

Transcript Prepared by Clerk of the Legislature Transcribers Office
Judiciary Committee February 7, 2024

WAYNE: [RECORDER MALFUNCTION] as the Chair of Judiciary. We will start off by having members do self-introductions, starting to-- with my far right.

BOSN: I am to the right. I am Carolyn Bosn. I'm the senator for District 25. That is southeast Lincoln, Lancaster County out to Bennett.

McKINNEY: Terrell McKinney, District 11, north Omaha.

JOSH HENNINGSEN: Committee legal counsel Josh Henningsen.

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

DeBOER: Hello, everyone. My name is Wendy DeBoer. I represent District 10 in northwest Omaha. Senator Wayne spelled his name. I don't know if I need to spell my name today.

WAYNE: Oh.

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

DEKAY: Barry DeKay, District 40, representing Holt, Knox, Cedar, Antelope, northern part of Pierce and northern part of Dixon County.

WAYNE: And also assisting us are our committee pages, Isabel Kolb from Omaha, who is a political science major and prelaw major at UNL, and Ethan Dunn from Omaha, who is a political science major at UNL. This afternoon we'll be hearing 7 bills. We'll take them up in the order listed outside-- well, actually, we'll take them up in the order that I call. On the table on the side of the room, you'll see a blue testifier sheet. If you are planning to testify, please fill out one and bring them up with you when you come up so we have accurate records of correct spelling of names. If you wish-- do not wish to testify, but you want to-- or you'll-- or you heard what you were going to say already a couple times, fill out a gold sheet over there and you can mark your position for the record. Also, the Legislature policy is that all records-- all letters must be received by the committee by 8 a.m. the morning of the hearing. Any handouts submitted by testifiers will be a part of the record as exhibits. We ask that you have 10 copies of your handout. If you don't have 10 copies, see one of the pages before you come up so when you are testifying, we can have enough copies for the committee. Testimony will begin with the introducer's opening statement. After the opening statement, we will hear from supporters of the bills, then we'll hear from those in

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opposition, and then we'll hear from those speaking in a neutral capacity. Then the introducer will have a chance to make closing statements. We ask that you begin your testimony by giving your first and last name, and spell those for the record. We will be using the 3 minute light system. That means when you start, the light will be green. At 1 minute mark, it will turn yellow. And when it comes red, I will ask you to wrap up your thoughts. Also, you will see many of us getting up and leaving. It's not that what you're saying is not important. We have other bills that we are introducing in other committees. I would like to remind everyone, including senators, to please turn off your cell phones or put them on vibrate. And with that, we will begin today's hearing with LB876, Senator Holdcroft.

HOLDCROFT: Thank you, Chairman Wayne. And good afternoon, members of the Judiciary Committee. For the record, my name is Senator Rick Holdcroft, spelled R-i-c-k H-o-l-d-c-r-o-f-t, and I represent Legislative District 36, which includes west and south Sarpy County. I am here today to discuss LB876, the Newborn Safe Haven Act. LB876 simply increases the options for a desperate parent to surrender their newborn baby without fear of criminal prosecution. As most of you are aware, Nebraska's current Safe Haven legislation was initiated with the passage of LB157 in 2008. Despite language in drafts of the bill specifying age requirements for a surrendered child, the final bill was passed without such language. This led to children of all ages and even from other states being surrendered under the new law. A special session with the sole purpose of providing a fix for the broad law was held later in 2008, and LB1 from that session added the words "30 days old or younger" to the statute language. According to the Nebraska Department of Health and Human Services, at least 6 babies under 1 year of age were abandoned in 2023, versus 1 baby surrendered under the current Safe Haven law. It is not clear if there was any prosecution pursued in these cases. I believe LB876 directly addresses the disparity between these 2 numbers and should, in theory, reduce the number of abandonments to zero. LB876 expands the list of approved drop-off locations to include fire stations and law enforcement agencies that are staffed 24 hours per, per day, 7 days a week. Emergency medical service providers and newborn safety devices are included in the bill. Under the current law, only hospitals are authorized drop-off locations. It also redefines newborn infant in, in state statute from 30 days old or younger to 90 days old or younger. The fiscal note for this bill is to provide funding for an ongoing awareness campaign for the Newborn Safe Haven Act by the Nebraska Department of Health and Human Services. It will also fund a website to be maintained by the department that provides education and

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resources connected with the act. As you can see, LB876 has been cosponsored by a large and diverse number of senators from our body. I believe it is a direct answer to the question: We are asking women to bring their babies to term, now what are we doing to help them? AM2142 simply provides some clarification to certain items in the bill and removes some ambiguous language. Chairman Wayne and members of the Judiciary Committee, thank you for, for giving your attention to LB876. I would appreciate it if the committee would give this bill time and consideration and advance it to the full Legislature for debate. I would be happy to answer any questions you might have. Thank you.

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

HOLDCROFT: I will be here for closing.

WAYNE: Thank you. First, we'll start with proponents, proponents of LB876. Let's not everybody jump up at once.

RYAN McINTOSH: I guess I'll go first.

WAYNE: All right. Welcome to your Judiciary.

RYAN McINTOSH: Good afternoon, Chair Wayne, members of the committee. My name is Ryan McIntosh, M-c-I-n-t-o-s-h, and I appear before you today as a registered lobbyist for the Nebraska State Volunteer Firefighters Association and the Nebraska Volunteer Fire-- or excuse me, the Nebraska Fire Chiefs Association in support of LB876. The primary reason that I'm here today is just to thank Senator Holdcroft for expanding this but limiting it to staffed fire stations and EMS rescue stations. While this only touches a few of our members, we just want to ensure that as the committee brings this forward, that it is not expanded to any unmanned stations. So that will conclude my testimony. I'd be happy to answer any questions.

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

SANDY DANEK: Good afternoon, Chairman Wayne and members of the committee. My name is Sandy Danek, S-a-n-d-y D-a-n-e-k, and I am the executive director of Nebraska Right to Life. Our mission at Nebraska Right to Life is to restore legal protection to innocent human life, from fertilization through natural death. We work to further policy opposing abortion, infanticide, euthanasia, and unethical biomedical research. And our goal is to promote a culture of life. I'm here today to testify in support of LB876. By expanding authorized drop-off

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locations for parents of newborn infants, it will provide an opportunity to surrender newborn infants 90 days of age or younger without fear of prosecution. The expansion of locations to include staffed fire stations and law enforcement agencies, as well as promoting a newborn safety device, is a positive step that Nebraska Right to Life can support. You may recall, just a few months ago, a young mother in Gordon, Nebraska, who took the life of her child immediately following delivery. Also, a couple of years ago, another young mother, in concert with her mother, planned the death of her unborn child at 30 weeks gestation. It is difficult to say what challenges they may have been facing, or if they would have turned to the supportive measures offered by the Safe Haven Law. However, LB876, providing funds for public awareness, gives hope to any mother who may be in despair. When Nebraska's Safe Haven Law was passed in 2008, parents or guardians could leave children up to the age of 18 at a Nebraska hospital without facing abandonment charges. Under the original law, as Senator Holdcroft said, 36 children were surrendered to Nebraska hospitals in a 127-day period. None of the children surrendered were infants, and many of them were brought to Nebraska from other states. It sparked increased public discussion about whether Nebraska and other states are providing adequate resources for parents of children with medical or behavioral issues. But feeling the law was being abused, Governor Heineman called a special session to the Legislature to include an age limit. The result was LB1, which amended LB157 to apply only to infants up to 30 days old. And we applaud these improved efforts that Senator Holcroft has proposed. LB876 supports the installation of newborn safety devices, allocates funding to implement a public information program to inform the public of the Newborn Safe Haven Act, including creation and maintenance of a permanent, interactive website providing pertinent information to the public. These investments in the communication and promotions of this act will be beneficial for parents, parents to understand the resources available, available to them, should they face the difficult decision to surrender their child, up to 90 days of age. Thank you for your time. And I'd be happy to answer any questions you may have.

WAYNE: Any questions from the committee?

SANDY DANEK: Thank you.

WAYNE: Thank you.

JUNE GRUMMERT: Good afternoon, Chairman Wayne and members of the committee. My name is June Grummert, J-u-n-e G-r-u-m-m-e-r-t. I am here to offer the education available to us from the National Safe

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Haven Alliance. The Nation [SIC] Safe Haven Alliance, or the NSHA, is a 501(c)(3) nonprofit organization working to end infant abandonment and infanticide in the U.S. and its territories. NSHA is the leading nation-- national Safe Haven advocate-- advocacy organization and subject-matter expert on Safe Haven best practices. NSHA works with the state agencies, Safe Haven organizations, Safe Haven providers, and parents across the nation. NSHA operates a 24/7 confidential hotline in all states for parents in crisis, and supports states' efforts to end infant abandonment by updating Safe Haven laws and providing tools to increase Safe Haven awareness. Safe Haven laws allow a parent to anonymously relinquish an unharmed infant with a Safe Haven provider without fear of prosecution. The law gives a desperate parent a safe alternative and may save the life of a vulnerable infant. Each state and the U.S. territories of Puerto Rico and Guam have some form of Safe Haven law. Since the laws were enacted in 1999, early 2000, over 4,700 infants have been safely surrendered in the U.S. under the Safe Haven law, compared to over 1,600 illegally abandoned. In 2023, more than 40 babies were illegally abandoned in the U.S. We have an opportunity to provide safe and comprehensive options for families in need of alternatives. The Newborn Safe Haven Act in Nebraska will provide safe alternatives to desperate parents and save innocent lives. The NSHA is supportive of the directives in this bill, as it is in line with model Safe Haven legislation. NSHA can assist the state of Nebraska with efforts to establish a 24/7 confidential Safe Haven crisis hotline, which would provide all safe options to parents, including retention, retention of children, and provide tools for education and signage for Safe Haven providers, as well as public outreach, awareness and campaigns. With a comprehensive approach ending infant abandonment, we have a unique opportunity to promote family preservation, and in critical circumstances to utilize every safe option available in family or temporary placement, adoption, and Safe Haven surrender. We are encouraged by this bill and with more than 20 years helping parents in crisis, NSHA believes that implementing the direction-- tives in the Newborn Safe Haven Act will create a safe and secure environment for infants and parents. Thank you so much.

WAYNE: Any questions from the committee? I have one. What do you-- what do you do about the father's rights?

JUNE GRUMMERT: I'm sorry, but I don't have an answer for that at this time, but someone speaking after me may be able to answer that question for you.

WAYNE: Thank you. Any other questions? Seeing none, thank you.

LUCRECE BUNDY: Good afternoon, Chair Wayne and committee. My name is Lucrece Bundy. I am an adoption lawyer practicing in Omaha. And I am in support of this bill for several reasons. One reason is because I've had direct contact with desperate mothers who call my office looking for options regarding their unborn babies, trying to figure out what to do. And right now, basically their option is to find a family that will adopt that child. And so having another option for these moms would be really helpful for them, because it-- it'll take the pressure off, trying to figure out like what agency do I go to, what do I do about this baby, and so forth. And so one particular story that I have for you is, I think it was about a year ago, I had-- I got a call from a woman who already had 2 biological children. She was pregnant with her third, and she was working 3 jobs and just did not know how she would be able to take care of her third one. So she called my law office for help, and she was able to find a family to adopt her third child. But if she hadn't been able to do that, having this option that the bill is laying out here would, would have been really helpful for her, knowing that she didn't have that pressure of trying to figure out, what family do I pick, how do I pick the family, where do I go? And so this bill would be great for those families who really are desperate, because of different circumstances. Sometimes it's pressures from their family members. I had a very young lady come to my office, as well. She was pregnant, and her father was pressuring her to place this baby for adoption. And so if this girl had known that she could safely surrender her child, that might-- that would have been a great option for her as well. And so I'm supporting the bill today and asking you-- yeah, you to do the same. Because as kind of a frontline worker here, when it comes to meeting these women who are in these situations, this bill would greatly support that. And that's it. Thank you.

WAYNE: Thank you. Any questions?

DeBOER: I'm gonna ask the same question he asked the last testifier about. When you have one of these kinds of situations, what do you do about paternal rights? So if, if a girl wants to-- and-- what--

LUCRECE BUNDY: Yeah, yeah. So if she calls my law office and she's looking into placing her baby for adoption, I usually send her to an agency, because agencies are better suited to actually help that mother find a family. Because the first step is she needs to find a family that's going to be willing to adopt that child. Once that match is made through the agency, I can kind of step in if she wants me to be her attorney. So once that match is made, as her attorney, my job is to explain to her, obviously, her rights under the law. Now, the

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father's rights is something else that we have to talk about, because the father also has rights under the law. A mother cannot just, you know, give up the baby. And if a dad is found, dad has the right to the child. And so the mom is-- she's explained all of those things. We have to try to find the father or possible biological fathers. And both biological parents need to sign their rights to the child. And so that is definitely something else that has to be done. My understanding is that the biological father's rights would be taken care of, as the baby is surrendered to foster care, which, you know, DHHS has to do their due diligence to figure out who the biological father is, try to figure out relatives. I believe that's kind of the step after the baby is surrendered.

WAYNE: Also, can you spell your name. I know your name because I had a couple cases with you. But can you spell your--

LUCRECE BUNDY: Yeah. Lucrece. Yes. It's L-u-c-r-e-c-e, and last name is Bundy, B-u-n-d-y.

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

LUCRECE BUNDY: Thank you.

WAYNE: Next proponent.

KATIE NUNGESSER: Thank you, Chairperson Wayne and members of the Judiciary Committee. My name is Katie Nungesser, spelled K-a-t-i-e N-u-n-g-e-s-s-e-r, and I'm representing Voices for Children in support of LB876. Voices for Children supports Safe Haven laws such as the one proposed in LB876, as we value all children and want them to grow up safe. These laws are just a tool ensuring the immediate well-being of newborns facing challenging circumstances. While Safe Haven laws prioritize the safety of the child, we are also wanting to recognize the importance of providing parents with adequate support to help them navigate difficulties they're experiencing. By extending, extending the surrender window, LB876 is allowing for more time for parents to make informed decisions and explore available resources and seek support, potentially preventing unnecessary separations. LB876 inclusion of additional surrender sites and options within communities is a commendable step. They offer a safe option for parents, making the process accessible, anonymous, and reducing some of those barriers. As we advocate for the safety of newborns through Safe Haven, it is equally crucial to advocate for increased support for the parents. While these laws serve as an immediate solution to newborn

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safety, we should strive to create an environment where parents do not feel compelled to rely on Safe Haven as their sole option. Research consistently shows that children who maintain a bond with their biological parents experience better physical, cognitive, and psychosocial outcomes. We see Safe Haven laws as an important but small component in an overarching system response that supports family strengths, invest in community supports, and destigmatizes parenthood. Supporting mothers to prevent them from feeling compelled to surrender their babies involves addressing various factors that contribute to their decision-making process. I have attached a list of some of the areas we feel can affect positive change for children and families at risk of entering our child welfare system. Suggestions include comprehensive prenatal care, accessible mental health services, reducing stigmas, crisis intervention, financial support and resources, including affordable childcare and affordable housing options, just to name a few. By implementing a combination of these strategies, communities and policymakers can contribute to creating an environment where mothers feel supported, empowered, and capable of raising their children with the assistance they need. Voices for Children believes LB876 is a commendable effort to enhance our existing Safe Haven law in Nebraska. We urge you to support this bill, but also continue these conversations on how to keep families together. Thank you.

WAYNE: Any questions from the committee? I'll ask the same question. What about the fathers?

KATIE NUNGESSER: I appreciate you asking that, and I hope you ask every single supporter that comes up here. That is one of the things that Voices is concerned about, is we really value that relationship with the biological parents. And so I think that would be a concern of ours that, especially as you move to things like baby boxes, you don't always have any-- sometimes you have no information on that child. So how would the state even reconnect and even give biological family an option? So that's a concern we have.

WAYNE: What other concerns do you have?

KATIE NUNGESSER: That we just want to continue to support keeping these families together. We know a lot of the issues are poverty, mental health, substance use issues. And so we want the energy to be put into that, in supporting families. If there's any way to support those caregivers so they can continue to have that child in their home, we just feel that's the best situation as possible.

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WAYNE: So as a country and as a state, we said native children are treated differently, through ICWA. It's an unfair question, because I don't know how you, you pick positions on bills, but do you think there should be an ICWA requirement in here?

KATIE NUNGESSER: Absolutely. I actually worked for the Ponca tribe earlier in my career, and I felt really strongly about ICWA. And there's still a big lack of understanding about ICWA in our state, I believe. But I think that's a major concern for me, in this bill, is ICWA's not-- there's no way to address ICWA if you have no information on that child, which is hard because you also want that parent to be anonymous, for their own safety and their own protection. But, yes, you're right. That's a great point to highlight.

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

JUDY MANSISIDOR: Thank you. My name is Judy Mansisidor, J-u-d-y M-a-n-s-i-s-i-d-o-r. I'm a proponent of this bill. Our current Safe Haven law has saved the lives of newborns, 14 of them exactly, according to Department of Health and Human Services statistics reported by the news channel. Since 2008, just under 200 infants, 1 year or younger, have fallen under abandonment situations, but only 14 were covered under our Safe Haven statute. That's a utilization rate of about 7%. There is a definite need to expand options for moms and infants in our Safe Haven approach. LB876 will create a robust Safe Haven law, a wide safety net, and to protect vulnerable women-- moms and their infants by, one, raising awareness of critical resources and providing needed resources to moms in tough situations through the Safe Haven Hotline and the website. This gives a mom in need help that she may not have known about in the moment of her great need, and the possibility that she may be able to parent. The hotline staff also encourages mom to make an adoption plan if possible, and make her aware of Safe Haven surrender locations and options. Expanding the age of coverage of infants 90 days or younger gives mom more time to really understand what she is equipped to provide for her newborn infant, and takes the pressure off her choice to parent or surrender. Once LB876 is enacted, a mom will be able to surrender her infant anywhere an EMS team can meet her, providing surrender options throughout the state and any time a mom may need this lifesaving choice. Instead of about 110 locations, the number of hospitals that exist in our state, every square inch accessible to an EMS team can now be a site for safe, legal, anonymous surrender of an infant. LB876 provides a way to anonymously and safely surrender an infant and provides options for cities. Cities can deploy newborn-safe devices,

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baby boxes provided to EMS stations, fire stations, police stations. The most important thing, and I've heard your questions about the fathers, policies and procedures are already in place for abandoned children in Nebraska through the Department of Health and Human Services. And this will use those same policies and procedures. Same for first responders that find an infant, we're not changing any of that. So the Department of Health and Human Services has handled abandoned implements and will continue to handle these Safe Haven infants, and they do do a thorough check. And, and the woman behind me will address this, but Department of Health and Human Services makes sure that the father, if the father is sound and wants to parent, there is a process they go through to try and identify that infant and make sure that infant is legally surrendered, and not taking away from a sound parent of the decision. So I encourage everyone to support this bill. It's very needed. Right now, our law is very narrow and very constrained. And more choice-- safe, legal, anonymous choice for women will move that percentage-- utilization percentage, hopefully, as Senator Holdcroft said, to that 100%. I'm sorry. I saw the red.

