

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**DeBOER:** Welcome to the Judiciary Committee. My name is Wendy DeBoer. I am from Omaha and represent the 10th Legislative District. I serve as the vice chair of this committee. I'm helping our chair out today who had a dental procedure. So the committee will take up bills in the order that is posted. This public hearing is your opportunity to be part of the legislative process and to express your position on the proposed legislation before us. If you're planning to testify today, please fill out the green testifier sheets that are on the table at the back of the room. Be sure to print clearly and fill it out completely. When it is your turn to come forward to testify, give the testifier sheet to the page or to the committee clerk. If you do not wish to testify but would like to indicate your position on a bill, there are also yellow sign-in sheets back on the table for each bill. These sheets will be included as an exhibit to the-- in the official hearing record. When you come up to testify, please speak clearly into the microphone, and please tell us your first and last name, and please spell your first and last name to ensure that we get an accurate record. We will begin each hearing today with the introducer's opening statement, followed by the proponents of the bill, then opponents, and finally by anyone speaking in the neutral capacity. We will finish with a closing statement by the introducer if they wish to give one. We will be using a three-minute light system for all testifiers. When you begin your testimony, the light on the table will be green, when the yellow light comes on you have one minute remaining, and the red light indicates you need to wrap up your final thoughts and stop. Questions from the committee may follow. Also, committee members may come and go during the hearing. This has nothing to do with the importance of bills being heard, it is just the process-- part of the process as senators may have bills to introduce in other committees. A few final items to facilitate today's hearing. If you have handouts or copies of your testimony, please bring up at least 12 copies and give them to the page. Please silence or turn off your cell phones. Verbal outbursts or applause are not permitted in the hearing room. Such behavior may be cause for you to be asked to leave the hearing. Finally, committee procedures for all committees state that written position comments on a bill to be included in the record must be submitted by 8 a.m. the day of the hearing. The only acceptable method of submission is via the Legislature's website at [nebraskalegislature.gov](http://nebraskalegislature.gov). Written position letters will be included in the official hearing record, but only those testifying in person before the committee will be included on the committee statement. Also, you may submit a position comment for the record or testify in

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

person, but not both. I'll now have the committee members with us today introduce themselves, starting with our-- my left.

**HALLSTROM:** Thank you, Vice Chairman. Bob Hallstrom, Legislative District 1, representing Otoe, Johnson, Nemaha, Pawnee, and Richardson Counties in southeast Nebraska.

**STORM:** Good afternoon, everybody. Jared Storm, District 23, all of Saunders, most of Butler, and all of Colfax County.

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

**BOSN:** Carolyn Bosn, District 25, which is Southeast Lincoln, Lancaster County, including Bennett.

**McKINNEY:** Terrell McKinney, north Omaha, District 11.

**ROUNTREE:** Victor Rountree, District 3, Bellevue, Papillion.

**DeBOER:** Also assisting the committee today, to my left is our legal counsel, Tim Young. And to my far right is our committee clerk, Laurie Vollerts-- Vollertsen. Our pages for the committee today are Ruby Kinzie. No? Are you Ruby? OK. Sorry. Alberto Donis, and Ayden Topping. All are UNL students, so we thank them for their help With that. We will begin today's hearing with LB316, Senator Kauth.

**KAUTH:** Good afternoon, Vice Chair DeBoer and Senator Bosn. Thank you very much for having me. I hope everything is going well for you, Senator Bosn. My name is Kathleen Kauth, K-a-t-h-l-e-e-n K-a-u-t-h. I'm here to testify on LB316. I was originally working on a bill at the request of a constituent to regulate the location and wrapping for the products that we see popping up at a lot of these hemp stores. She had seen a sudden proliferation of these businesses very close to schools, daycares, and very attractive to kids, and was really concerned. In conversations with former Senator Blood, I came to understand some of the dangers of these unregulated and untested products. I began working with AG Hilgers to create this bill because regulation is not enough. This bill addresses the sale of uncontrolled and untested substances that are derived from the hemp plant. These cannabinoids have been tied to significant health risks and are considered dangerous. Creating synthetic pot involves creating substances that mimic the effects of marijuana that can be much more dangerous and often contain harmful chemicals. Delta-8 THC can cause drowsiness, vomiting, confusion, hallucinations, tremors, uncoordinated movements, difficulty walking, anxiety, changes in heart rate, low blood pressure, difficulty breathing, loss of consciousness,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

and coma. We constantly talk in this state about the serious mental health crisis we are experiencing in society as a whole. These unregulated and unsafe chemical concoctions will only exacerbate these issues. In the packets that were handed out to the committee, or that will be handed out to the committee, there are several personal stories about the addiction to Delta-8 and the damage it does. These are heartrending accounts of the devastation and drug induced psychosis caused by these chemicals, and I hope that the committee takes the time to read through each one of these. From 2021 to 2024, poison control centers have managed 10,063 Delta -8 THC related exposure cases. That equals between 8 and 10 a day. Here's what this bill does not do. It does not ban CBD products. It does not ban hemp farming, we want our farmers who've invested in hemp farming to be able to continue under the USDA licensing program. And it does not affect those transporting products through the state with the appropriate documentation. What the bill does do, it limits the amount of THC to .3% total weight basis for processed hemp as well as unprocessed in order to prevent any synthetic canna-- cannabinoids. It also requires hemp testing to use Decarboxylation, which is essentially heating it up, because concentrations of THC can dramatically increase with heat. Even California has enacted an emergency regulation on synthetic marijuana to ban any detectable amount of THC or other intoxicating chemicals because of the negative impact on cognitive functions, memory, and decision making abilities. Other states that have made their bans on these dangerous substances include Alaska, Colorado, Delaware, Massachusetts, Missouri, Montana, Nevada, New York, Oregon, Vermont, Virginia, Washington, Arkansas, Hawaii, Iowa, Mississippi, North Dakota, South Dakota, Idaho, Kansas, and Wyoming, and I hope the committee recognizes Oregon, which actually legalized all drugs a few years ago and is stepping it back quickly, has acknowledged that these products are sincerely dangerous to people. These products are sold in many states, exploiting misunderstandings in the law. The ability of manufacturers who constantly tweak the chemical composition of the substance and make something that is quote, unquote new and not yet banned, has become a cat and mouse game between regulators and manufacturers. This bill will stop the influx of dangerous products masquerading as hemp and clean up the illegal marketplace that has developed. I urge the committee to vote LB316 out of committee to be placed on General File. Thank you.

**DeBOER:** Any questions from the committee? We're going to let you off easy. Oh. Oh. Senator Hallstrom.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**HALLSTROM:** Senator Kauth, this might be for someone else to follow, but on page 2, lines 22 and 23, we make a reference to processed hemp. And it's not a specifically defined term.

**KAUTH:** What the process is?

**HALLSTROM:** Yes.

**KAUTH:** I'm going to let the Attorney General answer that for you.

**DeBOER:** Senator McKinney.

**McKINNEY:** Thank you. What have the feds said about this?

**KAUTH:** I'm not sure what the federal position is on this yet. I, I think that there's a lot going on at the federal level that is in flux right now. But I think it's important that as a state, Nebraska makes decisions for Nebraska. And we acknowledge that these are products that can be very, very harmful and they're unregulated.

**McKINNEY:** OK. All right. I'll probably got some more questions that I'll ask [INAUDIBLE].

**KAUTH:** You're going to let me off the hook for now?

**McKINNEY:** All right.

**DeBOER:** Senator Rountree?

**ROUNTREE:** Yes, Thank you, Madam Chair. Senator Kauth, as we-- in your testimony here you say, "From 2021 to 2024, poison control centers have managed," is that state wide?

**KAUTH:** That's nationwide.

**ROUNTREE:** Nationwide. What, what about ours in Nebraska? How prevalent is that in Nebraska?

**KAUTH:** I'm going to let our Attorney General answer that one, and I believe he has that documentation also.

**ROUNTREE:** That's good.

**KAUTH:** Thank you.

**ROUNTREE:** Thank you. Appreciate it.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**DeBOER:** All right. Are you staying to close?

**KAUTH:** I'm staying to close.

**DeBOER:** Thank you.

**KAUTH:** Thank you.

**DeBOER:** Good afternoon.

**MIKE HILGERS:** Good afternoon. Thank you. Good afternoon, Madam Chair, Madam Vice Chair, members of the Judiciary Committee. Now, my name is Mike Hilgers, M-i-k-e H-i-l-g-e-r-s. I currently serve as Nebraska Attorney General, and I'm here today in support, strong support of LB316, and I want to start by thanking Senator Kauth for bringing this bill. It's an important bill for Nebraska families, Nebraska children, Nebraska communities. And I want to thank you for taking the time to hopefully help us co-collaborate in solving an enormous problem that's occurring under our noses in the state of Nebraska. That problem is that currently today we have kids, families and others being poisoned. We're being pois-- they're being poisoned by retailers selling unlawful products in the state of Nebraska in the form, primarily, of synthetic Delta products, Delta-8, Delta-9.2, Delta-6, Delta-10, other types of chemicals that have never been studied in rats, let alone humans that are putting people in the hospital, causing mental, mental health breaks, cau-- and harming little kids and old, older citizens alike. This is one of two options which I'll talk about in a second to try to get this problem solved. I want to talk a little bit about how we got here. And I think only Senator DeBoer at this dais was in the Legislature with me when this bill originally came before the Legislature. So about 2018, the United States government passed the Farm Act. That farm bill included language that legalized hemp. It made a lot of sense to legalize hemp. Hemp's cash crop, it's a commodity, it's something that we could grow, sell, create economic activity. As part of the Nebraska farm bill, Senator Wayne brought the bill, it passed overwhelmingly. That included and allowed for the sale of hemp. Hemp is an inert-- on its own, hemp is an inert plant. You cannot get high off hemp. You can't get high off a derivative of hemp. You can't get high on an extract of hemp. That bill was debated in the Nebraska Legislature. I was part of that debate, Senator DeBoer was part of that debate. At no time in that debate, during the committee hearing, on the floor, or any part of the discussion of that bill, did anyone ever suggest that this bill would permit and legalize the sale of synthetic THC. At no time did anyone suggest that this would create a synthetic recreational marijuana regime in the state of Nebraska.

Because if they had, and if it did, that bill wouldn't have gotten ten votes. So the bill passed, and it legalized hemp and derivatives and extracts and a whole lot of other products that we were very comfortable legalizing in the state of Nebraska. Now, what happened was a gigantic bluff and a gigantic bet on the behalf of retailers around the state. And the bluff was that they could sell products that were labeled hemp, that were marketed as hemp, that were not, in fact, hemp, and that they could get away with it. That was the bluff. And for years, and this happened all around the country, for years, these retailers in Nebraska and elsewhere have started to sell these products. Now, some of them actually might be hemp or hemp derived. They might be like CBD, perfectly legal, have no problem. But many others, and I will share with you in a minute just some of our, the results of some of our investigation are absolutely not hemp. These are products that are created through complex chemical systems that contain Delta-9, higher levels of Delta-9 than you would find in a dispensary in Colorado, Delta-9's a psychotropic ingredient in marijuana, Delta-8, Delta-10, other things that could harm. Let me give you an example. 6 to 10 mg of Delta-8 is enough to send my six year old son to the hospital. He's lit-- he's little. Maybe 20 mg. Senators, we found products being sold in the state of Nebraska that had 800mg of Delta-8. I see my light is on, may I continue?

**DeBOER:** Yeah, please. I anticipate some questions, so it would be probably more effective to how you finish.

**MIKE HILGERS:** Thank you all. I'll, I'll-- I will summarize. I appreciate that, Madam Chair. So these products are unlawful and they're harming Nebraskans day in and day out. I'm going to read-- if I have the opportunity, I would like to read a couple of victim impact statements that we have heard from our-- from people who have reached out to our office. It is devastating families, it's devastating communities. Now, there's two ways we can go about trying to solve the problem that I see. The first option is one that we started about a year and a half ago. My office started a serious litigate- statewide litigation campaign to try to clean up this industry. We filed a series of lawsuits, well over a dozen. We were hopeful that that would have an impact. There are 300 stores now in the state of Nebraska selling these products, 300, over 300. We thought, hey, if we let the world know we think this is unlawful, we think you're breaking the law, there's enormous penalties, we're going to sue you, and if you do the right thing, we won't even collect penalties, we thought most of the industry would clean it up. We had some impact, some positive impact going down that road, but not enough. We settled a number of our lawsuits. A number of stores have done the right thing. But if you

look statewide, the number of stores selling these products continues to grow. That option is one that we're continuing. We've escalated it with suing all the stores in Norfolk, we have hopefully positive news to say there. And that, that, and I will say this since we're in a public forum, that, that is going to only accelerate and escalates starting now. We no longer are going to waive penalties for people who we have to sue to take these products off their shelves. They've had well enough notice to take them and stop poisoning kids and people in Nebraska. The second option is LB316. LB316 gives everyone an off ramp to be able to sell other lawful products like vapes, or CBD, or alcohol, whatever they want to sell, they can sell. We're just asking not to sell synthetic marijuana and poisoning our communities. That's option two. Option two in many ways is far better for everyone. It's far better for the communities because it'll be faster. That means fewer people are going to be poisoned. It's actually better for the stores. Yes, they'll have to stop selling some of these products, but at least they'll be able to continue to operate and find other products to be able to sell. Under our litigation with us not waiving penalties, some of the stores we've sued so far have millions of dollars of exposure. We're not going to waive those penalties going forward. It's certainly better for the kids. It's better for the taxpayers. I think taxpayers would probably prefer that we spend our taxpayer dollars not having to fight these people poisoning our communities and rather doing other things. So I think it's a win-win-win for everyone. To be clear, if option two fails, we're going to continue with litigation. And the last thing I'd say, Madam Chair, if I could just wrap up briefly, because I won't have an opportunity to close, Senator Kauth will. Again, very grateful for her. I just want to pre-- maybe prebut or rebut a couple of things that I think you'll hear today. Number one, I know there are going to be businesses that are going to come and say, golly, we are supporting jobs, we are supporting our economies, we're doing all these things. And that's great. There are limits to what we allow companies to do. We don't-- we could support a whole bunch of jobs if we allowed cocaine tomorrow. But we don't do that. We make very balanced decisions as to what we allow to be sold in our communities. But big picture, if option two fails, this, if this option fails and our litigations go. Many of them won't be able to actually continue to operate because we're going to do everything we can to, to collect the penalties that we're owed. Number two, they've been on notice. They assumed the risk, they made this big bet. They said, hey, no one's ever going to catch us on this, we're just going to sell and sell and sell and make money and poison and we'll just make money and profit and it's OK, no-- But that's the bet they made. And at the end of the

day, they assumed the risk. And so if this passes or if our lawsuits are successful and they can't sell it anymore, they should be thankful that they got the money that they've made so far. The third thing is all of these companies have been on notice for over a year. We have been talking about this for a year and a half. And so if they're still selling these products at this point, my sympathy is far less. Secondly, I do want to, I do want to note in this packet that my team put together, just briefly so you can look through it. One has a summary of my testimony. Number two is a summary of the options. The third, and I've got some quotes which I won't go into now. I'll pause for questions, but it's just some of the stories, you know, heart-wrenching stories that we've heard from people. Also, a map of our surrounding states since 2022, when this problem became clear nationally; states are rapidly moving to shut down and to call people's bluffs. Every [INAUDIBLE] state around us in one form or another has actually been explicit about providing legal protections against Delta-8, including Colorado, which was the leader on the marijuana, and as Senator Kauth mentioned, in 2022, Oregon, which as she mentioned, has legalized everything, actually has prohibited Delta-8, synthetic, Delta-8. And last are some sites. With that I have some more material I could go into, but I'll stop. I appreciate the grace with the additional time and I'm happy to answer any questions.

**BOSN:** Senator DeBoer.

**DeBOER:** Thank you. So I have, as will not surprise you, a series of questions for you that I have now somehow managed to misplace, so I'll just remember what I have here to the best of my ability, does this make hemp or this synthetic THC as you're describing it, does that make it a controlled substance?

**MIKE HILGERS:** It's a great question. And let me-- you asked actually about two different things, and I think it's worthwhile to unpack.

**DeBOER:** OK.

**MIKE HILGERS:** There's hemp, and there's-- so hemp is the plant. Hemp is not-- as long as it has, the hemp plant has less than 0.3 THC, it is not marijuana. It's the same plant as marijuana, but it just has less THC. Hemp--

**DeBOER:** That's the bill that you and I worked on in 2019.

**MIKE HILGERS:** Yes, ma'am. It's legal. You can you actually-- you can do-- you know, you can make, you know, extracts, derivative, things

like that from the hemp. That's legal. What-- this bill should not do anything to hemp. Synthetic THC is much different. Synthetic THC is created by taking hemp as a precursor, and subjecting it to a number of different chemical reactions to create a totally different product that's completely synthetic. By the way, if you-- if, if people think that synthetic THC is hemp or derived from hemp, you could actually do the same series of chemical-- or different, I mean, a similar series of chemical reactions to get things like synthetic cocaine or synthetic heroin. And as long as it came from hemp, which the argument, then people say it's legal, it's not. To answer your question, this bill would not-- synthetic THC is a controlled substance. It was never accepted from the farm bill. The farm bill only accepted hemp, and its derivatives and extracts and isomers and the like. It did not anywhere, anywhere in there, talk about synthetic product. So it never accepted it. So this bill would not change the law because it is currently a controlled substance. What it's doing is it i-- the reason why the bill is necessary, though, Senator, is because everything moves so quickly, and it's so hard to understand when people label things hemp, is it hemp and legal? Or is it hemp-- or is it really synthetic and not? There's not actually one laboratory in the state of Nebraska that we are aware of that will do that testing. So it's very hard to tell. So when people saw that this cropped up so quickly, they thought the tool that we should use is not criminal prosecution. It's through other means. Either lawsuits in our case or legislation like in Colorado's case or hopefully Nebraska's case. Does that answer your question?

**DeBOER:** Yes, but it spurred several more and my colleagues are going to get mad at me. But let's get to the bottom of this. I know we have a lot of bills today. So then by that logic, this synthetic THC would be a controlled, controlled substance and therefore a felony.

**MIKE HILGERS:** It depends on the possession amount. I mean, no, not necessarily, it depends on how much someone has.

**DeBOER:** OK. Let's check that to be sure what the amount--

**MIKE HILGERS:** Sure.

**DeBOER:** --would have to be. But then does this bill, do you know, and I don't have a-- it doesn't have the emergency clause. Good. But for folks who have some of this synthetic THC in their household, is this going to expose them to felony liability if they-- if we change the law and they just don't realize?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**MIKE HILGERS:** Oh, I can't imagine. I can't, I really can't imagine. I mean, right now, law-- we're, we're not even using criminal tools today. We're just trying to get these off the retail shelves, shelves to protect people like that. This isn't a situation where we're concerned about people trafficking some, some black market. This is front and center.

**DeBOER:** But, but--

**MIKE HILGERS:** No, I don't think, no.

**DeBOER:** Do you understand what my question is, though, that if I have a big jar of, I don't even know what this--

**MIKE HILGERS:** Yeah.

**DeBOER:** --some-- you know, "hemp r us" whatevers, I don't know, washing liquid detergent. I don't know what they use it for. If I have that--

**MIKE HILGERS:** How about the drip-- Trip Drip Twisted Gummies? What if you had that? That's one of the products.

**DeBOER:** OK, so I have Trip Drip Twisted--

**MIKE HILGERS:** Trip Drip Twisted Gummies, yeah.

**DeBOER:** Twisted Gummies. I bought them for whatever purpose, I have them on the top shelf, I forgot they were there, they're in my pantry. I now have a rather large quantity of them because I like to buy in bulk to save money. Now am I-- now am I a felon? Do you see what I'm saying? Like there's a real possibility for felony liability--

**MIKE HILGERS:** So what I--

**DeBOER:** --for your average Nebraskan.

**MIKE HILGERS:** I understand what you're saying. And here's what I'd say, Senator DeBoer I would, I would love to dialogue with you, with this, with you offline. I would imagine there's a way to create a safe harbor for people who are possessing these products. The intent of this bill is not to go out and create a criminalization regime for those who are, who have been using it. It's really to protect them. So I, I-- that's an area I think we-- I'd be very willing to discuss with you, and I think we could probably find some common ground to protect people like that.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**DeBOER:** OK. So thank you for that avenue of questioning. Can I draw your attention to the fiscal note?

**MIKE HILGERS:** I do not have in front of me, but sure.

**DeBOER:** OK. Well, I will, I will tell you what your fiscal note says. It says no fiscal impact. And I think that's key. So your office says that there's no fiscal impact. Some of the folks who sell some of these types of things have brought up various statistics of what they pay in sales tax. It's not a small number. So it seems that there will be a fiscal impact. Can you speak to that issue?

**MIKE HILGERS:** Well, I think when we do fiscal notes, we are-- it's not a dynamic scoring sy-- I mean, we don't-- when someone sends us a fiscal note, we're not predicting sales tax or income tax. I mean, if we were to do that for all, I mean, there are fraudulent businesses that are paying taxes that we prosecute or sue all the time. We're really not in the business of thinking about how it impacts the tax coffers. So there might be some there, look--

**DeBOER:** That makes sense to me, I--

**MIKE HILGERS:** --there-- but there might be some economic impact. But what we would say is there shouldn't be at this point because people have been on notice we've coming after this issue for a long time. Secondly, like I think, at least I asked myself, is it, is it right to to collect dollars off the poisoning of our community for state government?

**DeBOER:** I understand your position. I just wanted to understand--

**MIKE HILGERS:** No.

**DeBOER:** --the fiscal note because that was very confusing to me. Can you tell me about the interactions with federal law? So the definition of-- well, let's look at page 3 of the bill, the definition that you have here. It seems to me that that's a different definition from both the federal law. It's the definition of tetra-- cannabidoi-- cat-- canna-- cannabiniol-- concentration. I'm not going to read this, I can--

**MIKE HILGERS:** It took me a year to get cannabinoid.

**DeBOER:** Cannabinoid.

**MIKE HILGERS:** THC works.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**DeBOER:** Page 11-- or page 3, line 11. That definition to me seems different than the federal definition.

**MIKE HILGERS:** Yeah. I'm sorry.

**DeBOER:** Can you speak to that issue?

**MIKE HILGERS:** Sure, of course. Yeah. So there's no requirement that the state has to follow the, follow the federal definition. I think if you were to look at the original 2019, 2018 farm bill at the national level and in the state version, you would see that those definitions actually slightly varied. I think you would see states that have actually tried to address this problem since 2022 have used even language that's different from Nebraska. We have used-- this language is sort of ground up custom for the state. It's based on other states that we have seen, some of the best parts of those states' laws, and also what we've seen on the ground and the types of things that we've seen from our investigation. So-- but the fact that they're different doesn't create any legal conflict or preemption issue.

**DeBOER:** OK. But this, this-- you created, or your office or working together with Senator Kauth and others created this definition.

**MIKE HILGERS:** Correct. This is not-- to be clear, no one-- this may not be to your question, but to the extent it is, no one has come to us and said, you know, bring this bill. This is ours.

**DeBOER:** OK. And, and the way I read that, and you can help me with this one as well, does that not affect the medical cannabis that was passed recently by voters within that definition?

**MIKE HILGERS:** That's a good question. I'd have to look at-- it shouldn't. But I'd have to-- let me, let me-- can I put a pin on that for the rest of this conversation and make sure-- maybe my THC expert in the back can answer that question for me?

**DeBOER:** Perfect. That's my questions. Senator McKinney, did you have questions?

**McKINNEY:** Yes. Thank you.

**MIKE HILGERS:** Senator McKinney. Good to see you.

**McKINNEY:** Thank you, Attorney General Hilgers. You mentioned something that we shouldn't be collecting tax dollars off of poison in our communities, but we do. My district, for example, has a oversaturation

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

of liquor stores, and we collect taxes from liquor stores and things like that. But we're not trying to ban them or outlaw them. And I'm reading through some of these summaries it says, one title says middle-aged consumer took Delta-8 gummies for knee pain, had bad reaction, and that sounds bad, but I could think of a middle-aged person, took an opioid and had a bad reaction. But we're not outlawing opioids. Or middle-aged person had alcohol and had a bad reaction. Middle-aged person had back pain and took a opioid or some other thing that we just are not outlaw-- lawing, or some high school kid somehow got beer and went inside of a barn on the weekend and got drunk and crashed her car. But we're not outlawing the sale of alcohol or pro-- like, we don't have prohibition on these type of things. So I'm just-- my question is, are we trying to regulate something, is it a knee-jerk reaction or--That's my first question.

**MIKE HILGERS:** I appre-- I appreciate it. Good to see you, Senator McKinney, McKinney.

**McKINNEY:** Good to see you, too.

**MIKE HILGERS:** I love the dialog on this, thank you. So I'll take each one in order. So I'll call on opioids. So first of all, alcohol. We have made an affirmative decision through a constitutional amendment, through our elected representatives to determine that alcohol should be legal. We understand there are downsides to alcohol. You pointed out last year at this committee hearing, I mean, you made good points. Alcohol has caused death. Alcohol has caused-- destroyed family. Alcohol has caused, you know, drunken driving accidents, increases resources. You're absolutely right. But we have done that through an accou-- politically accountable mechanism. We've decided as a society that we're willing to put up with the cost for the upside of alcohol. Here, we're not-- this is already-- this is, it's a little unique because of the way this came up. But these things are not legal today, and so-- and they shouldn't be legal. And unlike alcohol, which has been around for thousands of years, and we have a good sense of what it does to people, this is-- a lot of these chemicals according to our expert consultant are like things that have never been studied in rats, let alone people. And we know they cause very severe problems. Alcohol, I think, is different in part because people voted for it. That is unlike what we have here. Opioids is also different because opioids has gone through an FDA clearance process where people can prescribe it. And the reason it's gone through FDA clearance process, the FDA has concluded, yeah, there are some downsides from addiction, it can cause problems. But we also understand that there are some significant upsides. And we know that through, say, you know, our gold

standard of determining where the benefits are in particular drugs like peer reviewed research. Here, we have none of that. And I guarantee you, I'm certain if it's anything like last year, someone will come up here and talk about the specific benefits that they have had from Delta-8. And I'm not here to deny anyone's experience about what they've taken. That's not what I'm here for. But what I can tell you is when we do a cost benefit analysis of the types of things that people should have and be able to consume, here, we know the costs. People have died. People have not just got into accidents, have psychotic breaks. And there is not one peer reviewed study, gold standard of research, that would show, which takes into account placebo effects, anecdotal data, that show that this actually has upsides.

**McKINNEY:** But we got a prison filled with people. And if we took a survey of people in prison today and did a cost benefit analysis and asked them, were you-- and, and asked them about drug usage or alcohol usage, probably I would argue a good percentage of them would say I probably wouldn't be here if I wasn't under you-- under the influence of alcohol or drugs. So when we talk about cost benefit analysis, that has caused death, that has caused harm. So although those have been peer reviewed and people have voted for them, I still would say the bad outweighs whatever good you might have argued right there.

**MIKE HILGERS:** Hey, you know what? In this next generation, Senator McKinney, I think, is starting to agree with you, I mean Gen-z is looking at alcohol and saying maybe they don't-- I hear you on-- and by the way, Senator McKinney, you and I have had a lot of conversations about the pop-- the growing population in our prison system, what's driving it. On our LB50 committee, you and I talked about, hey, a lot of people are in prison who have severe mental health problems, severe mental health problems. So it seems to me that one of the things we ought to look at to help people keep them out of prison and we, you and I both know, or at least you've talked about a lot of people come to prison because they do have psychotic breaks, and they do, they commit a crime. Let me read-- like the, the, the, the testimonies of the people that we've included and heard are people who are having-- these aren't just like a trip, like a bad, bad acid. These are people who are going to the hospital for days after days after days.

**McKINNEY:** That's what I, what I'm ultimately trying to get to before people try to stop me is that if we're going to try to ban something or outlaw something, then we should just outlaw everything. That's my-- like if, if, if we're going to say one thing is bad and it caused

death and it caused all these societal problems over here and we could clear-- we clearly-- we have clear evidence that these other things do, no matter what, why are we outlawing them. And I don't think we should pick and choose.

**MIKE HILGERS:** Well, I, I'm of the view that we ought to do the best amount of good that we can with the tools that we have. We live in a politically accountable society. If you were to go and bring a bill to outlaw all those things, you're very persuasive, Senator McKinney, you've got a lot of friends in the Legislature, I'm willing to bet you'd probably have a vote, probably your own.

**McKINNEY:** Would you come testify in support?

**MIKE HILGERS:** I don't-- Let me read the language, maybe. Did not prep for that question, Senator McKinney. But I think we've got to do the best we can with what we have. And I think in this case, yes, there are some anecdotes where people say, hey, this helped me, but I think that they are outweighed significantly by the data that we have, the stories that we have of the significant harm. And all we're asking this committee is not to make an affirmative new decision to ban something that's been legal. It's just to say, let's just reaffirm what the Legislature has done and not let someone really abuse this process. Since the Legislature never, ever, ever legalized synthetic Delta-8, ever, period, full stop. And the people who are selling this are taking advantage of the lack of resources or the ability to investigate all these things. And we're not asking for an affirmative new ban. All we're saying is defend the legislative process, defend the politically accountable system, and make sure these things are off the shelves.

**McKINNEY:** OK. Last thing. But where in the legislative record anywhere does it say that it is banned anywhere?

**MIKE HILGERS:** So it's T-- it's THC is a controlled substance, Chapter 28. And the hemp bill-- so the way that works is TH--

**McKINNEY:** But isn't it based on levels?

**MIKE HILGERS:** So maybe, so maybe I'll answer the question this way. So Chapter 28 in The Controlled Substances Act talks about, defines THC and creates that as a controlled substance. That, that means any THC without the hemp bill for a second, any THC of any kind, including synthetic Delta-8 is a controlled substance. The only way you say-- and that's 2010, 2000, goes way back. The only way that you say or

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

could argue that Delta-8, synthetic Delta-8, or Delta-9, Delta-10 are legal is the only way you can do and say it's not a controlled substance is say that what the Legislature did in 2019 was legalize these products. That's what you have to say. So-- and that is absolutely not what we talked-- that is not what was done, that's not what we talked about, this doesn't match the chemical structure of what we found. So you don't need to reban it. You don't need to say we really mean it, although that's in effect, kind of what it's doing. Chapter 28 already makes these things illegal. You just got to clarify that this hemp derivative extract, which is causing some confusion, allowing people to make this big bluff and bet is-- doesn't apply here, which it doesn't. Does that answer your question?

**McKINNEY:** Yeah. All right. Thank you.

**MIKE HILGERS:** You're welcome.

**BOSN:** Senator Holdcroft.

**HOLDCROFT:** Thank you, Chairwoman Bosn. Thank you, General Hilgers, for being here today.

**MIKE HILGERS:** Senator.

**HOLDCROFT:** You've hinted at a couple specific examples that you-- you want to share those with us?

**MIKE HILGERS:** Yeah. Thank you, Senator Holdcroft, I appreciate that. So the-- I'll give you-- I have some here in front of me and in my coat pocket. Let me share the first one with you, which was I don't have it in front of me, which is the whole reason this-- my eyes were opened. I was in Cuming County talking to the local prosecutors, you ask them, hey, what do you need? What are you seeing? And what they said is, you know what a big problem is, is this Delta-8. I'm like, what are you talking about? Delta-8? I'm like, I didn't know a lot of-- a lot about all these things. And the reason they knew about it was like a little two year old girl had been hospitalized by taking a gummy at their in-home day care. Parents were devastated. Parents were devastated. Let me just read maybe, if I might, a couple of excerpts of things we've seen. So this is a statement from a mom titled Delta-8 Destroys Lives. And this is a brief, brief part. My husband, and I spent nine days in our ho-- our son's hospital room, the EEG sensors glued to his head. He couldn't speak. When not tearing apart his room, he stared with vacant eyes. My husband planned his funeral. His psychosis was severe. We understood, stood little about addiction and

psychosis. He was in a graduate program, engaged to his high school sweetheart. We were proud of him. He was everything we hoped for in a son. But then he started using Delta-8. He would tell people, well, I'm an adult and this is legal. It's kind of a core problem of what we're trying to fight. If it's legal, it must be safe. That's what he said. But once again, after taking more Delta-8, he spiraled into psychosis, becoming more and more dysfunctional, ended up being fired, ended up losing his girlfriend or fiancée. The hospital psych-- psychiatrist told him that further drug use would likely kill him, and at the least it risked permanent psychosis. And that's that story. If I might, just one other one Senator Holdcroft?

**HOLDCROFT:** Sure.

**MIKE HILGERS:** There's a statement from two devastated, this is what their words, two devastated, exhausted parents that want change. The year 2024 was a year from hell for our family. In January, we learned that our child, at the age of 14, had begun, begun using THC and Delta products. In December 2023, we began to notice that our child would be come-- would come home in states of paranoia and very anxious. These instances would become increasingly worse as the weeks passed by. The fact that these products are so readily available to our youth is appalling. Our children, our child at the age of 15, 16 was able to purchase these products, products at several locations in town. We know this to be true because our chi-- child had their store punch cards for repeated purchases. Any health care providers that we have visited throughout this ordeal stated that vaping delta products has increased, increased youth admissions to health, health care facilities who are exhibiting, exhibiting schizophrenic manic behaviors. Think it's just children, and the answer is just to regulate it and just say, well, let's just let people who are responsible Buy it? We have six-- stories from people in their fifties, sixties going for knee pain or something else, who have had heart arrhythmias, have gone, have been hospitalized, have blacked out, have all, all sorts of problems. The truth is, and I won't be here for LB16, we are in adamant opposition to LB16. Any vote to regulate Delta-8, to be very clear, is a-- is first a vote to legalize synthetic marijuana. Those stories are heartbreaking. It doesn't matter if you're 2 years old, or you're 15 years old, or you're 20 years old, or you're 65 years old. Those are just some of the stories that we've heard that we're able to share today.

**HOLDCROFT:** Thank you.

**BOSN:** Senator McKinney.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**McKINNEY:** Thank you. And while you're here, I, I do have to ask this question. Do you think your fight against medical marijuana, the legalization of recreational marijuana, although about 70, maybe 70 plus percent of Nebraskans support the legalization of both, is pushing people to these alternatives into the black market. Do, do you think that is causing this issue, too?

**MIKE HILGERS:** So it's a g-- I appreciate the question, Senator McKinney. Well, certainly if marijuana is illegal, if people are getting it, it's through a black market. I mean, so I concede that, I concede that point certainly. I don't know whether-- I don't know what's happened in other states. I do know that other states that have legalized marijuana have banned Delta-8. So that's a data point that I know. I don't know if that's inc-- if the-- you permitting marijuana increases or decreases Delta-8. I'm not, I'm not quite sure. Certainly to the extent, though, that your point is, or your question is, or suggests maybe that, you know, maybe I should rethink my opposition to medical marijuana or marijuana generally. I mean, I think the answer for me would be no. We could talk about that, but.

**McKINNEY:** Yeah, although the majority of the state supports it.

**MIKE HILGERS:** That's true. But, you know, Senator McKinney, you've taken a lot of courageous stands in the Legislature with people who have not supported you.

**McKINNEY:** You have to.

**MIKE HILGERS:** That's right.

**BOSN:** Senator DeBoer.

**DeBOER:** Sorry. One more question, because I didn't ask this. And you may not be the right person, but maybe there's a doctor or a scientist or something, which, you know, you're not, but that's all right.

**MIKE HILGERS:** Let the record reflect that there was a smirk on that question.

**DeBOER:** There was a small wink. No. So if I'm trying to compare and contrast this Delta-8 and Delta-9, right? So Delta-9 is traditional marijuana, is that right?

**MIKE HILGERS:** Generally correct? Yes.

**DeBOER:** OK. Well, I'll go with that since I'm not a scientist.

**MIKE HILGERS:** Delta-9 is the psychotropic component of marijuana, yes.

**DeBOER:** OK. Is Delta-8 significantly different in terms of its consequences? I mean, do I get less high from Delta-8 than Delta-9? Do I-- is there a difference in how the human body reacts to those two substances?

**MIKE HILGERS:** Yeah, it's a good question. I think generally it's similar, but I think if you're comparing apples to apples, it would be less acute of an impact. But really the dose makes the poison. And what we're seeing, the dose is the poison in these particular instances. I told you, and I've got my, I've got all of these are just part of our investigative reports. Every store in Norfolk, by the way, that we tested, was mislabeled to have problems. And these are the ones that had hundreds and hundreds and hundreds of mgs of the Delta-8. So you could have, you know, a very, very low amount of Delta-9 and have 500mg of Delta-8, and the Delta-8 is going to be far worse than that. Is that--

**DeBOER:** So let me see if I'm correctly understanding your testimony. You're saying that the problem with the Delta-8 lies almost in its dosage, so the amount which is at this time, I guess we'll say unregulated in these various substances you can buy, the gummy, whatever you said before, and that in Delta-8 or Delta-9, I guess a consumer would know more what amount they're taking. Is that, is that what you're trying to say?

**MIKE HILGERS:** No, I was just trying to describe to you the difference between the two and the impact of the two. And I think Delta-8 generally is not as harsh of an impact.

**DeBOER:** Potent?

**MIKE HILGERS:** Not as potent. But it has, but it has caused death, especially when it's been vaped and cut with other products, and it's being sold in high concentrations.

**DeBOER:** So, so that-- let me--

**MIKE HILGERS:** Please.

**DeBOER:** --vaped and, and cut with other products. So in that case, is the do they know that the Delta-8 is the response-- the death is the responsibility of the Delta-8? Or what other products are we talking about?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**MIKE HILGERS:** Yeah, we don't have access-- so we don't have access to the autopsy of these folks, but the death reports come from the federal database, I think Senator Rountree asked. We don't have, we don't, unfortunately, Senator, have statewide data. We do have federal data. We have "anecdotal" from the state, but not data data. But we know the federal database does include like what are the primary contributing causes, and in these cases, they are-- include Delta-8.

**DeBOER:** OK. And so I guess what you were saying is if I have the same amount of Delta-8 and Delta-9, the Delta-8 would be less potent. Is that right?

**MIKE HILGERS:** I think generally that would be true.

**DeBOER:** OK.

**MIKE HILGERS:** That's correct.

**DeBOER:** So if we were to create a regulation, I know, I know where your stand on that, but let's say we did. If we create a regulation on the Delta-8 that limits it to small amounts, what would the effect of that be on in terms of the-- the dangers you foresee with Delta-8 usage?

**MIKE HILGERS:** It would have to be, in my view, would have to be dramatically small. I mean, as I mentioned to you, Senator, even just a couple of milligrams in the hands of a child can, can send it to the hospital. So that's, that's actually a really, really small amount of Delta-8.

**DeBOER:** Well, certainly a child-- I mean, you know, the fact that anyone under the age of 21 is near this stuff is something we could talk about as a separate conversation anyway. But assuming that it only gets into the hands of full grown adults, is there an amount of Delta eight that you would think, and this is I'm asking your testimony, that you would think would be non-harmful or would be OK?

**MIKE HILGERS:** I would say it's a great question, Senator. It is-- I would say with the threshold that we define in LB316, it's under .3, in the finished product under .3 THC by weight. I believe it's by weight. We'll see the last definition. But beyond that, the, the challenge with part of your question, I think I've answered it by saying that's a line that I would draw.

**DeBOER:** Yeah.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**MIKE HILGERS:** I wouldn't go beyond that line. I might be willing to be convinced. If Senate-- Senator Rountree wants to, I'd go more restricted than that line. I'm sorry. You haven't suggested that you would, I just used your name, Senator, I apologize.

**ROUNTREE:** When her question's over, we'll come back.

**MIKE HILGERS:** I might be more-- I'd be willing to go more restrictive certainly. The, the, the challenge that you have by saying, well, is it three milligrams, ten milligrams, twenty mg is there is not any peer reviewed science to tell us that this is act-- that at any level there's any sort of health benefits. And we know even at low levels, there's negative benefits. And so before I would even, before I would even entertain the conversation from my perspective, Senator, I would like to see like some significant peer reviewed data, not industry funded--

**DeBOER:** Fair enough.

**MIKE HILGERS:** --reports that tell me what the upside is and what the issues are, which is one of my concerns. Senator McKinney, with medical marijuana, it's the way that we do any kind of drug of those kinds that are medicinal are we go through the FDA and we have people like study them, doctors and the like, and provide like, you know, can you have this when you're pregnant? Can you-- does it mix with other drugs? These are the kinds of questions that we should ask, I think, before we go down the road of permitting and regulating.

**DeBOER:** OK. Thank you.

**BOSN:** Senator Rountree.

**ROUNTREE:** Thank you, Chair. Attorney General Hilgers, so coming back to that, we don't have the Nebraska data, but as I'm reading this testimony, and it talks about deaths, and then it has nationally, and as I read the testimony from the first individual who had the EEG sensors glued to his head, which says, my husband planned his funeral. And so I want to make this clear. Did this individual die, or were they at a point where they were getting ready to plan the funeral? And then have we had deaths in Nebraska? And secondly, as we had our first testimony on there's been over 10,063 Delta-8 THC related exposures, that was a national number. We here in Nebraska, we have one of the premier medical and research facilities in our state. We led the way with Ebola and a lot of times we say Nebraska, we're us, we do it our way. So is there any way that we can get back to the numbers? I see

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

the national impact of all of this, but I want to see what the impact is on us here in Nebraska.

**MIKE HILGERS:** No, I appreciate the questions, Senator. Maybe unpack the questions. Number one, the person, thankfully, thankfully, did not die.

**ROUNTREE:** OK. Good, that's good.

**MIKE HILGERS:** Did not die. Thank you. And I appreciate your empathy for that individual. Secondly, the data that we do have is national,.

**ROUNTREE:** OK.

**MIKE HILGERS:** What we have statewide are anec-- largely anecdotal reports to our office and through our investigation.

**ROUNTREE:** OK.

**MIKE HILGERS:** There's a couple of challenges that I'd love to overcome. One is, this is, this is-- we don't track everything in this state. There's things we do track, you know, we track car accidents, we track heart attacks, we track these things. It's not always clear, by the way, someone is having a mental health episode, they don't always know what the cause was. And also we found, again, this is anecdotal, anecdotal, maybe "anecdata," that people are embarrassed. You know, people go to these places and they're thinking they're buying legitimate products and they are having psychotic breaks or just having really bad reactions where they're passing out or vomiting and going to the emergency room. And we find-- none of these reports unfortunately, no one and I get why, we want to respect their privacy, no one's putting their name on it because they-- a lot of people feel a level of embarrassment. So I think we get a lot better at the data, Senator Rountree, I could see the point. I think that's a great point. I'd love to have more data. But I'll tell you what, I've seen plenty to know that this is a real problem impacting real people, young and old.

**ROUNTREE:** Appreciate it. Thank you.

**MIKE HILGERS:** Thank you, Senator.

**BOSN:** Senator Hallstrom.

**HALLSTROM:** Madam Chairman. Attorney General Hilgers, I started to ask Senator Kauth a technical question, she kicked the can down to you. I

want to ensure that the bill carries out its intended purpose and not leave room for loopholes. And I draw your attention to page 2, lines 22 and 23 relating to the limitations on THC concentration. And the bill refers to processed hemp without defining the term. And what I'm concerned about is whether or not that would allow the total product weight rather than the hemp content to be considered as processed hemp and therefore have the potential for high levels of THC that could cause intoxication without violating the law.

**MIKE HILGERS:** That's a great point, Senator. We'll chew on that. I appreciate the spirit of your question, which is, hey, we had one bill already that's been taken advantage of, let's not-- make sure if we're going to fix it, let's fix it, fix it the right way. Let me, let me talk to my team. I've got a great ag attorney who's really been diving into these issues really since 2019. And so we'll, we'll work with that. And if there's an appropriate change, we'd love to work with you on that, Senator.

