

Transcript Prepared by Clerk of the Legislature Transcribers Office

Judiciary Committee February 9, 2023

Rough Draft

DeBOER: Good morning, everyone, and welcome to the Judiciary Committee. My name is Wendy DeBoer. I represent Legislative District 10 in northwest Omaha and serve as the Vice Chair of the Judiciary Committee. We'll start off by having members of the committee introduce themselves, starting on my right with Senator Ibach.

IBACH: Good morning. I'm Teresa Ibach. I represent District 44, which is eight counties in southwest Nebraska.

MEGAN KIELTY: My name is Megan Kielty. I'm legal counsel.

ANGENITA PIERRE-LOUIS: Angenita Pierre-Louis, committee clerk.

HOLDCROFT: Rick Holdcroft, District 36, west and south Sarpy County.

DeKAY: Barry DeKay, District 40, represent Holt, Knox, Cedar, Antelope, northern part of Pierce and most of Dixon County.

DeBOER: You will see other senators join us who may be in other committees right now introducing other legislation or have other obligations of that sort. That doesn't reflect how they feel about the bill, but simply they have these other obligations. So also assisting our committee today is our page, Luke McDermott from Omaha, who is studying political science and economics at UNL, and Morgan Baird from Gering, who is a political science major at UNL. This morning we'll be hearing one bill and therefore, we will take it up in the order listed, which is the one bill. On the tables in the side of the room, you'll find blue testifier sheets. If you're planning to testify today, please fill out one and hand it to the pages when you come up. This will help us keep an accurate record of the hearing. If you do not wish to testify but would like to record your presence at the hearing, please fill out the gold sheet on the side of the room. Also, I would note the Legislature's policy that all letters for the record must be received by the committee by noon the day prior to the hearing. Any handouts submitted by testifiers will also be included as part of the record as exhibits. We would ask if you have any handouts that you please bring 10 copies and give them to the pages. If you need additional copies, the pages will be able to help you provide them. Testimony for the bill will begin with the introducer's opening statement. And after the opening statement, we will hear from any supporters of the bill, then from those in opposition, followed by those speaking in a neutral capacity. The introducer of the bill will then be given the opportunity to make closing statements if they wish

to do so. We ask that you begin your testimony-- please, please begin your testimony by giving us your first and last name and spelling it for the record. If not, I'm going to have to stop you and ask you to spell it and it's really awkward for me. So really for me, please just spell your name for the record. We'll be using the three-minute light system today. When you begin your testimony, the light on the table will turn green. The yellow light is your one-minute warning and when the red light comes on, we'll ask you to wrap up your final thoughts. I'd also like to remind everyone at this time, including the senators, to please turn off your cell phones or put them on vibrate. With that, we'll begin today's hearing on LB588. Welcome to the Judiciary Committee, Senator Wishart.

WISHART: Thank you, Vice Chair DeBoer and members of the Judiciary Committee. My name is Anna Wishart, A-n-n-a W-i-s-h-a-r-t, and I represent the 27th Legislative District in west Lincoln and southwestern Lancaster County. I'm here today to introduce LB588, a bill that would establish the Medical Cannabis Act and provide for the cult-- cultivation, processing and use of cannabis for medical purposes in Nebraska. About six years ago, my life was completely changed. I was knocking doors and came upon a woman who's a physician in Lincoln. And she spoke to me about her grandson, who had debilitating epilepsy and had to move to a state outside of Nebraska to seek treatment with medical cannabis and a doctor. And that physician said that we're not for medical cannabis. They were looking at brain surgery for their eight-year-old grandson. Well, they moved states and he ended his seizures and he became a happy and healthy little boy, to this day. And I asked her, does your daughter and her family want to move back to Nebraska? And she said, absolutely. But here, we would be treated like criminals. And I remember going home that day and talking to my husband. He was a police officer at the time. And I said, I think I'm going to bring a bill on this. I know Senator Tommy Garrett did it two years before. Am I completely nuts in doing this? And he said, Anna, we hardly deal with issues when it comes to marijuana. We deal with alcohol, we deal with meth, but if this is going to help people's lives, this is something you need to do because you made a commitment to your district. So fast forward seven years and I sit before you and a lot of the people behind me sit before you, having worked on this a lot longer than I have. We are multiple pieces of legislation under our belts, two ballot initiatives under our belts, as well. And I sit before you with a piece of legislation that would be one of the most conservative medical cannabis laws in the country. Just this past year, our group completed

our second ballot initiative. And if I go back in time, this is-- these are two initiatives that we've worked on. The first, we collected over 190,000 signatures during a global pandemic. We had a thousand volunteers. And personally, I drove across the count-- state collecting signatures. This last ballot initiative, we collected over 180,000 signatures with a 10th of the amount of funding that we received the last time. Both initiatives were kicked off based on legal challenges, unfortunately. But what I can say is that we had enough Nebraskans who signed these petitions to show that this is an issue that the entire state cares about. I've spent the past six years going across the state, meeting with people from all different counties and you'd be hard pressed to find somebody who wouldn't benefit or know somebody who benefits from having access to medical cannabis. My research into the benefits are not just anecdotal. There is plenty of research that shows the benefits of medical cannabis. In 2017, the National Academies of Science released a landmark report that reviewed over 10,000 academic studies on the effects of cannabis. It found conclusive and substantial evidence that cannabis is effective for the treatment of chronic pain, nausea and vomiting, MS, improving sleep, reducing anxiety, PTSD and traumatic brain injury. Most recently, research indicates evidence that medical cannabis is helpful in the treatment of epileptic seizures and autism and we have experts who are following me who will be able to talk to this. And it shouldn't be surprising that there are medical benefits. Cannabis is over 10,000 years old. It's one of the oldest plants ever cultivated by human beings and it's been used medically across the world for generations. In fact, it was used medically in the United States until the 1930s. And when prohibition started-- and prohibition, it wasn't on the federal level, it was state by state. When Prohibition started, the National Medical Association at the time came out in opposition because it was a tool that they used to treat conditions. Over the 10,000 years that cannabis has been in humans' lives and cultivated, there has not been one case of a person fatally overdosing. And don't take my word for it. The Federal Drug Enforcement Agency confirms, I quote, no deaths from overdose of marijuana have ever been recorded. Compared to many prescription drugs, including opioid pain medication, which is now one of the leading causes of death in the United States, medical cannabis is far safer and far less addictive. Yet here we find ourselves today with an FDA that can expedite a COVID vaccine but cannot take action on this plant-based medicine, even though all but three states, including Nebraska, have legalized some form of medical cannabis. Most of these states have legalized medical cannabis by ballot from the voices of the people, because elected leaders have

failed to take action. And not one state that has moved forward on cannabis legalization has reversed their decision. So that brings me before you today, I'm asking for Nebraska's leaders to step up and pass a very safe, very regulated medical cannabis system in our state. I'm not going to go deep into the details of the bill, but I do have a summary that I would like to pass out to the committee. This bill does contain some changes from the previous legislation I introduced two years ago. Those, like Vice Chair DeBoer, will be very familiar with this legislation, though, because it includes the Judiciary Committee amendment, which specifically lists the qualifying medical conditions. This list of medical conditions is the, the result of countless hours of work that I did with the Nebraska Medical Association and pain expert doctors to sit down and walk through. And every single condition that you see in this legislation that is allowed, the NMA has said, yes, there is enough evidence to show that cannabis can provide some medical benefit, that they felt comfortable with that condition being on this list. Secondly, this bill also includes a compromise that I worked on with Senator Ben Hansen when this bill was on the floor of the Legislature. It removes vaporization, so you are not allowed to smoke or vaporize cannabis in this legislation. It allows for inhalers and then it also would put the medical cannabis system under the prescription drug monitoring program to better be able to utilize the benefits of that program in making sure that we are tracking who is utilizing the cannabis and making sure it's an effective program. And I also want to thank Chairman Hansen of the Health and Human Services Committee for co-sponsoring this legislation. If the committee is concerned that something is missing, I have shown over the years that I am willing to further narrow this bill, as long as it remains patient centered. My goal is that no family has to flee our state to get access to medical cannabis for themselves or a loved one. No human being should have to make a decision, no mom or dad should have to make a decision, do I have to get brain surgery for my child or can I try a plant-based medicine that has been effective in other states for people with similar conditions? This bill is not going to fail because of lack of compromise or thoughtfulness on the part of all of the senators and the stakeholders that have worked on this. If this bill fails, it will fail like it has in the past, because of political pressure from a few people in our state who wield their power to stamp out the will of the people. And here's the thing. I know for a fact that the people in this room and the thousands of people who have signed the petitions are not going to be silenced. We will go back to the ballot if we fail to pass legislation this year, no doubt. And the thing is, we've

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learned now how to run a ballot initiative on a tenth of the cost of a ballot initiative. And so we know that we'll be able to get this done. We've done it through a pandemic, we've done it with no money and now we have time. And so I'm hoping that this Legislature will think about the opportunity to pass a very, very safe, very conservative, controlled system in this state to benefit the patients and Nebraskans. And thank you and I would be happy to answer any questions.

DeBOER: Thank you, Senator Wishart. Are there questions for Senator Wishart? Senator McKinney.

McKINNEY: Thank you, Senator DeBoer, and thank you, Senator Wishart. Just a couple of questions and thank you again for bringing this bill. When it says individuals cannot consume cannabis in a vehicle, even as a passenger, what does that mean?

WISHART: You-- it means that there will be no consumption, like you could not be utilizing cannabis while you're in a vehicle. So you would have to pull over and, and manage your prescription there.

McKINNEY: So what if I take a gummy and go on a trip? Would I-- would that be a violation?

WISHART: No, that would not be a violation. It's, it's similar to our alcohol laws, where you're not allowed to have an open container.

McKINNEY: And then my other question on the license and regulation of producers or dispensaries, is there an equity component to that?

WISHART: There isn't, but I am absolutely happy to work with you on, on that portion.

McKINNEY: OK. Thank you.

DeBOER: Thank you, Senator McKinney. Other questions? Senator DeKay.

DeKAY: Thank you, Senator DeBoer. Good morning, Senator Wishart. You mentioned in your presentation, your opening, about not being FDA-approved. Where, where are we at in trying to get medical cannabis FDA-approved at that level and what's the difference between medical marijuana now as plant-based, as synthetic cannabis-- I'm going to pronounce it wrong, Epidiolex?

WISHART: Epidiolex. Yeah.

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DeKAY: What's the difference between those two?

WISHART: Yeah. So we do have a doctor who's following me who can give you much more details on that. But to answer your first question, the FDA system around this issue is absolutely broken. So there have been studies that have been completed on the effectiveness of cannabis, that have been put before the FDA, only to be stopped by the DEA from being able to move forward on that. And then this loop happens over and over again. It's, it's absolutely a, a broken system. And so what's happened is states have just moved forward utilizing the Tenth Amendment, our rights, states' rights, have moved forward themselves in terms of creating a system. And I will say that in terms of the federal government, they have clearly over the years, under both Republican and Democratic administrations, not put any money towards enforcing or removing the rights of states to have medical cannabis systems in their states. In terms of Epidiolex, when you look at a whole plant of cannabis, it has a multitude of cannabinoids. You've probably heard of THC, is one of them, but there are hundreds. And we're just starting to study and some of-- actually, the research that's coming out of Israel is some of the most cutting edge on just the benefits of multiple different cannabinoids on our endocannabinoid system, which is our internal system that regulates pain and mood. And so Epidiolex is, is one synthetic form, but we're finding that people benefit from having access to the whole plant. I mean, this is a plant that's evolved with us for 10,000 years. And, and so what we're finding is that for certain types of medical conditions, having access to that whole plant and working with farmers and working with doctors to find the right type of plant that supports somebody's medical condition is really what we're looking for there.

DeKAY: So with that, is that more of a-- I don't want to say a broad spectrum drug, but is that a more of a broad spectrum deal that will help alleviate the symptoms with the 16 that are proposed here, or will that be more beneficial to one specific ailment that a patient might have?

WISHART: All of the conditions that are listed are conditions for which access to the cannabis plant has shown evidence of having benefit.

DeKAY: Thank you.

DeBOER: Thank you, Senator DeKay. Other questions for Senator Wishart? Thank you, Senator Wishart. Will you be here to close?

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WISHART: Oh, yes. Absolutely.

DeBOER: OK. We're going to have a couple of invited testifiers to begin today, so we'll start with Crista Eggers. Welcome to your Judiciary Committee.

CRISTA EGGERS: Thank you. Thank you, Vice Chair DeBoer. Good morning, committee members. My name is Crista Eggers, C-r-i-s-t-a E-g-g-e-r-s, and I am here today on behalf of the many patients and families who have been advocating for medical cannabis for a decade now in this state. I'm also here to represent the 400,000, 400,000 signatures that have been gathered across two different ballot initiatives. Finally, I'm here today for my eight-year-old son Colton, who I brought a picture of so you can look at him rather than me. Colton has intractable epilepsy, causing him to experience uncontrolled seizures and who might desperately want the option of medical cannabis for. Colton has been on 19 different medications and too many different drug combinations to count, all of which have failed to do anything for him except cause a long list of side effects. He has had two life-threatening allergic reactions and sometimes I do not know whether it is worse that he experiences the seizures or the side effects from these drugs and what it does to him. I feel a common misconception is that FDA medications approved are safe and without risk. However, under the direction of his doctor, a team of doctors, we have tried medicines that are known to cause liver failure, stroke, suicidal behavior and even a drug which was determined to deteriorate brain development in rats. All of the medication he's currently on today, are used-- being used off label regards to his dosage, age and weight. Five years ago, while working with a team of physicians at the Mayo Clinic, we were told that medical cannabis could potentially save Colton's life. In the next breath, we were told that they were unable to talk to us about this treatment option because we didn't live in a legal state. They advised us to move or work to legalize it here in Nebraska. I chose the latter. After multiple failed legislative attempts, a ballot initiative was launched in 2020, gathering almost 200,000 signatures in the midst of a pandemic. And we were forced to do it again in 2022 and this time we lacked major funding. With the support of the patients and families, many of whom are behind me today, I took on the role of running a statewide petition drive. I lacked any experience and relied solely on passion and drive. My dining room table became an office covered with stacks of petitions and county maps, alongside Legos and art projects. At night, I worked at Colton's bedside, cautiously waiting for the next seizure that would undoubtedly come. Every 90 minutes throughout the night, my

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alarm goes off, waking up just enough to put my hand on Colton's chest and make sure his body is warm and that he's still breathing. It was in these moments and these moments alone, I was reminded that we could not stop fighting and this is exactly why I am here today. I sit before you, tired and weary from this fight and I beg you to look upon the suffering people of this state with compassion and empathy by supporting this bill. Most all of us in this room today will someday be faced with a life-threatening diagnosis, a decline in their own health or a loved one, maybe a terminal illness. Won't you be thankful that there were people who didn't give up, wouldn't stop fighting? And that could be the reason that you have an option for treatment someday. Thank you. I would yield to any questions.

DeBOER: Thank you, Ms. Eggers. Are there questions for this testifier? Ms. Eggers, thank you for bringing your presentation about your son. How's he doing today?

CRISTA EGGERS: He's good. He's good.

DeBOER: Good. And have you tried some of these synthetics that Senator DeKay was talking about and are they successful in helping Colton?

CRISTA EGGERS: So Colton recently started Epidiolex, which you heard mentioned and I know will be some-- other testifiers will be going over what that, you know, drug is. And for Colton, it has not been highly beneficial. He's actually had some not favorable side effects from it. But you know, we are, we are using that along with a bunch of other medications.

DeBOER: OK. And you'll get back, I suppose, on working on a, a proposal of-- I can't say the--

CRISTA EGGERS: Ballot--

DeBOER: --ballot initiative.

CRISTA EGGERS: --ballot initiative.

DeBOER: --if, if we don't get our job done here.

CRISTA EGGERS: Yes. If we do not pass this legislation this session, if this body does not come to a realization that this is something that's so desperately needed in our state and this is the way to do it and to regulate it and keep the patients who are the most vulnerable and most sick in our state to allow this as an option to them. You are

looking at a mother who has vowed to my child, to the children who have parents here today, to the patients of this state, to those 400,000 people who have signed a petition once and then twice, that I will not give up. And this group of individuals behind me supporting this, they will not give up. And we will go to the ballot in 2024, a presidential election year, and we will have something that the people will enact. And I don't know what comes next, but you have my word that we won't stop until this is a realization and a, and a-- something that can benefit the patients in this state.

DeBOER: Thank you so much for coming to testify before us today.

CRISTA EGGERS: Thank you.

DeBOER: Any other questions? OK. Next is Amanda McKinney.

AMANDA MCKINNEY: Good morning. My name is Dr. Amanda McKinney, A-m-a-n-d-a M-c-K-i-n-n-e-y. I'm a practicing triple-board certified physician. I have authored journal articles and textbook chapters on medical cannabis and I currently teach medical cannabis for health professionals certificate program through Bellevue University. I'm here to testify in favor of LB588 for three reasons. Number one, medical cannabis is effective and so that you might expand your knowledge base on that, I've provided a couple of the many peer-reviewed articles demonstrating its effectiveness for some of the conditions that are covered in LB588. Secondly, medical cannabis is safe. There have never been any reported overdose deaths from cannabis use. While there are over 10,000 deaths annually from 17 FDA-approved drugs that are often used when cannabis could be used instead. The level of safety with medical cannabis is actually unparalleled in modern Western medicine. Additionally, we're all aware of the over 107,000 opioid deaths that occurred in 2021 in this country. And in states where medical cannabis is utilized for pain management, opioid deaths have been reduced. Of note, alcohol abuse disorders also decrease in states where cannabis has been legalized. And according to the National Center for Drug Abuse Statistics, alcohol use disorders are a significant problem in the state of Nebraska. In order for patients to realize the safety and efficacy of medical cannabis, we need a regulatory framework for medical cannabis that is prescribed by physicians who are educated on the subject. Currently in Nebraska, individuals can access CBD and other hemp-derived products, including Delta-8, Delta-9, and Delta-10 THC, among others. However, physicians and other healthcare providers have zero education on the endocannabinoid system with which the plant interacts-- excuse me. I'm

sorry-- with which the plant interacts as well as the plant constituents and their pharmacological activity within the body. As a result, people seeking help from cannabis for their medical conditions are unable to access accurate information regarding what type of cannabis product they need, how to use it, how much to take and when to take it. Additionally, the hemp industry is completely unregulated. While there are efficacious and safe products available, there are also products that are contaminated with solvents, pesticides and other harmful substances. It's extremely challenging for an average layperson to discern from the good from the bad. It's long past time for Nebraska to have a medical cannabis infrastructure in place. Thank you. I'll take any questions.

DeBOER: Are there questions for this testifier? Senator DeKay.

DeKAY: Thank you. Thank you, Doctor. I'm, I'm not real educated on this. So the difference between CBD and THC can medical marijuana-- can it be effective with just the increased levels of CB-- CBD rather than-- or where does both of those fit into the treatment and regiment?

AMANDA MCKINNEY: Right. That's a great question. And so the thing about-- and, and one of the papers that I provided for you kind of elaborates on that. When we talk about the cannabis plant or any plant for that matter, the sum is often greater or the whole is greater than the sum of its parts. Right. So in other words, everyone knows that an apple is good for you. But why is that apple good for you? Is it because it has vitamin C or fiber or what is it? Well, the answer is it's because all of those things are in there together in one package and they work synergistically in the body. OK. The same is true of medical-- the same is true of the cannabis plant. There are hundreds of cannabinoids and also terpenes and other constituents within the plant itself. So, so you can-- so Epidiolex, the drug Epidiolex is what we call a CBD isolate. So it's just CBD isolated alone in the, in the medication. And what we're finding is that patients that require-- that are using Epidiolex for their seizure disorders, they require anywhere from 2 to 50 milligrams per kilogram of body weight. OK. That causes problems with the liver and other things because you have to use such high doses. When you use whole-plant cannabis and so an extract that's got some THC and those other cannabinoids and the terpenes in there, you can lower the doses. The effective dose can be as low as is 0.02 milligrams per kilogram. OK. So that's a three-- threefold or three [INAUDIBLE] or two difference. So those, those chemical components work synergistically together. THC is not a

bogeyman. I understand that, that the reason that it has been the boogeyman in the past is because it does interact with the CB1 receptor in the brain, which does cause some euphoria. It makes people feel good. However, it does not-- it's, it's got therapeutic use as well. It's really important, because when you add that little bit of THC and those other cannabinoids to the CBD, it makes it much more effective and you can use it at much lower doses.

DeKAY: With THC, that, that is the part of the drug that provides what I would say, the high?

AMANDA MCKINNEY: That's correct.

DeKAY: When it comes to operating vehicles, equipment, stuff like that, does that impair the operator's judgment or-- that's what, you know, that's what I'm trying to see where-- what the side effects of the THC would be that would impair somebody or else be able to use a drug with the CBD that wouldn't be, as, you know, more impaired driving conditions.

AMANDA MCKINNEY: So, so the other thing that happens with-- so, so when people use recreational marijuana or adult use, it's typically very high levels of THC with very low to minimal levels of CBD in the-- in whatever cannabis plant they're typically smoking or the edible that's been prepared. But what CBD-- so the interesting thing about CBD and THC is when you, when you add them together. So if you've got a, a, a product like a tincture, that's maybe a 1:1 ratio of THC to CBD. CBD acts as something called a positive allosteric modulator or excuse me, a negative allosteric modulator at the receptor. So CBD will actually interact with the receptor that the THC interacts with, but it changes the shape just enough of that receptor after the CBD attaches to it that it actually displaces some of the THC. So in cases where-- so what it does is it has the effect of dampening the psychotropic effect that you see with the THC itself. So even if there's a higher level of THC in the product, if there are high levels of CBD in there as well, you tend not to get that same type of high that you're, that you're thinking of. So medical cannabis patients aren't just walking around stoned all the time. Right. So oftentimes, they are completely safe to drive because they're not impaired. Right. They're not out. It's just-- it's the same as if you were-- you know, certainly if you've been out using recreational cannabis, you should not get behind the wheel of a car, nor should you do so after drinking alcohol. But, but the way we use medical cannabis is very different in those circumstances.

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DeKAY: All right. Thank you.

AMANDA McKINNEY: Um-hum.

DeBOER: Thank you, Senator DeKay. Other questions from the committee? I have a couple for you. With medical cannabis, are there concerns about addiction?

AMANDA McKINNEY: So addiction. You know, there's a difference between addiction and dependence as we see it, right? So the, the lifetime dependence risk of cannabis is about 9 percent. Alcohol is around 14 percent, cocaine is about 17 percent, opioids are 23 percent, nicotine is 32 percent. So of all of the sort of, you know, drugs that we kind of think about, cannabis is-- has the least risk of, of long-term dependence. People can become sort of psychologically addicted to, to cannabis. But it's-- there's no physical, there's no real physical addiction in that sense, because if a patient were using-- a heavy user of cannabis and then they decided that they needed to stop for whatever reason because they were becoming dependent upon it and they stopped taking it, there's very little withdrawal symptoms. It's typically very similar to if you were trying to withdraw from caffeine. So sometimes some nausea, some headaches, generalized irritability, maybe don't sleep so well, so very similar to caffeine. Whereas if you have somebody who's dependent on alcohol or dependent on opioids and they withdraw from that, you-- alcohol withdrawal is, is oftentimes life-threatening. They have to be hospitalized and given benzodiazepines so that they don't die and the same is true with opioid disorder withdrawal. It's typically not life threatening, but it can be. But it's very, very uncomfortable for the patients.

DeBOER: I-- thank you for that. What were those numbers again? You said what percentage?

AMANDA McKINNEY: Cannabis is nine, alcohol's 14. Cocaine is 17, opioids, 23 percent and nicotine, 32.

DeBOER: OK. So one of the things that I have heard in these hearings-- I've heard these hearings a few times now and one of the things that I've heard in these hearings is a discussion about something like the gateway effect. Can you speak to the gateway effect that might happen from marijuana?

AMANDA McKINNEY: Yes. So the gateway theory to drug abuse has been largely debunked. And I have-- and I do have a-- an article here that

I can have copied that I can share with you that talks about that. What we know is that they, they've done large survey studies where they've looked at cannabis use globally. And cannabis is probably the most common use-- common drug used globally for a variety of reasons. And while almost all hard drug users have used cannabis, most people who use cannabis do not become hard drug users. It's about a 1.7 percent, 1.7 percent of people who use cannabis end up going on to harder drugs. And what we've discovered from looking at this issue is that it's really a, a-- an issue of a person's personal propensity to use-- for substance use. There are people who are just genetically and socially hard-wired to end up being-- having drug, drug issues, harder drug issues like that.

DeBOER: Is there any evidence that, sort of, absent marijuana, they wouldn't go on to a different drug?

AMANDA McKINNEY: No, there isn't. And actually, in states where, as I alluded to earlier, in states where cannabis has been legalized, adult use cannabis has been legalized. We actually see people using less alcohol and we actually see that teenage use actually declines in states where recreational cannabis has been passed, because then an institutional or a regulatory framework gets put in place. And so the-- it, it ends up the drug dealers can't access these-- kids can't access cannabis through drug dealers or other drugs through drug dealers as easily when you have a regulatory framework in place. So we've seen that in all of the states where they have recreational use, that the actually student-- or actually young people, adolescents, have a decline in use of cannabis.

DeBOER: So that sort of-- last question, I promise. That sort of brings me to another thing that I've heard. Maybe you're not the right person to ask this to, but I'll go ahead and try. You were sort of talking about that there are-- is a lesser ability for teenagers to get involved in other things. We hear about a black market when there's a regulatory structure that that-- I've heard in this room, that that actually increases the black market. Are you someone who can speak to that issue of whether or not the black market increases? Is there evidence one way or another on that?

AMANDA McKINNEY: I can't speak to that directly, although what I can say is, is sort of what I alluded to earlier, that in this large survey analysis that they, that they, that they did and published is that in the-- all I can say is that in states where cannabis has been legalized, they've seen that teenage-adolescent use has declined.

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DeBOER: OK.

AMANDA McKINNEY: But I can't speak anything beyond that.

DeBOER: Yeah. Yeah. All right, Senator DeKay.

DeKAY: Going back to the CBD and the THC, is-- can medical marijuana be produced and-- with just the CBD? I know you said it works in--

AMANDA McKINNEY: Oh, sure.

DeKAY: --conjunction with each other. Could it have beneficial effects without the THC in it? And I guess with the THC part of it, is there any long-term effects with continued use of it or what-- is there side effects or, or where we are we at with that?

AMANDA McKINNEY: Right. So to answer your first question, there are strains of cannabis. So, so each of these different strains of cannabis that are grown, they're, they're, you know, hybridized, you know, different plants are crossed to get different, you know, characteristics and traits. And there are, there are different classes of cannabis. So there's, there's sort of the fully-- kind of the more medical grade versus-- and then it kind of goes in the moderate and then the more, more recreational type. And those recreational types have higher level-- they bred to have higher levels of THC in them, where we have medical canni-- grade cannabis that has much higher levels of CBD and CBG in them. They--

DeKAY: What's-- what is CBG?

AMANDA McKINNEY: It's just another cannabinoid that's been shown to have really valuable medicinal properties. The terpenes that-- the oils, the, the things that give them the characteristic smells, those also change with strain use. So yes, we do have-- and, and oftentimes, for certain conditions, you use higher dose CBD components for daytime use and then use higher THC products for bedtime use because of the benefits that it provides for sleep. As far as what happens with long term use, the-- with chronic heavy users, which is defined as more than ten joints a day for over 20 years, those individuals that have heavy use like that can develop some memory loss. However, when they stop using the memory loss reverses. That's pretty much the only negative side effect for long-term use. There's been no one's-- associated increased risk of cancer. Even in patients who or individuals who smoke cannabis, there is no increased risk of lung cancer unless they also smoke cigarettes, tobacco cigarettes. So

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it's-- again, like I said, the, the safety of cannabis is actually unparalleled. I mean, I can't say that almost about any other drug that we use that's FDA-approved in medicine today.

DeKAY: Well, going off of what Senator DeBoer asked, that's a-- you know, with the THC, that's where I'm-- my question is, if you could develop a drug that would have less THC in it and more CBD and be close or as effective without that, it might eliminate the attractiveness through the black market to, you know, try to acquire that drug. That's where I'm trying to figure out things on that part of it.

AMANDA McKINNEY: Yeah. Yeah. And I, and I know that, you know, we're all products of our culture and the way we were raised. And I know that people are, you know, scared of, of THC, they're scared of, you know, of, of cannabis in general. But I would-- I'd like to reassure you that this is, you know, even for people-- and you know I'm not talking about adolescents. Adolescents shouldn't be using alcohol or cannabis or anything else. But when we talk about using cannabis, it is a much safer alternative for people than, than alcohol. And-- but, you know, we don't bat an eye at people, you know, going to the bar every day, you know and having some drinks after work. That's just almost seen as normal in our culture. And we look at cannabis as though it's some kind of, you know, devil lettuce, right? But that's, but that's ultimately not the reality. It's, it's about undoing some of these cultural stigmata that have been placed in our brain about it. But I understand your concerns, but I would just like to alleviate your fears that it's, it's not as bad or dangerous as you might have been, you know, led to believe at one point.

