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Government, Military and Veterans Affairs Committee  
February 07, 2018

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[LB1058 LB1111 LB1119]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, February 7, 2018, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1119, LB1058, and LB1111. Senators present: John Murante, Chairperson; Tom Brewer, Vice Chairperson; Tom Briese; Mike Hilgers; John Lowe; and Theresa Thibodeau. Senators absent: Carol Blood and Justin Wayne.

SENATOR MURANTE: (Recorder malfunction)...Committee. My name is John Murante. I'm the state senator for District 49 which includes Gretna and western Sarpy County and I'm the Chairman of this committee. We are here today for the purposes of conducting three public hearings. We'll be taking those bills up in the order in which they appear on the agenda outside of this room. If you wish to testify on any of the matters before us, we ask that you fill out one of these green sheets of paper which are located on either side of the room. If you are here and wish to express support or opposition for any of the matters before us but you do not wish to testify, we ask that you fill out one of the sign-in sheets. They are also located on either side of the room. If you do testify, we ask that you begin by stating and spelling your name for the record which is very important for our Transcribers' Office. The order of proceedings is that the introducer will be given an opportunity to open, then we will listen to proponent testimony, then opponent testimony, then neutral testimony, and the introducer will be given an opportunity to close. We ask that you listen very carefully to try not to be repetitive. We do use the light system in the Government Committee. Each testifier is allotted four minutes to testify. When the yellow light comes on you have one minute remaining and we ask that you begin concluding your remarks. When the red light comes on and your time has expired, we will open the committee up to any questions they may have of you. At this time I'd like to encourage everyone to turn off or silence any cell phones or electronic devices, anything that makes noise. If you have a prepared statement, an exhibit, or anything you would like to distribute to the committee, please provide 12 copies to one of our pages. If you don't have 12 copies, provide the pages with what you have and they will make copies for you. And our pages for the day are Kylie Kotouc of Lincoln, Nebraska, and Bailey Dehning of Omaha. And we will move to introduction of members.  
Senator Lowe.

SENATOR LOWE: John Lowe, District 37, south half of Buffalo County.

SENATOR BRIESE: Tom Briese, District 41.

SENATOR HILGERS: Mike Hilgers, District 21, northwest Lincoln and Lancaster County.

SENATOR BREWER: Tom Brewer, District 43, 13 counties of western Nebraska.

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SENATOR THIBODEAU: Theresa Thibodeau, District 6, Omaha.

SENATOR MURANTE: To my immediate right is Andrew La Grone. Andrew is the Government Committee's legal counsel. To our far left is Sherry Shaffer. Sherry is the government committee's clerk. And Senator Brewer is the Government Committee's Vice Chair. And with that, we welcome back Senator Riepe to your Committee on Government, Military and Veterans Affairs.

SENATOR RIEPE: Thank you. Thank you, Chairman Murante and members of the Government Military and Veterans Affairs Committee. I am Merv Riepe, spelled M-e-r-v, Riepe, R-i-e-p-e. I am the state senator for District 12 which is Omaha, Millard, and Ralston. Today, I present to you a subject that's close to my heart and that is LB1119 for your consideration. Direct primary care is a medical care delivery model between patients and physicians. It's...under a direct care primary care agreement, the patient pays a monthly retainer for unlimited consultations and an annual physical. This model of care enhances the patient-practitioner relationship, improves access to care, and reduces cost. In 2016, I introduced LB817 to adopt the Direct Primary Care Agreement Act, LB817, which was approved by Governor Ricketts on March 30, 2016. As of October 2017, Nebraska was one of 23 states which had enacted direct primary care legislation. Recently this...well, LB1119 would implement a direct primary care pilot program within the Nebraska state insurance program. This would be a two-year pilot beginning in fiscal year 2019-20 and continue through fiscal year 2021-22. Pursuant to the pilot, the Department of Administrative Services would provide at least two different direct primary care health plans for participation of state employees. The department would also provide annual reports evaluating the clinical and financial performance of the program. The pilot program proposed by LB1119 would allow the state of Nebraska to evaluate the impact of direct primary care and apply program findings to make improvements in healthcare in the state. Thank you, colleagues, and I ask for your questions. [LB1119]

SENATOR MURANTE: Thank you, Chairman Riepe. Are there any questions? Senator Hilgers. [LB1119]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Senator Riepe, for bringing this. Thank you for all the work you've done on direct primary care. I, as a business owner, I think I've told you off the mike within the last year I've had companies now pitching my law firm and making a very strong case about how this could be a cheaper model of healthcare with better health outcomes for people in Nebraska. So I want to commend you for everything you've done. I really appreciate you bringing this bill. But I do have a question and I guess that is as you see the next couple of years some of the innovation or maybe either through further implementation of direct primary care or other things out there on the statewide, what do you see from an

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innovation perspective that states are doing or could be doing over the next couple of years to help get our hands around some of these cost considerations? [LB1119]

SENATOR RIEPE: Okay. Well, you know, it's particularly of interest to me, my background in healthcare. I'm a believer in healthcare reform with new models and I think that we're going to see a stronger partnership. I was a big fan of the Cassidy-Graham legislation that would provide block grants to states, and along with that Susan Collins had a piece in the recent tax plan. I'm not sure whether they got through, but that was going to help states set up high risk pools. So that all came in a wonderful way of looking at trying to say we've got to get stability. We've got to get predictability. We've got to get those kinds of things and we have to do it before everyone just throws their hands up and says, well, let's just go to a single payer. I don't...I'm not a fan of that. I don't want to go there and I want to resist it with every piece. The other thing and I'd like to say, Senator Hilgers, is one of the examples that I have used is with primary care there is no copay. There is no deductible. So if a family has to...needs to buy groceries at the end of the day or see the physician because they have some upper respiratory, as an example, you don't have to forgo the groceries to go see the doctor. You can do both. You see your doctor, you get good care early on, and you still go home with the groceries for the family. [LB1119]

SENATOR HILGERS: Thank you very much, Senator Riepe. I really appreciate it. [LB1119]

SENATOR RIEPE: Thank you. [LB1119]

SENATOR MURANTE: Thank you, Senator Hilgers. Are there additional questions? Seeing none... [LB1119]

SENATOR RIEPE: I have some experts following me and I'm really thrilled with that and I appreciate their being here, sir. [LB1119]

SENATOR MURANTE: Thank you. [LB1119]

SENATOR RIEPE: Thank you, sir. [LB1119]

SENATOR MURANTE: And we'll open it up to proponent testimony on LB1119, supporters of LB1119. Welcome. [LB1119]

CLIFF ROBERTSON: (Exhibit 1) Welcome. Good afternoon, Mr. Chair and members of the committee. I'm Dr. Cliff Robertson, C-l-i-f-f R-o-b-e-r-t-s-o-n. I'm a family physician but I'm also the CEO of CHI Health and today I'm here actually testifying as an employer who believes

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in direct primary care. CHI Health is a regional health network. We have 14 hospitals across southwest Iowa and Nebraska, two standalone behavioral health facilities, a freestanding emergency department in Omaha, and more than 150 physician practice locations around the state. We also have 12,000 employees that make up the CHI Health family. My testimony is in support of LB1119 and is on behalf of both CHI Health and the Nebraska Hospital Association. And I do want to thank Senator Riepe for this bill's introduction. We were pleased to work with Senator Riepe on legislation that was adopted by the Legislature in 2016 that clarified, as most states have already done, that direct primary care is not an insurance product but an innovative offering, a new approach catering to patients in helping reduce healthcare costs for families and employers. Since that time, CHI Health has been pursuing direct primary care both as a provider of services but as an employer by starting one of the first practices dedicated solely to providing direct primary care and is probably...and is one of the first health systems for sure that is offered direct primary care as an employee benefit for our employees. We did so because we believe healthcare is too expensive in this country and we also believe that, as providers, we need to lead the way in helping lower costs. So I wanted to briefly share our experience with both of these efforts to date as they are very similar with what is being proposed in LB1119. A little less than a year ago, mid 2017, we decided to do something that would assist our own employees with the cost of care and, more importantly, provide them with what has been shown to be a much better patient experience or much better care experience. So we started offering employees and their dependents the option of a direct primary care plan. While they also have the option of more traditional PPO plans, hundreds of our employees signed up, as well as their dependents, and took advantage of the direct primary care plan that we offered. In this most recent enrollment period, we have now almost 1,400 employees and their dependents in our direct primary care plan. They get direct primary care as a benefit that provides them primary care services much like the optional medical benefit plan that is described in LB1119. There's no copays or deductible for primary care services, so there is no barrier to access care for those individuals. They also have the ability in this model to see their physician as often as needed for as long as needed. While the effort is still relatively new and our own evaluations are not yet complete, we believe that our experience will be in line with what we've seen elsewhere in other organizations and other companies, that this approach to value-based delivery of care can save 5-15 percent in total cost of care. From a physician's perspective, our doctors will also tell you that it's been incredibly successful transition. Dr. Bill Lowndes, who is our lead physician in this, our first physician in this initiative, used to manage about 3,600 patients between two clinics and now is focusing on a panel of around 1,200 patients which provides him the opportunity and the time to meet the needs that the patients have. In the old fee-for-service world, the only way to make the economics work for a primary care doc was to see more patients for shorter and shorter visits. But the fee-for-service treadmill meant Dr. Lowndes wasn't able to spend the time with patients or address their health issues thoroughly. In our current system, the fee-for-service system, a typical patient visit might be ten minutes while our direct primary care provider spends the time that is needed by the patient and is available to that patient 24/7 through office visits, e-mails,

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phone calls, or other forms of communication. So based on our experience with both our own employees and our own providers, I believe that you are on the right track with LB1119 and that you will see positive benefits for state employees as well as seeing lower healthcare costs. And then...I'll stop. [LB1119]

SENATOR MURANTE: Go ahead and finish up. [LB1119]

CLIFF ROBERTSON: Well, I also have the privilege of working with an organization called America's Agenda. America's Agenda is a labor organization that's...where labor and businesses have been coming together to deliver healthcare innovation that results in lower costs and better care, obviously of interest both to employers both to management and labor. And America's Agenda has introduced this concept of direct primary care to organizations and labor unions across the state and so they're also very supportive of this approach. I'd be happy to take any questions. [LB1119]

SENATOR MURANTE: All right. Thank you for your testimony. Senator Thibodeau. [LB1119]

SENATOR THIBODEAU: How are you? [LB1119]

CLIFF ROBERTSON: Good. [LB1119]

SENATOR THIBODEAU: I guess for transparency purposes I should state that my husband does work for CHI. I know that it's too soon to tell, but obviously I know that you guys track medical expenses and claims on a monthly basis. So far since putting this plan in place for employees, is CHI seeing a reduction in costs? [LB1119]

CLIFF ROBERTSON: So our first cohort of employees was around 250 employees, so we've got about six months of data on that small subset. As of January with open enrollment, we added another 1,200 or so to the clinic. We'll have a much better sense six months from now or even a year from now. But the answer to that is yes. So what...the way direct primary care works is it allows the primary care provider--and as I said, I was a family doc--the ability to take care of patients and provide care that prevents folks from, a, needing to see specials like your husband inappropriately or going to emergency rooms or accessing more expensive care sites when it's not necessary. So this is, in my mind, this is primary care like it was meant to be. It was the way I dreamed of being able to practice primary care decades ago but was never really able to given the economic model that we find ourselves in healthcare in this country today. [LB1119]

SENATOR THIBODEAU: Thank you. [LB1119]

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SENATOR MURANTE: Thank you, Senator Thibodeau. Senator Hilgers. [LB1119]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you for being here, Doctor. I'll commend CHI for implementing this program, being on the cutting edge of this. Two quick questions, one, have you have any sort of feedback from your employees in terms of how they like this option of the direct primary care? [LB1119]

CLIFF ROBERTSON: So the first answer to your question is absolutely it's been over the...off the charts positive and I think as you'll hear from some of the folks, the physicians that actually practice direct primary care will be able to testify, it is a much different relationship between the physician and the patient and it benefits actually both. Physicians love the practice in this model because it does get them off the treadmill, but more importantly, the patients actually feel like they have somebody that cares about them, that knows them, and that is available to them when they need. [LB1119]

SENATOR HILGERS: I appreciate that. My second question is, at least anecdotally, I saw before the federal tax bill was passed at the end of last year there's some confusion with how a direct primary care system might work within the ACA regime and having certain ACA compliant healthcare and how you have a wraparound and how they all fit together. Now that the individual mandate has been repealed at the end of last year, one, did you see some of that confusion from your experience? And then secondly, has there...have you started to see the perception change a little bit just because that's been repealed? [LB1119]

CLIFF ROBERTSON: Not directly, so I can't specifically answer that. My...I suspect that we won't see much impact with the repeal of the individual mandate because I believe personally and from the research that we've done internally looking at who signs up for public exchange products is that the folks the penalty wasn't high enough to make folks buy something they didn't really want to make...or didn't want to buy. So I don't know that we'll see a big change from that perspective. I do believe though that one of the issues that we will all have to address with direct primary care is the whole issue around how it's perceived as a benefit versus insurance, which the state was out in front and clarified that for us in 2016 which we're very thankful for. [LB1119]

SENATOR HILGERS: Thank you, Doctor. [LB1119]

SENATOR MURANTE: Thank you, Senator Hilgers. Senator Briese. [LB1119]

SENATOR BRIESE: I'll pass. [LB1119]

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SENATOR MURANTE: Your question was answered. All right. Any final questions? Seeing none, thank you for your testimony. Much appreciated. Welcome. [LB1119]

JOEL BESSMER: (Exhibit 2) Good afternoon, everybody. I am Dr. Joel Bessmer, J-o-e-l B-e-s-s-m-e-r. I am a concierge physician in Omaha, Nebraska, but my background is residency education at the University of Nebraska Medical Center for the first 13 years of my career and I have a passion for saving primary care and it is what we're talking about today. My wife and I started a new direct primary care company, so I was here and testified for LB817, our fantastic bill that freed us up to open a direct primary care practice. I bring up my background in concierge medicine because I look at direct primary care as bringing concierge medicine to the masses at an affordable level. The handout I have for you is a pilot study that we have done with our company Strada, with a small, local company in Omaha that everybody I think would be familiar with because you've heard their little tune, is Burton Plumbing. So Burton Plumbing's owner Mark Evans is just a phenomenal guy and really wanted to help his employees. I think with what has happened in healthcare most employers are having to raise deductibles in order to be able to afford to even purchase insurance for their employees. In doing so, I strongly feel we have completely priced the middle class out of healthcare. They are choosing not to seek care because deductibles are so expensive, copays are expensive, and they need to meet all of those dollars before the insurance policy is ever going to help them. Direct primary care really comes to the rescue there. For the amount of money you are spending on cell phones, cable TV, you can have a physician at your disposal 24 hours a day, seven days a week. That's direct primary care. This is a phenomenal plan. You'll see in the paper what it does to cost. So this is just a six-month direct primary care study with the employees of Burton health where they were allowed to choose do they enroll with our company Strada Healthcare in a direct primary care role, or do they want to remain with their present insurance provider high deductible. And we just compared, you can see for per-member, per-month cost. You can see per-member, per-month drug utilization. You can see emergency room visits. And you can see office visits. And so it allows you to start to see. This was 80 people roughly employees. It allows you to start to see what we could do with a direct primary care study for the state of Nebraska and the employees of the state of Nebraska and it allows you to see some of the data points that we can then bring back to you. I'm open for questions. [LB1119]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there questions? Senator Hilgers. [LB1119]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Doctor, for being here. This is not made part of our record, but I do want to point out a couple pieces of...at least I don't believe it is. It's a demonstrative for I think the benefit of the committee members. But I think there's some pieces of information that are incredibly I think powerful, one of which is, as I understand your data, and this again is...I mean maybe it's not a peer reviewed study but it's... [LB1119]

