therapy 407 credentialing review. That is the appropriate time to look at the scope of practice and to make any adjustments deemed necessary. We have a process in place through the 407 credentialing, and so let's make use of it. Senators, I would like to thank you for your time, and I would be happy to answer your questions. However, I do need to remind you that I'm not the expert in the field (laugh). I'm the public member who happens to enjoy a good massage once in a while, so. Oh, I do want to comment about one other thing, though, about disrobing. I've had several massages and each time I am as...the person has said to me, please undress to the level of your comfort. And, I mean, I've taken off a lot and I've not taken off very much a couple of times. So I think that's up to the individual receiving the massage more than anything else, so. Questions? [LB621]

SENATOR PANKONIN: Okay. Thank you for your testimony. We'll see if there are any questions. Senator Stuthman. [LB621]

SENATOR STUTHMAN: Thank you, Senator Pankonin. Ms. Lorenzen. [LB621]

GAIL LORENZEN: Yes. [LB621]

SENATOR STUTHMAN: Where are you from? [LB621]

GAIL LORENZEN: Oh, I live up by Ceresco now. [LB621]

SENATOR STUTHMAN: Ceresco. [LB621]

GAIL LORENZEN: Uh-huh. [LB621]

SENATOR STUTHMAN: Any relation to Bob Lorenzen? [LB621]

GAIL LORENZEN: No, no, no. My husband's family comes from Omaha and Beatrice, down in that area. [LB621]

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SENATOR STUTHMAN: Okay. Thank you. [LB621]

GAIL LORENZEN: We used to be the only Lorenzens, but now there's lots more, so. [LB621]

SENATOR PANKONIN: I don't see any other questions. I just have a quick one. As you can tell from the meeting today...and I know you were here for that earlier one, and then the first one was about optometry, we get into these scope of practice issues and we're laypeople. And so, you know, these are interesting but they're difficult decisions when we don't know that much about it as well. On the surface this one sounds like it's quite a bit different to me, but oftentimes we do refer to the 407 review because it's more technical and medically based. But we appreciate you coming today and sharing on that. But I guess the question is, your comment is that you still think even after you've heard the testimony that it's still...people should go through all this massage training before they would specialize in this area? That's your assertion? [LB621]

GAIL LORENZEN: I'm going to go back to my own profession and I know that I became a better teacher with more training. That's why I went on to...went back to school to further...to improve myself. And I've only been on the board for a short period of time. However, there must have been discussion when the bill was put together as to whether reflexology should be included or not. And the decision at that time was I see lots of similarities. I personally have never gone just for a reflexology treatment, so I really should not try to address... [LB621]

SENATOR PANKONIN: Okay. Thank you. [LB621]

GAIL LORENZEN: Okay. Thank you. [LB621]

SENATOR PANKONIN: Other opponents? [LB621]

HELEN MEEKS: (Exhibit 3) For the record, Helen Meeks testifying as the representative of the Department of Health and Human Services. This bill would amend the massage therapy act, as you've heard before, so that individuals who manipulate soft tissue of the hands, feet or the ears of the human body and who do not hold themselves out to be massage therapists would not have to have a license as such. This exception, we believe, creates more ambiguity by attempting to exempt a procedure, in this case reflexology, that is not currently even defined in statute. And further, such exemption does not mention the purpose for which reflexology would be provided. We think it confuses matters by authorizing essentially anyone to manipulate the soft tissue of only the hands, the feet, or the ears of person for whatever...for any purpose without any regulatory oversight. The practice of massage therapy includes manipulation of soft tissue of the entire body. We would like to point out to the committee that there is an

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Attorney General's Opinion that goes back...it's February 11, 1985, which concludes that the practice of reflexology by a person who holds him or herself out as skilled to practice it to affect healing, as you've heard testimony to this effect, is the practice of medicine and surgery. Further, within their limited field of practice of medicine and surgery, and it goes on to talk about what was referred to back then as masseurs and masseuses or massage therapists today not only can massage therapists do reflexology, but the opinion points out the chiropractors can do it, podiatrists can do it. They may use reflexology as a method of treatment within their scope of practice. So by no means does that opinion say that reflexology is only limited to massage therapists. The purpose of reflexology is to heal the body by applying pressure to pressure points on the body without the use of drugs or surgery. Persons who hold themselves out as skilled or otherwise qualified to diagnose or treat or heal others through the use of reflexology are practicing medicine and surgery. And, again, we refer to the current definition that is found in statute. We also include in the testimony individuals that as, again, under current law who would be deemed to be practicing medicine and surgery, persons who are holding themselves out to the public as being qualified to diagnose or treat diseases, ailments, pains, deformity, etcetera. And so I won't read through all of those, but we would ask the committee take a look at those. In closing, we would recommend to the Legislature that no action be taken on this bill, that it be referred for a credentialing review or 407 on the proposal. We make this recommendation based upon two considerations. First, LB621 which would make a change in the scope of practice of a profession that is already regulated, and we think this clearly falls under the duty to review as provided by the 407 process. And secondly, the practice as identified may well fall under the practice rights of other regulated professions. And so conducting a 407 or a credentials review would allow these technical issues to be studied in depth and their impact on the health of Nebraskans to be assessed. And then, of course, that information could be brought back to the Legislature. Thank you. [LB621]