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

JESS LAMMERS: Good afternoon.

WAYNE: Good afternoon, sir.

JESS LAMMERS: My name is Jess, J-e-s-s. Last name Lammers, L-a-m-m-e-r-s. First, I'd like to give a short round of applause to Senator Wayne for bringing up fathers' rights. There's your golf clap, sir. First, the language, the language in the bill. Should 24-hour manned police and fire stations be acceptable drop-off locations if a mother or father should find themselves unable to care for a child? At the risk of sounding like a simpleton, a country boy, I think it's common sense that you should be able to drop off a child at those locations. Now, addressing the specific language in the bill and fathers' rights-- and what was your name, ma'am?

WAYNE: You don't have to ask questions. Don't ask questions, just [INAUDIBLE].

JESS LAMMERS: Judy Mansisidor said that Department of Health and Human Services checks with the father to see if they are able to accept the child when the mother abandons the child. As someone who has experienced Department of Health and Human Services activity, they do not. Department of Health and Human Services does not check with the

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father. And I will tell you my specific experience. My ex-wife got a DUI. The children went into protective custody for 48 hours. And I, the father, competent, college-educated, published, published author, was not contacted. My daughter was subsequently raped by Brandon Dolezal, defunct State Patrolman, now in prison. So I do believe that the bill should include specific language geared towards fathers' rights. And the person before the lady in the purple spoke, said that the next choice was an agency. I think the first choice after a mother abandons a child, because the condition of the mother is the condition of the child pursuant to the court, the first choice should be evaluating or vetting the father to see if he is a fit custodial parent. I will yield my time. Thank you.

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

LAURA WILLIAMS: Thank you for allowing me to speak today.

WAYNE: Welcome to your Judiciary.

LAURA WILLIAMS: And my name is Laura Williams, and I'm not a member of an agency, but I am an ordinary citizen. I'd like to speak out in favor of this bill. In the activities I've been involved with in my community as a volunteer, looking after-- speaking on behalf of preborn babies, I noticed that there are many times when women seem to be desperate, and I think we need this safe, this Safe Haven bill to provide for the mothers who are not thinking clearly in a moment of panic. And I am going to say that if we can expand the time to 90 days so that people don't feel pressured to make a decision right away, and to expand the locations and availability to be able to safely and anonymously surrender a child rather than put them in a situation where they may be in danger, is a very good thing. And I apologize. I don't remember if I said my name. It's Laura Williams, L-a-u-r-a, Williams, common spelling. And so I am a proponent of this bill, and I thank you for your time. Do I have any questions?

WAYNE: Thank you. Any questions from the committee?

LAURA WILLIAMS: Thank you.

WAYNE: Thank you. Next proponent.

MARION MINER: Good afternoon, Chairman Wayne and members of the Judiciary Committee. My name is Marion Miner, M-a-r-i-o-n M-i-n-e-r. I'm here on behalf of the Nebraska Catholic Conference, which advocates for the public policy interests of the Catholic Church and

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advances the gospel of life through engaging, educating, and empowering public officials, Catholic laity, and the general public. The conference supports LB876, the Newborn Safe Haven Act. LB876 would expand Nebraska's Safe Haven Law, which currently allows for the surrender of a baby only in a face-to-face setting at a hospital. LB876 would allow a parent to surrender his or her baby at a hospital, a police or fire station, or with an emergency medical services provider. This bill would also allow for a completely anonymous surrender at locations where a newborn safety device, often referred to as a Safe Haven baby box, is located. There is tragedy involved any time a baby or any child is separated from one or both of his parents. Where a parent or family simply needs help with resources, giving them assistance with those material needs and keeping that family together is to be preferred as being in the best interest of the child and his family. That is one area in which Nebraska's many pregnancy help organizations excel. But there are also situations where a parent or family is truly desperate, often for more than simple economic reasons, and where they believe they simply cannot care for their child. LB876 makes it easier for parents in that situation to safely place the child with caretakers completely anonymously, if desired. This is much better than abandonment or infanticide, which is sadly not unknown in Nebraska. Surrender to a Safe Haven is much more merciful, of course, not only for the child, but also to the parents, who will not have to suffer the guilt of true abandonment or wonder if their child was found safe. Every person down to the smallest child has human dignity. The more helpless a person is, the greater our responsibility to protect and be of service to them. LB876 advances that end, and so we ask you to advance it to General File. Thank you for your time and consideration.

WAYNE: Any questions? I don't know if you're the right person to ask questions so I'll just--

MARION MINER: That's no problem. I mean, with regard to the--

WAYNE: I mean, I mean, I'm-- I kind of want to know if the county attorney is going to testify on this. I mean, what happens if dad has the kid in the first 3 months and decides to drop the kid off without mom's permission?

MARION MINER: Yeah. No, I think that's-- I think that's a good question. I don't, I don't actually have--

WAYNE: I mean, the cops can't ask him questions about it. [INAUDIBLE] under the law [INAUDIBLE].

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MARION MINER: I don't, I don't have an intimate knowledge of the process, about how the, how the Safe Haven process works, as currently in Nebraska. I do know that DHHS has a process for trying to-- my understanding is that they, they try, at the time the baby is placed, they try to find out everything that they can from the person, but the person doesn't have to give them any information. So they try to get what they can, and then they do their due diligence, my understanding is, to try and locate the parents in case they have a change of heart or in case there is a situation where the other parent perhaps didn't know. But I am not the right person to ask about what that process looks like.

WAYNE: You're fine. Appreciate it. Thank you for being here.

MARION MINER: Yep. Thank you very much.

WAYNE: Next proponent.

NATE GRASZ: Good afternoon, Chairman Wayne and members--

WAYNE: Hold on a second. Let's allow the students to leave. Hopefully you gained some knowledge today, or maybe how not our government-- I don't know. Go ahead.

NATE GRASZ: Good afternoon, Chairman Wayne and members of the committee. My name is Nate Grasz, N-a-t-e G-r-a-s-z. I am the policy director for Nebraska Family Alliance, and I'm testifying in support of LB876 on behalf of the thousands of families we represent, who share our desire to see every life cherished, protected, and given the opportunity to reach their full potential. At the heart of Safe Haven laws is a desire to love and protect both parents and their babies. LB876 recognizes the dignity of human life and improves our current Safe Haven law by providing a safe, proven, and anonymous way to surrender an infant for parents in crisis who are unable to care for their newborn. We don't want to see any child abandoned. Tragically, we know this does happen and has happened in Nebraska, and we want to provide a safe alternative that prevents abandonment, raises awareness of the option of anonymous surrender, and offers parents in need a last resort option with the peace of mind that their baby will be cared for medically, financially, and emotionally. Across the country, this type of legislation has been used to save lives. In Indiana, the first state to implement Safe Haven baby boxes, 8 babies were safely surrendered, just in 2022. And there has not been a single abandoned baby death in the state since the enactment of their Safe Haven Law in 2016. If this bill can help save 1 life a year, it's worth it. Because

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we're better when no life is disposable, when every child is given a chance at life, and when instead of being abandoned and hoping for the best or with no hope to be found, a vulnerable child can be given an open door to a loving home. We appreciate Senator Holdcroft for introducing this important bill to help protect vulnerable parents and babies in our state, and we encourage the committee's support. Thank you.

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

NATE GRASZ: Thank you.

WAYNE: Next proponent, proponent, proponent. Seeing none, opponents, opponents. Oh. You-- see, you moved forward and I wasn't sure. Moving on to neutral. Neutral testifier. Neutral testifiers.

LAURA LEISE: Good afternoon. I'm Laura Leise, L-e-i-s-e, first name is Laura, L-a-u-r-a. I am the adoption, Safe Haven, and subsidized guardianship program manager for the state of Iowa with Health and Human Services. Recently, I was contacted by some Nebraska legislators, probably about 6 months ago, and they asked how Safe Haven works in Iowa. Safe Haven started in Iowa in 2002. We have approximately-- a little over 60 infants that have been relinquished through our Safe Haven Act. In Iowa, how that works currently, we just recently had some changes in legislation, where the infant can be relinquished at a hospital, a 24-hour fire station, to a-- directly to a 911 responder, and we recently enacted the newborn receptacle [INAUDIBLE]. There's currently one in the state of Iowa, in Fort Dodge. They did allocate some funds for that receptacle device. It has not been used yet in the state of Iowa. We also included the ability for adopt-- what we call adoption service providers to be able to actually physically take the infant. Those-- so those are essentially private adoption agency within the state of Iowa. They do have to be certified in CPR, and then are required to take the child directly to a hospital to ensure that all medical needs are met. Once that child is at the hospital and is safe, we request, either through the adoption service provider or the Department of Health and Human Services is contacted, in what we call is a child in need of, of, of assistance action is started under Chapter 233, which is our Newborn Safe Haven Act. And the child is adjudicated under 232, which is our child welfare statute.

WAYNE: Any questions from the committee? Yes.

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DeBOER: OK. Thank you. I'm very--

LAURA LEISE: Sure.

DeBOER: --glad you're up here.

LAURA LEISE: OK.

DeBOER: So when do parental rights terminate? In the-- in this--

LAURA LEISE: In the proceeding. Legal action.

DeBOER: --transaction. Yes.

LAURA LEISE: Yeah. So there's 30 days, by statute, as required, a termination of parental rights is supposed to be filed, unless there is good cause. There generally is always good cause, because it's very difficult to provide notice. It, it is a requirement of public notice be completed through that process. We also have to check the-- what's called the paternity registry. And that's, I think, what you were asking about, in terms of fathers rights, to ensure that there is no one, potentially, on that registry that could be the father, that would be legally entitled to notice. If the mother is known, for example, if the child is-- the mother gives birth at the hospital, a birth certificate is required. The mother's name is put on that birth certificate, and she is given legal notice of that proceeding, that child in need of assistance action, as well as that termination of parental rights action. As long as those parents are known, they are entitled to notice of the legal action.

DeBOER: So they have 30 days from--

LAURA LEISE: The date of relinquishment.

DeBOER: --the date of surrender--

LAURA LEISE: Correct.

DeBOER: --to reclaim the baby or--

LAURA LEISE: Right. They come forward.

DeBOER: Then they-- they're term-- they're not terminated. Because I-- in my head, I'm imagining the box. You know, they close the door, the box clicks, and they're like, oh, what have I done? This is a big mistake.

LAURA LEISE: No.

DeBOER: They've got a--

LAURA LEISE: They do have a period of time. Yes.

DeBOER: So they have 30 days.

LAURA LEISE: And, and that is different throughout the country. Every state may or may not have-- they may have 30 days. They may have 90 days. It's completely discretionary.

DeBOER: And then, if one of the parents comes forward, they-- like, so the mother relinquishes. The father can, can say, I, I want the baby.

LAURA LEISE: Yes.

DeBOER: OK. And then if grandma is upset that baby-- whatever-- puts baby in anonymously, mom's looking for baby. Do you have a way to get them reunited with the mom?

LAURA LEISE: That, that, that mom would have to contact Health and Human Services. And, hopefully, we would be able to get them in, in touch with that legal proceeding.

DeBOER: I mean, she probably calls the cops. The cops can-- so that works out.

LAURA LEISE: Yes.

DeBOER: OK. So-- OK. I'm trying to get through all my questions here. I think that's-- I think that's it for now.

LAURA LEISE: OK.

WAYNE: So you do a 3a proceeding?

LAURA LEISE: I'm sorry?

WAYNE: You, you do a 3a proceeding?

LAURA LEISE: I'm not sure what that is.

WAYNE: Terminate-- sorry. Termination of parental rights you, you do through the courts.

LAURA LEISE: Yes. Yes.

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WAYNE: So if they drop baby off at Fort Dodge, because Fort Dodge is the only one that has one in Iowa, how do, how do you know-- you don't know who the parents are.

LAURA LEISE: Correct.

WAYNE: So what is the-- what is the proceeding?

LAURA LEISE: Right. You would ask for a foundling birth certificate to be issued for that child. It's called a foundling, f-o-u-l-d-i-n-g [SIC], to be issued through vital records. You would then provide, through the child in-- what we call a child in need of assistance action, you would provide public notice.

WAYNE: So public notice is a-- is sufficient.

LAURA LEISE: Like a newspaper--

WAYNE: Has there been any challenges in Iowa to the public notice requirement?

LAURA LEISE: Not that I'm aware of, but I'm not an attorney. So.

WAYNE: Because you can't give public notice on custody in Nebraska. You can't give public notice on termination of parental rights in Nebraska. You have to-- yeah. So, anyway. So what if-- what happens out-- outside of the 30 days? Is it 30 days from when you knew or is it 30 days from when child is placed in state custody?

LAURA LEISE: It's 30 days from the-- I said I, I don't know of an-- of a case in Iowa where the, the, the date of relinquishment is the date of removal. So it's the same date, but it's whenever the court order for removal is issued.

WAYNE: Because 30 days isn't that hard to, to dodge, for 30 days, to-- dad or mom doesn't know.

LAURA LEISE: Right.

WAYNE: And I'm just thinking-- OK. Go ahead.

DeBOER: So with-- so-- because, obviously, we want to get the kid to permanency, right--

LAURA LEISE: Correct.

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DeBOER: --so that the new adoptive parents can feel like we got through the 30 days. But the public notice issue, plus 30 days, you might not find them. If you find the father outside of the 30 days or if the father comes forward outside of the 30 days--

LAURA LEISE: It's been my experience in, in general practice, because prior to me having this position, I actually worked these cases as a social worker. So sometimes some of my information is from both ends of the--

DeBOER: Yeah.

LAURA LEISE: --the spectrum. Until that termination of parental rights is issued and file-stamped, those parents can still come forward. We're not going to-- the 30 days is a general guideline, but we still have to have that legal document that would surrender it.

DeBOER: So we have 90 days from, from birth to relinquishment under this bill.

LAURA LEISE: Correct.

DeBOER: If day 80, baby is surrendered. We don't know who the parents are. Thirty days forward, relinquishment of parental rights. Outside of those 30 days, father comes forward and says, whoa, whoa, this is my child. I just found out about-- this is my child, whatever.

LAURA LEISE: Right.

DeBOER: Wants parental rights, is he out of luck?

LAURA LEISE: If a termination of parental rights order has been issued, I think he, he could have an argument to say he was the father. But, again, those are really narrow legal questions that I probably am not necessarily qualified to answer.

DeBOER: OK. Thank you.

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

SARAH HELVEY: Good afternoon. My name is Sarah Helvey. It's spelled S-a-r-a-h, last name H-e-l-v-e-y, and I'm a staff attorney and director of the child welfare program at Nebraska Appleseed. And I was here in 2008, at the time of the original Safe Haven Law. I re-- very well recall the 2-month period when we would get phone calls from the

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media every couple days, with teenagers dropped off. As others have said, the ultimate toll was 34 kids and none of them infants, mostly teens and preteens, whose parents love them and were committed to them, but felt this was their only option to get them the help that they needed. I testified at the special session and the subsequent regular session in support of a package of bills to address the underlying behavioral health crisis that was exposed. And so we just feel it's important to note that unmet behavioral health needs still exist, and parents should not have to give up their children because they don't have the support they need. So with that overall context, I want to offer a few specific suggestions on the bill. First, in addition to providing protection from criminal liability, we believe the bill should be clear that parents will also not face child welfare consequences for safely relinquishing an infant, as to that infant as well as any other children in their care, based solely on the act of surrendering an infant. Second, the bill should require the department to check the putative father registry and pursue any other known information about the child's paternity before a TPR petition is filed. You've mentioned that I-- it sounds like that may be the practice, but it's not within the four corners of the bill, so I think it might be helpful to include or to cross reference. Third, the bill should require that the appropriate tribe or tribes and the Bureau of Indian Affairs be notified if there's reason to believe that the infant is a Native American child. And, lastly, the bill should provide for drop-off locations to provide a notice of rights to the parents, including legal-- the legal reper-- the potential legal repercussions of leaving an infant. And the notice should also include information about supportive services available. These are included in the Safe Haven laws of 17 other states. And in addition, several other states provide the parent with an opportunity for reunification within a period of time. And then finally, in a time of new abortion bans and restrictions, Safe Haven laws should be examined with closer scrutiny. Despite reference to this in the majority opinion in the *Dobbs v. Jackson* case, Safe Haven laws are intended as an alternative to infanticide, not abortion. And we believe women should have the choice and support to make informed decisions about parenthood at all stages. We want to thank you for your efforts to protect children and their biological parents, as well as their future caregivers, and for your consideration of these suggestions. And we want to thank Senator Holdcroft and the many cosponsors for introducing this bill. Happy to answer any questions.

WAYNE: Any questions from the committee? Yes. Oh, I'm sorry. Senator Bosn.

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BOSN: Oh, I was-- I thought--

WAYNE: Because the transcribers wouldn't have known who I was talking to when I said yes.

BOSN: Thank you. So your first thought you wanted to share was that parents face-- not face child welfare consequences. Is that happening now under the current statute that you're aware of? Or has that, has that been an issue, I guess, is my question.

LAURA LEISE: I'm not sure if it has. My understanding is there's been a very low number of these cases anyway, so I'm not certain of that. But there's a very clear exception for criminal prosecution, so that would be our suggestion, is to add the child welfare consequence, as well.