DeKAY: Thank you.

DeBOER: Thank you. Senator DeKay. Senator Ibach.

IBACH: Thank you, Senator. Thank you very much for your testimony today. Can you speak to the-- because I'm looking at the fiscal note and trying to digest all the financial end of it. Can you speak to the production of cannabis, where it's grown, how it is packaged, maybe some of that piece, just to--

AMANDA McKINNEY: Sure.

IBACH: --give us a background on where it's grown, how it's processed and what kind of regulations we would have?

AMANDA MCKINNEY: Right. So the-- where it's grown depends on what the states, the different states that have decided that they're going to have medical cannabis or cannabis in general, they did get to decide on who grows it and where it comes from and, and how it's grown and those kinds of things. Oklahoma just passed their medical cannabis law or their, their cannabis use laws and they required that, that the cannabis be grown in Oklahoma so that, that they can benefit from that, from that industry. The-- it's grown typically-- medical cannabis, in particular, is typically grown indoors depending on the grower. They may be using different methods, but it can also be grown outdoors, as well. As far as how it's processed, we actually have a hemp-processing facility right here in Nebraska. We have probably more than one. But the way that they extract the CBD oils from the hemp here, is it's a cold water extraction so they don't use any solvents in there, so that's a really positive attribute of it. And then, you know, it's, it's, it's pretty much a-- sometimes extra oil is added to it to make sure that it meets the proper levels of THC based on the law, but it just depends on, it depends on what the product is that they're making. But there's different types of extraction methods, as well and there's, there's different growing methods, as well. But-- I'm not sure that answers your question, but--

IBACH: No, I-- it, it helps. I just, I just want to make sure there's no risk of abuse from the production side of it. I know that it's regulated. I know there are, are rules and regulations that will follow it, but that would be a concern that--

AMANDA MCKINNEY: What, what type of abuse?

IBACH: Just from the, from the growers' perspective. Because I know it's regulated and I know it would be monitored.

AMANDA MCKINNEY: Right.

IBACH: But I would just want to make sure that there were no, no ramifications from the growers' perspective.

AMANDA MCKINNEY: Right. And the growers, you know, it's important that, especially for medical cannabis use, that it be, you know, grown without pesticides, grown without other chemicals that could then make a-- especially a medical cannabis user sick.

IBACH: Thank you. Thank you.

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DeBOER: All right. Thank you, Senator Ibach. Other questions for this testifier? I don't see any. Thank you so much for being here.

AMANDA MCKINNEY: Thank you. Thank you for having me.

DeBOER: And next, Jim Wilson. Welcome, Mr. Wilson.

JIM WILSON: Good morning, Vice Chairman and members of the Judiciary Committee. I am Jim Wilson. I am a professor in the College of Medicine at UNMC, an associate professor in the College of Pharmacy at UNMC. I'm also a member of a clinic here in Lincoln, evaluating medications as a volunteer for some time. I'm also a fourth generation rancher up at Polk County, Nebraska, south of O'Neill, and so I have some interest in some of these products with our farmers and ranchers and opportunities for them, too, just kind of on the side. I'm actually a member of the Nebraska Pharmacists Association and I'm chairman of the Workgroup on Medical Cannabis [SIC]. Our group was not put together to decide to be a proponent or opponent of this bill. Our group was merely formed to protect the residents of the state of Nebraska. Medical cannabis is not a drug. It cannot be listed as a drug. It's a Schedule 1 Federal Compound and so it's a complex, like we've heard this morning, of over 200 compounds. Our group includes a lot of people, 30 members across the state from retail, hospital, colleges of pharmacy, industry, all kinds of people, to see what would need to help give information and take care of people with the understanding that this bill would come to pass or a bill like it come to pass. So I formed it to get ahead of the surge of the bills so it'd get our pharmacists ready. And it's been a very interesting bunch of people. It's really, really good deal. In this complex plant known as cannabis, again, there's 200 components to it and there seems to be a lot of things that happen with it. For instance, heat makes some of the components more active, so when they vape it or smoke it, things happen, like THC. THC goes up in some areas. We also wanted to evaluate the number of drug interactions that it may have with other compounds that the person may be on, regular prescription medications, because there's a whole host of drug interactions that can happen with this, just like CBD. And CBD got away from us in this state. You can buy CBD oil at Joe's Bait Shop or any other place all across the state, ranging from olive oil in some bottles to pretty good stuff in some pharmacies that I've been to. So I'm very concerned still with that. I didn't want this happening with this particular compound. We also identified--

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DeBOER: Sir. Sir, you've got the red light, so I'll ask you two sentences to, to finish up.

JIM WILSON: OK. So I'd like to thank Senator Wishart for mandating that pharmacists would be involved with this bill. We have a person on the-- with the drug monitoring program that will speak here later, that's on there, two pharmacists on the board of cannabis and a mandatory pharmacist available to people receiving medical cannabis at our different dispensaries. So I really thank her and I'll answer any questions at this time.

DeBOER: Thank you. Senator Ibach-- or Senator DeKay.

IBACH: [INAUDIBLE].

DeKAY: Go ahead.

IBACH: I don't know.

DeKAY: Are you-- Thank--

DeBOER: Senator DeKay.

DeKAY: --thank you, Senator DeBoer. Mr. Wilson, being a part of the pharmacy group, would-- I'm sure I probably know the answer to this-- FDA approved. Would you like to see this be an FDA-approved drug? And what steps-- and I know we talked earlier about the circles of getting, getting it FDA approved. What, what could be done going forward to make it an FDA-approved drug in a expediated timeline and-- so that it is approved and dosage could be regulated more than, than it is right now, with this particular drug going forward?

JIM WILSON: Great question. There's a couple of steps. First of all, Jim Wilson's dream, my dream, this, this be approved drug in the pharmacy under the control of a pharmacist being available to dispense the drug and have lots of time to discuss it with the patients or the children of patients. Secondly, that's not to be. It will take the federal government, I believe, and Kevin Borchert will be able to talk more about this when he comes up, but we need approval on a federal level. Right now, it would be illegal for me to dispense marijuana in a drug store if I worked there. So it's got to start there. And their-- they have not moved on this in-- or even talked about it in years. So I'm not sure-- it's got to start there. Our pharmacists got to have directions from the federal government through the FDA that-- this is Clozaril. OK. You can dispense Clozaril. I do that all the

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time. You can do blood work on Clozaril and you can monitor side effects on Clozaril and follow the patient, make sure it's doing what it's supposed to do. That's what we need to do with this drug, because it is really needed, at least in five states that we know of, that's solidly got literatures for its use. And I know I've batted, kind of, around the bush a little bit with you.

DeKAY: The, the drug-- like I said, I'm going to--

JIM WILSON: No, no, you're doing fine.

DeKAY: --I'm going to mispronounce it, but Epidiolex?

JIM WILSON: Yes.

DeKAY: Why is that approved and why isn't medical cannabis approved? Is it because it's a synthetic or what's the different prop--

JIM WILSON: It's not a synthetic, it's a derivative of the plant called cannabis sativa. So we have some very sharp chemists in this-- in the United States. And so they were able to isolate that compound out, do some studies on it, produce data to the FDA that it's an effective drug and it does what it's supposed to do and you regulate through four phases of study, the side effects and effectiveness. And after that's all blessed, they approve it as a, as a drug to be dispensed or to be prescribed and then hence, dispensed by any pharmacist in the United States. Medical cannabis is not a drug. It's this complex. They don't know what to do with it. It's got lots of activities. And there's-- the Israelis are really on top of this. They, they have some studies going on on some of the isomers that are just fantastic work. So we're really at the top of the edge of what this complex can do. It's kind of like going back to the first cancer drugs. They didn't know what they're doing in the '70s very much and all of a sudden, some trickled down and my golly, we can eradicate cancer and childhood leukemia now.

DeKAY: So I-- if I gathered right from you, this is not being pursued by FDA because it's a compound and-- rather than a derivative of?

JIM WILSON: May I get a nod from Kevin? Is it being batted around some? It is. Any progress?

_____ : [INAUDIBLE].

DeBOER: All right, All right.

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JIM WILSON: OK.

DeBOER: We'll, we'll have other testifiers to ask.

JIM WILSON: Nope. No progress on that. It's got to start there. It's got to give a safety label and give our pharmacists some direction to dispense this.

DeKAY: OK. Thank you.

DeBOER: Other questions for this testifier? I don't see any.

JIM WILSON: OK. Thank you.

DeBOER: Thank you so much for being here. Next, I have Marcia Mueting? Did I say it right?

MARCIA MUETING: Good morning, members of the Judiciary Committee. My name is Marcia, M-a-r-c-i-a, and my last name is Mueting, M-u-e-t-i-n-g. I submit my testimony as the CEO and a registered lobbyist for the Nebraska Pharmacists Association. We are in support of LB588. The Nebraska Pharmacists Association represents pharmacists, interns and pharmacy technicians in all areas of practice of Nebraska. The results of a survey of our members showed that most pharmacists, interns and technicians support the use of medical cannabis. Our members feel that if cannabis is to be used for medical purposes in Nebraska, then the drug experts, the pharmacists, need to be involved. Thanks to Senator Wishart for requiring that a pharmacist be employed by each dispensary. As noted before, cannabis is a complex combination of many chemicals and because of that, it can cause, in the studies that we've seen, many different drug interactions with prescription medications. A complete review of the patient's medications by a pharmacist when cannabis is provided is essential for patient safety. With the opportunity to address a few technical, technical concerns with Senator Wishart, the NPA would respectfully request that the committee advance LB588 for further consideration by the full Legislature. And I'd be happy to take any questions.

DeBOER: Thank you so much. Are there questions from the committee? So I'll ask you a couple. I think maybe this is getting a little confused in my mind. So when we're talking about federal drug scheduling, the marijuana is listed as a Class I?

MARCIA MUETING: Um-hum.

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DeBOER: What are some other things within the Class I?

MARCIA MUETING: [INAUDIBLE] heroin.

DeBOER: Heroin?

MARCIA MUETING: I think we're-- we-- actually, there'll be a bill later today where we're adding a lot of street drugs as Class I.

DeBOER: OK. And then, when you get to like, Class II, what do you have in there?

MARCIA MUETING: Sure. That would be prescription medications like morphine.

DeBOER: OK.

MARCIA MUETING: Oxycodone. Hydrocodone. Ritalin, methylphenidate.

DeBOER: And are opioids somewhere in that?

MARCIA MUETING: Tho--there, there are opioids in Schedule II.

DeBOER: OK. And so what's the difference between having something classified as a Class I and having something classified as a Class II, III, whatever?

MARCIA MUETING: Sure, sure. So there's an inverse relationship. Class I drugs have the highest potential for abuse and the least medicinal use. OK, so a Class II would have more medicinal use, more medicinal use and a lower potential for abuse and so on and so forth. And we have Classes I-V in the United States.

DeBOER: And does marijuana seem to fit with the other drugs in Class I?

MARCIA MUETING: I don't know how it got there. And to answer the question about research, I just saw an article last week where I believe that the federal government is going to loosen up some of the requirements for research on medical cannabis. So that is a, a good, a good sign. I think what's limited research on cannabis is-- and I don't pretend to be a researcher, but there's a lot of hoops to jump through to, to actually obtain drug to do the research from the federal government. So I understand that, that some of those restrictions are going to be loosened up and, and hopefully we'll have

more studies, more, more important studies. And I did want to, maybe, help clarify something about Epidiolex. Epidiolex is cannabidiol, CBD, one of the components in marijuana. You've heard lots of people say that. Epidiolex was only studied in two very specific types of seizures in kids. It wasn't studied in all epileptic patients, it wasn't studied in-- for pain, it wasn't studied for depression: all of the things that we actually have studies for in the use of medical marijuana. So I hope that maybe that helps.

DeKAY: Yes, it does.

MARCIA MUETING: OK.

DeBOER: Looks like Senator DeKay has a question for you.

DeKAY: Just one.

MARCIA MUETING: Very good.

DeKAY: And I apologize because I know it's been told to me and I can't remember right off the top of my head, but as a pharmacy group, if a patient is prescribed marijuana, medical marijuana, where where, would they pick that up? Would a pharmacy be handling that or where would they get that and who would be regulating that for them?

MARCIA MUETING: Sure. So, so right now, today, our barrier is with the federal law. And it is kind of interesting, to be honest with you, that so many states, I think we're one of six states that hasn't passed any law to allow medical cannabis. So, so many states have, have reclassified this drug as a C-2 or other class, allowing it to be prescribed and provided. We're, we're-- at Marcia's perfect pharmacy, which doesn't exist, at Marcia's perfect pharmacy, I have a registration with the Federal Drug Enforcement Administration. They are the federal agency that oversees controlled substances. That federal agency will not allow a pharmacy-- my, my, my registration would not allow me to carry and dispense, provide a C-1 drug. OK. So can, can a pharmacy, Marcia's perfect pharmacy, Walgreens, Costco, whatever, can they provide medical marijuana? No, not unless there's some changes at the federal level. They would probably shut down Marcia's perfect pharmacy if I tried to, to, to combine it with my regular prescription practice. So where will the more-- where will the medications come from? You know, according to the bill, I see that, that there are-- there's designated for three dispensaries in Nebraska. I don't love the word dispensary, but I don't, I don't know

what else you call it. And it's important to know that a, a, a practitioner can recommend medical marijuana. They can't prescribe it because prescribe is a special word. It means something very special. And pharmacists can't dispense it because dispensing is a special word that means something special, but it can be recommended by a medical professional and then provided in consultation with a pharmacist.

DeKAY: So does a medical doctor or anybody have any say on, on regulating or how much it-- how much and how big the dosage is to each patient going forward? How, how is that overseen?

MARCIA MUETING: I would have to review the bill again, because we've had so many different iterations. Oftentimes, the, the, the order from the prescriber only notes what the indication is that would be on our list of approved indications. And then that, that, that order, prescription, piece of paper, hopefully electronic, order would be submitted to the dispensary. I don't know if there's a standard Senator Wishart, for, for the amount that is dispensed. I know that, that there's bills about the legal limits of, of the possession of medical, medical marijuana that's included in this bill, but it, it wouldn't be unlimited.

DeKAY: So who would the order come from? Would that come from a doctor or who?

MARCIA MUETING: Right. The--a prescriber has to evaluate the patient to assure that they are eligible for therapy under the law and then that order would be transmitted to the dispensary and then the patient would be treated there.

DeKAY: All right. Thank you.

DeBOER: All right. Thank you, Senator DeKay. Other questions? I think that's it. Thank you so much.

MARCIA MUETING: Thanks for the opportunity.

DeBOER: Let's have next, Amy Marasco.

AMY MARASCO: Good morning, members of the committee. My name is Amy Marasco, A-m-y M-a-r-a-s-c-o. I have a master of science in Medical Cannabis Science and Therapeutics from the University of Maryland School of Pharmacy and I'm a national board-certified health and wellness coach working directly with medical cannabis patients. I am here today representing Americans for Safe Access, the largest

national nonprofit group helping to ensure safe and legal access to cannabis for therapeutic use and research. Most of all, I'm here to represent patients. Patients who are not seeking cannabis to get high, but rather who are seeking much needed relief from a multitude of medical conditions. I'm asking this committee to vote in favor of passing LB588 so that your Nebraska constituents have the safe and legal access to the medicine they need. Cannabis has been used as medicine for thousands of years. It has a superior safety profile compared to many FDA-approved pharmaceuticals, including an inability to cause death by overdose. It can't do it. There's a large and growing body of evidence supporting the safe and efficacious use of medical cannabis. In October, President Biden called for a review of the Schedule I status of medical-- of cannabis. And in December, he passed the Medical Marijuana and Cannabidiol Research Act, effectively eliminating many of the barriers of research that we've experienced in the past. The rescheduling of cannabis is coming and in preparations, states need to have sound patient programs in place. Cannabis is also an individualized medicine. It's important that patients in your state have access to different forms of cannabis so they can find what actually works best for their system. We've talked a lot today about the different formulations and how cannabinoids interact with each other. The endocannabinoid, endocannabinoid system is complex and cannabis formulations have been shown to be more effective when one or more naturally occurring compounds are used in combination. For example, Epidiolex, as noted by Dr. McKinney, is an FDA-approved, CBD-only medication and it requires very high doses, whereas clinicians have seen comparable results and fewer adverse effects when it is combined with some THC. Currently, there are over 6 million legal medical cannabis patients across the country and Nebraska is one of only two states that does not provide any patient access. These patients are not nameless, faceless people. They are our parents, our grandparents, our children, our colleagues and are revered veterans. They deserve the same access to medical cannabis options as patients have in the states that surround Nebraska. LB588 is the first step to helping Nebraska patients safely and legally gain this much needed access. I urge you to support this bill and thank you for acting in the best interest of Nebraska patients.

DeBOER: Thank you so much. Are there questions for this testifier? I do not see any. Thank you so much.

AMY MARASCO: All right, thank you.

DeBOER: Dominic Gillen, I believe, is the next person we have listed.

DOMINIC GILLEN: Good morning, Senators. My name is Dominic Gillen, D-o-m-i-n-i-c G-i-l-l-e-n, and I'm here to speak in favor of LB588. My son Will has been at the forefront of this fight for medical cann-- for medicinal cannabis. My wife, Shelley and Shari Lawler are two of the moms who really spearheaded the start of this movement to allow Nebraskans the right to have cannabis in the toolbox of their doctors. That was ten long years ago. Over those ten, over those ten years, we've worked on many pieces of legislation, from Tommy Garrett's LB643 to the current LB588 introduced by Senator Wishart. We've also worked on two petition drives, both of which, I might add, by sheer numbers of signatures, have proven that Nebraskans want this option. We've testified and told a little story so many times that I've lost count. I thought I'd do it a little differently this time. We have every faith in the world that Will, although he can't talk, is cognitively aware. That's one of the reasons we fight so hard for this issue, that's to find the key to unlock Will's ability to communicate with us in a more typical way. We believe that cannabis holds the key to that communication piece, as well as some respite from the hundreds of seizures that he suffers from each and every day. If you pay close attention to Will, who's sitting behind me, you're likely to see him having seizures. Some are subtle, some are more obvious. If Will could give his own testimony, this is what I think he might say and this is hard for me. Senators, why do you think so little of me that you can't find some compromise to give me hope for a more normal life? You often talk about the youth of Nebraska and how you want to protect them. What about me? I'm part of that youth. Unfortunately, I don't seem to get the same level of concern. In fact, some of our leaders don't consider me, Will Gillen, to be even part of the greater good. The fact is, the youth who want to use recreational are already doing it. The common sense youth of Nebraska like my little-- my-- like my brother and sister, ask why aren't the adults in this state helping me? Did you know that my parents have to follow me around at home because they're afraid I'm going to fall from a seizure? Unfortunately, my seizures often happen when my parents aren't nearby and I go crashing into the ground or the wall or a door, just like a tree literally falling in the forest. I can hear them running and praying along the way that I'm not bloody again from the injuries that I get. I know my family suffers from PTSD, PTSD as a result of my falls and the trauma it causes me and them. Imagine, just for a minute, what a lacerated liver feels like and the surgery that goes along with repairing it. I almost died from that one. Or when I fell at school last February and broke my jaw in three places, not to mention the countless stitches, the broken bones, the concussions, and

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other more minor injuries that I've suffered. Seizures have taken so much from my family and me. Consider this. My dad prays for me every day, asking God to let this be the day that the miracle happens, that the seizures stop or the times that he comes into my room and cries over me at night when he thinks I'm asleep. This is my life and I'm begging you to help. Will Gillen. As you can tell, Will has gone through more than anyone should ever have to. And you know that he never what? He never complains. He is without a doubt the strongest person I've ever known. He has touched countless lives with his strength and perseverance without ever having spoken one single word. Please help Will and the countless other Nebraskans begging for you for help. Google Will Gillen if you want and if you have some time to see more about his life. Thank you very much for your time.

DeBOER: Thank you for your testimony and for sharing Will's story with us. Are there any questions for this testifier? I don't see any. Thank you so much for being here.

DOMINIC GILLEN: Thank you.

DeBOER: Nicole Hochstein.

NICOLE HOCHSTEIN: Hochstein.

DeBOER: Hochstein. Sorry.

NICOLE HOCHSTEIN: Good morning, Vice Chair DeBoer and Committee members. My name is Nicole Hochstein, N-i-c-o-l-e H-o-c-h-s-t-e-i-n. Warren Buffett once said, being American is merely an accident of birth, the result of winning the ovarian lottery. I'm grateful to have been born an American and honored to have been married to-- honored to have married a man brave enough to fight for this country in the United States Air Force. I have won the lottery in so many ways when looking at my life, but my son cannot say the same. My son, Jayen, was born in Nebraska. I used to think giving my, giving my children the best life by being in, in this state. When my husband's military career took us out of Nebraska, I left kicking and screaming. I love the small town I grew up in, the two-finger wave you get when driving, the community feel and helpfulness of neighbors and strangers. Midwest values are something I missed horribly when living away. After retirement, we wanted our kids to have these things surrounding them again. We moved back to the state they have always called home. However, this state is taking my son's life. Had he been born in any other state, he would have access to a life-saving medicine. Jayen was

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diagnosed with infantile spasms, a catastrophic form of epilepsy when he was four months old. In 2015, he underwent a brain resection where four parts of his brain were removed. He was confined to the hospital for 30 days, away from his siblings, extended family, friends and loved ones. In 2019, he had a VNS, a pacemaker-like device implanted under his chest wall to shock his brain every 30 seconds. This past summer, Jayen underwent another brain surgery to split the two hemispheres of his brain. He continues to seize daily. He has jumped through every hoop. Our family has spent countless hours talking to doctors, legislators, law enforcement, patients and experts to find the help he needs. We have petitioned our government multiple times but have been unsuccessful, due solely to the financial burden. Our family has left with minimal options. There's nothing left for Jayen medically in Nebraska. We are back to trying previously failed medications. Our family is having to discuss staying in our home state. We may have to take our kids away from their grandparents and cousins again to save our middle son's life. The state would lose a 20-year retired veteran with top secret clearance and experience managing 1,200 people and \$19 billion in assets, as well as a highly sought after special education teacher. Leaving the state would also mean that we wouldn't come back, even as a visit, as federal regulations don't allow products to be moved across state lines. We could never step foot in Nebraska again. There are current Nebraska doctors seeing patients in Iowa taking this medication showing great success. Thirty-seven states have approved comprehensive, publicly available medical cannabis programs. Eleven states allow the use of low-THC, CBD products.

DeBOER: Ms. Hochstein. Sorry. I need to--

NICOLE HOCHSTEIN: That's OK. Thank you.

DeBOER: --I need to stop you there.

NICOLE HOCHSTEIN: I would be honored to answer any questions that you have.

DeBOER: All right. Are there any questions? DeKay.

DeKAY: Ms. Hochstein, you were going to finish up, go ahead and finish up.

NICOLE HOCHSTEIN: That means that there is some cannabis legislation in 48 states in the United States. Why do we not feel that as

Nebraskans, we can do this safely? We are smart enough to create laws to regulate and to help the suffering and vulnerable. We can be there, Nebraska, I know, for all my children, not just the ones without special needs. Thank you, Senator DeKay.

DeBOER: Are there other questions? I don't see any. Thank you so much for being here. Before I call the next testifier, I do just want to make one note. The Legislature does have a policy about no props, so I'm sorry to say that also includes pictures. So I'm going to ask, although we love seeing your children, not to have pictures in the hearing. Next, we have Shari Lawlor.

SHARI LAWLOR: Good morning. Thank you, Committee members. My name's Shari Lawlor, it's S-h-a-r-i L-a-w-l-o-r, and I'm here as another mother with a child with epilepsy. My daughter, Brooke, who's with me today, has had epilepsy since she was 15 months old. She just turned 30 last month. And we just, you know, want a better quality of life for her because, of course, she is one of the children like Senator Wishart talked about, that we only have a brain surgery, you know, choice left if there's no other medicines. We even tried, you know, of like 15 of them, including Epidiolex. And Epidiolex did help clear her head because she said that she could feel that there wasn't as much activity in her head. However, it made her so sick to her stomach she couldn't eat and she would just lay in bed, curled up, cramping. So we had to stop. And there's something that the doctors have reported that several patients are like that. There's something that they mix with it, that it makes it allergic. But then, you know, synthetic-- even though it's not a synthetic, there's just some things that have never worked for her. So, you know, we went through like nine hospitals in five different states searching for treatments and done anything from you know, like the implant surgery Nicole was talking about, diets, ketogenic diets, low glycemic, vitamin therapy, acupuncture and, you know, failed over 15 FDA-approved pharmaceuticals. She currently takes three anti-seizure meds, which is 405 pills a month, 405 pills a month, which equals to 4,500 per year, year. Several of those pharmaceuticals come with the FDA black box warning about the increased suicide, aplastic anemia, peripheral vision loss, adverse reproduction effects, headaches, fatigue, depression, learning disabilities, developmental delays, liver/kidney damage, tremors, dizziness and nausea. She's experienced nine of the 16 that I just talked about. For her safety, she wears a helmet or sits in a wheelchair to protect herself from injuries. She has dropped seizures-- so, again like Dominic, she drops like a tree in the forest and you're trying to run to get her and it doesn't always happen. So

she's had about 50 staples in the back of her head, stitches here, mouth surgeries. So like I said before, the last resort is a corpus callosotomy, which is severing the connections of her left and right hemisphere and then after that, a right frontal lobectomy. You know, what parents want to do this? Start cutting up their child's brain? There's, there's no guarantees for success. And some that we've known that have gone the surgical route, you know, it's not always a success and they deal with other deficits later on. It's just a gut wrenching decision that we as parents, this is what we're left with. And, you know, just caring for chronically ill persons affects your entire family and, and their quality of life, too.

DeBOER: Thank you so much for sharing your story about Brooke. Let's see if there are any questions.

SHARI LAWLOR: OK.

DeBOER: Are there any questions for this testifier? Thank you so much for being here.

SHARI LAWLOR: Thank you.

DeBOER: Heather-- are we up to Heather Bernard?

HEATHER BERNARD: Bernard.

DeBOER: Bernard. I didn't have my reading glasses on. Sorry.

HEATHER BERNARD: Good morning. My name is Heather Bernard, H-e-a-t-h-e-r B-e-r-n-a-r-d. I'm the new executive director for the Epilepsy Foundation of Nebraska, a licensed clinical social worker and a licensed independent mental health provider. There are approximately 19,600 Nebraskans living with, with epilepsy and seizure disorder. I come before the committee today in support of LB588, Medical Cannabis Act. The Epilepsy Foundation is the, the leading national voluntary health organization that speaks on behalf of approximately 3.4 million Americans with epilepsy and seizures. Epilepsy is a disease or disorder of the brain which causes reoccurring seizures. It is a spectrum disease comprised of many diagnoses, including an ever-growing number of rare epilepsies. There are many different types of seizures and varying levels of seizure control. Epilepsy is the fourth most common neurological disorder in the U.S. and affects people of all ages throughout their lifespan. Approximately one in 26 people will develop epilepsy at some point in their lifetime. About one in ten people will have a seizure at some point in their life

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span. LB588 would ensure patient access to medical cannabis products from state-licensed dispensaries. The Epilepsy Foundation is committed to supporting physician directed care, to exploring and advocating for all potential treatment options for epilepsy, including cannabidiol oil and medical cannabis. There is no one-size-fits-all treatment for epilepsy. And about a third of people living with epilepsy suffer from uncontrolled or intractable seizures, with many more living with a significant side effects, despite available treatments. If a patient and their health care professionals feel that the potential benefits of medical cannabis for uncontrolled epilepsies outweigh the risk, then families need to have that legal option. Currently, the medical use of cannabis is legal per state law in a majority of the states. In these states, a number of people living with epilepsy report beneficial effects, including, including a decrease of seizure activity when using cannabis strain rich in can, cani-- can-- I totally lost it. Sorry. The state can play a critical role in ensuring the access to medical cannabis is safe and reliable. Thank you.

DeBOER: Thank you very much for your testimony. Is there anyone-- Senator McKinney.

McKINNEY: Thank you, Vice Chair DeBoer and thank you for your testimony. What do you say to the people that will come up and say there is no benefit to legalize medical cannabis?

HEATHER BERNARD: I'm trying to think how I would nicely say that. Just kidding. In all seriousness, I as a-- my previous career was a medical social worker in the hospital. And there's just so many options that don't work now, I don't understand why we wouldn't try something that has been proven in other states with, with success.

McKINNEY: Thank you.

DeBOER: Thank you. Senator McKinney, Other questions for this testifier? Senator DeKay.

DeKAY: You-- thank you. Thank you for your testimony. You've said there's no one size fits all. So when a patient goes to a doctor or is seen by a doctor and it comes some medical cannabis, how how will the doctor know if this has a potential to work or is this a tried and true method in other states, or is this a try and, and see what happens approach? And then with that, the dosage, is that regulated, you know, by weight or how is that regulated? So we know if it is

going to work-- if it does work, how much to give them to make it the most optimum to work for them with-- within those conditions?

