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Judiciary Committee
January 21, 2010

[LB694 LB695 LB746 LB784 LB844]

The Committee on Judiciary met at 1:30 p.m. on Thursday, January 21, 2010, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB844, LB694, LB695, LB746, and LB784. Senators present: Brad Ashford, Chairperson; Steve Lathrop, Vice Chairperson; Mark Christensen; Colby Coash; Brenda Council; Scott Lautenbaugh; Amanda McGill; and Kent Rogert. Senators absent: None. []

SENATOR ASHFORD: I'll call it to order. Why don't we get started? Senator Lautenbaugh has a...he can't stay for very long, so we're going to ask him to proceed. And anybody that's here to testify on Senator Lautenbaugh's bill can't testify (laugh). No, that's not true. We'll let him... []

SENATOR MCGILL: What can we vote on without Scott? (Laugh) I'm just joking. []

SENATOR ASHFORD: Welcome, Scott. []

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman, members of the committee. I'm here to introduce LB844, and I'll warrant to you that I do have people from the Crime Commission and otherwise coming behind me to testify and provide information on this bill. Simply put, it I think recognizes the reality of what we've been doing in that we've been using funds that...I think it's the LEIF fund, a court fee, to pay for the tuition of new police officers going to the training facility. I don't believe, as written, this affects Omaha, Lancaster, Lincoln, and the state patrol because they have their own separate facility, if you will, or deal...way of doing this. What this does, a couple of times in the past, I think we moved out the deadline by which the cities would have to pay for these or the new recruits themselves would have to pay for the tuition. This just removes that deadline and says we are going to continue to use this fund to pay for the tuition for the training of new police officers, simply put. [LB844]

SENATOR ASHFORD: Not including the...Omaha. [LB844]

SENATOR LAUTENBAUGH: Yes. [LB844]

SENATOR ASHFORD: Because they're not included in this program. [LB844]

SENATOR LAUTENBAUGH: That's correct. It would be more for smaller towns across the state who otherwise, you know, with the smaller police forces they would probably have to, you know, \$2,000 \$3,000 fee would be not cost prohibitive but very taxing on the smaller cities' and counties' budgets. [LB844]

SENATOR ASHFORD: Okay. Any questions of Scott? Seeing none, thank you. [LB844]

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SENATOR LAUTENBAUGH: Thank you. I'll waive closing. [LB844]

SENATOR ASHFORD: Proponents? Mike, do you want to come on up? Go ahead. [LB844]

MIKE BEHM: (Exhibit 1) Good afternoon, Senator Ashford, members of the Judiciary Committee. My name is Michael Behm, B-e-h-m. I'm the Executive Director of the Nebraska Commission on Law Enforcement and Criminal Justice. I'm here today to testify in support of LB844. This bill removes statutory language in 81-1413 which requires the Law Enforcement Training Center to charge tuition for mandated training beginning January 1, 2011. The majority of law enforcement agencies in Nebraska are small to medium sized and will be impacted with new tuition charges. The estimated tuition is \$4,000 per person plus the current expenses in place of \$2,000, and their salaries. The three largest law enforcement agencies are the State Patrol, the Omaha police, the Lincoln police departments. These three agencies have their own training academies, and are not affected by 81-1413. The concept to establish the training center as a tuition-based academy originated with LB994 which passed in 2000. Community colleges could provide core courses prior to a student going to the training center. These individuals would pay their tuition for basic training to become certified and upon graduation were hopefully hired by agencies. Law enforcement agencies could still hire noncertified individuals and send them to the training center for basic training, and the agency would pay their tuition to the center. Unfortunately, an increase in tuition students never materialized, which was estimated at 100-150 students per year. Actually, only about seven tuition students attend annually. As a result, the Legislature has continued to delay the tuition system, as it has become clear that Nebraska does not have the population base to create a hiring pool of certified officers. Last session LB35 increased the Law Enforcement Improvement Fund court fee from \$1 to \$2. The funding from the LEIF fee is for the operation of the training center. Due to this change, the training center no longer needs tuition-based revenue to operate. I urge the members of the Judiciary Committee to advance LB844 to General File, and I'll be glad to answer any questions you may have. [LB844]

SENATOR ASHFORD: And this legislation is catching up with the change in the appropriation from last year. [LB844]

MIKE BEHM: Yes, it is. Yes, sir. [LB844]

SENATOR ASHFORD: Any questions? Yes, Senator Council. [LB844]

SENATOR COUNCIL: Yes, thank you, Senator Ashford, and thank you, Mr. Behm. In fact, Senator Lautenbaugh suggested that any questions I have be left for you. And as I understand the bill and the arrangement, an individual who, for whatever reason,...let's

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assume trying to improve their chances of being invited to participate in a law enforcement recruit class enrolls at the training academy. That's the pool of people you're talking about who under existing law will have to pay tuition. [LB844]

MIKE BEHM: Yes, Senator. [LB844]

SENATOR COUNCIL: Okay. And then under the law, you would still have that category of people who pay their own. Am I correct? [LB844]

MIKE BEHM: Under the law, it's written the way it is right now. Yes, you would. [LB844]

SENATOR COUNCIL: Okay. But even under LB844, would you still have that class of people who aren't being sent by a law enforcement agency but are just taking it upon themselves to get that training. Would they still be charged tuition under LB844? [LB844]

MIKE BEHM: I think that's a question I would have to get back to you on because I'm not sure if we're going to eliminate the ability to a non-law student. For example, not coming from a sponsored law enforcement agency to attend, so I could get back to you on that question. [LB844]

SENATOR COUNCIL: Okay, because then that gets to my next question. Under what circumstance would the training center itself pay the tuition? [LB844]

MIKE BEHM: Actually, we don't have that system in place right now. We have...what we have with the LEIF funds coming in is approximately \$580,000 per year with a general fund of about \$1.1 million a year. With that, that allows an agency from the non three large agencies to send a potential officer that they've hired that has to complete training to be certified at a cost to them around \$2,000 a year, and those costs are mainly expenses for ammunition and whatever course materials are used out there. [LB844]

SENATOR COUNCIL: Okay. So the law enforcement agency would still pay that? [LB844]

BILL MULDOON: Excuse me, Senator. [LB844]

SENATOR COUNCIL: Oh, that's quite all right. [LB844]

BILL MULDOON: The answer to her first question is yes. [LB844]

MIKE BEHM: Okay. Yes. This is Director Bill Muldoon from the training center. [LB844]

SENATOR COUNCIL: Okay. So my first question was, if someone just wanted to

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prepare themselves,... [LB844]

MIKE BEHM: Yes. [LB844]

SENATOR COUNCIL: ...that they could apply for enrollment at the training center, and they would be charged tuition. [LB844]

BILL MULDOON: Yes. [LB844]

MIKE BEHM: Yes. [LB844]

SENATOR COUNCIL: And that tuition is about \$4,000? [LB844]

MIKE BEHM: Right now it's \$4,000. [LB844]

SENATOR COUNCIL: Okay. Now what is the \$2,000 expense, and who bears that cost? [LB844]

MIKE BEHM: Right now the agency bears that cost and the nontraditional student. It's \$4,000 for tuition plus the nontraditional student still has a \$2,000 fee. [LB844]

SENATOR COUNCIL: Okay. [LB844]

MIKE BEHM: Those costs incur whatever supplies it runs from the range supplies to the different core courses that they supply in their 11 weeks out at the training center. [LB844]

SENATOR COUNCIL: Okay. So under LB844, let's see, what I'm trying to figure out as I'm reading the summary, it says that what LB844 will allow for in addition to the nontraditional student, why don't we call them that? Because that's somebody who's not being sent by a law enforcement agency. [LB844]

MIKE BEHM: Yes. [LB844]

SENATOR COUNCIL: It says that LB844 would provide that in addition to that cohort of people who would pay their own tuition, the agency employing the training academy attending would pay the tuition or the training center itself would pay the cost. It's like an either/or, and that's what I'm trying to...do you really mean to have an either/or? [LB844]

MIKE BEHM: Well, this is the way I understand it, Senator. I believe that the way it stands right now, if LB844 does not pass, medium- to small-sized agencies, when they send an officer after January 1, 2011, it will cost them approximately \$6,000 because the money that had been paid for is now gone, so they will have to come up with

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\$6,000. And that, I think, was our main purpose for supporting this bill because of the impact to the...not only the cities, but the county in the rural parts of Nebraska. [LB844]

SENATOR COUNCIL: Okay, so now with the bill, how much would that agency have to pay? [LB844]

MIKE BEHM: With the bill, they're still going to have to pay approximately \$2,000. That does not change. [LB844]

SENATOR COUNCIL: All right. Thank you. [LB844]

SENATOR ASHFORD: Any other questions of Mike? Mike, thank you for getting those grants out to the communities to Omaha and Columbus on the Office of Violence Prevention. I think you got those grants out within just a few months didn't you of...? [LB844]

MIKE BEHM: Well, we did. We had a lot of help, Senator, and... [LB844]

SENATOR ASHFORD: Well, I mean that helped...it's helping a lot of people, and I applaud you for your...for the way you handled that. [LB844]

MIKE BEHM: Thank you and I also will bring your remarks to my staff. They did a lot of the work. [LB844]

SENATOR ASHFORD: You can even grudgingly express our gratitude to Mike Friend. I know it's hard but (laughter). [LB844]

MIKE BEHM: I'll do that as well. I'll do that as well. [LB844]

SENATOR ASHFORD: Okay (laugh). [LB844]

MIKE BEHM: Thank you, Senators. [LB844]

SENATOR ASHFORD: Thanks, Mike. Any other proponents or how about opponents? Oh, Gary is up. [LB844]

GARY KRUMLAND: Senator Ashford and members of the committee, my name is Gary Krumland. Last name is spelled K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities in support of LB844. This is a very important bill for local government and for local law enforcement agencies. We need it to continue the funding of tuition at the Law Enforcement Training Center for local police officers, and without the bill the deadline will pass, and the tuition reimbursement will go away. A lot of the small communities sometimes feel like they're the...pay for the training and do training for law

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enforcement for middle-sized communities, and sometimes the middle-sized communities say, we hire and train people for the larger communities because they will hire somebody, send them to the training center, pay the fees that they have to pay plus room and board and salaries for that time. And then if a law enforcement officer in a smaller community wants to advance, sometimes they feel they need to go to a larger department, so sometimes they don't keep them, so they have to start that over again. Without the tuition help, it'd make it much more expensive for them to maintain law enforcement. So this helps preserve law enforcement in some of the smaller communities, and we do... [LB844]

SENATOR ASHFORD: And that was my understanding why we did the appropriation shift last... [LB844]

GARY KRUMLAND: Yeah, and I think...and it does help, so we really appreciate that, and we'd like it to continue if we could. [LB844]

SENATOR ASHFORD: Right. 'Cause I think that came out of our committee, didn't it, the increase to a dollar? [LB844]

GARY KRUMLAND: Um-hum. [LB844]

SENATOR ASHFORD: Any questions of Gary? Gary, on a totally different topic, I've been (laughter) somewhat of a serious issue with us here in this committee is we've been getting some e-mails regarding LB...I think it's 373 or some bill regarding the fire... [LB844]

GARY KRUMLAND: Um-hum. [LB844]

