

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 6, 2025

BOSN: Round 2, take 2. All right. Welcome to the Judiciary Committee. I am Senator Carolyn Bosn from Lincoln, Lancaster County, representing the 25th Legislative District, and I serve as the chair of this committee. The committee will take up the bills in the order 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 are planning to testify today, please fill out one of 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 is also a yellow sign-in sheet on the back table for each bill. These sheets will be included as an exhibit in the official hearing record. When you come up to testify, please speak clearly into the microphone telling us your name and spelling your first and last to ensure we get an accurate record. We'll-- we will begin each bill hearing today with the introducer's opening statement, followed by proponents of the bill, then opponents, and, finally, anyone wishing to speak in the neutral capacity. We will finish with the closing statement by the introducer if they wish to give one. We will be using a 3-minute light system for all testifiers. When you begin your testimony, the light on the table will be green. When the light turns yellow, you have 1 minute remaining. And when the light indicates red, you need to wrap up your final thought 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 the bill being heard. It is just 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. 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 person, but not both. I will now have the committee members with us today introduce themselves, starting with my far left.

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HALLSTROM: Bob Hallstrom, Legislative District 1, representing Otoe, Johnson, Nemaha, Pawnee, and Richardson County in southeast Nebraska.

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

STORER: Good afternoon and welcome. I'm Tanya Storer. I represent District 43: Dawes, Sheridan, Cherry, Brown, Rock, Keya Paha, Boyd, Garfield, Loup, Blaine, and Custer.

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

ROUNTREE: Victor Rountree, District 3, representing Bellevue and Papillion.

BOSN: Thank you. Also assisting the committee today to my left is our legal counsel Denny Vaggalis, and to my far right is our committee clerk Laurie Vollertsen. Our pages for the committee today are Ellie Locke, Alberto Donis, and Ayden Topping, all from UNL. With that, we will begin today's hearing with LB642 and Senator Bostar.

BOSTAR: Good afternoon, Chair Bosn, members of the Judiciary Committee. For the record, my name is Eliot Bostar. That's E-l-i-o-t B-o-s-t-a-r, representing District 29. Today, I'm here to present LB642, the Artificial Intelligence Consumer Protection Act. The rapid evolution of artificial intelligence or AI, has brought immense benefits to society. However, it also presents new challenges, particularly when it comes to protecting Nebraskans from potential algorithmic discrimination and ensuring transparency in consequential decisions made by AI systems. LB642 addresses these challenges by providing a framework to safeguard consumers while fostering innovation in our state. This legislation establishes clear requirements for developers and deployers of high-risk AI systems to proactively identify, mitigate, and prevent algorithmic discrimination. Specifically, LB642 defines high-risk systems as those that make consequential decisions without human review, such as decisions affecting housing, employment, education, and health care. To address these risks, the bill requires implementation of robust risk management policies and the completion of impact assessments to evaluate and address the potential for discrimination and other harm. LB642 also improves transparency by requiring businesses to notify consumers when AI systems are used to make significant decisions that affect their lives, including detailed disclosures about the purpose, data, and other outcomes of these systems. Additionally, consumers will have the right to correct inaccuracies, appeal adverse outcomes,

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and access transparent explanations about how decisions were made. These measures empower individuals to engage with AI-driven systems confidently, knowing their rights are protected and their interests are prioritized. LB642 strikes a careful balance between innovation and consumer protection. By enacting this legislation, Nebraska positions itself as a leader in addressing the complexities of artificial intelligence while ensuring our residents are shielded from harm. We had an amendment that was supposed to be down from Revisors, but with the system outage, it is not available for the committee. I will say that over the last really week as we've been gathering feedback on the bill, we've been putting together amendments and kind of packaging them together to address that-- some concerns that folks have raised. We're going to continue to do that. There are other conversations that we've only just started today. So we will, we will be looking at some of that feedback as well and potentially incorporating it. What I wanted to say to the committee is I apologize that we don't have that for you right now to look at because of our system outages. But as soon as we do, I will be sure that the committee has that. And, you know, I'm certainly happy to go over those things since we don't have it now with any and all of you at a, at a further point in time when it, when it suits your needs. With that, I'd be happy to answer any initial questions to start. Thank you.

BOSN: Thank you. Are there questions for Senator Bostar? Senator Hallstrom.

HALLSTROM: Senator Bostar, is this like a model act that we'd see from NCSL or ALEC or one of those types of organizations or is this from whole cloth or what, what's the, the background?

BOSTAR: So it's-- it has elements from, I think, probably a number of places, right, as we were putting this together. There is language that's-- that other states have pursued. Some passed. Some have changed. And in the initial drafting of the bill, there was also certainly other feedback from interested parties that was incorporated. So it's, it's a bit of a mix. I would say that there-- you won't find this exact bill anywhere else. I hope that helps.

HALLSTROM: OK. Thank you.

BOSN: Any other questions? Are you staying to close?

BOSTAR: I am.

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BOSN: Great. First proponent. No proponents. OK. First opponent. Oh, are you a proponent?

DIANNE PLOCK: I guess. Good afternoon. My name is Dianne Plock, D-i-a-n-n-e P-l-o-c-k. I live here in Lincoln. And I am for this bill to a certain extent, and I'm also against it. I'm for it in the fact that it has some protection in it, but I'm also against it because AI is a new, a new-- and I don't know if I'd call it an innovation, but it's something that's in the background, that hides in the background, in my opinion. We don't know whether it's being utilized or not on anything-- on our information that we, we access. We have no clear disclosure beforehand, as far as I know, that it's being utilized. And I guess I question whether there's any way to correct inaccuracies if they do arise. So my proponent to this is with amendments, I guess I'd say. And who gains from this information because someone has to be gaining some kind of a financial incentive to be using this in the first place and who, who gets that financial incentive? And are there penalties if the information is being utilized incorrectly?

BOSN: Any questions for this testifier? Just so I can clarify, my understanding is you support the efforts of the bill to regulate, but--

DIANNE PLOCK: With amendments.

BOSN: --perhaps it needs to go farther in--

DIANNE PLOCK: Yes.

BOSN: --controlling some of the--

DIANNE PLOCK: Yes.

BOSN: OK. Thank you for being here. Next proponent? All right, we will move onto opponents. Is there anyone wishing to testify in opposition to this bill? Good afternoon.

LAUREL OETKEN: Good afternoon. Chairperson Bosn and members of the Judiciary Committee, thank you for the opportunity to testify today. My name is Laurel Oetken, L-a-u-r-e-l O-e-t-k-e-n, and I serve as the executive director of Tech Nebraska, the state's first tech trade association, which was created in partnership with the Nebraska Chamber. I'm here on behalf of Tech Nebraska, the NE Chamber, Greater Omaha Chamber, and Lincoln Chamber of Commerce to express our opposition to LB642. At my organization Tech Nebraska, we have a saying that every company is a tech company in today's world. This

underscores the importance of supporting and growing a tech ecosystem in Nebraska, where companies large and small are encouraged to innovate and grow their business. Most of these businesses are also becoming more reliant on emerging tech like AI to improve their operations. While LB642 intends to protect consumers from potential harm associated with one of these emerging technologies, the bill also presents several areas of concern that warrant careful consideration by the committee. The first being overregulation that could hinder innovation. As introduced, the bill's broad definitions for requirements could stifle innovation within Nebraska's growing tech sector. For Nebraska to remain competitive, grow our tech ecosystem, and retain young talent, we need to create an environment that encourages innovation. By imposing compliance obligations on developers, deployers of AI systems, and our tech workforce, we risk discouraging established companies and our notable start-ups from developing and utilizing AI. Our fear is that this could create a growing competitive disadvantage compared to other states and regions with a more balanced favorable regulatory environment, prompting the exit of these tech workers and innovators from our state. Additionally, the potential compliance costs associated with this bill could be particularly burdensome on small- to medium-sized businesses within our state, again, potentially deterring them from starting, scaling, and adopting AI. Another area of concern with this bill is that it came out of a multistate working group and this legislation is not new. It's widely based off of the Colorado AI Impact Bill. And while this bill passed last year and was signed into law, it was signed with hesitancy by Colorado's governor. This also spurred the creation of a Colorado AI Impact Task Force, which just 2 weeks ago put several recommendations out to further amend the bill. While LB642 does include some changed language compared to the Colorado AI bill, it will likely still require additional amendments, which I know the senator addressed in his opening statements. Having a state patchwork bill regarding AI regulation is burdensome for establishments and businesses that do more than just business in Nebraska. Having a framework that is not only manageable for industry to comply with, but is also in line with other states would be key and preferable. While we acknowledge that protecting consumers from potential AI harm is essential, just as passing LB1074 last year regarding data privacy was key and a good move for the state. As introduced, this bill could lead to unintended negative consequences for Nebraska's economy and tech workforce. Now more than ever, Nebraska needs to be viewed as a business, an innovation friendly state, incentivizing growth and innovation. At this time, I would urge the committee to continue to work with Senator

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Bostar and industry leaders on tech in the interim to collaborate on a more balanced approach. With additional research and input from our Nebraska technology and innovation community, tech Nebraska would also be happy to work with the bill's proponents on this effort. I'd be happy to answer any questions that you may have. Thank you.

BOSN: Thank you. Any questions for this testifier? Senator Rountree.

ROUNTREE: Thank you, Chairman. Thanks for your testimony. As you've looked at this, the entirety of the bill, could you point out of just a couple of aspects that you believe could be detrimental if we move forward--

LAUREL OETKEN: Sure.

ROUNTREE: --on that?

LAUREL OETKEN: Yeah. I, I will acknowledge that we have not seen the proposed amendments from Senator Bostar's office, I know that there were several outages today at the Capitol, but we're eager to take a look at that. And, you know, based on the bill, and, and also what was drafted in Colorado, I would say some of our areas of concern actually do apply to the small business exemption. There is an exemption within this bill that pertains to employer-- or excuse me, employers and organizations that have 50 employees or below. However, the way that the, the bill is drafted and similarly how it's been drafted in other states is that it only applies to developers that input their, their-- excuse me, not their data. So if you're using data that a company specifically is generating, you input that into an AI system, you are no longer under that exemption or you're disqualified. I'd be happy to share with the committee, too, some additional concerns that we have as we continue to look at this bill. But at this moment, we'd also like to take those amendments into consideration.

ROUNTREE: All right. Thank you so much. I appreciate that.

BOSN: Any additional questions? I have just a few.

LAUREL OETKEN: Sure.

BOSN: So you talk about some of the edits. Have you sent any of those edits to the introducer?

LAUREL OETKEN: We have not, but members of our organization have. So as we are-- Tech Nebraska is under the Nebraska Chamber umbrella, and we have several member organizations, big and small, that work in the

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tech and innovation industry. And I know that they've had conversations with Senator Bostar.

BOSN: OK. Can you tell me what organiza-- what--

LAUREL OETKEN: I can't speak to that specifically, but I know that the, the senator's office has been working with several different organizations.

BOSN: OK. Is it possible that those are the organizations that he's got the amendments that might--

LAUREL OETKEN: Potentially. Yes.

BOSN: --alleviate your opposition?

LAUREL OETKEN: Yes, potentially. And I would say, again, we would need to look at the bill. We need to look at the amendments that have been raised. And, you know, our concern widely is also that this bill has been introduced in several states right now, and many of those states are working through similar positions where they have to go through redrafts and potentially looking at amendments. We want to make sure that we have a good understanding of what that looks like with our members in mind.

BOSN: OK. Well, because I guess if other states are doing this and we do this, then those companies that if the argument is we're putting a higher burden in Nebraska than in other states, but other states are also doing this, then aren't we putting the same burden on that those other states are?

LAUREL OETKEN: Sure. And I would say that's widely one of the concerns that we have right now. There is a patchwork of these bills that are coming out nationally. Colorado is one example that had a bill passed. Virginia just passed a bill yesterday. Texas is also actively working on a bill, there, there have been attempts in Connecticut. And, you know, for a lot of the businesses that do operate in the state of Nebraska, they do business in many other states, they're also national companies with global interest. And I think having to adhere to many different bills in many different states and legislatures that have different parameters, have different compliance components, yes, that is very challenging. And I imagine that that is the concern that some of our members, just as we, we do have with this bill in particular, that as the senator even alluded to, this is a unique bill to Nebraska. So from a compliance standpoint, these businesses are going to have to be adhering to multiple patchwork bills.

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BOSN: Thank you.

LAUREL OETKEN: Does that answer your question, Senator?

BOSN: It does. Thank you.

LAUREL OETKEN: Thank you.

BOSN: Any other-- Senator Hallstrom.

LAUREL OETKEN: Sure.

HALLSTROM: When I asked Senator Bostar where this came from, do you know if there is any group that's working on a model for uniform [INAUDIBLE]?

LAUREL OETKEN: Yeah. Yes. So there has been a working group of several legislative representatives from, I would say, several different states across the U.S. and it was spearheaded by a senator out of Connecticut to really bring together a working bill similar to some of the approaches that have taken place on data privacy and other tech-related matters. I think the general consensus and nexus with all of those individuals is that there should be some type of federal framework, but there isn't currently. So to do that or to have something in place that does safeguard consumers but also considers industry input has been kind of the nexus of that working group. I, I will contend, too, that I think the, the, you know, the impetus of, of doing this with that group mentality is, is great. But, of course, Nebraska's a unique Legislature. We are Unicameral so the, the rules of how we operate are a little bit different than some of those, those other states as well.

HALLSTROM: And that appears to be how Senator Bostar is trying to approach it.

LAUREL OETKEN: Sure. And, and, you know, again, we would love to work with the senator, continue to have some of those conversations around amendments and make sure that this is really favorable to the business community as well.

HALLSTROM: Thank you.

LAUREL OETKEN: Yeah.

BOSN: Thank you for being here.

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LAUREL OETKEN: Thank you.

BOSN: Next opponent. Good afternoon.

HOPE LEDFORD: Good afternoon. Thank you, Chair and distinguished members of the committee for the opportunity to testify today. My name is Hope Ledford, H-o-p-e. L-e-d-f-o-r-d, and I'm here on behalf of Chamber of Progress. We are a tech industry coalition promoting technology's progressive future. Our partners include innovators like Amazon and Midjourney, but they do not have a vote or veto on our positions. Today, I'm in here-- I'm here to respectfully urge you to oppose LB642 which will likely place limits and restrictions on future innovation. As we all know, AI has tremendous potential for improving education, enabling creative expression, and creating new business opportunities. So it is critically important that public policy promotes the broad and equitable distribution of these innovations. The sponsor of LB642 is justly concerned about civil rights abuses, particularly discrimination in housing, employment, and lending. Historically, marginalized communities have faced repeated discrimination in these areas and many more. And as such, we applaud the sponsor for his attention to these critical matters of social justice. However, LB642's impact assessment under Section 4 threatens to expose business strategy and stifle competition by mandating that business-- businesses disclose the details of their internal processes. Any such disclosure of sensitive business practices must serve a compelling government interest and be narrowly tailored. LB642 comes up short on both. LB642 contemplates an expensive and burdensome auditing regime. The bill specifically obligates innovators to conduct regular and repetitive audits, which is a substantial tax on innovation. We believe that strengthening consumer and civil rights law to protect the public is a better approach. LB642 is designed to address potential discrimination from AI systems in employment, housing, and other areas. To reiterate, we agree that discrimination is wrong, but focusing exclusively on AI systems ignores offline discrimination. Rather than create a sweeping new regulatory edifice that may stifle innovation and investment, we encourage you to strengthen existing civil rights laws in Nebraska to ensure that the most vulnerable members of society are protected, both online and offline. And for these reasons, we urge you to oppose LB642, respectfully.

BOSN: Thank you. Any questions for this testifier? Do you have any edits as well?

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HOPE LEDFORD: I have not had the chance to take a look at the amendment, so I would be happy to have someone follow up after we take a look at those.

BOSN: But have you-- do you have any amendments to the bill as it's written?

HOPE LEDFORD: No.

BOSN: OK. Have you reviewed the bill as it's written?

HOPE LEDFORD: Yes.

BOSN: OK. So are you here in conjunction with the individual that just previously testified? Are you working on those same amendments together?

HOPE LEDFORD: No.

BOSN: OK. So you haven't presented any amendments thus far?

HOPE LEDFORD: Yes, that is correct.

BOSN: OK. Any other questions? Thank you. Next opponent. Welcome.

TAYLOR BARKLEY: Thank you. Good afternoon, Chair Bosn, members of the committee. My name is Taylor Barkley. That's T-a-y-l-o-r B-a-r-k-l-e-y, and I'm the director of public policy at the Abundance Institute, and the Abundance Institute is a nonprofit with offices in Salt Lake City and Washington, D.C. We focus on ensuring that life-changing technologies like artificial intelligence reach their full potential to further human flourishing. And thank you for the opportunity to speak with you today. I'm here to express my deep concerns regarding the proposed Artificial Intelligence Compliance and Protection Act [SIC]. As drafted, this legislation would upend the permissionless approach to innovation that has long been the backbone of American technological leadership, potentially depriving Nebraskans of significant health, education, and economic benefits. The bill, in its current form, is both unnecessary and technically infeasible. The act would unnecessarily duplicate existing federal and state antidiscrimination laws. Federal and state laws already prohibit harmful practices, including discrimination. Adding a new AI-specific layer of regulation adds little protection and, yet, imposes burdensome compliance costs, especially for smaller businesses. Moreover, the technical aspects of the legislation raise serious concerns. The definition of AI in the bill is extraordinarily broad,

capturing not only advanced AI systems, but also virtually all forms of software and basic computing technologies like calculators and spreadsheets. Additionally, as written, the bill would stifle the open-source and open-weights AI ecosystem. Open-model developers have no way of knowing or controlling how their models will be used once released. They could not comply if held responsible for every possible downstream use of their models. Imagine the countless beneficial applications that might never come to fruition simply because developers are deterred by the prospect of insurmountable compliance burdens. In my view, the bill appears to be premised more on hypothetical risks than on demonstrable concrete harms. The act's one-size-fits-all approach risks punishing innovation while doing little to mitigate such specific harms. In contrast to what is proposed, targeted incisive legislation on known harms is the better approach. However, if the Legislature wishes to adopt a broad framework, the act would be significantly improved with three changes. One, regulate the party closest to potential harm and benefit. In other words, the deployer who interacts directly with users. By focusing on deployers, the law would better protect consumers and encourage innovation. Regulating developers is indirect and unnecessary. Any information a deployer needs for compliance can be addressed through contractual agreements between deployers and their suppliers. Two, don't burden open-model developers with obligations that are impossible to meet. The bill should clearly exempt open models defined as those where developers make model weights widely available from such requirements, ensuring that these vital tools continue to drive innovation, competition, and collaboration. Three, define AI to focus on systems capable of autonomous learning and decision-making excluding traditional deterministic software. It's my recommendation to take a different approach than the one proposed and adopt a balanced, pragmatic approach to AI regulation. This way, Nebraska can continue to attract investment and encourage technological advancement, all while safeguarding the interests and safety of its citizens. Thank you so much for your time and consideration. Happy to answer your questions and work with you further.

BOSN: Thank you. Any questions for this testifier? Senator Hallstrom.

HALLSTROM: Thank you, sir. Have you provided any specific language to Senator Bostar with regard to the three areas that you've identified?

TAYLOR BARKLEY: Not yet. A broad brush here, but happy to do that and follow up.

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HALLSTROM: OK. Thank you. And you're the second witness that has talked about the disparate impact with small businesses. Would that be something as simple as raising that 50 business exemption threshold to a higher number, or does it have to be tackled differently?

TAYLOR BARKLEY: Possibly. There are, there are a number of issues. So the, the tech-- the bill in Texas that's currently being considered does have a small business exemption according to the Small Business Administration's definitions. That can put an artificial cap, though, on the kinds of systems these small businesses use. So, you know, for instance, a, a company could stop using a, a system that's helping them grow and that could further inhibit their growth as a company. Just, you know, hitting that ceiling. So I think it's a-- it could help, but it would not solve all the problems.

HALLSTROM: Thank you.

BOSN: Senator Holdcroft.

HOLDCROFT: Thank you, Chairwoman Bosn. Abundance Institute, mission-driven nonprofit. What's your force-- source of funding?

TAYLOR BARKLEY: A mix of individuals, corporations, and foundations.

HOLDCROFT: Thank you.

BOSN: Thank you for being here.

TAYLOR BARKLEY: Thanks so much.

BOSN: Next opponent. Welcome.