HEATHER BERNARD: I'm not a medical professional. I have no insight to how physicians prescribe. I can tell you from my experience working in two different neurology clinics, pediatrics, that even a FDA-approved drug is not tried and true. They prescribe it and it may or may not work. It may or may not work by itself, it may or may not work with a group of other drugs. So I don't understand or see how this would be any different than what is already prescribed or FDA-approved in that setting. You know, it's the doctor's knowledge and understanding, epileptologists that have studied seizures and what works, what the seizures look like, when they happen, all of those things that they take into consideration before prescribing a drug.

DeKAY: OK. Thank you.

DeBOER: Thank you, Senator DeKay. Other questions for this testifier? I do not see any. Next, Willy Dove is on the list.

WILLIE DOVE: Good morning, Senators. My name is Willie Dove, that's spelled W-i-l-l-i-e and not y, Dove, D-o-v-e. I'm a former Kansas state representative serving eight years as a conservative republican for the 38th district there. I'm also a veteran. The challenge you have before you today will affect, as you know, many individuals who will never have the opportunity to come before, before you and speak. And still, we have mothers and fathers that have been coming to you for many, many years and getting this bill passed, LB588. When I first introduced this industrial hemp bill to Kansas and I use that as a reference, many of my colleagues said that I would never get reelected. However, that was not true because I served for six more years. After listening to many researchers in the benefits of medical cannabis, it became clear and very apparent this is not a partisan issue, issue. Parents and seniors are faced with daily challenges of doing the best for their families. Allow me to tell you of a concerned neighbor, which I witnessed the success of medical cannabis. The child of eight years old, a granddaughter, a daughter, has suffered from seizures, in fact, 30-45 seizures a day. After using a controlled substance of medical cannabis, the child had less seizures. However, she did have occasional seizures of less than 4-5 a day and sometimes none. We, as Americans, will do anything we can to protect our families. I related stories of, of success of many persons in, in this area that need passage of LB588. I'm ready to pass this legislation that will allow the use of medical marijuana for all ages. It'll give

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protection to hard-working Americans who just want the best for their families and assurance that the justice system will not penalize them for using it for the protection of their families here in America. Our senior citizens also, we owe that debt of gratitude to, to allow them to, to, to do the same. Excuse me. One of the things that I, I, I-- I've known here is-- I've seen here, rather, and done some research is, between 1926 and 1936, eight major cases were brought before the state courts about the marijuana and the use of it. The decisions rendered in this case were very noteworthy. In fact, typically, the judgment ruled mythology or opinion rather than scientific evidence. When we hear and look at the argument of illegal drugs, there must be some comparative study done. There is none. If so, where is it? More violence is absorbed by the use of alcohol than medical marijuana. It is harder to quit cigarettes than her-- than heroin. However, we look at this, this, marijuana, as something that's going to cause a severe problem.

DeBOER: Sir, I'm afraid your red light is on. Let's see if there--

WILLIE DOVE: That's why I'm stopping.

DeBOER: OK.

WILLIE DOVE: Thank you.

DeBOER: Thank you so much. Are you titled, are you styled as member, representative? How do we address you?

WILLIE DOVE: Willie Dove, please.

DeBOER: OK, Mr. Dove, let's see if there are any questions for you. Senator McKinney has one.

McKINNEY: Thank you. And you kind of was hitting at a point that I think should be brought up in this conversation about cannabis. The prohibition of cannabis in the United States was largely led by racism and xenophobia. It wasn't outlawed origin-- it wasn't outlawed because people deemed it as a horrible drug that would kill our kids. It was framed in a manner based around racism, genophob-- xenophobia and fear and individuals trying to protect themselves, financially. And I think that's important to note. What do you say to the people that are going to come up and say, if we legalize medical cannabis, it's going to destroy our kids, it's going to make our state bad and all these things that always pop up year after year?

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WILLIE DOVE: Senator, thank you for that question, question. It's a very good question, in fact. If I had more time, I could elaborate more, but I'll try and be as, as quick as, quick as possible. In the 1800s, yep, illegal drugs were being used by individuals who were taxpaying, who were voters. And their case was, was never taken up because it, it, it wasn't something that the individual benefactors who were in the Legislature, I'll say, wanted to take up, because those were voters, those were white people that they did not want to cause a problem. Well, I'm saying as a conservative Republican, let's get away from that. Our Democratic cohorts have done that. They have shared the same concerns that we have for our, for our children. And this shouldn't be this issue of because I can do this, I can get away with it. Well, this is something that has caused a big, big problem. What I'm pointing out is the law is importantly to disadvantaged persons when the subject is up for-- just for discussion.

McKINNEY: And last question, do you think states should wait for the federal government to get their act right?

WILLIE DOVE: You got a great question there, Senator. I don't think the federal government is going to do it because it is-- there are more dollars in this area keeping it just the way it is, but there is something good about that. States should be given the opportunity to do what's good for their, for their, for their states. We are autonomous union and United States is-- was, was born that way and I hope it stays that way because states need that autonomy to do what is necessary for their constituents.

McKINNEY: Thank you. And I'm glad you pointed out that the continued prohibition of cannabis or marijuana is largely driven by financial concerns from big corporations and not really based in real fact. Thank you.

WILLIE DOVE: Ditto, Senator. Thank you very much for the--

McKINNEY: No problem.

WILLIE DOVE: --question.

McKINNEY: Thank you, Senator McKinney. Other questions from the committee? Thank you, Mr. Dove.

WILLIE DOVE: Thank you, Senator.

DeBOER: Kevin Borchert is the last on my list.

KEVIN BORCHER: Good morning, Vice Chair DeBoer, members of the Judiciary Committee. My name is Kevin Borchner, K-e-v-i-n B-o-r-c-h-e-r. I'm testifying in a supportive capacity today on LB588. I'm testifying here today, not as the Nebraska prescription drug monitoring program director at CyncHealth, but as a pharmacist and a citizen of Nebraska. My comments today are those of my own and are not necessarily reflective of my employer. When I served on the Nebraska Board of Pharmacy, we were directed in statute to protect the health, safety and welfare of the public. During my tenure serving on the board, we were asked twice to review whether medical marijuana should be allowed in our state. At that time, I was not supportive of the measure because evidence and research was lacking 15 years ago and I voted with my head and not my heart. Plus, the Board of Pharmacy doesn't have the authority to reschedule marijuana. In that 15- to 20-year time span, a lot has changed. The vast majority of states have addressed the issue of allowing cannabis to be legalized for medical purposes or even recreational use. Scientific research has progressed to show that cannabis can be beneficial in some patients for some medical conditions and not always as a first-line treatment, though. This does not mean that cannabis is a panacea for everything, for everyone. As a pharmacist, the benefits of including our profession in this bill are significant to help patient safety. As a pharmacist, I can use my skills and training to help identify potential interactions, which can cause either an increase or decrease in the effectiveness of the cannabis or other drugs and provide patient safety. There are some changes as to the lan-- the language in the bill that would need to be made to clarify the intent and prevent some unintended consequences. I thank you for allowing me to speak with you today. Ten years ago, I couldn't see myself supporting the use of cannabis. Much has changed across the nation and in Nebraska since then, as more and better information has emerged. Because of this, I am once again using my head and not my heart in changing my position of LB588 and would be very willing to meet with Senator Wishart on any amendments. This is a very emotional issue and I think taking the evidence, the scientific research is important. With that, I urge you to support LB588 with amendments that I would be willing to answer any questions you may have.

DeBOER: Thank you for your testimony. Are there questions? Senator McKinney.

McKINNEY: Thank you, Senator DeBoer. Quick question. What do you suggest to opponents to do to get to a space to where you started and where you're at today?

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KEVIN BORCHER: Very good question, Senator. So I would say look at the evidence. Numbers can be changed. Numbers can be reported in different ways. And looking at the totality of the information, looking at the benefits versus the risks, there are more benefits for support and engagement of using medical marijuana, not for everyone and not for every condition, but for those that scientific research has shown provides a benefit.

McKINNEY: Thank you.

DeBOER: Other questions for this testifier? I do not see any. Thank you for being here. Oh, Senator DeKay.

DeKAY: You just mentioned that-- with that, would there be any benefit to, say, doing a pilot program with a specific group of patients to make sure to see how it is working, to see what, what the benefits are and how it is regulated and dispensed or what's your thoughts on that?

KEVIN BORCHER: So some of that does occur now, with Epidiolex, for instance. There are, and I believe Marcia Muetting earlier mentioned, there are four or Jim Wilson mentioned, there are four phases of drug studies. And so phase four is the post-marketing phase where they will look at adverse events, effectiveness of that drug after it's been already shown to be proven safe and effective. Are there any other consequences, just like with any other drugs. And I think that would be very beneficial to get more information.

DeKAY: And would that open the door or opportunity for patients of a certain ailment to be able to use it in a pilot program as an experimental deal to gather the data going forward to see what the benefits outweigh the--

KEVIN BORCHER: Yeah. There are some requirements for research, with universities using an investigational research board, working with the FDA to get approval to use a Schedule I drug such as heroin, LSD or cannabis. But all of that could be done and I think it should be done.

DeKAY: Thank you.

KEVIN BORCHER: Thank you.

DeBOER: Other questions for this testifier? I do not see any. Thank you for being here.

KEVIN BORCHER: Thank you very much.

DeBOER: I want to now just do a little housekeeping for a second. Can I have first and keep them up there, a raise of hands of folks who would like to testify in support? Just for a second. One, two, three, four, five, six, seven, eight, nine. OK. Can you put your hands up for a second? Now, can I see opposition? Two? OK. Hands down for a second. Neutral. Two. OK. We can probably-- what? Go to opponents, then come back? OK. We're going to go to opponents next and then we'll come back to proponents if we have time at the end. We do have to be done by 1:30 in order to go to our next hearings that start at that time. So we're going to, we're going to move to opponents and then we'll come back. Welcome, Mr. Attorney General.

MIKE HILGERS: Thank you, Vice Chair DeBoer. Good aft-- good morning. Excuse me. Good morning, Chairman Wayne, Vice Chair DeBoer, members of the Judiciary Committee. My name is Mike Hilgers, M-i-k-e H-i-l-g-e-r-s. I used to serve in 107th Legislature with many of you, served as Speaker, most recently. Today, I'm here in my capacity as Attorney General of the state of Nebraska and I am testifying in opposition to LB588. I think Senator McKinney's question, I would slightly modify it and it really goes to the core of my testimony here this morning, Senator McKinney, which is not whether this body should wait for the federal government to act, it's whether or not this body can wait for the federal government or not wait for the federal government to act before it acts. So I have three points I'd like to make this morning. Number one relates to the constitutionality of LB588 or any other bill that would purport to allow for the sale or use of a Schedule I drug in the state of Nebraska. I'm passing along an opinion from my office relating to LB110. That was issued a couple of years ago relating to a similar bill. At the end of the day, this bill in our view, is unconstitutional for the following reason. The federal government-- I'm sorry, the Constitution says that when a federal and state law are in conflict, this is under the supremacy clause, state laws are void. In this case, Congress has acted and I'm a very limited government conservative. But under Article I, Section 8, we-- the people have given Congress a limited set of powers, among those are the right to regulate interstate commerce. Congress has used that right, it's undisputed, under the Controlled Substances Act of 1970. It has made, whether we agree or don't agree, it has made marijuana a Schedule I drug. That means that it cannot be sold or used for any purpose. Because of that, any bill, in Nebraska or otherwise, that purports to allow the use of that would-- of marijuana or any other Schedule I drug would put us in conflict with the Controlled Substances Act and would therefore be unconstitutional. That's the

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first point I would like to make. The second is-- how long do I-- is it 3 minutes, Vice Chair?

WAYNE: Yes, three.

DeBOER: Oh, three, yeah.

MIKE HILGERS: The second point, briefly, is you may ask, well, what about other states? Other states are doing this. And at the end of the day, that is a dereliction of the duty of the federal government. Congress, to the extent this is an issue, Congress should act, but certainly, law enforcement officers absolutely should enforce the law. We have a federal government and the Department of Justice that has refused, in my opinion, to enforce its obligation responsibilities. This right or this legislative body should expect its Attorney General to enforce the laws that you pass, regardless of my policy preferences and regardless of whether I approve of those policies or not. It's my responsibility to enforce the law. Similarly, Congress has said that marijuana, whether we like it or not, marijuana is a Schedule I drug. The Department of Justice should have enforced its law rather than creating what is now a patchwork, a regulatory patchwork, that allows various states to act in conflict with federal law. And I'm almost out of time. I will finish my third point. No?

WAYNE: Go ahead and finish, sir.

MIKE HILGERS: Thank you, Mr. Chairman. My third point is-- relates to the last two articles I sent. There's been-- I've listened to all the testimony this morning. I know there are some medical professionals here. There's a lot of data-- there is some data on this issue. And my third point is, relating to this particular body, I think approving of an actual medicine or drug, I think, is unprecedented in this body. We have never asked-- and this is based on my historical research, so it could be incorrect. But as far as I could tell, this body has never been asked to approve any other kind of drug, whether it's cholesterol medication, obesity medication, cancer drugs or the like. And I think, in part, because as great as this body is and as many of the things that we can tackle, we have places where we have the expertise in the process to enable medical experts to weigh the evidence, to be able to understand to what degree we should prescribe certain medications and where they might be in conflict. That is through the FDA and similar processes. And the two articles that are provided to you is one: a recent study in 2021 from some Stanford, not a right-leaning set of professors who actually on, on-- measured some of the impact on

marijuana on epileptic seizures, actually found some benefit, but found it-- found also some downside. And if I could quote from this, from the first page of the Stanford medicine that I provided you and I'll wrap up, Mr. Chairman. I appreciate the extra time. It, it did describe the positivity but it did say, but there's a dark side from this use. A similar-- similarly rapid breakdown of 2-AG after its release, the researchers found, trips off a cascade of biochemical reactions, culminating in a blood vessel constriction in the brain and, in turn, disorientation amnesia [SIC] that typically follows such a seizure. In addition, I provided a-- just from this week, an article relating to the impact of increased cannabis use on anesthesia. The reasons I provide these to you is not to weigh in on whether or not those studies are accurate or their-- to what degree they're valuable or whether you should actually agree with them. I don't know if I agree with them. The point is, is that this is an evolving area of research that requires medical professionals and the proper process to be able to understand and approve and that is through the FDA and similar processes. The last thing, if I might, Mr. Chair. I meant to say at the beginning, I have a great amount of respect for Senator Wishart. She's-- it would be much easier to come in in support of a bill for a friend and I have a great deal of empathy for the, for the individuals who were here this morning and who have testified in support of this particular bill. And my heart goes out to them and their families and I appreciate them spending time this morning on this bill. I'd be happy to answer any questions that you might have.

WAYNE: Thank you. Any questions from the committee? Senator McKinney.

McKINNEY: Thank you, Senator Wayne. Thank you, Attorney General Hilgers. So if this passes and you said you would still try to enforce those laws, how do you think that would play out in court?

MIKE HILGERS: If I-- so if this-- if LB588 were to pass and then-- and I-- in my office were to attempt to enforce LB588? How would that play out?

McKINNEY: No, If you--

MIKE HILGERS: I'm sorry.

McKINNEY: --if you try to enforce the current laws against the prohibition of cannabis or marijuana.

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MIKE HILGERS: So if-- while-- OK. So if I understand your hypothetical, if-- in other words, someone-- there's a prohibition, someone was using or possessing and contrary to law, LB588 had not passed? How would that play out in court?

McKINNEY: If it, if it passes--

MIKE HILGERS: Oh.

McKINNEY: --how, how would your office-- because you, because you said that you would still try to enforce the laws because the federal law trumps the state law. So how would that work in practice?

MIKE HILGERS: So it-- well, in, in general, I think, I think I have an obligation, my office has an obligation to enforce constitutional laws. There's an open question-- well, in our view, it's not an open question whether LB588 is constitutional. We don't think it is. It would put us in direct conflict with federal law, Senator McKinney. Federal law says it's a crime, so maybe that's a difficult question for us to answer.

McKINNEY: How are other states across the country balancing that?

MIKE HILGERS: Based on what I know, which is anecdotal, Senator McKinney, so I could be-- it's not a comprehensive analysis. States are not enforcing, they're simply-- federal government is not enforcing federal law and the states are not enforcing federal law, either. And they're following their state laws, so they're not arresting. In states that have permissive laws on this, on this topic, they are not enforcing or arresting people.

McKINNEY: All right. Thank you.

MIKE HILGERS: Thank you, Senator McKinney.

WAYNE: Any other questions? Senator DeBoer.

DeBOER: I almost called you Senator Hilgers. I'm so sorry. I'm just used to that. Attorney General Hilgers, did we pass a right to try bill? I believe we passed a right to try bill for terminally ill patients. So if we did that and those patients can try medical marijuana, how does that fit within your scheme of the competing federal and state law?

MIKE HILGERS: That's a great question. I appreciate you asking that, Vice Chair DeBoer. It's easier to say Vice Chair deBoer than Senator DeBoer. Two things on that. One is I opposed that bill on the floor of the Legislature for the exact, exact same reasons. And I was in a significant minority. I think it was about 45-4, but I did oppose it for the, for the exact reason that I'm articulating today. The reason why people are able to utilize the right to try is not because of the state law, it's because actually, the federal law did implement a right to try at the federal level, which is precisely what should happen here. To the extent that we're analyzing the efficacy of these drugs and the permissibility of these drugs, it ought to happen at the federal level. And if that were to happen, the state would follow-- our office, certainly, we would be able-- we would follow whatever happens in the federal law. But to be clear, the right to try in Nebraska, there was no preemption problem because at the federal level, they allowed the right to try.

DeBOER: OK. Thank you.

WAYNE: Any other question from the committee? Seeing none, thank you for being here.

MIKE HILGERS: Thank you, Mr. Chairman.

WAYNE: Next opponent. Welcome back.

JOHN BOLDUC: Thank you. Thank you, Mr. Chair. Good morning, Chairman Wayne, members of the Judiciary Committee. My name is Colonel John Bolduc, J-o-h-n B-o-l-d-u-c, superintendent in the Nebraska State Patrol. On behalf of the State Patrol, I'm here today in opposition to LB588, which would legalize the use of cannabis in various forms for medicinal purposes. Despite best efforts by states to regulate the medical marijuana industry, a 2018 study found that one-- that three-fourths of legally produced marijuana was diverted to the black market. When I was a police chief in California, which was a medical marijuana only state from 1998 until 2018, I routinely saw the diversion of medical marijuana products to the black market there. Because of the demand and potential profit, decriminalizing the possession and distribution of even medical marijuana contributes to the dangerous problem the black market poses to public safety. Troopers also see this diversion regularly, as they have removed numerous loads of marijuana and marijuana products traveling through Nebraska that were packaged and labeled as a legal product in their state of origin. From 2016-2020, the weight of THC products seized

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increased by over 1,200 percent and 70 percent of all drugs seized in Nebraska came from two states, California and Colorado. Legalizing the sale and use of marijuana, medical or otherwise, has also resulted in an increase in traffic deaths. Even during Colorado's medical marijuana only era, traffic deaths where drivers tested positive for marijuana increased from 7.85 percent in 2008, to 16.53 percent in 2012. Unintentional exposure to marijuana products in Colorado have also skyrocketed from eight in 2008, to 179 in 2021. This bill also creates a conflict with a Concealed Handgun Permit Act and the Firearms Purchase Permit Act. Federal law prohibits medical marijuana users from possessing or buying firearms and ammunition, even if the state allows the drug's use. If enacted, this bill prohibits the Patrol from reporting a classification of prohibited persons under federal firearms laws, which would be a habitual user of Schedule I controlled substance, to not only the federal government, but also to local law enforcement agencies such as sheriffs' offices, which issue firearms purchase permits. These agencies rely on information obtained from various sources to ensure that individuals who are prohibited by federal or state law from obtaining a firearm are properly identified. In addition, we expect the partial legalization of marijuana will increase the burden on the Nebraska State Patrol crime lab due to the increase in availability of black market marijuana and marijuana products, which will require testing for criminal prosecutions across the state. The crime lab will also be responsible for verifying that cannabis products meet the legal threshold obtained-- outlined in the bill and do not contain more than 2,000 milligrams of THC. Finally, the crime lab may be asked to determine THC quantitation to ensure it is not hemp, when an amount other than the allowable amount of marijuana is located. I see my time is up. I'd be happy to answer any questions you should share.

WAYNE: Any questions from the committee? Senator McKinney.

McKINNEY: Thank you, Senator Wayne. And thank you for your testimony. Are you aware of a recent case that ruled that a law prohibiting marijuana users from possessing firearms is unconstitutional?

JOHN BOLDUC: I'm aware of that case, Senator. Thank you.

McKINNEY: And how do you feel about that?

JOHN BOLDUC: Well, I haven't read the details of that case, but I know that that could have implications on federal laws that address this issue. And again, we have a, a network of, of laws across the

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different states that are trying to comply with the federal firearms laws. So since that was a district court decision, it's probably going to work its way through the appellate process and however that outcome--

McKINNEY: And the Supreme Court has signaled that with the gun laws, at least, they want to stick to historical precedent pretty much. And so my other question is, do you think that the black market is continue-- continuing to exist? Because we have Colorado, then we have Nebraska. No. Then we have somebody else, no. Then we got Illinois, yes. And that patchwork of states, either legal or not legal, is still keeping the black market. And do you think that if, if-- I don't think you ever could get rid of the black market completely, but do you think it would decrease substantially if states legal-- were legal across the board?

JOHN BOLDUC: Thank you for the question, Senator. The black market exists because there is a demand for high potency THC. And as long as that demand is there, the black market is going to step up to fill that need.

McKINNEY: But what if-- and it goes to my question. If it's legal, medical or whatever, would the black market still exist if you still are able to purchase high-- you said high potency THC?

JOHN BOLDUC: Again, Senator, because it's such a high profit margin industry, I-- what we're seeing in states where it is legal, we're seeing the black market undercut the legal market by taking shortcuts, by producing it in mass quantities, importing it from other countries, so I don't know that that's going to change. That, that's a hypothetical. But what we've seen in legal states is the black market products are cheaper.

McKINNEY: It's cheaper because they could come here and sell it for a higher price. And what I'm saying is, if we were to legalize it, you, you pretty much cut their profits down because it's legal and you have to go to a regulated--

JOHN BOLDUC: That's a-- Senator, again, thanks for the, the clarification. I think where we see the, the difference in price in-- whether it's a legal state or illegal state, obviously, in an illegal state, it's all black market. Right. But what we're seeing is the grow operations are cutting corners, they're, they're growing it very fast, high levels of potency. Their-- the quality control is not the same as

it is with the dispensaries where they're buying products from legal grow operations, where there's health and safety standards being enforced and those type of things. It would be nice to think that the market would equalize if that were the case, but that hasn't proven to be true in, in other states at this point.

McKINNEY: And I guess and we don't have to go back and forth on this, you could argue it's a policy decision to keep the black market the way it is. How is your office working to prevent drugs from leaving your facilities now after the situation that happened last year?

JOHN BOLDUC: Thank you for the question, Senator. Because that particular case hasn't been adjudicated yet, I think it would be improper for me to comm-- comment on that. My understanding is that we hope that that will be wrapped up very soon on the criminal prosecution. But I can assure you that we have implemented several steps since that time and I'd be happy to discuss that with you or anybody else at the appropriate time.

McKINNEY: Thank you.

JOHN BOLDUC: Thank you.

WAYNE: Any other questions from the committee? Seeing none, thank you for being here.

JOHN BOLDUC: Thank you, Mr. Chair.

WAYNE: Next opponent. Next opponent. Welcome.

MAGGIE BALLARD: Thank you. Good morning. Chairperson Wayne and members of the Judiciary Committee. My name's Maggie Ballard, M-a-g-g-i-e B-a-l-l-a-r-d, and I'm here on behalf of Heartland Family Service in opposition to LB588. I appreciate the opportunity to testify today as I have done several times since researching this topic, beginning in 2014. Our stance at Heartland remains that unless medicinal cannabis goes through the FDA process like it has for something like Epidiolex, it's not good for our clients and we are therefore in opposition of this bill. We feel that we're putting the cart ahead of the horse here. And our most vulnerable Nebraskans, like children that get targeted oftentimes, by the products like edibles and those types of things, they might end up paying the price for it. We do want to recognize, however, that if our opposition and the opposition of some of the other people here today was to not pan out, if it was ignored and Nebraska was to implement a medicinal cannabis program, we believe

Senator Wishart has done a thorough job of including many components that would make it function with fewer opportunities for abuse than some of the other medicinal marijuana bills in the past and medicinal marijuana programs in other states. So, for instance, I was relieved to see that mental health problems like PTSD, depression, anxiety, bipolar disorder, schizophrenia, problems like that were not listed in the qualifying conditions. I was relieved to see that a healthcare practitioner must conduct an evaluation of the patient and collect the patient's relevant clinical history, particularly around schizophrenia. Another issue, though, we've seen, because Heartland we're located in both Iowa and Nebraska so I work in both Iowa and Nebraska, and what we've seen in Minnesota and in Iowa, where they've collected data, the largest amount of THC reported to help any condition in their records has been 30 milligrams per day, which would be 2.7 grams in a 90-day period. And this bill doesn't specify a limit on milligrams of THC per day. It just says the allowable amount of cannabis means up to 2,000 milligrams per product, but not a limit on, like, how many 200 [SIC] milligram products can-- a person can have. I can tell you what other pieces of this bill would work well and what improvements should be made, but the fact remains that despite, you know, some of the testimony here today, federal medical-- major medical associations and a lot of medical experts around the country are in opposition to medical cannabis because it has not been proven to be effective more than a placebo. So that's not to say people don't get relief from their symptoms, but it hasn't been proven against a placebo. Also, unlike with other medicine, if I were to get-- or unlike with medicinal marijuana, I wouldn't have to pass a background check to get my medicine from a pharmacy. I wouldn't be able to vape it or eat it like a piece of candy or things like that. Oh, and I see my life has turned off.

WAYNE: Thank you.

MAGGIE BALLARD: One more paragraph I'd ask you to read on your own time.

WAYNE: Thank you. Any questions from the committee? Senator McKinney.

McKINNEY: Thank you. And thank you for your testimony. Has Heartland Family Services, either in the state of Nebraska or Iowa, supported or worked with other senators to ban alcohol?

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MAGGIE BALLARD: We haven't. I, I think that, that would be a pretty losing battle, but we have definitely testified in opposition to some of the expansion of alcohol bills.

McKINNEY: So would you support a prohibition of alcohol?

MAGGIE BALLARD: I personally, as unpopular as that would be, absolutely.

McKINNEY: So on part of Family Services?

MAGGIE BALLARD: Probably.

McKINNEY: All right. Thank you.

MAGGIE BALLARD: Yeah.

WAYNE: Any other questions from the committee?

MAGGIE BALLARD: I'm nothing but consistent.

WAYNE: Thank you for being here today. Next opposition testimony. Welcome.

ROGER DONOVICK: Good morning, Chairman Wayne and members of the Judiciary Committee. My name is Dr. Roger Donovan, R-o-g-e-r D-o-n-o-v-i-c-k. I am the executive medical officer within the Department of Health and Human Services, and I am a board certified psychiatrist. I'm here to testify in opposition to LB588, which proposes to adopt the Medicinal Cannabis Act and permit certain patients to engage in the medicinal use of cannabis. Legalizing marijuana for any purpose, including medicinal use, poses risk to the health and safety of Nebraska residents. At this time, marijuana is not approved by the Food and Drug Administration for any medical uses and is classified by the Federal Drug Enforcement Administration as a Schedule I controlled substance. Substances in Schedule I are listed as highly addictive and have no currently accepted medical uses. The FDA has approved for cannabis-derived or cannabis-related drug products. Each of these drugs have gone through the Investigational New Drug, IND, process through the FDA Center for Drug Evaluation and Research. Included with these drugs are the active ingredients, the amount in each dose, the purpose of the product, the use of the product, specific health and safety warnings, dosage instructions, and the product's inactive ingredients. This level of information is lacking for other marijuana products due to the lack of conclusive

research and approved uses. While the FDA is continuing to consider how to support more scientific rigor in the study of the use of cannabis for medicinal purposes, the research has yet to yield conclusive results. Without this rigorous study, the true side effects or even the true benefits of cannabis cannot fully be known and understood. None of the benefits from cannabis have proven to treat the underlying diseases listed as qualifying medical conditions identified in LB588, but rather treat a small spectrum of the symptoms related to nausea, muscle relaxation, and appetite stimulation, among others. If the aim is to protect the health and safety of Nebraska patients, more research is needed to fully understand the medicinal uses and the negative risks of marijuana and all the cannabinoids contained therein. If studies find medicinal uses for marijuana, the FDA processes for Investigational New Drugs, IND, are there to ensure the safety and efficacy of those products. In summary, other than the four cannabis-derived or cannabis-related drug products approved by the FDA, marijuana remains listed as a Schedule I on the Drug Enforcement Administration's schedule of controlled substances with no approved uses. Without proper vetting by the FDA for safety and efficacy of marijuana products, the health and safety of Nebraskans is at risk. We respectfully request that the Judiciary Committee not advance this legislation. Thank you for the opportunity to testify today, and I'm happy to answer any questions.

