

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 11, 2026
Rough Draft

BOSN: Good afternoon and welcome to the Judiciary Committee. My name is Carolyn Bosn. I represent Lincoln, District 25, which is southeast Lincoln, Lancaster County, including Bennet. I serve as Chair of this committee. We will be taking up bills in the order posted outside of the room. The public hearing is your opportunity to be part of the legislative process and express your position on the proposed legislation before us. If you're planning to testify, there are green testifier sheets. Please fill them out completely and list all organizations that you are testifying on behalf of. If you do not wish to testify but would like to indicate your position, there are yellow sign-in sheets on the back, and these will be included in the official hearing record as an exhibit. When you come up to testify, speak clearly into the microphone, stating and spelling your first and last name. We begin each hearing with an introducer's opening statement, followed by proponents, then opponents, finally anyone wishing to speak in the neutral capacity, and we finish with a closing statement by the introducer if they wish to give one. We use a 3-minute light system for all testifiers and we follow this as closely and strictly as possible. When you begin your testimony, the light on the table will be green. When the yellow light comes on, you have 1 minute remaining, and the red light indicates you need to wrap up your thought and stop. Questions may follow. Committee members may be coming and going. This is just part of the process. If you have handouts, please bring up 10 copies. Please silence your phones. Verbal outbursts and applause are not permitted and will be cause for you to be asked to leave the hearing. Committee procedures require written comments to be submitted by 8 a.m. I will now have the committee members with us today introduce themselves starting to my far left.

HALLSTROM: Yes, thank you,--

BOSN: Mm-hmm.

HALLSTROM: --Chairwoman Bosn. Bob Hallstrom, Legislative District 1, southeast Nebraska: Otoe, Johnson, Nemaha, Pawnee, and Richardson County.

STORM: Good afternoon. Jared Storm, District 23: Saunders, Butler, Colfax County.

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

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

BOSN: Thank you. Also assisting the committee today to my left is our legal counsel, Tim Young, and to my far right is our committee clerk, Laurie Vollertsen. Our pages for the committee today are Kyanne Casperson, Kleh Say, and Luke-- oh, just-- Kyanne, Kyanne must not be with us. Oh, I'm sorry, jeez Louise, and Luke Lawton, so it's all three of you. Sorry, I apologize for that. With that, we will begin today's hearings with LB897 and Senator Lonowski. Welcome, Senator Lonowski.

LONOWSKI: Good afternoon, Chair Bosn and members of the Judiciary Committee. Thank you for scheduling this public hearing today. For the record, my name is Senator Dan Lonowski, D-a-n L-o-n-o-w-s-k-i, and I represent the 33rd Legislative District. I introduced LB897 on behalf of the Nebraska State Volunteer Firefighters Association and the Nebraska Fire Chiefs Association. Together, those two organizations have over 9,000 members. LB897 will provide an important update to our burn permit statutes to increase the level of crime for violating the statute. And, more importantly, LB897 will allow fire departments to assess fees for responding to fires that result from violations of the statute. Under current law, Nebraska Revised Statute, Section 81-520.01, there's a statewide ban, and, I quote, all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land. However, a fire chief or a local fire department has the authority to waive this ban by issuing a burn permit under certain conditions. Those conditions are left to the local fire chief to determine. The local fire chiefs consider the type of burn, the current weather conditions, including recent moisture, wind speed, humidity, and other factors. This process occurs pursuant to thousands of burn permits each year. Nebraska experiences wildland fires each year from dozens to hundreds. There are a combination of burn permit fires getting out of control, individuals burning without a permit, or fires starting from natural causes. From 2015 to 2019, these averaged more than 25,000 acres burned. Since 2019, these fires have become increasingly more severe. Local fire chiefs for many years have encountered instances where landowners request a burn permit when conditions do not warrant safe burning. The landowner decides that, based on past experience or under current law, the risk of burning without a permit is worth getting rid of that brush pile or whatever else he needs to have burned. An open burn is initiated and may get out of control. The common experience is that no-- that neither-- excuse me. The common experience is that either no prosecution or at best \$100 fine is assessed. Fire chiefs issue burn permits based on current weather

conditions and availability of personnel should a fire get out of control. When an open burn occurs without the knowledge of the fire chief, there is nobody on standby and the requisite number of firefighters required may or may not be on hand. In recent years, this trend of burning without a permit or burning despite being denied a permit has increased. It has taken a toll on volunteer firefighting departments. First, LB897 increases the class of misdemeanor for violation of Section 81-520.01 from a Class V [SIC] to a Class III misdemeanor. Let me say that again, from a Class IV to a Class III misdemeanor. Although this does not carry an increase in fine threshold or maximum jail sentence, our hope is that it increases the seriousness of the offense when a county attorney decides how to prosecute these crimes. More importantly, LB897 provides that a fire department responding to a fire that resulted from a violation of the burn permit may recover the cost of responding to that fire. The cost must be consistent with the appropriate cost for responding to and extinguishing the fire. Those that follow will discuss the fee structure in more detail. Importantly, what LB897 does not do is punish landowners where a burn gets out of control. The best laid plans often go awry. If enacted, LB897 would not penalize individuals conducting prescribed burns where sudden unforeseen occurrences result in a fire getting out of control. Likewise, accidental fires would not punish homeowners. Instead, LB897 is designed to reimburse fire departments where individuals burn in blatant disregard of the statewide ban and local conditions. I do have an amendment. After introducing LB897, several questions were raised about the best method to assess these fees. AM2024, which I believe you have a copy of, adds additional sections to clarify this. Under existing Nebraska law, cities and villages may assess fees for any number of reasons, unpaid utility bills, overgrown lawns, tree removal, etcetera. Under existing law, municipalities may charge these special assessments to property owners by providing notice to landowners, and if unpaid, by recording that assessment at the Register of Deeds. This is an appropriate way for municipalities and rural or suburban fire protection districts to provide notice of the fee and the eventual collect. The amendment, AM2024, also clarifies that the special assessment is a civil matter, not a criminal matter. It is not dependent on prosecution. This resolves an issue raised by Nebraska Criminal Defense Attorneys Association that was brought to us. Thank you, Chair Bosn and members of the committee for your consideration of LB897. I respectfully ask for the committee's support of LB897 to General File, upon its adoption of AM2024 that I have provided to the committee. Thank you.

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BOSN: Thank you. Any questions for Senator Lonowski? All right. Are you staying to close?

LONOWSKI: Yes.

BOSN: All right. Can I see a show of hands how many individuals are here to testify in some capacity on LB897? One, two, three. All right. Thank you. We'll start with proponents. Anyone here to testify in support?

KENNY KRAUSE: Good afternoon.

BOSN: Good afternoon.

KENNY KRAUSE: Madam Chairwoman, committee, thanks for your time today. My name is Kenny Krause, K-e-n-n-y K-r-a-u-s-e, and I'm here to testify in favor of LB897. I appear before you today as an officer of the Nebraska State Volunteer Firefighters Association and a past president of the Nebraska Fire Chiefs Association, and also I served as the Chief of the Fairbury Rural Fire Department for 14 years. When a burn permit is issued, a fire chief considers the type of burn and the current weather conditions, including recent moisture, wind speed, humidity, and other factors. The decisions are best left to the local fire chief, who will ultimately be responsible for responding to the fire in case it becomes out of hand. It's important for fire chiefs to maintain control so he or she is aware of how many burn permits have been issued, how many fires are going on at one time, and an opportunity to discuss the burn plan with the applicant, including what can and can't be burned and tactics for controlling the burn. It also prevents a false alarm when a passerby may call in a fire to see if the permit is active. And I have a few more bullet points after my testimony that I handed in. And as an officer of the state association, I get to travel all over the state and meet with departments at mutual aid meetings and stuff. And this is an issue that's been in front of us for a few years. We've just now finally gotten someone to take it up for us and present it. Saunders County, I, I was up there at a mutual aid meeting and, and they were really adamant about increasing the fines to a much higher degree than what we're talking about here. And Wymore, I know down in, in southern Gage County has spoken about issues. I've heard issues from Lincoln County in the North Platte area. I have a fire chief out there who almost will not give out a burn permit. He's just losing control of who's burning and who's not. Bennet Fire, right next to us here in Lincoln, they need to control their, their burning to the degree that they only

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allow for burn permits to be activated on the weekends because all of their firefighters come into Lincoln for work during the week. So they, they need that control there. And the, the one last point I have, I was asked to come up when the Governor put on his burn ban last spring and be there with him. And one of the other state officers was there. He actually, while the Governor was instating the, the burn ban statewide, had someone in his district burning without a permit, and that was the first time a county attorney in his county had ever prosecuted that. So the county attorneys are not prosecuting, I think, because it's just not substantial. I really don't know the, the rules-- reasons for that, but that would be my estimation. And that's all I have. If you have any questions, I could try to answer some.

BOSN: Senator DeBoer.

DeBOER: So we've had burn bills in this committee in the past and I think this is kind of the opposite of them. Because in the past, I think the bill-- so I want to make sure I understand your bill right. In the past, I think they've said no liability if you get a burn notice or, you know, you get your, your burn ban permit.

KENNY KRAUSE: No liability.

DeBOER: Yeah, that was what the bills were in the past.

KENNY KRAUSE: So--

DeBOER: So this is kind of the opposite of that.

KENNY KRAUSE: --the property owner holds the liability. I think what you're referring to is the burn associations don't assume the liability, the property owner does.

DeBOER: OK. So if I'm the property owner, after this bill is passed, if the burn gets out of hand, then the, the property owner owes the money for the burn that gets out of hand?

KENNY KRAUSE: I'm going to yield that to a follower.

DeBOER: OK. No, that's OK. Appreciate you being here.

KENNY KRAUSE: Mm-hmm.

BOSN: Any other questions? Senator Rountree.

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ROUNTREE: Thank you so much, Chairwoman Bosn. And thank you so much, sir, for being here today. I had a chance to do a FEMA site inspection down in Fairbury and got to walk around there for a little bit, but also with the bans. As we're looking at this, how often as you-- how often do we have these out of control fires and permitless burns out there? Is that something that [INAUDIBLE]?

KENNY KRAUSE: So I'm going to repeat the question. Do you want to know how often we have out-of-control fires, or do you want to know how often this is violated?

ROUNTREE: The violation, the violation is what I'm looking for.

KENNY KRAUSE: So I think that is-- varies from fire district to fire district. I haven't had a huge problem in our area down there, but traveling the state, there are others that do. And so I guess the other thing we have to consider, burn permits some places don't get issued that much just because of, of where they're at. You know, near a city, there's not that need for burning like there would be out west on the ranches.

ROUNTREE: Right. OK. Thank you.

BOSN: Senator Storm.

STORM: Thank you, Chairwoman Bosn. Thank you for being here. So if this would go through, it says each municipality could set up a fee structure for the cost of the fire. How-- can you kind of talk us through what that structure would look like?

KENNY KRAUSE: I'm going to yield that to a next testifier, too.

STORM: OK. Thank you.

KENNY KRAUSE: Thank you, though.

BOSN: I have a question. Tell me what the process is like to acquire a, a permit.

KENNY KRAUSE: So I'm just going to speak for Fairbury Rural because that's what I know. Districts do it differently across there, but in Fairbury Rural's district, we-- the law allows us to do it for up to 30 days, to issue the permit for up to 30 days. Most fire chiefs don't do that. They like 1, 2, or 3 days. But our thinking is that we can have time to sit down and build a burn plan. And then when the

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property owner decides that his conditions are right, he activates the burn permit. So we typically meet face to face at the fire station and go through a burn plan and get all the pertinent information down so that ahead of time we're, we're ready in case something does happen.

BOSN: Is the, is the process for applying online or does someone have to know?

KENNY KRAUSE: That is something that's starting to change. I know Bennet does online. I also know there are-- I think Bennet also does in-house on a Thursday night or something, so they're ready for the weekend. We do every Monday night of March through the burn season that's coming up, but I think that varies from, from district to district, because each fire chief has that flexibility to handle that how he wants.

BOSN: How would you suggest that we do a better job from our perspective of letting all the different communities know how they're to apply in their community? Because it doesn't seem like there's a one-stop shop for those applications.

KENNY KRAUSE: And I-- honestly, I think that's got to be left up to the local because there-- you're right, there's no consistency. I mean-- and to make it consistent would be difficult because-- referring back to the Governor's burn ban last May, when I got a phone call to come up here, I thought the phone call was going to be, are we good or we need to shut it off? And I was going to say, we're good, we're [INAUDIBLE] up. In Fairbury, I think we're clear. But everyone out west was screaming to get this shut down because conditions vary, so I just don't know how you would make it consistent across the state.

BOSN: Yeah, because I, I think before we would want to consider increasing the responsibility on the landowners, there's going to be individuals who come in and say, I was violating it but didn't even know how to comply with it. And I, I think that's probably something we need to consider in conjunction with this.

KENNY KRAUSE: I think online applications would be a, a good start to getting that, and that has been talked about and some are doing it, but the software isn't available for all fire departments.

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

KENNY KRAUSE: Thank you for your time.

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BOSN: Next proponent. Good afternoon and welcome.

RYAN McINTOSH: Good afternoon, Chair Bosn and members of the committee. My name is Ryan McIntosh, R-y-a-n M-c-I-n-t-o-s-h, and I appear before you today as a registered lobbyist for the Nebraska State Volunteer Firefighters Association, the Nebraska Fire Chiefs Association to testify in support of LB897. I'd like to give thanks to Senator Lonowski for bringing this legislation and his leadership. As he noted from 2019, these wildland fires have become increasingly more severe in scope and cost. In 2024, one fire alone, the Betty's Way fire, burned approximately 69,810 acres across Nebraska. More than \$1.25 million was spent in fighting the wildland fires that year. LB897 addresses a growing trend of burning without a permit and without recourse. First, LB897 increases the class of misdemeanor from Class IV to Class III. As Senator Lonowski noted, this isn't a sharper fine or any jail time. We're just hoping that this will send a message that these need prosecuted. More importantly, LB897 provides fire departments responding to a fire that resulted from a violation of the burn permit to recover the cost of responding to the fire. The cost must be consistent with the approximate cost of responding and extinguishing the fire. This is simple because departments may rely on the Nebraska Emergency Management Agency guidelines. When fires get out of control, the state of Nebraska often responds, and in doing so, will utilize the Nebraska Army National Guard to provide [INAUDIBLE] requesting deployment of local volunteer fire departments. When local volunteer fire departments are deployed by NEMA, they are subject to reimbursement by the state of Nebraska through the guidelines for public officials. I've handed out to you the first page and then one page out of Annex A that shows these are reviewed periodically and updated and provides a statewide guideline for depending on the type of equipment, what an appropriate fee would-- to guide departments in their assessment. So I don't think that's a complicated issue, departments already across the state rely on these and, and billing the state of Nebraska when responding to a statewide emergency. Importantly, what LB897 does not do, to your question, Senator DeBoer, does not punish landowners where a burn gets out of control. For instance during the Plum Creek fire that Mr. Krause mentioned when the Governor declared a statewide Emergency that started as a result of a, a prescribed burn that got out of control. This would not apply to that situation because they were not burning without a permit. They had a plan, they had a permit. Likewise, it would not penalize individuals where an accident happens or unforeseen circumstances solely for burning without a permit. Following introduction, several

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questions were raised about the best method to assess these fees. The amendment adds additional sections to clarify under existing Nebraska law. Cities and villages assess fees every day for unpaid utility bills, lawns, tree removal, etcetera. These special assessments are standardized. You provide a notice to the landowner. They have an opportunity to contest it. If they don't pay it, it gets recorded. The special-- the notice of special assessment gets recorded with the Register of Deeds, and then a release is filed once that gets paid. It is important to note that this is just a special assessment like municipalities do now. It is not tied to prosecution. It is not restitution or part of the criminal proceeding. With that, I'd be happy to answer any questions, including the one about immunity, Senator DeBoer. Thank you.

BOSN: Senator DeBoer.

DeBOER: Actually, first I have a question, because now I think I'm there. Sorry, it took me a second. But now I think I'm there. What constitutes a burn that you would require a permit for?

RYAN McINTOSH: Anything.

DeBOER: So if I have--

RYAN McINTOSH: I, I take that back. And I-- so if you're, if you are doing an enclosed burn, like a, like a--

DeBOER: Campfire.

RYAN McINTOSH: --like if you have a fire pit or a campfire, those are not open burns. But if you're going to burn a brush pile or a prescribed burn where you're burning a, a quarter section of-- for land management purposes, those require burn permits.

DeBOER: OK. But if I have just a-- if I'm just a family that's got a campfire in the backyard in a ring or something, that's fine?

RYAN McINTOSH: Yes, that is not considered an open burn under the existing statutes.

DeBOER: OK. I'm going to ask you a weird one. What about, like, around the Fourth of July when the kids have the sparklers?

RYAN McINTOSH: I don't think so.

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DeBOER: Because that could-- I mean--

RYAN McINTOSH: I'll look at the statute. You know--

DeBOER: That seems weird, but I'm just curious because if we're doing all of this, I want to know.

RYAN McINTOSH: We have separate fireworks statutes and, and lengthy regulations on those, I suspect it's somewhere in there. I can look that up in the next 4 hours while I'm waiting for another bill and get you an answer.

BOSN: Don't jinx us.

DeBOER: Yeah, why would you say that?

BOSN: Senator Hallstrom.

HALLSTROM: So this would not apply to a ring of fire?

BOSN: Stop it.

HALLSTROM: I do have, I do have a serious question. Is it an important distinction that this is a fee and not a fine?

RYAN McINTOSH: Yes, there is-- and that was the intention all along. And thank you to, to Spike Eickholt who approached us with this and asked if that was the intent. We said it was. And that's why the amendment moves that into a completely separate section of law. He said it could be construed as, as being tied to the prosecution or a, a restitution-like fine if it were in the same statute. So that's why we moved it.

HALLSTROM: And the fine might go to a different location.

RYAN McINTOSH: Yes.

HALLSTROM: Yeah.

RYAN McINTOSH: Yeah, the, the \$100 or up to, up to \$500 fine goes to the state of Nebraska. This would allow fire departments to get, not for their manpower, but for their equipment usage and time reimbursement for responding to these ever-increasing threats.

HALLSTROM: OK, and then just a technical question. On line 1-- page 1, line 18, you use the term "special assessment against the property."

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And then-- this is on the amendment, excuse me. And then on page 2, line 4, it says "assessment being levied for the property." Is there any distinction between the use of two different terms?

RYAN McINTOSH: I, I don't know. I took this from Chapter 18 that allowed-- the, the statute that enables municipalities to record special assessments for, for certain things. So I think I took it from there. If I mix something up there, I'll, I'll let you know today and, and we can get that fixed.

HALLSTROM: It might just make sense to have it consistent.

RYAN McINTOSH: Yes.

BOSN: Thank you for being here.

RYAN McINTOSH: If I-- can I answer Senator DeBoer's question on the immunity?

BOSN: Yes.

RYAN McINTOSH: OK, so Senator John Cavanaugh, and at least one other time, has had-- has-- have had bills for prescribed burns. So prescribed burns, you have a, a burn team out, you're doing all that. It's an excellent tool for managing, for, for managing land. And there have been bills to say if you're burning in conform-- in conformity to your burn permit in those, you have immunity. So this would be completely apart from that because they have burn permits.

DeBOER: Yeah, I'm saying it was kind of the opposite because of that, but I'm more clear about it now.

RYAN McINTOSH: Yes, yeah, we, we, we want to encourage land management burning to prevent fires from getting out of control. So they, they really do accomplish the same goal at the end of the day. We want people to get burn permits to have burn plans and to manage their land, not to be out burning without a permit.

DeBOER: I think this is great.

BOSN: And I might take that opportunity then to also, again, reiterate my concern that if you want people to get the burn permit, they have to know how to get it. I-- and I-- that's not necessarily germane to this bill, but I think that's-- I've heard those complaints from individuals in my district.

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RYAN McINTOSH: May I respond?

BOSN: It's a question mark at the end, so yes.