GARY KRUMLAND: ...firefighters. What I'd like you to do is this committee prides itself on taking...making decisions based upon information that is provided to us. And I do not recall any information regarding the increase in costs that would occur if we extended the disability eligibility for 90 days past employment termination, and I'm not...and the message has got to be clear to everybody that comes before this committee. If you have inform...not you necessarily, but it's coming from the city of Omaha. If you have any...and I know you testified against the bill, and I appreciate that, but if anybody...before we start talking on the floor about the huge expenses and increases to the city and increases in property taxes and all the things that we hear, it will be helpful to us if we had data upon which we could make valued judgments because we never had any. And, in fact, the evidence was significantly to the contrary that it would be very rarely used that a firefighter or first responder would have access...would utilize this 90-day extension. This is not intended to be a reflection on you; this is...you're the messenger, I guess. [LB844]

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GARY KRUMLAND: Okay. [LB844]

SENATOR ASHFORD: But that message needs to be gotten. [LB844]

GARY KRUMLAND: Well, and on this specific...the bill you're talking about, I'll talk to the cities and just see if we can... [LB844]

SENATOR ASHFORD: And I think...well, I think we should talk to Mr. Cheloha and the city of Omaha, and I think the message has to be gotten out, and that is that, we...you know, we don't make knee jerk decisions here, and if there's not data that would support an opposing view in this case, you know, then we're going to base our judgments on bills based on what...the information we have before us, and to show up on General File with allegations not...again, this is not a reflection on you because you didn't do it, but to...but you did oppose the bill, and that's reflected in the record, and I respect that opposition. But if the allegations on the floor are that there's some increase in property taxes to the taxpayers, the city of Omaha because a first responder who has cancer and doesn't discover it for 90 days gets a disability payment, I want to know that. I want to know what those increased costs are, and that applies to every single bill. And if it goes out on the floor without that information to come back now, anybody...this goes for anybody that comes before this committee. We've been sitting...we've heard this too much on the floor. This committee deals with hundreds and hundreds of bills over the last three to four years, and many of those bills deal with liability of cities. One of the best pieces of work I've ever been involved in in this Legislature was the work that Senator Lathrop and you guys did on the liability issue the first year we were here. You know why? Because we spent and, primarily Senator Lathrop and then the rest of the committee working on this, spent days and weeks carving out a liability bill that was a balanced bill, that addressed the needs of your constituents, your clients, the cities, and also the concerns of others who utilize those facilities. But I just...you know, I've held back for three-and-a-half years but now, yesterday was the last...I'm a nice guy, but I'm not going to have my committee accused of not having adequate information and just making spurious judgments. It is up to the...and someone...and people who are here every day, and this doesn't...and there may be people in this room who don't come here every day and testify. But those who do have to realize that this committee will base its decisions on information that is provided to it and not on allegations and innuendo and passing...you know, passing notes into the floor and say you can't vote for this because it's going to raise property taxes in Omaha. That isn't how you do business in this Legislature, and this committee will not condone it. So thank you, you're...unfortunately had the opportunity to be sitting here (laugh) and had some tangential relationship to the bill because you did and...did oppose it. But that's not why I'm picking you out (laugh). [LB844]

GARY KRUMLAND: Okay, and I do, for the record, appreciate the work of Senator Lathrop and the committee on the recreation liability issue. That was a major... [LB844]

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SENATOR ASHFORD: Yeah, and quite frankly, if the disability...there is no question that disability is an issue as we work through obligations that cities have to meet the needs of their employees. Obviously, that's an issue. It's just as important an issue as liability issues, quite frankly. And if the cities...the city of Omaha particularly and the administration of the city of Omaha...if they felt that that was such a critical issue, then it was incumbent upon them to bring that information to us. And I'm sure Senator Lathrop would have been happy to spend another two months of his time working on that bill as well. So anyway, I just...I want that message clearly...please, clearly...and if you want a transcript, I'll give it to you, to clearly, clearly made known to the city of Omaha especially. And it happens to be my city, but what the heck? And please give that message. And I do respect the fact that you're opposed to this, and you've always been respectful, and you have provided us information, so you're the messenger. You're not the culprit here. Okay? [LB844]

GARY KRUMLAND: Okay. [LB844]

SENATOR ASHFORD: Thank you. Any other questions? [LB844]

GARY KRUMLAND: Okay. [LB844]

SENATOR ASHFORD: Thanks. [LB844]

SENATOR COASH: Come back any time, Gary. [LB844]

SENATOR ASHFORD: (Laughter) Getting back to the bill at hand, anyone else want to testify? Come on up. [LB844]

BETH BAZYN FERRELL: Good afternoon, Chairman Ashford, members of the committee. For the record, my name is Beth Bazyn, B-a-z-y-n Ferrell, F-e-r-r-e-l-l. I'm an assistant legal counsel with the Nebraska Association of County Officials. We're appearing here in support of LB844 for the same reasons that Mr. Krumland indicated. This is beneficial to counties. It helps offset some of the costs of training. We do lose sheriffs' deputies to larger agencies and the medium-sized agencies lose them to larger and so on, as he indicated. So we are in support of this bill. Be happy to try and answer questions. [LB844]

SENATOR ASHFORD: No, it's better probably if (laughter). No, thanks for your comments. Any other proponents? Opponents? Neutral? That concludes...Senator Lautenbaugh has waived his closing, so that concludes the hearing on LB844. We now go on to...Senator Price is here, LB694. Before we do that, I'd like to introduce my colleagues. Come on up, Scott. Senator Coash from Lincoln; Senator Christensen from Imperial; Senator Lathrop over there from Omaha; Senator McGill from Lincoln; of

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course, Senator Council from Omaha and myself from Omaha. LaMont Rainey is legal counsel, and Christina Case is committee clerk for those that aren't here on a regular basis. Welcome, Scott. [LB844]

SENATOR LAUTENBAUGH: (Exhibit 2) Thank you, Chairman Ashford and members of the committee. My name is Scott Price, S-c-o-t-t P-r-i-c-e. I represent the 3rd Legislative District. I humbly submit LB694 for your consideration. On September 21, my office was contacted by a constituent about a registered sex offender on school grounds. They reached out to me because they were told no law exists to prevent this individual from entering school grounds. My staff checked with the Sarpy County Attorney's Office and with this committee's legal counsel, and both confirmed what the constituent told me. As you are aware, the Legislature has enabled communities to enact ordinances to prohibit sex offenders from living near schools and child-care facilities. Neb. Rev. Stat. 29-4017. Yet, nothing in the law protects children while they're at school, a place where I think we'd all agree, no child should ever feel threatened. My intention with LB694 is to protect school children from the most dangerous offenders, those who have been convicted of...committed offenses against children. As drafted, LB694 would require certain sexual predators to request and receive written permission before entering school grounds. This would include a school's buildings, grounds, and buses. The bill would apply to sexual predators who are required to register under the Sex Offender Registration Act, who have committed an aggravated offense as defined in statute and have victimized a person 18 years of age or younger. You should have received a National Conference of State Legislatures summary of other state laws passed in recent years regarding residency and proximity restrictions on sex offenders. As you can see, a number of states have taken similar steps to what I am proposing in LB694. However, since introducing LB694, I believe the bill will need to be amended to take into consideration when school is designated a polling place or used for emergency purposes. I'm happy to work with the committee to draft language taking these situations into consideration while protecting school children. Now there will be someone here who follows me who will explain in greater detail the situation that brought this issue to light. I hope the committee will consider advancing LB694 to the floor for consideration, and I am happy to answer any questions you might have. [LB694]

SENATOR ASHFORD: Any questions of Senator Price? Yeah, Senator Council. [LB694]

SENATOR COUNCIL: Yes, thank you, Senator Ashford. Senator Price, in your research before introducing the bill, did you have occasion to speak with the parole board? I'd be curious as to whether conditions of parole of individuals required to register as sex offenders includes any prohibition from any presence on a...? [LB694]

SENATOR PRICE: Directly, I would say no. I do know that the legal counsel here and

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our staff talked, but I didn't have any direct correspondence with the parole board.
[LB694]

SENATOR COUNCIL: But what did your staff learn from the parole board? Do we know whether or not that that's a condition of? [LB694]

SENATOR PRICE: I will say right now I'm unaware of it. [LB694]

SENATOR COUNCIL: Because I would be interested in knowing whether that would be a condition of parole... [LB694]

SENATOR PRICE: Right. [LB694]

SENATOR COUNCIL: ...and the...how does the bill harmonize with what is the current registration requirements? Because I know under the current registration requirements, when we speak to certain crimes committed by these individuals, the age of 13 comes into...youngsters under the age of 13. And your bill speaks to youngsters under the age of 18. [LB694]

SENATOR PRICE: Well, Senator Council... [LB694]

SENATOR COUNCIL: Yeah, I'm sorry, I didn't... [LB694]

SENATOR PRICE: As far as harmonizing, again, I leaned deeply on the legal counsel here and other staffs to address those issues, and I don't have a direct answer for you. I'd be more than happy to make sure we research those and debug them, if you would, the idea being is if this...if this committee finds ways to ensure that we've tightened this up, then I'd be more than happy and amenable to consider those, but the idea of being here is we have a place where the law is silent it seems for the individuals, and we wanted that addressed. [LB694]

SENATOR COUNCIL: Well, I would certainly want to have answers to those questions because one of the problems is imposing upon these individuals layers and layers of possibly conflicting restrictions. [LB694]

SENATOR PRICE: Sure. [LB694]

SENATOR COUNCIL: In one place, we speak to victims under the age of 13 because as I read, an aggravated offense under 29-4001 is defined as, and it goes on, "a victim age 13 years or older without the consent of the victim, a victim under the age of 13 years or a victim who the sex offender knew or should have known was mentally or physically incapable," yet the bill speaks to referencing that same section and expands it to having victimized a person 18 years of age or younger, so this goes vastly beyond

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what current law...the restrictions that current law imposes. [LB694]

SENATOR PRICE: I believe someone will follow me up who...maybe in the neutral who also noticed that and asked me as we came up here. So, again, I'm open to making it work. [LB694]

SENATOR COUNCIL: Okay. And your bill specifically requires written permission of the principal. You know, are you envisioning like a pass that this person has to carry on them or? [LB694]

SENATOR PRICE: At this time, what it was more to notify the school and the school has acknowledged receipt of the situation that the person has a purpose or reason to be on school grounds, whoever the competent and proper authority is there, but no, I'm not saying they have to carry a scarlet letter or big paddle or whatever, just to let them know, but also to answer to the fact that if someone were to fall under the definition of what we're trying to do here and be on school grounds, the police currently have no ability to do anything about it. There's nothing...again, it seems the law is silent on it, and we wish it'd be other. [LB694]

SENATOR COUNCIL: And my final concern is the bill speaks...it broadly defines school and school property, and correct me if I'm wrong, as I understand it, if the person is at a school sponsored athletic event or activity where more than one school is involved, that person is required to get permission from the principal of every school involved. Example, district track meet, and you have 12 schools present. As I read it, the person would be required to contact the principal of each and every school that's involved in that activity, and quite frankly, I'm concerned about how would you monitor that? [LB694]