WAYNE: Any questions from the committee? Senator McKinney.

McKINNEY: Thank you, Senator Wayne. Thank you for your testimony. In your testimony, at the end of one of the paragraphs, you said highly likely there is currently no accepted medical use for cannabis. Have you done your research on that?

ROGER DONOVICK: I've reviewed the position statements from the AMA, the American Psychiatric Association, and other reports.

McKINNEY: Have you attempted to do research?

ROGER DONOVICK: I've done, I've, I have done research in the field of addiction, yes.

McKINNEY: And what did you find in your research that you did review?

ROGER DONOVICK: I have not specifically run clinical trials with cannabis, but I can tell you how drugs are brought to the market. They undergo double-blinded placebo-controlled randomized clinical trials

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to demonstrate efficacy and safety in the treatment of diseases. And there have been no-- there is not enough evidence at this point for, for cannabis.

McKINNEY: But you're saying there's not enough evidence, but you're also saying there is no medical use. And my, my reason for asking these questions is that, you know, a lot of times people from departments come up and say things that are either true or not true, but you guys haven't done your own research to basically have a factual foundation in that. And what I'm saying is, if you're going to come up and say there's currently no medical uses for cannabis, I would hope that you would do your own research to figure that out and not say I reviewed something or this or this or that or the hypothetical of, oh, this, this might happen. These tests should happen. Thank you.

ROGER DONOVICK: So, so let me clarify. So when you-- when I talk about research, I'm talking about randomized double-blinded placebo-controlled clinical trials that have been published in peer-reviewed journals. That, to me, is research. Looking at the Internet and reviewing what's on the Internet is not research.

McKINNEY: No, I'm saying I would ask that the Department of Health and Human Services figure out a way to--

ROGER DONOVICK: Run clinical trials?

McKINNEY: --do, do some research.

ROGER DONOVICK: That's not a function of the Department of Health and Human Services.

McKINNEY: Then why is it a function of the Department of Health and Human Services to say whether somebody is or is not--

ROGER DONOVICK: Because we--

McKINNEY: --cleared for medical?

ROGER DONOVICK: --we, we review the current scientific evidence for things like cannabis and, and make statements and-- regarding public health risks.

McKINNEY: So is alcohol worse than cannabis?

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ROGER DONOVICK: Alcohol is a different drug.

McKINNEY: Is it worse?

ROGER DONOVICK: I'm not prepared to testify about alcohol today. It's a different drug, it has different effects on the body.

McKINNEY: From your experience, since you've read peer-reviewed journals and reviews from your peers, has it been found that alcohol is worse than cannabis?

ROGER DONOVICK: It's worse in some ways. It's not as bad in other, other ways.

McKINNEY: Thank you.

WAYNE: Any other questions from the committee? Seeing none, thank you for being here. Any-- how many other opponents do we have? Opponents? OK, two. All right. Next opponent. Welcome.

LORELLE MUETING: Thank you. Good morning, Chairperson Wayne and members of the Judiciary Committee. My name is Lorelle Mueting, L-o-r-e-l-l-e, last name, M-u-e-t-i-n-g, and I'm here on behalf of myself today. And I just want to offer you a perspective from a Nebraska citizen who is not in favor of medical marijuana. I think we hear all the time that every Nebraska citizen is in favor of medical marijuana and I just want to offer a, a different perspective as I am not. I am opposed to LB588 for many, many reasons. I have many concerns with this bill. One of the first reasons it's problematic is that it circumvents the FDA process on the safety and efficacy of substances we call medicine. Secondly, there are numerous problems in other states who have legalized marijuana for medical purposes, including increasing child accidental ingestion, increasing potency and purity, increases in crime, marijuana addiction, according to the DSM-5, marijuana is not only psychologically addictive, but physically addictive as well, increases in school dropout rates, and the list goes on. I would urge you to vote no on this bill to protect the health and safety of all Nebraskans. Thank you for your time today.

WAYNE: Thank you. Any questions? Seeing none, thank you for being here.

LORELLE MUETING: Thank you.

WAYNE: Next opponent. Opponent. Welcome back to your Judiciary.

PATRICK CONDON: Thank you, Chairman Wayne, members of the Judiciary. My name is Patrick Condon, P-a-t-r-i-c-k C-o-n-d-o-n. I'm the Lancaster County Attorney and I'm here in that capacity as Lancaster County Attorney and testifying in opposition to this bill, the LB588. The County Attorneys Association is also in opposition of this bill. I believe we sent a letter in regards to that to this bill. But I'm here just in, in my capacity as Lancaster County Attorney. In listening to the testimony this morning, I think Senator DeKay kind of hit things on the head here. And that is-- and, and again, it was echoed by Attorney General Hilgers, and that is we are asking this Legislature to do something that it has never done and that is approve a drug for use. And as Senator DeKay pointed out, there are many aspects of getting a drug to market that are necessary. There are testings to go through. We heard our past testimony-- testifiers talk about the, the blind-- double-blind tests, things of that nature that are important for these to go through to-- these drugs to go through to determine the efficacy and the integrity of, of these drugs. So I think that is important. I think it is something that we've never asked a body like this to do. So I think it is important that we, we ask why are we doing this? We have over the last 14 years, I believe was the testimony, they have attempted to make this-- get this legalized. And the question is, why hasn't the attention been put on taking this drug off of the Schedule I assignment and, and allow the research to proceed in the federal system or in the federal body and other bodies to determine the efficacies of these, of these drugs? Secondly, you know, I've heard that, that this drug has never led to an overdose. That may be true, but I believe there are plenty of articles. And personally, I have witnessed individuals who have taken the drug, taken marijuana, and it has led to attempts of suicide because of paranoia that they have had because of taking the drug. Also, you know, I just, I, I kind of wonder, are we talking about cannabis indica or cannabis sativa? I mean, are, are there differences between these? I've been told there are. Senator McKinney, I have not done the research, but, again, I have read articles in regards to this and talked to individuals involved in the study of marijuana and hemp. Senator McKinney, lastly, you previously suggested that prosecutors do not have empathy for individuals. I have empathy for the young man sitting behind me. I have empathy for the individuals of the young children that we've seen in the photos here earlier today. But I also have empathy, sir, for the family of a young man who was killed when an individual turned in front of that, that, that young man who was riding a motorcycle and killed that young man being under the influence of marijuana. I have empathy for two families who had their

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child-- their children taken because the individual driving the car did not properly take into account the distance to stop because he was under the influence of marijuana.

WAYNE: I'm gonna ask you--

PATRICK CONDON: So I do have empathy for these individuals, Senator McKinney.

WAYNE: Thank you for your testimony. Any questions? Senator McKinney.

McKINNEY: Do you have empathy for victims of motor vehicle homicide because of alcohol?

PATRICK CONDON: Absolutely.

McKINNEY: So do you come in here and oppose-- do, do you, do you support bills to ban the usage or consumption of alcohol?

PATRICK CONDON: I-- the ban-- I, I haven't had the opportunity to see a bill like that, Senator.

McKINNEY: So if a bill came forward--

PATRICK CONDON: I, I don't know that.

McKINNEY: --would the county-- would you come in and support a bill banning the usage of alcohol because you have sympathy for the victims?

PATRICK CONDON: I would like to see what the bill says, Senator.

McKINNEY: If it banned the use of-- prohibited the use of alcohol?

PATRICK CONDON: From the damage that I have seen to victims, I would be in support of that.

McKINNEY: You would? All right. Thank you.

WAYNE: Any other questions? I, I know that Senator-- Speaker-- Speaker-- Senator-- Speaker-- Attorney General Hilgers and you both referenced that we're asking this legislation to do something that--don't we have Schedule I drugs listed in our statutes?

PATRICK CONDON: Such as-- you mean like cocaine?

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WAYNE: Yes.

PATRICK CONDON: Well, I, I think cocaine is not a Schedule I drug.

WAYNE: Well--

PATRICK CONDON: I'm trying to think of, I'm trying to think of any Schedule I drug that we have that, that has been-- because generally a Schedule I drug is one that does not have any [INAUDIBLE]--

WAYNE: Right.

PATRICK CONDON: --in the medical field.

WAYNE: But we approve and disprove what drugs are illegal and versus legal every year don't we? I mean, that's part of what we do because there is a section of 29, whatever code.

PATRICK CONDON: 29 [SIC]-- the--

WAYNE: The 20-- but is--

PATRICK CONDON: 416-- the, the controlled substance--

WAYNE: Yeah.

PATRICK CONDON: --code? Yes.

WAYNE: So we do approve and disapprove drugs. I mean, that's our job.

PATRICK CONDON: Approve and disapprove of drugs of which, which are, are illegal. Is that what you're-- yes.

WAYNE: Yes.

PATRICK CONDON: Yes.

WAYNE: So that is something that this body does.

PATRICK CONDON: But this, this body-- yes, to answer your question, Senator, yes.

WAYNE: All right. Any other questions from the committee? Seeing none, thank you for being here today.

PATRICK CONDON: Thank you.

WAYNE: I think that concludes our opponent testimony. Is there any other opponent? All right. We're going to hop to neutral testimony. Neutral testimony? And it needs to be true neutral testimony, not neutral but in favor or neutral but opposed. Welcome.

JOHN MASSEY: Good morning, Chairman Wayne, members of the committee. My name is Dr. John Massey, J-o-h-n M-a-s-s-e-y. I'm testifying on behalf of the Nebraska Medical Association in a neutral position on LB588. I'm a pain physician in the state. I've been practicing for 20 years. I practiced pain medicine from Lincoln, Nebraska, all the way into the Panhandle and Scottsbluff. And as a part of that, I have extensive clinical experience in treating substance use disorders as well. I want to thank-- we want to thank Senator Wishart for her approach to this bill. The NMA appreciates that she has been receptive to feedback from physicians and incorporated that feedback into LB588. In 2-- in 2021, I testified in opposition to Senator Wishart's medical cannabis bill, LB474. In particular, at that time, our objections included concerns that the bill did not limit the use of medical marijuana to a specific list of qualifying conditions. LB588 addresses that concern that we made known to Senator Wishart. We share her opinion that she has worked extensively with us to narrow the focus of this bill. This bill enumerates a specific list of qualifying medical conditions. It provides and requires additional continuing medical education for participating practitioners. It requires prescribers to participate and check the PDMP, Prescription Drug Monitoring Program, and it requires dispensing providers to check and report to the PDMP as well. These provisions in the bill are significant to ensuring that the patients are treated safely and appropriately for conditions that there is evidence that cannabis can help treat. Evidence is critical to developing sound clinical decisions regarding the use of medical cannabis for effective treatment. And thus far, in a narrow set of circumstances and diseases, there is notable benefit from treatment with cannabis when it is in the appropriate dose. We agree that more research is needed to better understand the effects of additional conditions. The Nebraska Medical Association believes there is currently limited evidence to suggest marijuana and its derivatives may have therapeutic benefits, and that is due to difficulties in studying the multiple compounds associated with cannabis. We share the desire to encourage Congress, federal authorities, the DEA, and the FDA to change cannabis classification from Schedule I controlled substance to facilitate that research. Scientifically valid research will help to further develop the cost-benefit ratio of this class of compounds. Thank you for your time. I'm happy to answer any questions.

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WAYNE: Thank you. Any questions from the committee?

DeBOER: Yes.

WAYNE: Senator DeBoer.

DeBOER: Thank you very much for being here, Doctor. I've been sort of hearing some of the medical professionals. I wanted to ask you a couple of questions about off-label usage.

JOHN MASSEY: Sure.

DeBOER: So the FDA, FDA approves a drug and then doctors have the right to use it for their patients. Are there times when a doctor will choose to use a drug off-label with respect to dosage, so do a dosage different than what's on the, on the FDA approval list?

JOHN MASSEY: Absolutely. We've all learned the FDA has limitations in terms of what approved uses are. And a lot of times that's an economic decision where the FDA decides to spend the money required to indicate something that's being useful. In pain practice, every day, almost every patient I see I'm using medications for other than FDA-approved indications. We monitor efficacy versus the side effects. Every medication has a spectrum of that, and we have learned how to judge that. And we don't use strictly the FDA indications for those kinds of conditions.

DeBOER: OK. So you do off-label uses in terms of dosage?

JOHN MASSEY: Yes.

DeBOER: Off-label uses in terms of maybe the medical condition even?

JOHN MASSEY: Absolutely.

DeBOER: OK. So the FDA trials ensure that there's some medical use or efficacy of a drug. And then the individual doctors are the ones that determine what's best for the patient that's in front of them?

JOHN MASSEY: In essentially every medication that I can think of, that is the case.

DeBOER: And you've said that there are some-- there is some medical efficacy for marijuana?

JOHN MASSEY: There is.

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DeBOER: All right. Thank you.

WAYNE: Any other questions? Seeing none, thank you for being here. Anybody else testifying in neutral capacity? Neutral capacity? Neutral?

JENNIFER HENNING: Um-hum.

WAYNE: Come on up. Welcome.

JENNIFER HENNING: Hi. My name is Jennifer Henning, J-e-n-n-i-f-e-r H-e-n-n-i-n-g. And so as an individual, I'm very neutral on this. I'm very conflicted. Six years ago, I would have been opposed to this. However, now I have a six-year-old special needs child and I want to read an excerpt out of his medical record from his palliative care physician. Connor exhibits a constellation of symptoms-- prolonged irritability, flushed and mottled skin, diaphoresis, fevers-- in the setting of severe neurological injury, which is consistent with dysautonomia. As such, we aggress-- aggressively addressing this aspect of his cares with the underlying theme of optimizing meaningful quality of life such that Connor is able to better engage in his home and community. We also discussed potential fifth and sixth lines medications, including methadone and enteral ketamine. Should medical cannabis become an option in Nebraska, we discussed a combination of CBD and THC and potential therapeutics. You see, my son has seizures, but my son also has autism. And my son is extremely self-injurious and aggressive towards others. And what changed my mind is I was knocked out cold by my son with a bloody nose with a slice up into my head and recognizing at mere three years old, we have to do something. We are against all drugs to be completely honest and giving it to an innocent and vulnerable little, little boy. There's a lot of side effects that come with these drugs that they give for seizures, for behavior, self-injury. And we were afraid. And the reality is he was on so many medications that we had no idea what was causing side effects. Is the aggression, the self-injury coming from the medications that were being given that were prescribed by well-meaning psychiatrist, well-meaning family practice? And when we decided his quality of life is affected and some of us are in danger and recognizing that someday he's going to be a six-foot-four grown man. He's nonverbal. He doesn't follow basic commands. We decided we had to change our stance on opening up to different medications. As a parent, we had to look at is ketamine and methadone more appropriate for a six-year-old little boy than medical cannabis? Our son's palliative care physician, he's educated, he's experienced, he's empathetic. I wanted to touch on a

lot of people telling us to go, go buy it in a legal state. And what they don't understand is the risk. The risk for families like ours. We drive across the state, we buy it in a legal state, we give it to our son. If he's positive on a drug screen, we lose him. If we get caught, we get pulled over, we automatically go to jail. I already have a criminal record, so guess what happens to me? I lose my children, I go to prison. The reality is there's a lot of risks. And I'm left with zero tools in the toolbox. And no matter what I feel, no matter what I think, I have to be a voice for my son. And my son needs tools. He needs tools in his toolbox to be able to function because when he's six foot four and a police officer stops him and says, put your hands up, and he can't do it and he gets aggressive, we need tools. We need tools to help him, because someday he's going to be to a point where we can't help him.

WAYNE: I'll ask you wrap up. Any questions from the committee? Thank you for being here today.

JENNIFER HENNING: Thanks.

WAYNE: Any other neutral? I don't think so. Oh, neutral? Come on up, Bill. Welcome to your Judiciary Committee.

BILL HAWKINS: Thank you, Chairman Wayne, members of the Judiciary Committee. My name is Bill Hawkins, B-i-l-l H-a-w-k-i-n-s. I'm with the Nebraska Hemp Company. It's a nonprofit that's been working to reform unjust cannabis laws for a long time. I'm also a lifelong Nebraskan and I come here in a neutral position and I appreciate the senators listening to this heartfelt testimony. In 2010, we went before the Pharmacy Board and asked for some movement on medical cannabis. In 2014, I ran down Senator Tommy Garrett in the hall and walked with him to his office and got a medical cannabis bill introduced with him. I worked with Senator Wishart over the years and become best friends with my buddy Will sitting over there, and my biggest desire is to play basketball with him. The young lady who just talked, her son is going to be six-something, Will is like that and I've watched him grow up. My dear friend Brooke over here just turned 30 years old. And these people have been in here begging you, this body, to give them this herbal drug. And I think my personal opinion is we made a mistake years ago challenging the medical profession. FDA-approved pharmaceutical drugs is big money and they don't like a plant coming in and disrupting their big money. In PubMed, if you search PubMed, the last year 2022, there were 4,500 medical studies on cannabis, Senator DeKay. In 2021, there were 4,300. So this plant has

been studied. I have Lyme disease and this bill will not help me. So that is the reason I'm coming in in neutral. We should have kept it an herbal plant. And it's, it, it's too bad that-- if you research FDA-approved drugs, you will see just the devastation that they have caused. They help people. But I will give you one instance. In the '70s and '80s, estrogen was supplied to women. It took decades and a congressional hearing to get the FDA to admit that it was causing breast cancer in women. So FDA approved isn't always the best. And so I thank you for your time and look at this bill and give us the relief we need. So I would be happy to take any questions.

WAYNE: Any questions from the committee? Seeing none, thank you for being here.

BILL HAWKINS: Thank you.

WAYNE: Any other neutral testimony? Seeing none, we'll hop back to proponents. Proponents? Go ahead. Welcome.

ELIZABETH BRONSON: Good morning, Chairman Wayne, Vice Chair DeBoer. My name is Elizabeth Bronson, E-l-i-z-a-b-e-t-h B-r-o-n-s-o-n. I'm coming before you in Judiciary Committee today as a mother of a five-year-old boy with intractable drug resistant epilepsy. My home is run by the electric devil that we call epilepsy, and it has altered my family's life forever. I can tell you about the dark side that is my home. My little boy, Teddy, Teddy was-- first-- had his first seizure at 17 months of age. He was at home when it was absolutely terrifying. My boy was barely breathing. I took him to the hospital that I work at at 7 a.m. in the morning via the ambulance. We showed up in the ER bay. It took us eight hours to get him back to baseline. A month later, we had a genetic diagnosis that equated to his missed developmental milestones. What came after that Dup15q was an 80 percent chance of epilepsy. And in that 80 percent, nearly 80 percent of those kids are drug resistant. That's my life. My son started with his inpatient EEG. We were counseled to start medication from a neurology we trusted. Eight weeks later, that-- from that initial EEG, Teddy was diagnosed with infantile spasms. If you look in Google, infantile spasms, it is a medical emergency. My son's brain is on fire. We worked through and we've been battling the electric devil since 2019. Teddy has gone through 14 different medications, a diagnosis of Lennox-Gastaut Syndrome, which is basically catastrophic epilepsy. He-- we worked through things. We took him and sent him through an MRI machine, a CT, a CT scan, all looking for a malformation in his brain. Imagine being a mother praying that your son has a brain malformation that would

explain it and make things easier. There was nothing wrong with his brain. It looks fine on an MRI. So we sought out for surgical evaluation because the drugs weren't working. We took him to Denver Children's, Kansas City to Mercy, and then out to UCLA for brain surgery. Teddy had a responsive neurostimulator placed in 2021. It got infected. It had to be removed and replaced here at Children's Hospital in Omaha. With "reimplantment," he had 1,000 seizure events that first month. I'm coming before you and asking for your time to help me lower his risk of dying every night and to give our family an option because he has a fifteen-fold risk of every night dying. So I'm asking you-- we have a lot of prayers but I am seeking you guys to make an impact on his life and utilize your elected position for policy change and to tell you to stop, keep praying, but to actually move forward in policy change. Sorry. Thank you. I welcome any other questions.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here, ma'am.

ELIZABETH BRONSON: Thank you.

WAYNE: Next proponent. Welcome to your Judiciary.

JERRY MOLER: Morning. My name is Jerry Moler, J-e-r-r-y M-o-l-e-r. I'm a retired machinist. I'm also a Vietnam veteran from the U.S. Navy. I'm here today to testify about medical cannabis. The most important thing you need to know and understand about medical cannabis is it actually works. It has been used for medicinal purposes for over 5,000 years. The people would not risk criminal penalties and go out of their way and spend money on something that does not work. By not having any legal access, the state has given total control to the black market. I want to reemphasize that. By not having any state law, you have given 100 percent control of the cannabis market in Nebraska to the black market. The state has zero control over cannabis right now. There's already a lot of cannabis in Nebraska. The current laws make criminals out of about 20 percent of the population that are considered regular users. Regular users are daily users. So you have about 400,000 people in Nebraska that use cannabis on a daily basis now. Making criminals out of 400,000 people is not a good public policy. And now the other thing I want to point out is you have two states, Colorado and Missouri, that are completely legal for anyone over 21. So your chances of keeping cannabis out of Nebraska are slim and none. So you've given the state law enforcement an almost impossible task. Now, when you consider what a legal market might look

like, I want to keep in mind that overregulating and overtaxing a cannabis market simply plays into the hands of the black market and keeps a black market in place like it has in California. The one more very important point I want to make about cannabis is cannabis is not a toxic substance. You do not become intoxicated when you consume it. Other drugs that we know of that are toxic are aspirin, Tylenol, opioids, alcohol, all those things can kill you. No matter how much cannabis you consume, it will not kill you. So the real question for the state government is this: Does the state government want to control and regulate cannabis market here in Nebraska or is it simply going to refer it back to the black market? I, I don't see that there's a choice one way or the other. You're either going to have one or the other. You're either going to take it and put it in a legal market and control it or you're going to give it back to the black market and let them do whatever they like because you have no ability to stop it. So I think it's time to be practical and pass some kind of legislation that gives us safe, legal access like the other 37 [SIC] states that already have. And I thank you for your time--

WAYNE: Thank you.

JERRY MOLER: --and consideration.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here. Next proponent. Next proponent. Welcome.

JACY TODD: My name is Jacy Todd, J-a-c-y T-o-d-d. I've done my research on, on cannabinoids. My wife and I, we own a, a CBD store in Grand Island, Nebraska, about three and a half years. And first, I want to discuss the, the endocannabinoid system. The endocannabinoid system-- and I meant to-- I didn't know about the rule of ten copies, so.

WAYNE: I'll get copies for you.

JACY TODD: OK. So I got two different ones. The endocannabinoid system is the largest receptor system in the human body and regulates the most things in the human body-- here's another one here-- thank you-- and regulates the most things in the human body and our doctors know nothing about it, which is a travesty. I mean, the endocannabinoid system consists of CB1, CB2 receptors and I think we should really, you know, learn about the endocannabinoid system. And that way people with cannabis, it can only be supplemented with a cannabis plant or a cannabis sativa plant, which is a marijuana plant or hemp plant.

There's over 200 different cannabinoids in, in the plants. Each one has their medicinal value of how it can help out. So again, it's a-- it's, it's a little crazy that we don't know about that. Another thing, I want to talk about the FDA. The reason why marijuana is not FDA approved is because of the rule LD50, that's a lethal dose amount. Lethal dose amount is how much of this drug will kill you if you take a, a-- how much-- what's the quantity of this drug that, that will kill you taking it? And if it doesn't have a LD50 amount, a lethal dose amount, it will never, ever, ever be FDA approved by itself because it's killed zero people. So I think that's an important factor here that, you know, nobody has died from it, but-- and that's the reason why it'll never be FDA approved. And to kind of stay on the govern-- the federal government side of things, Dr. Fauci, NIH, was doing research on all the cannabinoids back in the late '90s, and they-- there was so much great success that they had off the cannabinoids that their minds were blown away that they took a patent out on it. Patent number 6630507 was issued to Department of HHS and it was for all of the cannabinoids. So they had a-- you know, Dr. Fauci, NIH had a-- the off-- the cannabinoids locked up for until Donald Trump signed the hemp act in 2018. So they knew the great benefits of this, you know, and, unfortunately, they kept it from us, so. Any questions?

WAYNE: Sorry. Any questions from the committee? Seeing none, thank you for being here. She's making those copies for the committee.

JACY TODD: All right. Thank you.

WAYNE: Next proponent. Go ahead.

MORGAN RYAN: All righty. Thank you. My name is Morgan Ryan, M-o-r-g-a-n R-y-a-n. I am a chronic pain sufferer myself and a disability rights advocate. I was a petitioner for the-- for our campaign in 2021 and 2022, which means that I engaged with thousands of Nebraskans on this issue. Again, we collected 196,611 signatures in 2020 and 154,962 in 2022. Politically active voters in every one of your districts in every single county have signed these petitions affirming that they want medical cannabis legislation. Polls consistently show medical cannabis with having upwards of 80 percent support in Nebraska. There seriously aren't more-- many more popular things in this state than letting sick folks have access to a plant as medical treatment. Some people in this body will say that we should wait for the FDA to do something. To be clear, this bill would not interfere with the FDA's process. It would simply protect Nebraskans

from being criminalized in our state. If the federal government could solve all of our problems, you all would be out of jobs. So your constituents, the people you signed up to serve, are suffering right now. People are dying right now. While I was petitioning last summer, I met a man with a terminal illness who said that his doctors wanted to switch him to cannabis when we get this done. They don't have time to wait for the federal government to get their act together. This Legislature should be able to do what nearly every other legislature in the nation has done and get out of the way of this legitimate form of healthcare for people who have no better options. Forty-seven other states have had no constitutional issue with this bill. There's no reason to think that Nebraska would be the first. Countless sick and disabled people have literally had to flee our state because of this body's past indifference to their suffering. This is a question of whether their lives are worth anything to you at all. Do you want them to be able to thrive in our state, their state or not? I have to believe that most of you senators got into this job because you wanted to help people and make a difference. You will find no better, simpler, more popular or cheaper option to do that than LB588. Thank you.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here. Next proponent.

PATRICIA PETERSEN: My name is Patricia Petersen, P-a-t-r-i-c-i-a P-e-t-e-r-s-e-n. I have traveled across the state gathering petition signatures and speaking with Nebraska citizens for both past petition efforts. I would like to speak to you about some of the patients across the state I have spoken with. I talked with a young man who moved here from Colorado when his wife took a new job in Nebraska. He has epilepsy, and as a medical patient in Colorado he used cannabis daily to control his seizures. He brought a six-month supply of his medication with him when they moved. He worries about getting caught but wasn't going to stop using this plant that changed his life for the better. An elderly woman shared with me that she has arthritis and her daughter brought her cannabis products. They make her so much more comfortable, but she worries about her daughter breaking the law. At the 2022 Comstock festival-- music festival, I spoke with a young mother who has a four-year-old daughter with epilepsy, and they were struggling to find a medication that worked for her. That same day at the festival, I spoke with a Native-- elderly-- an elderly Native American woman from Arizona who told me how cannabis gave her back her life. She was a victim of child sexual abuse that continued on through her young adult life. She suffered both physical and mental trauma for

so many years and took dozens of different medications that didn't help her or made her life worse. With tears in her eyes, she told me how cannabis helped her heal her mental wounds. The last patient among so many people I spoke with has a very personal connection to me. My youngest daughter has a very good friend who was diagnosed with stage 4 Hodgkin's lymphoma at 24 years old. When she found out I was fighting for a medical cannabis bill, she told me that she used cannabis in her cancer fight and credits it with saving her life. The medications that were prescribed for her nausea were useless as she was unable to keep them down and had no appetite. A friend from Colorado suggested she try using cannabis in her cancer fight and it was a game changer for her. It addressed her nausea and helped her appetite. She was finally able to eat and give her body the fuel it needed to help her cancer battle. There are so many other stories in our state. We won't be hearing from those people today because they are afraid to come into this building and admit using an illegal plant to improve their health. These patients and so many others are begging the state of Nebraska to listen to them and listen to their stories. I hope you'll do that today. I have one quick addendum. In high school, my former boyfriend was at a party, he was a good Catholic boy who went to Pius. They found him the next morning dead in the backyard of that party from alcohol poisoning. We hear story after story of people dying from alcohol. We can go into a liquor superstore and fill a shopping cart with enough alcohol to kill a frat party. Where's the laws against that? We can buy enough cigarettes--

WAYNE: Ma'am, I'll have to have you wrap up.

PATRICIA PETERSEN: --to give everybody lung cancer. Where's the laws against that? Thank you for listening to me.

WAYNE: Thank you for your-- Senator DeKay.