TANNER JONES: Madam Chair, committee members, thank you for having me today. My name is Tanner Jones, T-a-n-n-e-r J-o-n-e-s. I'm a policy analyst at the Cicero Institute and I understand there are amendments that I have not seen. But in so far as after amended, this bill maintains any of the following, I would still be opposed to it: high-risk reporting frameworks, consequential decision-making frameworks, algorithmic discrimination fears, and any new regulatory powers afforded to the executive branch. But, really, the reason I'm here today is that I'm from Minnesota, born and raised, I spent several memorable weekends in college visiting friends at Creighton and elsewhere in Nebraska, and I view AI as the most exciting economic opportunity for the Midwest in many generations and perhaps ever. And that's because in artificial intelligence, to build a billion-dollar, multimillion dollar company, it does not require massive labor

markets, insane natural resources. All it takes is a few people with a computer and a good idea who can take an API call to an existing large language model to build a billion-dollar company in Nebraska. And I worry that this bill and the frameworks identified a moment ago would steal that future. So I'll just make three quick arguments to explain that point. First, has to do with regulatory capture. Second, U.S. global leadership. And, third, the fact that there's a much better path forward for Nebraska. But first, on regulatory capture, this bill, as written, constitutes an expansive delegation of rulemaking power to the executive branch, unelected bureaucrats in the executive branch. And that means two things for business. First, while your constituents have access to you, it's only the most powerful and entrenched incumbent firms that have access to regulators in the executive branch. Meaning if you afford this regulatory powers, these companies come into Nebraska, find noncompliant start-ups and shut them down to maintain their oligopolies and monopolies. Moreover, they're the only ones that can bear the compliance burden. Hiring the lawyers and compliance consultants, which is a cottage industry that would emerge if this bill was passed as written. But also has to do with market certainty and dollar flight, and investors simply will not want to build things here in Nebraska because there's so much uncertainty with this ambiguous regulatory language of high-risk and consequential decisions. But second is global leadership. We just had our Sputnik moment in AI couple of weeks ago. China demonstrated that it can keep pace with the United States. Now is not the time to slow down and pump the brakes. It's the time for everyone, particularly in the heartland of the U.S., to be building an AI so we maintain our edge and can compete with China effectively. But, finally, there is a better path forward. We have model language that we just finished revising this morning and would be happy to collaborate with Senator Bostar or anyone on a better path for Nebraska that has to do with amending penal codes and product liability codes on the legislative side to go after precisely targeted bad outcomes. But then, second, looking at exciting and innovative use cases for AI to make government more efficient, improving the quality and speed of government service provision. That's all I've got for you guys. Thank you. And I'm open to questions.

BOSN: Any questions for this testifier? Senator Storm.

STORM: Thank you, Chair. Thank you. So can you give us an example how AI is going to make government more efficient?

TANNER JONES: Yeah, lots of examples. So the, the, the best one is to look at what Governor Youngkin has done in Virginia. His executive

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order 30 allocated, I believe, \$600,000, which isn't a ton of money, but ended up going a long way for his Office of Regulatory Management and has basically been using AI tools to streamline government permitting processes. An analysis released just last month actually found that the AI-driven efforts of Youngkin's Office of Regulatory Management are saving Virginians \$1.2 billion per year.

BOSN: You're fine.

STORM: So didn't Virginia just pass legislation to regulate AI? Didn't we just hear that from somebody?

TANNER JONES: No, sir, what, what I believe they were mentioning is that a bill that looks very, very similar to this bill, as introduced, has been moving in Virginia as well, but has not been passed.

STORM: So they're looking to regulate AI, though?

TANNER JONES: There is at least one person in the Virginia statehouse that has introduced a piece of legislation looking to regulate AI. But if you look at the, the media there and things out of the governor's office, it appears very unlikely that that will pass.

STORM: OK. Thank you.

BOSN: Do you have that model language with you now?

TANNER JONES: I do not have a print out, unfortunately, due to some of the technical things, but we'd be happy to email it to whoever and, and get it out there.

BOSN: I'd be grateful if you'll share that with the introducer and also with the committee.

TANNER JONES: Absolutely.

BOSN: Thank you. Next opponent.

JOHN GAGE: I'm sorry.

BOSN: Welcome.

JOHN GAGE: Thank you. Good afternoon, everyone, Chairwoman Bosn and members of the committee. My name is John Gage, J-o-h-n G-a-g-e, and I'm the state director for Americans for Prosperity. I'm here on behalf of our thousands of activists across the state of Nebraska to testify in opposition to LB642, the adopt the Artificial Intelligence

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Consumer Protection Act. AFP opposes this legislation as it represents an unnecessary and potentially harmful government intrusion into the rapidly evolving field of artificial intelligence, while simultaneously running directly against the mission and vision for this technology set out by the Trump administration. LB642 proposes to establish a new regulatory framework for AI in Nebraska. While we understand the desire to ensure responsible development and use of this technology, we believe this bill is premature and risks stifling innovation. A core issue with LB642 lies in its overly broad terms like consequential decisions, substantial factor, and high-risk applications, coupled with unclear requirements to release products in the public interest. The lack of clarity on these terms alone is enough to cause AI entrepreneurs to have headaches. This ambiguity creates a chilling effect on investment and development, potentially driving both innovation and economic opportunities away from Nebraska. Furthermore, the proposed requirements for risk assessment audits and ongoing monitoring create significant burdens for businesses, especially smaller enterprises and start-ups. In fact, the largest proponents of this bill-- bills of this nature have been groups that are propped up by market leaders in the-- in this space, including Meta, Google, and OpenAI. The goal here is to intentionally create onerous regulations that will choke out competition and allow the large tech companies to keep their power positions in the market. AFP believes that innovation, not regulation, is the key to ensuring responsible development of, of AI. Premature and overly burdensome regulations will only hurt our state. We urge the committee to reject LB642. Thank you.

BOSN: Thank you. Any questions of this testifier? Senator Rountree.

ROUNTREE: Thank you, Chair. Yes, sir. I appreciate your testimony today. Just one point on here on your second paragraph. You said this: what we're developing here now, it runs directly against the mission and vision for this technology set forth by the Trump administration. Can you just hit on that real quickly? The vision as set forth by the Trump administration?

JOHN GAGE: Yeah. Yeah. So the, the Trump administration made very clear that they want America to be a leader in the AI industry. We-- we're out here competing with China, and they want a more less-regulated environment so we can beat out competing countries.

ROUNTREE: Thank you so much.

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BOSN: Same question I've asked everybody. Sounds like you support the overall goal of keeping consumers safe, but think it needs to go through innovation and not regulation.

JOHN GAGE: Yep.

BOSN: Do you have any language?

JOHN GAGE: I, I, I would say at this moment we don't have any amendment because as, as the bill currently stands, I'm not sure there's a way we would see an amendment that we like. There needs to be-- like, if there were specific harm that could be shown that, like, here's a very specific harm that needs to be regulated, that's one thing. But the bill, as presented, is very broad and onerous in the way it goes about regulating. And so as a whole, we oppose that.

BOSN: Fair enough. I guess my concern-- I mean, you would agree that there are the potentials for AI to go sideways.

JOHN GAGE: Sure. Yeah.

BOSN: Any time anyone's using it. Right? That's always one of the risks we run. And so rather than outright ban it, I'm a fan of guardrails, right? We, we come in and we say, here's how you can have it, but keep consumers safe. Keep Nebraskans safe while still-- I want to protect innovation, and I'm not a regulation individual in, in most senses. But I think when I read this and what some of the previous testifiers have said is you can have it both ways, and that's what I'm hoping to get to.

JOHN GAGE: Well, OK, so, for example, a specific harm you could have, like, you know, child pornography AI.

BOSN: We're going to hear about that soon.

JOHN GAGE: Yes, we, we would support something like that, regulation on that because that is a very specific harm. But when you're using vague terms, you know, like algorithmic discrimination and stuff like that, it's just-- the goal-- like, the goal of it being vague is so that these tech giants can have a monopoly. Like, that's the goal of this legislation. And I'm not sure there's a way you can amend it as it is in its current form and intent-- well, not even in its current form, and the intent of this legislation I think is flawed. So I'm not sure there's an amendment of this bill that can be brought that we would say, well, we support that. Not necessarily that there wouldn't be some form of regulation that we wouldn't support, it's just the

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intent, and folks behind us are just something that we'll probably not-- never see eye to eye on.

BOSN: Thank you. Fair enough.

JOHN GAGE: Yeah.

BOSN: Senator Hallstrom. Oh, sorry. Do you have another question? Thank you for being here.

JOHN GAGE: Thank you.

BOSN: Next opponent. Anyone wishing to testify in the neutral capacity? I feel like we just saw you.

ROBERT M. BELL: It wasn't that long ago. Good afternoon, Chairwoman Bosn and members of the Judiciary Committee. My name is Robert M. Bell. Last name is spelled B-e-l-l, and I am the executive director and registered lobbyist for the Nebraska Insurance Federation, the state trade association of insurance companies. I appear today in neutral on LB642. I do appreciate Senator Bostar's interest in this topic and the exemption for the business of insurance contained within LB642 and the tightening of the language of that exemption that's in that amendment you haven't seen yet. Insurance is one of the most regulated industries in the United States, and unique to insurance is completely state regulated. Because of this, the National Association of Insurance Commissioners, otherwise known as the NAIC, was formed in 1871 and is the United States standard setting organization governed by the chief insurance regulators from all 50 states, District of Columbia, and 5 U.S. territories who coordinate regulation of multistate insurers. Besides this coordination, the NAIC provides model laws, regulations, and bulletins to states for consideration. Back in 2019, the NAIC first formed a task force of regulators to examine big data and artificial intelligence or AI. This work has continued to this day in a, in a variety of different ways in forms of task force committees and working groups. In 2023, the NAIC began consideration and drafting of a model bulletin with the goal of establishing comprehensive regulatory standards to ensure the responsible deployment of AI in the insurance industry. The drafting process involved insurance regulators with comments from a variety of sources, including consumer advocates and insurance industry experts. The bulletin was approved in late 2023 by the NAIC and adoption by the various states beginning in 2024. In June of last year, the Nebraska Department of Insurance adopted the bulletin as a guidance document here in Nebraska. The bulletin outlines the expectations of the

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department-- the expectations the department has for insurers in the business of insurance based on existing statutory and regulatory authority, including the legislative authority provided to the department by the Unfair Insurance Trade Practices Act, the Unfair Claims Settlement Act, the Corporate Governance Annual Disclosure Act, the P&C Rate Reform Act, and the Insurers Examination Act. The Department does regulate both the market conduct of insurers and the financial solvency of insurers. This bulletin has been adopted by a number of states, about half, which provides consistency to insurers active in multiple states and serves as a reminder that the deployment of AI systems in insurance business remains subject to existing insurance laws and also gives insurers the expectation what to expect when examinations do occur. Again, we worked with Senator Bostar. We tightened up the language a little bit. We do believe in AI regulation and have been working towards that goal, again, since 2019 with our national organization of insurance regulators. So appreciate the opportunity to testify. I did not use ChatGPT to write this last night, although I've definitely thought about it. Thank you.

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

ROBERT M. BELL: You're welcome.

BOSN: Next neutral testifier? Welcome.

DEXTER SCHRODT: Good afternoon, Chairwoman Bosn, members of the committee. My name is Dexter Schrod, D-e-x-t-e-r S-c-h-r-o-d-t, and I'm president and CEO of the Nebraska Independent Community Bankers Association, here to testify in the neutral position to LB642 as amended by the amendment that is still forthcoming from Bill Drafters. The amendment removes our opposition to the bill. Normally if our opposition was removed, we wouldn't typically still come in and testify in a neutral capacity. However, since the bill is in front of this committee, instead of our usual home in Banking, Commerce and Insurance, I just wanted to say a few things about why the AM-- the amendment is important to us. First, the bill, as originally written, did provide exemption language for financial institutions. In fact, there's two provisions that would technically apply to us. The first is found in Section 6(8)(b) on page 20 starting at line 15 and then again in Section 6(10)(c) on page 21, line 14. So in our view, the amendment that is forthcoming is further clarifying the intent of the exemption language, which recognizes that banks are already subject to federal regulations that prevent discrimination in their business practices. As written, the exemptions I just mentioned were in slight conflict with each other, which was the sole basis for our initial

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opposition. Because banking is a dual regulatory system, we believe it is important community banks in Nebraska are not subject to both federal laws and regulations and potentially conflicting state laws, existing regulations and supervisory guidance on model risk management, fair lending, data privacy, and data security offer banking regulators ample room to regulate the use of AI under existing frameworks. In fact, our national affiliate, the Independent Community Bankers of America, stated that regulations which currently apply to the banking sector should be extended to other industries to provide similar protections. Banks have been-- long been an early adopter of machine learning and artificial intelligence algorithms to meet regulatory requirements and enhance customer service. For example, AI has been used for years to detect and prevent fraud and to ensure compliance with the Bank Secrecy Act and anti-money laundering laws. However, although AI is useful in automating compliance and customer service functions, we want to emphasize that it cannot and will not replace the personal relationships and local knowledge that are integral to the community banking model. We respectfully request the committee to adopt the forthcoming amendment if the committee chooses to advance the bill to General File. Thank you for your time and consideration.

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

DEXTER SCHRODT: Thank you.

BOSN: Next neutral testifier. Good afternoon.

RUTHIE BARKO: Thank you, Madam Chair. My name is Ruthie Barko, R-u-t-h-i-e B-a-r-k-o. I am TechNet's executive director for the Central United States, and we are testifying neutrally on this bill. A quick note about TechNet. We are a national bipartisan network of technology CEOs and senior executives. We promote the growth of the innovation economy, and our membership represents 4.5 million employees and countless customers in IT, artificial intelligence, E-commerce, transportation, cybersecurity, fintech, and more. Artificial intelligence is a transformative technology that is already providing benefits and solutions in daily interactions with consumers each day. And it is poised to help solve the most challenging problems of our time. It is critical that omnibus AI regulations such as LB642 reasonably addresses the risks posed by AI systems and allows for enforcement against bad actors while supporting responsible AI development. Last year, there were hundreds of bills considered across the country to regulate AI. Hundreds more have been introduced this

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year alone. Our approach to this bill and others like it, because we are working on all of these bills across the country, is to ensure that it does not impose regulations that chill the local tech economy or prove detrimental to America's efforts to be on the leading edge of this quickly evolving technology. We've worked together to grow both impressively over the last decade, and novel legislation in these spaces must look at that impact carefully. Our members are leading in AI technology on a wide range of sectors, including in applications in IT, cybersecurity, E-commerce, finance, fraud prevention is a huge one in the financial sector, but there's applications in transportation, health care services, agriculture, and public safety. Our members have AI solutions that are actually helping with mapping of adverse weather events before they happen and wildfire mapping and response. We are here because we work on behalf of our members to provide a nexus for legislators with industry and to help keep legislation from throttling these types of innovation and that provide tremendous benefits for the public and the Nebraska economy. There are multiple bills similar to LB642, as you have heard. This started with Connecticut Senate Bill 2 and Colorado Senate Bill 205 in 2024; both were similar to this bill. TechNet actually serves on the Colorado AI Impact Task Force that you heard about today, and we are still working to try to find improvements to the Colorado bill. They are correct on that. That bill does currently threaten the state economy the way it's written and Colorado was the first passed in the nation in 2024. It was completely untested and it is novel. A state-by-state approach is not ideal for any state's economy nor for the U.S. in general. So, therefore, we do support a federal standard on AI regulation that will provide greater consistency to businesses large and small, rather than trying to meet diverse compliance requirements based purely on state lines. Our members appreciate the sponsors' work to develop a comprehensive, risk-based regulatory framework adapted for Nebraska, and we thank the sponsor for considering a wide range of industry feedback on the bill. The introduced version before you shows that the sponsor is committed to ensuring that AI companies will not leave Nebraska behind. The bill takes a different and, in many cases, a much more rational approach than some of its predecessors, and it does not impose some of the burdensome and unworkable regulatory approaches that other states are pursuing. This bill includes a right to cure, which will provide businesses an opportunity to come into compliance without fear of liability. We also, we also appreciate that it uses clearly scope definitions that are interoperable with some other state laws and national laws. This provides certainty--

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BOSN: I'm going to have you finish your last thought and wrap it up since the timer is on red.

RUTHIE BARKO: Thank you. We have submitted additional amendments. We thank the sponsor for his work on this and for aligning it with the Nebraska Data Privacy Act. I'm happy to take questions.

BOSN: Any questions for this testifier? Senator Rountree.

ROUNTREE: Thank you, Chairwoman. Just wanted to clarify. You have already submitted amendments to-- OK. Good. Thank you.

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

RUTHIE BARKO: Thank you.

BOSN: Next neutral testifier. Welcome.

EDWARD LONGE: Thank you, Senator. Senator Bosn, members of the Judiciary Committee, thank you for the opportunity to testify regarding LB642. My name is Edward Longe. That's E-d-w-a-r-d L-o-n-g-e, and I direct the Center for Technology and Innovation at the James Madison Institute, a state-based public policy organization based in Tallahassee, Florida, dedicated to advancing limited government, free enterprise, and individual liberty. I'll keep my testimony brief this afternoon because individuals have made compelling arguments both for and against LB642. However, I would just like to warn the-- advise the committee that we only need to look to Europe to see the adversarial effects of overregulation in AI. Last year, major tech companies began withdrawing their latest AI innovations from European markets due to regulatory burdens. These withdrawals should serve as a cautionary example about how excessive regulation can deprive citizens of technological advancements. The solution is a balanced approach that leverages legal frameworks while strategically addressing new challenges that artificial intelligence proposes. States across the country have taken steps to, to conduct thorough assessments of the current regulations and identify how they effectively govern AI and also assess where the gaps exist. This, this evolution is helpful because it allows lawmakers to distinguish between theoretical and actual risks and allows them to also create targeted policies that protect citizens and foster innovation. This allows for a surgical scalpel rather than wield-- wield-- wielding a sledgehammer and also allows them to become leaders in AI innovation. And I close.

BOSN: Thank you. Any questions for this testifier? Senator Hallstrom.

HALLSTROM: I'm taking it that you believe that we can have minimalist regulation while still providing adequate consumer protection in areas like this where we have an unique and innovative business model?

EDWARD LONGE: Thank you for the question, Senator. I, I wouldn't describe it as minimalist. I certainly think that, you know, there's a, a position for government regulation. I just don't personally think that, you know, it has to be a broad, sweeping approach to AI regulation. I think the-- a better approach is to find out with existing statute, does AI currently already-- could we apply AI to existing statutes? Do we just need to update it or do we sort of want to apply or do we want to sort of craft bespoke regulation? I'm not saying that, you know, we want to create the Wild West out there because, you know, bad things do happen with AI, but we don't want to sort of go in with, with a sledgehammer. I think that's the risk. Because as we've seen in Europe, these companies have pulled out. They've delayed innovations. That hurts consumers. And that sort of ultimately pushes-- you know, innovation, innovation delayed is innovation lost, I think would be my point.

HALLSTROM: And we may be seeing the same thing, you don't want overregulation.

EDWARD LONGE: Correct, that would be my point.

HALLSTROM: Thank you.

BOSN: Your accent is not lost on me.

EDWARD LONGE: It's not from Nebraska.

BOSN: No. Is it from Europe?

EDWARD LONGE: It, it's-- well, not after Brexit.

BOSN: OK. Touche. I was just wondering if they drove you out because of their regulations. Thank you very much for being here.

EDWARD LONGE: Thank you.

BOSN: Next neutral testifier. Seeing no one, while Senator Bostar is making his way up, I will note for the record there were six proponent comments received, seven opponent comments received, and no neutral comments. Welcome back.

BOSTAR: Thank you, Chair Bosn and members of the Judiciary Committee. I don't actually get in front of this committee very often, so it's a, it's a pleasure to be here. I really considered coming up here in my close and just telling you all that, really in truth, the bill was just a, a local economic development effort to get everyone to fly in from around the country to come and, and spend their money at our restaurants and our hotels and really support the local economy. And, and if that was the case, this would be a wildly successful piece of legislation. I appreciate everyone making the trip. You know, this has been an interesting bill to pursue because there are, there are folks who-- I feel a little caught in the middle. There are folks who don't support it because they think it goes too far. There are folks who don't support it because they think it doesn't go far enough. And we've, we've been hearing from them. And, you know, there's folks who have come in, but, you know, we've reached out to other organizations that tend to be more favorable to wanting to see some of these kinds of consumer protection oriented pieces of legislation. And they looked at the bill and, and they thought that it, it didn't go far enough. It wasn't strict enough. It wasn't aggressive enough. It didn't do any of those things. So it's, it's been interesting to be sort of caught in this, in this middle ground a little bit. To speak to some of the opposition, it's a little-- I, I found-- I appreciate the attempts that are made to-- in the same paragraph, say that a problem with the bill is that it's similar to these other bills that other states have passed and it's bad. And the problem with the bill is we don't want a patchwork system. We want everyone to have the same laws. It's a-- I don't know if I could come up here with a straight face and do that. I don't think I have it in me. I don't think I have the talent for it. And I appreciate those that do. It's a real gift. The other thing that I want to draw your attention to is that everyone who came up in opposition identified they had problems and, and none of them had sent amendments over. There's a really good reason for that, because not a single person came up here and said, we have problems. Yes, we, we sent amendments in. We tried to work on this and we couldn't get there so, so we're opposed. Not a single opponent. Every single person that has come-- an organization that has come forward and wanted to work with us and wanted to see edits in the language has gotten what they want. You heard from some of them who came and said, you know, we're neutral and thanks for-- you know, please adopt the amendment when it shows up. You know, we worked it out. Everybody. Now, I'm not promising that everybody going forward is going to get everything they want out of it. But I really do want to remark that everybody who came ahead of time and tried to work on this, everybody got what they wanted out of it. The only people you saw come in opposed are people

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that didn't do that. With that, I'd be happy to answer any final questions.

BOSN: Thank you. Senator Holdcroft.

HOLDCROFT: Thank you, Chairwoman Bosn. Thank you, Senator Bostar. A couple of things. Why do you think this was referred to Judiciary? It doesn't seem to be in our bailiwick. Is that your opinion?