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JOEL BESSMER: It's not. [LB1119]

SENATOR HILGERS: But at the same time I think it's pretty powerful. As I understand it that there was 200...almost 200 emergency or urgent care visits per 1,000 people without your plan in place and then with your plan it was about 14, is that right? [LB1119]

JOEL BESSMER: Right, and the understanding there, I mean the way you explain that and the way we talk about direct primary care and concierge medicine, it's really like you have a doctor in the family, right? I mean when you have a doctor in the family and something happens you reach out and say, does this makes sense? Is this what I should do as opposed to those who don't have a doctor in the family that then they get more anxious, they get more concerned, those kinds of things. I don't know if it's written in the study but I thought one of the most profound things to me that came out of our Burton study--60 percent of our visits were virtual because remember, in a direct primary care fashion the doctor is no longer tied to having to say I need to see you in my office or I will make no money. This is really about what's best for your healthcare. So we talk about try to reach out to us as early as possible. Reach out when you have a fever. Reach out when these things are going on earlier because we know in healthcare the sooner we get started and have an impact, the better off we can be. The example is our influenza right now. It is rampant. We're still increasing. If you're a Strada patient and you get fevers and muscle aches at 10 p.m., you can reach to your provider and get started on Tamiflu. If you're not a Strada person, you're going to an ER or an urgent care. So it really changes the delivery mode and it makes it much easier I think for people to have that relationship with their provider. [LB1119]

SENATOR HILGERS: Just for the record purposes, you used the term concierge medicine and direct primary care. They're equivalent...they're essentially the same thing. The difference in my mind and tell me if this is correct, is concierge medicine is it sort of has that...it has a direct relationship with the doctor but because in a pre-direct primary care world, you had to be kind of wealthy to do it. And it's sort of implies that... [LB1119]

JOEL BESSMER: No, you've absolutely nailed it. That's absolutely right. And the difference between the two of them, the way I define concierge medicine versus direct primary care because I can also tell you about a direct primary care practice that charges \$9,000 a year, but then they throw in so many other things, right? But I define concierge versus direct primary care of, are you still billing insurance? Is the annual fee just to be in the practice but nothing else is different? That's concierge medicine. Direct primary care, you are purchasing healthcare with your dollars. [LB1119]

SENATOR HILGERS: Thank you, Doctor. [LB1119]



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JOEL BESSMER: It is not insurance. [LB1119]

SENATOR HILGERS: Thank you. [LB1119]

SENATOR MURANTE: All right. Any additional questions? Seeing none, thank you for your testimony. Much appreciated. [LB1119]

JOEL BESSMER: Thank you so much for your time. [LB1119]

SENATOR MURANTE: Additional proponent testimony. Welcome. [LB1119]

TODD JOHNSON: I'm Dr. Todd Johnson, T-o-d-d J-o-h-n-s-o-n, and I'm a proponent for LB1119. And I'm here just to basically tell my story and support for this bill. I'm the Lone Ranger. I am the state of Nebraska's very first direct primary care physician. I opened my doors in July of 2016 and I just expanded my doors and added on another provider last month. We have patients and enrollees calling every single day, coming in to see us and thankful that now they have an option for healthcare that they can afford. And I think after listening to original testimonies, I think it is very important to clearly identify what is direct primary care and to separate it from the current healthcare model as well as concierge medicine. We are a membership based healthcare, period. You can stop there. Now what every direct primary care office does differently is unique to them, but we offer care. We don't offer insurance. We don't file insurance claims. We keep the middleman out. We keep costs down. We keep the quality of care high. What I do in my practice, as a member there are benefits and those benefits include wholesale pricing to laboratories, to medications, to imaging studies, to direct medical equipment, and consultations with physicians. That cost savings is tremendous and I'll use a quick example. I had a patient just call me this morning. She happens to be in Florida, but I know her well so I was able to do her visit virtually. She clearly has bronchitis, offered her antibiotic. Since she's out of town, I asked if you like her...like me to call it in to local pharmacy or pick it up for me when she returns. And she said last time I had you call it in the medication was \$80. It's \$3 in my office--the exact same medicine. That's the power of the cost savings that we see with direct primary care. Now you need to have a relationship to do that, and we are a lot of the time, as everyone else has said, to offer those benefits. Next example is imaging. I can get an MRI for somebody's knee who possibly has an ACL or meniscal tear for \$600; running it through the system, whether you have a high-deductible plan or not, \$4,500. They just purchased their entire family a year of membership by purchasing it cash price and not utilizing their insurance. I do have a dozen businesses on board with me that are subscribing all their employees because now they can finally offer healthcare to their employees when before they were offering health insurance that they could not afford and could not afford to keep their deductibles. Now their businesses are thriving because they have healthy employees who are at

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work more and sick less and they're on board with preventive healthcare as well. There's no question in my mind that direct primary care works and there's no question in my mind that it would work for state employees as well. With that, I'd like to close and answer questions. [LB1119]

SENATOR MURANTE: All right. Thank you for your testimony. Are there any questions? Senator Brewer. [LB1119]

SENATOR BREWER: Thank you, Mr. Chairman. I find your testimony fascinating and let me give you a perspective why. I grew up with Indian Healthcare Services, which on their best day are somewhat limited. It is not uncommon to sit for an entire day and not see anyone and come back the next and sit for a good share of that day before you see anyone. That's...there's many reasons why that is. But even now where the care that I have is through the VA, I reinjured my back in February, waited the normally week cycle to call and get then a date. They scheduled me for an MRI. It was done in October and they did the procedure in December. So that's the cycle that I am dealing with now. So as you describe this it's refreshing because it's the way it should be. Unfortunately, the world I live in it's not quite that efficient. So thank you for sharing this. [LB1119]

TODD JOHNSON: May I share another story that might hit your heart? [LB1119]

SENATOR BREWER: Please. [LB1119]

TODD JOHNSON: Remember the ice storm we had last year, got about quarter inch of ice... [LB1119]

SENATOR BREWER: Right. [LB1119]

TODD JOHNSON: ...overnight nobody expected it. Long-term patient fell on the ice. She came in to see me that day and she said I messed up my shoulder. I did an examination. I had time. I saw her that day. She didn't have to wait a week. And I said you definitely did. She does have insurance. I gave her the option. Do you want to run this through your insurance plan or you want to do it the direct care way? She said, well, let's try the insurance plan. So I did that, guess what happened? Her imaging was denied. And she said I can't function. I cannot sleep. I cannot go to work. I need to make money. I can't afford to do it this way. I told her you do have another option. We have a cash price if you want to do it. Two days later she said do it, I can't function this way. She got her MRI for \$600, got her in to see a surgeon two days later, had her operation the following week. Six weeks later I got that denial from the MRI. She was already in recovery

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and in rehab and on her way back to work. That's just an example. I have...I could go all day on stories like that and I've only been in practice for a year and a half doing this. [LB1119]

SENATOR BREWER: Well, thank you for your presentation. [LB1119]

SENATOR MURANTE: Thank you. Any additional questions? Senator Lowe. [LB1119]

SENATOR LOWE: Thank you, Chairman, and thank you for your testimony today. Is it a risky business when you go in and you're the first primary care provider in Nebraska did you think you were going to be successful right off the bat and have enough customers to make it cash flow for you? [LB1119]

TODD JOHNSON: Not at all. I mean, is it risky? Yes. Was I confident it would turn over this quickly? No. But it worked out and succeeded. My biggest problem is the volume of people who want to come in that I need to...I need more doctors on board with me to make this work. [LB1119]

SENATOR LOWE: Thank you. [LB1119]

SENATOR MURANTE: Senator Brewer. [LB1119]

SENATOR BREWER: Sorry to repeat on this, Mr. Chairman. Now just a quick I guess general question, the concern is the pushback from the insurance companies. Is that something that you see and have to deal with? [LB1119]

TODD JOHNSON: I don't get any pushback from the insurance companies. In fact, originally I thought I would. But what I've seen recently is the fact that, especially with folks who have insurance that choose a direct care route for other reasons, the insurance companies are still getting their premiums. They're just not getting claims sent their direction now. They're not filing claims. They're saving money and offering better care through this model. The consumer is still getting the care they want and desire but not going through the claim system. [LB1119]

SENATOR BREWER: Thank you. [LB1119]

SENATOR MURANTE: Seeing no further questions, thank you very much for your testimony. [LB1119]

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TODD JOHNSON: Thank you for your time. [LB1119]

SENATOR MURANTE: Welcome. [LB1119]

ROBERT WERGIN: Thank you, Mr. Chairman. I'm a little hoarse. I pardon for my voice. My name is Robert Wergin, MD, R-o-b-e-r-t, Wergin, W-e-r-g-i-n. I'm immediate past president of the American Academy of Family Physicians who represents 130,000 family physicians across the United States, so a big organization of primary care doctors. In my role as president I was able to travel around the country and meet many people who like Dr. Johnson who was launching into this new and innovative model of direct primary care. And if anything that our current healthcare system needs is new innovations and new modes of care and payment for care. At the time I was president, about 4 percent of my membership was doing direct primary care and about 12 percent had an interest in it. And a national trend since I was on Capitol Hill quite a bit there, there was great interest by CMS of moving away from a volume-based, fee-for-service system, which it was characterized here, the more you see the more you make, whether it's good care or bad care, to more of a value-based payment system where you take the time to provide high quality care. It also delivers on the triple A--and you'll hear that term--better health, better care, at lower cost. And I throw quadruple A into there, too, which is a happier provider, happier doctors, because one thing I would say having traveled across the country meeting these direct primary care physicians, I noticed one thing early on: They were all smiling. They were all like Dr. Johnson. They were happy. You can hear his enthusiasm. And you don't always hear that in medicine. Other people--gee, I had to fill out preauthorizations and got this denied all trying to help (inaudible) for your patients. Your focus comes down to the patient and the value of care delivered. I don't really have a lot else to offer you except for in my national perspective, I think this is a new, innovative model of care and payment for care which focuses on the patient. And I think our studies at the national level showed higher patient satisfaction and physician satisfaction, as you might...as you heard there, lower costs. [LB1119]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there questions? Senator Briese. [LB1119]

SENATOR BRIESE: Thank you, Chairman, and thank you for being here. What percent would you estimate of the academy now practices direct primary care? [LB1119]

ROBERT WERGIN: It has increased, and it's inching up slowly. Like I said, about 12 percent showed an interest. Looking at it, I would bet it's around 6 percent now. I could get back to the committee with that. But it's inching up slowly. So much...Senator Lowe's question is we need the people to take the plunge away from a secure system to new and innovative systems. I think that's some of the reluctance of that care. Many of the practices I talked with, much the way your

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pilot project does, start with going to small businesses because if I could come to your small business and say for \$70 a month for each employee I'll cover that; that's \$840 a year. That's one month's premium with high deductible plans. And they'll say, yeah, I'll do it so you get this core of patients to start with and then it builds by word of mouth from there. But most of the people find that I talked with were like Dr. Johnson, trying to figure out how they're going to...turning people away that were calling wanting into your system. [LB1119]

SENATOR BRIESE: You say slowly inching up. If you were to predict a decade or two down the road, where are we going to be? [LB1119]

ROBERT WERGIN: I would say it's never going to be a large portion of my membership. It might be more in the 8 or 9 percent range which, out of 130,000 that's a lot. Again, it's innovative. Am I saying direct primary care will solve the problems everywhere in the United States? I can't say that. I'm a rural family physician currently so the basket of services I provide are different. So I would probably have to have a hybrid model in what I do. I cover the emergency room and hospitalizations and do procedures. But what you're seeing is some of that hybrid model. [LB1119]

SENATOR BRIESE: Okay. Thank you. [LB1119]

SENATOR MURANTE: Thank you. Seeing no additional questions, thank you for your testimony. [LB1119]

ROBERT WERGIN: Thank you. [LB1119]

SENATOR MURANTE: Welcome. [LB1119]

STEPHEN LAZORITZ: Good afternoon, Mr. Chairman, members of the committee. My name is Stephen, S-t-e-p-h-e-n, Lazoritz, L-a-z-o-r-i-t-z. I'm the medical director of Wellcare which is a Medicaid managed care organization, but I'm not testifying on behalf of them. I am testifying on behalf of Nebraska Medical Association whose mission is to advocate for physicians and the healthcare of all Nebraskans and that's what I'm here to testify for. Very often people ask me why I went into medicine. And to be honest, I went in because of Marcus Welby. Some of you remember Marcus Welby. He was the kind, patient-caring physician who spent a lot of time with his patients, indeed sometimes he had one patient a week. And when you talk to doctors, most of them in primary care want to be like Marcus Welby. They want to spend time with their patients. They want to provide good quality of care and not be rushed in taking care of the patients. And one of the things we alluded to a little bit, Dr. Wergin did, was there is a crisis in medicine that

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we don't talk about a lot and that is physician burnout. Physicians are burning out not because of taking care of patients but because of taking too many patients and spending too much of their time with paperwork and the administrative burden. One study showed physicians spend up to 40 percent of their time dealing with administrative issues. That is taking the toll on physicians. Physicians are retiring earlier. They're not choosing to go into primary care because of those reasons. And when we look at the healthcare or doctor shortage, the doctor shortage is not due to lower numbers of doctors. In fact, our medical schools are turning out more doctors than ever before. We're talking about people not going into primary care. If people who are finishing their resident know that they can practice in a situation where they're not on an assembly line seeing patients every ten minutes they're more likely to go into an enjoyable practice where they value the doctor-physician relationship, and that is one of the great values of direct primary care: reestablishing that relationship that doctors have with their patients that is so meaningful for both the doctors and the patients. That is why I went to medical school. And I teach at Creighton Medical School, first-year students. That's what the students say. They value having a relationship with patients and soon they're going to learn that they're not going to have that relationship because of the administrative burden that insurance puts on them. And this is coming from someone who's worked in the insurance industry for about 13 years now. I work for Blue Cross and other healthcare plans. But we have an administrative burden and if you could take that out of the relationship you're going to have happy doctors who last longer and happier patients because of time spent with them. So that is how I can advocate for patients and physicians by testifying in favor of this bill. So thank you and I'll open it for any questions. [LB1119]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you for coming down. [LB1119]

STEPHEN LAZORITZ: Thank you. [LB1119]

SENATOR MURANTE: Much appreciated. Welcome. [LB1119]

JOANN SCHAEFER: (Exhibit 3) Hello. Good afternoon, Chairperson Murante and members of the committee. My name is Joann Schaefer, MD. For the record, that is spelled J-o-a-n-n S-c-h-a-e-f-e-r. I am the executive vice president for health delivery engagement at Blue Cross, Blue Shield Nebraska and I'm here today to testify in support of LB1119 and our effort to advance the uptake of Direct Primary Care in Nebraska. By way of background, Blue Cross and Blue Shield of Nebraska is a not-for-profit, Nebraska-based, mutual benefit company. We have over 1,100 Nebraska employees. We pay taxes but exist as a not-for-profit entity. Nearly 80 years ago, we were founded to serve our members, not to generate profits for shareholders. We continue operating under that principle today. On a personal level, I was honored to serve for the state for