RYAN McINTOSH: Yeah. And I, I would love to, you know, hear, hear which-- you know, where those are occurring. The problem that we have isn't that people don't know that they're supposed to have a permit or don't know how to get a permit-- and that is a legitimate concern probably in some departments, but it's the local fire chief for that, for that jurisdiction. Most fire departments have Facebook pages now. You can see when they're, when they're posting, when they're not posting. It's the-- who this-- the issue is, individuals that go to get a burn permit, the fire chief says it's too dry, you know, it's practically a red flag warning, we're not going to give, give you a permit right now. And they say, well, what am I going to get? A \$100 to \$500 fine, that's a good business decision I'll make. And so that's where we're really seeing the issue. It's not-- we haven't heard that complaint that, that, that people don't know where to get a permit, but that's good information and, and we'll raise that with our fire chiefs that they need to, you know, examine how they're notifying the public. I'll also note that Senator Wordekemper had a, a resolution hearing this summer on how to promote land management burning and how to update and gather data. He has another bill that I think is on the agenda, was on the agenda today that we testified in support of that would make on burn permits the distinction between a, a controlled burn and a prescribed land management burn as a precursor to begin collecting data and having a statewide system. We're certainly in support of that. And so, again, these have-- thousands of burn permits are issued a year without issue. It's the handful that do it in blatant disregard that we're trying to target here.

BOSN: Senator DeBoer.

DeBOER: I will add a data point that, like, we've been trying to figure out how to do a burn down by your area for a long time. And we're not particularly savvy, we do not do a lot of land management stuff, so this would be, like, sort of our own foray into it and it has been difficult to figure out how to do it. So it isn't inconceivable that it would be difficult for a person. Would you agree? There's my question at the end.

RYAN McINTOSH: I, I don't know. I, I, I grew up in a, in a small town. I drive by my fire station. I'll drive by it tonight on the way-- on my way home. There's a sign in the yard--

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DeBOER: So you're probably more savvy than me.

RYAN McINTOSH: --there's a sign right there in the yard, it's right along the highway and it says: burn permits issued, Wednesday night 6 to 8 p.m. They, they also have a Facebook page with the, with the fire chief's cell phone number to call to get a burn permit. I follow-- by virtue of representing the State Volunteer Firefighters Association, I follow dozens if not a hundred different Facebook-- fire department Facebooks, they all have information on how to contact the chief to get the burn permit. So I, I don't know that I agree with your statement.

DeBOER: OK.

BOSN: Thank you for being here.

RYAN McINTOSH: Thank you.

BOSN: Next proponent. Good afternoon and welcome.

LYNN REX: Good afternoon, Senator Lonowski-- pardon me, Senator Bosn. I was just going to thank Senator Lonowski for this bill. We really appreciate it. This is an important bill and the League is strongly in support of it. I would like to just underscore what Ryan has just shared with you, which is, to our knowledge, we have not heard complaints about folks saying, oh, gosh, we didn't know where to get that burn permit. That's not what the situation is. We're-- this bill is addressing that situation where people knew where to go get it and maybe they were denied or they just didn't want to go ask. And so they did it anyway. And I do want to reference 81-520.01, this indicates that the permit shall contain the signature written or electronic of the local fire chief, but it also states this: The State Fire Marshal shall provide a sample form with the minimum requirements on the website of the State Fire Marshall. So in terms of that form, our municipalities have that form, I'm sure the rural and suburban fire districts have that. The permit issued by the fire chief desiring to conduct an open burn shall at a minimum contain the name and telephone number of the landowner, the burn location, the date and beginning and ending time of the burn, a description of the material to be burned, and the name and telephone number of the person responsible for the burn. And, then, if you go on to 81-520.05, it has more detail in terms of how all that kind of plays out. But we do support this bill. We think it's important. We think its intended to address those individuals who intentionally, frankly, decide to ignore it. And by

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doing that, they put others at risk. And so usually on these larger burns, I mean, it's a multi-jurisdictional response. It's not just one volunteer fire department. It's a number of volunteer departments combined with paid departments. So we appreciate Senator Lonowski introducing this and we hope that the committee will move forward and advance this bill to the floor and with that amendment. With that, I'm happy to respond to any questions that you might have.

BOSN: Before we get started with questions, can I have you state and spell your first and last name?

LYNN REX: I'm so sorry.

BOSN: That's all right.

LYNN REX: You would think that I've never testified before.

BOSN: I know who you are, but for the record.

LYNN REX: My name is Lynn Rex, representing the League of Nebraska Municipalities, L-y-n-n R-e-x. Thank you.

BOSN: Thank you. Any other questions for Ms. Rex? Seeing none, thanks for being here.

LYNN REX: Thank you for your consideration.

BOSN: Next proponent. Opponents? Neutral testifiers? Senator Lonowski to close. While he's making his way up, I will note for the record that on LB897 there were 13 proponents, 1 opponent, and no neutral comments submitted. Welcome back.

LONOWSKI: Thank you, Chair Bosn, and thank you, committee members. I would like to say this is how I do it. I live on 3 acres. I have 25 trees left. I used to have 35. Several of them were cottonwood, and they're terrible trees. They're like the lowlife of trees. Anyway, I've taken them out over the last 15 years, and I have a burn pile right now that's as large as this room. I do not dare start that on fire without a permit. So the very first time I called for a permit, I got the wrong fire station and they granted it to me and there was a mix-up, but it was OK. So now I know that I have to just call the, the local-- I have to fill out a form with my local volunteer department and it works for 2 weeks. That permit's good for 2 weeks. On the day I'm going to burn, I call them, and I say, hey, I'm going to burn today. And I live in a little-- my tree burn pile is in a valley, so

it's never windy. But they will say, sorry, we're going to have 15 mile an hour winds after lunch, you can't burn today. OK, I'll try back another day. So I have 2 weeks, if it-- if I can't get it in that 2 weeks, I have to renew my permit. My volunteer department used to charge money for the permit, and they realized people were avoiding them because they didn't want to pay \$10 to burn stuff. So it's now just a free permit. They just want to know. So, so at first, Senator DeBoer, you're exactly right, what do I do with this pile of wood and these leaves? Every year I've got piles of leaves from the cottonwoods. And so now, I also have a 55-gallon drum that I burn in. I don't call for that one, but if it got out of control, I fear I could be in trouble. Now, I wouldn't get fined, but if a fire truck-- if somebody said, wow, that's a big fire, I better call. And if the fire department came, they could say, you just cost us \$50 worth of gasoline and manpower, and, and then they could charge me whatever their set fees are. So I will tell you that every department does it a little bit differently, and I think that's just because of the, the local control of them is what makes sense to their, to their constituents so that they can best help out. I respectfully ask the committee for the support of 2020-- AM2024 and LB897, and request consideration for advancing to General File. Thank you.

BOSN: Thank you. Any questions for Senator Lonowski? Seeing none, thank you for being here. That will conclude our hearing for LB897. Next up we have LB859 with Senator Bostar. While he's making his way up, I will note for the record there were three proponent, no opponent, and no neutral comments submitted. Welcome, Senator Bostar.

BOSTAR: I just want to say that as the state-designated tree being the cottonwood,--

BOSN: Do you take offense to this?

BOSTAR: --I don't appreciate Senator Lonowski's disparagement of our, of our state designated--

BOSN: We'll tell him.

BOSTAR: --you know, whatever the category is. And with that, 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 Legislative District 29. I'm here today to introduce LB859, legislation to provide counties with the discretionary ability to manage some of the escalating property tax impact of

court-appointed counsel expenses by allowing for the designation of a county conflict counsel. As we know, the state of Nebraska utilizes a county-administered public defender system to deliver constitutionally required representation to indigent individuals unable to afford their own legal counsel. Public defenders, as licensed attorneys and officers of the court, are subject to ethical standards established by the judiciary, including standards regarding conflicts of interest, competency and diligence of representation. In broad terms, ethical standards regarding competency and diligence of representation prohibit public defenders from adopting workloads that prevent a lawyer from providing adequate constitutionally required representation to their clients. In addition, the ethical standard regarding conflicts of interest prohibits public defenders from representing multiple clients who may be adverse to each other. For example, co-defendants in a criminal case. Given these two ethical directives, public defenders are not able to represent every client who is constitutionally entitled to representation. When public defenders are unavailable, judges typically appoint private counsel to provide constitutionally required representation. The rates of pay and total fees for this private representation are set by the judiciary, the cost of which are then passed to counties and ultimately to county property taxpayers. Under the current system, the rates of pay, the total fees, and even the timing of the billing are completely outside of the purview of elected county boards. These costs are almost, are almost entirely unpredictable and uncontrollable, placing counties in an unenviable budget position. In Lancaster County, for example, the indigent defense cost for criminal representation outside of the public defender's office has risen from \$2,115,154 in 2021 to \$5,340,006, excuse me, in 2025. LB859 seeks to alleviate some of this pressure on county property taxpayers by empowering counties with the option to designate a county conflict counsel or establish an office of county conflict counsel within county government. As the name suggests, a county conflict counsel is intended to step into the shoes of the public defender when the public defender encounters an ethical conflict that prevents their representation. When a conflict counsel is appointed, it is their duty to provide representation in the same manner as the public defendant. Importantly, LB859 does not require counties to utilize a county conflict counsel. If the current model of exclusively utilizing private counsel is working well in a county, LB859 does nothing to disrupt that county's operations. The mechanism provided in this legislation is entirely discretionary. However, in counties that are facing unpredictable and escalating costs arising from the appointments of private counsel, LB859 offers counties an

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alternative that ensures indigent clients receive the representation they are due under the constitution while allowing counties to more effectively budget and control costs. My office has had conversations with the Nebraska Commission on Public Advocacy, and we are currently drafting an amendment in partnership with them to make certain that nothing in this legislation conflicts with the ability of the judiciary to appoint their office in proceedings related to the most serious crimes. This legislation offers a simple and entirely discretionary mechanism for counties to use as they wrestle to absorb the rising costs of representation in situations when public defenders must step back from a case due to ethical concerns. With that, I'd urge your support for LB859. Thank you for your time and consideration, be happy to answer any questions.

BOSN: Senator DeBoer.

DeBOER: Thank you. So am I understanding this right, that this is just like you hire or you, you go into a contract with somebody, the old on retainer, so that if something comes up you will use them for these conflicted-out situations?

BOSTAR: It can be. So it can look a couple of ways: the county could create effectively an office within county government and hire people to staff it, if they so choose, or they could contract with a firm or an attorney to fill that role and they would be the designated conflict counsel.

DeBOER: Is there something that prevents them from doing something like this now?

BOSTAR: They're-- effectively, yes.

DeBOER: OK.

BOSTAR: Right. So there's, there's nothing that stops them from hiring a bunch of attorneys and calling them a conflict counsel. But what makes that unwise is that, currently, there's nothing that directs the judiciary to use them and so that's, that's what makes this make sense.

DeBOER: So this is a bill that says that if a county has done this, because you've made it conditional, if the county has done this, the judiciary shall use those folks?

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BOSTAR: They shall be the next in line. So if the public defender's office--

DeBOER: Right, right, right.

BOSTAR: Yes, they're the next--

DeBOER: They shall if the defender can't.

BOSTAR: Yes. And, and if they can, I mean, you know, imagine a case that has 10 co-defendants.

DeBOER: Right.

BOSTAR: I mean--

DeBOER: And they may get conflicted out, too.

BOSTAR: Right, they can get conflicted out, too, or if the case is serious enough, it can go to the commission, right, and nothing stops them from jumping the line and going straight there either.

DeBOER: OK. Thank you.

BOSTAR: Thank you.

BOSN: Senator Hallstrom.

HALLSTROM: Senator Bostar, in your bill, you limit the conflict counsel exclusively to this line of work in counties with a population of more than 100,000. So by definition, even though it's not stated explicitly anybody in other counties can have other private practice?

BOSTAR: Yes.

HALLSTROM: OK. Thank you.

BOSN: I just want to be clear, I think that's 170,000. Is that-- or did that change somewhere?

BOSTAR: I can double-check.

BOSN: Are we on page 2, line 22 and 23?

HALLSTROM: Did I read it wrong?

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BOSN: I believe-- well, unless I'm--

HALLSTROM: Yes, excuse me, 170,000.

BOSN: OK.

HALLSTROM: Yes, thank you, Senator.

BOSN: I have a question and I, I, I may have missed it. There are times where the public defender conflicts out because they are representing a co-defendant and have a conflict.

BOSTAR: Sure.

BOSN: And there are times where, at least in my experience, the public defender declines to accept cases because they're at their caseload maximum. And I don't remember what that number is but there is a number that they'll take. Would this allow them to be used in those exceeding caseloads standards cases as well as conflict cases?

BOSTAR: Of course.

BOSN: OK. Does it say that specifically--

BOSTAR: Yes.

BOSN: --or is that just assumed based on their being prioritized over private counsel?

BOSTAR: It's if they, if they are, if they're opting out of a case for any reason.

BOSN: OK. OK.

BOSTAR: We call it conflict counsel, but the truth is the reality of their work is more expensive than the name.

BOSN: It's, essentially, a conflict-free, second-option public defender.

BOSTAR: It's a second public defender's office.

BOSN: Any questions in light of that? Senator Hallstrom.

HALLSTROM: Yeah, I think, I think the bill sets up a standard for good cause--

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BOSTAR: Yep.

HALLSTROM: --as ordered by the court. The question, is there an easier way than having to go into court to find out what good causes might streamline it if there's a way to [INAUDIBLE]?

BOSTAR: Open to suggestions.

HALLSTROM: Thank you.

BOSN: Thank you. Are you staying close?

BOSTAR: I am.

BOSN: All right. Can I see a show of hands how many individuals are here to testify in some capacity on this? One, two, three. All right, thank you. First, proponents. Good afternoon and welcome.

CHRISTA YOAKUM: Hi. Good afternoon, Chair Bosn and members of the Judiciary Committee. My name is Christa Yoakum, spelled C-h-r-i-s-t-a Y-o-a-k-u-m, and I'm appearing before the committee in my capacity as the Chair of the Lancaster County Board of Commissioners. And I'm here to testify on behalf of the Lancaster County Board in support of LB859. The Lancaster County Board is committed to providing sustainable local governmental services to our constituents. Each year, the Lancaster County Board makes tough decisions during the budget process to ensure that our constituents enjoy a reasonable property tax rate while also receiving the governmental services that they expect and deserve. Unfortunately, some costs fall outside of our control. As Senator Bostar explained, when the public defender conflicts out of a case, local judges appoint private counsel to represent indigent clients. The judges also set the counsel's rate of pay and total fees, and then those costs are billed to the county board without any way for us to influence the costs that are being passed down to us. Since fiscal year 2021, these costs-- the cost of these fees alone has increased to approx-- up-- I'm sorry, has increased approximately 152%, rising from \$2.1 million in fiscal year 2021 to \$5.3 million of fiscal year 2025. In addition, this continual increase in fees over which the county board has no control has made budgeting increasingly perilous, resulting in unpredictable mid-year budget shortfalls shouldered by the property taxpayers of Lancaster County. One of these shocking examples in recent memory, the county board in the middle of its budget process received notice from the judges that they unilaterally had increased the hourly rates for

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appointed counsel by 67%. LB859 would empower the county board to exert control over these runaway costs by employing a county conflict counsel. Instead of paying private counsel at hourly rates set entirely outside of our budget process, county conflict counsel would provide a dedicated and specialized workforce with salaries set by elected county officials making budgeting more predictable and transparent for the county board and for the local taxpayers. In addition, county conflict counsel would-- could be supported entirely from funding that otherwise would have gone toward the cost of the appointed private counsel. That allows boards to move efficiently and allocate scarce resources and manage the property tax levy. Thank you, Senator Bostar, for proposing this innovative solution to help us control county property taxes while continuing to provide competent, constitutionally required representation in matters in which the public defender has a conflict or cannot, cannot serve. Thank you for the opportunity to testify and for your service to our great state. I will answer any questions.

BOSN: Thank you. Any questions? Senator Hallstrom.

HALLSTROM: Just a series of questions, if you know, do you know what the hourly rate is currently for these private attorneys that fill in?

CHRISTA YOAKUM: I have kind of forgotten, but I think it's, like, \$125.

HALLSTROM: OK. And do you know how many cases are involved--

CHRISTA YOAKUM: I don't have that number.

HALLSTROM: --jumping from \$2.1 million?

CHRISTA YOAKUM: Yeah, I don't have that number. I could get it, though.

HALLSTROM: And a Lancaster County Public Defender is an elected position?

CHRISTA YOAKUM: It is. It is.

HALLSTROM: How many deputies do you have?

CHRISTA YOAKUM: I don't know that number off the top of my head.

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HALLSTROM: I mean, for that amount of money, it would seem you could hire quite a few deputy defenders to fill the, the void, if you haven't already.

CHRISTA YOAKUM: The, the problem is, though, if the office has to conflict out because they're already representing people it wouldn't matter.

HALLSTROM: So with regard to Senator Bosn's question about maxing out on cases, is that something that you [INAUDIBLE]?

CHRISTA YOAKUM: That's something we look at constantly.

HALLSTROM: OK.

CHRISTA YOAKUM: Yes.

HALLSTROM: Thank you.

CHRISTA YOAKUM: And, and then sometimes if you get a bigger case it's, it's hard to predict, right? So we do annually look at, do we have enough attorneys, do we need to change that number?

HALLSTROM: And, and so with regard to the total number, any idea what percentage is-- is that the vast majority of cases?

CHRISTA YOAKUM: I don't know. It is mostly, it is mostly conflicts.

HALLSTROM: Thank you.

CHRISTA YOAKUM: Mm-hmm.

BOSN: All right. Thank you very much for being here.

CHRISTA YOAKUM: Thank you.

BOSN: Next proponent. Anyone else here to testify in support? Good afternoon and welcome.

JON CANNON: Good afternoon, Senator Bosn, members of the Judiciary Committee. My name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the Executive Director of the Nebraska Association of County Officials, also known as NACO, here to testify in support of LB859. We appreciate Senator Bostar bringing this bill. There's a lot of, of issues that surround public defenders and, and how counties pay for them, but ultimately this is an issue that's borne by the property taxpayer, and so this

sort of innovative approach is designed to provide a little bit of relief as far as that particular expense is concerned. Public defenders frequently conflict out, and, I mean, I, I can't really-- I can't do any service greater than what Senator Bostar already did in his, his introduction. Just something I'd like to throw in there, one of the-- you know, addressing the cost issue. Adams County, for instance, they advertise for their public defender, \$125,000 a year. It took them a year to get an applicant in so they, they were able to hire. At \$125 an hour, I can do the math on that, 2,080 hours a year, that's 250 grand if you're, if you're just, you know, waiting to get appointed. And so there is a definite cost issue that, that arises by the virtue of the fact that you don't have people in these positions. So we think it's extremely important. We think it is good for the property taxpayers of the state, and we certainly urge that you advance this to General File. So I'm happy to take any questions you may have.

BOSN: Thank you. Any questions for Mr. Cannon? Seeing none, thank you for being here.

JON CANNON: Thank you very much.

BOSN: Next proponent. Opponents? Neutral testifiers? Good afternoon and welcome.