BOSTAR: No, I think this is-- I think this committee reference makes sense. I remember we talked about it in Referencing and I, I was one of the members of the committee who voted to put it in here. So I-- it would, it would be insincere for me to say that I didn't think this was the right committee for it to go to.

HOLDCROFT: Again, I think it would fit better in TNT, wouldn't it? Telecommunications, I mean. Honestly.

BOSTAR: Look, like a lot of bills that we, we get and we have to reference there's a number of places they can go, it's, it's not-- it's certainly not uncommon that there are multiple viable committees for a piece of legislation to go to.

HOLDCROFT: But I was looking through the bill itself and there's actually no-- we're not modifying any current statute. I mean, there are no statute numbers in here as far as adding to its [INAUDIBLE]. This would be a whole new act, I assume we would get a whole set of-- new set of numbers. So there's really no reference of why, you know, it's not like the typical statutes we see in Judiciary Committee. It's just-- it's kind of strange to me.

BOSTAR: These things happen.

HOLDCROFT: OK. Thank you.

BOSN: Senator Hallstrom.

HALLSTROM: Senator, we've had privacy and technology bills referred to Banking Committee. And from my perspective, I can stay late whether I'm in Banking Committee or Judiciary. And I appreciate the fact, would you acknowledge that-- and I think Americans for Prosperity today testified that they didn't have any amendments to your bill because they think there ought to be something different. The Cicero people said we've got some model language and that's all well and good and things that you would, would consider as well to at least look at and see if there's a better, better fix to it?

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BOSTAR: I, I think the, the demonstration that everybody who's brought something forward so far that was in opposition has gone from opposition to neutral, I think speaks louder than any words I could tell you. Of course. Of course.

HALLSTROM: That you're headed, you're headed in the right direction.

BOSTAR: Well-- and, of course, where we want to receive that information, we want to talk about it. We want to consider it. And we want to work with folks to make the bill better and work for more entities, individuals, industries. And I think that, you know, AFP not believing that they can come up with legislation, like amendments, I think it's a lack of imagination and I believe in them. And I think if they really put their head down to it, I think they could.

HALLSTROM: Thank you.

BOSN: My understanding of why it came here is because it refers to responsibilities that would be executed by the Attorney General.

BOSTAR: That is certainly one of the reasons it came here.

BOSN: OK. That's where it came from. Any other questions in light of that? Thank you for your presence in the Judiciary Committee.

BOSTAR: It's good to be here. Thank you, all.

BOSN: That concludes LB642. We will next take up LB172 with Senator Hardin. In anticipation of that, can I see a show of hands how many individuals wish to testify in any capacity on that bill? One, two, three, four, five, six, seven, eight. Eight. Got it.

HOLDCROFT: Should be another half an hour.

BOSN: You're so funny. Welcome, Senator Hardin.

HARDIN: Thank you, Chairwoman, Chairwoman Bosn, and good afternoon, senators of the Judiciary Committee. I'm Senator Brian Hardin. For the record, that is B-r-i-a-n H-a-r-d-i-n, and I represent the Banner, Kimball, and Scotts Bluff Counties of the 48th Legislative District in western Nebraska. I'm here to introduce LB172, a crucial amendment to Nebraska's Child Pornography Prevention Act. This bill is a necessary and timely response to the evolving threats against our children in the digital age. Technology is advancing rapidly, and with it, so are the dangers that exploit the most vulnerable among us. It's our duty to ensure that our laws keep pace with these changes and protect

Nebraska's children from new and emerging forms of exploitation. Current Nebraska law prohibits the possession, creation, and distribution of child pornography. But as technology evolves, so must our legal definitions. Today, with the rise of artificial intelligence, deepfake technology and digital manipulation, criminals can create computer-generated images that are virtually indistinguishable from real children. These AI-generated depictions are used to fuel the demand for exploitation, and our laws must treat them accordingly. Perpetrators are altering or morphing images of actual children. LB172 ensures that all forms of child sexual exploitation are fully criminalized under Nebraska law. LB172 is a necessary update to Nebraska's Child Pornography Prevention Act, ensuring that our laws fully address modern threats posed by artificial intelligence, digital manipulation, and evolving forms of exploitation. This bill makes several critical updates to Nebraska's legal framework to provide law enforcement with the tools they need to prosecute offenders effectively. The bill expands the definition of child pornography to include computer-generated images, videos or content, that depict children in sexually explicit content, ensuring AI and digital alterations fall under existing laws, it defines computer-generated person to include any artificially created human image preventing the use of deepfakes and morphing techniques to circumvent prosecution. It broadens the definition of visual depiction to cover both real and digitally altered images. It refines legal definitions of erotic content and sexual conduct to clarify intent and application. It updates covered offenses to align with Nebraska's existing sexual exploitation laws, ensuring comprehensive enforcement. Technology should never be a shield for criminals. Predators should not be able to hide behind AI, deepfake technology or digital manipulation to create, consume, or distribute child exploitation material. This bill is not just a legal update, it's a moral imperative. Everyday, law enforcement officers, prosecutors, and child advocacy groups fight against the horrific exploitation of children online. But their work is hindered when our laws fail to keep up with technology. We live in a world where artificial intelligence can create images so realistic that the human eye cannot tell the difference. Criminals are using this technology to produce, distribute, and consume AI-generated child pornography. Claiming that because no real child was physically harmed, there's no crime. But let's be clear, this material fuels the demand for child exploitation. It normalizes abuse and desensitizes offenders and emboldens those who would target actual children. Additionally, offenders are manipulating and morphing real images, taking photos of children from social media or other sources, and digitally altering them into explicit content.

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The victimization is real. The harm is real. And, yet, under our current law, these cases can be difficult to prosecute. Let's be clear, this is not a victimless crime. The creation of AI-generated images, videos, or content is used to groom children, fuel a gross sexual attraction to minors, and contribute to an environment where child exploitation is tolerated. Every expert on child safety agrees, stopping this kind of content is essential to stopping real-world abuse. Additionally, Nebraska must act now. While efforts are being made on the national level to regulate AI-generated exploitation, states must lead the way in protecting children. Passing LB172 will ensure Nebraska takes a strong stand against AI-generated and morphed child pornography, setting an example for others to follow. Finally, this is about ensuring that our justice system has the tools it needs. Prosecutors should not have to fight technicalities to bring offenders to justice. And, most importantly, children should not have to suffer because we fail to act. We have an obligation to our children, to our communities, and to future generations to make Nebraska a place where predators cannot hide behind the technology. Passing LB172 is an essential step in that mission. When I'm sitting on your side of the table, I often ask introducers what will happen if this does not pass? What happens if we don't do this? Well, if we don't do this, predators will continue to exploit children. AI and deepfakes will continue to grow and spread. And the job law enforcement will be increasingly difficult and will be seen as a state that had an opportunity to protect children and chose not to act. The Internet becomes even more dangerous for children and, most importantly, more children will be victimized and harmed. The time to act is now. The threats posed by AI-generated child pornography and digital manipulation are real. They're growing, and it's deeply disturbing. This bill ensures that Nebraska remains a leader in child protection and that our laws reflect the realities of the digital world. We have many testifiers here today to speak in support of LB172, included among them is our wonderful Attorney General, an expert from the Nebraska State Patrol, and a veteran of cyber crimes task force officer from the Douglas County Sheriff's Office. I would encourage you to save your legal or technical questions for them, but if you have any simple monosyllabic questions, ask those of me. Thanks.

BOSN: Thank you. Any questions for Senator Hardin?

HALLSTROM: Just, just have one quick question, maybe this falls in the technical. Found it curious that there's a new definition of gambling device under Section 28-1601. Does that have a specific application to the changes that you're making and the gaps that you're filling under this bill?

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HARDIN: Do check the amendment that we're handing out. But, secondly, we are also addressing platforms. And so I'll, I'll leave it with that, let you chat with these people, and we can chat again at the end if the question still lingers.

HALLSTROM: Thank you.

HARDIN: Does that makes sense? Thank you.

BOSN: Sounded not like what he had agreed to answer. Yeah? OK. Any other questions for Senator Hardin?

HARDIN: I'm not an attorney, but I stayed in a Holiday Inn Express last night.

BOSN: I assume you're staying to close?

HARDIN: I am.

BOSN: Great. First proponent. Welcome.

MIKE HILGERS: Thank you. Good afternoon, Madam Chair, members of, of the Judiciary Committee. My name is Mike Hilgers, M-i-k-e H-i-l-g-e-r-s. I currently serve as Nebraska's Attorney General, and I'm here in strong support of LB172. And I want to thank Senator Hardin and his team for their great work bringing this bill. He's been a champion for children in the panhandle and throughout the state of Nebraska and they've been great teammates, so I'm very grateful for this. As Senator Hardin mentioned, this is really a critical update, I think, to our laws to catch up with the technology to help ensure that we're keeping children and communities safe. Two preliminary comments I want to make. Number one, we ref-- we will reference, Senator Hardin referenced, I might reference, the bill references child pornography. Actually, the real term that we use is child sexual abuse material for two reasons. Number one, it is actually more accurate. This is really horrendous stuff. And when we talk about the abuse that's inflicted on children, it's more precise to say (child) sexual abuse material, CSAM. The other thing is that child pornography is a term that actually implies consent, whereas many-- much of this material is-- or if, if not all of this material has no consent. So the bill does refer to child pornography. I think that's how we understand it commonly. But to be very clear, really CSAM is the right way to-- that we talk about it. So I may, I may refer to both, but I'm really talking about sexual abuse material. The second thing is there is a white copy amendment that came down today. You probably do not have a, a copy of that-- bless you-- that's AM193. To the extent that I'm referring any

changes, I'll refer to AM151 which is not a white copy. You may not have that in front of you, but, but just for the record purposes, if I do page and line, I'll be referring to AM151. The amendment is pretty important because it does have a modification, I think, to bring us a little bit more in line with existing Supreme Court case law and for First Amendment concerns. Having said all that, with my time running this does--this broadly does three important changes. Number one, from a technical perspective, it actually puts in for the first time a definition of child pornography into our state statutes. The reason why the bill is as many pages as it is, and I think what you were referring to, Senator Hallstrom, with gaming, there are a number of places where the definition of child pornography in state statute exists, but it hasn't been a defined term. One, one testifier, I think, will encourage this committee to change the definition, the term, the term being defined from child pornography as it currently is, the CSAM, that'd be a change that we-- I would be certainly personally comfortable with. That's number one. Number two, it does catch up our laws with technology with respect to deepfakes. So you-- deepfakes is a term I think most are familiar with, where you might take a picture of someone, a child in this case, may-- or use some body part and then-- but it's not a complete picture of them. They may, you know, put Big Bird's head or something like that. But it is using an actual child's part of their body or their, or their appearance as part of a digitally manipulated photo. So the first way that this catches up with technology is to make sure that is incorporated within our definition. CSAM is maybe legal. The second way is with, with what some might suggest would be sort of purely artificial or artificially created using AI. That also would be, so long as it's obscene, would be included within this definition. And that's really important, I'll get to at the end. There's a few reasons to do that. Some might say, well, you know, it's not a real child's picture. I think Senator Hardin, I think very well stated the reasons to do this-- bless you-- this-- these pictures can help fuel and help normalize this type of activity. In many cases, it can be tied to actual harm of children. These models are trained on actual pictures of children. So even though you might not be able to point to a specific picture and match it up with an individual child, it is actually not technically true that these models are not in some way based on real life images, because the models are-- they are trained off models with real images of children. And from a law enforcement perspective, I can't overstate the impact of a bill like this will have or the failure to pass a bill like this will have on law enforcement. Right now, if, if there's a picture of CSAM that-- or if

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there's CSAM that is identified as part of a-- oh, I'm sorry, may I briefly finish, Madam Chair?

BOSN: Please.

MIKE HILGERS: If law enforcement sees that, one of the initial things to do would be to actually conduct an investigation. Is this child under a current threat? Is this like a trafficking operation? Is there a real child that we need to go save? If this bill doesn't pass, it will only incentivize those to create additional AI pictures, which will only make-- we're already looking for a needle in the haystack to help these children, it will only make, make the haystack that much larger and that much more difficult with the limited resources that we have in the law enforcement community. So I'll stop there. I'm happy to answer any questions that the committee might have.

BOSN: Any questions for Attorney General Hilgers?

HALLSTROM: Attorney General, thank you. My, my specific question. I understand opening up those sections, but there's a new definition of gambling device.

MIKE HILGERS: Yeah, I'll, I'll talk to my team, Senator Hallstrom. I don't think there's meant to be anything substantive, so I will-- and do you have a-- sir, do you have a page and line?

HALLSTROM: Well, in the original bill-- it's in 28-1601.

MIKE HILGERS: OK.

HALLSTROM: I just, I just wasn't making the connection between where a gambling device had any interplay with child pornography, but perhaps it does.

MIKE HILGERS: Well, these, these statutes-- I will say, Senator, these statutes are fairly complex, it's-- and there's a lot of intertwined parts. But we'll look at that offline and get you an answer. But, but I can say that I don't believe there's-- it's certainly intended to be any substantive change to the definition.

HALLSTROM: Thank you.

MIKE HILGERS: Yes, sir.

BOSN: Senator McKinney.

McKINNEY: Thank you. How are you thinking this through with, like, social media, with all, all of the, I guess, let's say guardrails being lifted currently?

MIKE HILGERS: Which guardrail, Senator? I'm sorry.

McKINNEY: A lot of the previous-- like guardrails that were on my Facebook and X or Twitter that were in place are kind of being pulled back.

MIKE HILGERS: Oh, in terms of-- are you referring, Senator, to some of the misinformation.

McKINNEY: Stuff, stuff being shared-- that type of-- yeah.

MIKE HILGERS: Oh, yeah, I understand what you're-- I think there may be-- I don't-- I-- it's a good question. I mean, ultimately, those, those, those companies have to determine whatever guardrails they want to have to, to limit the dissemination. This is a little bit separate because this is a law enforcement function that enables us to, to hold these people accountable. So I'm not sure they're directly tied, but maybe I'm not following the question.

McKINNEY: OK. Another question I was just thinking of, how does this-- how does, like, AI-generated content compared to, like, cartoon content of, of similar, similar in nature compare?

MIKE HILGERS: That's a good question. I think the AI content that you're seeing just as of today, Senator, and there's rapid-- I mean, every time a new model is updated, it gets more and more realistic. The things that you see today are-- can be created that look very real.

McKINNEY: No, I was just wondering--

MIKE HILGERS: I'm sorry.

McKINNEY: --like, if somebody created a cartoon of-- and I don't even want to describe it because it's, it's odd, but just-- you kind of get what I'm trying to say.

MIKE HILGERS: I understand what you're saying. I under-- so it's a great question. It actually allows me to make a point about the, the reason why we-- I emphasize obscenity. So this definition of AI-created content in the amendments, not in the green copy, but in the amendment requires for it to be, to be made a criminal violation.

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It has to be obscene in the first instance. So I can't imagine a world in which child sexual, sexual abuse material isn't obscene. I suppose if there's something that like you're describing, like a cartoon or something, I, I can't-- like to your, to your point describing it sort of makes me uncomfortable, but maybe that's a world in which if it's not obscene, then it wouldn't be, then it wouldn't be criminal.

McKINNEY: OK. And is this just clarifying the definition or is this also, like, increasing penalties as well?

MIKE HILGERS: Well, it would be-- so, currently, anything that's obscene is, I believe, a Class I misdemeanor. So in this case, for this limited set of, if it's obscene and it's also AI-created CSAM, it would be a felony.

McKINNEY: OK.

MIKE HILGERS: So it would increase that penalty. Yes, sir.

McKINNEY: All right. Thank you.

MIKE HILGERS: You're welcome.

BOSN: Any other questions? Perhaps, I misread it. I thought that it was already a felony unless you're under 19 and then your first offense is a misdemeanor and your second is a felony.

MIKE HILGERS: I'm sorry, I'll-- to clarify Senator McKinney's question, whereas my answer was not for possession of CSAM generally, correct, that is a felony. What I'm saying is-- this AI-- so there's, there is three categories of potential CSAM that's being covered here. Number one, it's just an actual child, full stop. That's in law today. No change. The next one is a deepfake, which is some portion of a real child, maybe a face, maybe a body part, but, but created some digitally modified image. That's the middle, that is potentially not criminalized today, would be criminalized under this. But-- and that, by the way, doesn't matter if it's obscene or not because you're using someone's actual face or body part. Number three is AI generated. So not a deepfake, like fully AI generated that is obscene, that third category today is illegal because of the obscenity tie, because obscene material today is illegal, which, by the way, it's necessary, we believe, to ensure that we're following under the Supreme Court precedent that I referenced from 2002, because it's, it's tied to obscenity. That is a Class I misdemeanor. Today, if this passes, it would be enhanced.

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BOSN: OK. That makes more sense. I'm sorry.

MIKE HILGERS: No, I appreciate the clarifying question.

BOSN: Any other questions in light of that? Awesome. Thank you for being here.

MIKE HILGERS: Thank you, Senator.

BOSN: Next proponent. Good afternoon.

MONTY LOVELACE: Good afternoon. Good afternoon, Chairperson Bosn and members of the Judiciary Committee. My name is Lieutenant Monty Lovelace, M-o-n-t-y L-o-v-e-l-a-c-e, with the Nebraska State Patrol and I serve as the director of the Nebraska Information Analysis Center and the Internet Crimes Against Children Task Force Commander for the state of Nebraska. The Nebraska State Patrol rises in support of LB172. Genera-- generative artificial intelligence has revolutionized the use of digital technology and our ability to process and share information. Complex algorithms now make it possible to centralize data and develop thoughts or ideas previously unthinkable. Unfortunately, with any new or innovative technology, offenders use this opportunity to leverage something that is good to exploit and prey on the most vulnerable in our society, our children. The Internet is littered with material and people that are harmful to children. Law enforcement officers across the nation work daily to find and arrest people who are trading child pornography, sextorting children for images, money or self-harm, and arranging offline meetings for sexual assault or sex trafficking. Generative artificial intelligence only furthers the ability of an offender to exploit children by providing the capability to manipulate and fabricate sexually explicit images of children. No longer does an offender need to coerce a child to send a nude photo of them, they can simply, simply take a normal photo and manipulate it to appear nude and then use it to blackmail a child for any number of reasons. According to the National Center for Missing and Exploited Children, there have been more than 7,000 reports of genera-- generative artificial intelligence made to the cyber tip line, which represents what we know. We know from investigative experience these exploitation incidents are underreported, and there are likely many more incidents. The use of generative artificial intelligence to exploit children is here in our state and significantly affecting the health, health, safety, and well-being of our children. The State Patrol has received cyber tips with generative AI and our schools and, and our state-- across our state have dealt with students who have used generative AI

to create nude pictures of classmates and then go harass them with the images. In addition to addressing the use of generative AI to exploit children, this bill would also penalize any offender that knowingly receives child pornography. Current state law states that it is, it is penalized to possess, distribute, or manufacture, but it does not criminalize the actual receipt thereof, which is currently inconsistent with federal law. The lack of receipt in the current law allows an individual to receive child pornography, destroy the, the contraband prior to law enforcement discovery, and ultimately escape prosecution because the individual no longer possesses the contraband. This law addresses those individuals who exploit children and consistently receive no penalty. The Nebraska State Patrol will remain committed to pursuing offenders that hurt children. This bill goes a long way in furthering our efforts to protect kids. And with that, I'd be happy to answer any questions.

BOSN: Questions for this testifier? Senator McKinney.

McKINNEY: Thank you. Just a quick question.

MONTY LOVELACE: Yes, sir.

McKINNEY: Is there a way to find someone who accesses child pornography online?

MONTY LOVELACE: Yes.

McKINNEY: Like, is there a-- is there, like, a process to find them?

MONTY LOVELACE: Yes, sir, there is. There's reactive processes and then there's proactive processes as well. The, the reactive process in identifying those that possess child pornography occurs through our National Center for Missing and Exploited Children. In particular, Nebraska last year received just shy of 5,000 cyber tips from the National Center for Missing and Exploited Children. We go through a vetting process and then assign those tips to our Nebraska State Patrol personnel and affiliates across the state, one of which is sitting behind me today. They use a process of, of reading the cyber tip and then looking at the IP address that's assigned to the tip and then using that to identify people that are possessing the child pornography. There are also other tools out there that allow us to proactively examine the Internet to search for offenders that could be out there possessing child pornography. And that's done with, with a number of tools that I really don't want to expose today publicly. But law enforcement have those available and can use those to, to

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proactively look for individuals that are trading with like users, if that makes sense. But I appreciate the question.

McKINNEY: No problem. Thank you.

MONTY LOVELACE: Thank you, sir.

BOSN: Thank you. Any other questions of this testifier? Seeing none, thank you for the work you do and for being here.

MONTY LOVELACE: All right. Thank you. Thank you, Senator.

BOSN: Next proponent. Welcome back.

