

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Judiciary Committee March 2, 2022

**LATHROP:** We're going to get started, so if you don't mind having a seat. Welcome to the Judiciary Committee. My name is Steve Lathrop and I represent Legislative District 12 in Omaha and I'm also the Chair of this committee. I'm going to read a couple of pages just so that you know what the rules are and how we sort of run hearings because I see a number of unfamiliar faces, which is fine, we're glad you're here, but just so that you understand kind of how we run the railroad around here. Committee hearings are an important part of the legislative process and provide an important opportunity for legislators to receive input from Nebraskans. If you plan to testify today, you'll find yellow testifier sheets on the table inside the doors. Right over there is the table by that column. Fill out a yellow testifier sheet only if you're actually testifying before the committee and please print legibly. Hand the yellow testifier sheets to the page as you come forward to testify. There is also a white sheet on the table if you do not wish to testify, but would like to record your position on a bill. The sheet will be included as an exhibit in the official hearing record. If you are not testifying in person on a bill and would like to submit a position letter for the official record, all committees have a deadline of 12 noon central time, the last workday before the hearing. So we're at a place since tomorrow is the last hearing that you can't get any more position letters in, but that's how they get in. Please note there's a change this year position letters to be included in the official record must be submitted by way of the Legislature's website at [nebraskalegislature.gov](http://nebraskalegislature.gov). That'll be good information for next year. This will be the only method for submitting letters for the record, other than to testify in person. Letters and comments submitted by way of email or hand delivered to senators will no longer be included as part of the hearing record, although they're a viable option for communicating with a, a senator on a one-- one-to-one basis. Keep in mind that you may submit a letter for the record on the website or testify at the hearing, but not both. We will begin each bill hearing today with the introducer's opening statement, followed by proponents of the bill, then opponents, and finally by anyone speaking in a neutral capacity. We will finish with a closing statement by the introducer if they wish to give one. We ask that you begin your testimony by giving us your first and last names and spell them for the record. If you have copies of your testimony, bring up at least ten copies and give them to the page. If you're submitting testimony on someone else's behalf, you may submit it for the record, but will not be allowed to read it. We will be using a three-minute light system. When you begin your testimony, the light on the table will turn green, yellow light is your one-minute warning,

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and when the red red light comes on we ask that you wrap up your final thought and stop. As a matter of committee policy, I'd like to remind everyone the use of cell phones and other electronic devices is not allowed during public hearings, though you may see senators use them to stay in touch with their staff. I would ask that everyone look at their cell phones and make sure they're in the silent mode and remind-- a reminder, verbal outbursts and applause are not permitted in the hearing room. Since we've gone paperless the Judiciary-- in the Judiciary Committee, senators will be using their laptops to pull up documents and follow along with each bill. And you may notice committee members coming and going, that has nothing to do with how they regard the importance of the bill under consideration. But some senators have bills to introduce in other committees, and that is particularly true today. We have a number of people that will be introducing bills in other committees. And with that, we'll have the committee members introduce themselves beginning with Senator DeBoer.

**DeBOER:** Good afternoon, everyone. My name is Wendy DeBoer and I represent District 10, which is in northwest Omaha.

**BRANDT:** Good afternoon, I'm Senator Tom Brandt, District 32: Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster County.

**SLAMA:** Julie Slama, District 1: Otoe, Johnson, Nemaha, Pawnee, and Richardson Counties.

**LATHROP:** Assisting the committee today are Laurie Vollertsen, our committee clerk; and Josh Henningsen, one of our two legal counsel. And the committee pages today are Bobby Busk and Logan Brtek. And with that, we'll begin our hearing with Senator Wishart and LB851. Good afternoon, Senator, and welcome to the Judiciary Committee.

**WISHART:** Good afternoon, Chairman Lathrop, members of the Judiciary Committee. My name is Anna Wishart, A-n-n-a W-i-s-h-a-r-t. I represent the 27th Legislative District in west Lincoln and portions of southwestern Lancaster County. I am here today to introduce LB851, a bill that makes a needed update to the definition of animal abuse when it comes to nonlivestock animals. On February 4, 2022, a man was caught on camera in a business parking lot in east Lincoln kicking his dog as he was attempting to load the animal into a truck. At the time, Lancaster County Sheriff Terry Wagner initially declined to cite the owner of the dog claiming Nebraska Revised Statute 28-1009 prohibits a person cruelly mistreating an animal. We do not believe the actions of the owner of the pit bull met the statutory requirements to cite him. It was only after public outcry and in consultation with the Lancaster

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County Attorney's Office, that the man was eventually cited with animal cruelty. Currently, the statute defines animal abuse or cruelty mistreatment as cruelly mistreats means with no justifiable purpose to knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise inflict harm upon any animal. My bill simply adds kick, hit, strike in any manner to the definition in Section 28-1009. Additionally, my bill strengthens the language in Section 28-1012 to ensure that law enforcement is thoroughly investigating claims of animal abuse and cruelty. I understand that larger animals sometimes need physical correction, but when the evidence clearly points to mistreatment, law enforcement needs to act swiftly. Following the incident caught on camera, a local veterinarian, Dr. Tony Moravec, discussed with Channel 8 News the potential dangers and damages animals could face when being kicked in the manner that this dog was kicked. Any type of force trauma to the stomach or abdomen area could result in injuries to internal organs such as the spleen, liver, kidneys, bladder, and the intestinal tract, the doctor said. Any kind of internal organ system is not immune to blunt trauma. It can really cause long-term negative impact. Following my introduction of this bill, I have spoken with advocates and I would ask that if the committee were to advance this bill, and I think this is a bill perfect for a consent calendar designation, I would like to have an amendment to strike no justifiable purpose, as it was not my wish that there are any unintended consequences with a phrase that could be so open to interpretation. There may be instances where someone needs to physically restrain an animal for their own safety or the safety of others. I brought LB851 for my four-legged constituents. I am a huge dog lover myself and want to ensure that those who cannot speak to them-- for them-- excuse me, cannot speak for themselves are represented here in the Legislature as well. This really, truly could save animals from abuse. Thank you and I'd be happy to answer any questions.

**LATHROP:** I do not see any questions, Senator Wishart,--

**WISHART:** Thank you.

**LATHROP:** --but thank you. Are you going to stay to close?

**WISHART:** Sure. It won't be long.

**LATHROP:** Oh, OK. Very good. We'll take proponent testimony at this time. If you are in favor of this bill, you may come forward. OK. Anybody here in opposition? Anyone here in the neutral capacity? You were right, Senator Wishart, that was a quick hearing and we

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appreciate that. There were no position letters. Senator Wishart waives close. And that will close our hearing on LB851 and bring us to Senator DeBoer and LB829. Welcome, Senator DeBoer.

**DeBOER:** Thank you, Senator Lathrop. In keeping with the theme here. Good afternoon, Chair Lathrop and members of the Judiciary Committee. This is my last bill in front of Senator Lathrop as Chair of the committee, so I will acknowledge and appreciate all that he's done for this committee. So thank you for that. My name is Wendy DeBoer, W-e-n-d-y D-e-B-o-e-r. I represent the 10th Legislative District in northwest Omaha. I'm here today to introduce LB829. LB829 was brought to me by the Nebraska Humane Society, which was prior to redistricting in my legislative district, just outside now. LB829 is intended to clean up certain animal cruelty statutes that currently include inadvertently limiting language. Starting 2008, Nebraska judges have been allowed to impose animal ownership restrictions of up to 15 years for individuals convicted of animal cruelty-- of the animal cruelty felony charge and up to five years for the conviction of a Class I misdemeanor. In 2015, however, the Legislature passed LB605, which, among other things, created a new class of felony for animal cruelty for cases involving torture, repeated beating, and mutilation, and changed those penalties from Class IV to Class IIIA. However, Nebraska state statute 28-1019, the animal ownership restriction law was not properly matched to reflect the new felony. So the unintended result is that persons convicted of Class IV felony for animal cruelty can be prevented from owning animals. But anyone who is convicted of the higher Class IIIA cannot, so LB829 fixes this gap. LB829 also extends from seven calendar days to ten business days, the length of time a prosecutor has to file an application with the court for a hearing to determine disposition of seized animals and for the courts to make a decision on who incurs the cost for the care of the animals during the trial process. This winter, many of you probably saw in the news that 575 exotic animals were recovered in a home in Papillion. This happened the Monday and Tuesday before Christmas, so the seven-day statutory period ran over Christmas Eve and Christmas Day weekend. All the while, law enforcement and shelter staff were trying to determine the, the disposition of the exotic animals. While some interested parties actually asked for an even longer time frame, I think ten business day provision will offer some much needed additional time. With that, I will end my opening. Happy to answer any questions. I will note that there is a representative from the Nebraska Humane Society behind me who will be able to address any questions as well.

**LATHROP:** OK. I don't see any questions. Thank you, Senator DeBoer. We will take proponent testimony on LB829 if there's any. Yeah, how many

people intend to testify on this bill by a show of hands, testifiers? The reason I ask is so that we can alert Senator Bostar to be moving this direction, which should happen shortly. Good afternoon.

**NANCY HINTZ:** Good afternoon, Judiciary Committee and Chairperson Lathrop. My name is Nancy Hintz, N-a-n-c-y H-i-n-t-z, and I'm the president and CEO of the Nebraska Humane Society. Our agency provides animal control and animal cruelty investigative services for Omaha and the surrounding areas. Today, I am testifying in support of LB829, and we do thank Senator DeBoer for introducing this bill on our behalf. LB829 addresses two long-needed changes to Nebraska's current state statutes dealing with animal ownership restrictions and animal impoundment. I will provide both the background of how we came to need these two small cleanup changes and the result of the passage of this bill will have. First in 2008, LB1055 passed by unanimous vote. This bill established Nebraska state statute 28-1019, which allows a judge to impose animal ownership restrictions of up to 15 years for individuals convicted of a Class IV felony animal cruelty charge and up to five years for the conviction of a Class I misdemeanor. Then, in 2015, the legislator-- Legislature passed LB605, which changed the penalties for animal cruelty and added the charge of a Class IIIA felony for more egregious animal cruelty cases involving torture, repeated beating, and mutilation. However, the animal ownership restriction law under statute 28-1019 was not changed. So therefore the ownership restrictions only apply to the lower class felony charge of Class IV felony for animal cruelty and not to the higher classification of the Class IIIA felony cases. So without the passage of this bill, LB829, our statutes only allow a judge to impose animal ownership restrictions on anyone charged with penalties enacted in 2015 for animal cruelty. In regard to the second part of the bill, in 2008, the Legislature unanimously passed LB360, which addresses impoundment of animals involved in a cruelty case. The law sets out a procedure for a prosecutor to file an application with the court for a hearing to determine disposition and custody of the animals. LB360 set out a seven-day time limit for a prosecutor to file for such hearing, and that is the current law. The Nebraska Humane Society has experienced firsthand that that seven-day window to file the paperwork with the courts is not sufficient time. Law enforcement and the Nebraska Humane Society investigators must prepare reports and forward them to the prosecutors, who then prepare legal documents to file for these disposition hearings. So we are asking for that seven-day provision to be increased to ten business days. We do believe this will allow all of us additional time to get these motions filed without overextending the time animals will linger in the shelter's

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care. Obviously, there have been several high profile animal welfare cases in the news lately, so we, we know that you know and you can imagine how that seven-day time frame has become unworkable. Our sincere thanks again to Senator DeBoer for introducing this bill and to you and this committee for consideration of passing this bill. We do ask that this bill be, be moved this session so that the statutes can better reflect the needs of the animal welfare cases today. And I'm available to answer any questions and thank you.

**LATHROP:** OK. I do not see any questions, but thanks for being here, we--

**NANCY HINTZ:** Thank you.

**LATHROP:** --appreciate you being here and what you do. Anyone else here as a proponent? Good afternoon. Welcome.

**PATRICK MCGEE:** Good afternoon, my name is Patrick McGee, I'm a deputy county attorney in Douglas County, Nebraska.

**LATHROP:** Can you spell your name for us, sir?

**PATRICK MCGEE:** P-a-t-r-i-c-k M-c-G-e-e. I'm here to testify in support of LB829 on behalf of the Nebraska County Attorneys Association and the Humane Society. I'd like to thank Senator DeBoer for introducing this bill, which makes important changes to our animal defense statutes, specifically with respect to prohibition of animal possession pursuant to convictions for animal abuse. I do prosecute the lion's share of animal abuse cases in Douglas County, Nebraska. First, I want to talk to you a little bit about the animal possession prohibition pursuant to 28-1019. Conviction under 28-1005 or 28-1009 provides for animal prohibition of 5 to 15 years. The problem is it specifically applies only to Class IV felonies as the statutes are currently phrased. By strict interpretation, a higher [INAUDIBLE] of felony as already described the Class IIIA is not included. What does this mean? Lower class felonies. Those resulting from cruel neglect, these are typically our cases involving animal starvation and things of that nature do have an appropriate disposition available to the judge a restriction of possession for 5 to 15 years. However, our higher class felonies, those are the IIIs, and those typically involve cruel mistreatment. And when I say cruel mistreatment, I don't mean conduct involving starvation of animals and things of that nature. I mean, individuals who use weapons to intentionally and maliciously harm animals and mutilate them. Those types of felonies don't have a restriction associated with that at sentencing. In

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contrast, misdemeanor convictions carry with them a prohibition of up to five years. This inconsistency is clearly an error. And what's my support for this thesis? Well, the inconsistencies I've already described for one. Secondly, although this particular statute, 28-1005, is not presently before the Legislature, it is sort of tangentially. That statute, which applies to cockfighting and dogfighting, is a IIIA felony if convicted. No such felony, no IIIA felony is actually provided for in 28-1019. That's our sentencing statute. However, 28-1019 specifically does refer back to our animal fighting statute. So that's clearly an error as well. But it refers to it as if it were a Class IV felony, which it is not. My opinion is that the proposals in LB829 fix this error. That's not just with respect to 1009, but also 1005, although there's no amendment to the language. I would encourage the Legislature to look at 1005 to make sure that the legislative intent is there and that it is corrected, but my opinion is that it is. Thank you.