BOSN: OK. You're talking about then, if there's other children in the home. I'm not following you.

LAURA LEISE: OK.

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

LAURA LEISE: Thank you.

KRISSA DELKA: Good afternoon, Chairman Wayne, members of the Judiciary Committee. My name is Krissa Delka, K-r-i-s-s-a D-e-l-k-a, advocacy coordinator for the Nebraska Health Care Association. And on behalf of our 401 nonprofit and proprietary skilled nursing facilities and assisted living community members, I'm here to testify in a neutral capacity on LB876. So the main concerns we had with the green copy language, due to its inclusion of other healthcare facilities, on page 2, line 4, as the potential drop-off location. So our concern cited the definition of the healthcare facilities, in 71-413 of the Nebraska statutes, includes multiple facility types that may not be equipped to safely receive newborn babies should the parent or parents seek to relinquish them. So we have been having conversations with Senator Holdcroft, and I thank him for his introduction of AM2142, which is why we are coming in neutral, but would support that amendment adoption. So I would take any questions you have.

WAYNE: Thank you.

KRISSA DELKA: Thank you.

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WAYNE: Any-- oh, any questions from the committee? So-- this is where I get in trouble. So mom had-- mom has child in the hospital. There's a birth certificate issued. And then there's going to be-- she-- once they-- mom and dad both agree to give up child to a Safe Haven, so they turn her over.

KRISSA DELKA: OK.

WAYNE: So then there's a case out there with, with parents' information on there. Is that case sealed?

KRISSA DELKA: I'm sorry, Senator. You'd have to refer that to an attorney, but--

WAYNE: I-- no-- I was--

KRISSA DELKA: As far as paternity, I, I don't have an opinion on that. I-- you know, as attorneys, I think that that's something for them to hash out, as far as our members are concerned. I mean, Safe Haven laws save lives, but appropriate places for designation for drop-off locations is our main concern.

WAYNE: OK. Thank you.

KRISSA DELKA: Thank you.

WAYNE: Next neutral testifier. Seeing none, as Senator Holdcroft comes up to close, there were 140 letters, 139 in support, 2 in opposition, and 2 in neutral. 143 letters, 139 in support, 2 in opposition, and 2 in neutral.

HOLDCROFT: Well, thank you, Chairman Wayne. Appreciate it. And I appreciate all of the testimony-- testimonies today, all the people who came, particularly, the-- our visitor from Iowa, who had a lot of good information about how Iowa does their program. And, again, the purpose of my bill was to relieve prosecution of parents when they surrender their child. OK. And so we-- and we're just providing more locations for them to drop off their child. Currently, only at hospitals, that's the current law. But now we've expanded it to other locations where they can surrender their child. So my assumption was, any issues as to, you know, father, paternity challenges after surrender, I believe those procedures are already in place. If they're not, well, then I'm happy to, to try and do them, but that's not part of my bill. That was-- my assumption was all we're doing is adding locations to the left of hospitals, in other words, before hospitals. And in every case, whether it's a, a, a fire station, a, a law

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enforcement, 911, or a baby box, the next step is to take the, the child to a hospital. And then at that point, DHHS is, is contacted, and the procedures follow as if they were just under the current law. So that is-- that was the intent of the law. Now, there have been a lot of questions, which-- you know, I'm happy to-- and we have engaged with DHHS on this. And they have questions about their own, own process and procedures, but that's really not part of what I was trying to do with this, with this law. So I'm, I'm happy to bring up something next year, possibly, to, to look at that side of the, of the equation. But with this one, we're just trying to keep it pretty clean.

WAYNE: Any questions from the committee? Senator DeBoer.

DeBOER: Thank you. So the, the main question I have is if-- I know you're just trying to add new locations, but if there's a difference in mom present, handing baby over to mom putting baby there, nobody knows who the baby is, because if mom's present and they can find out what's the father-- you know, that kind of transaction, to figure out whose parental rights to be terminated can happen in that interaction in the hospital. If there's a baby in a box, there's no way to do that. I think that's--

HOLDCROFT: That's correct. But I think that's a key to, to the peace of anonymity that allows for more babies to be--

DeBOER: Right. And that's-- I think that's the rea--

HOLDCROFT: --surrendered.

DeBOER: Sorry. I'm sorry. Go ahead.

HOLDCROFT: But yeah, that's-- I understand that's a problem. That's a new issue. I mean, it would be nice to know everything about that child so that you can care for it afterwards. But we also want to provide this no [INAUDIBLE] piece of anonymity, so that we can, we can save more babies, and, and, and avoid more abandonments.

DeBOER: No, I think that's exactly right. I think that's just what's brought up some of these questions about how do we make sure that whoever the family is that adopts the child can be assured, you know, nobody's going to come and take the kid back from them, because they've gone through the correct process. And it sounds like Iowa has a process for terminating parental rights that--

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HOLDCROFT: And I would not be surprised that Nebraska DHHS also has the same procedures. So that's-- the fact is they do get abandoned children, but they don't know-- have any information other than an abandoned child. So all we are is making it more safe and allowing-- if, if, if a parent today abandons a child, in other words, just drops it in a box in front of a church. OK. They're open for prosecution.

DeBOER: Yeah.

HOLDCROFT: Under this law, if they do it at a, at a fire station or in law enforcement or in a box or called 911, then they are not subject to prosecution. So that's the difference, I think--

DeBOER: Right. But if--

HOLDCROFT: --which will allow for more babies to be--

DeBOER: If they're abandoned now, I assume that then, in the process of prosecuting them for abandonment of the child, you would know who they were and could terminate the parental rights. I-- it's just a question of how to terminate the parental rights. Understand. Thank you for bringing it. It's a good idea.

HOLDCROFT: OK. Thank you.

WAYNE: Any other questions from the committee? Seeing none, thank you for being here. And that will close the hearing on LB876. And now we will open the hearing on LB1195. Senator Conrad, welcome to your Judiciary.

CONRAD: Hello, Mr. Chairman.

WAYNE: Wait a second, give us a second.

CONRAD: OK.

WAYNE: Welcome, Senator Kro-- Hol-- Senator Holdcroft-- Senator Conrad on LB1195. Welcome.

CONRAD: Welcome. Thank you so much, Chairman Wayne, thank you, members of the committee. My name is Danielle Conrad, it's D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d. I'm here today representing north Lincoln's Fighting 46th Legislative District, and to bring forward LB1195. OK. LB1195 is the product of literally months of hard work, collaborative work, that has been undertaken by a diverse set of stakeholders who care about access to justice in Nebraska. So I want to give a

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well-deserved shout out to the Nebraska State Bar Association, the Nebraska Association of County Officials, the Nebraska Criminal Defense Attorneys Association, the Nebraska Association of County Attorneys, the representatives from the Nebraska Supreme Court, the Attorney General's Office, and the law schools have really been working hard to address this issue over many, many months. And I know that you hear from these legal luminaries frequently in the Judiciary Committee, and sometimes on different sides of any given, given issue. But we're really all coming together on the same side to ensure that we are doing more to address access to justice all across Nebraska, and particularly in rural practice areas. So simply put, and you well know, Nebraska has challenges when it comes to ensuring access to justice through the legal system in many parts of our state. There are a dwindling number of attorneys who are choosing to practice in rural communities. That continuing trend is not new. Recognizing that we needed to address this issue, the Legislature took important steps in creation of loan repayment programs, I think first brought forward by my friend Senator Mike Flood, and then I picked up the baton and worked with this Judiciary Committee, and then Chairman Ashford to carry that measure forward through LB907 in 2014 to provide loan repayment grants for law school graduates who were engaged in public service loan, public service practice, or who were practicing in rural counties. That program has helped over the years, but it has not been able to do-- to meet the full need that we have available, particularly in rural Nebraska. And that's why these stakeholders came together, as there was a continuation and ever worsening trend line in terms of finding qualified applicants to serve as county attorneys and public defenders in not only our, perhaps, most rural counties, but even larger counties in Nebraska. And this-- these vacancies, these persistent vacancies have cost county taxpayers a lot of money as they are forced to contract out for these services when they don't have a full-time attorney serving in those positions. It has hindered the administration of justice, frustrating from litigants' point of view, judicial point of view, the learned attorneys on both sides of any one of those given issues, and in fact hurts our public safety goals when those cases languish in our judicial system. And so the stakeholder group came together. We decided to look for solutions, and the solutions are present in LB1195. It includes removing barriers to the county threshold that was very, very low in the original program, to apply to more counties. It made some changes in regards to contract provisions, and who pays for CLEs, and some of those more kind of technical perspectives. And then thanks to the generosity in both spirit and deed from my friend, Attorney General Mike Hilgers, there's been an openness to figure out what level of appropriation might be

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available from settlement funds in his office to help bolster this program now and moving forward. And we're essentially, as I understand from Attorney General Hilgers, still kind of running the numbers as to what might be sustainable from a transfer in the settlement fund, and that's why you see a placeholder number in the bill marked out by XXX. So the Attorney General has worked very hard and very thoughtfully in good faith to help figure out what investment might be able to be made for these purposes at this time. And I really want to thank him for that consideration as well. So let me see if I've covered everything else here. Yeah, I think that gives you the top lines overview. I know there's a great group of testifiers that are here, and I'll stick around to close. But, of course, happy to answer questions now.

DeBOER: All right. Thank you, Senator Conrad. Are there questions from the committee? Senator Bosn.

CONRAD: Yeah.

BOSN: Thank you. Senator Conrad, was there any discussion about the re-- enticing individuals to go to these communities that have no attorneys is great, but that they have the qualifications to actually practice in this area. Was there ever any discussion about, before you can become an appointed defense attorney in these areas you would have to have had 5 jury trials, or-- I don't-- I'm using that as an example because it make-- it's an easy one, not necessarily--

CONRAD: Right.

BOSN: --that it's the one, but. Because the concern I have is on both ends, actually, that would be setting the community up for, for prosecution or for defense work. And I don't know that that solves our problems any better than not having the attorney at all does.

CONRAD: Yeah, I-- that, that's a great question, Senator Bosn, thank you. And thank you for your care and concern in terms of the quality of representation that we have for both the public and the accused in the courtroom, because we need both to be highly competent in order to work well. And, of course, prosecutors have additional ethical considerations that they work within in the administration of justice. So I don't believe that is within the 4 corners of the bill, within the scope of the bill. If I'm wrong, I will clear that up in close, or maybe somebody else can speak to that as they provide testimony. I don't think it goes to additional specific qualifications other than would otherwise exist for public defenders and county attorneys to practice in this regard if they were utilizing this loan program.

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That's something that we could definitely think about as well. And, you know, I think another related and smart point on your line of questioning is that we do want to ensure that we have competent attorneys who have the requisite, requisite experience to carry out these important roles. And if we're able to provide more, a more generous package in terms of loan repayment, we're going to be able to make a better case to recruit or retain an experienced attorney. So that's something that I think we really need to keep in mind on dollars and cents of it.

BOSN: Thank you.

DeBOER: Thank you, Senator Bosn. Other questions from the committee? Senator Ibach.

IBACH: Thank you, Vice Chair Wayne-- or Vice Chair DeBoer. I'm sorry. Looked right at Wayne's seat. Do we-- do you think we have the workforce available to support the need for county attorneys, especially when you look at this map? Do we have the workforce available?

CONRAD: I do. I, I think that we do. I mean, when you look at the number of practicing attorneys in the state, you look at the pipeline at Creighton and at UNL and perhaps even in some of our surrounding states, I do think that there are enough attorneys to fill the position. I think that there's also a lot of people who call greater Nebraska home, and in many instances want to return there after completing their legal education. But for a lot of different reasons, including dollars and cents, can't always make that work, especially as we see educational debt becoming more and more burdensome. So I, I don't think it's necessarily a disqualifying barrier that we don't have enough people. I don't think we've figured out how to put together the right packages to make sure that we can recruit and retain folks back to greater Nebraska. And you've seen success in this in a parallel way with the rural health programs, that really, you know, look at people from those communities that want to return to those communities and enrich those communities. That's kind of the first point in recruitment. And then beyond that, you know, trying to figure out for other reasons if there's folks that you can recruit or retain in.

IBACH: So just as a follow up.

CONRAD: Yeah.

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IBACH: It, it's your opinion that the Rural Practice Loan Repayment Assistance Program, which helps--

CONRAD: Yeah.

IBACH: --with their educational expenses, but you feel like they need a, a more substantial amount to cover housing and all the other incidentals that you would need to live.

CONRAD: Yes, I think that the existing program has been a great start and has generated, I think, a lot of attention around this issue. But I, I think we need to update it and I think we need to make it more robust to make it really work. And particularly as we're seeing this trend where it's not just that we don't have an attorney in X County who can write wills or handle divorces or things like that. We're also not having attorneys in these counties to handle serious criminal cases as well on both sides of the table.

IBACH: OK. Thank you.

CONRAD: Yeah.

IBACH: Thank you.

DeBOER: Thank you, Senator Ibach. Other questions from the committee?

CONRAD: OK.

DeBOER: Thank you, Senator Conrad. We'll have our first proponent testifier.

BOSN: A pig just flew by the window. I'm kidding.

DeBOER: Well, look at this, it's General Hilgers.

MIKE HILGERS: Good afternoon, Vice Chair DeBoer, members of the Judiciary Committee. My name is Mike Hilgers, M-i-k-e H-i-l-g-e-r-s. I'm here to testify in support of LB1195. I appreciate, first and foremost, Senator Conrad's work on this particular bill. It's a critical issue. She-- I think she said very eloquently the importance of access to justice, and in particular out west. How the, the lack of attorneys, it puts that access to justice at threat, both from county attorney perspective as well as from criminal defense lawyers as well. So I appreciate all of her work, honored to work with her as well as my other stakeholders in this space, including the bar association and others on this particular-- on this particular goal. I want to make

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three points, if I, if I have time. The first is a little bit of my anecdotal experience traveling out west and what I saw in the urgent need for a bill like this. The second is to discuss a little bit of the methodology around the number for us, at least, which is \$500,000, and as I sit here today, I'll expand on that. And if I have anything, any time left, I'll maybe touch on the questions from Senator Ibach and Senator Bosn, so. I-- there's-- I traveled around all 93 counties last year and met with county attorneys and sheriffs and asked them what you need. And maybe at the very top of the list was recruiting. A lot of communities that maybe 10 years ago had 5 attorneys, gen-- attorneys, not just county attorneys, but in private practice. And they had a public-- they had a public defender, now might have one. The number of lawyers are dwindling, and that-- it poses significant issues to people in those communities. It is-- but it's, it's not-- but it's not a story, I think, that doesn't have a little bit of hope. I do think there are people that are willing to move and live in those communities, but we have to have a, a multi-pronged strategy to help make it-- reduce the friction for those people to be able to live out there, and raise families, buy homes, etcetera. So this is one part of, of, I think, a multi-pronged solution. We're strong-- I'm strongly in support of LB95 [SIC--LB1195]. Briefly on the methodology. So this is-- this coming out of, as proposed, out of the cash funds from our Consumer Protection-- our Consumer Settlement Cash Fund. We have-- in last fall, we did a sort of a modeling process. Our big concern is that we have enough funds to be able to fund our consumer work. So the settlement dollars, oftentimes in the settlements that, that pursuant to which the dollars come, are settlements that have actually say these dollars should go to a consumer protection purpose. All of our consumer efforts are-- come out of cash funds, they're not on the Nebraska taxpayer. And so when we look through the health of that fund, we look not just at what is our budget today for lawyers inside the office, but also maybe litigation expenses, but what it looks like for the next couple of years. And we look at what is our likely settlements that might come in, what do we think our expenses might look like? And we want to be not just healthy for next year, but at least for another biennium beyond, because we don't want to be in a position where we're having great work on behalf of Nebraska taxpayers, and then all of a sudden we have to stop or we have to go put it on the-- put it on-- into General Fund dollars. May I continue, or--

DeBOER: If you finish, yes.

MIKE HILGERS: If I could finish in-- quickly. So we did that process-- we did that process in, in the fall, and, and concluded at the time

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that we could-- \$500,000 out of the cash fund was very sustainable, we could absolutely do that, which I think was a tripling of what we had before. Subsequent to that, there have been other asks on our cash fund, including the property tax request from the Governor, which is about \$15 million, which we supported. I've since had subsequent conversations with Senator Conrad about potentially more dollars, both to create an endowment which might cost maybe \$5 million. And then in the near-- if, if that isn't feasible today, 1, maybe \$1 million now. I've committed to Senator Conrad that we would model the \$1 million. My goal is first and foremost to protect the consumer group. And I-- even though I do not think \$5 million today would be something that would-- I think would threaten the sustainability of our cash fund, I have committed to Senator Conrad, given the importance of this program, that as our consumer team does their work and we get more dollars in that this would be a top priority to fund. Thank you for letting me go over.

DeBOER: All right, thank you. Senator Bosn.

BOSN: Thank you. So your third promise was that you were going to answer my questions and Senator Ibach's questions. Can you tell me what the-- or was there a conversation about the need for good quality attorneys, both-- on both sides of things? And then also Senator Ibach's question, related to can we fulfill the vacancies that we have?