DIANNE PLOCK: Good afternoon again, Senator Bosn and committee. My name is Dianne Plock, D-i-a-n-n-e P-l-o-c-k. I fully support this bill and I also want to mention and, and comment on, on some other issues. I have two grandsons, they both have cell phones. I also live across the street from a minister. And I asked my minister when we got to know each other, and I'm kind of getting off track but it's, it's still the same topic here what he counsels basically for at his church. He said you would never guess what I counsel-- the majority of my counseling has to do with. And I said, is it marriage counseling, child-parent counseling, what is it? He said, I counsel young boys, 10, 11, 12 years old, who are addicted to pornography. How do they get addicted to pornography? It's their cell phones. Their parents are probably not monitoring those cell phones. I really don't know. That's the only thing I can think of. But I'm sure that they have experimented as all, as all young kids do. That's one reason I want to do this. And I don't know whether this is AI pornography or the actual stuff. If you're a Christian, too, Matthew 5:5 talks a lot about, I would say, your eyes and feelings that you-- when you see something that you're not supposed to or when you get guilty when you see things that you shouldn't be looking at. And I want to point that out because, as a Christian, I think we need to be cognizant of things that we watch. So, again, I want to support this bill totally. And I also wonder, for those who are addicted to pornography, I think maybe there needs to be something that's done to change maybe the Health and Human Services' regulations in connection with pornography, because when people are addicted to pornography, there's something in their, their brain that changes. The thing is, how can we "unchange" that brain to get it back to a normal situation? And I don't know the answer to that. But it's not just pornography, it would be an addiction to anything. Thank you.

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BOSN: Thank you for being here. Any questions of this testifier? Seeing none, thank you. Next proponent. Welcome.

IVY SVOBODA: Good afternoon, Chairperson Bosn and members of the Judiciary Committee. I'm Ivy Svoboda, I-v-y S-v-o-b-o-d-a and I'm the executive director of the Nebraska Alliance of Child Advocacy Centers here in support of Senator Hardin's efforts in LB172. Our mission to enhance Nebraska's response to child abuse, and which we do in coordination with our seven nationally accredited child advocacy centers, or CACs. In 2023 across all Nebraska 93 counties, the CACs served over 9,200 Nebraska children who are reported to have experienced abuse or neglect. Our member CACs provide trauma-informed services to children and families, including forensic interviews, advocacy, medical, and mental health services as we assist with investigations of child abuse and neglect. The impact of LB172 on children and families served by CACs would be significant in several ways. One, enhanced protection by expanding the definition of pornography or child sexual abuse materials to include computer-generated images. LB172 ensures that all forms of child exploitation are addressed. This is crucial in an era where technology is rapidly advancing and offenders are using sophisticated means to exploit children. Accountability: This bill makes it unlawful to knowingly receive these materials and provides penalties based on the age of the depicted individual. This measure is essential for holding offenders accountable and protecting vulnerable children from extortion. Support and empowerment: The changes aim to provide better protection, support, and empowerment for children and families, ensuring they are informed and their privacy is safeguarded. This can lead to a more secure and supportive environment for those who have experienced abuse. We are encouraged to see this proactive legislation introduced in Nebraska and offer minor but important changes regarding terminology in the bill, specifically changing the use of the term child pornography to child sexual abuse material or CSAM. According to National Center for Missing and Exploited Children, NCMEC, we use the term CSAM. The use of the term CSAM reflects the nature of the crime, which is child sexual abuse, rather than the focus on the medium used to create the material. Child pornography can imply consent, which is misleading and harmful. Also, CSAM is a more precise and universally accepted term and both legal and child protection contexts. The prevalence of child sexual abuse materials, NCMEC reported receiving 35.9 million reports of CPAM-- CSAM last year. In 2023, I mean. Our member CACs work with youth who have had child sexual abuse materials taken of them. Within the CAC movement, we formalized our training of our forensic interviewers and the presentation of this type of

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evidence. And our CAC advocates keep up to date with resources to provide children and families such as how to take action to remove this content online. Along with my testimony, I handed out a fact sheet on child sexual abuse material from our National Child's Advocacy Center. So I thank Senator Hardin, Senator Bosn, and Senator Storer, and other supporters in the introduction of this legislation. We would be happy to work with anyone on any language modifications and urge the committee to advance this.

BOSN: Thank you very much. Any questions of this testifier? Thank you for the work that you do.

IVY SVOBODA: Thanks.

BOSN: Next proponent. Welcome back.

TANNER JONES: Hello again. My name is still Tanner Jones, T-a-n-n-e-r J-o-n-e-s, analyst at Cicero Action. I'll just start by saying agree wholeheartedly, but won't be redundant with others earlier who have suggested the, the change to CSAM. Agree 100% with the set of arguments that they made. But I just want to start out by underscoring the magnitude and gravity of this problem, which is that the status quo we live in now as it pertains to CSAM and child pornography is far worse than at any time in human history. I mean, that any young person is a potential victim given where the technology is at. All you need to do is train a model on one or two pictures, which any-- as everyone of my generation knows, everyone has thousands of pictures of them out on the Internet. So this is actually a gaping hole in not only Nebraska, but really every state is dealing with this problem. But I'll just, I'll just make a set of arguments as to why I'm, I'm really strongly in favor of this. First, is I think this is a proper exercise of legislative authority in AI. Second, is that it actually will hold bad actors accountable meaningfully. And, third, this is archetypal of how I think lawmakers should be approaching AI. But first on this idea of a proper exercise of legislative authority. I think oftentimes when you're dealing with nascent and changing technologies, policymaking is really, really good at problem identification. So here are a set of problems that could emerge: diagnostically gets done well, but prescriptively often the devil's in the details and the tendency is to do a kind of regulatory outsourcing to the executive branch. So this kind of approach where you go into statutes and amend existing code, leaning on the court system, on tort law when necessary, I think that makes a lot of sense and is the, the proper legislative approach when it comes to emerging technologies in AI where often the contours are unclear. But nested under that, there's a few other reasons. First, is

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this is outcomes-based as opposed to capabilities-based, which is really important in AI, in so far as a, a tool and so it assigns the right culpability, is what I'm saying. A nefarious user should be held responsible for doing the wrong things, not a tool that can also be used for lots of really good things or is, or is still innovating. But, second, is holding bad actors accountable. You can imagine circumstances, and we heard from a, a law enforcement officer a moment ago where law enforcement doesn't feel like they have the tools to prosecute an egregious crime or some very textualist judge perhaps feels that they cannot sentence. So it's very crucial to close this gap. And then, finally, this is archetypal of how we ought to approach AI. They-- our model language has a CSAM component that looks very similar to this bill we're trying to push here and elsewhere. But this could also be a launch pad to close other gaps that AI makes point, whether that's revenge porn, self-harm, suicide, etcetera. With that, I'm open for questions.

BOSN: Thank you. Any questions for this testifier? Seeing none, thank you for being here. Next proponent. Welcome.

NATE GRASZ: Thank you. Good afternoon, Chairwoman Bosn and members of the committee. My name is Nate Grasz, N-a-t-e G-r-a-s-z. I serve as executive director for the Nebraska Family Alliance. Parents and families today are facing historically unique challenges and threats to children. The Internet and rapid advancement of artificial intelligence have removed previous barriers to child abuse and sexual exploitation. And our laws have not caught up. Reports of child sexual abuse materials have grown exponentially, with 3,000 reports in 1998, grow into more than 1 million in 2014, and 18.4 million in 2019. With the capacity for AI and computer-generated images of child pornography to now be widespread through the Internet, these numbers are only growing, amounting to an almost unfathomable increase in this heinous activity. The highest purpose of human law is the protection of innocent human life, and evolving threats to children require that we adapt our laws to meet those threats. LB172 does exactly that. By bringing the Child Pornography Prevention Act into the 21st century, the state of Nebraska can help uphold human dignity, protect the vulnerable by closing loopholes for child predators, and empower law enforcement to hold perpetrators accountable. These are critical steps to protect our kids and punish those who seek to exploit and sexualize children. We applaud Senator Hardin for bringing this bill and our governor and Attorney General for their strong support and urge the committee to advance LB172 to help protect children and strengthen justice in Nebraska. Thank you.

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BOSN: Thank you. Any questions from the committee? Thank you.

NATE GRASZ: Thank you.

BOSN: Next proponent. Welcome.

MARK DISHAW: Thank you. My name is Mark Dishaw. That's M-a-r-k D-i-s-h-a-w. I'm an investigator with the Douglas County Sheriff's Office. My command apparently decided to give me one last new assignment since I retire next month and said why don't you go down today and testify for this bill. And I do appreciate Senator Hardin for introducing this, as I do believe it does close a significant loophole. I have been a member of the FBI Child Exploitation Task Force for the last 16 years almost, and have either led or been involved in hundreds of child exploitation cases from all sorts of resources. I'm also a digital forensic examiner with the sheriff's office and have examined hundreds of phones, computers, and have had to also review millions of child abuse material files. These files, you will never get them out of your head. They are everything from infant rape on up. And with today's technology, including AI, where one can self-produce these kind of files to fulfill their gratification means we may not even identify them online anymore. And so without some sort of referral service or someone identifying them and reporting them, we may never even know that they are actually interested in child abuse material. As Lieutenant Lovelace from State Patrol already testified, we do have different resources, including NCMEC and some proactive tools to go about trying to identify them. It doesn't catch everybody. Senator Hardin and others put forth this, as I said, to try and close a loophole in that other jurisdictions as well, from my understanding, will not prosecute those who simply have computer-generated material. In all the interviews I've done with individuals through the years, not one has segregated their sexual gratification that they get from these pictures saying, oh, it's only computer generated or it's not a real child. They are simply interested in seeing a child engage in some sort of sexual act. That's what they are looking for. That's what they produce. To be honest with you, that's their pleasure. For as graphic as these pictures and videos are, if we can prosecute successfully these individuals who are interested in producing their own material and sharing it or receiving it at some point, then that will help us from a law enforcement standpoint. From the digital forensic standpoint, as an examiner going through all these files, I don't have to now try and decipher if it's a real child or something that we can't prosecute on. Thank you.

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BOSN: Thank you very much for your testimony. Any questions? Senator Storer.

STORER: I just want to provide you an opportunity to finish any of the thoughts that you may have had.

MARK DISHAW: I'm a talker so it might take a long time. So I, I think I addressed what I needed to at this point.

STORER: OK. Thank you.

MARK DISHAW: Thank you.

BOSN: Thank you for the work that you do. I know that, that-- I have had a couple of those cases in my own personal-- prior professional experience, excuse me, as a prosecutor. And I know that that is extremely difficult, so. Congratulations on your upcoming retirement.

MARK DISHAW: Thank you.

BOSN: Thank you for being here.

MARK DISHAW: Thank you.

BOSN: Next proponent. Welcome.

MARION MINER: Thank you. Good afternoon, Chairwoman Bosn and members of the Judiciary Committee. My name is Marion Miner, M-a-r-i-o-n M-i-n-e-r, and I'm associate director of pro-life and family policy for the Nebraska Catholic Conference, which advocates for the public policy interests of the Catholic Church and advances the gospel of life through engaging, educating, and empowering public officials, Catholic laity, and the general public. The Conference supports LB172, which would make needed updates to the Child Pornography Prevention Act. LB172 includes realistic computer-generated images as a type of visual depiction that can be recognized in the law as a form of what constitutes child pornography or child sex abuse material. I'm going to skip down a little bit. In its teaching on the family and society, the Catechism of the Catholic Church states that the, quote, the political community has a duty to honor the family, to assist it, and to assure-- ensure especially the protection of security and health, especially with respect to dangers including pornography. It goes on to state that since pornography, quote, does grave injury to the dignity of its participants, actors, vendors and the public, civil authorities should prevent its production and distribution, end quote. If these things are true for people in general, they are true in an

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even greater way for children, especially where the danger goes beyond exposure to pornography, to depiction in pornography, the duty of civil authorities to protect them is serious and urgent. Last year, Pope Francis called on the world to defend love, love of the heart, mind and body against that which would poison the bonds that exist between human beings. Children, those whose minds, hearts, and sense of self are especially vulnerable, must be guarded, particularly, against those poisons which can negatively affect them and their relationships for life. So for these reasons, we respectfully ask you to advance LB172. Thank you.

BOSN: Thank you. Any questions of this testifier? Seeing none, thank you for being here.

MARION MINER: Thank you.

BOSN: Next proponent. Anyone wishing to testify in opposition to this bill?

SPIKE EICKHOLT: Good afternoon, 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 appearing on behalf of the Nebraska Criminal Defense Attorneys Association in opposition to a portion of the bill. I did meet with Senator Hardin last week and explained the source of our concern and shared at least a conceptual amendment to the bill. It was not adopted either in the bill's original form or in the white copy amendment. But what I'm talking about is on-- is Section 5, both of the original bill and Section 5 of the white copy amendment. The original bill I'm talking about pages 7 and 8 and, and the replacement amendment I'm talking about pages 6 and 7. And that is for the crime of generation-- it doesn't really have a title to the crime, the crime is generating or producing child pornography. If you look on, I guess maybe the bill might be easier, if you look on page, if you look on page 7 of the bill itself, lines 14 through 15, that sort of lays out the elements of a way a person commits the crime of generating child pornography. And it says: a person shall be unlawful for knowingly making, creating, publishing-- publish, direct, create, provide, or in any manner generate any child pornography. That's current law, generally. The concern that we have is that the bill equivocates AI-generated child pornography or CSAM, whatever you want to call it, with actual child pornography. If you look on page 8 of the bill, lines 4 through 12, it sort of lays out the different penalty levels for someone who does that. And the law specifically provides for a felony level penalty for an offender who's less than 19. The concern that we have is that you are going to capture children who are 15, 16 years old,

who use a ChatGPT-type AI app because they're curious, because they are interested, or maybe they even want to show a friend child pornography and they're going to get ensnared in this. This state has had some experience with that. And if you look on page-- of the bill itself, if you look on pages 4 and 5 of the bill for the crime of possession of child pornography, we have an affirmative defense for children who do that, and that's to accommodate the sexting instances that happened after we criminalize that. In other words, you had many children who are 15, 16 years old taking pictures of themselves, sharing it with someone who's also a child and then getting caught up in possession of child pornography. Because if it's under 18 and it's, for lack of a better word, sexual in nature, it's a crime. The affirmative defense only applies sort of for the older child and it has to be a-- within 4 years of the person who's got the photo and the person who sort of shared the photo with that child. That's our request that if you are going to capture AI-type child pornography, it's our concern you're going to get children caught up in that. Not the predators, not the real small infant-type thing, we're talking about teenagers doing dumb things with phones. And Senator Bosn is on to something with it on another bill, the industry, the algorithms sort of encourage children to do that kind of stuff with phones. I'll answer any questions you have. That's the source of our opposition to the bill. Just that provision there with an affirmative defense or some accommodation for those child offenders that might get caught up in it, we would be neutral on the bill.

BOSN: Questions for this testifier? I have some.

SPIKE EICKHOLT: Thanks.

BOSN: So I tried to follow you.

SPIKE EICKHOLT: Sure.

BOSN: And I didn't.

SPIKE EICKHOLT: Thanks.

BOSN: But I want-- I, I, I didn't understand exactly what you were articulating.

SPIKE EICKHOLT: OK.

BOSN: Not through lack of effort. What you're saying is that in the sexting cases, two teenagers are in a relationship, one shares an intimate photo as a form of intending to entice the relationship. And

then they break up because they're 12 and they break up a lot. And they-- and then the other individual shares that photo as revenge. Is that the initial sexting issue that you were talking about?

SPIKE EICKHOLT: Not necessarily, because the way the affirmative defense works now, if you look on page 5 of the bill, it sort of lays out starting on page-- I'm sorry, on line 17.

BOSN: Yeah.

SPIKE EICKHOLT: The defendant has to be-- first the defendant has to be a child, so has to be less than 18. So we're not talking about a 30-year-old guy they met online. And the difference between the defendant and the child that's depicted in photos is less than 4 years. And the child pornography was not shared with another person. If you kind of keep on looking there on top of page 6, lines 2 through 4, that it was not shared. It's an affirmative defense for simple possession of the child pornography, not where they share it and it is revenge porn, nothing like that.

BOSN: OK.

SPIKE EICKHOLT: They're somehow caught with it. Because it's-- if it's child pornography or CSAM or whatever you call it, it's not-- it's like kryptonite, you can't have it.

BOSN: Right.

SPIKE EICKHOLT: Right? And, and I don't know all the legislative history on it, but there was a deliberate effort to provide for an affirmative defense for those kids who got caught up with having child pornography because they're children themselves, whatever.

BOSN: Right. Because if one sends the photo to the other and didn't even want it, but they open it, you knowingly opened it, now you're in possession--

SPIKE EICKHOLT: That's exactly--

BOSN: --and in violation. But how is that not accommodated also here with the AI porn?

SPIKE EICKHOLT: Because if you look on page 7, lines 14 through 15--

BOSN: OK.

SPIKE EICKHOLT: --and you imagine the AI component to it, a child who's 15 gets ChatGPT version 4 or whatever, and I don't know what AI apps are there, and asks for something sexual and describes-- I don't know, if he describes another 15-year-old that he maybe has a crush on, something like that, and it's generated in any manner as line 15 provides, he's committed a crime. And you heard from the State Patrol person before, they can somehow detect these things online. And I've had enough cases where they can find offenders who are doing the stuff online. They're not distributing it to other people necessarily, they're not selling it, they're not even letting people know. I don't know all the technology and, obviously, he didn't want to elaborate on the record, but it seems to me if you are doing a ChatGPT-type thing and you are creating or directing the stuff, be created somehow or however you do it, that's a concern we have that you might-- you're going to be exposing-- we're not asking for adult protection, we're asking for something similar that we have for the possession of child porn for young teenager offenders, basically.

BOSN: OK. So it's because in this, as my legal counsel has pointed out, that you're then creating it.

SPIKE EICKHOLT: That's exactly right. And it, and it provides in any manner generating it. So when you-- I've never used ChatGPT. I, I used the free version to try to write a letter one time and it was just-- I didn't like it. So there's a way-- I'm sure you can somehow--

BOSN: You can do it better?

SPIKE EICKHOLT: Well, I certainly think I can. I probably don't. But, but there's a way that you can somehow ask that an image be created. And I think then you've done so in any manner generated. And it's different when you talk about a real child. I understand that. If a, if a-- we're not asking for it under-- and it doesn't exist under current law. If you take a picture, even if you're a child of another child without their consent or whatever, you're creating the child pornography. That's different in nature, in our opinion, than simply using something with-- doesn't have an actual child involved at all.

BOSN: So to some extent I agree with you, but I think the accommodations that this does provide is that their first charge is a misdemeanor and then if they do it again, it's a felony.

SPIKE EICKHOLT: And respectfully, no, it's a Class III felony for a first offense. On page 8, lines 4 through 6 state that if you're under 19, it's a Class III felony. And it's registrable, I think, for life

if at least-- or at least 25 years. In other words, it's got a lesser level penalty for a felony. But the law clearly envisions prosecuting children for this crime. That's our concern if you're under 19, you're 15, you're 16, you're 17, and you're not an-- and you're not an adult.

BOSN: OK. So can you agree that there should be some accountability for generating-- I mean, hey, let's do a PSA. You can't generate this on ChatGPT or otherwise. But-- so is your opposition just that it's a felony, that there should be something lower for a first-time boneheaded teenager or that there should be no consequence, which is where you lose me?

SPIKE EICKHOLT: Well, no, I suppose making it less than a felony would be better, right, and it would be similar to possession. But I don't know if the-- that was a deliberate decision, I think, by the people who wrote this bill to sort of make it a felony, but the concern-- the desire we have is to have some sort of an affirmative defense that's relatively narrow like it is in the sexting statute that would allow for the boneheaded person to at least raise that as an affirmative defense or at least negotiate.

BOSN: But then they could raise it time and time and time again. I mean, how many times can you affirmatively say, whoops?

SPIKE EICKHOLT: Well, I don't lie, at some point you're going to age out of the affirmative defense window if that's what you're concerned about. But I don't know that it's necessarily abused in the sexting prosecutions. Right? I don't know. I know that it was something the Legislature deliberately provided for to provide for that to be raised. And we didn't talk-- when I met with Senator Hardin, I didn't talk-- I didn't offer an actual written amendment. I'm-- obviously, I wanted to see, you know, if he's even interested in entertaining it. So I suggested something similar in concept, because if you look at all of the generation of child pornography, some of it's not going to apply where you publish and distribute it. That's not what we're asking for. But with AI and it's created when you ask for it, when you ask an app to create it, you committed the crime of generation child pornography. And the law has a specific pigeonhole prosecution for children at a felony level. And I-- we-- kids play on computers and are encouraged to do so by the machine, for lack of a better term, to play on phones and do these things. Kids get curious about sex. They want to know what it kind of looks like and they may even have a deepfake with a, a crush or something like that on it. And, and that's a concern we have.

BOSN: Careful what you ask for, though.

SPIKE EICKHOLT: I understand.

BOSN: Yeah. Senator Hallstrom, followed by Senator Storer.

HALLSTROM: Came in late to the dance, but just listening to the, the comments, a defense for the first offense only, would that be--

SPIKE EICKHOLT: That would be-- yeah, that would be something.

HALLSTROM: OK.

BOSN: Senator Storer.

STORER: Thank you, Chairman Bosn. That-- and that may have kind of answered my question. I was struggling a little bit to follow you as well. You know, it seemed like-- your suggestion is not that an individual under 18 years of age should have-- that there should be no consequence or penalty for the creation of pornography.

SPIKE EICKHOLT: Right.