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more than 11 years which included being the state's Chief Medical Officer and Director of the Division of Public Health and Human Services from 2005 to 2013. Before that, I practiced family medicine and served as a tenured associate professor in the Department of Family Medicine at Creighton. I've been passionately involved in primary care my entire career, and I've worked with policymakers to develop solutions that work for Nebraskans. Blue Cross and Blue Shield of Nebraska is working hard to develop new solutions to cut the costs of healthcare delivery in our state, not so we can return money to shareholders, but so that we can benefit our members' wallets. We've helped stand up Nebraska's most innovative primary care practice, the Think Clinic in Omaha. We've led the state in areas like patient-centered medical homes, accountable care organizations, and value-based care. We've worked really hard to take ideas that others talk about and put them actually into practice. We have over 300,000 members in these programs in Nebraska. These are some of our efforts that we are trying to help Nebraskans achieve the quadruple aim. And I'm just going to talk about that for a second. The quadruple aim is improving the patient experience of care, lowering cost, improving quality, and improving the provider experience. You've heard a little bit about that today. Direct primary care is still a relatively new concept in Nebraska and across the nation, but it's one we're excited about and we've worked hard and closely with physician partners to stand up, the first one that has put up by a payer. And that is one that has been in a joint venture with Clarkson Regional Healthcare System and it's called Nurture Health. We think it will be a good solution for some physicians and we will hopefully alleviate some of the statistics you've heard about physician burnout. That's good for Nebraska and it's good for our members. More importantly, we believe it potentially gives our membership an opportunity to access primary care in an active and easy way. Employer healthcare costs have skyrocketed. You've heard the numbers: 30 percent over the last five years. We believe that employers who have switched to a direct primary care models like Nurture Health can save money and keep employees healthier and more productive. DPC memberships can easily work as a stand-alone benefits options alongside insurance plans. I have pieces in my testimony and tell you about where some of the constrictions under federal law are. But it's important to recognize that direct primary care under the Affordable Care Act is not a solution in and of itself and it requires development of wraparound products which we bring to the table and can do and are working on diligently. To sum it up, Blue Cross, Blue Shield Nebraska believes that our efforts at Think (Clinic) and areas of patient-centered medical home, accountable care organizations, and other value-based care, direct primary care is something that should be explored upon. We're here in support of the bill. And for those reasons we're very happy to be a partner in the creation of this program, this pilot program for state employees. And I'd be happy to answer any questions. [LB1119]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions?  
Senator Lowe. [LB1119]

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SENATOR LOWE: Thank you, Chairman, and thank you, Ms. Schaefer. You said you had some information about the constriction in federal law. [LB1119]

JOANN SCHAEFER: Yeah, I ran out of time so I cut that out, but as you can see... [LB1119]

SENATOR LOWE: I just thought I'd give you a little more time. [LB1119]

JOANN SCHAEFER: Yeah, thank you very much. So if you think about high deductible plans, the flexible spending accounts, there are limits imposed by federal law that we just need the state to recognize because of that. The HRA and HSA offerings you can't use direct primary care alone with that, but it's okay to use with your flexible spending account. And that's a federal law, not a state issue. And we're working with federal delegation obviously to take care of those issues. But it is...you know what...because of a flexible spending account and you can use it for that, it is...these products are very nicely married up alongside a high-deductible plan because of those issues. You've heard today testimony about this is...it's not insurance and this is just a membership that you can get and that is true and that is excellent and there's wonderful care being provided with that. What we've heard from our members and what we've heard from companies that we've talked to is that they really want to have some gap coverage. They want to have something for the catastrophic, the big stuff that happens which is true, so the question is how do you develop something, another piece or another product around that, a wraparound so that you can cover for the big stuff that happens to people when something happens that falls outside of what your primary care membership covers? So the question is that gap. So if you have a high deductible health plan and you're servicing the primary care piece, which is excellent under the membership fee, that's great. If you have somebody has no insurance and they just buy the membership fee what is the additional thing that they could get if they happen to wind up in the hospital or they have some sort of catastrophic illness and there are other pieces of product. Some of those are not ACA compliant. Some of those don't benefit the member in total. And so there's stuff that federal law prohibits. There's stuff that can be done that is not prohibited by federal law; that's what we're trying to solve so that we offer an array of products that we know are...that we hear that people want. Does that help? [LB1119]

SENATOR LOWE: Thank you. [LB1119]

SENATOR MURANTE: Thank you. [LB1119]

JOANN SCHAEFER: All of it hopefully being a lower cost option. [LB1119]

SENATOR MURANTE: Senator Briese. [LB1119]



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SENATOR BRIESE: Thank you, Chairman, and thank you again for being here. Earlier I think I heard testimony suggesting an overall cost savings of from 5 percent to 15 percent by using a direct primary care model. Are those numbers that you...do you agree with those numbers or where would you put the savings at overall? [LB1119]

JOANN SCHAEFER: It's a little to be determined still. There's not enough data rolling through this yet but you know there's definitely cost savings out there. We have been exploring this for a long time. This was a deep research project that we did trying to figure out what the pain points are for both patients, physicians, office managers, and how could we alleviate that because primary care should not be hard. It is one of the best cost saving and high quality things that we can provide, but it's too hard. So when we did our research with members, we did it with medical students, physicians, office managers, across the state and we asked how could we solve it, the...removing those barriers is the simplest thing we could do. So direct primary care was coming to fruition in the country. And so when you solve for that, the overhead that's in practices, the overhead that's in insurance companies, the overhead that's in employers by doing that, you really are taking away costs that have never really been accounted for in the healthcare system but we know they're there. So that's why it's a little to be determined how much can be saved. So for instance, a patient comes in and they get to be known by the practice really well. They have had their initial lab or visit. They're known in the medical record chart. The remainder of those visits become virtual or text, phone call because that physician has taken the time to know you and they can deliver that care. How many times is that now a virtual visit and it's not the fee-for-service model where they want you to come in every time for every little thing because that was the incentive before? We know that exists. We were told by our focus groups. So all of that needs to get carved out of the system. How much of that is still yet to be determined, but we know it's there. So these models have to run for a while before we figure it out but that's why we are piloting this clinic now and we want to see and we want to help learn. We know that running primary care through an insurance model is part of the problem and if we can alleviate that just to increase the experience of the primary care practice it will solve for more ER visits, urgent care visits, the, you know, on the hamster wheel feeling that we've had so many primary care physicians experience. I myself have experienced it when I was in practice so. [LB1119]

SENATOR BRIESE: Thank you. [LB1119]

JOANN SCHAEFER: Yeah, sure. [LB1119]

SENATOR MURANTE: Thank you, Senator Briese. Seeing no additional questions, thank you very much for your testimony. [LB1119]

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JOANN SCHAEFER: Great. You bet. Thank you. [LB1119]

SENATOR MURANTE: Welcome. [LB1119]

BYRON DIAMOND: (Exhibit 4) Good afternoon, Senator Murante and the rest of the committee. My name is Byron Diamond, spelled B-y-r-o-n D-i-a-m-o-n-d, and I'm the Director of the Department of Administrative Services for the state of Nebraska. I'm here today in support of LB1119. LB1119 proposes to establish a direct primary care pilot program within the Nebraska State Insurance Program beginning with fiscal year 2019-20 and continuing through fiscal year 2021-22. I'd like to begin by addressing our fiscal note. Direct primary care does not follow the traditional insurance framework and therefore is not considered insurance by our third party administrator. However, after further discussions with Senator Riepe and his staff, we understand the intent to incorporate direct primary care into an insurance package available to state employees. There would be start-up costs associated with this pilot program, however, at this time those costs are undeterminable. These costs would include identifying and contracting with participating direct primary care providers and developing two qualifying wraparound coverage options. We will continue to work with our third-party administrator and our current health plan vendor to discuss potential costs and savings. To implement this pilot program, we would need to identify and contract with eligible participating direct primary care providers. Our third party administrator would likely coordinate the work. The bill also requires high and low deductible options for wraparound coverage including medical specialists, hospitals, pharmacy, and other necessary medical coverages. The state offers these types of coverages in existing health plan options and can develop two unique plan options for this pilot project: a high deductible and a low deductible options. How would an employee enroll? During open enrollment, an eligible state employee would have direct primary care as a policy option in addition to the existing health plan options that are currently available. If they elect the pilot program option they would then be prompted to select a wraparound plan. Per LB1119, the employee would be offered two choices: a low deductible or a high deductible plan. The total insurance premium costs would be the monthly direct primary care fee plus the wraparound coverage premium. The calculation would look the same for this type of plan. The state would pay 79 percent of the costs and the employee would pay 21 percent. As a technical note, Section 84-1611(3) requires health insurance be offered for one party, two party, four party, or family, but direct primary care is a per member fee and not all providers offer set family rates. Thank you for your time. I'd be happy to answer any questions that you may have. [LB1119]

SENATOR MURANTE: All right. Thank you very much for your testimony. Senator Briese, then Senator Hilgers. [LB1119]

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SENATOR BRIESE: Thank you, Chairman Murante, and thank you for being here. Fiscal note suggests an increase in cost to employees. Is that still the case? [LB1119]

BYRON DIAMOND: Where we're really struggling with this is such a new program across the United States, we've talked to both...we have both a healthcare consultant that works with us to work out our plan designs. They have not dealt with this before. And our current healthcare provider, which is UnitedHealthcare, does not currently have this type of plan within their inventory. So we are up in the air. Will it cost less, will it cost the same, will it cost more? We really can't determine that at this time. I think the way this bill approaches it as putting out a pilot program I think is the responsible way to go forward. [LB1119]

SENATOR BRIESE: And as a pilot program, how many employees do you anticipate being involved? I don't know if I heard that. [LB1119]

BYRON DIAMOND: We don't have a number for that. What I can share with you, we have between 12,300 to 12,500 each plan year of our total employee base that subscribes to one of our healthcare plans. So it would be probably a percentage in there. And again, I wouldn't even begin to know what that initial percentage would be. [LB1119]

SENATOR BRIESE: Thank you. [LB1119]

SENATOR MURANTE: Thank you. Senator Hilgers. [LB1119]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you for being here. To sort of piggyback off of what Senator Briese was asking you, in the fiscal note it says not just what Senator Briese mentioned but also that all costs would be paid by the employee. But that's not my understanding of how this works or your testimony, is that...? [LB1119]

BYRON DIAMOND: Correct, yes. There's some updated information there that we now believe that the state would be able to pay that 79 percent so it would not be fully on the employee to pay the full cost. [LB1119]

SENATOR HILGERS: Okay, got it. So I wanted...that was the one I wanted to clarify. And at the end of the day that this is just an additional option for the employee. They could choose not to... [LB1119]

BYRON DIAMOND: Absolutely. [LB1119]

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SENATOR HILGERS: They could go with the status quo, with whatever they have that's working for them right now. [LB1119]

BYRON DIAMOND: Absolutely, Senator. They can stay with the healthcare plan that they're on today; or if there are those who would like to try this plan out, it would absolutely make it an option for them to choose that. [LB1119]

SENATOR HILGERS: Okay. Thank you. [LB1119]

BYRON DIAMOND: You bet. [LB1119]

SENATOR MURANTE: Thank you. I can't tell if you have a question. (Laughter) [LB1119]

SENATOR BREWER: Yeah, I have a question. [LB1119]

SENATOR MURANTE: Senator Brewer. [LB1119]

SENATOR BREWER: Thank you, Mr. Chairman. All right, Byron, a quick question. How many years did you spend in uniform? [LB1119]

BYRON DIAMOND: Twenty-nine, sir. [LB1119]

SENATOR BREWER: Thank you for your service. [LB1119]

BYRON DIAMOND: Thank you for yours as well. [LB1119]

SENATOR BREWER: And do you use the VA or obviously because you have a position that provides healthcare, I'm assuming you probably use that in lieu of the VA. [LB1119]

BYRON DIAMOND: I would answer that question from my own personal opinion is that I find that the state's current healthcare program is much better than the VA program. [LB1119]

SENATOR BREWER: I'm shocked (inaudible). [LB1119]

BYRON DIAMOND: Yeah, I discontinued using the VA program about five years ago and just strictly use the private healthcare through the state. [LB1119]

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SENATOR BREWER: Well, I like what I'm hearing. This is I think a great option especially if you're a state employee. And I guess the parting thought I'll leave you with is that the VA, they're working through the Choice Program now and it has some advantages but we've got a ways to go to get it to where we need it to be. And so thanks for your work with this. [LB1119]

BYRON DIAMOND: Absolutely, Senator. Thank you. [LB1119]

SENATOR MURANTE: Thank you. Senator Hilgers. [LB1119]

SENATOR HILGERS: Thank you, Mr. Chairman. One follow-up. Do you know if DAS intends to revise the fiscal note that we currently have? [LB1119]

BYRON DIAMOND: Yes, we can send that forward, Senator. [LB1119]

SENATOR HILGERS: Okay, great, thank you. [LB1119]

SENATOR MURANTE: Senator Lowe. [LB1119]

SENATOR LOWE: Thank you, Chairman. Thank you for your testimony. Do you see by putting in this provider healthcare program the state saving money because the employees will come and use it quicker than waiting longer so there's less time lost? [LB1119]

BYRON DIAMOND: Again, Senator, I can't answer that question today because there's no financial models yet since this is such a new program nationwide. That would be the hope, but we won't know until we get some additional empirical data either from other states or private industry to take a look at that. [LB1119]

SENATOR LOWE: My wife worked for a company back in Kearney that they provided a PA and a nurse on staff. And their company saved over \$1 million a year in lost time. So I think there's a great future for this. [LB1119]

SENATOR MURANTE: Thank you. Any final questions? Seeing none, thank you for your testimony. [LB1119]

BYRON DIAMOND: Thank you, Senator Murante. [LB1119]

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JONI COVER: (Exhibit 5) Thank you. Welcome back. Senator Murante, members of the committee, my name is Joni Cover; it's J-o-n-i C-o-v-e-r. I'm the CEO of the Nebraska Pharmacists Association and I'd like to offer our support for LB1119 and thank Senator Riepe for introducing this bill. This year he included in his pilot program a provision to allow pharmacy services to be incorporated which we found very exciting. When we shared this bill with our membership they were very excited too. We have been very supportive of the direct primary care model allowing Nebraskans another choice of healthcare. And like I said, because the original legislation did not include us we were excited to see that it was included in this bill. We've been a strong advocate for programs that include clinical services provided by pharmacists in addition to the provision of medications. Studies prove that if a pharmacist is engaged with patient care through programs like medication management, chronic disease management, and the list goes on, that patient outcomes improve. And a pilot project that's outlined in LB1119 would be a prime opportunity to showcase a comprehensive team-based approach to care that includes these pharmacists services and medications working in collaboration with our physician colleagues. One thing that we did notice when we reviewed the bill that there wasn't acknowledgement of pharmacy services. It just said pharmacy, so we may need to do some amending or tweaking of some of the language and we'd be happy to work with the committee or Senator Riepe on that tweaking. We're not here to ask to expand our scope. We don't want to be practicing physicians in direct primary care because we believe that our primary care physicians do a fabulous job. But what we're asking for is to allow us to be a participant in this pilot project, acknowledge what we do, and allow us to collaborate with our physicians. So again, not trying to expand our scope but just work more collaboratively with our colleagues. So again, happy to work with the committee and Senator Riepe and I'd be happy to answer any questions. [LB1119]

SENATOR MURANTE: Thank you very much for your testimony. Are there questions? Seeing none, thank you very much. [LB1119]

JONI COVER: Thank you. [LB1119]

SENATOR MURANTE: Welcome. [LB1119]