MIKE HILGERS: So I would say to your question, Senator Bosn, that this bill doesn't address that specifically. And, frankly, I think if, if it was-- if, if we added that layer of differentiation, I, I think we might be cutting it-- my opinion would be we would be cutting it a little too finely. We need good lawyers out there, period. I have found anecdotally that the county attorney's offices and the County Attorneys Association does a really, really good job of training young lawyers. I don't think I found one instance today that there is a under experienced or, or even someone who is really new, like right out of law school, being a county attorney. What I'm finding is new county-- new graduates or people who are maybe are light on experience are going to places like Scotts Bluff or Buffalo County, or maybe even to Douglas or, or Lancaster, getting experience and then going out west. So certainly that's a concern, but I don't, I don't think that this type of a program, which I don't think was your question, Senator Bosn, but to be clear, would help sort of encourage under qualified or inexperienced lawyers to be county attorneys. And my view is, the more lawyers that go out to greater Nebraska, the better. And we'll, we'll find supports-- that's a good problem for us to have. We'll find

support structures to train them and put them in a position to not-- to make sure they're following their ethical duties. To your question, Senator Ibach, absolutely. And I think we should, in Nebraska, view-- we have a nationwide market-- marketplace for talent. In fact, I don't-- I'm not sure, is Deuel County in your district? Just outside of your district, but Deuel County Attorney-- there, there are three county attorneys I met who are not from Nebraska at all. When I was in private practice, we recruited lawyers from around the country to, to come and work at our firm. The truth is, for the-- for the right people-- person living and working in Nebraska, and in a smaller community in Nebraska, is the best job they could possibly ask for. A lot of people don't want to live in Chicago. A lot of people don't want to live in Washington, D.C. A lot of people don't want to live in Lincoln or Omaha. But if you can tell the story about how they can live and work and see their kids every day and have the kind of lifestyle, quality of life, and still make a difference for their community, we can recruit across the country. And given that we have already several county attorneys in Nebraska who are from-- not from Nebraska, I think, I think that's a proof of concept for us. And so, yes, absolutely. And I think with the right market and recruiting strategy layered around it in LB1195 and those kinds of tools, we absolutely can do it.

IBACH: Thank you.

DeBOER: All right. Are there other questions from the committee? Senator McKinney.

McKINNEY: Thank you, Senator DeBoer. I got a question. What do you think of the concept of having regional attorneys?

MIKE HILGERS: District attorneys?

McKINNEY: Yeah.

MIKE HILGERS: Yeah, I think we need to double down on our county attorney system. The amount-- for a couple of different reasons, Senator McKinney. The amount of work our county attorneys do beyond just criminal prosecutions or, or some of the civil work, I think is pretty incredible. The idea of putting that on our office, I think, would be pretty difficult, as an example. I mean, for us, for us to take on those kinds of responsibilities would be pretty significant. I think also, beyond that, the county attorney's-- the, the more you can have local, responsive level of government-- if you've got an issue with your county attorney, you can vote them out of office, you can--

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I mean, we saw this with sheriffs as an example. Down in Dundy County, there was an issue with the sheriff and they recalled the person. You can vote them out of office. They were-- they're having contested elections out in county attorney races around the state recently. So I think we ought to double down on the county attorney system by getting more lawyers out there. I will say, there are some counties-- there are some counties, because there are so few lawyers that have teamed up and almost created like little quasi-regional super county attorneys, one person who might represent a couple of different counties but--

McKINNEY: What do you say to people that say though, the law isn't being applied the same across the state? Like one thing is being charged in this county, but it's not being charged here?

MIKE HILGERS: Yeah, and I've-- well, I've talked to Sena-- I've had a lot of conversations, conversations with Senator Wayne about that. I know he's pointed out a few. I mean, first would be-- I'd have a few different responses. I mean, first, that, that-- obviously communities such as Omaha, where you represent and some other communities are different. And so the first question I would ask would be, are we really seeing a disparity of justice versus just a disparity of underlying facts? That'd be the first question. Now, if there is a disparity of justice, then we have to address that. That's a real problem that we should address. I'm not sure the solu-- I'm not sure, I'm not saying it's not-- I'm not sure the solution, though, is transferring that to a district attorney system. But I think that would be the first question I would ask is what is driving the disparity? Is it-- is it the difference-- is it unequal treatment of law which is a problem, or is it just unequal factual circumstances, or maybe not a true disparity. Is that-- I don't know if that fully answers your question, Senator McKinney.

McKINNEY: Sort of. I guess across the country, I guess our-- I don't know if you've seen it. Have you seen a difference in states that have a county attorney system versus a district attorney system? Have you seen a difference?

MIKE HILGERS: I, I had not--

McKINNEY: What's better versus what's--

MIKE HILGERS: I have not done that depth of analysis. If we-- if anyone on our team has though, Senator McKinney, I'll find out and get that for you.

McKINNEY: OK.

MIKE HILGERS: I haven't seen that.

McKINNEY: All right. Thank you.

MIKE HILGERS: Yes, sir.

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

MIKE HILGERS: Thank you, Senator DeBoer.

DeBOER: Next proponent testifier. Welcome.

ELAINE MENZEL: Thank you. Vice Chair DeBoer and members of the Judiciary Committee, for the record, my name is Elaine Menzel, it's E-l-a-i-n-e M-e-n-z-e-l, here today on behalf of the Nebraska Association of County Officials. First of all, we would like to express great appreciation to Senator Conrad for introducing LB1195. And if I didn't say so, I'm in support of the legislation. This has been one of the most exciting projects in, in my history with the Legislature with respect to, as the senator-- just-- Senator Conrad described, all of the parties being brought together to work on and develop legislation. I won't go through the entirety of that list again, but just, I believe that there were a couple parties that weren't mentioned, and that happened to be the Governor's Office and the Lieutenant Governor himself, as well as-- I, I can't remember if it was representatives from the judiciary were also involved. The way that this started with respect to discussions is that we were contacted from some of the counties that were having difficulty filling vacancies within, for example, the, the public defender's offices, and they were, as was suggested, counties that were not the smaller populations, but rather we're talking Platte, and Seward, and some of those, those counties that you wouldn't typically think of as, as, having difficulties with retain-- or recruiting attorneys for positions such as this. So with that, we reached out to the bar association, and gradually our work group grew. What our goal was initially was to identify statutes that would perhaps help us align so that the public defenders' and the county attorneys' positions would be similar with respect to the relationships with county boards. My impression, and this goes perhaps to your question related to education and the professionalism of these positions, I don't believe our conversations are over, but I think that we've got the good starting point with respect to some diverse organizations dealing with

issues associated with the profession of law. Also, it was exciting, talked about perhaps bringing in chambers of commerce and some of these other things that would build upon some of the issues that others behind me will talk about. With that said, I don't know if I addressed everybody's question, but I would attempt to answer them if you happen to have any of me.

DeBOER: Are there any questions from the committee? Don't see any, thank you so much for being here. Next proponent testifier. Welcome.

LIZ NEELEY: Welcome. Good, good afternoon. My name is Liz Neeley, L-i-z N-e-e-l-e-y. I'm the executive director of the Nebraska State Bar Association, testifying today in support of LB95 [SIC--LB1195]. As you've already heard, rural Nebraska is approaching a crisis with the loss of lawyers in many counties leaving their residents underserved. So currently in Nebraska, we have 12 counties with no lawyers, and an additional 18 counties with 3 or fewer. It is projected that by 2027, if the lawyers that we expect to retire are not replaced, there will be 16 counties with no lawyers, and an additional 32 with 3 or fewer. We hear from attorneys in rural Nebraska that they'd like to retire. Their clients won't let them. We heard they would hire the next person that walked through the door. No one's walking through the door. Unfortunately, a newer dynamic has developed, and our state is experiencing an unprecedented number of county attorney and public defender vacancies with no applicants, Scotts Bluff, Platte, Adams, Dawson, Buffalo, Hall, Lincoln, Harlan, Dodge, and Seward, among others. Some of these positions have been vacant with no applicants for more than six months. A few have been vacant with no applicants for over a year. County attorneys and public defenders play an integral role in our justice system. County attorneys also play the dual role of supporting local government and counsel for the county board. Elaine Menzel from NACO mentioned the group of stakeholders that, that came together. And over the course of that year, what we discovered is that the statutes dealing with county attorney and public defender vacancy or positions really developed over time, and it resulted in a patchwork of differences based on population, based on whether the position was an elected position versus a contracted position. And so LB95 [SIC--LB1195] really seeks to accomplish a few things. First, it allows counties flexibility to determine whether a county attorney and public defender serves in a full-time or a part-time capacity as needed. It provides greater flexibility in setting compensation. It provides parity between county attorney and public defenders when it comes to the cost of their continuing legal education and license renewal whether the position is elected or by contract. And it provides legal employers with a better recruitment

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tool, tool by expanding loan forgiveness for lawyers who practice in underserved rural communities. And it does that in two ways. By increasing the amount of funding available, but also increasing the population threshold for counties eligible. I want to thank Senator Conrad for her leadership on this issue, and supporting the needs of rural Nebraskans. I believe there's several others here to testify, so I'll, I'll stop there. I've included kind of a fact sheet, some maps, some elec-- some articles from Hastings', Seward's, and Grand Island's newspaper, and a listing of the 16 counties that would be eligible if this bill was passed. So thank you for your consideration. I'd be happy to answer any questions.

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

LIZ NEELEY: Thank you.

DeBOER: We'll take our next proponent. Welcome.

GERARD PICCOLO: Welcome. Thank you. Good afternoon, members of the committee. I am Gerard Piccolo, G-e-r-a-r-d, Piccolo, P-i-c-c-o-l-o, like the musical instrument. I am the Hall County Public Defender. I have been the Hall County Public Defender since February 1, 1990. And that's 34 years. I have a lot of experience in dealing with public defending. I just wanted to come before you to add my support for LB1195. I think-- and, and Attorney General Hilgers mentioned this, there has been a, a dearth, there has been a lack of people applying. For instance, since the pandemic occurred in 2020, I've had at one point in the succeeding 3 years, I've had 4 attorneys in my office. We are an 8 attorney office. We needed all of those attorneys. That created a great deal of problems for me in the way of managing workload. It also created a problem in quality of the representation. We had to farm out cases to the Nebraska Commission on Public Advocacy, which has done an excellent job and is very, very well supported in the entire defense community. But what's more important is, I'm here to answer your questions about somebody who's actually in the trenches and who has to actually deal with this lack of people coming out. One of the important things about LB1195, which I find very, very important is the loan forgiveness. Most people who come out of law school, and I've talked to a lot of people coming out of law school, have tremendous debt. The loan forgiveness would be an excellent enticement tool, an excellent tool to attract people to come and work in the public defender's office in outstate Nebraska. In addition, also the equality, the requirement of equality. I've had people say, why should I come for work for you when I can go to the

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county attorneys and they'd be paid more? That's more a county problem, because in Hall County now, by virtue of a contract, the, the public defenders are paid exactly the same as the county attorney's, and, and that's important. I need to attract people to come into my county to do the work that's necessary. So I'm here to offer my support by a person who's actually been in the trenches and actually has done the work, and I've done it for 35 years. So with that, I'd ask the committee if there are any questions. I'd be love-- I'd love to answer them.

DeBOER: Are there questions? After such a gracious invitation, are there any questions?

GERARD PICCOLO: Senator Bosn, let me answer your question about training, OK? I was in the United States Air Force, so I know about training. You're, you're not going to come out of law school and do a first degree murder case in Hall County. If there's anybody that's going to do it, it's going to be somebody like me who has had 35 years experience. So we train people. We start them initially in misdemeanors, move them up to felonies gradually. And it's a matter of what I consider to be, you know, had they succeeded, have they come upon the next step, and, and gradually they work their way into it. Also, if we have a first degree murder case, we have what is called a second chair, or an attorney that's helping out. And that's a good way of gaining experience. That's the proper way of doing it in a public defender's office. I assume it's the same on the county attorneys, because we're really just kind of like mirror reflections of each other. So we would not put somebody in that situation. Now, has that situation occurred before? Yes. And I think it's just wrong.

BOSN: So my issue was, I-- thank you for your testimony on that. And, and my issue wasn't necessarily that you would do that or anyone would do that. It's more to these communities that have zero, and they have one attorney out of the 6 counties around Hooker, McPherson, Thomas, Logan, Grant, and Arthur. And if that individual is a recent graduate of law school-- I mean, most people start in civil, child support, or juvenile law. They try cases there. They still have someone supervising them. Even when you get to misdemeanors, you're going to be doing traffic, shoplifting, something where you're learning those skills because it's not a good use of the public funds, and it's not fair to the public. It's certainly not fair to the victims if you're a prosecutor and you don't have those skills, and you go before a jury and you do a sloppy job, it reflects poorly on your office, right?

GERARD PICCOLO: Correct.

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BOSN: But if they have one person there, and that person doesn't have a mentor to train them up and they haven't had that experience--

GERARD PICCOLO: Well, the thing I can-- the way I would answer that is we have the Nebraska Commission on Public Advocacy. Excellent organization, I've used them before. The idea-- and I was around when the commission was established. The idea was counties like that, in which case it was Richardson with, with the Richardson murder cases, the Rulo murder cases. It was counties like that, like McPherson and other counties out west that needed the Nebraska Commission on Public Advocacy. But there really isn't any solution for counties that don't have attorneys other than to get the qualified attorneys out there. And that necessarily means you've got to attract them. And I think this bill does a lot towards attracting them. But you also have to have somebody who's maybe in an office that can attract people. And I've been there 35 years. The fact that I've been there 35 years suggests this person knows what he's doing. And so those attorneys that come out of law school will come to that office. And, and so that's important too. But if you don't have it initially, I don't know how you establish it other than to try to attract them to come out.

BOSN: Sure. Thank you.

GERARD PICCOLO: And LB1195 does that.

BOSN: Thank you.

DeBOER: All right. Thank you. Other questions? Senator McKinney.

GERARD PICCOLO: Yes.

McKINNEY: Thank you. How are you working to build diversity?

GERARD PICCOLO: Well, I, I will tell you this. We-- when, when I go out and interview people, I tell them about Grand Island. And one of the things I tell them about Grand Island is that we're very diverse. We have hispanics. We have Somali. We have Sudanese. In addition, we've had hispanics come from Florida, from Cuba. So we're a very diverse community. And I tell them, because you're a diverse community here, you're going to deal with a lot of diversity. All right. That seems to attract people. All right? And so that's one of the things that I do to allure-- to lure people in, to attract them, to entice them in to come to work for my office. And, and one of the-- one of the best things I've done in the last 2 years is I went to Creighton University, and we now have a, a person who's an excellent juvenile defense attorney who's working who's African American. And, you know,

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I'm glad I hired her. No question about it. And she's, she relates quite well to the community that we have in Grand Island.

McKINNEY: OK, I think I know who you're talking about.

GERARD PICCOLO: Yeah.

McKINNEY: Yeah.

GERARD PICCOLO: You know Sid [PHONETIC]?

McKINNEY: Yeah.

GERARD PICCOLO: OK. Sid is excellent.

McKINNEY: Yeah. All right.

GERARD PICCOLO: I'm glad I hired her.

McKINNEY: Yeah. She's a good person. Thank you.

GERARD PICCOLO: You're welcome.

DeBOER: Thank you. Other questions? All right, thank you for being here.

GERARD PICCOLO: Thank you.

DeBOER: Let's have our next proponent.

TODD LANCASTER: Good afternoon. My name is Todd Lancaster, T-o-d-d L-a-n-c-a-s-t-e-r. I'm the chief counsel at the Nebraska Commission on Public Advocacy. The commission is a state agency which can be appointed at all 93 counties in Nebraska to represent indigent defendants charged with serious crimes of violence such as murder, sexual assault, kidnaping, robbery. As part of my duties as chief counsel, I'm also the chairperson for legal education for Public Service and Rural Practice Loan Repayment Assistance Program. This is the program we've been talking about that's in Section 9 of this bill. The board that I'm ch-- the chair of makes regulations and rules for the applications for that loan repayment program. The board submits those applications and suggestions to the 9-member Commission on Public Advocacy. Those members then determine who's going to get an award and how much those awards will be. The board-- the chair-- or the commission can take our recommendations or changes it they want to. In 2023, there were 41 applicants for awards. Awards were given to 34 applicants, 7 received nominal awards of \$1,000 and 29 received

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awards of \$4,896. The handout I provided shows the counties where those people practice in, whether they're public service attorneys, or if they practice in a rural need area. Also, it includes the debt and their total income. The average student debt of the 34 was approximately \$100,000. 18 had debt over, over \$100,000, 18 had debt under \$120,000. The average income for the 34 applicants was \$76,000, approximately. 21 applicants had income under \$76,000. 28 applicants were from the legal need area, 8 were from public service. The loans they get have to go directly-- the awards they get have to go directly to the student loans. They can't use it for housing or for cars or anything of that nature. Nebraska, as we heard, is becoming an attorney desert. Some areas have no attorneys. I go out to these areas. I talk to judges who say I don't have people to appoint to criminal cases. We don't have attorneys out here. And the ones they have, have overwhelming caseloads. The scarcity of attorneys is going to get worse unless we find some way to draw people to these areas. Certainly the loan repayment is one way to do that. I've talked with recipients that receive that loan and say, but for me getting this loan, I couldn't have stayed in this area, or I wouldn't be able to pay off my loans and get forgiveness after 10 years of working in public service. So this program does work to recruit and keep people in these areas. And attorneys that are hiring people, such as Mr. Piccolo, have told me that this is a good recruiting tool to get people. And I would say that also, if I could have just 2 seconds, expanding this range that the bill does to a wider area is going to mean more people, such as those in Hastings and Grand Island, Madison, Columbus, where they don't have deputy public defenders or deputy county attorneys applying. This will help recruit those people as well.

DeBOER: All right. Thank you. Are there questions for this testifier? I don't see any. Thank you so much for the work that you do. We're big fans.

TODD LANCASTER: OK. Thank you.

DeBOER: All right. Next proponent.