STORER: It's just that you're concerned about the first offense being a bit too--

SPIKE EICKHOLT: Yeah, it's a felony level with-- and bigger thing is you have to register as a sex offender for, I think it's, 25 years, maybe more.

STORER: OK. Thank you.

BOSN: Senator, do you still have questions?

DeBOER: Kind of.

BOSN: Senator DeBoer.

DeBOER: Now, I came in, in really the middle of the, the movie here, but also I helped write the law as we have it now. And one of the concerns at that time, as I recall, and you may recall, that was 2019.

SPIKE EICKHOLT: 2019, maybe.

DeBOER: '19, I think. One of the things that we were concerned about is this relationship between a 16-year-old and a 15-year-old and they have pictures of themselves having relations or whatever--

SPIKE EICKHOLT: Or just pictures of themselves.

DeBOER: --or just pictures of themselves.

SPIKE EICKHOLT: I mean, that's considered--

DeBOER: And that the affirmative defense was an attempt to make sure that you're not putting someone away for a felony for consensual behavior between kids.

SPIKE EICKHOLT: Right.

DeBOER: Now, I think I've heard you're suggesting is that you want to have-- because we wrote that-- we didn't know how to do it and we said what if we made it an affirmative defense?

SPIKE EICKHOLT: Right.

DeBOER: I mean, I remember this process. So-- and the other thing we wanted to make sure is that-- and I have to look at it more closely again, but maybe you can answer this question for me. Does this bill also have if you make a deepfake of yourself or an AI of yourself in a questionable situation?

SPIKE EICKHOLT: And yourself as the-- as a child?

DeBOER: Yeah, if you-- if, if I were 15 and I made a deepfake of myself that was pornographic,--

SPIKE EICKHOLT: Right.

DeBOER: --would that, would that trigger the bill?

SPIKE EICKHOLT: Well, it might.

DeBOER: That's, that was something that I know we were concerned about at the time.

SPIKE EICKHOLT: The focus of-- the section that we're concerned is Section 5 of the bill. And if you look on page 7, lines 14 through 15, that sort of lays out when the crime is committed and it, it-- Attorney General Hilgers talked about deepfakes. If you're a minor and you create child pornography-- and now this bill defines it to include deepfakes, AI, nonchild stuff, that's when the crime is committed. You don't have to give it to anybody. Now, there are other ways you can violate 28-1463.03 by publishing, by distributing, whatever.

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DeBOER: Right, but this was our concern is if you have somehow depicted yourself and another person, but now it would be if you have depicted yourself-- you're a child, you've depicted yourself using AI, is, is it triggered?

SPIKE EICKHOLT: I think you probably would have triggered--

DeBOER: Because it says--

SPIKE EICKHOLT: --and you're kind of at the mercy of being prosecuted. Now, I don't know if yourself is going to necessarily get a citation and a charge. I'll concede that. But it gets a little different if you create-- if you ask for ChatGPT or one of these AI programs to create you with the boy that you have a crush on.

DeBOER: Or even-- and now we're getting technical and so a little bit outside of my wheelhouse, but could you ask one of these programs to depict you with a fictional character?

SPIKE EICKHOLT: Yeah, I'm sure you can.

DeBOER: And in which case, have you created--

SPIKE EICKHOLT: You've generated-- in a manner generated, and if it's sexual in nature, CSAM or child pornography. That's the concern we have. I don't know if it's going to be prosecuted,--

DeBOER: OK.

SPIKE EICKHOLT: --but you recall when the Legislature did the exception in 2019, that was because people were being cited and charged.

DeBOER: They, they were, and we were trying to fix that, and we rewrote this whole statute then. And, of course, we didn't understand what was going to be coming in a couple of years--

SPIKE EICKHOLT: Right.

DeBOER: with AI and so--

SPIKE EICKHOLT: And that's, that's concerns that my members had when we circulated the bill.

DeBOER: OK. I just wanted to get to what we're talking about.

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

SPIKE EICKHOLT: Thanks.

BOSN: Next opponent. Seeing none, and while Senator Hardin makes his way up here, I will note for the record we received 77 proponent comments, no opponent comments, and 1 neutral comment.

HARDIN: Wanted to just say I really appreciate everyone that came to testify both in support of this bill as well as I really appreciate Mr. Eickholt. And he got together and we discussed this in my office, and this is not easy. I, I cannot imagine how the officer from Douglas County did this for years. And Spike and I had a difficult time finding the words, talking about it in private in the office. And so these are tough things. And, yet, these are the things that both kids and parents are dealing with today. This is reality. And so I really appreciate everyone that's participated in this dialogue. Senator Hallstrom, you asked earlier about the gambling piece. It turns out, and this is kind of what we figured out is, there is no change to the definition of gambling device. That was actually in the law and then we arrived after that was already there. And so I can tell you what I was afraid it was about. When we were young, there were pinball machines and sometimes they got racy in terms of the pictures that were on them, and I wondered if that was a part of it. It turns out that's not it at all. It was just something that was there before we showed up, and so the gambling definition that was there before we arrived in that statute is still there. It's the same definition and so we, we [INAUDIBLE].

HALLSTROM: But it's underlined as new, as new language [INAUDIBLE].

HARDIN: And I think it was because we moved it.

HALLSTROM: Moved It.

HARDIN: Yes.

HALLSTROM: Thank you. Thank you for that.

HARDIN: Yeah. So just wanted to address that. And I think we can give you where it was moved to and all that kind of thing, if that's helpful. And I don't know if this is also helpful or not. A-- here's, here's a scenario: A takes a picture of B, A and B have a relationship, they're a couple of kids. The problem is when they share it with C.

DeBOER: Right.

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HARDIN: When we've shared it now with C, we've distributed it. And so that's the challenge. And so we may need to address, did C want that or did they just receive that? And so if we need to think that through. But one of the challenges is, for example, in the case of one young woman that I spoke with, her social media picture of her face was uploaded to a website. She then discovered that someone in her class took that picture and made her star in a porn flick. And then they drop it in the cafeteria. They air dropped it. And so most of the school got to experience this. We have someone who's not involved in a relationship, but that young lady has gone through, now, a couple of years of counseling, spoken with her mother at length. And I've spoken with superintendents of schools and how I wish this was just something in the big cities. It's not. And so we have to address it. In fact, this is the Section 230 stuff that Congress is running from. The only other way to make Congress run away faster is to utter the term health insurance. That makes them run away. But this is the Section 230 [INAUDIBLE] stuff that we find that we're wrestling with in the First Amendment in the 21st century. We don't have the luxury of running away from it anymore. Questions?

BOSN: I guess I might clarify. You don't mean to say you wish it was only in the big cities because you don't wish it was anywhere.

HARDIN: I don't wish it was anywhere. But my, my thinking is, this is something that, gosh, you have to have access to, maybe, tools that we don't have access to in rural Nebraska. But it's-- I've literally spoken with parents in the big cities and parents in tiny little villages.

BOSN: Thank you. I made a mistake and forgot to ask if we had any neutral testifiers. And it turns out that, for fun, we do. So if you would like to close again when they've testified, you're certainly welcome to. We would love to hear from you again. But if you don't have anything further, are there any other questions for Senator Hardin before we pause him and hear from our neutral testifier? Thank you. Come on down. And my apologies.

BENJAMIN RIGGAN: Thank you, Chairwoman-- Chair. My name is Benjamin Riggan, and I'm a professor in the College of Engineering at the University of Nebraska-Lincoln. My testimony today presents neutral information on generative artificial intelligence, how the technology works, its capabilities, and limitations that is relevant to LB172. I'm acting in my own personal capacity as an expert on this topic and not representing the University of Nebraska system or the University of Nebraska-Lincoln. The views I am sharing today are my own and do

not represent any official position of the University of Nebraska system or the University of Nebraska-Lincoln. So, first, I would just like to comment on my extensive experience in AI and, and computer vision. And I've spent roughly 15 years working both in academia and for the federal government working in AI specifically related to a lot of surveillance applications, long-range recognition, nighttime facial recognition, person reidentification, autonomy, image and video analytics, automatic target recognition. Many of these things that require advanced AI solutions, including but not always generative AI. And my first comment is that AI is not truly intelligent. Despite its name, artificial intelligence lacks self-awareness, emotion, intuition, true comprehension. At its core, AI is basically pattern recognition. Without genuine understanding, it struggles with deep contextual knowledge and especially related to this bill, any morality, any moral reasoning. Unlike human intelligence which continuously adapts from minimal exposure to events and circumstances, AI requires massive amounts of data and extensive retraining to adjust and adapt to new knowledge, highlighting the crucial role of human engineering behind the generation of, of these images, this data coming out of the generative AI. Generative AI relies entirely on preexisting data so the AI models cannot create without this prior knowledge, without some actual photographs, without actual video content in order to, to do this. It requires billions, if, if not heading towards trillions of samples to learn these patterns. Any biases in, in this actual data is going to be apparent in, in what comes out of the generative AI. Generative AI is not truly creative. Extensive research shows that it is just reproducing existing patterns and spitting that back out. AI development is driven, is driven by expanding data and high-performance computing infrastructure. Recent AI advancements stem from explosion of large dataset source from open source repositories, the Internet, social media, proprietary datasets, and even synthetic data. And this, this, combined with increasing access to high-performance computing resources makes this readily available, readily achievable. As models grow increasingly complex, they demand even larger datasets reinforcing AI's dependence on vast patterns to generate content.

BOSN: Thank you. Any questions from the committee? I have one. Thank you very much for being here. I found that very informative, and I'm sorry I didn't give you the chance in proper order. So following what you're saying, if this really is AI that is requiring thousands of, of images or something to even get to this point, right, it's a funnel. They take all of them and then they funnel them down. Why would we not

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just regulate or prohibit the AI companies from being able to do this in the first place or should we?

BENJAMIN RIGGAN: Yeah, that's a very good question. I think-- you know, personally, I think regulation is important on this. You know, should these tools at a federal level, worldwide level, not be allowed to produce content with, you know, based off of certain keywords. And in some cases they may be doing some of that. But, but that is a serious concern with related to AI.

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

BENJAMIN RIGGAN: Yeah.

BOSN: Senator Hardin, are you wishing to be heard again? You're OK. You'll waive your second closing, your rebuttal. All right. That will conclude our hearing on LB172. And we will begin with LB383 and Senator Storer. Welcome. Oh, before we get started, can I see a show of hands, how many wish to testify? One, two, three, four, five, six, seven, eight, nine. Perfect. Thank you.

HOLDCROFT: 27.

BOSN: Captain Holdcroft.

STORER: Captain Holdcroft. All right. Are we ready?

BOSN: Yes, ma'am.

STORER: All right. Thank you and good afternoon, Chairman Bosn and members of the Judiciary Committee. My name is Tanya-- Senator Tanya Storer, T-a-n-y-a S-t-o-r-e-r, and I represent Nebraska Legislative District 43. I'm excited to be here today and to be introducing LB383, the Parental Rights in Social Media Act. This is designed to protect children online by requiring parental consent and age verification before minors can create a social media account. We've already heard a lot about the changes that have occurred, are occurring, and, and really what LB383 is attempting to do is just sort of catch up. The impact of social media on youth mental health and safety is no longer up for debate. The evidence is clear. In May 2023, the U.S. Surgeon General, Vivek Murthy, issued an advisory warning finding that the evidence was, quote, ample, that social media presented a, quote, profound risk of harm to the mental health and well-being of children and adolescents. A study of indicators of poor mental health among U.S. girls between 2001 and 2018 indicated a marked increase in reports of unhappiness, depression, and suicidal ideation,

particularly starting in 2012. What is interesting about that year and that period of an increased spike is 2006, Facebook was, was opened up to ages 13 and up. 2008, Facebook surpassed Myspace in popularity and became the dominant social platform and in 2012 acquired Instagram and reached 1 billion users. You can see the trend. So what, what really we want to do in LB383 is to provide for parental consent. The objective is that we need to restore parental authority over their children's social media use. Parents are the best decision-makers for their children's well-being, and this bill provides them with the power to oversee their children's social media accounts and ensure they make healthy decisions. There is no other viable mechanism to prevent minors from opening accounts without parental permission other than age verification. This bill ensures that parents are empowered to protect their children by requiring social media companies to go through parents to verify a minor's age before allowing them to create an account, just like we do for every other industry or product that poses inherent risk, especially for minors. The lack of effective age verification allows social media-- currently, the lack of effective age verification, allows social media companies to allow children to easily access these platforms without any parental awareness. I'm going to go off script for a moment and share a quote that my mom shared with me when I was raising my teenagers and she said, Tanya, you have to get up pretty early in the morning to outsmart a teenager. And whenever any of my kids would get away with something and I would find out later, I was often more frustrated that they, they got it by me than that they did it. But my point in telling you that is that as with many things, it is very difficult, if not impossible, for our parents to keep up with what our kids are doing online, even those parents who are meaningfully engaged. I have spoken with a plethora of parents who in, in, in the conversation about this bill and the need for this bill that almost look at you with pleading eyes and are saying, please help us. There are apps that none of us in this room probably even know exist, but our kids do or our grandkids. And so to try and keep up with, with what, what they're-- what they, what they have an account on, their use of them, when oftentimes we don't even know they exist is virtually impossible. So I'm just going to tell you some of the opposition you're probably going to hear today. You're going to hear some folks come up here and say that this bill is a violation of free speech. They may argue that it restricts free speech rights of minors. However, LB383 does not prevent children from accessing online content. It simply gives parents the tools to give them permission to access that platform. It is not restricting their speech on the platform. Parents should be in the driver's seat when it comes to what their children consume online. You're also going to hear

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some folks probably come up here and express concern about privacy regarding age verification. They may claim that requiring age verification threatens our privacy. One of the questions I've asked and "responded" many times is if they're, if they're as concerned about all of the content that those platforms are currently collecting and holding about these minors, like location and pictures and conversations with people that they don't know. LB383 addresses this concern, however, by mandating that social media companies and third-party age verifiers do not retain any data from the age verification. And, in fact, they can be civilly sued for doing so. Age verification can be done through methods where no personal information is directly shared with the platform. And I've handed out a one page or I guess a front and back page sheet with a little more detailed information on, on how-- on some options for, for age verification that were new to me. I will tell you. LB383 also may include a key safeguard that age verification without identity disclosure, which again is partially described in the information I handed out to you. Age-verification technology such as zero knowledge proof ensures that a user's age is verified without disclosing their identity. This technology has been successfully used in other industries, including adult websites where third-party services validate a user's age without revealing personal data. Any data used for age verification is immediately deleted, ensuring privacy is maintained. This technology is both quick and secure and is already being utilized by gambling, alcohol, and adult websites. And, thirdly, you'll hear perhaps some criticism that government should stay out of it. This is simply the parents' responsibility. And interestingly enough, I agree with that one. And, in fact, that is exactly what we're trying to do, is to give parents the tools to fully be in control of that responsibility. It's exactly why this bill places the power in the hands of the parents and provides them with those tools. Taking away all of that really from the big tech of overreaching into our family's lives. This bill is not about restricting speech, again, it's entirely content neutral. This is about giving parents a say in their children's online interactions and protecting the mental health and safety of children in an era where social media has become increasingly linked to harmful effects on minors. There's going to be several folks come up behind me that will be able to answer perhaps more technical questions. But I guess I just can't emphasize enough that we are overdue. And the other saying that I use often, and many of you may have heard, is to do nothing but expect different results is the definition of insanity. And we see an alarming increase in the mental health of our youth. I had a couple of young ladies in my office actually just yesterday, and I said don't be afraid to tell me if you don't agree with me. I kind of want to-- I'm

sincerely asking for your input. And they thought long and hard and they, and they agreed this was, this was good. And they told me about some stories of their friends that they saw struggling with addictions related to social media. And the one young lady said, I've seen some be able to get a hold of it and do better and I've seen some get lost in it. I think to do nothing on this issue is, in effect, child abuse. Our kids need our help and our parents need our help. And so I will, I will be here for close. I'm happy to answer any questions at this time, though, however.

BOSN: Any questions for Senator Storer? Senator DeBoer.

DeBOER: I have at least one, and if I remember my second one, two clarification questions for you. What happens to accounts that are currently in existence?

STORER: So this bill is not retroactive. It does not-- so it, it would, it would be any new accounts being opened. So it would not require those, those minors currently holding an account to go back and reverify age. So there is no retroactive nature in the bill.

DeBOER: So if an account-- so if I have a Facebook account, I would not have to present information that I am, in fact, old enough?

STORER: No. It is only for new accounts.

DeBOER: OK. Let's say I'm going to get a new account because I don't-- I-- actually, I don't have any of the other ones. So let's say I'm going to do the Snapchat-- people are laughing at me, let the record reflect-- and then I, as an adult person, I would love to say that I am a minor, but I am not that young, I would have to submit my ID in order to open that account.

STORER: So the bill provides for the social media platforms to use-- we're not, we're not telling them precisely--

DeBOER: Right, they have to--

STORER: --how to, how to age verify. So there's options that are, that are reasonable and are effective. So whatever option that social media platform would choose to use, yes, you would have to [INAUDIBLE].

DeBOER: But I can't just verify that I'm old or send them a picture--

STORER: You don't, you don't just get to type in a birthdate.

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DeBOER: --send them a picture with the wrinkles under my eyes?

STORER: Interestingly enough-- I mean, there's more even that I'm not aware of. But one I learned of the other day is there is software now where you can-- it will scan the side of your hand and be able to identify your age with, like, 98% accuracy.

DeBOER: What a, what a time to be alive.

STORER: Right.

DeBOER: So-- OK, so that answers that question. My next question is, you know, where this weird rule in Nebraska where it's 19, so 18-year-olds are still minors in Nebraska, would you consider doing 18 instead of 19?

STORER: And, actually, the bill says under 18. So, really, it's 17 years--

DeBOER: OK. I thought it just says minor. OK. Perfect. That's what I wanted to know.

STORER: Yeah.

BOSN: Any other questions for Senator Storer? Thank you.

STORER: Thank you.

BOSN: First proponent. Welcome back.

MIKE HILGERS: Thank you, Madam Chair, members of the Judiciary Committee. My name is Mike Hilgers, M-i-k-e H-i-l-g-e-r-s. I currently serve as Nebraska's Attorney General, and I'm here to testify in strong support of LB383. And I want to thank Senator Storer for her role in bringing this bill and her-- and for her leadership in helping kids. The Nebraska Attorney General is the chief law enforcement officer of the state, as well as the chief protector of consumers. And it is in those capacities I'm here to testify and tell you my experience with some of the social media companies and what they are doing to children in Nebraska. We are currently engaged in two active litigations, we're a national leader, Nebraska is, against these social media companies. We have active suits right now against Meta and TikTok here in Nebraska. I'm just going to share some of what I have seen and what we have seen, and our investigators have seen, and why this bill is so important. Let me make three points. Number one, there is no doubt that children under the age of 18 are seeing utterly

inappropriate content. We know we have a mental health crisis in the state. We know that we have a mental health crisis for young people in this state and, in particular, young girls. And these companies are fueling that crisis. In our lawsuit against TikTok, we had investigators set up accounts as young as 12 years old, these accounts, no age verifications of any kind. And within minutes, without a search, without anyone looking for anything, these accounts were shown utterly inappropriate material, everything ranging from inappropriate sexual material to videos that were glorifying drug use, things that would drive body dysmorphia, suicidal ideation that would help, help people commit suicide, hide it from their parents, like absolutely terrible things. So, number one, there's no doubt this content is being shown to children. Number two, there's no doubt that these systems are designed to entice children. In fact, you know, as we said in our complaint, some of the documents we saw, TikTok, at least, is designed like a casino. They're designed intentionally to hook kids. So these are not on accident algorithms that are just sort of inadvertently bringing in children. These are by design because some of the most lucrative customers that you can find in this, in this area are children. Number three, these companies are dishonestly representing themselves to the public. They say publicly, falsely, that their sites do not have this type of material. It's not allowed. They work-- it's family friendly. It's safe. When they know that not only is that not true, they know, they know that that's not true. And they know that their parental control systems do not work. How do you address this type of situation? Well, in our office, we're doing what we can enforcing our consumer protection laws and filing lawsuits against these particular companies. Senator Storer's bill goes an enormous way forward to help. Actually, in some cases, you could argue we should just not allow minors at all. But in this case, it is a balance. It gives parents the opportunity to weigh in. It allows for age verification. The last thing I would say from a legal perspective, we stand solidly behind Senator Storer. We've reviewed the bill. If there are tweaks that will help it make-- make it more defensible constitutionally, we'll advise her, and we would support those types of changes. But I will tell you that those who would come and say this is a First Amendment problem, this is unconstitutional, we strongly disagree. Now, we might get some clarity from the Supreme Court on a, on a recent case against a Texas law, an analogous Texas law about age verification in the, in the adult pornography context, we think the court's probably going to uphold that law. Nebraska, by the way, passed a similar law with similar age verification. Senator Murman did it last session. And we think that this is constitutional. So with

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that, I'm almost out of time, so I'll stop and I'm happy to ask any-- answer any questions you might have.

BOSN: Thank you. Any questions for the Attorney General? Thank you for being here.

MIKE HILGERS: Thank you.

BOSN: Next proponent. Welcome.