SPIKE EICKHOLT: Thank you. 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 the neutral capacity. We did not take a position on this bill because our association has public defenders and private counsel, but I've been in contact with Kristi Egger, who is the elected public defender, and I've got some answers to questions that have been answered. And I could also speak to sort of how different counties do it. I'm handing out a portion of the 2024 annual report from the Lancaster County Public Defender's Office, which tracks sort of the numbers of conflict cases. And on the very last page, I actually sort of included that because it explains the types of felonies that their office handles. And you can see the number one sort of felony are the drug cases. And that's notable because when you talk about drug cases, that's where the conflicts are. If you've got multiple people arrested in a drug case, or if you've got one person arrested and charged in a drug case, invariably those drug cases almost always involve negotiations, plea agreements where people provide information about other people. And that's the source of a lot

of the conflicts. You've just got people being charged with felonies and you can't represent everybody because people are snitching on each other. To answer Senator Hallstrom's question, there are 26 attorneys on staff in the public defender's office. I think the reason that that's been a problem recently is because there's been staffing challenges at the Lancaster County Public Defender's Office, particularly on the felony docket. People work for a number of years, they start in juvenile court, misdemeanors, they get into felonies, and then they go onto private practice or they go onto another position. That happens, it happens on the county attorney's side as well. And because they do have a standard, Lancaster County does as far as overload, they can't take every case. People have simply had-- are just not able to represent everybody for everything. What Lancaster County has done, they've done kind of a-- I don't know that, frankly, the bill is needed, that was one thing that members sort of said, we can do this now if we want to. And to a certain extent, Lancaster County has. If you look on the second page of what I handed out, the last paragraph explains that the county has already entered into a 3-year contract with a private law firm to do the child support and paternity cases, because county public defenders are required to do that. So Lancaster County has done that already. There's nothing stopping them, at least in my opinion, in my read of the law, for them contracting with a law firm just to do criminal offense kind of as a conflict office. I will tell you I have done court-appointed cases and there are a number of lawyers in the community who do that, it's just not very easy to get lawyers to do that, which is why the judges had to sort of raise the rates because people weren't taking them. It is \$125 an hour now to do felony cases. And I can't remember what the rate is for misdemeanors, but at one time it was \$65 for misdemeanors an hour and \$75 for felonies an hour. I can talk about the process of courts ordering the fees to be paid. There are checks on the system. I'm going to run out of time very soon, but I just wanted to flag that if anyone wants to ask me about that. I'll just tell you that I, I think the reason that the county struggles to get lawyers to do that is just because it's not attractive work, if you will, to sort of just take court-appointed cases. It is when you're first out of law school. Sorry.

BOSN: You can finish your thought.

SPIKE EICKHOLT: It is when you're first out of law school, but when you talk about these serious felonies, and I'm going to editorialize a bit, I mean, part of this is making things a felony, these things cost the county money.

BOSN: OK, now you're out of time.

SPIKE EICKHOLT: Senator Hallstrom made that point very well on the constitutional amendment debate that these things do have an impact on local governments because you have to pay for the cost of prosecuting and you have to pay for the cost of defending. And this sort of illustrates some of that dynamic. But you don't want to have a bunch of new graduates sort of handling these serious cases because they can't get anything in the private market because then they're just going to mishandle those cases which is going to cause reversals and retrials and more litigation and more expense for counties anyway. I probably can't just go on.

BOSN: You had a point that you were trying to make about how those fees are paid out--

SPIKE EICKHOLT: Right.

BOSN: --and kind of there's a check and balance on that and I think it might be beneficial for us to [INAUDIBLE].

SPIKE EICKHOLT: Sure. So each county has done it a little differently and Jon Cannon can probably talk about how the rural counties, particularly, struggle to get lawyers to take these cases. But to be court appointed you have to have a request to be put on the appointment list. And in Lancaster County and in Douglas County and Sarpy County they have certain tiers where the judges-- they just won't let any attorney on there for personal and professional reasons to be frank. And so you sort of apply, you submit your resume, you say what kind of experience you have, and then in Lancaster County, there's four levels: juvenile court misdemeanors, moderate serious felonies, real serious felonies, and then the capital cases on top. And somewhere along the line, you can also be appointed to do appellate work. The judges then to sort of keep your name in the rotation and they'll appoint you once the public defender conflicts out, either because of they've got too many cases, there's an overload, or because there's an ethical issue going on. And what really happens, and it can really drive up the cost, is when you've got somebody charged. For instance, this recent homicide case, there are all kinds of people arrested. You're going to be appointing five, six, seven lawyers. You can't represent everybody when people are blaming each other in that case. You total your time, there's a, a billing platform that they have that they use where you submit your fee. You have to file a motion, you have your proposed fee. The county

attorney has an opportunity to review that. The county court and district court does it differently. The county court, they-- the county attorney has to request a hearing, if you will, where they can sort of contest it and dispute it. District court, for whatever reason, has a little more presumptive, they're going to approve it unless the county attorney sort of intervenes, if you will, in the approval process. So I say that because the county does have a check on excessive fees or inappropriate fees. And I do know, which is one reason why a lot of lawyers get off the list, is because the judges regularly reduce submitted fees. And I've had several of my members say I'm not getting on that list again. I spent a lot of time, they docked my fee, this isn't worth it for me. I don't know, there's, obviously, another side to that story. I'm sure it is a lot for the county because these things can cost money. I just know that the public defender has been short staffed recently, and I think that's why it's peaked recently in the last number of years. I'm not on the appointment list now, so I don't have to disclose any kind of thing. I'm not-- and, and, frankly, the only reason I ever did it is because it gave me an opportunity to be in the courtroom and kind of see what was still happening and how things are going with trends and so on. But I'll answer, I guess, [INAUDIBLE].

BOSN: Well, you brought up an interesting point about whether or not we could do this right now, but even with the private contracts that they have with the-- [INAUDIBLE]--

SPIKE EICKHOLT: [INAUDIBLE]

BOSN: --but the firm that they are using for that. This would say that if you have a, a county or a city that is over 170,000 you can't take any other cases and that firm doesn't-- wouldn't-- would say no thank you then.

SPIKE EICKHOLT: Right, and I can see that being an obstacle, frankly, with the bill because I, I just--

BOSN: Well, but they wouldn't be considered conflict counsel, because they're not taking all cases. They're taking a specialized portion that the public defender would have to hire, what, six people just to handle that docket.

SPIKE EICKHOLT: Right.

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BOSN: And, instead, this firm has said they would do it. I mean, it's part of fiscal management for the county board,--

SPIKE EICKHOLT: Right.

BOSN: --but the reason why-- I, I guess my understanding of why the bill is necessary is because if you're going to put that limitation and say counties over 170,000 people, you can't take any other jobs. That's all they're doing, the conflict counsel.

SPIKE EICKHOLT: Right. And I should have made that point. And I see that, frankly, in practice being an obstacle because I don't know that there's a lot of firms that are interested in just serving as a conflict office.

BOSN: So do you envision this more as a firm signing up for this or more like a state-run conflict counsel office?

SPIKE EICKHOLT: I think it would be a county-run and county-funded conflict office.

BOSN: Or, I'm sorry, yeah.

SPIKE EICKHOLT: Yeah.

BOSN: County-run conflict office, the Lancaster County conflict counsel.

SPIKE EICKHOLT: Overflow office or something or public defender B and public defender A or something like that. That's how I thought it would be. And if they can't hire staff for the one, I don't know that they're going to have a lot of luck hiring staff for the other one.

BOSN: Well, the argument maybe is, is that by having two offices, then you don't have to conflict out of so many cases. I mean-- yeah, I get, I-- OK. All right. Any questions in light of that? Senator Hallstrom.

HALLSTROM: I, I remember a day when you didn't have a choice to not be on the list, and in a small county, the rotation wasn't very broad. So you did a lot of those. But, I mean it seemed to me along the lines of what Senator Bosn asked, is that, you know, there certainly are some firms, and I understand it's not attractive business, but \$5.3 million in conflict cases primarily. I would think there'd be some firms out there that would say that may be-- even half of that may be more money than we, we make as a firm. I don't know.

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SPIKE EICKHOLT: That might be, yeah. I'm not disputing it, it costs a lot of money. I mean it does.

HALLSTROM: Thank you.

BOSN: Thank you for being here and for this chart. This actually is helpful, so. All right, any other neutral testifiers? All right, Senator Bostar to close.

BOSTAR: Thank you, Chair Bosn, members of the committee. You know, I can't speak to every county, although several, I believe, submitted-- let's see, proponents from Nebraska Appleseed is support, York County Attorney's Office, Polk County Attorney's Office, Douglas County. So I'm guessing that other counties are, are at least interested in this. I know-- Lancaster County is, is who I brought this bill for because we have an acute problem in Lancaster County. A hundred-- over 150% increase, over 5 years is not sustainable and it's unfair to property taxpayers, frankly. So I know that there is interest in the county trying to rectify this, and I know that there's, there's interest in looking at creating an office within the county government, right? And so why this is needed is again, because, yes, they can hire attorneys, yes, they can call them whatever they want, yes, they can pay them, but there's nothing that has-- that will save us money, right? The judge, if they did that, could still go straight to the contract outside counsel. And so in order to have this make fiscal sense, in order to be responsible to the taxpayers, we need to be able to say, after the public defender's office, this is the next step. And that's what will save the money. That's why we need the bill. Yeah, happy to answer any final questions on this.

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

HALLSTROM: You started off saying something about Senator Lonowski. Have you ever seen a Western Meadowlark in a cottonwood tree?

BOSTAR: Not to my recollection.

HALLSTROM: OK. Thank you.

BOSN: Seeing no other questions, thank you for being here. That will conclude our hearing for LB859. Next up, we have LB1169 with Senator Wordekemper. Welcome, Senator Wordekemper.

WORDEKEMPER: Thank you.

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BOSN: Welcome.

WORDEKEMPER: Good afternoon, Chairwoman Bosn, members of the Judiciary Committee. I am Senator Dave Wordekemper, D-a-v-e W-o-r-d-e-k-e-m-p-e-r, and I have an honor of representing Legislative District 15, and I appear before you today to introduce LB1169. LB1169 addresses a protection gap in Nebraska's assault statutes. Under current law, we provide enhanced criminal penalties when someone assaults a peace officer, firefighter, emergency responder, or correctional employee while they are performing their official duties. These enhanced protections recognize both the vital public service these individuals provide and the elevated risks they face in their daily work. However, there is another category of public servants who face similar risks but lack these same protections: court operation officers. These are nonsworn personnel who are public facing within our judicial system. Examples would include the security officers at the front door of our courthouses, the security screeners checking bags and running metal detectors at courthouses-- courthouse entrances, and the civil process servers delivering court orders and protection orders directly to potential hostile individuals. This bill was drafted in close consultation with the Douglas County Sheriff's Office, which raised concerns about the vulnerability of these public-facing court employees. Like peace officers and emergency responders, these individuals interact daily with members of the public who may be angry or violent. They enforce courthouse security protocols, serve papers in domestic violence cases, and maintain order during emotionally charged proceedings. Yet, when they're assaulted while performing these duties, current law treats them the same as any other victim. LB1169 corrects this disparity by bringing court operation officers into parity with other protected public safety classes. The bill creates a new definition for court operation officer that specifically targets public-facing court employees whose duties involve physical interaction with the public for screening-- security screening, civil process service, and maintaining courthouse safety. I should note that LB1169 also recognizes the assault statutes to create a cleaner, more logical structure. The Bill Drafter proposed consolidating the various protected classes under a new public safety officer definition, which streamlines the statute. This reorganization does not change the substance of existing protections. It simply creates a more coherent statutory framework. Our judicial system depends on these dedicated public servants to maintain the security and dignity of our courts. They work everyday to ensure that justice can be administered safely and fairly. LB1169 simply asks that we

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extend them the same protection we've already deemed appropriate for others who serve the public in simply risky capacities. I respectfully urge that the committee advance LB1169 to General File. I'm happy to answer any questions you may have. Otherwise, there's a gentleman following me that might be better able to address specifics. Thank you.

BOSN: Thank you. Questions for Senator Wordekemper? Are you staying to close?

WORDEKEMPER: If you'll let me.

BOSN: We will. Can I see a show of hands how many individuals are here to testify in some capacity on LB1169? One, two, three, four. All right, we'll take proponents first. And while we're getting ready for proponents, I will note for the record there were two proponent comments submitted online, no opponent, and no neutral comments submitted. Good afternoon and welcome.

WILLIAM RINN: Good afternoon, members of Judiciary, Chair Bosn, thank you for hearing and allowing us to speak. My name is William Rinn, W-i-l-l-i-a-m R-i-n-n. I'm the Chief Deputy of Administration under Sheriff Hanson, Douglas County, Omaha. We've had the opportunity to review LB1169 and assisted in the drafting of this language. We stand as a proponent of this bill. The office of the county sheriff in Nebraska comes with a complex set of codified duties associated with his or her office, ranging from crime suppression, securing courthouse facilities, and the service of process to ensure an acceptable level of public safety. These duties are accomplished daily in partnership with corrections officers and medical personnel, all of whom assume a number of known and unknown risks of harm. It is for this reason lawmakers agreed upon a need for an enhancement of penalties associated with assaults against these categories of professionals. Where the statute falls short is identifying partnerships with other officers of the court employed by a sheriff whose critical duties also routinely place them in a forward-facing position with the public. Correspondingly, this position increases their exposure to assaults and/or injury. Within the last 3 years, a civil process respondent shot through the door of their apartment at a Douglas County Sheriff process server who was attempting to serve documents. Fortunately, this court officer was not physically harmed and was unable to summon help-- was unable-- excuse me, able to summon help from law enforcement. Entrance security officers and building security officers are expected by their job description to investigate and temporarily

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detain trespassers or those carrying firearms into the facilities. They must intervene and assist law enforcement officers when needed. It is incongruent that a law enforcement officer and an assisting civilian court officer assaulted at the same time by the same suspect would be treated differently from a prosecutorial standpoint. With the number of officer assaults in Douglas County on the rise and increased demands of certain Douglas County Sheriff's civilian court officers, we respectfully request the Judiciary Committee advance this bill with your full support.

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

McKINNEY: Thank you, Chair Bosn. Thank you. I'm just thinking, if this passes, how would the public or the education around this prohibition change? Because I'm, because I'm guessing anybody that is-- that this bill is aimed at, are they aware that-- would they be aware of the law change, one, and, two, what is the current-- so if somebody shoots at a, a court officer, that's already an offense. So I guess I'm not understanding, like, if this passes, does the awareness actually change, though?

WILLIAM RINN: It certainly should. The-- and I was around when they changed various enhancement penalties. I think it's incumbent on those people who have the capacity to include the sheriff. Anytime there's a rule change or a policy changes with regard to coming in and out of our facilities, we not only post that online, but it's also physically posted placards wherever you want to put it as you're coming in, in various different languages in the courthouse. So I think it would be incumbent on the law enforcement leaders to make sure that, that education takes place.

McKINNEY: If they assault them currently, what would happen?

WILLIAM RINN: It goes under a standard felony assault statute appropriate for a civilian or nonlaw enforcement or a person who is not under the public safety definition.

McKINNEY: All right. Thank you.

BOSN: Senator DeBoer.

DeBOER: Thank you. Are assaults on officers right now sort of level with where they've been in the past or are they on the rise, the decline?

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WILLIAM RINN: So we'd like to-- you know, we're required to keep statistics and all that. So because of that, NIBRS has a code, so every time we have that, it's easy to put in the report. We can just pull reports on that. For 2025, it is up approximately seven more than last year. Whether you want to call that statistically significant or not, you could, you could have an argument on that. Nationwide, they are up a little bit. And so as far as the 5-year average, it's pretty much slightly over on that, but not as much-- not as significant as a 1-year spike. And we try to keep that into perspective, you know, a 1-year spike shouldn't drive, you know, legislative change. But this is more a secondary matter of, and I think Mr. Strawn will speak to this, we're asking a lot of these court officers who have agreed that they don't want to be full-fledged law enforcement persons, but then we have some of the same requirements of them with regard to dealing with the public, and that makes it difficult for that much lower pay to, to recruit them and to keep them in the job. Because, I'm sure Mr. Strawn will tell you, he's constantly at battle, with, with myself, too, OK, we need wages higher here. I mean, there's-- it has to become other attractive things other than wages. And protection such as these is another recruiting tool for us.

DeBOER: So I guess my question is, as a long-term trend, are assaults on officers in Nebraska going up, down, staying the same?

WILLIAM RINN: I can't speak to the entire state of Nebraska, so I didn't pull those statistics. I can tell you in Douglas County, they are going up.

DeBOER: And for how long have they been going up, do you know?

WILLIAM RINN: From year to year, I think we just looked at a 5-year study, on and off for the last 5 years.

DeBOER: Could you let me know if they've gone up over a longer period of time, like maybe 10, 15 years?

WILLIAM RINN: I could certainly pull that data and get it to, get it to you.

DeBOER: I mean, if it's not too much trouble.

WILLIAM RINN: Oh, sure, easy.

DeBOER: Thank you.

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BOSN: Any other questions for the testifier? Seeing none, thank you for being here.

WILLIAM RINN: Thank you.

BOSN: Next proponent. Good afternoon and welcome.

ANTHONY STRAWN: Hello, Chairperson Bosn and members of the Judiciary Committee. My name is Anthony Strawn, A-n-t-h-o-n-y S-t-r-a-w-n. I'm the business representative of the International Union of Operating Engineers Local 571, and I was a proud longtime public servant for 17 years. I had the honor of serving as a firefighter for the city of Papillion. I know firsthand what it means to stand out-- stand on the front line of public safety. And I also know that many people who serve the public face the same risks as sworn officers, yet are not given the same protections. That is why I'm here today in strong support of LB1169, a bill introduced by Senator Wordekemper to prohibit assaults on a court operations officer. Court operations officers, security screeners, civil process servers, and the nonsworn personnel play a critical role in ensuring that Nebraska courthouses remain safe, functional, and accessible to the public every day. Every day they interact with individuals who may be under stress, in crisis, or in conflict. They are the first line of defense in our judicial system, often navigating unpredictable and sometimes dangerous situations. And yet, under current law, these dedicated workers do not receive the same legal protections afforded to peace officers, emergency responders, or health care professionals, even though the risks they face are comparable. LB1169 addresses the gap ensuring the assault-- that assaulting a court operations officer is treated with the same seriousness as assaulting other frontline public safety personnel. This is a commonsense modernization of the law, one that aligns protections across criminal code and reflects the reality of the job these workers perform. Importantly, LB1169 does more than simply add a new protected class, it clarifies and harmonizes the Nebraska Criminal Code by updating definitions, reorganizing assault classifications, and eliminating outdated or duplicative sections. These changes will help law enforcement prosecutors and the court apply the law more consistently and more effectively. From my experience in public safety and my work representing skilled operating engineers across the region, I can tell you that clear laws and appropriate protections make our community stronger. They also help ensure that the people who show up every day to keep our institutions running, often quietly without recognition, can do their jobs without fear. No one should be put at risk simply for serving their community.

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Court operations officers deserve the same respect and the same statutory protections that other frontline public servants already receive. LB1169 delivers that fairness. On behalf of nonsworn law enforcement personnel we represent at IUOE 571 and as someone who has spent a career serving and protecting others, I urge you to support this legislation. It strengthens our justice system, protects hardworking Nebraskans, and reinforces our shared commitment to public safety. Thank you for your time and consideration on LB1169.

BOSN: Thank you. Are there questions for this testifier? Seeing none, thank you for your work-- your service as well.

ANTHONY STRAWN: Thank you.

BOSN: Yes. Next proponent. Good afternoon and welcome.

MIKE GAGE: Good afternoon, Chair, members of the committee. My name is Mike Gage, M-i-k-e G-a-g-e. I'm the President, Secretary/Treasurer of the Nebraska State AFL-CIO, and I'm here to testify in support of LB1169. Court operator-- or court operations officers maintain order in environments that can be tense and emotionally charged. They protect judges, staff, jurors, and the public so our justice system can function safely and fairly. When they're assaulted, it's not just an attack on a worker, it's an attack on the integrity of our courts. LB1169 provides clear statutory protection and aligns penalties appropriately with the other frontline public safety rules. It strengthens workforce-- workplace safety and reinforces that violence against public employees will not be tolerated. The labor movement believes no one should face violence as just part of the job. Protecting these workers protects the justice system itself. For these reasons, we respectfully urge advancement of LB1169. Thank you.

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

ROUNTREE: Thank you so much, Chairwoman Bosn. And thank you so much for your testimony. We're talking about keeping statistics, I know you're looking over all, but do you keep track of how many of your people are attacked or assaulted that would have caused us to come to this point with the bill?

MIKE GAGE: No, we don't have-- we haven't really kept track on any data of that, but any, any chance the AFL-CIO has to provide a way of mitigating risk on the job for the people we represent, we'd like to support that. So if, if this change would maybe change somebody's

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behavior in the future that could protect one of these workers, then we'd support-- that's why we support this legislation.

ROUNTREE: Yeah, because that's one of the questions that I normally ask when we talk about penalties or enhancements. We're looking at information to see if those are effective. Then I look also at how do we get on the front end of providing different types or increased safety measures protecting our people versus increased penalties for those who offend. So looking into the front end versus the back end.

MIKE GAGE: And, and, and the-- one of the reasons for support is not as much because of the, the punitive nature of this as, as it would be the preventative nature. That if people knew that there was this kind of result from assaulting an officer, that they might not do it in the first place.