HELEN WINSTON: Figured I'd follow my boss. Hi, I'm Helen Winston. My name is spelled H-e-l-e-n W-i-n-s-t-o-n. I'm also an attorney for the Nebraska Commission on Public Advocacy. But I'm here speaking as a award recipient. So I graduated law school in May of 2022, began practicing in Scottsbluff, Nebraska-- yay-- in October of 2022. I served Scotts Bluff County, Box Butte County, Sheridan County, Sioux County, Cheyenne County, and Kimball County. I graduated with \$45,000

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worth of loans. The monthly payment, approximately, is \$500. I had to buy a house when I went out there. The rental market is atrocious, especially if you have a dog, and dogs are important, so we bought a house. With the loan payment program, I got 2 awards, 1 in 2023, another in 2024. Each of them were approximately \$4,800. I was able to apply \$9,700 towards the principal of my student loans, and now I have a less heartbreak inducing amount in my loans. So that is great. I will speak to how the panhandle is really hurting for lawyers, especially because of the sort of gap in the bill, in the statute. People who only practice in Scotts Bluff County can't get these awards. Which is crazy, because I was practicing out of Scotts Bluff County as a private attorney, being able to receive these loans or this award because I was traveling out to the surrounding counties, which were smaller. But my friends in Scotts Bluff County Public Defender's Office and in the Scotts Bluff County Attorney's Office, even though they are making less than I was and they were doing-- serving the same areas and not being able to-- and struggling with the same horrible caseloads, they weren't able to qualify for these awards. So I would ask that, that this bill be passed because, you know, I want my friends to get money. Speaking to Senator Bosn's question, yes, there is a huge problem with attorneys not getting enough mentorship if they don't ask for it. When I went out there, I was really not smart and decided to hang out a shingle. That was not a good idea. I ended up being able to join a firm because the local attorneys in the Scotts Bluff County Bar were so good about mentorship. The judges are very cognizant of who your mentors are, what offices you work with, and they'll decide to give you cases based on that. Once I joined a new firm, they were able to give me felonies pretty much right away because I've had that direct mentorship. And the Scotts Bluff County Bar has been talking about putting together a moving stipend for new attorneys moving out there. They're talking about putting together two grand for new attorneys to be able to, to have money towards their moving funds. But I think that should be something that we do instead of making the Scotts Bluff County Bar do, so. All right. Any other questions?

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

BOSN: Nice job, Helen.

DeBOER: Next, next proponent. Welcome.

JESS LAMMERS: Hello, Vice Chair DeBoer. Again, my name is Jess Lammers. First name Jess, J-e-s-s, last name Lammers, L-a-m-m-e-r-s.

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First I would cite Boyd v. United States at 1-- well, first I'm in support of LB1195. And I would cite Boyd v. United States, 116 U.S. 616, 635, that it's the duty of the courts to protect the constitutional rights of the citizens, and to protect the citizen from any stealthy encroachments by attorneys. Now, in regards to the-- to the right to practice law in rural areas, I would cite Meyer v. Nebraska, 262 U.S. 390, 399, 400, and I would ask the committee to look to Nebraska's own case law that the right to practice law cannot be licensed and is a common, common right. So as we have a shortage of lawyers in rural communities, there should be methodology, if someone can prove themselves qualified, that they could practice or help county attorneys or public defender's office. This is also backed up in Schwere v. Board of Examiners, 353 U.S. 232 (1957). It is further enumerated in Sims v. Ahems [SIC], 271 S.W. 720 of 1925, that the practice-- the right to practice law is a common law right. So as we expand, or try to help rural communities, county attorneys, public defenders offices receive qualified people, it should, I think, be noted that it's addressed in case law that litigants can be assessed by unlicensed layman during judicial proceedings. That's found at Brotherhood of Trainmen v. Virginia ex rel. Virginia State Bar, 377 U.S. 1 v. Wainwright. And there's about 30 more Supreme Court citations that would allow laypeople to assist people like Mr. Piccolo, and reduce the caseload while increasing diversity to Senator McKinney's comments. I would yield the rest of my time and accept questions if there are any.

DeBOER: Are there any questions for this? I don't see any. Thank you so much for being here. Next proponent. OK, now we'll take up opponents. Anyone in opposition to this bill? Anyone who would like to speak in the neutral capacity? Senator Conrad. While she's coming up, I will tell you that there were 9 later-- letters, 7 in support, 2 in opposition. Senator Conrad.

CONRAD: Thank you so much, Vice Chair DeBoer. Thank you so much, members of the committee. I know that you have a long agenda in front of you today, so I won't belabor your time, but I want to thank you for your kind attention and great questions. I want to thank all of the testifiers who came forward to share their important perspectives on this measure and, particularly, the Attorney General for making time in his busy schedule to be here and draw your attention to one of the letters of support, particularly, from our friends at the County Attorneys Association. So really grateful to have this strong support across the state and across the political spectrum, and eager to work with the committee to move this forward.

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DeBOER: Thank you, Senator Conrad. Are there any questions? I don't see any. So thank you for being here. Next we're going to turn to-- that ends are hearing on LB1195. We'll next turn to LB894 with our own Senator Ibach. Senator Ibach, do you need a minute?

IBACH: Nope.

DeBOER: OK.

IBACH: If you're ready, I can be ready.

DeBOER: Awesome. Senator Ibach, this opens the hearing on LB989 [SIC--LB894]. Welcome.

IBACH: Thank you very much. Both of my bills this afternoon are very brief. And so we can look forward to that. Good afternoon, Chairman, Vice Chairman DeBoer and fellow members of the Judiciary Committee. As you know, my name is Senator Teresa Ibach, I-b-a-c-h, and I'm here to introduce for you LB894. LB894 is a simple bill. It requires that a candidate for the office of county sheriff be a certified law enforcement officer when the candidate files to run for office. Currently, anyone can run for the office of county sheriff, regardless of whether or not they are certified law enforcement or officer. If they are elected, they have 8 months to obtain certification. If the elected sheriff has not received certification after 8 months, a fine shall be levied upon the sheriff, an amount equal to the sheriff's monthly salary for each month they are not certified. As you may know, this provision in law came to light based upon a situation last year in Dundy County, which is in my district. In 2022, voters elected an individual to serve as sheriff who was not certi-- who was not a certified law enforcement officer. In June of 2023, the sheriff was denied entry into the Nebraska Law Enforcement Training Center for 2 reasons: failure to demonstrate compliance with physical fitness standards, and for failing to pass a background investigation. In November of 2023, a recall election occurred in Dundy County, and voters recalled the sheriff by a vote of 712 to 63. The county board appointed a certified law enforcement officer to serve as interim sheriff while he relocated to live in the county. It is my hope that with the enactment of LB894, situations such as this can be prevented in the future. I believe that it is in the best interest of the state, county, and citizens of Nebraska that a person serving as sheriff be a certified law enforcement officer prior to the election. I believe that anyone serving as a law enforcement officer should be trained in proper police procedure, proper investigatory procedures, proper weapons handling, and be trained in how to properly interact with

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citizens during the course of their duty. I have provided you with an amendment that was drafted with the assistance of the Nebraska Association of County Officials. This amendment mirrors Nebraska Revised Statute 23-1201.01, which pertains to the appointment of a nonresident attorney as county attorney if a county attorney is not elected. With this amendment, it will be clear that a county board may appoint a person who is qualified to be sheriff to serve as sheriff if there are no other qualified candidates elected. With that, I thank you for your time, and I ask that you advance LB894 to General File to allow us to prevent this situation from occurring in the future.

DeBOER: All right. Thank you, Senator Ibach. Are there questions from the committee? Senator Bosn.

BOSN: Thank you. Senator Ibach, I think-- you said county attorney. Did you mean county sheriff in your amendment?

IBACH: I did mean county sheriff.

BOSN: OK, so this is related to--

IBACH: So appointing a county sheriff.

BOSN: Got it.

IBACH: Thank you. Yes.

BOSN: And are you asking us to pass this forward with this amendment?

IBACH: The amendment is-- I just handed it out today. It's not been read across or--

BOSN: OK.

IBACH: --or attached but, yes, I would ask that you attach this amendment so that if a county needs to, they can rely on it.

BOSN: Thank you.

DeBOER: All right. Thank you, Senator Ibach, I don't see any other questions for you.

IBACH: All right.

DeBOER: Let's have our first proponent testifier on LB894. Welcome, sir.

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NEIL MILLER: Thank you. Good afternoon, Vice Chair DeBoer and members of the Judiciary Committee. My name is Neil, N-e-i-l, Miller, M-i-l-l-e-r. I'm the Buffalo County Sheriff, and I'm here today to testify in support of LB894 on behalf of the Nebraska Sheriffs Association. Thank you for, for allowing me to testify today before the Judiciary Committee in relative to LB894. Nebraska Sheriffs Association is in support of LB894. Currently, candidates for the office of sheriff in Nebraska are not required to be certified as law enforcement officers in this state. The current process is inadequate to fully investigate the candidate's background, physical fitness, or ability to successfully complete the requirements of certification. Not having a certified candidate who gets elected presents many potential issues for residents of a county. In this day and age of mandated training for law enforcement officers, we felt that it is time to raise the bar for candidates for this office. Sheriffs exist in all 93 counties of Nebraska and play a significant role in law enforcement in this state. It is very concerning that someone who ultimately is not certified or experienced in law enforcement could hit the streets fully armed, not having the credentials necessary to legally hold the position. We feel that a candidate for this office should be fully certified and in good standing prior to being allowed to appear on the ballot and, ultimately, to be elected to serve the citizens of this state. The remedy is for out-of-state candidates who are certified in another state to apply, or to get their name on the ballot and obtain reciprocity certification to Nebraska ahead of the filing deadline for the office. In the instance of absence of a qualified candidate, the county board, with the amendment, could advi-- could interview and hire a Nebraska certified officer. Also, allowing the various counties to share a sheriff and similar to how the county attorneys do would be a stop-gap option to temporarily fill a vacancy until one can be hired by the county board or the next election. At a recent sheriff's board meeting, I asked for a show of hands in a room of approximately 100 sheriffs and deputies as to whether or not they supported this legislation. All but one raised their hand. In closing, the county sheriffs of Nebraska would urge you to support and vote this bill out of committee for full consideration. It is time to up the standards to file for this office, to ensure that a Nebraska certified officer in good standing is who appears on the ballot. Thank you for your consideration of this important legislation. And I would be more than happy to answer any questions that the committee might have.

DeBOER: Are there any questions for this testifier? I do have one, sir. And I maybe should have asked Senator Ibach, but I might take

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that opportunity later. So when, when do they have to be certified? Because in order-- do they have to be certified in order to sign up to run, or--

NEIL MILLER: At the--

DeBOER: --at the time that they sign up to run, they have to be certified?

NEIL MILLER: Yeah. At the time they file for office, they would need to be certified, be able to prove that certification, and also be-- shown to be in good standing.

DeBOER: And do they have-- is that sort of information readily available to law enforcement?

NEIL MILLER: It is. And I think it's spelled out in the, in the bill as to how they would do that.

DeBOER: OK. Perfect. Thank you. Any other questions? Thanks for being here.

NEIL MILLER: Thank you.

DeBOER: Next proponent.

ELAINE MENZEL: Vice Chair DeBoer and members of the Judiciary Committee, for the record, again, my name is Elaine Menzel, that's E-l-a-i-n-e M-e-n-z-e-l. I'm here today on behalf of the Nebraska Association of County Officials in support of LB894. And we appreciate Senator Ibach for bringing this legislation to you. As she indicated, we worked with her to develop the amendment that she has proposed, and we are supportive of that amendment. So we would just ask you to favorably adopt that amendment and advance the legislation to the General File. If you have any questions, I'd attempt to answer them.

DeBOER: All right. Are there any questions? Thank you so much for being here.

ELAINE MENZEL: Thank you.

DeBOER: Next proponent. Anyone else in favor of the bill? Are there any opponents? Welcome.

JESS LAMMERS: Thank you for having me, Vice Chair DeBoer. Do you want me to say my name and spell it again?

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DeBOER: Yes, please.

JESS LAMMERS: My name is Jess Lammers, J-e-s-s, last name Lammers, L-a-m-m-e-r-s. I am in opposition of the bill. I don't think you need, per se, law enforcement academy training to be a sheriff. And I'm going to read a 2-paragraph excerpt from the sheriff's handbook or guidebook for the state of Nebraska. Sheriff, America will never be destroyed from the outside. If we falter and lose our freedoms, it will be because we destroyed ourselves. That's a quote from Abraham Lincoln. The county sheriff is the last line of defense when it comes to upholding and defending the constitution. The sheriff's duties and obligations go far beyond writing tickets, arresting criminals, and operating jails. The sheriff also has the obligation to protect the constitutional rights of the citizens in our counties. This includes the right to free speech, the right to assemble, the right to bear arms, and remember the oath of office. Sheriffs took an oath to uphold and defend the constitution from enemies, foreign and domestic. In the history of our world, it is government tyranny that has violated the freedoms granted to us by the Creator more than any other. And it is the duty of the Sheriff to protect their counties from those that would take away our freedoms, both foreign and domestic, whether it's a terrorist from Yemen or a bureaucrat from Washington D.C. or Lincoln, Nebraska. That is the conclusion of my statement. I would yield my time and for field any questions if there are any. I stand in opposition to the bill. You don't need to be a law enforcement officer to enforce the constitution. All you got to be is educated.

DeBOER: Are there any questions from the committee? Thank you, sir, for being here.

JESS LAMMERS: Thank you for your time.

DeBOER: We'll have our next opponent. It doesn't look like there are any opponents. Anyone in the neutral capacity? I don't see any. Then-- there were no letters, Senator Ibach, as you approach to give your closing.

IBACH: Thank you very much, Vice Chair DeBoer, I would just thank Sheriff Miller and, and Ms. Menzel for their assistance in drafting this language as well. They were both very helpful during the interim and with the amendment as well. So with that, I will yield back, and appreciate your support of this bill.

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DeBOER: Any questions for Senator Ibach? That ends the test-- or the hearing on LB894. Senator Ibach, I understand we're now going to go to LB898.

IBACH: Thought the last one was easy, wait until this one. Good afternoon, Chairman Wayne, fellow members of the Judiciary Committee. As you know, my name is Senator Teresa Ibach, I-b-a-c-h, and I am here to introduce LB898 today for your consideration. If Nebraska were to adopt LB898, we would join the National Crime Prevention and Privacy Compact, which has 35 member states as of October 2023. Currently, the Nebraska State Patrol is required to submit every fingerprint based arrest to the FBI to ensure FBI records match Nebraska's records. By joining the compact, Nebraska would become the sole maintainer and provider of our state's criminal history records, thus eliminating the need to submit subsequent arrest events, expungement notices, and disposition information to the FBI. Testifiers who follow me will be more equipped to explain this compact in more depth and the benefits of the state for joining this compact. Thank you for your time and your consideration of LB898.

DeBOER: All right. Thank you, Senator Ibach. Are there questions from the committee?

IBACH: Thank you.

DeBOER: All right. Let's have our first proponent testifier. Welcome.

SHAWNA BACKEMEYER: Committee Chair Wayne and members of the Judiciary Committee, my name is Shawna Backemeyer, S-h-a-w-n-a B-a-c-k-e-m-e-y-e-r, and I am the research manager with the criminal identification division of the Nebraska State Patrol. I'm here today on behalf of the NSP to testify in support of LB898. On October 9, 1998, President Clinton signed into law the National Crime Prevention and Compact Act of 1998, also known as the compact. This established an infrastructure by which states can exchange criminal history records for noncriminal justice purposes according to the laws of the requesting state, without charging each other for the information. The compact makes available the most complete and up-to-date records possible for noncriminal justice purposes, with a mission to enhance public safety through noncriminal justice background checks based on positive identification while protecting individual privacy rights. It was determined that the state's criminal history records were more accurate and complete than records maintained by the FBI, which is true for the state of Nebraska. As a-- as of October 2023, 35 states have ratified the compact. Ratifying the compact facilitates the

interstate and federal state exchange of criminal history information to streamline processing of background checks for noncriminal justice purposes. Ratifying the compact is the first step to becoming a National Fingerprint File Program participant, also known as NFF. This is a benefit available only to states who have ratified the compact. Participation in the NFF program is the final step in ensuring the most accurate and up-to-date criminal history records and information is available when a fingerprint-based background check is conducted. Participating in the NFF program allows agencies to reduce duplicate processing and decrease operational costs. Under the NFF program, states are no longer required to send duplicate information to the FBI for criminal history record check purposes. Instead, states respond directly with their individual state's record when a background check is requested on the records that they maintain. Participation in the NFF program ensures a higher level of security benefiting the most vulnerable populations. In addition, because Nebraska is currently not an NFF program participant, NSP is required to submit every fingerprint-based arrest to the FBI to ensure that the FBI records match Nebraska's records. This results in duplicate maintenance of criminal history records by both the state and the FBI. When the state becomes the sole maintainer and provider of its criminal history records, the requirement to submit subsequent information to the FBI, such as subsequent arrests, expungements, disposition reports, and death notices, are eliminated. The NFF program participation requires that the state submit fingerprints and identification data to the FBI for each individual's first arrest only, which establishes the FBI Universal Control Number, or UCN. This will relieve Nebraska of the burden and cost of submitting all arrest fingerprints into our submission to the FBI. Currently, Nebraska not being the NFF participant program, each fingerprint-based background check requires the NSP to reach out to the FBI to obtain the individual's national criminal history record information, which costs the NSP on average over \$400,000 per year since 2020. These costs are waived with the NFF program implementation and participation. And I'll stop and be happy to answer any questions.

DeBOER: All right. Thank you. Let's see if there are any questions from the committee. Senator Holdcroft has one.

HOLDCROFT: Thank you, Vice Chair DeBoer. Thank you for testifying today.

SHAWNA BACKEMEYER: Absolutely.

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HOLDCROFT: So explain to me again. Right now, we're in sync with the FBI because we're sending them every, every fingerprint.

SHAWNA BACKEMEYER: Correct.

HOLDCROFT: So this bill would-- we wouldn't have to do that anymore. We just send it the first time.

SHAWNA BACKEMEYER: The first, yes, correct.

HOLDCROFT: So how do we ensure that we are still in sync with the FBI's database?

SHAWNA BACKEMEYER: So what will happen is with the compact and once we are able to be a NFF participant in the program, we start taking back our criminal history records from the FBI. So it's more of a decentralization. So then they will-- when we submit the fingerprints, any other state also submits those fingerprints. What happens is they keep that first set and then they're going to have that as-- there's a system that is called the Interstate Identification System. That's where those fingerprints are kept to make sure that they have those. However, they do not try to maintain any dispositions, any other charge information and court information. Many times and different states have varying laws of what they do submit. But many times the FBI does not have the most accurate and current information. Therefore, when a background check is submitted, they're, they're supplying what they have because we cannot respond to that. We just let them respond for us. Well, an example would be that the FBI does not acknowledge sealed records. They don't acknowledge a state sealed record. So when we are disseminating the Nebraska records, we're, we're redacting and we're sealing information. However, the FBI will not redact that. They still report out everything. We get calls from people who are complaining because they feel that we are disseminating records incorrectly. And then we have to give them information how to challenge the record, which forces the public to then pay the FBI, challenge the record, go through all these proceedings to try to get that information corrected. The FBI sometimes will do that, sometimes they will not. It just depends. We don't have control of what the FBI does. What this will do then is the FBI will not report anything. They-- as soon as somebody puts in a background check require-- you know, request, what they're going to do then, they get that request, they're going to point it straight to the state and whatever the-- whatever state they're appearing, and then the state responds back. That will allow us to provide all the correct information, anything that the FBI doesn't have that from a county attorney's office, any

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other court dispositions, any of those things, we would be able to respond to that.