SENATOR PRICE: Sure. Well, I agree, and in looking at that, I could see that you'd want to look at something for the hosting...the person who's hosting the event, something along those lines. [LB694]

SENATOR COUNCIL: Because I understand your intent. Your intent is that someone knows that, and the individual who's a registered sex offender is present at an event... [LB694]

SENATOR PRICE: Right. [LB694]

SENATOR COUNCIL: ...but I think to go so far as to say that every...he has to get permission from every school participating, I think that is too broad. [LB694]

SENATOR PRICE: That'd be burdensome. I understand, and I appreciate that, Senator Council. [LB694]

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SENATOR COUNCIL: Thank you. [LB694]

SENATOR ASHFORD: Yes, Senator Coash. [LB694]

SENATOR COASH: Thank you, Chairman Ashford. Senator Price, how did you arrive at a Class I misdemeanor as a penalty for violating this proposed? [LB694]

SENATOR PRICE: That's what was suggested by the people that worked on staffs and drafted it up. I left it up to them. [LB694]

SENATOR COASH: Okay, because we had a terrible event that happened here in Lincoln about two years ago where a guy walked right into Arnold Elementary School, sexually assaulted a kindergartner, and it changed, that young boy's life forever. He wouldn't have cared about this law. He was going to go in there and do what he was going to do, not that it...if it would have been a Class I felony that...I don't know if that...that wasn't what was entering his mind. So I certainly see your intent here, but I'm wondering if the kind of people who we'd be prosecuting would pay attention to this. And, you know, you did mention the law is silent. Maybe we do need to say something about that. Another question would be, I don't see anybody here from the school administrators, and maybe talk with the principals about, you know, how do they feel about having to administrate this and things like that? Have you reached out to them? Are they...what do they...what kind of feedback are they giving you in how they manage their schools and how this might work? [LB694]

SENATOR PRICE: We'll have someone from a local PTA who has more interaction with those entities and deals directly with them to talk about that. [LB694]

SENATOR COASH: Okay. [LB694]

SENATOR PRICE: And as far as what you said, you know, some laws don't stop people from doing what they're doing. What I'm looking for here is, and particularly with the case we had, where an individual was repeatedly getting on school grounds. There was nothing that law enforcement or the school could do to help dissuade...what's the proper word we're looking at...but to say you can't do this. There's nothing there. That person can set up a lemonade stand on school grounds. They could sit there and get a lawn chair out if they're on a soccer field and do whatever they want, and there's an issue with that, and we'd like to look at this and see if we can find a way to address it. That's the intent here. [LB694]

SENATOR ASHFORD: Thanks, Scott. [LB694]

SENATOR PRICE: All right, thank you. [LB694]

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SENATOR ASHFORD: Do you wish to stick around or? [LB694]

SENATOR PRICE: I'll stick around. Thank you. [LB694]

SENATOR ASHFORD: Proponents of LB694? Yes ma'am. [LB694]

BELINDA STUSSY: My name is Belinda Stussy. It's B-e-l-i-n-d-a. Stussy is S-t-u-s-s-y. I am from Leonard Lawrence Elementary. I'm the current PTA president; this is my third year I've been dealing with our schools. I have two children in the school. I'm also a soccer coach that uses the school, so I am at the school tremendous amounts of time. I also work part time in and out with the special needs students at the school, so we did have a very serious incident this spring where a predator from our neighborhood who was known to those of us on the PTA and also the school to be living within two blocks of our school. He all of a sudden showed up one morning as I was walking my children and a couple of other children to school. He was on the school property in our path so we had to walk right past him as we went to school. He was acting very strangely. Lots of things sent up red flags. The school and the PTA took action. We set up a parent watch program. The very next day, Tuesday night, I took my soccer team of seven- and eight-year-old boys and nine- and ten-year-old girls down to practice, and adjacent to the soccer field connected right to that is a huge ditch that's filled with weeds. A couple from the neighborhood came down, started yelling, and out of this set of weeds he comes up from our soccer field. He did get arrested that night. He was out the very next day. Five days later he again was on the school property. He was talking to the children on their way to school. We as parents, you know, we had already had the police there to help us monitor and watch. They took him into custody, and he is now currently incarcerated, but he will be out this fall, or you know, this early spring he will be out. He is a threat to our children, and there was nothing we could do. Even as parents, we couldn't say you can't be here. The most we could do was, you know, take as many kids as we could and walk them to school, you know, and that's not always possible. So there's just nothing that currently protects our students from this man being where they have to be. You know, they were terrified. They'd go to school, and that's what they were talking about because they knew from their parents that they weren't even safe in the school, that if he wanted to he can come into their school. And so, you know, when you have elementary students...he was also caught at the junior high two times where he had to drive to get there. He can walk to our school. He had to drive to the junior high. Those kids weren't protected either. This is something we need, and I'm not just speaking as a PTA president. I'm speaking as a parent. My kids have to live with this. They're afraid...they were afraid, you know, they're breathing safely now, but come this spring it won't be that way. So, I mean, whatever we can do to work with it. I know our school...it took us two days to get somebody to give us the legal direction to go. I mean, they couldn't send a note out to the parents saying there's a threat in your neighborhood because they didn't know if that was stepping on somebody's toes, so it took us two

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days to get any kind of notification out. So for us, any step would be a step in the right direction. [LB694]

SENATOR ASHFORD: Thanks, Belinda. Thank you for the work you do with your kids and the other kids in your neighborhood and PTA and volleyball, and it's a lot. [LB694]

BELINDA STUSSY: Well, we love kids (laugh). [LB694]

SENATOR ASHFORD: That's obvious. Any questions of Belinda? Yes, Senator Coash. [LB694]

SENATOR COASH: Thank you, Chairman. Belinda, maybe I missed this in your testimony, but you mentioned this guy got arrested twice? [LB694]

BELINDA STUSSY: He did... [LB694]

SENATOR COASH: What was... [LB694]

BELINDA STUSSY: His arrests were for confrontations with the police. [LB694]

SENATOR COASH: Okay. [LB694]

BELINDA STUSSY: The third time that he was caught, he was talking to the boys on their way to school. When the police saw him, he took off and tried to run them over with his truck. [LB694]

SENATOR COASH: Okay. [LB694]

BELINDA STUSSY: So that's what his final arrest was for, and that's what he was sent back to jail for. [LB694]

SENATOR COASH: Okay, so his arrests were nothing related to him being at...? [LB694]

BELINDA STUSSY: No. Six months prior to this incident... [LB694]

SENATOR COASH: ...an offender on the school. [LB694]

BELINDA STUSSY: ...with us, he did have an incident where he did pull a knife and try to attack a woman and her 12-year-old daughter... [LB694]

SENATOR COASH: Okay. [LB694]

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BELINDA STUSSY: ...and he was still awaiting trial on that before we had our incidents at our school. [LB694]

SENATOR COASH: Okay. Senator Council mentioned earlier about conditions or probation. Do you know if this guy was violating any conditions of his probation by being on school property? [LB694]

BELINDA STUSSY: His original case was from 1976. He was 18, 19 years old, and he was convicted of rape of an underage individual. Now, at that time, you know, you can't determine whether, you know, what age that person was. But that was his original charge. He was incarcerated. He had been out for nine years and pretty much had laid silent up until this last year. [LB694]

SENATOR COASH: So he wasn't on probation. [LB694]

BELINDA STUSSY: Not as far as I know, probably not for that long, no. [LB694]

SENATOR COASH: Thank you. [LB694]

SENATOR ASHFORD: Thanks, Belinda, thank you very much. Any other proponents for LB694? Opponents? Opponents. Yes, Coleen is... [LB694]

COLEEN NIELSEN: I'm neutral. [LB694]

SENATOR ASHFORD: Oh, you're neutral. Any neutrals? [LB694]

COLEEN NIELSEN: (inaudible) Good afternoon, Chairman Ashford, members of the Judiciary Committee, my name is Coleen Nielsen spelled C-o-l-e-e-n N-i-e-l-s-e-n, and I represent the Nebraska Criminal Defense Attorneys Association. We have not taken positions on any of these bills, but I wanted to speak neutrally simply because as I read through the bill I discovered that there might be some inconsistency with the definition of sexual predator in this bill, and that's already in the law under the Sexual Offender Registration Act because the Sexual Offender Registration Act actually defines what a sexual predator is, and a person committing an aggravated offense is different as well, and so there is some inconsistency and might need some work on that. With regard to whether or not these people are on probation, I think Senator Council...or parole. If a person now under the law is convicted of an aggravated offense, then they are placed on lifetime community supervision and how those conditions of that supervision come about I'm not sure, and I don't know whether they prohibit them going on school grounds. But I can try to get that information, so if you have any other questions, I'd be... [LB694]

SENATOR ASHFORD: Any questions of Coleen? Coleen, sorry. Thanks. [LB694]

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COLEEN NIELSEN: Thank you. [LB694]

SENATOR ASHFORD: Any other neutral? Scott, do you wish to close or? Scott waives closing . That closes the hearing on LB694 (See also Exhibit 12). We now move to the next bill. Scott is back again. Before we go any further, I want to introduce our intern. Justine, would you stand up? Justine Mukisa is from UNL, correct? What year are you? [LB694]

JUSTINE MUKISA: I'm a junior. [LB694]

SENATOR ASHFORD: She's a junior at UNL, and she's an intern in our office, so welcome. [LB694]

JUSTINE MUKISA: Thanks. [LB694]

SENATOR ASHFORD: Okay, Scott, LB695. Small Claims Court. [LB694]

SENATOR PRICE: (Exhibit 3) Thank you, Senator Ashford, members of the Judiciary Committee. My name is Scott Price, P-r-i-c-e, and I represent the 3rd Legislative District. I come before you today to introduce LB695 which would raise the jurisdictional amount for the Small Claims Court to \$5,000 from the current \$2,700. Right now you should be getting a handout that will have a lot of the numbers I'm going to read to you, so you have as a quick reference sheet with all those numbers. I did get the year wrong, but please forgive me. So I introduced this bill at the suggestion, again, of a constituent who noted that the Nebraska Small Claims Court jurisdictional limit is quite low compared to our surrounding states and the nation as a whole. Iowa's limit is \$5,000; Kansas \$4,000; Wyoming \$5,000; Missouri \$3,000. Additionally, South Dakota's is \$12,000 while Colorado's is \$7,500. Nationally, the average is about \$5,500. After speaking with a number of interested parties--the state court administrator's office, Nebraska State Bar Association, the Nebraska County Judges, the Nebraska County Attorneys Association, none expressed any concerns with this legislation to date. The State Court Administrators' only recommendation was to keep the current provision whereby the jurisdictional amount is adjusted by the Supreme Court every fifth year, according to the Consumer Price Index. I believe this bill will reduce the burden on civil courts while allowing more citizens to utilize the Small Claims Court process. In 2008, there were almost 7,000 Small Claims Courts cases filed in Nebraska and close to 100,000 civil cases filed. Judgments range between \$2,700 and \$5,000 in the civil cases which totalled to 7,000. The benefits of using a Small Claims Court include expediency, low cost, and informality. The current low jurisdictional amount makes it difficult for many to have their cases heard in Small Claims Court. Instead, their only option is to file their claim as a civil case, costing them more time and money. Many do not have these resources to spare. If they're able to take their cases to civil court, it may