**HALLSTROM:** Thank you.

**MIKE HILGERS:** And the answer's-- oh, sorry. Senator McKinney, your question earlier to Senator Kauth, the DEA has weighed in and said syn-- synthetic Delta products are unlawful Schedule I drugs.

**McKINNEY:** OK. Quick question. Can you buy these products online?

**MIKE HILGERS:** Unfortunately, you can. During our investigation, you can even have them DoorDashed without having any kind of I.D. or check.

**McKINNEY:** So who are we punishing?

**MIKE HILGERS:** The retailers.

**McKINNEY:** But what about the online?

**MIKE HILGERS:** Who-- though wouldn't that also be the retailers? I'm sorry.

**McKINNEY:** Well, I mean, if this law changes, could you still purchase them online?

**MIKE HILGERS:** Oh, I'm sorry. You're saying-- I'm sorry, I apologize, Senator. I answered too quickly. So what we have seen in terms of online purchases is with local delivery companies, not like on an Am--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

no, not Amazon that's a bad example, but through other shipments. You mean like out of, out of state?

**McKINNEY:** Yeah.

**MIKE HILGERS:** Yeah. I mean, that's, that is part of the challenge. I think a lot of online sales, you know, obviously, you know, sending Schedule I drugs through the mail is, is a crime, people should not do that. I mean, we're talking about interstate commerce, people should be very careful. Don't give legal advice. But they, they should definitely not do that. When you have the big store, like the big Amazons, and the big retail outlets not selling it, and they won't sell it, and they don't sell it, I think that's really important. I think, I think if we take down-- I'm not saying it will eliminate all avenues. To your point earlier, Senator, there's a black market for marijuana. But I think in two respects it will have an enormous impact. Number one, it will take out the retail brick and mortar. And number two, it will eliminate, really eliminate this-- it will really show that the emperor has no clothes that people will see like, well, wait a second, this isn't safe. You heard the quote that I quoted. The person said, well, it's legal, it must be safe. So people are making all these decisions based on their perceived legality and perceived safety. If people know they're illegal and they're not safe, I think you will dramatically reduce the consumption. That answer your question?

**McKINNEY:** Yeah, but people-- I mean, alcohol is legal and people think it's safe. But also on the poison control data, that's like .003% of the United States population. And I don't, like, maybe, I don't know if the data is skewed or not, but that's three years of data, that's only 10,000 cases, and that's .0003% of our total U.S. population.

**MIKE HILGERS:** Yeah, there's no doubt it skewed. There's no doubt it's an undercount. Senator McKinney. There's no, there's, there's no doubt. As I mentioned to Senator Rountree, the idea that we have like robust reporting mechanisms and a populace that understands that they-- calling poison control, that this is the thing that they've got, that they, that they are willing to share with people the-- what they took, which a lot of people are not willing to do so. There's no doubt in my mind that is a dramatic undercount. Now, to what degree I don't know, to Senator Rountree's, I don't, I don't know. But I will be willing to submit the individual stories that we've seen and the absolute recklessness with which these products are being sold is enough without having, say, a million poison control calls.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**McKINNEY:** I, I get that. I guess what I'm trying to say is I'm not diminishing people's experiences, if, if somebody having--

**MIKE HILGERS:** Of course.

**McKINNEY:** --a bad experience.

**MIKE HILGERS:** Of course.

**McKINNEY:** But I could also argue that the problem isn't as bad as advertised.

**MIKE HILGERS:** You know, I-- look, without the data, I can't say conclusively. I hear your point. And by the way, Senator, there's almost no one more empathetic to the individual, the things that people are going through in their lives, than you. That's been my experience in serving with you. So I certainly didn't mean to suggest otherwise. I don't think you're wrong. But I also-- like I don't know. I don't know. But I do know that we have a huge mental health crisis. I know that this is fueling it. I know that it's happening across the state. I know that it's happening more, it's not just one one off person who happened to have like 45 other health complications. You know, it's not just one two year old, it's not just one eight year old. This is story after story after story after story. And so I know, we know it's huge problem. And if we as policymakers, if I speak for myself as someone who's trying to influence policy, or trying to get ahead of our mental health problem, making sure these young lives in particular are not getting off track. I think even if we don't know the full extent, which I concede, that is enough to take the step that we're proposing here.

**McKINNEY:** I get that. But I also think if we're-- if this is something we believe should be taken off the table, taken out of retail stores, then we also should have a conversation about all the other things that I would say from my community shouldn't be sold. We shouldn't have over proliferation of liquor stores in high poverty communities. We should be banning all those liquor store, we should be banning all those tobacco stores, and I don't see that push. So that's, that's my issue is like if, if we're trying to get ahead of a problem, I think a problem was already here, because I've lived through the problem. I've had, I've lived through the crack epidemic. I lived through all of it. Like, so I'm just saying like, I'm not saying like, it might not be an issue, and I'm not saying kids should get a hold of this stuff and we shouldn't get ahead of these type of problems. But there's other problems that we're not even trying to address. And I would guarantee

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

if I brought the bill to prohibit alcohol sales in the state of Nebraska, this room wouldn't even just be filled here, it would be a line outside down the street, but-- So in alcohol causes depression and sys-- like all type of problems. So that's all I'm saying.

**MIKE HILGERS:** Here's what I would say, Senator. I-- whether you partner with me or not on this bill, I hope you do, I would be willing to partner with you to find-- if there are things that are having an impact on your community that you think we should address to make sure that people aren't being excessively poisoned and harmed, my door's open. I'd love to collaborate and talk to you and see if we can partner on something.

**McKINNEY:** Thank you.

**BOSN:** Seeing no other hands. Thank you for being here.

**MIKE HILGERS:** Thank you, Madam Chair. Thank you. Thank you all.

**BOSN:** Next proponent. Thank you for being here.

**LORELLE MUETING:** Thank you. Good morning. Or, good morning, good afternoon, Vice Chair DeBoer and Chair Bosn. My name is Lorelle Mueeting, that's L-o-r-e-l-l-e, last name M-u-e-t-i-n-g, and I am the prevention director at Heartland Family Service. I'm here on behalf of our agency as a strong proponent of LB316, and I want to thank Senator Kauth for bringing this bill forward. As a certified prevention specialist, my job is to prevent people from having problems with alcohol, THC, and other drugs. This bill is long overdue. We have shops selling THC derivatives all over our communities and state, and these products need to go away. They're addictive, they cause impairment, they're causing harm to public health and safety in Nebraska. They come in the form of THC infused seltzers that are marketed as an alternative to alcohol, cookies, candy, gummies, capsules, vape cartridges, flower products, and more. Bliss Bar, Caramel Bites, Delta Ice Pops, FruitFulls, Numb Brownies, Atomic Bombs, Blast Off gummies, Sugar, wax, Moonrocks, Pineapple Breeze Express. Apple Tartz, Passion Fruit, Jamaican Dream, these are just a few of the products I can find in stores across Nebraska. With names like those, anyone can see these products are marketed to people under 21. Other drug culture words and phrases that go with synthetic THC are: THC-A, flower, super chronic, dabs, Delta-10, Delta-8, Delta-0, THC-P, THC-A, and the list goes on. I work in middle schools and high schools across the metro area. Students are using their-- these products. There's no age limit. Anyone can go into these stores and

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

purchase these products. In addition to the impairment risk these products pose, they're not-- they pose a health risk because they're not regulated. We have absolutely no idea what's in them. These unregulated and non FDA approved products are being marketed to our youth and other vulnerable Nebraskans. These products are unsafe and they pose a risk to public health and safety. Again, I want to thank Senator Kauth for introducing this bill, and I urge you to support LB316, and pass it out of committee.

**BOSN:** Thank you. Are there any questions from the committee? Senator Storm?

**STORM:** Thank you, Chairwoman. So there's no age limit to purchase these, six year old can walk in their and purchase these?

**LORELLE MUETING:** If they want it, yeah.

**STORM:** First question. Second question is, is Delta-8 addictive?

**LORELLE MUETING:** Delta-8? Yes, it is addictive.

**STORM:** Delta-9 addictive?

**LORELLE MUETING:** Yes.

**STORM:** OK.

**BOSN:** Any other questions? Senator McKinney.

**McKINNEY:** Thank you. So you said anybody could walk into these stores and buy these products. So have you experienced this?

**LORELLE MUETING:** Have I walked into the stores?

**McKINNEY:** And saw somebody under the age of 18 try to buy these and actually purchase this?

**LORELLE MUETING:** So it depends on the store. Some stores have an over 21 only purchase. So some stores that I've been in, they I didn't have my ID one time, and they asked me to go out and get my ID to come back in, and I thanked them for that, so some stores-- it's, it's really store by store on a-- on that kind of a basis. So some stores on their own do an age restriction, but there is overall, there's no age restriction on it, so yes anyone can go in. Kids are purchasing these in these stores. They're in middle school. I hear it from them, because I just came from a school this morning. So, yes.

**McKINNEY:** So, so you're saying a kid with a backpack on, could walk from an elementary school, get buzzed into one of these stores, and purchase these.

**LORELLE MUETING:** It's not buzzed, they just go in. There's no buzzer. They're not locked, they're open to anybody.

**McKINNEY:** All these stores are just open?

**LORELLE MUETING:** Mm hmm.

**McKINNEY:** All of them.

**LORELLE MUETING:** Unless the-- unless they have an age restriction that says there-- that you have to be under 21. Some of them do. Like I said, one store that I visited did not, they wouldn't allow me in without my ID, and it said on the door, they card and they-- you have to be 21 to enter. So, but not all of them are like that. It just is a store by store basis if they want to enforce that. It's a policy, I guess store policy.

**McKINNEY:** I just-- maybe it's true. I'm not going to call you a liar, but I just don't see a kid, a six year old being a walk in, being able to walk into any of these stores and being able to purchase these products.

**LORELLE MUETING:** Well, I never said a six year old could.

**McKINNEY:** But you said--

**LORELLE MUETING:** That wasn't in my testimony.

**McKINNEY:** No, no, what you said anybody.

**LORELLE MUETING:** Anyone. OK.

**McKINNEY:** You said anyone. That's what you said.

**LORELLE MUETING:** Yeah.

**McKINNEY:** But. All right.

**LORELLE MUETING:** Also attached to your packet are-- is a sample of-- I get these advertisements in my mailbox weekly. They come in the Wednesday kind of coupon slash junk mail, so these are just a sampling of some of the products that you can purchase with some of the names. So I have stacks of these that I've saved from my Wednesday mailings.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

It is Wednesday, so go home and check your mailbox. You may have one in there as well.

**BOSN:** Senator Storer.

**STORER:** Thank you, Chairwoman Bosn. And thank you for coming today. I just want to follow up on Senator McKinney's question just for clarification. So is there anything in the Nebraska state law that would prohibit someone from buying these products based on age?

**LORELLE MUETING:** No.

**STORER:** Thank you.

**LORELLE MUETING:** Thank you.

**BOSN:** Senator Rountree.

**ROUNTREE:** Thank you, Chairman Bosn. Ma'am, as, as well, I thank you for coming today. But looking at the testimony, you are in the school systems, you just came from school today. And so you hear the stories of the kids buying these products. If you weren't hearing these stories, what type of behaviors are you seeing that are evidence of this type of use? We've just heard some great testimony earlier. So what are you seeing as far as impact? Truancy, violence in the school systems, things of that nature?

**LORELLE MUETING:** I think it goes to-- thank you for the question, Senator Rountree. I think it goes to the mental health crisis that we see, a lot of anxiety, a lot of depression. You know, I, I've been doing this work for nearly 20 years, so a long time. I've tried to make myself an expert in the area that is my passion. And so there are lots of research, there is lots of research coming out of Stanford. They have a, they have a conference on just a lo-- to these kinds of things, to THC, and derivatives, and Delta-9, and Delta-8, all of these things. And so there was an expert that testi-- or that, that presented about if we are seeing kids in our school systems with mental health issues, with depression, with anxiety, the first question we should ask is, are you using THC products? It doesn't matter, matter if it's Delta-9, Delta-8, Delta-10. They're all combined. Some of the products. I mean, I have dozens of pictures of them, the products, some of them are combined. They have Delta-10, Delta-8, together with other things. And so they're just all mixed up in there. And so I would say the mental health issues that our kids are facing, that's one of the number one things that we're seeing because of these products. And no one's asking the question.

**ROUNTREE:** Thank you so much. And as a substitute teacher, having been in the classroom and still on the active rolls, that's a question that I have not asked as well. But it's probably something I might think about. When I see issues like that and behavior types, I normally just send them down to the professionals, those who are trained in those areas, but it would be something that might be asked now, so thank you.

**BOSN:** Senator McKinney.

**McKINNEY:** Thank you. But could you attribute it just to cannabis and marijuana, because this generation also has more access to social media, cell phones, Internet, all those type of things. So I guess it's hard for me to sit here and like be like, it's just that because--

**LORELLE MUETING:** Agreed.

**McKINNEY:** --when I was coming up, people were-- not to say it was justified or not, but in my school I knew a lot of people that smoked weed, drank alcohol, did all those things, and nobody was saying in my generation, ah, these kids are depressed. But we also didn't have access to the Internet like kids of today do. So is it, is it actually--

**LORELLE MUETING:** I'm not saying it's just that. No. So that's not-- that, that was a question that our experts said you should, you should ask this. So I would say those-- that, that mental health is a problem when it comes to THC. Our kids are having mental health problems. Is that the only reason? No, I-- that's not-- that would not be my intent to say that, I agree with the social media aspect of it, of what you're saying and other factors, alcohol being one of them.

**McKINNEY:** All right. Thank you.

**BOSN:** Thank you for being here.

**LORELLE MUETING:** Yep. Thank you.

**BOSN:** Next proponent? next proponent? All right, we will move on to opponents. I do have a list of some individuals that needed to get out of here pretty quickly. So I'm going to call them in this order and then I will open it up for other opponents. Dr. Andrea Holmes. Thank you for being here.

**ANDREA HOLMES:** Good afternoon, senators. I'm Dr. Andrea Holmes, A-n-d-r-e-a H-o-l-m-e-s, a tenured professor in Nebraska with a Ph.D. in organic chemistry. I'm the lead author of two cannabis textbooks and many peer reviewed journal articles, including articles in the pharmacology of cannabinoids. I have co-built several cannabis companies in the U.S. and Germany. I serve as a scientific consultant for a global Pharmaceutical and Dietary Supplement Company, where I lead a team of international professionals on new dietary and infant formula ingredients. I believe that my credentials and professional background allow me to offer an objective scientific opinion on synthetic versus natural cannabinoids. There's a lot of controversy around the intoxicating synthetic cannabinoids. The word synthetic cannabinoids is typically associated with designer drugs, molecules that are not occurring naturally in a plant or nature, but bind to the same receptors as cannabis does. However, cannabinoids from federally legal hemp are not comparable to this type of synthetic designer drug molecules. They're completely different in chemical structure and the effect they have on the central nervous system. Furthermore, hemp derived THC is prepared from naturally extracted CBD. It's very important to distinguish these synthetic cannabinoids, cannabinoids like K2 and Spice from naturally occurring cannabinoids like Delta-8 THC, because the consumption of designer drugs can be dangerous, while cannabinoids from cannabis has been consumed for thousands of years. Innovations in science and technology is driven by mimicking what is happening in nature. And in the case of hemp, chemists have learned how to reproduce chemical conversions that are happening in the plant. Compounds like Delta-8 THC can be prepared in the lab by chemists using legal hemp derived CBD and applying conditions such as heat, catalysts, solvents to isomerize CBD to THC. This is very similar to what's happening in the plant in the presence of light, enzymes, and molecules that rearrange in molecular structure and electronic arrangements to achieve different states of stability. This is not novel to hemp. In fact, many naturally occurring compounds are now prepared or processed in the lab, including most vitamins, melatonin, biotin, vanilla flavoring, decaffeinated tea and coffee, aspirin, and much, much more. These controlled industrial processes are widely used in the pharmaceutical, food, and dietary supplement industry to allow access to pure compounds that are high in volumes and prices that would otherwise be prohibitive if these compounds were to be extracted naturally from the source material like hemp. When I reviewed the research on CBD derived synthetic Delta-8 THC, I reviewed one study that was done on nausea in pediatric cancer patients undergoing chemotherapy. All subjects had no nausea and vomiting during their course of chemotherapy. Finally, in my personal experience and as an

owner of three hemp dispensaries in Nebraska, I attest to the fact that my customers, many of whom get referred to us by phys-- by their physicians, purchased hemp derived compounds like THC isomers to help with sleep quality, feelings of anxiety, pain, sobriety, and mood disorders. Whether a cannabinoid is naturally extracted from hemp, or prepared in the lab, the results are the same. A molecule is a molecule, and there is no difference between a synthetic or a naturally derived cannabinoids. Thank you.

**BOSN:** Any questions from the committee? Senator Storer.

**STORER:** Thank you, Chairman Bosn. Thank you for coming and providing your testimony today. I guess I was just going back to your comment in the beginning that you had started several businesses. Do you currently have any grants or research tied to that are pro-synthetic?

**ANDREA HOLMES:** I don't have currently any research projects that are pro-synthetic. I have done research on the pharmacology of cannabinoids and I've published two peer reviewed papers on the pharmacology of cannabinoids, but I do not have research going on on synthetic cannabinoids.

**STORER:** Currently.

**ANDREA HOLMES:** Currently.

**BOSN:** I just have a couple of questions. So I-- this is informative, thank you, it is helpful. But what I struggle with is we just heard from several people who are talking about Delta-8 and the negative impacts that they are seeing. And your statement is, is that those are naturally occurring and so they're essentially less dangerous. And so those are mutually exclusive, either they are or they aren't, so can you square that for us?

**ANDREA HOLMES:** The cases that were listed here before in the previous testimonials, I cannot really attest to them because I did not study them. I don't really know what the specifics, I don't know the dosage that was consumed by these users. I don't know whether there were other substances in place that caused detrimental effects. I do agree with the Attorney General that the dosage is the poison. So if you do consume too much of any substance, it doesn't matter whether it's Delta-8 THC or any other substance, there can be some consequences that are not desirable.

**BOSN:** Sure. And then when I go to the next paragraph below that, where you've listed several things that are commonly sold over the counter

and, and make the comparison to those things to hemp, well, vitamins, melatonin, biotin, those are all things that are regulated and are tested and studied, and so people, they come with dosages that are safe. And so this isn't a product that's FDA regulated at this time. And do you agree that before anyone should consider legalizing it or administering it, that it would need to be tested in those ways that the, the Attorney General alluded to?

**ANDREA HOLMES:** What I do agree with is that these products that retail owners have to be responsible for the types of products they offer. And these products that are sold on the shelves to consumers should be safe, and they should not be sold to children. There should be reasonable regulation in place so that these products are tested, that they are sourced from manufacturers that have process controls and quality systems in place, so that these products that come onto the market are free of contaminants and fully tested and therefore safe for the consumer. I also believe that regulations should be put in place in terms of dosage so that consumers are informed of what type of dose is an appropriate dose and that products are not introduced on the market that are 100 times the potency of what they should be.

**BOSN:** Thank you. Oh Senator DeBoer, sorry.

**DeBOER:** Thank you. You said something-- so I wanted to understand this better. The extractions are not the same thing as synthetics is what you said, I think, or something along those lines. So the Attorney General's talking about synthetic THC. Is synthetic-- help me understand all-- we've got a lot of these things running around. Is synthetic THC the same thing as Delta-8?

**ANDREA HOLMES:** So synthetic THC, Delta-8 THC is a syn-- I call it a semi-synthetic product because it is derived from a naturally occurring product CBD, which is naturally extracted out of hemp. So it's not a full synthetic compound where you take two individual precursors, put them together, make a compound. So it's coming from a hemp derived source. So I consider it a semi-synthetic THC, but Delta-8 is a minor cannabinoid that is naturally found in the plant. So while it is a semi synthetic product, it is converted from CBD in the presence of like-- these conditions that I mentioned in my testimony. It doesn't produce an artificial cannabinoid that cannot be found naturally.

**DeBOER:** So it is a naturally occurring, occurring cannabinoid, but it is in small quantities. If you were to take a hemp plant, and what the process is that develops these products is that they somehow take the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

small quantity in-- and make it a larger quantity? Can you, can you-- one more time for me.

**ANDREA HOLMES:** It's, it's, it's a, it's a complicated situation. So Delta-8 THC and the other minor cannabinoids, they're present in hemp in very small concentrations. So in order to get them out of the plant, naturally you would have to use a humongous amount of biomass, a lot of solvents, a lot of machinery, and then you would have a very inefficient process in order to get just a minute amount out of there, likely with other contaminants. And then you have to isolate it, and then--

**DeBOER:** OK.

**ANDREA HOLMES:** --at the end you would have a milligram that's \$1 million.

**DeBOER:** OK. So that's--

**ANDREA HOLMES:** Yeah.

**DeBOER:** --I kind of understand that now. So what's in Delta-8, so these are naturally occurring minor cannab-- cannab--

**ANDREA HOLMES:** Cannabinoids.

**DeBOER:** Cannabinoids. Sorry. Not a scientist. And instead of using those small quantities of these minor cannabinoids, you are somehow replicating the minor cannabinoids, even though they're naturally occurring, you're nevertheless creating them whole cloth. Or are you creating them from the minor cannabinoids?

**ANDREA HOLMES:** No, we're creating them from a major cannabinoid, from CBD.

**DeBOER:** OK. So you take it from CBD and you can somehow replicate Delta-8 from CBD.

**ANDREA HOLMES:** Yes.

**DeBOER:** Got it, thank you.

**BOSN:** Thank you for your testimony.

**ANDREA HOLMES:** You're welcome.

**BOSN:** Our next opponent will be Sarah Linden.

**SARAH LINDEN:** Good afternoon, Chairman Bosn and members of the Judiciary Committee. My name is Sarah Linden, S-a-r-a-h L-i-n-d-e-n, and I am the owner of Generation V and Grateful Green Dispensary with 24 locations in Nebraska. I was born and raised in Nebraska, graduated from UNL, and returned to Nebraska to start my business in what I thought was a business friendly state. Passing LB316 would ban 99% of the federally legal products used by hundreds of thousands of Nebraskans to treat various medical conditions. This bill is devastating not only for the consumers who rely on these products for relief, but also for our local economy. If this bill passes, hundreds of small businesses selling legal products under the federal farm bill and current Nebraska law would be forced to shutter. An impact study conducted by Whitney Economics in 2023 shows these same businesses are contributing \$139 million to our local economy, 1,600 jobs, \$65 million in wages, and \$7.7 million in sales tax for the state of Nebraska. The loss of this tax revenue would be counterproductive to the state and governor's goal of sourcing additional funding for property tax relief. Generation V alone provides 135 jobs in Nebraska, with an average pay of \$19.41 per hour, a total of \$4.1 million wages. We collect \$910,000, yes, almost \$1 million in sales tax alone from my company, and pay an additional \$154,000 in property taxes and \$1.4 million in rent. I would be forced to close at least eight of my retail stores and lay off at least 32 employees immediately upon the passage of this bill. Most of the small business owners in the hemp industry in Nebraska would lose everything and-- they have worked for and their entire life savings. This bill would hand the Nebraska hemp industry over to out-of-state retail and e-commerce companies or criminals willing to bend the law. 80% of Nebraskans live within a one hour drive from one of our borders, some only ten minutes where there are legal recreational dispensaries strategically located to take advantage of Nebraska's restrictive laws. Many of you have probably seen the billboards all over Lincoln and Omaha advertising Green Light dispensary in Missouri just an hour away. Passing LB316 will also create a burgeoning illicit market for unregulated and unsafe hemp derived products, posing public health risks and undermining legitimate businesses. The black market has no age restrictions, no manufacturing standards, no quality control, no packaging requirements, and no certificates of analysis to ensure the products are safe, whereas our businesses are self-regulating. We have been imposing minimum age requirements, packaging and labeling restrictions, and proper testing, and we care about the health and safety of Nebraskans, which is why we collaborate to introduce sensible regulations which you will hear this afternoon. Rather than an all out ban on these products, we kindly request that you oppose

this bill and support positive regulations such as LB16 that ensure the safety of consumers while maintaining the revenue, jobs, wages, and taxes derived from the Nebraska hemp industry in this state. Voting no on LB316 will allow Nebraskans the freedom to continue to choose what is best for their health, maintain jobs, and save local businesses. Thank you for your time. I'm happy to answer any questions that you have.

**BOSN:** Any questions for the [INAUDIBLE]? Senator Storer.

**STORER:** So I'm a little bit back to Senator DeBoer's questions again. Every time I hear a little bit more testimony, I think I understand this, then I realize maybe I really don't. So when we, when we talk about synthetic, semi-synthetic, what I understood the previous testifier to say was, was that what is found in Delta-8 is naturally occurring. But in order to get the amounts that that you can buy a Delta-8 is it would be very expensive. So therefore it is reproduced through a process and we can just call that synthetic, because that is-- you can't find it in that amounts naturally. It would, it would be very expensive, right? So, so with the-- when we talk about hemp and, you know, what is the argument for, for the industry in agriculture and what it's grown for, and it's going to be used in clothing and ropes, and there's all kinds of outlets for, for that, just the, the fibrous part of that plant, right? Help me understand how, how getting-- how this bill, the passage of this bill would eliminate, if I understood you correctly, the agricultural portion of the industry and hemp across the board, because we're still not talking about-- or are we? When we-- hemp and Delta-8 are not the same thing, as defined in the bill. Correct?

**SARAH LINDEN:** OK. So let me try to answer your question, and thank you for the question. So I don't know how much of like the hemp industry in Nebraska and what's actually grown in Nebraska is industrial hemp and used for other things. I only know what is made for hemp products that are sold at retail to consumers to be consumed in the state of Nebraska. But the federal farm bill allows, and Nebraska copied the federal farm bill, they said we're going to use the federal farm bill 2-503 as the definition of hemp. So the federal farm bill defines hemp as anything that's under 0.3% delta-9 tetrahydrocannabinol.

**STORER:** OK.

**SARAH LINDEN:** So THC. Well, this bill is going to change that to be anything that's under 0.3% total THC. And there's other cannabinoids within the cannabis plant, or hemp plant, like THC-A, THC Delta-8.

There's, there's a lot of them. OK? So what people have done is, yes, they've extracted-- I wouldn't say it's synthetic. So a good example of this, and it addresses a question that Senator McKinney also had, was what's the federal government's position on Delta-8? Well, actually, the DEA came out and said that because Delta-8 specifically is naturally occurring within the hemp plant, it is therefore legal under federal law and would be legal. Then since we, Nebraska, adopted federal law would be legal under Nebraska law. But things like THC-O, which is no longer available in Nebraska, Del-- D-- the DEA wrote a letter saying THC-O is illegal, and the reason why is because they combine an acetate with a THC to make a new molecule that was not naturally occurring in the hemp plant. So that's why Dr. Holmes is trying to express, well, Delta-8 is kind of semi-synthetic because, yes, while it's created in the lab, it's the identical molecule to what's already naturally occurring, whereas a THC-O is not being sold in Nebraska anymore because the DEA came out and said that it is a synthetic, and it is a synthetic because it is a new molecule. Just like if you think of K2 and Spice, they are not any kind of naturally occurring anything. They were made in a lab to create a specific effect, and they're combining multiple molecules to make a new molecule. So that is how it is different. THC-O is illegal under the federal government per the DEA because it is a new molecule. Delta-8 is legal because it is a naturally occurring molecule. So some of the things that, like, you know, the Attorney General addressed with like, Delta-8, it should be safe. Delta-8 is not addictive. If you have a addictive personality or maybe a addiction disorder, maybe it could be addictive. But on its own, for a normal person, it's not an addictive, addictive drug. Neither is Delta-9 THC or any other form of THC. It just isn't. But, like, should there be milligram caps to make sure that it's safe? Should there be child safe packaging? Yes, of course, there should, and that's why we're bringing a bill to regulate these products in the state of Nebraska, because we agree there needs to be some kind of regulation to ensure that the products remain safe for people.

**STORER:** Thank you.

**BOSN:** Thank you for your testimony.

**SARAH LINDEN:** Thank you.

**BOSN:** Next, we will hear from, and I'm going to butcher this name, so I apologize is it Nelam Millatmal?

**NELAM MILLATMAL:** Yes, Millatmal.

**BOSN:** Sorry, I apologize.

**NELAM MILLATMAL:** You're OK. It's OK.

**BOSN:** Thank you for being here.

**NELAM MILLATMAL:** Thank you for having me. Good afternoon, Chair Bosn and member of the Judiciary Committee. My name is Nelam Millatmal. That's N-e-l-a-m M-i-l-l-a-t-m-a-l, and I appear today in opposition to LB316. Once again, I find myself here defending my line of business. I work for The Cannabis Factory. My husband is one of the owners, and we're a Nebraska based business and we've been fortunate to succeed in the last couple of years. We currently have 21 stores, which is up from 16 before-- last year, from last year when I was here in front of you guys, all throughout the state of Nebraska. There's been a lot of misinformation, I would say, and misstatements about the products that we offer in our stores and how we kind of operate our business, so I just kind of want to touch a little bit based on that to you guys. We purchase our products from reputable distributors that have hemp licenses that are issued by the Department of Agriculture within the state that they're coming from. I-- they use DEA, DEA certified labs to test these items, and all items are delivered to our company with a certificate of analysis. I've attached a sample for you guys to look at. Not only do they test to make sure that they meet the potency requirements as the hemp farm bill states, but they also test for heavy metals, pesticides and other residual solvents, so which in turn ensures that we purchase legal and safe products that then in turn we put into our stores. To further make sure our products are safe, we're compliant with the hemp farm bill. We-- the bank that we work with, plus our credit card processing systems, not only require us to turn over these COAs, but they evaluate them and then approve us to be able to even use them as a merchant or a banking, company that we bank with. So there's already regulations somewhat in place to kind of protect consumers. How we market and sell our products. We currently have 132,931 customers in our loyalty base for my company alone, which is up from the 101,592 from last year, Our median age for our loyalty members is still about 40 years old. They're included, but not limited to, retired military personnel, teachers, chemo patients, law enforcement officers, all who find benefits from health concerns with our products. We do not sell to any person under the age of 18. Our employees are trained in strict protocol. We even have them sign an age verification policy, which I've attached for you guys to look at as well. How we contribute to our society. As many of other businesses within this realm, we employ close to 100 employees ourselves, which is up from 69 last year, and some employees have been

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

with us since we first opened our store. We pay nearly \$1 million in sales taxes alone in 2024, and we're expecting to be at over \$1.5 million in 2025. If LB316 becomes law in its current form, it will destroy our businesses. Most criminologists even believe in theory that the war on drugs causes more crime than it seeks to prevent due to the black market it creates, as we've seen in the past with the prohibition of alcohol. This is something your constituents want. In exchange, we have a solution to validate your concerns that you might have. Senator Cavanaugh has presented LB16. It's a regulatory bill. It will provide-- it provide government oversight without eliminating our businesses, taking out any concerns that you guys might have for the industry. I urge your committee not to advance this bill, but in turn look into LB16 as an alternative. I'm also happy to answer any questions you guys have for me.

**BOSN:** Thank you for your testimony. Any questions from the committee? Seeing none, thank you for being here.

**NELAM MILLATMAL:** Perfect. Thank you.

**BOSN:** The next person on my list. Oh, were you-- did you have a question?

**DeBOER:** It's fine.

**BOSN:** I didn't mean to cut you off.

**DeBOER:** No, that's OK. I did not get it up fast enough, so it's fine.

**BOSN:** Come on back. She has a question.

**DeBOER:** So you have a-- you have a lab analysis for us. Is that right?

**NELAM MILLATMAL:** I do.

**DeBOER:** They're in Florida? Do you know--

**NELAM MILLATMAL:** [INAUDIBLE], yes, it's down in Florida.

**DeBOER:** So are there other laboratories that you use that are in Nebraska? Because I think the Attorney General or someone else may have insinuated that there are not Nebraska laboratories that can handle this kind of business. So can you speak to that issue?

**NELAM MILLATMAL:** Of course, there is a lab here in Lincoln that does testing on THC products. But the labs that-- laboratory results that

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

we receive are from our vendors. So they're the ones who make the product. And once they make the product, they send it off to testing. When we purchase the product, this is what we look at to make sure that that company is sending us a safe product and it meets the hemp farm bill. So we're in compliant. Otherwise, we'd be con-- carrying a controlled substance in our stores, right? So it's-- the liability right now is currently at the distributor level, not on us as retailers, which obviously if need be, we could, but it's doing the same work twice. But yes, there are labs here in Nebraska that are able to do the testing if need be.

**DeBOER:** And the products that you sell in your store, where are they being manufactured?

**NELAM MILLATMAL:** All over through the United States.

**DeBOER:** Are there any manufacturers of those products in Nebraska?

**NELAM MILLATMAL:** Currently, no. I, I know Nebraska makes it very hard for THC products to be made, so it's probably not something that's very popular here currently. But with medical marijuana coming in its form, that could change as well.

**DeBOER:** OK. Now, I'm done, thank you.

**BOSN:** Sorry. Thank you. Thanks for coming back up. Is Joseph Fraas? Is it Fraas?

**JOSEPH FRAAS:** Fraas.

**BOSN:** Fraas. Thank you for being here.

**JOSEPH FRAAS:** Thank you, Senators. Thank you, Madam Chair. My name is Joseph Fraas, J-o-s-e-p-h F-r-a-a-s. I'm a native Nebraskan and lifelong resident. I own a small business called G&G Smoke Shop for the past 18 years in both Lincoln and Omaha. I employ 18 people. I paid about \$172,000 in sales tax in 2024 alone. This ban will severely damage my company, hundreds of other Nebraska companies, our employees, our vendors, our supporting businesses, and our families. If our business, businesses survive this ban, it is likely that most of our employees and their families will not. Not only that, but this bill will destroy millions of dollars in economic activity. Hemp derivatives were made legal by the federal government in 2018, and ratified by the great state of Nebraska in 2019. The DEA also has issued a legal statement that says that Delta-8 and other of these type of cannabinoids are legal. Recently, an overwhelming majority of

Nebraska voters said they wanted cannabis to be legal for medical reasons. Also, in 2022, polling in Nebraska showed roughly 65% support for the recreational, recreational cannabis. So cannabis legalization is popular with voters, and this trend also holds across party lines and demographic lines. These hemp derivatives are proven as a category to be very safe. Their safety profile is similar to many over-the-counter medications. Currently, they are tested by third parties for potency, adulterants and contaminants, and they certainly are safer than other legal alternatives such as alcohol and nicotine. I share the desire of this bill's proponents to keep these hemp products safe, well labeled, well tested, and out of the hands of children. My business insists on third party lab testing, on accurate labeling, on protecting IP, and on not selling products that look like food or candy. We also have very stringent policies and procedures to prevent the sale of our products to children. I am proud to say that G&G has an exemplary record of doing just that. I worry that this bill will actually harm Nebraska's consumers and children. The U.S. experience with prohibition has been abysmal. Bans do not stop the sale of these products. They are simply driven into a black market. Everyone that has wanted cannabis in Nebraska for the past 60 years has gotten it. In fact, past attempts at prohibition have actually raised usage rates, and we can see that cannabis users rates have fallen after cannabis has been legalized across the U.S. Prohibition also has shown to make the market more dangerous. In a black market, these products will be sold by people who are not concerned with public safety, with no safety guidelines and no law enforcement. And data shows that taxing and regulating cannabis has badly damaged the drug cartels. Worse, there will be no honest business persons left to police themselves, and there will be no oversight from law enforcement to police the bad actors. Plus, a ban will take millions of dollars out of the tax coffers and destroy millions of dollars in economic activity. In conclusion, this bill will not help keep Nebraskans safe. Hemp derivatives are legal products. These products are tested and proven safe. Prohibition goes against our small government principles and makes the market more dangerous and could increase usage rates. Bans do not provide safety, accountability, or tax revenue. There are good actors in this industry that want to keep Nebraskans safe, but a ban will put those good actors like me out of business and out of reach of law enforcement, and put this industry into the hands of a black market. Please keep Nebraskans safe and vote against LB316. Thank you. I'll take any questions.

**BOSN:** Questions for this testifier? Senator McKinney. Sorry.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**McKINNEY:** Thank you, Chair. Thank you, sir. Do you know how much tax revenue businesses like yours bring to the state each year?

**JOSEPH FRAAS:** I don't actually have that number, unfortunately, but I'm going to guess it's in the millions. I mean, we've just in this room, we've had at least \$2 million in tax revenue each year. And there's-- and this only represents, you know, a tenth of the locations in the state. So, yeah, it would be an enormous number. I mean, if you wanted me to just guess, I would guess it's over \$5 million, if not more.

**McKINNEY:** OK, I think somebody put up \$8 million.

**JOSEPH FRAAS:** Now, that, that might be it, \$8 million. Yeah, I believe, I believe them.

**McKINNEY:** So if this passed and you paid \$172,000 in taxes last year, would you pay none, or, or less?

**JOSEPH FRAAS:** No, we wouldn't pay none.

**McKINNEY:** But less, though.

**JOSEPH FRAAS:** But most, most of these businesses would, though. I mean, a lot of these businesses are hemp dispensaries. We're an all in one smoke shop, we carry a lot of different products.

**McKINNEY:** OK.

**JOSEPH FRAAS:** So for us, it would probably be more like, you know, 40% decrease in our sales. But yeah, most of these businesses, though, or many of these businesses are strictly hemp dispensaries.

**McKINNEY:** So it would potentially be a decrease in tax receipts for the state.

**JOSEPH FRAAS:** Absolutely it would be. In the millions, I would guess.

**McKINNEY:** In the millions. In a budget shortfall.

**JOSEPH FRAAS:** Yeah. And also an attempt to lower property taxes in the state.

**McKINNEY:** Yep. Thank you.

**JOSEPH FRAAS:** Thank you.

**BOSN:** I just have a few follow up questions.

**JOSEPH FRAAS:** Sure.

**BOSN:** So we were handed a handout, which you don't have the benefit of seeing, but-- or reading, you can see it, I would assume.

**JOSEPH FRAAS:** Right.

**BOSN:** And you talked about the dangers of the marketing for kids. And this, the handout, also clearly talks about things that are very attractive to kids. You can't have it both ways. Either you guys want to regulate and you're doing the right thing, we're not marketing to kids, or you're selling Rice Krispie Treats, Two for Tuesdays, Lights Out Gummies, Dabber [SIC] Day Saturdays, Second Chance Sundays, Munchie Mondays. I mean, which is it?

**JOSEPH FRAAS:** Well, for us, we don't carry any food products at all, because I've always been concerned that there is a high risk of accidental ingestion, I mean, even for adults, but especially children. I mean, a Rice Krispie bar, some of those Rice Krispie bars have an incredible amount of THC in them. Like not even a regular user would be able to eat the entire thing. But a kid can easily eat an entire Rice Krispie bar. So we have always held to not carrying food products. We don't market to children, we don't sell to minors, we have a lot of stringent policies to keep from selling to minors. And what I would like to see is a state age minimum and state dosage requirements and other safety measures that could actually protect children. Unfortunately, the idea of accidental ingestion didn't start with Delta-8. People accidentally indul-- ingested illegal Delta-9 pre the Delta-8 years. Those emergency room visits maybe moved over to Delta-8, but I doubt there's been a major increase in all those visits together. And when you have people making their own cookies or whatever at their house, that presents a risk to their children. And of course people may not foresee those risks, but the risks are still there. So I would be for anything that can prevent this. And I just don't think that this ban will do it. It will just turn it all back to that black market.

**BOSN:** And we can agree to disagree on that. But what you've said is you're not marketing to children.

**JOSEPH FRAAS:** Correct.

**BOSN:** And my mailbox is opened every day by my children.

**JOSEPH FRAAS:** I, I don't--

**BOSN:** And mail boxes all across Nebraska are opened every day by their children.

**JOSEPH FRAAS:** Sure. We don't do mailers, so just to be clear.

**BOSN:** OK. So-- but they're getting out, and they're ge-- they're getting in the hands of the kids. And these are attractive, and they look at these things. And so to ignore those realities and say, well, if my store doesn't, then don't regulate or don't ban this because my store didn't do those things, ignores the reality that we are being faced with a problem and being asked to come up with a solution. And that's what the author of this bill is proposing is, there isn't a safe way to do it because it's just not safe.

**JOSEPH FRAAS:** If I may share my opinion on that, I've always hated those mailers. I mean, for the reasons that you say. It's like-- and all the other opponents probably feel the same way. It's like it, it, it does, it makes a big spectacle out of something that like-- you know, there are laws regulating the advertising of tobacco. Those laws are very effective, right? There could be laws, you know, regulating alcohol, but they don't exist, unfortunately, at least not that I'm aware of. And those two drugs are the number one and number two killers in the U.S. and in Nebraska. Right? These drugs almost kill no one. I mean, as Senator McKinney said, even the adverse reactions rate is 0.003%. So I would be for advertising guidelines. I would be for bans on marketing that makes things attractive to children. I would be for not allowing the sale of foods, or at least foods that would be attractive to children. But a ban doesn't do that. You know, it still allows parents to make those foods in their house. It makes-- and I can tell you, when I was a kid, or at least in high school, I could get pot any time I wanted to, you know? The black market has been damaged by Delta-8 coming onto the scene, because there are legal businesses that are good actors that are not selling to children, and those businesses are competing with the black market. So we've actually made the market safer, in my opinion.

**BOSN:** Thank you.

**JOSEPH FRAAS:** Thank you.

**BOSN:** Thank you for being here. Next opponent, and now I don't have any other listed opponents that I was asked to call. So the floor is open. Thank you.

**SCOTT SELIX:** Good afternoon. My name is Scott Silex, S-c-o-t-t, last name S-e-l-i-x. I am a board member on several nationwide boards. I'm general counsel for Climbing Kites, a hemp manufacturer in Iowa. And I'm here today in opposition to this bill. I had something prepared and I wanted to go through it, but I think there's just been so many misconceptions repeated over and over again that maybe to start with, I talk about what we make. Unfortunately, there aren't any Nebraska manufacturers, and that's mainly due to the risk of being shut down if they ever pop up. But our product is 100% naturally occurring cannabinoids. We take the hemp plant. We take out what's already there. There's no synthesizing, there's no conversion. We take the cannabinoids you're familiar with, and we put it into a product in a very low amount. Those products would be banned by this bill. So there's been a lot of things talking about synthetic products. What is Delta-9, Delta-8, Delta-10. Synthetic versus non synthetic is not really what's at stake here. This is a total ban on infusing hemp into products. And I think there's a lot of confusion on what this bill does. As an attorney, I can tell you that this bill actually makes CBD infused products illegal as well. There's no difference in how the bill treats THC versus CBD on how it makes them illegal. And so it would actually make just CBD consumables illegal as well. And I think that highlights in general that there's just so much misinformation and misunderstanding and actually a lot of fear mongering around this. And before you ban something, if you take a step back, everybody in this space wants to regulate this. We all want, everybody that supplies these products wants age dating, we want responsible actors, we want every single one of those products on that sheet to be banned because we don't want children having these products. I think if you asked every single person in this room that either owns a store or manufactures these products if they're OK with, with banning anything that appeals to children, we say, yeah, we don't want that. What we want is to make responsible, and I see I'm almost out of time, responsible, regulated and very well tested products available to consumers. And it really does make the consumer safer. If you have any questions, I'm, I'm happy to take them.