**LATHROP:** OK. Thank you, Mr. McGee. We appreciate you being here. Any other proponent testimony? Anyone here to testify in opposition to LB829? Anyone here in the neutral capacity? Seeing none, Senator DeBoer. We have no position letters for the record on LB829. Senator DeBoer waives closing. That will close our hearing on LB829 and bring us to Senator Bostar and LB903. Senator Bostar, welcome to the Judiciary Committee.

**BOSTAR:** It's a pleasure to be here for the first time.

**LATHROP:** I was going to say I don't know if we've had in here before. It's nice to have you here.

**BOSTAR:** Thank you.

**LATHROP:** You may open.

**BOSTAR:** Good afternoon, Chairman Lathrop and members of the Judiciary Committee. I'm Eliot Bostar. That's E-l-i-o-t B-o-s-t-a-r, representing Legislative District 29, here to present LB903, a bill to change provisions relating to criminal privacy violations in order to prohibit spying by unmanned aircraft and to define terminology. Actually, let me take a second. I do want to hand something out to the committee members. As you will soon see, the Lincoln Journal Star article that you will have before you recounts the experience of a woman who was staying the night at her parents' house in District 29 in May of last year, she awoke reportedly at 1:30 a.m. to the sound of fan blades spinning and saw red and blue lights flashing outside of

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her third-story bedroom window. It was a drone hovering only a few feet outside of the window, so close she could have grabbed it, she reported. After she awoke, the drone flew away, returning to the window again 30 minutes later. The next morning, she spoke with several neighbors who also reported having heard and been bothered by the drone. She called the Lincoln Police Department to file a complaint, but as the Lincoln Journal Star reports, potential law violations weren't entirely clear. While it is illegal to operate a drone in a careless or reckless manner that could endanger the life or property of another person, current statute fails to address spying, surveillance, or unlawful intrusion through the use of unmanned aircraft. LB903 expands state statutes 28-101 and 28-311 regarding unlawful intrusion, which currently failed to include the use of surveillance through electronic or other remote means, including, but not limited to, the use of unmanned aircraft. LB903 updates these statutes to include this new technology. Section 3 of LB903 goes on to create a Class I misdemeanor to provide law enforcement the tools they need in order to hold someone accountable if they invade the privacy of another utilizing electronic device, specifically an unmanned aircraft. This new language states, "It shall be unlawful for any person to intentionally cause an electronic device, including an unmanned aircraft, to enter into, upon, or above the property of another in order to secretly or furtively peer or spy into or through a window, door, or other aperture of any dwelling of any other person." This legislation is a small but necessary change in order to protect our constituents' privacy. I encourage you to support privacy protections and advance LB903. With that, I would thank you all for your time, and I'm happy to answer any questions you might have.

**LATHROP:** OK. Senator Bostar, I don't see any questions. I will-- I know it's not a question day, but I, I will say this. I was here a long time ago when Senator Schumacher put a bill in on, on drones and I'm like, what is he-- this sounds as a little kooky back, probably 15 years ago and this is an important topic. So we appreciate you bringing the bill.

**BOSTAR:** I concur. Thank you very much.

**LATHROP:** Yeah, thank you. Gone from kooky to relevant. Any proponents here for LB903? Good afternoon and welcome.

**TERESA EWINS:** Thank you. Thanks for having me. My name's Teresa Ewins, T-e-r-e-s-a, last name is E-w-i-n-s. I'm the chief of police for Lincoln Police Department. LB903 is a well-intentioned bill designed to improve privacy protections for members of Nebraska communities.

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LB903 will prohibit unmanned aerial vehicles, otherwise known as UAVs, more commonly referred to as drones, from being used to secretly and furtively peer or spy into or through a window, door, and other aperture of any dwelling of any person. Much like a hidden video camera or cell phone, a UAV can be used to spy on and record the actions of others who may be unaware of UAV's presence. I will tell you from personal experience on vacation, my front door was all glass and I looked out and there was a drone right in front of my room and there was no recourse for me. I will tell you that this is a huge problem throughout the country. I'm really happy that this came about now because it should be addressed. I'm more than happy to answer any of your questions.

**LATHROP:** I have a real quick one. There's an exception for law enforcement.

**TERESA EWINS:** Yeah.

**LATHROP:** So law enforcement wants to be able to look in windows, do you need a warrant to do that?

**TERESA EWINS:** Yes, we do.

**LATHROP:** Do we need that except-- OK, somebody in the back is shaking their head no. I don't know. I, I just wonder if we need that language in there--

**TERESA EWINS:** Privacy in order to look into, and I'm not attorney,--

**LATHROP:** OK.

**TERESA EWINS:** --but, but, you know, we can look into, into a home only if we have a right to do so. And for me, that is a warrant.

**LATHROP:** OK. Senator Brandt.

**BRANDT:** Well, thank you, Chairman Lathrop. Thank you, Chief. And I don't know if you're the one to answer this or not, but drones-- if you're a roofer and you use a drone to inspect a roof, OK, and it flies past the windows and somebody in the state of undress or, or something like that and it's obviously unintentional because the guy is there to do an estimate on the roof, where does that fall on the spectrum of this law?

**TERESA EWINS:** That's in the conversation with law enforcement if someone calls us. This-- I mean, a, a roofer, then the homeowner knows

that that person is there. They should be aware of the fact that what they're doing and the roofer should really explain to them that they're going to use a drone in order to survey the, the home.

**BRANDT:** OK. But I guess I can just see some situations where drones are used as a tool and then they're going to get caught up in a situation unintentional with this bill. That's-- I don't know. You don't see it that way because you're on the law enforcement side.

**TERESA EWINS:** Well, I can see that as, you know, a citizen here as well as a police officer, if, you know, drones are a very important tool right now for law enforcement as well, you know, looking for missing kids in, in rural areas, all those things are very important. Seeing the devastation in regards to a possible crash on the freeway or a fire, those are, those are things that police and fire, you know, we utilize that. But for a person to be flying a drone wherever they want and looking into homes, there's no purpose for that. You know, there is a, a height limit that should be adhered to by drones so it doesn't interfere with other aircraft. But it's also saying it shouldn't be flying through neighborhoods stopping in front of someone's window and peering in.

**BRANDT:** Right. I would agree with that. All right, thank you.

**LATHROP:** Senator Pansing Brooks.

**PANSING BROOKS:** Thank you. Thank you for coming today, Chief Ewins. I'm glad you're here. I've had a similar experience, and it's one of the scariest things that you just can't figure out what to do. My question is, what do, what do police do? I mean by the time you come isn't it generally gone or-- and how do you, I mean, do you use drones to find the drones or I'm just interested what, what-- how, how you're going to deal with this?

**TERESA EWINS:** My previous experience is that there is technology in which we know that there are identifying numbers on drones, and we can see that if we--

**PANSING BROOKS:** Oh, that's great.

**TERESA EWINS:** --get the, the right software in order to do that because of, you know, San Francisco having big ball games and things like that and big events, Super Bowls, things and, and such, we're able to have technology that would identify that. And then we can address it and know exactly where the signal is coming from and handle that.

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**PANSING BROOKS:** Well, I appreciate that. That's great to know. And I'm just-- I'm grateful to have you here in our community, and you're such a role model to young women and for people to emulate you. Thank you for being here.

**TERESA EWINS:** Thank you.

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

**TERESA EWINS:** Thank you.

**LATHROP:** Next proponent. Anyone else here to speak in favor of LB903? Anyone here in opposition?

**SPIKE EICKHOLT:** Good afternoon, good afternoon, 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 Criminal Defense Attorneys Association in opposition to the bill. You've seen me testify against bills that create or broaden existing offenses. It's our position, at least at this point, that the proponents of this bill have not demonstrated its necessity. I did review the Lincoln Journal Star article when I was listening to Senator Bostar introduce the bill. In that instance, the reason there was no charges brought is they couldn't identify who had the drone. This bill doesn't speak to that. I did notice that one of the law enforcement officials indicated that if they were able to identify who had the drone, they would likely be able to charge him with a separate crime of disturbing the peace. So it's not as if to say there's nothing that can be done, there can be some things that are done. If you look at the first portion of the bill that amends 28-311.08, the unlawful intrusion statute, the only real substantive amendment is at the bottom of page 3, and that just provides sort of an alternative way that a person can view another person in a state of undress or a state which that victim is in a state of sort of privacy or in seclusion. We would submit that's unnecessary. If you have an assault statute, for instance, you don't have to give all the examples in the statute for how you commit an assault. Third degree assault is intentionally, knowingly, or recklessly causing bodily injury. You don't have to put down by punching. You don't have to put down by kicking and that kind of thing. It's just surplusage. And the problem with doing that is not only does it sort of cause confusion to the law, but it really inadvertently will provide for situations where people might be able to have a defense they wouldn't otherwise have if you didn't put something in the statute. The other portion of Section 3 that Senator

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Bostar mentioned earlier that creates what we would consider a new crime is sort of problematic. If you look at, and it's not included, it's not amended by this bill, but the current trespass statute, Sections 28-521 and 28-522 already provide for prosecution in which somebody trespasses onto or near the property of another without authority, 28-522 actually has some affirmative defenses that would not be applied here. If the committee is going to consider providing for this alternative or broadened crime, we would suggest that you look at the trespass statute because that's really what Section 3 does. Some of the terms should be defined, such as the term, the word peer and spy, because that's not defined. The only exception is for law enforcement. And to speak to Senator Brandt's question, that's exactly what will happen. The statute provides for one exception, the inclusion of one is the exclusion of others. So if it's a roofer or a subcontractor that has a drone, they are flying above or near someone else's property without permission. And by the way, it doesn't provide for a permission exception, then they are in violation of it. Now whether they'll be charged is one thing, but you don't want to have laws be subject to charge at the whim or will of prosecutors and officers. The law should be clear so everyone knows what is permitted and what's not. So we would respectfully suggest the committee not advance the bill, at least as written, and I'll answer any questions if you have any.

**LATHROP:** I think you've been clear. Thanks for being here, Mr. Eickholt. Any other opposition testimony? Anyone here in the neutral capacity? Seeing none, Senator Bostar. We have no position letters on this bill.

**BOSTAR:** Thank you, Chairman Lathrop and members of the Judiciary Committee. I want to talk briefly about a couple of the things that were brought up. So, Senator Brandt, your question about roofers. Section 3 is, is, I think, fairly clear insofar as stating that, that you need intentionality. So: It shall be unlawful for any person to intentionally cause an electronic device, including unmanned aircraft, to enter into, upon, or above the property of another in order to secretly or furtively spy or peer into or through a window, door, or other aperture of any dwelling of another person. So if you're conducting regular business and you're a roofer and you're using a drone and you happen to see into a window, that isn't, that isn't captured here. One, you're not intentionally trying to look into the windows in order to do your roofing job. And two, your intent isn't to spy or peer or violate the privacy of another. Your, your, your job is to survey a roof. So I would absolutely assert that that isn't-- that wouldn't be a problem here. And, you know, I mean, this-- the

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Legislature has seen drone regulations before, and it has engendered other opposition from businesses like roofers or the railroad for example. The railroad utilizes drones all the time to look ahead on the tracks to make sure there aren't any problems coming. And so they're very sensitive to this sort of thing. So if, if any of them felt like this could capture some unintentional viewing, then I think you would see them here today. And you don't, because I think this is pretty clear. But that-- it's a great question. So thank you. Some of the other issues brought up. The article does mention that, you know, when the article was published that they couldn't identify who the drone belonged to. But that isn't the only reason they didn't go after someone. The law isn't clear and it needs to be clarified. This is a problem. Trespass was brought up. So here's one of the problems with that. Trespass is actually fairly clear now, but what I want you to think about is what elevation does trespass stop existing? If I enter your property above the ground, at what point am I no longer on your property? Right, so I'm a licensed pilot, if I fly an aircraft above Lincoln, does everyone that I flew above have a claim of trespassing against me? Of course not, that's absurd. Because at some point it stops being trespassing, and that's a significant gray area, and that's a gray area that these drones are currently operating in. So we have to fix this. Last point I'll make is related to powers of law enforcement. This legislation doesn't change any powers that law enforcement has or does not have. There's an exception for them in here, but it doesn't give them the ability to do anything they can't do today or do tomorrow. There certainly isn't any intent to give them any additional policing powers, additional surveillance powers. And I do not think that you will find that in this legislation. And with that, I would be happy to answer any final questions.

**LATHROP:** Senator Brandt.

**BRANDT:** Thank you, Chairman Lathrop. Thank you, Senator Bostar, for bringing this bill. Absolutely understand, trespass the second-story window, they're on your property, they're filming what they shouldn't be filming. If the same drone is on the sidewalk or over the street pointed at the house just like you walk down the sidewalk and you look over at the house, is that trespass?

**BOSTAR:** It's an excellent question. So what, one, I would say that this legislation doesn't address trespassing. However, if someone were to operate a drone, assuming this bill passed, if someone were to operate a drone above a sidewalk and peer into the window of a house, that would not be a criminal offense.

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**BRANDT:** All right. Thank you.

**BOSTAR:** Just wouldn't. You have to be above the property and the sidewalk is public.

**LATHROP:** OK. I don't see any other questions.

**GEIST:** Could I just ask a real quick question?

**LATHROP:** You certainly may.

**GEIST:** What is height, ceiling limit if it's above the property? Because you said that was a gray area so I'm curious.

**BOSTAR:** So as far as trespassing, it's a gray area, currently.

**GEIST:** OK.

**BOSTAR:** As far as this bill, functionally, once you get above a certain height, you can't really spy into houses.

**GEIST:** OK.

**BOSTAR:** So I would say that with the, with the just textual reading of the legislation, if you are at an elevation where you can spy into someone's home and invade their privacy, that's covered.

**GEIST:** OK. Thank you.

**BOSTAR:** Thank you.

**LATHROP:** OK. I don't see any other questions. We appreciate you being here. Thanks for your close. That'll close our hearing on LB903.