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be difficult to find an attorney willing to represent them. There is simply not enough room for legal fees. Finally, I would like to say I am not opposed to changing the \$5,000 amount. I chose this number simply because I thought it was a reasonable starting point for our discussion and compromise. I would be happy to answer any questions you may have. Thank you. [LB695]

SENATOR ASHFORD: Thank you. Any questions? Seems pretty straight forward. Thanks, Scott. [LB695]

SENATOR PRICE: Thank you, Senator Ashford. [LB695]

SENATOR ASHFORD: Any proponents on this bill, LB695? Any opponents? Neutral? Wow. [LB695]

SENATOR COUNCIL: Slam dunk. (Laugh) [LB695]

SENATOR ASHFORD: See you. No (laughter). Thank you. [LB695]

SENATOR PRICE: Thank you (See also Exhibit 13). [LB695]

SENATOR ASHFORD: All right. Senator Giese, LB746. Senator. [LB695]

CHRISTINA CASE: He just called. He's on his way. [LB695]

SENATOR ASHFORD: How are you? Okay, LB746. []

SENATOR GIESE: Thank you, Senator Ashford and members of the committee. My name is Robert Giese, G-i-e-s-e, and I represent the 17th Legislative District which includes Dakota, Dixon, and Wayne Counties in northeast Nebraska. Today I am proud to introduce LB746 which would extend and enhance the provisions of Nebraska's existing ban on racial profiling. The current ban was first passed in 2001, and one of its primary components was the requirement that law enforcement agencies collect data that could be used to assess the prevalence of racial profiling relative to motor vehicle stops. This data is submitted to the Crime Commission on a quarterly basis, who, in turn, produces an annual report on traffic stops and allegations of racial profiling for the Governor and members of the Legislature. Following the enactment of the original ban, the Legislature created the Racial Profiling Advisory Committee which is currently tasked with advising the Executive Director of the Crime Commission on the production of the annual traffic stop reports. As it stands now, the reporting requirements for law enforcement agencies expired on January 1st, and the requirements for the Crime Commission will expire on April 1st. Failure to extend these reporting deadlines would result in the termination of the annual traffic stop report produced by the Crime Commission. These reporting requirements have also been extended by the Legislature

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twice, both in 2004 and 2006. In regards to the Racial Profiling Committee, LB746 would expand both its membership and role. Currently, the committee consists of the Executive Director of the Crime Commission, representatives from a number of statewide law enforcement groups, and the ACLU. LB746 would add three additional members to the committee: the Executive Director of the Mexican Americans, or his or her designee, the Executive Director of the Commission on Indian Affairs or his or her designee, and a representative appointed by the Nebraska branches of the NAACP. Including these new members will not only bring new voices to the table, but will increase the committee's ability to reflect the concerns of those groups most affected by racial profiling. LB746 would move the role of the Racial Profiling Committee beyond simply reviewing the traffic stop reports, and allow the committee to make recommendations to the Crime Commission and the Legislature on how to better implement and improve upon the existing ban on racial profiling. A mere review of the data does nothing to address the issue of racial profiling whether such profiling is real or just perceived. As many Nebraska communities have learned through their experience, bringing law enforcement and the affected communities together can be essential to creating the type of broad-based solutions that can best address the difficult racial issues we face on a daily basis. The Racial Profiling Advisory Committee is in a unique position to help facilitate such solutions and giving them the authority to make recommendations based on their continuing review of the data is an important next step. When Nebraska first passed its ban on racial profiling, the legislation was a collaboration of law enforcement and advocacy groups seeking to find a common solution for a growing concern. As our communities become more diverse, it is important that we have existing structure that mirrors our diversity and works with law enforcement to ensure that all Nebraskans are treated in a just and fair manner. Thank you for your time, and I would be happy to answer any questions. [LB746]

SENATOR ASHFORD: Any questions? Senator Council. [LB746]

SENATOR COUNCIL: No questions, Senator Giese. Basically, a couple of comments. Again, I applaud you for the introduction of this measure and join with you as evidenced by my signing onto the bill initially. But upon reviewing the bill further and being cognizant of other initiatives that may have a bearing on this issue, would you be opposed to adding an additional member to the advisory committee which would then bring your number to an odd number which, in the case of any votes on recommendations, would provide an opportunity for a majority. And what I'm suggesting for your consideration to perhaps add by amendment is a representative of the Nebraska State Bar Association's Minority Justice Task Force. [LB746]

SENATOR GIESE: Thank you, Senator Council. I guess the answer, first of all, I'm not opposed to adding an additional member that would even the numbers on that. I think the goal of this committee is to study the numbers, and I really don't think that whether the vote is one way or another on that is going to really reflect what the committee does.

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So I appreciate the suggestion and anything that we can do to facilitate this and put it together is fine with me. [LB746]

SENATOR COUNCIL: Yeah, and I was just saying, if you're going to...and I support the making recommendations to the commission on initiatives that could be undertaken to address the issue. I was just saying and thinking...in the event that a recommendation was proposed, I assume you would go to arrive at some kind of a consensus, and if you had a 5-5, you know, the question would be whether you would advance it. Adding another member avoids that possibility, but again, the Minority Justice Task Force of the Nebraska State Bar Association has done some work in this area, and I think the addition of a representative from that group would be beneficial to the work of this commission. So I commit that to you for your consideration. [LB746]

SENATOR ASHFORD: Thanks, Bob. You want to stay around? [LB746]

SENATOR GIESE: I will. [LB746]

SENATOR ASHFORD: How many testifiers do we have on this bill today? Okay, good. Let's start with proponents or are there opponents? Okay. Why don't we start with the proponents? As you can see, I'm not using the light system today. Those of you who come often will know (laugh), so...but we...just try to confine your testimony to around three to four minutes would be great. [LB746]

LeROY STOKES: Mr. Chairman, Senators, I'm LeRoy Stokes. That's S-t-o-k-e-s. I'm the president of the Lincoln branch of the National Association for the Advancement of Colored People, the NAACP. The National Association for the Advancement of Colored People, the nation's oldest and most widely recognized grassroots civil rights organization, was founded in February, 1909, to monitor and advocate for equal opportunity in public and private sectors. The NAACP, from its inception has fought racial discrimination in education, employment, public accommodations, voting, and advocating for social justice and civil rights. Racial profiling in our belief is discriminatory, and it's done by law enforcement within our state. I have on more than one occasion been experienced where this has occurred, and as president of NAACP I have many examples where others also state, and I'm convinced that they have been too. The Lincoln branch work long and hard to effect change by law enforcement in Lincoln, Nebraska. I realize this is a state issue, but in Lincoln, Nebraska, with the Lincoln Police Department to effect change by hosting several meetings with the police department and working with them, and working with Chief Casady, change has occurred and is occurring. In July, the NAACP sponsored a series in collaboration with other partners, a series of community forums; one titled "Racial Justice." Over 120 persons attended this forum. One of the most contested topics discussed at this forum was the various forms of racial profiling that they experienced. In the interest of time, I'll not go into specific examples cited. I will commend Lincoln Police Chief Tom Casady for

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addressing the issue head-on by stating he would implement to address the problem. He also followed up immediately after the forum in his blog stating his position, and he was working toward identifying and rectifying the problem in the LPD. This was, again, an example of a leader in law enforcement recognizing and taking action on a problem of racial profiling. This is not happening with all law enforcement leaders and supervisors within our state. Far too many innocent people are stopped, detained, searched, and arrested without due calls. I believe these types of actions have, in part, contributed to a disproportionate number of minorities incarcerated throughout our prison system. This has to stop, and it must stop. One of the problems has been when we try to aggregate data from these series of meetings and when talking with law enforcement, each department kept their own data as the number of arrests and stops and so forth. And when we found that, you know, data can be used to promote one's own intent, and I think by adding the committees as offered in this bill, will bring different groups of persons in, so that we can research and look at the data and aggregate it and hope that some type of systematic review can come to fruition. And with that reasoning and others NAACP is on record for supporting LB746. Thank you. [LB746]

SENATOR ASHFORD: Mr. Stokes, there is no aggregated data in this area? [LB746]

LeROY STOKES: There is...if we go to the Lincoln City Police Department, they have their way of keeping their data. [LB746]

SENATOR ASHFORD: Well, that would be Lincoln, but there... [LB746]

LeROY STOKES: Yeah, what I'm saying, we go to the state patrol, they have their way. The problem is, is how counts were made. For instance, if you would count the number of stops by a person, by a woman. Some were counted as a woman; some a black female, white female. And so, depending on how the data...they want the data to be shown is how it can be interpreted. It's difficult and sometimes...and where the other department may or may not, they make people look it up--black, white, blue, brown, all separated. Another group may keep by number a persons stopped by sex, by (inaudible)... [LB746]

SENATOR ASHFORD: So we don't really know if there's... [LB746]

LeROY STOKES: We really don't know, so we just... [LB746]

SENATOR ASHFORD: ...there's no...we don't know if there's disproportionate minority. [LB746]

LeROY STOKES: That is very true, so when you start...and that's what we'd like to... [LB746]

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SENATOR ASHFORD: What will you need to do that? Can you do that simply with this bill or? [LB746]

LeROY STOKES: I think if... [LB746]

SENATOR ASHFORD: This doesn't give you any more res....resou....resources. Hard to get it out of my mouth, but. [LB746]

LeROY STOKES: No, sir. When we go to the department and ask to see their data, that's the data we receive. What would happen if we...with the committees coming in and different groups coming in, the NAACP, the ACLU. When we began looking at information collectively, we can assess the data from our own perspective rather than... [LB746]

SENATOR ASHFORD: Even if it's the same data or? [LB746]

LeROY STOKES: Yes, rather than having one group just going back...just for example, the Lincoln Police Department giving us information, saying here's that data. That's their interpretation of that data. The internal interpretation of the data, this would provide more external persons to look at the data to come to some kind of reasonable...this is what's occurring, and, hopefully, there's the... [LB746]

SENATOR ASHFORD: Yeah, but...go ahead. [LB746]

LeROY STOKES: Hopefully, as these committees come together, we can get recommendations back out to all law enforcement, so that some systematic way would be done to accumulate the data. [LB746]

SENATOR ASHFORD: Well, shouldn't we put in this bill the directive that maybe the crime...Mike...the Crime Commissioners would develop a systematic way of gathering this data. Otherwise, we can add not...it's...I think it's a good idea to add these folks, but it would be a lot more effective, would it not, if we were to...if we asked that...? [LB746]

LeROY STOKES: It would be more effective. It would be clean and a systematic way of doing it so everyone collected and presented information the same way. [LB746]

SENATOR ASHFORD: Yeah, I...we run into this all the time in our...when we're dealing with issues of interrelationship between different institutions of government. The data is silo'd and each jurisdiction, no matter what the issue seems to be, has its own way of methodologies. [LB746]

LeROY STOKES: Method of doing it. [LB746]

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SENATOR ASHFORD: It's not necessarily wrong or evil or, but it's just different. And it would seem to me we would want to add to this bill the directive that there be a systematic data collection methodology. [LB746]

LeROY STOKES: It would be much easier for the external reviewers like the NAACP and the ACLU and Appleseed to look at the same... [LB746]