ROUNTREE: Thank you.

MIKE GAGE: Mm-hmm.

BOSN: Thank you. Any other questions? Senator Hallstrom.

HALLSTROM: Does your organization represent any health care workers?

MIKE GAGE: We don't. In Nebraska, the closest thing we'd do would be some AFGE members that are with the Veterans Hospital.

HALLSTROM: OK. But there are health care workers that are members of labor organizations

MIKE GAGE: Yes.

HALLSTROM: --in other states.

MIKE GAGE: Mm-hmm.

HALLSTROM: OK. Thank you.

MIKE GAGE: Mm-hmm.

BOSN: Any other proponents? Opponents?

SPIKE EICKHOLT: Good afternoon.

BOSN: Good afternoon and welcome.

SPIKE EICKHOLT: Thank you. 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 ACLU of Nebraska and the Nebraska Criminal Defense Attorneys Association in respectful opposition to the bill. I did visit with Senator Wordekemper earlier about this bill. And this committee has seen bill proposals like this before and you've heard my arguments against this sort of concept before as well. You've got my written statement, so I'm not going to read it, but I would just say a couple of things. The, the argument for the bill is that there is the court operations officer and the security-- courtroom security perform a similar function to law enforcement and peace officers, so therefore they should be entitled to the same protection, if you will, of the law. I think there is a reason for a distinction, and that is law enforcement officers have certain duties that no other employee or person have. They have the duty and requirement to arrest and take people into custody, including civil custody when required. They are authorized under the law to use force, including deadly force. As Senator Hallstrom's bill is coming up later today, officers have requirements for ongoing training for things like de-escalation techniques, racial bias, dealing with people with special needs and in crisis. So there is a reason in the law why perhaps there is a distinction with those category of employees versus others. Secondly, another argument for this bill is that this is a deterrent effect. And I think you heard earlier-- and I-- first, I don't know that a person walking into a courtroom or a courthouse knows that someone in uniform that is doing the security is not necessarily a peace officer. I think that people would just assume that they were. Secondly, as the person from the Douglas County Sheriff's Office testified earlier, assaults on actual officers are on the increase. So if making it a felony is a deterrent, it's not working. So I just wanted to highlight that. I understand sort of the response, if you will, is to sort of acknowledge the role that these people do, and it is an important role, and I'm not trying to minimize what they do or even the risks that they have. But the concern that we have is that making everything a felony blurs the distinction between law enforcement and other employees, and, secondly, it also doesn't really have a deterrent effect. It simply gets people who-- tangled up in a very serious way with the criminal law. And we'd urge the committee not to advance the bill. I'll answer any questions if anyone has any.

BOSN: Questions for this testifier? Senator Hallstrom.

HALLSTROM: Thank you, Mr. Eickholt. I want to make sure I heard you correctly. Did you suggest that people might not be able to discern or

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distinguish between an enforcement officer and one of the people that we're trying to expand the protection to?

SPIKE EICKHOLT: Yes.

HALLSTROM: And you also indicated that assaults on officers are on the rise.

SPIKE EICKHOLT: Right.

HALLSTROM: So whether they're mistaken or not, isn't there a chance that you have assaults on those people that they mistake for law enforcement officers if they're intending to assault a law enforcement officer?

SPIKE EICKHOLT: I, I think I got lost in one of those [INAUDIBLE]. I don't know if I understood the question.

HALLSTROM: Well, if assaults on law enforcement officers are on the rise,--

SPIKE EICKHOLT: Right.

HALLSTROM: --and there's a problem discerning between the true law enforcement officer and the people that Senator Wordekemper's bill is intended to protect, they're inevitably going to get caught in the crossfire by mistake, if nothing else. They thought they were a law enforcement officer, and I'm out here to be one of the gangs that's conducting more assaults on law enforcement officers, so I'm joining the crowd. I just happened to mistake that they were actually a law enforcement officer and the person's hurt just as badly from the assault as if he or she was a law enforcement officer.

SPIKE EICKHOLT: I, I think I understand your point. The point I was trying to make when I mentioned that is, I don't know that making it a felony is a deterrence. I don't think that can be shown to be. I think that you would have-- someone would show a, a descending number of assaults on officers and some sort of increase in numbers on nonofficers.

HALLSTROM: So if, if a particular crime isn't a deterrent, your position certainly isn't that we should just wipe it off the books?

SPIKE EICKHOLT: No, that's not it at all. And that's one of the positions I always find myself arguing. I think I'm arguing this way.

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I'm not saying these people shouldn't be entitled to protection of the law. It's an assault now. It's a crime now. And we're not asking for it to not be. Any sort of assault, no matter how incidental, temporary, minor pain would be a felony under this. And I understand your point. And it's, it's tempting to include more and more groups in this category. And we've dealt with it last year in bills, and it's almost a point where you're asked to-- U.S. policymakers are asked to sort of acknowledge the importance of the role they're doing, but that's not necessarily an appropriate public policy statement to say in setting proportionality of the criminal code is the point we're trying to make.

HALLSTROM: So your position would be it's OK to be proportional based on the significance or the importance of the role that the person plays?

SPIKE EICKHOLT: Exactly right.

HALLSTROM: OK. Thank you.

SPIKE EICKHOLT: You said it better than I could.

BOSN: Thank you for being here. Next opponent. Anyone else here in opposition? Neutral testifiers? All right, Senator Wordekemper to close.

WORDEKEMPER: Thank you, Chairwoman Bosn. I did have a conversation with Mr. Eickholt, and it was my understanding he was going to be sick today. But I see he, he got well. But I'll, I'll keep this short. And, and I guess I, I took this bill, looking at it, and, and not really realizing that some of our law enforcement agencies are using civilian employees to carry out some of their duties that they might not have a sworn officer to do. And so when, when I looked at that, and I thought, well, they're, they're doing what a sworn officer may go out to do, but yet they're not receiving the same protection. And, and so that's, that's where I looked at this bill. Certainly not-- you know, I don't want anybody to get assaulted. But if it happens in the position of their job and they're taking the place of a sworn officer, it was my thought that maybe it should be treated as the same. So I'd appreciate any support on this, and thank you for your time.

BOSN: Thank you. Questions from the committee? Seeing none, thank you for being here.

WORDEKEMPER: Thank you.

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BOSN: That will conclude our hearing for LB1169. Next up, and for the rest of our day, we get to hear from Senator Hallstrom. We're taking them in numerical order. We'll start with LB784. While he's making his way up, I will note that on LB784, you had four proponent comments, two opponent comments, and one neutral comment submitted online. Good afternoon and welcome.

HALLSTROM: Thank you.

BOSN: Can I see a show of hands how many are here to testify on LB784? You can put your hand down. One, two, three, four, five, six. Got it. Thank you.

HALLSTROM: Chairwoman Bosn, members of the Judiciary Committee, my name is Bob Hallstrom, B-o-b H-a-l-l-s-t-r-o-m. I serve as senator for Legislative District 1. I am here today to present LB784 for your consideration. LB784 makes a targeted modification to the statute, Neb. Rev. Stat., Section 23-1701 regarding sheriff's residency and reduces the continuing education requirements for law enforcement officers from 32 hours to 24 hours annually. LB784 would reduce the number of hours, as I indicated, that are required for annual law enforcement training. In 2012, the Legislature passed legislation requiring each law enforcement officer to attend at least 20 hours of continuing education each calendar year. In 2021, the Legislature passed LB51, which increased the amount of continuing education for law enforcement officers across the state to 32 hours each calendar year. At the public hearing on LB51, several testifiers warned that the additional training requirements in LB51 would reduce officer availability for patrol and call-response activities, or would require budget increases to accommodate additional overtime pay for officers who attend additional training in smaller counties and smaller municipalities, primarily in the rural part of the state. From what I'm hearing in my legislative district and across much of the state, the 32-hour continuing education requirement is negatively impacting many rural law enforcement agencies, particularly in the smaller staffed offices. The testifiers behind me will elaborate more on this, but the concerns raised in 2021 are indeed occurring today in many parts of rural Nebraska. I would add, I don't expect in the larger counties that we're probably going to see them doing less training just because we moved from 32 hours to 24, but I think it really will be a positive thing for the rural counties. With regard to the continuing education requirements, the bill also minimizes the need for repetitive every year instruction by only requiring continuing education on de-escalation, officer wellness, antibias and implicit

bias training, and vehicular pursuit policies to be completed every 3 years, all of which would count toward the annual continuing education requirements in the year in which completed. While the provisions relating to sheriff's residency requirements could apply in many rural counties, we have a current situation in my legislative district where these changes would be applicable and beneficial. LB784 would allow the sheriff in a county that does not contain a city of the metropolitan, primary or first class to reside in such county or in an adjoining county while holding office. These provisions are patterned after Neb. Rev Stat., Section 23-201.01, which allows similar flexibility for county attorneys serving in a county which does not have a city of the metropolitan, primary or first class. Now to the action at hand: Currently, the appointed Johnson County Sheriff lives in Johnson, Nebraska, which despite the name is located in Nemaha County. While the sheriff can serve during his period of appointment and need not reside in Johnson County when filing for election, he would be required to move to Johnson County in order to serve if elected. LB784 will cure this obstacle in a narrow targeted fashion. And, once again, in accordance with what we've also done for county attorneys in rural areas. I have also submitted, for the committee's consideration, AM1895 to LB784 which codifies and modernizes the requirements for sheriffs and deputies uniforms. The uniform requirements under current law are outdated and some of the uniforms are difficult to obtain. Otoe County Sheriff Caudill will provide additional background on the process employed by the Sheriff's Association in reaching conclusions for recommended uniforms as set forth in the proposed amendment. And it is my understanding that the Sheriff's Association had a group that was put together that has come up with the language in the amendment. They had intended to put something together that would have allowed an independent third party to make decisions regarding uniforms, couldn't come up with agreement on who that independent third party should be, so they have proposed specific statutory language for that purpose. Be happy to address any questions in the committee.

BOSN: Senator DeBoer.

DeBOER: Thank you. Can I first talk to you about the noncertificated or certified conditional officers?

HALLSTROM: You can. I'll try to answer. I don't have a copy of the bill.

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DeBOER: Has that, has that changed, because that was part of the big negotiation that we put together with Lathrop to try and make sure that there was an ability to have enough officers trained in rural Nebraska? I don't know if you were part of those conversations.

HALLSTROM: I, I was not, that was not my bailiwick, and I probably would defer to one of the sheriff's representatives to, to address that distinction.

DeBOER: OK. So you don't-- so you've, you've taken them out of some things, so I'm just wondering if they're completely out or if they're just out of some things in your bill?

HALLSTROM: That-- I, I can't answer that question. I, I worked with the Sheriff's Association in putting this language together. Senator DeKay had a bill last year that would have reduced the hours from 32 to 20 in counties under 40,000, and the Sheriff's Association had some heartburn over that, so I worked with them over the interim to put together something that was workable for the entire organization.

DeBOER: So the 32 to 24 hours, that's a 25% decrease in the amount of continuing education that we're asking for our officers to have. So we're going to train them 25% less.

HALLSTROM: That's the minimum, yes.

DeBOER: One of the things that you have offered to go every third year is the officer wellness. Where did that idea of putting that in there come from? Because I know that I had a bill, maybe I didn't even actually bring it as a bill, but I had a bunch of officers come up to me and ask me for more of that training, not less. Because they had seen a bunch of suicides and they were concerned about, or, or close, too, and they were concerned about officer wellness. Is that something that came from officers themselves?

HALLSTROM: Yeah, this came from our discussions with the Sheriff's Association. I think they were looking at things that, quite frankly, are repetitive in nature in terms of the, the type of training that you receive. And if, if there's something in there that we believe maybe should be treated or, or trained on a more regular basis, but they were the repetitive types of things. You know, in a, in a private business you do sexual harassment training and year after year you get the same training, the same examples, the same people.

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DeBOER: Would it be possible to provide different kinds of officer wellness training? I just know that there were a lot of officers that were very interested in making sure that there was space, because especially if there's only 24 hours, trying to make space for them to have that particular kind of thing where they can worry about, you know, their own well-being, I do think that's important to, to give them that opportunity.

HALLSTROM: Yeah, certainly, certainly, not adverse to that.

DeBOER: And then the de-escalation piece, I also would be concerned about reducing the amount of de-escalation. Is this something where individual officer-- so if Senator McKinney becomes an officer and I become an officer in different years, he'll get it his first year, I'll get it my first year so that it's not like you have to have everybody getting the same thing at the same time and it'd be every 3 years that--

HALLSTROM: Thereafter. That, that, that would be my understanding on how it would work.

DeBOER: So it wouldn't be like, he would get it, and then I join, and, oh, it's already been offered last year, so I don't get it for a couple years?

HALLSTROM: That, that certainly would not be my vision of how it would work.

DeBOER: OK.

HALLSTROM: It, it-- it's more that Senator McKinney got it the first year, if the training is virtually the same in the second year, we're still going to repeat it. We're just not going to repeat it every year.

DeBOER: OK, so the de-escalation piece would be another one that I would want to really talk about. Are you aware that the implicit bias one was part of this big negotiation that we did? It was-- gosh, it was my second year because it was Senator Chambers' priority bill my second year, so his last year in the body.

HALLSTROM: Yeah, the only thing I'm familiar with, I think Senator Lathrop was involved with LB51. That's as far back as I, I went in my historical analysis.

DeBOER: OK, so this was the year before, because this would have been '20. And in '21 then, LB51 was a big negotiated thing that he did with all the, you know, small town sheriffs and the-- I mean, we had a lot of people at the table that may just had by virtue of being around that known that there were a lot people at table at the time. And that that was in response in part to some of the situation that happened in the summer of 2020, unfortunately, happened, yeah, around the country, and that that was kind of a negotiated piece. It hasn't been in place very long, and here we are sort of disrupting it. You can see why I might have heartburn about that.

HALLSTROM: Yeah, and I, I think the issue is we're, we're seeing what was foreshadowed in the, in the testimony that I, I referred to in my open remarks, that, that the rural sheriffs and their ability to recruit and retain folks and have to pay overtime were all of the issues that were raised at that time. And I'm, I'm assuming-- one of the first things that I heard when I talked with my five county sheriffs was that there was, there was real concerns in my rural district over the actuality of LB51.

DeBOER: So I assume that the-- I mean, LB51, the hearing would have been about the introduced copy or perhaps there was a white copy amendment. It certainly was not what we eventually passed. So that would have pertained to that first thing before we had all the kind of discussions with everyone.

HALLSTROM: Could have.

DeBOER: Yeah. OK. Thank you.

BOSN: Senator McKinney.

McKINNEY: Thank you. Thank you, Senator Hallstrom. So my concern is, one, the reduction in training hours and doing it every 3 years. And if I remember right from those discussions, we were going to get rid of the conditional officers. But a part of the negotiation was to keep them, but due to 32 hours. Because of the, the concerns of not having enough officers in rural communities, we opted-- well, it was negotiated to keep the conditional officers, but the agreement was to do the 32 hours as well. And to see it reduced is concerning, but also the antibias, implicit bias training being reduced to every 3 years, I just-- I don't-- I think that's very important.

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HALLSTROM: Yeah, I'm not familiar. I'll look more into the history behind that, Senator McKinney. I'm not familiar with, with that particular aspect of it.

McKINNEY: OK. All right. Thank you.

BOSN: Any other questions? Senator Rountree.

ROUNTREE: Thank you so much, Chairwoman Bosn. And thank you so much, Senator Hallstrom. I'm trying to get back through LB51 myself and look down here, but I know we are reducing hours. There was an increase in hours back on this particular bill and I see the five areas that you're talking about now. Are these just reduction in hours for these specific areas or are there other courses that were included for training, but now those courses are being taken out [INAUDIBLE]?

HALLSTROM: No, those five areas, the only reduction is that you're not doing them every year.

ROUNTREE: OK.

HALLSTROM: They count towards your annual training to the extent that you take them, but you're only required to take those specific courses. You can take them more, you can take more than 20 hours, but the minimum is reduced to 20 hours. And in those 5 categories, you're only obligated under the bill to take them once every 3 years.

ROUNTREE: OK. That's good.

HALLSTROM: Thank you.

ROUNTREE: Appreciate it. Thank you.

BOSN: Are you staying to close?

HALLSTROM: I most certainly am.

BOSN: All right.

HALLSTROM: Silly question.

BOSN: First proponent. Good afternoon and welcome.

GARY YOUNG JR.: Thank you. Good afternoon, Senator Bosn and members of the Judiciary Committee. My name is Gary Young, G-a-r-y Y-o-u-n-g, Jr. I am a-- the Police Chief for the city of Crete Police Department and

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here representing the POAN and the Nebraska Chiefs Association. I am-- first, I've got to grab my glasses. I'm here to speak in support of LB784 in relation to the reduction of training hours and adjustment of mandatory topics. The following testifiers will speak more on the Sheriff's Association angle. I believe this bill returns more control to the training-- of training to local entities. And that while required topics are important, I believe that spacing the, the topics across 3 years creates a freshness and reduces fatigue of being hammered with the same repetitive information and may allow for development of additional information or technique or research that brings to light new methods of, of education that would enhance the training. With the spacing across 3 years, implicit bias, antibias, and de-escalation, involve a lot of very similar topics. And if a department chose to, they could space that across 3 years and departments would receive specialized training in those areas across that 3 years so we're not opening it up to being devoid for, say, 2 years. The following chiefs will discuss the specific impacts for their communities, and I would answer any questions that you might have.

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

GARY YOUNG JR.: Yes, sir.

McKINNEY: Thank you. So for the de-escalation, antibias and implicit bias, are you saying that learning it every 3 years would be more effective?

GARY YOUNG JR.: I think that the officers would be more receptive to it if it's not repeated every single year and that it's fresh and new.

McKINNEY: But do you understand the reason why it was put in place?

GARY YOUNG JR.: Yes, sir.

McKINNEY: So regardless of them, them being more receptive, a lot of that was put into place because of things that occurred in our society. So I don't-- just being more, being more receptive or not, I think it's important to have.

GARY YOUNG JR.: I agree wholeheartedly it's important.

McKINNEY: So doing it every 3 years, I think diminishes the importance, also, with the reduction in training hours that's on top of that.

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GARY YOUNG JR.: And I'll, I'll speak to the training hours first. I don't see it as a reduction. It is a reduction in the mandatory training, but many departments allocate more funding and, and hours than some of the rural communities can. And so in my case, our officers average 60 to 70 hours a year of training, including the mandatory topics. So there's the possibility of additional training on top of that. The costs associated with the mandatory training tend to reduce the ability for departments to attend specialized training because their funding is spent with the mandatory. As far as the, the bias and antibias training, as I said, I think we can-- if we split it over 3 years, we would still be getting very similar training across all 3 years.

McKINNEY: All right. And I don't think-- if I remember right, and I think I'm right, a part of the negotiations in '22 or '21 was that we were going to eliminate the conditional officers completely because there was a conversation of not having or, or having some standard law enforcement practices across the board, across the state. But the concern from the rural side of things was that rural communities needed the conditional officers. And we elected not to eliminate them, but also part of that negotiation was to have the 32 hours. So I feel like we're going back on that negotiation.

GARY YOUNG JR.: And I wasn't involved in anything with either PCAN or the Legislature at that time. So I'm not aware of what negotiations occurred. But I do know that within that 80 hours there is specific mandated training for the nonconditional officers including the topics that are required right now.

McKINNEY: All right. Thank you.

GARY YOUNG JR.: You're welcome.

BOSN: Senator DeBoer.

DeBOER: Thank you.

GARY YOUNG JR.: Yes.

DeBOER: The question that I have-- because we're talking about moving to every 3 years, because it's not fresh, or it might be different or something, they, they need something new. Could we not have a 3-year rotation of different antibias training, different officer wellness training, right? Like-- so especially, like, the officer wellness, you could have three very different topics on officer wellness and put

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them on a cycle. You could do it on a 5-year cycle. You could do, you know, whatever. Could you do something like that? Is there, is there a problem with that that I'm not aware of?