**BOSN:** Any questions? Oh, Sen-- Senator DeBoer.

**DeBOER:** The Attorney General handed out a sheet to us that talks about states that have banned illegal synthetic cannabinoid, cannid--

**SCOTT SELIX:** Yeah.

**DeBOER:** It's just not ever going to get easier.

**SCOTT SELIX:** I know.

**DeBOER:** Cannabinoids. And it's-- it appears that Iowa is one of those. So can you speak to that? What is the legal status of Delta-8, or--

**SCOTT SELIX:** Yeah. Coincidentally, I helped write that bill so I can. In Iowa, we did ban synthetic cannabinoids. And those were, those were untraceable cannabinoids that you couldn't-- that you couldn't-- that you knew obviously were not-- but you knew obviously weren't synthetic. And so what we have to do in Iowa is we do have traceability testing. So we have to keep records of where we source the hemp, where we get the cannabinoids coming from that hemp, and then we submit them to the state. So there are ways to ban the products that, the types of compounds that we don't want without throwing out, you know, we can throw, we don't need to throw the baby out with the bathwater, I guess, is what I'm getting at. There's ways. So in Iowa right now, synthetic cannabinoids, certain ones, the ones that we don't want are banned. But we allow naturally occurring cannabinoids in low amounts in products. And if you look at the Iowa marketplace, it's, it's very safe. There's, I think, some parts in Iowa that I, you know, we would have liked to have gotten a little bit different after a year's worth of experience passing that bill last year. But the idea that, that, you know, Delta-8, or synthetic cannabinoids or, you know, THC or CBD are banned in Iowa is wrong.

**DeBOER:** Can you take me through-- OK, so you said, and I've written this down so I can get it right, cannabinoids, so you said that the synthetic cannabinoids that you don't want. So can you speak to what those are?

**SCOTT SELIX:** Yeah. So there's no definition of what a synthetic cannabinoid is. In fact, one of the, one of the-- there were some people that brought a lawsuit in Iowa that said synthetic cannabinoid is used in the statute, but it doesn't have any meaning. No one knows what a synthetic cannabinoid is. It's sort of a-- it's just a general term that could mean different things in different situations. And so you've heard before, THC-A, THC-O, those are not naturally occurring cannabinoids, and those are the types of things that were very easy to ban. Naturally occurring cannabinoids, which includes CBD, which include Delta-8 THC, which include Delta-9, Delta-10, those would not be synthetic, but there's no, there's no medical definition or legal definition. Those are just two words put together to hopefully mean something.

**DeBOER:** OK. So in Iowa, is Delta-8 illegal?

**SCOTT SELIX:** Yes.

**DeBOER:** OK. And Delta-9?

**SCOTT SELIX:** Is not illegal.

**DeBOER:** But that's THC.

**SCOTT SELIX:** Correct.

**DeBOER:** Interesting.

**SCOTT SELIX:** Yeah.

**DeBOER:** OK.

**SCOTT SELIX:** And, and this was, this was I think, you know, one of the things that we wish we would have gotten differently in Iowa was synthetic cannabinoid, cannabinoid was not defined. And we had people who didn't understand what synthetic cannabinoid meant going back and writing rules. So Delta-8, I would say, it's, it is undoubtedly a naturally occurring cannabinoid. There's no doubt about that. But it is illegal currently in Iowa based on an administrative rule, not on a statute.

**DeBOER:** OK. Thank you.

**BOSN:** Am I remembering previous tests-- were you here the whole time?

**SCOTT SELIX:** Yeah.

**BOSN:** OK. Delta-9 was alleged to, or implied to have been more dangerous, or more risky, we'll use that word, than Delta-8?

**SCOTT SELIX:** Yeah.

**BOSN:** OK. That's-- I just wanted to make sure I understood it correctly. Not that it's your fault, but just --

**SCOTT SELIX:** Yeah. And I'd just like to say, you know, we heard Attorney General Hilgers say there's no peer reviewed evidence. I think we heard a doctor say otherwise. But I would tell you is that there's no study that says Delta-9 is more potent or more powerful. It is just a slightly different molecular compound than Delta-8. I think that's an irresponsible statement, if I'm being honest as an attorney and as someone who studies this regularly. They're just two separate THC compounds that, that --there's a different molecular structure to

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

them. But there's, there's no evidence that one is, is stronger or worse than the other. They're both naturally occurring, and, and, you know, history has shown in the last five years have shown that these products are really safe.

**BOSN:** Thank you for your testimony. Oh, sorry. Senator Rountree.

**ROUNTREE:** I'll defer to Senator Storer first, and then come back.

**STORER:** All right.

**BOSN:** I'm sorry. I should do a better job, I think. I feel like I can see everybody, but I can't, so.

**STORER:** And I, I just have a really quick question, again I'm back to-- so, a moment ago, I thought that you just said that Delta-8 was not a naturally occurring, that there was no doubt it was not a naturally occurring cannabinoid.

**SCOTT SELIX:** Yes.

**STORER:** And then I thought you heard-- you say at the end of your testimony that it was. So it is, or it isn't?

**SCOTT SELIX:** Yeah. Yeah. I mean, this is the really hard part and where it gets really confusing. In Iowa, we banned synthetic cannabinoids, as-- and we tried to define it within the statute, but it-- what-- we banned synthetic cannabinoids. And there was an administrative rule that came out defining what that meant, and unfortunately, lumped Delta-8 in as a synthetic cannabinoid. It is-- it was just an administrative rule definition and a statute that they got wrong, and we're going back to fix this year. So it is-- I'm--

**STORER:** OK, so let me ask this a different way.

**SCOTT SELIX:** Sorry.

**STORER:** So Delta-8 is derived from a naturally occurring cannabinoid, but in its final form, it is not naturally occurring.

**SCOTT SELIX:** No.

**STORER:** Thank you.

**SCOTT SELIX:** Sorry. I was disagreeing, I guess is what I would say.

**STORER:** OK.

**SCOTT SELIX:** Delta-8 is absolutely naturally occurring in the hemp plant. There's-- it is in every hemp plant as a naturally occurring cannabinoid.

**STORER:** So you could, you could derive Delta-8 from a, from a hemp plant without any chemical process.

**SCOTT SELIX:** Yes.

**STORER:** Then how is it different from Delta-9?

**SCOTT SELIX:** It's-- besides the slight molecular compound difference, it's not, but it does occur in smaller amounts within the cannabis plant naturally than Delta-9. So it is what we call a minor naturally occurring cannabinoid. CBD and Delta-9 are the two primary cannabinoids in the cannabis plant. But again, this bill makes everything illegal. You know, it doesn't rely on whether it's converted or synthetic, it just throws it-- starts out CBD too, if you're reading it under the plain language. So I know it's very-- it's confusing. It takes a long time to understand most of, of this. And, and I guess that's, you know, what we would ask for is to regulate these products and, and to make them safer with age gating, with labeling, with not appealing to children. And you'll see in LB16 that those are all things that our industry self-regulated and is proposing. But to throw out everything based on a lot of misunderstandings, I think it doesn't make consumers safer.

**BOSN:** Senator Hallstrom.

**HALLSTROM:** In the controlled substance schedules, we oftentimes see that the changes to compounds staying a step ahead of the law, so we have to constantly come in and update the schedules to, to address those. Is, is there any element of that here with regard to Delta-8, Delta-9, Delta-10?

**SCOTT SELIX:** Honestly, no. The same compounds that have been in cannabis for thousands of years are still in cannabis, and that's Delta-8, Delta-9, and Delta-10, and CBD. You know, there's other ones too, but the synthetically created ones, you know, they're already illegal. They're already illegal under federal law, and they're already illegal under Nebraska law. And so those trying to stay a step ahead of things, you don't have to, because we know what's legal.

**HALLSTROM:** As I sit here today, I just feel-- what's going through my mind is Abbott and Costello, who's on first, what's on second, so.

**SCOTT SELIX:** I-- you know, it's, it is very confusing, and-- you know, it's just there's no, there's no definition for what synthetic means, and, and this bill doesn't even rely on a definition of it, you don't see it anywhere in the bill. I don't know why it got brought up so much. It really was, you know, respectfully, I think a little bit of a red herring just because this bans all, all cannabinoids coming out of the hemp plant, you know, including CBD. If you-- as a lawyer, if you read the bill according to its plain text, that's what it does. So I get the confusion. I think, you know, I-- it feels maybe like there was some may have, you know, terms were used to try to throw people off a bit is what I'd say. Respectfully.

**BOSN:** Senator Rountree.

**ROUNTREE:** my final question. Thank you, Chair. So as you went through the process, you've heard everything that we've talked about, so I'll come back again to the numbers. We're looking at the danger. We looked at the numbers of how many had called in to the poison control centers. We asked about deaths. So as you worked through this process in Iowa, how many deaths had occurred? Did you have those numbers? How many, especially the impact on our young people since that was a lot of what we're talking about today, what were your injuries, deaths and occurrences like over in Iowa?

**SCOTT SELIX:** Yeah, we have the same problem with that-- on that, that it's really hard to find out. And there's so many co factors that it's hard to navigate. But what we, what we do know is that when you look at the research that's out there on cannabis, the research shows that this is very much safer. And, and just like you have stories there, I can tell you 100 stories of our consumers who write to us and say, I was able to quit drinking and I needed to because of CBD or because of low amounts of THC, I was able to quit my pain medication. I was able to quit my PTSD treatment. There are so many more stories of how this has helped people and how they were able to get the help that they need through these products than there are, you know, the horror stories. And, and certainly we want to keep products out of the hands of children. We want to make them safe. We want to make them regulated. Every single one of my products, if you scan the QR code on the back, it'll take you to a lab report that tells you exactly what's in there, heavy metals, pesticides, toxins, the exact amount of cannabinoids in there. And you know, when you consume these products, what you're getting. We've-- I also own a craft brewery. We have never had that much transparency in, in alcohol. We've never had that much transparency in THC. The level of transparency here and the level of self-regulation and established regulation under Nebraska law far

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

exceeds almost every other controlled substance. You mentioned some dietary supplements. Those don't get lab tested. They actually state right on there, these have not been reviewed or approved by the FDA. You know, you-- if you look at vitamins, vitamin C, the amounts that are on-- in a vitamin sometimes vary by 95% at these dietary supplements. That's not the case with our products because you have to get them tested every single batch and you have to submit that lab report to the store before they can sell it and you've got to get approval to sell it. So, you know, there's, there's a lot of safety that built into this, this industry, much more so than other highly regulated industries. And we're even despite all of that, we're here saying we'll take more. Tax us, give us regulation, we'll comply. Just don't shut down all these businesses. Just don't hurt all these consumers.

**BOSN:** Senator Storer?

**STORER:** Every time I think I [INAUDIBLE].

**BOSN:** No, it's OK.

**STORER:** So who is-- who has to approve your product? You said you have to submit it for-- you have to submit to who? Who are you submitting to?

**SCOTT SELIX:** Yeah. Right now there-- so right now you have to have a lab report that shows that it's under .3% THC in order for it to be hemp so that, that's what you must do to comply with, with laws.

**STORER:** And that goes to who?

**SCOTT SELIX:** Well, currently in Iowa, it goes to the, it goes to Department of Health and Human Services and it gets approved. And I think that's exactly the proposal in LB16 is to have these products reviewed and approved. I'm actually not familiar with that. There might be some other people that could speak more to it, but that is exactly the process that we all-- that we want. Yeah.

**STORER:** And so that's in Iowa.

**SCOTT SELIX:** That's in Iowa.

**STORER:** So I was, I was under the understanding you were-- your business was here in Nebraska.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**SCOTT SELIX:** Yes. Yeah. We do operate here in Nebraska on a, on a smaller scale.

**STORER:** Thank you.

**BOSN:** Thank you for being here.

**SCOTT SELIX:** Thank you.

**BOSN:** Next opponent. Hello. We don't allow props.

**TINA JONES:** Oh. Sorry.

**BOSN:** They're fine there, just don't wave them around.

**TINA JONES:** I'm not going to.

**BOSN:** OK. Perfect.

**TINA JONES:** Just my-- the industrial hemp industry is a bit ambiguous to some, so it's handy, handy to have a visual aid when you talk about hempcrete. Hello, my name's Tina Jones, T-i-n-a J-o-n-e-s. I'm here representing the U.S. Hemp Building Association, as well as industrial hemp and hemp building professionals across the United States. I have been in the indus--- the industrial hemp space for five years and have led or participated in over 30 hemp construction projects, spoken at many hemp conventions, and have worked with trade schools, high schools, and tribal councils across the United States. I am actively involved in the industrial hemp supply chain and have completed my own hempcrete retrofit in Denton, Nebraska, where I own the general store. I am currently also working with a group to put in a hemp decortication facility in McCook, Nebraska. We broke ground on this facility at the end of 2024, and our group is meeting with 26 Nebraska farmers in and around McCook, literally as we speak right now. They all want to grow hemp and process it at a Nebraska facility. My concern with the language of this bill is that it is quite ambiguous. My industry uses materials from the hemp plant to create building products such as hempcrete blocks, panels, and hempen fiber insulation, as well as hemp plastics, textiles, biofuel, animal bedding and much more. As these hemp farm products are not for human consumption, it is my opinion that industrial hemp should be excluded from the threshold language in this bill. Nebraska farmers have already experienced many hurdles in regards to growing hemp. Myself and my colleagues in the industrial hemp space have been working with home farmers and processors in multiple states and we are excited to bring this opportunity to Nebraska. After the addition of hempcrete in

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

the IRC index in October of last year, hempcrete buildings have been going up at a much faster rate, and there is significant demand for industrial hemp. We are receiving grants from the U.S. military as well as the Department of Defense, and we have a lot of other opportunities of funding as well that Nebraska would benefit from exploring. I am concerned that LB316 will not only further deter farmers from growing hemp in Nebraska, but will keep our state and its residents from benefiting from our burgeoning industry. Whoo. Was I under three minutes?

**BOSN:** You were. Any questions for this testifier? Seeing none, thank you for being here.

**TINA JONES:** Yes, thank you.

**BOSN:** And this is-- Next opponent. Thank you for being here.

**COLIN FURY:** Thank you, Chairman Bosn. My name is Colin Fury, C-o-l-i-n, F-u-r-y. I have, since the 2018 farm bill's passage, had the opportunity to grow and work with farmers in states from South Dakota, Iowa, Nebraska, to Texas, Virginia, Florida and Ohio. And I've seen-- so I've seen farmers grow this under a bunch of different regulatory conditions. When the farm bill was passed, USDA gave states a lot of leeway in how they could regulate growers. But as far as the federal commodity is concerned, hemp is a cannabis plant with concentration of less than 0.3 Delta-9 THC. Everything above my belt I'm wearing today is hemp. It's a federal commodity. The CBD oil you put on is a federal commodity, and arguably, you know, any kind of cannabinoid product with less than 0.3 percent THC is a federal commodity. Going back to the Virginia potato farmer in the 1880s, Eugene T. Guy in the Guy v. Baltimore Supreme Court case on through the 1970s to the cantaloupe-- Arizona, California cantaloupe farmer Bruce Church in Bruce Church Fruit v. Pike, they've always given interstate commerce kind of the benefit of the doubt until really this recent National Pork Producers v. Ross decision where in a very convoluted decision, and I'm sure you've read it, Chairman Bosn, and I'd, I'd ask you to read it, they gave California and the Ninth Circuit Court of Appeals leeway to weigh social issues versus the issue of interstate commerce when deciding what agricultural commodities to take into a state. That allows California to prohibit caged chicken, caged pork, so on and so forth. And in the eighth Circuit, where Nebraska is the only state at this time that doesn't have legal form of medical cannabis, we're a much more agricultural friendly circuit court and we support, traditionally, interstate commerce. So I would argue that this bill should have gone to Ag

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

Committee. In this case you guys have the authority to bring the growers back under Nebraska Department of Ag purview, where you've delegated it out to USDA. But I'd argue that Nebraska doesn't have the authority to regulate in the way Senator Kauth is hoping to. So I appreciate your time.

**BOSN:** Thank you for your testimony. Any questions of this witness?  
Senator Storer.

**STORER:** Thank you, Chairman Bosn. And thank you for coming, Colin. I, I guess I just want to clarify too, with-- how would this how would LB316 impact your business?

**COLIN FURY:** Well, I, I guess just-- so, traditionally, Nebraska growers have had to grow under the Nebraska definition of hemp, and out of state hemp is subject to interstate commerce. So when you go to a lot of these, you know, more Delta-8 than CBD shops, their products coming from farm bill compliant hemp grown in other states. And the state of Nebraska can't restrict that unless, you know, they bring on the Ninth Circuit's opinion on interstate commerce that you have to judge social issues with the issue of interstate commerce that's long been established that Congress sets interstate commerce and states, if they set regulations that collide with interstate commerce, Congress wins. So the growers in Nebraska could not grow hemp the same way that the hemp coming in was, because Nebraska was regulating them with a different definition of THC than the federal definition. Now that the Legislature delegated out hemp last year to the federal government, for the first time Nebraska producers will be able to grow this year, as of January 1st, under the same guidelines as was defined in the 2018 Farm Bill. And like, for instance, Wisconsin is under the very same guideline. They're the third largest cannabinoid producing state after Florida and Texas. And then two, it gives us a longer harvest window, 30 days, which will make-- will open up the grain and fiber market to Nebraska, where the 15 day window, it, it made it difficult for those large scale farmers to execute a dual crop harvest. And it isn't as long as like, say, South Dakota, Montana, they have 45 days. But that longer harvest window will make-- and a lot of the crops that people were, were growing when Nebraska was regulating, you know, I think would be illegal under this proposal. But definitely the USDA growers who, who are licensed in Nebraska growing under USDA regulations, some of their crops will be illegal under Senator Kauth's proposal, and since Congress regulates interstate commerce and not state legislatures, I figure it will be thrown out in the Eighth Circuit Court.

**STORER:** So if I understand correctly, because it, it specifically says hemp does not include the mature stalks of such plant; fiber produce from such stalks; oil or cake made from the seeds of a plant; or any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks; or the sterilized seed of such plant that is incapable of germination.

**COLIN FURY:** Yeah. What this-- there's a lot of confliction in this. Like, like there are some spots of the bill where it explicitly states interstate commerce, but then there's some spots where, you know, it explicitly states tetrahydrocannabinolic acid, which isn't configured into the USDA definition of tetracabinodial [PHONETIC]. So, you know, it-- I guess I guess they've-- it's two different definitions. And the, the definition set by Congress wins be-- for two reasons. One is because, you know, there's interstate commerce of this. And two, since Nebraska delegated out regulation of growing to USDA, growers have to adhere by the federal government's definition, not the definition that Senator Kauth-- if Senator Kauth were to introduce a bill to bring growers under the purview of Nebraska again and have this defi-- those definitions, she could do that, but it still wouldn't affect, in my personal opinion, what's being sold in the stores, because unless we adopt a Ninth Circuit Court of Appeal, you know, outlook on interstate commerce in the Eighth Circuit, where you measure social issues with interstate commerce and you allow, you know, states to decide if they're going to allow Costco to grow their chickens and that sort of thing, then I think Senator Kauth would have an argument. But I think we're a long ways, luckily, in my opinion, off from that. And now a lot of the-- please read that Ross v. National Pork Producers decision, because Coney Barrett-- like Ketanji Jackson Brown [SIC] and Samuel Alito, probably have the closest to my personal opinion in their dissent on that. But the thing is, in that case, their-- Congress never told pork producers or chicken producers what the definition of a healthy, safe way to produce pork and chicken were, where explicitly Congress defines hemp as any product with less than .3 Delta-9 THC. And I was thankful when Attorney General Hilgers filed in support of the pork producers in their lawsuit against Ross, the Ag Secretary in California. But the thing is, the hemp, hemp-- folks here have a stronger case since their definition of hemp is explicitly defined by Congress, whereas, you know, they were just arguing more on just pure interstate commerce grounds in that Ross v. National Pork Producers decision. But bottom line is, I think we just would have to come up with a new evolving definition of interstate commerce and, and having kind of social values have more, more influence on that to allow for Senator Kauth's proposal to be enacted.

**STORER:** Thank you.

**COLIN FURY:** Thank you.

**BOSN:** Any other questions? Thank you for being here. Thank you. Next opponent? Any other opponents? Next, we'll move on to neutral testifiers. Anyone wishing to testify in the neutral capacity? Thank you for being here.

**ALEX DWORAK:** Good afternoon, Chair Bosn. Dr. Alex Dworak, A-l-e-x D-w-o-r-a-k. This isn't the bill that I prepped for, but since I am a doctor and reading the medical literature is one of my favorite things, I wanted to answer a couple of the questions that came up. The Journal of American Medical Association published a study called Adolescent Delta-8 THC and Marijuana Use in the U.S. in 2024. In a nationally representative survey of 2,000 12th graders, 11.4% said they'd used Delta-8 THC nationwide and 30.4% reported marijuana use, and that tracks with what I see in clinic. Regarding state policies and their effects on this, marijuana use did not differ based on whether the state had legalized marijuana or not, but Delta-8 THC prevalence in this adolescent sample was higher in the south and midwestern U.S. and in states without legal adult use marijuana or, or adult THC restriction. So it seems that if cannabis is legal, there's less use of these products. If it's illegal, then people are still using, using things, and turning to this. And another study that I found was looking at toxicity in children, because that question came up, an article that talked about overdoses and fatalities did not show any fatalities in children. There was one fatality in adolescents, and 26 in people between the ages of 18 and 64. There were also several hospital visits and multiple physicians that I found in my reading testified that kids needed to be admitted to the hospital or even to the pediatric ICU, although they thankfully survived, according to this. It didn't talk about long term effects, but I've seen people have effects lasting months at least until I lost follow up with them after a psychotic break with these things. So the health effects are very real, and also practicing in underserved medicine, I see the disparate effects of that every single day in clinic. I appreciate the level of thoughtfulness that's going into the discussions here, and if I can help by answering other questions with literature, I'd be glad to forward these articles along to your staffers at your request, and I'd volunteer my time to help chase down literature citations if that would be useful. I leave it to you in terms of what the right policy is to protect Nebraskans, but always happy to help with things that will protect and promote the health of my fellow Nebraskans. Thank you so much.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**BOSN:** Thank you for your testimony. Let's see if there's any question. Senator McKinney.

**McKINNEY:** Thank you Chair, Chair. And thank you. So are you saying there is research on the impacts of all of this out there?

**ALEX DWORAK:** Thank you for the question, Senator. Yes, there is some. I wasn't seeing a trend of organized research, and a lot of the articles, as is common, say more research is needed. One example of that was I was looking for potency or clinical outcome differences between Delta-8 and Delta-9. There is not, I agree with the previous testifier, there's no good evidence that one is more potent or safer than the other. A lot of anecdotes, but nothing in terms of good science. But yes, there is some literature, not as much as I would have hoped to be able to find, about state policy decisions and exposure and use patterns. So.

**McKINNEY:** OK. Thank you.

**ALEX DWORAK:** Yes sir.

**BOSN:** Senator Rountree.

**ROUNTREE:** Thank you, Chair Bosn. I appreciate you coming today and given that bit of information. I know that you, you really serve a great populational need, and as we talked earlier, where you work and take care of them from top to bottom, and I really appreciate that. So this bit of information that you've given us today really helps me and understand more about what I want to understand and know here today. So thank you for just expressing that.

**ALEX DWORAK:** Thank you, Senator Rountree.

**BOSN:** Seeing no one else, thank you for being here. Next neutral testifier? Good afternoon.

**BILL HAWKINS:** Chairman Bosn, members of the Judiciary Committee, my name is Bill Hawkins, B-i-l-l H-a-w-k-i-n-s. I thank you for listening intently to this issue, I'm coming in a neutral position. I have over 50 years of practical, real life cannabis experience. Senator McKinney, we were selling weed out of our lockers over 50 years ago here in Lincoln, Nebraska. So it's been here. Because I'm neutral, because of-- I'm for full legalization in a taxed and regulated safe system. And I've been in the Legislature for-- in here for over ten years. I worked with Senator Wallman to introduce the first hemp bill. My suit jacket is of hemp, and that is what hemp was supposed to be.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

The definition, .3% THC, you have a article from the DEA that states very specifically when you test for hemp, the substance is decarboxylized, which turns THC-A into THC. So all combined cannabinoids must be below .3% THC. It also states in this that they have come out and said that Delta-8 is illegal. So there's been a lot of confusion here. And so I'd like to try to clarify some things. Minor cannabinoids are in the plant in trace amounts, you cannot extract from biomass to get that much of Delta-8, Delta-10. So they must be-- they take excess CBD, synthetically turn it into all these other deltas. There are contamination problems, they aren't tested and regulated. I'm a small business proponent. I have worked my whole life promoting local sustainable businesses, so I'm not against these businesses, but I'm for full taxed and regulated cannabis. And so these people are not selling hemp products, they are selling recreational cannabis. They have a loophole. They can bank the money, they can ship interstate commerce, and they can advertise in mailers. Legal cannabis cannot do that. You have another handout that the FDA warns about making medical claims. I'm an herbalist. I can't make medical claims on plant material. But because of the, quote, loophole, we're making medical claims. In legal cannabis states, a doctor cannot have ax-- affiliation with a cannabis company. And yet we have that here. And so I would be happy to answer any questions to clarify any confusion the senators may have. So thank you for your time.

**BOSN:** Any questions for this? Testifier Senator McKinney.

**McKINNEY:** Thank you. And thank you, Bill, for--

**BILL HAWKINS:** Yes.

**McKINNEY:** -testifying. So I'm looking at this and it mentioned like the DEA was working on a final rule. Did they ever finalize that final rule?

**BILL HAWKINS:** They've clarified from day one when the Nebraska Hemp Farming Act and the Federal Farm bill passed, decarboxylation has been required from day one when you decarboxylate THC-A, which they are selling through all these stores premium cannabis bud. I want to be able to sell taxed and regulated premium cannabis bud. When you test a 30% THC product, it is over point .3% THC. The federal government and the states are responsible for this out of control recreational cannabis under the loophole of the farm bill. It's not these business owners, even though they took the risk to sell this product. I want them to be able to ten times the amount of revenue they're bringing in now with tax and regulate cannabis, and I wish they would work with me

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

to do that. But so the DEA has been very upfront from day one that .3% THC is the definition of hemp, and that was arbitrarily set by the EU back when hemp 20-some years ago started becoming a product. But that's food, fiber, and biofuels, and food products, it's not recreational cannabis. That's--

**McKINNEY:** No, I was just wondering, did they-- because this is like May of '23. And I was just curious--

**BILL HAWKINS:** I think May of '24, last year.

**McKINNEY:** In this article, it, it's '23.

**BILL HAWKINS:** OK, '23.

**McKINNEY:** But I was just kind of wondering if they ever came out with the final rule. Like, what was the final conclusion?

**BILL HAWKINS:** In the statement in that letter, it states that Delta-8, it's on page second, is a controlled--

**McKINNEY:** No, I mean, because this was May of '23.

**BILL HAWKINS:** Have they come out with another one? I'm not aware--

**McKINNEY:** This, this other one is '21--

**BILL HAWKINS:** Yeah.

**McKINNEY:** It's '25.

**BILL HAWKINS:** Sure.

**McKINNEY:** So what happened after is what I'm wondering.

**BILL HAWKINS:** I would have to say that they still require decarboxylation and .3% THC. So that's been from day one, and that hasn't changed in the Controlled Substance Act. And so how these products are being tested and qualifying as, quote, hemp, I don't know. And, and that is again, the federal government and the states' responsibility that you've allowed this. And as has been stated earlier, 60, 70% of all United States citizens believe in full taxing, regulating, ending this war on drugs that has negatively affected brown, black, and poor white trash communities across this country. People are ready to end it. And so that's where we are right now.

**McKINNEY:** So, last question.

**BILL HAWKINS:** Yeah, sure.

**McKINNEY:** We're-- we have a new administration. I know the last administration was working on rescheduling cannabis or marijuana. This passes, could we potentially be jumping the gun, not knowing what the current administration is going to do? Because I do remember President Trump did support the legalization of recreational marijuana in Florida. So we really don't know what they're going to do.

**BILL HAWKINS:** That is a very good question, Senator, and I will address that in that the now President Trump met with the CEO of Trulieve, which spent \$150 million to get the recreational cannabis on the ballot in Florida. He met with her. President Trump, good or bad, he looks for the money. And I guarantee you that she showed him that the cannabis industry, whatever it is, is a multibillion dollar industry that is continuing to prosper, and it has now taken over alcohol sales in the United States. So I would say that there is a good possibility that cannabis reform and the social equity that should follow it in the communities that have been affected by this war on drugs will proceed. But there's a lot of lobbying efforts in every direction, and so being in one of the leading militarized police states and worst prison systems in the country that I've experienced in the 12 years I've been here and see no improvement, I hope that we can end this war.

**BOSN:** Thank you.

**BILL HAWKINS:** Any other questions? Thank you. And I appreciate your time on this important issue.

**BOSN:** Any other individuals wishing to testify in the neutral capacity? If not, I'll have Senator Kauth come up to do her close. And while she's getting ready, I will note for the record that there are 3 proponents, and 73 opponents, and no neutral comments submitted for the record.

**KAUTH:** Thank you very much and I appreciate the committee's attention. This is an incredibly confusing subject, and I think it should be noted that almost every expert who came up here had something different to say about it. They contradicted each other, there, there were a lot of very confusing suggestions about what this means, which is part of the reason why we need to ban this. We don't even know what it is we're dealing with half the time. The gentleman from Iowa was incorrect about this not allowing CBD, it was written specifically to continue to allow CBD, but CBD products must have under .3% total THC,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

and must comply with Nebraska Pure Food Act, Federal Food, Drug, and Cosmetic Act. I'm grateful for Dr. Dworak coming and giving us the information about what he's found in the literature. That literature has reflected state policy decisions about cannabis. It hasn't reflected medical studies. As of yet, and I would, I would love it if he would send me if he finds anything. Right now, I haven't been able to find any actual studies done, medical testing, to say, OK, we're going to do a placebo group, we're going to do a group who tries Delta-8, we're going to see what happens. We are talking about something that people walk into a store and think, well, of course, is on a store shelf, it must be legal, of course I can buy it. Someone must have tested this. Someone is looking out for me, the consumer. Someone is making sure that the product I'm about to ingest, sure, it might make me feel better, it might make my knees, you know, not hurt so much. Someone surely has done some serious scientific testing to see if it has any other side effects, side effects that we can't know. We heard the, the doctor, and I'm so sorry I'm going to say her name wrong. Andrea Holmes? Dr. Holmes. You know, she's a, she's a doctor of organic chemistry. So she's studying how these compounds work and how you can shape and build and manipulate them. And she talked about how the product is in very, very small amounts. And then you add a solvent to it. What's in those solvents? Do we have any information about what solvents added to these, this process, do to the human body? We don't. We don't know what it is. When we hear about the number of people going to the poison control center and asking for help, that is a small fraction of who is actually doing it. But I'm going to date myself. I remember when Tylenol had some packaging issues and there were seven deaths and they pulled everything off the shelves immediately. We don't even have the ability to do that with this sort of products because they are not regulated in any way, shape or form. When they say they've gotten a certificate that says they've been tested, that means the lab that has done the work on them says, here's how clean my lab is and here's what was done to it. That's not the same type of testing. So I think the word testing is being used a little free and loose. One of the things that, that really struck me, and this, I know you guys had a long day and you've got five more bills to go. So, sorry. What really struck me is the fact that the people who oppose this all have significant financial vested interest in this product. The people who supported this bill, an addiction specialist, law enforcement, people who see the end result and who are dealing with these people who are getting injured, and I want you to take that into consideration. And quickly, I want to address the industrial hemp. Absolutely that is something that we've got to make sure it is clear, you can grow it. You can't process it in this state,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

but you can use it. So that's-- we want to make sure that's clear, and I'll work with her to make sure our language actually reflects that, because that's part of what we're trying to do with this bill. We want our hemp farmers to be able to grow this product, to develop these new-- I love the fact that Bill has a jacket made out of hemp. That's really cool. There are things that can be done with this product that we don't want to stifle, but when we know that there are really harmful effects, we should be paying very close attention. And it's our job as legislators to put those guidelines in place. So I thank you for your time.

**BOSN:** Any questions for Senator Kauth? Senator DeBoer.

**DeBOER:** So just quick to verify. You do not intend to include industrial hemp.

**KAUTH:** Correct.

**DeBOER:** You do not intend to include CBD?

**KAUTH:** Correct.

**DeBOER:** OK. Thank you.

**BOSN:** Thank you for being here.

**KAUTH:** Thank you very much.

**BOSN:** That will conclude our hearing on LB316. I will now pass this to you and we will take up LB6.

**Speaker 6:** That's exactly.

**Speaker 5:** What I also.

**Unidentified:** To say. Thanks for doing that to us. Yeah, I think we're out of time. Yeah. Yeah. You know.

**Speaker 5:** Thank you.

**DeBOER:** All right, as we're switching who's in here, we're going to now open the hearing on LB6 with our own Chair Bosn. And as we're trying to be a little bit efficient today, because we have a lot of bills with a lot of discussion about them, let's move right now to opening our hearing. And welcome, Senator Bosn.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**BOSN:** Thank you, Vice Chair DeBoer, members of the committee. This is LB6, which I am introducing for the second time on behalf of Taryn AJ, Eugene, and other victims who were poisoned by fentanyl. Behind me today, there are a number of families who will be testifying and sharing their personal experiences with-- regarding their children who unknowingly ingested fentanyl and passed away tragically. I am presenting this bill as a response to the national crisis and as an opportunity for this body to hold people accountable for lacing drugs with fentanyl when their actions result in death or serious bodily injury. And even though my lovely staff put together my comments from last year, I'm going to go off script, which scares her to death, and for good reason. Since last year when I presented this bill, I have maintained a file of the cases involving fentanyl where an individual took fentanyl and as a result was either seriously injured or died. And in my review of those cases and in my review of those articles, and there are hundreds and I am happy to share them all with you, there is a massive push across this country to push that fentanyl be declared a weapon of mass destruction. Those are not my words. Those are words being used by other state legislatures, by other individuals across this country. There is a mass marketing effort to try to attack this with the slogan One Pill Can Kill. And the founder of Families Against Fentanyl, whose name is Jim Rauh, and it's R-a-u-h, has as his slogan of that organization, which is incredible, and I would encourage all of you to look into. The number one duty of the government is to protect its citizens, and we are failing our citizens. Currently, fentanyl is the number one cause of death for Americans between the ages of 18 and 45. Number one. In the last four years, more individuals-- so Covid, more individuals died from fentanyl overdoses in those age categories, in that age category, than from Covid, car accidents, or any other cause of death, cancer, anything. The number one cause of death. On March 5th, 2024, Lancaster County deputies arrested two individuals from Lincoln with over 500 pills, which contained a total of 53.7 grams of fentanyl. Members, this is important. Two milligrams of fentanyl is considered a lethal dose. And while my math is not great, that's over 25,000 lethal doses of fentanyl in a single drug bust. The next day, the Lancaster County Narcotics Task Force arrested a dealer who allegedly was selling fentanyl daily since April of 2023. That's scary to think about because that was over a year time period. The facts of that case, which was reported in the news, so I can share all of this with you, when they were on their way to execute the search warrant in that case, they were flagged down by someone on the side of the road who was trying to flag down help for an individual who was simultaneously overdosing in the car, and the person who was flagging them down was

the dealer. While I am grateful that he recognized the individual's urgent need for medical attention, including ultimate hospitalization, we cannot continue to ignore the fact that drug dealers are killing citizens in our state. I've provided you with two examples. As I said, there will be a number of individuals behind me who will testify both in favor and in opposition to my bill. And what I will tell you in my conversations, and I appreciate Mr. Eickholt coming to me and talking with me about his opposition in this case, is that they will talk to you about cases that are, you know, the extremes. They're going to talk to you about a few cases where they think this could happen, this-- we could charge someone who didn't know they were-- that the drugs they were dealing were laced with fentanyl. And I am empathetic to that up until the very moment where someone died. Because when someone dies as a result of you doing those actions, my empathy is gone. Those are factors that the court can consider at the time of sentencing, their level of culpability, their level of intent. Those are factors that they can consider. But it is not our job to create laws that don't-- that we-- it's not our job to ignore a crisis that is staring us in the face, it is the number one cause of death, and say, well, what if we have someone who, who didn't know? Yes, they dealt it. They're not even ignoring the facts. Yes, they dealt it. Yes, this person died. We can be empathetic and we can fix a problem, and I am asking you today to support this bill as a response to a national crisis. Thank you for your time and I'm happy to answer any questions.

**DeBOER:** Are there any questions for Senator Bosn? Senator McKinney.

**McKINNEY:** Thank you. Thank you, Chair Bosn. If this passes, what do you think the impact will be? Will this decrease the sale of fentanyl?

**BOSN:** That would certainly be my goal.

**McKINNEY:** OK. Now, I appreciate your testimony. And you said that, you know, no matter what, if somebody sells and somebody ends up dying, they should be held accountable. I grew up in a family of drug addicts, and a lot of them sought out those drugs. And I've had family members die from overdose seeking out those drugs. So I've seen it both ways. So I'm just this is drug enhancement, and I grew up in a war on drugs, so it's like-- I'm just like-- and I know people who have OD'ed on fentanyl. And I had a family member that luckily he survived, but he did OD. It's just the increase in penalties, knowing what an increase in penalties did, especially during the crack epidemic, it boomed our prison population and increased mass

incarceration. Which is part of the reason why prisons across America are filled. How do we balance that?

**BOSN:** I appreciate the question, but I want to start by telling you that I'm sorry for your experiences with that. I would say that there are a number of people in this room who've also gone through family members who have been addicts or who have experienced overdoses. And if they haven't, there are people in this room who haven't, they're very fortunate. I, I won't ignore the reality that it will result in a likely increase in incarceration, because any time you have a penalty that has an increased penalty, or a crime that increases a penalty, there's always that risk. The goal of this piece of legislation is to hold those who are engaging in activities that are resulting in the death of young people, old people, children, across the board, anyone, accountable, and to send a message that this state is not going to allow that. Now, to your point, whether that's in conjunction with an education piece where we, we do more to send a message that, hey, we are going to start prosecuting these with an enhancement and we will start pursuing these in, in conjunction with the passage of this legislation, if you can get me an amendment that requires me to do that, I'll add it, because I think that it is important. But I don't think it negates that we have to respond to what is a serious crisis and, and requires our, our action.

**McKINNEY:** Fair. I guess I haven't seen when penalties have been increased, I haven't seen from the street level people that are either doing drugs stop seeking out the drugs, or people that are selling to say, you know, the Nebraska Legislature just increased this penalty. Let me-- 'cause they don't even pay attention. So I'm, i'm-- both don't pay attention, the addict or the seller. So how are we going to measure impact when we all know the reality is neither are paying attention to this hearing today?

**BOSN:** Well, I guess to that ex-- I mean, we can't require anyone to pay attention to our hearings, but I think we do have an obligation to come up with a response to the problem that we are seeing. And so to the extent that it-- I, I think there's also another category of individuals who are taking advantage of Nebraskans, those who are saying, I'm selling a drug and I'm cutting it with increasing amounts of fentanyl to increase your addiction to fentanyl. Does that make sense? So if I'm selling an Adderall pill to an unsuspecting college student, which is an example you'll likely hear, and I, I don't know that I'm sharing it with my friends and that it's cut with fentanyl, my dealer is increasing the amount of fentanyl that they're putting in the Adderall pills they sell me because they want to see if they can

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

get me addicted. And you can say that's not true, somebody behind me may say that's not true, but I believe that is true. I think there is an incentive of these bad actors to come in and say, your increasing addiction to fentanyl means more money for me, and more money for me is always good in the eyes of those individuals. So when you pass legislation like this, you're intending to send a message, we're not going to mess around, we are going to stop it. Are we going to stop some of the dealers and some of the users? Unfortunately, no. But I think this is a direct response that will result in fewer users and fewer overdoses. And I'm-- actually I'm going to take that back. I don't think these are overdoses, I think these are poisonings.

**McKINNEY:** I-- we could probably go back and forth, I just haven't seen in my lifetime when the, when the state or this country has increased penalties-- like I'll use crack, for example. We increased penalties and people were still selling and smoking crack. And it did-- it was still booming. It's just now there's just different drugs on the streets. I didn't, I didn't witness a decrease in people seeking or selling.

**BOSN:** Well, and I, I know I can't respond with a question, so I-- which is hard to do when I have one. But your point is, is that the re-- people didn't stop using crack because of the increased--

**McKINNEY:** All I'm saying is I just saw more people going to jail, but I didn't see the deterrent changing the environment. That's, that's all I'm saying.

**BOSN:** OK. I'll follow up with you on that because I, I maybe disagree, but maybe I don't. I don't-- I want to think about that more.

**McKINNEY:** OK.

**DeBOER:** Are there other questions? Senator Storm?

**STORM:** Thank you. Thank you for your testimony. Are there other states that have similar legislation as this passed?

**BOSN:** I'm glad you asked. There are 26 states that have this legislation. In the interest of time, I can share it with you later which ones those are, but there are 26 of them.

**STORM:** Have you talked with anybody in those states that has implemented this to see if-- how it's worked or why they did it?

**BOSN:** Yeah. So I-- part of what I've done in collecting these articles is looking at what the trends are in a variety of the states. Minnesota sticks out to me and I can't remember why. I had done some research as to what Minnesota passed, likely because their language was similar to ours and there was some question about whether or not we use the serious bodily injury component or just use results in death. And there, for one, the individuals that we worked with were mind blown that this was opposed with such ferocity the last two years because of how successful it was in a bipartisan way in Minnesota, but also that it had resulted, in conjunction with other tools, to reduce fentanyl usage, that it had resulted in a decrease. And I don't know what those exact numbers are, but I can share that article with you.

**STORM:** So in your opinion, if a drug dealer was incarcerated in prison, how likely are they to be able to distribute drugs then?

**BOSN:** Unfortunately, they're not completely precluded from doing so, but certainly less likely.

**STORM:** So that should lower fentanyl deaths.

**BOSN:** My goal would be yes.

**STORM:** OK. That's all. Thank you.

**DeBOER:** Senator Hallstrom.

**HALLSTROM:** Thank you. I would suspect that if we looked at every crime and said if it's not a deterrent, we ought to get rid of the penalties, wouldn't be an appropriate course of action. But isn't there an element of this that irrespective of the deterrent, these are serious crimes, there are serious consequences, kids are dying, families are left behind without children, and there ought to be consequences.

**BOSN:** Yeah, and I think that goes to the public safety perspective that is paramount in any time that you implement a crime, because it can't just be a deterrent factor, but it also has to be a public safety. You're weighing those risks. And in this particular case, Senator McKinney's frustration is, is that the deterrent isn't high enough for some of these addicts. And perhaps he's right. But I think the public safety element to this outweighs any ability for us to continue to turn a blind eye.

**HALLSTROM:** Thank you.

**DeBOER:** Any other questions from the committee? I do have one for you, and I think we talked about this last year. And so you'll have to remind me, I know we had a discussion about intent elements. Can you tell me what your opposition is to including an intent to distribute fentanyl? Or, like, could we put in this: the person who you are enhancing their crime knew or should have known that fentanyl was in whatever they distributed to others?

**BOSN:** So, my-- yes, we did. We got to spend several hours on the floor last year talking about that. My reluctance to doing that, not straight across the board opposition, but my reluctance to doing that is that it is different, that would create a carve out and set a precedent unlike what we do in other areas. For example, driving under the influence. We do not have as an element of the crime of driving under the influence that you knew you were over .08.

**DeBOER:** Sure. Although I might be able to make a distinction between those two crimes. OK. So your reluctance is based on form, that it would not conform to other laws. Is that--

**BOSN:** How would you ever prove that a drug dealer knew or should-- what would be the way that someone could prove that?

**DeBOER:** That they knew or should--

**BOSN:** Couldn't they always just say, oh, I didn't know there was fentanyl in that.

**DeBOER:** Well, that's why, that's why I think you'd have to have a "knew" or "should have known," or some "with reckless indifference towards," or some sort of intent factor like that.

**BOSN:** Well, any time someone other than a pharmacist is distributing drugs illegally, you knew or should have known.

**DeBOER:** Well, you, you knew or should have known that you were passing drugs to someone, but you don't necessarily know or should have known that you're passing fentanyl.