SENATOR ASHFORD: Well, then we know what we've got. Otherwise,... [LB746]

LeROY STOKES: Exactly, exactly. [LB746]

SENATOR ASHFORD: And then you can...then we can make policy based on real information that's aggregated... [LB746]

LeROY STOKES: That is correct. [LB746]

SENATOR ASHFORD: ...not to come down on anybody, but just to say, hey, we've got a little...we've got a problem here. What shall we do to address it? Otherwise, we're just sort of guessing, and I'm sorry. Does anybody else have any comment or question? Thanks. [LB746]

LeROY STOKES: Thank you, sir. [LB746]

SENATOR ASHFORD: Any other proponents? Next proponent...oh, here. Oh. [LB746]

SEVERIANO FRANCO: (Exhibit 4) Mr. Chairman, members of the committee, again, I want to thank you for the opportunity to come by and to share a few comments with you. [LB746]

SENATOR ASHFORD: So we know you; some of us know your name, but you're going to have to... [LB746]

SEVERIANO FRANCO: Yeah, I'm getting ready to say that. [LB746]

SENATOR ASHFORD: Oh, I'm sorry (laughter). [LB746]

SEVERIANO FRANCO: I thought maybe I'd make some... [LB746]

SENATOR ASHFORD: You were going to give us some nice comments first. [LB746]

SEVERIANO FRANCO: Oh, I was just going to say some nice comments. You know, every time I come I always like to make nice comments. [LB746]

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SENATOR ASHFORD: I know, and you do. [LB746]

SEVERIANO FRANCO: And so I would just say, I want to thank you, you know, for the opportunity to come by here again and I should tell you that my name is Severiano Franco. And for my non-Spanish-speaking friends, you can call me Sam. But I am currently the Interim Executive Director of the Mexican American Commission. I would tell you that I am pleased to say that I worked with Senator Giese and his legal aide down there in the development of what now is being presented to you in the form of LB746. Years past I had an opportunity to work extensively with law enforcement, prosecutors, and the state courts. My comments today are based on those experiences. I am cognizant of the use of arrest records by command officers and law enforcement administrators and the development of officer scheduling and deployment assignments. The analysis of the information collected by the officers in the field including the information contained in violation citations provides a useful bank of data that can be used for the development of these plans. In response to your question, there was a section already contained in LB746 on page 4(5) that talks about that there shall be...that the data shall be collected in the form...in such a form as the commission prescribes, and I believe that that's information that is all to be forwarded then to the Crime Commission. Law enforcement officers are trained to understand that prior to making an arrest, they must first establish a probable cause, and to establish a better understanding of this process they receive extensive training to learn how to establish probable cause. And we know that on occasion, some officers may stretch the question of probable cause, and the resultant effect may be the continued increase of arrests of minorities. The quantification of racial profiling can be determined by the analysis of the data that is provided by the arresting officers and the completion...and when we use the word completion, it means completion of the Uniform Violation Citations. We are confident that command officers and law enforcement administrators are very interested in knowing that arresting officers are making arrests based on actual violations of law, and are not making arrests based on the racial and ethnic makeup of arrested individuals. If officers in different geographical areas of the state are making large numbers of arrests of minorities on a consistent basis, and probable cause appears to be lacking, then the data analysis will establish the existence of racial profiling. With the analysis of this data, command and law enforcement administrators can identify officers in their departments who are making these arrests and can take the steps necessary to effect change where necessary by providing additional training to these officers. Subsequent to this training, they can make adjustments to their deployment and scheduling along with policy changes within their departments accordingly. This information analysis will validate the need for the extension of the Sunset date to 2014 for LB746. And we urge this committee to advance LB746. Thank you. [LB746]

SENATOR ASHFORD: Thanks, Sam. Any questions of Sam? Seeing none, thank you, sir. [LB746]

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SENATOR ASHFORD: Next proponent. [LB746]

REBECCA GONZALES: Hi. [LB746]

SENATOR ASHFORD: Hi. [LB746]

REBECCA GONZALES: (Exhibits 5, 6) My name is Rebecca Gonzales. It's R-e-b-e-c-c-a G-o-n-z-a-l-e-s, and I'm with Nebraska Appleseed Center for Law in the Public Interest. We are a nonpartisan, nonprofit, public interest law project dedicated to equal justice for all Nebraskans. Today I would like to testify in support of LB746. Last year Nebraska Appleseed along with the NAACP-Lincoln and ACLU Nebraska held a series of community conversations on racial justice in Nebraska. One conversation addressed disproportionate minority contact with the justice system and demonstrated the intensity of community concern over the issue. More than 125 community members packed the room to discuss the ramifications of minority distrust of police and the widely disproportionate rates at which minorities have contact with the justice system. A strong interest in data collection and analysis was expressed at all levels--from the community members in the room to the judges, police chief, and county prosecutor on the panel. The need for data collection and analysis as a part of the effort to improve our justice system and eliminate racial disparities is critical, as is this issue as a whole. Chief Tom Casady of the Lincoln Police Department wrote in his blog the day after our community conversation that "You are living under a rock if you don't recognize the depth of distrust that festers in the United States between police officers and many African American citizens. Making even small steps towards bridging that gap requires that we talk about these issues with one another..." Good data will enable these conversations to continue and allow us to improve what Chief Casady characterized as "something of a national disgrace"--the racially skewed demographics of our jails, prisons, and correctional institutions. And I've distributed a copy of Chief Casady's whole blog for you. In fact, our community conversation centered around the importance of continued data collection as a first step. The law that this bill extends was originally passed with widespread support with the hope that it would provide information needed to improve the justice system's ability to monitor racial and ethnic disparities. The bill will also address other important issues related to data analysis and sharing of data. We strongly support the passage of this common-sense bill. If I can provide any further information or answer any questions, contact me. Thank you. [LB746]

SENATOR ASHFORD: Has it fulfilled any of those initial objectives...I mean, are we getting the data that we need, and is it giving us any...? [LB746]

REBECCA GONZALES: We are getting some data. However, we don't believe that there is enough analysis of that data, and as was mentioned before, some of the data is not aggregate. And that can be a problem. [LB746]

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SENATOR ASHFORD: And is there something that...well, maybe I'll ask Senator Giese again, but I just wonder if there's anything in the bill that strengthens the ability for you to...for these organizations to gather data and get it analyzed, but maybe that's already there or whatever but. Okay, thanks. [LB746]

REBECCA GONZALES: Thank you. [LB746]

SENATOR ASHFORD: Next proponent? [LB746]

LAUREL MARSH: (Exhibits 7, 8) Good afternoon. My name is Laurel Marsh spelled M-a-r-s-h, and I'm here to represent ACLU Nebraska in support of LB746. And I'm passing around a short set of notes from the community meeting that both Mr. Stokes and Rebecca Gonzales alluded to, and I hope that they are of interest to you. ACLU Nebraska supports continuing the reporting now done because the Fourteenth Amendment requires everyone to be treated the same by government officials regardless of their race or national origin. Over the last decade, our office has received multiple complaints from people who believe they were pulled aside for no reason other than the color of their skin. We cannot tell whether this is an isolated incident or a pattern, showing a problem without good statistical data such as is being gathered now. We strongly urge the committee to pass LB746, so there is an adequate data set and accurate conclusions can be drawn about whether or not Nebraska has a racial profiling problem, and then you have the rest of my letter to read. And I would be pleased to answer any questions. [LB746]

SENATOR ASHFORD: Any questions of Laurel? If we extend this, is the data that's coming in now sufficient, so I mean, if we extend this, is it going to make any difference? I mean are... [LB746]

LAUREL MARSH: The data that's coming in now, we are working with two student classes at the University of Nebraska in Omaha to kind of backtrack to some of the original data and see if the conclusions and trends that are captured are not exactly...accurate isn't the word I'm searching for. But if there is more that could be gleaned from some of the original reporting documents. [LB746]

SENATOR ASHFORD: Well, in order to be effective it has to be actionable in some way. It can't just be data. It's got to be something that's easily...that can be easily summarized and put into some...well, that's okay. [LB746]

LAUREL MARSH: One of the... [LB746]

SENATOR ASHFORD: I mean, I don't need to... [LB746]

LAUREL MARSH: And one of the comments that I do remember from the meeting that

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we were privileged to help cohost was one comment, and the gentleman making it, I want to attribute it to Judge Vern Daniels, but I'm not sure that's accurate, said that it doesn't make too much difference if every apple is compared to every other apple or if every orange is compared to every other orange because the trends that are reflected in the data sets, regardless of the exact method, all point the same direction. And I would say that the direction that we are pointed says that there is racial profiling that occurs in Nebraska, and I'm hoping that with LB746 allowing the committee to make recommendations for action, that would be very strong. [LB746]

SENATOR ASHFORD: Okay. Thanks, Laurel. Other proponents? [LB746]

JUDI GAIASHKIBOS: (Exhibit 9) Good afternoon. My name is Judi gaiashkibos. I'm the executive director of Nebraska Commission on Indian Affairs, and I'm an enrolled member of the Ponca tribe of Nebraska. And I've been the director for...I believe this is my fifteenth year, so I was here in 2001 and worked with Senator Connealy and the other good senators who introduced this legislation initially. And oftentimes Nebraska's Indian people...the first people that I represent, the Ponca, the Omaha, the Winnebago, the Santee Sioux, and all Indian people were often left off the radar screen when we talk about diversity. Every day I listen to the news, and I hear discussion of African Americans and the Hispanic population, but little said about the first people. And we, too, are racially profiled. Therefore, we really appreciate Senator Connealy and now Senator Giese bringing this back because I think it's pretty clear that racial profiling still does exist. As I was preparing my testimony today, I did a little bit of Googling and research on the matter to see what's out there, and some of the words or terms, acronyms that I read were driving DWB--driving while black or brown. And for Indian people, we say...the other term DWI--driving while Indian, and I can tell you today that many of my friends, relatives, myself, family, tribal members throughout America experience racial profiling. And we have calls, and a lot of this occurs up along in Thurston County. For many of our tribal people who spend a lot of dollars off reservation, going to Sioux City and to various communities to shop, and they can't afford always the best of cars, and they are DWB--driving while brown. So they're at risk and often stopped, and it's really problematic. So having said that, racial profiling is a new term for an old practice known by other names--institutional racism and discrimination--and owes its explanation to prejudice and has existed in this country since the Trail of Tears and since slavery. I think right now with us just celebrating...the celebration anniversary of Martin Luther King, it's really appropriate that the committee take action and move this legislation forward. I think one of the questions I've heard asked several times by our chairman is about the data collection. I was on the working group creating this legislation, and some of our concern was that the data is requested, but it's not always forthcoming, and furthermore, there aren't any teeth in this legislation that there aren't any repercussions. We looked around the country to see what was happening in other states. One of my colleagues in Georgia did send us a sample of what some teeth that they have, that you would be penalized if you didn't provide this