HOLDCROFT: OK. Thank you.

DeBOER: Thank you, Senator Holdcroft. Any other questions from the committee? Thank you so much for being here.

SHAWNA BACKEMEYER: You're welcome. If you do have any other questions, I will still be here.

DeBOER: Other proponents? Welcome.

MITCHELL CLARK: Chairman Wayne and members of the Judiciary Committee, my name is Mitchell Clark, M-i-t-c-h-e-l-l C-l-a-r-k, and I am a policy advisor for First Five Nebraska, a statewide public policy organization invested in the care, early learning and well-being of Nebraska's youngest children. What I'm going to do today, instead of reading through my testimony verbatim, is I'm going to refer to a legislative history chart that is being distributed to the committee. I'm just going to give you a quick little backstory on how this bill, LB898, would be a great benefit for the early childhood workforce and some of the issues that we've had in recent years over background checks. So, most importantly, the top row there you'll see in 2014 the federal government passed the reauthorized Child Care and Development Block Grant. And this essentially required all childcare staff to complete a comprehensive set of background checks. States that failed to implement these policies by September 30 of 2017 risk losing all or a portion of their CCDBG funds. Now, in the next 2 rows, you'll see in 2019, LB460, and in 2020, LB1185, the Legislature was brought into-- or the Legislature brought the state into compliance on these. You will notice that those are after that effective date of 2017. However, because we were showing good faith that we were working towards getting into compliance, ultimately, we did not lose any of those CC-- CCDBG funds. Within each of those bills, it kind of staggered the segment of the childcare workforce that was required to comply with these background check requirements. And this was very important because it essentially staggered that increased workload on State Patrol and DHHS in processing those background checks. Now, however, in 2022 and 2023, needless to say, things got pretty rough for the childcare workforce, as I know it did in other occupations. And this is important because the childcare workforce is incredibly sensitive to disruptions for a couple important reasons. So one is the low-paying, industry typically median wage of \$13.34 compared to other occupations where they would simply leave. And the second is that they

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cannot work with children until all of those background checks process. So that means that they ended up leaving the workforce to go work somewhere else. So I know I'm getting close here, so I'll just touch on last year Senator Ibach introduced LR191 where she examined the background check process and gave DHHS in conjunction with the State Patrol the opportunity to share some administrative changes that they made, which has significantly improved those processing times from 25 average days in 2022 to 5 days at the end of last year. So in sum, there was also some 5-year renewal requirements under the CCDBG requirements that goes back to that 2019 and 2020 legislation. So you just time that out from those effective dates and we've got another 5-year-old renewal round coming up later this year and then next year and finally in 2026. So with that, I will end and open up to any questions if you have any.

DeBOER: Are there any questions? Thank you so much for the chart. This is really helpful.

MITCHELL CLARK: Thank you.

DeBOER: Next proponent. Anyone in opposition to the bill? Is there anyone who would like to testify in the neutral capacity? Welcome.

JESS LAMMERS: Jess Lammers, J-e-s-s, Lammers, L-a-m-m-e-r-s. I'm neutral on LB898. However, what I want to emphasize is that the state needs to do a better job of records keeping. My specific experience has led to some terse encounters with law enforcement. Sheriff Miller back there can corroborate my testimony that I've had terse interactions with law enforcement due to poor records keeping. So once the record goes into the computer and it is then disseminated by law enforcement in the field, if the record in the computer is inaccurate, the unsub or the person that's gets pulled over or the person being investigated then gets treated unfairly because law enforcement has "unaccurate" information on that individual. Have you ever tried to-- and this is a question to the committee-- have you ever tried to convince a law enforcement officer or anyone that the computer is wrong, like what the computer says about me is incorrect? Have you ever tried to convince anybody of that? Because it's quite near an impossible task. Now, in my instance in Buffalo County with 2 sheriff's deputies who were, in my opinion, trained on the constitution, they understood that they made a mistake, the computer was wrong, and they had no, no further had probable cause for anything. And they dismissed me and let me go continue on my merry way. But that hasn't been the experience I've had with the Nebraska State Patrol on 7 occasions. The Nebraska State Patrol's held a gun to

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my head more times than the Mafia, and I think that's a problem, all because the computer has the incorrect information about my life. So how do we resolve the records keeping discrepancy? If it's joining this compact, OK. If it's keeping our records different-- differently or double-checking and triple-checking the records that get entered into the system, OK. But something needs to be done at the state of Nebraska about the way you all keep records because you do a bad job. I will yield my time and take any questions.

DeBOER: Are there any questions? Don't see any. Thank you so much for being here.

JESS LAMMERS: Yes, ma'am.

DeBOER: Other neutral testimony? I don't see any. While Senator Ibach comes up, I will note that there were 4 letters on LB898, all of which were in support.

IBACH: Thank you, members of the Judiciary Committee. I would just say thank you to Ms. Backemeyer because she's been in on some of the meetings with Mr. Clark. And I will admittedly say after one meeting when we were trying to resolve the fingerprinting and background check issue, we felt somewhat deflated. So I'm thrilled that they've come up with a solution to this problem. With that, I think everything is pretty self-explanatory. We have been looking, like I said, for a solution to the background checks to get people to work and keep them working in early childhood education. And I think that this is a very positive step in that direction. I think any time we can retain local control of our records, it's a good thing. So thank you again. Any questions?

DeBOER: Any questions? I don't see any. That ends our hearing on LB898.

IBACH: Thank you.

DeBOER: And we'll now open our hearing on LB963 with Senator Wayne. Welcome, Senator Wayne.

WAYNE: Thank you, Vice Chair DeBoer. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and north Douglas County. Today I'm here to present LB916 [SIC--LB963]. And I know it's an uncomfortable topic. Many of the-- many of the-- I not a county attorney. Many of the county attorneys today, one in particular, gave me my first job. I know him well. I think he's a great individual. But one of the things that I've

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struggled with down here for the last 7 years, now going on 8, is this idea of reducing taxes. And throughout all the studies and bills and things that I've seen happen in this body over the last, actually decades, 2 decades that I've watched this Legislature, there's only really 2 solutions. We have to change how-- we have to move or shift, if that's what they want to call it, expenses from our local governments to the state or we have to grow Nebraska. And by-- what I mean by grow Nebraska, is we have to have more people here, because if we have more people here, then we'll have more people buy things, our sales taxes will go up, etcetera, etcetera. But structurally, we have, we have a lot of-- we have a lot of government. We have a lot of-- we have a lot of NRD boards. We have state irrigation districts. We have-- we have a lot of government. So when Governor Pillen announced that he wanted to reduce property taxes, I took that as a challenge that every committee Chair should look for. What in their committee can they do to reduce property taxes? And one of the biggest property taxes that this committee is over at the local level is jails and county attorneys. It's not a far idea, or a crazy idea, or a jab at county attorneys, but I do have a simple premise for it. If we create it and mandate it, we should fund it. It's really simple. We create the laws, we create the statutes around criminal laws. We give the penalties for such criminal laws, but then we leave the burden on the county to enforce it and pay for it. I don't think that's right. Now, I am open to plenty of amendments and plenty of ideas. And when we're reading the online comments and things that I've heard, people brought up, well, a county attorney does a lot of civil things. Which is true. In Omaha, well, all of them, we do it. I got a probate matter right now that I'm talking to the county attorney on regarding inheritance tax. They do defend the county locally if they're sued. But that doesn't change under this statute because they can still contract that out with any attorney. They could contract out my legal counsel to be their county attorney, or to be their legal representation in any litigation. They could con-- contract out a-- the county board could contract out the probate side of things, or the inheritance tax things. As far as the 3a in juvenile proceedings, one of the articles I passed out is that due to a lack of county attorneys and positions, many of our rural counties struggle. But the other fundamental reason for this-- these 2 bills, but this one in particular, is no matter where you go in this state, your rights should be the same. And those who were involved in LB50 last year, and those who have been on this committee for a while, we have prosecutors who prosecute some things and don't prosecute another thing. And I don't think if I live in Douglas County and I drive to Madison County, if I have something or I'm doing something illegal, that should change based off of where I'm

at on an imaginary line. That was the whole premise behind LB77, is that local communities shouldn't dictate a fundamental right. Well, how you are prosecuted is a fundamental right, and locals shouldn't change based off of the county you go into. The fact of the matter is, there is a tax shift and a savings to property tax owners by putting it on the burden of the state. We can fund this through our current budget. For this particular bill, we can do it through our current budget. But for both 2 bills, there's funding right now of a new prison, and I'm a talk more about that in the second bill, about how you can actually use that funding and save money. The point of it is, is we need to have a really real conversation in this committee and as a Legislature about structure. Does it make sense? And if there is an idea of maybe we shouldn't do all the counties, maybe Douglas County and Sarpy County and Lancaster, they're so big, maybe they could do an election, then maybe we just do the rural counties that are having a hard time finding positions. I think there were 22 county attorney positions open that, that Ms. Neeley, Neeley, I forgot her last name right now, just testified to. There are actually counties who are contracting with other county attorneys in other, other parts of the state to do their prosecution. So they're already doing this through interlocal agreement. And I'm just saying, why not make it consistent through an elected person, which is the Attorney General, so people still have their voice of electing somebody. But let's just be consistent across the state, and let's take the small piece that we can move off of the taxpayer and put it on the state where it rightfully belongs, because we are the creator of the law. Every law that they're prosecuting at a county level we created, especially the felonies, we created. So why are we putting that burden on the local to prosecute? Why are we putting that expense on the local taxpayer to enforce? I think that's fundamentally wrong. And I've always said that. I don't believe in unfunded mandates. I think we should figure out how to do it. But, to me, this is a solution, not only a property tax solution, but it's an alignment solution where we are actually aligning how we should do business in the state. And for many people who think, oh, the sky is falling, there are a lot of other states who already do this, and it seems to work out. So this is not a novel idea. This isn't unique or something that I just pulled off the wall. I've been having these conversations, but it became readily apparent last year during LB50 that many counties are doing things differently. And that's a problem. Why is it in Douglas County I can have a diversion program and have a felony removed from my record. But because a county attorney, and I'm making this up, in Madison doesn't want to do that, I don't have the same opportunities just because of where I live. That should be uniform at the most basic level. When

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we're talking about prosecuting individuals, everybody should have the same due process rights and the same opportunities. It shouldn't be just Douglas, Sarpy, and Lancaster County because those prosecutors decided they want to do it. It should be uniform across the state, especially when it comes to our laws. I'm not trying to take away discretion, I'm not trying to-- I'm saying I'm trying to make it uniform and I'm trying to figure out as a committee Chair what jurisdiction we have to help deal with one of the biggest issues facing Nebraska, which is our property tax. And this is a structural change that can do that. With that, I'll answer any questions.

DeBOER: Are there questions for Senator Wayne? Senator Bosn.

BOSN: Thank you. Can you explain for me how the district attorney model addresses the disparities between counties differently than the county-- elected county officials? I mean, laws are the same, right?

WAYNE: Right.

BOSN: So how does the district attorney model fix that in your mind?

WAYNE: Well, from my-- let's just use Attorney General Hilgers. They, they, they would want to be consistent. So even in, even in counties, and you're a former prosecutor, there's only so much authority you can, like-- at the end of the day, there are certain things you're going to have to talk to your boss about. That's the-- that's how you uniformalize it, how you make a consistency, is that if these individuals are charged with these crimes or have these things, here's how we're going to handle it. And that's sent out statewide. Deviation of that, you could lose your job. That's no different than a county attorney right now. If a county prosecutor decides, yeah, I'll plead this down to a misdemeanor, and the county attorney is like, no, you shouldn't have done that, there's consequences. But that's how you, you provide consistency and uniformity across the state.

BOSN: And my second follow-up question is, so you're addressing this as a result of the effort to have uniformity and, and also address property tax issues. But this-- there's also the public defenders in every county. And so is there an anticipation that we would be moving public defenders under one hat as well?

WAYNE: No. And the only reason that is, is because we don't have a statewide public defender election. The, the, the reason that I went with the county attorneys is because we do have an elected person that we elect every 4 years to hold accountable. Until we establish a

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statewide public defender's office-- I mean, I know we have it in the budget for those smaller counties, but we don't have that same mechanism as we do an Attorney General.

BOSN: What about the--

WAYNE: But to your--

BOSN: --Commission on Public Advocacy, that--

WAYNE: But-- right. If they were-- if they were elected, if we created an elected position county-- statewide, I would be in favor of that. But it does beg the second question, should the counties be reimbursed for public defenders? Absolutely. The state should pay for that prosecution and defense.

BOSN: Thank you.

DeBOER: OK. Thank you, Senator Bosn. Other questions? I assume you'll be around to close.

WAYNE: Yes.

DeBOER: Let's have our first proponent. We'll go with opponents. Welcome, sir.

DONALD W. KLEINE: Good afternoon, Chair, Senators. My name's Don Kleine, Donald W. Kleine, D-o-n-a-l-d, middle initial W., K-l-e-i-n-e. I'm here as the Douglas County Attorney, and as a representative of the Nebraska County Attorneys Association in opposition of LB963. You know-- and I, and I appreciate Senator Wayne's work and his words about this. But just a little bit of background. I, I've been a lawyer for 45 years. I've been a, a deputy county attorney, a chief deputy county attorney, [INAUDIBLE] county attorney, I've been the head of the criminal division for the Attorney General's Office, and I've been in private practice also. And a little bit about the county attorney's office. You know, we have a civil division, we have 10 lawyers doing that. We are the coroner-- every, every county attorney in the state of Nebraska is the coroner for that county. We do the Board of Mental Health. We have a juvenile division with 16 lawyers in it. We have a victim witness unit that has, I think, 10 to 12 people in it, serving the victim witness. My budget's about \$13.25 million a year. And there's a lot of different duties that have a direct impact to the people of Douglas County every single day. And I think the people of Douglas County should be heard with regard to who is going to lead the county attorney's office in the civil matters the county handles,

juvenile matters, and the criminal matters, and the Board of Mental Health, and handling the coroner's job, and it's very important that there be local control. And I'm sure from a tax perspective, if, if the state-- if the Legislature wanted to, to give the County of Douglas \$13.25 million to help it pay for the-- for the county attorney's office, they'd be happy to take that. But I still think the people of Douglas County should be the ones who decide who's going to be running that particular office. If they don't like the way that we're prosecuting cases, if they don't like the way we're handling things, they have the ability to elect another county attorney. And I think it's very important to have local control. I think the best bang for the taxpayers' dollars is local government. I think every level that you go up, quite frankly, in government, from the county, to the state, to the federal, there's more inefficiencies as you go up the ladder, particularly from a fiscal perspective. And so I think the citizens of, of Douglas County should be able to, to vote on why they want that person or not person to run this particular job. It shouldn't be just an appointed position from somebody who's in Lincoln from any-- for any other part of the state. Some bureaucrat who's appointed. It doesn't say anything in here as to what the term would be for that person that's appointed. It-- in fact, it says that this is supposed to take place January 1 of 2025, I guess nullifying the elections of 2022. And besides that part, there's other fiscal responsibilities like pension issues, benefits issues, that people in those different offices have, have earned and have a right to-- I apologize, my watch is doing this.

DeBOER: So I do see your red light's on--

DONALD W. KLEINE: I'm sorry.

DeBOER: --since you stopped.

DONALD W. KLEINE: I'm sorry, I'll be happy to answer any questions if you have any.

DeBOER: Let's see, let's see if there are questions for you. Are there any questions? Senator McKinney has a question for you.

McKINNEY: Thank you. Thank you for your testimony. I mean, the-- but the fiscal argument is kind of rough because a huge part of our prison population comes from Douglas County, and our state is building a prison to house a lot of people from Douglas County. So that's taxpayer dollars being used to house people from Douglas County. But my, my question is, so what if we just excluded the big 3 counties and

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just did the rest of the state? So we exclude Douglas, Lancaster, and--

DONALD W. KLEINE: Sarpy.

McKINNEY: --Sarpy.

DONALD W. KLEINE: Yeah. I mean, that's a thought. I mean, I'd be willing to listen to that. I'm sure there's other county attorneys in the Nebraska County Attorneys Association that should have some input about that, and the greater part of the state. I can speak to Douglas County, certainly, but-- and I, and I had meetings with them about that. And I think they're, they're in opposition to this particular bill because they believe in local control also.

McKINNEY: But how do we resolve the issue of counties having to hire outside individuals to fill vacancies and things like that when they can't even fill the vacancies of having open spots for county attorneys in some places?

DONALD W. KLEINE: Sure. And I, I don't disagree that that's not an issue or a problem, but certainly I think it's on-- as a county attorney, and, and, and the people of Douglas County and, and talking to other county attorneys, it's kind of on us. I mean, I go to law schools, I recruit, I look for people. I, I, I use the National District Attorneys Association for other law schools. And I think it's important for us to make it so that-- and I think that the laws that you-- the law you talked about earlier, passing to help rural areas entice people to come to those areas are important. But I think it's on the people in those counties to, to make it so that you have professionals, whether it's doctors, lawyers, whoever, like teachers that will come to that area and, and do that profession.

McKINNEY: But somehow the ball-- maybe saying the ball is being dropped is the wrong statement to make. But somehow the vacancies aren't being filled, and counties are having to hire people from the outside to come in. So we have that issue there. So it's like what do we do? And then also we have the issue of the law not being applied the same across the state. Like some, some counties don't charge for residue and some do. And how do we reconcile that? Where I could be here and not get charged for residue, then I can go here and get charged for residue.