ARIANNA WILKERSON: (Exhibit 6) Hello. Good afternoon, Mr. Chairman and the rest of the committee. My name is Arianna Wilkerson, A-r-i-a-n-n-a W-i-l-k-e-r-s-o-n. I work in the government relations department at the Heartland Institute which is a 34-year-old, independent, national, nonprofit organization. We are a free market think tank so our mission is to develop and promote policy solutions that expand opportunity and empower people. And we focus on providing national, state, and local elected officials with reliable and timely analysis on important policy issues. So I am here today to testify in support of LB1119. Establishing a direct primary care pilot program for state employees would be a big step toward expanding DPC and

reducing healthcare costs. In 2016, the Nebraska Legislature unanimously adopted a law making it very clear that DPC arrangements are not insurance plans and therefore are not subject to state insurance regulations. This push to further expand DPC comes at the right time given the current shortage of primary care physicians in Nebraska, population growth, an aging citizenry, and the Affordable Care Act have contributed to the increase in need for more primary care doctors. Without reforms, it's unlikely Nebraska will have enough physicians, primary care physicians to meet the needs of its residents. Clinician researchers at the Robert Graham Center estimate Nebraska will need 133 more primary care physicians by 2030 to maintain current primary care utilization rates. Right now, a lot of doctors are retiring early or aborting the profession altogether to avoid having to deal with the state's bloated bureaucracy and tedious insurance claims. A lack of decisions has been and will continue to be particularly harmful to Nebraskans in the rural parts of the state such as western Nebraska. To ensure the supply of primary care providers meets the state's demand, Nebraska should lower overhead costs and ease the ability of providing such care, making the state more attractive to primary care physicians. Establishing a pilot program that would give public workers the ability to have a direct primary care doctor would be a good start. It would also help to lower the costs and increase the quality of care available to public employees. In a direct primary care model, third-party payments for individual primary care and medical services are replaced with an affordable flat-fee payment made by patients directly to the primary care physician, usually on a monthly basis. Under this model, patients receive nearly unrestricted access to their physicians as well as routine test and procedures. Supporters of DPC can cite the growing amount of evidence that has found DPC increases the time patients spend with their doctors per visit and reduces medical practice overhead by up to 40 percent. In a study published in The American Journal of Managed Care medical researchers compared direct primary care members to nonmembers in five states: Arizona, Florida, Nevada, New York, and Virginia. They found over a five-year period that DPC members were on average 52 percent less likely than nonmembers to utilize hospital services saving the system an estimated \$119.4 million in costs. They believe that these findings were due to increased physician interaction, allowing doctors to take a more proactive rather than a reactive approach. And in another example, in 2015 North Carolina permitted the use of direct primary care for union county employees. The results were promising. Taxpayers in that county were spared more than \$1 million in healthcare claims and that was with only 44 percent of those county employees opting into DPC. DPC enrollees' medical expenses were 23 percent less than county employees who did not opt into DPC. DPC enrollees' prescription expenses were 36 percent less. In addition, nearly three out of four enrollees reported significant improvement in their overall health. If the other North Carolina counties had adopted a DPC option and had similar participation rates, the state would have saved nearly \$75 million in just that one year. Today, 23 states have some form of direct primary care for their state employees or for Medicaid recipients. The number of DPC practices across the country continues to trend upward with more than 700 practices now in business. Nebraska should follow the lead of those states that have adopted low-cost, high-quality healthcare plans for state employees. In the process, Nebraska

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would help to improve the doctor-patient relationship for thousands of families and save crucial tax dollars which would be better allocated to pay for other essential services. And thank you for letting me testify today. [LB1119]

SENATOR MURANTE: And thank you for your testimony. Are there any questions? Seeing none, thank you for coming down today. [LB1119]

ARIANNA WILKERSON: Thank you. [LB1119]

SENATOR MURANTE: Much appreciated. Is there additional proponent testimony to LB1119? Seeing none, is there opposition testimony to LB1119? I see none. Is there neutral testimony to LB1119? I see none. Senator Riepe. [LB1119]

SENATOR RIEPE: Thank you, Mr. Chairman. I'd like to take just a few minutes. First of all, I want to thank all of those that have testified. They made great sacrifices to be here today and I appreciate that very much. We've heard from a large hospital and healthcare system. We've also heard from a major insurance carrier. And we've heard from the Medical Association as well as physicians who are actually in the practice of direct primary care and the success that they've had and the success that they have been able to bring to those that they contracted with. I think the emphasis was stated. It's about the doctor and patient relationship and that's what healthcare really should be about. We do have...as a comment, this will be a prioritized bill. So I want the committee to understand that. Also, the question was asked about the growth of direct primary care. Direct primary care has doubled in 2017, so it is a rapidly growing concept and we think that that's only because it's proven to be cost effective. I know other questions came up and the example of North Carolina was pointed out, some of the major savings. But I think that we've also, from some of the testifiers that you've heard today, that with whether it's Burton or others in the commercial market, they have been able to save money and they, quite frankly, have high satisfaction rates. And that's what it's all about. If you can...it's a double win if you can have customer satisfaction and you can save some money. And I always like to refer to a little bit of the song that the Carpenters said, that we've only just begun, because we're looking at state Medicaid possibly having a model there. And we also know that there is legislation at the federal level for the possibility of Medicare, Medicare patients being able to at some point in time. But we know how fast Congress works and so that may be a little bit of time. With that, I thank the committee and I would answer any questions that you might have. [LB1119]

SENATOR MURANTE: Thank you for bringing the bill, Senator Riepe. Are there any final questions? I see none. (Exhibit 7) Before we close the hearing I do have a letter of support from Mason Reiner, the chief executive officer of R-Health, Incorporated. And with that, we will close



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the hearing on LB1119. And with perfect timing, we welcome back to the Government Committee, Senator Halloran. [LB1119]

SENATOR RIEPE: Thank you. [LB1058]

SENATOR MURANTE: Thank you, Senator Riepe. Senator Halloran, welcome back to your Committee on Government, Military and Veterans Affairs. [LB1058]

SENATOR HALLORAN: Was wondering if I should stand or sit, I suppose. (Laughter) [LB1058]

SENATOR LOWE: Are you standing? [LB1058]

SENATOR THIBODEAU: Senator, it's hard when I sit too. (Inaudible.) [LB1058]

SENATOR HALLORAN: That was a perfect setup for Senator Lowe. [LB1058]

SENATOR MURANTE: The short senators caucus will be convening after this public hearing, Senator Halloran. [LB1058]

SENATOR HALLORAN: Good afternoon, Chairperson John Murante and members of the Government, Military and Veterans Affairs Committee. For the record my name is Senator Steve Halloran, S-t-e-v-e H-a-l-l-o-r-a-n, and I had to read that. (Laughter) And I represent the 33rd Legislative District. I'm here today to introduce LB1058, adopt the Faithful Delegate to Federal Article V Convention Act to the committee for your consideration. I will keep my remarks brief this afternoon as I assume there will be quite a bit of testimony to follow. LB1058 was created based on the concerns raised during the legislative floor debate last session on LR6, resolution to Congress for convention of the states to propose amendments to the U.S. Constitution, and the findings of interim study LR181 which examined recommendations for procedures to be used for the convention of states under Article V of the U.S. Constitution by the state of Nebraska. The purpose of the Faithful Delegate to the Federal Article V Convention Act is to provide the rules of procedures necessary to create and guide a Nebraska delegation to any Article V convention called by Congress. I repeat, its purpose is to prepare for any Article V convention. It provides the Legislature direction related to the election of delegates and alternate delegates; if necessary, the recall of delegates from a convention; along with the filling of a vacancy caused by a recall. Additionally, it creates a structure to determine if an unauthorized vote has occurred and the penalty for knowingly casting an unauthorized vote. We currently have a convention of states called for a proposed balanced budget amendment to the United States Constitution. Twenty-

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eight of the 34 states required to call a convention of states by Congress have already been obtained. We can see a convention of states within the next few years. As a state, we must be prepared to act when one is called. LB1058 would provide a framework needed for us to effectively participate in a convention of states. This ends my brief testimony on LB1058 and I'd be...answer questions as soon as I catch my breath. [LB1058]

SENATOR MURANTE: Thank you for your introduction. Are there questions? I see none. [LB1058]

SENATOR HALLORAN: (Exhibit 1) If I could, I would like to submit some testimony from the NFIB for your pleasure. [LB1058]

SENATOR MURANTE: Okay. Sure. Fair enough. And thank you for your opening. And we'll proceed to proponent testimony on LB1058. Proponents? Welcome. [LB1058]

JOE STEPHANS: Glad to be here. Thank you, Senator. Chairman Murante, Senators, I'm Joe Stephans; that's J-o-e S-t-e-p-h-a-n-s. I'm a proponent for LB1058. I'm also a proponent for Convention of States Project. I'm the state director in support of convention of states action in Nebraska Convention of States Project. So as I'm preparing for testimony today, and I tried to reflect on some of the things that might draw your attention. And the things that I thought about were have you ever witnessed somebody about to have an accident and your instinct is to reach out and help them and avoid that accident they're about ready to step out into traffic? I remember driving across Iowa, and of course there's always construction on Interstate 80 going across Iowa, several years ago, and I'm looking back in the rear view mirror to see what, you know, to see what...you know, how somebody is following me and I see this young man and he's got his map up. And I say--oh, my God. That does not bode well because he's holding it up too long. We go a couple more miles. I look back and he's still...he's pulling that map up, still moving that map up. A couple miles later, we get to the end of the construction area and we go a right to go around it, the construction area ends, and then all of a sudden BAM! And I knew instantly that that young man was not aware of his situation. I couldn't do anything to stop it except to pull over and call 911. So, you know, as an Air Force officer, 25 years in the Air Force, practicing safety, aviator type, we do all sorts of things to mitigate risk and for safety reasons. So I'm always looking at safety. Driving out of our neighborhood today, there's a nice downhill curve and at the top of that curve there's a mailbox made out of brick. On icy days like this, you can anticipate some people maybe driving exactly at that mailbox. Well, it happened to me one time. And my neighbor...or my friend, Ernie, and I were driving out of the neighborhood and I could tell that he was going too fast. I said, you need to slow down. You've seen it with your kids. Little kids are always going to crawl under something and you can see them, they're going to raise up and they're going to hit their head. Well, how does that relate to LB1058? Well, I'm

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going to get to that in just a second. But another analogy for you, nine years ago on the 15th of January of 2009, you remember the miracle on the Hudson? Remember how that crew, "Sully" Sullenberger and Jeff Skiles did a miraculous job of landing a crippled aircraft in the Hudson; saved 155 people. They had...they understood the aerodynamics, they understood the physics; they had to make decisions in less than 30 seconds for the safety of that aircraft. Now, but they had options. They had LaGuardia off to the left, let's make a turn to LaGuardia; let's go to Teterboro, try for a landing there. And Captain Sullenberger saw that and he said no. I'm going to crash in residential areas, I'm going to crash into buildings; left or right--disaster. Landing in the Hudson is not an optimum decision. But he saved 155 people. So how's that accident? Where's the accident related to LR6 and LB1058? Well, the accident is our national debt. Nobody is willing to reign in the national debt. Years of people...oh, that went fast...nobody wants to act. We've got people telling us to LaGuardia and we've got people telling us to go to Teterboro. But the answer..the safe answer for everybody is straight ahead. LR6, LB1058 are open and transparent. They're peaceful methods. I'm ready for your questions. [LB1058]

SENATOR MURANTE: All right. Thank you for your testimony. Are there any questions?  
Senator Brewer. [LB1058]

SENATOR BREWER: Thank you, Mr. Chairman. All right, this may come as a surprise to you, but we have received mountains of e-mails and snail mails reference to this subject. Most of them are...of the majority of those in opposition come from out of state, and the majority of those, of course, are in support come from in state. I'm sure you probably have some ideas on why that is. But more importantly, what everyone seems most concerned about is a runaway convention and being able to control the delegates. Can you share a little of your thoughts on that? [LB1058]

JOE STEPHANS: Well, LB1058 is in direct response to the debate. It's a direct response to that. It's from the lessons learned. We hear people's concerns. Just like anybody, when you hear something that you're concerned about, you develop a method to reply to it. Senator Halloran has noticed that; he took note of it and brought forth LB1058. But no matter what we say, the opposition is--it's going to run away; you cannot control it. That's the analogy of if you turn left you crash, you lose 155 people; you turn to the right, I mean, and I use those analogies because we have opponents from the left and opponents from the right. Either direction is disaster when you look at the national debt. Oh, Mr. Stephans, it's Congress's responsibility, it's Congress. Well, today is the 7th of February; tomorrow is the 8th of February, oh by the way, the last...the continuing resolution is set to expire. We will not see any restraint in spending. We will not see any growth cuts. When I say we're going to save 155 people, I refer to the people in Nebraska and the constituents of Nebraska. We're going to land that airplane, LR6 and LB1058, are linked to...for safety of the people of Nebraska. We need to take a terrible situation that we're in and we

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need to be able to bring that aircraft into a safe landing situation. Any other questions?  
[LB1058]

SENATOR MURANTE: Any additional questions? I see none. Thank you very much for your testimony today. [LB1058]

JOE STEPHANS: Remember big bubble no trouble on the ice. Keep safe distances. (Laughter)  
[LB1058]

SENATOR MURANTE: Welcome. [LB1058]

ERNIE SEARS: Thank you. My name is Ernie Sears, E-r-n-i-e S-e-a-r-s, and I live in Omaha. And I'm a volunteer for Convention of States Project. I'm here to support LB1058. And I've been a volunteer for the Convention of States Project for four years and so I've heard all of the opposition's fearmongering and myths. And most of their opposition is based on myths. And one of the myths is that legislatures cannot control their delegates because it's never been done before and they can't do it. Well I've read LB1058 and I think it's a pretty good step in the right direction. I think it answers most of the concerns of the opposition regarding that particular myth. I'm not here to advocate for any specific amendment, but I do have a little analogy here, that's what we go by, analogies. America has a problem. The problem is the government is...it has a \$20 trillion cancer that continues to grow. We have surgery option in the constitution with Article V. There's always a risk with surgery with an infection for example. But you don't ignore the growing cancer over a minimal risk of infection. Regardless of whether or not Nebraska approves any Article V proposals, the fact is a convention could still go forward. The other 49 states could choose to do that. We don't have to be included in the 34 count to trigger the convention. If the rest of the country decides it's time for surgery, we better be prepared. And LB1058 is that additional protection should we put the national debt on the operating table. So the point is that one of these conventions is likely to happen sometime and I think that LB1058 is a pretty good set of guidelines and rules for the Legislature to choose the delegates. That's my testimony. [LB1058]

SENATOR MURANTE: And thank you for your testimony. Are there any questions? I see none. Thank you for coming down today. [LB1058]

ERNIE SEARS: Thank you. [LB1058]

LARRY STORER: Good afternoon, ladies and gentlemen. [LB1058]

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SENATOR MURANTE: Welcome back. [LB1058]

LARRY STORER: Thank you. Some of you probably recognize me and probably anticipate some things I'm going to say. But I'm going to change that a little bit today. But since I'm not a colleague and I'm not an official member of any particular body, I don't necessarily have to be diplomatic. So I'm going to say it short and plain since four minutes goes awful fast. Article V is in the constitution. And every one of the senators in this building took an oath to support the constitution. [LB1058]

SENATOR MURANTE: Let me just...you and I know each other, but for the record could you state and spell your name. [LB1058]

LARRY STORER: Larry Storer, S-t-o-r-e-r... [LB1058]

SENATOR MURANTE: Thank you. [LB1058]

LARRY STORER: ...of Omaha, Nebraska, District 8. I'm amazed at how we get away from understanding our constitution in the business of our lives, but a lot of conversations that I've attempted to have on Article V, people are afraid of it. Why are they afraid of it? Because they don't understand it. We're all charged with understanding our constitution, aren't we? Okay. It's very brief. There's an "or" clause. It gives me, a citizen, a way to go around the senators up there in that grand statehouse on the hill when they're not doing their jobs. Some of those jobs are expressed in LR6, a very simple application for me, but I have to convince you to send that application. I really shouldn't have to since it's in the constitution. You swore to protect it, defend it. So I really shouldn't have to lobby you. But I was amazed last Thursday, I think I saw...there's a majority of you here that were popping into our conservative day at the Legislature. And everybody, of course, just had a short minute or two and there was hustle bustle and we really didn't notice the rat in the room. The rat in the room, ladies and gentlemen, is a progressive organization. This is what's wrong with our government, other than the senators won't pass a budget; they won't pass amendments, and our founding fathers told us that. And they said in the declaration that it is your right and your duty to replace that government. You know why they put Article V in there? First of all, they rejected it; they took it out. But they put it back in. Because that's their way of us replacing that government or telling that government to do what they're supposed to do. I'm "we the people." They aren't. It is their duty. This is a progressive piece of propaganda that was probably delivered to every one of you. And this says an outright lie right in that stop sign. And I don't like it. They are influencing you. They've influenced a lot of people, convincing you that that is a constitutional convention, and it is not. Our constitution says there cannot be another one. Right here--the founding fathers said there cannot be another one. And right here it tells what the states have to give the delegates expressed instructions. Last fall, I