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data, and you wouldn't be eligible for state funding. So there are other options, but I do think it's important that we analyze the data, that we collect it across the board. The tribes provide that data as well, so that it's not just some communities, so it can be more meaningful and useful. So I'd like to just end and say that I am here to support this and on behalf of the Nebraska Indian Commission, our tribes in Nebraska, we really feel that LB746 still has meaning and still is necessary. I would also like to submit written testimony from a colleague of mine that many of you are familiar with. He couldn't be here today, so I have testimony from Frank LaMere as well supporting this, and basically he echoes what I have to say that we who advocate on behalf of Indian people do believe that we must remain vigilant, that yes, indeed, there is still a need for this legislation, and we hope that you will do the right thing today and move this forward. With that, I would be... [LB746]

SENATOR ASHFORD: There's no question that there's disproportionate minority contact with the law enforcement and with the justice system in the state. We don't have accurate data to evaluate that. What my concern is is that...is that this won't get us the accurate data (laugh), and I...that isn't a reason not to pass the bill. That's not what I'm suggesting, but what I...I am concerned that we have some leaders here who are leaders in this area who have faith in this legislation, and I worry that they're...not Senator Giese's necessarily, but the past legislation, had faith in it, worked on it. But I wonder what we have, and so when we consider this bill, we're going to need to get some clear understanding of what we're getting and what we need. Otherwise, we're just making people feel good about something without actually getting the information, so anyway. But I understand, but that's not your...that's not a criticism. [LB746]

JUDI GAIASHKIBOS: Well, I agree. I agree and I think, you know, as you all know, it's a process, and it's compromises, and so we put forward something that we felt would be moving...able to move forward but... [LB746]

SENATOR ASHFORD: No, I'm not critical of the bill. I'm just saying we don't want to just say let's do this to do it and not get the information because there's a lot of work that needs to be done, and you can't do it unless you have the real data aggregated in such a way as it can become actionable. Right? [LB746]

JUDI GAIASHKIBOS: Correct. [LB746]

SENATOR ASHFORD: Okay. [LB746]

JUDI GAIASHKIBOS: And then if we can get that added to the bill, I would be totally, you know, that would be super because then we could be more assured that... [LB746]

SENATOR ASHFORD: Well, I mean, we're facing this in Omaha with some of the juvenile issues is just...we're just not getting the data. And we're certainly not getting it

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early enough on young juveniles, so that we can take action to make their lives better. And it's not just data, but that's an important component, so thanks. Okay. [LB746]

JUDI GAIASHKIBOS: Thank you. [LB746]

SENATOR ASHFORD: Thank you (laugh). Any other...Liz is going to tell us all about the data that we're going to get once we get this passed, hopefully. [LB746]

ELIZABETH NEELEY: (Exhibit 10) Okay, good afternoon, members of the Judiciary Committee. My name is Elizabeth Neeley, E-l-i-z-a-b-e-t-h N-e-e-l-e-y. I'm the director of Nebraska's Minority Justice Committee. Our committee is a joint initiative of the Nebraska Supreme Court, Nebraska State Bar Association established to examine issues of racial and ethnic fairness in the court system. For the past ten years, the committee has been involved in numerous successful research and policy initiatives to improve equity and fairness in the Nebraska court system. We support extending the ending date for legislation which requires law enforcement to submit race and ethnicity data related to traffic stops for several reasons. First, our...meaning the court's ability to examine fairness is tied to our ability to access race and ethnicity data. The primary source of the court's race and ethnicity information originates from data collected by law enforcement. Second, we believe that the very fact that this data is collected provides residents with the sense that the actions of law enforcement do not go unchecked and enhances their sense of trust and confidence in the justice system. The perception of fairness and the confidence in the justice system should not be underestimated. Attitudes towards the justice system can affect the way individuals perceive their role, their willingness to comply with laws, report crimes, file legal suits, serve as jurors, and so on. So in short, a positive public perception of the justice system is critical to the maintenance and operation of our judicial system. Third, the ability of Nebraska's counties to access federal funds such as Title II, Juvenile Services, and Title V to improve the justice system and address racial disparities in the juvenile justice system are tied to our ability to report race and ethnicity data at each decision making point. Because race and ethnicity data collected by law enforcement is utilized across the system, we fear that ending this practice will result in a backward step from the large strides Nebraska has taken over the past few years to come into compliance with these federal mandates. Finally, the practice of racial profiling leads to the overrepresentation of minorities across the continuum of justice and should not be tolerated. It is our hope that compliance with the requirement to report will increase with passage of this legislation, and if the data so indicate, that this information be used to drive policy regarding law enforcement practice and training. I'd like to thank Senator Council for your recommendation earlier, and I'd like to echo what Senator Ashford said earlier, systematic analysis of this data is very important. I think that the information being collected right now is helpful. The format that it's provided is prescribed by the Crime Commission, so I don't know necessarily that that would need to be changed. They can make an internal policy change to collect additional information, but the real issue

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seems to be compliance. In Section 20-504(3)(5) is where it outlines in legislation that law enforcement are required to track this information and subsequently report it to the Crime Commission. And so, echoing Judi's words, if you were to add teeth to the bill, it would probably be in those sections. If there could be some accountability to require law enforcement entities to submit that, that would be helpful. If you look at the court's data right now, there are some counties in Nebraska where we're missing race and ethnicity data in 90 percent of the cases, and so it's easy to flag which jurisdictions are not complying and could be an easy fix if there was a way to hold them accountable. [LB746]

SENATOR ASHFORD: Liz, how many years has this been in effect? [LB746]

ELIZABETH NEELEY: The...the... [LB746]

SENATOR ASHFORD: This data collection thing. [LB746]

ELIZABETH NEELEY: I would assume since... [LB746]

SENATOR ASHFORD: 2002 or something like that. And is...do we have enough data to draw any conclusions after all these years? [LB746]

ELIZABETH NEELEY: I mean, I think it's fair to say that there is racial profiling in Nebraska, that the...I think the problem comes is that there's so much missing information that it's hard to paint the whole picture when you have, for example, Douglas County's share of reporting but not the OPD or vice versa where there's such a large percentage of missing information that it's hard to really make any policy decisions. [LB746]

SENATOR ASHFORD: As it applies to Douglas County? [LB746]

ELIZABETH NEELEY: As it applies to Douglas County. [LB746]

SENATOR ASHFORD: Tell me about that, would you? [LB746]

ELIZABETH NEELEY: I guess my understanding is that not every law enforcement entity in Douglas County reports their race and ethnicity information and when asked about that, said, go ahead and try and sue us (laugh). So that's just anecdote. I don't...I'm not the source but. [LB746]

SENATOR ASHFORD: I wonder who said so that...is that...let me drill down on that just a bit. Did the... [LB746]

SENATOR COUNCIL: Hmm. Sheriff? (Laughter) [LB746]

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SENATOR ASHFORD: What? No, I just...let me try to understand this. I mean, this is a very, very serious issue, and it is...and we're seeing it every day in the juvenile system in Douglas County. And I can't speak for Lancaster or other counties because I just simply am not familiar enough. But this is a severe issue in Douglas County that, hopefully, we'll be able to address in our juvenile justice efforts, and I know you've been a...played a major role in that. But who isn't...somebody is not supplying information to the Crime Commission from Douglas County. [LB746]

ELIZABETH NEELEY: And I think, you know, I don't have that information off the top of my head, but... [LB746]

SENATOR ASHFORD: Okay. But you're familiar with...but you believe... [LB746]

ELIZABETH NEELEY: ...it would be easy to put together. [LB746]

SENATOR ASHFORD: Could you get us that information and and and the request made for this information? And that...that's very critical it seems to me to have. Okay, thanks. Any other proponents? No? Okay, Katie's not going to testify. Any opponents? Neutral testifiers? Bob. [LB746]

SENATOR GIESE: Thank you. Chairman Adams and members of the committee (laughter)... [LB746]

SENATOR ASHFORD: All I know, he runs the...(inaudible conversation) he runs 9-minute miles. I don't (laughter) [LB746]

SENATOR GIESE: I'm thinking... Oh, 9-minute. I have the information available here that you asked for, and I can send it to the committee in a PDF file on cities and counties that...and most do report. [LB746]

SENATOR ASHFORD: But some don't. [LB746]

SENATOR GIESE: Most do report; some don't. And there are no penalties as we talked about before that if they do not because I think the goal of this bill today is to extend the current legislation that we have because it's due to sunset. And is there enough information or is there enough resources to figure out what we need to figure out? No, and that's why there's no fiscal note that goes with this, so...and if there was, that would be a whole another bill. So I think that...that... [LB746]

SENATOR ASHFORD: Maybe we'd do that next year, but...and continuing it is important and my guess is Mike Behm is asking for the right information, knowing him. So it's... [LB746]

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SENATOR GIESE: And he is. [LB746]

SENATOR ASHFORD: And he is, and so we just...we need to get these counties to comply, and so we have accurate information. And maybe we can do that without another bill, but I mean, it just seems...we got to just face the problem and solve it. We're not going to solve it unless we have...and I appreciate you bringing the bill because I think it's important. [LB746]

SENATOR GIESE: Well, and as I said, most law enforcement agencies do send the information in, and I would just urge the committee's support. [LB746]

SENATOR ASHFORD: Thanks. [LB746]

SENATOR GIESE: Thank you. [LB746]

SENATOR ASHFORD: Okay. Senator Louden is here. We don't see him very often so. [LB746]

SENATOR LOUDEN: Well, thank you, Senator Ashford and members of the Judiciary Committee. My name is LeRoy Louden; I represent District 49, and last name is spelled L-o-u-d-e-n. And today I bring before you LB784. LB784 amends the language in Nebraska Revised Statutes 81-1410, and it would allow legal permanent residents who are actively seeking United States citizenship to apply to any academy for entry level law enforcement certification. At the present time, anyone applying to any academy for law enforcement must be a U.S. citizen prior to admission. And what this...LB784 would do would allow any legal permanent resident that are actively seeking United States citizenship to apply. This was brought to my attention when a person seeking U.S. citizenship wanted to apply for admission to a law enforcement academy, but is not yet a U.S. citizen, and they're in the process of becoming a U.S. citizen. While the individual still seeks U.S. citizenship, they would like to apply for admission and pursue law enforcement training. Thank you, Senator Ashford and members, and I would be happy to answer any questions. But Mr. Jimmy Murphy, who will probably testify after me in his own behalf, so with that, if you have any questions I'd defer his question... [LB784]

SENATOR ASHFORD: Yeah, Senator Coash does have a question. [LB784]

SENATOR COASH: Yeah, if you want to defer to the...your next testifier, that's fine. I guess I had two questions. In the language change area of "actively seeking." Is that defined well enough? I mean, if I'm in this predicament and somebody says, well, are you seeking citizenship? And I say, well, yeah. I mean, how do you define... [LB784]

SENATOR LOUDEN: Well, my understanding... [LB784]

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SENATOR COASH: ...you know, how would somebody in this prove...? [LB784]

SENATOR LOUDEN: ...is is I'm not that familiar with it, but I think you have to go over like a three-year period working to get your citizenship or when you apply, there's a certain length of time you have to wait before you get your citizenship. And this is the time frame that we're trying to... [LB784]

SENATOR ASHFORD: They have proof of legal residency, right? [LB784]

SENATOR LOUDEN: Yeah. [LB784]

SENATOR ASHFORD: And it's just they haven't received their... [LB784]

SENATOR LOUDEN: And then they have to be there for...then there's a certain length of time before they get their citizenship. [LB784]