**BOSN:** Well, and my response to that is, is that then you're not a pharmacist and you shouldn't have been delivering any substances across the board. I don't care if it's Adderall from a teen to another teen, or oxy, or whatever it is. If you're not a pharmacist and you don't know what's cut in your drugs, you probably shouldn't be giving them to other people because that's when bad things happen.

**DeBOER:** I can understand your position there, and we won't belabor this committee, but this does carry some very serious penalties for it. And so that might be the reason why an intent element might be appropriate since it is heightening the penalty. So are there other questions? Senator McKinney.

**McKINNEY:** Thank you. Senator Hallstrom brought up the public safety factor about this. And in thinking of that and pondering that, the public safety factor about this, if this passed, could we guarantee that all communities would be policed the same? And I bring this up because there is data that shows that a community like north Omaha utilizes marijuana just the same as west Omaha, while we know that north Omaha has more police presence than west Omaha, which means there's more police interactions in north Omaha than west Omaha, although both communities utilize the same drug at the same rate. So can we guarantee that all things equal both communities will be policed the same? Because if not, I also fear there will be a disproportionate amount of arrests because of that.

**BOSN:** Well, I mean, I assume you know the answer to that is no, I cannot guarantee, nor could any piece of legislation guarantee such a thing. But I will tell you, and I think we talked about this last year as well, that the number of individuals who are overdosing and dying as a result of this, it is disproportionately impacting in terms of death your communities, those communities on north Omaha, south Omaha areas of town than it is other areas of town. And so while I can't guarantee, and I certainly appreciate the question any of that, I also think that the impact can't be ignored in that the individuals who are most impacted, and favorably impacted by this legislation, in my opinion, favorably impacted would be the communities where those drug dealers are thinking that there, there won't be any consequences.

**McKINNEY:** I'm not, I'm not arguing that there isn't usage in my community or it's not disproportionate usage. I can make an argument that those numbers are slightly skewed because some people who have access to things that decreases the, the risk of overdose or slows down that overdose too because of the communities in which they reside in. All I'm saying is when laws like this are passed, we, we tend to not factor in that all communities are not policed the same, although when studies are done, usage, usage is the same. And we talk about public safety, but public safety isn't util-- like implemented or utilized the same in all communities. And that's my issue as well, is that we enhance penalties, but we've got one community over here that smokes weed the same as this community over here, but this community right here has more police presence than this community, although

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

they're smoking weed just as much as this community. So you got more people from this community going to jail, but this community still smoking weed, but less people going to jail. And how do we-- that's-- then you look at our prison population and you see the disproportionate amount of people because of that.

**BOSN:** I will not argue with that because I think those are problems. They're not contemplated a solution for them in this bill. But I'm open to having that conversation. I, I, I don't have any quick fix for that in this bill.

**McKINNEY:** Thank you.

**DeBOER:** OK. Are there other questions for Senator Bosn? Let's have our first proponent. Welcome.

**PATRICK CONDON:** Welcome. Thank you. Good afternoon, Vice Chair DeBoer, members of the Judiciary Committee. My name is Patrick Condon, and I am the Lancaster County Attorney. I'm representing my office and the, the Nebraska County Attorneys Association in support of LB6, and I want to thank Senator Bosn for bringing this bill. LB6 is a common sense bill, if you deliver a controlled substance to someone and someone dies from these drugs, you should face a more serious penalty than if you just delivered the controlled substance. This fact scenario of someone delivering drugs and someone using those drugs and then overdosing and dying has become more prevalent with the growing fentanyl problem. As you have heard, fentanyl is a synthetic opioid and can take-- it can be lethal with the first use. It only takes two milligram dose, and for your-- just to kind of get an idea of what that is, that's similar to 5 to 7 grains of salt to cause the death of an average sized adult. People dealing this drug should be held accountable for the outcome of their delivery of this drug, and this bill accomplishes this. If a user gets high and does not suffer serious injuries or death, the dealer is not penalized as a-- the dealer is not-- is penalized as they would have been previously. If a user dies or suffers serious injuries, this bill makes that penalty greater. I submit that is just common sense. I know opponents may say that the prosecutor can charge manslaughter when the delivery-- and delivery and this does the same thing. That is not true. Manslaughter under the Nebraska revised statute states a person commits manslaughter if he or she kills another without malice or upon a sudden quarrel, or causes the death of another unintentionally while in the commission of an unlawful act. Delivery of a controlled substance states in its part, it shall be unlawful for any person to knowingly or intentionally manufacture, distribute, deliver, dispense,

or possess with the intent to manufacture, distribute, or deliver, or dispense a controlled substance. You may hear from defense attorneys as proponents, and I wish you would ask them the question. The defense will say that the delivery was over. I delivered to Senator Storm. I delivered to Senator DeBoer. That act is over. The person then dies, it is not during the, the commission of the unlawful act. This bill would not just look at the actor, the act of delivery, but what the results of that delivery was for sentencing purposes. If someone was seriously injured or died, the potential penalty would go up. The prosecutor would only need to prove the delivery in the serious bodily injury or death. LB6 tells judges this Legislature and the people of Nebraska believe if you deliver a controlled substance to someone and someone dies, that is a more serious offense than the simple delivery of a controlled substance. It is a common sense bill. Thank you, and I would be happy to answer any questions.

**DeBOER:** Thank you very much. Are there questions for this testifier? Senator McKinney.

**McKINNEY:** Thank you. Thank you for your testimony. I was thinking of something. What is the total on delivery? So-- and I ask this because let's say I give-- someone sells something to Senate DeBoer one day. Then the next day, Senator DeBoer gives it to somebody else. Who's at fault?

**PATRICK CONDON:** Well, I would say both.

**McKINNEY:** But what's the total?

**PATRICK CONDON:** What's the total?

**McKINNEY:** Well, I didn't give it to this person.

**PATRICK CONDON:** But you delivered it, and you delivered it to Senator DeBoer, and who delivered it to, to someone else. If, if, if a prosecutor can prove that, then I say both are held to that accountability of, of this bill.

**McKINNEY:** No, I'm ask-- so what's the time limitation? So let's take it-- so let's say a week passes.

**PATRICK CONDON:** Again, I would say-- and that's, and that's what we look at as prosecutors. What can we prove beyond a reasonable doubt? Can I prove that? And that, that is a good point. If somebody sells something, if, if, if you sell something to Senator DeBoer and three weeks later she sells something, I don't know if that's the same

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

thing. Unless I get Senator DeBoer to say what I sold to this person that killed him was the same, was what I bought from Senator McKinney three weeks ago. That's what I sold to him. If I have that, then I could look to charge you with that death. But I need-- but as a prosecutor, we look at these things and say, can we prove this beyond a reasonable doubt?

**McKINNEY:** And you said it's not manslaughter, but isn't the selling of drugs an unlawful act?

**PATRICK CONDON:** But that unlawful act is over. That's why driving a motor vehicle where you, where you kill somebody, when they drive the motor vehicle and they kill somebody--

**McKINNEY:** You contradicting yourself there? So if I, if I sold the drug and that-- I don't, I don't under-- I'm confused now and then. Because-- so you're saying it's, it's not-- it's over, but it's not over.

**PATRICK CONDON:** The delivery is over.

**McKINNEY:** But I sold the drugs, so it's over.

**PATRICK CONDON:** But, but the, the result of that delivery. So, so that's if you look at the-- if you look at the way the manslaughter bill is written.

**DeBOER:** Oh. OK.

**PATRICK CONDON:** That's what I'm saying. You look at the way the manslaughter bill is written, and the manslaughter bill is written that the unintentional death while in the commission of the unlawful act.

**McKINNEY:** OK. All right. Makes more se-- you're saying in the commission. OK. All right.

**DeBOER:** Thank you.

**McKINNEY:** I'll think of something else. Thank you.

**PATRICK CONDON:** That's fine. Thank you, Senator McKinney.

**DeBOER:** Thank you, Senator McKinney, are there other questions? Let me, let me just ask you one or two. So you heard my exchange, I think, with Senator Bosn--

**PATRICK CONDON:** Yes.

**DeBOER:** --about the intent factor.

**PATRICK CONDON:** Right.

**DeBOER:** So in the way the law is written now, do I have to-- if I sell, we'll do this again, Senator McKinney, something that is laced with fentanyl, but I don't know it's laced with fentanyl. If I don't know it's-- if it's, if it's not a controlled substance, if it's something that's not a controlled substance, am I still liable under-- or am I still-- have I still triggered this bill?

**PATRICK CONDON:** So, so-- and that's if you read the delivery of a controlled substance, it doesn't say that you deliver meth, you deliver cocaine, you deliver heroin, it says you deliver a controlled substance. So you may think, I'm delivering methamphetamine and you're actually delivering fentanyl, it doesn't matter.

**DeBOER:** But what if I think I'm delivering Advil?

**PATRICK CONDON:** Again, and, and I would go back to what Senator Bosn was saying is if you are not somebody who is to be delivering a controlled substance, and that's-- and Advil, I think, would be a-- would not be a controlled substance.

**DeBOER:** That's what I'm saying. If it's not a controlled substance, but it has fentanyl in it, right? Like are there situations where someone might deliver fentanyl through the means of a non controlled substance?

**PATRICK CONDON:** Oh, I'm sure there's ways that, that somebody could try to do that, to make it look that way.

**DeBOER:** And then in that scenario, would this-- would we be-- because if we can clean up that issue, I think that gets me partway there, so that we're not having someone who's delivering something they think is Advil or something not controlled, it's really fentanyl. They think they're just giving someone an Advil, now the person dies, they have-- they have no intent to do-- to break the law.

**PATRICK CONDON:** And again, and again, I think that goes back to the discretion that prosecutors have. And when we look at this, I-- you know, my thought would be, why are you selling Advil to anyone? Anyone can go out and buy Advil.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**DeBOER:** Well, I could, I could just be giving it to him.

**PATRICK CONDON:** OK. And, and that's it, and that's what I would say is why are you giving, it what-- I would be talking--

**DeBOER:** Because he has a headache, and I'm like, here, have some Advil.

**PATRICK CONDON:** OK. And I then, then that's what we would do, we would investigate that. Where did you get the Advil? How did, how did you obtain the Advil?

**DeBOER:** OK. So--

**PATRICK CONDON:** Because, because as people as, as Senator Bosn said--

**DeBOER:** But you see, my my point is that--

**PATRICK CONDON:** I do. And, and as Senator Bosn says, anybody can say, oh, this was Advil, I was just giving it, I didn't know it was Advil when they did know what was in it.

**DeBOER:** I mean, but you can say it looks like a duck, it quacks like a duck--

**PATRICK CONDON:** That, that's ,that's the way, that's the way fentanyl is, is packaged. I mean, it looks like legal drugs.

**DeBOER:** It does?

**PATRICK CONDON:** It can look like, it, it can look like a, an Adderall that you can be prescribed, and you can be legally prescribed Adderall, and it can look like Adderall.

**DeBOER:** OK. Well, thank you for your testimony. Oh, Senator McKinney has one more.

**PATRICK CONDON:** Yes.

**McKINNEY:** All right. Thank you.

**PATRICK CONDON:** Thank you.

**McKINNEY:** All right. So why isn't this involuntary manslaughter?

**PATRICK CONDON:** Well, one, there is-- I mean, again, if you look at the manslaughter, there is no-- it-- in the, in the manslaughter

statute, there is no involuntary manslaughter. Manslaughter is either you kill another without malice on a sudden quarrel or you cause a death unintentionally while in the commission of an unlawful act.

**McKINNEY:** Yeah, but in the statute, there are subsections, and in the subsections it does say involuntary manslaughter is not a lesser included offense of invol-- voluntary manslaughter. Involuntary manslaughter is killing without intent and without provocation while committing an unlawful act.

**PATRICK CONDON:** Again, you're committing an unlawful act, you're, you're, you're committing--

**McKINNEY:** When you give the drug you've committed an unlawful act.

**PATRICK CONDON:** But, but the, the involuntary manslaughter, and again, if you look at that, and this is not only in, in this area of drugs, it's also in the area of, of first degree assault and manslaughter, and that is, you know, you, you deliver something, it's a Class II felony. Manslaughter is a Class IIA felony. So it's a lesser charge.

**McKINNEY:** But there was, but there was--

**PATRICK CONDON:** And, and that's the same, that's the same way with, with first degree assault and manslaughter. So if you assault somebody and it ends up in first degree assault, that's a 1 to 50 year imprisonment. But if they die, it's then 1 to 20. And, and that's the same way with, with this delivery, you deliver a drug to somebody and it's 1 to 50, and they die and it's only 1 to 20.

**McKINNEY:** So-- but here's my question. So when Senator Bosn was given her opening, she stated that somebody, one, you shouldn't be selling a drug to somebody. And if you are, you should know what's in it. So can an intentional killing be manslaughter? Because if I should know--

**PATRICK CONDON:** If it--

**McKINNEY:** --and I'm giving you the pill which has fentanyl in it, is that intent, is that intentional?

**PATRICK CONDON:** No, because I don't think you intend to kill. Why would you be delivering somebody with the intent to kill them unless you're trying to commit murder?

**McKINNEY:** She said it doesn't matter.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**PATRICK CONDON:** And that's what I'm saying. I don't think it does matter.

**McKINNEY:** But-- that's what I'm saying, if it doesn't matter that I'm intending or not, because she said it shouldn't matter, the intent language shouldn't matter because you shouldn't be selling, then why, why isn't it manslaughter?

**PATRICK CONDON:** I'm-- I apologize, Senator. I'm not, I'm not following your question. I'm not trying to be-- I just, I'm not following your question on that, so--

**McKINNEY:** I guess from what I got from Senator--

**PATRICK CONDON:** You don't, you don't have to intend to sell any drug. You have to intend to sell or distribute a controlled substance. You don't have to know what it is. You don't-- you could think it's cocaine, you could think it's meth, you could think it's whatever. As long as it's a controlled substance, that's all you need to-- you all-- that's all you need to do is to sell that controlled substance. So if you're selling something that you believe is a controlled substance, then, then you-- I mean, you know, you're selling anything, if it's a controlled substance, it's a controlled substance.

**McKINNEY:** And I die, is that not intentional?

**PATRICK CONDON:** Again, I don't think it's intentional on the part of-- I don't think it's intentional necessarily-- excuse me-- on the part of the dealer, the dealer's trying to get you hooked so they can make more money from you.

**McKINNEY:** So what is it?

**PATRICK CONDON:** At best, it's manslaughter if you can prove that it occurred in the, in the-- you know, that-- I, I prosecuted a case where I charged the person with manslaughter for an overdose on methamphetamine. But the-- he, he-- after he was Mirandized, he admitted that he injected the individual with methamphetamine. So to me, that delivery, that was, that was during the commission of the act that, that that death occurred. So I was capable of charging. But the sentences were run concurrently. So he was not given any more sentence than what he could have been received under the, under the delivery charge. And I just think that's, that's wrong. And I think this-- that's another thing that this bill does, is it allows the judges to say, because we often hear this, well, if the judges, if the Legislature wanted to make this illegal, they would have made this

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

illegal. This tells the judges, the Legislature and the people of the state of Nebraska believe that this should carry a more serious penalty.

**McKINNEY:** All right.

**DeBOER:** Other questions? Thank you for being here.

**PATRICK CONDON:** Thank you.

**DeBOER:** Let's have our next proponent.

**SANDRA ALLEN:** Good afternoon.

**DeBOER:** Thank you for being here.

**SANDRA ALLEN:** Thank you. Vice Chairman DeBoer and members of the Judiciary Committee. My name is Sandra Allen, S-a-n-d-r-a A-l-l-e-n, and I'm currently the acting criminal bureau chief for the Nebraska Attorney General's Office. And I am here on behalf of the Attorney General, Mike Hilgers, as well as the Attorney General's Office in support of LB80-- LB6. As Senator Bosn had stated, fentanyl in Nebraska and across the country, has been on the incline for quite some time now. I've obtained some recent stats from the DEA, and in Nebraska last year, law enforcement agencies seized over 41 pounds of fentanyl, and over 80,000 fentanyl pills in 2024. It's estimated that 1.5 million fatal doses of fentanyl were seized and removed from Nebraska last year. Also in this bill, which should be discussed is, and Mr. Condon admitted, talked about that a little bit, is it doesn't just encompass fentanyl, it encompasses other dangerous drugs like heroin, methamphetamine, and those also illicit street drugs that are deadly. The risk associated with increasingly powerful and increasingly available illicit controlled substances like fentanyl, carfentanil, heroin, methamphetamine, they merit the changes that are proposed in LB6. Nebraska homicide statutes, as Mr. Condon said, currently do not contemplate a situation where an individual distributes a drug to another who then dies after the ingestion. LB6 aims to address this deficiency, increasing penalties for the distribution and death or serious bodily injury which would follow. These provisions-- there was questions about if other states have adopted similar types of legislation and this bill is also provisioned after and modeled after the federal law which is in existence, which also increases penalties for the distributor when a death or serious bodily injury follow. For example, if an individual were to manufacture or distribute, or to distribute, excuse me, with intent to

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

distribute a kilo of heroin, a Schedule I drug, under federal law, he would face ten years to life. If, however, that individual who he sold to died or had serious bodily injury resulting from that distributed drug, he would face a mandatory minimum of 20 years to life imprisonment. Under current Nebraska law, if an individual distributed 28 to 140 grams of heroin, he'd face 5 to 50 years imprisonment. And if a result of selling that drug to an individual and that individual died or had serious bodily injury, that individual would then have an enhanced penalty pursuant to the statute. So again, LB6 is patterned after the federal law, which bases the sentence for death on the serious bodily injury-- which bases the sentence of death on the serious bodily injury, the type of the schedule of drug, and not on the death or the serious bodily injury itself. So the intent is to distribute, not the intent to kill somebody, and that's what that statute is based upon. As sta-- as stated, there's, as Bosn stated, Senator Bosn stated, there are 26 other states that have passed similar types of statutes, homicide laws addressing drug induced homicide punishable at a fixed level. And I would ask you to pass this bill out of committee. I can answer any questions, if there are any.

**DeBOER:** Thank you. Let's see if there are any questions. Any questions? Senator McKinney.

**McKINNEY:** Thank you. Thank you for your testimony.

**SANDRA ALLEN:** Thank you.

**McKINNEY:** How has your office traditionally handled cases of-- I should have asked him too, but sorry. If somebody sold some drugs and somebody overdosed and died, how does your office traditionally handle those cases?

**SANDRA ALLEN:** Well, as of now, you would only handle those by charging them with the distribution, you couldn't charge them with anything else. We haven't charged-- I don't know of any cases that our office has charged where we charged a homicide based upon someone delivering drugs to somebody. I-- our office, quite honestly, and I've been at the office for 15 years and I've not done a drug case in our office, so I'm not terribly familiar with that. That probably been a better question to ask Mr. Condon. I have had occasions to review when county attorneys ask us to review a situation similar to this and review it to see if we thought we could charge a homicide case, and I've done that on a couple of occasions. But as far as actually charging something like that, I've never have the occasion to do that.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**McKINNEY:** What if somebody doesn't sell it, but they give it away?

**SANDRA ALLEN:** It doesn't matter. The statute is with intent to deliver, distribute. You don't have to get money to do it.

**McKINNEY:** OK. What if I-- somebody has some pills for their own usage and somebody just takes them and util--utilizes them and dies. Is that person who had those pills for their own usage in trouble?

**SANDRA ALLEN:** If they gave them the pill.

**McKINNEY:** No. The person just takes them.

**SANDRA ALLEN:** If they stole them from them?

**McKINNEY:** Yeah.

**SANDRA ALLEN:** I don't think as a prosecutor, if I was reviewing a case like that that I would be able to establish that that owner that had the prescribed prescription would have any intent to distribute that or give that to that individual. So I don't think that that would be something that would, I would charge, no.

**McKINNEY:** OK. Last question. What if the Department of Corrections tries to utilize fentanyl to kill somebody? How would you handle that?

**SANDRA ALLEN:** That is the question that I-- thank you for that question. I don't know that I'm in a position to answer that question right now. I'm here on behalf of the Attorney General's Office, and I have not prepared for that particular bill that's going to come up at some point in time. So I would defer to another date to talk about that if I could.

**McKINNEY:** I was just wondering if the director would be charged with a, you know, enhanced penalty.

**SANDRA ALLEN:** Well, there's, there's, there's statutes, right? There's I mean, there's statutes and there's one that's going to be coming up, a bill that talks about that particular type of lethal injection, right? And that would legalize it because you have a specific bill set aside, or specific bill set aside for that particular instance. That would not be followed under what this bill would propose, if that make sense? You have a separate bill that covers that.

**McKINNEY:** Well, I'm not going to give my opinion on none of those bills. But thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**SANDRA ALLEN:** You're welcome. Thank you.

**DeBOER:** Any other questions? I don't see any. Thank you so much for being here. Let's have our next proponent.

**PATRICK DEMPSEY:** Good evening. I guess?

**DeBOER:** We're not quite there yet.

**PATRICK DEMPSEY:** Close?

**DeBOER:** We've got another 15 minutes.

**PATRICK DEMPSEY:** Members of the Judiciary, thank you for having me. My name is Patrick Dempsey, P-a-t-r-i-c-k D-e-m-p-s-e-y, and I'm here on behalf of the Omaha Police Officers Association. I'm here today in support of LB6, introduced by Senator Bosn, which is necessary legislation to hold drug dealers accountable for death and devastation they cause in our communities across Nebraska. The distribution of deadly fentanyl does not stop in the city of Omaha, and it destroys lives across the state of Nebraska. Fentanyl is not only the deadliest drug plaguing our streets today, it also results in the most overdose deaths. I felt this firsthand as a homicide unit detective who had to tell loved ones that their family member, their significant other, their brother or sister was dead and they were not coming back due to ingesting this poison. I applaud Senator Bosn and the members of this committee for taking this crisis seriously and a willingness to discuss increased penalties for those who distribute fentanyl which results in the user's death. States across the country have adopted legislation similar to the federal legislation to address this issue, and this is an opportunity for the state of Nebraska to separate themselves. Passing LB6 sets the stage that we as Nebraskans will not tolerate the distribution of fentanyl in our state, and you'll be held accountable if you do so. I encourage this committee to vote LB6 out of committee and support legislation that holds drug dealers who murder innocent victims with poison accountable. And with that, I will take any questions.

**DeBOER:** Thank you. Are there any questions from the committee? Senator McKinney.

**McKINNEY:** Thank you. Thank you for your testimony. I kind of brought this up with Senator Bosn about how with a lot of drug usage, drug usage is widespread across all communities. But when you look at the numbers, there's disproportionate arrests in certain communities. So if this passed, this will be an enhanced penalty. I'm just curious of

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

whether there will be equal prosecution, not prosecution, but equal arrest of all communities because drug use issues kind of on balance in all communities.

**PATRICK DEMPSEY:** Thank you for that question. I think we're talking about the crime of murder. And I think it's something that we hold the most sacred in our society. So if it's-- if you murder somebody in north Omaha, it's investigated the same if you murder somebody in west Omaha. I think we're holding drug dealers accountable who ultimately cause somebody's death, and I don't think that those lines of north Omaha versus west Omaha change. In my mind as a former homicide detective, they get the same amount of-- the same amount of attention.

**McKINNEY:** I'm keep my opinion to myself today and we can move on. Thank you.

**DeBOER:** Thank you, Senator McKinney. Other questions? Thank you much for being here.

**PATRICK DEMPSEY:** Thank you.

**DeBOER:** Next-- oh, before we move on to the next proponent, can I have a show of hands of how many people who are still intending to testify on this bill? One, two, three, four, five. OK, thank you. We'll have our next proponent.

**ROBERT GRIFFITH:** Thank you all for listening to my story. My name is Robert Griffith, R-o-b-e-r-t G-r-i-f-f-i-t-h. My daughter, Taryn Griffith, was a beautiful young woman inside and out, with her whole life ahead of her. Aged 24, she had a six month old baby girl, and starting her first real job. She had lots of friends, enjoyed being outside, and got along with everybody. But on November 30th, 2021, that all ended when someone gave her one counterfeit Percocet with enough fentanyl to kill eight people. Besides the loss of our daughter, what makes this worse for us is that we had the drug dealer's name, and the Lincoln Police Department has video footage of this individual giving Taryn the pill. Yes, lots of evidence, but yet this guy will not be prosecuted for Taryn's death. You know, and synthetic opioids is just such a mass destruction. And my testimony is still longer to read than three minutes, so I'm just going to kind of abbreviate here. You know, the majority of these victims who die from these synthetic opioids have no idea that they're taking it. Nowadays, you do hear on the news that some people are injecting fentanyl in their systems, knowing that they're taking fentanyl, but in most cases, they don't. We don't discriminate from these drugs. Everybody's

affected all the way to the age of two years old. Even infants who touch the residues of fentanyl and put it in their mouth, then they die. You know there are--fentanyl is such a disastrous drug. And now drug dealers are putting chemicals in their drugs like xylazine, which is an animal tranquilizer. And basically, fe-- Narcan has no effect on xylazine. And the purpose of the xylazine is to extend the euphoria effect of the drug so the person is lasting longer, feeling high a lot longer. You know, looking at, back in 2018, the Nebraska State Patrol seized a nearly 120 pounds of fentanyl, which is enough to kill 20-- 20-- or 26 million Americans. That's enough to kill every Nebraskan 13 times over. So I want to kind of change here and look at drunk driving. You got two guys out having fun, headed to the bars, partying with their friends, watching the game. Then they decide to drive home. Well, this driver's drove home many times. Nothing's ever happened. Well, this night he plows an oak tree and kills his passenger, his buddy. He's going to be charged. He's going to be held accountable for his life. That's no different than an individual just handing out a pill at a party, and just for everybody to have fun. People look at, well, your daughter took the pill, she's partially responsible. Well, that passenger got in the car knowing his buddy has been drinking all night. He's partially responsible. But that driver is held accountable. What about this drug dealer who, or this pill pusher who gave my daughter a pill? What about the guy in the college is out partying and wants to hand out all these little pills that look like Skittles? Because there are, there are drug dealers disguising these pills as Skittles. And the people fall off and they're dead, and a lot of these people are not held accountable. Thank you for your time.

**DeBOER:** Thank you for your testimony. Let's see if there are any questions from the committee.

**ROBERT GRIFFITH:** I'd be glad to answer any questions.

**STORER:** No question, just a comment. I'm very sorry for your loss.

**ROUNTREE:** Amen.

**ROBERT GRIFFITH:** Thank you.

**DeBOER:** Thank you for being here.

**ROBERT GRIFFITH:** Thank you.

**DeBOER:** We'll take our next proponent testifier.

**ADAM WIBLISHOUSER:** Good afternoon. My name is Adam Wiblishhouser, W-i-b-l-i-s-h-o-u-s-e-r. I'm not here because I want to be. I'm here because I feel like I have a moral obligation to be. Passing this bill is not going to bring my son back. A little over two years ago, my 16 year old son, AJ, was sold a counterfeit pill by an adult. The pill looked just like an oxycodone pill, but was actually fentanyl. He ingested the pill in my basement and died moments later. Later that day, I found him. I haven't been the same since, and I know many other people in the same boat. The person that sold him the pill is known but will never be arrested. Nebraska has no law to prosecute him. And let me tell you, this person has no remorse and continues on with the same and worse behavior. I did have a more of a speech prepared, but I think I want to take this time to answer some of the questions that I've, I've heard come up. I've heard the, the, the IG [SIC] come up. I've heard the prosecutors come up, and I heard the police come up not just today, but on multiple occasions, make the same statements. Like there's no doubt this is a problem and that we need your help. I lost my son. Three minutes isn't enough time to tell you about that. So I gave you a seven page handout. I would appreciate if you, appreciate it if you would read it. But this is our opportunity to actually do something good for the community and help the people. I understand the concerns that were, that are definitely being raised here, and some of them I absolutely agree with, and some other time I'd love to sit down with you and discuss it, and maybe help you brain-- brainstorm and come up with a better solution to that. But I think if we could save just a couple people in our community, then we've done the right thing. I, I, I cannot stress enough that, like, we're not doing the right thing right now. Like somebody has to be accountable. If you give somebody a counterfeit pill and they die from it, that's murder in my, in my mind, I, I can't see any way, any-- I can't see it any other way. I've looked at the manslaughter box and I know there's people that's going to come up here and say, oh, you all in this case or this case, there's, there's you could just charge him with manslaughter. Well, in my case, that didn't happen, it's never going to happen, in fact, the detective told me right in my living room after I found my son dead, that that's it. I saw the pills that he had. They were in the glove box of his car. I drove it here today, and they looked like-- he thought he was taking Percocet, but he was 16 and doesn't know the difference between a Percocet and an oxycodone. And I looked at it and I believed it was a legitimate pill. I would have taken it if somebody would have given it to me not knowing. I had no idea what fentanyl was at the time of death other than I've seen it on the news when they said it's coming across the border and it's bad. So I had no idea to even look for this kind of thing. It's, as a

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

parent, like this has probably been the worst experience of my life and I hope it's the worst experience of my life ever. I can't imagine more families going through this, and I hope that nobody ever has to again. I'm comfortable talking about it, I'm going to yield the rest of my time and I welcome any questions that you have, even if they're tough.

**DeBOER:** Are there any questions from the committee? Thank you so much for being here.

**ADAM WIBLISHOUSER:** Thank you.

**DeBOER:** We'll take our next proponent. Thank you for being here.

**JOSEPH LEDUC:** Thank you. Good afternoon, senators. My name is Joseph Eugene LeDuc, J-o-s-e-p-h Eu-g-e-n-e L-e-D-u-c. I am testifying this afternoon as a proponent of LB6 on behalf of my son Eugene John LeDuc, who was poisoned by fentanyl impregnated into an oxycodone pill a person provided to him on April 19th, 2020, and on behalf of Taryn Griffith and her parents, Mike and Liz, and to the extent that I can, on behalf of the too many other Nebraskans that have died from drug induced homicide, and their children, parents, siblings, spouses, family members and friends. Our lives depend on trust. Our laws strive to provide the structure for that trust. It's still hard for my family and me, and Liz and Mike Griffith, and many other families that have lost a loved one to drug induced homicide to believe that a state law was not already in place, and continues to not be in place, that provides our county attorneys the ability to prosecute individuals that provide a controlled substance to another person that results in death or serious bodily injury at the time of our loved one, and at their death. As of today, Nebraska will be receiving over \$65 million over the next 15 years from the many settlements with pharmaceutical and pharmacy companies that will bolster, I hope, the multifaceted strategies that many people and agencies and organizations are striving to continue and put in place that will hopefully save thousands of lives. While opponents of LB6 view the addition of the enhancement penalty to the current Nebraska statute as punitive, I believe the enhancement penalty can, should and must include the provision of intensive and proven to be successful substance use disorder treatment programing. The addition of a clear deterrent penalty to our state's Uniform Controlled Substances Act is critical to make it clear that killing or seriously injuring a person by the provision of a controlled substance will result in conviction and provide convicted individuals a life, hopefully, saving intervention that provides the potential to save their lives. I believe that

leading our lo-- and loving our family members, friends, and colleagues with substance use disorder to effective comprehensive treatment programs is the desired goal. When they are poisoned, the opportunity for them to overcome their substance use disorder is taken from them. The passage and implementation of this addition to our, our law will not by itself solve the scourge of deaths being caused by fentanyl and opioid poisonings. But along with many other efforts of our medical practitioners, recovery and treatment providers, and law enforcement agencies, the addition of this deterrent will save a significant number of lives. Thank you. I welcome any questions.

**DeBOER:** Thank you for being here. Are there questions from the committee? I don't see any today.

**JOSEPH LEDUC:** Thank you.

**DeBOER:** Thank you. Next proponent. Anyone else here would like to testify in favor of this bill? We'll move to opponents then. Is there anyone who would like to testify in opposition to this bill?

**SARAH NEWELL:** Vice Chair DeBoer, may I proceed?

**DeBOER:** Yes.

**SARAH NEWELL:** Fine, thank you. My name is Sarah Newell, S-a-r-a-h N-e-w-e-l-l. I am a criminal defense attorney at the Lancaster County Public Defender's Office and past president of the Nebraska Criminal Defense Attorneys Association. I sit here in the unenviable position of explaining that there are some problems with this bill. I extend my deepest sympathy to the, the fathers who, who testified earlier about losing their children, and I will tell you that I, I currently represent children who, there but for the grace of God, sit, would sit with their children. Instead, they were the person that, that didn't take the pill or didn't take the whole pill and instead was charged with distributing it because they handed it off to their friends who did take it. In that situation, those, those kids were charged with distribution. And under this bill, when Narcan was administered to the friends, that friend, but for the Narcan, would have died. And in that situation, they would be eligible for this bill. I sit here also as a-- in a very legitimate loss as to why two very-- two prosecutors who I respect and work with regularly don't think that they can charge this under the current statutes. In the-- I won't belabor the written testimony, but if you look at the second citation footnote to State v. Buchanan from 1981 is a case that is very on point. It doesn't involve fentanyl, but it involves a situation where two buddies went out on

their day off, went on a bender, and one of the buddies administered, aside from giving the other guy a pill, administered intravenously some kind of drug that then led to an overdose and that gentleman died. That person was-- Mr. Buchanan was charged under both the distribution statutes and the manslaughter statutes, manslaughter being unlawful act manslaughter. And to answer your question, Senator McKinney, there's two different types of manslaughter. In Nebraska, we tend to call it sudden quarrel manslaughter, which is more considered or typically like voluntary. An unlawful act is involuntary. But sudden quarrel is the idea that you just kind of lost, lost your cool in the moment and did something intentionally. Unlawful act manslaughter is the less serious equivalent to felony murder, where any-- anything-- I'm sorry, getting lost-- anything that goes awry and results in a death can be charged. So we would submit-- and, and the Buchanan case, I encourage you to read it, if you can endure reading case law. It is very on point. It does demonstrate that you can charge under both of these. We're concerned primarily about unintended consequences that you're going to be criminalizing, not just the big dealers. I mean, we've talked a lot about the big dealers, but most of the people that are going to get charged under the state statutes are going to be the kids, the low level guys that didn't know it was Perc-- you know, thought it was Percocet, thought it was oxy, and ended up distributing fentanyl. Because under our statutes, you don't have to know that it was fentanyl, you just have to know that it was some kind of controlled substance. I would also tell you with regard to the federal system, this can be charged in the federal system and it is being charged in the federal system. And the reason why is because the federal system works on a grid that considers your criminal history and your level of involvement. So the big kingpins, they can also pursue conspiracy much more easily because they have the entire federal government to pursue. May I finish this last train of thought?

**DeBOER:** Yes.

**SARAH NEWELL:** Under the federal system, you get much, much, much, much, much more serious penalties than, than we could provide here, aside from getting up to the point of a IB can be life. But in general, under the federal system, you're going to adapt, or you're going to get these guys who are more culpable, you're going to get the more culpable actors instead of sweeping in with a broad net to, to get the lower level guys that we don't necessarily intend to criminalize in the same way, the people that Senator McKinney and Senator DeBoer are concerned about. With that, I'll take any questions.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**DeBOER:** OK. Let's see if there are questions for you. So I'll ask-- well, Senator McKinney first since he put his hand up.

**McKINNEY:** Thank you. In previous testimony it was mentioned that people are selling fentanyl or lacing fentanyl to basically hook people, and, and I'm paraphrasing, I, I could be getting it the wrong with what they said. But wouldn't that-- I don't-- I really don't get the incentive knowing the risk associated with fentanyl, I don't see the incentive to try to hook somebody on something that could potentially kill them. I don't, I don't see as a drug, like if somebody is going to be a drug dealer and trying to stay in business, I don't see the incentive there.

**SARAH NEWELL:** So I think to some extent, maybe what we're doing is we're conflating the, the cartel guys who are manufacturing these things with the, the everyday drug dealer, the guys that I'm typically representing. You know, I'm not representing the cartel. The cartel is not coming to Lancaster County. So the guys that I'm representing are the ones that are lower level, sometimes mid-level fish, who are basically distributing the items to various different people. But I'm also representing the kids that are getting it from the mid-levels and then giving it to their friends, because they're just as culpable under our definition. We don't distinguish under the Nebraska statutes between high level and mid-level aside from the enhancements that are currently in the statute that deal with weight. So the current statutes do allow you to address the weight. If, if you're a mid-level guy or high level guy that has a lot of weight, you're going to be punished more seriously under the drug crime statutes. And then you could also be eligible under Buchanan for unlawful acts, manslaughter. So I, I, I understand what you're saying. I don't-- I've never seen one of my, my clients intentionally lace something with fentanyl. I mean, if, if they have the access to the kind of fentanyl that they could do that with, they're using it for themselves.

**McKINNEY:** Thank you.

**DeBOER:** Thank you, Senator McKinney. Other questions? OK, so here I will pose one to you. We clearly need to get at the people who are putting fentanyl into other whatevers. Right? The people who are lacing something, you know, you heard the testifying about people who, whose loved ones died. We need to get at those folks. How do we get at those folks? If not this, what's the way?

**SARAH NEWELL:** My-- I would tell you that the current structure does allow the prosecutors to pursue charges against the people that are

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

distributing. I'd-- I'm-- like I said, I'm at a loss and I don't understand why if we know who the person was that handed this out, why they haven't been prosecuted. Otherwise within the federal system, I mean, the people that are at the top of the pyramids are, are going to be pursued federally if we can identify who they are and if we have enough evidence to stack up. But the federal system typically has many more resources to get at conspiracies, and especially to get at multi-jurisdictional conspiracies. So the folks that are going to be charged within the state system, I, I think can be charged under the current system.

**DeBOER:** So I'm not talking about the kingpin who whatever. Whoever the guy is, or the gal, that's taking the fentanyl and combining it with, let's say, Percocet. Who is that person? Where are they at? Legal--

**SARAH NEWELL:** I think that's happening in Mexico.

**DeBOER:** OK.

**SARAH NEWELL:** I'm not seeing that happening here.

**DeBOER:** So that's not that--

**SARAH NEWELL:** What I'm--

**DeBOER:** --combining, that combining, we think might be happening elsewhere.

**SARAH NEWELL:** I'm not seeing any clients doing-- I, I don't have any cases that-- in front of me or that I'm aware of in my office where that's happening.

**DeBOER:** So then we're already getting these things that are deadly, and now we have deadly things that we've got to deal with.

**SARAH NEWELL:** Yes, I think the problem is that a lot of the base level users aren't being told or think that it's oxy or Percocet or something, and then they're taking it without knowing the danger involved.

**DeBOER:** OK.

**SARAH NEWELL:** But that also includes many of the mid-level distributors.

**DeBOER:** OK.

**SARAH NEWELL:** Low, and certainly the low level distributors.

**DeBOER:** Let me ask you a different question then.

**SARAH NEWELL:** OK.

**DeBOER:** Under the bill as written now, do you think that someone who is distributing a substance which they do not believe to be controlled could be charged with this enhancement?

**SARAH NEWELL:** I'm hung up on controlled. With regard to like your Advil concern?

**DeBOER:** Yes.

**SARAH NEWELL:** So the-- I don't think somebody who hands over Advil coming from an Advil container that happened to somehow be replaced with fentanyl from some other source, I don't think that they're likely to be charged or convicted as long as the prosecutor and the law enforcement believe that they knew it was, or they thought it was Advil. What I see more often is that our clients will say, kind of like to Senator McKinney's point, I didn't give that to my friend, my friend took it out of my medicine cabinet or took it from, from me. And in that situation, oftentimes, because the system is somewhat cynical and people lie to us all the time, the tendency is to assume that they're lying about somebody else stealing that from them, or they're lying about not knowing that that Advil was actually something that, that was intended to be a controlled substance. But I don't know that answers your question, but--

**DeBOER:** No, it does, it does. OK. All right. Any other questions? Thank you.

**SARAH NEWELL:** Thank you for your time.

**DeBOER:** Next opponent. Good evening, Mr. Eickholt.

**STORM:** Spike, did you raise your hand? I didn't see you raise your hand when she asked if they were more testifiers.

**DeBOER:** All right, it's getting out of my control here. All right, Mr. Eickholt. The floor is yours.

**SPIKE EICKHOLT:** Thank you. Good evening, Vice Chair DeBoer and 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 Nebraska Criminal

Defense Attorneys Association. I wasn't intending to testify, but I wanted to add something to what Ms. Newell pointed out, just so the committee is clear. We've opposed this bill before, and there's a couple of reasons why we do, and I'm not going to duplicate anything, and it's not meant to be insensitive or disregard what's happened to people. This is not necessarily a new crime, it's an enhancement. Which means that if you commit the crime of delivery of a controlled substance, it can be enhanced in a number of different ways under current law, if you deliver a controlled substance, a single pill, whatever it is, as Mr. Condon said, it's a 1 to 50. That's not de minimus. That's a pretty serious range of penalties. A Class II felony, one year, up to 50 years imprisonment. If it's in a school zone or within 1,000 feet of a school zone, it's another step up, its mandatory minimum 30 to 50, and it goes to 5 to 50. What this does is it adds another enhancement where if the, if the delivery itself results in serious bodily injury or death, then it can be enhanced again, and you can double enhance. And related, if you will, the ceiling that this bill proposes is a 20 to life, a II--IB felony, which is a pretty serious crime, pretty serious level of penalty. So that's one thing that we are concerned about. It doesn't-- we talk a lot about cartel drug dealers sending a message and that kind of thing. But the simple act of delivery is all it takes, and all that needs to be shown. As Senator DeBoer was asking earlier, the law only requires , and Mr. Condon sort of acknowledged it, the law only requires that you either intentionally or knowingly deliver, that you do the act of delivery. It's not sales, I don't think you don't necessarily have to know what it is. And it could be your first time doing it. Or you can be a 16 year old yourself and you get something from some adult and you decide to share it with your friend. That's delivery. That's a concern that we have. I understand the sentiments that are being expressed and hearing the emotions that you're all feeling and you want to react and you want to respond to what they're asking you to do. But ultimately, this has to be looked at and considered by the text of the statute and the laws on the books, because that's all the courts are going to look at. One other concern that we have is that it allows for the enhancement on pages 6 and 7, that's the new language. And on page 7, lines 5 through 6, it includes the enhancement for causing the death or serious bodily injury to another person. That's another concern that we've had and we have expressed to Senator Bosn before when we met with her, and we do appreciate her meeting with us to hear our concerns about the bill before today's hearing. Serious bodily injury is defined under statute 28-109, and it's also broadly defined by the case law, to basically mean anything that involves a substantial risk of producing results,

and the results they are referring to are serious permanent disfigurement or impairment of the function of any part of an organ or body. If we're talking about fentanyl, arguably any time you take that, there's a serious risk of serious bodily injury. And I think any kind of situation in which Narcan is used, somebody uses a-- calls 911, I think the state could easily show serious bodily injury, and that's not necessarily the same thing as producing death. So if the committee's going to act on this bill, we would encourage the community to perhaps only limit this for the enhancement resulting in death. That's still responsive to the people who talked to you here today. I'll answer any questions if you have any.