MARIE BELIN: Thank you. Chair Bosn, members of the committee, thank you for your time. My name is Marie Belin, M-a-r-i-e B-e-l-i-n. I'm a pediatrician from Omaha. As has already been stated, there's a growing mental health crisis in the United States and, unfortunately, our youth have not been spared. 20% of U.S. teenagers aged 12 to 17 suffer from major depressive disorder. After Facebook was launched in 2006, the CDC began to report an alarming increase in the rate of youth suicide in America. The years 2007 to 2021 saw a 62% increase in suicide rates. Not ideation, not depression, actual suicides. And that led to the stunning moment in 2014 when suicide became the second leading cause of death for children aged 10 to 24. Not cancer, not kidnapping, suicide. Study after study in pediatric medical journals consistently documents the relationship between social media, depression, and suicide. Youths who spent more than 5 hours a day online were 71% more likely to be at risk for suicide than their peers who spent less than an hour per day online. A study conducted over 4 years showed an incremental increase in rates of depression for every 1 hour that a child spent on social media. And this was a risk specifically seen with social media. The results could not be duplicated with other screen time use, like video games or television. Experts are also concerned with the dangerous behavior that youth are especially susceptible to via social media. 75% of teens are willing to share their private personal information online, 40% of teens do not bother to enable the privacy settings available on social media, 57% of teens admit to becoming with friends with people they've never met and were only introduced to on social media, and 30% have actually gone to meet those strangers in person. 20% of teens admit to having received unwanted sexual solicitation online, and only 25% feel comfortable telling their parents about it. All of this led to the Surgeon General issuing that advisory warning in 2023, encouraging lawmakers to work to safeguard children and adolescents' mental and health-- mental health and well-being from social media during these critical stages of development. Thank you for your time.

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

ROUNTREE: Yes.

BOSN: Senator Rountree.

ROUNTREE: Thank you, Chairwoman Bosn. Yes, ma'am, thank you for the work you do in pediatrics and for your testimony today. For the numbers and statistic that you gave, are those U.S. wide or are those specifically for us here in Nebraska?

MARIE BELIN: Those were U.S. wide, CDC or the-- like NIH.

ROUNTREE: OK. What about-- do you know about what our rates are here in Nebraska?

MARIE BELIN: It's not any better than nationwide.

ROUNTREE: The same. OK. All right. Thank you so much.

BOSN: Thank you very much for being here. I appreciate your testimony. Next proponent. Welcome.

THOMAS JANOUSEK: Good afternoon, Chairwoman Bosn and members of the Judiciary Committee. My name is Dr. Thomas Janousek, T-h-o-m-a-s J-a-n-o-u-s-e-k, and I am the director of the Division of Behavioral Health in the Department of Health and Human Services. I am here today to testify in support of LB383. The increasing complexities and challenges that social media platforms create for young people and their families have become more apparent. LB383 represents a thoughtful and necessary step towards ensuring minors are protected online, while empowering parents to become active participants in their children's digital lives. Social media platforms are deeply embedded in the lives of young people, offering both opportunities and significant risks. Studies have shown that excessive or unsupervised use of social media can negatively impact mental health, including lower psychological well-being, less curiosity, lower self-esteem, and more distractibility. Furthermore, research indicates that approximately 59% of teenagers report being bullied or harassed online, highlighting the critical need for safeguards. By requiring social media companies to verify the age of users and secure parental consent for minors, LB383 establishes essential protections that mitigate these risks and foster healthy engagement. Key provisions in this bill ensure that parents retain oversight of their minor children's online activity through mechanisms to view posts, control

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privacy settings, and monitor usage. LB383 empowers families to build trust in open communication while fostering a safer digital environment. These measures align with recommendations from the American Academy of Pediatrics, which emphasize the importance of parental involvement in managing screen time and monitoring digital use. Additionally, LB383 demonstrates a commitment to privacy by mandating that identifying information used for age verification is not retained after age verification is complete. This protection aligns with data privacy best practices and addresses concerns about unauthorized data collection and potential misuse. The enforcement provisions of the bill further underscore its seriousness. By providing recourse for violations and penalties for noncompliance, LB383 holds social media companies accountable and sets a precedent that the safety and well-being of minors online is a priority in Nebraska. We respectfully request that the committee advance the bill to General File. Thank you for your time and I'd be happy to answer any questions.

BOSN: Thank you very much for being here.

THOMAS JANOUSEK: Um-hum.

BOSN: Any questions for this testifier? I appreciate your testimony.

THOMAS JANOUSEK: Thank you.

BOSN: Next proponent. Welcome.

JARED HAYDEN: Chairwoman Bosn and senators of the committee, my name is Jared Hayden, J-a-r-e-d H-a-y-d-e-n. Thank you for this opportunity to testify in support of LB383. I'm a policy analyst with the Institute for Family Studies. For the past 2 years, we've been a key driver of legislation designed to empower parents to better protect their kids online. We believe this is a technologically feasible privacy protecting and constitutional bill that establishes long-overdue commonsense safeguards for minors online, empowers Nebraska parents to protect their kids, and hold social media platforms to the same standards as other industries. According to our research, over 80% of parents support requiring parental permission before a minor opens a social media account. Despite the fact that the majority of parents monitor and limit their teen's digital usage, they remain powerless, even with parental controls, to protect their kids from the addictive and destructive designs of social media platforms. This is no accident. For years, social media platforms have known of the harms their products have had on kids. Yet, they have used

parental controls as a way to, in the words of one Washington Post article, absolve themselves while requiring parents to do the heavy lifting. In most cases, these features are simply a way to keep kids online and the cash flowing. In any other market setting, it is unimaginable that children would be allowed to purchase or use highly addictive or destructive products without verifying their age or getting parental consent. In some cases, those products have been deemed illegal for minors altogether. Yet, compared to every other industry, social media companies face effectively no liability for failing to provide such commonsense safeguards for their addictive and destructive products. In the real world, we do not berate parents for failing to try harder or tell them to keep their kids at home when their kids acquire cigarettes. Rather, we have laws that require cashiers to verify the age of the minor before selling them such products. And we hold those cashiers accountable when they don't. When it comes to raising kids, parents need help. LB383 is a chance for legislators to put power-- the power back in parents' hands. This bill not only provides parents the support they need to protect their kids, it is also technologically feasible and constitutional. Thanks to encryption and AI based methods, digital-age verification can occur today without disclosing any personal information at all. This is important because it means that, contrary to the arguments of the bill's opponents, free speech rights are not being unduly burdened by threats to privacy. Having worked for the past 2 years with advocates, tech experts, and constitutional heirs on bills like this, we are confident that LB383 is a technologically feasible privacy protecting and constitutional bill that will empower Nebraska families and hold social media platforms accountable. Thank you.

BOSN: Thank you for your testimony. Any questions? Senator Holdcroft.

HOLDCROFT: Thank you, Chairwoman Bosn. Thank you, Hayden [SIC], for coming.

JARED HAYDEN: Yeah.

HOLDCROFT: You mentioned something here. You said that they-- you could verify the age without any personal information being provided.

JARED HAYDEN: Yeah.

HOLDCROFT: How is that, how is that done?

JARED HAYDEN: Yeah, so there are a few different ways that that can be done. You know, one is zero-knowledge-proof forms of verification.

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This looks simply like basically creating an encrypted key that simply indicates whether an individual is above or below a certain age. So what it does is you take-- some third-party company will look at the actual information that you have, your birthdate, and then it will give you a key and then you insert that key into-- that, that code into a verification process. So in Louisiana, for example, they have a digital ID that does this-- that has this process. So, basically, there's a legal digital ID that is set up by the state. And then what users can do is they can create a key for that data, whatever data they need to put in, and usually a birth date, and then it will create a key and then they can submit that and no personal data ever has to be given to the platform that they're using.

HOLDCROFT: OK. Thank you.

BOSN: Senator Storm.

STORM: Thank you, Chair. Thank you. Does any of this violate people's First Amendment rights?

JARED HAYDEN: We don't think it does, primarily because it's content neutral. This isn't about what people say online, it's about how kids get online. This bill simply requires parental permission, which is, frankly, a long-standing, commonsense practice. We also think that while the Supreme Court has recognized expansive free speech rights for adults, it has never understood these rights to include, say, adults' rights to contact kids or minors or the right of any corporation to exploit kids. And, more importantly, in the recent court case that the AG mentioned here on Paxton versus-- or Free Speech Coalition v. Paxton, the Supreme Court has signaled that there shouldn't be two constitutional orders, one for digital life and one for the real world. Commonsense safeguards, like age verification, are not actually seen as unduly burdensome thanks to these technologies and so we should apply them online.

BOSN: Any other questions for this testifier?

STORM: I've got one last one.

BOSN: Sure.

STORM: Are companies like Meta doing enough to protect kids in your opinion?

JARED HAYDEN: We want to recognize-- our institution wants to recognize that while these companies like Meta have made steps in

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making their platforms safer, we don't think that it's enough for a few reasons. First, Meta is only one company. Right? They released their teen accounts late last year, but that's just one company. There's a lawsuit being-- that was recently brought against TikTok that found that according to internal records, they knew that some safety features that they had introduced weren't actually going to minimize app usage. So it's-- these parental controls are often window dressings. Secondly, Meta only rolled out these-- its teen accounts and basically additional parental controls when the threat of federal regulation was underway. Meta might be an exception, but they actually prove the rule that these companies need to be regulated when it comes to minors using their platforms. And, ultimately, we think even with these new features, there are improvements to be made, which is why we think a bill requiring age verification is necessary. Yeah.

STORM: Thank you.

BOSN: Thank you. Senator McKinney. Sorry.

McKINNEY: Thank you. Oh, no problem. Thank you. I'm just reading Section 3, which says: prohibit social media companies from allowing a minor to become an account holder, account holder unless the minor-- minor's parent consents. I-- I'm just trying to think through process, like a kid could download the Facebook app, and a kid could say I was born in 1990. What's stopping them-- what's stopping that account from opening--

JARED HAYDEN: Yeah, so--

McKINNEY: --if this bill passes?

JARED HAYDEN: Yeah, so effectively what this bill will, will do is it will require some reasonable form of age verification. That's not just checking a box saying-- putting your birthdate in. So you'd actually have to put in some form of information, whether that's a government ID or whether it's an AI-based method or some sort of financial information that proves that you're 18 or older. And so we-- the way the bill is written is that it leaves it for corporations to determine how they're going to do that, whether they want to do that, whether they want to contract with a third party. But the goal here is to move away from just putting in a birthdate and falsifying that information.

McKINNEY: I, I understand that, but like fin-- like financial information on a social media app is scary.

JARED HAYDEN: Yeah. Is your concern around privacy, Senator?

McKINNEY: Definitely.

JARED HAYDEN: Yeah. Yeah. I, I think those are-- like, I understand those concerns, but, frankly, these are companies that know everything about you. They know more about you and I than any other organization if you are simply a user.

McKINNEY: True. But what I'm trying to-- but I-- but that's, that's interesting that-- but I don't want to-- but when I signed up for Facebook, I didn't give them my Social Security number, although they might know everything about me, I didn't openly just--

JARED HAYDEN: Right.

McKINNEY: --hand over my Social Security number [INAUDIBLE].

JARED HAYDEN: Yeah. So one of the things we think is really great about this bill-- or two things. One, that it doesn't require, actually, any particular form of age-verification method. Again, there are ways to do this without actually putting in that information whatsoever. So there's one AI-based method that, as the senator who introduced the bill mentioned, just simply by moving your hand or taking a kind of a, a scan of your hand, which it's done to be privacy protecting. So the quality of the scan is such that it can't register any fingerprints and it has a 98% accuracy rate. So-- and they can determine age down to, like, 3 months of a person's age. So that's one. There are methods to do it without disclosing any information.

McKINNEY: By your hand?

JARED HAYDEN: Um-hum. Yeah. Yeah, it asks for a few hand movements. Yeah. The sheet that-- from the AVPA, the Age Verification Providers Association.

McKINNEY: That's scary, actually.

JARED HAYDEN: So that's one thing. The other thing around privacy is that, yeah, we, we think that, ultimately, this is a way-- well, it's, it's privacy protecting because it actually holds these companies liable for the information that they collect so they can't retain that information. There are ways to strengthen that privacy if, if people are really concerned. There are other bills that have other language that even restrict the processing of data such that it can only be used for age-verification purposes, which we think is implied in the way the bill is written. So there are ways to actually do this-- well, the way that it's written is that it actually holds these companies

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liable for the information they do collect. They're not going to-- like, if they share this information or use it for their own purposes, they can be sued.

McKINNEY: OK. I do have one last question.

JARED HAYDEN: Yeah.

McKINNEY: I know in Europe they got-- they have stronger restrictions, especially like for younger people. What, what are they doing that we're not doing?

JARED HAYDEN: I know that some of them actually have used these AI-based methods. I know that in the U.K., they do-- they'll basically-- you'll take a picture of your driver's license and then a selfie, and then it's not-- none of that information is stored and it's with a, a third party. I know that, yeah, there are other companies-- other countries that have used these companies that do AI-based methods like the hand method that don't store any information. So this is a way for us to, to be proactive here in the U.S., here in the state of Nebraska, to actually protect our kids online.

McKINNEY: All right. Thank you.

JARED HAYDEN: Yeah.

BOSN: Any other questions of this testifier? Senator Rountree.

ROUNTREE: Thank you so much, Chairwoman Bosn. Digital information, you said none of this is stored. So is digital information ever really, truly deleted?

JARED HAYDEN: Yeah, we think that these third-party verifiers, people who are in that verification business, especially with-- when bills are passed that hold them liable for the information, that hold them liable for how they collect the information, what information they collect. We actually think that they have a business incentive to ensure that they're being trustworthy. If they're not, that undermines their entire business model. So there are, there are a number of ways that-- obviously, those are our concerns, but we think that the industry is set up to actually ensure that privacy will be protected on these on when it comes to collecting information and processing information. And, again, if, if folks want language, we're happy to have conversations with people if there are concerns or people, you

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know, want to even make it stronger. But I think what we have is a good law that can insure and hold them liable.

ROUNTREE: Thanks so much.

JARED HAYDEN: Um-hum.

BOSN: Senator DeBoer.

DeBOER: Thank you.

JARED HAYDEN: Um-hum.

DeBOER: So as I've been thinking about this, I like the idea. Let me preface it with that. Will we not have kids just getting around it by, like, stealing their mom's ID out of her purse, putting it in, opening the account. Like, since it's not every time you get into the account, which I, by the way, don't want to do because that would be a pain in the neck. Aren't they going to just get around it?

JARED HAYDEN: Yeah, that's a good concern. We think that when it comes to bills like this, that this is just one level of the stack, right? There are a bunch of different ways to tackle this issue, whether we're talking social media websites, right, whether we're talking about adult content sites like pornography, whether we're talking about the App Store itself. Right? Age verification, there, there are a variety of methods here. We think that really there are going to be cases where that's true. But actually the good that's done by this bill is going to be far reaching than those cases where kids are trying to get around.

DeBOER: You don't think that when faced with that obstacle that the kids will just-- I mean, if they're-- I mean, how many generations of kids-- not me, because I was a good kid actually, which will not surprise some people in this committee, but how many generations of kids had fake IDs and had them all before they were supposed to?

JARED HAYDEN: I think at the-- I think at the--

DeBOER: I'm not saying it's a bad idea.

JARED HAYDEN: Yeah. Yeah. Yeah.

DeBOER: I'm saying I don't know how much-- I'm-- we, we certainly need to do other things. Go ahead with what you were going to say.

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JARED HAYDEN: Yeah, I think, I think you're-- you know, this is the nature of being a teenager, you know. We get around what our parents set up. But I think, I think the exception or the abuse doesn't rule out the proper use of the thing. Right? Parents clearly need help in having a backstop when the parental controls fail, which they do. Right? And so this is a way to create that stop. And will there be kids that get around it? Sure. Like kids will-- kids who want to do it, will do it if they can get a hold of it. But the other-- one of the other things that's really good about this bill is that the parent can revoke that access. And maybe, you know, what that looks case to case, family to family, I, I don't-- you know, who's to say, but I don't think the misuse of or the way that kids might try to get around that negates that this shouldn't be something that legislators do.

DeBOER: You could also say, well, if you didn't drink before you were 21, then it obviously worked. Thank you.

BOSN: Any other questions for this-- oh, sorry, Senator McKinney. I apologize.

McKINNEY: Thank you. What do you think about, like, the free speech arguments? Because I know there's, like, cases and I think there might be some cases in the Supreme Court around this whole issue around free speech.

JARED HAYDEN: Yeah. So as I mentioned earlier, we don't actually think that this-- the, the central concern is that this unduly burdens free speech, whether that's minors, whether that's adults. We think that, frankly, because of the way that technology exists today, it's not actually burdening, it's not actually chilling free speech rights. I think, again, the Supreme Court hasn't-- minor rights are, are a whole separate conversation that others could answer far better than, than I. But I think it's safe to say that the Supreme Court hasn't recognized that these free speech rights are reasons for corporations to be able to access data about kids and exploit them through their platforms. So I think that there's a good chance, based on the way that the Free Speech Coalition v. Paxton case at the Supreme Court, the arguments went there, I think that there's a good case that the Supreme Court will recognize that these commonsense safeguards are not burdensome. They're-- they should be applied in our digital lives just as much online-- in our real life.

McKINNEY: Should we wait on the Supreme Court to rule?

JARED HAYDEN: We don't-- we think that it, it's looking positive. So--

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McKINNEY: I, I get that. But it's not a given, cases are never a guarantee. I'm, I'm just wondering if we--

JARED HAYDEN: We think that kids need to be protected and that laws like this should be passed.

McKINNEY: Yeah, I know. But then if we passed this and if the Supreme Court says it's unconstitutional, then we're going to have to come back and roll it back. That's, that's my, that's--

JARED HAYDEN: That's, that's always a risk. But we think that when it comes to, when it comes to protecting kids, that the free speech concerns do not hold up on this.

McKINNEY: Thank you.

JARED HAYDEN: Yeah.

BOSN: Any other questions of this testifier? Thank you for being here. Next proponent. Welcome back.

NATE GRASZ: Thank you. Again, Chairperson Bosn and members of the committee, my name is Nate Grasz, N-a-t-e G-r-a-s-z. I'm testifying in support of LB383 on behalf of the Nebraska Family Alliance and the thousands of families we represent who believe that parents and not big tech companies should have the right to decide when their child is ready for social media. Social media platforms allow children to create accounts without parental consent, exposing them to graphic and sexually explicit content, cyberbullying, and what is ultimately an intentionally addictive product. And the results have been devastating. More than a decade of research confirms what we inherently know to be true. Social media harms kids. Teenagers and children are more depressed and anxious than ever before. And we now live in a country where 11-year-old girls are committing suicide. This is not normal. These problems trace back to the same thing, the root design of social media platforms. You may hear opposition today from those who have a stake in maintaining the status quo, arguing the bill infringes on privacy and free speech rights. Social media is not a traditional public forum. This is a predatory industry similar to casinos and big tobacco that preys upon human vulnerabilities, especially those of children in order to maximize profits. There is not a product or service on the market today that causes a fraction of the risk that social media poses to children that we allow kids to access, let alone use without parental consent. This bill is entirely content neutral, nor does it prohibit anyone from accessing social

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media. Just as states require parental consent for kids to sign waivers or contracts, states may require parental consent for kids to create accounts where they must agree to a private company's terms of service. The bill requires age verification be done in a manner that preserves user privacy, which can be done quickly, securely and constitutionally, just like we do to purchase alcohol or see a rated-R movie, and just like other websites are doing currently. Prior court rulings are based on facts about technology that are no longer accurate, and the legal landscape is shifting to recognize these massive changes. Due to a case heard before the U.S. Supreme Court just last month, legal scholars agree the court is poised to uphold age-verification requirements for sites that pose severe risks to children. Ultimately, the same arguments against this bill are the same arguments that were made to this committee last year in opposition to age verification for pornographic websites. Senators chose to protect kids, and that law is in effect today. So we are asking you to again stand with parents to protect our kids by implementing commonsense standards for social media use. Thank you.

BOSN: Thank you. Any questions for Mr. Grasz? Thank you for being here.

NATE GRASZ: Thank you.

BOSN: Next proponent. Welcome back.

MARION MINER: Thank you and good afternoon again, Chairwoman Bosn and members of the Judiciary Committee. Excuse me. My name is Marion Miner, M-a-r-i-o-n M-i-n-e-r, and I'm associate director of pro-life and family policy at the Nebraska Catholic Conference, which advocates for the public policy interests of the Catholic Church and advances the gospel of life through engaging, educating, and empowering public officials, Catholic laity, and the general public. The Conference supports LB383, which would require social media platforms not to allow minors to create new accounts without the express permission of a parent. And for those of you like Senator Bosn and Senator Hallstrom who were present at the hearing for LB504 in Banking, Commerce and Insurance, this is going to sound very familiar, but our reasons for supporting two bills are fundamentally the same. The human person is fundamentally social and relational. Each of us is born into a world thick with relational ties that we need in order to fully develop. These relational ties, familial, cultural, social and otherwise, protect, guide, and influence us our whole lives. But especially when we are young. They help us make sense of ourselves, of others, and of the world. The people with whom we have these ties teach us over time

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who we are and how to navigate the dangers, opportunities, and relationships of life with skill and attention. The online world is a largely unregulated environment, artificially free of familiar social ties and guidance, but it is full of other actors. Some of these actors intend to cause harm. Others have jobs that consist of pulling people into traps of addiction and emotional dependency on their products. These products are, in many cases, built on the mirage of curated identity creation that is only possible in an online world, but has consequences for a person's image of self and others that carry over into real life. Nearly all of us, younger people especially, spend a great deal of time online. It is formative for better or worse. Some of the time and the experiences a child or an adolescent can gain online are tremendously helpful. But this environment also carries with it a very high risk of serious harm in the development of a person's sense of self and of relationships with others. LB383 is an important step toward limiting those influences on children and returning control to their parents who are best equipped to help them navigate it. And for these reasons, we ask your support for LB383.