DeKAY: Thank you, Senator Wayne. You mentioned visiting with an elderly lady that was using cannabis. My question is, was the cannabis helping her condition or was it just masking the symptoms like a steroid or--

PATRICIA PETERSEN: She's-- her hands were thin. She said she can do things with her hands she was not able to do before. Getting up and down out of a chair was easier. Her arthritis medication caused more problems for her than when her daughter brought her cannabis. It helped her so much. She, she was seriously worried about her daughter

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getting caught bringing her products to help her, but she still used them because they helped.

DeKAY: Well, I understand where she's coming from because I was diagnosed with rheumatoid arthritis when I was 19. I use FDA-approved drugs and I just want-- and I'm seeing the effects of steroids and the effects of masking rather than helping alleviate the symptoms and I just want to know--

PATRICIA PETERSEN: Well, research has shown that cannabis is an anti-inflammatory. And arthritis is a disease with inflammation. So for her, yes, it did help. And she wasn't the only one, countless, countless stories. Patients are already using it all over the state because they choose it over a medication that doesn't help them as much.

WAYNE: Any other questions from the committee? Seeing none, thank you for being here.

PATRICIA PETERSEN: Thank you for listening to me.

WAYNE: Next proponent. Next proponent.

SHELLEY GILLEN: Good afternoon, members of the Judiciary Committee. My name is Shelley Gillen, S-h-e-l-l-e-y G-i-l-l-e-n. I am here in support of LB588 and to once again make a desperate plea on behalf of my, Will, and so many others in our state who are innocently suffering. Ten years. That's how long it's been. Ten years of our family being in the trenches of this Legislature. Ten years of pleading, begging, crying, testifying at public hearings, writing emails, attending town halls, stopping by senators' offices, interviewing with TV and radio stations, submitting letters to editors of newspapers, visiting with federal legislators, and for the last several years, gathering countless signatures for ballot initiatives. Ten years of continuing to watch Will suffer from hundreds of seizures a day. Traumatic injuries from falls, ER visits, hospital stays, and treating him with highly addictive FDA-approved drugs. Ten years of the same redundant arguments and excuses. It's a gateway drug. It's not FDA approved. There aren't enough studies. It's a slippery slope. What about our youth? It will get into the hands of the abuser. It's federally illegal. You should try Epidiolex. Our family finds all of these excuses to be nothing short of insulting. If you are one who has any of these fears or supposed concerns, as well as any others I did not mention, please do not hesitate to reach out to me and I will be

happy to have a discussion and share facts with you. Our family is also very bewildered by lawmakers who value life at birth, but do not seem to value it now. After all, Will is like an infant. He is completely nonverbal, still in diapers, legally blind, and cognitively about a two-year-old. And no, Will, will never be able to cast a vote for you or donate to your political aspirations, but he does and always will have value. How much longer do Will and others have to wait? No parent should ever have to beg for medicine for their child. Yet, here we are and we will continue to be here as long as it takes for 196,000 Nebraskans to be heard. And for you, as elected lawmakers, to do the right thing. Thank you for your time.

WAYNE: Thank you. Any questions, questions from the committee? Seeing none, thank you for being here. Next proponent. Next proponent. Welcome. Go ahead.

CINDY MAXWELL-OSTDIEK: Good afternoon, Senator Wayne and the members of the Judiciary Committee. My name is Cindy Maxwell-Ostdiek. That's C-i-n-d-y M-a-x-w-e-l-l-O-s-t-d-i-e-k. I'm a mother and a small business owner and a volunteer and I'm a cofounder of the Nebraska Legislative Study Group. I want to thank you for holding this hearing open today for everyone who came to testify. It's unfortunate it's not always been the case in other committees throughout this session. I'm not an expert on medical cannabis, but I spoke to thousands of neighbors in west Omaha's Legislative District 4 when I ran this last year during the election. As an independent, I talked with voters from all parties and backgrounds, and I carry so many of those stories on my heart. I wanted to specifically share about two gentlemen briefly. Many veterans spoke in favor of medical cannabis when they talked with me, but one in particular talked about his pride serving his country. He felt strongly about following the law, and he was so disappointed Nebraska's elected officials had not addressed this important medical need for his PTSD. I think of another neighbor often when I drive by his house, he's got a garden, he has decorations and window chimes by his front door, and they signify breast cancer awareness. He's a widower and he was distraught talking with me and telling me the story about how his wife struggled without medical cannabis while she battled cancer. He hoped no one else's loved ones would endure the pain that she did. These are only two of many very emotional pleas I heard from my neighbors and Nebraskans have been asking for this important legislation for many years now. I want to thank Senator Wishart for her perseverance to bring this bill and all the cosigners and I ask you to please vote yes and help these neighbors that have these medical needs. Thank you.

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WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here. Next proponent. Seeing no more, we have, we have received 56 letters: 48 in support, 7 in opposition, and 1 in neutral position. Also, this new session, the Legislature has established an ADA accommodation for public hearing written testimony for qualified individuals. And for the record, we have received four ADA accommodation written testimonies. Testifiers are: Lia Post, L-i-a P-o-s-t; Lacy Smith, L-a-c-y S-m-i-t-h; Ellen Lenox Smith, E-l-l-e-n L-e-n-o-x S-m-i-t-h; and Colton Eggers, C-o-l-t-o-n E-g-g-e-r-s. And with that, Senator Wishart, you are elected to close. Go ahead.

WISHART: Thank you. I will be very quick. I realize I'm all that is between you and lunch before your next hearings this afternoon. Couple of things I wanted to point out. I, I do encourage you to read the summary and I am happy to sit down with each one of you and go through this. You know, there has been talks about other states like California. This legislation is absolutely nothing like the laws that are in, in California or some other states. It is a very, very tightly created medical cannabis system, very few producers and processors and stores at which cannabis would be sold. So I'm happy to go through all those details with you and, and how we've set up a system where you track from seed to sale the, the cannabis to ensure quality and efficacy. The, the last thing I would say is that I was in the Legislature when we passed legislation called Right to Try. It was legislation brought by Senator Hilkemann and it was to support the ability for Nebraskans to utilize drugs that were not yet FDA approved and, and that bill passed almost unanimously. This is a right-to-try piece of legislation for a very, very limited group of individuals that you've seen listed in this legislation to have the chance to work with the doctor, to be able to see whether cannabis can support them, as it has shown evidence to support other individuals that have similar medical conditions. So I, I do want to push back a little bit on some of the comments that were made today, that as a Legislature we have not done similar types of legislation. I look at that piece of legislation and I see a lot of similarities with what we're looking at today. Thank you.

WAYNE: And with that, is there any questions from the committee? Seeing none, thank you for being here today. And with that, that'll close the hearing on LB588 and this morning's hearings.

WAYNE: Good afternoon and welcome to the Judiciary Committee. My name is Justin Wayne and I represent Legislative District 13, which is north Omaha and northeast Douglas County. I serve as the Chair of

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Judiciary. We will start off by having members of the committee and staff do self-introductions, starting with my right.

MEGAN KIELTY: Megan Kielty, legal counsel.

ANGENITA PIERRE-LOUIS: Angenita Pierre-Louis, committee clerk.

HOLDCROFT: Rick Holdcroft, senator for District 36, which is west and south Sarpy County.

DeKAY: Barry DeKay, District 40, which is Holt, Knox, Cedar and Antelope, northern part of Pierce and most of Dixon County.

WAYNE: Also assisting us are our committee pages, Logan Brtek from Norfolk who is a political science major and criminology major at UNL and Isabel Kolb who-- from Omaha who is a political science and a prelaw major at UNL. This afternoon, we'll be hearing four bills. We will be taking them up in the order that is listed outside the room. On the table, you will find-- in the back of the room you will find blue testifier sheets. If you are planning on testifying, please fill those out. Hand it to the pages so we can make sure we keep accurate records. If you do not want to testify but want to know-- want to let your presence be known for the record, there are gold sheets in the back. Just fill them out and state your position on that sheet. Also note that it's a legislative policy that letters for the record must be received by noon prior day to the hearing. Any handouts, please make sure you have ten. If you don't have ten, the pages will make copies for the committee. Testimony for each bill begins with the introducer opening statement followed by the proponents. Then we'll have opponents and then followed by those in a neutral capacity. The introducer of the bill will be given the opportunity after that to make closing statements. We ask you begin your testimony by giving us first and last names. Please spell your first and last name for the record. We will be using a three-minute light system today. When you begin your testimony, the light on the table will be green then followed by yellow. That will be your one-minute warning. Then red, we ask you to wrap up. I'd like to remind everyone, including senators, to please turn off your cell phones or have them put on vibrate. With that, we will begin today's hearing with LB307. Hello. Welcome to your Judiciary.

HUNT: Thank you all very much and thank you for your patience. Good afternoon, Chairman Wayne and members of the Judiciary Committee. I'm Senator Megan Hunt, M-e-g-a-n H-u-n-t, and today I am introducing

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LB307. LB307 is a bill that would authorize localities to adopt syringe service programs as part of a public health effort to reduce the spread of infectious disease. Catching my breath a little bit, sorry.

WAYNE: You're fine. Take your time.

HUNT: OK. I'm bringing this bill in partnership with the Nebraska AIDS Project and the National Harm Reduction Coalition. Syringe service programs, formerly known as needle exchange programs, are community-based programs that provide access to sterile needles and syringes, facilitate safe disposal of used syringes and they often also provide other services, such as referrals to substance abuse treatment programs, screening for HIV and other sexually transmitted diseases, overdose prevention/education, naloxone distribution and referrals for other medical or mental health services. These programs are proven to help people stop injecting drugs. Intravenous drug users who come in contact with a syringe service program are four to five times more likely to enter treatment and engage in long-term recovery than users who do not use one of these programs. They're also proven to reduce infections of HIV, hepatitis C and other bloodborne infections by as much as 50 percent. So why do we need this in Nebraska? When advocates approached me about bringing this bill, I was surprised to learn that Nebraska's HIV infection rate is at its highest in over a decade. In the three-year period from 2018 to 2021, while the U.S. experienced about a 5 percent decrease in new HIV diagnoses, Nebraska saw a 26 percent increase in HIV. That's a hugely significant increase and I think we should examine what's going on here. Increasingly, more of these infections are being linked to injection drug use than ever before and I'll let our testifiers coming up behind me speak more about their experience with that. An HIV diagnosis used to mean a death sentence, as without treatment, HIV progresses to AIDS, which is highly fatal. Fortunately, with today's science, we are in a place where there are very effective drug treatments available that can prevent people with-- living with HIV from ever developing AIDS. With early diagnosis and treatment, many people with HIV go on to live very long and healthy lives, but these drugs remain expensive. The average lifetime cost of treating a person with HIV is somewhere around \$420,000. An added benefit of the syringe service program that I'm proposing is it offers safe disposal for used needles, which is proven to reduce the risk of occupational needlestick injuries for first responders and law enforcement. With LB307, not only can we reduce potential harm experienced by those struggling with addiction, we can also honor and protect our first

responders and law enforcement that are out in our communities doing their best to protect the public. With LB307, what we would be doing is removing the statutory barrier that currently exists and criminalizes anyone who distributes sterile syringes or hypodermic needles. And we would be giving localities the authority, if they so choose, to authorize local behavioral or public health organizations to implement safe syringe programs-- syringe service programs to prevent the spread of infectious disease. We're seeing that in Lincoln-- or in Nebraska, rather-- something significant and alarming is going on with the rapid rise in injection-related HIV infections. And what I've learned in preparing for this bill is that organizations like the Nebraska AIDS Project, behavioral health clinics, these organizations would like to implement this type of program in Nebraska. They're ready and willing to do so, but our current law currently prohibits this. I want to emphasize that if LB307 passes, it does not automatically give free rein to any public or behavioral health organization to just start distributing syringes on their own. The local jurisdiction needs to authorize it first. So that would be the city council or the village board or whatever appropriate local authority for the local jurisdiction would have to decide that they want to authorize this first. It would be up to them to prescribe the rules for the program. And under LB307, if a community is seeing an outbreak, the appropriate local governing body would have the option to decide to authorize an SSP to address the needs of their community. This is not a mandate. It's an issue of local control and it gives the opportunity for local control to every jurisdiction. Each adopting community would get to decide how they want their program to work. So it's really a local control idea. It's a conservative idea. And you'll see through testimony today that there's a substantial conservative movement for supporting the expansion of SSPs as part of harm reduction efforts. I anticipate a question might come up as to whether this is helpful in rural communities, if it's as helpful in rural communities as it would be for, say, Lincoln and Omaha. And you might be surprised to learn, as I was, that rural areas are actually being hit hardest right now by the spread of bloodborne disease. In 2021, the year that saw the decade high of new HIV cases in Nebraska, DHHS reports that infections were more frequent among rural counties-- those other than Douglas, Lancaster and Sarpy-- and the new number of HIV diagnoses among rural county residents had nearly doubled. Individuals with new HIV diagnoses residing in rural counties had lower initial T-cell counts than those in urban counties, meaning they had delayed diagnoses, pointing to a lack of available testing services in those areas. So in talking with stakeholders about this,

it sounds like rural communities are actually those that stand to benefit most from this bill. We've also all heard of the recent rise in fentanyl use and overdoses. Fentanyl is an extremely powerful drug that can be very lethal in small doses. An added benefit of opening a door for SSPs in Nebraska is that they often provide overdose awareness training, distribute overdose prevention tools like fentanyl test strips and can dispense the overdose reversal medication, naloxone. Two hundred fourteen Nebraskans died from overdose in 2020 and many of us know someone directly or know someone whose family has been impacted by fentanyl use. Many of these tragic deaths are young people that we have lost. What if some of these folks had been able to visit an SSP and received fentanyl test strips and overdose prevention training before they used for the last time? I think we'd all agree any tool that can add to our toolboxes to prevent these needless deaths is worthy of consideration. I'm not a medical expert, but any of us with a basic understanding of how addiction works and with most of these opioids that people are injecting being extremely addictive, we know that it is difficult for users facing addiction to simply stop on their own. The truth is that usually folks are just going to use until they either overdose or they get help, resources and education that they need to fight their addiction. SSPs are a way to reduce the harm of intravenous drug use in the now, while pointing users toward building healthier habits in the future. Let's allow communities to make the choice about whether an SSP could be beneficial for them. The people here to testify today are experts on this so I would encourage you to ask them to answer questions you have right now. But I'm also, of course, happy to answer any questions you have and do my best. Thank you very much.

WAYNE: Thank you. Any questions from the committee? Senator Geist.

GEIST: I'm curious about-- and, and maybe you'll need to send me to someone behind you, but I am curious about the fentanyl test strips and what those are and where those are available. Do you know?

HUNT: I-- anecdotally, I can tell you. I hear about fentanyl test strips being available from different community groups and advocacy organizations. Like, you can get them to test drugs. Not to-- you know, I'm not judging people who face addiction. I haven't ever used a fentanyl test strip.

GEIST: Yeah.

HUNT: I don't know how it works, but--

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GEIST: OK.

HUNT: Yes, an expert behind me can talk--

GEIST: I haven't heard of that, so and I--

HUNT: I know that they're used to prevent overdoses for people who are maybe using party drugs or doing something else just to make sure that they're not getting something that has fentanyl in it that would be much more lethal than they think it would be.

GEIST: OK. Thank you.

DeBOER: Thank you, Senator Geist. Other questions? Senator DeKay.

DeKAY: Thank you, Senator DeBoer. Senator Hunt, with this-- so that I understand this, this gives more community-based organizations the ability, the ability to distribute syringes and needles and, and it's not going to affect, like, your pharmacies like Walgreens, CVS and stuff like that?

HUNT: What the bill does is it allows local jurisdictions-- so it would be the city council or a village board-- to create rules and regulations around how a program like this would work for them. They wouldn't be able to have a program unless the city authorized it. So if the city authorized it, then, yes, an authorized organization with trained providers or a pharmacy could distribute, yeah.

DeKAY: OK, thank you.

WAYNE: Any other questions from the committee? Senator McKinney.

McKINNEY: Thank you, Senator Wayne. Thank you, Senator Hunt. One day, I went down a YouTube dark hole and I--

HUNT: Been there.

McKINNEY: --and I was watching a video, I think, on like Vice News or something about another testing thing that's being used, I think in-- probably in California where it it's not a test strip, but it's, like, some electronic thing that people are using to test to see if, like, fentanyl is in there. And I was wondering if that was being used here in our state.

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HUNT: I have no idea, but I'm curious too so maybe someone can tell us.

McKINNEY: All right. Thank you.

HUNT: You know, anything we can do to reduce the harm of addiction is-- you know, I'm definitely curious about.

McKINNEY: Thanks. Thank you.

WAYNE: Thank you. Any other questions from the committee? Seeing none, thank you for being here.

HUNT: Thank you.

WAYNE: First, we'll have proponents. First proponent.

HUNT: Chairman Wayne, I may need to waive my close, but--

WAYNE: OK.

HUNT: --I'm available for questions any time. Thank you.

WAYNE: Thank you.

LACIE BOLTE: Good afternoon.

WAYNE: Good afternoon.

LACIE BOLTE: Thank you, Chair Wayne, members of the committee. My name is Lacie Bolte, L-a-c-i-e B-o-l-t-e, and I am a representative of Nebraska AIDS Project. Thank you to Senator Hunt for an opportunity to talk to you all about HIV and also for introducing this bill. It's really important to us. Nebraska AIDS Project leads the community to overcome HIV and stigma through supportive services, advocacy and education. I'm speaking today to request your support of LB307. This would authorize local jurisdictions to open syringe service programs, a crucial tool for Nebraska to prevent new HIV and hepatitis infections. Nebraska AIDS Project is a nonprofit organization that serves the entire state of Nebraska, from Scottsbluff to Omaha, supporting over 1,000 Nebraskans living with HIV each year. Additionally, we are the leading experts in HIV prevention, offering free, instant HIV testing to anyone who walks through our doors. Nebraska's HIV infection rate is at its highest in over a decade. We've seen a 26 percent increase in new HIV diagnoses from 2018 to

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2021. This is not typical. Nebraska has experienced this 26 percent increase while the rest of the US has experienced a 4.6 decrease in HIV diagnoses during that same time period. Nebraska is fortunate to have tools and infrastructure to prevent HIV. We have routine testing. We have access to PrEP, which is a prescription medication that can prevent HIV transmission. However, we are missing key populations which may account for this historic rise in infections. In 2021, 24 percent of new diagnoses of HIV in Nebraska were linked to injection drug use. This is a dramatic increase. Only 8 percent of cases were linked to injection drug use in 2018. These link diagnoses span both rural and urban populations. We have an opportunity now to give Nebraska communities both the access and the tools necessary to combat this recent outbreak. LB307 is a crucial tool for Nebraska to prevent new HIV and hepatitis infections. I'm happy to answer any questions.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here.

LACIE BOLTE: Thank you.

WAYNE: Next proponent.

EDWARD KRUMPOTICH: Thank you, Mr. Chair.

WAYNE: Welcome.

EDWARD KRUMPOTICH: My name is Edward Krumpotich, E-d-w-a-r-d K-r-u-m-p-o-t-i-c-h. I'm the upper Midwest policy lead for the National Harm Reduction Coalition. Thank you, Megan, for bringing such an amazing bill and it's a pleasure to be here with each of you today. Like I said, my name is Edward Krumpotich. I'm humbled and certainly honored to be testifying here in the state of Nebraska regarding LB307 and the need for local communities to authorize public and behavioral health programs to implement syringe service programs in this state. Syringe service programs, they're community-based prevention tools that can provide a range of services. You used to hear about them as needle exchanges. That's not quite true. So they include linkage to substance use disorder treatment, access to and disposal of sterile syringes and injection equipment, vaccination, linkage to mental health/behavioral healthcare and treatment for infectious diseases. Nebraska is in a state of need: 2021 HIV numbers from DHS [SIC] here in Nebraska were at record levels and I want to also indicate that hepatitis C fared little better, increasing in similar populations. Unfortunately, Nebraska's rise in HIV has national precedent. Indiana

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faced a similar situation in late 2014 and early 2015 when an HIV outbreak in Scott County drove then-Governor, former Vice President Mike Pence to declare a public health emergency on March 26, 2015, in order to quell the epidemic. Syringe service programs were authorized by then-Governor Pence, which subsequently contained the outbreak. The former Vice President would go on to say, we ended the spread of HIV, of the HIV virus in that community. If not for SSP intervention at that time, the toll could have been much worse. We know that studies from Indiana today would go back and earlier implementation of these programs would have held cases to less than ten cases; 173 case reductions. Nearly 30 years of research shows that comprehensive SSPs are associated with an estimated 50 percent reduction in HIV cases. The data also shows that new users of SSPs are five times more likely to enter drug treatment and three times more likely to stop using drugs than don't-- than people who do not use these programs, three times more likely to stop using drugs. Evidence also shows they do not increase crime. One in three officers may be struck with a needle during their lifetime of service and SSPs reduce these needle injuries by first responders by an exorbitant amount. The CDC estimates that the cost of one infection of HIV is \$380,000 over the course of a lifetime. Nebraska's HIV numbers in 2021 alone would cost approximately \$12,540,000. This does not account for the 703 infections of hep C, which will cost the state about \$38 million because of the, the medication which costs-- and this is a conservative estimate by the CDC-- \$54,000 in treatment. That is a total of \$50 million in expected--

WAYNE: I got to ask you to wrap up.

EDWARD KRUMPOTICH: I will. Thank you. Do I have--

WAYNE: Yeah.

EDWARD KRUMPOTICH: Thank you.

WAYNE: Fifteen seconds.

EDWARD KRUMPOTICH: Appreciate you. SSP intervention could have cut these 2020-- 2021 numbers in half. They are safe, evidence based, heavily researched and very effective. LB307 would allow local Nebraska communities the deference in implementing these programs. I am available to answer any questions you may have.

WAYNE: Any questions from the committee? Senator Holdcroft.

HOLDCROFT: Thank you, Chairman Wayne. Now, just to help out with-- I know you threw a lot of numbers out there and actually the numbers I got from Lacie here in her handouts, she mentions in her testimony that there were thousands of cases, but the handout shows 104 cases in 2021. So what's the, what's the real number?

EDWARD KRUMPOTICH: Yep, so that is correct. So we have a-- 72 case, I believe, in 2020, the increase to 104 cases in 2021.

HOLDCROFT: So we have 104 cases of HIV in the state of Nebraska?

EDWARD KRUMPOTICH: That is correct, Senator.

HOLDCROFT: Thank you.

WAYNE: Senator DeKay.

DeKAY: Thank you. What is the screening process that will take place to make sure that the people that should have the syringes are getting them and the people that shouldn't have them aren't getting them?

EDWARD KRUMPOTICH: Yeah. So we know that from research, people who hold either dirty syringes and do not dispose of them are remarkably high increasing. To answer your question, the screening process would come from the relationship with the program itself and from the local communities. Many of the referrals in other states, like states of Minnesota, for example, are done by law enforcement. Law enforcement are the ones who refer to syringe exchange program and they're the ones who make sure that people are visiting them because they are the access point to things like treatment, behavioral healthcare. So we know that it plays the intermediary role between the treatment profile and the street.

DeKAY: Quick question: with it-- with the syringe program, is there a cost to the people that want to come and get those syringes and stuff? Is there a cost that they have to provide or is that free to them to be able to use-- to be able to attain those syringes and stuff for their reasons?

EDWARD KRUMPOTICH: I can't speak for every state, but what I can say is most of the time these are free services. So we want to make sure that in order to quell like Governor Pence did, we want to make sure that we're bringing back the syringes that have been used. We want people to be as safe as possible. And in that process, they're being exposed to all of the other services that they provide.

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DeKAY: Thank you.

WAYNE: Any other questions from the committee? Senator DeBoer.

DeBOER: I just have one clarifying question. I think you said that there were 104 cases of HIV in Nebraska. I think that's new cases is what I've read.

EDWARD KRUMPOTICH: Correct.

DeBOER: Yeah, that's--

EDWARD KRUMPOTICH: Oh, I'm sorry. Yes, 104 new cases in taking-- to answer your question. Thank you so much.

DeBOER: Yeah.

EDWARD KRUMPOTICH: Yep, absolutely. So when I mentioned the, the costs, that 2021 number was 104 new cases of HIV in the state.

DeBOER: Thank you.

WAYNE: Any other questions from the committee? Seeing none, thank you for being here.

EDWARD KRUMPOTICH: Hey, thank you.

WAYNE: Next proponent. Next proponent. Welcome.

RYAN CARRUTHERS: Thank you. Good afternoon, senators. My name is Ryan Carruthers, R-y-a-n C-a-r-r-u-t-h-e-r-s. I'm here today representing CenterPointe as its chief clinical officer and the Nebraska Association of Behavioral Health Organizations, NABHO, of which CenterPointe is a member. We appear in support of LB307. I hold my Ph.D. in counseling studies and have almost 18 years' experience working with individuals diagnosed with substance use disorders. I've been presenting at seminars and teaching on the topic of harm reduction efforts while working to implement better approaches to addiction treatment for the last 15 years. Harm reduction is an approach to treating people with addictions. It focuses on meeting them where they're at, developing positive relationships with them, even when they are using, and reducing the overall negative consequences of their drug use to society. It wasn't long ago that the value of condoms was, was debated in a similar way to this effort. The two practices use similar terminology and have similar disease

prevention goals. Would abstinence from drug use be the best course of action? Certainly. Would stopping people from using drugs intravenously be the end goal? Absolutely. However, we all know people-- that people are going to still use drugs. It's an undeniable reality in our world and certainly in our state. We cannot just ignore and condemn those that use drugs. We must provide them with the services that they need and they do need these services. Those in opposition to harm reduction efforts have long claimed that efforts like an SSP will increase the number of people using drugs in that manner. That is not the case at all. According to the National Institute on Drug Abuse, SSPs are, quote, safe, effective and cost-saving tools that can prevent HIV and high-risk injection behaviors among people who use drugs. It is the relationships that we develop as addiction and behavioral health professionals that is the key to getting people eventually off drugs entirely. We know that jail increases the likelihood of recidivism and incarceration is an expensive alternative. Someone should not have to get arrested in order to get help. This legislation asks for no money out of the budget. It does not legalize or condone the possession use of-- or distribution of illicit drugs. It allows people to come to programs like those I represent today in order to get the help that they are looking for. Any questions?

WAYNE: Any questions from the committee? Senator Holdcroft.

HOLDCROFT: Thank you, Chairman Wayne. I'm sorry I lost track of HIV as far as where are we with this? I think that-- is there effective treatment, but no cure? Is that where we are still with HIV?

RYAN CARRUTHERS: I don't represent any organizations that--

HOLDCROFT: Wouldn't know that?

RYAN CARRUTHERS: --treat HIV.

HOLDCROFT: OK. Thank you. Maybe someone else can answer that question.

WAYNE: Any other questions from the committee? Thank you for being here. Next proponent.

PATRICK HABECKER: Good afternoon. My name is Patrick Habecker. That's P-a-t-r-i-c-k H-a-b-e-c-k-e-r and I work as a research assistant professor in the Rural Drug Addiction Research Center here at the University of Nebraska-Lincoln. I'm here to testify in support of LB307 and I'm not representing the university with this testimony.

Syringe service programs, as you've heard, are the gold standard and evidence, evidence-based program when we're dealing with HIV amongst people who are injecting drugs. This is universal in the United States and this is backed by literally decades of research on their efficacy to reduce HIV and hepatitis C. When done well, these programs work, they are safe and they can save money compared to the cost of treating HIV cases that result from injection drug use. SSPs are not associated with increased crime, substance use or the litter of injection equipment and this includes the risk of accidental sticks from law enforcement officers, emergency medical personnels. It reduces this risk. Both the Centers for Disease Control, the National Institutes of Health and their subdivision, the National Institute for Drug Abuse are unanimous in this stance. SSPs work. They reduce HIV among this population. The questions that remain are how to best implement these programs and the current answer is at the local level. Local levels have a sense of what is going on, what is needed instead of a state-down, one-form-fits-all. This allows us to tailor a program that works in Omaha to one that works in Gordon to one that works in Imperial or Scottsbluff. This sets the control at the appropriate level. One done-- when done well, SSPs have a remarkable fact that because they become points of contact for people who use drugs in a nondiscriminatory, nonstigmatized way, they can become the links for a host of other programs-- what other people have talked about: treatment, education, housing, employment. That is one of the real magics to SSPs is they provide this point of contact and all sorts of wonderful things can occur from it. I would remind you all that HIV is not spontaneous from substance use. You can consume methamphetamine for years and you will not magically come down with HIV. It is a condition of the fact of how we control needles and how we control syringes and SSPs are an effective way to reduce this risk. Finally, last reminder, everybody, we are connected to people who are using drugs or maybe not a friend, but they are connected within a few degrees of separation. The health of all of us affects all of us and is an influence to all of us and this is a chance to help this become a better solution in Nebraska. Thank you very much.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here.

PATRICK HABECKER: Thank you.

WAYNE: Next proponent.