**DeBOER:** Are there any questions? I don't see any. Thank you for being here. Are there any other opponents?

**ALEX DWORAK:** Good evening. Alex Dworak, A-l-e-x D-w-o-r-a-k. I appreciate Senator Bosn bringing this bill and increased attention to the fentanyl crisis. I treat people suffering from opioid use disorders, including fentanyl. I have helped save lives, and sadly, I have lost patients to overdose too. I-- my heart is also aching, as I'm a dad to two teenagers. I've had the "kids, this is Narcan" talk with them, and I can't imagine the tragedy of the families that have lost young people, that never stops hurting. I love the clear passion of protecting Nebraskans, and I absolutely share it. Based on my clinical knowledge and experience and the review I've been able to do as other people have spoken, I am moved to rise in respectful opposition. One study from 2022 about fines showed that that level of penalty did not reduce drug use and did-- and result in more criminal involvements and taking opportunities away from the people that were affected. Another quote from the director of federal affairs for the Drug Policy Alliance from 2024 recommended focusing on increased public health interventions, including harm reduction, and highlighted that criminalization measures do have disproportionate impacts on marginalized communities as Senator McKinney has, of course, brought up. Another study led by Greg Gonzalez, Ph.D., a Yale epidemiologist I happen to know personally, that modeled costs of fentanyl felonization in terms of enhanced penalties, actually expected more overdoses and deaths when possession thresholds were lower and penalties were made more severe. And so I would be concerned about unintended consequences there, as well as playing Whac-A-Mole, because we are getting reports about Xylazine and midazines [PHONETIC], which are ultra potent opioid analogs that are chemically different than fentanyl that it gets into the Whac-A-Mole that also happens with synthetic cannabinoids. That's been a longstanding problem in the substance use treatment world. Common sense was mentioned. Substance use disorders defy common sense

because they definitionally hijack our brains. We have personal knowledge that we've seen in our communities as well as references such as the Pew Charitable Trust report from 2018 that I found that again mentioned that enhanced penalties are enforced in disparate ways on different communities, and I think we have to be mindful of that with these decisions. I will say that if I see evidence that enalties do accomplish the desired effects, preventing overdoses and heartbreaking losses like Taryn, and like AJ, and like Eugene, I will absolutely change my position. I teach other medical professionals about medication assisted treatment. This is one of the things that are most indelibly marked my career. It's touched loved ones of mine too, and I am all in on trying to stop as many of this, these tragedies as we can. I am concerned about whether this is the appropriate tool. I would respectfully ask that the energy that Senator Bosn and Senator McKinney and all of you are bringing be focused on harm reduction, increased treatment, increased awareness to prevent tragedies. I would ag-- I do agree that there's a lot of evidence that the manufacturing is happening with precursors from China. Those are coming in both through Canada as well as Mexico. Cartels are doing that, and that's a huge problem that has international ramifications, and I don't-- I'm not sure whether action at the local level is going to get at the root cause, which is what we all want to do. And I'll stop there and I'm happy to take any questions you might have.

**DeBOER:** Are there questions for this Testifier? I don't see any. Thank you.

**ALEX DWORAK:** Thank you.

**DeBOER:** Any other opponents? Is there anyone here who would like to testify in the neutral capacity? I don't see any. I'm sure there have been a number of letters. I don't have that--

**BOSN:** In the binder.

**DeBOER:** Oh, sorry. OK, for the record, this is--

**BOSN:** LB6.

**TIM YOUNG:** LB6.

**DeBOER:** Sorry. It's my first day here. There was one proponent and two opponents and no neutral letters. So Senator Bosn to close.

**BOSN:** Thank you, Vice Chair DeBoer and members of the committee, thank you all for your time today and your attention. I want to basically just go through some of the things that were talked about from the various testifiers, and I'm certainly open to working with any of you and any of them. I appreciate those who've taken the time to come and talk to me about some of their concerns on this. A couple of things up front. First of all, this bill is not just limited to fentanyl. It is in-- if you look at Chapter 28-416, which outlines controlled substances and deliveries, it lists knowingly and intentionally deliver or cause to be delivered a controlled substance. And then it lists what those controlled substances are later in the bill. Then it also, when it talks about what the penalties are for those different controlled substances because they have higher potencies, they have higher likelihoods of addiction, higher cases of, of overdose, right? The different penalties, if it's fentanyl, it's considered exceptionally hazardous. And someone behind these probably cringing because I'm saying the wrong words, but those are considered exceptionally hazardous versus something, and I'm not minimizing its dangerousness, but marijuana, right? You then have some enhancement penalties where if the delivery occurred in a school zone, which was the example that Mr. Eickholt gave you, it's an enhancement. And the, the case is not if, if it-- the delivery occurred within 1,000 feet of a school district [SIC]. And I will tell you, having been a drug prosecutor in the Lancaster County Attorney's office, I never once had to prove that the defendant knew the delivery was occurring within 1,000 feet of a school district. Not an element, not required, it's an enhancement. The same would be true of this penalty here. This is an enhancement. You delivered it, someone died, full stop. You delivered it, someone was seriously injured, which is also defined in statute, or they died. I don't care whether you knew that they were going to die or be seriously bodily injured. Those are the risks that you assume when you're dealing drugs, period. I appreciate the concern that was raised by Ms. Newell. And we did talk about a number of other issues, and I don't believe we talked about the Buchanan case or I would have brought this to her attention. My position as it relates to the Buchanan case, and perhaps others can disagree, in the Buchanan case, which was several decades ago, it was an IV overdose. The dealer was actively delivering the controlled substance that resulted in the death. There was a clear nexus between the delivery and the manslaughter. It was during the commission of the crime, right? I was giving you the IV. Now I'm giving you an example. If on Monday I deliver drugs to Senator DeBoer, that is the delivery. If she chooses to take them on Friday, the delivery was done on Monday, we are no longer in the commission of the criminal act. The criminal act has

ended. I will tell you also, I highly doubt it, that drug dealers are saying, Senator DeBoer, on which day do you intend to consume these narcotics? How far away from now so that I can be safe are you going to consume-- that isn't, that isn't reality. And so these are, these are two separate acts. This is an enhancement of that. Senator McKinney talked about why is someone trying to, I think the word you used was hook them, on something that can kill them. Well, I don't think they're intending to kill them because this is a profit. It's a business to these drug dealers. They're hooking you on something that will make you want it again. And if they give you a little bit today, you might come back tomorrow and want a little bit more. And if you come tomorrow and you're with Senator DeBoer because you're going to lunch later, she might want some too, and the next day, and the next day, and the next day. That is the incentive for these bad actors and these drug dealers. They want money, they make money, and they don't care about you or anyone else, unfortunately. I want to extend my deep gratitude to the individuals who came and told their personal stories behind me. I have met with each of them, with the exception of Mr. LeDuc prior to their testimony today, and their stories are heartbreaking. Their children are just as good as anyone else. And it's really hard. And I will bring this bill every single year, and I trust they will be here every single year or we can pass this. I'll take any questions.

**DeBOER:** Thank you. Are there any questions for this-- for Senator Bosn? Senator McKinney.

**McKINNEY:** Thank you. And thank you, Chair Bosn. So, Mr. Condon said that he can't charge this, but Miss Newell identified a case, State v. Buchanan in 1981, where Michael Buchanan was charged for the delivery of a controlled substance and manslaughter, and he was charged with it and got 2 to 10 years for manslaughter. He appealed it and it was upheld by our Supreme Court, which means that the delivery could be charged and he could get man-- like, somebody also could be charged with manslaughter. So why isn't this being charged? I'm confused how a case in the, in the same scenario, in a sense, happened, and an individual was charged with manslaughter, but we got county attorneys who are not charging manslaughter while we got a case that was upheld by our Supreme Court. I don't understand the disconnect.

**BOSN:** So, as I was saying, the disconnect is, is that in that particular case, the individual who was delivering the drugs injected the drugs at the time of the delivery. That isn't always the case. So in that particular example, defendant injects victim, because someone died, with the drugs. So they-- it is during the commission of the

act. There wasn't any ending of the delivery. The delivery also killed them. But that isn't always the case. The example I was giving you, if I deal drugs, if I'm a drug dealer, and I deal drugs to Senator DeBoer on Monday and she doesn't take them till Friday, the drug deal has ended on Monday. It's not a continuous act. The drug deal ends when I-- when she, when she takes them from my hand and I walk away. I don't say to her, can you please tell me what day you're going to take these?

**McKINNEY:** But is every scenario the same? Because we could--

**BOSN:** No.

**McKINNEY:** But what I'm, what I'm going to say is, two people could be at a party, and person X could be standing next to person Y. They could be partying, person Y hands to person, person X the pill, person X takes the pill. Bam. Both things happen at the same time. So couldn't that person be charged? Or person Y says, Hey, I have this pill, and they're partying, and college students do crazy things, drops the pills in person X's mouth.

**BOSN:** I think those are-- in those cases, those facts are different than what this bill is attempting to accomplish. It's a comp-- the purpose of this bill is to cover those cases where it's not directly connected during the commission of the crime. For purposes of a manslaughter-- and I tried to write it down, but I don't remember-- it has to be while in the commission of an unlawful act. So in those cases where it is in the commission of the unlawful act, I'm injecting you or I'm putting the pills straight into your mouth, that may be different. But it isn't always-- so, yes, you could in those cases arguably charge the manslaughter separately. But where that isn't the case and the commission of the act has ended, the drug deal has, has-- we went-- you-- I handed you the pill at the party, you put, you put it in your pocket and took it home and took it the next day. The drug deal is over.

**McKINNEY:** But, but sometimes it's not a drug deal. It's-- we are a party, and maybe I don't sell it to you, I hand it to you and you take it right there.

**BOSN:** But I think those are the, it's the same reality that the handing it to you, even if we don't exchange money, let's say I owed you ten bucks from lunch last week and you say, well, if you give me one of those, we'll call it even, right? There's no money exchanged. It's still the delivery of that controlled substance ended.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**McKINNEY:** OK. All right. Thank you.

**DeBOER:** Other questions for Senator Bosn? I don't see any. That will end our hearing on LB6. And we will now move on to LB165 with Senator Hunt.

**BOSN:** Sorry about that.

**HUNT:** Thank you.

**BOSN:** Thank you, Senator Hunt. You may begin on LB165.

**HUNT:** Good evening, Chair Bosn and members of the Judiciary Committee. My name is Megan Hunt, M-e-g-a-n H-u-n-t, and I'm here today to present LB165. LB165 is a bill that you'll be familiar with if you were in the body last session. And if you were, I'm eager to bring it before you because I think with so many fresh faces in the body and changes in our committees and a growing coalition of bipartisan support we've built for this, we have another chance to get this law-- to get this bill passed and made into law as the body intended last year. This is a bill that would allow the governing bodies of cities or counties, like a county board, or a city council, or a village board, to authorize syringe service programs in Nebraska. Last year, the 108th Legislature passed that bill on final reading. The governor vetoed the bill and then successfully bullied and intimidated a handful of members into falling off on the veto override vote. I will share more about what happened since then, between then and now. But first, I want to lay out the basics of the bill for those of you who need a refresher and for those of you people watching. LB165 would allow local jurisdictions, so cities, counties or villages, to authorize public or behavioral health programs to distribute hypodermic needles or sterile syringes as part of public health efforts to reduce the spread of infectious diseases such as HIV and hepatitis C. These syringe service programs, or SSPs, serve primarily as a place where people who inject drugs can do so safely and responsibly, and they can dispose of their used needles and receive new sterilized syringes and other equipment without causing a public safety risk. SSPs also typically provide referrals to substance use disorder treatment programs, screening care, and treatment for viral hepatitis, HIV, and STIs, overdose prevention, and safer injection practice education, and supplies to prevent overdoses like Narcan, fentanyl test strips, and vaccinations for diseases like hepatitis A and B, wound care, referrals to social, mental health, primary care providers, and other services. When a person who injects drugs steps into an SSP, they help build long term relationships with health care

providers who are non-judgmental, who are going to help them get into a better place when they're ready to seek treatment for addiction. And research backed by the CDC shows that SSP participants are 4 to 5 times more likely to enter a treatment program and engage in long term recovery, and three times more likely to stop using drugs altogether. This alone was the statistic that got so many people on board with this last year. And that, I think, in my opinion, is one of the most compelling reasons that Nebraska needs to step forward and take this on. SSPs offer benefits not just to the participants that utilize the services, but to the broader communities that have them. Studies show that they reduce litter and the likelihood of unsafe used needles ending up in places like parks and playgrounds by providing a safe penalty free option for disposal, They protect first responders and law enforcement from needle stick injuries, and they protect communities from potentially dangerous infectious disease outbreaks. SSPs Lower infectious disease spread, specifically HIV and hepatitis by 50%. That's according to the Center for Disease Control. 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 '21, while the U.S. experienced about a 5% decrease in new HIV diagnoses, Nebraska saw a 26% increase in diagnoses. And since this date, since, since the date that I shared here, it has continued to rise as well. Rural areas were hit hardest. New cases in rural counties nearly doubled in 2021. Buffalo and Hall counties currently have the highest HIV infection rates. I've distributed a handout that shows the different infection rates across Nebraska, and you can see how this affects some of our own communities. I also have data about our individual counties and our individual legis-- legislative districts that I can share with you too. A generation ago, HIV was mostly known as the precursor to AIDS, which used to mean a death sentence. Today, with advances in medical science, we are at a place where there are very effective drug treatments available that can help people living with HIV from ever developing AIDS. With early diagnosis and treatment, many people with HIV go on to live long and healthy lives. But these drugs remain expensive. The average lifetime cost of treating a person with HIV is somewhere around \$420,000, conservatively. It, it can be a lot higher, and the majority of these individuals are on Medicaid. If we could prevent even 50 of those new infections in Nebraska at a cost of \$420,000, which is a conservative estimate, that would work out to a \$21 million savings for taxpayers. Hepatitis C is also trending upwards in Nebraska. In the last five years of available data. Hepatitis C went up 400% in Nebraska. That's according to research from the Legislative Research Office. Hepatitis C is primarily

contracted by sharing needles, syringes or other equipment used to prepare and inject drugs. The passage of LB165 would save these people a lot of pain, save costs to our communities, and reduce the risk of transmission to others, thus improving public health in Nebraska as well. Other than the public health benefit of curbing disease, I want to talk about the opioid program, program, God, the opioid problem in Nebraska and how SSPs can help address it in a data backed, non-punitive way that will not result in fuller prisons. We've all heard about the recent rise in the use of fentanyl and other opioids, the previous bill, for example, and we know the danger of overdose that can come with the use of these drugs. And we know that this danger is rising in Nebraska and across our country. Fentanyl is a cheap, extremely powerful opioid that can be lethal at very small doses. Overdose related deaths in Nebraska have steadily increased across the last decade. From 2011 to 2021, overdose deaths increased by 176% in Nebraska. Opioid misuse is trending upwards in half of our local health departments and the highest is in the Dakota County Health Department region. The federal Behavioral Risk Factor Surveillance System survey grouping Nebraska's counties into three categories of large urban, small urban, and rural shows that opioid misuse in the state is highest in the small urban counties. Fentanyl is becoming cheaper, more frequently trafficked into the state, and more widely available. People may inject it because of the powerful high it provides for a small cost. Some people do not intend to inject fentanyl and they think they have a purer opioid that they're using, but it's been mixed or cut with fentanyl or other toxic substances by the supplier to save money. This can easily lead to preventable overdose fatalities. Synthetic opioids like fentanyl are the most commonly overdose involved type of drug. Under LB165, Nebraskans who visit SSPs can receive overdose awareness, safer practices training, fentanyl test strips, the overdose reversal medication, naloxone, referrals to treatment programs, all of these things instead of tragically passing away from another overdose in Nebraska. With LB165, we are simply removing the barrier at the state level to cities, villages and counties that already want to adopt an SSP. It would be up to the local governing board to determine the parameters of its own program; who they want to administer it, if it's the public health department or a federally qualified health center; what their funding source will be, maybe a mix of federal and private grants, and if there's community support, they could leverage city dollars, that's up to the citizens; and any other ordinances they might want to pass to govern their SSPs are up to them. This bill is just the state of Nebraska getting out of the way and saying we value local control and we are going to join the 45 other states that have operational SSPs,

we will listen to public health and medical experts, and we will let those cities and counties give this a shot if they want to. Any of us with a basic understanding of how addiction works, and I know many of us here have personal experience with addiction, we know that it's very difficult for users facing addiction to simply stop on their own. It changes your brain chemistry in a lasting way. The truth is that many people are going to use until they either experience an overdose or get the help, resources and education they need to recover. SSPs are a way to get people in the door and have a touch point to them getting the help they may not reach out for or have access to by other means. It's a way to reduce the harm of IV drug use now, while pointing users toward building healthier habits in the future. Now I'll touch back on where we left off last year. I'm very proud of the coalition of citizens and advocates of behavioral and public and mental health practitioners, law enforcement, and medical experts we've built around this issue and helped us get the bill passed last year. And I was grateful for those in the body who listened to the public health experts and to the families in their districts who told them this is something that makes sense for Nebraska. This year, we also have a robust group of bipartisan co-sponsors, and I'm thankful for them. Governor Pillen's arguments against this bill were based on junk studies and fringe radical YouTube videos that go against volumes and volumes of peer reviewed published research on how these programs have worked in other jurisdictions. I took that veto personally because it was not based on research or facts. But I've made a good faith effort in LB165 to address one of Governor Pillen's main concerns, and that was that kids would somehow be harmed by the existence of SSPs in Nebraska. So in this bill we have explicit language saying SSPs cannot serve anyone under 18. This version includes language we worked on to win compromise with Speaker Arch and other conservatives to provide specifics about the services that SSPs will provide and where they can be located within a community. Much of the language was also informed by our state's top expert physicians in addiction psychiatry with UNMC and the Nebraska Medical Association. This bill is airtight, it's ready to go, and it simply gives the green light for city councils or village boards with the support of their constituents to figure out if and how they want to take this on. They can be as restrictive as they like, and they can pull the plug if the program isn't working as intended. Finally, with LB165, not only can we reduce potential harm experienced by those suffering with addiction and struggling, we can also honor and protect our first responders and law enforcement who are in our communities doing their best to protect us, we can protect our neighbors and fellow Nebraskans from disease outbreaks, and we can provide our fellow citizens with the care and

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

resources they might need to enter recovery. Let's allow lo-- leaders of our local communities to make the choice about whether an SSP could be beneficial to the people they represent. Thank you. And if you have any questions, I'd love to take them. And there may also be people behind me who can answer them as well.

**BOSN:** Are there any questions from the committee? You got off easy.

**HUNT:** Thank you.

**BOSN:** Yeah. Are you staying to close?

**HUNT:** Yes.

**BOSN:** OK. Thanks. First proponent.

**ALLY DERING ANDERSON:** Madam Chairman, members of the committee. My name is Ally Dering Anderson, A-l-l-y D-e-r-i-n-g A-n-d-e-r-s-o-n. I'm a pharmacist. I'm a professor at the University of Nebraska College of Pharmacy. I'm the past president of the Nebraska Pharmacists Association, and I'm here today speaking on behalf of myself, because there is some significant history in this bill. Senator Hunt and colleagues I applaud for sponsoring the bill. But I was the pharmacist who 21 years ago asked this legislative body, please allow us to sell clean needles without calling them drug paraphernalia. For slightly over a decade, pharmacists and pharmacist interns could sell them to help prevent the spread of infectious disease, but nobody else. Then I came back in front of this committee in 2017, and we expanded it to my pharmacy technicians. And we've done some good stuff. Interestingly, a number of the people that we have triaged were using anabolic steroids. They were not using the opioids that we are discussing today. But the issues remain the same. We have no vaccine for hepatitis C. We have no vaccine for HIV. Those are spread by using dirty needles. And we can stop that with clean injection supplies. When you think about syringe programs that can offer the naloxone and the ability to test for fentanyl, so that, God help us, maybe your bill wouldn't always be necessary to triage folks who are looking for help and to treat humanly those people who are not yet ready to look for help. We would welcome anyone joining our team, and we are honored that you trusted us 20 years ago to start the process, and we are hopeful that now you are looking to expand that to help all folks with substance use disorder who need a clean needle. I would be honored to answer any questions you may have. Thank you for your time.

**BOSN:** Any questions from the committee? You got lucky, too.

**ALLY DERING ANDERSON:** I did. Thank you.

**BOSN:** Thank you for being here. Next proponent? Good evening.

**TOMMY CALLOWAY:** Good e-- good e-- good evening. Sorry. Good evening, Chairperson Bosn and Vice Chair DeBoer and members of the committee. My name is Tommy Calloway, T-o-m-m-y C-a-l-l-o-w-a-y, and I'm here to express my strong support for LB165, a bill that's aimed at establishing syringe exchange programs in Nebraska. I am a lobbyist for Nebraska AIDS Project, a nonprofit serving the entire state of Nebraska by supporting individuals who are living with HIV, as well as providing sexual health care, and prevention services. In my various roles at the agency. I have served both direct service and administrative roles. I have seen the pressing need for effective strategies and interventions to prevent the spread of HIV and other infectious diseases among people who utilize injection drugs. We've seen an increase of 26% in new HIV diagnoses between 2018 and 2021. This is not typical. While Nebraska has experienced a 26% increase, the U.S. has experienced a 4.6% decrease in HIV diagnoses. During that spike in 2021, 24% of those new diagnoses of HIV in Nebraska were linked to injection drug use. This is a dramatic increase of only, of only 8, 8% of cases linked to injection drug use in 2018. According to the CDC, there has been an overall increase in injection drug use, which has only added to the outbreaks of hepatitis B, C and HIV. New HIV infections among people who inject-- utilize injection drugs increased 12% between 2014 and 2019, and the average cost of treating one person's HIV is nearly \$510,000. We are at a crucial moment in HIV care and prevention, where we have an entire toolbox, box of public health interventions, and SSPs can add to that. SSPs are highly effective in reducing HIV transmission that are-- among people who utilize injection drugs. And reports have indicated that SSPs are associated with an estimated 50% reduction in HIV, HIV and hepatitis C infections. I understand that one fear of making SSPs legal in Nebraska is an increase in crime rates. However, there is no data to support that, that it i-- or excuse me, that it affects crime rates negatively, but instead protects the community and prevents the spread of infectious disease. We are 40 plus years into the epidemic that's known as HIV, and we need effective interventions for everyone. We've come a long way with treatment, and now we need effective interventions that's going to support the community that utilizes injection drugs. So I strongly encourage you to enact LB165. This is the syringe exchange program. It reflects the commitment to public health, safety, fiscal responsibility, and I urge you to support this critical legislation. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**BOSN:** Thank you. Are there any questions from the committee? Seeing none, thank you for being here.

**TOMMY CALLOWAY:** Thank you.

**BOSN:** Thank you. Next proponent?

**PAUL WEISAPL:** Thank you.

**BOSN:** Good evening.

**PAUL WEISHAPL:** Hi. It's been a long one, huh? All right. Good afternoon, members of the Judiciary Committee. My name is Paul Weishapl, last name W-e-i-s-h-a-p-l, and I wanted to share my story, and I'm really grateful to have you guys here for this. One of the reasons I think it's important I share my story, my personal story is that not many of us survive fentanyl addiction. I have buried 96 friends in the last five years, including three of my closest friends and two workout partners. It is definitely a crisis in this state. And of those 96 people, 71 have nothing on their death certificate about drug use at all. So there is a big data lapse, and now I want to start with that. I was prescribed hydrocodone when I was a freshman in high school for a soccer injury. I graduated high school, highly addicted to OxyContin, and was soon after was priced out of using OxyContin because of heroin being cheaper and OxyContin being nearly a dollar a milligram. I had a 400 milligram a day habit at that point and was in graphic design school, and was introduced to-- by a friend who was physically dependent on heroin at that time. He showed me the basics of how to use a syringe and how to talk a pharmacist into selling me clean syringes at that time, which was, was kind of tough, honestly. I simply couldn't stop. I would try, but the withdrawal was like acid leaching out of my bones. The restless legs felt like electricity shooting through my toes, not to mention the insomnia and anxiety that genuinely felt like death. There's no way to overestimate what opioid withdrawal feels like when you've been taking large doses. And unfortunately, with fentanyl, you can take really large doses, and you can get accustomed to really large doses. Doses that would kill this whole room I could easily take. That's just the, the nature of opioids. It's a strange drug in the fact that your tolerance can go up so quickly that it makes no sense. 0.1 milligram of heroin would get me high for three days when I started, but then a whole gram of heroin would barely even keep me from getting sick towards the end of my usage. I think that's hard to explain to people when they hear these-- this misinformation that is truly difficult to quantify when it comes to fentanyl right now. This whole thing has been kind of thrown back a

lot. I would like to say that I think that harm reduction is akin to liking seatbelts but not liking car accidents. Harm reduction is recognizing that the complex physical, psychological, and social problems like drug use may take many stages to progress out of. Harm reduction is the practice of reducing the damage done to that individual and the community by providing tools and resources to those who just aren't ready or can't stop because they don't have the social support like I did to get out of it. I believe if there would have been syringe services when I was still using cer-- intraven-- intravenous drugs, I may have had earlier contact with people who cared enough about me for me to truly be done using. I remember going to the hospital years ago with an infection in my arm at an injection site and just being too scared to lose my arm, and that was the only reason I went to the hospital to finally talk to them. If I would have had access to syringe services at that time, which provides compassionate care, including wound care, I might have gotten the care and support I need to get well. I've been drug free for five years now and have a great job at UNMC's College of Public Health. I also run the Nebraska Harm Reduction Collaborative, which is 50 different individuals who have survived overdose and witnessed overdose and been touched by this subject every single day. Everyone in that group completely agrees that we need something like this to start having people that have been through exactly what we've been through to help other people out of this dark, dark place. We need syringe services to help complement the amazing organizations trying to keep people alive so they can decide how they want to live. And hopefully they will live and they'll be inspired to go back out and help other people live as well like I was. There's no one more perfectly fashioned to help other people get off of drugs other than a person who has found their way off of drugs. So it's my hope that we can be empowered with LB165 to try to find other organizations to plug the huge, huge harm reduction gap that we have in Nebraska at this time. Thank you.

**BOSN:** Thank you for sharing your story.

**PAUL WEISHAPL:** Yep.

**BOSN:** Are there any questions from the committee? Seeing none, thank you for being here.

**PAUL WEISHAPL:** Thank you.

**BOSN:** Next proponent? Good evening.

**PRANITA DEVARAJU:** Hi. My name is Puneet, the Honorable Chairman Bosn and members of the committee. My name is Pranita Devaraju, P-r-a-n-i-t-a D-e-v-a-r-a-j-u. I am a fourth year medical student at UNMC, hoping to go into psychiatry. Fingers crossed, I find out in March. I'm UNMC's student body president and student regent, and I have been involved in advocacy groups like our Nebraska Medical Association Student Chapter, and UNMC Student Delegates. In addition to this, I have experience working with the homeless population in Omaha. Today I am speaking on my own behalf. LB165 proposes allowing syringe service programs to exist and serve people above the age of 18. Syringe service programs exist to create a safe way to dispose of used needles and provide clean needles to those who need them. The goal of syringe service programs is to reduce community spread of diseases spread by bodily fluids like HIV and hepatitis B. We can look to other places that have implemented these programs to see if they really reduce the spread, and the data is favorable. The data also addresses the common concern that these programs encourage substance use by showing that there is no change in rate of substance use when these programs are used. I'll cite two studies. One is from Tacoma, Washington, and the other is a meta analysis, a type of study that draws the strongest conclusions, done by Portland, Oregon's VA. They both found by strong conclusion that there was a reduction in transmission of blood borne viruses, and also found that there were no changes in the rate of injection by users of the program. But there were significant declines in unsafe injections. In the Portland study, they interestingly also found that people who inject drugs and use syringe service programs as their source of syringes were shown to inject drugs not, not just at the same rate, but sometimes even less than those who didn't. Putting all the statistics aside, I can understand how the idea of giving clean syringes can feel uncomfortable initially. But I have seen firsthand on my addiction psychiatry rotations that the reasons people use substances are very complex and physiologically ingrained. Providing access to clean needles is unlikely to be an incentive for individuals to use substances. The contributors and motivations in substance use are much bigger and more complex than just needles. We can think of syringe services as an investment in the health of our community as diseases like HIV and hep B are on the rise in Nebraska. They are also a great adjunct to complement the amazing work that members of our community already do to curb these issues. And it's a great thing that this bill recognizes the opportunity to contact citizens in these populations who may not be seen often enough in their PCP's office, their psych's office, and to be able to assess their needs, guide them toward resources, and give them encouragement in their journey to sobriety.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

Nebraska is a growing state with growing cities, and with that comes growing pains, increased use of substance and spread of blood borne disease is part of that. And I believe that it would be prudent and forward thinking of us to learn from these other states and cities who have battled these issues before and have found solutions like these that work. So I kindly ask that you support this bill to protect Nebraskans health and look toward the future growth of Nebraska. Thank you.

**BOSN:** Thank you for your testimony. Are there any questions from the committee? Seeing none, thank you for being here. Next proponent. Good evening.

**MATTHEW JEFFREY:** Good evening. My name is Matthew Jeffrey, M-a-t-t-h-e-w J-e-f-f-r-e-y. I have been sober for 11 years, worked with and befriended hundreds of people in different stages of addiction, and I support LB165. While there are potentially better options out there, no option is 100% effective. This bill would allow for an additional way to reach out to those still in active addiction. Since it is not a mandate, local communities can determine if and how they want to help their neighbors. When reaching out to someone in active addiction, you never know what will be that one thing that helps them see if their life-- see their life can be different. I had family, friends, therapists trying to help me for a couple of years before I found and chose my pathway to recovery. I had friends tell me that during that time, before I got sober, they were worried that I was going to die. Dealing with death is a very real part of recovery. I've lost many friends to addiction, and I just know I will lose more. People that struggle with addiction are still people. They are our family and friends, our fellow Nebraskans. It's our responsibility to hold out as many helping hands to them for when they reach out for help. LB165 is one of those helping hands. I know Senator Hunt has done amazing things with this bill, and I'd say it's almost airtight with-- because it does use naloxone, and I know, Chairperson Bosn, you had LB5, which uses an opioid antagonist instead. So I just want that on the record, I think that would be a good change for this. Otherwise, perfect. So. But that is all I have.

**BOSN:** Congratulations on your sobriety.

**MATTHEW JEFFREY:** Thank you.

**BOSN:** And thank you for your testimony. Are there any questions from the committee? Senator Rountree.

**ROUNTREE:** Thank you, Chairwoman Bosn. I don't have a question, but just a comment. I really appreciate the fact and your testimony. And congratulations on your recovery, but to understand that people that struggle with addiction are still people. I think that's something that we lose a lot as we go forward. But thank you for just expressing that, and I think we picked-- all of us picked that up. We can get some great things done [INAUDIBLE] society. So thank you.

**MATTHEW JEFFREY:** Thank you.

**BOSN:** I don't see any other questions, but thank you again for being here.

**MATTHEW JEFFREY:** Thank you.

**BOSN:** Next proponent? Good evening.

**ELIZABETH MEYERS:** Good evening. My name is Elizabeth Meyers, E-l-i-z-a-b-e-t-h M-e-y-e-r-s. Thank you for the opportunity to speak with you today. I'm here in support of LB165. I began writing this testimony on December 11th, 2024. This was the 12 year anniversary of a moment in time that altered the course of my family's life. My husband received a call that his 22 year old daughter had been hospitalized. She had been losing sensation in her legs, and by the time she was on the phone, she was having emergency spinal surgery to remove an infected abscess over eight inches in length that had settled on her spine. This would lead to nerve damage and the loss of control of her body below the belly button. The surgeon informed him that this type of infection is often found in IV drug users. The staph infection from a tainted needle found its way into her spine, settled in, and grew. My stepdaughter is one of these kids who could have done anything and everything she could dream. And I've seen that determination numerous times in her life, and never more than when she was working her way back from her spinal surgery. Shortly after, she needed help going through drug court. We took her to testing court dates, AA meetings, anything that was required. I tried to help. I could not help her in the way she needed. I wished that she could see herself the way I did, brilliant, funny and beautiful. Did she dream of the days when her addiction was not running her life? Yes. Was she strong enough to fend off the compulsion that possessed her as she plunged a needle in her arm? No. I could not save my stepdaughter. Studies have shown that over 50% of those with spinal cord injuries are likely to abuse alcohol and drugs. They have seemingly unlimited access to pain medications. After that night in December of 2012, I knew we would be waiting for the call to say it was over. It came on

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

May 6th, 2024, 12 years after the needle threatened her ability to walk, fentanyl stopped her beating heart. While I know drugs were the cause of death, a tainted needle ended her will to fight for the life of her childhood dreams. That life became a memory of what could have been, her broken body left behind in the wake of decisions she could no longer undo. While you tally up what it might cost to enact a safe syringe program, I ask you to also tally what you might spend on the underinsured as they work through the consequences of tainted needles. My stepdaughter didn't have health insurance. As a result of the spinal cord damage, she was deemed no longer able to work and received disability. She was unable to pay for the care she received, including two trips to the emergency room, the spinal surgery, weeks in the hospital, ambulance, transportation, subsequent therapies, and other support she needed through this time and the years after. The astronomical cost of saving a life that has been infected pales in comparison to the cost of safe needles. The care my stepdaughter received could likely pay for the safe syringe program for years, if not decades. Some may not look at addicts as worth saving, but I know the world is a darker place, it has less light, now that my stepdaughter is no longer in it. My hope by being here is that another family might be able to see their loved one on the other side, living in recovery and experiencing a beautiful life. I do not want anyone else to feel this pain, to agonize over what they could have done, to one day see their loved one is nothing more than ashes, because that's all I have left. Ashes that once could have been more, if not for that dark December night when everything changed. Thank you.

**BOSN:** Thank you very much for sharing your story. Are there any questions from the committee? Did you get through what you wanted to read?

**ELIZABETH MEYERS:** Yes.

**BOSN:** OK. I just saw the light turn and you stopped, so if you needed more time.

**ELIZABETH MEYERS:** Nope. I'm there.

**BOSN:** OK. Thank you for being here.

**ELIZABETH MEYERS:** Thank you.

**BOSN:** Next proponent? Good evening.

**ABBI SWATSWORTH:** Good evening. Thank you, Senator Bosn and senators of the Judiciary Committee. My name is Abbi Swatsworth, A-b-b-i

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

S-w-a-t-s-w-o-r-t-h. I'm the executive director of Out Nebraska, a statewide nonpartisan nonprofit working to celebrate and empower LGBTQ Nebraskans. We support LB165 for all of the reasons that Senator Hunt has brought forward, with local governance and local health departments to take measures to help reduce the spread of HIV, hepatitis and other infectious diseases, and to connect Nebraskans to medical care, substance use treatment, health education, and all the other things that an SSP would do. I cannot-- I'm going a little bit off of what I have written here-- I cannot compete with the family stories, and I hope with all of my hopes that you listen deeply to those who've been deeply impacted by addiction. I would say in regards to our testimony that 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 diagnoses than other groups. You've already heard from Nebraska AIDS Project about the increase in HIV cases over in Nebraska, where we saw a significant increase where other states and the United States overall saw a decrease. We're here to say that Nebraskans living with HIV, queer and straight, working with trusted local resources is incredibly important so they can be connected with care. We need to equip local health departments to address the needs of Nebraskans and their communities. Harm reduction efforts like LB165 are just one way we can do this. We urge the committee to advance this bill. And thank you. I am happy to try to answer questions you may have.

**BOSN:** Any questions from the committee? Is this your handout, just so I know?

**ABBI SWATSWORTH:** No, that was not. I just had the one page of testimony.

**BOSN:** OK. That's OK.

**ABBI SWATSWORTH:** Yeah.

**BOSN:** Seeing none, thank you for being here.

**ABBI SWATSWORTH:** Thank you.

**BOSN:** Next proponent?

**ALEX DWORAK:** Good evening, Chair Bosn and members of the Judiciary Committee. My name is Dr. Alex Dworak, A-l-e-x D-w-o-r-a-k. It's my

honor to testify as an expert stakeholder and formally on behalf of the Nebraska Academy of Family Physicians, as well as the Nebraska Aids Project, of which I am an immediate past executive board member, in favor of LB165. I'm also a proud member of Out Nebraska and many other things. There's well over a decade of abundant nonpartisan research that these SSPs reduce infectious disease, give additional touchpoints to people using drugs, and improve both individual and public health outcomes. They have a proven track record of success in blue urban areas like major coastal cities and red rural areas like Appalachia and Indiana. This bill is a chance for a bipartisan victory for Nebraskans. Although we consistently are one of the least impacted states in our union for IV opioid use, that certainly doesn't mean we've escaped the ravages of the opioid epidemic, as many of the testifiers have made clear today. I personally lost a patient this past month who had serious mental illness and declined treatment many times and sadly overdosed. His death is no less tragic because of that. But I can also testify that I and my interdisciplinary team and colleagues across Nebraska have dozens and dozens of patients who have taken us up on treatment, who have gotten to that place that other testifiers have gotten to. And many people have come to us, specifically seeking out my services, my FQHC for addiction, saying I need help, and we're glad to give it. People who use drugs are our friends, our neighbors, our family, and our fellow Nebraskans. If you personally have never had someone in your life in the grip of a severe substance use disorder, you're both fortunate and you're in the minority. These pe-- loved ones suffer a range of adverse health outcomes, in particular blood borne diseases like HIV and especially hepatitis C. They can also get endocarditis, an infection that destroys heart valves and requires weeks of IV antibiotics to treat, somewhat similar to the paraspinal abscess that Elizabeth's stepdaughter had. All of this treatment is ruinously expensive, and it also changes the course of people's lives, even if they survive it. And in some cases, tragically, as we've heard, they do not. And as steroids were mentioned, I'll also state that as an amateur strong man athlete, I've competed against other athletes openly talking about their steroid use. I actually would like to get more of them to come see me so we can do harm reduction there, too, and get them vaccinated against hep A and B. My Spanish speaking patients have a saying, mejor prevenir que lamentar, an ounce of prevention is worth a pound of cure, but specifically prevention is better than lamentation, and the biblical connotations of lamentation are very appropriate. I was thinking about it even before I heard the tragic stories here today. I will say, along with my fellow award winning teacher, Dr. Jessica Downes, a clinical pharmacist, I've spearheaded a program that has

cured 133 people of hepatitis C in our primary care clinic, although I would love to not need to do that because that treatment is expensive. I also volunteer for the Nebraska Hepatitis Elimination Task Force. And as I mentioned, I am a past NAT board member. I ask you, please, to support this bill. Experts like me and my fellow committed colleagues in addiction medicine, infectious disease and primary care, we use it together with local officials to take the fight against blood borne infection and substance use disorders forward in Nebraska. I have all those citations printed off here that I've got listed, and as I made clear, I love the medical literature and I'm happy to answer questions either immediately or via email if there's anything I can do to be of service. Thank you very much for your time.

**BOSN:** Thank you. Senator DeBoer.

**DeBOER:** So you are familiar with the medical literature on these SSPs.

**ALEX DWORAK:** Yes, most of what I do is as a frontline clinician, but I have looked at the literature, and I can't find anything where any professional society isn't in favor of it. This is seven of them right there. This is not a controversial thing in medicine. These are a stunningly good idea, and I feel it's a moral imperative to do everything possible to support them.

**DeBOER:** So do these programs reduce overall drug usage in the area where they're available?

**ALEX DWORAK:** I would not expect them to. I would want to make sure I'm looking that up. But this is, as has been mentioned, if you're using drugs, you're using drugs. Your brain has been hijacked. You quite literally don't have a choice in many respects. What-- they-- long term can lead to people getting-- again, meeting somebody who cares and getting into treatment. And so long term, yes, I'm certain I can-- that can be supported. Short term, not necessarily because, again, people need to get to that place where they're ready for treatment, but these SSPs will be connected with people like me and one of my addiction psych colleagues at Nebraska Medicine and others across Nebraska, and it will-- when people are in that moment, if there's a helping hand there and somebody who cares and is not judgmental and they take that hand, they can get into treatment. If there's not these things and people are, you know, trying to convince pharmacists or just like buying stuff online and staying lonely and not having the social support that is so crucial, then they're going to keep using again until they overdose or until they pass away in many cases.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**DeBOER:** So, would, would we expect or does the literature support the idea that this will lead to less deaths from--

**ALEX DWORAK:** Absolutely, yes. Less deaths, less infectious diseases, less complications. Yes, I--- well, yes.

**DeBOER:** OK. Thank you.

**BOSN:** Any other questions? Thank you for being here.

**ALEX DWORAK:** Thank you so much.

**BOSN:** Next proponent? Good evening.

**RYAN CARRUTHERS:** Good evening, Chairperson Bosn, Vice Chairperson DeBoer and Judiciary. My name is Ryan Carruthers, R-y-a-n C-a-r-r-u-t-h-e-r-s. I am the chief clinical officer for CenterPointe, and here representing both CenterPointe as a behavioral health organization in both Lincoln and Omaha, as well as the Nebraska Association of Behavioral Health Organization, NABHO, which has 62 member organizations that provide quality behavioral health care services throughout the state of Nebraska. Both CenterPointe and NABHO stand in strong support of LB165. This is personally my second time testifying. I guess technically it was LB307 in the last cycle, and it was sad to see how politics overcame solid science last time. I hold my Ph.D. in counseling studies. I'm a licensed mental health practitioner, licensed alcohol drug counselor, and a certified peer support specialist. I've been in the field practicing for almost 20 years. Syringe Service Programs make sense. Harm reduction is a vital piece of the treatment continuum. SSPs do not increase the use of illicit drugs, they do not promote drug use, and they are in line with public health and behavioral health best practices. The goal is to meet people where they are at and to develop relationships with them. It is through those relationships that ultimately people are willing to then seek out the other services that are provided. This bill asks for no funding, someone was talking about funding earlier, for no funding, but it would allow behavioral health programs like CenterPointe and the others I represent here today to use the opioid settlement funds for which this is an explicit purpose that is spelled out in those funds that both the state of Nebraska has access to and the behavioral health regions have access to. Currently, we cannot use those funds for this purpose. Both CenterPointe and other organizations have been unable to draw down federal grant money that is for these types of programs. And the last thing, National Institute on Drug Abuse, NIDA, says that SSPs are, quote, safe, effective and

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

cost saving tools that can prevent HIV and high risk injection behaviors among people who use drugs. I'm open for any questions.

**BOSN:** Any questions for this testifier? Thank you for being here.

**RYAN CARRUTHERS:** Thank you.

**BOSN:** Next proponent? Good evening.

**BILL HAWKINS:** Good evening, Senator Bosn, Chairperson, and Judiciary Committee. I'm here. I'm a lifelong Nebraskan, organic farmer, and herbalist. But since I'm here, I want to thank Senator Hunt for bringing this bill. And as a watchful citizen, I've learned to listen. And in listening to this, and I have a lot of friends, a lot of people who I know who have struggled with this. It's an epidemic of cartels flooding our country with white powder that'll kill you. And it makes no sense, and Senator Slama last year said, well, drug dealers don't have any sense, and so that's why it makes no sense that they would kill their clientele. But this program, in listening to it, makes all kinds of sense. We have all kinds that we don't like to hear the word drug addict, drug user, whether it's legal pharmaceuticals in the country club neighborhood or on the streets of brown, black and poor white trash neighborhoods. We don't like it. But these people are people. When certain drugs are into your system, it's-- it takes your neurons and messes them up, as has been testified. These are real people that need help. They don't need to be treated as criminals. And so this program makes all kinds of sense to give these people who are maybe street people who don't acc-- have access to CenterPointe or these other issues, there are street teams out there every day, every night, in the cities of Lincoln and Omaha that are introducing these people and helping them on a personal level. And this isn't just Lincoln and Omaha. This is all over rural Nebraska. Every single community has dealt with this and is dealing with it. So I would encourage you to move on this very quickly, because it is very important to treat these people as human beings. And they are your neighbors. They are your citizens. So let them tap into this funding and, and make this a reality for all these people who have worked on this for a couple of decades. So I would encourage that and I appreciate everybody staying here late because you still have a couple more bills. So thank you.

**BOSN:** Could you please spell your name for the record?

**BILL HAWKINS:** Excuse me, and thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**BOSN:** You bet.

**BILL HAWKINS:** My name is Bill Hawkins, B-i-l-l H-a-w-k-i-n-s. Totally forgot.

**BOSN:** That's OK.

**BILL HAWKINS:** No. So thank you. I appreciate your time.

**BOSN:** Any questions from the committee before you take off? Thank you for being here.

**BILL HAWKINS:** Thank you.

**BOSN:** Next proponent? Moving on to opponents, are there any-- is there anyone here wishing to testify against this bill? Good evening.