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

MARION MINER: Thank you.

BOSN: Next proponent. Next, we'll move onto opponents. Anyone wishing to testify in opposition to this bill?

RUTHIE BARKO: Madam Chair, thank you for the opportunity. My name is Ruthie Barko, R-u-t-h-i-e B-a-r-k-o. I am TechNet's executive director for the Central U.S. We share the commitment of the bill author to provide a safe and secure online experience for children. TechNet members strongly believe that children deserve a heightened level of security and privacy online, and our industry is actively working to incorporate, incorporate productive design features. However, we do not agree that stringent age verification accomplishes this, nor does it provide a policy solution to the state of Nebraska on this important issue. Hence, we respectfully oppose this bill and seek to work with the sponsor and the members of this committee to find alternative policy proposals that address our shared concerns. Stringent age verification to access online platforms requires the collection, processing, and storage of user's sensitive, personally identifiable information, and it should be avoided. Age verification conflicts with data privacy best practices like privacy by design and data minimization under Nebraska's own Data Privacy Act passed just

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last year. Increased collection of data also puts users at risk by creating new vectors for fraud. With this bill's requirements, every Nebraska resident, including parents and guardians, must submit more sensitive personal information online to open a new account. We would also raise the extremely limited timeline for defining parameters of the law's age-verification requirements with an implementation in less than a year from now of these significant requirements. It cannot be understated how burdensome that requirement and timeline is for companies having to implement processes, on board necessary vendors, and otherwise comply with completely new legal requirements for just one state. The private right of action in this bill also imposes a punitive amount of new liability that could have many unintended consequences. It allows plaintiffs' attorneys to challenge the sufficiency of a company's age-verification parental consent processes and filtering efforts, giving them the ability to pounce on any single mistake. A PRA sends the wrong message to any company looking to do business in the state of Nebraska. Finally, as you've been made well aware, there are insurmountable constitutional issues with this bill. No similar legislation requiring parental consent and age verification for minors for online social media platforms has survived a court challenge and we do not see any reason to believe that this law will be any different. Rather than passing a bill that faces all but certain enjoyment, Texas would like to work with the sponsors and members of this committee to find an alternative legislative solution that will actually make a difference for Nebraska families. We ask the committee respectfully to not advance this bill, and I'm available for questions.

BOSN: Questions for this testifier? Senator Holdcroft.

HOLDCROFT: Thank you, Chairwoman Bosn. And thank you for coming to testify. We heard from an earlier testi-- testifier that you could use a trusted third-party agent to generate a token that then you could use to open up these and not have to provide a bunch of information. That's not something that you have confidence in?

RUTHIE BARKO: Thank you, Senator Holdcroft. There's a number of different options available. There's even some that can, from the-- your keystrokes and the way you type it can estimate your age. There's a lot of-- there's a range, too, from age estimation and age assurance to actual verification. So especially with-- they probably work very well, I think we overall have concerns with having extra data stored under the requirements of the Nebraska Data Privacy Act. All companies that process or hold consumers' data are supposed to be abiding by data minimization. And this bill really goes against that in so many

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ways. The other thing I would point to with age verification is that the reason why age verification for something like a pornography site stands under the First Amendment is because it's narrowly tailored to a purpose versus age verification and requirement for anything that a minor can access online is not narrowly tailored under the purposes of the Supreme Court test.

HOLDCROFT: Thank you.

BOSN: Senator Hallstrom.

HALLSTROM: You indicated the difficulty with accommodating these types of changes for a single state, is there no other state that's passed something similar to this?

RUTHIE BARKO: Correct, Senator Hallstrom. Other states have passed it, but the, the courts have struck down all of them. None of them have been able to be enforced.

HALLSTROM: And so in every state where a similar law has passed, there's been legal challenges. And has your organization participated in those challenges or who's led the charge?

RUTHIE BARKO: We have not, Senator Hallstrom. We are a policy organization.

HALLSTROM: So you would expect if we pass legislation, most assuredly it will be challenged?

RUTHIE BARKO: From what we can tell, given what's happened in other states.

HALLSTROM: Thank you.

BOSN: Senator McKinney.

McKINNEY: Thank you. Appreciate it. Do you think this bill could infringe on minors' rights to private speech and association?

RUTHIE BARKO: Senator McKinney, we do. This is not new in Supreme Court precedent. I believe it was Justice Scalia who there was a 1990s case-- and I'm blanking on it, I can get you the citation-- where he spoke as a conservative justice that minors' First Amendment rights are not precluded by parental consent. And that was based off of a California law in the '90s where they were-- at that point, it was video games, right? So everyone was focused on making sure that minors

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couldn't play video games. I believe that case in the '90s was that California enacted a law prohibiting certain video games by age. And as a conservative justice, he was speaking about the fact that minors have unalienable free speech rights that precluded access. In this case, I mean, you could think of an instance where, you know, a parent doesn't want their child to know certain things about certain communities or get educated on certain political things. If they're stopping their minor from having a social media account because of those reasons, that minor's First Amendment rights have, indeed, been taken away.

McKINNEY: All right.

RUTHIE BARKO: And not just right to speech. You're talking about right to assemble, right to petition, right-- you know, all those other.

McKINNEY: Do you think this bill with the age requirement, it may chill free speech by forcing users to reveal their personal information before speaking?

RUTHIE BARKO: That, Senator McKinney, I do not, because you're already identifying yourself on these platforms in some way, either with your actual name or an alias or-- so I do not think that is the First Amendment risk. But I am not a constitutional attorney.

McKINNEY: All right. Thank you.

RUTHIE BARKO: Yeah.

BOSN: So you submitted a letter in opposition to my bill earlier this week, which means you weren't there to testify, which is unfortunate, because I would have had a lot of great questions for you. Did you have an opportunity to watch that hearing on LB504?

RUTHIE BARKO: I did not in its entirety, and I could only join later on it, so I did not catch it.

BOSN: OK. So a lot of these same issues you raised then that you're raising now, and while my bill is slightly different, its goals are certainly the same. And it sounds as though you agree that this is a cause worthy of making those efforts. Can I assume that you have draft legislation for Senator Storer to consider that would accomplish her goals and that you would support?

RUTHIE BARKO: Thank you, Chairwoman, and thank you for bringing up LB504 as well. We have shared concerns on both for similar reasons. So

we appreciate the opportunity. One thing we have thought about, and I believe that has been raised, looking at the children's data privacy laws that have been passed by a number of states that take the existing data privacy rights for any of us right now under Nebraska's Data Privacy Act, we have-- and I had to put this in notes because-- OK, so with the rights to access your data, correct your data, delete your data, all of the things that you can already do, you have the right to opt out of targeted ads. You have the right to opt out of the sale of your data. As adults, these are all the rights that we have. Under a children's data privacy law that's layered on top of that, which is something that Nebraska could do, it provides an additional layer of protection specifically for minors, so it's not prohibiting what they can access and what they cannot. It regulates how they're treated on these platforms. And we think that that could address a number of concerns that have been raised by the proponents of this legislation, by the sponsor in their efforts to pass it, because you need additional consent. You can't just-- it's not just opting out. There's additional regulations on targeted ad sale of data, profiling for certain automated decision-making, processing longer than reasonably necessary to provide the product, service, or feature. You cannot have the [INAUDIBLE] geolocation unless it is reasonably necessary to provide product service features extended use, any design features to significantly, significantly increase or extend a minor's use of the online service product or feature is prohibited and regulated under these bills. So that is something that we-- when we said we had other legislative options, we think there are other pieces of legislation that states have looked at. We think the children's data privacy laws would be a great place to start.

BOSN: But have you provided those to Senator Storer?

RUTHIE BARKO: Out of the time with preparing for this hearing, we have not.

BOSN: And you didn't provide them to me, right?

RUTHIE BARKO: Again, just not out of an unwillingness to want to work with your office, just because of the time with trying to get ready for the hearing. And I didn't even submit that letter on time, actually, for the hearing.

BOSN: And that's fine. But I think the frustration that we had in that hearing and that I have today is that you guys come in and say, whoa, whoa, whoa, pump the brakes. We can't do this. And we're saying we're doing this, our kids are worth it. And we're tired of waiting for you

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to do it. We're going to do it ourselves if you're not going to do it. And then you come in and say, well, we'll bring you the legislation. We'll do it next year, though. And that it won't be you in that chair next year, it'll be someone else and they'll say we've got better legislation than this. We're going to do it next year. And we aren't going to wait for that. So if you have it and it's great, I would suggest sending it. Because in that particular hearing, one of the comments that the senators had was, if, if you're willing to come in and tell us it's unconstitutional and that it can't be done, that can be done in an email and you can file those lawsuits and say it's unconstitutional and have saved yourself a trip. Because if it truly is unconstitutional, we can pass it and you have nothing to worry about. But you're here, which lends me to believe you do actually want to solve the problem. But we're not getting any language that gives us that ability to do it. Because I have kids, several of us here have kids or nephews or grandkids, and we're scared for what's coming. Because while these-- social media does have positive-- you know, there are very positive things that go with social media. I can't keep up with it. These guys are telling us we can't keep up with it. We have, I think it was, 77 letters in support of this from parents saying we can't keep up with it. And you're saying, oh, but there's guardrails already. Well, they're not working. So we need something. And so I'm asking you to give it to us. I don't have anything else unless anyone else. Senator Storm.

STORM: Thank you. Thank you. Let's talk about TechNet. That's your company, right? So what's, what is TechNet, exactly?

RUTHIE BARKO: Senator, we are a trade association. We represent 95 tech companies. We're structured with memberships.

STORM: So I'm on your website, right, so Meta is one of the companies that's part of your TechNet, right? And so [INAUDIBLE]. So what's Meta scared of, I guess, as far as, as passing some type of legislation to try to help protect kids?

RUTHIE BARKO: Senator, I cannot speak specifically to any one member on this, but our concerns of all of our members, beyond even just the social media platforms that age verification is just not something that states should be mandating apart from the First Amendment rights, but also because of the burdens of enacting those technologies and mandating them, and then also because they do conflict with the principles enacted and the requirements enacted by data privacy laws, which now 22 states have and counting.

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STORM: So are they going to lose money? Is that part of it if this gets enacted? Does it make it more difficult for them to have new people join Meta if they're young or-- just trying to figure that out?

RUTHIE BARKO: Senator, that is not one of the concerns that has been shared with me, and that's not how we work on these issues. Because from a policy perspective, we are-- our members, and they spoke to that, we actually have a page on there as well about all of the ways that our members are actually working to address this problem because it is something that they are committed to and that they have invested millions and millions of dollars of capital investment to create new forms of account, new layers of privacy, new layers of security around them.

STORM: So why can't they come up with some policy to help Senator Storer then? If they invested millions of dollars into this, why can't they come up with something to bring to Nebraska?

RUTHIE BARKO: I, I, I do believe that some of the-- that the programs and policies and security measures that our members are creating do address many of the concerns shared by Senator Storer.

STORM: So we'll say this passes and it-- someone-- there's a lawsuit against it, would Meta bring a lawsuit against it or one of your other members from TechNet?

RUTHIE BARKO: I can't speak to their legal operations. In the past, it has been other public advocacy groups.

STORM: Right. And then if it's upheld and this is constitutional, this could be a beacon for other states. And when you go testify against that, you could say look what they did in Nebraska, so. That's all I have. Thank you.

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

RUTHIE BARKO: Thank you.

BOSN: Next opponent. Welcome back.

HOPE LEDFORD: Good afternoon. Thank you, Chairwoman Bosn and distinguished members of the Judiciary Committee for the opportunity to testify today. Again, my name is Hope Ledford, H-o-p-e L-e-d-f-o-r-d, and I'm here on behalf of Chamber of Progress. We are a tech industry coalition promoting technology's progressive future. Our partners include innovators like Google and Apple, but they do not

have a vote or veto over our policy positions. I want to start out by emphasizing that we share the goal of making the Internet safer for young people. Protecting kids online is critical, but LB383 takes the wrong approach, one that compromises privacy, harms vulnerable youth, and raises serious First Amendment concerns. First, while it is important to encourage parental involvement to ensure minors' safety online, parents are not always the best suited to control how their child uses the platform. This bill empowers parents to arbitrarily revoke access to social media, which can be weaponized in custody disputes or abusive households. According to the CDC, over half of teens experience violence or psychological abuse at home. For many, social media is a vital source of support, connection, and even crisis intervention. Cutting off access could leave vulnerable youth more isolated and, and at risk. According to the American Psychological Association, online interactions can be particularly beneficial for youth, quote, particularly during periods of social isolation when experiencing stress, when seeking connections to peers with similar development and/or health conditions, and perhaps especially for youth who experience adversity or isolation in offline environments, end quote. Second, LB383 requires platforms to use age-verification methods, including using third-party vendors applicable to all users, which is a tremendous encroachment of individual privacy and acts contrary to data minimization efforts. Adults who don't want to share sensitive information online may be forced to either hand over their data or stop using these services altogether. Worse, requiring platforms to store this information makes them prime targets for cyber attacks, putting millions at risk. This is not a theoretical threat. Recently, a company that offered verification services to online platforms was found to have left personal data unprotected, threatening the privacy of an untold number of users. Lastly, this bill raises serious First Amendment concerns. Recent rulings from courts in Arkansas, Utah, Mississippi, and Ohio underscore the principle that regulatory measures impacting the core editorial and curatorial functions of social media companies, even when intended to safeguard young users, are subject to rigorous constitutional scrutiny under the First Amendment. The courts have reaffirmed that access to lawful online content, regardless of age, is a protected right, protected right. We agree with the need to build greater protections for young users, but this bill's requirements would guarantee protracted litigation without advancing child safety. For these reasons, we respectfully urge you to oppose LB383.

BOSN: Questions from the committee? Senator DeBoer.

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DeBOER: Thank you. I-- so I'm trying to understand your argument. I think I heard you say that they were going-- that, that we don't want to have folks turn over sensitive data. Did you say that?

HOPE LEDFORD: Yes.

DeBOER: What I see in the bill is a requirement that you have to show your age. Now, at this point in my life, that might be sensitive data to me, but I don't think we typically call that sensitive data. What, what are you referring to when you're saying sensitive data? Since all we're asking for is perhaps a driver's license and I don't think that that's particularly sensitive data.

HOPE LEDFORD: For example-- thank you for your question, Senator DeBoer-- I think for the concern about requiring government-issued IDs is not everyone has a government-issued ID, so if you don't-- if a parent doesn't have a government-issued ID, then that prohibits them from being able to grant or to not grant access to-- for social media for their child. Also, your--

DeBOER: Wait. Let's take that. First, I would say I think that's a different argument than a sensitive data argument. And that is an interesting argument to me because that would say there's a certain class of kids who wouldn't-- and, and, actually, not just kids, but anyone who doesn't have a government-issued ID might have difficulty with access. But you heard the senator say there will be or could be alternative forms of age verica-- verification. And I will tell you, I do not imagine that anyone considers a video of their hand waving around to be sensitive data. So I think you have two issues here. One is, not everyone will have access to social media because not everyone has a government ID. That's an intriguing argument to me. I'll think more about it. But now I want to know what sensitive data you think might be accidentally given to someone or accidentally on the Internet because of this age-verification requirement?

HOPE LEDFORD: For sure. So as you're referring to, there are a lot of biometric ways that third parties have used to verify ages. And I know a lot of people would not, including adults, would not want their biometric data stored by a third-party vendor or by a platform. Additionally, I personally wouldn't want my-- my driver's license has my address on it. I personally wouldn't want to hand over that information to a third-party vendor. So situations like that.

DeBOER: But, wait, your address is everywhere, right? Like, people can get-- like, there are other ways that people can get your address,

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right? Like, that's on the Internet now. I mean, back when we used to have phone books and you could stay out of the phonebook, maybe you could avoid having your address out there. I suppose maybe there are some celebrities who go to great lengths not to have their address out there, but your address is out there. That's not sensitive data. The biometrics that you're talking about, why don't we just pinky promise Senator Storer that we're not going to use sensitive biometrics when we do this? I mean, I, I don't see the argument of what sensitive data. I really-- I'm trying to help you here. What sensitive data are you thinking that we might wrongly pick to authorize by this statute a methodology for determining age that includes sensitive data?

HOPE LEDFORD: Yes. Thank you. I, I think someone earlier spoke about using how some age-- or somehow age-verification platforms and vendors use credit card information or credit cards to, to verify.

DeBOER: OK.

HOPE LEDFORD: So that's another example of some sensitive data that wouldn't-- that adults would not like to offer up.

DeBOER: Thank you. That's a helpful piece of advice. Let's not do that, Senator Storer. OK. So I get, now, your argument on that piece, and I'm not trying to be combative. Really, I'm not. So I get, I get that piece. OK, sensitive data, but I think we can probably handle that. So now, what are your other objections again?

HOPE LEDFORD: Yes. We're especially worried about it-- how it could risk cutting off access to social media for global use, including multiple populations. And then we also have our First Amendment concerns as well.

DeBOER: OK. So the vulnerable youth who don't have access now is probably something we'll have to think about it and address if there's not a-- it's not just youth, right? Because everybody would have to put their ID in, so it could be vulnerable adults that don't have an ID or some other way of doing it. So we'll probably need to make sure that we have multiple options for age verification that do not just require the, the ownership of a, of an ID. OK. And then the First Amendment, I don't have enough brain space to get into that right now. So I appreciate your comments. Thanks for answering my questions.

HOPE LEDFORD: Yes. Thank you.

BOSN: Senator Hallstrom.

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HALLSTROM: Did I hear you correctly say that not all adults are appropriate to revoke access for minor children?

HOPE LEDFORD: Yes. Thank you so much for your question, Senator.

HALLSTROM: That wasn't a question. I just wanted to know if, if I-- that, that's all you have to answer for that. I'm going to go further. Excuse me.

HOPE LEDFORD: Yes. Sorry.

HALLSTROM: And so-- but-- I mean, I, I could probably agree that there are situations where some parents aren't best suited for any number of reasons. But would you agree that in the vast majority of cases, parents are appropriate to revoke access for their minors?

HOPE LEDFORD: Thank you for your question, Senator. As I mentioned in my testimony, the CDC finds that over half of teens experience psychological abuse from, from their parent or guardian. I don't know the exact statistics on, on, on how-- what youth experience at home, but I do know that there are a lot of youth who maybe live in an abusive household or they might live in a home where the-- their parent doesn't support their identity and that could be used or weaponized against them and cut them off from lifesaving resources that could help them escape that, that dangerous situation.

HALLSTROM: But in the vast majority of cases-- I, I guess I'm not seeing the connection between unfortunate abusive situations and a parent's decision. You, you provide an example, but I, I would think in most of the cases, if they're being abused, it doesn't necessarily have an automatic connection to whether or not they get disconnected from, from access.

HOPE LEDFORD: Thank you for, for that. I would like to point out there are a lot of resources online for young people to help them access mental health resources, especially for communities that find adversity in online or offline situations to help them find health information and resources. And, again, a lot of impactful connections made. So if a child were to be facing-- sadly facing abuse at home, maybe they have a mentor or someone they connected with on social media that can help them escape an abusive situation.

HALLSTROM: And I guess I would just say, I, I would be hard-pressed to think that even under those circumstances that the reason that the parents would cut off access is to prevent them from having access to those types of resources. There's many other reasons why parents,

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irrespective of what the family situation is, would have good reason to say there's other things that are happening in the access to social media that I don't want my children accessing. And you don't have to respond, that, that was my comment. Thank you.

HOPE LEDFORD: Thank you for your comment.

BOSN: Senator Storm.

STORM: Thank you. Thank you. So you're the Chamber of Progress is your organization?

HOPE LEDFORD: Yes, Senator Storm.

STORM: Where are you based out of?

HOPE LEDFORD: Washington, D.C.

STORM: Washington, D.C. OK. So is Meta one of your corporate partners?

HOPE LEDFORD: No.

STORM: Your website said it is.

HOPE LEDFORD: Meta Europe which is different from Meta U.S.

STORM: Meta Europe. OK. But Google, Apple.

HOPE LEDFORD: Yes.

STORM: And so all of this. So I'm just trying to figure out why these large corporations that are sending-- part of these groups are sending people out to oppose legislation to help children with no, like Senator Bosn said, no guidance on how we can maybe try to help. So does your company have any guidance for states and people like Senator Storer to, to try to help children?

HOPE LEDFORD: Yes. Thank you for your question, Senator Storm. I would like to point out, as I did in my testimony, that Chamber of Progress, our partner companies do not have any vote or veto on our positions. And there are times when we disagree with them and they do not sit on our board. So we-- I would like to point that out first. And then also I would be happy to connect anyone with someone from our team-- from my team that could better answer some questions and provide more clarity.