DONALD W. KLEINE: Well, that's maybe a discretion question. Depending on the facts of each case, every case is different, that the local

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community has to say, well, we don't, we don't want that to happen, or you need to start a program. And I've volunteered to other counties that, that probably don't have the funding to let people into our diversion programs or our drug court, because sometimes people don't have the resources. I've even allowed-- talked to the U.S. Attorney about allowing people who are veterans, from the federal system, be involved in our veterans treatment court of Douglas County, because they don't have enough people in that area to be involved in the federal system. So I think there has to be some sort of joint attempts to work together, particularly, like you said, in, in those counties, maybe that they don't have the resources.

McKINNEY: But, but I think that kind of gets to the heart of the, the bill. The argument of saying, like, we don't got the resources, so that's why we're charging these cases or-- but if we put more of these counties under the same roof, we don't have those same issues.

DONALD W. KLEINE: You know-- and I, and I think that might be a thought about some-- you said, you mentioned the word regional I think at one time.

McKINNEY: Yeah.

DONALD W. KLEINE: That might be a possibility to take some counties and kind of put them in-- under one county attorney or whatever you want to call it, or even from the public defender system. But I know I've talked to public defenders also who said we don't want to lose our local control either. But I think if you talk about there's such a lack of, of capacity or ability to have the people to do the job, then you have to figure out something for those areas that are, are-- don't have that, that ability. So I think there's something we can work on about that [INAUDIBLE].

McKINNEY: All right. Thank you.

DONALD W. KLEINE: Sure.

DeBOER: Other questions from the committee? Thank you for being here.

DONALD W. KLEINE: Thank you.

DeBOER: Next opponent. Welcome.

ELAINE MENZEL: Thank you. Vice Chair DeBoer and members of the Judiciary Committee, for the record, again, my name is Elaine Menzel, that's E-l-a-i-n-e M-e-n-z-e-l. I'm here today on behalf of the

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Nebraska Association of County Officials in opposition to LB963. First of all, we would like to acknowledge and appreciate Senator Wayne's observation related to unfunded mandates and expenses that counties incur related to judicial-- the duties of the county attorney. With that said, we do have the tension that exists, and it's one of our long-standing platform statements related to local control. And in this case, that outweighs that. Also, there would be, as was acknowledged by Senator Wayne, a huge void for purposes of the civil section related to the relationship between county boards and county attorneys at this point. They provide valuable assistance to the county attorneys, not just on the areas that Senator Wayne talked about, but also with respect to civil liability and other types of things that relate to that. With some of those comments in mind, we just encourage you to support-- or excuse me, to oppose LB963. So with that said, if there's any questions, I would attempt to answer them.

DeBOER: Questions? Thank you so much.

ELAINE MENZEL: Thank you.

DeBOER: Next opponent.

BILL MUELLER: Senator DeBoer, members of the committee, my name is Bill Mueller, M-u-e-l-l-e-r. I appear here today on behalf of the Nebraska State Bar Association in opposition to LB963. Senator Wayne identified in his opening one of the concerns that our committee had when we looked at the bill, and that is the significant legal civil representation that the county attorney does for counties. And it, it just made sense to us to keep that representation local. When our committee looked at this, and we have prosecutors on our committee, and we have criminal defense lawyers on our committee, and as you can imagine, we look at the criminal bills and more times than not, the bar will stay out of it because we do have members on both sides. This was actually one of those bills where there was agreement between the county attorneys and the public defenders that their preference is to leave the system as it is with a county attorney. One of the, the reasons talked about, one of the reasons stated was it is, it is more convenient, it is more efficient when the lawyer on the other side of a matter is, is in your lo-- locality, not in Lincoln, coming out to take care of your case in Lincoln County or, or, or Keith County, so efficiency. We would certainly be interested in, in, in an ongoing discussion, if there is going to be one, about restructuring how we provide county attorney services statewide. Don Kleine referenced a regional structure. And we, we have a lot of that already, perhaps not formal, but there are multiple counties that are represented by an

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attorney who doesn't reside in that county, but who provides services in that region. Again, we would be happy and would welcome to be involved in a further discussion on this. We oppose the bill today. Be happy to answer any questions.

DeBOER: Are there any questions for this testifier? Senator McKinney.

McKINNEY: Thank you, Senator DeBoer. How do other states deal with the criminal and legal and civil side of things? So in Pennsylvania, they have district attorneys. So how do, how do they deal with the criminal legal side?

BILL MUELLER: Senator, the fact that you can state that Pennsylvania has a district attorney system, you know more than I do about it. My understanding is some states are structured this way, but that-- we've-- I've, I've not looked into the matter. We've not done any research.

McKINNEY: All right. Thank you.

BILL MUELLER: Thank you.

DeBOER: Thank you, Senator McKinney. Other questions from-- don't see any, thank you so much--

BILL MUELLER: Thank you.

DeBOER: --for being here. Next opponent. Is there anyone else in opposition to the bill? Now, Mr. Eickholt, I'll call for neutral testimony, and since you've not been here before, this is where you would come up.

SPIKE EICKHOLT: Yes, I know I'm new at this. Good afternoon, Vice Chair DeBoer and members of the committee. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t. I'm appearing as a registered lobbyist on behalf of the Nebraska Criminal Defense Attorneys Association. I was not planning on speaking on this bill. And that is because our association deliberately did not take a position on it. And I was not going to speak on the bill until Mr. Kleine and Mr. Mueller intimated that we were opposed to it. We have a legislative committee that includes the Lancaster County Public Defender, the Douglas County Public Defender, someone from the Sarpy County Public Defender's Office, and a number of other attorneys who practice throughout the state. There's maybe, I think, about 15 or so of them. There were some, some of our members who, particularly in the rural states, who saw the utility and merit of this bill. To put it bluntly, because the

prosecutors that are locally elected there, anything could be better as far as how they prosecute some cases, what they offer for diversion could only improve under a statewide district attorney type system. Admittedly, there was some discussion of preference for the, the larger counties to keep the county-based public defender system there. I only want to say that because I don't think that we ever made a decision that was deliberate. We decided to opt out of this. And I want to clarify that for the record, I generally don't speak on behalf of my opponents, and I try not to speak on behalf of other interests when I'm speaking on the mic. I probably do it sometimes, but I just want to make that point on the record, and I'll answer any questions if anyone has any.

DeBOER: Are there any questions? Senator McKinney.

McKINNEY: Thank you, Senator DeBoer. And thank you, Spike. Do you have any knowledge on how other states deal with a district attorney system as far as the criminal-civil side of things?

SPIKE EICKHOLT: I-- you know, I don't. I know that some of the states, particularly the rural states, kind of have the district attorney-based system, and I don't know how they do the civil component, where they have a lawyer or lawyers represent the local governments like the county attorneys do. I assume they can navigate it somehow. And maybe it's kind of like a village-based, or county-based, or like a city-based attorney system versus a separate division altogether. I don't know, to be honest. I'm not--

McKINNEY: And I only ask that because if it's-- because I'm just wondering if it's-- if it's more efficient or inefficient. Just-- I'm, I'm not sure. Like, could it be a better system, or could it be worse?

SPIKE EICKHOLT: I mean, it might be. I mean, one thing that Senator Wayne said in the intro, we have lots of layers of government, you have-- in Lancaster County, you've got the city attorney's office, and you've got the county attorney's office. There's concurrent prosecution criminally. There's overlapping representation civilly. Sometimes, at least, the city attorney's office will actually contract with private law firms to represent the city. I don't know if the county attorney does that as much. The county attorney represents other agencies at the county level, so I don't know how efficient that is necessarily.

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McKINNEY: I guess-- and my last question, should I have-- should I-- it-- should I be able to be charged with residue differently depending on the county that I'm in?

SPIKE EICKHOLT: Well, I mean, that was a sort of-- well, I-- it's a statewide law, right? You spend a lot of time making the criminal code, and what should be the appropriate penalty and what should be the cutoff for this and that. And it arguably ought to be applied uniformly throughout the state. That's one response. The other response is, well, the locally elected officials can sort of deal with the criminals in their jurisdiction themselves, and they know what's appropriate. They've got different services at the local level so they can resolve cases differently because they've got a drug court or they've got a treatment program there. That's the other argument.

McKINNEY: Yeah, I guess that's right. I don't know, I'm just-- it's just like you got some people that say like, oh, we don't-- since, since I've been here, I've heard some people say we don't charge for residue. Then you got, then you hear of cases where we was going through the CJI process, of like, no, they actually do--

SPIKE EICKHOLT: [INAUDIBLE]

McKINNEY: --charge in Madison County, for example. So I don't know. I just was like, how, how can it be? We have laws in, in place, and depending on which county you're in, you don't have to worry about some.

SPIKE EICKHOLT: You saw-- that was true, you saw that in the residue case, you saw it in the habitual criminal application. Some counties, or one county particularly was just blatant with the fact that they wanted to send people to the state prison system away from their jurisdiction for as long as they could.

McKINNEY: Yeah. All right. Thank you.

DeBOER: Thanks, Senator McKinney. Other questions? Senator Bosn.

BOSN: Thank you. Mr. Eickholt, are you aware of what other states use a district attorney to hire-- or use the Attorney General to hire district attorneys throughout the state versus states that have district attorneys, but they're elected? So we're using the term county attorney and district attorney synonymously because they're both elected.

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SPIKE EICKHOLT: Oh, I see what you mean. First, this is why I probably shouldn't got up in the chair, because I was angry. Because I really don't know all the material as well as I should. I know that other states do have like a attorney general or a statewide system where they appoint local prosecutors or appoint district prosecutors. And I think you're right, there are some states that have district elections. District attorney elections aren't necessarily county based, but maybe regional based. Is that responsive to--

BOSN: Do you know any of them?

SPIKE EICKHOLT: Oh, I, I know that Texas has got some sort of-- I know I looked at what Ken Paxton does because I was just kind of interested. That's the attorney general for Texas. And he sort of has this election where he-- I think that he'll appoint local prosecutors. But there's-- I think that's an appointment process. But I don't know that much about it, I'm just [INAUDIBLE]. I'm sorry.

BOSN: OK. That's OK.

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

SPIKE EICKHOLT: Thank you.

DeBOER: Neutral testimony. Any other neutral testimony? I don't see any. While Senator Wayne is coming up, I'll announce that LB963 had 5 letters, all of which were in opposition.

WAYNE: Thank you, Chair-- Vice Chair DeBoer. Again, I think, to me, these-- the arguments assume a lot. One, they assume that it won't be somebody local. I don't see everybody being housed here in Lincoln and then driving out. I think the reason why we set up with a regional, is we expect those people to be in those regions, so I, I don't think that is the issue. But earlier you-- everybody got this map that was passed out. To give you an idea, Thomas County has 592 people, McPherson has 458, Arthur has 485, Grant has 400-- 649. We have elementary schools in Omaha with more people. I'm not sure if it's efficient to run a state-- a county campaign for a county attorney. I, I don't see that as efficient at all. That, that's just not efficient. Nobody can argue with me and say that's efficient, that's a good model. And here's the, the real dirty little secret. We already use the AG in all of these counties that are rural. When there's a big murder trial, it's the AG's Office who goes in and helps tries it, if not try the whole thing. So the idea that this is some foreign concept is just not true. But tell me how Blaine County with 384 people, which

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is larger-- which is less than the people that I have in Springfield Elementary up the street from my house, why it makes sense to have a county wide election to elect a county attorney? And then when they can't get anybody to run, they contract with the county next to them anyway. So maybe this isn't the best. Maybe we go with regional, but we need to have a conversation about shifting this costs to uphold our laws away from the states, and to make sure that it is more consistent, and is more efficient. But right now, any one of these smaller counties, the county attorney, I mean, the Attorney General is going in and assisting them on a regular basis. Matter of fact, we have a statute that specifically authorizes them to do so. So we're already doing it. I'm just saying let's, let's do it more efficiently and call it what it is. And if the 3 counties, the big counties, want to stay elected, OK, then we can write in here that the state should bear the costs. I'm OK with that. But what we're doing right now in rural Nebraska isn't, isn't working and it's not efficient. And it doesn't make sense to me. Any other questions?

DeBOER: All right. Questions? There is one question for you from Senator Holdcroft.

HOLDCROFT: Thank you, Vice Chair DeBoer. Thank you, Chairman Wayne, for bringing this. So, as you may know, I'm not a lawyer. I don't know if you know that or not.

WAYNE: But you were in the Navy, so it counts.

HOLDCROFT: There you go.

WAYNE: You're a lot smarter than most, most senators.

HOLDCROFT: In the Navy, we have nonjudicial punishment. The captain is judge, judge, executioner, and everything else. Judge and jury and executer. But-- so help me out here. I mean, in Sarpy County I did spend a little time there. Everyone goes to county court, and then whether it's a misdemeanor or a felony, and then they're bound over to district. Is that fair?

WAYNE: Fair.

HOLDCROFT: So you-- I mean, the, the county courts are handling essentially all the misdemeanor cases, and they're passing off the felonies to the district courts.

WAYNE: Correct.

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HOLDCROFT: So you're-- so now the district courts would have to handle not only the felonies, but all the misdemeanors.

WAYNE: No, no, that is-- it doesn't change how the court operates. It doesn't change that in city-- the city of Omaha will still have a city prosecutor division, and they would still stay with-- still represent that. It, it actually doesn't change anything of how the court system works. It's, it's whether they're elected or not and who pays them.

HOLDCROFT: OK. And so if this is passed, I didn't see a timeline in there as, as to how quickly we turn this over.

WAYNE: Well, we put in 2025, but to county attorney clients, there might be some legal issues of current elections and whether they have to finish out their, their duty. So it might have to be a-- it probably will be a transition period if we're moving those county officials-- moving those county attorneys, but doesn't mean they lose their job. They just may have to interview with Attorney General Hilgers for a job.

HOLDCROFT: Dis-- to become a district attorney then.

WAYNE: Correct.

HOLDCROFT: OK. Thank you.

DeBOER: Other questions for Senator Wayne? Senator Bosn.

BOSN: Thank you. Can you tell me an example of a state where the attorney general hires the district attorneys as you-- and I asked Mr. Eickholt?

WAYNE: South Dakota has a hybrid system. Similar. New York-- yes, I have a list of them.

BOSN: You can give it to me later.

WAYNE: Yeah. My, my legislative aide is, is ill for the last 2 days, and, and-- yeah, that's why we changed the, the order. Because they were all freaking out of who was going to testify. But, yeah, I can get you that. But, like, for Texas, though, it's more complicated. Texas actually has in their constitution, criminal attorneys, county attorneys, civil attorneys. They, they have a lot. Yes.

DeBOER: Thank you, Senator Ibach. Other questions? Senator Bosn. That was-- for the transcribers, that was Senator Bosn.

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BOSN: Correct.

DeBOER: Other questions? All right. That will end the hearing on LB963, and bring us to Senator Wayne's LB966. Excuse me, LB996.

WAYNE: For those who want to know, blame Don Kleine, he hired me when I was young, so if you don't like my ideas, he gave them to me. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and north Douglas County. This is part of my START tax saving plan. START stands for Safer Towns And Reducing Taxes. Had to come up with a nice acronym since JEDI was already taken from somebody else. And basically, yes, this is, removing-- again, it's the same theory that I had in the previous one where if we are the ones who are making the laws, we should be paying for the laws. But, ironically, it was Lancaster County's correction director 2 years ago who planted the seed with me. It was in this committee hearing, and I, quote, on January 27, 2022, Brad Johnson said I guess I would honestly answer that this is the state's responsibility. And quite honestly, the state has failed. And this was during a question with Senator McKinney. And he followed up with, it's the state's responsibility. It has been for decades. And because the state hasn't dealt with this-- this was talking about prison overcrowding, and county attorneys and prosecution and county jails-- now you're trying to push it off on to the counties. And that bill in particular was trying to make-- saying that certain people would stay in county jails. And he-- they were against that bill because the state, it's the state's responsibility. And I agree with him. It is the state's responsibility to house these individuals and take care of these individuals. And looking last year at a bill that I think this committee was on board with, my transition, transitional living bill about people get-- be reintegrated back in their communities, looking at how to save property taxes, looking at Douglas County and realizing this is about a \$50 million facility that they operate, looking at other counties who recently would go out for bonding to build new county jails. I thought this was an easier way to remove some of their burden. And if you look at what NACO said, it's about \$150 million according to them, according to the state. In, in, in Department of Corrections, it's about \$185 million. But if you add the financing of a, of a jail, which is part of what we have to work on as a committee, are we just doing the operations and leasing? Are we, are we paying down their debt too? Like, what does that look like? This could be anywhere over \$250 million to \$300 million savings to our local property taxpayers. It doesn't change anything other than who they work for. But the idea, again, is simple. We, we are the ones charging them, we are the one creating the laws, we are the one

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penalizing them with that, we should be paying for it. And what the side note that this does, and I really didn't realize this today until a reporter asked me, is it actually opens up a lot of community beds. We have, right now, over 1,500 people who are classified as community that we don't have enough community beds for, so we can actually move them out of our current facility-- prison facilities, put them back in the communities that they are in as they transition out, create a real transition-- transitional living facilities through these county prisons, and maybe even reduce the need for at least the second prison that the master plan called for, maybe even the first one, saving roughly the state anywhere from \$375 million for the first prison that we're going to build, and up to \$600 million for the second prison. So that's \$900 million that could literally be used for property tax relief by Governor Pillen. So that's the basis of this. This one should be a little less controversial, but probably not. But I'll answer any questions.

DeBOER: Questions from the committee? Senator DeKay has one.

DeKAY: Thank you. Do you think this would have a positive effect on the rural counties and further out from Lincoln as far as supervision and management practices go?

WAYNE: Yes. So right now, what happens, particularly in juvenile but also in, in other, other-- I mean, adult court too, is we're having a hard time housing people. People get arrested in Cass County. They might not-- they might, they might go to Saunders County for, for, for, for, for prison, right, or for jail time. And so right now we have some places that are deteriorating in western Nebraska. And this is a way that we could fill them and actually put money into the county. And I think if you think about, like, Norfolk or Alliance, where they have hou-- job needs, particularly third shift and second and, and second shift, this is a way to bring individuals back to their community, have some type of work training program as they, as they release out, and it doesn't require any really additional cost from the locals. So I think it is a positive. It doesn't make sense for a guy to be in Omaha Corrections who is going back out to Lancaster County or Lincoln County. It doesn't make sense, because then when he's done, he still has to figure out how to get back to his community. And there are-- not every county has a jail, but there are significant counties that do. And we could take that, that, burden off of those taxpayers.