ABBI SWATSWORTH: Thank you, Chairman Wayne and members of the Judiciary Committee. My name is Abbi Swatsworth, A-b-b-i S-w-a-t-s-w-o-r-t-h. I'm the executive director of OutNebraska, a statewide nonpartisan, nonprofit working to celebrate and empower LGBTQ Nebraskans. OutNebraska supports LB307 because it would empower local health departments to take measures to help reduce the spread of HIV and hepatitis, as well as help local health departments connect Nebraskans to medical care, substance use treatment, health education, vaccinations and disease testing. Our local health departments understand their service areas best and empowering them to make decisions to mitigate the risk of infection will help so many Nebraskans. Our LGBTQ community has been uniquely impacted by the HIV epidemic in the United States. For many years, treatment and prevention measures were not given the resources they needed because HIV was thought to be a gay disease. According to the CDC, gay men and transgender women, especially those who are black or Latino, continue to experience higher rates of new HIV diagnosis than other groups. In 2021, Nebraska saw our largest increase in new HIV infections in over a decade. For LGBTQ Nebraskans living with HIV, working with trusted local resources is incredibly important so they can be connected with care. We need to equip localities to address the needs of Nebraskans in their communities. Harm reduction efforts like LB307 are just one way that we can do this. We urge the committee to pass this bill. Thank you. I'm happy to answer any questions.

WAYNE: Any questions from the committee? Seeing none, thank you for--

ABBI SWATSWORTH: Thank you.

WAYNE: --being here today. Any other proponents? Proponents.

STACEY MCKENNA: Thank you, Chairman Wayne and committee. I'm Stacey McKenna, S-t-a-c-e-y M-c-K-e-n-n-a. I am here today testifying on behalf of the R Street Institute. We are a public policy research organization that supports free markets and limited effective government. We are testifying in support of LB307. And I don't want to dwell on all of the information that other folks have already provided because they've given you a lot of good statistics. But I want to speak a little bit to what we've learned from some recent research about the benefits of SSPs, specifically in rural contexts, right? So Nebraska can learn from what we've seen in Kentucky where in 2015, they legalized SSPs. More than 70 now operate across the state and the majority of them are in counties with fewer than 40,000 people. They have seen similar declines in rates of HIV infection and other

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infectious diseases: viral hepatitis and hepatitis C, also skin infections, all of these things. So the decline in the rates have been similar to what the CDC reports, at about 50 percent. They also started seeing those declines as soon as about a month from when the SSPs first opened. I also want to talk a little bit about the importance of comprehensiveness and tailored local control, right? These are things that LB307 will not just permit, but require communities to be involved in actually making sure that we've got policies and programs in place that fit the local needs and understand their local communities. And what we've seen from the research on that nationally is that this makes-- the, the organizations, not only are they more effective, but they're more cost effective. And we've already heard that SSPs are extremely cost saving. One study found that it was, like-- saved \$27 on the dollar or something like that. They've been called the most cost-effective public health intervention ever. So I don't want to take up any more of your time, but I just want to say once again that we are in support of LB307. Please consider this as an intervention that can not only help Nebraska, but really give local communities the control to do this in a way that makes sense for them. Thank you for your time.

WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for being here.

STACEY MCKENNA: Thank you.

WAYNE: Welcome.

ADELLE BURK: Hello. Dear Chairperson Wayne and members of the Judiciary Committee, my name is Adelle Burk, A-d-e-l-l-e B-u-r-k, and I'm a senior manager of public affairs with Planned Parenthood North Central States in Nebraska. Our mission at PPNCS is to empower vital generations by providing and advocating for sexual and reproductive health so that more people can choose their own path to a healthy and meaningful life. To that end, we're strongly in favor of LB307. Many folks who have gone before me and have talked about the many public health benefits to SSPs so I'll just talk a little bit about our Planned Parenthood perspective. As a medical provider focused on sexual and reproductive healthcare, Planned Parenthood North Central States provides testing and treatment for HIV as well as pre-exposure prophylactics. Every day, our providers see the impacts of HIV on the lives of our patients. And in addition, many Planned Parenthood organizations across the country have the option to refer their patients to SSPs to get the supplies they need for self-administered

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injections. LB307 would allow our organization to take advantage of similar programs in Nebraska and ensure that our patients are wrapped with the community care that can provide all the resources they need to be safe and healthy. Thank you to Senator Hunt for bringing LB307 and I urge you all to advance the bill to General File and I can take any questions you may have.

WAYNE: Any questions from the committee? Seeing none, thank you for being here.

ADELLE BURK: Thank you.

WAYNE: Any other proponents? Any other proponents? Any opponents? Opponents? Anybody testifying in a neutral capacity? Senator Hunt, welcome back. For the record, we've had-- we received 20 letters: 15 in support, 4 in opposition, and 1 in neutral. Welcome back, Senator Hunt.

HUNT: Thank you, Chairman Wayne. I'd like to distribute this before I wrap up here just to make sure the committee has it. It's a letter of support from Douglas County Sheriff Aaron Hanson. And I think-- my view is when the sheriff's office and Senator Hunt agree on something, like, maybe it's OK. But I wanted to speak to the question earlier about cost for this program. There's federal funding available under the federal Consolidated Appropriations Act to states and localities that meet certain criteria and have programs like this. And that funding can be used to support administrative costs of SSPs, testing, education, referrals, but it just cannot be used for syringes themselves. So the cost of syringes would probably be most likely funded by grants, foundations, private donors, nonprofits that provide these things. And if the city or locality saw fit and they wanted to, they could fund it themselves too. But again, that would be left up to the individual jurisdiction of that city. To be clear, LB307 doesn't create any state obligation for funding. It's just a permissive bill for local control saying, you know, if a city sees fit and they have the organizations and the, you know, the institutional framework to provide this type of service, that the state is no longer going to stand in the way of that. Thank you.

WAYNE: Any questions from the committee? Seeing none, thank you.

HUNT: Thank you very much.

WAYNE: That will close the hearing on LB307. We will open the hearing on LB436 and welcome Senator Geist.

GEIST: Thank you, Chairman Wayne, and good afternoon, members of the Judiciary Committee. For the record, my name is Suzanne Geist, S-u-z-a-n-n-e G-e-i-s-t. I represent District 25, which is the southeast corner of Lincoln and Lancaster County. LB436 updates the Nebraska Uniform Controlled Substances Act to conform the state controlled substances schedule to the federal construct-- controlled substance schedule. Every time the federal government updates their controlled substance schedule, the state of Nebraska up-- updates their schedule with a bill the following session, which is the reason I introduced this bill. This bill will make updates to schedule I controlled substances, schedule IV controlled substances and schedule V controlled substances. And for clarification, schedule I controlled substances have no currently accepted medical use in the United States and there is a high potential for abuse. Schedule IV have a low potential for abuse relative to substances in schedule III. Schedule V controlled substances have little potential for abuse relative to schedule IV so you see how this goes. And they currently have an accepted medical use and treatment in the United States. This bill includes the outlawing of certain fentanyl-related substances. These are non FDA-approved drugs, which include designer or street drugs that are chemically and structurally related to fentanyl. The schedule IV and V updates will allow for specific FDA-approved drugs to be used in Nebraska. Thank you for your time and attention. I'd be happy to answer any questions.

WAYNE: Questions from the committee? OK. First, we'll have proponents. Proponents. Welcome.

RAJ SELVARAJ: Thank you, Chairman Wayne. Good afternoon. Happy Thursday, everyone. My name is Dr. Raj Selvaraj, R-a-j S-e-l-v-a-r-a-j. I am a new pharmacist from UNMC College of Pharmacy and I serve as the executive fellow of the Nebraska Pharmacists Association. I also serve as a pharmacist for Madonna Rehab and the vice president of the board for the Nebraska Obesity Society, but I will be here representing the Pharmacists Association. I offer this testimony on behalf of LB436. LB436, as Senator Geist mentioned, updates the Nebraska Uniform Controlled Substances Act, which will conform the state's controlled substances schedule to the federal level. I apologize for this technical review, but we'll go through kind of each drug here. And as we go through the schedule, schedules I having no currently accepted medical use in the United States, lack of

accepted safety and high potential for abuse. As we work our way to V, the potential for abuse decreases. So on page 6, we will add designer drugs, street drugs which are chemically and structurally related to fentanyl. Page 8 adds item number methoxetamine, also known as MXE. This drug is structurally and dissociative anesthetics such as ketamine and phencyclidine as well. Page 14 adds zipeprol. This is an opioid drug with some hallucinogenic properties. Page 19 adds amineptine and this drug is a nervous system stimulant. Page 20 adds N-phenyl-N, and also known as mesocarb, and this drug is a nervous system stimulant as well. So these are our schedule I medicate-- or drugs. There's five of them. As we go to schedule IV, this adds, on page 32, daridorexant, brand name, QUVIVIQ. This is an FDA-approved medication that is used for adults that have trouble falling asleep or staying asleep. This medication is similar to other sleep assistance medications that are already on the market, such as lemborexant, brand name, Dayvigo, and suvorexant, brand name, Belsomra. Our last drug is schedule V on page 37. This adds ganaxolone, brand name, Ztalmy. This is an FDA-approved drug used for a treatment for certain type of seizures. The Nebraska Pharmacists Association would respectfully request this committee advance LB436 for consideration by the full legislature. This bill would harmonize Nebraska's controlled substances schedules and the federal controlled substances schedules. This will not be more restrictive than the current federal controlled substances schedule and at this time, I'd be happy to address any questions that you have

WAYNE: Senator DeBoer.

DeBOER: Thank you, Chair Wayne. Are these fentanyl-related substances-- I feel like we're hearing a lot more about fentanyl and fentanyl-derived substances lately. Is this a new thing or why-- what-- can you answer that? Are these new designer drugs that we haven't seen before or--

RAJ SELVARAJ: Yes. So with what we like to call our bathtub chemists, when you were to-- if you have a base core structure of the fentanyl and you add basically like a side group to it and you modify it a little bit, that's technically a different drug. So when we include all these designer drugs and structurally related compounds to the fentanyl, then they can be new or some of the older drugs. So as you modulate it and modify, they do become new and different.

DeBOER: How long has fentanyl been on a schedule, on a schedule I?

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RAJ SELVARAJ: It's been on there for a while.

DeBOER: For a long time?

RAJ SELVARAJ: Yeah. I can get you exact.

DeBOER: No, that's great, but also--

RAJ SELVARAJ: Yeah.

DeBOER: --you don't have to. Thank you so much for this bill. Thank you.

RAJ SELVARAJ: Of course. Thank you.

WAYNE: I have a question. So is there anything in this bill that's not on the federal level?

RAJ SELVARAJ: All these are currently on the federal level right now and then with our-- yes, so these are scheduled on the federal level, but they do not mirror Nebraska's level right now.

WAYNE: No, what I'm saying is anything in this bill that is not on the federal?

RAJ SELVARAJ: That I am not sure of. I do not think so, but I'll get back to you on that.

WAYNE: OK. Thank you. Seeing no more questions, thank you for being here.

RAJ SELVARAJ: Thank you.

WAYNE: Next proponent. Proponent. Next--we're turning to opponents. Any opponents? Anyone to testify in a neutral capacity? Seeing none, Senator Geist, you can come back up to--

DeBOER: Wait. Is there a testifier? Did somebody want to testify?

WAYNE: Oh.

DeBOER: No? Anyone? OK. It's like an auction. You don't want to raise your hand because--

WAYNE: Right. For the record, received one letter of support. Senator Geist.

GEIST: And I'm just here-- I would have waived closing, but I'm just here to answer your question, Senator Wayne. And there is nothing on the bill that's not being updated on the federal schedule.

WAYNE: OK.

GEIST: So it's completely mirroring what we don't have currently federally and need to match the federal schedule.

WAYNE: OK. That answers that.

GEIST: OK.

WAYNE: Any other questions? Seeing none--

GEIST: All right, thank you.

WAYNE: --that closes the hearing on LB436 and we will open the hearing on LB22 and LB634. I will say for this hearing, if you are testifying in favor of one or in neutral of another one or in favor of one or against another one, please let the Vice Chair Wendy DeBoer know and we'll give you an extra minute to be able to talk on both bills. We'll start with Senator McKinney.

McKINNEY: Good afternoon. Thank you, Vice Chair DeBoer and members of the Judiciary Committee. My name is Terrell McKinney, T-e-r-r-e-l-l M-c-K-i-n-n-e-y, and I represent District 11, north Omaha. We are here today to discuss LB634 to adopt the Cannabis Control Act and the Cannabis Conviction Clean Slate Act, which creates the Cannabis Conviction Clean Slate Act. The Cannabis, the Cannabis Control Act legalizes the cultivation, manufacture and sale, possession and use of recreational marijuana. It creates and funds a regulatory body tasked with overseeing activities conducted under the act. It provides for civil and criminal penalties for violations of the act. The Cannabis Conviction Clean Slate Act creates a procedure for individuals convicted of crimes involving the use and possession of cannabis and cannabis, and cannabis products to have those convictions removed from the criminal record. The Marijuana Tax Act of 1937 essentially banned it nationwide, despite objections from the American Medical Association related to medical usage. This act came just a year after the film Reefer Madness warned that everyone was going to go crazy because we-- up until Americans and Europeans could buy-- up until then, Americans and Europeans could buy cannabis extracts in pharmacies and doctor offices to help with stomach aches, migraines, inflammation, insomnia and other ailments. The federal government and

states continued to increase punishment related to marijuana until the late 1960s, when the laws began to touch white, upper middle-class college students who were smoking the drug. During the mid 1970s, virtually all states softened penalties for marijuana possession. Still, the federal government continues to cling on, as it does today, to a policy that has origins in racism, xenophobia and whose principal effect has been to ruin the lives of many generations of people. The war on drugs has always had a disproportionate effect on black Americans. Black Americans are four times more likely to be arrested for cannabis charges than white Americans, even though whites are equally likely to sell and use cannabis. Although the states are making progress towards decriminalization and legalization of cannabis, the disparities seem to be increasing. Cannabis prohibition causes more problems than it solves and ruins thousands more, thousands more lives than it supposedly tries to save. More than 600,000 individuals are arrested per year, enforcing cannabis prohibition. Of these arrests, people of color and young people are dominant. The total-- this total surpasses the total number of arrests for all violent crimes combined, including murder, rape, robbery and aggravated assault. Just like alcohol, cannabis will come with issues. But just like alcohol, those issues can be managed by responsible adults. We should not jump to the conclusion that dispensaries are crime-generating hotspots. We can find a common ground between safety and access to cannabis through the regulation of these markets. As quoted by President Biden, sending people to prison for possession of marijuana has upended too many lives and incarceration-- and incarcerated people for conduct that many states no longer prohibit. Criminal records for marijuana possession have also imposed needless barriers to employment, housing and educational opportunities. The President isn't the only elected official to express such sentiments. Governors and other elected officials have taken similar actions. Many of the incarcerated individuals were convicted of having a small amount of cannabis. Although they did their time, the record is still there. Cannabis policy must include comprehensive efforts to help the communities that have been ravaged by the war on drugs. Legalization doesn't undo past arrests. There must be ways in which policy can help those most impacted. Clean slate laws give many a second chance: a second chance at decent jobs, supporting their families, housing and overall livelihoods. With the clean slate laws, we eliminate barriers by offering relief from systematic measures that have kept so many behind and introduced them to a life where past mistakes will no longer define their futures. We can give them a shot at redemption. It is important to remember those affected most by these laws, primarily

communities of color, although usage is comparable, as stated prior, in affluent communities and those in which-- those communities in which law enforcement, county attorneys and judges come from. A lot of their kids and a lot of them smoke cannabis-- use cannabis, providing clean slate relief and a pathway to benefit-- and a pathway to benefit them economically. Because I could-- honestly, I could go on my phone right now, I could pull it out, go to Robinhood or whatever app and purchase cannabis right now and in this hearing. But we have many men and women in our state and in our country that are sitting inside of county jails and prisons because of marijuana/cannabis offenses. But it's really crazy that I could pull out my phone and purchase cannabis right now. It's sad. According to Gallup polls, more than two-thirds of Americans support legalizing cannabis for adult use. State-by-state polls-- polling shows majority support in every single state, yet only 21 states and D.C. have passed laws to legalize and regulate cannabis for individuals over 21. Those states that have legalized cannabis are blue, red and purple. In neighboring states like Colorado, cannabis is legal for adults and it's taxed and regulated simply-- similar-- similarly to alcohol. The state also has a medical cannabis law. This bill adds a sales tax that is to be leveled-- levied on sales of cannabis by cannabis stores to consumers at a rate of 15 percent, with the proceeds credited the same way as the excise tax discussed above. According to the Department of Revenue in our state-- and you can look at the fiscal note. So it started in '23-24 with the property tax cash fund. There would be a little over \$14 million benefit. By 2026, that rises up to almost \$73.5 million. Affordable Housing Trust Fund would see an increase of almost \$2 million. And by 2026-27, a little over \$9 million. The Department of Health and Human Services would see almost a \$2 million increase and by 2026, a little over \$9 million increase. And as I close, I know many people are going to come up and say we need to wait on the FDA to approve it, we got to follow federal laws and all these type of things that we heard earlier during the medical discussion. And one hand, one day people want to have state control and local control. But when it comes to this, we want to wait on the federal government. But when it comes to other issues, it's no, states should have control and states should be able to enforce these laws on their own. Then when it comes to this topic is, oh, let's wait on the feds, let's not do anything, let's not break the laws. But in the past, we had elected officials that wanted to purchase drugs to kill people by the death penalty. Where was the, where was the thought to follow the law then? And just honestly, marijuana laws are racist, have always been racist and were enacted because of racism and it has affected black, brown, native communities the most and you see that in

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our prison populations. And that's strongly why I think these laws should be changed, records should be cleared and people that have been harmed by these policies should be able to benefit from them going forward. Thank you.

GEIST: Are there any questions? Oh, OK. Are there any questions for Senator McKinney? Yes, Senator DeKay.

DeKAY: Quick one. Senator McKinney, with this-- right now, cannabis is an illegal drug. With this act that, that you're proposing, does it off-- at this point in time, does it offer counseling to help people so that they can-- not-- if it's clean-- if it's clearing their slate, does it also help them where they will be able to get off of the use of cannabis as it is as a recreational drug now?

McKINNEY: If we have to throw in a bill to work in some language to provide some resources to help people not use, I'm all for it. I'm not-- and it's-- trying to pass this isn't to say I think everybody should be utilizing cannabis and it's for everybody. I just, just fundamentally think it being prohibited is a problem. And I'm not saying it's for everybody because everything isn't for everybody. But if you, if you want to work in some language to where we try to provide some resources or take something from, from the revenue to help with prevention, I'm all for it.

DeKAY: Well, I, I, I understand where you're coming with the clean slate. So if we take it one step farther to help them get on so they can be back on their job, supporting their family and doing what they need, I think that's where the counseling part would come in.

McKINNEY: All right. Thank you.

GEIST: Any other questions from the committee? I don't see any. Senator Wayne, we'll hear from you to open on LB634. Welcome to your Judiciary Committee.

WAYNE: Good afternoon, Vice Vice Chair Senator Geist. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and northeast Douglas County. I'm here today to introduce LB22, which will decriminalize the possession and use of marijuana. I have introduced, introduced this bill in part because I believe we actually need to have a conversation about possession and what those penalties carry with possession, particularly around marijuana versus fentanyl. I think those are two

different types of drugs that we should have two different penalties for. But I also want to just bring some knowledge around the idea of legalization of marijuana. And although both attempts to put it on the ballot kind of didn't work, it seems like it's always been a tug of war between the right or the left or rich or the poor and it just seems to keep going on forever. But to me, this is just about personal responsibility. I have long heard the legitimate complaints about the nanny state, but that same philosophy applies here. We know that if-- there's going to be some abuse, that just-- this is no different than painkillers, no different than alcohol. But at the same time, you have to take personal responsibility. So rather than keep hopping through the practical issues and things like that, this bill is just saying, let's have a conversation about decriminalizing marijuana. And then what that looks like going forward, I think, is another conversation around LB634, but my bill does not really go into that far of detail. But marijuana, this drug has countless of names throughout our history, commonly referred to as cannabis, weed, ganja, ragweed, ditchweed. I can keep going on. But back in the day, it was just hemp, up until the 1930s where this rebrand of marijuana came into existence from really our political leaders who were targeting certain groups, whether it be African-American, Mexican immigrants, Native Americans or just in certain individuals. It was a lot of racial and classism undertones as we moved to the word marijuana. The history of hemp is well documented in our American history, along with Mexican immigrants and Native American history. And as part of that, it was easy to identify and I would say discriminate against those individuals. The first-- even from our first permanent English settler in Jamestown in Virginia, hemp was recorded, I think, back in 1916, over 400 years ago. A century and a half later, George Washington and Thomas Jefferson both grew hemp on their land and James-- John Adams even wrote about crops, the hemp crop and the many uses. George Washington explicitly questioned the medical uses of the plant in his journals in 1765. I say all that to say that by 1840, cannabis, ragweed, all of that was widespread throughout of our-- throughout our societies. And in fact, one of our first opioid epidemics to hit America was during the Civil War. And oftentimes, hemp and what we now call marijuana/cannabis was used to deal with the addiction that veterans were having coming back from the Civil War with painkillers. By 1860, Vanity Fair was actually advertising hash products in publications. So the widespread of cannabis was used prior to 1920. It wasn't a political issue and it sure wasn't any kind of stigma in our society. It was simply something that people used and used properly and used for personal reasons. Both Andrew Jackson and Franklin Pierce wrote

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about smoking hash with the troops and later smoking cannabis was about the-- only thing good during his service during the Mexican-American War. The entire prohibition on cannabis came about the same time as the alcohol. We found out the alcohol wasn't going to work so they still kept pushing the cannabis prohibition. And the reason between the difference was it had 100 percent to do with the Mexican immigrants, African-Americans and Native Americans who hemp was a part of their culture. If you think about it, in the 1930s, it was called the jazz drug. It was the jazz drug because most of the time, it was in Harlem and New Orleans and-- which were heavily African-American cities at the time and areas at the time. That's really the reason, in my opinion, that the era of marijuana was started to be a schedule I drug along with heroin and LSD. I mean, even the-- we talk about the marijuana tax. That was passed in 1937 and when you look at how this legislation was done-- and I just want to bring this up for historical purposes because I'm a-- kind of a history nerd. It was done at the 11th hour and the term marijuana, because it was so new, confused half of the Congress and the Senate during the time of what it was. Because most of them knew it to be hemp or ragweed or something like that and this term marijuana was being thrown around and they were, like, it must be some kind of narcotic. Republican Minority Leader Snell asked, Why is this a matter we should be bringing it up in this late hour? I know nothing about the bill. He assure-- he was assured by Representative Sam Rayburn from Texas that it's probably a good bill, but he wasn't sure, saying it has something to do with narcotics of some kind. That's literally how we first started our prohibition on marijuana. So after all of that and the failed war on drugs, you have to turn to our fiscal note to know that from 2019 to 2022, there were 322 admissions to the Nebraska Department of Correction for, at least in part, marijuana-related offenses. What's interesting about that number is if you break down the number a little bit further, you'll find that it's 4 to 1 ratio of African-Americans against all other ethnicities. So there still seems to be some disparity that exists. I know this is an interesting debate. It will have a lot of conversations around it. There will be people who oppose this for the same reasons earlier. But I do think from the committee's purpose, when we're talking about reducing prison populations and reducing offenses, we have to have a conversation around marijuana and what those guys with drugs look like. And with that, I will answer any questions.

DeBOER: Are there questions for Senator Wayne? I do not see any.

WAYNE: Thank you.

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DeBOER: Let's have our first proponent testifier.

JERRY MOLER: Afternoon. My name is Jerry Moler, J-e-r-r-y M-o-l-e-r. I testified earlier on the medical cannabis bill. I'd like to speak to this one again. I was part of the team that changed the law in 1978. We took cannabis possession from a felony to a civil infraction. If you go back and look at the history of that, it was a pretty open-and-shut thing. We only had one opposing senator that voted against that bill. I'd like to tell you about one of the people that we had at a symposium in Omaha in 1978. She was the OB-GYN professor from Drake University. We asked her to come and testify at our symposium about the safety and efficacy of cannabis and what she told us was pretty shocking. We didn't know at the time, but she revealed to us that the cannabinoids that we find in cannabis are also produced by our own body. And some of those cannabinoids are actually found in mother's milk. And I don't know if you all are aware of that or not, but those cannabinoids help the child with their digestive system. It helps calm them when they're upset and cranky. Several benefits from it. It helps them sleep and get good rest. And those are all provided by the mother's milk. Those cannabinoids are produced by her body. So the professor told us that as far as the safety of a pregnant woman using cannabinoids was not a problem with her. She did not see a problem with a pregnant woman using cannabis as a medicine because our body doesn't see cannabis as a foreign object and doesn't try to repel it. It's why you can be drug tested for it 30 days after using it and it's still in your system. With that being said, I think we are way overdue of passing some kind of safe legal access in Nebraska. Our neighbors have all done it. It's here. It's not going away. I'm not going away unless I die. I've been at this since 1977. I'm going to continue to do this until I become successful and we free the people of Nebraska from this very oppressive, very racist, very greedy law. Thank you.

DeBOER: Are there any questions for this testifier? Thank you for your testimony. Next proponent.

RACHAEL NELSON: Hello. I'm here to talk to you guys today and I'm here thanking Senator DeBoer for inviting us and all the committee. My name is Rachael Nelson, R-a-c-h-a-e-l N-e-l-s-o-n, and I'm here today representing the Libertarian Party of Nebraska in support of LB634. I'm a political activist, a mother and someone who suffers from PTSD. Since the early 60s, a vast number of studies have been conducted on the health benefits and healing properties of marijuana consumption. Some say that we have been able to show that marijuana attacks as well

as helps to prevent cancer cells from growing. Many of the doctors I've spoken to in the state have said they'd be willing to prescribe marijuana in place of opioids and medications used for mental illness because of the low risk of addiction and lack of side effects. Another positive impact marijuana could have in our, in our state is our agricultural industry, which we rely heavily on. Farmers across the state would be able to cultivate marijuana for medicinal and recreational use, as well as be able to sell this cash crop in stores where it can be tested and checked for potency. The process and ingredients alleviate the concerns of waste or unhealthy products. Packaging can easily be made to childproof to make it incredibly hard for minors to get a hold of any items containing THC. Laws can be put into place that require the flower and many paraphernalia to be stored in the trunk. The containers that come must be sealed until they reach your home, much like alcohol. There are many ways to ensure the safety and concern of our communities. The bill also recognizes the people who are incarcerated for possession and paraphernalia charges. This section of the bill is very important for those people and their families to be given the ability to return to life without judgment once they've completed their requirements, allowing the chance to succeed and be productive members of our society. Our systems are overburdened. Our police officers and corrections officers are exhausted. Removing marijuana from the controlled substance list would ease up the stress on our system, our jails and our servicemen and women by reducing the time spent on victimless crimes. Nebraska has looked for a long-- looked long and hard for a drop in property taxes and a tax on marijuana is a fairly obvious answer. Colorado brought in enough money to fully fund their school system within the first year of legalization. Washington state brought in over \$559 million in legal income in 2021 alone. Due to these reasons and many more, I do not see how this bill could not-- could do anything but pass. We have seen the amounts of legal income increase exponentially and the numbers of crimes related to drugs diminish across the board in the states that have already legalized marijuana. The statistics, the science and the facts show that we are behind the times and it is past time Nebraska gets on board with this legalization measure. Thank you. I'd be willing to answer any questions.

DeBOER: Thank you for your testimony. Are there any questions from the committee? I do not see any today. Thank you for being here.

RACHAEL NELSON: Thank you, guys.

DeBOER: Let's have our next proponent testifier.

DAVE KENDLE: Hello, Chairman and senators. Thanks for allowing me to speak here today. My name is Dave Kendle. D-a-v-e K-e-n-d-l-e. I'm here as a proponent for LB22. I'm also the county chair of the Libertarian Party of Seward County. I have a short personal anecdote. Approximately 50 years ago, a girlfriend and I were driving to Omaha in my then '66 Ford Mustang, got pulled over by the Sarpy County Sheriff who then searched the car and found a small amount of marijuana in my glove box and handcuffed me, put me in the back and took me to jail. I was 16 at the time. Anyway, it's time to recognize that the criminalization of marijuana has done far more damage to society and to the individuals in it than having it legal ever could have; from ruining people's lives through arrest and incarceration to fueling black markets and violent criminal gang activity, the billions in tax dollars spent to fight the problems of criminalization as created. To the individual rights, it has caused to be violated along the way. Criminalization has benefited absolutely no one except possibly criminals. Please advance LB22 for a vote to the-- for the entire Legislature. That's all I have.

DeBOER: Thank you very much for your testimony. Are there any questions? I do not see any. Thank you so much for being here. Next proponent.

DAVID SWARTS: Hi.

DeBOER: Welcome.