**THOMAS JANOUSEK:** Good evening. Good evening, Chairwoman Bosn and members of the Judiciary Committee. My name is Dr. Thomas Janousek, T-h-o-m-j-a-- T-h-o-m-a-s J-a-n-o-u-s-e-k, and I'm the acting director of the Division of Behavioral Health in the Department of Health and Human Services. I'm here today to testify in opposition to LB165. LB165 proposes the authorization of Syringe Service Programs within Nebraska municipalities and counties. While the department acknowledges the evidence for these programs, and appreciates the addition of protections for children, there remain several concerns based on the language of the bill and the historical implementation of these programs across, across the country. Recent studies on the effectiveness of syringe service programs have found that these programs may only contribute to negligible number of reductions in HIV infections at the expense of a greater opioid related deaths. For example, a study published in the Journal of Public Economics in June of 2022 found that although Syringe Service Programs may decrease HIV diagnoses by rates up to 1.1%, They increase opioid related mortality rates by 2 to 3.5%, or about three more cases per county per year, due to an increase in the use of heroin and illicit fentanyl. Another study published in the National Bureau of Economic Research comparing the health outcomes of 79 counties from 2009 to 2016, found that syringe service programs resulted in nearly two fewer cases of HIV per county per year, while resulting in four more drug related deaths per county each year. States such as Indiana have only established syringe service programs as emergency responses to combat either an outbreak of HIV within a community, or an epidemic of hepatitis C. At this time, Nebraska is not experiencing an HIV nor hepatitis emergency. Lack of oversight to mitigate medical waste are also concerns. Several

states have required programs to institute a 1 to 1 exchange, meaning that a program participant has to return a dirty needle in order to obtain a clean one. However, these are far-- more even with these requirements in place, many cities have struggled with keeping the syringe litter under control. An implementation of this program in Santa Ana, California resulted in the removal of 14,000 potentially contaminated needles on a four mile stretch of public land, and multiple safety concerns were noted by the police chief and city manager. Portland, Oregon is also experiencing similar increases of discarded needles on streets and in parks. Data provided by the city indicates that in a one year period, 786,000 syringes were distributed, but only 537,000 syringes were collected. The inadequate disposal of dirty needles leaves vulnerable populations like children at risk of contracting deadly diseases. In addition to syringes and needles, this bill, as written, would require providing other items or equipment used to reduce the risk of disease or transmission or other harm. This requirement is overbroad and could require implementing supervised drug consumption sites. Finally, we maintain concerns that allocation of funds to syringe service programs may divert resources from other evidence based interventions that have demonstrated more consistent success in addressing substance use disorders and associated harms. For instance, syringe service programs are not often as effective at decreasing drug use and disease transmission as other means, such as HIV counseling and testing. We would prefer counties focus their funding on these types of interventions, as well as other interventions that address, address the root causes of substance use disorders, provide robust treatment options, and foster community well-being without the concerns associated with Syringe Service Programs. We respectfully request that the committee not advance this bill to General File. Thank you for your time and I would be happy to answer any questions on this bill.

**BOSN:** Thank you. Senator DeBoer.

**DeBOER:** Thank you. I was noticing in your testimony that the journals that you cited about perhaps a discretion in the amount, or discrepancy of the amount of mortality rates versus diagnoses that doesn't seem to match up with what we've heard so far, that these are economics journals?

**THOMAS JANOUSEK:** Yeah. But nevertheless, they are published studies in academic journals.

**DeBOER:** Do you know why they're publishing them in economic journals as opposed to medical journals?

**THOMAS JANOUSEK:** I'm, I'm not entirely sure.

**DeBOER:** Do the med-- does the medical literature suggest that the rates are-- because it seemed like what we've been presented before in medical journals were all suggesting that the rates for these communicable diseases were much higher and that the mortality rates were not higher. So can you explain that? Why these, these economic journals would say that when the medical journals seem to say otherwise?

**THOMAS JANOUSEK:** From what I recall in reading the studies, I know that these were kind of smaller case studies that were kind of looking at kind of a community implementation of these programs to gather evidence, a kind of more of a boots on the ground implementation level rather than kind of a larger meta example.

**DeBOER:** So when you say these studies, you mean the economics ones, which you're citing to?

**THOMAS JANOUSEK:** The ones that are referenced here. Yes.

**DeBOER:** OK. Those are the smaller studies?

**THOMAS JANOUSEK:** I believe so, yeah.

**DeBOER:** OK. Thank you.

**BOSN:** Senator Holdcroft.

**HOLDCROFT:** Thank you, Chairman-- Chairwoman Bosn. Thank you for coming to testify. Dr.

**THOMAS JANOUSEK:** Thank you.

**HOLDCROFT:** So law enforcement wants it. We're leaving it really up to the cities and the villages to decide whether they want it locally. It will be managed locally. In your, in, in your, your data here is based on, on the national studies. And we are not Portland, Oregon. Normally, you know, an agency will come in and testify at least in the neutral. Because if we pass this, DHHS will have to implement it.

**THOMAS JANOUSEK:** Correct.

**HOLDCROFT:** So what issues do you have with implementation of this?

**THOMAS JANOUSEK:** Our biggest concerns, I would say, is primarily from kind of a, a public health and a component of just making sure that

we're devoting resources appropriately towards the things that we need to combat, some of these substance abuse related crises. So for example, I mentioned earlier that a lot of times these programs are implemented during times of like a public health emergency wherein there is an HIV or hepatitis epidemic. And I do acknowledge the testimonies today here saying that, you know, there have been 25% raises in HIV diagnoses, but the public health data that we've pulled on this is indicating that since 2020, the cases of HIV that have been transmitted due to intravenous drug use has been at less than ten cases. I can't give specific numbers because we don't, for privacy reasons, disclose numbers in less than ten cases, whereas the transmission rates that are due to sexual transmission are much higher. In 2022, it was 38 cases, 2023, 51, 2024, 67. So where we-- it is accurate to say that over the whole, on the whole there is a, there was a ra-- rise in HIV cases. A vast majority of those were due to sexual transmission as opposed to intravenous drug use, which these SSPs typically target. So it is a smaller amount of individuals that are being affected. And it's a, you know, just to say that we're not in some state of emergency where it's to say we would suspect a meaningful impact on cases for individuals of disease transmission with intravenous drug use, Does that answer the question?

**HOLDCROFT:** Well, no, it doesn't.

**THOMAS JANOUSEK:** OK.

**HOLDCROFT:** Again, I go back to this is wanted by, by law enforcement, it's going to be implemented locally. So what's the impact of DHHS? I mean, what-- is it going to cost you a lot of money? Are you--I mean, I, I see this being implemented, you know, kind of locally in health clinics.

**THOMAS JANOUSEK:** Oh. I see what you're saying.

**HOLDCROFT:** So, so what is, what's the cost to the state, or what's the role of DHHS in this?

**THOMAS JANOUSEK:** Well, it's the potential that we could potentially have with assisting the counties with implementations. The counties would potentially have to absorb costs and divert those from existing behavioral health services to remediate some of the curns-- concerns that could come up with needle disposal. We are always in partnership with our counties to make sure that we are strategically leading them in a way to make sure that we're targeting the most effective strategies. And it's just a concern that potentially devoting

resources from those counties to other strategies as opposed to ones that may make more of an impact, that's a concern from the department.

**HOLDCROFT:** OK. Thank you.

**THOMAS JANOUSEK:** Yep.

**BOSN:** Let me just follow up really quick just because it piggybacks on that question. So I mean, he talked about the-- I think that the example you gave was Portland, Oregon, or California, or something. Are there trends in that area, the coastal area, we'll just call it, versus the Midwest that are different? What is--

**THOMAS JANOUSEK:** Right. So kind of demographically in terms of substance use, we do see that more, I'm going say, of the heroin or the intravenous drugs occurs more often on the coasts, whereas in the Midwest we do see more of a focus on methamphetamine. Now, that's not to discount, you know, we want to combat the opioid crisis and make sure that everybody that's experiencing a substance use condition is getting the treatment and the help that they need. But it is kind of to say that there is a lot more intravenous drug use happening in some of those coastal areas by nature of kind of heroin being more present than opposed to in the Midwest, where it's oftentimes methamphetamine that was more present.

**BOSN:** Thank you. And Senator DeBoer.

**DeBOER:** I wanted to ask, you had statistics on HIV transmission. I assume you have other hepatitis statistics as well. How do you determine whether those are coming from sexual transmission or from needle transmission?

**THOMAS JANOUSEK:** Good question. So our division of public health will, whenever there's a positive test for an HIV or positive HIV test, they get contacted and there's data they collect that indicates what the method of transmission was. So they collect that data as a result.

**DeBOER:** Who would, who would report that. Wouldn't it be self-reported?

**THOMAS JANOUSEK:** I'm not sure the answer to that. I'd have to get you information back on that one.

**DeBOER:** Because since it would be happening in a different time, there wouldn't be any way to determine that other than self-reporting.

**THOMAS JANOUSEK:** Oh, I apologize. I was thinking in terms of who actually reports to the division of public health. Then, yes, it would be the individual that reports how they--

**DeBOER:** So the infected individual would have to self-report.

**THOMAS JANOUSEK:** I believe so, yes.

**DeBOER:** Which would probably make them less likely to say that they were participating in illicit drug use rather than sexual activity.

**THOMAS JANOUSEK:** Possibly, but I can't really comment on their rationale.

**DeBOER:** OK.

**BOSN:** Did you-- Senator McKinney.

**McKINNEY:** Thank you. Thank you for your testimony. You mentioned that we weren't in an emergency, but one of the previous testifiers said that Nebraska has experienced a 26% increase in cases. Then you said you thought this would take away from, would divert from, demonstrated programs consistent with more success. Then you mentioned HIV counseling and testing. With the 26% increase, is that success?

**THOMAS JANOUSEK:** Well, it's to say that the increase is occurring because the numbers are often so small. So when you have cases is particularly, let's say it's that intravenous drug use, for example, when you have a number of cases that are less than ten individuals, any kind of fluctuation in that over a period of time is going to show a dramatic increase in terms of percentage. Now, when you translate that to actual numbers, it shows that, you know, the impact is much less dramatic.

**McKINNEY:** But shouldn't we try to hit this problem at all angles? But you're pushing back against trying to do that.

**THOMAS JANOUSEK:** Well, what we're wanting to really kind of start to target is using those since we are seeing a raise in-- a majority of the cases are due to sexual transmission, we're saying that we should probably focus our priority on impacting that population because there's considerably more individuals that are receiving HIV diagnoses as a result of this transmission.

**McKINNEY:** But if you have a county that wants to utilize this, that may maybe have a higher population of individuals that does utilize

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

needles and would like to utilize something like this, you're saying they shouldn't?

**THOMAS JANOUSEK:** What I'm saying is that we should really take a more strategic focus on how we're devoting the resources of those counties.

**McKINNEY:** Maybe, maybe they're trying to take a strategic focus because they have, have a higher population that is utilizing needles. Then, so you're a director of behavioral health, right?

**THOMAS JANOUSEK:** Correct.

**McKINNEY:** But you're referencing economic journals and not medical journals. Why is that?

**THOMAS JANOUSEK:** So as we kind of put this testimony together, we've been looking at it with our division of public health to kind of gather this data and isolate some of these case studies. Again, we're talking about this in the concerns of public health risk mitigation for HIV. But we-- I mean, in acknowledging the fact that these can be sometimes beneficial in terms of substance use.

**McKINNEY:** But I'm confused that the Department of Health and Human Services is referencing economic journals and not medical journals. It doesn't make any sense to me.

**THOMAS JANOUSEK:** No, I understand the concern.

**McKINNEY:** Thank you.

**BOSN:** Senator Storm followed by Senator Storer.

**STORM:** Thank you, Chair. Thank you, Doctor. One question. So have they seen around the country drug addicts moving to places where we hand out needles? So could there be drug addicts from across the country or out of state coming to, we'll say, Omaha or Lincoln to get free needles to shoot drugs?

**THOMAS JANOUSEK:** I'm sure it's a possibility, but I couldn't tell you for sure.

**STORM:** OK. Thank you.

**BOSN:** Senator Storer.

**STORER:** Thank you, Chairman Bosn. So as with the purpose of hearings, the more we, the more we listen and the more we learn and the more

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

questions often we have. So having served as eight years the county commissioner, I'm, I'm trying to process the role of the county-- I mean, everything costs money. There's no fiscal note, which I understand, that means there's no intended cost to the state, state budget. Every county is a member of the Department of Health, of course, which is administered by DHHS. There's not really a provision in this bill for who administers this, who's trained, who's-- how is the program-- I mean, there's some provisions for, for what it may require, what [INAUDIBLE]--

**THOMAS JANOUSEK:** Are you talking in terms of oversight?

**STORER:** Correct.

**THOMAS JANOUSEK:** OK.

**STORER:** Is it-- and I don't want to put words in your mouth, but is it, is it possible that this ends up under the administration of DHHS as an effect of those regional department of, departments of health that counties are members of?

**THOMAS JANOUSEK:** Yeah, there's-- that's a good question. And I would have to get more information from our Division of Public Health, who oftentimes coordinates a lot of those kinds of efforts. But I mean, there is a possibility that it could fall under the Division of Health and-- the Department of Health and Human Services to provide oversight and coordination for these things. I do know one challenge. For example, sometimes, I know, federal funding for the actual needles and syringes in these programs, that's still not quite there yet. A lot of times federal funding and federal grants are able to stand up some of the programmatic components of these SSPs, but they do not fund the needles or syringes. So there's kind of that question to say implementing some of these programs with some of these costs, where does that necessarily come from? As we're, you know, working as the Department of Health and Human Services, we are the experts in trying to drive the state strategy on health systems, public health, and it would potentially fall to us in some regard to provide expertise in that area. So it is a little bit unclear in the language to see how that oversight takes place.

**STORER:** All right. Thank you. And I, and I don't, and I don't think that that is Senator Hunt's intent in, in the bill to have it under DHHS, it's certainly not in there. But just having-- thinking through the reality of the implementation of any program, especially something

that would certainly require some level of training and oversight and just the possibility of outcomes from that.

**THOMAS JANOUSEK:** Yeah.

**McKINNEY:** Senator McKinney.

**McKINNEY:** Thank you. And just to follow up on, like, my last question, are you not using medical journals because medical journals support the opposite of your argument?

**THOMAS JANOUSEK:** As I mentioned, some of this data is collected through our Division of Public Health, and I can't attest to their methodology for collecting this information.

**McKINNEY:** OK. And last question. How much has the governor's budget proposal slashed your behavioral health budget this cycle and last.

**THOMAS JANOUSEK:** Can you repeat the question with some context?

**McKINNEY:** How much from your budget is being sla-- will cut by the governor's proposal, proposal this cycle and last cycle?

**THOMAS JANOUSEK:** So what I can talk about is the reduction that occurred for FY '24, which was a reduction of \$15 million to the division of behavioral health. And that was a reallocation, or I'm going to say it wasn't necessarily a reduction, it was more of an adjustment bringing that \$15 million back into the state General Fund because it had been historically underspent, or the Department of Health, or DVH, been underspent by about \$30 million for the previous couple of years prior to that.

**McKINNEY:** So that's not a reason for your opposition?

**THOMAS JANOUSEK:** No, it's not.

**McKINNEY:** All right. Thank you.

**BOSN:** Thank you for your testimony.

**THOMAS JANOUSEK:** Thank you.

**BOSN:** Next opponent? Anyone wishing to testify in the neutral capacity? Senator Hunt, if you want to come up to close? And while she's making her way up, I will, just for the record, there were 36 proponent comments submitted, 45 opponent comments submitted, and no

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

neutral comments submitted. Am I on the right, bill? Yeah. Sorry. I am.

**HUNT:** Thank you again, colleagues on the Judiciary Committee. I have written notes here, kind of in response to a lot of the questions that were asked of other testifiers. So I don't want to keep us here too long, but I hopefully can make sense of my own notes here. I, I really want to thank the testifiers who came here, who stuck around, especially. Even those who had to leave, I know that they will be contacting you, you know, not necessarily for testimony on the record, but just to make sure that their expertise can also be considered as you make a decision about this bill in this committee. And I do want to thank Dr. Janousek for coming, even in opposition. I've always enjoyed working with him, and I thank him for his contributions to the state. And, you know, I understand when you're put in a position of coming in front of a committee just to do your job. So I appreciate that, and I could hear that in his testimony as well. Last year, of course, DHHS did not take a position on this bill. They, they had no position. And speaking about the figures that he shared about HIV diagnoses in Nebraska, the past decade, average for HIV diagnoses in Nebraska per year is 81. In 2021 it was 107. And in 2023 it was 99. So still high, higher than average, not as high as we've seen it during the pandemic. But to say that, you know, and I'm not putting words in his mouth, but what I received from that testimony was that maybe HIV isn't a big enough problem that we need to take, you know, these low cost, commonsense measures to address it. I don't know if I would say it's not a problem. I think that we still have higher than average rates of HIV in Nebraska. And we can see in the data that that's just statewide, that's not even drilling down into your individual counties and districts where many of them are much, much higher than average. Let's see. I wanted to address Senator Storer's question right toward the end there. I don't think that DHHS would end up being in the position of having to administer this program or having to oversee it or fund it or anything, because all of these programs would be passed by individual health department-- or they would be passed by individual, you know, county boards, city councils, you know, the local jurisdiction would have to pass that with the support of their constituents, basically. And each one of those organizations would decide how this is implemented. And so some would do that in cooperation with the, the public health, you know, agency. That would make a lot of sense. And all of these things would have to be funded by that entity. So this isn't about the state handing down funding for this, it's not about the state dictating how they're going to be implemented except for the provisions in the bill. So, you know, what

you might see in one community could be very different from what you see in another community. And I'll also sort of touch on a few points around that issue too. Senator DeBoer asked one testifier if there's evidence that's SSPs lead to more crime or drug use, or less crime or drug use. And there is no evidence, according to the CDC, that having an SSP in a community leads to more crime or more drug use. With the SSP serving as a contact point for people who are using drugs and for people who are receiving naloxone, who are receiving treatment for opioid abuse, it actually reduces drug use. And we've seen that figure from the CDC as well, which said that people who use SSPs are 4 to 5 times more likely to enter treatment, and three times more likely to stop using drugs altogether. So that in the data just speaks to the effectiveness of these programs. Also, you know, one criticism that we always hear with bills like this is, you know, we don't want to turn into Portland, we don't want to turn into San Francisco, this is going to turn on Nebraska into New York. You know, take a breath. Be serious. The city of San Francisco has like a population of 8 million people. Nebraska just hit 2 million. You know, it's apples and oranges. And if you live in a community that either doesn't have a very serious problem with opioid abuse or your, you know, city council or village board or county board decides that they don't want to implement an SSP, then you don't have to worry about this. You know, it's-- if you're not, if it's not a problem in your community, then you don't really have to worry about it. This bill is just there for places where it is a problem, where law enforcement has been reaching out, where communities do struggle, and they know that this is a, this is a solution and they want the opportunity to use it. Yeah. I don't have to touch on that. You know, I--there's a danger politically, right, when you disagree with the governor and you have to kind of walk a tightrope of like how hard you're going to disagree with the governor. You know, how, how deeply you're going to get into just your opinion about how wrong they are and what the data says about how wrong they are. So I will leave that at that. Depending on how this goes in the committee, I can certainly share more studies and research with you guys. I appreciate that Dr. Janousek, the first thing he said when he sat down before the committee was, I don't deny that the evidence is there for SSPs. I don't deny that the evidence shows that SSPs are effective. What he didn't speak about on behalf of this administration is the continued cuts to behavioral health funding in Nebraska in the budget last year when he vetoed this bill. The governor said that we need to do more on this issue, we need to do more to address opioid epidemic in Nebraska. But it's clear that that was all talk, because this bill is a way to actually do more without any state obligation, without any funding from taxpayers at the state

level. And when we see it coming through the budget, more and more cuts to behavioral funding, more and more funding for prisons, I just think that this is going to be a more cost-effective, humane, better for our communities, better for our families. We heard from family members today who have lost people who were important to them. This is going to be a waypoint to prevent the problems that we are seeing in Nebraska. So I'm happy to take any other questions.

**BOSN:** Questions from the committee? Senator Storer.

**STORER:** Thank you, Chairman Bosn, Bosn. And thank you, Senator Hunt. I want to come back to the funding piece, just being very pragmatic.

**HUNT:** Yeah?

**STORER:** What is your vision? Do you have any estimates of cost and where those dollars would come from?

**HUNT:** Yeah. There are federal programs that are available to provide grants for programs like this, and there are lots of, you know, municipalities around the country that already use that. There's a federal funding available under the Federal Consolidated Appropriations Act of 2018. It can be used to support the administrative cost of SSPs, testing, education and referrals. And then communities can also seek funding from other grants, foundations, nonprofits, private donors, and the local jurisdictions that choose to authorize these programs, they would be responsible for coming up with the funding. And that's, again, something that would be ultimately kicked to the, to the voters, to the constituents, like just like we do here at the state level. People would come into these meetings, and I actually have no doubt that if, you know, Valentine wanted to implement an SSP, there probably be people that came in in opposition to that hearing. So the local elected officials there would have to weigh that and make a decision, not only about whether they want to do it, but how to implement it and fund it.

**STORER:** Sure. And I-- and, and in fairness, I think, you know, the perspective I'm coming at, you know, is just an illustration of the vast differences of the demographics and sort of how counties operate across the state of Nebraska. And so in our, in our very rural counties of which I represent there, there is no infrastructure within individual counties, so they're not an individual health. They're part of a regional department of health, which, which does fall under DHHS as well. So that's kind of where my concern, I guess, is coming from in terms of how sometimes things evolve. And I've watched how

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

sometimes programs, you know, start as a really legitimately great idea, right? But end up becoming kind of another bureaucratic level.

**HUNT:** Sure.

**STORER:** But that is-- does end up costing taxpayer money. But so that's the basis of my question.

**HUNT:** I appreciate that, and I don't want that to happen either. And I appreciate your experience as a county board member, but we're not creating a state administered program here. What we're doing is removing criminal liability in our paraphernalia laws and establishing a minimum standard and allowing localities the ability to create their own programs, which but for this bill, they just could not do.

**STORER:** Thank you.

**BOSN:** Senator Storm.

**STORM:** Thank you. Thank you, Senator Hunt. So maybe you can clarify. If this passes, this bill would pass, are people who are getting free needles passed out to them, are they required to participate in any kind of rehab program?

**HUNT:** No, they would not require them to participate in treatment.

**STORM:** So they're not required. And then you made the comment that the population of San Francisco is 8 million. It's 800,000, which is equal to Omaha and Lincoln's population. So.

**HUNT:** I encourage you to look up the metro area of San Francisco.

**STORM:** OK. Well, you said San Francisco.

**HUNT:** Thank you.

**STORM:** Thank you.

**BOSN:** Any other questions? That will conclude our hearing on LB165. Next we will have LB16 and Senator Cavanaugh. Senator Cavanaugh, I'm not , I'm not trying to be rude, I haven't left to go to the restroom in five hours.

**J. CAVANAUGH:** I'm, I'm, I'm fine if you guys all want to take a break for a minute.

**BOSN:** No, I don't mind people getting up and going, but I [INAUDIBLE].

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**J. CAVANAUGH:** I was just going to say, you guys are real. What is this, Iron Man---

**DeBOER:** Yeah.

**J. CAVANAUGH:** --hearing.

**DeBOER:** OK. Good evening, Senator Cavanaugh. Thank you for being here. Go ahead.

**J. CAVANAUGH:** Thank you, Vice Chair DeBoer and members of the Judiciary Committee. My name is Senator John Cavanaugh, J-o-h-n C-a-v-a-n-a-u-g-h, and I represent the 9th Legislative District in midtown Omaha, and I'm here to introduce LB16, a bill to regulate consumable hemp, hemp currently being sold in Nebraska. Specifically, LB16 would create a regulatory framework for the sale and marketing of consumable hemp. I want to give an overview of what this bill addresses and what we're talking about in this bill. Marijuana and hemp are derived from the cannabis plant. The cannabis plant has more than 70 different cannabinoids, including cannabinal, CBD, Delta-8 tetrahydrocannabinol, Delta -8 THC and Delta-9 tetrahydrocannabinol, Delta-9 THC, and many others. Some cabin-- can-- cannabinoids, this is really hard word to say, have psychedelic effects, most, especially Delta-9 THC have-- most especially Delta-9 THC. Some have no psychoactive effect, such as CBD. Delta-8 THC has some psychoactive effect. Marijuana is criminalized as a controlled substance in Nebraska. Section 28-401(14)(a) defines marijuana but specifically excludes hemp as defined under 20-503. Hemp, in 2019, the Legislature exempted hemp from the definition of marijuana. Section 20-- 2-503 defines hemp as the plant Cannabis sativa L and any part of such plant, including the viable seeds of such plant and all derivatives, extracts, canna-- cannabinoids, isomers, a-- acids, salts, and salts of isomers, whether grown or not, with a Delta-9 tetrahydrocannabinol concentration of no more than .3% on a dry weight basis. This definition of hemp is identical to the definition of the Federal Farm Bill of 2018, which legalized hemp and which most states base their hemp laws on. While our Attorney General may disagree, this hemp definition provides that only cannabis that is Delta-9 THC with a THC content of .3% is illegal. This hemp definition legalizes what the consumable hemp stores sell across the state. One important point this bill does not address, medical marijuana. Medical marijuana is defined by Initiatives 437 and 438 specifically exclude hemp. Medical marijuana as defined by Initiatives 437 and 438, only includes marijuana. Recent Legislative action regarding hemp. Last session, Senator Ibach introduced a bill on behalf of the Attorney General,

LB999, which would have criminalized hemp as a felony controlled substance. The various consumable hemp stores opposed the bill, and the bill failed. Also in the last regular session, and again during the special session, the governor and several of our colleagues proposed various excise and sales tax on consumable hemp products. I know that many of the stores were willing to collect more sales tax or work with the state to collect excise tax, but as you know, the omnibus sales tax bill package in both regular and special sessions failed. I, along with Senator Brandt and Ibach, introduced interim study LR332, which examined whether a regulatory framework of hemp related retail businesses would be appropriate or justified. I was also approached by representatives of many of the consumable hemp stores in the state who expressed a desire and willingness to be regulated. The stores have in-- internal self-imposed standards regarding packaging, marketing and sale of their products, but they would like to have these standards made uniform throughout the state. All of you have seen consumable hemp stores in the state. Right now, there's no licensing or regulatory scheme whatsoever regarding the consumable hemp stores. LB16 would create one. What does LB16 do? LB16 would create a regulatory framework for the sale and marketing of consumable hemp. I'm not going to go through all of the requirements and components of the bill, but I can answer questions. But generally, LB16 requires any person or entity to seek-- that seeks to market or sell consumable hemp to be licensed by the state and pay a license fee. The bill has eligibility standards for whom can be issued a license, including a residency requirement, a clean criminal history, and other requirements. LB16 would direct the Nebraska Liquor Control Commission to regulate and enforce statutes and regulations that would relate to the sale of consumable hemp. The bill allows the local governments or citizens to be heard regarding the issuance and renewal of such licenses. Licensed retailers would be required to abide by various laws and regulations regarding the sale of hemp, such as age restrictions, labeling and packaging requirements, and other regulations. Finally, LB16 would also allow for the excise tax to be assessed on the wholesale purchase of hemp products to be paid by the licensed retailer. I know you heard a bill today, LB316 from Senator Kauth, that would essentially criminalize the hemp products that are sold in these stores. I think it's preferable for the state, and generally good public policy, for the state to regulate the sale of consumable hemp. There'll be testifiers behind me who can speak further to this bill. And just, I guess, I, I saw some of the hearing and I saw the Attorney General say a vote for regulation is a vote to legalize. And he also said he's adamantly opposed to LB16, and he's opposed because he would prefer a bill that outright bans consumable

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

hemp. And I guess I don't know if anybody asked or not, I know he was here for a while. He has maintained that consumable hemp is currently illegal and as defined, but I, as far as I know, there have been no criminal cases filed, it's all been consumer related. And this bill creates a structure where someone could-- we all know what's going to happen, we all know who-- what's legal and what's not legal at that point and what are the expectations of these stores. So I'd take any questions. I know you guys have been here a while, so.

**BOSN:** Are there any questions? Senator--

**STORER:** Oh, that was just movement, here.

**BOSN:** OK, Senator Rountree.

**ROUNTREE:** Thank you, Chairwoman Bosn. Senator Cavanaugh, it-- this is a lot in this bill. This is a lot to digest. I'm not going to be long because I know we're kind of late, but I want to share with everybody who's here, but as I went through looking at eligibility, things of that nature, so I just had a note. I should have asked you this when we were out today, but I'll bring it real quickly on page-- section number 18, when we talk about who's eligible for those particular items, and then I can get a store owner license. And so I, because one of the bills I'll be bringing deals with, you know, people that have been restored. I wanted to look at this one, 18(d) and 18(f). If we can just kind of quickly look at those. You know, if I was in the position 18(d), if I've been convicted of a covered offense that has not been pardoned, and a lot of pardons have been issued on a lot of things lately, but I haven't been pardoned. And so my wife and I want to get a business. Now, I know that (d) may disqualify me, but what about if my wife wants to go in under (f)?

**J. CAVANAUGH:** So that's pretty specific question, I guess. And I don't, I don't know the answer to the spouse-- my recollection, so this is framed off of the Liquor Control Act. And my recollection would be that you have to be-- if you're married and cohabitating, you have to be jointly, you both would have to be eligible. But I know the Liquor Control Commissioner might testify at some point. They might be able to clarify that. But to your, your question's a good one. And you know, I know across the country we've had a lot-- you guys have spent a long day talking about drug policy, and we have historically over criminalized some conduct and we've had some roll back of that. And in places where people have sought to profit from these industries that have previously been illegal, there has been an effort to allow for folks who've been maybe had a conviction to still participate in that

business. This, this bill is, my-- like I said, modeled after the Liquor Control Act, and so it is pretty restrictive. But I, I think an honest conversation about what all of these restrictions should look like is important. I think that we should be regulating this. And this is kind of my first expression of how that regulation should look, but I'm certainly open to comments and suggestions from everybody.

**ROUNTREE:** Thank you so much. Appreciate it, sir.

**BOSN:** I have a couple of questions. Thank you. On page 17, under section 22, it talks about the retail licensing distance from locations and techni-- typically, and I brought this up earlier today in my own testimony, we talk about within 1,000 feet of a school being the-- are you open to-- I mean, where did you get that 150 feet that's on line 26? Sorry, I, I gave you a page and forgot the line. Are you open to amendments or conversations about that?

**J. CAVANAUGH:** I would guess since I modeled this after the Liquor Control Commission, my guess would be-- or the Liquor Control Act, that that would be a mirror of that. I certainly have no problem in exploring what is the right number of feet for the distance. I do-- I mean, my personal opinion was that it shouldn't be by schools. And so that's kind of, I think that's why that's in there is to say it shouldn't be next door to a school. But I don't know. I don't have, I guess I don't have a specific answer as to what is the right number of feet that's just--

**BOSN:** I think you're right. I think it is modeled after Liquor Control, which is 150 feet from the school. And I'm thinking more of there's enhancements for delivery of a controlled substance within 1,000 feet of a school. So I'm thinking more of the distance being akin to keeping individuals out of prospective problems given that there-- minors are there. But I see what your point is. Any other-- oh, Senator McKinney.

**McKINNEY:** Thank you. Thank you, Senator Cavanaugh. I guess the one thing I was thinking about with the bill, and kind of following up with Senator Rountree's questioning, the prohibition on individuals who, who do have a felony conviction. That's the one piece that's sticking for me. I think, I think if it's legal, it's legal, and all people should be able to participate. Under the Liquor Control Statutes, are people with felonies restricted from owning a liquor store?

**J. CAVANAUGH:** Well, it's to get a liquor license, and again, Mr. Rupe will be behind me at some point, and I'm sure he can answer that better. But my recollection is that you have to have a clean record. And I think that there, there are different interpretations of that, and he could probably speak to what is an appropriate, you know, clean record. The point of this, you know, really is to have a regulation to make sure that people are engaging in legitimate business. And I think we can all agree that there may be some offenses that you would maybe be more interested in pro-- prohibiting from engaging, and there may be some time duration, you know, rehabilitation short of pardon as well. But I'm open to other suggestions on that. I just don't have-- I guess this is what's kind of my take on it based off of my experience with the Liquor Control Commission. And-- but I'm open to other--

**McKINNEY:** OK.

**J. CAVANAUGH:** Things that service everybody else's interests as well.

**McKINNEY:** Thank you.

**BOSN:** Thank you for being here. Are you staying close?

**J. CAVANAUGH:** Of course.

**BOSN:** Good.

**J. CAVANAUGH:** I can't let you guys finish this on your own. I will [INAUDIBLE]

**BOSN:** Next-- or first proponent. Oh, I'm sorry. I [INAUDIBLE] and I forgot.

**HOBART RUPE:** I was just saying good afternoon, from my notes, but those are a little outdated now. Good evening, Chair Bosn and members of the Judiciary Committee. My name is Hobart Rupe, I'm the executive director of the Nebraska Liquor Control Commission, and potentially the executive director of the Consumable Hemp Commission based upon this. I was asked to testify in support of this by the commission. This issue has been percolating with us, with us for a while. We get, probably, three or four complaints a week thinking that we have jurisdiction over them now. Usually the results are because my kid bought them, my 15 year old kid bought something. My 15 year old kid bought gummies and took four, is really loopy. And it's our response, you know, hopefully there is call the doctor if you need to. So these complaints have been coming to us, because this is a mind altering substance being sold, and there's zero regulation. It is the absolute

Wild West out there currently. This is also expanding-- now I mean, everyone thinks of, you know, the, the products we've seen, where the biggest expanding is-- expansions are drinks which have these products in them. A lot of your bars have them in there, in there currently. Our concern there is, you know, you're doubling down on two different mind altering substances. What's the effect that one of these hemp based containing less than three milligrams has? The other issue on the, on the drinks that has been raised by the commission at-- and this is not just the Nebraska Liquor Control Commission, this issue's been coming up nationwide at our associations. Normally right now, if you get a Budweiser, I'll just use them because they're the biggest beer company, that's a 12-ounce serving, that's one serving. Some of these drinks, a 12-ounce bottle, unless you're reading the back of it, don't, you don't realize it's got four servings. So, instead of three mg, you're getting 12 mg because you're getting Because they're all up, up to or less than three milligrams. So these, this issue has been percolating for the commission quite a while. We spoke with former Senator Lowe last year, he brought the possibility but didn't introduce a bill. And then this fall, Senator Cavanaugh brought to me, he said basically, could you regulate these if you needed to? And the short answer is yes. The Liq-- the act is very much patterned after the Retail Liquor License Act. That's one of the reasons it's got 150 feet, because that was what it was. I mean, should that be longer? Maybe we need to look at the Liquor Control Act have it be wider, long-- longer distances. The other issue is-- and so when you look back at when the Liquor Control Act was passed, and I'll try to address Senator McKinney's question. Yeah, right now, if you're a felon, you can't get a liquor license. You can't have it. It's there. Why is that? Well, you've got to remember when the Liquor Control Act was drafted in 1935, they were trying to get the mob out of the alcohol industry post prohibition. And so the concern was you put very-- and those structures have remained in place. Pardons do away with that, also judicial set-asides, because that lifts the automatic civil liability which would attach. So you could be a felon with a judicial set aside, I'm not sure, you know, and you would not be automatically prohibited from having a liquor license. And I think that would be the way we would interpret this as well. I see I'm almost out of time, so I'd be happy to answer any questions. Well, hey, I am out of time, happy to answer any questions. Timing.

**BOSN:** Senator Holdcroft.

**HOLDCROFT:** Thank you, Chairwoman Bosn. And thank you, Mr. Rupe, for coming.

**HOBART RUPE:** Thank you.

**HOLDCROFT:** So right now you're Liquor Control Commissioner, and soon you might be the Hemp Control Commissioner, and maybe the Cannabis Control Commissioner, and I really want to thank you for doing it all for the same salary, first of all.

**HOBART RUPE:** I might ask for a small raise.

**HOLDCROFT:** But the Liquor Control Commission is three people right now. And I think, you know, I mean, how much do you think the commission would have to grow and-- to be able to support, you know, all three of these functions?

**HOBART RUPE:** You know, right now, there's the three people. Most of the, if you look at the medical marijuana, there's-- that adds up to two, it doesn't mandate two. So the three of them would be a quorum currently. And just everybody knows how they're appointed. The six year terms, one for each congressional district, no more than two for the same political party. And that's goes clear back to inception. One of the reasons why we could actually handle some of this work is because of the things that this Legislature has done over the last couple of years by allowing us to actually get into the 21st century with our computer system. In May this year, we went live with POSSE, which is an online application and tax collection software that replaced a legacy system that went-- first, went live when I was a sophomore in college. Because of that, we're realizing time savings, because, you know, we-- our staff had maintained the same, but our workflow is continuing. This has allowed us to do this. We could probably, you know, you know, so long as we have the appropriate staff, and I'm not talking, you know, lots of staff. I mean, the fiscal notes were-- lays them out. We could do this. We can regulate it. The interesting part that's going to have to be taken on this is going to be the, the legal, law enforcement side of it. Right now, we have a-- there's a session of the Nebraska Liquor Control Commission assigned to the commission. So I'm not sure if they would be having those job duties, or there would be additional applies, or we'd have to have some, say, deputy sheriffs. You know that the devil's in the details on that there. There would need to be some enforcement.

**HOLDCROFT:** So I think if I understand the bill correctly, you're just licensing at the retail level.

**HOBART RUPE:** Yes, right now just license at the retail level. In a perfect world we-- there'd be an amendment probably to license on the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

supplier level primarily, then just so we can track the products like we do now with alcohol. You know, right now, especially because of brand registration, I can track, you know, a bottle of beer that's made in Saint Louis, that's sent into Nebraska, and ends up at Hobie's [PHONETIC] Hooch Hut.

**HOLDCROFT:** And also the way the bill, other than, you know, restrictions on the individuals, every vape shop could apply for [INAUDIBLE].

**HOBART RUPE:** They could apply so long as they meet the requirements. I honestly don't think-- the last time I checked there about 350 current vape shops. Our fiscal note is based upon that number, and also we polled all liquor licenses and-- licensees and ask how many of them have these products? It was funny, they thought I was working with the Attorney General because they thought I was trying to catch them sideways. And I said, it's an anonymous Google poll. OK. 1,000 people, 1,000 of the 6,000 licensees responded, and about 13% of them said they had or planned to have these beverages. And so we sort of did about 10% and about 25%, you know, it's-- fiscal notes are equal parts, you know, science and wizardry, trying to figure out, especially when it's something you've never technically regulated before. So this is a-- there's a growing market out there that would have these, so.

**HOLDCROFT:** And I believe the, the bill says you need to be ready to solicit for licenses by 1st January 2026?

**HOBART RUPE:** Yes.

**HOLDCROFT:** So you'd be ready to be able to do that?

**HOBART RUPE:** On this bill, yes, This would be an easy bill. The other ones require a lot more heavy lifting than this one here. This one here, internally, we would basically create a subclass of retail liquor license for our computer systems. And then we would-- that's how we would track it.

**HOLDCROFT:** Thank you.

**BOSN:** I have a few questions. Tell me, are there any qualifications to be on the Liquor Control Commission? Background, education, training, experience?

**HOBART RUPE:** You can't have an ownership interest in a liquor license.

**BOSN:** OK.

**HOBART RUPE:** They specifically allow you to be a member of a country club, that's how old that-- the provisions are.

**BOSN:** Wonderful.

**HOBART RUPE:** The-- they're governor appointees. They're six years, they can only be removed for malfeasance in office, so they're, you know, so they can upset the curr-- you know, they could be-- they're holdovers from a previous governor, and until their term is over, they're on the commission. And that was by design to try to take the-- you have to remember how much nefarious shenanigans, for lack of a better term, was happening during prohibition by the regulators on the take. And so, for instance, a lobbyist of a liquor license can't even buy me a drink. Unlike you, they can't take me out to lunch. So, so there are-- and those are similar restrictions to be found here for the cannabis people.

**BOSN:** Well, I guess my question is more towards the qualifications. So this would be new, right?

**HOBART RUPE:** This would be new.

**BOSN:** This would be regulating consumable hemp for the very first time.

**HOBART RUPE:** Yeah.

**BOSN:** And I don't know you, and I'm sure you are very qualified. But I want some assurances that you and your commission are qualified to regulate consumable hemp. And how do you, how do you plan to become experts?

**HOBART RUPE:** Luckily, luckily, I am-- Nebraska is an active member of the National Conference of Liquor Administrators, which has been talking about this for 20 years, as these, as these states have been coming up. In fact, there's a, there's an organization called CANRA, which derived from the NCSLA, which is the association of regulatory of both medical marijuana and some hemp laws. So this is not a new issue for me, and-- or for the commissioners. The commissioners have been very involved with these, very active. You know, the drink issues we all heard about out in Montana at the Western Regional Conference, which is being brought up as our concerns. You know, that was-- so that's one of the other layers that came down. So we're very knowledgeable about that. My own background, I was Assistant Attorney

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

General for ten years. I am licensed between the United States Supreme Court, the Eighth Circuit Court of Appeals, and the Nebraska Supreme Court still. The three commissioners currently are active, have been in active business. We have the chairman is Bruce Bailey, who's an active business owner in Lincoln. Harry Hoch, who's a retired beer wholesaler in Omaha. And Kim Lowe, who many of you might know, from Kearney, so. And more importantly, those commissioners are subject to approval, if new [INAUDIBLE] by the Legislature. So.

**BOSN:** Any other questions? Thank-- oh Senator Storer.

**STORER:** Well, just for, just for clarification, I'm trying to get my head, again, wrapped around that. So on the on the products being sold in a liquor store or bar, so you do or don't have any authority on those very specific--

**HOBART RUPE:** As we sit right now, nothing. There is no regulation on consumable hemp. The closest thing to regulation that the state currently has is if they also have a tobacco license, that's the only license required, and that's only because they're generally selling tobacco products along with hemp products. So that's-- so in-- it is very much the Wild West right now. There is no regulation so long as it meets the description of being hemp and consumable hemp. There's--

**STORER:** So are-- and I have no idea what these products look like or this is new to me. So are they mixed with an alcoholic beverage in a container?

**HOBART RUPE:** You can't have a packaged thing made with alcohol. Hemp and hemp derived products are not legal additives under the FDA or the TTB regulations on alcohol. So I can't make a beer and put hemp into it.

**STORER:** OK.

**HOBART RUPE:** There's nothing which would keep somebody from a bartender from making a mixed drink, and putting some hemp oil in it, currently. So-- because that's being done at the, at the retail section.

**STORER:** Thank you.

**HOBART RUPE:** And the people behind me who actually deal with them, will talk about the products far better than I can. My expertise is on the regulation of the mind altering product.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**BOSN:** Thank you for being here.