**BOSTAR:** Thank you.

**LATHROP:** Thank you. And that brings us to me. All right, you're up.

**PANSING BROOKS:** OK. So I think this is your last bill, Senator Lathrop, in the Judiciary, is that right?

**LATHROP:** It is, actually.

**PANSING BROOKS:** It's, it's now then my last time acting as Vice Chair in Judiciary.

**LATHROP:** Oh no, you may have an opportunity.

**PANSING BROOKS:** Oh, tomorrow. [LAUGHTER] No, it's over.

**MORFELD:** Don't celebrate yet. [LAUGHTER]

**LATHROP:** Yeah, yeah, yeah. But I appreciate the sentiment. Good afternoon, Vice Chair Pansing Brooks and members of the Judiciary Committee. I'm here today to introduce LB994, a current law relating to catalytic converter thefts, which is LB766 from 2008. It does seven things and then I want to cover the, the changes that are found in this bill. Secondary metal-- first, secondary metal recyclers are required to accept delivery of used catalytic converters only from someone with a valid state ID and keep a photocopy of that ID. Second, this is existing law remember, secondary metal recyclers must keep records of purchases of used catalytic converters to include the name and address of the vendor selling the property, the signature of the vendor, the date and time of the transaction, weight and grade of the regulated property and the amount paid, a fingerprint of the person delivered-- delivering the catalytic converter, and a date and time stamped photo or video of the regulated property. Three, the records must be kept for one year and made available to law enforcement upon request. Four, purchasers of regulated metals cannot pay an individual more than \$25 cash in any four-hour period. Five, purchases of regulated metals must be made by check if over \$25 and if over \$100, the check must be sent by mail. Six, secondary metal recyclers cannot buy regulated metals from anyone under the age of majority who does not have a valid ID. And seven, violating those provisions is a Class II misdemeanor. That bill was passed when I was here the first time in 2008, my recollection is Senator Abbie Cornett, who is a retired law enforcement officer, carried that to try to address this very problem. And as you probably know in Lincoln and also in Omaha, this remains a very big problem. People are crawling under cars getting these catalytic converters, and the only value they have is if they take them to a scrap iron place or a scrap metal place. So LB994 would do the following: All payments for catalytic converters must be made by check sent by U.S. mail. So if you think about these folks that are stealing these, many of them are drug-addicted people who go out in the middle of the night, get a catalytic converter because they need some quick cash and having them be paid by check and have that check sent by U.S. mail interrupts the immediate gratification or the idea that they're going to get money in a short order. Number two, the bill also, in addition to information already required by law, the seller of a used catalytic converter must provide the VIN number, year, make, and model of the motor vehicle from which it was obtained. This must be included in the written or electronic record maintained by the secondary metals recycler. Three, the purchaser of the used catalytic

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converter must keep them in the condition in which they were purchased for five business days. Pardon me, five, yeah, five business days. And four, LB994 increases the sentence for violating these provisions from a Class II misdemeanor to a Class I misdemeanor. It's a small change. In addition, LB994 makes a change that would not affect the sale of catalytic converters, but is intended to deter the sale of other stolen materials. Current Nebraska law prohibits a secondary metals recycler from paying a seller of regulated metals-- metal property more than \$25 cash during any four-hour period. Payments larger than that need to be made by check. If the purchase total is over \$100, the check must be delivered by mail. This bill would change that four-hour period to a calendar day so somebody can't keep coming in every four hours to get their \$25. And this would prevent someone from receiving multiple payments of \$25 in cash or \$99 by check on the same day. These are intended to help stop this, interrupt the process of those trying to get a quick dollar by stealing precious metals, in this case, catalytic converters, taking them down to the scrap iron place or the recycler and then getting money for a quick fix. With that, I'd be happy to answer any questions.

**PANSING BROOKS:** Thank you, Senator Lathrop. Yes, Senator Brandt.

**BRANDT:** Thank you, Chair Pansing Brooks. Thank you, Senator Lathrop, for bringing this. Are you going to put a-- something in the bill that outlaws selling catalytic converters online? Because that's what's happening is a lot of these catalytic converters are getting sold on the internet. They aren't going to my local scrap dealer.

**LATHROP:** So I don't know--

**BRANDT:** How do you combat that?

**LATHROP:** First of all, I don't know how prevalent that is. Someone else suggested that that's an issue that people box these up and mail them. The reality is, most of these people are looking for a quick buck and to, to steal a catalytic converter and then put it in a box, postage prepaid to somebody in Washington or in Idaho, that's not quick enough for these people. They want-- the, the, the idea of most of these bills is to slow down the process so there isn't that immediate gratification for the guy trying to get whatever these things are worth.

**BRANDT:** And I agree with you, except his buddy is the one that's going to give him the 50 or 100 bucks cash for that catalytic converter. And then that's the guy that's going to put it in the box and ship it off

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and get the four or five hundred bucks because, you know, this is a hell of a problem in our rural areas, too, don't get me wrong. It-- it's-- and it isn't just cars and trucks, it's semis. It's tractors. These people have no idea what they're looking at. They're cutting \$2,000 mufflers off tractors thinking their catalytic converters doing a tremendous amount of damage.

**LATHROP:** Yeah.

**BRANDT:** Yeah. Yeah, this is--

**LATHROP:** No, it, it--

**BRANDT:** --people are angry about this.

**LATHROP:** --we-- in Omaha, there was a news story about a guy that got caught, I think he got caught, and he was over at the school bus company. You don't even, you don't even need a creeper, you can just crawl under there and go from bus to bus on a weekend and remove a number of these catalytic converters and then go try to turn them into cash. The one thing about your concern is we can't make something a crime in another state. I suppose we could make it a crime to box it up and, I don't know, I'd have to look at that to see what we can make a crime because it has to be something you do in Nebraska.

**BRANDT:** Well, I mean, it's, it's stolen property, really, so we, we have statutes that cover that, correct?

**LATHROP:** That's true.

**BRANDT:** All right. Thank you.

**PANSING BROOKS:** Thank you. Any other questions? I don't see any.

**LATHROP:** OK.

**PANSING BROOKS:** So stay to close. Could we see how many testifiers there are both proponents and opponents? We're just trying to keep track of-- OK, two, three, four, five, six, about ten. OK. All right, first, first proponent. Thank you. OK, sorry, go ahead. Yes, thank you.

**KYLE STEFFEN:** Good afternoon, senators of the Judiciary Committee. My name is Kyle Steffen, K-y-l-e S-t-e-f-f-e-n. I'm a lieutenant in the Omaha Police Department Auto Theft Unit and I am testifying on behalf of Chief Schmaderer and the Omaha Police Department in support of

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LB994. The Omaha Police Department has seen a significant increase in the rise of thefts of catalytic converters in the city of Omaha. In 2021, Omaha saw 1,378 catalytic converter thefts. This shows a 2,400 percent increase over the 2016 to 2019 average. The numbers are not slowing down. There are several reasons that these thefts have been skyrocketing in Nebraska as well as nationwide. They are easy to steal. They are difficult to track. They are extremely valuable and they are quickly converted into cash. Converter thefts are significantly impacting victims' budgets. The average cost to replace a converter can range from \$1,000 to \$2,500, and those costs could be significantly higher on commercial vehicles, daycare vans, and school busses. Our current investigations and reporting shows converters are being stolen by suspects who have a history of drug use. The ability to steal several converters in a short period of time can turn those converters quickly into cash facilitates the drug-use cycle. Omaha has seen violence associated with the stealing of converters. Victims have interrupted and attempted-- the attempted thefts only to be met by gunfire on several occasions or suspects displaying weapons. One victim was struck in the hand by a bullet, and on another occasion, an Omaha police officer exchanged gunfire with a suspect of a catalytic converter theft. Just last night, officers responded to a theft in progress call when the victim heard suspicious activity near his vehicle. When he went outside to check on that vehicle, he was met by three males who displayed a firearm towards him before they fled on foot. LB994 would assist in decreasing the market for stolen converters. It provides the language sellers to provide the vehicle identification number from the vehicle the converter was taken from. That would be instrumental for us in following up on these investigations. Our goal as a proponent of LB994 is to take away the market for these illegally obtained catalytic converters. If we are able to accomplish this goal through the passage of LB994, it will have a-- it will have a positive impact on the victims and businesses that have to deal with this expensive process of having the catalytic converter replaced. I would like to thank Senator Lathrop for introducing the bill and the committee members for listening today. If anybody has any questions, I'm--

**PANSING BROOKS:** Thank you, Lieutenant Steffen. Questions? Yes, Senator Brandt.

**BRANDT:** Thank you, Chairman Pansing Brooks. Thank you, Lieutenant, for your testimony. Isn't there a big scrap yard over the river in Council Bluffs?

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**KYLE STEFFEN:** Yes, there's a very large facility, Lakeside Auto Recycling.

**BRANDT:** So how does this bill help you if they're taking them across the river? I mean, they're transporting stolen property, we get that. But if-- it, it won't have an effect on Iowa will it?

**KYLE STEFFEN:** I think the passage of this bill would have a significant effect. What I see happening is working with the NICB, the National Insurance Crime Bureau, we have identified numerous states that are passing or working on passing legislation. I believe it's up to 25 states that are currently working on this. With Omaha-- or with the state of Nebraska being a first step, it is our goal to then work with Iowa senators as well to address that very easy access to that secondary market across the river.

**BRANDT:** But right now, Iowa does not have a law like this.

**KYLE STEFFEN:** That is correct. Iowa does have a law pertaining to catalytic converters, but it is not very restrictive.

**BRANDT:** All right. Thank you.

**PANSING BROOKS:** Any other questions? I don't see any. Thank you for coming here today, Lieutenant. Next proponent. Welcome.

**BRIAN JACKSON:** Thank you. Good afternoon, the members of the Judiciary Committee. My name is Brian Jackson, it's B-r-i-a-n J-a-c-k-s-o-n. I'm the assistant chief for the Lincoln Police Department. I appear today in support of LB994, which regulates-- relates to the provisions amending and/or guiding the transfer and sale of regulated metals property, specifically catalytic converters. I'd like to thank the committee for the opportunity to testify and thank Senator Lathrop for bringing this forward. Catalytic converters have basically taken the place of the theft of copper, electric wiring and copper pipes that was prevalent in the late '90s and early 2000s. The crimes in Lincoln have expanded over the last five years from 2017, where I can count the number of catalytic thefts in Lincoln on both hands to almost 1,000 last year. These represent again approximately \$1,000 of loss to every victim, every community member, and every resident that is victimized by this crime in the city of Lincoln. This is approaching now a \$1 million loss for residents of the city of Lincoln. These are done-- these thefts are done for monetary benefit of those committing these crimes. The Lincoln Police Department has attempted many specific directed and focused projects to interact or impact these

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thefts. We examine sales data. We do proactive patrols. We educate both officers and the community members of, of this crime. But these thefts occur oftentimes in the dead of night and alone in vacant parking lots of churches, businesses, and daycares. And since every truck and every car that has been built since 1975 requires a catalytic converter, these can occur anywhere in our city. The city of Lincoln faced with this rising trend, updated and improved our salvage ordinances looking at national best practices, as well as working in cooperation with our salvage operators locally. We strengthen our ordinance to include a permitting process that requires individuals in possession of a catalytic converter to have a permit. We added the identification and collection of the source of the catalytic converter, such as the vehicle for which it came from and retention schedules to maintain those as we investigate these crimes. These are all critical tools to law enforcement in investigation of this crime as oftentimes victims are unaware of this loss until the next day or many days later, depending on whether you're a business or an individual citizen. I'm a member of both PCAN, the Police Chiefs Association of Nebraska, and a board member and past president of the Police Officers Association of Nebraska. I can tell you both of these statewide agencies, organizations support LB994. Our ordinance impacts Lincoln. We believe that this, this legislation will have an impact across the state and, and, again, which is our purpose for support of this, of this bill. If a committee across-- if a community across the state doesn't see this yet, they will soon and we urge the passage of this to, to impact that. And with that, I thank you and would answer any questions.

**PANSING BROOKS:** Thank you, Assistant Chief Jackson. Any questions for him today? I don't see any. Thank you for coming today. Appreciate it. Next proponent. Welcome.

**GUS HITZ:** Welcome. Thank you. My name is Gus Hitz, H-i-t-z. I am a lifelong Nebraskan and a retired Nebraska law enforcement officer. I am currently a supervisory special agent with the National Insurance Crime Bureau. The National Insurance Crime Bureau is a national, century-old, not-for-profit organization supported by approximately 1,200 property and casualty insurance companies, including many of those who write business right here in Nebraska. Working hand in hand with our member companies and Nebraska state and local law enforcement, we help detect, prevent, and deter insurance crime, including auto theft. A critical aspect of my job as an NICB agent is to help and support law enforcement in auto theft and auto fraud-related cases. As you've heard, catalytic converter thefts have skyrocketed over the last several years, not only here in Nebraska,

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but I can assure you nationally. And I would address your question. They are being sold online. That is a problem nationwide, and I don't know quite how we address that, but it is a reality. It's happening, Facebook Marketplace and Craigslist and so on and so forth. So that is a reality of, of this problem. As, as you've heard, they're relatively easy to take and they're very, very costly to replace. And we have seen a tremendous uptick in commercial businesses and rural locations being hit by this problem as well. It costs upwards of over \$2 million to replace 1,000 stolen converters is, is one estimated cost. I've been with law enforcement at salvage yard inspections in the states I cover, which are Nebraska, Iowa, and South Dakota, and I've experienced the challenge that law enforcement faces in identifying them, record checking them, verifying them if found on the premises. So I'd like to thank you for this opportunity. I would also address your concerns since we are a national organization. There are other states that aren't maybe as on top of this as we are, and maybe Iowa is one of those. But it's OK, I think, for Nebraska to be ahead of Iowa. So I would encourage you to consider this bill, support this bill, and, and potentially move this bill forward. And I would take any questions you all might have for me. And thank you very much for the opportunity.

**PANSING BROOKS:** Thank you, Mr. Hitz. Senator Brandt.

**BRANDT:** Thank you, Chairwoman--

**GUS HITZ:** Thank you, Senator.

**BRANDT:** --Pansing Brooks. Thank you, Mr. Hitz, for your testimony. So you paid for \$2 million--

**GUS HITZ:** We didn't, our member companies in the law.

**BRANDT:** The insurance companies paid for--

**GUS HITZ:** Yes, absolutely.

**BRANDT:** --for that. Just to put it in perspective, what did they get for those catalytic converters, \$100,000 for \$2 million of damage? What-- I mean, what's the going rate for a catalytic converter?