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STORM: One more question. So corporate partners, does that mean they fund you? Is that where you get the funding from?

HOPE LEDFORD: Yes.

STORM: So you're funded by them. OK. All right. That's all I have. Thank you.

BOSN: OK. So I have a couple of questions. One of your concerns was that this requires companies to gather data in violation of data minimization regulations or something to that effect, I paraphrase, but is that-- I gave an example, you weren't there either, but I gave an example on my bill, LB504, the other day that if I said I was thinking about buying a cute shirt for my daughter for the 4th of July that my Facebook newsfeed would populate 4th of July shirts for children. And I'm not kidding you, that night I had Facebook ads for 4th of July shirts. So you telling me that they are not already gathering all of this data and that somehow my date of birth is offensive is mind blowing. I, I don't think anyone, including you, actually believes that these platforms are not gathering data to include, among a variety of other things, your date of birth. Tell me I'm wrong.

HOPE LEDFORD: Thank you, Senator Bosn. I would like to point out that platforms would want to be sure because of the, the, the private right of action and the litigation that would follow, they would want to be sure, absolutely sure of a user's age in that, in that sense. So they would use hard age-verification methods like I, I mentioned before, including biometric data, including personal identifi-- identifying data. And so we are really strong proponents of supporting privacy efforts. However, we think this bill would lead to more privacy violations.

BOSN: So you're telling me that these third-party organizations that are not controlled by you can't be trusted with my date of birth, but that your ability to gather all of that data is somehow different and less intrusive?

HOPE LEDFORD: I don't-- I'm not sure I'm following. Sorry.

BOSN: Well, the bill proposes that there isn't actually a prescribed method for age verification in this bill unless I'm misreading it. She basically is saying the company can decide if there's a, a method that they prefer that they think is less intrusive. Go, go for it. Right? And what you're telling me is, is that those third-party companies

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that you would contract with shouldn't be trusted because it's a violation of my privacy as a user. Not yours, you don't-- the companies don't have the right to the privacy, right? It's the consumer's right to privacy. But that I can't trust those third-party companies with my date of birth or some age-verification information in order to use the platform, because that's, that's-- they shouldn't be trusted. They could have a data breach.

HOPE LEDFORD: Yes, that's correct.

BOSN: And the information that we're providing to them would essentially be the same information that you're already gathering, the, the social media companies and Internet providers are already gathering on us.

HOPE LEDFORD: Like I mentioned before, platforms will [INAUDIBLE] to be sure of-- like to have, to have absolute certainty about someone's age then we use harder age-verification methods and that, again, would lead to the methods that I mentioned earlier. And a lot of people would rather not have that data stored whether by platform or whether by a third-party vendor. And even if the third-party vendor was acting in good faith, it opens up, I guess, vulnerability for cyberattacks and, and, and that sort of thing.

BOSN: OK. And I appreciate your answer. I guess I just fundamentally disagree. And perhaps it's because Nebraskans are different, that people would feel more safe without an age verification than they would with having to provide their date of birth. And we can agree to disagree on that. And I understand your position, but I, I think our kids are worth protecting more so than my date of birth. Any other questions?

STORM: One more.

BOSN: Senator Storm.

STORM: Thank you. So, yeah, if someone can-- from your team can reach out to us with your guardrails that you'd like to put in place, that'd be great.

HOPE LEDFORD: Yeah, we, we, we do-- and I say this for myself, too, and I'm a member of Gen Z. Like, I, I genuinely want to protect my peers and want to have a safe online environment for kids. And I, and I speak on behalf of myself and on behalf of Chamber of Progress, we just believe that this bill would inadvertently have negative effects. But I'm happy to have someone reach out from my team. Thank you.

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STORM: Thank you.

BOSN: Thank you for being here. Next opponent. Welcome.

DYLAN SEVERINO: Thank you. All right. Good afternoon, Chair Bosn and the Judiciary Committee. My name is Dylan Severino, D-y-l-a-n S-e-v-e-r-i-n-o. I'm policy counsel at the ACLU of Nebraska, here in opposition to LB383. Child safety on the Internet is undoubtedly a huge issue and a noble goal. However, certain ways to tackle the problem are prohibited by the First Amendment, requiring all potential users to identify themselves with the goal of prohibiting minors' access to protected speech is unconstitutional. Quoting the Supreme Court here, minors are entitled to a significant measure of the First Amendment protection, end quote. This First Amendment protection applies to the, quote, public dissemination of protected materials to minors, end quote, which the government may bar, quote, only in a relatively narrow and well-defined circumstances, end quote. Preventing anyone from any age from accessing social media without first providing proof of their identity to a big tech company is not one of those narrow and well-defined circumstances. LB383 threatens the free speech rights of social media users, forcing us to hand over our private data or lose the ability to participate in robust online conversation. Individuals of all ages rely on social media for political speech, artistic expression, advocacy, access to the news, and more. Age-verification requirements burden users who may want to engage in anonymous speech, who do not have government ID, and who are otherwise concerned about their privacy and security. The law's parental consent requirement would also impermissibly burden the First Amendment rights of young people who are often at the forefront of movements, trends, and technologies. For decades, the courts have struck down similar laws and attempts at age verification passed in the name of protecting kids from protected speech. Where less restrictive alternatives exist, the government cannot impose age verification on adults in the name of protecting kids. The same is true of requiring parental consent for kids' social media use, since parents may have authority to-- may have authority over their own kids. But the government cannot impose its view of what parents ought to want on all families. Quoting the Supreme Court here, such laws do not enforce parental authority over children's free speech and religion. They impose governmental authority subject only to a parent's veto, end quote. To be clear, LB383 is prohibited by the First Amendment because it burdens access to protected speech, not because there's anything wrong with the ultimate goal of protecting kids online. As the Arkansas court noted, as they were enjoining a functionally identical law, there are a plethora of options available

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to parents to protect their children from social media and limit how much time they spend on it. Cell carriers, Internet providers, wireless routers, handheld devices, computers, phone apps, and Internet browsers have tools that can be used to block websites and apps, limit apps on the Internet during certain hours of the day, set and monitor time on devices, set daily time limits, and more. If LB383 passed, it would surely be enjoined like all the other laws have been when challenged and the protections it seeks for children will be inactive during that time. And that could be years. It would be a better expenditure of time, effort, and resources-- I apologize-- I'm out of time-- may I finish my thought--

BOSN: Yes, you may.

DYLAN SEVERINO: --and resources to begin educating parents and children about the tools already available to them to combat the problem social media can cause and exacerbate. For these reasons, the ACLU of Nebraska urges the committee to indefinitely postpone-- postpone LB383.

BOSN: Thank you. Any questions for this testifier? Senator DeBoer.

DeBOER: OK. Can you take me-- because I-- my free speech--

DYLAN SEVERINO: Yeah.

DeBOER: --class was 28--

DYLAN SEVERINO: A lot has changed.

DeBOER: --years ago and we-- I got my first email address 2 years before it. So how do-- take me through the free speech argument again?

DYLAN SEVERINO: Yeah, basically, the government imposing limits on accessing a public forum is the government--

DeBOER: OK. Stop from what you're saying.

DYLAN SEVERINO: Yes.

DeBOER: Has social media been declared a public forum?

DYLAN SEVERINO: I will quote the Supreme Court.

DeBOER: No, just tell me if it has. It's fine.

DYLAN SEVERINO: Yeah.

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DeBOER: OK. OK. So the government interfering with your access to a public forum. That's what you're saying is the problem.

DYLAN SEVERINO: Yep.

DeBOER: Does it matter that it is a universal--

DYLAN SEVERINO: So that all ages have--

DeBOER: --interference with this media platform?

DYLAN SEVERINO: Not exactly. It could matter that it's content neutral or that it might be. I think in-- I haven't read every single case that's, like, struck down a similar law. I think most of them find that it's under strict scrutiny, which means that it would be, like, content based. But the Arkansas court, which is the one that's in the Eighth Circuit with us, actually ran it through as intermediate scrutiny and still struck it down.

DeBOER: Because why?

DYLAN SEVERINO: Because it impermissibly blocks access to a public forum. And it's the government blocking it is the main problem. I can--

DeBOER: But, but--

DYLAN SEVERINO: Yeah.

DeBOER: OK. I will just take it that this is a public forum.

DYLAN SEVERINO: Sure.

DeBOER: I'll just take it that it's a public forum. If it's a public forum and everybody has to go-- you're saying the problem is that everybody has to go through a hoop to get to the public forum?

DYLAN SEVERINO: The government's hoop? Yeah.

DeBOER: Right. The government's hoop. What if we just made this entirely based on a civil cause of action and then it's not the government's hoop, everybody just-- every, every social media company has a duty of care to prevent anyone under the age of 18 from getting onto their site without parental or pub-- or guardian permission.

DYLAN SEVERINO: There's also Supreme Court cases saying that you can't deputize private actors to regulate free speech.

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DeBOER: We're not deputizing them because what we're doing is we're saying there's a cause of action civilly for it. So you have a duty of care to prevent children from doing this. We could even do-- or-- no, you just have a duty of care not to do it. Is that deputizing private actors? I can sue you. You can do it. I can just get damages for you doing it if you don't make sure that a child doesn't have their parents' permission.

DYLAN SEVERINO: I'm not sure that there's been a case exactly on point, and I don't know that I can answer that. So I'm not sure.

DeBOER: OK. All right. Thank you.

DYLAN SEVERINO: Yeah, of course.

BOSN: I have a follow-up.

DYLAN SEVERINO: Yeah.

BOSN: If Facebook is, in fact, a public forum, can they shut anyone down on Facebook? Have they ever done that?

DYLAN SEVERINO: You mean, like, ban an account or something?

BOSN: Maybe.

DYLAN SEVERINO: Yeah, I believe, they've done that. And they can regulate their own content.

BOSN: Why can't they regulate this then?

DYLAN SEVERINO: Well, they can, but you-- the government can't force them to.

BOSN: So if Facebook were able to be, as Senator DeBoer has stepped into, sued civilly for allowing kids to have accounts, what would be the difference? They could self-regulate and say, yep, we agree the harm is greater than the good unless the parent thinks it's not. And so we can shut down other people, we can shut down those kids.

DYLAN SEVERINO: I suppose I, I still think it would be deputizing, but in the case that it wasn't, then I, I don't know that it's ever been tested like that.

BOSN: But they were deputized to shut down other people.

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DYLAN SEVERINO: Sorry, deputized by the government. So if they're personally dep--

BOSN: You're saying they were able to shut down other people and I agree. Right? They shut down--

DYLAN SEVERINO: You're just asking if Facebook has banned people or something before, right?

BOSN: Correct. They've, they've policed their own platforms. And what we're saying is-- I think what Senator DeBoer is getting at, and I'm now also trying to figure out and walk myself through live, is why couldn't they do that with minor accounts and say we're going to self-- we care so much because they've all come in here and told us how much they care about this issue. They flew here to do it, but they won't shut them down because they make the money. And so if they cared, they could say we're going to shut them down out of an abundance of caution unless and until a parent says we think the risk is, is not outweighed. My child is very responsible on social media. I'm going to allow it. Right? Otherwise, we could sue them for it. Parents could start suing them.

DYLAN SEVERINO: If, if there was no government coercion involved, it might-- I mean, yeah, like a, a, a private company that hosts speech can, can regulate itself. I think any law that would compel them to do that even through, you know, sticks as opposed to any sort of carrot or anything, would probably count as deputizing or maybe editorial content kind of management for them. I don't know that it's, I don't know that it's gone there. So I'm not positive where the hypothetical would land exactly.

BOSN: Has the government ever suggested to these social media platforms that they should shut down users?

DYLAN SEVERINO: Shut down users-- I'm not sure. There's been, there's been state governments that have tried to equalize, say, like ideological content coming out. I don't know if that involved, like, shutting down certain, you know, one side of the ideological spectrum while trying to boost the other or if it just meant, like, their feed would show up in more equilibrium or something. That's the only thing that comes to mind. And that was a very recent case that was sent back to the, the individual courts by the Supreme Court.

BOSN: I'm thinking of cases-- I'm now going in a different direction but-- during COVID, where accounts would start saying things about

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COVID vaccines and, and those accounts-- whether we agree or disagree, that is totally not my issue and I wouldn't ask you-- but those accounts were being shut down because people were concerned and there were allegations that the federal government was pressuring Facebook and Meta and other groups. This is scary stuff, shut these accounts down. Do you know what I'm talking about now?

DYLAN SEVERINO: Yeah, I understand what you're talking about. I don't, I don't know the--

BOSN: OK. So I'm, I'm wondering if it's going in that same direction. If it's the government can do it then because they cared enough, and now you're telling us the government can't do it now because Facebook doesn't care enough.

DYLAN SEVERINO: Right. Interesting. Well, I don't know that case. You said allegations. So was it a case or it, or it was just kind of rumors?

BOSN: No, there were definitely lawsuits filed.

DYLAN SEVERINO: Yeah, I don't know them.

BOSN: I don't know the status of them, but I--

DYLAN SEVERINO: I'm not sure. They'd definitely be relevant. I'm sorry. I don't know them.

BOSN: That's OK. All right. Thank you. Any other questions? Thank you for being here.

DYLAN SEVERINO: Of course. Thank you.

BOSN: Next opponent. Anyone wishing to testify in the neutral capacity? While Senator Storer makes her way up, I will note there were 68 proponent comments, 20 opponent comments, and 1 neutral comment submitted for the record.

STORER: Thank you. This has been a good discussion. I think there are some good questions asked both of opponents and proponents, and I have tried to take some notes and try and address some of those things that were brought up to the best of my ability. By the way, on the, on the opponents and proponents on, on the online, they didn't have to verify their age. But I do have to wonder how many of the opponents were under 17. Just, just for fun. So, as predicted, there were, there were some issues brought before you in opposition of this. And I just kind

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of want to address a few of those. There was a concern of constitutionality as, as I thought there would be. Again, there is no court in Nebraska that's ruled on this. You sat here and you listened to the Attorney General of the state of Nebraska tell you that this is constitutionally sound. Again, we stand behind the fact that this is content neutral. This is not limiting one's speech. This is providing parents the opportunity to give permission to how their minor children accesses the platform for that speech. There was an opponent that expressed concern about collecting data based on the Nebraska Private Data Act, do I have that right, and, and being in violation of that. And I would say we'd be concerned about that too, which is why we put a provision in the bill that you can't keep that data and there's a civil penalty if you do. It is, it is un-- it, it is, it is clear that you are not allowed any, any social media platform is or a third party that they so choose to hire is not allowed to keep the data used for age verification. Another concern was that, you know, the age verification for adult websites was OK because that was for a specific use, but this was not OK because it was just to access anything that is absolutely untrue. We defined in the bill that this is specific to social media platforms. This does not say minor children are not allowed on the Internet. Social media platforms, it is, it is brief: means a website or Internet application that allows a person to create an account and enables an account holder to communicate with other account holders and users through posts. This is specific. I think what-- and, and I'm trying to collect my thoughts in a way that I am not inappropriate in how I express this next thought. But I think that what you witnessed here is evidence of the addiction of big techs having predatory access to our children. That's what I heard. And our kids aren't for sale. We see-- if, if you are a parent or a grandparent or a mentor or you go into a school system, you will see it. Our kids are struggling. There are more children with diagnosed depression, anxiety, self-harm. They're cutting themselves. They have body dysmorphia. This is not the youth of 20 years ago. And for us to stand by and say that we're more worried about whether or not somebody might have access to, to, to age-verification data than we are about technology platforms, social media platforms storing and using and manipulating their personal data information of location and pictures and shopping preferences and discussions is absolutely disgusting. These are our children we're talking about. I am happy to answer any additional questions. But I would appreciate this committee's vote to advance this bill on to General File so we can get to the work of doing what we need to do and that's protecting our youth. Are there any questions?

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BOSN: Thank you, Senator Storer. Any questions--

STORER: Yes.

BOSN: --from the committee? Senator McKinney. Sorry.

McKINNEY: Thank you. And thank you for your testimony. How do we balance protecting our youth but also protecting their rights? Because that is in question because there are cases across the country that happened in this same vein and bills that have been passed that have been struck down because of the protection of their rights. So how do we balance that? I'm not saying-- I, I understand what you're saying, but how do we balance protection and protection of rights?

STORER: To my knowledge, there are some cases currently in court. I am not aware of any cases that have been struck down in terms of age verification for a minor to access a social media platform. I do not believe there has been a case where the court said that was unconstitutional. It is being challenged. There are some cases that are currently being challenged.

McKINNEY: OK. But how do we balance that?

STORER: Well, you heard the Attorney General who would defend this state in, in, in a, in a court case, give you a confident answer that this is constitutionally sound. So I think that we have--

McKINNEY: I under-- I understand that but he has said, he has said some things are constitutional and our Supreme Court, for example, has said otherwise. So I'm, I'm not arguing with him and calling him a liar. I'm just saying there are recent examples of him saying something is constitutional and our Supreme Court saying the exact opposite.

STORER: And there are times that, that is the, that is the beauty of the balance of our system of government.

McKINNEY: Yes.

STORER: So we do, here at this level, what we believe is right and constitutional in the eyes of the best interest of the state of Nebraska. And then there are checks and balances. If someone wants to challenge that, then it goes through the judicial system. I don't think that prevents us from taking the appropriate action here to do what's right in the eyes-- for the best interest of the state of Nebraska.

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McKINNEY: Thank you.

BOSN: Any other questions for Senator Storer? Seeing none. Thank you.

STORER: Thank you.

BOSN: Yes. That brings us to our last, but certainly not least, LB371 with Senator DeBoer. Wow, I love the audience you have, the size. Showing of hands and thank you. Senator DeBoer.

DeBOER: Good afternoon, Chair Bosn and members of the Judiciary Committee. My name is Wendy DeBoer, W-e-n-d-y D-e-B-o-e-r, and I represent the 10th Legislative District, which is in northwest Omaha, a beautiful place. Today, I'm introducing LB371, which updates definitions in the uniform-- all right-- the Uniform Civil Remedies for the [SIC] Unauthorized Disclosure of Intimate Images Act-- you'll note I did that without looking at the record and I've been working on it for days so-- to encompass now computer-generated or digitally manipulated material. The Uniform Act, with its impossibly long name, was introduced by me as LB680 in 2019. It was my personal priority bill that year, and it passed on final reading on a 47-0 vote. LB680 created a civil cause of action for harm resulting from disclosure or threat of disclosure of intimate images. In 2019, in the 2019 act, we did not contemplate deepfakes, nor did we have an appreciation for how widely accessible this technology would become. According to a 2023 study, I'll speak more about, there have been a 550% increase in deepfake videos online since 2019. As a-- deepfake refers to the use of deep learning algorithms to create compelling and often deceptive media content such as videos, audio recordings, or images that appear to feature real people saying or doing things they never did. This interim, I was approached about working on legislation on deepfakes and felt adding deepfakes to the Uniform Act would be an excellent way to protect Nebraskans and provide a vehicle for relief for victims. During this conversation-- during these conversations, according to the 2023 study I mentioned just a second ago, this study was done by Home Security Heroes, which is a firm specializing in identity theft protection. They surveyed the World Wide Web in order to understand the scope of deepfakes. They analyzed 95,820 deepfake videos, 85 deepfake dedicated channels across various online platforms, and reviews of over 100 websites linked to the online deepfake ecosystem. They found there to be a 550% increase in deepfake videos online since 2019, 98% of the deepfake videos online were intimate in nature. And this is the part that freaks me out the most. It takes less than 25 minutes and zero dollars to create a 60-second deepfake intimate video. We're talking about incredibly powerful technology that can

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easily and affordably ruin lives. And that's why I introduced LB371. If there is an intimate deepfake video or image featuring someone and that deepfake is shared without their consent or that person, person is threatened with the release of that deepfake without their consent, they deserve to have recourse. I'm proud of the work done to pass the Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act in 2019 and believe updating the act with the definitions provided in LB371 make for a nice bookend for my legislative career, but most importantly, will help ensure victims can hold their perpetrator accountable. I want to let you know that since 2019, there have been recoveries under this act in Nebraska where victims of unlawful disclosure of intimate images have been able to sue the person who did it and have gotten money from it. It's worked. The thing that's particularly good about this act is that while a criminal penalty might be able to deter an act in the future, that sort of thing, it doesn't provide the victim with anything specific with what's happened to them. This allows the victim some kind of recompense for what's happened to them. Thank you.

BOSN: Thank you, Senator DeBoer. Any questions? Senator Storer.

STORER: Thank you. So just for clarification, in essence, I wouldn't say cleanup bill, but you're, you're just sort of bringing this bill up to sort of some of the modern, as we've heard a lot about AI today, modernizing this bill. Would that be fair would you say?

DeBOER: I am updating the bill for the new technological situation we find ourselves in. That's right.

BOSN: Yeah. Any other questions? I'm grateful for this bill as well. Thank you. Proponents? Opponents? Neutral testifiers? 68 pro-- oh, no, I'm sorry. I'm on the wrong bill-- 13 proponents, no opponents, and no neutral comments submitted. Are you closing?

DeBOER: I think this sounds like something that might go on a consent calendar.

BOSN: Sounds consentable. All right. Thank you. That concludes today's committee hearing. I should have let you go first. I'm sorry. Oh, you weren't in, you weren't in here, that's why you didn't.