DAVID SWARTS: My name is David Swarts, D-a-v-i-d S-w-a-r-t-s, and I'm from Palmyra, Nebraska. And I can tell you that 10 or 12 years ago, I would have been an opponent here. So I do understand where people are coming from that are, that are hesitant or opposed to it because that's where I came from. And it took my son-in-law dying of brain cancer to get me to open my mind and do research, which I've been doing for about ten years. I'm testifying in support of LB22. The cannabis market in Nebraska is alive and thriving. The supply is plentiful and easy to access. Where there is demand, there will be a supply. I'm addressing the black market thing. If there's a cheaper-- if it's overtaxed and the black market is, is cheaper, that's where people will buy it. Overtaxing is the problem there. Prohibitionists must understand that prohibition isn't working, hasn't worked, and never will work. Prohibition guarantees market for cartels, the mafia and street gangs. Cannabis is not dangerous, buying from the cartel is. And unfortunately, police actions to enforce the war on drugs can also be dangerous. LB22 allows-- allowing for the decriminalization of

cannabis does not lend itself to the slippery slope excuse. It does not depend on the approval of our broken FDA. It does not limit medical conditions, does not, does not require legislators to make medical decisions about the use of cannabis suggested by a doctor to his patient. As of today, 38 states have medical cannabis programs and 18 states have allowed personal use for adults, including those without medical cards. Decriminalization of cannabis would allow personal growth as well, cutting out the big marijuana companies and the black market. Nebraskans are ready to make it happen and I think a decriminalization petition would go over very good in Nebraska at this time.

DeBOER: Thank you for your testimony. Are there any questions from the committee? Thank you for being here. Next proponent testifier.

BILL HAWKINS: Good afternoon, Chairman DeBoer-- or Vice Chairman DeBoer, members of the Judiciary Committee. My name is Bill Hawkins, B-i-l-l H-a-w-k-i-n-s. I'm a lifelong Nebraska resident. I'm the director of Nebraska Hemp Company, which has been working for years to reform unjust cannabis laws. I also have 50 years of practical, real-life cannabis experience. And so I've been through and were-- was there when President Nixon signed the war on drugs so I have lived the war on drugs and it isn't working. Right now, the price of cannabis here in Nebraska has dropped because there's a surplus in other states. My message to you with L-- I'm here in support of LB634. We need to tax and regulate it. Cannabis economy here in Nebraska, it allows local businesses to produce a safe, tested product that can be used by adults, checked with licenses, and provide a safe product for the community. There are cannabis users 20-- 10 to 20 percent. That's 200,000 to 400,000 Nebraskans are using cannabis right now today. My message is it's time to start taxing and regulating the long-haired, tie-dyed, pot-smoking hippies and other cannabis consumers here in this state. Missouri now is recreational. If anybody goes down to Kansas City, Missouri, for a weekend can buy the largest amount allowed in the states now. Three ounces of cannabis they can buy right now and bring back. By taxing and regulating it, we are taking it away from the black market. The fiscal note estimates 3-- \$34 million in tax revenue. You are keeping that in the hands of the black market, the cartel or hard-working drug dealers and instead of putting it in a safe tax and regulated society. So I would ask you to really look at LB634. It is very strict, it is very detailed and it gives Nebraska a chance to stand up and accept the fact that the war on drugs has not worked and it's time to end the prohibition of this plant. The testimony-- one last thought, the testimony this morning on the

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medical issue of the safety and about this plant was-- applies to recreational cannabis. So I want to thank you for your time and I would be glad to answer any questions.

DeBOER: Thank you for your testimony. Are there any questions? Thank you very much.

BILL HAWKINS: Thank you.

DeBOER: Next proponent testifier.

JOE NIGRO: Good afternoon, Senator DeBoer and members of the committee. I'm Joe Nigro. That's J-o-e N-i-g-r-o, and I'm testifying in support of LB22 and LB634 as a private citizen. I worked as a public defender for 39 years so I've seen firsthand the devastating effects of the failed war on drugs, especially marijuana. I want to thank Senator Wayne and Senator McKinney for introducing these bills. Did prohibition work? That's the question we should all ask when considering whether to keep marijuana illegal. Prohibition was an incredible failure. It turned millions of Americans into criminals because they consumed alcohol occasionally and it was the beginning of large-scale organized crime in America. Our country realized that prohibition was a mistake and repealed it. We've done-- we have done the same thing with marijuana, turning millions of Americans into criminals and giving the opportunity for organized crime to make millions of dollars, all of this for a substance that is not nearly as harmful as alcohol. And the prohibition of marijuana has been especially harmful to black people. Although black people and white people use marijuana at similar rates nationally and statewide, black people are three times as likely to be arrested or cited for marijuana offenses. In Lancaster County, black people are nearly seven times as likely to be cited or arrested for marijuana and we're not even the worst county. Convictions for marijuana offenses not only result in fines and jail, but also ineligibility for federal student loans and housing, all of this for a substance with the same dependency rate as caffeine; 9 percent. The dependency rate for alcohol is 15.4 percent; for cocaine, 16.7 percent; for heroin, 23.1 percent; and for tobacco, 31.9 percent. Tobacco is far more addictive and harmful than marijuana, but no one is clamoring to make tobacco illegal. We've reduced usage of tobacco through education and regulation. Let's do the same with marijuana. I heard the last Governor of Colorado say that after Colorado legalized marijuana, the only age group where usage increased was people over 65. Whether that was baby boomers returning to their youth or old people having more aches and pains to

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treat is unclear. States that have made marijuana legal have actually seen a decrease in use by teenagers. Dispensaries don't sell to people who are under age and legalization has decreased black market sales. Legalization would also lead to a reduction of violent crime. We've seen home invasion robberies that have resulted in shootings. People rob marijuana dealers because they know they have marijuana, they have cash, and they won't report the robbery. Sometimes violence results. The black market will shrink with legalization and with legal dispensaries, which are difficult to rob. This reduction in violent crime is another benefit of legalization. Eventually, the people in Nebraska are going to vote to legalize marijuana. It makes more sense for this body to legalize it and set up a system of regulation and taxation at the same time instead of waiting until after the people vote. LB634 includes provisions that much of the revenue would go for property tax relief, the tax people complain about the most. For all of these--

DeBOER: Mr. Nigro--

JOE NIGRO: --reasons, I urge the committee to merge these bills and advance them. Thank you.

DeBOER: All right, thank you. Are there questions from the committee for Mr. Nigro? Senator DeKay.

DeKAY: Thank you. Thank you, sir. Can you expound a little bit why-- when you say that our tobacco is more harmful than what marijuana is?

JOE NIGRO: Well, it's obviously-- I mean, the addiction rate is much, much higher. But, I mean, when you look at the numbers of Americans who suffer from cancer and other diseases related to smoking/emphysema, that would be far greater than the number of people who are harmed by addiction to marijuana.

DeKAY: With that, why would it be any more harmful when you're still inhaling the same type of smoke into your lungs and stuff? Wouldn't that be just as detrimental to lung cancer as what tobacco would be?

JOE NIGRO: Well, I think the difference is that people who are using marijuana don't use it at the same rate that people smoke cigarettes. I mean-- you know, I mean, people-- it's not uncommon for somebody who's using cigarettes to smoke a pack a day. People aren't going to smoke 20 joints a day. That's just not-- that doesn't happen.

DeKAY: OK. Thank you.

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JOE NIGRO: You're welcome.

DeBOER: Are there any other questions for this testifier? I do not see any. Thank you so much for being here.

JOE NIGRO: Thank you.

DeBOER: We'll take our next proponent testifier.

SPIKE EICKHOLT: Good afternoon, Vice Chair DeBoer, members of the committee. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t. I'm appearing on behalf of the ACLU of Nebraska and the Nebraska Criminal Defense Attorneys Association in support of both LB22 and LB634. I want to thank both senators for introducing this bill. You've got a copy of my written testimony. I'm not going to read from that. You've also got a copy of-- one is a report that the ACLU of Nebraska issued in 2020. I think Mr. Nigro quoted from some of those findings, specifically that in Nebraska, black people are three times more likely to be arrested and cited with a marijuana charge than white folks. And then also attached to that article is a news article that kind of talked about the-- sort of the current disparity of treat-- charging in Lancaster County for simple possession of marijuana that I wanted to kind of talk about because it's something that no one's really mentioned. When this state provided for industrial hemp, that created a shift in the law on the prosecution of marijuana. Right now, it used to be for years that for the state to charge somebody with marijuana, a police officer could simply show up to court and say, I've looked at that and I smelled it. That's marijuana. But with the creation of the industrial hemp exception to marijuana and cannabis, the state now has to show a certain THC level in the marijuana itself. To, to Pat Condon's credit and to Lancaster County attorneys, they no longer charge simple possession of marijuana unless they actually get a test result that shows that. Unfortunately, that's not the same for our city attorney. They continue to charge simple possession of a infraction level of marijuana and that causes a disparate treatment of people within this jurisdiction and I just wanted to kind of put that on the record. Both these bills are good because they deal with addressing either outright decriminalization of marijuana or in the instance of LB634, some sort of regulatory scheme to provide for some sort of regulation instead of just outright criminalization of marijuana. Both of these are good. I just want to say one thing that no one has mentioned before-- and maybe somebody mentioned it this morning when you heard the medical marijuana bill and Senator Wayne alluded to this before. Whether you like marijuana or not, at some

point, the people-- there's moneyed interests that want to legalize marijuana throughout the country. They can fund petition drives. They can fund ballot initiatives and referendum questions and they can eventually get something that's going to get on the ballot and they're not going to be able to have the courts strike it anymore. And at that point, the polls show consistently that people in the state want cannabis legal in some form. You may not like the forms of these bills, but ultimately what might happen is that voters are just going to approve something that you really don't like and then you're going to be stuck with it. Just like now you've got a couple of bills or try to roll back what happened with minimum wage, just like the gambling the year-- session before. Just like minimum wage in 2014 and just like-- oh, there's something else, I can't remember what it was that the voters approved that this Legislature has just been forced to deal with. That might be done to you as well when it comes to cannabis. And I don't see that as a threat. I'm just putting it out there. We all know it's going to happen. They were close to having on the ballot just a couple of years ago. And I'll answer any questions if anyone has any.

DeBOER: Are there any questions from the committee? I have a question for you.

SPIKE EICKHOLT: Sure.

DeBOER: If the state decriminalizes marijuana, could it then be charged within our jurisdiction as a federal crime or is there a federal crime of marijuana possession?

SPIKE EICKHOLT: I think there still is a federal crime because you'll probably hear the opponents say that it's not been decriminalized at the federal level. I'll tell you just anecdotally, the federal authorities here in Nebraska rarely charge possession of marijuana or delivery of marijuana cases. When I first started doing criminal offense, sometimes if you had somebody who would be caught on the interstate or something with just several hundred pounds of marijuana, sometimes those cases would go to federal. But that hasn't happened, at least I have not heard directly. Going to federal means that the federal government picks up the charges. I've not heard that happen at all. But they, they technically still could, I suppose. And, and to expound a bit, I suppose it's possible. You know, you see all these CBD shops. I don't admittedly know what authority they're able to run these things now. I suppose at some point, some authority could try to somehow charge folks for doing that. I don't know.

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DeBOER: And you said that I think the Lancaster County Attorney does not charge simple possession anymore.

SPIKE EICKHOLT: That's right. Generally speaking, their policy is-- and I think in the article, it actually-- Pat Condon is quoted and I think they take it from a practical-- and I can't speak for him and he certainly wouldn't like me to. But I think from a practical and perhaps a somewhat ethical position that they have, that is possession of marijuana, first offense, even second offenses and an infraction level, you're just going to get a fine. You're not going to get an attorney appointed to you because you're not looking at jail unless your family hires one. They're not going to know perhaps that they have a defense, if you will. But yes, you were found with some cannabis, but they don't have a lab report to show that it's got more than 0.03 percent of THC in it. So Pat Condon's office, I think he's kind of quoted as saying essentially is that they're not going to charge those. That's just not right. They don't have a lab report. They're not going to pay for these \$100 or two-- I think it's \$300, \$400, \$400 fine level of crimes to send off for a lab report to the state lab and wait several weeks to come back for it. They're just not going to do that. The city attorney continues to charge cases as if nothing is different.

DeBOER: That was actually my next question because when I was a senior certified law student here in Lincoln, I worked in the criminal clinic, which was the prosecution side, and we charged a lot of possession of marijuana.

SPIKE EICKHOLT: Right.

DeBOER: And it was a \$100 fine then.

SPIKE EICKHOLT: Right.

DeBOER: I'm kind of aging myself. What is it now, do you think?

SPIKE EICKHOLT: For, for-- well, if I remember right--

DeBOER: Infraction?

SPIKE EICKHOLT: --don't want to get corrected-- for possession of marijuana, first offense infraction is \$300 fine. Second offense is \$400 fine, zero to five days jail, and third offense is \$500 fine, zero to seven days jail.

DeBOER: So if you have a \$300 fine, ostensibly somebody who has enough money can pay it. They pay it like a speeding ticket.

SPIKE EICKHOLT: Right.

DeBOER: It's done, whatever. If they don't have enough money, what happens to them?

SPIKE EICKHOLT: Well, you're generally not arrested for the crime itself because if it's an infraction level, you're going to be cited and then released. So you go to court and you plead-- judge, I'll plead guilty, \$300 fine. OK, I want to do a timed payment plan. I can pay the rest of it in six weeks time. And they don't pay in six weeks time, there's a date that's entered where they either promise to pay by that date or appear and explain why they didn't pay and ask for more time almost always happen. They won't show up-- if they don't have the money, they won't show up for the pay to appear date. Then they'll be arrested on that warrant and then many times, they'll just opt, when they get arrested and jailed, to simply sit out that fine. We have this statutory fiction that you earn sort of \$150 a day sitting in jail that could be applied towards fines and court costs and so then you'll-- is not uncommon for people to sit in the jail for a day or two just to satisfy that debt.

DeBOER: So they'll sit in jail to pay off this infraction--

SPIKE EICKHOLT: Right.

DeBOER: --because they can't afford to do it if they don't have the money?

SPIKE EICKHOLT: That can happen, yeah. We did-- you may remember that this committee and the Legislature did change the law to provide for an option where people could pay a portion of it or do community service as an option so sometimes judges will do that. But there still is the option, if you don't do any of those things, the state is eventually going to have you arrested in order to deal with it somehow.

DeBOER: And in the meantime, we have to go through-- because I don't know if they're still having, you know, free legal help of senior certified law students who are supervised still by an attorney. But in the meantime, they have sort of several steps to get through the bench warrant and all of the--

SPIKE EICKHOLT: Right.

DeBOER: --different things there? OK. Thank you.

SPIKE EICKHOLT: Thank you.

DeBOER: Any other questions from the committee? All right, thank you. Next proponent. Anybody else here to testify in favor of the bill? Then we'll go to the first opponent. Welcome.

JOHN BOLDUC: It's me again. Good afternoon, Vice Chair DeBoer, members of the Judiciary Committee. My name is Colonel John Bolduc, J-o-h-n B-o-l-d-u-c, superintendent, Nebraska State Patrol. I'm here today on behalf of the State Patrol to oppose LB22 and LB634. My testimony is limited to LB22. This removes all legal consequences for the possession or distribution of any amount of marijuana or marijuana products. As a career law enforcement officer with 36 years of experience, I'm unfortunately all too familiar with the unintended consequences of legalizing or decriminalizing any form of marijuana. I want to focus on the harm that Nebraskans will experience as a result of LB22. Unique to this bill is a dangerous blanket decriminalization of marijuana without any restrictions regarding even a minimum age for possession, location of use or amounts. While such restrictions would not eliminate the dangers of marijuana, it is worth noting that there is no other federally controlled substance for which Nebraskan-- Nebraska fails to maintain restrictions regarding its use. This includes drugs ranging from Tylenol with codeine to Ativan. Even legend drugs are regulated with very specific requirements for the prescriptions. Nebraskans may not even keep prescription drugs in containers other than the originals. Yet under LB22, marijuana is simply decriminalized. Such decriminalization may result in a flood of federally controlled substances with no accepted medical use onto Nebraska streets without any ability to govern to-- without the ability of the state to protect innocent Nebraskans from the ill effects. We know that marijuana affects a user's central nervous system and greatly impairs the ability to operate a motor vehicle and perform other complex tasks. Marijuana drug-driving offenses are notoriously difficult to prove, as science has provided no established safe level of marijuana for operating a motor vehicle. The absence of a THC cut-off amount for driving fails to protect innocent motorists from the dangers posed by marijuana users behind the wheel of a car. In 2021, Colorado had 162 cannabis-involved fatalities with drivers who tested positive for THC. That is 138 percent increase since legalization in 2013. The danger posed by the decriminalization of

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marijuana will be felt by all Nebraskans, from children who will be able to access the drug to innocent drivers on our roads. I'd like to thank you for the opportunity to testify. I'd be happy to answer any questions you might have.

DeBOER: Thank you very much. Are there any questions? I have a couple for you.

JOHN BOLDUC: Vice Chair.

DeBOER: So first, I just want to clarify that you're against both bills.

JOHN BOLDUC: That's correct.

DeBOER: You're in opposition to both bills.

JOHN BOLDUC: That is correct.

DeBOER: LB22 has no driving restrictions. I, I actually haven't read them enough to know if LB634 does.

JOHN BOLDUC: There's, there's no minimum, like, percentage of THC in the bloodstream, any of those things.

DeBOER: OK. And this is just a question that I have. I don't know the answer to, maybe you do. I'm sure you do. Are there restrictions on other drugs like opioids or things like that with driving?

JOHN BOLDUC: There are. But what we have to prove-- because every drug impacts the body differently, we have to prove impairment. That's where the drug recognition expert training comes in. So what we're seeing-- what we have to demonstrate for the court is that the person was impaired and that's through a variety of techniques that we have on the roadside or through a blood test that typically shows a combination, alcohol and drugs. But again, we have to demonstrate impairment. In alcohol, of course you know that .08 or more is considered impairment legally. That's measurable, easily measured. It's much more difficult for drugs, including marijuana.

DeBOER: So if there are other drugs and someone demonstrates impairment, I assume through field sobriety tests and the like, then you're able to prosecute it regardless of whether they've met some standard percentage or level in the blood or something like that?

JOHN BOLDUC: That's correct, Senator. Of course, we would effect an arrest on probable cause. That's up to the prosecutor to prove it in a case.

DeBOER: Yes, sorry. I got sloppy there. So from your perspective, is marijuana demonstrably different than other drugs for which you would have to sort of use these field sobriety tests for?

JOHN BOLDUC: It is. Now, in all fairness, I'm not a drug recognition expert, but I do employ many of them. And during that training, they are looking for different physic-- physiological symptoms. You know, are the pupils dilated? Are they constricted? There's blood pressure. There's certain behaviors that they exhibit depending on the type of drug that they're under the influence of. Meth is much different than marijuana, much different than opioids.

DeBOER: Sure. So would you be able to develop a system for identifying impairment under marijuana the same way that you've done it for other drugs? That's what I'm trying to get at.

JOHN BOLDUC: Sure. You know, what would be great is if there was a system, a reliable scientific method to determine the level of impairment of marijuana like we have with alcohol. That doesn't exist yet.

DeBOER: Is there the-- that reliable system for opioids, for example?

JOHN BOLDUC: No. Again, we have to rely on drug recognition expert, experts and, you know, blood tests. Unfortunately, most of those come, you know, after the fact, after there's been an accident, an arrest, even a fatality, things like that.

DeBOER: So I'm just-- I really just want to know is there a difference, then, between marijuana and other drugs for purposes of determining whether or not you can determine on the roadside whether someone has had an impairable-- an impairment because of the, the drug?

JOHN BOLDUC: That, that's a great question, Senator. Again, when the drug recognition, recognition experts are evaluating the person, they're trying to determine are they impaired to the point that they shouldn't be operating a motor vehicle, OK? Then we have to prove that. They're not going to be able to differentiate unless they have an admission or some other evidence as there--

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DeBOER: Sure.

JOHN BOLDUC: --there's drugs in the car. Like, is this-- is their central nervous system depressed because of opioids, opioids or is it depressed because they've been consuming--

DeBOER: Sure.

JOHN BOLDUC: --marijuana and things like that?

DeBOER: So the objection then to LB22 and LB634 about not having a standardized way to identify whether someone's impaired because of drug use for the purposes of driving, wouldn't that apply to all sorts of other legal drugs like prescription drugs and things like that?

JOHN BOLDUC: I want to make sure I understand your question, Senator.

DeBOER: Yeah.

JOHN BOLDUC: So, you know, we certainly don't want people operating motor vehicles or any machinery under any drugs.

DeBOER: Sure.

JOHN BOLDUC: OK? They're difficult to prove, difficult to detect. If we legalize marijuana, just a blanket legalization, which these bills do, then we have much more widespread incidents of people operating machinery, including motor vehicles, under the influence. It's been proven by other states that have gone down this road before us.

DeBOER: So I guess then you're saying that other con-- other substances, other drugs, opioids, etcetera, are controlled in some manner when they're done and that limits the amount that you see around-- and would limit the problems from having no very accurate way of determining.

JOHN BOLDUC: I guess in a way, Senator, I would agree with that. But what we're talking about is the accessibility--

DeBOER: That.

JOHN BOLDUC: --right? We know that the market has been flooded with fentanyl, for example, artificial pills, in powder form, disguises as other things. As that has permeated the country, we're seeing a great deal of impairment as a result of that and of course, some tragedies

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as a result. You increase the supply and the availability of marijuana through initiatives like this, you're going to see more crashes, more fatal crashes, those kind of things.

DeBOER: Just a numbers game.

JOHN BOLDUC: Yes.

DeBOER: Got it. OK. Are there other questions?

GEIST: I do have one.

DeBOER: Oh, yes, Senator Geist.

GEIST: And I wasn't here this morning. I hope I'm not beating a dead horse asking this question, but I wonder if you would respond on your experience with the black market.

JOHN BOLDUC: Yes, Senator, thank you. We did cover that ad nauseum this morning, but I'll be happy--

GEIST: Did you? Sorry.

JOHN BOLDUC: --to talk through that again. So the black market is alive and well in states that have legal marijuana and in states that have illegal marijuana. I believe one of the testifiers suggested that it's easy to access and it's affordable. That's true. I worked in California for several years, both when it was only a medical marijuana state and then actually right when I left, it became fully legalized. What we saw there is diversion from legitimate sources to the black market. And then, of course, my responsibility was the maritime border. We were literally seizing marijuana by the metric ton on a weekly basis that wasn't destined for the medical marijuana market in California or anywhere else. So the black market will undercut the legitimate market for marijuana and other drugs. It's not taxed. It's not regulated. There's no quality control. You're going to have somebody entrepreneurial who is going to come in and undercut legitimate markets, as they do today in states like California and Colorado.

GEIST: OK. I won't, I won't continue that then. Thank you for your explanation.

JOHN BOLDUC: Great question, Senator.

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GEIST: I appreciate it.

DeBOER: Thank you. Senator DeKay.

DeKAY: Is there a-- like if marijuana was legalized, is there a way to test for the amount of THC in a system if a car is pulled over for--

JOHN BOLDUC: Thank you for the question, Senator. Right now, the answer is no. I mean, it can be done through a blood test, but that's not, that's not something we're equipped to do on the roadside.

DeKAY: Well, I mean-- so, like, the gist of my questions are, you know, like with alcohol impairment for a DWI, it's what, .08. I was just wondering where-- if it was legal, where they would be-- their driving would be impaired enough where you-- they can be-- a person could be arrested for overindulging.

JOHN BOLDUC: That's a great question, Senator. So right now, there is not, like, a PBT. Like, you might have seen somebody using a roadside breathalyzer. We don't have a device like that for marijuana yet. I know there's some companies who are working on that. If that is developed and it's proven effective, it would be a great tool for law enforcement to help determine if someone is impaired. If someone is impaired by marijuana or other drugs, it can be very difficult to detect on the roadside. Unfortunately, we often find it after somebody's been involved in a crash or some other tragedy.

DeKAY: Thank you.

JOHN BOLDUC: Senator.

DeBOER: Thank you. Other questions? So let me ask you this: is, is there a bigger-- so I've been hearing a lot about fentanyl and other things getting into something else that somebody doesn't realize is fentanyl. Is there a bigger problem with that in states where everything's illegal, you have, you know, no legal marijuana dispensaries, whatever and then there would be if it's entirely black market? Do you see what I'm saying? Like, is there a bigger problem of, like, fake marijuana, which is actually fentanyl in places where it's not legal versus legal?

JOHN BOLDUC: Thanks for the question, Senator. I really don't know that I can answer that intelligently. But I can say this: the folks who are utilizing the black market, whether it be fentanyl, whether it be marijuana, other drugs, there is a great market in addiction and

they are trying to get more people addicted so that their business can thrive. That's, that's the essence of the fentanyl market. Why would somebody put fentanyl in marijuana other than the fact that it's highly addictive and they-- you know, they, they need that addiction. They thrive on that for their business.

DeBOER: So would regulating it, making it legal, regulating it, all that sort of thing, would that have any effect on limiting the amount of-- that, you know, we're going to put this in here to get you addicted that would happen?

JOHN BOLDUC: You know-- thanks, Senator. That-- you know, that's-- it would be speculative on my part. All I can say is the states that have gone down this road before are still experiencing a thriving black market. The whole fentanyl laced in everything is still pretty new unfortunately and I just don't think there's enough data out there to make an intelligent, you know, observation on that.

DeBOER: Well, thank you for trying to-- that's something I think we should be thinking about too so thank you for trying to, to think through that with me. I guess I'll make sure my committee-- the committee doesn't have any other questions. All right. Thank you very much.

JOHN BOLDUC: Thank you, Vice Chair.

DeBOER: Next opponent.

ROGER DONOVICK: Good afternoon, Chairman Wayne and Vice Chair DeBoer and members of the Judiciary Committee. My name is Dr. Roger Donovanick. I am the executive medical officer within the Department of Health and Human Services and I'm a board-certified psychiatrist. I'm here to testify in opposition to LB22 and LB634. As DHHS has previously testified, increasing accessibility of marijuana for any purpose poses a risk to the health and safety of Nebraska residents. At this time, marijuana is not approved by the Food and Drug Administration for any medical uses and is classified by the Federal Drug Enforcement Administration as a schedule I controlled substance. Substances in schedule I are listed as highly addictive and have no currently accepted medical use. Decriminalizing the use and possession of a schedule I drug does not protect the health and safety interests of Nebraskans. In 2017, the National Academy of Sciences reviewed the available research on cannabis use and noted the following negative impacts: substantial evidence exists for the-- that smoking cannabis

long term can increase episodes of chronic bronchitis and other respiratory symptoms. Cannabis use is also associated with increased risk for schizophrenia and other forms of psychosis, as well as motor vehicle accidents. Prenatal exposure to cannabis is associated with lower birth weights. In adolescents, acute cannabis use can impair learning, memory and attention and there's evidence of an association between cannabis use and impaired academic achievement and education outcomes. Heavy cannabis users are more likely to report thoughts of suicide than non-users. And in individuals with bipolar disorder, nearly daily cannabis users show increased symptoms of the disorder than non-users. Additionally, another study in California showed an increase in emergency department visits due to increased cannabis use, particularly among older adults. The non-- the number of cannabis-related emergency department visits increased from 366 to 12,167 visits over 14 years spanned between 2005 and 2019. These studies show the increased use of marijuana associated with legalization and commercialization will likely lead to increased emergency department visits statewide, which will put even more strain on our already strained healthcare systems. The role of DHHS Division of Public Health is to protect the health and safety of Nebraskans. Participating in these two acts-- bills to ensure the want to ensure the cultivation, manufacture, distribution and sales of cannabis in the state, which would be conducted in accordance with the bill--

DeBOER: I'm going to--

ROGER DONOVICK: --simply promotes the use of a nonapproved drug.

DeBOER: I'm going to stop you just for a second because your red light.

ROGER DONOVICK: Yes.

DeBOER: And then I'll ask you to continue.

ROGER DONOVICK: OK.

DeBOER: So would you continue?

ROGER DONOVICK: Yes. Sorry about that. And the other bill which moves to decriminalize the use will essentially increase the use-- potential use of this drug within the state. In summary, marijuana remains listed in, in a schedule I on Drug Enforcement Administration schedule of controlled substances with no approved medical uses. Increased usage may lead to increased negative health impacts and a greater

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strain on our health systems within the state. Legalization and commercialization of cannabis puts the health and safety of Nebraskans at risk. We respectfully request that the Judiciary Committee not advance this legislation. Thank you for the opportunity to testify today and I'd be happy to answer any questions.

DeBOER: Are there any questions for this testifier? I'll ask you-- in the study that showed that there were more emergency room visits, do you know what the nature of those emergency room visits was? Did it say in the literature?

ROGER DONOVICK: I, I would have to get the paper and send you the paper to, to look at the exact breakdown, but a lot of it is for psychiatric symptoms and things like that, psychosis.

DeBOER: OK. So your recollection at the time-- I mean-- and I would love to see that--

ROGER DONOVICK: Yep.

DeBOER: --so please send that to me--

ROGER DONOVICK: OK.

DeBOER: --would be that it was mainly or largely at least mental health issues.