GARY YOUNG JR.: There isn't a problem with that. And one of the things that came out of the opioid settlement was the, the payment of funds for officer wellness-- like on my phone, I have the Cordico app, which is purely officer wellness, be it nutrition, mental health, fitness, emergency services for officers who might be in crisis, those types of things. So there are other platforms available to every officer that would enhance the individual training or the specific training. And I agree with you, there are a lot of topics across the officer wellness spectrum, so. But I think Cordico and, and the investment in those personalized apps helps us reach--

DeBOER: So if we were to not do the part about every 3 years for officer wellness, could you all come up with new programming, I guess is my question. So is there just a kind of like limited number of programming that you can draw from to do that continuing education with your officers or are there many options for you to sort of just pull out of maybe a vendor or however it's created for the content is created?

GARY YOUNG JR.: There are plenty of options out there--

DeBOER: OK.

GARY YOUNG JR.: --for officer wellness from, as you said, vendors or through Cordico or through that--

DeBOER: OK.

GARY YOUNG JR.: --other options.

DeBOER: So-- OK, that's the officer wellness piece. And I think that that is its own issue. Now, with respect to de-escalation, is there more than one option? So if one of the reasons is that it's not fresh or it's not new, is there more than one option for you to have a, a training module on de-escalation?

GARY YOUNG JR.: For my department--

DeBOER: De-escalation.

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GARY YOUNG JR.: Right. For my department, de-escalation, we're limited to pretty much one module that is--

DeBOER: And why is that?

GARY YOUNG JR.: Cost. We receive league area risk management. They, they help provide online services for us. And that, that training module is at least a couple of years old, if not 3.

DeBOER: So if you were given options-- your department were given options at a reasonable cost, let's say, of many different de-escalation training modules, would that help solve the problem for you?

GARY YOUNG JR.: It would help solve the tension spent on my officers, certainly. The, the cost would be a concern. And--

DeBOER: But if we could figure that part out, let's say.

GARY YOUNG JR.: Right. And the, the, the operation or the, the use of the Cordico app is something that we strongly encourage throughout the, the year.

DeBOER: Is Cordico a--

GARY YOUNG JR.: It's a, a brand name.

DeBOER: --de-escalation also? OK.

GARY YOUNG JR.: It includes, it-- no, it, it includes officer wellness.

DeBOER: OK, I'm now talking about the de-escalation.

GARY YOUNG JR.: I'm sorry.

DeBOER: No, no, that's OK. I'm all over the place, so. Yeah, just with respect to the de-escalation.

GARY YOUNG JR.: De-escalation.

DeBOER: If there were multiple modules available to me-- to you in your office at a reasonably priced or similar price, could you then offer the de-escalation, like module A on this year and module B and do sort of a, a series of different things so that it would be new and

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fresh? And also, in that case, your officers would be getting more information, right,--

GARY YOUNG JR.: Yes. Yes.

DeBOER: --about de-escalation. Would that be a problem for you?

GARY YOUNG JR.: Yes, it would not be a problem for me. It would be a benefit.

DeBOER: It would be a benefit. OK. And with respect to sort of the same question going through these 3 years, sorry, the same with the antibiotics training, if we had different modules, would that help solve the problem if they were equally-- first, I guess I should ask you, are there multiple different modules available for you choose from right now?

GARY YOUNG JR.: Right now, no.

DeBOER: OK.

GARY YOUNG JR.: And, as I mentioned, the, the topic within itself is repetitive across several trainings. So if there were new developments, new studies, new education techniques, then it would be helpful.

DeBOER: OK. OK, that's, that's helpful information. Thank you. So is your office one that is having trouble with meeting the 32 hours?

GARY YOUNG JR.: We do not.

DeBOER: OK. All right. That's the questions I had.

BOSN: Thank you for being here.

GARY YOUNG JR.: Thank you.

BOSN: Next proponent. Good afternoon and welcome.

BRANDEN STOURAL: Good afternoon, Senator and committee. So my name is Branden Stoural. I'm the Police Chief for the Ord Police Department. First name is B-r-a-n-d-e-n, last name is S-t-o-u-r-a-l. I represent a city of the second class and I currently have command of two additional uniformed officers and an ordinance officer. My-- one of my first assignments was as a police chief-- or as a police officer in another very small town in Hooper, Nebraska, where I ultimately ended

up being a solo operation-- or solo-man agency as a Police Chief there. I probably have the least amount of experience of any of the individuals that you're going to hear speak here today, and probably one of the youngest as well. But I do have some experience on how small towns operate and the effects that bills have on us because I've experienced them firsthand and currently still experience them. So I'll get started with that. So training is, is the most vital tool that we have to ensure high-level service in officer safety. However, the current one-size-fits-all mandate under LB51 has created a significant hurdle for agencies, particularly smaller ones, by prioritizing compliance over competence. So here's the problem: training to a timer. Currently, agencies must meet 32 hours across 8 specific categories chosen by the state. While these categories have merit, the needs of a metropolitan department are not the same of those of a rural agency. We are essentially forced to train to a timer rather than a standard. The impact on small agencies: for administrators with limited staff and funding, these mandates create a zero-sum game. Under the current law, I am often forced to choose between a mandated compliance sending an officer to a state-required course that may not address our specific local challenges or mission-critical training, specialized courses such as advanced narcotics investigations, school resource officer, or emergent technology that would actually make our community safer. Because of, of these critical specialized courses do not meet the rigid requirements of LB51, smaller agencies are often forced to forgo them entirely due to budget and staffing constraints. LB784 is a commonsense reform introduced by Senator Hallstrom. It does not lower the bar. It moves the bar to where it is most effective. Local control: it puts training priorities back into the hands of the agencies that face these challenges daily, and from an accountability sense, it maintains a 24-hour annual minimum, ensuring that local boards remain accountable for funding professional development, which is an important piece for us. And then under cycle flexibility, it allows certain topics like de-escalation, mental health, antibiotics to be completed on a 3-year cycle, counting toward the annual total. This gives us the breathing room to pursue other agency-specific needs without sacrificing our core values. So in conclusion, LB784 provides much-needed relief for Nebraska's law enforcement agencies, particularly smaller ones. It ensures that every hour an officer spends in a classroom is an hour spent becoming a better public servant for their specific community. I urge the community to advance LB784. Thank you for your time, and I'm willing to take any questions.

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

BRANDEN STOURAL: Thank you.

BOSN: Next proponent. Good afternoon and welcome.

COLIN CAUDILL: Good afternoon. Good afternoon, my name is Colin Caudill, C-o-l-i-n C-a-u-d-i-l-l. I am the Sheriff of Otoe County. I'm here to testify in support of LB784 on behalf of the Nebraska Sheriff's Association. I want to thank Senator Hallstrom for bringing this important bill to-- for rural enforcement agencies. I have this nice long thing written out, but it sounds like everyone's kind of hit on the LB51-- update to LB51 from our, our request of the proposal of changing the hours strictly because of what, what happens in larger agencies where they have the staff to cover shifts so other officers can, can make their training is, is a lot easier to do in urban areas than it is rural areas. The LB51, I believe, is kind of what we believe is like a one-size-fit bill for law enforcement agencies across the state, and I don't think it's-- I think it has hurt financially the rural agencies. For, for urban agencies, they have their own training centers. They don't have to travel very far. For the rural agencies, the smaller agencies, a lot of the training that we have to go to is in Grand Island, which is a cost to the, to the, to the agencies. I think the training-- by reducing the training hours and moving those-- certain training to every 3 years will let those rural agencies focus on, on trainings that are more geared towards the communities that they're, that they're protecting. Some of the issues in some counties aren't the same issues [INAUDIBLE]. As of right now, just with my county, we cover 619 square miles. So to cover the county and, and do the training at the same time, my budget increased approximately \$30,000, just in overtime for the, for the minimum standards for training. I'm confident that the reduction in required annual training hours from 32 to 24 will not affect the readiness or the professionalism of the law enforcement agencies. I also on LB784, I'm going to touch on the residency requirements for, for sheriffs. To align with the statutory requirements for county attorneys, allowing sheriffs whose counties do not have a city of a metropolitan, primary or first class to reside in the adjoining Nebraska county. For many rural sheriffs' offices, deputies reside in the adjoined counties they work for. By allowing the proposed change in the statute, this will allow for a deputy to run for office without having to change the residence, if elected, and putting themselves and their families through a financial hardship of relocating. Finally, LB784 updates the

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uniform standards for sheriffs, last updated in LB186, which was approved in March of 1981. The proposed changes of LB784 would create additional uniform classes and specifications to best fit the needs of each sheriff's office based on their daily operations. The daily operations of a sheriff's office in urban areas can be significantly different than those offices in rural settings. The uniforms that we are mandated to wear are very expensive. By creating additional classes of uniforms-- I'm sorry.

BOSN: You can finish.

COLIN CAUDILL: I'm almost-- thank you.

BOSN: Yeah.

COLIN CAUDILL: The uniforms that we're mandated, mandated to wear are very expensive. By creating additional classes of uniforms and expanding the variation of uniform colors, the sheriffs' offices have more options of uniforms that fit their individual needs and at a lower cost to the taxpayers. Any questions? Yes.

BOSN: Senator DeBoer.

COLIN CAUDILL: Yes.

DeBOER: Thank you. First, I want to thank you in your office for protecting me some of the time because my parents have some land south of Palmyra and we are in rural Otoe County and so thank you for that service.

COLIN CAUDILL: The pleasure is ours.

DeBOER: We've never had to call you, and we hope never to have to. Is your office one of the ones that is having trouble getting to 32 hours? Is that a hardship on your office?

COLIN CAUDILL: I come from a smaller agency and, and then was hired by Otoe County.

DeBOER: OK.

COLIN CAUDILL: So I, I know the hardships of, of the smaller counties with training, budgets, and--

DeBOER: But you don't have trouble in Otoe?

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COLIN CAUDILL: We don't have the trouble. We're fortunate with the resources that we have. But now with the-- you know, like I said, \$30,000 in overtime just for the minimum standards is a cost to the taxpayer, where everyone's looking right now to, you know, lower spending and things of those needs. But we don't have an issue. I'm more concerned about the rural areas, not just in eastern Nebraska, but that stretch all the way across western Nebraska, north to the smaller counties that do have those finan-- more financial issues with their budgets.

DeBOER: So you said you were at a smaller town? I think you said--

COLIN CAUDILL: I was in-- I, I started my career with the Nemaha County Sheriff's Office in Auburn.

DeBOER: OK, Nemaha. And does Nemaha, to, to your knowledge, have trouble with making the 32 hours?

COLIN CAUDILL: I don't, I don't know what-- I've not spoken to Sheriff Lottman on that, no.

DeBOER: OK. OK. Do you know of-- have you had specific conversations with specific forces-- sheriffs, somebody who has said our office has trouble with that?

COLIN CAUDILL: Yes.

DeBOER: OK. Can you tell me about who, how many, where-- give me more information about that?

COLIN CAUDILL: When I was at the Nebraska Sheriff's Association last year, I spoke with several sheriffs from further west and further north. And their resources are extremely limited, their, their budgets are extremely, extremely limited. They shared with, with me how difficult it is just to get people on the road to cover the calls for service and to provide all the training and everything that they have because their, their budgets don't allow for it.

DeBOER: So is it a financial problem or is it a manpower problem?

COLIN CAUDILL: I think it's twofold of both, financially and, and staff wise. I think in the smaller agencies that don't have the staff, like, like the bigger agencies do, do the training and provide the, the services at the same time. Those smaller agencies are pulling their services from the road, and they're not out there doing, you

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know, doing what they're supposed to be doing, and if a call for service comes in, it's a [INAUDIBLE] arrival time, potentially raising, you know, emergency dispatching time.

DeBOER: Where do your officers train from Otoe County? Where do they go to train? Do they have to go to Grand Island?

COLIN CAUDILL: No, we don't. Well, we train at our office, but then we kind of train all over, Grand Island, it depends on, on where. We also train outside of the state.

DeBOER: Oh, really, OK.

COLIN CAUDILL: Yeah, we do all--

DeBOER: So for driving, do you go to Grand Island because we just made your new track?

COLIN CAUDILL: We-- yeah, we'll drive the track.

DeBOER: Good.

COLIN CAUDILL: Yes.

DeBOER: Is the new track nice?

COLIN CAUDILL: I haven't driven the track yet.

DeBOER: Oh, OK.

COLIN CAUDILL: I'm old school, I got to drive the old track.

DeBOER: All right. OK. Thank you.

BOSN: Senator Rountree.

ROUNTREE: Thank you so much, Chairwoman Bosn. Thank you so much for your testimony. And I thank all that have testified today. Following up on what Senator DeBoer has said as far as training, some of this training is out of state, some is in state, have you tracked the time commitment that you have for training when it takes you away from being outside taking care of our neighborhoods and so forth? Have you tracked major incidents that have happened while you have been dedicated to training versus being outside?

COLIN CAUDILL: Within my own office?

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ROUNTREE: Yes, sir.

COLIN CAUDILL: I have not, because typically with my office, we train on Tuesdays and Thursdays. We're a, we're a, we're a bigger-- I would say we're a bigger agency for Nebraska. If I remember correctly about the average law enforcement size in Nebraska, if I remember, it was around 5. So-- and we're, we're-- my agency of 18. So we're-- like I said, we're fortunate where my office, we can provide services on the road. And then-- so we provide training on Tuesdays and Thursdays. So if they work Tuesday on their days off, they have to come for training and then vice versa. Like I said, that-- I think this, this bill's more geared to the agencies that, that don't have-- that are smaller and can't do that where they can focus on providing their services and then also being able to train at a low cost, more cost efficient, if you will.

ROUNTREE: OK.

COLIN CAUDILL: [INAUDIBLE]

ROUNTREE: That's good, that's good. Thank you so much.

BOSN: So if I'm understanding this, when-- if you're a force that is five deputies and you have-- typically a training is 2-day training, and you take one of your deputies out of the rotation for 2 days, that's two 24-hour shifts making 48 hours. I'm not great at math, but I believe that's 48 hours and you've now got four deputies covering that-- to cover that so that that officer can be gone for only 2 days of training. Is that fair? Is my math mapping there?

COLIN CAUDILL: About there, yeah.

BOSN: And if you have to do that for 32 hours, that's 8 business hours, 4 days, right, of trainings, that you're taking each of those five sheriff's deputies out of the rotation and the other sheriff's deputies are carrying the weight of that at different points in time and there's really only so many opportunities for training that meet the requirements and so it's a very six-dimensional game of chess.

COLIN CAUDILL: Sure.

BOSN: Is that, is that what this bill is attempting to try to solve some sort of solution for those smaller departments that literally cannot accommodate the trainings in different areas at different times

with the number of patrol officers that they actually have on the force?

COLIN CAUDILL: I, I think it's to accommodate their budgets, to accommodate to put-- to make sure that they're providing the services on their-- that the areas that they can cover. And then I think it also lets them choose by, by moving the, the mandated from every year to every 3 years, lets them pick training that-- within those-- maintain those hours, but training that's more geared toward where they are. Because like, you know, like issues that we see in Otoe County might not be the same issues that they see in a northwest county. So we would train for more of our-- what we're seeing than what their-- their training is going to be a little different so they could have more specific training to their area. I think it's geared kind of for that, money, and making sure that they can provide the law enforcement services while they-- at the same time.

BOSN: Adequately while they're short staffed.

COLIN CAUDILL: Yes.

BOSN: OK. Senator DeBoer.

DeBOER: The one piece that I keep kind of hearing that is, that's a little bit confusing me is, if you want sort of more flexible-- more flexibility to do specific to your area training, getting rid of the total amount of training, wouldn't that make you have less flexibility? Because there would be less total amount of time that you would be training, so you would have to fill more of it with the required, required, even if you, you know, switch those to every 3 years. In general, wouldn't you still have more required as a proportion of the total if you're reducing so much of the total amount?

COLIN CAUDILL: I think you're getting-- with, with the training you're getting-- what we're looking for is giving, like I said, your small rural agencies more options to be with their, with their training, not having budgetary constraints and time issues and things of those nature. You know, I think there's a misconception of quality over quantity. You know, you can get good quantity training in shorter hours than you can, you know, in a longer period, so.

DeBOER: How do we increase the quality of training in general? Is there a way that we should, as the Legislature, should be giving some

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more money? Is there something that you need that we could do to make your training higher quality at the same time as we're looking at a proposal to limit the quantity?

COLIN CAUDILL: Well, I think if you bring funding to the agencies for training, obviously, it would be a big help. Finding outside trainers that can, that can go to specific areas and present the, present the training instead of-- like I said, we have to travel to Grand Island or, or different states and we'll host trainings and we'll get agencies from different states that come in, but what we're looking for, you know, is, you know, savings to our office, savings to our rural areas, and things that are going to help on, on their budget strengths. And, like I said, keep their personnel in their area so they can provide their services.

DeBOER: And that's another topic that we used to talk about, not when we were in this room, but when we're in the other room. We used to talk about this issue a lot, and that is that the sort of centralization of training in Nebraska was an issue for folks, particularly from small towns because of the additional-- because you have the normal amount of time that you're in training, but then you have all that travel time. Is that still an issue right now?

COLIN CAUDILL: It can be for some agencies, absolutely. I mean--

DeBOER: And what would help with that? Is there some way that we could support-- you said having, you know, trainings go out on the road, would that help? If we, like, said, OK, folks from Grand Island, now instead of bringing everybody to you, you go out and go to them. Would that be helpful?

COLIN CAUDILL: It would probably be helpful. I don't think it's possible.

DeBOER: Why?

COLIN CAUDILL: Just because I think all the training that-- that's at Grand Island now is, is--

DeBOER: Location specific.

COLIN CAUDILL: --staff members there providing what they have there for-- I don't-- I think what, what would be beneficial is-- probably more so would be grant money for agencies.

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DeBOER: Grant money to bring people in or--

COLIN CAUDILL: To bringing-- I mean, if, if we had grant money to fund regional training, you know, so like grant money for out west, up north, agencies could host close-by trainings. I mean that would be beneficial. I think you're still going to have, you know, maybe some, depending on what the grant would cover, financial issues with the smaller agencies and their budgets.

DeBOER: So I'm hearing-- so I've been to a lot of these hearings, I was in the LB51 hearing, and I'm hearing kind of a difference in this hearing than I did in that one.

COLIN CAUDILL: OK.

DeBOER: And the difference is that there's a lot more focus on money and financial, and those are legitimate concerns. I'm not in any way delegitimizing them. And the last training I had-- or the last, the last hearing on LB51 was about we don't have enough officers and we're having difficulty hiring those officers. So what I'm trying to understand is if that has changed and the, the sort of priority of the, the problems has changed or if we're just having a different hearing this day because it's a different day?

COLIN CAUDILL: No, I, I, I can only speak on my employment, so I, I was missing seven deputies at that time.

DeBOER: And you are now?

COLIN CAUDILL: I am kind of full staff. I mean,--

DeBOER: OK.

COLIN CAUDILL: --I have people that are deployed on-- for military and then other personal issues, but I'm, I'm full staff now for the first time.

DeBOER: Do you know if that's common in the state to be fully staffed at this time?

COLIN CAUDILL: I don't know if it's common or not.

DeBOER: OK.

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COLIN CAUDILL: I, I, I-- from speaking with other sheriffs and [INAUDIBLE] chiefs, it sounds like it's getting better.

DeBOER: OK. Well, good.

COLIN CAUDILL: Yes, absolutely.

DeBOER: Yay. That's fantastic news. OK. So I will look more into whether or not we're in a sort of a different situation with respect to staffing. That's very helpful. Thank you.

BOSN: Any other questions for this testifier? Seeing none, thank you very much.

COLIN CAUDILL: Thank you for your time.

BOSN: Next proponent. Good afternoon and welcome.