SENATOR COASH: So what happens if they don't get it? [LB784]

SENATOR LOUDEN: If they what? [LB784]

SENATOR COASH: They don't get citizenship. [LB784]

SENATOR LOUDEN: Don't get citizenship, I guess they don't get the...they can probably go to the law school, but they don't get to be a police officer or anything is what it does. This mostly just allows them to become...to go to the law enforcement academy in order to get their certificate to be a law enforcement officer. [LB784]

SENATOR COASH: So this person, you know, if they could go through the academy and then for whatever reason, a little hangup, somebody says, now you can't become a U.S. citizen. They've spent all that money or, you know, a city has paid for all that money, and they'd be out of it if...right? [LB784]

SENATOR LOUDEN: Right, and that would be up to whoever sponsors them to go into that academy. They're the ones that foot the bill, so they would have to decide whether or not...it's kind of like getting married, Senator Coash. You got to...(laugh) you got to take a few chances probably, but you never know how it'll turn out (laugh). [LB784]

SENATOR ASHFORD: Yeah. You never do, Senator Louden (laughter). It doesn't always work out, but sometimes it does. Thank you. Okay. [LB784]

SENATOR COASH: Thank you. [LB784]

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SENATOR ASHFORD: Thank you, Senator. [LB784]

SENATOR LOUDEN: Okay. [LB784]

SENATOR ASHFORD: Any other proponents? That...you now, we'll catch it later. Mr. Murphy? [LB784]

JIMMY MURPHY: How are you doing, sir? Members of the board, Jimmy Murphy,... [LB784]

SENATOR ASHFORD: It's a good guess, I guess. [LB784]

JIMMY MURPHY: Pardon? [LB784]

SENATOR ASHFORD: That was a good guess (laugh). [LB784]

JIMMY MURPHY: Jimmy Murphy is my name. How I ended up in this country is that back home I spent 19 years in the Army, and I was on a night off from work with a buddy of mine, and I had run into a lady from the States. We were out in the pub, and we met, swapped telephone numbers, and a romance blossomed. Well, that was in '04. Between '04 and '06 I was back and forth to this country as was the lady I had met, and '05 April we got engaged, and '06, March of '06 I decided, well, the relationship got stronger, so I looked for my honorable discharge from the Army, got my honorable discharge after 19 years where I practiced as a firearms instructor. I moved to this country for good. When I came here, I wanted to become either a soldier in the Army here or a police officer. I went to the Army, and I wanted to become a military police officer. Unfortunately, because I wasn't a U.S. citizen, I couldn't get state clearance, and that knocked that on the head. Well, then I went to Western Iowa Tech Community College, and I secured my degree in police science and forensics and police technology. While I was there, six months into my degree, I secured a part-time position as a police officer within the state of South Dakota. After eight months, because it was part time, it came to an end. However, if that position opened up again in the morning, the chief would definitely take me back. I completed my degree in police science and forensics and technology within Western Iowa Tech Community College, and I wanted to become a police officer within the state of Nebraska. A buddy of mine who went to college with me is a police officer within the state of Nebraska, so I tested for the state patrol. I did all the testing, and I made it through to the second round. Unfortunately, that ended because I wasn't a U.S. citizen. Had I been a U.S. citizen, I definitely would have progressed. I tested for Thurston County deputies. I made it through to the second and third rounds, and the sheriff said straight out that he would definitely hire me had I been a U.S. citizen, but the rule in place at the moment, the state law, he couldn't. I then tested for...there was another agency I tested, and, again, it came to U.S. citizenship. Well, about six months ago, I approached a chief of police in South Sioux City, Scot

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Ford. And I had asked him, if I secured citizenship or before that, if I could get the bill introduced and passed, would he sponsor me to go through the academy to become a certified officer within the state of Nebraska? He did my background check. He did all that history check, and everything came back negative. I tested, passed all the tests, made it through to the second round within his department, and he said definitely he would love to sponsor me. However, he said, with the law that's in play at the moment, given that you have to be a U.S. citizen, he could not hire me. Now, they put out their applications about three weeks ago, but they're hiring another officer. And I approached him a couple of weeks ago, and I had asked him if I was still capable of going through the academy under his supervision and sponsorship, and he said, definitely. And if I became a certified officer within the state of Nebraska that he would look at me further for future employment as opposed a noncertified officer just coming in. To answer your question, Senator, regarding the one he proposed to Senator Louden's sponsorship is I foot the bill. I pay for everything out of my pocket. Basically, you cannot attend an academy on your own bet. You've got to have a signature from a chief or a sheriff saying that they are sponsoring you to go through the academy, but every penny that it costs comes out of my pocket. So in the long run, if I become certified, and if I fail the citizenship test which hopefully I won't, then certification is revoked until I do become a citizen and go through it as a natural...naturalized citizen. [LB784]

SENATOR COASH: Thank you. [LB784]

JIMMY MURPHY: Sure. I came through the immigration system. I am a legal permanent resident at present. I have a green card. My wife is a legal born or American citizen. We have a two-year-old daughter at present, and I just want to make a better life for me, my wife, and my little lady. And my next stage is citizenship. I'm just waiting on it to come through. There is a three-year waiting period from the moment that the immigration grants you your legal permanent resident card to the moment that they allow you take citizenship tests... [LB784]

SENATOR ASHFORD: And there's nothing in the federal law. This is a state problem. It's...the federal law would allow you to... [LB784]

JIMMY MURPHY: Correct, sir. [LB784]

SENATOR ASHFORD: ...to work in law. There's no federal restriction on... [LB784]

JIMMY MURPHY: As far as I know, it's just state level because I went to...at present I'm living in the state of Iowa--Sioux City, Iowa. My wife works for a company in Nebraska. She travels to and fro, and there are a couple of companies or sorry, agencies that definitely I made the hiring list, and I know if I became a citizen in the morning or if the bill was passed allowing me to become an officer who is actively seeking citizenship and, again, actively seeking citizenship is...I have a three-year period in order to

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become a citizen and to apply within that period of time. And I'm about, I think July, 2011, is my deadline. But I've been chasing this a long time and, hopefully, with the help of Senator Louden's office, something can be done with this. [LB784]

SENATOR ASHFORD: Any questions of Mr. Murphy? Where are you from in Ireland? [LB784]

JIMMY MURPHY: I'm from southern Ireland down south. [LB784]

SENATOR ASHFORD: Which town? [LB784]

JIMMY MURPHY: County Limerick...County Limerick. I was based...pardon? [LB784]

SENATOR ASHFORD: It's a good county. [LB784]

JIMMY MURPHY: It certainly is. [LB784]

SENATOR ASHFORD: It's the best, right? [LB784]

JIMMY MURPHY: It certainly is. Well, it's one of them (laugh). [LB784]

SENATOR ASHFORD: Any questions of Mr. Murphy? Seeing none. [LB784]

JIMMY MURPHY: I am enlisted in college again. I went back to college again after securing my degree in police science and forensics. I've enlisted to become a paramedic specialist, not with the intent in becoming a paramedic, but just basically to boost my curriculum vita--resume, as you call it. [LB784]

SENATOR ASHFORD: Well, my sense is we'd probably like you to stay. You seem to be somebody that could help us out here so. [LB784]

JIMMY MURPHY: Well, I would be honored to serve the people of Nebraska, and I think given my background history and my experience and that, I feel that I would have a lot to bring to this state and a lot to learn also, you know, but I'd like to put it to the test. [LB784]

SENATOR ASHFORD: Okay. It's a good persuasive argument. Thanks, Mr. Murphy. [LB784]

JIMMY MURPHY: I appreciate it. Thank you very much. [LB784]

SENATOR ASHFORD: Thank you. Anybody else who would like to testify about this bill? Mike. Oh, you're going to...neutral? [LB784]

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MIKE BEHM: Opponent. [LB784]

SENATOR ASHFORD: Opponent. Oh, oh, okay, come on up (laugh). [LB784]

MIKE BEHM: (Exhibit 11) Good afternoon, Senator Ashford and members of the Judiciary Committee. My name is Michael Behm, B-e-h-m. I'm the Executive Director of the Nebraska Commission on Law Enforcement and Criminal Justice. I'm here today in respectful opposition to LB784. Nebraska Statute 81-1410 outlines minimum admission requirements for an individual to attend one of our four current Nebraska law enforcement training academies: Omaha Police Department, Lincoln Police Department, the Nebraska State Patrol, and the Nebraska Law Enforcement Training Center. One of the requirements requires that the applicant is or will be a citizen of the United States prior to the completion of certification. Law enforcement officers are frontline men and women who are entrusted with the highest duty of government, the protection of the public. As you know, it is a law enforcement officer who arrives at the scene of traffic accidents, investigates criminal activity, and they are the ones who the public expects to respond when they are in fear or in danger. On a daily basis, law enforcement officers--men and women--are asked to exercise judgment in decisions that can significantly affect a person's life. Because of this, we believe that the public holds law enforcement officers to the highest standards of good character and ethics, and we believe that the members of the public expect law enforcement officers to be citizens of our country. We certainly appreciate the willingness of noncitizens to serve the public, but we would ask that they first take the necessary steps to become citizens of the United States. Furthermore, as director of the agency that investigates applicants to be law enforcement officers, I am concerned, should LB784 pass, about the ability of the Crime Commission to perform proper background checks on applicants from foreign countries who have not yet obtained citizenship in the United States. Another concern is the application of firearm laws on a noncitizen. Finally, law enforcement officers take seriously the oaths to protect the United States and Nebraska Constitutions. There is an obvious conflict if an individual continues to have his alliances and citizenships elsewhere. For these reasons, I respectfully request that the committee retains the citizenship requirement for law enforcement officers in Nebraska, and if you have any questions, I'd be glad to answer them. [LB784]

SENATOR ASHFORD: Senator Council. [LB784]

SENATOR COUNCIL: Thank you, Senator Ashford and thank you, Mr. Behm. And I'm going to be, you know, very candid. I understand and appreciate the rationale for your opposition, but it...as the law stands now it is an admission prerequisite...I don't see anything in the law, and maybe someone needs to point it out to me, about...and it's the same thing on the bill as introduced. What happens after you're admitted, and you don't obtain citizenship? The way I read the existing law, you don't have to be a citizen to be

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admitted into the academy. [LB784]

LEGAL COUNSEL: I think it says prior to completion. The bill was... [LB784]

SENATOR COUNCIL: Yeah, but the applicant is or will be a... [LB784]

LEGAL COUNSEL: ...will be. Right, right. [LB784]

SENATOR COUNCIL: So what happens if they don't be? (Laugh) [LB784]

SENATOR ASHFORD: Right. I mean, will be, assumes it's the future, and that's what Mr. Murphy is talking about. [LB784]

SENATOR COUNCIL: Right. Yeah, and that's...I mean that's...that's the question I have. You know, if I apply and I'm not then a citizen, and Mr. Murphy indicated that his date was 2011, by June 2011 that's when he has to become a citizen or whatever action Immigration takes. But what happens if I apply, and at the date I apply, assuming every...I complete everything I'm required to complete by Immigration that I would be a citizen prior to completion of the certification, but something happens and I'm not. Where is it in the law that says they don't get a... [LB784]