**GUS HITZ:** It's subjective to the market, and it's subjective to what our bad guys can get for them in the secondary market. Some of them can get upwards of \$200 to \$400. And some can get more, depending on the amount of precious metals that are in those and what that particular secondary market will be willing to pay for them. So it's

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very subjective, and that's why you're seeing some commercial vehicles. Heck, you guys may have heard the Food Bank got hit here in Lincoln and lost several catalytic converters. A Prius is a desired vehicle because it has a lot of precious metals within the catalytic converter, and so those are being, being targeted as well. So it's very subjective, sir.

**BRANDT:** All right. Thank you.

**GUS HITZ:** Thank you.

**PANSING BROOKS:** Thank you. Any other questions? I don't see any. Thank you, Mr. Hitz, for coming. Next proponent. Welcome.

**BRIAN URWIN:** Brian Urwin, B-r-i-a-n U-r-w-i-n. I'm here for Student Transportation of America, company in Omaha that has been heavily affected by this. Some of the numbers kicking around, last gentleman spoke of \$2 million in the three states that he sees. We, unfortunately, are a self-insured company, and in the last 14 months we've lost \$424,800 in Omaha alone. So the price tag is very heavy. We've also done things to combat theft. We've added \$175,000 in improvements to our properties: fencing, security systems with cameras, work very closely with OPD, we've hired live security. It seems that nothing we do stops them. We got hit last night again for another \$16,000 last night. So I'm a strong proponent for this bill. I'm a guy that has to see the bills associated with fixing the damage. I oversee all the maintenance for the entire region in Omaha. I oversee a ten-state region. Omaha is by far the worst out of any of them just due to the vehicles that we have here. And anything, any help we could get with this bill to stop the, the sale of them on the back end would be greatly appreciated by our company.

**PANSING BROOKS:** Thank you, Mr. Urwin. Any questions? Yes, Senator Geist.

**GEIST:** Thank you for your testimony. I'm curious, since you do oversee some other states, do other states have some laws in place that have prevented this from happening which makes us worse than some others?

**BRIAN URWIN:** It's a mixture. Certain states, they do have laws that prevent it more. But some of our other fleets are more diesel fleets and our fleet in Omaha is a propane fleet so it has more of a gasoline-style exhaust system which has a catalytic converter so that's part of the reason we see a higher rate in Omaha. But Texas, it's very hard to sell catalytic converters. My fleet down there is

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very rarely touched. Missouri, it's hit and miss. A little bit in Kansas City. Very little of it anywhere else. Illinois and Wisconsin, I've had next to nothing.

**GEIST:** So do you have a thought of why Omaha is worse?

**BRIAN URWIN:** Strictly be-- I, I feel as it's-- how easy it is to get rid of them.

**GEIST:** OK.

**BRIAN URWIN:** So it's very simple to sell them.

**GEIST:** OK. Thank you.

**PANSING BROOKS:** Thank you, Mr. Urwin. Any other questions? Thank you for coming today. Appreciate it.

**BRIAN URWIN:** Thank you for your time.

**PANSING BROOKS:** Next proponent. Welcome.

**BLAIR MacDONALD:** Thank you. Vice Chair Pansing Brooks and members of the Judiciary Committee, my name is Blair MacDonald, B-l-a-i-r M-a-c-D-o-n-a-l-d, and I am here today on behalf of the Alliance for Automotive Innovation or Auto Innovators in support of LB994 that would put in place necessary restrictions on the sale of catalytic converters. Supporting more than ten million auto-related jobs, the Auto Innovators' membership includes not only vehicle manufacturers representing nearly 99 percent of all cars and light-duty trucks sold in the U.S., but also Tier 1 suppliers, value chain partners, and technology companies. The Auto Innovators is very appreciative of Senator Lathrop for introducing this bill and appreciate the city of Omaha for working on this with him. A catalytic converter is a small control device that contains precious metals such as rhodium. The high value of those metals in the recycling market combined with the ease of with which these devices can be stolen using basic tools has contributed to a lucrative market for thieves, and the pandemic has only exacerbated this problem. It was recently reported that the city of Omaha saw on average 155 catalytic converter thefts per month in January and February of this year, more than two times the amount in 2019 alone. As we've heard, this is a quickly increasing problem not only in Nebraska, but nationwide. This is an issue that is not going away anytime soon. Hybrid and plug-in hybrid vehicles are becoming more common on the roads, and they have been the most frequent targets for catalytic converter theft. To that end, the Alliance for

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Automotive Innovation believes that proper protections and safeguards that help track sales and identify legitimate sales from illegitimate ones are critical to both deterring, deterring and prosecuting catalytic converter, converter thefts. Specifically, Alliance for Automotive Innovation supports LB994's commonsense approach to addressing catalytic converter thefts by, one, mandating additional record keeping that will help identify the vehicle from which the catalytic converter was removed such as by requiring the seller to provide the year, make, model of the vehicle from which the catalytic converter was removed. And, two, enabling recyclers to more readily distinguish legitimate sales by restraining sales to those that are legitimate or that otherwise involve the owner of the vehicle from which the device was removed, as well as restricting the form of payment be a traceable check sent by mail. States should be making it harder for thieves to remove and profit from the theft of the catalytic converters and LB994 achieves that goal. The Auto Innovators thank Senator Lathrop for his many years of service to the body and to this committee, and I'm personally very happy to be testifying in support of his final bill before the Legislature. We support LB994. I hope to see this find a home to pass this year if possible. And to Senator Brandt's point talking about Iowa, what's happening there. I did poll earlier this week their legislative website to see what bills they are considering this year, and I saw about five bills that they were considering this year. And I just got to say the Iowa legislature's website is way worse than the Nebraska Legislature's website. You probably already know about it, but, yeah, so.

**PANSING BROOKS:** Thank you, Miss MacDonald. Any questions for Miss MacDonald? I don't see any. Thank you for coming today.

**BLAIR MacDONALD:** Thank you.

**PANSING BROOKS:** Next proponent. Proponent? OK, now we'll turn to opponents. Next opponent. Welcome.

**MIKE VAIL:** Mr. Chairman, committee members, my name is Mike Vail. I'm with Alter Trading. Little history. This is a very important topic, we're--

**PANSING BROOKS:** Excuse me, could you spell your name for the record, please? Thank you.

**MIKE VAIL:** Oh, I'm sorry. Mike, M-i-k-e, Vail, V as in Victor -a-i-l. In Alter, we in the state of Nebraska, we have facilities in Ogallala, North Platte, Kearney, Grand Island, Lincoln, Norfolk, Columbus, and

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Omaha. So we have a pretty good cross section of what happens in the state. I want to take a couple of minutes. This is not the Wild West that we're talking about. You've heard testimony today about what it takes to be able to process a catalytic converter for sale. We have to have photo ID. For those of us that are doing it correctly, you have to have photo ID. We take a picture and a video of the catalytic converter as it's being presented. We fingerprint the individual. We send a check. We do all of the things that we're required to do. Part of the frustration that we have, and we share that this is an extremely important situation to be able to talk about. There's a huge distinction in the recycling industry for those that are doing it right and those that are doing it wrong. We champion our stature in the community. We try to be good stewards of the community. We have a good working relationship with law enforcement as most of the honest scrap metal recyclers do. However, there is obviously a certain element that is accepting catalytic converters outside of the scope of the law. Our opposition to this bill is because, as written, it doesn't fix the problem. In fact, in a way, it's detrimental to the law. To illustrate that that's not hyperbole, that's just not Mike Vail speaking. If you take our Lincoln facility, for example, we had the, the new legislation enacted in October that also required a permit for the individual selling catalytic converters, as well as capturing the vehicle identification numbers. Since that time, our business went down 80 percent. OK? Scrap thefts of catalytic converters during that time increased. So what we had before this, we had a centralized, regulated, unified place where these catalytic converters were being sold. That information was being shared with law enforcement. They had the ability to go and track, work with us to determine good sources of action for, for bad offenders. Since that-- the new legislation has taken place and we complied with everything the has asked us to do, what we've seen is we squished the balloon. We've expanded the problem outside of Lincoln, outside of Omaha, and outside the state of Nebraska. We support any legislation that will fix the problem. We're committed to that. We want to be part of the solution. But the bill, as written, does not achieve that. We have submitted language for an amendment to be able to come up with language that we believe is actionable, that is enforceable, and will put some teeth into it. Because without that, we have done nothing. So I wanted to take just a couple of minutes to talk to you about what we're up against, what we experience, our commitment to making sure that we do it right. And I can tell you, there was a lot of-- I talked to a lot of folks last night and today when I knew this was happening. You had All Metals that wish they could be here, Scrap Central, Downtown Recycling, Element, Cooters, all wanted to be here today but

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they had conflicts. Those are the folks in the community that are doing it right that are committed to doing it right. We need to put the effort and the attention on the folks that are doing it wrong and fix it. Because, you know what, it gives us a bad reputation. It doesn't do any good for us to be doing it right and still have these problems. So anyhow, I appreciate the time and the opportunity. Thank you.

**PANSING BROOKS:** Thank you, Mr. Vail. Are there any questions for Mr. Vail? And I'm sorry, we have to sort of keep to that light system.

**MIKE VAIL:** Understand.

**PANSING BROOKS:** I'm sorry. Yes, Senator DeBoer.

**DeBOER:** Can you tell me, you said that your business went down 80 percent. Can you tell me what provisions do you think are sort of responsible for that?

**MIKE VAIL:** People are lazy, honestly, if they have to go to us where they have a litany of requirements that they have to do to sell the converter to us, or they can go to somebody else where they don't have to do any of it, where are they going to go?

**DeBOER:** So who's the somebody else?

**MIKE VAIL:** Well, I'm certainly not going to name names here in a public forum, but I think law enforcement and everybody in the industry knows who the bad actors are.

**DeBOER:** So some kind of company then?

**MIKE VAIL:** Correct. I mean, you see there are, if you look on Craigslist, Marketplace, there are all kinds of people, that even advertising on TV that they'll pay cash for catalytic converters. It's not rocket science. It's pretty easy to figure out who's doing it. Let's fix it at the source and not continue to further penalize the folks that are doing it right.

**DeBOER:** So who are the-- what's the-- not names, but the nature of the people that you're buying these catalytic converters? So you, you buy them and then you sell them, or you just sell them?

**MIKE VAIL:** We, we actually in Alter, and we're, we're the largest scrap recycler in Nebraska. We're also the largest privately owned company in the United States. We have our own converter cutting

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business up in Wisconsin. From there, we will cut the converters, extract the, the materials inside, and then we send it to a smelter where it's smelted down. So in our case, we're, we're almost start to finish except for the mining and the recycling-- or the, the mining and the refinement side of the business.

**DeBOER:** So you buy them from whoever.

**MIKE VAIL:** Correct.

**DeBOER:** And then you process them because you have enough capacity to do that.

**MIKE VAIL:** Yes. But here in Nebraska, we send them whole to a, to a, a collection point where they're processed further. Yes.

**DeBOER:** So you've seen an 80 percent drop in the number of people who are selling them to you. Is that what you're saying about the 80 percent?

**MIKE VAIL:** In, in Lincoln since the new legislation was enacted in October, yes, that's correct. And during that same time, thefts of catalytic converters have increased.

**DeBOER:** Sure. I mean, I think your point about they can move around, especially if it's only one city, you know, as opposed to the whole state makes it a lot easier for them to just say, oh, I'll just go to Omaha with them. But do people come to you with multiple catalytic converters at a time?

**MIKE VAIL:** And, and that's one of the things that we want to talk about. In the provision, there's a-- there's, there's no-- [INAUDIBLE], there's no provision for business-to-business sales. For example, we do business with auto recyclers that can generate 1,000 catalytic converters at a time. Under the current Legislature, if it stays as enacted, we're going to have to have 1,000 singular transactions with VIN number, registration, all of that, it's going to be-- the, the-- I, I don't know how that would work. But yes, we-- we'll buy anywhere from one to as upwards of over 1,000 from the, the large industrial customers here in the state.

**DeBOER:** What, what's your typical sale size? Do you typically just have the one or is it typically three or four?

**MIKE VAIL:** We do both. I mean, I think when you look from a volume perspective, it's going to come from your larger suppliers. However,

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we do have a healthy peddler business, especially out in the rural communities. And yes, you, you can see, you know, people bringing in, you know, typically one at a time. Sometimes they may bring in more, but typically they're, they're small transactions, especially out in the rural communities.

**DeBOER:** And your concern is just if you add these layers of security, you think that there are going to be folks who won't adhere to that.

**MIKE VAIL:** I, I would agree. And the, the other concern I have is like, for example, the VIN numbers. Yes, somebody can come in and say, here's the VIN number that this catalytic converter goes to, but there's no proof. How do you know? And that's what I'm saying, there has to be good cooperative dialog, and there's many times with law enforcement that if we give a heads up that there's a bad actor out there, they tell us when they come into our facility, we'll delay them. We call the cops, they come in and arrest them. We do it all the time.

**DeBOER:** So what's your solution? If this isn't the solution, do you-- what, what should we do to make this work better?

**MIKE VAIL:** We're all for rules, regulations, laws, but we want them applied fairly and consistently across the board. Again, we have introduced an amendment language to this bill that we believe will help strengthen it, but it's only, it's only going to be good if everybody does it. And I think that's the challenge that we have is to make sure that the folks that are doing it right and correctly still continue to have the dialog with law enforcement so the bad actors can be identified and prosecuted. If we don't do that, then the only thing we've done is dispersed the problem and then nobody wins.