LUKE BONKIEWICZ: Good afternoon, Chair Bosn and members of the Judiciary Committee. My name is Luke Bonkiewicz, L-u-k-e B-o-n-k-i-e-w-i-c-z, and I'm from the Nebraska Association of County Officials. Jon Cannon sends his apologies and his regards. And a lot of terrain has been covered today. I'm going to try and go pretty quickly through this because I think a lot of the key issues have been brought up by prior testifiers. And these are two updates that we think are very reasonable. First of all, allowing a sheriff to reside in an adjoining county would expand the pool of qualified candidates for an office that's critical to community safety, preserving local control, voters still have to elect their county sheriff and also maintains accountability. The sheriff still must perform all statutory duties. Now with regard to the training hours going from 32 to 24, I think that a lot of the struggles have been discussed earlier, but for counties with limited personnel, and these are counties that which, frankly, we're talking about west central or the panhandle part of the state, required training hours often translates to significant overtime, officers are taken off patrol, which compromises coverage, and budgets are strained by staffing shortages and mandated training loads. And I've heard a lot of discussion about, well, is it this or this? And I think that it helps to think of it as my grandfather-- like my grandfather clock that I had in my, in my-- my actual grandfather had in his house, and there are all these different gears and sometimes I get fixated on one, and I look over here, when in reality, I think we need to look at the entire clock. So I do think it's staffing. I do think it's overtime. I do think it's budgets. I

don't think anyone is minimizing these issues, especially these training issues that have been brought up. I think we're simply trying to find what is that sweet spot between all of those things. We know we need more officers. We know that we need more training, we would love more training. But we also have to be beholden to our budgets. And so we really are just trying to find what is the sweet spot while accounting for a lot of different agencies. I will tell you that I'm a certified law enforcement officer here in the state of Nebraska. I'm not representing my agency at all, only NACO, but I can tell you I've worked for a large agency. I work for a smaller agency part time now and I've seen this issue from both sides, and I do see the strain on personnel. I do see the strain on over time and on budgets and I've looked at all, all of these other these different things and I do think that the strain is particularly felt in west central or the panhandle region and that's what a lot of our sheriffs are talking to us about. Happy to answer any questions and I do appreciate the time.

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

LUKE BONKIEWICZ: Thank you so much.

BOSN: Next proponent. Good afternoon and welcome back.

LYNN REX: Good afternoon, Senator Bosn, members of the committee. My name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We're here today in support of this measure, and I really do appreciate Senator Hallstrom introducing this. I do-- we're very empathetic with the issues that the sheriffs are facing in terms of where they should reside and that sort of thing and the provisions that they have in the front end of this bill. I'd like to specifically look at the issues of the training. And, Senator DeBoer, I think it's all in the above. It is budget, it is staffing, it is how to provide the most flexibility, I think as the Police Chief of Ord mentioned, so that they can do what they call critical mission training. And it's not that they're doing less training out there, it's just by lowering the amount of training on the mandated ones, then they can train on the ones where they really need to. So let me just share with you, for those of you, because you're not on the Revenue Committee, so you've not had to sit through my boring presentations. I apologize to Senator McKinney and Senator Rountree, because you've listened to me with the Urban Affairs Committee talk about some of these issues as well. We've got 526 cities and villages in the state of Nebraska, half of them are up against their maximum levy limit of 45 cents per \$100 of valuation,

plus 5 cents within your local agreement. Half of them are there. So on the levy issue, that's basically-- that's not changing. The cap that we have to have that was put in place with passage of LB34 in the 2024 special session, which was then amended by LB647 in the regular session, that's a cap on municipalities and counties. That cap has an exception for public safety. That cap has nothing to do with the levy limit. And so you're dealing here with two different types of limits that come into play. So the budget really is important. With respect to the issues that are here, I was involved in those negotiations, really have nothing but great regard for Senator Lathrop. There may be a number of senators that are as good as he was and is. I don't think there's a senator better than Senator Lathrop. He just did everything he could to deal with these types of issues. And so just with that, to underscore the fact that we had the, I guess, the perception that there was going to be a lot more training modules that folks could actually train. So, for example, whether it's Ord, Nebraska or it's some of the other areas across the state, that they could train in place, I think what Senator DeBoer was talking about, doing some of those types of, of trainings. And some of those modules, I don't think came to play, came into play. But, still, when you're doing the training, you have to have somebody else then covering that. And when you are Gothenburg, Nebraska, and you just have a couple, two or three at most, law enforcement officers, I could be wrong on the number now, but I know at one point, when we were negotiating LB51, I think they only had two or three officers, then who covers while somebody else is doing something else and on patrol? In some areas of the state, not that meth isn't an issue across the state, but there are different pockets that have different needs and you've got to be able to be trained to have people that go out there. So I think it's a, a, a concern here in terms of if you can lower the mandated ones, and it's not that they're doing less training, I think you can be assured from the folks here from the cities of the first class, Crete and others, that, in fact, they're doing what's required here. And every-- oh, if I may?

BOSN: You can finish your thought.

LYNN REX: Thank you. And everyone is doing their very best to comply here. What they're asking for is to have some more flexibility. So especially in the smaller agencies, they can do some of the things that they really need to be doing for their officers, that with the mandated ones and on top of what they want to view as their critical mission type training that they don't have time to do. With the League Association of Risk Management, which is a risk management pool in the

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state of Nebraska that is a public agency, we've got over 200 municipalities that are involved in that and others. We do training all across the state. We've got three law enforcement officers, former law enforcement officers that do loss control, loss control training all over the state. But that is specialized training based on what that particular agency needs at that time. So we are in strong support of this bill. We have regard for what can be done here in terms of trying to make it workable. But when you ask what can be done, I think more modular training that they could have. But, again, one has to take into consideration, you have to have somebody cover for that officer when, when that person is going through it. I'm happy to respond to any questions that you might have.

BOSN: Thank you. Senator DeBoer.

DeBOER: Thank you. You are aware that this bill, you said it doesn't reduce the amount of training, but they do actually reduce the amount of training that's required for officers from 32 hours to 24 hours.

LYNN REX: Yes. What I was trying to-- and I apologize if I wasn't clear, I obviously wasn't. It reduces the number of hours of training that are mandated training.

DeBOER: Right. But if you--

LYNN REX: I'm suggesting to you that, that doesn't mean that there's not training that they're doing in addition to all of that. So--

DeBOER: So not all of those 32 hours had mandated requirements. There was a certain amount of--

LYNN REX: Correct. Yes.

DeBOER: --free space, as it were.

LYNN REX: For some, yes.

DeBOER: And so now if you're reducing the amount, you're now actually going to end up with a higher percentage of your total training that's, that's required, so you have to do 24 hours.

LYNN REX: Yes.

DeBOER: Now, you're going to have a larger percentage of that 24 hours that's in those mandated areas than if you had 32 hours with what we

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currently have. So that's my concern, is that I don't think that matches up with what the, the, the testimony in the-- it's not matching up for me.

LYNN REX: OK, then I apologize for not being clearer. So what I'm suggesting is by lowering the amount of mandated training-- and, again--

DeBOER: Those few areas of mandated training?

LYNN REX: Yep. By lowering those, one has more time than if you're a small agency, because this is really targeting the smaller agencies in the state. We're not talking here about cities of the first class, Lincoln and Omaha, the larger counties. That's not what this is. This is about the smaller agencies across the state so that they can do the other kinds of training. I'm just suggesting that with all due respect that it's not-- the, the training that's mandated here and that was mandated with LB51, that's not all the, all the training that's going on in these law enforcement agencies. They're doing a lot of other training in addition to this.

DeBOER: OK. I keep hearing about the financial concerns.

LYNN REX: Absolutely.

DeBOER: And so if there are a lot of financial-- and also just officer time concerns, it seems to me that there would be pressure, would you agree, to keep the number of hours of training to the required amount of training in law? Like there would be pressure to say I'm not just going to train for hundreds and hundreds of hours every day because-- every year because that would cost the taxpayers more money.

LYNN REX: Well, first of all, in my personal views, I don't think we can have enough training, but one also has to balance that with the reality of what it--

DeBOER: Precisely right.

LYNN REX: --takes to provide public safety in the state of Nebraska.

DeBOER: So there is a, there is a pressure to keep the number of training hours down from the side of the number of officer hours you have to spare and from the amount of cost to the community to do that training. Right?

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LYNN REX: I think it's a factor, and also the other factor is-- and I'm glad to hear that some of our agencies don't have trouble having enough law enforcement officers. I can tell you there's a number of them that do.

DeBOER: Right. OK. So all of those things are going to put pressure on having basically just the minimum number of hours. I mean, regardless of whether or not we actually exceed that, there is pressure on forces to have the minimum number of hours of training that they can because they need their officers to be out in the, the field, as it were. Right?

LYNN REX: Yes.

DeBOER: OK.

LYNN REX: I think that's part of it, yes.

DeBOER: So there's, there's a pressure to do that. If we lower the number of hours required, I think we could reasonably expect that there would be less training done.

LYNN REX: I would disagree with you, but.

DeBOER: Why? Tell me why.

LYNN REX: Because, again, I do think that just knowing what even our risk management pool does with the cities across the state, they're doing lots of different trainings out there. It doesn't fit the-- it doesn't fit--

DeBOER: So, then, if they're not going to do less training--

LYNN REX: --this paradigm.

DeBOER: So they're not-- you don't think they'll go down from 32 hours to 24?

LYNN REX: I'm saying it goes from 32 to 24 hours. I understand that.

DeBOER: So you don't think that's--

LYNN REX: Actually, that's not true. Yeah, it is. So from 32 down to 24 hours, I understand that and to what's being mandated.

DeBOER: So do you think they will do closer to 24 than 32?

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LYNN REX: I think it depends on the agency, but I think the type of training is what, what's being talked about here. If I understood the--

DeBOER: OK. Thank you.

LYNN REX: And I apologize, I'm not--

DeBOER: Nope, that's all right, it's-- I--

LYNN REX: We're not having a meeting of the minds, so I apologize.

DeBOER: My committee is looking at me crosswise so--

BOSN: Any other questions from the committee? All right, Senator Storer.

STORER: I just have one real quick one on the, on the note of the hours of training. So the way I read it is every year they have to do 24, within that 24, they could every year include some of these every third-calendar-year trainings as part of the 24.

LYNN REX: That's correct.

STORER: OK. Thank you.

LYNN REX: Yes, that is correct. Yes.

STORER: Thank you.

LYNN REX: Yes.

BOSN: Senator McKinney.

McKINNEY: Thank you. You mentioned mission critical training. And maybe I look at it wrong or differently, but it is my understanding that de-escalation, antibias, implicit bias was put in because they're important to the mission of law enforcement. Is there [INAUDIBLE]?

LYNN REX: Yeah, no question. I was just trying-- I was using the nomenclature that the Police Chief used of Ord today in testifying before you. What's here, I think all of these types of trains are extremely important. I don't-- I'm not going to challenge you on that at all. I think they are very important.

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McKINNEY: OK. Well-- and I also just have concerns, because I go back to LB51, a part of the concession for the training was to keep the conditional officers.

LYNN REX: Yeah.

McKINNEY: Now we're decreasing training and still keeping the conditional officers under this legislation that I'm-- because the conversation of pretty much having law enforcement officers in some places who could just not go through, from what I remember, the training center as other officers and just become conditional officers and that raising some red flags for some people.

LYNN REX: Well, a conditional, I just looked this up, too, because it's some of the other testimony today. So in 81-1414(6): A noncertified conditional officer shall not, without direct guidance and authorization from an approved field training officer, they shall not ride in a marked police cruiser, make arrests, interview suspects, victims or witnesses, or carry out any other law enforcement function. NCOs who do not interact with the public in law enforcement capacity don't need to complete the 80 hours of training, but the whole idea here with the conditional officer is that they do ride "alongs," they, they try to get prepared so that they can go to Grand Island, but there's a big cost to that, too.

McKINNEY: OK.

LYNN REX: But you're correct, Senator. The, the conditional officer, that was something that was really important, especially for the smaller communities. You're exactly right.

McKINNEY: All right. Thank you.

LYNN REX: Yeah.

BOSN: Seeing no one else, thank you for being here.

LYNN REX: Thank you for your time. Thanks for your consideration.

BOSN: Yes. Next proponent. Any other proponents? Now, we'll move to opponents. Anyone here in opposition to LB784? Neutral testifiers? Senator Hallstrom to close.

HALLSTROM: I opened and closed in Revenue in the time it took to get back here so thank you. Appreciate the questions. Appreciate the

discussion. Appreciate the officers who took time to come in today on this important issue. Just a couple things I'd like to touch on. Senator DeBoer, you, you asked Sheriff Caudill about the, the areas in which this was a problem. When I talk to folks, my, my five county sheriffs, with the exception of Sheriff Caudill, who told me that they had been able to work because of where they're located and their size with LB51. Every other county in my district immediately said, you want to know what I've got problems with? I've problems with LB51. I think a lot of things have changed, not necessarily for the better, but a lot things have changed since the activities that led up to LB51. The activities that led to LB51, in part, were not part of a rural problem in Nebraska. By my way of thinking, issues were raised that were not addressed to their satisfaction in LB51. Those things, I think, have continued consistently in terms of the problems. I think, Senator DeBoer, with regard to your question about wellness, we had a series of bills, in fact, one of which was on the floor today. We had Senator Lonowski, Senator Storer, and Senator Wordekemper that brought bills on peer support groups. And as I recall, the testimony on that indicated that peer support groups were probably more beneficial than continuing education. Take that for what it's worth, but there's other things that are out there that fortunately are available to assist the officers with wellness that go beyond or at least supplement very well the continuing education that we have here. One of the other things that I will tell you, and the officers I've met with, Paul Turman, the community colleges, who also met with the sheriffs in my district, they've been out to Senator Strommen's area with, with the, the college out there. They have also, I think, been up to Wayne State College. One of issues that they talked about is not only the cost to the law enforcement officials for the time off and the overtime, but my understanding is if they have to travel to Grand Island or somewhere else to get their training, they may have some of those expenses reimbursed, but there's overnight hotel, there's meals, things of that nature, that I believe in some cases, if not many cases, are coming out of their pocket. So the community colleges are looking at expanding, Peru State College in my district, the other colleges to at least maybe minimize some of those travel factors, which may make it a little bit easier. But I, I think retaining the local control, if this is an issue where the big city and the training and things, I don't think, I don't think Omaha and Lincoln are going to be a problem in terms of the hours that they're going to put in. This is truly for the rural areas that need the help. I don't believe I heard anything detrimental said about my provisions in here with regard to the sheriff's residency. Nothing with regard to the uniforms

that the Sheriff's Association has coalesced together on. More than happy to talk with Senator DeBoer, Senator McKinney, you were the two that raised the questions. If there's issues on the types of training, the frequency, more than happy to visit about that. Got a Tuesday deadline for declaring priority bills and Speaker priorities, so the sooner the better to get to work on it. So I thank you for your patience and attention.

BOSN: Thank you. Questions for Senator Hallstrom? Seeing none, that will conclude our hearing on LB784. Next up, so fresh, we have Senator Hallstrom on LB785. While he's making his way up, I will note for the record there were three proponent, no opponent, and no neutral comments submitted. Welcome back, Senator Hallstrom.

HALLSTROM: I'm here. Good afternoon, Chairman Bosn-- Chairwoman Bosn and members of the Judiciary Committee. My name is Senator Bob Hallstrom. It's actually Bob Hallstrom. I am a state senator and I represent Legislative District 1, bringing before you today LB785 for your consideration. LB785 outlaws the possession of a mail receptacle key or lock. This will give law enforcement and prosecutors the legal tools needed to prosecute the growing crime trend. Fraud is not a niche issue. It is one of the largest and fastest growing threats to Nebraska consumers. According to the Federal Trade Commission, fraud losses nationwide reached an estimated \$196 billion, with a b, in 2024, imposing devastating financial and emotional harm on victims. While banks are seeing growing trends in fraud using spoofed phone calls and fraudulent social media advertisements, despite the lessening of the use of checks, the largest losses continue to be via check fraud. It is believed among the banking industry that the largest source of check fraud is mail theft. Check washing has been a leading cause of consumer fraud losses for many years, and the frequency and losses are increasing at a near-exponential rate. According to the United States Postal Inspector, more than \$1 billion in washed and counterfeit checks are recovered every year. Unfortunately, the vast majority of the checks are not recovered, with billions more in losses annually. On January 27, 2025, the FBI and the United States Postal Inspection Service issued a joint announcement that check fraud via mail theft is on the rise. According to the report and suspicious activities report filed by financial institutions related to check fraud nearly doubling from 2021 to 2023. Fraudsters take advantage of regulations requiring financial institutions to make check funds available within specified limited time frames, which is often too short a window for the consumer or financial institutions to identify and stop the fraud. As a result,

the compromised checks clear and the funds are withdrawn by the criminal participants before the fraud is detected. United States Postal Service arrow keys are master-- universal master keys used by letter carriers to access blue collection boxes, cluster box units, and apartment panels. These high security keys are heavily targeted by thieves. Criminals can obtain these master keys and use them to steal a high volume of mail, taking the checks to be washed and throwing away the remaining mail. In 2025, the Texas Legislature passed SB 1281, which criminalized the possession of a mail receptacle key. Under Texas law, any such possession is a third degree felony. In Nebraska, possession of burglary tools is a Class IV felony. We carefully analyzed the burglary tool statute and, in consultation with prosecutors and defense attorneys, concluded it likely does not cover mailbox keys because the keys are not commonly used for committing or facilitating crimes as such a new offense is necessary. When check fraud succeeds consumers often believe their bank failed them even when the fraud originated via a proper check that was stolen out of the mail and beyond the bank's control. Nebraska banks spend billions of dollars annually on fraud prevention, reimbursement, and consumer education, yet cannot stop this fraud. LB785 ensures that law enforcement and prosecutors have a relevant statute in preventing check fraud via mail theft. The bill creates "the offense of unlawful conduct involving a mail receptacle key or lock if, with the intent to defraud or deprive another of that person's property, the person obtains, possesses, duplicates, transfers, or uses a key or lock adopted by a postal service for any box or other authorized receptacle for the deposit or delivery of mail." Violations are subject to a Class IV felony, which includes a maximum penalty of 2 years imprisonment and 12 months post-release supervision, or a \$10,000 fine, or both, with no minimum penalty. The bill creates the offense of unlawful conduct involving a mail receptacle or key or lock with the intent to, to defraud, and we would-- there will be testifiers behind me, and I would welcome questions for them or for me regarding the intent and the provisions of the bill.

BOSN: Thank you. Questions for Senator Hallstrom? Seeing none.

HALLSTROM: Thank you.

BOSN: Can I see a show of hands how many individuals are here to testify on LB785? One, two, three, four, five. OK. All right, we'll start with proponents. Good afternoon and welcome.

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IRIS WIESE: Thank you for your time. My name is Iris Wiese, I-r-i-s W-i-e-s-e. I'm the Electronic Banking Officer and then part of the fraud department at First State Bank Nebraska. Recently, heard a statistic that kind of backs what Senator Hallstrom was saying. The American Bankers Association had said that check fraud has increased over 385% nationwide just since the pandemic. And a majority of that is related directly to check fraud mail theft relation. So that's why I'm here in support of LB785. Within the past couple of weeks, we've actually had several instances of this just within our bank itself. I can't go into too much detail, but as he reiterated, a lot of times these checks were taken from the mail. The payee name is washed and changed to their own and then deposited at other financial institutions. Fraudsters typically only modify the payee because they have noticed that when you go to look at your, your statements you'll notice that those checks, the check number and the amount matches. So, therefore, you don't have any red flags. Later these customers are receiving the secondary invoice or the customer that should have received the check is reaching out to them, wondering why they didn't receive their payment. That's when they noticed that that payee was changed, so. Even though we do our best to return those funds in a timely manner, they're also noticing that businesses clearly have larger checks that they're receiving and writing. So they're a high frequency target as well. Banks are also at a disadvantage. That's kind of more of the consumer side. We're at a disadvantage because of regulations like Reg CC, which we have to require us to release deposited funds within strict timelines often before that fraud is detected. So by then the, the funds are gone. There's little that we can do to replace that. So there are a lot of programs that we implemented including positive [INAUDIBLE], for instance, which allows businesses and consumers to see the checks that have been posted to their account, requires them to look at the images so that they can see, make sure that nothing was altered. We also have implemented other programs that are supposed to help us in identifying any altered check. Unfortunately, there's no guarantee with those as well, and they're quite pricey for institutions so that's just why I'm stressing [INAUDIBLE] and back LB785. It's an important step to, to prevent it at the access point, and helps us in preventing it into-- you know, preventing it-- stolen mail from becoming a financial or consumer loss. Thank you.