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heard a senator say we can't afford to send the whole Legislature to this constitutional convention. First of all, again, it's not a convention. Second of all, they never said to send every one of the state legislatures for every state because it's not a constitutional convention. It's a convention of states. I asked you to do that and you send one representative--one state, one vote. Another reason I am so upset with this, 17 so-called conservative organizations were in that lunch room the other day when these people popped in and distributed these fliers. Some of these only spent maybe an hour knocking on your doors. These people have been going at it for a number of years. These are lies. And I'm not crazy (inaudible) Kathy Wilmot's name is on this. Eagle Forum? She is a member of Eagle Forum. Eagle Forum is in this book. These are 17 conservative organizations, including the Nebraska State GOP and the Douglas County GOP, I think it is. These are all people that don't want to talk about Article V. Why the hell not? I don't think you have an option but to put a floor debate on this. If you are an educating committee, how are you going to educate your citizens if you don't talk about it. Thank you. [LB1058]

SENATOR MURANTE: And thank you for your testimony. Are there any questions? I see none. [LB1058]

LARRY STORER: I hate to yell every time, but when your government doesn't, you have to do something. [LB1058]

SENATOR MURANTE: I get it. [LB1058]

LARRY STORER: Thank you. [LB1058]

SENATOR MURANTE: All right. Additional proponent testimony to LB1058? Are there additional supporters? Welcome. [LB1058]

MAE JAMES: (Exhibit 2) Thank you so much. This is such a privilege for me, for the first time, to get to see what this is like as a citizen and participate, so I am totally thrilled to do that. I became aware of this bill and interested in this bill... [LB1058]

SENATOR MURANTE: Pardon me, could you just state and spell your name for the record for us. Thank you. [LB1058]

MAE JAMES: Right, yes. My name is Mae, M-a-e, James, J-a-m-e-s. I became interested in this bill and I'm aware of it through my work with the balanced budget amendment foundation, but my personal enthusiasm to see this passed in Nebraska is my own and I'd like to tell you why. In recent years it's become evident that the United States faces some serious problems like national

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debt, which has been mentioned, which are not within itself interest of Congress to address. Fortunately, our founders in Article V of the Constitution provided a mechanism allowing two-thirds of the state legislatures to call a convention to propose amendments to solve these problems. This past November, Wisconsin joined 27 other states, including Nebraska, in calling for an Article V convention to propose a balanced budget amendment. Several other states are considering BBA legislation this session, and should six more states submit applications to Congress, the first Article V convention in American history will be called. To be clear, I believe the convention process is already in doubt with what constitutional scholar Robert Natelson refers to as, quote, redundant legal protections against ultra vires proposals, unquote. However, I wanted to speak today in support of the Faithful Delegate to Federal Article V Convention Act because it accomplishes some very important objectives. LB1058 sets in place well-considered procedures relative to the appointment of delegates to this now likely convention in its oath to consider and vote solely within the subject of the convention's call and in its institution of delegate recall, replacement, and nullification of unauthorized votes. This bill also adds another generous layer of protection against any abuse of an Article V convention. Its passage will also be significant in the influence it may have on other states that would like to circumvent Congress in the amendment proposal process, but still fear a convention that wanders from the boundaries of its call. With passage of this bill, Nebraska will bring the number of states with delegate limitation legislation to 14. And I've included a list of other states that currently have such legislation. And five additional states are considering similar legislation this session. Again, I would encourage the Nebraska Legislature to support LB1058 as important preparation and protection for an Article V convention and as a provision that may embolden other states to safely pursue their constitutional role in proposing necessary amendments to the United States Constitution. Thanks for your time. [LB1058]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? I see none, thank you very much for coming down today, much appreciate it. Additional proponent testimony to LB1058? Are there any additional proponents? Is there opposition testimony to LB1058? Come on forward. Welcome. [LB1058]

KATHY WILMOT: (Exhibit 3) Well, thank you very much. My name happens to be Kathy Wilmot, K-a-t-h-y W-i-l-m-o-t, proud to be here. And I have a message, and that is--people need to do their research. I would like to tell you thank you for this opportunity. I'm probably going to skip around on this because my mind was just buzzing coming down here today, and then when I listened to other testimony, it always triggers other little fires. Anyway, the ones that put this bill together basically wanted to call my fears unfounded. And you know I've heard that many times. But instead, they feel that I should accept their unfounded pipe dreams. But the façade in LB1058 has supposed legislative controls based on nothing but assumptions, hopes, but not facts. The text of Article V says: Congress will call the convention; states can only apply. And then if you look at Article I, Section 8, the last clause of our Constitution, gives to Congress the power

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to make laws necessary and proper to carry out the powers that have been delegated to them in the Constitution. One of their powers is the calling of this convention. If you look at the April 2014 report of the Congressional Research Services, and I know I've testified about this in front of you before, you'll find they say Congress's responsibility is determining the number and selection process for the delegates, setting internal convention procedures, including the formulae for allocation of votes among the states. It goes on to mention the fact that the number of delegates for states would probably be based upon the electoral college formula. And it goes on to state that there doesn't seem to be any, quote, constitutional prohibition against U.S. senators and representatives actually serving as delegates to an Article V convention. Now if that would be the case, tell me what we have gained. Now despite the assumption of proponents, you know, no one knows whether delegates would vote per capita or it's one state, one vote, although we're told it's one state, one vote. But again, in the CRS report they say it would likely be per capita. No one knows. Many questions can't be answered until a convention is actually held. And so how responsible is that for our elected officials to advocate for something so unknown when they can't give us or point us to absolute facts that we know will stand. They also want us to vote on this faithful delegate law. They assume that they're going to know everything going on every minute at the convention. And I've even had them say to me--but with cell phones nowadays, Kathy, do you really think something is going to happen in that convention that we don't hear about? Yes, I think it can happen. The delegates to the first convention, after all, they voted to make their proceedings secret. Should that happen, you will never know what has happened inside the door and you won't know who did what. ALEC is just one thing I'm going to point out. If you think it can't happen in the day of cell phones, I had read recently of a meeting they had where the Georgia press tried to get into the meeting and they were told they could not come in. So it can happen. I'm going to jump now because I can see by the light I can't possibly get all this done. First answer me, how will a new set of words on paper get a magic result from Congress when they don't pay any attention to the words we have now. All those controls are in our convention now. We failed to stand up as a people and demand that they're followed. I've spent several years researching historical documents and writings. He's right; been on this for years, clear back when Ben Nelson was pushing this when he was our Governor. I have attended meetings held by proponents of the convention, and over and over they cite their sources of authority. You know what they are? Levin's book; what Meckler says; what Coburn says. And what I find in the promoters, they're a bag of assumption. In reviewing transcripts of their hearings, their statements are riddled with...and you heard them: I think, I believe, I can't imagine that would happen. Well to me that isn't enough of a foundation for risking the future of my Constitution. I don't like just opinion; I dig for facts and I've been digging for years. And it doesn't matter what organization I belong to, I have done my own research and I often research the proponents documents more than I do my own. Our son put his private life and his family on hold. He missed the birth of his only son, he risked his life because he served this nation for 16 years. I resent the nonchalant handling of the most important document, our Constitution, when it comes to the fact that the entire process is unknown, no matter how much they try to tell you



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they know what's going to happen. And it's a pretense that our legislature will control the delegates in the convention. They're delegates at the federal level, not at the state level. Robert Kelly, General Counsel for Convention of States that rakes in money from people like the Koch brothers, he's even stated on video, and I have that, that it actually opens every part of the Constitution. We're not talking about three limited subjects; we're not talking about just the Wolf-PAC plea for a convention, which that amazes me, that's a Soros-funded group. I'll try to back off and relax now. But this is dear to my heart. It's why I drove on ice this morning for I don't know how far. It's why I come down here every time you guys pick up this subject. And I understand; many of you are trying to do what you feel is right. But you need to go back and look at these people that's raking in millions of dollars promoting something, traveling all over the country, hoping that they're going to be somebody that goes down in a history book. Thank you. [LB1058]

SENATOR MURANTE: Thank you. Are there any questions? Senator Brewer. [LB1058]

KATHY WILMOT: Yes, sir. [LB1058]

SENATOR BREWER: All right. First off, thanks for your son's service. [LB1058]

KATHY WILMOT: Thank you. And thanks for yours. [LB1058]

SENATOR BREWER: But understand, there are those of us that have given many years of our lives too. [LB1058]

KATHY WILMOT: That's true. [LB1058]

SENATOR BREWER: I've spent two years staring at a ceiling because of the wounds I received. So I'm not lightly taking any of this. But understand that we need to look at solutions. If we continue to do what we're doing, do you not see that there will be a point our system will collapse under the weight of the debt? [LB1058]

KATHY WILMOT: I see that, and I think I mentioned this one other time, you know, having served on the State Board of Education, and I'm just going to take the education piece and there's many others, I know that this Legislature, and I know you guys weren't in there, so please don't take it personal, but our Legislature has numerous times, repeatedly in the past, allowed the federal government to overstep its bounds, has agreed to things that we're going to do in our state just to rake in a few federal dollars. And I also know that many times sitting on that board I asked for studies to be done to see that, you know, are we going to pick up more federal dollars

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here than what we're going to spend of our state dollars? And nobody was willing to do that? That's one place I think we can begin to stand up. Look at the powers that were given to the federal government in our Constitution and then start telling them--back off, I'm not signing your agreements and I'm not doing this. But why do we never do that? That's just one beginning step. And I know it wouldn't solve the whole problem, but you do have to start somewhere. [LB1058]

SENATOR BREWER: I can argue that. But we're \$20 billion...trillion...wish it was billion, we have a situation where it is very difficult to change the body in Washington, D.C., and there are so many things that will limit any way of fixing what we see derailing. And I understand that there's a question mark with whatever is going to come out of these efforts. But if we do nothing, would it be safe to say that that debt is not coming down and our system as we know it will likely collapse at some point because we cannot live with that burden? [LB1058]

KATHY WILMOT: Can I ask you what you're going to do if the federal government balances its budget, like you're asking, and takes away your 30 percent of your budget that you operate on? [LB1058]

SENATOR BREWER: I would guess we will tighten our purse strings up and we'll figure out a way to make ends meet. [LB1058]

KATHY WILMOT: And I suggest my taxes will probably go up significantly. But what I'm saying is, you know, you have to start somewhere. This convention wouldn't even give you that magic bullet you're asking me to come up with on how we'd solve our entire fiscal problem. No it wouldn't. But we do have to start somewhere. And maybe we need to start with this body and cut out that federal money and show other states it can be done. [LB1058]

SENATOR BREWER: Okay, would...thank you. [LB1058]

SENATOR MURANTE: Thank you, Senator Brewer. I see no additional questions. [LB1058]

KATHY WILMOT: Thank you. [LB1058]

SENATOR MURANTE: Thank you for your testimony. Additional opponents? Welcome back. [LB1058]

RENEE FRY: Thank you. Good afternoon, Chairman Murante and members of the Government Committee. My name is Renee Fry, R-e-n-e-e- F-r-y; I'm the executive director of OpenSky Policy Institute. My testimony today will be brief. I'm here to reiterate our opposition to an

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Article V convention which we believe to be a dangerous proposal. As I mentioned in previous testimony a couple of weeks ago, LR6 is already so broad that you don't need a runaway convention to make sweeping and catastrophic changes to the foundation of our system of government. When Mark Meckler was here earlier this session, he's the president of the Convention of the States Action, he said a convention of the states would allow for term limits in Congress and judges, fiscal restraints like a balanced budget amendment and beyond, elimination of the Department of Education, elimination of the Department of Energy, elimination of the U.S. Senate, elimination of the income tax, elimination of the IRS. So from our standpoint, we do not support the nuclear option, therefore, we don't support this effort to start putting together a blueprint for the bomb. So with that I'd be happy to answer questions. [LB1058]

SENATOR MURANTE: All right. Thank you for your testimony. Are there questions? I see none. Thank you for coming down. [LB1058]

RENEE FRY: Thank you. [LB1058]

SENATOR MURANTE: Additional opposition testimony? Welcome back. [LB1058]

JOHN CARTIER: (Exhibit 4) Members of the Government, Military and Veterans Affairs Committee. For the record, my name is John Cartier, spelled J-o-h-n C-a-r-t-i-e-r. I'm testifying in opposition against LB1058 in my official capacity as director of Voting Rights for Civic Nebraska. Our organization deals primarily election administration research and nonpartisan election legislation. However, we have also been strong opponents against resolutions signing up Nebraska to an Article V convention. This is for the reason that a second constitutional convention could put in jeopardy important productions involving the right to vote afforded by the U.S. Constitution. I think today a better analogy for this bill is picturing yourself at a sunny beach, standing in the pathway of a tsunami and you're standing there armed only with a garbage can lid with very good intentions trying to stop it from devastating the coastal town behind you. The idea behind this bill isn't something we're necessarily opposed to should an Article V convention be controllable by Nebraska's Legislature. I think it would be very prudent to set in place restrictions and limitations that would protect us from the consequences of convention. Unfortunately, delegate restriction bills across the country are being used to give state legislatures a false sense of security that really could stop a tsunami from reaching shore. Beginning on page 2, we see the first good intention of defining delegates to a convention as individuals elected by the Legislature to represent the state at a convention. The problem is that according...as Kathy pointed out to you, Congressional Research Service report over this topic dated April 11, 2014, and that's the handout I gave you guys, that's a 40-page document, so if you ever get a chance to read through it, but those are the important sections for today. Congress has traditionally laid claims to broad responsibilities in connection with the convention,

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including determining the number and selection process for its delegates. Between 1973 and 1992, 22 bills were introduced in the House and 9 in the Senate that sought to establish a procedural framework that would apply to an Article V convention. The Senate, in fact, passed a constitutional convention procedure bill, the Federal Constitution Convention Procedures Act on two separate occasions in 1971 and 1983. In theory, Congress could permit the states to appoint their own delegates. However, they are under no obligation to permit states to select their own delegates. Even if they allowed it, they might even dictate a different method altogether for selecting delegates. Moving further down Section 2, there is a definition for what unauthorized vote by delegate means. Here there's a problem with assuming a state legislature could place restrictions on a delegate to a constitutional convention. Analogies is the relationship the state legislatures have over their congressional delegations. Prior to the passage of the seventeenth amendment, senators were voted by state legislatures, but they still did not have the ability to pass bills that would restrict the way they could or couldn't vote; the same applies today. Also notice the ratification by states does not specify state legislatures. Some insist there is nothing to fear from a convention; they may even maintain if it would get out of control it would still take three-fourths the states to ratify. They asked would 38 states ratify a bad amendment. At first glance, it seems unlikely; but one fact that is never mentioned by convention advocates is that Article V authorizes Congress to decide on the mode of ratification either by state legislatures or by special state ratifying conventions. In 1933, the Twenty-first Amendment lifting the prohibition on alcohol was ratified in special state conventions, thus circumventing the legislatures of the state. I also believe that if a runaway convention were to happen due to broad language incorporated in both resolutions the Legislature is considering this session, there's still a wide range of possible modifications that could be made to our Constitution. All which could have dire consequences to our state's budget and how we interact with the First Amendment and the public space. One additional point I'll mention is under Section 12 here provides a felony for a delegate or an alternate delegate to knowingly cast an unauthorized vote. Please note that according to the same Congressional Research Service report, most bills considered by Congress provided for immunity from arrest. Further, just as all of you here sitting today have sovereign immunity from arrest for which you say or how you vote on the floor, the same would probably apply to delegates to have at a convention. In summary, our concerns are twofold: one, providing a false sense of security for senators to more easily pass LR6 and LR268; and two, how these delegate restriction bills in reality wouldn't do much because of the powers of legislature ties to exert over delegates would be ineffective due to constitutional constraints. Thank you. Made it in time. [LB1058]