ROGER DONOVICK: Yeah, mental health issues. Cannabis use has also been linked to strokes, cardiac events and as we know, motor vehicle accidents and other sorts of injuries.

DeBOER: OK. I'd, I'd love to see that study.

ROGER DONOVICK: OK.

DeBOER: Thank you so much. Other questions? I do not see any. Thank you.

ROGER DONOVICK: Thank you.

DeBOER: Next opening testifier. Welcome.

LORELLE MUETING: Thank you. Good afternoon, Vice Chair DeBoer and members of the Judiciary Committee. My name is Lorelle Mueeting. It's L-o-r-e-l-l-e, last name, M-u-e-t-i-n-g. I'm the prevention director at Heartland Family Service and I'm here to testify in opposition to

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LB22 and vote-- and LB3-- LB634. So at-- as the prevention director, our team's goal is to prevent people from having problems with alcohol and other drugs. I have many concerns with LB634. Sound public policy should be based on science and research, with public safety at the forefront of policy, not based simply on what people want. This bill is not good public policy because it puts public safety at risk. Just to be clear, we're not talking about the marijuana of the 1930s or the 1970s or even the 2000s. The marijuana that this legislation would bring to our state is highly potent and highly addictive. In other commercialized states, edibles, vapes and concentrates make up 95 percent of the market. And these are not things that are grown naturally so when you hear people talk about legalizing a plant, that's not what these bills would do. Sure, they would legalize the plant, but that's not what the products that people are going to be selling with these bills. It's clear by legalizing marijuana and THC, this will increase access. When we increase access to a substance, people are going to use it more, not less. When people use it more, we will inevitably see more impairment problems that affect more than just the person using. Marijuana is a psychoactive substance, which means it causes a high. And when under the influence of THC, a person does not have the ability to make good decisions. This is why this bill is a public safety concern because when people use THC, other problems happen that don't just affect the person using, like car crashes, fatalities from car crashes, increased crime, child abuse and neglect, social problems, employment problems, E.R. visits, and the list goes on. So I would please ask you to vote no on this bill to protect the health and safety of all Nebraskans. And in addition for LB22, this-- there is no need for this bill that's defined as a decriminalization bill. But really, it would just outright legalize marijuana and allow for the commercialization of it, including edible products. When a for-profit industry that's based on addiction is given a foothold in the state, it doesn't take very long to see the problems that come with it. So I just want you to understand that there are many Nebraskans who do not want to legalize marijuana for commercialization or recreational use or whatever you want to call it. Many of us want to live in a state we are proud to call home that's free from all the problems that come from commercialized marijuana. I'd be happy to entertain any questions.

DeBOER: Thank you. Are there any questions from the committee? I do not see any. Thank you.

LORELLE MUETING: Thank you.

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DeBOER: Next opponent testifier.

COREY O'BRIEN: Good afternoon. Vice Chair DeBoer, members of the committee, my name is Corey O'Brien. That's C-o-r-e-y O'-B-r-i-e-n. I am chief prosecutor in Nebraska Attorney General's Office. Today I appear on behalf of Attorney General Mike Hilgers and the Nebraska Attorney General's Office in opposition to both LB22 and LB634. As the Attorney General, Mike Hilgers, set forth this morning, the legalization of marijuana is wrong for Nebraska and is unconstitutional because marijuana, the highly concentrated and potent THC products that would be legalized under these bills as of this very moment are listed as a schedule I drug, both under Nebraska law, Nebraska law, but more importantly under the federal drug control schedules. And any bill that would conflict with the law-- with that law, federal law in particular, violates the Supremacy Clause. Because the Attorney General swore an obligation to uphold the United States Constitution and Nebraska law enforcement's ability to have a similar duty to enforce federal law, the Nebraska Attorney General's Office is opposed to LB22 and LB634. I'd certainly be willing to answer any questions. I did want to answer or respond to the question that Senator Geist posed to Colonel Bolduc. I have sat in a number of proffers, interviews with high-level cartel members over the years. There is zero chance that they're going to evaporate or disappear if we legalize marijuana. In fact, my colleagues in Colorado that I talk to quite frequently says that their market, their black market has expanded simply for the fact that marijuana is so profitable to the cartels and the consumer base or customer base has expanded as a result of legalization. So I-- that is one fear that the Attorney General's Office says is that the black market will actually expand and not contract, as some of the advocates have predicted.

GEIST: Thank you.

DeBOER: Are there any questions? I have a question about the Supremacy Clause that is going to show my ignorance-- remembering this from law school. If we in Nebraska simply made no statement about any of the federal drugs, we just didn't have a law one way or another about it, would that violate the Supremacy Clause?

COREY O'BRIEN: If we were not to have laws that banned any drugs--

DeBOER: We didn't make them legal. We just also didn't make them illegal.

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COREY O'BRIEN: No because the federal law would take precedence over-- I mean, it would be the law of the land in the state of Nebraska.

DeBOER: And then if we did not have a state crime for something that the federal law made illegal, let's say--

COREY O'BRIEN: There's several.

DeBOER: Yeah, OK. So we don't have one. We couldn't prosecute someone for the federal law from the state level, is that right?

COREY O'BRIEN: That's true.

DeBOER: OK.

COREY O'BRIEN: But I also have the obligation to enforce federal law.

DeBOER: Yeah, so that's what I'm trying to, to tease out. So if, if we don't have a state law and there's-- somebody is laughing at me-- we don't have a state law, but there is a federal law and we can't enforce something because there's no state law on subject, then you're in the situation where you have to enforce a federal law and yet you don't have a state law to enforce it by. Would that go to the federal system and the feds would have to enforce it somehow?

COREY O'BRIEN: Correct. I mean, for instance, Nebraska doesn't have a statute that currently prohibits felons from possessing ammunition. Those come across my desk every day and law enforcement officers encounter that every day. And so those cases then get referred to the federal prosecutors for their prosecution for those crimes--

DeBOER: So if we just--

COREY O'BRIEN: --either by us or by federal law or by our state or local law enforcement.

DeBOER: If we just didn't have a law against marijuana, then arguably you'd have to just refer it to the feds.

COREY O'BRIEN: Arguably, yes.

DeBOER: So--

COREY O'BRIEN: There's no law for me to enforce it, it's state court.

DeBOER: Right. So with respect to the Supremacy Clause between-- in criminal law-- I can do this stuff when it comes to railroads, but never doing criminal law. It's a lot harder for me to get my mind around it. So with respect to criminal law, if we just don't have anything in the area because normally the federal law takes over the field, but it's this weird system with criminal law where the federal law exists and the state law exists kind of at the same time. And although we would defer, based on the Supremacy Clause, to the federal law, if we don't have any way to prosecute it through the state system, then arguably, if the feds decided to just not do anything about it, we couldn't do anything about them not doing anything about it, right?

COREY O'BRIEN: The Supremacy Clause, I mean, its chief purpose is if there's a conflict between one set of laws, be it the state law or the federal law, they conflict with one another, the highest law of the land, federal law, and it takes precedence.

DeBOER: So if we just didn't have anything, we wouldn't have a mechanism for prosecuting it, but we wouldn't be in violation of the Supremacy Clause because we just don't have a mechanism for prosecuting it. We're not necessarily saying it's legal. We just don't have a mechanism for prosecuting it. Would that be right?

COREY O'BRIEN: Again, if there's no law for me to prosecute somebody in federal court-- or I'm sorry, in state court, then there's nothing I can do.

DeBOER: So then you would just pass it on to the federal.

COREY O'BRIEN: That's correct.

DeBOER: All right. Thank you. That was very helpful. Any other questions? Thank you.

COREY O'BRIEN: Thank you.

DeBOER: Next opponent.

MAGGIE BALLARD: Can I pass out the LB22 and LB634? Hello again, Senator DeBoer and members of the Judiciary Committee. My name is Maggie Ballard, M-a-g-g-i-e B-a-l-l-a-r-d, and I am once again here on behalf of Heartland Family Service in opposition of LB634 and LB22. I want to mention that Heartland has had a great working relationship with Senator McKinney and we support a lot of the things that Senator

Wayne and Senator McKinney put forward. And I do believe that their hearts are in the right places when introducing these bills. And in some ways, I would say-- I'm going to keep my testimony specifically to LB634, if that's fine, if you want to follow along. And I would say that in some ways, this bill could work well in a perfect world. Unfortunately, though, the outcome of passing LB634 would result in welcoming another industry into our state. I want to highlight some of the circumstances that Senator McKinney brought up when introducing LB634. And people can argue over whether it was done on purpose or not, but we know that the war on drugs has disproportionately affected and harmed people of color. The crack cocaine epidemic disparities and sentencing made that obvious. Unfortunately, we see that disparities remain in sentencing around alcohol despite it being legal. Changing the legal status of a drug does not undo systemic racism. Alcohol is legal and we see that while African-American people are less likely than non-Hispanic white people to drink and binge drink, they are more likely to experience the harms from alcohol consumption. Across our nation, black, indigenous and people of color are arrested at disproportionately higher rates for alcohol-related offenses. So while all these things are true, unfortunately this bill would not reduce the prison population, prevent police from enforcing the law with prejudice or prevent the courts from sentencing with prejudice. Giving a license to a business owner to sell marijuana in the communities that have been hurt the most and calling it an equity clause does not solve the problem either. Again, looking at alcohol as an example, liquor stores selling lottery tickets and cigarettes overwhelm communities of color so that people live closer to a store that sells liquor, tobacco and lottery tickets than stores that sell fresh vegetables. The last thing I want to bring up, and I'm kind of surprised I haven't heard it talked about more today-- if I run out of time, I hope you'll ask some questions about it. Delta-8, Delta-10, THCA and more derivatives of the cannabis plant have been and continue to be sold here in Nebraska as soon as the hemp law passed in 2018. We have an industry here and we need to start thinking of ways to regulate them before we consider bringing in Delta-9 THC. So for this reason, I respectfully ask you to indefinitely postpone LB634. I also would like to go on record as saying that when it comes to the decriminalization bill, LB22, I think reducing the fine from \$300 would be something that we would support.

DeBOER: All right. Thank you for your testimony. Any questions from the committee? Don't see any today.

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MAGGIE BALLARD: Can I answer a couple questions I heard asked someone else?

DeBOER: Typically, we don't do that.

MAGGIE BALLARD: It did--

DeBOER: But we'll let Senator DeKay ask you a question.

DeKAY: What, what were the questions you heard that you would like to answer?

MAGGIE BALLARD: I would be happy-- thank you for your question, Senator DeKay. When Senator DeBoer asked about E.R. visits in other states, I was kind of surprised to hear the quote be about older adults because what we come across is much more data around, like, Poison Control Center calls and E.R. visits for children that have accidentally ingested edibles, especially from their parents. Another common condition that people are being seen for in the E.R. is-- and it's really hard for me to pronounce. I'm going to butcher it-- hyperemesis gravidarum. So it's characterized by a lot of vomiting and nausea and it is common in very, very, very heavy cannabis consumers. And usually the only relief that people will get is being under a shower and letting the steam penetrate them. So it's kind of a mysterious thing and it's not-- there's not exactly any rhyme or reason why some heavy cannabis users get it more often than others. But overwhelmingly, and I've heard this from some of our clients at Heartland Family Service, when people are oftentimes going to the hospital because of accidentally ingesting, it's because, it's because it's so much more powerful than they thought it was going to be. We know if I were to smoke marijuana, the high I'm going to get from it is going to hit me pretty much right away. Whereas if I eat something like an edible, it's going to take anywhere from 45 minutes all the way up to 4 hours before that high actually sets in. So if I don't realize that and I follow the directions on the package, I'm eating one-tenth of a brownie, I wait 20, 30 minutes and I don't feel anything, then what am I going to do? I'm going to continue eating more. So then by the time that high actually sets in, there's an increased chance of me having more of that sick feeling that I wouldn't have gotten if I had followed the original directions.

DeBOER: All right. Any other questions? I don't see any. Next opponent testifier.

KATHY WILMOT: Chair doesn't move as easy as I thought. My name is Kathy Wilmot, K-a-t-h-y W-i-l-m-o-t. I want to clarify that I'm speaking on my own behalf and also on behalf of Nebraska Eagle Forum. And I just am going to read you some quick things that I have found from looking at some states where this has been legalized and I'm here to testify in opposition to both bills. Just go through them quickly, it promotes-- the legalization promotes pro-legalizers. It gives promises, but those promises have never really materialized in the various states. And you heard many of the promises here today. The black market has actually increased, not decreased, and also more teens are becoming users in legalized states and they often then use more often and the chemicals or the product they use is stronger. Marijuana-related arrests do not decrease. The arrests are disproportionate to the races. Also, marijuana tax revenues are much lower than those that are normally promised and they don't come close to covering the costs that are actually-- we see from the harms that occur. Regulations are weak or nonexistent. Also, more law enforcement resources are needed to deal with marijuana after legalization. And some of the harms have also increased in legal states, use addiction is up. Teen addiction to marijuana is doubled from what it is for alcohol. Marijuana-related auto collisions and deaths are definitely up. The E.R. visits that you heard about, also the cardiac things that are reported at the E.R. Marijuana is the most common illicit drug identified in impaired drivers. The risk of motor vehicle collisions increases two fold. And I know in Colorado especially, they were really high after legalization. Teen suicides have increased and marijuana actions out in I know Colorado, some of the farmers have really had trouble in the rural areas because some of the farmers are raising it. Some do not wish to. Hemp spreads terribly. I know as living on a farm, I just didn't even like hemp being legalized because now we're fighting that all the time. But they get pressure of the cartels coming in that are pressuring people that are raising the marijuana to sell to them and it's causing a lot of difficulty between neighbors there. I have relatives in Oregon and Colorado and neighborhoods have absolutely gone to pot. People are living on the streets. So there's a lot of side things that begin to happen that I don't think we want here. And also, I would rather protect the youth and try to work with them.

DeBOER: All right, thank you for your testimony. Are there questions?

KATHY WILMOT: Thank you.

DeBOER: I don't see any right now. Next opponent.

MARY HILTON: Good afternoon, Judiciary Committee. My name is Mary Hilton, M-a-r-y H-i-l-t-o-n, and I am testifying on behalf of myself as a mom and a concerned citizen of Nebraska. I have many concerns about this bill which will create an atmosphere of drug use in Nebraska. First, LB634 creates a huge bureaucratic framework that will be expensive, yet the bill does not come with a fiscal note. After reading the bill, all 161 pages of it, I observed that the sponsor attempted to put in some safeguards from lessons learned by other states that have legalized. But after studying marijuana legalization consequences for the last six years, the facts dictate that marijuana cannot be controlled. There cannot be enough safeguards and it cannot be regulated, no matter the well intentions of policymakers. Our culture in Nebraska will be negatively affected with legalization. Once legalized, it is nearly impossible to keep marijuana dispensaries out of neighborhoods. Poor neighborhoods are hurt the most by legalization, yet this bill actually targets and rewards poverty-stricken individuals and areas of towns with incentives to own dispensaries. Now not only will there be a liquor shop at every corner, but also a marijuana dispensary. The experiences of third-world Central and South American countries is telling. Selling drugs doesn't make an area more prosperous or safe. And this bill does not allow a local political subdivision to opt out, yet there will be 150 such locations across the state of Nebraska. But really all that's need to know about this bill and its consequences can be summed up in Section 142 of the bill, the warning labels section. This is most honest part of the bill. The first warning label must state, warning: this product has intoxicating effects. There may be health risks associated with consumption of this product. The second: smoking is hazardous to your health. Third, using cannabis may be habit forming and addictive. And fourth, cannabis impairs concentration, coordination and judgment. These warning labels are true and factual. So let me explain-- and I have everything I'm saying sourced in your notes that I handed to you. Marijuana affects motor skills, memory and motivation. Executive function and decision-making is impaired by marijuana and marijuana affects social behavior. While overdose of THC doesn't usually kill an adult outright, it does-- it has killed babies whose mothers are users. And I will not go into the other things that you've already heard today. But marijuana has long been known to cause hallucinations and paranoia that can lead to violence and crime and it increases workplace accidents and increases crime where it's been legalized. Especially when cannabis is used in the teen years--

DeBOER: Ma'am, I'm sorry, I'm going to have to--

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MARY HILTON: OK.

DeBOER: But let me see if there's a question. I bet there will be. There we go. Senator Holdcroft.

HOLDCROFT: Would you like to finish your statement?

MARY HILTON: I would, thank you. So especially when cannabis is used in the teen years-- and teen use definitely does increase. That's what the statistics show. But the long-term effects are really troubling. Cannabis halts brain development even with one use. Cannabis-- adolescent cannabis use can lead to adult addiction, adult depression and adult mental-- medical-- mental illness. This is what the long-term medical studies show and there-- the sources of that are in my notes. Marijuana is harmful, addictive and it does kill. The Colorado Centennial report recently stated that 70 percent of drivers admit to driving high that are users and 20 percent admit to driving high every day and say that they believe that it makes them better drivers. Drugged driving with marijuana does kill. Marijuana kills in that it has led to suicide. Studies show that there is a seven-time increase in suicide attempts among teenager-- teenage marijuana users. Colorado Springs has experienced an epidemic of teenage use linked to marijuana use-- teenage suicide linked to marijuana use. So overall, marijuana predicts less success. Pot legalization hurts kids, families, neighborhoods, schools and cities and this is evident from California to Oregon to Colorado to Illinois and Florida. So I would encourage you to oppose both of these bills.

DeBOER: All right. Are there other questions? I do not see any. Thank you so much.

MARY HILTON: Thank you for your time.

DeBOER: Next opponent. Is there anyone here who would like to testify in opposition to the bill? I do not see any. Any neutral capacity?

BILL HAWKINS: Good afternoon and-- good afternoon, Chair-- Vice Chairman DeBoer and members of the Judiciary. My name is Bill Hawkins and I'm coming in as a neutral position on LB22. LB22 doesn't have a regulated system. I want to thank Senator Wayne and his staff, Senator McKinney and his staff for putting together a tremendous presentation on this cannabis issue. The cannabis issue here in the country is a big issue. You've heard from opposition. You've heard from proponents. In a neutral position with Senator Wayne's bill, there is no tax and

regulated system and there are no controls. And so-- even though that would be great, I could carry as much cannabis as I wanted. I could grow as much as I wanted and it would be a free for all. And that's not what cannabis users today want. You've heard of the sky is falling here, that teen use is up, everything is up, drug driving. Marijuana related is not marijuana caused. And I want to just explain that to you. One question Senator DeKay had was the difference between cigarettes and cannabis. Nicotine is a poison. It's an insecticide that has been used for decades, centuries. It will kill you. An extract of nicotine, if you drink it, will kill you. Cannabis is a medicinal herb that doesn't have a toxic level. And my-- both my parents died of lung cancer and so I know firsthand the devastating effects of nicotine and alcohol. So I encourage you to look at both these bills, but we need a tax and regulated system. The, the number of states-- New York, Missouri, Illinois, Maryland, all the eastern states are all legalizing cannabis. They're ending this war on drugs. So I encourage you to look at these bills and step up and accept the fact that cannabis use is here and it's time to tax and regulate it. I will say not as a threat, but the people's cannabis petition, all persons have the right to use all plants in the genus cannabis, is already filed and is ready to be circulated and it will be circulated and on the ballot. So I want to thank you for your time and I appreciate your interest in this subject.

DeBOER: OK, thank you. I did sort of lose track of which bills you've testified on and which you didn't.

BILL HAWKINS: I testified--

DeBOER: Typically, we do not allow someone to come up in a joint hearing in two different sections, so--

BILL HAWKINS: I certainly understand that and I did discuss that with Senator Wayne prior to this.

DeBOER: OK.

BILL HAWKINS: And I apologize if you did not get that--

DeBOER: Yeah, that's OK.

BILL HAWKINS: --but it is to separate, separate--

DeBOER: I get, I get it.

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BILL HAWKINS: --bills and--

DeBOER: We just, in the future, are going to have the policy, I think, of just coming from one place in a joint hearing.

BILL HAWKINS: Well, you know, to-- in addressing that, it is the people's right to testify on, on the bills and so I, I-- we--

DeBOER: I, I get it.

BILL HAWKINS: --we could discuss that further and, and--

DeBOER: I get it. We'll talk about it offline--

BILL HAWKINS: Yeah, certainly.

DeBOER: --OK?

BILL HAWKINS: Yeah, I appreciate that.

DeBOER: All right.

BILL HAWKINS: And I thank you for your time.

DeBOER: Yes. Let's have the next neutral testifier.

HOBERT RUPE: Good afternoon, Vice Chair DeBoer and members of the Judiciary Committee. Had to make sure I didn't say General Affairs there. I'm serving at different states. My name is Hobert Rupe, H-o-b-e-r-t R-u-p-e. I currently serve as executive director of the Nebraska Liquor Control Commission and I want to make it clear that on the underlying-- the main thrust of both these bills-- in fact, we have no position on, on LB22. On LB634, we're neutral. Where we want to bring up the attention is on the-- if they were to go forward is on the enactment. What this does is creates a whole nother regulatory body. We've been involved in monitoring this issue for almost 20 years, ever since the possibility of legalized recreational marijuana was brought up at the-- through the National, National Conference of Liquor Administrators, which I'm past president, has had-- has been monitoring these bills and keeping them discussed. And as you'll notice, what I'll call-- sort of call the original, the OG four, of those states, Colorado and California both created their own separate entities. Oregon and Washington rolled it into their duties of their liquor control commissions in both those states. And you see sort of about a 50/50 split of that. Some have rolled it into their existing

regulatory bodies and some created other ones. The last couple of years, in our legislative letter, we've said that it should be regulated, it should come to us only because we've actually been doing some groundwork. As some of you may or may not know, we are finally upgrading our, our 30-plus-year-old computer system. Should be going online, knock on wood, first-- second quarter of 2024. As part of the RFP for that, we specifically said, does your process have a cannabis component which could be added on to add a cost saving as opposed to building a brand new computer system? I looked at the fiscal note. I was a little shocked. For us to get a brand new, off-the-shelf licensing computer system, it's over \$3.5 million. So the idea of somebody being able to do it with \$800,000 from the OCIO's Office, I'd like to see what comes out. And since we're right in the guts of building a brand new, complete licensing and tax collection software. That's the big thing is tax collection. We already license people, we background people, we work with Patrol already. We tax-- we collect excise taxes. We collect in excess of \$38 million a year in excise tax currently. Our position would be, as Nebraskans are always normally trying to do things the most efficient way, instead of creating a whole nother level of bureaucracy, you might want to consider we forward this to-- turning this into the Nebraska Liquor Control Commission. Because if you read the statute, it parrots about 80 percent of it, how it's set up; no more than, you know, three commissioners, no more than two from any-- from the same congressional district, no more than two from the same political party. You can tell a lot of whoever drafted it was utilizing liquor-- the existing Liquor Control Act as their guidance. I see I've gone under the red. I'll be happy to answer any questions about my testimony or about any other way-- interesting issues of regulating products.

DeBOER: Thank you for your testimony. Are there any questions? I do not see any. Thank you so much for your work.

HOBERT RUPE: Thank you.

DeBOER: All right, next neutral testifier. Is there anyone else who would like to testify in the neutral capacity? I do not see any so we're going to first have Senator McKinney come up to close on LB634. But while he's walking up, I will tell you for the record, we've received 24 letters of support or four-- 24 letters for LB22 in support and 10 in opposition. And for LB634, we, we've received 18 letters; ten in support, seven in opposition, and one in the neutral position. All right, Senator McKinney.

McKINNEY: Thank you, Senator DeBoer. Thank you to those that came to testify for or against or neutral. I thought it was an interesting hearing, hearing overall. You know, I was thinking, you know, when prohibition ended and alcohol became legal, did-- and fast forward to present day, are bootleggers undercutting the legal market for the-- of the sale of alcohol? Although we still have bootleggers-- and I'm not arguing that if we legalize marijuana, it will eliminate the black market. But history is history and facts are facts. Bootleggers aren't undercutting Budweiser. It is just not happening. And also sound public policy should be passed to decrease barriers. Opponents that talk about public safety and everything else but forget to mention how laws and these laws around cannabis and marijuana have been used to terrorize communities. And, you know, honestly, if I felt like they really cared, they would come to the Legislature or work with senators to introduce bills to ban alcohol, ban tobacco and those type of things if you're-- if, if you really, truly, truly cared about people and public safety. And, you know, cartels, the issue about, oh, cartels are going to move in and did cartels move in when alcohol was legalized? And I personally feel like the black market only continues because we haven't legalized marijuana across the board. Because of that, you allow for a black market to exist. Then there was the comment that you legalize this, systematic racism won't, won't end. That is true because America has a long way and it's a lot of systems that we got to demolish as far as addressing the whole systemic, systemic racism thing. And it's not just with marijuana laws, it's a bunch of laws that we're got to get off the books and change. And then you talked about equity and those type of things. And honestly, the communities that you're saying that have been harmed and will be harmed further, I would also argue that because they haven't been able to profit off the sale of cannabis, they've been overpoliced and criminalized by these laws. No, they don't have the equity or the financial power to fight these cases. But if we legalize it and set up a tax structure, hopefully and once it passes, people that benefit off the most are those that have been most affected by it. And in doing so, they'll be able to fight these cases. But, you know, neither here or there. And then it's like this mention of caring about poor people and what's going to happen to poor people. Well, marijuana has been illegal my whole life and north Omaha has been poor my whole life. Don't use this argument against this bill to say I care about poor people because if you did, you would be fighting and fighting for changes to eliminate poverty and I don't think that's happening. I think ignorance and racism affect life outcomes, poor educational outcomes, poor housing and low economic input. And that comes from the

opposition of this bill. And you know, I used cannabis before in my life as a, as a teen, as an adult. I became a state senator, I have two college degrees, I'm in law school and I think my brain development is fine. And I'm open to the Liquor Control Commission regulating it. I'm-- I have no problem with that. We got these-- if you know how bill drafting went this session, details were sometimes missed in a lot of bills, but I'm open to working on an amendment to make it better. Thank you.

DeBOER: Thank you. Are there questions for Senator McKinney? I do not see any, Senator McKinney. That will bring us to LB22 and the closing by Senator Wayne.

WAYNE: Because I'm lazy, Justin Wayne. I, I won't say a whole lot, but the idea of the federal government-- waiting for the federal government, just that, that line of thinking, there are things we do as a state to-- that go up to the U.S. Supreme Court in which they reverse themselves. They do that because a state passed a law. So it would be like this the Supreme-- the Supremacy Clause and the law of the land, if that's the case, then the laws would never be overturned and found unconstitutional or ever challenged, especially at the federal level. We have a history. In fact, our country was founded on the history of states challenging the federal laws and taking them to the Supreme Court and making them rule on them. I mean, if that's the case, wait till the federal government-- wait for the federal government, then we wouldn't pass a lot of bills that we explicitly challenge the federal government all the time. So with that, I'll answer any questions.

DeBOER: Are there questions for Senator Wayne? Senator Wayne, I do have a question about the Supremacy Clause for you.

WAYNE: OK.

DeBOER: So if we said-- the Supremacy Clause, I think the negative Supremacy Clause only comes from the Commerce Clause. It's an interstate Commerce Clause, negative Supremacy Clause so that the-- if it's the occupy the field, the Commerce Clause, that only comes through-- occupy the field, negative Supremacy Clause only comes through the Commerce Clause. Is that your understanding?

WAYNE: Yes, the dormant Commerce Clause.

DeBOER: Dormant.

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WAYNE: We're going all the way back to the first year of law school.

DeBOER: I know. That's why you got negative instead of dormant because your since law school--

WAYNE: Yeah.

DeBOER: --shorter than mine.

WAYNE: Yes.

DeBOER: So the Supremacy Clause then doesn't apply to criminal law in the same way, right? So the Supremacy Clause would say if there's a state crime that somehow contradicts a federal crime, the federal crime would sort of trump. But we can make a law-- we can make something a crime that the feds don't have a crime, right?

WAYNE: Yes and, and oftentimes, we actually do that. If you look at our gun statute regarding prohibited person, 15 years ago, the federal authorities were picking up all of those cases. And it wasn't until we as a Legislature decided we're going to have a stiffer penalty than the feds that we actually-- now the feds don't even pick up them. They're at the state level. So just like the ammunition. There's no, there's no law in the state against a prohibited person having ammunition so the federal authorities would have to prosecute those cases and which they do. But if-- we can make laws contrary to federal government. The federal government is a separate body that has to enforce those laws, even if they're legal underneath our color of law. We do that all the time, actually.

DeBOER: So there's no common-law crimes. So we can make crimes. They can make crimes. It doesn't matter if they make crimes and we make crimes; they have to prosecute their crimes, we prosecute our crimes. If they don't match, then it just goes to the other group, is that right?

WAYNE: Correct.

DeBOER: So with respect to at least decriminalization of anything in Nebraska, there isn't a Supremacy Clause issue.

WAYNE: I don't think so.

DeBOER: All right. Thank you, Senator Wayne. Any other questions for Senator Wayne? I do not see any. That will end our hearings on LB22 and LB634 and end our hearings for the day. Thank you.