SENATOR PANKONIN: Thank you, Ms. Meeks. We'll see if there are any questions? Seeing none, I think they're done for the day. [LB621]

HELEN MEEKS: Thank you. [LB621]

SENATOR PANKONIN: Okay. Any other opponents to LB621? Are there any other opponents after this testifier? Okay. Anybody here in the neutral? We have one. All right. [LB621]

BJ DENNIS: Good afternoon. [LB621]

SENATOR PANKONIN: Good afternoon. [LB621]

BJ DENNIS: (Exhibit 6) My name is BJ Dennis, D-e-n-n-i-s. And I have been a licensed massage therapist for 17 years, and I consider reflexology my own personal healing

tool. In my profession none of us as massage therapists are allowed to make any health claims. That's left to the medical profession. But I can testify that reflexology is truly healing. But I'm going to ask that with all due respect, if we're going to eliminate the feet, the hands, and the ears from licensure that the rest of the body be exempt as well because it's important to me to know that anybody touching my feet knows what they're doing. And I'm not denying the fact that people are highly trained in this profession. I've been certified in reflexology and I've taught it to several hundred people in the state of Nebraska. I can read to you and the last time I testified I wasn't allowed to read, but I think it's important for you to know that there have been studies conducted in the effect of reflexology. They've happened in Europe, as most things do before they get to the United States. I will see that copies get to you senators on this. I just went out to the car to grab it. But it's a Dr. Manzanares from Europe, from Germany who states as follows. He did the...conducted the first research specifically aimed at identifying a mechanism for studying reflexology and its effects. "Noting the response of paralyzed individuals to reflexology work and reading texts about the physiology of the nervous system, Kunz (phonetic) noted that the reticular core of the brain stem both receives sensory information coming from the body and is the final common pathway for information from the brain to the autonomic and motor nervous systems. The integration of information from the feet and information to the internal organs of the autonomic nervous system takes place in the reticular core. The reticular core acts as a volume control on activities of both the autonomic nervous system, regulator of the internal organs, and the gamma efferent portion of the motor nervous system, regulating the degree of muscle tone throughout the body. Dr. Manzanares has explored how and why reflexology works using EEG studies with individuals experiencing lesions in the brain and peripheral nervous system. Working at the Neurophysiology Department of the Autonomous University of Barcelona, he studied individuals with lesions in the medulla and peripheral nerves." I'm going to stop there on that study and read results of a second study that uses Doppler sonography blood flow changes within the right kidney during foot reflexology which determined in the placebo-controlled double-blind randomized study of 32 healthy, young adults. In the verum group showed a highly significant decrease during an increase after foot reflexology. Verum and placebo groups significantly differed concerning alterations of the resistive index both between the measuring points before versus during foot reflexology and those during versus after reflexology. The significant decrease of the resistive index during foot reflexology in the verum group indicates a decrease of flow resistance in renal vessels and an increase of renal blood flow. These findings support the hypothesis that organ-associated foot reflexology is effective in changing renal flow during therapy. Reflexology isn't just for relaxation. I could bore you to death with the healing I've had in my own body from reflexology. My dad used to do it as a child. It has healed me from numerous pain levels of accidents and injuries. [LB621]

SENATOR PANKONIN: Okay. Thank you, Ms. Dennis. We'll...Senator Campbell.
[LB621]

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SENATOR CAMPBELL: Thank you, Senator Pankonin. Ms. Dennis, if I were to go to my regular spa where I have a massage therapist, in the list of options that I have would there be listed reflexology as an option by some? [LB621]

BJ DENNIS: Yes, yes. [LB621]

SENATOR CAMPBELL: Okay. So some of the massage therapists when they're offering the list of things that they could do, services that I could pay for and have them do, that would be one of them. [LB621]

BJ DENNIS: That would be one of them. They can get continuing ed training for that and not be certified in it as all other... [LB621]

SENATOR CAMPBELL: Okay. So if I'm looking for something for Senator Wallman I'll know what to look for. (Laughter) [LB621]