SENATOR MURANTE: Thank you. I have one question. You made an analogy that the relationship between the Legislature and these potential delegates were comparable to the relationship between the Legislature and its members of Congress. I'm not sure I...I think a much better analogy would be the relationship between the Legislature and the delegates to the relationship between the Legislature and our electors to the Electoral College in that we select

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the process by which electors are our...our state electors are chosen; we can and have given burden to our electors that they are bound by the result of the popular vote, they can't just go rogue. So if we have the capacity to bind our electors in that way, and we passed that bill three or four years ago, why would we not also have the ability to at least provide some framework for those delegates to work under? [LB1058]

JOHN CARTIER: Thank you for raising that point. I think that it is a good topic for discussion. My understanding is prior...my point is more so prior to the passage of the Seventeenth Amendment, it is the state bodies were the ones responsible for sending up the senators. Right? So the difference is between the two. Might make a difference where under Article V just in the past how delegates have operated more so as we have more of a framework for presidential electors. So not 100 percent sure on the differences, but I think that is a good point. [LB1058]

SENATOR MURANTE: Okay. Senator Hilgers. [LB1058]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Mr. Cartier, for being here. I wanted to unpack a few of the points you made and understand the basis underlying the arguments. [LB1058]

JOHN CARTIER: Sure. [LB1058]

SENATOR HILGERS: So the first one, you mentioned this false sense of security, and I try and write them down as quickly as I could, and there was a clump of, sort of, historical examples of what I took to be legal resources underlying your argument that somehow we can't have this...a delegate law of this nature. And you mentioned a few things. And I'm not going in order in which you mentioned them because I couldn't write them all down. But a couple of them were...I think you mentioned the Senate passed a particular bill on one or two occasions. Is that right? [LB1058]

JOHN CARTIER: Um-hum. [LB1058]

SENATOR HILGERS: What was the name of that...of the bill and what did it do? [LB1058]

JOHN CARTIER: The name of the bills...sorry, got to get my notes in order...I deleted it out of my testimony, but I can get those specific numbers to you. And in addition to that, the House did not pass those bills, but it was heard under committee. And my point was more so getting at, you can...I mean, you can pass this bill today and have a procedure in the future for moving forward,

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but please just be aware if Congress comes down and prescribes their own rules and regulations, that will circumvent this bill today. [LB1058]

SENATOR HILGERS: Okay. So just so I'm clear, so you mentioned the two Senate...the bills that passed the Senate... [LB1058]

JOHN CARTIER: Yeah. [LB1058]

SENATOR HILGERS: Neither one of which became law. [LB1058]

JOHN CARTIER: Right. [LB1058]

SENATOR HILGERS: Laying down a record, because the way that it was...at least the way I interpreted it, I'm not saying this is how you suggested it, it is suggested that there's already a federal framework... [LB1058]

JOHN CARTIER: Oh yeah, excuse me, just to clear...yeah, there's not already a framework, but I would suspect if the 34 states, we got to that benchmark, Congress would probably rush something through to get something in order. [LB1058]

SENATOR HILGERS: And you base that...I mean...what do you base that on? I mean the Congress hasn't...they've had opportunities to pass something in the past... [LB1058]

JOHN CARTIER: Yeah, but, I mean, they probably don't think this is really going to happen any time soon. Well, I can't speak for all the members of Congress, but if I'm sitting there in the Chambers and I see, wow, the convention of states is really happening, we better exert our constitutional power to put a framework in place so this thing is not a complete mess. [LB1058]

SENATOR HILGERS: Fair, but would it be your...and I understand we're speculating, so I understand that, no one has been called, are you...it's one thing if Congress does something separate that preempts this, I understand that, but to me it's only a material difference if Congress changes...makes a material change and says something to the effect of--do whatever the heck you want. Do you actually believe that that...I mean, as we speculate into the future, do you think that Congress would do something and also say that the framework they would put in place would be a free-for-all? [LB1058]

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JOHN CARTIER: I would suspect that their framework would be modeled off of what they've already passed, at least similarities. And what they've shown us before in prior pieces of legislation is providing immunity for delegates for unauthorized vote, whatever that might mean. [LB1058]

SENATOR HILGERS: So, going...okay...and I had a question about immunity, going back to the frame, so in the Senator bills, did they have a provision that addressed faithless delegates? [LB1058]

JOHN CARTIER: I saw that they have a provision that addressed anything from, you know, funding, like you know, what they're going to get paid to do this, all the way down to providing immunity...if you go in detail into that report that I gave you, there's a whole section right around, I think it's page 37 there, and it will have a bunch of different examples of what has been considered in the past. [LB1058]

SENATOR HILGERS: I appreciate that. I'll look at that when we're...so I'm just wondering, I mean it would...was the funding...the provision on funding, obviously, something that prohibited outside funding? [LB1058]

JOHN CARTIER: It was more so funding in regards to getting people, I think, to the convention, giving them stipends like food and stuff like that. [LB1058]

SENATOR HILGERS: Okay. And you don't remember. I'll look, but you don't remember anything about faithless delegates in there? [LB1058]

JOHN CARTIER: No, I don't remember. [LB1058]

SENATOR HILGERS: And then you also mentioned...I thought I heard you, in the same sort of clump of legal sources that you were relying on...something about Congress had done delegates before. And I don't know if I heard you correctly, so I just want to...can you explain...you said something like, hey, in the past we've had conventions that delegates have done...I thought that's what I heard you say. Can you remind me? [LB1058]

JOHN CARTIER: Yeah, so, I mean, I gave you guys a really long page, I kind of had some of Madison's journal and stuff. In the past, those calls to...for the constitutional convention could then see those placing restrictions on the delegates or procedure in place that were pretty much ignored. [LB1058]

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SENATOR HILGERS: You said in the past could be seen, what...? [LB1058]

JOHN CARTIER: 1787. [LB1058]

SENATOR HILGERS: I'm sorry. I guess I'm just not following. You said in the past...you want to just unpack that? [LB1058]

JOHN CARTIER: Yeah, sure. In the past, so our first constitutional convention, I gave you guys all the resolutions from the various states and the language... [LB1058]

SENATOR HILGERS: In here? [LB1058]

JOHN CARTIER: Not, no, it was the committee report based off of our prior discussion and questions you guys raised. And a lot of those had...my opinion...limitations in the language, especially in how the ratification of anything that came out of convention would take place and those were all ignored. So I think that...I think that does set some sort of precedent for the future. [LB1058]

SENATOR HILGERS: By the way, that actually were my last questions and I'm sorry, Mr. Chairman, for...maybe...appreciate your indulgence. When we had our last...I was going to ask you, when we had our last conversation, there were a number of historical resources that were referenced and you'd committed to giving the committee, did you...if I hear you correctly, you did send them to the committee? [LB1058]

JOHN CARTIER: Yeah, I dropped them by your office and e-mailed you and the rest of the committee. [LB1058]

SENATOR HILGERS: And that included the resolutions along with the letters you referenced from... [LB1058]

JOHN CARTIER: Yes, sir. [LB1058]

SENATOR HILGERS: Okay. Perfect. I was going to ask you... [LB1058]

JOHN CARTIER: Yeah, no problem. [LB1058]

SENATOR HILGERS: I didn't see it, but I appreciate you bringing it by. [LB1058]



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JOHN CARTIER: Like I said, it's like 40 pages long, it's kind of long, but if you get a chance I'd recommend, first of all, reading that report that I gave you, and then taking a look at Madison's journal on the floor debate on how Article V came to fruition. [LB1058]

SENATOR HILGERS: I've read some Law Review articles that have gone through the primary research actually, the commissions statements and the resolutions that I saw were much more broad than you and I discussed before. But I want to go to another question which you...which I didn't quite follow which is your...the argument, as I understand it, that Article V allows for some other mechanism of ratification that could...that would not be...the 38 states ratifying it. And as I read Article V, it does sort of have a binary choice. You can either ratify...the states can ratify or they can have a convention to ratify. Is there some third mechanism, or some...is there some uncertainty about the mechanism that could...ratification? [LB1058]

JOHN CARTIER: No. So with the first mechanism, so Congress passed the Twenty-first Amendment, and then, you know, it was supposed to get kicked back to the state legislatures. Instead of the state legislatures, it was ratified in special state conventions. It's kind of a lone example out of the grouping. And I was referencing that. If that works for the first procedures, it should most certainly work for the second one because the language it uses is the exact same. It says--to be ratified by the states, not the state legislatures. [LB1058]

SENATOR HILGERS: You said the Twenty-first Amendment was ratified through a convention, is that what I'm hearing? [LB1058]

JOHN CARTIER: Special state conventions. [LB1058]

SENATOR HILGERS: Okay, well, I mean, the language of Article V does allow for a convention procedure of... for ratification. [LB1058]

JOHN CARTIER: Yeah. [LB1058]

SENATOR HILGERS: I would agree with you that far. But I mean, would it be your position that there's a material difference between having 38 states ratify it through some sort of vote versus 38 states ratify it through a convention. [LB1058]

JOHN CARTIER: I think so. [LB1058]

SENATOR HILGERS: How so? [LB1058]

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JOHN CARTIER: It just depends who the delegates are to the special state convention; who is chosen to go to them. It would be a lot easier, in my opinion, to influence that body; whereas, it would be a lot harder to influence all of you fine people here today, because that was the reason why it was ratified in special state conventions for the Twenty-first Amendment because they didn't think the states were going to go for it. [LB1058]

SENATOR HILGERS: So you think it would be easier to ratify it at a convention versus a...? [LB1058]

JOHN CARTIER: Yeah, absolutely. [LB1058]

SENATOR HILGERS: But didn't you just say it was harder for us to...to influence us, smaller group that's not through a vote of the public? [LB1058]

JOHN CARTIER: It's less hard, yeah. [LB1058]

SENATOR HILGERS: Okay, so...okay...and then on the immunity point, I guess that you're saying that Congress could...and I'll wrap it up here, Mr. Chairman, I appreciate it...you're saying Congress could pass a law that would, essentially, preempt any state law that would deal...I noticed in the green copy of this bill it...any known violation of the act...knowingly...knowing (inaudible) vote that is unauthorized under the original resolution is a felony. So you're saying Congress could preempt that? [LB1058]

JOHN CARTIER: Yeah, absolutely, by prescribing immunity for the delegates and how they vote. [LB1058]

SENATOR HILGERS: I don't disagree that Congress has the power to preempt state law, but I...although I have sympathy for Senator Murante's point, comparison to electors, it is the immunity in the senate bills that you referenced before, was that (inaudible) before? [LB1058]

JOHN CARTIER: Yeah, correct. [LB1058]

SENATOR HILGERS: For faithless electors. [LB1058]

JOHN CARTIER: Yeah, for unauthorized votes or however (inaudible). [LB1058]

SENATOR HILGERS: And do you recall...oh sorry, go... [LB1058]

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JOHN CARTIER: No, no, that was... [LB1058]

SENATOR HILGERS: And do you recall if that...the Senate bill actually had a provision in there that made it...faithless elector...criminalize that kind of activity? [LB1058]

JOHN CARTIER: I'm not aware of that. But I know of...the bills that have been considered in the past, there have been immunity provisions. And I would recon to imagine that the ones that were passed, the two primary ones, the Senate was included. Might have to do some additional digging, if you want me to do that, I'd be more than happy to. [LB1058]

SENATOR HILGERS: Well, I appreciate your willingness to answer those questions, and all your digging into the historical background... [LB1058]

JOHN CARTIER: No problem, it's a lot of fun. [LB1058]

SENATOR HILGERS: ...and thank you for dropping that off by our office, I look forward to reading it. Thank you. [LB1058]

JOHN CARTIER: Thank you. [LB1058]

SENATOR MURANTE: I want to follow up on just one question very briefly. You had...the issue of, sort of, federal preemption of what we're doing here. That's a...it might happen, it's possible; I'm not a legal scholar, I stipulate the point that there could be a federal law that preempts what we're doing. But as we're sitting here today, there are Article V applications out there. Some of them are relatively close to triggering an Article V convention. The Congress has not passed any framework by which those Article V conventions would operate, so we're sitting here in a vacuum with no guidance whatsoever. In the absence of that, of Congress actually acting, or even being able to come up with a consensus on the congressional (inaudible), it seems like at this point Congress passing legislation, without being through the reconciliation process and the filibuster rule and then getting a president to sign it seems daunting to me. So shouldn't we act preemptively, even if they have the ability to preempt us? At least put in a framework with the understanding that Congress is pretty dysfunctional and the odds of them coming to agreement on really much of anything at this point seems remote. [LB1058]

JOHN CARTIER: I never want to impose and say what I think you guys should do, but just be aware that passing this bill today should not make you guys feel any better about passing LR6 or LR268. And on your point about deadlock in Congress right now, I think it is worthy to mention that they did pass pretty significant tax reform piece of legislation. So all hope is not lost. And if

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there is something that's coming at Congress that could threaten them, I would imagine they would be a lot more motivated to pass something that would provide a framework that would seriously change the way that states would be able to interact at Article V convention. [LB1058]

SENATOR MURANTE: But I mean, it seems to me like the worse case scenario for what you're saying right now is that we pass a bill that sets up a framework and that Congress overrules us. So I guess we maybe would have wasted an hour of a public hearing, but that's the worse case scenario for opposing this bill. I mean, is that really reason to oppose the bill and just pray that at some point Congress gets its act together? [LB1058]

JOHN CARTIER: I wouldn't consider this a waste of time. It's always a pleasure coming down here and talking to you guys. (Laughter) [LB1058]

SENATOR MURANTE: And we enjoy having you, Mr. Cartier. [LB1058]

JOHN CARTIER: No, but I think that is a good point. If you guys want to act now and do something and...without knowing all the facts about what could happen in an Article V convention, that is your job to do so if you think so is prudent. My job is here to come and remind you guys that there's certain things you might want to look at before moving forward. [LB1058]

SENATOR MURANTE: Understood. Senator Brewer. [LB1058]

SENATOR BREWER: Thank you, Mr. Chairman. Just for clarity, are you an attorney? [LB1058]

JOHN CARTIER: Yes, sir; very proud of it. [LB1058]

SENATOR BREWER: All right. [LB1058]

JOHN CARTIER: First one in the family. [LB1058]

SENATOR BREWER: Somehow I sensed that, that you were an attorney. You went through so much so fast and fortunately the other attorney here was able to grasp some of it and digest it or at least be able to ask questions so that we could get clarity. Would it be possible to get a copy of your testimony so...because what I wrote on here is try and get notes and more information because you went so fast that I couldn't digest or make notes, and that doesn't do any good on the

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testimony if I can't think it through and understand exactly what you said. Is that possible?  
[LB1058]

JOHN CARTIER: Yeah, I would be happy to forward you a copy, e-mail or in person work better for you? [LB1058]

SENATOR BREWER: Whatever works for you. Thank you. [LB1058]

JOHN CARTIER: Okay, yeah, you got it. [LB1058]