**HOBART RUPE:** Thank you.

**BOSN:** Is Christine Vanderford? OK. If you're ready to testify.

**CHRISTINE VANDERFORD:** My testimony also says good afternoon, but it's been a long day and I appreciate you all for staying here. Good evening, Chairwoman Bosn and members of the committee. My name is Christine Vanderford, C-h-r-i-s-t-i-n-e V-a-n-d-e-r-f-o-r-d. I am here to testify in support of LB16. I work for Kure CBD and Vape. While our company is currently headquartered in North Carolina, its beginnings were right here in Nebraska starting in 2012. Our president and CEO is a graduate of the University of Nebraska at Omaha, and he is proud to have earned his education in Nebraska and to have started his business here. Kure CBD and Vape currently operates 68 stores in 14 states. We've closed a lot of locations in several years to-- due to different types of regulations, different types of enforcement. We have 11 stores in Nebraska, located specifically in Grand Island, Lincoln, Omaha, Bellevue, Papillion and Fremont. We're a retail leader in Nebraska and our customers have known and trusted us for well over a decade to provide quality, legal, and safe products in the marketplace. For an example, our POS system does ask for age verification and restriction, not just on vape products but also on hemp products. So we self-regulate in lots of areas. Because we work in so many states with so many different regulations, we're very conservative in our approach. In 2024, as an example, just in Nebraska, we employed 124 people and paid over \$415,000 between sales tax and excise tax. In 2018, the federal farm bill, as we've all talked about ad nauseum today, legalized hemp products. That bill was signed into law by President Trump, and the Fourth and the Ninth Circuit of the Federal Court of Appeals since then, they further confirmed legalization of hemp products through some dicta in their decisions. The Nebraska Legislature, as we've talked about too, legalized hemp products in 2019, adopting the farm bill's legal definition. Hemp products are legal in Nebraska and LB16 provides that regulatory framework for the sale and use of Nebraska-- for hemp in Nebraska. When you use it as directed, these products are good products for Nebraskans who've clearly shown there's a need for them. Regulation is extremely important to the future of this industry and to the future of our business. And coordinating legal enforcement, especially with our neighbors in the medical marijuana industry, is very important. One of the things I wanted to point out that's not in my testimony, but I heard today is that all of these states around us are telling us that-- I think it was AG Hilgers said that all the

states around us were outlawing Delta-8 products. I want you to know that there's a political sub culture to that. And one of it is that there's a tax revenue that the medical marijuana industry wants and needs to corner the market to be able to capture that to pay everything. So it's not because they're prohibiting the Delta-8 products because Delta-8 is bad. They're trying to squeeze everybody else out of the marketplace. I think it's important that you understand that political thought process, and it's not just a scientific argument. Regulation is extremely important. Good actors will provide products that have been screened, scientifically evaluated, and provide consistent quality. Please don't punish the good actors. We work really hard, and the bad actors are needing this so that we can get them out of the marketplace. In conclusion, I ask you not to shut down good businesses in Nebraska who are meeting consumer demand for the lawful products. Don't eliminate these thousands of jobs and job opportunities for Nebraskans who work in these retail stores. Don't send our tax revenue to neighboring states for them to sell products to our citizens. And don't drive consumers to unregulated and untaxed black markets. Don't fall for this rhetoric that these products are not legal and safe. The Trump administration legalized these products years ago. Now let's just finish the work and regulate it here in Nebraska so that we can do what we need to for the economy and the individuals who use them. I ask that you vote in a-- to advance LB16. Thank you. If you have questions, let me know.

**BOSN:** Any questions? Thank you for being here.

**CHRISTINE VANDERFORD:** Thank you.

**BOSN:** Next, we'll hear from Sarah Linden.

**SARAH LINDEN:** You're going to see me a lot today. I'm sorry.

**BOSN:** That's all right.

**SARAH LINDEN:** Oh, sorry. Out of order here. Here you are. All right. All right. Good evening, Chairman Bosn and members of the Judiciary Committee. My name is Sarah Linden, S-a-r-a-h L-i-n-d-e-n, and I am the owner of Generation V and Grateful Green Dispensary with 24 locations in Nebraska. Although we have been self-regulating since hemp became legal in Nebraska in 2019 by imposing our own age restrictions, packaging and labeling requirements, and proper testing, sensible regulations are necessary to standardize operations and ensure consumer safety. Over the past six years, hundreds of thousands of Nebraskans have come to rely on hemp products to help with their

various medical ailments, including epilepsy, chronic pain, PTSD, depression, anxiety, insomnia, arthritis, cancer, sore muscles, Parkinson's, and at least 30 other medical conditions. Hemp has proven to be a safe natural remedy where more expensive pharmaceutical drugs have failed them. I care about the health and safety of Nebraskans and want hemp products to remain safe and legal for all those who rely on them. Although most of the businesses in this space are acting responsibly with the consumers' interests top of mind, unfortunately, some businesses are not. Therefore, I support the following regulations to ensure hemp products remain safe for consumers in Nebraska; a minimum age requirement of 21 years old to purchase or possess hemp products; child resistant packaging to keep these products out of the hands and mouths of kids eliminating Poison Control calls; proximity restrictions to keep stores from opening close to schools; clear and consistent labeling so consumers understand exactly what they are purchasing and using; product packaging and labeling restrictions to limit the appeal to minors; enforcing good manufacturing practices standards to ensure the quality of the products; testing requirements to ensure products are free from harmful chemicals; and licensing requirements to aid in enforcement. This bill would allow the Liquor Control Commission to do all of these things. This bill also contains an excise tax of 3% on hemp products, which I support. I believe the hemp industry should pay its part. Keeping home products legal and safe is in the best interests of our communities and the many Nebraskans who have come to rely on them. Therefore, I'd like to take a moment to thank Senator Cavanaugh for bringing such an important piece of legislation this session. Rather than an all out ban on these products, I kindly request that you support LB16 to ensure the safety of consumers while maintaining the revenue, jobs, wages, and taxes derived from the Nebraska hemp industry in this state. Thank you for your time, and I'm happy to answer any questions.

**BOSN:** Thank you. Any questions from the committee? Thank you for being here.

**SARAH LINDEN:** Thank you.

**BOSN:** Next proponent? How about Joseph Fraas?

**JOSEPH FRAAS:** Senators, Madam Chair. My name is Joseph Fraas, J-o-s-e-p-h F-r-a-a-s. I am a Nebraska native and a lifelong resident. I own a business with two locations, one in Omaha and one in Lincoln. I have been in business in Nebraska for 18 years and we have 18 employees currently and we sell these legal hemp derivative products.

I'm also the president of NEHAA, which is the Nebraska Healthy Alternatives Association, which is a lobbying group that has been pushing for the regulation of these hemp derivatives. I share this committee's commitment to keeping Nebraska consumers and children safe. LB16 will just-- do just that, and do it better than prohibition ever could. LB16 will help protect Nebraska's consumers' access to safe hemp derivatives while ensuring that bad actors in the industry can be policed and bad products can be removed from the market. The Hemp Control Commission, under the purview of the Liquor Control Commission, has the necessary experience, funding and procedures to enforce its provisions. The Hemp Control Commission will also have the authority to adjust regulations to fit the conditions of the market. LB16 will force businesses to get a license under the same terms as liquor licenses. This prevents known bad actors from entering the market from the start and also puts the license holders in a position of wanting to follow the law so as to stay in business. It will make a minimum age of 21, which will then be followed by business owners who are eager to maintain their licenses. In other states, this has been shown to reduce the chances that children be able to receive these products more than prohibition has. Not only that, taxation and regulation have been shown to reduce usage rates compared to prohibition, and legal cannabis has proven to be a popu-- is proven to be popular in Nebraska on both sides of the aisle. Why shouldn't it be legal and regulated? This bill makes it more likely that these products will be tested, properly labeled, properly labeled and shown to be safe. It will make it less likely for children to be attracted to these products and will help limit accidental ingestion. It creates a fair excise tax that will provide millions of dollars to low property ta-- to lower property taxes and pay for the enforcement of the law. Also, hemp derivatives create millions in economic activity for Nebraska. The legalization and taxing of cannabis has already badly damaged drug cartels. This kind of bill prevents a black market from forming and takes power away from these criminal organizations and puts it in the hands of responsible business owners like me. Then these business owners do what they do best: create jobs, pay taxes, create economic activity, and serve their customers. In conclusion, this bill will help keep Nebraska's children and consumers safe, safer than prohibition can. It will provide millions in tax revenue. It provides a credible, funded, and currently existing enforcement mechanism to protect consumers. It brings in millions in tax revenue. It creates millions in economic activity. And it allows Nebraskans to access a safe and popular product whose legality they support. It damages the drug cartels ability to operate in our state, and keeps the government out of the private lives of Nebraskans. And it will

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

help keep hundreds of small businesses like mine alive. Please vote for LB16. Thank you.

**BOSN:** Thank you. Any questions from the committee? I have just a couple. I see you've got some sources cited, which I always appreciate. On page one, towards the bottom, third paragraph from the bottom, it talks about in other states, this has shown to reduce the chances that children will be able to receive these products more than prohibition. Is that in one of these?

**JOSEPH FRAAS:** Yes.

**BOSN:** Can you tell me which one?

**JOSEPH FRAAS:** I believe it's in 1 and 2.

**BOSN:** Thank you, sir.

**JOSEPH FRAAS:** 1 is the Cato Policy Institute.

**BOSN:** That was my only question. Any other questions? Thank you for being here.

**JOSEPH FRAAS:** Thank you so much.

**BOSN:** Any other opponents? Or excuse me, proponents? Any opponents?

**JOSHUA DETHLEFSEN:** Good evening, Chair Bosn, Members of the Judiciary Committee. My name is Joshua Dethlefsen, J-o-s-h-u-a D-e-t-h-l-e-f-s-e-n, and I'm from the Ag, Environment and Natural Resources Bureau of the Nebraska Attorney General's Office, appearing today in opposition to LB16. As member-- members of this committee, you're aware our office has been actively engaged with issues relating to synthetic cannabinoids for a number of years. These efforts include testing many products currently available on the market and bringing consumer protection actions against many businesses that are selling these products. Our conclusions from these efforts are clear. First, while permitting hemp and hemp derived products, the Nebraska Legislature did not permit synthetic cannabinoids of the kind that we see on the marketplace. Second, the sale of these products are harming Nebraskans. The Legislature should reaffirm the prohibition on these products. We should be clear up front about what these products are. Most of these products are made synthetically, and only after a series of chemical reactions that make the product unrecognizable from actual hemp. During those reactions, along with creating the intended chemicals, additional chemicals are created. Chemists that we've

spoken with during the course of our work can see these additional chemicals in their testing, but have no idea what they are. These compounds do not even have names let in-- let alone known health effects. There is simply no way for consumers to know the risk of consuming these products. And the end result, synthetic cannabinoids, that are found in these products often are even more potent than actual marijuana. This is clearly not what this Legislature nor Congress had in mind when it legalized hemp. But more concerning than that is that these products are dangerous and untested, especially for vulnerable adults and children. The short term consequences of consuming intoxicating hemp products can include confusion, hallucinations, tremors, uncoordinated movements, anxiety, changes in heart rate, low blood pressure, difficulty breathing, loss of consciousness and coma. Our office is aware of individuals here in Nebraska that have had mental health episodes after taking these products. And that's just the short term. We don't even know the long term health effects of taking these products because they have never been tested or studied. What we do know is that no synthetic cannabinoid has been cleared by the FDA to be added to food. Last, to be clear, it is the attorney general's view that LB16 is not just a regulatory bill. The Legislature has never expressly permitted the sale of synthetic cannabinoids. Therefore, by passing a bill that permits the sale of these products, LB16 would not just regulate, but would legalize a recreational synthetic marijuana market in Nebraska. We would urge this committee not to advance LB16. Thank you.

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

**McKINNEY:** Thank you. Are you aware of, like the Fourth Circuit's opinion-- opinions and decisions on, on CBD, or Delta-8, or Delta-9?

**JOSHUA DETHLEFSEN:** I'm generally aware of the recent decision that came out from the Fourth Circuit. I can't swear that I'm ready to take a pop quiz on it, but I'm will to [INAUDIBLE].

**McKINNEY:** No, I'm just kind of curious if you was aware of it.

**JOSHUA DETHLEFSEN:** Yeah.

**McKINNEY:** And I bring this up because on one hand you all say it's not legal, but the Fourth Circuit has ruled that Delta-8 is legal. But they also have said, like, states could do some things, but they didn't say it wasn't legal. But your office is arguing that it's not legal, but the Fourth Circuit has ruled that it is legal.

**JOSHUA DETHLEFSEN:** I don't think that's the way I read the Fourth Circuit opinion. There was discussion in there about what the Ninth Circuit had previously done, I believe, but that wasn't actually part of the Fourth Circuit's holding to my memory. I'm happy to revisit that. What that opinion did do, again to my memory, is reaffirm Virginia's restrictions on hemp products in the state, which is actually similar to what we're urging.

**McKINNEY:** In that case-- yeah, but it was a previous case that went over Delta-8 and Delta-9 that said those products are actually legal.

**JOSHUA DETHLEFSEN:** OK. I'll have to look into that, Senator, I'm not sure if I know exactly which one you're talking about, we may be talking about different ones.

**McKINNEY:** But, because it-- because I'm trying to grapple with your, your office is saying that these products are legal-- or illegal and unlawful, but you got the Fourth Circuit saying opposite of what you're saying.

**JOSHUA DETHLEFSEN:** Well, one thing I would say there, again I'll-- I can look back at that Fourth Circuit opinion, and I'm sure the AG himself would be happy to have more discussion on that. One thing I would say is that what we have legalized as a state doesn't necessarily also track with exactly how the federal farm bill goes. The Nebraska Hemp Farming Act, using some similar language, but--

**McKINNEY:** But we conceded our authority to the feds.

**JOSHUA DETHLEFSEN:** For purposes of the hemp farming--

**McKINNEY:** Yeah.

**JOSHUA DETHLEFSEN:** --correct. Yes.

**McKINNEY:** Yes.

**JOSHUA DETHLEFSEN:** I don't think that necessarily goes to what's legal in the state. It is our position, to be clear, that it is currently not authorized under the law and that it is illegal.

**McKINNEY:** But does-- at times, federal law trumps state law.

**JOSHUA DETHLEFSEN:** At times it can. This, I don't think, is one of the places where it does.

**McKINNEY:** Why?

**JOSHUA DETHLEFSEN:** The farm bill makes clear that states can be more restrictive than the federal government. But I'm also not sure, I mean, I would just note this and again--

**McKINNEY:** But if the Fourth Circuit is saying it's legal, maybe we could be restrictive, but we can't outlaw it. So that means we could regulate it.

**JOSHUA DETHLEFSEN:** I think we're authorized under the farm bill to ban the use in the state outright if, if we want to do so.

**McKINNEY:** But your, but your argument is that it is unlawful, but I think it's opposite. But we, we could go all day. Thank you.

**JOSHUA DETHLEFSEN:** Yeah.

**McKINNEY:** It's late.

**BOSN:** I need-- oh, Senator DeBoer.

**DeBOER:** Sorry. One question, though it's a big one and a dumb one, but here it is. How-- so we've been talking all day about Delta-8, Delta-0, Delta all those things. What law makes all of those cannabinoids illegal is that part of the classification of marijuana itself or what-- so where is the original-- before we, before we start about what is exempted through the hemp bill, where's the original this is illegal from?

**JOSHUA DETHLEFSEN:** Well, I think synthetic THC is specifically listed in Schedule I.

**DeBOER:** Schedule I.

**JOSHUA DETHLEFSEN:** So I think that's the, that's the backdrop to it.

**DeBOER:** And so we've heard a lot of different understandings of what synthetic THC is.

**JOSHUA DETHLEFSEN:** Correct.

**DeBOER:** What, what is your understanding of what synthetic THC is?

**JOSHUA DETHLEFSEN:** Well, we would take the position, I think, that synthetic THC is when you take the hemp plant and you start to run it through these chemical reactions to create new molecules. Now, I know

there has been some suggestion that Delta-8, because it exists in trace amounts in the plant, if you create Delta-8, that's somehow not synthetic. I think the process is relevant there for the reason that I mentioned. The chemists that we've talked to can identify different compounds that are created during that process that are in themselves unknown. We don't know what they are. And it's-- we, we cannot tell consumers that these products are safe when we don't know what any of these things are.

**DeBOER:** I think we're down to the, the very crux of the issue there. So you would assert that even naturally occurring cannabinoids, which now I can say, even naturally occurring cannabinoids are synthetic if the process for making them is not just taking them from plants and is in some way involved a chemical reaction.

**JOSHUA DETHLEFSON:** Yes.

**DeBOER:** OK. Thank you.

**BOSN:** Look what you did. Senator McKinney.

**McKINNEY:** Has your office prosecuted somebody criminally for Delta-8?

**JOSHUA DETHLEFSON:** I don't believe so.

**McKINNEY:** Why not?

**JOSHUA DETHLEFSON:** Well, I think the AG has spoken on this before. I think we have been pretty vigorous in our work on this subject, and we've understood the consumer protection law to be the best vehicle to do that, to try to address the problem broadscale. So I can't speak to the specific decision of why a prosecution hasn't happened, the AG would probably have to discuss that. But we have been active on this issue with consumer protection.

**McKINNEY:** Because I've heard arguments today that it's unlawful, it's illegal. It shouldn't be so. But nobody's being prosecuted for selling or consuming or being in possession of illegal product. I'm lost. It, it. Can you make it make some type of sense to me?

**JOSHUA DETHLEFSON:** I don't know that I can speak to the individual prosecution decisions. That's probably a better conversation for the AG himself, and I'm sure he would be willing to engage with you on that.

**McKINNEY:** All right. Thank you.

**JOSHUA DETHLEFSON:** Thanks.

**BOSN:** Thank you for being here.

**JOSHUA DETHLEFSON:** Thank you very much.

**BOSN:** Next opponent? Anyone wishing to testify in the neutral capacity? We don't have a page, if you'll just hand it to our clerk.

**BILL HAWKINS:** Well, it's nice you let the pages go home. Chair Bosn, members of the Judiciary Committee, my name is Bill Hawkins, B-i-l-l H-a-w-k-i-n-s. I'm with Nebraska Hemp Company, worked with Senator Wallman, Senator Wayne to-- on these hemp bills. My suit jacket is hemp. We have had a confusion here that this regulating the hemp will end prohibition. It does nothing to pro-- end prohibition. It doesn't help with social equity, the brown, black and white trash communities that are negatively affected, doesn't do anything for that. What-- I haven't read the bill, but it looks like it sets up a good old boy network through the Alcohol Commission. And as a watchful citizen, I greatly object to the Alcohol Commission, which was responsible for Whiteclay. I don't know if anybody remembers that, but I was there during the testimonies and the shutting down of one of the worst stains in Nebraska history of 4 million cans of beer a year to the Pine Ridge Reservation. I've spent a decade going up there taking winter clothing, socks, blankets for those people out there to see what the devastation is. And it hasn't improved. So I object strongly, even though I'm neutral in this bill, for the Alcohol Commission having any part of the cannabis plant. I'm for regulating-- taxed and regulated safe cannabis, not a little loophole to let certain hemp companies control the cannabis market. The majority of people, both sides of the aisle, believe in full tax and regulate of cannabis. So until we decide as a committee the legalities of the hemp pro-- plant, regulating it probably comes second. To clarify, Senator DeBoer has many questions. Minor cannabinoids are in trace amounts, Delta-8, Delta-10. You have to synthesize through chemical processes to create quantities enough to produce a marketable product. I am concerned as an herbalist the, these trace amounts are being concentrated way more than is naturally occurring in the plant. That's where we can run into problems with these minor cannabinoids that are all of a sudden being highly psychoactive. So I appreciate your time so much.

**BOSN:** Thank you for your testimony. Any questions from the committee? Seeing none, thank you for being here.

**BILL HAWKINS:** Thank you.

**BOSN:** Any other neutral testifiers? And while Senator Cavanaugh is coming up to close, I will note for the record that there were 13 proponents and 4 opponent comments submitted for the record.

**J. CAVANAUGH:** Thank you, Madam Chair, and members of the committee. Really appreciate the attentiveness on the hearing. I just wanted to touch on a few things. I really appreciate Mr. Rupe being here to kind of give us a little bit more context about how the regulation would work. I'm certainly amenable to the changes he suggested, which include requiring licensing of the wholesalers and manufacturers. And I appreciated the background that Mr. Rupe gave to, I think it was Senator Rountree's question about, or maybe it was Senator McKinney's question about the history for why there's a prohibition on felonies. And I did want to highlight for folks, if you take a look at the fiscal note, you can see the one from the Liquor Control Commission. I would like to draw your attention to that, where it says how much it would cost for them to administer this. And they have two versions, one where if they have to stand up a whole separate agency in one where they do it internally and obviously I'm amenable to whatever change would be required to have them do it internally, which is, I think, \$742,000. And then their estimation of how much tax revenue the excise tax would raise is \$4 million in the-- or I'm sorry, \$3.5 million the first year, \$4.3 million in the second two years. So that's not obviously my intention in regulating this. And I've learned a lot through this journey. Got kind of involved in this because I was a person who was going around my district and saw these shops popping up everywhere, and I said, what is going on? Is there nowhere they can't put these things? And it's true, there isn't, you could put them anywhere. And so I started kind of saying, well, what, what would be a good way to regulate this? And then the governor, of course, proposed an excise tax in-- or a sales tax, I can't remember which one it settled on, in the, in the last session and the special session. And so I got a little bit more involved in that conversation. And so I'm learning a lot, I still can't pronounce it, Senator DeBoer said good job. And, and just in the last couple weeks, I've learned about these-- they're not cocktails, but seltzers with the drinks in them. And I actually went and looked at a way-- bar in, in Omaha that was selling these, and they had them off on the side separate from all the other stuff, but they did sell them, and looked through the labeling on that and tried to wrap my mind around it. But ultimately, to Senator McKinney's question, the reason they haven't prosecuted anybody and the reason LB316 was here today is because this is legal. The Attorney General doesn't like it, and Mr. --I'm sorry, my handwriting's bad so I can't pronounce the last name, but the

gentleman from the Attorney General's Office, it's not a policy decision. He said it's a policy decision that they thought the Consumer Protection Act was better. It's because they can't pursue these people under any criminal code at this point because it is currently legal. And I think it's irresponsible of us not to regulate this at this point. And the regulation, I think there's certainly room to make some changes in this regulation, to beef it up and to make, make it work in the way that we want. But fundamentally, we can tax this, we can tell people where-- we can put restrictions on where they are, we can put age restrictions on it. But the big thing is, to answer all these questions about what people are concerned is in it. Once we start regulating it, we can make determinations about the safety and quality of these products, and we can ban certain products that don't meet safety and quality standards. But we have to take a step towards regulation first and not outright ban. And so I think that this is the right way to go for the state of Nebraska to put us in a position to embrace these businesses, but also to make sure that they are doing everything appropriately. So I don't need to belabor the point, you guys have been here a long time, so if you have any questions, I'm happy to answer them. Otherwise, happy to get out your way.

**BOSN:** Senator Holdcroft, followed by Senator Storer.

**HOLDCROFT:** Thank you, Chairwoman Bosn. So would you agree that if we passed LB316 we don't need LB16?

**J. CAVANAUGH:** I-- well, probably not. I don't know which products would be left to regulate if you passed LB316.

**HOLDCROFT:** It seems to me just CBD.

**J. CAVANAUGH:** Yeah. But I, of course, in case you haven't figured it out, I'm opposed to LB316.

**HOLDCROFT:** Understood, but just wanted to know that.

**J. CAVANAUGH:** Yeah.

**BOSN:** Senator Storer.

**STORER:** Thank you. So this is a great segue to your, to your follow up to your question, and, and also to build on Senator DeBoer's question. So is the real issue whether or not, as, as I would interpret after sitting here for much of the afternoon, are we talking about, in terms

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

of what's legal, what's not legal, is it come down to the definition of synthetic?

**J. CAVANAUGH:** I don't think-- well, I guess I don't know what the definition of synthetic is in the statute--

**STORER:** Which I--

**J. CAVANAUGH:** --but there is a definition of what is, is banned or what is criminalized, which is marijuana. And then that excludes hemp. And then hemp is defined specifically as the products, isomers and all that of the Cannabis sativa L or whatever, that has-- is anything other than greater than point .3% of Delta-9 THC by dry weight. So it legalizes everything else under that and it doesn't make reference to synthetic or processing or anything along those lines.

**STORER:** Or Delta-8.

**J. CAVANAUGH:** It makes no reference to any of the other deltas. It just says if it has more than .3% Delta-9, it is illegal, and-- or is, is defined as marijuana. And that, that is a mirror of the Federal Farm bill from 2018.

**BOSN:** Senator DeBoer, followed by Senator Holdcroft.

**DeBOER:** So your reading of the bill that we passed in 2019 is that everything except greater than 0.3% of nine, of, of Delta-9 is legal.

**J. CAVANAUGH:** Is hemp.

**DeBOER:** Is hemp?

**J. CAVANAUGH:** Yes.

**DeBOER:** Everything other than-- everything that comes from the Cannabis sativa or whatever that is, other than Delta-9 .3 is hemp and therefore legal?

**J. CAVANAUGH:** Yes.

**DeBOER:** So the only thing which is illegal, which retains illegality, on your reading, is anything that is greater than 0.3% T-- Delta-9.

**J. CAVANAUGH:** Yes.

**DeBOER:** Thank you.

**J. CAVANAUGH:** I think that's right.

**BOSN:** Senator Holdcroft.

**HOLDCROFT:** Thank you, Chairwoman Bosn. So let's say LB316 fails. So again, we would want to go back and LB16 to regulate. And then the commission would have the authority to then outlaw Delta-8, Delta-9.

**J. CAVANAUGH:** Well, that's a great question, Senator Holdcroft. And, you know, I'm, I'm all for efficiency and cut out the middleman and just go straight to regulating under LB16. But I'm trying to remember--I think it's-- if you had your bill in front of you, it's pretty early on, I think, that it empowers the commission-- the bill would empower the commission to make limitations on, for health and safety, for purity, and for, and for standards. Standard-- yeah, here we go, establish standards for purity, page 7. Be able to say which standards for purity, sanitation, honest advertising and representation. My read of that would be that they could set standards for, not what is illegal or legal, but what is, is like appropriate for-- to be sold, in a, in a similar way that alcohol, you know that, as Mr. Rupe mentioned, that one serving of alcohol is, you know, 12 ounces, as opposed to these drinks. I did look at them. A drink this size is two servings as currently labeled.

**HOLDCROFT:** But just as they regulate alcohol, that you can't be above a certain percentage of alcohol, you know, and it's obviously-- I mean, they, they set those standards.

**J. CAVANAUGH:** Right.

**HOLDCROFT:** Could they not look at the Delta-8, Delta-9 products and say this is too harmful for public consumption and just say no on those products?

**J. CAVANAUGH:** Well, I think that the purpose would be, and to empower the commission to make a determination, not about what should be illegal or not, but what is the increment like that and saying, you know, something shouldn't have more than 50% alcohol or whatever, 12% alcohol, and that, that they make those kind of determinations, not that they should say there should be no Delta-8. It should be something that has this much Delta-8 needs to be, you know, at this, this level. So, and I can't honestly, I can't tell you what, you know, measuring in milligrams and things like that what is even the ballpark of that level would be. But that's why we need experts to be regulating this, is that they would make a determination. And some of

the products that are on the shelves right now might not pass that test, which is one of the reasons I think it's important to have a regulation that then we can all be-- feel comfortable and rely upon, that the things that are on the shelf are, are things that are admittedly going to be recreational intoxicants for people. Right? And that-- but they are within a reasonable measure of that and not something that somebody is going to accidentally consume too much of.

**HOLDCROFT:** OK. Thank you.

**BOSN:** Thank you for being here.

**J. CAVANAUGH:** My pleasure. Thank you, everybody.

**BOSN:** Before we get started on our last bill-- are you guys good with that?

**HOLDCROFT:** Two more bills.

**BOSN:** Are you-- OK. Before we get started, can I see a show of hands of individuals that want to testify on LB431?

**LAURIE VOLLERTSEN:** One, two, three, four, five, six, seven, eight.

**BOSN:** And are any of you that are here for LB431 also here for LB230? OK. So in the interest of efficiency, we are going to combine those hearings, executive decision made. What we will do is we will call you up, or when you come up to testify, it will not be convenient for purposes of proponent and opponent. But we all know who we all are here, right? There's no question you're either going to be a proponent, or you're going to be an opponent. So that Laurie doesn't poison me with something later, like hemp, I want you to state which bill you're in proponent, and which bill you're an opponent, or if you're in neutral capacity, and then begin your testimony. What's that?

**LAURIE VOLLERTSEN:** A testifier sheet, please.

**BOSN:** And then make sure you also have a testifiers sheet for each bill so that we can have a clean record. But it just seems like maybe there is some redundancy that we could avoid, even though I would love to hear from all of you twice tonight.

**LIPPINCOTT:** Do you mind if I go first?

**BOSN:** Are you serious?

**LIPPINCOTT:** No.

**BOSN:** OK. I-- you're fine. You go first. OK. So. And you're OK with that? OK. So we will begin with LB431, and we'll open with Senator Lippincott and then we will follow that with opening from Senator Hallstrom on LB230, and then we'll begin with testifiers.

**LIPPINCOTT:** Very well.

**BOSN:** Thank you, sir.

**LIPPINCOTT:** Thank you. And hello to you, Chairman Bosn and also the Judiciary Committee. My name's Loren Lippincott, that's L-o-r-e-n L-i-p-p-i-n-c-o-t-t. Just got off of the-- our Committee with Appropriations a few minutes ago and I asked a couple of state senators, I said, I'm going to be testifying about kratom. What's that? Don't know anything about it. I've asked several people today about kratom. They have no idea what it is. So what I would like to do, I'd like to go off script here for just a moment to begin and talk about what kratom is, what kratom does, and why I'm personally involved with this. Kratom is simply tea leaves from Southeast Asia, around Thailand area, Vietnam era-- area. And it's ground up into a fine powder, looks just like cinnamon or nutmeg that you have in your kitchen. That's what it looks like. And what people do is they use it-- now we're talking about what it does-- people use it and it has effects kind of like morphine. It deadens you, it, it has opioid type effects and so it's available on the street. It's available a half a block from here. As we walk over to the Cornhusker Hotel, there's a shop that you can buy kratom. So it's widely available. Now, somebody that I know that's half my age, very close to me, he was a weightlifter back in college, lifted a lot of weights, 400 pounds, hurt his shoulders, went to the doctor, got pain medication and started taking the pain medication, took it a lot and discovered, golly gee whiz, I'm addicted to pain medication. So like young people do, get on the internet, try to find out how to get off pain medication. Kratom. That's the answer. So starts taking kratom. Well after a while-- and it did help him get off of pain medication-- but then after a while he discovered I'm addicted to kratom. Tried to get off it. Had the same type of effects that any opioid type medication has. It was a real disaster. If you've ever seen a person who's addicted to these type of drugs, it's serious business. Anyway, he had to go to a place ten days and \$10,000 to get off of it. So anyway, I'll go back to my script now. Today I put before you LB431, which adds kratom to Nebraska's controlled substance. Currently, there's no regulation or prohibition of kratom in Nebraska. Kratom is completely

legal here in the Cornhusker State. However, it's been made illegal in six states. Now. Other states have put regulations in place for the labeling of kratom, or placed age requirements in place of the purchase of kratom. Now, six other states have introduced bills, either banning or regulatory bills this year, including Connecticut, Hawaii, New York, South Dakota, and Illinois. While in 2024, just a year ago, Washington state put kratom's legal status up for agency review, and New Jersey lawmakers introduced a pair of bills to criminalize the manufacture, distribution, and possession of kratom under certain conditions. Kratom can be sold as an herbal product that is most commonly obtained as a powder and consumed as a beverage, as I mentioned earlier. Mitragynine is an opioid alkaloid found in the kratom plant, and 7-hydroxymitragynine is found in small amounts in the dried leaf and is more addictive substance. You can't drive across town without seeing a sign for kratom outside of the CBD stores in most towns, and they're multiplying fast, and it's highly profitable for the owners. Kratom, as you can see from the comments on this bill can be a useful tool in helping someone stop the use of opioids, as I mentioned a few moments ago. However, kratom has similar opioid effects and withdrawal symptoms, which is why I believe we need to add kratom to the controlled substance list like Alabama, Arkansas, Indiana, Rhode Island, Vermont, and Wisconsin. I've handed out a lot of information, one of them being a paper from a Congressional Research Service. Note that this paper, as it outlines the federal considerations and recommendations that have been given by the FDA and also the Drug Enforcement Administration on this matter. Specifically, the DEA has noted kratom as a drug and chemical of concern. And under the section titled, quote, "Kratom Regulations," you can see some of the regulations other states have imposed, including age restrictions for purchase, restrictions on marketing to children, and prohibition of sale of adulterated kratom products. Nebraska presently has none of these restrictions, and Senator Hallström will talk about regulation and regulating kratom in the next bill, LB230. Now I've also handed out a few journal articles. Please note the one titled "Natural drugs not so natural effects: neonatal abstinence syndrome secondary to kratom." This was published in 2019 in the Journal of Neonatal Perinatal Medicine. The methods and results read as such, quote, we report a term neonate as was born to a chronic kratom user and required treatment with opiates for neonatal drug withdrawal. Conclusion: physicians should be aware of these herbal supplements and their potential withdrawal effects in newborns, which can not be picked up by the standard toxicology screen. As with any drug abuse related issue, kratom and its addictive effects are harmful to babies born to addicted mothers at birth. If I could just summarize that,

there is a-- the article shows that a lady who was pregnant, back pain, took kratom to help her with her back pain. It did help. But then once the child was born, the child was like a crack baby. It was addicted to drugs. And the doctor says, are you on any type of opioid type medication? No, not to my knowledge. But then did admit, I am been taking kratom, which is legal. And the doctor said this baby has the same withdrawal symptoms as a mother on morphine or some type of opioid type drugs. Total disaster. The child was in the hospital 14 days. Not good. In the paper labeled, labeled, quote, Abuse potential and adverse cognitive effects of kratom, which was an animal study, the abstract compares acute and chronic kratom administration to that of morphine. And of course, we know that morphine comes from poppy plants, and cocaine comes from the coca plant. And of course, we all know about marijuana. It comes from marijuana plants and the THC that marijuana plants have. This concludes that all together, these findings provide evidence for an addiction potential with cognitive impairments for mitragynine, which is kratom, which suggests its classification as a harmful drug. So when a person's on kratom and takes kratom, they have the same symptoms as if a person's on morphine: cognitive fog problem. Unregulation of this drug and unclear labeling are affecting Nebraskans negatively. Again, you can see from the online comments as well as any here to testify. There's another story here that you have in your handouts. A lady, her son got on kratom and he died at age 21. Very tragic story. He was not on any other medication. None. Kratom only. Kid died. So there are some real tragic stories that are coming out. Kratom is more widely being sold, and there's just a lot of people that are addicted to it. And we get tons of comments online since I'm carrying this bill and they say how much it helps them. I'm sure it does help them. But then, you know, I want to ask and of course, we always try to be kind with our emails, but I want to ask, have you ever tried getting off of it? Because that's what I saw with the individual that's very close to me, and, you know, my, my friend. So this is-- it's a monster. And it either needs to be have a leash, put on it or it needs to be regulated. Thank you.

**BOSN:** Thank you. Any questions? Senator DeBoer.

**DeBOER:** Just one. Would you be open to a regulatory structure like Senator Hallstrom has suggested?

**LIPPINCOTT:** We need to take a look at it.

**DeBOER:** OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**LIPPINCOTT:** I can't say definitively right now, but optimally I'd like to have this monster-- we, we can't just put a stop to it instantly. We need to have, and we talked about this last year, you know, give, give several months for people to look at a way of getting off of kratom as a minimum.

**DeBOER:** OK.

**LIPPINCOTT:** Thank you.

**BOSN:** Senator Rountree.

**ROUNTREE:** Thank you, Ma'am. Senator Lippincott, you mentioned just re-- here at the one death that-- in that testimony. Overall, here in America, how many deaths have really occurred in your research on the kratom [INAUDIBLE]?

**LIPPINCOTT:** I can't tell you the answer to that. But of course, that's too many. And you're going to have a person testifying behind me that also has a very tragic story to tell. It's heartbreaking.

**ROUNTREE:** Thank you.

**LIPPINCOTT:** Thank you, sir.

**BOSN:** Any other questions? Thank you for being here. I assume you'll stay close.

**LIPPINCOTT:** Yes.

**BOSN:** All right.

**LIPPINCOTT:** Thank you.

**BOSN:** Now, we will have Senator Hallstrom provide his opening for LB230.

**HALLSTROM:** Madam Chair, members of the Judiciary Committee, my name is Bob Hallstrom, B-o-b H-a-l-l-s-t-r-o-m, and I represent this Legislative District number 1. I am here today to present LB230. I initially regretted having sent my initial email this morning at about 3:30 a.m. I received a response at 5:01, and the good news is that from starting early, just before the hearing started this afternoon, I was informed that representatives of the two primary kratom trade associations believe that they have reached an agreement on some language that would be acceptable to them. Obviously, I'm going to

need to review that language as well, along with the committee, but hopefully we've got something that can provide reasonable and prudent regulation in this area. LB230 creates the Kratom Consumer Protection Act to provide definitions and regulations to protect consumers from untested and potentially harmful products while allowing safe products to remain on the market. Senator Lippincott did a nice job, at least with regard to describing what kratom is, what its origin is, and so forth. So I will not duplicate those efforts. However, recently, new, new, highly concentrated synthetic products claiming to be kratom or kratom derived have entered the U.S. market. In particular, products with high concentrations of 7-hydroxymitragynine, or 7-OH, and known by the street name 7, are being sold without restriction. These products have been identified as a risk to public health by the leading kratom scientist in the National Drug Early Warning System. I would go off script here. There are, as Senator Lippincott indicated, I think 6 or 7 states that do have an outright ban. While 18 states have chosen to regulate, the others leave the market unregulated. And I believe that regulation, rather than a prohibition or a ban, similar to what Senator Cavanaugh indicated in his closing on his bill, is the proper way to go in this particular area. I'm not going to go through all of the testimony that I have given the late hour. But in terms of the regulation, I think we provided a nice framework under LB230. Section 3 provides for age restrictions. Anyone under the age of 21 would be prohibited from acquiring the kratom product. Section 4 prohibits kratom from being manufactured or sold in a way that is attractive to children. Section 5 requires the product to be compliant with good manufacturing practices for dietary supplements, with regard to the FDA. Section 6 outlines a series of labeling standards. As Senator Lippincott indicated, some of the issues with regard to pregnancy, those are all identified under this recommended legislation, and those labels must also contain basic information about the processor, the dose, and serving information, and the number of servings per container. We do have a white copy amendment. I apologize for the white copy amendment. We had some what I thought were relatively modest amendments, and Bill Drafters sent back an entire white copy amendment. So it's not as extensive as it appears. We are not rewriting the bill. But if you look, the white copy amendment strikes the requirement that products include an attestation that it meet the 7-OH limits as this will be a part of the demonstration at the time the product is registered. It does create a registry for products with an implementation date of January 1st of 2026, and processors must also be specifically registered for every product being sold in the state. That list of registered processors or products will be published so that the public knows about them, and it

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

prohibits the sale, and this is one of the more important aspects, prohibits the sale of adulterated kratom products. Sections 10 to 12 provide for enforcement and penalties to enforce. The Attorney General also has enforcement authority under the Uniform, or under the Uniform Deceptive Trade Practices Act and the Consumer Protection Act. And then there is also a catch-all phrase that preempts local regulation of this particular market. And again, in closing, I, I think that, that we, we are looking at something much like many of the other aspects that we've talked about today that are better left to provide meaningful and prudent regulation as opposed to just banning the market outright. I'm, I'm sure we're going to hear a tragic story, and always take those very, very seriously. But I think kratom has been on the market long enough that it is-- can be safely used. And, and again, we prefer the, the regulatory approach rather than the ban. Be happy to address any questions of the committee.

**BOSN:** Any questions for this testifier? Senator Holdcroft.

**HOLDCROFT:** So it looks like you're going to use the Department of Revenue essentially.

**HALLSTROM:** That, that's what's provided for in, in the bill.

**HOLDCROFT:** Thank you.

**HALLSTROM:** Yes, Thank you.

**BOSN:** Any other questions? I know you're staying to close.

**HALLSTROM:** Thank you.

**BOSN:** All right. We will take our first testifier, and if, again, if you'll just say which bill you're here for or if you're here for both, and then turn in a testifier sheet for--

**RANDI MEADE:** I'm here for LB431.

**BOSN:** OK.

**RANDI MEADE:** Here in support as a proponent of LB431, like I said. My name is Randi Meade, R-a-n-d-i M-e-a-d-e. And I didn't bring anything, I didn't prepare anything. I'm supporting this bill because my son is dead because of kratom. He-- 18 years old, 11 months to the day, one month before his 19th birthday. He'd be 22 right now. He had nothing else illegal system, kratom's not even illegal. He had nicotine. What age do you have to be to have that? He-- it was the day after

Thanksgiving, Black Friday, he went to stay the night with some friends. I woke up two in the morning to the cops telling me that my son was dead and they didn't know why. When his friends found him sleeping in bed, he was-- they, they, they did everything they could, they did CPR, gave him NARCAN, none of that worked. He was gone. We took us-- it was five weeks before we got the toxicology results. And when my husband called, when the detective called my husband, and then my husband called me, they told us it was this-- I can't even say it, this mitragynine, and we didn't know what it was. They told us it was some kind of herbal supplement that he could have picked up at any gas station anywhere. They didn't know a lot about it. It was kratom. It was not on our radar. You know, when they came and told us he was gone, they thought it was an overdose. Our suspicions were, you know, did he smoke some weed or something that had fentanyl? You know, all the, everything. Did he, I don't know, go drink a bunch of energy drinks? I, I don't-- we had no idea. I had been sitting with my son that day, he was fine, he was normal, he was good. As it turns out, like I said, he didn't have THC in his system, he didn't have alcohol, he had nothing. I've had the opportunity to talk to the coroner several times. I, I have a science degree and I work in the medical field in surgery, and so I had the opportunity to talk to several of my friends that work in the medical field, doctors, CRNAs, etc. My son only had 152 nanograms of kratom in his system. For point of reference, I am on-- I have since this happened, found lots of other people that have lost family to kratom. The lowest amount I've been able to find that someone died with it in their system was 1,600 nanograms. He had 152. There-- no one believes that he was taking it. He was not addicted to it. He took it that night for whatever reason. And now he's gone. So that is why I know how dangerous this is, and I want it banned for my son, for Hunter. So that, I don't know, maybe some other family, some other mom will get to have all her grandkids, will get to do college graduation, do the weddings, because I won't get to do that. Thank you.

**BOSN:** Thank you. Any questions for this testifier? I just have a clarification, and I apologize. You said 152 nanograms, but you didn't know of any other cases where it had been less than 1,600?

**RANDI MEADE:** Correct.

**BOSN:** So they don't think it was the--

**RANDI MEADE:** They believed it was kratom. My point is--

**BOSN:** It-- so this would just be the lowest--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**RANDI MEADE:** The smallest amount, yes. I mean, my point is, it doesn't take much.

**BOSN:** OK, and that, that makes sense.

**RANDI MEADE:** And that-- because I asked, is it, was there an addiction that I, that I missed? And everyone said we don't, we don't think so, because there's just not enough in his system to point to addiction [INAUDIBLE].