**DeBOER:** OK. Thank you.

**PANSING BROOKS:** Any other questions? I don't see any. Thank you for being here, Mr Vail.

**MIKE VAIL:** Thank you for your time.

**PANSING BROOKS:** Next opponent. Welcome.

**GALEN CROZIER:** Thank you. Good afternoon, members of Judiciary. Thank you for the time. My name's Galen Crozier, G-a-l-e-n C-r-o-z-i-e-r. I work for Alter Trading Company. I rise in opposition to this legislative piece of legislation simply for many of the reasons that Mike had just alluded to. So I'm not going to waste a lot of time,

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your time with that, but I do urge you to sometime go online and see how easy it is to sell a catalytic converter. It will only take a minute and you can find many venues. All you have to do is take a picture, request a quote, ship it in the mail, and you can get paid directly. I think you're underestimating the people that are doing that part of the business. You might have the people who are trying to get a drug fix with the hacksaws underneath the vehicles. I don't disagree with that. There is some of that, but I think they're more organized than you're giving them credit for. So if you're trying to squish that, you're probably not going to be successful with this legislation. So until we can stop the venue shopping, I, I don't see that this is really going to help the-- help to solve the problem. We do want this problem solved. This is horrible to have somebody come out after they worked all day and have a thousand dollar repair bill for their car. It's absolutely horrible. We are interested in the legitimate converters that we can buy through vehicles aging. We don't need this nonsense. So that's why we do take and require IDs. We pay by check. We do all the stuff that is required now. So there are things that are in place. We did offer some amendments to this. We did not-- we have a, a difficult time understanding how getting the VIN number of a vehicle from somebody walking into our facility, handing us a piece of paper understanding if that VIN is verified to the catalytic converter we're buying. How is a prosecutor going to use that? So what we offered is just to have a signed affidavit from the person that's actually doing it so that if you can actually come back and prosecute this person, you will have a signed affidavit saying that they're selling stolen property. I thought that would be more useful than a piece of paper you can't verify. We offered to keep the payments the same as they are for the Lincoln ordinance, just for consistency because we have multiple locations throughout the state. We also offered to keep the tag and hold for 72 hours versus 5 days. And we also asked for the business-to-business exemption because it is going to be an absolute nightmare to try to understand how we're going to apply that. Thank you.

**PANSING BROOKS:** Thank you, Mr.-- is it Grocher?

**GALEN CROZIER:** Crozier, C-r-o-z-i-e-r.

**PANSING BROOKS:** Crozier. Sorry.

**GALEN CROZIER:** No problem.

**PANSING BROOKS:** It's hard to hear. Yes, Senator Brandt has a question for you.

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**BRANDT:** Thank you,--

**PANSING BROOKS:** Thank you.

**BRANDT:** --Chairman Pansing Brooks. Thank you, Mr. Crozier, for your testimony. It seems like we're at the end of the line. This is sort of the symptom and not the problem. As to the VIN number, and maybe this is an insur-- an insurance question, why aren't the manufacturers stamping the VIN numbers on catalytic converters? Because they had to be aware by now, these are getting stolen off all manner and makes of vehicles out there.

**GALEN CROZIER:** I, I agree. I think that would be very helpful. Right now, there are serial numbers on it. And from that serial number, you can tell them make a model, but not the exact vehicle.

**BRANDT:** All right. Thank you.

**GALEN CROZIER:** So that narrows it down, but probably not enough to prosecute.

**BRANDT:** All right.

**PANSING BROOKS:** Thank you, Senator Brandt. Any other questions for Mr. Crozier? Well, I don't see any, thank you for coming today.

**GALEN CROZIER:** Thank you.

**PANSING BROOKS:** Thank you. Next opponent.

**GARY GRIESSMEYER:** Good afternoon.

**PANSING BROOKS:** Welcome.

**GARY GRIESSMEYER:** Members of the Judiciary Committee, my name is Gary Griessmeyer, G-a-r-y G-r-i-e-s-s-m-e-y-e-r. I'm with Sadoff Iron and Metal Company. I'm the environmental compliance manager as well as director of public affairs. I just want to add to the opposition of this bill. Earlier it was stated that the bill will not-- it-- they're going to try and decrease the market by having this bill. That's not going to happen. The market for this precious metal is driven by the values worldwide. You're never going to decrease the market and it's only going to get worse because these metals are used in most of the technology that we're using today. Also by bringing in this bill, you're taking away tools that the law enforcement could have, as we previously stated. In Lincoln, the process is too cumbersome. Even the

legitimate individual isn't going to go through the whole process, getting the permit and getting all these other things in place. He's going to go out of the city of Lincoln and sell it where he doesn't have to do any of the cumbersome items. So what we're doing is we're driving people away that we're already gathering more information than their own mother has. We have lots of documentation on every person that comes in. Previously stated, if we think it's kind of fishy, we know what we got to do. We understand if we're dealing with a thief or if we're dealing with the general public. The Lincoln theft law, as we stated when that went up, the intake went down and that business-to-business exemption is important because if we're forcing the people out of the city of Lincoln or out of the state of Nebraska and they're selling it to someone who across the, the border that's legit and they're actually not following the rules where they don't have the rules in that state, they're not going to sell it back to us. Use Alter, for example, you know, they have a very good process of purchasing, processing, and refining-- sending it to a refiner. This isn't a very simple process. In the end, you're sending it to a, a world-class organization that's going to end up refining this product because of its value. So it's not a very simple, hey, we're going to steal this, we're going to open this up, and we're going to sell it to Joe Blow for \$1,000. That's not the way it works. So that's all I have. I wanted to, to let you know that I'm opposed to this bill, Sadoff and Alters and all of our other associations. Any other questions?

**PANSING BROOKS:** Thank you. It's Mr. Griessmeyer or Griessmeyer?

**GARY GRIESSMEYER:** Griessmeyer.

**PANSING BROOKS:** Griessmeyer. OK, second one. OK. Yes, Senator Geist.

**GEIST:** Yes, thank you for your testimony. Just so that I'm clear, what is this requiring you to do that you're not already required to do other than repeated transactions with a business to business? I, I, I understand that. But can you explain to me how this goes further than what you're currently required to do?

**GARY GRIESSMEYER:** The first portion of it would be collecting the VIN number.

**GEIST:** OK.

**GARY GRIESSMEYER:** It's of absolutely no value. There's no proof that that VIN number that that supplier is going to give us is even a real

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VIN number. It-- we're not going to know unless we put the manpower into the checking a VIN. Now you start doing this all day at every hour, that's a lot of extra administrative efforts. The other part of the business to business is by pushing them out of state, they're not going to want to come back in with the process of the VIN number because they're going to have to record the VIN for every one of their converters and then they're going to have to supply us with that when they ship it to us. We're a larger player in the roles of-- in the scrap industry, so we end up being that end source where the smaller yards will collect and they sell it to someone like us because they don't have the means to sell to a bigger refiner.

**GEIST:** OK.

**GARY GRIESSMEYER:** The refiners will only purchase from a larger, well-known quality source.

**GEIST:** OK. Thank you.

**GARY GRIESSMEYER:** Um-hum.

**PANSING BROOKS:** Any other questions? Thank you, Mr. Griessmeyer, for coming.

**GARY GRIESSMEYER:** Thank you.

**PANSING BROOKS:** Appreciate it. Next opponent. Welcome.

**DAVID SNYDER:** Good afternoon, members of the Judiciary Committee. Excuse me. My name is David Snyder, D-a-v-i-d S-n-y-d-e-r. I'm a regional director of operations for Alter, and I just wanted to say that we sympathize with everyone because there are-- we know people that have had their catalytic converters stolen, employees. Some of us that are very close family members and everybody else so we sympathize with the broader problem of that. I just want to also put into context a little bit about how large the amount of cars that have the catalytic converters removed every year in the state of Nebraska, which Alter is, as Mike Vail stated, we are the largest recycler in the state of Nebraska. There are tens of thousands of cars that are recycled every year in the state. There's a very good recyclers' association in the state of Nebraska. But I can tell you that again through other outlets, whether it's online, ones we buy, or as we talked about the illegitimate ones, the largest percentage today are not coming to the scrap yards, there's approximately 25 to 30 licensed scrap yards in the state of Nebraska that are licensed to take and to buy catalytic converters. But I can tell you that a very large

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percentage of the catalytic converters, again, the tens of thousands of cars that are recycled are not going to the legitimate yards. They're going to these other avenues. You know, you talk about suggestions and I'm not here today to make any other than, you know, there's hotlines for lots of things doing that, maybe making that a possibility or something. Because what we're doing is we're just going to make ourselves so cumbersome that nobody that's legitimate is going to come to us because they're going to go everywhere else. But again, as we stated, you know, the law went into effect in Lincoln, our volume goes down, but the thefts go up. It's happening statewide like that, but you, you all are aware of that. And that's why I know you're trying to change the legislation. But the thing we need to address, I think, is where are they going if they're not going to the 30 legitimate scrap yards or they're going online or wherever they're going? I think that's the real crux of where your problem is, and I don't think this today-- and that's why we're opposing it, really meets that head-on and is really going to be very efficient in, in reducing the crime. Any questions from anyone?

**PANSING BROOKS:** OK. Thank you, Mr. Snyder.

**DAVID SNYDER:** OK. Thank you.

**PANSING BROOKS:** Questions? I don't see any. Thank you for coming today.

**DAVID SNYDER:** Thank you.

**PANSING BROOKS:** Any additional opponents? Welcome.

**MARTHA EMILY VILLA:** My name is Martha Emily Villa, M-a-r-t-h-a E-m-i-l-y V-i-l-l-a, and I actually came down here today to testify on a different bill. But while I'm sitting here, something came to me that has come to my attention before in the legislative process. And I think this might be a symptom that we're talking about of a larger problem in Nebraska and that is drug use, as you indicated before. I was watching as the hemp bill came through the Legislature, and I understand we had to take care of designations of legal and illegal marijuana-related products that came down from the federal government. But I think we can all drive around Lincoln and see that there are an abundance of places that you can obtain drugs now that we did not have a few years ago. I'm not a lawyer. I'm a mother and I can see correlations and maybe some causation here. There is currently available on most of our street corners delta-8 THC. And you can see there are little banners flying all over town. Quick Google search

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will tell you that's just a half dose of THC that is typically considered illegal in most states. Nebraska is one state that allows delta-8 THC to be legal and doesn't have any restrictions on it, so I would just advise that if we want to take care of this problem, we take care of the source of the problem, which I think you rightly indicated Senator Brandt is a drug use issue in our state.

**PANSING BROOKS:** Thank you for coming, Miss Villa.

**MARTHA EMILY VILLA:** Villa. Spanish.

**PANSING BROOKS:** Any questions for Miss Villa? I don't see any. Thank you for coming. Any additional opponents? Anybody in the neutral? OK, with that, Senator Lathrop, would you like to close?

**LATHROP:** Yes, just a couple of things. The one thing that I found fascinating listening to the opponents is none of them told you they're not buying stolen catalytic converters. It's almost like we all understand that that's what's happening here. The question is, how do we regulate to stop the thefts? And it seems to be the cutoff, the money that these things are stolen for, and that's what the bills intended to do. I also find it interesting when they-- Mr. Vail testified that when Lincoln passed its ordinance, while catalytic converter thefts went up, the number of catalytic converters that they purchased went down. In other words, they expected to see some correlation with the more the thefts are, the more business they should get. And the reality is sure there probably are business-to-business transactions, and I understand their concern. But the reality is a lot of these are just stolen. That's the problem. They're stolen and we're trying to find a way. And the fact that, that business went down 80 percent in Lincoln after they passed a-- an ordinance dealing with it speaks to the effectiveness of these kind of statutes, and it speaks to the need for uniformity because if Omaha isn't as bad as Lincoln and they steal in Lincoln and drive up to Omaha to sell them, or vice versa. Is it-- it is true that in Iowa, they, they may have a market over there, but that's a reason to go over to Iowa and try to get this statute enacted over in Iowa to stop this interstate or intrastate movement looking for the place that has the least amount of restrictions in order to sell it. One last point. The VIN number, I'm not sure exactly what law enforcement thought the value with that would be, but as I sat and listened to it, I think if somebody provides a phony VIN number and you can tell as a prosecutor that shows intent to, to circumvent the law and it, it shows that you know what you're doing. So I would encourage you to support the bill and I look forward to the bill passing.

**PANSING BROOKS:** Thank you, Senator Lathrop. Any questions? Senator Geist.

**GEIST:** Just one quick question. And I assume the answer is no, because this would have been addressed, but is there anything on the vehicle that can be done to protect that from being stolen?

**LATHROP:** Yeah, now you're out of my wheelhouse. I'm not sure, I'm not sure if why stamping the VIN number on it, or apparently they have a serial number, which at least helps, but I don't know the answer to that.

**GEIST:** OK.

**LATHROP:** I don't know why they're so easy to steal.

**GEIST:** I don't even, I don't even know where they are, but just-- OK. Thank you.

**LATHROP:** Somewhere in the exhaust is all I know. And apparently some people think a tractor muffler looks like a catalytic converter.

**PANSING BROOKS:** OK, thank you so much. Any other questions? OK, before we close the hearing, there are 46 proponent position comments for the record, one opponent, and zero letters in the neutral. So with that, we close the hearing on LB994. Thank you.