SENATOR MURANTE: Senator Hilgers. [LB1058]

SENATOR HILGERS: Thank you, Mr. Chairman. Just a follow-up on Senator Murante's point. Just to sum up what I perceive to be your testimony is, hey, we don't support LR6, we don't support any of that also might be preempted by Congress here. Is there anything in the bill, putting those concerns aside, that you say, boy, this is a bad mechanism or this would...if it were not to be preempted, this is a bad structure. It shouldn't be a felony or there ought to be...the alternate delegate scheme should be different. I mean, is there anything specific about the bill that you are opposed to, other than you don't like...you're opposed to LR6 and you think it could be preempted. [LB1058]

JOHN CARTIER: Yeah, I was sitting there thinking about the mechanism. I think it's five delegates, right?, that are chosen. I'm not sure the best way to get...send our best and brightest people up there, but whatever, sort of, delegation bill moving forward that's passed, I don't want to see a mechanism that reflects us sending our best people. [LB1058]

SENATOR HILGERS: Okay. I mean that's fair. Although I think I'm sympathetic to Senator Murante's point which is if they're going to preempt us, they're going to do it anyway. Wouldn't it be better to have at least a model out there if something that they could, hey, now we've got something people can advocate a starting point that actually might do the trick for what we need? [LB1058]

JOHN CARTIER: Not at the cost for signing Nebraska up to be one of those 34 states.  
[LB1058]

SENATOR HILGERS: Okay, I understand your position. Thank you. [LB1058]

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SENATOR MURANTE: Seeing no additional questions, thank you for your testimony.  
[LB1058]

JOHN CARTIER: Thank you. [LB1058]

SENATOR MURANTE: Do we have additional opposition testimony to LB1058? I see none. Is there any neutral testimony to LB1058? I see none. Senator Halloran. [LB1058]

SENATOR HALLORAN: Thank you, Chairman Murante. Well, there you have it. Congress doesn't trust the states and the states don't trust the government. And I think the latter where the states don't trust the federal government or trust Congress, has probably got more ammunition than they do towards us. It's quite interesting. Mr. Cartier pointed out some good reasons why we should have some mistrust of the federal government in which he suggested that they may do this or they may do that and they may preempt everything you think you can do that otherwise was laid out in Article V of the Constitution. He made a classic case for why the founding fathers offered two options for proposing...and I want to emphasize that, it's proposing amendments to the constitution. Historically, they've all come from Congress, right? Thirty-three have been proposed, 27 have been accepted...or ratified. So there were some that were sent to the states that the states said, hmm, nay, nope, that's not going to work. The ratification process works. And it's a question of whether Congress wants to try to preempt something like this. I'd like to see them try. I'd like to see them try. Because if you think there would not be a lot of countrywide backlash, and I'm not talking physical here, but I'm talking about...Congress already has less than 20 percent polling favorability. I can guarantee you, if you ask the states about their own states or aggregate states, which one you trust the most, I guarantee you they would trust the states. But we hear all these "what ifs;" they're worried about our what ifs, I'm worried about their what ifs. I don't see anyone arguing, and the opposition is saying, well, what about a runaway Congress? What about a runaway Congress? Twenty trillion dollars didn't happen by accident. It happened for the very same concern that the founding fathers said, you know, we have to have a relief valve here whereby it isn't just Congress that proposes amendments to the Constitution, but it's the aggregate states with a benchmark of how many have to come together to do it. Two-thirds of the states and the same ratification threshold of three-fourths of the states that have to ratify it. Fear is a powerful thing. And that's all I heard from the opposition was fear. I fear not the states. I have some very rational fear...if it can be called rational fear...of what Congress has done or has failed to do. Career politicians will not stop themselves. They have no compulsion to stop themselves from spending. They spend from one primary purpose and that's to get reelected. They don't stop themselves and ask what can I do best for my country, they stop and ask themselves how do I get reelected? And the best way to do that is to spend more money. And once they're in power, they do that and they use that influence to buy votes, in effect, to keep them in office. Plus on top of that, they pile regulations on us that if you put them on 8.5 by 11 sheets of paper they would physically be taller than the Washington Monument. I have nothing

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more to say other than I would encourage you to move LB718 (sic-LB1058) to the floor so we could have an interesting debate amongst those people that I trust more than I trust Congress. [LB1058]

SENATOR MURANTE: Thank you, Senator Halloran. I do have just a...maybe a question or two, and then I'd maybe like to just toss out a concern or two for the purposes of having a discussion off the microphone and when we can kind of work out the details. [LB1058]

SENATOR HALLORAN: Certainly. [LB1058]

SENATOR MURANTE: I have a few technical challenges with your bill. [LB1058]

SENATOR HALLORAN: Okay. [LB1058]

SENATOR MURANTE: The first is, in the event that a...whatever state puts us over the threshold to call a convention and the Congress calls the convention while the...assuming that they do it...while the Legislature is in recess, it does not... [LB1058]

SENATOR HALLORAN: Correct, I understand. [LB1058]

SENATOR MURANTE: ...or is in its interim, it does not have a capacity to elect delegates, I think we need some sort of a mechanism for that scenario. [LB1058]

SENATOR HALLORAN: Okay. [LB1058]

SENATOR MURANTE: If we adjourn sine die in April, it gets called in May, and the convention is in November, we need something to happen between there. And I also suggest that you work with Senator Hilgers, as the Chairman of the Rules Committee, because although your bill states that there will be five members elected by the Legislature, there's no real discussion in here of how, there's no discussion of what's...is it a floor vote? Is it the top five vote-getters win? Is it a secret ballot? I will tell you a concern of mine is I've...I know it is of many people is the coalitions that are built on the floor of the Legislature with secret ballots could yield some very bad outcomes. [LB1058]

SENATOR HALLORAN: They are all noted. [LB1058]

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SENATOR MURANTE: And it has certainly happened in years past in this body and that would be a concern of mine. So I think...even if...I don't think we can put those, sort of, formalities in the state law because if Senator Hilgers and his Rules Committee comes up with an alternative scenario, those rules would govern this statute in terms of the legislative process. So I think we have to flesh that out a little bit. And I would love to have a discussion with you about whether the Legislature ought to be electing these people at all, or whether we should...we could have a different discussion. So I'll open it up to you, but that's just more of a framework from where my mind is at and the work that I think we need to get done between where we are right now and advancing the bill to General File. [LB1058]

SENATOR HALLORAN: Okay. Do you want me to answer all those right now? [LB1058]

SENATOR MURANTE: You can say...it's open mike night, you can sing if you want. [LB1058]

SENATOR HALLORAN: Open mike? Oh, you don't want me to...(laughter). [LB1058]

SENATOR MURANTE: There is precedence, Senator Halloran. [LB1058]

SENATOR HALLORAN: All right. [LB1058]

SENATOR MURANTE: Not in this committee, but on the floor. [LB1058]

SENATOR HALLORAN: No, those are well noted. I don't know, to your point, how specifically we can get in the bill those specifications, but we can work with you off committee hearing time. I do want to also state that last September, last fall, I was invited to...by the Arizona Legislature to come to what was a planning convention for a convention of states. Now, they were most interested in and focused on balanced budget amendment because it is closest to be coming to fruition. And we spent all of five days, there were 17 states that were represented officially; there was four people that were there who were observers, if you will, from four various states. But the whole process was...you can only take my word for it...but I can get you the hard copy of the results, but the whole process was very disciplined process, very legislatively administered; we broke down into committees to deal with the various issues that would be necessary to formalize in a proposed plan for a convention. It had no...it was not meant to be anything that was assured that a convention would adopt those rules or procedures...and procedures, but it was going to be something, a template for them to do. And so this has not been just casually thought through, there's been a lot of effort to make sure that it's done in a legitimate and legal fashion and where everybody has a chance to speak and it laid out how many...if it's a simple majority or what have



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you to process through a proposal for an amendment. But I'll visit with you off mike about those issues. I'm glad you brought those up. [LB1058]

SENATOR MURANTE: (Exhibits 5, 6, 7, 8, 9, 10, and 11) Thank you. I see no final questions. I do have letters in opposition from Nancy Carr, representing herself; Andy Schlafly, of the Phyllis Schlafly Eagles; Sue Long, the Chair for the Committee for Constitutional Government; Joanna Martin, representing herself; Judi Caler, the president of Citizens Against an Article V Convention; Betty Lucas, representing herself; and Howard Burnette, representing himself. And with that we close the public hearing on LB1058. [LB1058]

SENATOR HALLORAN: Thank you, Committee. [LB1058]

SENATOR MURANTE: Thank you, Senator Halloran. And proceed to our final item on the agenda. Senator Stinner is back with, I believe, a perfect record in this committee for getting bills passed. So we don't want to jeopardize that. (Laughter) Welcome back, Senator Stinner. [LB1058]

SENATOR STINNER: (Exhibits 1 and 2) Thank you. Good afternoon, Chairman Murante and members of the Government, Military and Veterans Affairs Committee. For the record, my name is John Stinner, J-o-h-n S-t-i-n-n-e-r, and I represent District 48 which is all of Scotts Bluff County. The purpose of LB1111 is to establish an early warning system that can measure the state of fiscal distress at the village, county, and municipal levels of government. Fiscal distress can be described quite simply as a situation where there is a significant and persistent imbalance between revenues and expenditures. This can be measured by such things as cash flow inadequacies, inability to pay expenses, revenue shortfalls, deficit spending, structural imbalanced budgets, billing and revenue collection, inadequacies or discrepancies, and debt overload. LB1111 provides for a monitoring system on key financial lend indicators which can be used to signal if fiscal distress is present. Under provisions of the bill, the auditor is required to apply these indicators to the financial statements received from county and municipal governments, declare a county or municipal government as under a state of fiscal distress when meeting any of the indicators, make a report to the Legislature and the public on a biennial basis, evaluate whether indicators accurately reflect a state of fiscal distress. It is important for me to clarify that there is a distinction between the condition itself and the causes of fiscal distress. It is not always the fault of the county or the municipality. Economic downturns, losing state aid, unfunded state or federal mandates and unforeseen events are at no fault of local governments, but the effect is the same. The condition of fiscal distress can have a far-reaching impact on the services provided by...to local governments, or by local governments. An example that we all are familiar with is Gage County situation with the lien that they have against the county currently. It's now probably, with accrued interest, approaching \$30 million. I think in...close to my district,

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Cabela's was bought out by Bass Pro Shop. There is going to be stress not only in Cheyenne County but stress in Scotts Bluff County in our districts that we serve. Those would be two big examples. The other one is, as I've spent a lot of time in these small towns and as we know, how migration happens and it puts a lot of pressure on the infrastructure. Along with federal mandates for sewer and water, I know a lot of the small towns have taken over their nursing homes because if they're not financially pliable for independent people to own them. So lots of stress is happening, lots of deterioration. What I want to do is try to get in front of this to have an early warning system to take a look at what's happening. What are the trends out there? What can we do, maybe at the legislative side, maybe to reestablish county and city government aid which was cut in 2010. Maybe there are other things that we need to become aware of that we can help from our side and maybe it's just somebody that needs to have some oversight to help them manage through their situations. That's really what this whole thing is about is trying to implement something, trying to get a system. I know that there are testifiers behind me that don't want to be put on a watch list. Okay. We can probably put something together that gives us an idea from an overall standpoint of where is our state because a lot of these small towns are...you know, just the last bond issue I think our bank it was with the city of Baird for three, four hundred thousand dollars. We buy that whole bond issue but there was a lot of fiscal distress that we pointed out, brought to the city's council's attention, and they had...that they were able to adjust their mill levy to make up for all the discrepancies in cash flow and inadequacies of trying to service that. That could be an example of somebody that is over, taking a look at it. There is implications in other states that have done this, but it does help as far as these small governments going for bond issues. They will look more favorably that they do have some other oversight on those instrumentalities. So lots of states have put this in. Different mechanisms, different ratios. I think, but based on what our knowledge is, a lot of cash-based financial statements will come in. The auditors sees them all. They have access to them. They are going to also testify in back to me. Small fiscal note on this, but it's something that I wanted to get in front of the committee, make people aware of, listen to the opposition, see just exactly where we're going to go with this type of legislation. So on that, thank you. [LB1111]

SENATOR MURANTE: Thank you, Senator Stinner. Senator Briese. [LB1111]

SENATOR BRIESE: Thank you, Chairman Murante, and thank you for bringing this, Senator. In Section 6, those benchmarks that we see there, maybe someone after you is going to answer this, but how were they arrived at or where did they come from? [LB1111]

SENATOR STINNER: Actually the benchmarks that were put in, we worked with the state auditor because they have access to that information. It's the type of cash based. A county that we have, some of them do have a modified accrual base, but most of all, cash based. That's what they can get out of that. That's...those...now can we develop other metrics? Yeah, we can per

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capita revenue, per capita debt, per capita expenditures, those types of things and try to get an overall sense of where the state of Nebraska is at that grassroots level. [LB1111]

SENATOR BRIESE: Okay. Thank you. [LB1111]

SENATOR MURANTE: I see no additional questions. Thank you very much for your opening. [LB1111]

SENATOR STINNER: Thank you. I need to step out for a minute or two. [LB1111]

SENATOR MURANTE: Understood. And we will proceed to proponent testimony on LB1111. Welcome. [LB1111]

MATTHEW COOK: Thank you. Chairman Murante and members of the committee, thank you for the opportunity to provide testimony on the Fiscal Stress Management Act. My name is Matthew Cook, M-a-t-t-h-e-w C-o-o-k, and I'm a researcher working on state and local fiscal policy issues at the Pew Charitable Trusts. Today's hearing is an important step in supporting the fiscal health of Nebraska local governments. State governments have a vital interest in the fiscal health of their localities for many reasons. These include, ensuring the continuity of essential services to residents, particularly in areas such as public safety and health; protecting the vitality of local economies, which generate revenue for governments at all levels; and preventing one locality's financial crisis from negatively impacting other communities or the state itself. According to Pew's research, 23 states make some effort to monitor the fiscal health of local governments, meaning that they actively and regularly review financial information from localities in order to detect signs of distress or generally assess their fiscal condition. States cite several benefits to monitoring local governments' fiscal health. The first benefit is the ability to address problems before they become unmanageable. Early detection can allow states and local governments to respond in ways that are less intrusive and less expensive than those that could be needed in a fiscal crisis. The second, support from credit rating agencies. Credit rating agencies generally support state oversight of local governments' fiscal health, arguing that states often can help localities without hurting their own balance sheets. Moody's Investors Services said in 2014 that all else being equal, it tends to assign higher ratings to distressed local governments in states with strong oversight. The third benefit is improved transparency and accountability. The Fiscal Stress Management Act requires the auditor of public accounts to analyze financial data the office already collects and make this information publicly available. This report can help communicate complicated financial position to the public, can show regional trends throughout the state, and it can also allow local governments to easily relay positive fiscal condition as well. One other one is that it can communicate state impacts on local governments. Lastly, states mentioned that building capacity in local governments is another

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benefit. A fiscal monitoring system like the one described in LB1111 can provide local government that lack the capacity or ability to detect, assess, or address fiscal issues on their own, with a more robust understanding of their own finances. There's no one size fits all approach to state programs to evaluate local finances. An effective fiscal monitoring system will take into account an individual state's unique economic, legal, and political context. The Fiscal Stress Management Act incorporates many of the promising approaches that Pew identified from other states, and I'm happy to discuss these further if you have any questions. Thank you very much. [LB1111]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? I see none, so thank you for your testimony. Really appreciate it. [LB1111]

MATTHEW COOK: Thank you. [LB1111]

SENATOR MURANTE: Is there additional proponent testimony to LB1111? Welcome. [LB1111]