**BOSN:** Thank you very much for your testimony. And I probably speak for everyone here, I'm very sorry for your loss.

**RANDI MEADE:** ]INAUDIBLE].

**BOSN:** Thank you. Any other questions in light of that?

**RANDI MEADE:** I'm sorry.

**BOSN:** No, you're good. OK. All right. Next testifier?

**WALKER GALLMAN:** I'm testifying in opposition to LB431, and in support of LB230. Good evening. My name is Walker Gallman, W-a-l-k-e-r G-a-l-l-m-a-n, and I am the legislative director of the Global Kratom Coalition, an alliance of consumers, experts, and industry leaders seeking to enact regulations to ensure consumers have access to safe and regulated kratom products. Our mission is to advance scientific research, encourage consumer education and serve as a resource for key stakeholders and decision makers in legislative and regulatory matters. I and members of the Global Kratom Coalition respectfully oppose LB431, and support LB230. LB431 would prohibit kratom as a controlled substance in the state of Nebraska. Instead, we would rather go down the path of regulation and provide a safe marketplace for consumers that guarantees access to safe, regulated products. I'd like to lead in by explaining what kratom is. Kratom is a botanical substance from Southeast Asia, with centuries of safe, traditional use, that's grown in popularity in the U.S. in recent years. Today, 24 people, or 24 million people in the U.S. report consuming kratom for mood enhancement, energy, and general wellness. I'd like to state that Kratom is not an opioid as described earlier, although its synthetic derivatives are pure opioids. With its popularity, there's naturally increased attention from lawmakers about its potential benefits as well as its drawbacks. However, we oppose outright bans on kratom. Based on the evidence of other banned substances, we believe this prohibitive action will only drive the market underground and create a prolific black market. In the absence of available products, consumers

will switch to different, potentially more dangerous products. Lastly, the good actors in the industry who respect the law will leave the state, and only those actors who do not follow the law will remain, giving consumers who don't have adequate information a choice to make without having all the information on the table. Together, these actions will result in an unsafe environment and the need for significant and costly enforcement from authorities. Currently, 13 states in the U.S. have passed legislation to regulate products, and only 6 states prohibit kratom. There has not been a new kratom ban in the U.S. since 2017, as the science that has developed since then does not support the ban of this botanical. FDA itself has publicly stated that they have no evidence to suggest that kratom is dangerous. Regarding research on kratom, there is simply too little evidence of adverse impacts of kratom to warrant a ban. In fact, the FDA recently conducted a single ascending dose study in which human subjects were given increasingly larger servings of kratom, up to four to six times larger than what is typical in a kratom product you would find at a store. Even at this large serving, the study found that kratom was well tolerated in humans. Sorry, having to merge two testimonies here. To build on that research, I'd like to note that on January 3rd, 2024, the US Poison Control Center released data which illustrates the relative risk of kratom compared to other misused substances. As illustrated by the data, the relative safety of kratom is more akin to energy drinks and caffeine. The scheduled substances, like opioids, show a greater rate of reported calls. For fair comparison, when the poison control calls are normalized per 100,000 users, the data shows a standardized view of the relative risk of kratom across different time periods and proportional risk compared to other substances. Kratom was shown to be far below prescription medications, cannabis, alcohol, and even vitamins, and the risk profile was more in line with energy drinks. Additionally, according to a meta analysis of data from the US Department of Health and Human Services and peer reviewed academic scientific journals regarding substance use disorder, kratom is shown to be for-- habit forming. However, the severity of kratom use disorder is mostly mild to moderate. This shows that while kratom can be habit forming, its use disorder profile is similar to caffeine, which is legally consumed worldwide and is known for its mild addiction profile. I realize I'm out of time, but I would ask for--

**BOSN:** You can have a minute, go ahead.

**WALKER GALLMAN:** Thank you. The thing I'd really like to draw your attention to is that not all kratom is equal. When you look and you hear about these instances that have been attributed, deaths attributed to kratom, you need to look at the fact that there exists a

synthetic version. And when you do a toxicology report, they don't test for 7-hydroxymitragynine, it only tests for mitragynine, so it might show that there is mitragynine in their system because naturally it'll be there as part of a 7-hydroxymitragynine product which is derived from kratom. 7-hydroxymitragynine in leaf kratom is about .04% of the chemical makeup, so when ingested there, which it's been done for hundreds of years, and in the U.S. since the late 70s, it's well tolerated. It's only once that alkaloid is isolated and amplified and turned into a pure opioid, which also through that chemical process, creates eight chemicals not known to nature, that you see these problems. And there simply lacks any data to suggest that, you know, 7, or these synthetic products are safe compared to the leaf products that have been used for hundreds of years. I'm sorry. This is actually ratified in a recent statement from leading kratom, or kratom experts across the country who acknowledge that synthetic products are the real problem here, and not safe kratom products that are derived from natural leaf. So we would encourage that if you are seeking to ban something, you go after these synthetic products and not these natural leaf products that have hundreds of years of safe use data. So in conclusion, we, the Global-- Global Kratom Coalition, urge the legislation to oppose attempts to ban kratom like LB431, and instead look to the regulatory solution proposed in LB230.

**BOSN:** Thank you. Any questions from the committee? Senator DeBoer.

**DeBOER:** Because I know you were having to speed through that--

**WALKER GALLMAN:** Yeah, I'm trying to combine two testimonies here.

**DeBOER:** I get it, no problem. I just wanted to make sure that we understood your testimony. So basically what you're seeing is that there are now sort of more concentrated versions of what, whatever the active ingredient is, if we can call it the active ingredient, of-- within kratom. And those come from these, what you're calling synthetic kratom.

**WALKER GALLMAN:** Yes. So the primary alkaloid in kratom is called mitragynine. It, along with about 49 other alkaloids are what comprise kratom and give it its energy and focus. Kratom is actually part of the coffee family, when you look at the plants. Now, if you were to pick a leaf off the tree, and you ran a tape-- and you tested it, there would be no 7-hydroxymitragynine. The 7-hydroxymitragynine doesn't become prevalent until you put it through the drying process and a natural chemical reaction occurs, creating 7-hydroxymitragynine, which is about .04% of the chemical makeup of the plant. Now, you've

got bad actors who understand that while mitragynine is what's called a partial opioid agonist, much like caffeine or sugar, 7-hydroxymitragynine is a pure opioid that's about 12 times more potent than morphine. So in its very small-- in its leaf state, it's in such a small, negligible amount and it's been consumed so long that we know, without a shadow of a doubt that it's safe to consume in that degree. But once you start isolating it and synthesizing it, and creating a product that's basically pure 7-hydroxymitragynine, that's where you see all these product-- problems. And then when you have a 7-hydroxymitragynine product, because it's derived from kratom, you will still get traces of mitragynine in there. So if you do a toxicology report on a death, it will show the mitragynine, but they don't test for 7-hydroxymitragynine, so it won't show that. So if you look at it in that context, yes, it looks like the death was caused by kratom when in reality it was caused, more than likely, by this synthetic product.

**DeBOER:** OK. And so currently available in sort of regular consumer stores, there--

**WALKER GALLMAN:** Yes. So typically, the synthetic products are primarily found in smoke shops, while leaf products are more prevalent in convenience stores. Now, we started to see some bleed over of the synthetic products into some convenience store chains, not quite as much yet. And the synthetic products have really only been around for about two years now.

**DeBOER:** And those synthetic products, you've-- I assume, read Senator Hallstrom's bill.

**WALKER GALLMAN:** Yes.

**DeBOER:** Does he have in there an adequate methodology for regulating the kratom so that those synthetic items--

**WALKER GALLMAN:** Yes. So when you register the product under this legislation, you're required to submit a certificate of analysis. That certificate of analysis has to show that the percentage of 7-hydroxymitragynine in terms of the total alkaloid fraction is less than 2%. This keeps it more in line with what you see in nature, and is what's been commonly ingested by humans in the U.S. and in Southeast Asia for hundreds of years now.

**DeBOER:** All right, thank you.

**BOSN:** Any other-- thank you for being here.

**WALKER GALLMAN:** Thank you.

**BOSN:** Next testifier for these bills. Come on up. And again if you'll just state which bill your pro and oppo on.

**CHRISTINE VANDERFORD:** Got it. And I'm going to also merge it. Good evening. I am Christine Vanderford, C-h-r-i-s-t-i-n-e V-a-n-d-e-r-f-o-r-d. I am here as an opponent of LB431, and a proponent of LB230 with regards to the amendment that we believe is forthcoming between all of the industry stakeholders. As I've told you before, we are a CBD and vape company, and that some of our-- as we've had to broa-- reach out into other products, kratom has become one of those products that we have looked to. Again, we're very conservative and so we look at kratom as a natural herb, and it when it's used as directed, and I think that's key here, when it's used as directed, when there's proper labeling, and there's regulation, and there's all the things that keep everybody on a level playing field, kratom has a very low risk of dependency. It actually can be used to enhance mood and increase energy levels without jittery effects of caffeine. It's got some really good components to it for people who want to use them. We're continuing to learn more every day about the gaps and treatment options, treatment options that kratom can offer that's not found elsewhere, elsewhere. And so regulation is really important so that we have an opportunity to keep everybody playing by the same rules and working forward without having the bad actors getting to cancel out the good actors. With LB230 as introduced, it failed in addressing the concerns that we had, but the amendment industry stakeholders have been working to address the issues that we believe will help that consistency. We specifically like the age regulation, we like the labeling components of it, we like having the state involved in doing the licensing, the regulation. We have people on our staff who are dedicated to doing all of the licensing so that we-- anybody who walks into our stores are-- know that they can rely on us. And so with the amendment that is brought forth, it's tough, but it's a fair regulatory framework. And the collaboration between Senator Hallstrom, which we thank for bringing this bill, the Judiciary Committee that's here, and the industry stakeholders also present, we believe that the sensible regulatory structure is possible, and it's certainly welcome by those of us who are in the industry. Thank you for the opportunity to testify. Do you have any questions for me?

**BOSN:** Thank you for being here.

**CHRISTINE VANDERFORD:** OK, thank you.

**BOSN:** Next Testifier. Good evening again.

**SARAH LINDEN:** Good evening. Yes. Good evening, Chairwoman Bosn and members of the Judiciary Committee. My name is Sarah Linden, S-a-r-a-h L-i-n-d-e-n, and I am the owner of Generation V with 16 vape shops in Nebraska. I'm speaking in opposition to LB431, and in support of LB230. When I first heard of kratom, I was skeptical. I had a misconception that it was used by drug, drug addicts and would attract the wrong clientele at my stores. I couldn't have been more wrong. Over 15 million people in the U.S. use kratom. Surveys show that the majority of users are between 30 to 50 years old, employed, and have some college education. Kratom users are regular people, soccer moms, athletes, construction workers, and older folks looking for natural remedies where pharmaceutical prescription drugs have failed them. Kratom is commonly used for pain, anxiety, depression, focus, alertness, and to self-manage opioid and other substance abuse disorders. It is not an opioid. Kratom is much-- so-- safer than opioids, acting as a partial opiate-- oid receptor agonist and binding to the same receptors in the brain as opioids without the negative, respiratory or highly addictive brain rewarding effects. This makes kratom a much safer option than pharmaceutical opioid medications like oxycontin for treating pain. And because kratom acts on the same receptors, but its maximal effects reach a ceiling beyond which higher doses produce additional effect, it has relatively low potential to produce physical dependence and withdrawal. This makes Kratom extremely effective in helping users escape the vicious cycle of opioid addiction. Proponents of this bill say that kratom is addictive. Like alcohol, if a person abuses it or has an addiction disorder, it can be addictive. However, on its own, research shows kratom poses very low risk for addiction. NIDA has conducted two specific studies on animals showing that kratom does not have abuse potential and should be explored more for its development in treatment of opioid abuse. There is an exception, which a speaker, gentleman earlier spoke about. There were-- there has been recent innovation in the category which has given way to something called 7-hydroxymitragynine, which I refuse to carry in my stores. This, this particular substance is much more potent. It is a synthesized or adulterated product, and LB230 would restrict this from being able to be provided in kratom products going forward. Having a longstanding bias against dietary supplements and herbal remedies, the FDA has made three attempts to move kratom to a Schedule I controlled substance, as Senator Lippincott spoke about. Based on current science, leading public health officials have reviewed the evidence and vigorously disagree with the FDA's assessment of kratom's addiction and safety

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

profile. All three of FDA's recommendations for scheduling have been rejected by the DEA, the Drug Enforcement Agency, the U.S. Department of Health and Human Services, the World Health Organization on Drug Dependence. As of today, 13 states have enacted the Kratom Consumer Protection Act, seeking to restrict the FDA and other government agencies from regulating kratom as a drug or dietary supplement. I am almost finished. Six states had banned kratom at the recommendation of the FDA, four of which have since redacted and are removing kratom from the Controlled Substances Act. Because-- oh, I'm sorry. I'm a little confused, I apologize. Passing sensible regulations such as those in LB230 will help to keep kratom products safe for the estimated 114,000 Nebraskans who rely on them to manage pain and chemical dependence disorders. I respectfully, respectfully ask that you oppose LB431, and support LB230 with the amendments discussed. Thank you for your time and I'm happy to answer any questions.

**BOSN:** Thank you. Any questions for this testifier? Senator Storm.

**STORM:** I have one question. Thank you. So when did synthetic kratom come, come about? You said a couple of years ago? I should have asked the kratom expert this before.

**CHRISTINE VANDERFORD:** And, and there will be another gentleman who's an expert that will come up, because I, I don't know the answers to everything, especially since I don't carry it and refuse to carry that particular product. But I-- my understanding is that it, it's maybe been around for a couple of years, but it's really getting popular right now.

**STORM:** Right.

**CHRISTINE VANDERFORD:** Like this year. So that's why it's really important that we pass this regulation this year to kind of cut it off before people start to, to really use it and get to know it and like get addicted to it.

**STORM:** So the kratom sales have skyrocketed since the synthetic version you think is coming out?

**CHRISTINE VANDERFORD:** Well, mine have not because I don't sell it, but--

**STORM:** Yeah. Because you just sell natural kratom.

**CHRISTINE VANDERFORD:** But what-- yes, but what-- my understanding is, from people that I know in the industry, that, yes, it is a very, very big seller.

**STORM:** So were there some deaths attributed to kratom before synthetic version?

**CHRISTINE VANDERFORD:** To be honest, I've never heard of any deaths related to kratom, it's been used for hundreds of years and there's never, to my knowledge, been an issue. I was trying to, as other folks were speaking, I was trying to look up poison control calls and things like that so I'd be informed, but I couldn't find anything. So maybe someone else will have that information for you.

**STORM:** I'm curious to know. OK. Thank you.

**BOSN:** Thank you for being here.

**CHRISTINE VANDERFORD:** No problem.

**BOSN:** Our next testifier? Good evening.

**ANNETTE DUBAS:** Good evening, Senator, Chairperson Bosn and members of the Judiciary Committee. I am here to testify in support of both LB230 and LB431. My name is Annette Dubas, A-n-n-e-t-t-e D-u-b-a-s, and I'm the executive director for the Nebraska Association of Behavioral Health Organizations. We represent 62 member organizations that include community mental health and substance use disorder providers, regional behavioral health authorities, hospitals and consumer groups across the state of Nebraska. I want to thank Senator Hallstrom and Senator Lippincott for their leadership on this, this issue. So I'm not going to repeat a lot of the things that both Senator Hallstrom and Senator Lippincott spoke to you about in their introduction, and I'll try to consolidate my, my testimony as much as possible. Last Friday, our membership met for our annual bill review meeting. And usually what I do is, along with our lobbyist, I go through the bills as they' introduced and like, OK, this probably should-- put this on the list for input from members. And to be honest, in the past I have not included, you know, these bills. Or they've been included on the list, but they have not generated any real response from, from members until last week. And I fully anticipated when we came to these bills, it would be just another let's just monitor it and move on. But as we got to the bills, the conversation in the room really started to pick up. And so I think that speaks to some of the things that have already been said. The last few years, people are becoming more aware of

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

kratom, and my members in particular, the things that I was hearing them say, say is in the area of using it for withdrawal. And, and anybody who is familiar with what withdrawal entails, it's a very physically challenging thing to go through, and more often than not requires, you know, medical attention as you go through it. So there's a concern that, you know, people are starting to use that to look at it as a way to get off opioids or, or some prescription drugs and rely on this, that, you know, it could lead to some, some serious concerns. So that's where a lot of the conversation in the room was. And at the end of the conversation, it's let's, we feel like we need to go in and support both bills and are very happy to work with the committee. I am by no means an expert. I'm here simply because I couldn't get providers with the short amount of time to prepare. But I have plenty of people who can give you answers to your questions. You know, I think the concerns about it being not regulated, labeling, things like that have been brought up. You know, if it remains unregulated, you know, we especially appreciated LB230 because it is putting those guardrails in place. You can't drive by a street corner anymore without seeing the signs. And you know, we want-- if consumers are going to make the choices to use this, we want them to have a level of confidence in, in what they're purchasing and understand that it is being regulated, and their, their safety is being looked out for. So that's, that's really one of the drivers behind our decision to support both of these bills. It's really about consumer protection and consumers being able to make knowledgeable decisions about the things that they are ingesting into their body. So I think that that hits most of the things. I did provide a one page handout from our national association, the National Council for Mental Well-Being, just gives some of the, some of the things that have already been, been brought up today. But again, my membership stands in support of both of these bills and any questions you may have, I'm not sure I can answer them, but I can find people who can answer them for you. So thank you for your attention after a very, very long day. I wish you all the best with your decisions.

**BOSN:** Thank you. Any questions? And did I hear you're retiring?

**ANNETTE DUBAS:** I am.

**BOSN:** Congratulations.

**ANNETTE DUBAS:** Thank you.

**BOSN:** Yes.

**ANNETTE DUBAS:** It will be hard.

**BOSN:** Yeah.

**ANNETTE DUBAS:** It will be hard.

**BOSN:** I can imagine.

**ANNETTE DUBAS:** Thank you.

**BOSN:** Good luck to you.

**ANNETTE DUBAS:** Thank you.

**BOSN:** Next testifier?

**SPIKE EICKHOLT:** Good evening, Chair Bosn and members of the committee. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t. I'm only appearing in opposition to LB431, that's the only bill I'm testifying about. I'm here on behalf of the Nebraska Criminal Defense Attorney Association. We are opposed to LB431 simply because if Senator Lippincott, if his bill passes, this would make kratom a controlled substance which make it a Class IV felony to have it, and an even more serious felony to give it or sell it to somebody else. Most states have not criminalized this, including all of the states around Nebraska and including the federal government. So if this law passes, what we see it as is simply a trap for the unwary in the sense that you see it everywhere, you see it sold in stores. If you have it, then you are going to perhaps not realize that what you have is now contraband. So I'll answer any questions if anyone has any, but I don't need to take all my time. We want to be on the record as opposed to LB431. And I did visit with Senator Lippincott about our oppo-- opposition.

**BOSN:** Any questions? Thank you for being here.

**SPIKE EICKHOLT:** Thank you.

**BOSN:** Next testifier?

**JOSEPH FRAAS:** I am testifying in opposition to LB431 and for LB230, and my name is Joseph Fraas, J-o-s-e-p-h F-r-a-a-s. Thank you for your time. I'm sorry if I'm repeating myself here, but I think many of the same arguments I made before apply here. I'm a native Nebraskan and a lifelong resident. I own a business in Nebraska for 18 years and we have sold kratom legally for almost a decade. This bill will damage my

business and hundreds of other businesses terribly. And even if our businesses survive, it is likely that many of our employees' jobs will not. Kratom is a supplement, as you've heard, made from the dry leaves of a *Mitragyna speciosa* tree in Southeast Asia. It has hundreds of years of use there, and a proven safety record. It is a nutritional supplement. The FDA and DEA moved first to ban kratom in 2016. However, they quickly reversed course after an enormous public outcry. There were hundreds of thousands of kratom positive comments during the open comment period, something that is very unusual in the FDA process. These comments showed that many people rely on this alternative, like many people rely on other supplements. After this, the FDA then commissioned a study with the intent of proving that kratom was dangerous. However, that study failed to do so. This is why they have not moved to ban kratom since. They do not have that data. And here, I'd like to make an, an edit to my written testimony. Currently there are about-- there are millions of users, I don't know the exact number and I've been corrected by people who know more than me, but there are millions of users of kratom in the US. Despite this number, there are very, very few medical issues presented. Many of you have probably never heard of kratom for this reason. It is so safe that its dangers do not rise into the public consciousness. I agree with the goal of LB230 and the goal of LB431 to keep Nebraskans healthy and safe. But a ban like LB431 is the worst way to achieve these goals. Prohibition, as we know, has a terrible history in the U.S. Ban-- banning kratom takes away the choices and freedom of consumers. But Kratom will still be sold in Nebraska. It will just be moved to shady out-of-state websites where no Nebraska regulation, law enforcement, or tax can reach. It has been shown time and time again that the government is unable to eliminate that which the public demands. There are estimated to be tens of thousands of Nebraska kratom users that have been using this product legally and safely. This bill will make felons out of all of them in an instant. Currently, kratom is sold legally by business persons that have a financial interest in selling safe, consistent, and well labeled product. If it is banned, these good actors will not be able to compete with the bad actors. As an alternative, there are consumer-- kratom consumer advocacy groups that are fighting to make sure that these products are regulated and safe, as in LB230. And these groups have passed safety bills in multiple states and those have been great results. So in conclusion, kratom has a long safety record. The FDA and DEA both passed on banning it. There are tens of thousands of Nebraskans who rely on the supplement that will be made felons by this big government overreach. And it will still not be able to stop kratom from being used in Nebraska. But it will succeed in destroying

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

Nebraska businesses, tax revenue, employment, economic activity and consumer choice. Please take a more sensible approach than LB431 and go with LB230. Thank you and I'll accept any questions, although I think that there will be experts behind me that might be able to answer them better, but I'd be happy to answer any.

**BOSN:** Senator Storm.

**STORM:** Thank you. I got one question for you. You sold kratom for ten years, you said.

**JOSEPH FRAAS:** Just about. Yep.

**STORM:** So do you sell the synthetic version of it?

**JOSEPH FRAAS:** We started selling it recently, but unfortunately I was not aware when I started selling it of the safety profile, and I'm in the process of reconsidering our sale of it at this moment.

**STORM:** So it's-- the synthetic version's new, relatively new --

**JOSEPH FRAAS:** Very new. I mean, we didn't-- I think we've sold it for 3 to 4 months.

**STORM:** And there's been no testing on that, the synthetic version.

**JOSEPH FRAAS:** No.

**STORM:** At all.

**JOSEPH FRAAS:** No. There's no long term usage records for it. I mean, it's basically a new product.

**STORM:** So it seems to be that that's the red herring here is a synthetic version of kratom. That's kind of what I'm gathering.

**JOSEPH FRAAS:** Sure. And this bill makes sure to try to prohibit that, so.

**STORM:** OK. Thank you.

**JOSEPH FRAAS:** Thank you.

**BOSN:** Any other questions? Thank you for being here.

**JOSEPH FRAAS:** Thank you so much.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**BOSN:** Next Testifier. Good evening.

**JOHN KNOPP:** Good evening. Thank you, members, and thank you for letting me testify. My name is John Knopp, J-o-h-n K-n-o-p-p. I own Blissful Botanicals. I'm a kratom manufacturer, a small business here in Nebraska. I've been around for about ten years and employed up to about 17 people. I'm opposed to LB431 outright. It would destroy my business. I operate with a lot of what LB430-- or LB230 already provides when it comes to regulation and everything of that nature. So I am kind of neutral on that one, but I'm definitely opposed to the LB431 being an outright ban. You've heard a lot of what everybody else has said and then we have an expert coming up after me that will get more into the science and the details of it. So at this point, I just wanted to make my, my, my statements known and take any questions if you got it.

**BOSN:** Thank you. Senator DeBoer.

**DeBOER:** Thank you. Do you manufacture-- so you sell the natural version? As we've been discussing it, there's sort of this synthetic and the natural. Do you produce any of these synthetic--

**JOHN KNOPP:** No, I did-- when it started hitting the market, I did some brief research on it and I did not like what I found. I like to be holistic in my business approach and what I put in my body, and a lot of what I read, these guys have already confirmed, the synthetic, it just-- I don't-- it's basically an opioid at that point in time. So no, I, I'd have no plans on it, and I'm outright, just--yeah, I'm against it, so.

**DeBOER:** OK. Thank you.

**BOSN:** Senator Storer.

**STORER:** Thank you, Chairman Bosn. A quick question. I, I don't know, and maybe it's been said and I've missed it, but does the synthe-- synthetic version have a name? I mean can we identify it by a specific--

**JOHN KNOPP:** It's 7-HO [SIC] is a lot of what like the street name is, it's 7-hydroxymitragynine. In most part, from what I understand and it's a lot of what everybody said before, it's made synthetically, it doesn't really occur in nature. They can kind of-- the next I think a couple of people will get more into that. They know a lot more than my brief research on it. It's just when I did my brief research, it just

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

didn't fall in line with my business practices, so I didn't want to go too far into it.

**STORER:** But it is a derivative of kratom, kra-- kratom.

**JOHN KNOPP:** Kratom, kratom.

**STORER:** That's it, kratom.

**JOHN KNOPP:** As far as I understand, it does occur naturally, but in very, very small amounts like .04% of it is what occurs naturally. But this new one that's on there is a lot more potent and more-- just like what they've said, they've concentrated that good stuff into that form, which then turns it into like a major opioid in a sense and has bad side effects, from my understanding.

**STORER:** Thank you.

**BOSN:** Senator Storm.

**STORM:** One more quick question, thank you.

**BOSN:** You're OK.

**STORM:** So who makes the synthetic version? Do you have any idea where it comes from? [INAUDIBLE].

**JOHN KNOPP:** Not-- I mean, other manufacturers, from my understanding, in other states like Idaho and out in Oregon, I think, there's a couple of manufacturers that do it, and there's some even coming out of Florida. But I'm not a-- that's just the brief research I've done on--

**STORM:** What about overseas, any from--

**JOHN KNOPP:** That's even scarier. I don't--

**STORM:** Yeah.

**JOHN KNOPP:** That, that one scares-- that's one I have no clue, but that's, that's super scary if it's coming from over there.

**STORM:** OK. Thank you.

**BOSN:** Thank you for being here.

**JOHN KNOPP:** Thanks, guys.

**BOSN:** Yep. Next testifier? And if you could just tell us which bill you're here in support of, and which bill you're here in opposition to, or whatever the case may be.

**MAC HADDOW:** Thank you. I'm here opposing LB431, and supporting LB230 as it's been constituted as amended. My name is Mac Haddow, that's M-a-c H-a-d-d-o-w. I'm the senior fellow on public policy with the American Kratom Association, and we represent consumers, not the businesses. So we're not always in the good graces of the businesses because we've advocated for strong regulations around the country. We believe that every public policy should be based on science, evidence and data, not on speculative marketing techniques or whatever. And in the quest for that, I can tell you with certainty today that the reason we are having this discussion is that the Food and Drug Administration believes that the citizens of Nebraska, and all Americans, should not have the freedom to self-medicate to improve their health and well-being, because the FDA has a long record of opposing dietary supplements and botanical supplements. They have for decades. In fact, that's why Congress had to rebuke the FDA in the passage of the Dietary Supplement Health and Education Act in 1994. In 2016, the FDA put kratom in the barrel, and they said, we're going to ban it. And they promised every state in the union they would ban it, and they encouraged every state to go ahead and ban it ahead, ahead of that time, because they had the evidence and data. In 2016, under the Obama administration, for the first time since a Federal Register notice was published in the Federal Register to the DEA, the DEA withdrew it because of insufficient evidence. And they told the FDA, come back with a full scientific dossier. This wasn't enough. They did in 2018. They provided that dossier. That was during the Trump administration. First Biden, now Trump, secretary, the Assistant Secretary for Health, Doctors Giroir, evaluated everything that the FDA provided to him, and he rejected it in a scathing withdrawal letter where he characterized the evidence and data as embarrassingly poor evidence and data and a failure to consider the overall public health, because he recognized that kratom was being used effectively in the midst of the opioid crisis by some consumers to actually wean off of those opioids. In 2021, the FDA went to the U.N. Commission on Narcotic Drugs, of which the United States is a partner. And that precipitated the review by the Expert Committee on Drug Dependence, as was referenced earlier. 12 independent experts around the world, and they all said insufficient evidence to schedule internationally under a lower standard than we have here in the United States. What we have today is a petulant bureaucracy who's bullying its way to convince states to try to ban kratom because they cannot do it themselves. They

are abusing their regulatory powers today at the federal level trying to ban it. A federal judge called the FDA into his courtroom in February of last year and said, I want to see your evidence, I want to see your experts, prove to me. And the FDA responded, they refused to show up, saying they have not yet determined whether kratom is dangerous or not. Ten years of lies in, in order to do that. They did their safety study was referenced earlier, 12,000 milligrams in a five-minute period, and all you got was nausea. And the placebo group got the same. The deaths are all attributed, according to the FDA, according to the HHS, according to the National Institute on Drug Abuse, all poly drug use. Very rarely it is possible that someone could have a bad reaction to the ingredients of kratom, that's possible and they could die. We recognize that you can become dependent on kratom, but kratom dependency is evidenced, not by being zonked out like opioids, but rather you're alert and you're functioning, you're socially working with people in your family and in your job. And those are very important attributes. Today, the FDA will say that there are people that are dying, but if you look at their data, their evidence and data, this is an example, one of their deaths was a young man that was involved in a drug deal and got shot by the police two times in the chest and died of gunshot wounds. They called that a kratom death because he had kratom in his system. And I know I'm out of time, and when I got married 47 years ago, my wife said I'd be a rules guy. I'm-- she's still working on me on that. Could I just conclude, Madame Chairman--

**BOSN:** Please.

**MAC HADDOW:** --if I could? The, the 7-hydroxymitragynine, which is identified as a, a synthesized version, is a dangerous, it's a highly chemically altered part of 7-hydroxymitragynine in its naturally occurring form as a metabolite in the plant. That needs to be regulated, and it should be, and there are deaths, I'm sure, that have been attributed-- properly, if they were evaluated properly, could be attributed to 7-hydroxymitragynine, because all of the scientific peer reviewed published literature, \$100 million of our tax money by the National Institute on Drug Abuse, has concluded that kratom, when responsibly consumed, is safe. And Nora Volkow, the director of NIDA, says it is a potential valuable harm reduction tool to help people get off of opioids in the midst of this crisis. Kratom's saving lives. I don't doubt that there are some that have a journey along their way as they come off of addictions that they may suffer from poly drug use. But people are actually doing it. In the Johns Hopkins University study of 3,000 addicts, using kratom, they found that 87% reported that it help them with their withdrawal symptoms so they could get

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

off. And they were then restored back to life, and 35% use kratom as an alternative to their opioids, replacing within a year. Those are good, positive stories, but we need to regulate it, we need to make sure that these products that are sold to Nebraska citizens are safe. When they go into a store, they have confidence that they are-- they've been registered with the state, and that they have a certificate of analysis that qualifies it for it. We hope you'll support LB230 in its amended form, and we hope that you'll reject LB431.

**BOSN:** Can I just have you for the record, our clerk has noticed that on your sheet it says that you are a-- excuse me, your sheet says you are an opponent of LB230. And that's miswritten, is that correct?

**MAC HADDOW:** Well, I wrote under it, unless amended. I think I wrote, I did write that, if it says unless amended? I'm sorry, I apologize.

**BOSN:** Let me see what--

**MAC HADDOW:** See, I'm not a good rules guy. So I would be with LB230 if, if it's amended.

**BOSN:** OK.

**MAC HADDOW:** Did I say that?

**BOSN:** It does. But I think her point is it doesn't matter. So if you-- if you're an opponent, she needs to note that you're an opponent. If you're a proponent, she needs to note that you're an op-- a proponent. So you pick how you want to be noted, but--

**MAC HADDOW:** I'm going to trust that LB230 has been amended and I'll be in favor of it.

**BOSN:** There we go. Thank you.

**MAC HADDOW:** Thank you.

**BOSN:** Senator Storer, followed by Senator Storm.

**STORER:** So what I, what I've heard a lot on this particular kratom is that it's effective in getting off of a-- if you're addicted to opioids. Why is it not then on the list of narcotics to be prescribed and supervised by doctors?

**MAC HADDOW:** Thank you for the question, Senator. First, Kratom-- about a third of the, of the kratom consumer population use it if they're struggling with drug addictions. The others, a third use it like to replace a cup of coffee for the increased focus and energy boost that it gives at a little higher serving size. Another third use it just to fight off feelings of anxiety and improve their mood for the day. The, the people that are using it for acute and chronic pain are the ones that get in the addiction category. So the use of kratom can be a valuable harm reduction tool in that category at the end.

**STORER:** So all of those, all of those things you just mentioned can be attributed to-- not all of them, but say, Adderall, right? Or other prescription drugs that, that would address many of those symptoms that you just talked about. There are antidepressants that doctors prescribe, there are drugs for ADHD. And I, and I continue to hear the things that it's believed kratom is beneficial for would fall into categories that doctors should be prescribing and monitoring.

**MAC HADDOW:** Senator, there are, I think, approximately 10,000 dietary supplements on the market today that are not approved for any medical use by the FDA that are used by Americans to self-medicate for various kinds of health and well-being issues, including those that you've appropriately pointed out have available on the marketplace, prescription medications or over-the-counter formerly prescription medications that have been evaluated and approved by the FDA. There are a variety of reasons why consumers decide not to do that. Some of them because they don't like the effects that those prescription medications provide to them. Some Americans believe that they can manage their pain. For example, kratom doesn't do what an opioid does. 7-hydroxymitragynine's a wholly different issue, by the way, because it becomes a full binding agonist to the mu opioid receptors, where kratom is a partial agonist, doesn't go to the euphoric high center, doesn't go to respiratory suppression. But for those people that have prescription medications and choose not to do it, an opioid-- mitragynine's not going to fix that, but it helps you manage your pain. People like to live without the effects of an opioid.

**STORER:** Doctors also prescribe pain medication.

**MAC HADDOW:** Doctors can prescribe, yes. And the same issue is when you have a pain medication, there are attendant risks that are associated with it and effects that they have. There are people that are intolerant of some of the medications that are prescribed by physicians, and so people choose. And I, I completely agree, the choice is important. If you choose to go to a physician, a physician

gives you a medication, you choose to do that, accept it. But if you choose not to, you should have the freedom for a safe substance, like kratom to be able to manage your health and wellbeing as you choose to do so without the interference or an edict from the FDA. And I'll give you a perfect example. In the addiction recovery space, the federal government, and I, I'm told this is going to change in the Trump administration, there's only three drugs that are approved for substance abuse withdrawal treatments that are prescription medications approved by the FDA. Those are expensive drugs. Suboxone, you're trading one addiction for another. Anybody that's understood the addiction recovery community knows what Suboxone does. But that gets you off the opioid, but then you're hooked on a very dangerous drug. Kratom is an alternative that doesn't have those side effects. Not going to be as strong in pain relief, but it's going to help you manage and function in your life.

**STORER:** And absolutely not to be-- I'm not trying to be argumentative. or [INAUDIBLE]--

**MAC HADDOW:** I understand.

**STORER:** --but, but much of the testimony that we've heard here today has actually said exactly what-- the opposite, that kratom, while it can help get off the op-- opioid addiction. It then becomes the new addiction. So a similar argument to it. But I appreciate, I appreciate your testimony.

**MAC HADDOW:** Respectfully, Senator, and I will provide to the committee peer review published literature from the National Institute on Drug Abuse and from Johns Hopkins University researchers who have looked at this very issue. There was one recently published article that examined how people function on their so-called addiction to kratom. It's a dependency, and they're actually socializing better. And this is, as I said earlier, science should dictate this, not anecdotal information, not people that are concerned about it, they ought to be science. I'll provide to the committee that scientific evidence that shows that a dependency on kratom, ten days and you're off. Show me an opioid, we can do that, ten days off. You know, you'll have a little struggle. You're going to have an upset stomach, runny nose, and headache, but then you're done with it in most cases. There are rare addiction personality cases, they're more difficult. But I understand. But I'll, I'll supply the committee with that information.

**STORER:** Thank you.

**BOSN:** Senator Storm.

**STORM:** Thank you, Chairwoman Bosn. One question that I wanted to ask you. So you're opposed to synthetic kratom? I mean, you don't-- you think it ought to be banned, the synthetic version of this?

**MAC HADDOW:** Yes, we do. The-- any, any product that contains a synthesized version of the mitra-- there are, there are 50 plus alkaloids in the kratom plant, and Dr. McCurdy, who's a leading scientist in the world on this, calls it a symphony. We really don't know in all of those alkaloids what plays. But when you isolate one, and you synthesize it, then boost it, because it has binding affinity to mu opioid receptors, those are no longer kratom. They should not be classified, marketed, or sold as kratom, and they shouldn't be allowed to be available to an unsuspecting consumer that walks into a store and says, oh, that's kratom, I'm going to buy it, and then they get whacked with 7-hydroxymitragynine.

**STORM:** So, where, where is synthetic kratom produced? Do you know?

**MAC HADDOW:** Yes, I do. It's, it's in the laboratory. And it's in the United States, by the way. There's very few that we've seen, and I , and I operate globally, I've been to conferences all over. This is a product of innovative entrepreneurs who are looking to make a buck.

**STORM:** Right.

**MAC HADDOW:** And in the United States, and it's a tragedy and it's being done here, and it's being done by people that really should be stopped.

**STORM:** So is that, I haven't read the whole amendments, is that part of the amendment to ban the synthetic version?

**MAC HADDOW:** It does. It de-- defines what synthetic is. It limits the amount of 7-hydroxymitragynine to no greater than 2%, which is the-- it would never exceed that in its naturally occurring levels in the kratom plant in the drying and the metabolism effect of it. It's only when you boost it and elevate it, and then it has a more powerful effect and a dangerous effect that we have a problem, and this bill will restrain that.

**STORM:** OK. Thank you.

**BOSN:** Any other questions? Thank you for your testimony.

**MAC HADDOW:** Thank you. No one can tell my wife that I went over, right? Thank you very much. Appreciate this opportunity.

**BOSN:** Any other testifiers?

**HANNES ZETZSCHE:** Thank you. I appreciate your patience. Good evening, Chair Bosn, members of the Judiciary Committee. My name is Hannes Zetzsche, H-a-n-n-e-s Z-e-t-z-s-c-h-e. I'm an attorney with Baird Holm law firm here in Lincoln. We've been engaged to represent Holistic Alternative Recovery Trust, HART for short, which is a national 501(c)(4) nonprofit that advocates for holistic alternative recovery at companies that support plant based methods for ending opioid addiction. We're testifying as opponents of LB431, and then opponents of LB230 as, as proposed, as introduced. We support Senator Hallstrom's work to regulate kratom rather than banning it. We like that. Our concern, though, is that LB230 needs an amendment to regulate this, this extract of the kratom that we've talked about known as 7-OH, or 7-hydroxymitragynine. 7-OH is-- it's an increasingly promising option. It's different than the, the other type of kratom that we've talked about mostly today, but has growing scientific evidence for alleviating opioid addiction, which is in line with my organization's goals. It could be an alternative to dangerous opioid prescriptions, and it can also reduce withdrawal symptoms while, while patients are going through those-- getting off of the drugs. Currently, LB230 would permit up to a 2% concentration of 7-OH, but that's essentially a de facto ban on this, on this alternative type. We're asking for an amendment, and that's what I've handed out to all of you today, that clarifies that these products with more than the 2% of the 7-OH, they're not kratom, we're not trying to pigeonhole them in here. They're are different class, and I think what I've heard from a few of the testifiers is we want to regulate this. We're not going to-- it's not going to be a free-for-all of these things, and that's what I've proposed here as well. To ensure these product remain legal and are robustly regulated, we propose a regulatory framework in a new Section 20 of this bill. That framework would include a ten milligram limit for the 7-OH product. Again, I propo-- provided this copy of the amendment. I'm happy to discuss any, any particular provisions that you like. And with, with that amendment, we'd be happy to switch our stance to supporting LB230, but currently I need to come out as opposed. I welcome any questions you may have. Appreciate it.

**BOSN:** Could I just for clarification, have you clarify. So you're opposed to LB431.

**HANNES ZETZSCHE:** Yeah.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

**BOSN:** Amendment or otherwise.

**HANNES ZETZSCHE:** Yeah. We, we're looking for regulation, not a ban.

**BOSN:** And you are currently opposed to LB230.

**HANNES ZETZSCHE:** Yeah.

**BOSN:** Got it.

**HANNES ZETZSCHE:** With, with our amendment, we could turn that on 4--  
on the LB230, yeah.

**BOSN:** Thank you. Senator Boer, DeBoer. Excuse me.

**DeBOER:** Thank you. Who drafted this amendment for you?

**HANNES ZETZSCHE:** That, that was my organization, the, the ho-- my  
client, the Holistic Alternative Recovery Trust.

**DeBOER:** OK. And is this something that is currently in place in other  
states?

**HANNES ZETZSCHE:** Yeah, it's a model they've tried to follow and--  
their organization has a really nice website showing the different  
states that have similar, similar types of regulations of the 7-OH  
product. And so that's, that's the language they have, they've  
suggested, yeah.

**DeBOER:** OK. Thank you.

**BOSN:** Seeing none, thank you for being here.

**HANNES ZETZSCHE:** Thank you.

**BOSN:** Any other testifiers? Going once. Going twice. Going three  
times. Starting with Senator Hallstrom to close. While he's coming up  
here, though, I will tell you for the record that Senator Hallstrom's  
bill, LB230 had 14 proponents, 2 opponents, and 1 neutral testifier.

**HALLSTROM:** Chairman Bosn, members of the committee, in closing, I  
believe that what we've heard tonight has given the scientific support  
for the safety of natural kratom, that banning clearly goes a step too  
far. I do think it's high time that we put regulations and protections  
in place, particularly given the wide variety of new products coming  
on the market and the lack of information provided on many of these  
products for consumers. Passing LB230 is an important step to protect

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

Nebraska consumers by allowing them to continue accessing safe, natural kratom products while protecting them against the use of synthetic kratom products. And with that, I, I do appreciate the patience of the committee, and I hope that we won't spend too much time after the hearings are over tonight in executive session. So with that, I'd be happy to address any questions that you may have.

**BOSN:** I believe it was your idea that we exec after every debate, bills, right? I have no questions, but does any other senator have any questions? Thank you for being here.

**HALLSTROM:** Thank you.

**BOSN:** Oh, I'm sorry, sit, sit back down, Senator Rountree has a question.

**ROUNTREE:** Just, just so very quickly.

**HALLSTROM:** Yes, sir.

**ROUNTREE:** I heard amongst your testimony tonight that kratom can be purchased in a convenience store. So not a corner store, not a kratom shop. I've seen the kratom shops pop up, but I could go into my little Kwik Shop, and kratom is in the cooler as well?

**HALLSTROM:** I, I do not know that, Senator. I'll find out from the folks that do know. I would assume there are no restrictions on where it can be sold. And obviously, if we have the regulations in place, then irrespective of where they're sold, they would be subject to those regulations.

**ROUNTREE:** Thanks. Thanks.

**BOSN:** Thank you for being here.

**HALLSTROM:** Thank you.

**BOSN:** Senator Lippincott for his close. And while he's making his way up, I would note for the record that on LB431 there were 4 proponents, 26 opponents, and 1 neutral comment submitted.

**LIPPINCOTT:** Thank you so much. I appreciate that. Couple of questions that came up. One was from Senator Rountree regarding how many people have died, and I looked this up. The FDA reported in 19-- or correction, in 2018 alone, they reported 44 deaths from kratom in the United States. And that's for kratom alone. That's not combined with

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee January 29, 2025

anything else. Kratom. And the Tampa Bay Times reported in 2023, more recent, that they reported 587 deaths in the previous ten years in the state of Florida alone. Another question was asked, and somebody asked how common is kratom here in the United States, and the FDA reported that .7%, that is 7/10 of 1% of Americans are either taking kratom or have taken kratom. And we heard a gentleman just a few moments ago saying that, quote, kratom is safe. Mentioned that about five times in his testimony. Mrs. Meade that came up here just a few moments ago, she reported about her son, her first born son. She'd been here in the Capitol building for over nine hours waiting to give a testimony for two minutes. And she would report that kratom is not only not safe, it's deadly. There are reports we gave you, some reports from medical folks that showed that kratom is not safe and it is in many cases deadly. And I've seen a person go through the withdrawal symptoms and the treatment to get off kratom. It's not safe. And we as legislators need to keep our fellow Nebraskans safe. I appreciate your time.

**BOSN:** Thank you. Any questions? Thank you.

**ROUNTREE:** I'm just going to thank him for getting that information for me. Thank you.

**LIPPINCOTT:** Thank you, sir.

**BOSN:** Thank you for being here.

**LIPPINCOTT:** Thank you.

**BOSN:** And that will conclude our very robust day.