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

IRIS WIESE: Thanks.

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BOSN: Next proponent. Good afternoon.

RYAN McINTOSH: Good afternoon, Chair Bosn, members of the committee. My name is Ryan McIntosh, R-y-a-n M-c-I-n-t-o-s-h, and I appear before you today to testify on behalf of the Nebraska Bankers Association in support of LB785. Legislation is one of the five fraud bills that make up the Fraud Free Nebraska Coalition legislative agenda. Other bills have been heard in Banking, Commerce and Insurance and Transportation Telecommunications Committees. A coalition is made up of associations of financial institutions, including the Nebraska Bankers Association, the Nebraska Independent Community Bankers, the Credit Union League, AARP, elected officials, including Governor Pillen and Attorney General Hilgers, law enforcement, and others, who are advocating for consumer protection legislation and education at the rising fraud in Nebraska. For the last 2 years, and perhaps a little bit more, fraud has been the number one issue that we hear about from our member banks, both large and small. Much of this utilizes spoofed calls and text messages, social media platforms, and advanced technology, such as artificial intelligence, to scam consumers. However, as Senator Hallstrom mentioned, much of it still involves very unsophisticated check fraud that's been around for decades, but for whatever reason, is seeing a significant rise recently. Senator Hallstrom took all my good material. I did supply a copy of the report that he referenced in his opening from the joint publication from the United States Post Inspection Service and the Federal Bureau of Investigation. The Nebraska Bankers Association and the American Bankers Association have made significant investments along with our member banks on providing consumer education, however, losses continue to rise. I'll note that this new definition fits within the framework of LB559 that this committee passed last year. As much of this is entirely organized crime, we're finding-- I know that law enforcement and at least in other states, and, and, and it's growing in Nebraska is picking up these arrow keys, perhaps not with mail or other items just yet. There's no-- nothing positive about having a mailbox key. There's only a nefarious purpose for that. We did look at the burglary statute. If-- I did talk to Mr. Eickholt, who questioned whether this is, is new. But then also said that a Class IV felony is excessive for this. My question, if we say on one hand that a burglary tool statute, which is a Class IV felony, already covers this, but on the other breath, that a Class IV felony isn't appropriate for this, I, I, I question that logic. This is absolutely critical to protecting Nebraska consumers and giving law enforcement the tools they need to arrest and

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prosecute these cases. With that, I'd be happy to answer any questions.

BOSN: Thank you. Questions for this testifier? Thank you for being here.

RYAN McINTOSH: If I may add, and I, I don't mean to question Mr. Eickholt, I do appreciate the dialogue that we've had on this and have had some positive conversations. So that's not necessarily targeted at him. There are other individuals we've heard that from, so. Thank you.

BOSN: Thank you. Next proponent. It's an olive branch. Welcome.

SARAH BROWN: Hi. Hi, Chair Bosn and members of the Judiciary Committee. My name is Sarah Brown, S-a-r-a-h B-r-o-w-n, like the color brown. I'm here today as a volunteer for AARP Nebraska and testifying in support of LB785. Much of my volunteer work focuses on fraud prevention including efforts to address cyber currency and online scams in Lincoln. Mail continues to be a lifeline for many older adults. Many still receive Social Security information, pension statements, health documents, checks, sensitive financial correspondence, etcetera, through our mail. Organized criminals know this and they have increasingly targeted neighborhood mail, often stealing mail, receptive keys that give them access to entire groups. From there they wash checks, steal identities, and drain accounts before anybody can even do anything about it. The U.S. Postal Inspection Service, as you've heard, recovering a billion dollars. A National Institute of Justice analysis, more than a million victims confirms older Americans bear the brunt of that. The average first-time mail fraud victim is 61, and nearly 60% of mail fraud victims are age 60 or older, and losses increase significantly with age. People in their 80s represent fewer than 15% of victims, but nearly 30% of the money that's lost. These numbers match what we hear at AARP's Fraud Watch Network and what Nebraska families describe when they contact us. Stories of emptied accounts, stolen checks, destroyed financial security. LB785 would create a clear and forcible offense, specifically addressing the unlawful possession or misuse of mail receptacle keys and locks when done with intent to defraud. This gives law enforcement a tool they do not currently have, the ability to intervene before stolen mail becomes a washed check or a stolen identity. It helps also prevent-- helps prosecutors integrate this conduct into existing financial crime frameworks. Check washing may sound old fashioned, but it's still causing harm. Recently, my friend, both of us from Nebraska, my friend had a check washed in the amount

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of \$1,300 and my check mailed to the same address at approximately the same time is missing and the company contends it must be lost in the mail. We'll see. Anyway, I check every day to see where that check is and so I'm on watch right now watching for the same thing because criminals target us, and same households can have that problem going on more than once. AARP continues to educate older Nebraskans about steps they can take like depositing mail. Whoops. Can I keep going?

BOSN: You can finish your thought.

SARAH BROWN: Thank you. But education alone won't do it. So stolen postal keys need to be-- are definitely a problem. LB785 is a targeted commonsense measure that addresses the exact vulnerability criminals are exploiting for the mail. Thank you, Senator Hallstrom, and thank you for bringing this forward, and thank you for listening. I'd answer any questions.

BOSN: Thank you. Any questions for this testifier? Well, I certainly hope for a happy ending for you.

SARAH BROWN: Yeah, I check every day, so. Thanks. Yeah, my bank is cooperating.

BOSN: Yes. Good. Thank you for being here and sharing your story.

SARAH BROWN: You bet. OK.

BOSN: Any other proponents? Good afternoon and welcome.

JAMES WRIGHT: Good afternoon. Vice Chairman [SIC] Bosn and members of the Judiciary Committee, my name is James Wright, last name spelled W-r-i-g-h-t. I'm here today on behalf of the Nebraska Credit Union League as their Chief Advocacy Officer and the registered lobbyist. Our organization represents Nebraska's 50 non-for-profit member-owned credit unions and their 570,000 members. The Nebraska Credit Union League is glad to participate in the Fraud Free Nebraska Coalition. Most of my testimony you will see is reflected in what other folks have testified to. So I will just jump to highlight a couple components of our testimony. And I should have put my glasses on before I got up here. Well, we'll just skip it.

DeBOER: Do you want some James?

JAMES WRIGHT: Thank you, Senator.

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BOSN: We can share all kinds of things here.

JAMES WRIGHT: Appreciate it. At the end of the day, there are citizens who have been victimized. These regular attacks create ongoing risks to the financial well-being of Nebraskans, often involving draining savings accounts, damaged credit scores, and in some cases, identity theft that lasts for years. Mail theft continues-- contributes to the erosion of trust and traditional forms of communication and payment. The systematic impact also affects business and financial institutions. Credit unions and other financial institutions are responding by strengthening collaborative networks and enhancing member education. LB785 provides another tool to help hold thieves accountable and to protect Nebraskans. And, therefore, I respectfully request the committee's support to advance LB785. I will also add this addendum. I just retired from federal service after 24 years working for a member of Congress. One of the things-- issues that I covered during my time were judicial policies and postal issues. I would tell you that a bill like this adds another tool to helping address the spectrum of crime. While mail theft is illegal on the federal level and postal employees can be held federally accountable, the level of theft has to reach a certain level and, therefore, doesn't necessarily address the needs of our smaller communities or, or small individuals or small amounts. And so this will provide a tool for local law enforcement to address that and provide justice to our citizens. So for that, I thank you for your support and time and will accept any questions at this time.

BOSN: Thank you. Any questions for Mr. Wright? All right, thank you for being here.

JAMES WRIGHT: Thank you, Senator.

BOSN: All right, next proponent. Maybe you should have left them there. We never know. All right. Opponent? Good afternoon and welcome back.

SPIKE EICKHOLT: Thank you. 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, appearing on behalf of the ACLU of Nebraska and the Nebraska Criminal Defense Attorneys Association in opposition to the bill. As Mr. McIntosh explained earlier, I have discussed this with Senator Hallstrom and with, with him, Mr. McIntosh, about this bill. We would propose that it not be a felony. Senator Hallstrom mentioned that we do have the crime of possession of burglar's tools and I'm just

distributing a copy of that for you. It's, it's easier for you to look at that instead of looking it up. I was not able to find a case where our Supreme Court has interpreted a burglar's tool to be a key. Our court has held that any tool, even like a screwdriver or a hammer or any sort of normal tool, can be considered a burglar's tool. It doesn't have to be like a slim gem or anything like that because the, the sort of the key determination is whether you're possessing that thing with the intent to burglarize a place or steal something. And I think that a key like this that you've heard people talk about, a postal service receptacle key that I think Mr. McIntosh explained that no one has a legitimate reason to have except for someone who works for the Postal Service, having that I think arguably would be considered burglar's tools. I admit I'm not sure. I don't think it's ever been presented, at least not in a published opinion. But I don't think that means it can't be foreclosed to be charged as a felony now. Why do I oppose making this a felony? Just for that reason. I understand there's a desire to be responsive to this. Everything cannot be a felony and vice versa. They're still, according to LB559, which is actually this bill amends that Senator Bosn did last year, there's still the enhanced penalties for any kind of fraud involving other people with dollar amounts, that's still available to be prosecuted. That law's only been in effect for about 4 months. The proposal and the request that we have that the committee consider is if you're going to enact this legislation to not make it a felony and instead a Class I misdemeanor. There still are related crimes that could be charged that have significant penalties in addition to arguably the charge of possession of burglar's tools. I'll answer any questions if anyone has any.

BOSN: Questions from the committee? Alternatively, would you feel the same if we amended 28-508 to include specifically a key?

SPIKE EICKHOLT: I thought about that. No one consulted me in the drafting process early on in the bill so I--

BOSN: I'm consulting you now.

SPIKE EICKHOLT: I mean, that would be one way to do that. I-- you know, the term instrument is not defined, right? So I think that arguably could be a key. A key is an instrument.

BOSN: I know, but I'm asking if your position would change if we, instead of trying to make--

SPIKE EICKHOLT: Yeah, that might make sense.

BOSN: --a round peg into a square hole, we said: knowingly possesses any explosive tool, instrument, key or other article-adapted design are commonly used for-- I mean, because to me, and I understand your point, I hadn't really thought about it, a, a burglar tool can be a hammer.

SPIKE EICKHOLT: Right.

BOSN: But I may carry a hammer for protection.

SPIKE EICKHOLT: Right.

BOSN: So it's whether I carry one in my purse and I'm intending to rob someone or I'm carrying it in my purse because I walk alone on dark streets.

SPIKE EICKHOLT: Right.

BOSN: I also carry a mail key, because, like, that's-- I have to get my mail. So--

SPIKE EICKHOLT: I think you'd probably want to have the definition that Senator Hallstrom has, the sort of the special key that only the Postal Service has to access those mailboxes. He describes it as "a key or lock adopted by a postal service for any box or authorized receptacle for the deposit or delivery of mail."

BOSN: OK.

SPIKE EICKHOLT: That would make sense. I think we could live with that.

BOSN: So like the master key to the back side of the mailbox.

SPIKE EICKHOLT: Yeah, whatever that is, it's got some sort of special designation, and I suspect it's defined under the federal law or postal code, some sort of definition that Senator Hallstrom was referencing.

BOSN: OK. Any other questions in light of that?

SPIKE EICKHOLT: I mean, we'd all agree that if somebody had just pried off the back with a screwdriver, then you'd be in violation of this, the back of the mailbox.

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BOSN: Right.

SPIKE EICKHOLT: But the key is what sort of makes it perhaps a little bit more.

BOSN: Well, but it's the fact that you've got the key that people might think you have a legitimate purpose, so you're deceiving them differently than if you took a hammer and banged the door until it busted open and you took all the mail that looks like checks. You're walking up to it like you look as though you have a legitimate purpose. You open it up, very casually wave to the neighbor as they're walking by, pull out the checks, lock it right back up and walk away with \$50,000 worth of Social Security checks from 80-year-old ladies and that's tough to swallow.

SPIKE EICKHOLT: Well, it might look like it, but I, but I think if they were to identify who you were and you don't work for the Postal Service and you stole the key or somehow you got it without being issued formally, I think that would be enough. I mean, that's what Sheldon, that case that I referenced, argued in 1965 that they had a regular screwdriver, and even though they were caught sort of lurking outside, I think the facts were lurking outside a building or something like that, he said it's just a regular screwdriver, it's not a burglar's tool. And the court rejected that argument because he was possessing it with the intent to steal something.

BOSN: OK. Thank you. All right, next opponent. Anyone else here in opposition? Neutral testimony? Anyone here to testify in the neutral capacity? Senator Hallstrom to close. I can't remember if I said, so I will say, at the risk of being redundant, three proponent, no opponent, and no neutral comments submitted for the record.

HALLSTROM: Thank you, Chairwoman Bosn, members of the committee. I appreciate your patience again this afternoon. Just a couple things. I think this is consistent with LB559 from last year, which was a bill that affected skimmer devices and organized retail crime. Both of those bills and the skimmer device, in particular, constitute a financial transaction offense. This would be consistent in terms of taking this type of fraud to that level. I think from Mr. Eickholt's comments, I think he was saying, I'm not from the government and I'm here to help you. And I, I don't think that passes muster. We don't think there's an offense under the burglary tools. There's been plenty of people that have looked at it. I think Mr. Eickholt said I think it might be covered. Thinking and knowing are two different things, as

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we've had a discussion here before. And with that, I would encourage you to advance the bill to General File. I would say I've seen something I've never seen before, Senator DeBoer, that was quite a spectacle that you put on earlier, giving your glasses, giving your glasses to Mr. Wright.

DeBOER: I've known the gentleman for a long time. He introduced my brother and sister-in-law, so he can have my glasses.

HALLSTROM: Thank you, again.

DeBOER: A spectacle.

BOSN: Senator Holdcroft.

HOLDCROFT: Thank you, Chairwoman Bosn. So was this brought on behalf of the bankers because of the checks or the postal service because of the keys?

HALLSTROM: I would assume it was brought on behalf of the bankers, that's who contacted me. I don't know that the Postal Service, they didn't appear today, and I don't believe they've taken a position on this. But much of the information that we receive regarding the level of fraud comes directly from the Postal Service who's in possession of the information to know what, what level and degree of fraud and theft that we're looking at.

HOLDCROFT: Well, it raises the question to me, how does it happen? I mean, how did this burglar get one of these keys? Doesn't the post office control-- I mean, have some kind of inventory control for these keys? I mean, they're so, so important.

HALLSTROM: You, you would think so, but they, they find-- I mean, there's all kinds of ways to, to make keys that gain access to lots of things, whether it's your car or whether it's your apartment, how they get them. I, I will find out if we have any information as to how the, the criminals go about gaining access. You know, as, as Mr. Eickholt said, if they, if they take a hammer and pound their way through then we might have an existing offense but the more direct way that we've seen is they simply walk up, nobody realizes that they're who they are or what they're about to do, they not only take your checks and wash them but they also take mail that might be pretty important to you as well.

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HOLDCROFT: Yeah, but I would think-- I mean, I just see people getting arrested and they happen to have one of these keys on them and getting charged with this offense. And, really, they, they never have used that or executed that crime. But in the meantime, I think we should be concentrating on, on the check washing and making that a more serious offense with more serious penalties.

HALLSTROM: Fair enough.

BOSN: Senator McKinney.

McKINNEY: Thank you. Thank you, Senator Hallstrom. I just have a curious question. What is the penalty under federal law for, for tampering with a mailbox? I don't know if you know.

HALLSTROM: I, I don't, I don't know, I haven't looked that up. Mr. Wright might have mentioned that if I heard him correctly, but I had not looked at that to see what the criminal offense is.

McKINNEY: All right. Thank you.

BOSN: My recollection in conversations with the individuals who promoted this bill was that there's only so many manufacturers of the mailbox receptacles and so there's a greater than should be perhaps ability to get a key fraudulently through purchasing it on from, you know, lost online that are nefarious actors. But because there's so many different manufacturers of the mailboxes, there may only be six options for, you know, primary key to the back of them and you get six keys and you try all six and one of them is going to work every time. Is that your understanding as well?

HALLSTROM: I, I think that's probably true, and the other thing I might say is, you know, if you're walking around with a key to get into somebody else's mailbox or a U.S. Postal box, yeah, I'm not sure what other reason people carry those around. In terms of saying somebody's just innocently carrying one of these keys around and they get arrested for it, I'd be hard-pressed to try and figure out a reason why someone would have that, that key other than to get into somebody else's business.

BOSN: Thank you. Senator Rountree.

ROUNTREE: Thank you so much, Chairwoman Bosn. And this is just a comment as we're talking about the boxes and replacement. In my neighborhood, it wasn't a key, but it was one of these other

instruments because a box was damaged and broken into. So that took it out of commission for about 6 weeks before we got a new box and all the keys on the front. And then on another note, my daughter had a, a check stolen out of her box, a good \$700, so along with the other testimony. Loss is loss, and it is tremendous.

HALLSTROM: Yep. We, we feel their pain.

BOSN: Thank you. All right. Well, that will conclude our hearing for LB785. Next up, still very fresh, LB874 and Senator Hallstrom. While he's making his way up, I will note for the record that LB874 had 14 proponent comments, no opponent, and no neutral comments submitted for the record. Welcome back.

HALLSTROM: Starting to feel like Kotter.

HOLDCROFT: Welcome back.

HALLSTROM: Thank you. Chairwoman Bosn, members of the Judiciary Committee, my name is Bob Hallstrom, B-o-b H-a-l-l-s-t-r-o-m, serving as senator for Legislative District 1, here today to present LB874 for your consideration. Simply put, LB874 is a bill about public safety. Motor vehicle homicide involves a person who causes the death of another unintentionally while operating a motor vehicle in violation of state law or any city or village ordinance. With certain exceptions for offenses including driving under the influence, motor vehicle homicide is a Class I misdemeanor. The Class I misdemeanor carries a maximum sentence of 1 year imprisonment and \$1,000 fine or both with no minimum penalty. LB874 would enhance the criminal penalty for motor vehicle homicide and motor vehicle homicide of an unborn child approximately caused by violations involving the use of a wireless communications device or cell phone. The penalty for such violations would be increased from a Class 1 misdemeanor to a Class IIIA felony. The Class IIIA felony carries a maximum sentence of 3 years imprisonment and 18 months post-release supervision or a \$10,000 fine or both, once again, with no minimum penalty. As a society, we've all become more distracted, not only in our daily lives, but more disturbingly when we are behind the wheel of a car. Failure to focus on the task at hand, safely driving a motor vehicle, can lead to accidents and fatalities. According to a 2022 study from the Environmental Protection Agency, the average weight of a car is 4,094 pounds. That is roughly 2 tons of metal that we are accelerating and guiding on our roads. At 55 miles per hour, a vehicle will travel approximately 320 feet before coming to a complete stop. This distance

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includes both reaction time and the actual braking distance. The faster you are going, the longer it takes to stop. This is simple physics. A distracted driver is much less likely to recognize the need to stop in time to be effective and to avoid accidents. We've read about automobile and bicycle accidents in which individuals have been tragically killed by a distracted driver. Currently, for any charge greater than a Class I misdemeanor to be issued, the driver must be under the influence of drugs or alcohol, have prior convictions, be driving on a revoked license, or driving willfully recklessly. No level of distraction, even for an extended period of time, is currently sufficient to elevate the charge beyond a Class I misdemeanor. Distracted driving is six times more deadly than driving drunk and carries a 400% increase in the likelihood of an accident, yet the law views these differently. In both cases, an individual makes a conscious decision to engage in a known risky behavior while operating a potentially deadly weapon. When the result of the decision is motor vehicle homicide, should it matter why? Is it worse to be drunk than to be on your phone when the outcome is the loss of innocent life? While LB874 would change the penalties applicable for distracted driving, which accompanies motor vehicle homicide, the bill does not eliminate the discretion of prosecutors to lessen the charge if circumstances warrant. It simply allows a greater charge and penalty to be available beyond the very limited circumstances currently allowed in the law by recognizing the severity of distracted driving. I would respectfully request that the committee favorably act on LB874, and be happy to address any questions.

BOSN: Thank you. Questions from the committee? Senator Storer.