DeKAY: You think of like in rural counties that, you know, I can think of one in my particular district that has a brand new jail facility, I

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think it's a 23-bed facility. You think they could take those prisoners from that area of the state, house them there, and still keep it under their own management and supervision without having-- bring in Corrections on that or not?

WAYNE: No, I think-- I mean, the way it's written, Corrections would take over all the facilities, but that doesn't mean they have to run the day to day, they could contract with the local counties to maintain who's doing it, but they would have the general oversight and the general-- and pay for everything. So, again, if that's a brand new facility, let's say it cost \$10 million and they financed it with bonding, we're taking that off the taxpayers' rolls and putting it on the state.

DeKAY: All right. Thank you.

WAYNE: Same as in Sarpy County, I know they just built a new one too, for a significant amount of dollars, and that could save Sarpy County taxpayers, if I remember right, at least \$50 million.

DeBOER: Other questions? So I'll ask one. So is the idea that we'd sort of equalize out all these spaces that we have at all the time because we can, you know, sort of fill in people into gaps in some other place if there's-- is that kind of what you're thinking is that we can use the whole system?

WAYNE: Yeah. We could use the entire system now. The Department of Corrections, in their fiscal note, they asked for \$1 million upfront to do a study to figure all that out. Who's their current population, where could they maximize putting people before the actual implementation of, of taking over.

DeBOER: So here's a question for you. Would there be-- do you envision that there would be like a, an area devoted to "jailish" folks, and an area that is more long-term housing? So, like, you don't have a roommate of a guy who's in for a ordinance violation in Omaha with a guy who's there serving life.

WAYNE: Well, that happens now, and that wouldn't change underneath.

DeBOER: But he's not, he's-- I guess he's not there-- I'm thinking about someone who's not adjudicated yet serving with someone who is adjudicated.

WAYNE: No, they would be separated. That's part of-- one, that's part of the jails and prisons standards that, that certain people are

separated. So they would, they would have separation, of course. And I think we could even put that further in the law to say there needs to be separation. But I'm also thinking about how many counties are sitting with open beds and where we have short timers that just came out, I think that's one of the studies I passed out, at least I hope I did, who are there for 2, 2 years or less. And our prison system has no idea what to do with them. Because it's too short for-- to get into programming. They're done in about a year, so we literally have nothing for them to do while they're in prison. So what could happen is, you could take a-- I mean, Douglas County and Lancaster are probably too crowded, but you could take another county jail and say, here's where we're going to have some of our, our short termers. And then within those counties, if you get arrested, pulled over, and you're waiting-- awaiting trial, yes, there would be a separation too. We don't want to [INAUDIBLE]-- that's part of the problem we're running to in the prison right now is you have long-term sentencing people who are not quite lifers, but are doing 40 years in there with a person doing less-- you know, a year and one day. And there's issues. In fact, that's how one person lost their life was he was with somebody who was there for life, and the other person was a little more active, and that one person kept saying I just want to do my time. I'm here for life, I don't need extra. Told the guards that he was going to kill this individual if they don't move him. And that person ended up losing their life for that reason. Part of the reason. So, yes, I do envision that. I would hope I wouldn't have to spell that out in law, but maybe we should.

DeBOER: All right. Are there other questions? Did that spark anything? OK. Thank you, Senator Wayne. We'll take proponent testimony. Is there anyone who would like to testify in favor of this bill? Now, we'll take opponents. Anyone in opposition to this bill? Oh, it's not a consent calendar, Senator Wayne. Welcome.

NEIL MILLER: Thank you. Good afternoon, Vice Chair DeBoer and members of the Judiciary Committee. My name is Neil, N-e-i-l, Miller, M-i-l-l-e-r. I'm the sheriff of Buffalo County and here to testify today on LB996 on behalf of the Nebraska Sheriffs Association. I'd like to thank you for allowing me to testify today about this bill. The Nebraska Sheriffs Association is in opposition of LB996. Currently, local jails are run by counties in the state. This has been a practice for many years in Nebraska. Having 63 jails in Nebraska helps keep people closer to their support communities for short duration sentences as well as pretrial. County jails are governed and managed locally under the jurisdiction of the Nebraska Jail Standards Division, and oversight by the Nebraska Office of Public Counsel.

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Minimum standards are in place to ensure the safety and security of those placed into these facilities. Currently, most county jails in this state, unlike the Department of Corrections, are not over their assigned maximum capacity, which lends itself to less issues involving violent acts or harm to the individuals that are placed there. The current system of county jails with state oversight has proven to be the most efficient way to administer the duties of local jails. An example of that would be the fiscal note of this bill. The state is estimating the cost in their fiscal note at over \$185 million to take over these responsibilities. This does not include buildings or bonding indebtedness of the facilities. The Nebraska Association of County Officials puts the current cost of running these jails at approximately \$150 million. Ultimately, it's your decision who runs the current county jails. We just want to make sure as much information about running them and the cost of running them is available to you for your decisions. I thank you for the opportunity to address you, and I would answer any questions that any of you might have.

DeBOER: Thank you very much. Are there questions for this testifier? I don't see any. Thank you so much for being here.

NEIL MILLER: Thank you.

DeBOER: We'll have our next opposition testifier.

ELAINE MENZEL: Good afternoon, Senator-- Vice Chair DeBoer and members of the Judiciary Committee. For the record, my name is Elaine Menzel, that's E-l-a-i-n-e M-e-n-z-e-l, here today on behalf of the Nebraska Association of County Officials in opposition to LB996. As indicated in the prior testimony on county attorneys, we do appreciate Senator Wayne's recognition of unfunded mandates to counties and the recognition that something of this nature might be beneficial to us. At this time, our opposition has been addressed to some degree in terms of things that are not addressed in the bill, such as what happens with existing buildings, how are those arrangements going to be made, and those types of things. And with respect to bonded indebtedness and perhaps collective bargaining agreements for those staff persons that operate the facilities at this point. So those are my primary points. And if you have any questions, I would attempt to answer them.

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

ELAINE MENZEL: Last time today.

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DeBOER: Next opponent. Anyone else in opposition to the bill? Is there anyone in the neutral capacity? As Senator Wayne comes up, I'll note for the record there are-- there is one letter and it's an opposition letter.

WAYNE: Thank you. And, you know, when I start out with big ideas, you never have proponents that come the first time. It usually takes a couple of years. I can tell you about inland port, I can tell you about a lot of bills that were pretty big. STAR WARS took 2 years to even get some funding for lakes, so I understand. But here's what-- it did surprise me on the Sheriffs Association, because what I hear from my sheriff is I would love to know when people are transitioning back to my community, especially when they jam out. That's what my sheriff, I always tell him. He wants to know the jam outs and how do we do a better transition. He actually testified to that multiple times in here. So having people use these county jails as a way to transition out, the way to spread people around, I would think the sheriffs would like that idea because you know who is coming back into your community and when and if there's issues with any type of noncompliance, then you already know that ahead of time. So that, that was an interesting one for me. But at the end of the day, what I would like to see for sure is this to happen. And the number is the number. It's \$150 million according to the county. If you add in their debt services and everything else, we're talking \$200 million that goes off the taxpayers' rolls. I sat in Revenue and in their closing exemptions, and everybody likes the idea of closing exemptions except for their exemption. And that's what this is. The counties don't want to change because they're, they're working on staying functional and efficient the way they are. But we have to do something different as a state or their property taxes are going to continue to rise and the inefficiencies that we see throughout the 96 counties, 93 counties, however you want to-- it's 96 now? 93, 93.

DeKAY: 93.

WAYNE: 93. Yeah, I know, I'm trying to subtract a couple more. But it's always going to be there. So I think this is a great starting point. What I would at least like to get out on the floor is the \$1 million to the study, and let them come back next year to you all and tell you how they can do it. Because I think it, it actually helps.

DeBOER: Questions for Senator Wayne? I don't see any more on this bill, Senator Wayne, but we will end the hearing then on LB996, and now we will open on your LB918. Senator, Senator Wayne is in. He's doing a ventriloquist act, he's just open.

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DeKAY: Does he need a drum roll?

WAYNE: Just in case you ask me about the bill, I should have it in front of me. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and north Douglas County. This bill is really simple. Nebraska has a long history of helping DACA students and DACA individuals. And looking at our law enforcement shortage in some areas, I felt like this was an opportunity, one, to be welcoming as a state and provide some necessary support for our law enforcement individuals. I will note from looking at the online comments, we are not changing criminal background checks. We are not-- they still got to go through a whole process. It's not like we're-- we say, oh, you're DACA. Here go-- here goes your badge and gun. That's not what we're doing here. It's still got to go through a whole process. And if their DACA paperwork or visa doesn't, you know, expires or they don't get renewed, then obviously they would lose their certification and we can make that a little clearer in the bill. But that was mainly the online comments that I was looking at. We're not lessening restrictions. We're not lowering anything. We're just saying that these individuals are part of our state. They've been here, and they should be able to due to some of these things that we do. So with that, I'll answer any questions.

DeBOER: All right. Questions for Senator Wayne? Don't see any.

WAYNE: And I waive closing.

DeBOER: OK. First proponent.

NICK GRANDGENETT: Good afternoon. My name is Nick Grandgenett, that's spelled N-i-c-k G-r-a-n-d-g-e-n-e-t-t. I'm a staff attorney with Nebraska Appleseed testifying in support of LB918. So LB918 ensures that many longtime community members who are work authorized through the DACA program and who grew up in the state of Nebraska can become and start careers in law enforcement. Advancing the bill would ensure that our state's police force includes representation from all communities that the police force serves. We're primarily testifying just to offer a couple of suggestions regarding language in the bill. So, first, we would suggest just a simpler definition of "eligible immigrants," which is tied to federal law. So LB918 extends eligibility only to longtime immigrant community members who are work authorized through the DACA program. But there are other similar situated work authori-- authorization categories who could be included in that definition as well. So if the language defining eligible immigrant, which is on page 9, were instead tied to federal

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regulations, specifically 8 C.F.R. 274a.12, then the bill would ensure that people who are authorized through similar-- several similar programs, such as TPS or work authorized by virtue of a pending asylum application, they, too, could start careers in law enforcement. The second thing that we wanted to highlight was on page 3, which just ensures that DACA police officers can access all of the public benefits related to employment. It seems that the intent of the bill is to ensure that if a police officer is laid off because of, for example, budget cuts, then the police officer could access unemployment insurance while they search for a new job. So in order to ensure that DACA police officers can access unemployment benefits, there are technical changes that would need to be made to Chapters 4 and 48 of our Nebraska statutes. Currently, a fluke in Nebraska state law excludes DACA recipients from accessing unemployment insurance. There's another bill in front of the Business and Labor Committee which has the technical changes which would be needed to make these change-- to fix this problem. It's LB618. That bill would ensure that anybody who is work-authorized through DACA, TPS, or by virtue of asylum application can also access unemployment and makes those technical changes. And then in addition to my testimony, we've also handed out a fact sheet on LB618 that helps explain that bill, which had a lot of broad support from employers, businesses and community members and has made it to Select File in previous years, but just ran out of time. So with that, I'll say that LB618 or LB918 is a good bill. We support it, and we would just urge the committee to also offer its support for LB618. Thank you so much and I'm happy to answer questions.

DeBOER: All right. Thank you very much. Are there questions from the committee? I don't see any today.

NICK GRANDGENETT: Thank you.

DeBOER: Thank you so much for being here. We'll take our next proponent testifier.

TOM VENZOR: Good afternoon, Vice Chairwoman DeBoer and members of the Judiciary Committee. My name is Tom Venzor, T-o-m V-e-n-z-o-r. I'm the executive director of the Nebraska Catholic Conference. Since 2012, over 800,000 migrants have taken advantage of the Deferred Action Childhood Arrival program that was started by the Department of Homeland Security. At one point, these migrants were referred to as DACA youth. At this point in time, some of these DACA recipients are no longer even considered young adults. Regardless of whether they are teenagers or over the age of 40, these migrants have been

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long-standing members of our community and make numerous contributions to their families with their own citizen children, schools, churches, colleges, workplaces, and other forms of communal association. At the end of the day, Nebraska and the United States are home for DACA recipients. Our public policy at both the state and federal level should reflect this fact. As the Nebraska Catholic Conference stated nearly 20 years ago when we supported in-state tuition rates for undocumented students, DREAMers are not strangers among us and public policy should not treat them as strangers. LB918 is one more building block for ensuring that DACA recipients are more legally normalized at the state law level. Like any of us, those with deferred action share the dreams and aspirations many of us have, including the desire to work in a profession that provides them fulfillment. As Saint Pope John Paul II noted in, in his encyclical "On Human Work," the act of working is a noble one and helps us to realize the fullness of our humanity. LB918 removes barriers for those who are currently impeded from answering a vocational call to service as a law enforcement officer, which we find consistent with Catholic social teaching on migration and labor. And I would also, to go off script for a second, I would echo the 2 recommendations made by Nebraska Appleseed. I think those would be important policy changes to this piece of legislation as well. We thank Senator Wayne for bringing LB918, and we continue to hold out the greater hope that federal law will finally provide a legal pathway to citizenship for all DACA recipients in the broader DREAMers community. Thank you for your time and consideration.

DeBOER: Thank you very much. Are there questions for Mr. Venzor? Thank you for being here.

TOM VENZOR: Thank you.

DeBOER: All right. We'll take our next proponent testifier. Welcome, sir.

RON SEDLACEK: Thank you, Vice Chair DeBoer and members of the Judiciary Committee. For the record, my name, Ron Sedlacek, R-o-n S-e-d-l-a-c-e-k. I'm here today on behalf of the Nebraska Chamber of Commerce, the Lincoln Chamber of Commerce, and the Greater Omaha Chamber of Commerce, all in support of LB918. In our discussions, we identified really 3 benefits that this bill presents. First of all, it serves as an effective recruiting tool in times of patrol officer shortages and declining staff support. Second, the ability of law enforcement to gain more multilingual officers I think is a huge benefit helping to bridge the language barrier and strengthening relationships, particularly in jurisdictions that have significant

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immigrant-- immigration populations. That's a way to put a more-- it's a way to put more well-rounded officers essentially on the force and make inroads with, with the immigrant community. Third, it eliminates unreasonable barriers for people that are willing and able to serve their communities and recognize that DACA recipients are part of our communities. They go to school here, they learn here, they work here, they teach here. Through no fault of their own, really, they, they know of no other home other than Nebraska. They're authorized to work in the U.S. They are authorized to serve in the military. And so if they can be a U.S. military police officer without being a U.S. citizen, why not a local law enforcement officer? So for these reasons, we would support the legislation. Thank you for your time. Be happy to answer any questions.

DeBOER: Are there any questions for this testifier?

RON SEDLACEK: Thank you.

DeBOER: Thank you so much for being here, sir. We'll have our next proponent.

DYLAN SEVERINO: Good afternoon, Vice Chair DeBoer and members of the Judiciary Committee. My name is Dylan Severino. That's D-y-l-a-n S-e-v-e-r-i-n-o. I'm here on behalf of the ACLU Nebraska. I'm here in support of LB918. The ACLU fights for diversity, equality, and inclusion in all aspects of life because we believe that different backgrounds and points of view make us grow both on an individual and a societal level. While we understand that increasing diversity in law enforcement is not a panacea, we believe that adding diversity will help reduce implicit biases overall in Nebraska law enforcement and enhance minority communities' trust in Nebraska law enforcement. A 2019 report by the ACLU of Nebraska revealed that law enforcement traffic stops of racial minorities in Nebraska were almost always more likely, often many times more likely, to result in searches and arrests. That report recounts 2 personal stories of people who were racially profiled, which led to an escalating situation that was only diffused by a more culturally aware law enforcement officer. Because about 96% of DACA recipients were born in Latin America or the Caribbean, DACA recipients would help diversify Nebraska law enforcement. More diverse law enforcement officers would lead to more culturally aware law enforcement officers and a reduction in racial profiling and implicit biases. As communities begin to trust that law enforcement agencies represent them and are understanding and responsive to their experiences, that trust will diffuse tensions and create more opportunities for law enforcement agencies to serve all

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the communities in Nebraska. Traditionally, recruitment of members of underrepresented communities into law enforcement is uncommon, but the ACLU of Nebraska is already aware of several individuals in the Nebraska DACA community who would like the opportunity to become law enforcement officers. For these reasons, the ACLU of Nebraska expresses gratitude to Senator Wayne for introducing LB918 and urges the committee to advance this legislation to the floor. Thank you, and I'd be happy to answer any questions.

DeBOER: All right. Thank you. Are there questions? Don't see any.

DYLAN SEVERINO: Thank you.

DeBOER: Thank you for being here. Next proponent.

JOE KOHOUT: Vice Chairman DeBoer-- Vice Chairwoman DeBoer, sorry, this is my first time this session, Joe Kohout, K-o-h-o-u-t, appearing today-- a registered lobbyist appearing today on behalf of our client, the United Cities of Sarpy County. Our, our 5 city-- our 5 mayors, which is the cities of Bellevue, Papillion, Gretna, Springfield and La Vista, always every year when legislation is introduced meet with our chiefs to look over legislation that is of concern or particular interest to them. This year we did so and, and this bill made the list. And, and 2 of the chiefs indicated situations where they had been presented with candidates who were not eligible for hire, in part because of this issue. And so the mayors listened and unanimously voted to support this bill. And so we would ask that the committee look favorably on the bill and advance it to General File.

DeBOER: All right. Thank you for your testimony. Any questions? I don't see any. Thank you very much.

JOE KOHOUT: Thank you.

DeBOER: Next proponent testifier. Is there anyone else who would like to testify in favor of the bill? Opponents? Anyone in opposition to the bill? Anyone in the neutral capacity? Senator Wayne has let us know that he waives closing. But we did have 16 letters that I'll read into the record, 11 of which were in support, 4 of which were in opposition, and 1 was in the neutral capacity. That will end our hearing on LB918 and our hearings for today. Thank you.