BJ DENNIS: And I do have an office in Lincoln, so. (Laughter) [LB621]

SENATOR PANKONIN: Senator Wallman, there you go. [LB621]

SENATOR WALLMAN: Thank you, Chairman Pankonin. I must say this has been an interesting afternoon. And... [LB621]

BJ DENNIS: I've learned a lot, too (laugh). [LB621]

SENATOR WALLMAN: And a friend of mine is a massage therapist and went to Arkansas. But I've never heard her use that word reflex, you know, reflex thing. So a lot of massage therapists use that reflexology? [LB621]

BJ DENNIS: Yes, sir. [LB621]

SENATOR WALLMAN: Huh. I'll have to call her up. [LB621]

BJ DENNIS: And it's a very effective healing tool besides relaxing. [LB621]

SENATOR WALLMAN: So you have an office in Lincoln, huh? (Laughter) Thank you. [LB621]

BJ DENNIS: Any other...I'm sorry. Any other questions? [LB621]

SENATOR PANKONIN: That's what I ask. (Laughter) Any other questions? [LB621]

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BJ DENNIS: Would you like copies of these studies or is that probably... [LB621]

SENATOR PANKONIN: Yeah. If you want to get them, we can have copies made. [LB621]

BJ DENNIS: Thank you for your time. [LB621]

SENATOR PANKONIN: Thank you. Any other opponent testimony? Make sure, otherwise we'll have the neutral testimony. [LB621]

RON SEDLACEK: Good afternoon, Senator Pankonin and members of the Health and Human Services Committee. For the record, my name is Ron Sedlacek, R-o-n S-e-d-l-a-c-e-k, and I'm here today authorized to provide testimony in neutral capacity on behalf of the Nebraska Chiropractic Physicians Association. And should we have no particular position on the legislation itself or the 407 process, but rather we would just mention that Senator Wightman spoke of an amendment earlier that is acceptable to the proponents of the legislation. We would support that amendment. And with that, I will conclude my testimony. [LB621]

SENATOR PANKONIN: Thank you, Mr. Sedlacek. Any questions? Senator Wallman. [LB621]

SENATOR WALLMAN: Thank you, Chairman. [LB621]

RON SEDLACEK: I do have an office in Lincoln. (Laughter) [LB621]

SENATOR WALLMAN: Do any chiropractors do this too? [LB621]

RON SEDLACEK: I heard testimony earlier that mentioned that, but I do not know that personally, so. [LB621]

SENATOR WALLMAN: I do use a chiropractor. Thank you. [LB621]

RON SEDLACEK: Okay. Okay. (Laughter) [LB621]

SENATOR PANKONIN: I think this hearing has gone downhill. All right. You're free to go. We don't have any other questions. Senator Wightman, would you like to close? And we know where your office is, so. (Laughter) [LB621]

SENATOR WIGHTMAN: And I haven't been practicing reflexology. Well, thank you, Senator Pankonin and members of the committee. I know that the hour is getting late. The good news that I have for you is that we are not going to send you any bill for tuition on reflexology 101, so (laughter) I'm sure you'll be pleased to know that. We would

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submit that a number of other states have studied this issue. I think that one of the testifiers had passed out the study that was done in the state of Iowa that most of the other states that have examined the issue have found that there is a substantial difference between the practice of massage and those practicing reflexology. Iowa I know did study the issue before they exempted reflexology from their massage law. But if you look at states surrounding Nebraska, none of them are in the position that Nebraska is right now which makes it subject to the massage law. Two of them have no massage law, and then four of them have exempted reflexology. So we believe that there is a substantial difference. I know there's been discussion whether this is healing or whether it's relaxation, but I think from the testifiers here that were reflexologists I would have to conclude that it is primarily a relaxation tool and not a healing tool. So with that, we would urge you to advance LB121 (sic) along with the accompanying amendment to General File. Thank you. If you have any questions, I will try to answer them. [LB621]

SENATOR PANKONIN: Senator Wightman, thank you. I don't see any questions, but as you well know, this is sometimes how these issues get decided and started with a bill, and then there's the 407 review process, and then we make those decisions as time goes on. So thanks for bringing this issue to us. [LB621]

SENATOR WIGHTMAN: Thank you. [LB621]

SENATOR PANKONIN: (See also Exhibits 4, 5) That concludes the hearing on the bill and the entire hearing this afternoon. Thank you. [LB621]

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Disposition of Bills:

LB214 - Held in committee.
LB417 - Held in committee.
LB444 - Held in committee.
LB621 - Held in committee.

Chairperson

Committee Clerk