**LATHROP:** Next, we'll hear from Senator Ben Hansen and LB990. Good afternoon, Senator Hansen, and welcome.

**B. HANSEN:** Good afternoon. Thank you. I'm nervous about my catalytic converter now.

**LATHROP:** You should be.

**SLAMA:** It's already gone. [INAUDIBLE]

**B. HANSEN:** Learned a lot about it. Hope it has a VIN number.

**PANSING BROOKS:** Me too.

**LATHROP:** I hope it's there when you get out to your car.

**B. HANSEN:** [INAUDIBLE]

**LATHROP:** You may open.

**B. HANSEN:** All right. Good afternoon, Chairman Lathrop and members of the Judiciary Committee. My name is Ben Hansen, B-e-n H-a-n-s-e-n. I represent Legislative District 16, where there is the American Veterans Park located in West Point. This park is a beautiful tribute to the countless men and women who have served our country through military service. There is a touching monument of a family reunited with a loved one, a heartbreaking scene of a woman holding a folded flag at a tombstone, and mention of those who have been honored with medals that acknowledge great acts of bravery. Over 450 tiles are covered in names of those who have, quote, served for a little while or for a lifetime, those who served during peace or times of war, those who lost their lives, those who were injured, and those who bear their scars internally in silence. Each one of us knows someone who falls into one of these categories. Brigadier General John Fagot spoke at the dedication at the Veterans Park. He said: First and foremost, it is fitting to honor God, then before country, it is community. The community gave me a background in service, he says. Statements like this from someone who had completed 40 years in active duty with flights all over the world shows humility and speaks of love he has for his country. It's his challenge to Nebraska is to honor those who gave service to their country, those veterans who took the oath to protect it from all enemies, foreign and domestic, and their families. They take pride in what they do, and rightfully so. This memorial is just one of the many tributes across the state of Nebraska that tell the sobering reality that comes with a life of service in the military. In preparing for LB990, I've heard from veterans themselves, Daryl Harrison with the Air Force, with the Air Force, tells of how he had trained to become a pararescuemen, but was medically discharged six weeks before becoming certified. Pararescuemen are one of the elite of the Air Force. Their motto is: That others might live. Mr. Harrison said that every single team member he trained with either gave their life or has gone into hiding. Truly representing the gravity of the life they lead. He will always remember them and says they earned their pride and even paid for with life and limb. Mr. Harrison joined Ken Hanel in walking the entirety of Nebraska's 432-mile long Nebraska Medal of Honor Highway last year to commemorate the new name and the 74 Medal of Honor recipients associated with the state of Nebraska. Mr. Hanel, from West Point served in the army on a nuclear missile base during the Cold War. For three years, he was stationed overseas and he states that having served with pride, impersonation by stolen valor is the worst crime ever. This is why I brought LB990. For veterans and active military members, service to their country is their life. These men and women deserve our utmost respect. Unfortunately, there are those who falsely claim that they

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are a part of this elite group with the intent to benefit in some way, receive undue honor from their communities, or to harm others. They ride on the coattails of others' bravery in search of recognition they don't deserve. This is often described as stolen valor. With this in mind, LB990 makes it a Class I misdemeanor to falsely, falsely represent oneself as having received any U.S. military decoration or medal. This bill takes the concepts found in the federal Stolen Valor Act and brings it to the local level. The specifics of LB990 with AM1654, which I handed out to you, states that anyone who pretends to be an active member or veteran of the United States military to gain financial benefit commits the offense of criminal impersonation by stolen valor. This includes deceiving or harming another person. If a person intends to deceive or harm another and fraudulently misrepresents as recipient of military awards, this also would be an offense. Both guilty of a Class I misdemeanor. I brought AM1654 to keep from adding another category of crime that could potentially overlap with current statute. AM1654 inserts language and existing criminal impersonation laws found in Nebraska Revised Statute 28-638. Mr. Eickholt will explain further in his testimony behind me. I appreciate your time this afternoon and ask that you support LB990. Thirty-one other senators have already signed onto this bill in an effort to represent the gratefulness that the body of the Legislature has for our veterans and active service members, and we owe it to them. Thank you, Mr. Chairman.

**LATHROP:** OK. Senator Pansing Brooks.

**PANSING BROOKS:** Thank you. Thank you for bringing this bill and I was one of the cosigners on this bill. So I'm just-- with the amendment, I just want to ask a question about. So it talks about "Pretends to be an active member" and it says: through the unauthorized manufacture, sale, possession of military regalia. But it does go on to say: and does so with an intent to gain pecuniary--

**B. HANSEN:** Financial.

**PANSING BROOKS:** --benefit.

**B. HANSEN:** I think that means-- doesn't it mean financially?

**PANSING BROOKS:** Money. Yeah, I knew that.

**B. HANSEN:** I always had a hard time pronouncing it.

**PANSING BROOKS:** But I just want to make sure because, like, I have my dad's-- and I'm proud to have my dad's, you know, Purple Hearts, and

I've got a number of other of his pins from the military. I actually have his, his, his official uniform that he wore. So you're not talking about that, right?

**B. HANSEN:** No. And I think that's one of things we wanted to clarify with this amendment. Mr. Eickholt can explain further, but we want to make sure that there's intent with this and not somebody who just went to a, you know, surplus store and got some camouflage and they're walking around and somehow they get some kind of benefit without intent. I think that's, that's the point of this.

**PANSING BROOKS:** Intent to deceive.

**B. HANSEN:** Yes.

**PANSING BROOKS:** And so just one other thing. There was a celebration of, of veterans at the middle school here in Lincoln and, and some of the children wore different kinds of memorabilia and our son wore the, the uniform that my dad had worn. My dad died when I was 14, so we still had it, and he did it very proudly. It wasn't to deceive anyone, but it was to tell the story, and I presume you're not attempting to stop that as well for educational purposes.

**B. HANSEN:** No, not at all. No. This is for people who are trying to get some kind of financial gain or to deceive or harm others with the intent of criminal impersonation by using military regalia or medals or uniforms, etcetera.

**PANSING BROOKS:** OK. I just wanted to clarify that for the record.

**B. HANSEN:** Yeah. Yeah.

**PANSING BROOKS:** Thank you so much for bringing this bill.

**B. HANSEN:** Yeah, thank you.

**LATHROP:** OK. Thanks, Senator Hansen. You will, I assume, stay to close?

**B. HANSEN:** Yes.

**LATHROP:** OK.

**B. HANSEN:** Thank you.

**LATHROP:** How many people are going to testify on this bill if I can see by a show of the hands? One, two, three, four. OK, let Senator

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Briese know if you would. You may come forward if you are here to testify in support.

**KEVIN WILLIS:** Good afternoon.

**LATHROP:** Good afternoon.

**KEVIN WILLIS:** My name is Kevin Willis, K-e-v-i-n W-i-l-l-i-s. I'm an Air Force veteran and the one who approached Senator Hansen about having a stolen valor law for our state. I brought this to Senator Hansen's attention because there are those in this state who have benefited from pretending to serve or claiming to have served in our armed forces. They dress the part, often wearing medals, ribbons, and insignias to bolster their claim in order to obtain money, property, or some material gain. Nowadays, just about anyone can find on the internet or in some surplus store military uniforms, ribbons, and medals, and so forth. Although there is a federal Stolen Valor Act, there are some states who have adopted their own stolen valor laws, such as New Jersey, Pennsylvania, Massachusetts, Florida, and Texas. In Nebraska, we love our service members and veterans who have served us bravely and selflessly. Those men and women who pretend to be something they are not is a slap in the face of those who are currently serving, those who have served, and those who have given their lives for our great nation. Not to mention, it dishonors and disrespects their families as well. I believe this bill is something we need to make sure those who trample the uniform and all that it means to our state and country are held accountable no matter who they are, where they are from, or their political affiliations. I would ask that you consider adding in Section 2 after tangible benefit, including but not limited to obtaining employment or public office resulting in receiving compensation. I got that from the Florida stolen valor statute. I believe Pennsylvania's adjunct general, Major General Tony Carrelli, said it best when speaking about Pennsylvania's stolen valor law, which can also be applied to our great state. He said: This is a critical step for Pennsylvania to protect the dignity and patriotism of our service members and veterans. The recognition and benefit meant for our military and veterans will be better protected and preserved for those who sacrifice to earn those rights. Thank you for considering this bill and thank you for taking the time to hear what I had to say. God bless you and God bless the men and women in our armed forces.

**LATHROP:** Absolutely. Mr. Willis, thanks for being here. I do not see any questions for you, but thank you.

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**KEVIN WILLIS:** Thank you very much.

**LATHROP:** Appreciate your testimony and the point you made.

**KEVIN WILLIS:** Thank you, sir.

**LATHROP:** Good afternoon. Welcome.

**GREG HOLLOWAY:** Thank you. My name is Greg Holloway, G-r-e-g H-o-l-l-o-w-a-y, and I am here as the veterans' advocate for the Nebraska Veterans Council and actually pretty personal to me also. Veterans Council is made up of the eight veteran-- recognized veterans' organizations and one County Service Officers Association, and they have authorized me to say, yes, they do-- would like to see this bill enacted and we talked about the amendment a little bit, me and the senator. I've talked with a couple of the persons on the Nebraska Veterans Council, and they said that we're perfectly fine with the amendment. So we're OK with that. Actually, let me see, 1968, on this date, it was the fourth day I was actually in Vietnam. I was at the training center for the 1st Cavalry Division at [INAUDIBLE]. It was a combat unit. Very, very active in the 5 months, 17 days that I was there before I was wounded the last time. Was in three major campaigns, so we were very, very busy, busy troops. So this bill means a lot to me, so I think we should go forward with it. I could tell you, I would like-- love to be able to tell you the circumstances and the cost of a Purple Heart. I have two, received two. The first time I was wounded, was going into a place called A Shau Valley, and the morning of April 19, we had 16 helicopters shot down on that day and as, and as I was going to making the initial assault in there, I jumped from the helicopter about 30 feet and was injured. Not real bad. Went back to duty. The last time I was wounded, I actually in June of '68, I walked into an ambush with my team. I was a weapons team leader. We were pinned down all day. The unit-- another unit was trying to get me out and a lieutenant and a sergeant were killed trying to save me and my team. And on July 3, as we were going to extract the, the body of the sergeant, I was blown up by a grenade and it blew me over the top of the guy that I was with. He saved my life because when he got to me he said the right side of my face was gone, the back of my head was gone. I was pretty well-shredded from the shrapnel wound. He protected me, and the medic that was working on me with by putting satchel charges in all of the bunkers. He got a Silver Star. I was my medic's first of eight bronze stars and I had two Purple Hearts and Don Fredinbyrd [PHONETIC], who got the Silver Star, he actually received three Purple Hearts in Vietnam on along with that. So this is why this is important. The cost of, of these awards

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and decorations are high and they are emotional, and someone using them in vain affects us all. That's pretty much all I have to say. I hope you consider this and get it to the floor, at least, for them to talk about it and, and take care of it. And I thank Senator Hansen for bringing this forward. I think it's well-needed.

**LATHROP:** OK. Before you get away, we've got a question.

**GEIST:** Just real quickly. Actually, I don't have a question. I know-- I met you at Veterans Court and I just want to appreciate your service. I have not heard that story before and I appreciate what you've done for our country.

**GREG HOLLOWAY:** I-- I'm one of the lucky ones. A lot of men died. Right after I was wounded, another guy was killed. Three days before that, my lieutenant was shot. We're pretty heavy combat all the time at 7th Cavalry Division and during 1968 was a busy year, so.

**GEIST:** Well, I think I can speak for the committee that we thank you.

**GREG HOLLOWAY:** Thank you.

**LATHROP:** Yeah, absolutely. Pardon me? Senator Pansing Brooks.

**PANSING BROOKS:** Thank you for coming. I just want to, to reconfirm that-- I think you were sort of nodding, but I want to reconfirm that this isn't about people honoring and keeping their families' medals and, and honorariums and,--

**GREG HOLLOWAY:** No.

**PANSING BROOKS:** --and uniform.

**GREG HOLLOWAY:** No, it's, it's more or less the fraud.

**PANSING BROOKS:** It's the fraud.

**GREG HOLLOWAY:** It's fraud if you utilize awards and decorations that you have not earned to gain respect, financial gain,--

**PANSING BROOKS:** Yes.

**GREG HOLLOWAY:** --political, [INAUDIBLE] treatment. We need to stand up and be against that. And, you know, personally, anything done for personal gain as using awards and decorations that you have not rightfully earned.

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**PANSING BROOKS:** Yes.

**GREG HOLLOWAY:** None of us, none of us guys are heroes, none of us want to be heroes.

**PANSING BROOKS:** I think you are heroes.

**GREG HOLLOWAY:** So we're, we're soldiers doing our job, doing what we're supposed to do. Even though I was drafted, they took me there dragging and kicking, kicking and screaming, but I did my job, you know, so.

**PANSING BROOKS:** Well, we're, we're all very grateful and I, I just wanted to clarify that. Thank you for your service and we're glad you're here.

**GREG HOLLOWAY:** Thank you.

**LATHROP:** Thank you very much. We,--

**GREG HOLLOWAY:** Thank you.

**LATHROP:** --we all appreciate what you've done. Is anyone else here to testify in support? Good afternoon and welcome.

**ERICH NEUJAHN:** Thank you. I appreciate being able to speak with the committee here. My name is Erich Neujahr, spelling is E-r-i-c-h, last name is N-e-u-j-a-h-r. I am a retired first sergeant from the Army. I am a lifetime member of the VFW and I am a Wounded Warrior Project alumnus. With this-- for me, service meant a lot for-- I was medically retired and so my service ended prematurely as far as I can figure, and that was something that quite frankly devastated me to not be able to continue. I was-- yeah, it beat me up. But with that, there are a lot of people like me who service is everything. If we go back to, say, World War II where people are trying to get into the military and were unable, I feel that we were more patriotic then than we are now. And so we get to the point now to where we have people who ride on the backs of those of us that have gone out and done what we can in honor of our country, of our communities, of ourselves doing the best. Some of us paying the, the ultimate price. Some of us getting through it, even with the physical or even mental damage. And so that's, that's important to me. For anyone to come up and say, hey, I was part of this, I, I, I can't be for that at all. Stolen valor for me as far as my, my opinion or definition of it is using false military service representation and/or false honors received to deceive others for monetary gain and/or intellectual gain, reverence or influence. So

reverence or influence. I'm here as a veteran, I am a veteran. If I were to come in and, if I were to come in and I weren't a veteran, I might not be taking quite as seriously. And so that's what I mean by reverence or influence. And so that's something that we may look at in jobs. I say that I earned the right, I was awarded the Purple Heart, in a business. And so while I'm in that position, it's perceived that I have, I have this medal that I was awarded, and because of that, I'm put in a position of greater responsibility, greater income. And so that's a financial gain. So that's where I stand.

**LATHROP:** OK. Well, like the others that have testified here today, we appreciate your service and the sacrifices that you've made and the fact that you're here to tell us about them today.

**ERICH NEUJAHR:** Thank you.

**LATHROP:** Yeah. No, thank you. Anyone else here to testify as a proponent? Anyone here in opposition to LB990? Anyone in the neutral capacity?