BETH BAZYN FERRELL: Thank you. Good afternoon, Chairman Murante, and members of the committee. For the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials. I'm appearing in support of LB1111. Counties have a great working relationship with the State Auditors Office. A number of counties have asked the auditor to come in and perform their annual audit because of the thoroughness of their analysis and their auditing in compliance with state statute rather than just the fiscal aspects of the audit. And it's been our experience that when the auditor comes in and they find signs of anything that may be wrong, or even questionable, they dig right in, take a look at it, and then let the county board know about it and the county board then can work with that. Certainly, LB1111 is more involved than what those audits might be because it would be an analysis applied to every county, but we do think that it is a good idea to take a sort of preemptive look at what is going on in counties and at least conceptually have that idea of what might be going on. So, be happy to answer questions. [LB1111]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? I'll tell you what, I will break a rule of mine and just issue a comment. I want to thank you for taking a reasonable approach to this bill. I can tell you I have had growing frustrations with the political subdivisions of this state and the perceived relationship between the state to its political subdivisions. And I think in the era of term limits, that reasonable discussion of ideas, what are reasonable parameters to put on budgets, and so many other things, there's too many to mention, has really evolved to a place that is not a rational discussion and the word local control is in a balancing act, but it's evolved into a cliché. So to have you support something like this, I think

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really speaks well of your organization and I just want to thank you for taking that sort of an open-minded and reasonable approach. So, thank you. [LB1111]

BETH BAZYN FERRELL: Thank you. [LB1111]

SENATOR MURANTE: I see no questions, so thank you for your testimony. Is there additional proponent testimony to LB1111? I see none, is there opposition testimony to LB1111? Ms. Rex, welcome back to the Government, Military and Veterans Affairs Committee. [LB1111]

LYNN REX: (Exhibit 3) Thank you, Senator Murante. Really appreciate the opportunity to be here today. My name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. Municipalities are in a fundamentally different position than counties when it comes to this bill and in many other ways as well. Let me give you an example as to why we are opposing this measure. And I would just have you look, if you would please, it's on page 4, lines 1(4). This is one of the indicators that would indicate...now this is in Section 6 and just as one example. It says, beginning at fiscal year, 2021, after review of the financial indicators of taxing authorities, the auditor shall declare a taxing authority as being under the status of fiscal watch by the occurrence of one or more of the following financial indicators. And then it has (4). The village, city, or county is at the maximum levy rate over the past three years. And I would also like to indicate that today I'm testifying on behalf of the city of Lincoln at the...they've asked me to do so and I'd like to have that on the record as well. So let me just share with you a little bit about why municipalities are so different from counties and other political subdivisions when it comes to a matter like this. What you have in your first handout, and this is the one that has colored sheets. It has the yellow and it has the red, this outlines the series of cuts to municipal Infrastructure Redevelopment Fund, quote, state aid, which was totally eliminated with passage of LB383 in 2011 that removed the remaining \$11 million that we had at that point. And by the way, that state aid as we had talked about before in other committee hearings, was a reimbursement, though inadequate, but a partial reimbursement to municipalities and other political subdivisions for the property tax base that prior Legislatures removed for livestock, business inventory, and farm equipment. And so, in any event, this shows really what's happened across the state of Nebraska in terms of the cuts by the state...by your predecessors, and essentially what we have left, which is not much. And nothing on the state aid side. With that to compound this, and this is fundamentally why, Senator Murante, in terms of counties and why cities are so different, and villages. In 1996, this Legislature passed LB1114. That was a bill passed by this Legislature to require second-class cities and villages to go to 45 cents per hundred dollars of evaluation to basically from a hundred...I'm sorry, from \$1.05 per one hundred dollars evaluation to 45 cents per one hundred dollars of valuation plus an additional 5 cents with interlocal agreements. Every second-class city and village in the state of Nebraska was at \$1.05 or higher and the reason for that was because of bond indebtedness, because of voter approved bonds, the purchase of a fire truck. There are 529 municipalities in the state of

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Nebraska; 30 are cities of the first-class, of course, Lincoln and Omaha; metro and primary class. When you look at this list you're going to see there are 117 cities of the second-class, and in addition to that, 380 villages. Two hundred and seventy of the 529 don't match this test. They're already under the fiscally distressed and I can assure you, they know it. So when you look at this, what you have in your second chart which has got a series of...we got this from the Department of Revenue based on 2016, 529 municipalities, 270 are already at the maximum of .45 or .4499, whatever, right up there. They're already there and why is that? Because again, you go back to 1996, they had two years to go from the maximum levy of \$1.05 per one hundred dollars of valuation and they were all there down to 45 cents plus five. So imagine if...and thank goodness they can't, but imagine if the federal government would say the state of Nebraska, you take your tax rates and you cut them in half, you have two years to do it. Good luck with that. That is what the Legislature did to second-class cities and villages in 1996. Here's why we're different from counties. The maximum levy limit for counties constitutionally is 50, 50 cents per one hundred dollars of valuation. It's been that for decades. What Senator Warner in the Revenue Committee did was they reversed it. The maximum levy limit for second-class cities and villages, and basically all cities, but it really hit the second-class cities and villages, was 45 plus five, but he reversed it because of the constitutional limitation, so they made it 50 minus 5 for interlocal agreements. So what I bring to you today is just a statement that we...I think this bill is very well-intended. We appreciate the intent behind it. We, too, think we've got a great working relationship with the auditors office, very, very professional people. We appreciate working with them. And just wanted to underscore for you that we would have cities today that are so concerned about being on a list because they're trying to grow their communities. And I know you've received also a letter from the United Cities of Sarpy County. In a prior meeting with Senator Stinner, we indicated that in deference to him and his community, we would not bring a parade of people because we have so many people that are so concerned. Again, counties have been at 50, they're still at 50. That's not true for cities. That's not true for villages. And so, with that, cities of the first-class are really in good shape. Omaha and Lincoln are in good shape, but the indicators here, we're not so sure that these are the indicators that reflect financial health, if you will. But I just picked one of them to show you that fundamentally in two different ways, the Nebraska Legislature, and I'm not...these are your predecessors, not any of you, but in 1996 in an effort to have a statewide levy limit, put those in place. And so while many senators were lauding the fact of, isn't this great, we have consolidated law enforcement. No, we had villages and second-class cities that couldn't afford to keep their one police officer, their two police officers. They then contracted many of them with the sheriffs. Now they can't even afford to do that. So I'm happy to respond to any questions. And by the way, I do think that there's a way in which something like this could be done informally so people don't have to worry about being on a list, and so you don't have to worry about what business decide to expand. In Springfield, Nebraska, or any other municipality, because they don't know whether or not, is that city distressed. Should we even be expanding there? You've got a lot of second-class cities, Senator Briese, in your area. You know, should they...you know, does your business want to continue to expand there and

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grow? Those are the kinds of things that folks are worried about. The larger cities are worried about bond issues, and what this would mean for bond rating companies. I know I have gone over my time a little bit but again, just to underscore this, 529 cities, 270 already would not meet that test just in that one element. And of the 117 cities of the second-class, 81 are already there at .45, the maximum levy limit, or .4499. With that, I'm happy to answer any questions that you might have. [LB1111]

SENATOR MURANTE: All right. Thank you for your testimony. Senator Briese. [LB1111]

SENATOR BRIESE: Thank you, Chairman Murante. Thank you for being here, Ms. Rex. Businesses considering expansion in one of these cities you're talking about, aren't they going to investigate financial status of that city anyway regardless of this list? [LB1111]

LYNN REX: But I think it...there's a...I'm sorry, go ahead, I'm sorry. I thought you were done. [LB1111]

SENATOR BRIESE: And if so, what's the downsize of being on the list, but go ahead? [LB1111]

LYNN REX: Oh, I think there's a big downsize being on a list. I mean, if you're on a list of saying that, okay, you're distressed. And let's take a city in your district and they're distressed versus another city in your district that's not distressed. So your business, thinking about coming to your part of the state for whatever reason, maybe location, location, location, there are reasons why they would want to be there, many reasons I know. And so where are you going to go if you're the business? You going to go to the undistressed city or are you going to go to the distressed city? If you're going to look at expanding, where are you going to go? If you're a larger community and you're looking at a bond issue, what does that mean? I do think that it's really important, and I appreciate Senator Stinner bringing the issue forward because I think it's very important to look at what can be done in terms of indicators, what should people be aware of this. Believe me, our folks know they're at the maximum levy limit. They know, just on this one indicator. They're suffering out there and they're doing their very best to grow their community. But they're concerned also about whether or not...and again cities are competitive with another, a city saying, here are the cities that are not on the distressed list. We're not on that distressed list, come to our city. We can help you. We can build that infrastructure. We can do those things for you. These other cities on that list can't. [LB1111]

SENATOR BRIESE: But those businesses, they'll make that determination anyway, won't they? They'll look at some of these benchmarks won't they, deciding where to go? [LB1111]

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LYNN REX: Sure. Yes. [LB1111]

SENATOR BRIESE: Even if there's no such list. [LB1111]

LYNN REX: That's true, but for example, even though it may seem to be somewhat benign, it matters when a city can say, I'm an NCIP city. It matters when they can say, look at our growth. And a lot of these cities, hundreds of them, it doesn't mean that they're not working hard and doing the very best that they can do. And I think...I really appreciate Senator Stinner's opening because he made it clear that a lot of reasons why municipalities in this position are not because they reduced their levy limit, that they were required to do that. And it had a devastating impact on second-class cities and villages. First-class cities, not so much, most of them were not close to 45 and certainly not Omaha and Lincoln. But, boy, this has a real impact on the smaller communities and they're very worried about it. [LB1111]

SENATOR BRIESE: Thank you. [LB1111]

LYNN REX: Thank you. [LB1111]

SENATOR MURANTE: All right, I see no additional questions, so thanks for your testimony. [LB1111]

LYNN REX: Yes, and we're happy to work with the committee and Senator Stinner and the auditor's office and others. And we've talked to the auditor's office about this as well to see if there's maybe a more informal way of doing it other than being on what people see as a list that says to them, how are you ever...I mean, there's a way to get off the list. But I...by the way, this says if you've been on there for three consecutive years, hundreds of them have been on there for more than three consecutive years. They've been on there since 1996. Thank you very much and thanks to Senator Stinner for bringing this issue forward. We really appreciate it. [LB1111]

SENATOR MURANTE: Thank you. Is there additional opposition testimony? Is there any neutral testimony? Senator Karpisek, welcome back to the Government Committee. [LB1111]

RUSS KARPISEK: Senator Murante, thank you. I see my old chair has been empty, I could have sat in it today. (Laughter) [LB1111]

SENATOR MURANTE: So it's the same as it's always been. (Laughter) [LB1111]



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RUSS KARPISEK: I think the auditor's chair was over here somewhere. (Laughter) For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k. I am the legislative liaison for the State Auditor of Public Accounts, Auditor Janssen. We are definitely neutral on this bill and I want to thank Senator Stinner and his staff for working with us because we did have concerns. And I think he's going to, in his closing...I don't want to put too many words in his mouth, but I think this is getting the ball rolling a little bit and conversation has started. And we did talk about only those municipalities that do a CAFR. They...when they look at...I'm no auditor nor an accountant, but when they do the whole city, their liabilities, their income, the bigger cities, and I understand what Ms. Rex is talking about too. And we do worry about when we do these audits and you see that there's some problems but then it's a then what. So you give it to them and I'm sure that they already know that they have problems and they're not bringing in as much money as they need to, but it's kind of up to them. And I do appreciate also NACO saying that they have a good working relationship with us because I think that we really do have a good working relationship. Auditor Janssen does feel that we're here to try to help, not to be the hammer, try to help things go right and make it go right. Probably our biggest issue with this is that we did have to put a fiscal note on this and we determined that it would be roughly one FTE. I don't know that that's right. My opinion is, it would probably be a little bit more than one FTE, but we are trying not to be death by fiscal note on this, and again keep working and seeing what we can do. I think a lot of what we already do you can look at and say, ah, here's an issue and maybe if they do this a little different, they'll save some money. Especially with...we go in front of the Appropriations Committee tomorrow and we know what we're going to be looking at. Of course, Senator Stinner could fix that overnight, right. If he really wants this bill. No. (Laughter) [LB1111]

SENATOR MURANTE: I've never seen bribery here. (Laughter) [LB1111]

RUSS KARPISEK: Oh, it's just a suggestion. We all know the situation the state's in. We know that we have to be part of the solution and probably not get quite as much money as we've had in the past which is just going to mean that there's going to be less audits that we can do. And we've been very fortunate to work with the Legislature on doing audits that senators have asked for. So again, when we get more...less money, we just can't do as much. So then to do this, we just...we can't do it without putting a fiscal note on it. We apologize for doing that. We would sure like to try to do it with the resources we have, but we just don't think we can. Again, I think there's some great ideas in here, some that needs to still be worked out, but we are more than willing to help. And again, I do want to thank Mitch, especially, for working with us and trying to iron it all out. I'd be glad to try to answer any questions. Thank you, Senator Murante. [LB1111]

SENATOR MURANTE: I will say in 12 years, that is the most apologetic fiscal note I've ever heard. (Laughter) [LB1111]

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RUSS KARPISEK: Well, I remember when I... [LB1111]

SENATOR MURANTE: It never had anything to do with the Appropriations Committee Chairman. [LB1111]

RUSS KARPISEK: Not tomorrow. [LB1111]

SENATOR STINNER: They haven't come yet. [LB1111]

RUSS KARPISEK: Tomorrow, Senator Stinner. (Laughter) I remember how upset I used to get about some of the fiscal notes on my bills, but so that's why I really...and the auditor in our office just want to make it clear that's not why we put the fiscal note on here. We really think it's going to take at least one person to do this. And we only have 45 in our office. Some people may think that we have hundreds. We have 45 and that's including me, who is not doing any audits, thankfully. [LB1111]

SENATOR MURANTE: All right. Thank you very much for your testimony. Any final questions? I see none, thank you, Senator Karpisek. [LB1111]

RUSS KARPISEK: Thank you, Senators. [LB1111]

SENATOR MURANTE: Seeing no additional neutral capacity, I hope. Chairman Stinner, welcome back. [LB1111]

SENATOR STINNER: I do want to thank Lynn Rex for bringing all of that information. It kind of supports where I'm at with this because there were actions done by the Legislature that obviously have impacted some of these municipalities and small towns. I've alluded to the fact in 2010 when we went through the budget crisis, pay to municipalities was cut. I think it was closely to twenty million, 19.8 million was cut, which never reestablished. So these are things that we need to know about. We need to be proactive. I'll give you an example of what's happening at my end of the state. Right now we have a problem. EPA has recalibrated what they're asking about, water. And we have a lot of arsenic and uranium in our water. So to solve that problem, we're looking at Wyoming and running a pipeline down all the way to Bridgeport. That means all of the towns that go along the way, Scottsbluff, Gering, will share in this water supply. That's a \$500 million project. A lot of it is going to come out of federal government monies but the state is going to have to participate in solving the arsenic and uranium problem in western Nebraska. That's something I'd like to be in front of instead of behind. If it takes this Legislature eight years to pass Water Sustainability, I don't want it to be eight years in order to

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get something done with a project such as this. This is...I'm just throwing it out right now. I'm trying to get some feedback. I know it can be massaged, I know that we can do some work around on some of these things, but I sit on the Planning Committee along with the Appropriations. I'd like to be proactive but I want to have the correct data in front of me to try to make decisions. So that's what this is about. Thank you. [LB1111]

SENATOR MURANTE: (Exhibits 4 and 5) And thank you. I see no final questions. I do have a letter of support from Matthew Cook, Pew Charitable Trust. A letter of opposition from Mayor Doug Kindig on behalf of the United Cities of Sarpy County. And that closes the hearing on LB1111 and ends our public hearings for the day, so thank you, everyone. [LB1111]