STORER: Thank you, Chair Bosn. And thank you, Senator Hallstrom. I'm just trying to make sure I understand what-- you're not enhancing the penalty, it just wasn't a crime prior to this. I mean, you're, you're adding this to those provisions, right?

HALLSTROM: Right. The, the, the current base offense is a Class I misdemeanor. Over time, there have been different things with regard to driving while-- driving under the influence or driving under the influence, second offense, that enhanced the penalty from the Class I misdemeanor to various levels of felonies. This is just simply going up one rung on the ladder from a Class I misdemeanor to say that we're going to enhance it to the penalty for distracted driving. Similar to what we did when we added DUI to the, to the statute.

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STORER: OK. So we're adding this violation to that list of penalties, right?

HALLSTROM: For metal-- for motor vehicle homicides.

STORER: Right. OK.

HALLSTROM: Yep. Thank you.

STORER: Thank you.

BOSN: I have a question. So, right now, a penalty is a Class I misdemeanor unless there's the certain things as Senator Storer talked about. But one of them is willfully recklessly driving. And I know we've had conversations about this, but I am still not sure that I understand whether it's your position that willful, reckless does not include cell phones, or if there is specific case law that says a motor vehicle homicide where there is evidence that I am on my phone at the time does not constitute action that is willful and reckless. I am willfully holding my phone, it's not accidentally in my hand, and I am recklessly looking at it while I'm driving.

HALLSTROM: I looked at it from the perspective and talked to some county attorneys on the basis of whether or not it rose to the level of reckless driving and the county attorneys that I talked to said they did not believe that it would automatically, just because a cell phone was involved, rise to the level of reckless driving. And if it didn't rise to the level of reckless driving, it seemingly wouldn't rise to the level of willful reckless driving.

BOSN: OK. I will direct my questions, then, to those individuals.

HALLSTROM: OK. Thank you.

BOSN: Any other questions in light of that? All right.

HALLSTROM: Thank you.

BOSN: Thank you very much. First proponent. Good afternoon and welcome.

DAVID SOLHEIM: Good afternoon. So my name is David Solheim, S-o-l-h-e-i-m. I'm the Saline County Attorney. I'm here today on behalf of the Nebraska County Attorneys Association in support of this bill. And I want to thank Senator Hallstrom for bringing it. And as

was outlined during the opening, this, of course, addresses those statutes around unintentional death, death while operating a vehicle in violation of the law. And this is in 28-394 and 28-306. And, you know, the way I think about this is that your baseline penalty for causing the death of another unintentionally, right, so this is an unintentional death, while operating your vehicle in violation of the law, Class I misdemeanor. And then the more egregious your driving behavior, the worse the penalty gets. And so if you're operating your vehicle recklessly or under willful reckless, then it goes up to a IIIA felony. If you're operating it, cause the death of another unintentionally, but you are under the influence of alcohol, it goes-- so a DUI, then it's a IIA felony, and if you've got prior convictions then for DUI, so it's like a second or subsequent offense, then it goes to a Class II felony. That's our, that's our current scheme, statutory scheme. Well, LB874 adds to that the use of a handheld device, which is already illegal while you're operating a motor vehicle. But if you unintentionally cause the death of another person while operating in violation of the law and you're using a handheld device, then that, that would place the penalty at that IIIA felony level rather than the Class I misdemeanor. And I think that's important because it recognizes the inherent danger of operating while using your cell phone. And as these questions pointed out, if, if you get these cases where somebody is using a cell phone now and you want to enhance above the Class I misdemeanor level, well, you have to, you have to make a case for operating recklessly. I mean, you're, you're kind of wrapping that fact into a reckless driving argument. And it doesn't always fit because you see these defenses where they say, yes, I was on my cell phone, but other than that, I was operating perfectly fine. You know, I was, was not speeding, I was maintaining lane, and, and there's a good defense there that this should be a Class I misdemeanor. And I think this bill recognizes that there should be heightened penalty for this very willful act. It's a conscious decision to use your cell phone. You know it's risky, and that should be chargeable and penalized at the IIIA felony level. And so we think that's a, a good thing and is in keeping with the times. And so for that reason, the County Attorneys Association is in support of this bill, and I'd be happy to answer any questions. Thank you.

BOSN: OK, so to my question with regard to-- so you said reckless and his note here says that it's willful reckless and those are two different things.

DAVID SOLHEIM: That's true.

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BOSN: So which is it that's currently covered as a Class IIIA felony?

DAVID SOLHEIM: Both.

BOSN: OK, so reckless driving bumps it to a Class IIIA and willful reckless?

DAVID SOLHEIM: Either or, yes.

BOSN: OK.

DAVID SOLHEIM: So, so, typically, you end up charging that as reckless, right? Because it's a little easier to charge reckless than willful reckless.

BOSN: Right. OK. And what I'm not sure that I understand is, your example was, I'm on my phone, but I'm maintaining my lane, I am not speeding, and I'm paying attention. Well, all of that would seem to indicate that you're not getting into an accident then.

DAVID SOLHEIM: Right.

BOSN: And so something is causing you to get into that accident. And if it's not the cell phone, if it's the sun in your eyes, then you'd still have that same defense, right? But if you're driving a car, and it is a law violation to be on your cell phone, it is by definition already reckless to do it while driving.

DAVID SOLHEIM: Well, I would agree with that, Senator. And that's the argument that we have to make, you know, to the judge and to the jury. But it's similar to the-- you know, there's Supreme Court decisions that say just because you're speeding, that doesn't make you a reckless driver. Speeding alone does not make it reckless. Using a cell phone alone, by analogy, doesn't make it reckless driving. And so I think that, that there's, there's a difference between speeding and using a cell phone, but you get these cases, you see them where the driver will say, you know, I was on my phone, you know, I was checking my email or my messages or whatever on Facebook, but I was operating safely and some circumstance happens, they're probably following too closely, speeding, I don't know, like a routine traffic-type incident. And, and they said but, but for the cell phone, I was operating fine, and this should be a Class I misdemeanor. And I, I just don't agree with that, Senator.

BOSN: OK, is there case law specifically that has made that finding though that says, or, or examples that have made the finding that the cell phone, prosecutors have argued you had the cell phone, you already admitted you were looking at it, but a court has made a finding that doesn't constitute willful. Because I understand the analogy and you're, you're persuading me, speeding isn't in and of itself considered reckless even though it is against the law as well. But I, I see it differently than speeding because I, I don't think if we ask for a show of hands in this room, anyone would raise their hand say they've never speeded. And so-- but I do think there's probably people in this room that would say I don't use my cell phone when I drive and so they, they recognize that differently, right, they see that that is dangerous and a problem. And so I guess what I'm asking is, is the basis of this a case that has happened, something that has actually-- where you have not been able to prove that this should be a IIIA felony even though the person was on their phone?

DAVID SOLHEIM: I don't-- I'm not aware of any Supreme Court decision that has decided that question squarely. Is being on your cell phone alone sufficient to uphold a reckless driving conviction? But I have seen cases where the cell phone is seemingly what I would call the proximate cause and being on the phone alone-- I mean, I think most prosecutors would say we feel uncomfortable charging reckless only on the basis that you're on your cell phone. Like, we, we want to see more to uphold a reckless driving conviction. If this bill were to pass, you wouldn't have to kind of cobble together a bunch of other facts in order to have a factual basis to support that conviction. The fact that you were on your phone texting while driving would be enough to enhance at the IIIA felony level. And I think that's appropriate. Same thing for the DUI. I mean, we get these DUI cases where, you know, somebody is-- they might say that, listen, I was, I was drunk, but I was driving safely. I was below the speed limit or whatever. But, you know, they're involved in a car accident and kill somebody. Well, I think we as a society and, you know, previous legislatures have decided that, well, you've made the decision to drink, you made the decision to drive, you have assumed this increased risk, you've put all these other drivers at risk, this should be a higher penalty even if you were driving pretty safely for somebody who was drunk, you know.

BOSN: Is, is a willful reckless a lesser included of a misdemeanor motor vehicle homicide? In other words, can you plead them in the alternative? And if the jury doesn't find that the cell phone use was

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willful reckless, they're still guilty-- they could still be guilty of the Class I misdemeanor?

DAVID SOLHEIM: Is it a less or included? I-- hmm-- I would have to get back. I think if you, I think if you charge it at the IIIA felony level, operating a motor vehicle-- a motor vehicle homicide caused while operating recklessly. And you didn't meet all the elements of the motor vehicle homicide, like maybe you couldn't cause-- couldn't prove that the accident caused the death of the person. I mean, that's sometimes an issue. But you did prove up reckless, I think that would be a lesser included of that offense. I do-- I think that's true because you have to prove--

BOSN: Well, I'm suggesting that the accident wasn't-- the death wasn't caused by the accident. I'm suggesting if the jury made the finding that the cell phone wasn't reckless, can they still be convicted of motor vehicle homicide misdemeanor?

DAVID SOLHEIM: No, not under, not under the laws written now. I don't, I don't believe so, Senator.

BOSN: OK.

DAVID SOLHEIM: Yeah.

BOSN: Does my question make sense now?

DAVID SOLHEIM: I think I understand what you're getting at, yeah.

BOSN: OK.

DAVID SOLHEIM: I think it's, like, theoretically possible, I just don't see a way that that would, in practice, really happen. So, yeah, that's what I was getting at.

BOSN: Senator Holdcroft.

HOLDCROFT: Chairwoman Bosn, thank you. What Senator Hallstrom's bill does is it doesn't really describe, you know, the action of texting or anything else, it just references what's already in statute in, in 60-6179.01 and 02. Are you familiar with these or not?

DAVID SOLHEIM: Yes.

HOLDCROFT: Are you the right guy to ask questions about it?

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DAVID SOLHEIM: Yes, sir. And, in fact, I was just looking at it before we came over here. So, yeah, a, a little bit.

HOLDCROFT: OK, what, what was it? 9.01 kind of makes sense, but 9.02 says if you're a commercial motor vehicle operator of 9 to 15, all that kind of stuff, in the case that you can be texting. Is that-- can you expand on that?

DAVID SOLHEIM: For, for certain purposes. Like, if you're communicating with law enforcement or emergency services, I believe, you can be texting for that reason, if, if my memory of that provision is correct.

HOLDCROFT: OK, well, then we go back to 01. What if I'm texting with law enforcement under 01 as myself and not a commercial vehicle? I can't do that?

DAVID SOLHEIM: I don't believe there's an exception for that in 01, and you might have it in front of you there, but I don't believe there's an exception for that there.

HOLDCROFT: There is no exception for that. So I guess if I get in a wreck, I can't use my phone to text law enforcement?

DAVID SOLHEIM: Well, you're supposed to stop first, you know. I think that--

HOLDCROFT: Well, then you're considered not moving. All right.

DAVID SOLHEIM: Right.

HOLDCROFT: Well, in 02, then you could be moving and texting to law enforcement?

DAVID SOLHEIM: I think that's what 02 contemplates. Yes, that's right.

HOLDCROFT: Well, when Senator Hallstrom gets back up here, we'll have him explain exactly what he meant.

DAVID SOLHEIM: Yeah. Well, I agree with that, Senator. In fact, we were talking about that before we came over here and there probably is-- because you're right, it doesn't define all this. It just references other statutory provisions, which already exist under the law. Some of which were written or haven't been updated since, like,

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2014. And our cell phone behavior since 2014 has probably changed significantly, so maybe those deserve a review also.

HOLDCROFT: [INAUDIBLE] because I use CarPlay.

DAVID SOLHEIM: Right.

HOLDCROFT: And I take my phone and I put it in the, in the holder and up pops my, you know, my map right there on the screen and apparently that's OK.

DAVID SOLHEIM: Yes, sir. Well, and it talks also about, like, well, you can answer a phone call as long as you only have to hit one button to answer the phone call. But if it takes two buttons, you know, then now you're maybe in a different category. So it's-- it probably does need a, a, a revisit.

HOLDCROFT: Thank you very much.

DAVID SOLHEIM: Yeah.

BOSN: Other questions for this testifier? Last call. All right, thank you for being here.

DAVID SOLHEIM: All right. Thank you.

BOSN: Next proponent. Good afternoon and welcome.

BENJAMIN MURRY: Good afternoon, Senator Bosn, members of the Judiciary Committee. Benjamin Murry, Benjamin, B-e-n-j-a-m-i-n, Murry, M-u-r-r-y, Chief of Police, Nebraska City, Nebraska. Thank you for the opportunity to come before you today, reference to LB874, to increase or enhance the criminal penalties for two specific serious crimes when caused by distracted driving involving a wireless communication device, such as texting, calling, or using apps on the phone while driving. On July 17, 2025, a 5-year-old young man was having the time of his life in an event in Nebraska City. When he was playing in an alley in the downtown business area, he did not think that a truck driving through the alley would take his life that day. Liam was ran over and killed as he was playing with his toy truck. The investigation showed that the driver was not operating the vehicle in a reckless manner in violation of 66-213 or 66-214 to enhance the penalty to a class IIIA felony. Even though the driver had an open container of alcohol in his vehicle, the BAC showed below the legal limit. This did not allow an enhancement for violation of 66-196 or

66-197.06, which is a Class IIA felony. It was noted that the driver may have been texting while driving when this occurred. We had placed the driver's phone into evidence to submit for a search warrant to determine if this was a contributing factor. Due to events that we did not prepare for, we were not able to complete the search warrant due to the driver clinging to the Class 1 misdemeanor that he had been charged with before we had obtained the warrant. Had the use of the wireless communication device been a contributing factor, it would not have mattered as the penalty would still have been a Class 1 misdemeanor. Use of a handheld wireless communication device, prohibited acts, enforcement, violation, and penalty was enacted into law in 2010 as a secondary action when a driver of a motor vehicle has been sighted or charged with a traffic violation of some other offense. The biggest concern with this is officer enforcement is difficult. As the officers observe the violation to have probable cause for a stop, the use of the wireless device is often missed during the stop due to the officer trying to safely observe traffic to make the stop of the vehicle as well as looking for cues that may put the officer in danger. Officers do observe the use of wireless devices daily, but with no other primary offense violation, there is no probable cause for the stop and enforcement for the use of these wireless communication devices. Motor vehicle homicide penalty was enacted in 1977 with amendments as late as 2025. Wireless communication device use while driving has increased more and more every year. When speaking to Otoe County Attorney Jenniffer Panko-Rahe, she referenced the concern she brought up, an extremely valid point that resonates with me. I think the focus on how this is a specific act by the driver, not just a minor traffic violation, not just an error on the part of the driver, I think it should be treated the same as a drunk driving motor vehicle homicide. Just today, as I was coming into the Capitol to testify before you, I had a truck with three subjects in it, the driver had their phone out, was recording the other two as they were hanging signs out the window of the truck. They almost hit a parked car in the corner of the courthouse. So I thank you for the opportunity to come before you to testify on this, and I would entertain any questions that you might have.

BOSN: Thank you. Questions for this testifier? Thank you for sharing that story. I'm familiar with that situation, and that was a really heartbreaking situation.

BENJAMIN MURRY: Yes, it was. Thank you so much. I appreciate you.

BOSN: Next proponent. Good afternoon and welcome.

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Judiciary Committee February 11, 2026

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ROBERT M. BELL: Good afternoon, Chairwoman Bosn and members of the Judiciary Committee. My name is Robert M. Bell, last name is spelled B-e-l-l. I'm the Executive Director and Registered Lobbyist for the Nebraska Insurance Federation and I am appearing today in support of LB874. The Insurance Federation is the primary trade association of insurance companies in Nebraska. Currently, the Federation consists of 50 member companies, members write all types of insurance. One of the goals of the Federation is to promote the concepts and importance of insurance products to the public. Insurers provide high-value, quality insurance products to Nebraskans that help Nebraskans during difficult times. Driving is the single most dangerous activity most Nebraskans engage on-- in on a daily basis. And the Nebraska insurance industry supports efforts to make traveling in a motor vehicle a safer experience for all Nebraskans. Also, the industry supports all efforts to keep cell phones out of the hands of drivers while driving. According to the National Highway Safety, excuse me, the National Highway Traffic Safety Administration, distracted driving accounts for 8% of all fatal crashes and 14% of all injury accidents. Beyond the tragic loss of life, traffic accidents also have a detrimental impact due to the losses of productivity, legal costs, medical costs, and property damage. Insurance companies and their premium paying customers are financially responsible for many of these costs. We believe that LB874 is good legislation that will make Nebraska roads safer. Smart phones are not going to disappear from society. We all know that. Fortunately, smartphone technology has improved to allow new, more reliable options for voice-activated text messaging, and other types of technologies. Such technologies allow drivers to keep their hands on the wheel and eyes on the road because enhanced consequences should make a driver pause before picking up a cell phone and texting. Insurers believe that enhanced penalties for vehicular homicide should lead to less distracted driving, fewer accidents, and fewer insurance claims, positively impacting the lives and the pocketbooks of insurance customers. For these reasons, the Nebraska Insurance Federation supports the passage of LB874. I appreciate the opportunity to testify.

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

ROBERT M. BELL: You're welcome.

BOSN: Any other proponents? Opponents? Neutral testifiers? Senator Hallstrom to close. Waives close.

HOLDCROFT: I have some questions.

HALLSTROM: I think I'm going to come up and get drilled by Senator Holdcroft. I will anticipate. My reading, if I understood your question correctly, Senator Holdcroft, is that the statute, as amended, requires the proximate cause to result from a violation of either of those two cell phone statutes. So that to the extent that the commercial driver texting statute provides exceptions, they would not be violating the statute if they were using it for one of those purposes. And, and with none of those exceptions or exemptions applying to a noncommercial driver, then the violation of the non-CDL situation would, would, would qualify or classify under that statute.

HOLDCROFT: I do just have a follow-up question.

BOSN: All right, Senator Holdcroft has a follow-up question.

HOLDCROFT: You know, it's not really a question, but it's kind of a query. I mean, a-- well, a query is a question, isn't it?

BOSN: It's a query and it's a question.

HOLDCROFT: It's-- you know, how do we-- like I said-- I mean, I'm with you on texting while trying to drive, but, you know, the next step is to put it in, you get CarPlay and it comes up, and it gives you some capabilities to text by voice, and actually you can do some things with your finger, I mean, with, you know, being distracted a bit. But who's, who's-- and there are some functions in CarPlay that you can't do while you're moving, but if you stop then you're allowed to bring up a keyboard and start typing. Who's making those kind of decisions on what is you can do in CarPlay while you're moving or when you're stopped? I mean--

HALLSTROM: Yeah, I, I, I don't know, I don't know whether that has any impact on what we're trying to do here today. But I think, you know, some of the things we've talked about is, you know, the distraction. You know, one of the issues in a lot of talk about what happened, you, you have to show proximate cause. But in my testimony, I noted the time factors that are involved when you are distracted from the, the task at hand. And that's-- you know, I may not have been speeding, but if I'm going 55 miles an hour and I'm not paying attention, it still takes a, a longer period of time for me to look up and figure out what am I about ready to hit.

HOLDCROFT: One last thing, please. Yeah, and I'm, and I'm not going to admit that I've, I've ever been speeding, but I did get a ticket. And

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I had to attend-- and this was 5 years ago, I attended their-- the sheriff's thing on, you know--

BOSN: Stop class.

HOLDCROFT: What's it called?

BOSN: Stop class.

HOLDCROFT: Stop class, yes, that's what it was. And they had some figures that almost any distraction expands your reaction time, even listening to music expands your reaction time. So at one point-- I mean, texting, I guess, is-- you know, I mean, that's beyond to be on.

HALLSTROM: Yeah.

HOLDCROFT: But at what point, walking back from that, do we say you're really distracted enough that you could cause an accident? I mean, that's--

HALLSTROM: Yeah, I assume that's going to be an issue of proof.

HOLDCROFT: OK.

HALLSTROM: I'm wondering, I'm wondering if the stop class had to do with stop asking questions, but apparently, apparently not.

HOLDCROFT: I haven't had a ticket since.

STORER: It worked.

HOLDCROFT: Yes.

BOSN: All right. Any other--

HALLSTROM: Cleansing is good for the soul.

BOSN: --any other questions from the committee? Seeing none, that will conclude--

HALLSTROM: Thank you.

BOSN: --our hearing, as well as our hearings for today. Thank you, all.