**SPIKE EICKHOLT:** Thank you. Good afternoon. 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, testifying in neutral capacity on the bill as amended by the amendment that Senator Ben Hansen referenced earlier. When the bill introduction was going on, Senator Ben Hansen introduced this bill or maybe before he introduced it, and he approached me and explained why he was introducing the bill that he was-- and for the reasons why he was introducing that bill and asked me to take a look at it and get back to him if I had any issues with it. The bill does create a new crime, or at least as proposed it did, so I took Mr.-- Senator Ben Hansen up on his offer, met with my members of the defense attorneys, and talked to others and we suggested the, the amendment that he brought to committee. And that's important for a couple of reasons. One of them is it's important to advance the intent of the bill. In 2012, the U.S. Supreme Court struck down a federal law that created the crime of offense of stolen valor. They've since repassed a new version of that, but that, that case was United States v. Alvarez, 567 U.S. 709. And in that case, Alvarez was, like, on a NRD board for a local water district in, in California, and he regularly and repeatedly declared in public that he was a Congressional Medal of Honor recipient. This federal law in question didn't require that for someone to commit that crime, they had to do so with any kind of intent to profit or any kind of intent really to deceive. That law then written just said that if you falsely claim that you are a veteran or some sort of Congressional

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war recipient similarly, that you're violating that law. The U.S. Supreme Court struck that law down, basically holding that you can, as offensive as it may be, you can falsely assert that you are a Purple Heart recipient if you're a veteran. The court made that distinction between holding that and saying that was First Amendment protected speech and distinguishing the various crimes throughout the country regarding fraud, theft of services, misrepresentation and forgery, and all those other things, because in those instances, there's an element with intent to deceive. So what the committee amendment, for what the amendment does if it's been introduced to the committee, it sort of models this law off our existing law with respect to criminal impersonation, which clearly has an intent to deceive or intent to profit. And that addresses the situation that Senator Pansing Brooks asked about. It also provides for clarity the law to provide for prosecutions of which somebody commits this act with the intent to deceive and they don't necessarily profit. That's still-- they're still guilty of a Class I misdemeanor. However, if they do this act and they actually do profit, if they get at least \$1,500 or \$5,000, they would be charged with felony theft. And the courts, in our case, has made it clear that criminal impersonation and a theft-type crime are not lesser included offenses you can charge people with both crimes. As introduced, LB990 was somewhere kind of in the middle, and that would have caused, in my opinion, some confusion for the prosecution. Ironically, it probably provided for some sort of defense for someone who might be caught up in this and, and take advantage of other people. The amendment that Senator Ben Hansen brought to the committee, in our opinion, clarifies that. It advances the intent of the bill. The language is generally the same and it has that clear intent to defraud and manipulate. One of the earlier testifiers mentioned about political benefit or something like that. That's probably OK, although the Supreme Court talked about that in U.S. v. Alvarez, because it could have been that that's why that Alvarez person was falsely claiming they were a Congressional Medal of Honor recipient, but it was like an unpaid or a low-paid NRD-type water district position. And even then, it was kind of unclear why he was doing it. But that's just one thing I suggest the committee, if you-- I think it's OK with the intent to defraud with that political advantage being included in there as an amendment. I'll answer any questions. Sorry, I talked long.

**LATHROP:** So you've come up in a neutral capacity, are you in favor if we adopt this amendment?

**SPIKE EICKHOLT:** I think so.

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**LATHROP:** OK. And one suggestion was made that if it is used for the purpose of securing employment or political office, are those additions-- will they pass constitutional muster according to the Alvarez case or do they have to be doing it for some monetary--

**SPIKE EICKHOLT:** I think they-- they didn't say a monetary, some sort of tangible benefit. And in the employment example, I mean, we have, I think, passed a law providing for-- I don't know if it's a tax benefit necessarily, but an employee benefit, at least if you're a veteran, right, so there's some incentive out there for the employer or perhaps even for the employee to, to, to have that status. I think that's-- employment obviously, you get paid for working. That's something that's helpful for you. That's a tangible benefit. I think that's fine. The public service--

**LATHROP:** Public office.

**SPIKE EICKHOLT:** Public office, some public offices don't pay that much. Even people who are office holders sometimes wonder perhaps why they are in public office. But I think if you do, at least with the intent to deceive, to get that, I think that would still pass constitutional muster. That was the key, the intent.

**LATHROP:** We do have a lot of people that sit in that very chair and say my name is Joe Smith, I come from, you know, Custer County, I'm a veteran, and then they launch into their testimony, which is, of course, perfectly fine and appropriate and, and it does lend credibility to whatever they come in and, and share with us, but that would not be-- that's probably covered by speech.

**SPIKE EICKHOLT:** Yeah, I mean, that's-- as offensive it may be,--

**LATHROP:** And it is.

**SPIKE EICKHOLT:** --and disrespectful-- it is, it's still protected speech under the Alvarez decision.

**LATHROP:** OK. That's helpful, helpful exchange. Anybody have any other questions for Spike? I don't see any. Thanks for being here and your work with Senator Hansen on that amendment. Anyone else here in the neutral capacity? Seeing none, Senator Hansen, you may come forward. We do have position letters: four proponents, no opponents, and none in the neutral.

**B. HANSEN:** Thank you, Mr. Chairman. Just really briefly, I want to say thank you to all who have testified. Thank you for their service and

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thank you to my good friend Kevin Willis, who served with me on the Blair City Council, who brought this to me to my attention so we can bring in front of you today. And also thank you to, to Spike for working on this amendment with me to clarify a lot of stuff that he just mentioned. So that's mainly what I wanted to say. So I'll take any questions if, if anybody has any.

**LATHROP:** I don't see any questions, but we appreciate you bringing the bill.

**B. HANSEN:** All right.

**LATHROP:** Very interesting, very interesting subject.

**B. HANSEN:** Thank you. Thank you very much.

**LATHROP:** Yeah, thank you, Senator Hansen. That'll close our hearing on LB990 and bring us to Senator Briese and LB828. Good afternoon, Senator Briese.

**BRIESE:** Thank you and good afternoon, Chairman Lathrop and remaining members of the Judiciary Committee. I'm Tom Briese, T-o-m B-r-i-e-s-e, and I represent the 41st District and I'm here to present LB828. LB828 would enhance the penalty for voter fraud in Nebraska. And I took the liberty of handing out a few things. One was an editorial in the World-Herald supporting this bill. I typically don't do that, but I thought you might find it interesting. Also handed out a copy of our current voter fraud statutes as put together, I believe, by LRO for us, and I also handed out a potential amendment that could be utilized to change this bill I think for the better and really our election process really is a cornerstone of our democracy. Free and fair elections set apart our republic from many other nations in the world. We must ensure the public has confidence in our election process. What happened on January 6, 2021, serves to remind us that voter fraud real or imagined, voter manipulation real or imagined poses a grave threat to the future of our Democratic Republic. I believe it's imperative we take steps to both enhance the public's confidence in the integrity of our election process and to further ensure that voter, voter fraud does not occur in our state. And what brought me to introduce this bill? You know, I, I worry some about November '22, but I lose sleep over November '24. What are we going to be faced with there? Is what we saw on January 6 of '21, a precursor to November '24? We see polls that suggest, they're all over the place, but fairly consistently that most believe that the presidency wasn't won legitimately. You know, I've got 40 percent in one poll doesn't believe that Biden won

legitimately. Another shows 33 percent of Americans and 71 percent of Republicans believe that his win was illegitimate. Another shows 31 percent believe Biden won due to vote-- due to fraud. And really, those are sobering numbers, and these numbers really do include a lot of Nebraskans. And there are Nebraskans that think voter fraud occurs in Nebraska. I'm not one of those folks, but there is that belief out there. So what are we going to do about it? As elected public officials here in Nebraska, what can we do to ensure fraud does not happen? But more importantly, assure Nebraskans that our elections are safe? And how do we do that without unnecessarily limiting access to the polls? How do we tamp down that concern, that fear over election integrity? I've asked myself that question several times, and I'm not on the Government Committee. I'm not an election law expert, and I would submit, submit that there are some process improvements that can be made to ensure election integrity and ensure confidence in our elections. But I'd also submit that enhancing the penalties for voter fraud and manipulation should be part of the effort. Doing so helps one make the argument that the penalty is severe enough that it's not going to happen. Folks aren't going to take that chance. And so when I looked at this issue, I considered whether we should simply look at enhancing the penalty for violation of existing statutes, and, again, there's a handout there that show several of the statutes relative to voter fraud and shows where the penalties are, or instead should I be working on legislation with more of a catchall language that poses a fairly harsh penalty on, on, on the general concept itself? And I chose the latter, and that's how I arrived at this bill. And so should the penalty, I've suggested, Class II felony, should that be tweaked? I had one constituent tell me it ought to be treason. Another said it ought to be a Class I felony, but I'm open to suggestions there. Should the language there be tweaked to more closely target the most egregious behavior so we aren't catching folks that aren't the bad actors that we're trying to stop? And that's what my amend-- proposed language in the amendment attempts to do to target-- really try to target those intent on disrupting the integrity of our elections. And I think regardless of which side of the political spectrum you're on, I think it's a very important issue. I think it's incumbent on us as elected officials, public officials to do what we can to ensure that the public is confident in the integrity of our election process and our failure to do so, again, troubles me what could happen down the road. We, we need to do what we can. And so with that, I would close. I'd ask for your consideration of the legislation I propose. Be happy to try to answer any questions.

**LATHROP:** OK. Senator Brandt.

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**BRANDT:** Thank you, Chairman Lathrop. Thank you, Senator Briese, for bringing this. If I'm reading this correctly, you only changed two words with the amendment. Is that correct?

**BRIESE:** Essentially, I believe that's fairly close to correct.

**BRANDT:** Because the original bill says, "Any person who by bribery" and this starts off "Any person who utilizes bribery."

**BRIESE:** Yes. But maybe the key here is for the purpose of intentionally manipulating an election. I added that language to try to, to try to target those folks trying to actually manipulate an election, not a disgruntled spouse or ex-spouse tossing, tossing his or her ballot away out of spite or something like that. Really trying to target those that are targeting election integrity who have that purpose.

**BRANDT:** All right. Thank you.

**BRIESE:** Sure.

**LATHROP:** I don't see any other questions. Oh, pardon me.

**GEIST:** Just one more.

**LATHROP:** Senator Geist.

**GEIST:** Thank you. I'm sorry. Do you know if this has been legislated, this language in any other state?

**BRIESE:** Not this particular language that I'm aware of.

**GEIST:** OK. Thank you.

**BRIESE:** You bet.

**LATHROP:** OK. Thanks, Senator Briese.

**BRIESE:** Sure.

**LATHROP:** We will take proponent testimony. I, I see that a number of you have come in and so you missed sort of the, the introduction that I gave at 1:30. We use a light system. It's on for-- you get a green light for two minutes. A yellow light is a one-minute warning. And when the red light comes on, we ask that you wrap up your final thoughts. With that, we'll take proponent testimony. I always tell

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people that because it's the worst part of my job is to interrupt you and say the red light is on. OK. Thank you.

**MARTHA EMILY VILLA:** Thank you for your time. Again, my name is Martha Emily Villa, M-a-r-t-h-a E-m-i-l-y V-i-l-l-a. I think we can all agree that election integrity is vital to our democracy even today as we are praying and fasting and hoping for restoration of a peaceful democracy in Ukraine and other parts of the world, we should still do everything in our power to ensure that our own local, state, and national elections are free of interference and beyond the shadow of a doubt. The legislation that we're considering here, and there's several other bills, or whatever else you might be able to do to achieve that fair outcome and ensure that there are consequences for anyone who tries to change the outcome of our elections, I believe are necessary. In my own personal experience in 2020, I stepped up to help as an election poll observer in Lincoln. Due to the pandemic, a lot of the people in the precincts were not able to man their post as they used to, and I was assigned to a location with two precincts. It was a highly anticipated day and spirits were high. We had about eight poll workers in the small church and we enthusiastically carried out our duties through a very patriotic side by side, Democrats and Republicans, watching carefully as voters dropped their ballots into a locked box. Most of the poll workers knew one another from previous elections, and they were clearly experienced. As a newbie myself, I was careful to ask questions and watch for any concerns. For example, when we took lunch breaks or went to the bathroom, someone else from our party was watching the box on our behalf. I was curious to find out as I got to know the workers that the other precinct was manned by a husband and wife team. One was the Democrat and the other was a Republican, which makes strange bedfellows. But that seems like a strength in our democracy. We shouldn't be so polarized that we can't share a home or a family with people from another party. At the end of the night, we open the locked boxes of ballots and carefully counted them under dual control. I used to be a bank teller, so this part was familiar to me. However, as my precinct partner and I were counting in the sanctuary of the church, two poll workers from the other side of the room gathered up the ballots from the locked box and went down the hall to count them. I brought it to the attention of our supervisor and said, shouldn't they be in plain sight with all of the ballots? What's going on? He just smiled and said they were looking for a quiet place to count down the hall. By the time we verified our count and I was free to go, I went down the hall and they were still finishing up. They boxed up the ballots, sealed each one with a sticker, and sent them in one man's truck down to the Election Commission Office. So I was in

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shock. All of our ballots that had been in a locked box all day were now sealed with a sticker, and only the numbers of ballots was verified. So what was to stop the poll workers from changing or nullifying them? Who knows if they're truly a Democrat or a Republican? You can just go in and change that. All day long, our voters were dropping their ballots into a locked box and trusting they were safe. I was placed there to represent them and watch over the process, and I had no confidence that it was fair at the end of the day.

**LATHROP:** OK. Thank you for your testimony. I appreciate you being here.

**MARTHA EMILY VILLA:** Thank you. Appreciate your help.

**LATHROP:** Next proponent. If you're in favor of the bill, this is the time. Good afternoon and welcome.

**DOUGLAS FRANK:** Thank you, Senator. My name is Doug Frank, D-o-u-g-l-a-s, Douglas G. Frank, F-r-a-n-k. People know me as Dr. Frank. I'm here at the invitation of several Nebraska citizens. I'm delighted to be here. I'm wearing my Nebraska bow tie today.