SENATOR ASHFORD: Right. I mean, it seems to me, I mean if you...you don't know for sure when you apply that you're going to be a citizen till you are a citizen. But... [LB784]

SENATOR COUNCIL: Yeah. [LB784]

SENATOR ASHFORD: ...but...but this seems to assume that someone who is not a citizen may apply. [LB784]

SENATOR COUNCIL: And maybe admit it. [LB784]

SENATOR ASHFORD: And maybe admit it under current law, and that all this is doing is clarifying that fact. It's not even needed possibly, but I mean, you could clarify. I mean, it seems like if you're not a citizen, you can go to the academy today. [LB784]

MIKE BEHM: Well, historically, and I've been in Nebraska law enforcement since 1977 when the...my oath was administered by the Secretary of the State. At that time, when I took my oath, everyone in our class were United States citizens; everyone was at least 21 years of age; everyone had successfully completed a thorough background check and a polygraph. And at that time, we had to complete a physical... [LB784]

SENATOR ASHFORD: Yeah... [LB784]

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MIKE BEHM: ...amongst other things. [LB784]

SENATOR ASHFORD: Yeah, I grant you that, but this... [LB784]

SENATOR COUNCIL: But was that at admission or at time of certification? [LB784]

SENATOR ASHFORD: That's certification, though. [LB784]

SENATOR COUNCIL: That's certification, isn't it? [LB784]

MIKE BEHM: On our application at the time, I believe what still holds true even in Nebraska administrative code under Title 79, chapter 8, section 5, it reads, it almost mirrors state statute. "The applicant is or will be a citizen of the United States prior to the completion of certification of training." I think where there's the will is probably why it's never been acted on because when is that date? The statement was made earlier by...if a person receives their certificate that that can be revoked if they're not a citizen. It takes the act of the Police Standards Advisory Council and then the Crime Commission to revoke a certification. [LB784]

SENATOR ASHFORD: But isn't there...Mike, isn't there a situation where you have someone like Mr. Murphy who's an obviously well-qualified, trained guy, wants to...got a degree; he was in the service for 19 years...wants to...in Ireland, wants to become a...be certified. There's nothing here that says he can't go to school to be certified. There...you have to be a citizen to become certified, but there's nothing in here that says he can't, so he could be ready to be certified once he becomes a citizen. [LB784]

MIKE BEHM: Well, I guess you could have...and I'm not going to speak today on behalf of Director Muldoon, but I can speak from some past experience. It would appear an individual could attend the Nebraska Law Enforcement Academy... [LB784]

SENATOR ASHFORD: Right. [LB784]

MIKE BEHM: If that person is not a U.S. citizen by the time they graduate at the end of that... [LB784]

SENATOR ASHFORD: Right. [LB784]

MIKE BEHM: ...11 weeks then they just wouldn't be certified. [LB784]

SENATOR ASHFORD: But he will have...he would have completed it. [LB784]

MIKE BEHM: He would have attended the academy, but would not be issued a Nebraska certification. [LB784]

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SENATOR ASHFORD: Right, but Mr. Murphy if he becomes a citizen in 2011, he will have gone to the academy, and he could become certified at that point. [LB784]

MIKE BEHM: As long as during that 11 weeks, and it sounds like I'm playing sort of a round robin here, and I'm not... [LB784]

SENATOR ASHFORD: No, you're not. I mean... [LB784]

MIKE BEHM: ...yeah, I think an individual possibly could attend that if he met all the other 30 points. There's still 29 more points of background that the person has to...that we have to pass. [LB784]

SENATOR ASHFORD: Well, but I'm assuming he passes the background check. [LB784]

MIKE BEHM: Well, we all do, and I don't know Mr. Murphy, and I can't speak. He looks like a nice guy. [LB784]

SENATOR ASHFORD: No, I'm not...I'm just using him as an example since he's here. [LB784]

MIKE BEHM: Right. But I would assume from what the law reads and the administrative code and also the state statute. The person could actually go to the academy, pay their way through which would cost \$6,000 if they're not sponsored. A police department is not going to sponsor them without being able to hire them as a police officer, so it will cost Mr. Murphy about \$6,000 to go through there. Knowing, though, at the end of that, if he has not successfully become a United States citizen that he's not going to be issued a certification in Nebraska to be a law enforcement officer. [LB784]

SENATOR ASHFORD: Yeah, I don't think this bill gives him any greater right than that. [LB784]

MIKE BEHM: No, and I'll bring up one point of...idea... [LB784]

SENATOR COUNCIL: I don't think it's even necessary. [LB784]

MIKE BEHM: Something in the same line. The United States is not unique in this. In the year 2000, I worked in the city of Hanover, Germany, for one month as a police officer there. And because of being a certified officer, I was actually given German police powers; I worked out in the streets of Hanover. What I could not do was carry a weapon. What I did not have was arrest powers. The other thing, my point, what I was saying... [LB784]

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SENATOR ASHFORD: But they let you serve. [LB784]

MIKE BEHM: They let me ride along in a car which was very indifferent because I was there when arrests were being made, and Hanover is a very large city, without being armed. But my reason for bringing this up today is, I could not become a German police officer even with the qualifications I had at that time, what I have now, unless I became a German citizen. [LB784]

SENATOR ASHFORD: I grant you that, but he's on his way and other...there's a great article in The Economist this week about how we become so restrictive in our immigration policy because we're trying, you know, we're just so crazy about it that we won't...we don't even take a look at people who are clearly qualified to at least to be on the path to being very productive, helpful. And I think that we run that risk, Mike, and that...you don't have...that's not a question... [LB784]

MIKE BEHM: Right. [LB784]

SENATOR ASHFORD: ...but, I mean, I just don't see why he can't go to the...go there. [LB784]

MIKE BEHM: One of the things, Senator, I have to bring up today, and we do thorough backgrounds on people, and we will be restrictive running a background on Mr. Murphy. It will cost him additional monies. Normally, we run through the federal level and our state level on criminal history checks, NCIC, NCIS... [LB784]

SENATOR ASHFORD: Well, you'd have to check in Ireland probably. [LB784]

MIKE BEHM: Well, it'd have to be an Interpol check and, to tell you the truth,... [LB784]

SENATOR ASHFORD: How much does that cost? [LB784]

MIKE BEHM: I don't know, I don't know. [LB784]

SENATOR ASHFORD: Okay (laugh). Any other questions of Mike? Yes, Senator Council (laugh). You waited all afternoon for this. [LB784]

SENATOR COUNCIL: No, don't get me started on Interpol checks, no. (Laughter) No, but I'm...I'm just saying, Mr. Behm, as the law currently reads, just a basic interpretation...as the law as it currently reads, this is how I envision the application process. If I'm a citizen at the time I apply, no issue. If I'm not a citizen at the time I apply, under the current statute, I have to present something to you that establishes or demonstrates that prior to the completion of that course, I will be a citizen. And if I don't

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present something to you at the time of application that demonstrates that I will be a citizen prior to the time I complete that course, I can't be admitted. It says, "the applicant is or will be a citizen of the United States prior to the completion of certification." So if I don't present citizenship or present some documentation that shows that I am in this stage of the citizenship process, I'm expected to be granted citizenship on X day, the class...the certification is expected to be completed on Y day, then they can't be admitted. Now, next scenario...expects to be a citizen on X day, expects to complete the class on Y day. X date comes and goes; I'm not a citizen; I don't get the certificate. I mean, that's how it ought to operate under the law as it reads now. And I'm sorry I was out of the room. I don't know Mr. Murphy's situation, but if Mr. Murphy is seeking to enroll now and is not expected to become a citizen in 2011, and the class ends 11 weeks from now, I would advise him not to apply. And I would advise him not to apply till at least 11 or 12 weeks prior to the date that he thinks he's going to become a citizen because if he does it then, according to the law as it exists, you have to admit him. [LB784]

SENATOR ASHFORD: If he's sponsored by some...I mean if he meets the other qualifications. [LB784]

SENATOR COUNCIL: If he's...I mean, whatever. If he meets all the criteria. [LB784]

MIKE BEHM: I don't...I personally don't believe a law enforcement agency right now would sponsor Mr. Murphy unless he was in within the weeks...11 weeks of making completion. Also, one other statistic I would like to add here. Nebraska is not alone in this. There's approximately 40 other states...our data shows as many as 43 states who have the same law on the books... [LB784]

SENATOR ASHFORD: Yeah, I... [LB784]

MIKE BEHM: ...43 out of 50 states. [LB784]

SENATOR ASHFORD: I just...it just says what it says, Mike, is all I'm...I mean (laugh). It just says what it says. [LB784]

SENATOR COASH: It doesn't say...look, I don't see anywhere it says you have to be sponsored to be admitted. [LB784]

SENATOR ASHFORD: No, no, I didn't mean it that...you're right, you don't have to be sponsored but. [LB784]

MIKE BEHM: No, you don't. [LB784]

SENATOR COASH: You could just go through the training and just through

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(inaudible)...you're going to have to pay for it. [LB784]

MIKE BEHM: Yes, he could attend the academy on his own. Yes, that's...yes, \$6,000 [LB784]

SENATOR COUNCIL: He would...yeah, he...I'm sorry. I don't mean to be out of order. [LB784]

SENATOR ASHFORD: I've lost total control. Take control, Mike, of this. [LB784]

MIKE BEHM: ...yeah, 6,000. [LB784]

SENATOR COUNCIL: I don't mean to be out of order, but Senator Coash, he would be one of those nontraditional applicants that we discussed when...on the previous bill...somebody who just wants to see if they can get the credentials and prove their position when they go approach a law enforcement agency. [LB784]

SENATOR ASHFORD: I get...we get your point. [LB784]

SENATOR COUNCIL: We get (inaudible)... [LB784]

MIKE BEHM: Thank you, Senators. [LB784]

SENATOR ASHFORD: Thank you. Senator Louden. Anybody else wish to testify on this bill? Senator Louden, do you wish to...? [LB784]

SENATOR LOUDEN: Well, I don't know if I dare do this, and the way you guys went after this, I don't know if I dare say too much anyway but (laughter). [LB784]

SENATOR ASHFORD: Well, I think it's interesting because of the way the statute is written. It kind of (laugh)... [LB784]

SENATOR LOUDEN: But I want to thank you, and Senator Council, yes, you summed it up right, the way the law is written now. And this is what we've tried to do is add "or a legal permanent resident who is actively seeking United States citizenship," so that changes it so that they can probably seek to go to this academy a little bit ahead of time. And that's all it's about. And as the testifier here that you visited with, I always say every once in awhile, people maybe...they either don't read it right they're spinning their wheels a little bit, but we're not talking about being a police officer. I think we're talking about going to the certification academy. That's up to... [LB784]

SENATOR ASHFORD: He just couldn't get into the academy because...and I understand that. [LB784]

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SENATOR LOUDEN: And that's up to the hiring agency to decide if he's qualified. That isn't anything at all in the law, so with that, I want to thank you for your attention and... [LB784]

SENATOR ASHFORD: Thanks. [LB784]

SENATOR LOUDEN: ...and I appreciate if you can move this bill forward. [LB784]

SENATOR ASHFORD: Thank you. That's all we have. Thanks everybody. Thanks, Mike, for...and your team for spending the day with us. [LB784]