**LATHROP:** Can't be easy.

**DOUGLAS FRANK:** I, I had to remember how to tie them, but I figured it out. I have been traveling the country for a year speaking with secretaries of states, attorneys generals, and hundreds of county officials. And I am aware of a great deal of fraud in our country. So I am very pleased that you are addressing these issues. I'm very proud and of Nebraska in particular. I think of it as low-hanging fruit actually across the country because it's-- it tends to have a lot of small counties that want integrity in their elections. So I'm, I'm delighted to be here, delighted to speak to you. I would remind you that the legislative branch of the states is the strongest institution in the country. People always talked about coequal branches of government. They aren't coequal. You guys have the power. That's the way the constitution says. So I, I like it that you're taking the initiative on this. Please, please continue this, this train of, of thought. One thing I'd like to just use as a metaphor to explain where I'm coming from on this bill, I read your bill. It's-- I appreciate it. It's makes a second degree felony of people who deliberately try to cheat elections, that's good. But what I'm finding is it's sort of like gun laws. You know, when there's a murderer, you know, or [INAUDIBLE], somebody-- people like to make new gun laws. But the real

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problem is nobody's enforcing the gun laws you have already. So there are many election laws that are being abandoned all across the country. They're just not enforced. So making another law isn't really the solution. I would-- that's-- I would like to support this bill with an amendment. I think that counts as support. And that is that I think you need to include people that are complicit. And there are a couple of categories of complicit. There are people who suspect there's election fraud-- oh, I have one minute.

**LATHROP:** You got a minute. Yeah.

**DOUGLAS FRANK:** Yes, thank you. People who suspect that there's election fraud, but they don't want to look. OK. And I'm not sure that's a second degree felony, but they need to be held accountable. So I would want to include some people who aren't doing their job of inspecting. Like, you just heard a story from a, a lovely young lady talking about her experience. Who's going to prosecute that? That was illegally done? They broke your own election law. Who's going to hold them accountable? That's what you need to add to your law. You need to have some enforcement included in that. Who's responsible to enforce these infractions? I think that's extremely important. And what I've found in, in 40 states is that we have some people that are outright criminals. And yes, they need to be convicted of second degree felonies. But there's a lot of people that were just complicit in minor ways. So maybe you have to add something, you know, people who weren't directly trying to manipulate the election, but maybe they gave away their password, something like this. OK, anyway, I have a red light.

**LATHROP:** You do. I don't see any questions for you this afternoon, but we appreciate your testimony and your concern for the subject matter and we'll continue to work with Senator Briese.

**DOUGLAS FRANK:** Thank you very much.

**LATHROP:** Thanks for being here. Next proponent. We have sort of an on-deck chair here, so if you're-- if you intend to testify, you might want to.

**ROBERT BORER:** Good afternoon, Committee--

**LATHROP:** Good afternoon and welcome.

**ROBERT BORER:** --Chair. Robert Borer, R-o-b-e-r-t B-o-r-e-r. This is an impromptu hanging out here this afternoon, sitting in on a few other committee hearings. I will echo Dr. Frank's sentiments. I too-- I, I

appreciate the intent of the bill, but I think we are-- nobody's looking. Nobody's looking for fraud. There, there-- there's this big echo chamber out there, and it's very easy to prove that it's propaganda. You can go to the cisa.gov website and see that they contradict themselves and from one sentence to the very next when they say that this is-- these are the most secure elections in U.S. history when they-- the next sentence says we're still verifying. And there's no, you know, it's a propaganda campaign when they can't possibly know what they are claiming that they do know. So I'm all about the prevention side of things. I think a pound-- an ounce of prevention is worth about 900 million pounds of cure. And so I would rather see, see us have things that would prevent it. The machines that aren't, aren't tested, that there's no transparency on the voter registration rolls that are managed online and easily hackable. Those are real issues that we need, we need to solve. And I just think that according to our-- I was going to share a couple of quotes from our own Secretary of State: If fraud works, you don't know about it. So in other words if fraud works, it's got to be good fraud. And if nobody's looking for it, you're not going to see it. He says: These are high stake-- high-stakes elections. There's a motive to cheat. You guys run a what, \$5 billion a year budget or control of \$5 billion worth of taxpayer money in a year? So he said there's a motive to cheat. And he says there-- we have to admit there are bad actors out there, but he doesn't want to admit that we're susceptible to bad actors like lots of other places are. And he doesn't want to check, so I mean, it doesn't do good-- much good to provide a sanction for a law that nobody's looking to, you know, to validate to, you know--

**LATHROP:** OK.

**ROBERT BORER:** So thank you.

**LATHROP:** Yeah, no, thanks for coming in. Any other proponents?

**PEG FONG:** Good afternoon.

**LATHROP:** Good afternoon and welcome.

**PEG FONG:** Thank you. This is my first time ever in the Capitol Building, and I'm really excited to be here.

**LATHROP:** Well, welcome to the Capitol Building.

**PEG FONG:** Thank you. I hope it's not my last. I want to thank you all for allowing me to testify today. My name is Peg Fong and I'm from Kearney, Nebraska.

**LATHROP:** Can you spell your name for us, Peg?

**PEG FONG:** F-o-n-g. I love America and I love the state of Nebraska, and I'm kind of sad about the: it's not for everyone slogan that we've recently adopted. It is the good life here in Nebraska. And I wanted to let you know that I'm also a team leader of the canvassing group in Kearney, Nebraska, and we have met some opposition in that with our, our sheriff's department and we'll soon get that figured out. I'm also a concerned citizen who has lost their, their confidence in our election system because of the electronic voting system, and I don't think there's enough safeguards in place to, to prevent hacking as we do like in the banking institutions and different things. Of course, even those are hacked, but there's certainly not enough safeguards in the, the electronic voting systems. And I, I do like the idea that you are supporting or presenting bills for the election system. I think we should go back to paper ballots and hand counting. That is my-- but I do like this. So we'll take it one step at a time and I feel like more laws, much like your catalytic converter LB994, more laws doesn't stop the thefts. If we regulate with laws, it doesn't stop the people who are cheating to cheat in our elections. And so I'm really not sure what you can do to fix this, but you are in power of, you know, the authorities here. And the second one comes to the citizens of Nebraska. And I think if we fail here to secure our elections, we the people of Nebraska, will be taking a position where we will, we will find a way to make it right. And I just wanted to let you know that I do appreciate this time and I do appreciate each one of you. And this was kind of fun so thank you so much.

**LATHROP:** All right, well, now you know your way to the Capitol and the hearing room.

**PEG FONG:** Yeah, I'm going to make a pathway, I think. Thank you.

**LATHROP:** Good. Thanks for being here.

**PEG FONG:** Thank you.

**LATHROP:** Any other opponent testimony-- or pardon me, support-- proponent testimony? I was already thinking about going to opponents. Anyone else here to speak in support? We will take next opponent testimony.

**SPIKE EICKHOLT:** Good afternoon, 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 in opposition to the bill. I listened to Senator Briese explain in his

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introduction why he introduced this. At least I think I heard him say that there are some doubt among his constituents and others in Nebraska that there is some suspicion regarding our election process, that there's some unprosecuted or unidentified fraud in the system. But I also heard Senator Briese explain that perhaps he doesn't himself believe that. Nevertheless, he wanted to introduce the bill. Respectfully, the problem with just introducing the bill is it fuels that suspicion. It feeds that suspicion. And what happens, unfortunately, is if the committee does not advance this bill, the Legislature doesn't pass it, then that is the next story. The Legislature failed to do something about the election fraud process that's out there. Our elected officials, our Secretary of State, have been clear that there is no evidence of fraud in the Nebraska process. I don't know what other states may exist. Dr. Frank was testifying to that earlier. This committee and this Legislature can only address Nebraska law. As Senator Briese indicated, there are a number of other statutes that already prosecute election falsification in the falsity in election process, registration, registering falsely as a party or asserting falsely somehow where you live or improperly voting. Those things are prosecuted in Chapter 32, and many of those are felonies. I didn't get the handout, but I think there was references there. If you're going to do something, I would respectfully suggest that those are the statutes that the committee look at. In other words, this creates a new crime for a person who by bribery, extortion, theft, or fraud intentionally manipulates the results of any primary or general election for national or statewide office commits a Class II felony. The problem is, even though if this bill would pass, I don't know what kind of consequence it would have. Some of these statewide offices don't even have opponents. We have a deadline yesterday. So in other words, the crime is committed when you manipulate the result. In other words, I could pay somebody to go in there and write in my name for treasurer. I could do the same thing. I'm not violating this law because the results are the same. That's an unopposed position. And that unfortunately goes back to the point I try to make before. That is when you do laws like this, when you introduce bills like this that are not necessarily addressing an immediate and actual issue in the state. And you can't get those things passed that just contributes to the perception that many people have that there's something wrong with our election process. So I'd ask the committee to not advance the bill.

**LATHROP:** OK. I don't see any questions, but thanks for your testimony and your thoughts. Any-- anyone else here to speak in opposition to LB828? Anyone here to speak in the neutral capacity? Seeing none,

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Senator Briese, you may close. There are-- we do have position letters, 58 from proponents, 3 from opponents, and 1 in the neutral.

**BRIESE:** OK, thank, thank you. Just briefly, thank you for your time today. I appreciate it. And, and Mr. Eickholt suggested that by passing something like this it fuels suspicion that it is occurring. Well, and that has been one of the arguments posed against doing something like this. But I think all of us recognize that the incidence of actual fraud in Nebraska is extremely limited, if present at all. But it's the perception and there is a perception out there that something is wrong with the system. And, and to me, that concerns me going forward. I think I explained, you know, November of 2024, that's going to be a concern. I worry about that. And if you share that concern, you have to ask yourselves, you know, what are we going to do about it? What can we do about it? And this is, in my view, part of the answer. I think there's many more things we need to do. But regardless of who wins or who loses an election, you know, we need to have a process that people believe in and that people can accept, win or lose. And I, I do think that enhancing the penalty for voter manipulation can help ensure the acceptance of the results. And I think I heard Mr. Eickholt mention the existing statutes, and that was-- that's a different approach one could take. We could enhance the penalties for existing-- violation of existing statutes also. But anyway, with that said, be happy to try to answer any questions and thank you for your time again.

**LATHROP:** Senator Geist.

**GEIST:** Yeah, I do have one and it's not-- it's kind of a question or you can just make a comment on it.

**BRIESE:** Sure.

**GEIST:** And I understand what Mr. Eickholt was saying is that this feeds the perception. However, if you do nothing that also feeds the perception. So you're kind of in a place of whether you do something or do nothing.

**BRIESE:** Yes, no, that's, that's a great point. I don't disagree with that. I, I think-- again, I think it would behoove us to try to do something. But what--

**GEIST:** Yeah, I--

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**BRIESE:** --that something is, is what's in that amendment, what it needs to be. I'm not sure of that, that's why I present this to you folks today.

**GEIST:** Well, I agree with you, I think the perception is there and I know, of course, not everyone in the body is going to agree on that. But to the degree that we could assure people, I think, is where you're coming from--

**BRIESE:** Yeah.

**GEIST:** --to just assure them that something is being done, we're looking at it. That I do respect the Secretary of State and think he's done his best to present his case. But I empathize with your position.

**BRIESE:** Yeah, well, thank you. I think anything we can do to tamp down the perception that there's a problem we need to be looking at.

**LATHROP:** We'd have to substitute information for what people are hearing, right? Has Bob Evnen identified any voter fraud?

**BRIESE:** Not that I'm aware of. Not that I'm aware of.

**LATHROP:** So there is an issue, and you and I have spoken about this--

**BRIESE:** Sure.

**LATHROP:** --and Mr. Eickholt makes a good point. If we don't do anything, then the same people that believe that there is a problem, even though our Republican-elected Secretary of State says there hasn't been, they're going to say, oh, look, they won't do anything about the fraud. It doesn't-- we have an elected Secretary of State whose primary responsibility is to ensure that our elections are done properly, carefully, and free of fraud, and he's identified no fraud. And the fact that that many people still think there is, is about the information-- misinformation they're getting on a-- from the national news outlets.

**BRIESE:** Well,--

**LATHROP:** OK.

**BRIESE:** --to reiterate-- go ahead.

**LATHROP:** Senator Brandt.

**BRANDT:** I--

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**BRIESE:** I say to reiterate anything we can do to help overcome that perception, we need to do it, what that is.

**LATHROP:** But, but what if, what if the next time-- the next thing people get a perception about that's not based in fact is that too many people are running red lights. So should we make that a felony to be responsive to the perception, not based on fact, but perception that people have that people are running too many red lights?

**BRIESE:** That, that perception is not a danger to our democracy. This perception, I think is, this is a very serious threat [INAUDIBLE].

**LATHROP:** It's a very dangerous perception of, of, of-- you and I can agree on that.

**BRIESE:** Yes. [INAUDIBLE].

**LATHROP:** Yeah, the fact that many-- that percentage of people believe that there has been voter fraud when there is none identified by our Secretary of State is an issue.

**BRIESE:** It is concerning for sure.

**LATHROP:** I would agree with you. Senator Brandt.

**BRANDT:** Thank you, Chairman Lathrop. Thank you, Senator Briese. In reading the World-Herald editorial, they had something in there that struck me as kind of a good idea. I don't know if we can do this. And that was to print at the bottom of every ballot, election fraud in Nebraska is a felony. It's [INAUDIBLE] much, but it does put it right there in front of somebody that, you know, if you're, if you're checking the boxes and I would assume people that have to do it electronic it would be on the electronic device also.

**BRIESE:** Yeah.

**BRANDT:** So I don't know what, what your opinion is of that.

**BRIESE:** Well, in a matter of public awareness, and I think the public needs to be aware of that. And currently much of what is considered voter fraud is a felony under current law, and the voters need to be aware of that.

**BRANDT:** Yeah.

**BRIESE:** This would simply enhance--

**PANSING BROOKS:** I agree with that.

**BRIESE:** --what we're talking about.

**LATHROP:** OK.

**BRANDT:** All right, thank you.

**LATHROP:** I think that's it. Thanks. And that will close our hearing on LB828.

**BRIESE:** Thanks again.

**LATHROP:** Thank you.