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Judiciary Committee
February 16, 2012

[LB937 LB941 LB1046 LB1127 LB1145]

The Committee on Judiciary met at 1:30 p.m. on Thursday, February 16, 2012, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB937, LB941, LB1046, LB1127, and LB1145. Senators present: Brad Ashford, Chairperson; Steve Lathrop, Vice Chairperson; Colby Coash; Brenda Council; Burke Harr. Senators absent: Tyson Larson; Scott Lautenbaugh; and Amanda McGill.

SENATOR ASHFORD: Let's get cracking here. Welcome to the Judiciary Committee. We have five bills today, starting out with LB937 and LB941, both introduced by Senator Smith. I don't see Senator Smith, but...better yet. [LB937 LB941]

SENATOR LATHROP: Yay. [LB937 LB941]

SENATOR ASHFORD: (Laugh) [LB937 LB941]

SENATOR LATHROP: Two bills from Smith. [LB937 LB941]

LISA JOHNS: (Exhibit 1) Would you like me to get started, or are you still...? [LB937 LB941]

SENATOR ASHFORD: I'm wondering if...do you want to do them both? [LB937 LB941]

LISA JOHNS: Yeah. And I was going to suggest, if... [LB937 LB941]

SENATOR ASHFORD: Yeah, why don't we... [LB937 LB941]

LISA JOHNS: ...you want me to do them together, I can. That would be... [LB937 LB941]

SENATOR ASHFORD: ...why don't you do both of them at the same time. [LB937 LB941]

LISA JOHNS: Okay. [LB937 LB941]

SENATOR ASHFORD: All right. [LB937 LB941]

LISA JOHNS: Good afternoon, Senator Ashford and members of the Judiciary Committee. For the record, my name is Lisa Johns, L-i-s-a J-o-h-n-s. I am the legislative aide for Senator Jim Smith of the 14th Legislative District. Senator Smith is sorry he's not here; he is in another hearing introducing another bill. [LB937 LB941]

SENATOR ASHFORD: Which hearing? (Laugh) [LB937 LB941]

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LISA JOHNS: Natural Resources. [LB937 LB941]

SENATOR ASHFORD: I just want to know which is... [LB937 LB941]

LISA JOHNS: Where everybody is? Yeah. [LB937 LB941]

SENATOR ASHFORD: (Laugh) [LB937 LB941]

LISA JOHNS: Irrelevant here, right? Anyway, LB937. It seeks to provide regulation of dealers of precious items. Under this bill, a precious item is defined as an article that is made in whole or in part of gold, silver, or platinum or precious or semiprecious stones or pearls. Basically, this bill--I have a handout here--would regulate the cash-for-gold sort of businesses as well as the transient precious dealers who set up shop in a hotel for a couple days and then leave. In current law, 69-201 through 69-211, we regulate pawnbrokers and dealers in secondhand goods and junk dealers. They're regulated at different degrees, with pawnbrokers being the most highly regulated. A secondhand dealer is not defined. I would assume these cash-for-gold, gold buyers, precious item dealers would currently fall under secondhand good dealers, which would also include antique dealers, Goodwill, Gamers. Senator Smith felt that, given the items that they deal in...deal with, that precious items dealers needed to be separated out and more heavily regulated. So as a result, we looked at the current requirements for pawnbrokers as well as other states' laws that regulate precious item business, and we have LB937. Basically, LB937 would require a dealer in precious items to obtain a permit from their local government, would operate from a permanent place of business, would have to keep a ledger of the items that they purchase and a description of the seller and a fingerprint of the seller. These are the same regulations for pawnbrokers currently. We did make the permit fee a little higher; it's \$100 per year. Current law for pawnbrokers is \$100 for cities of the metropolitan class and \$50 for all others. We also changed the penalty for violating this law, should it become law, to a Class III misdemeanor. Currently in the pawnbroker statute that is a Class V. If the committee wants to put these more in line, Senator Smith doesn't have any problem with that. Additionally, when we did draft the bill, visited with the Omaha Police Department and the Lincoln Police Department. Both cities regulate precious items dealers. But because there is no state law, they do it differently. In Omaha, they regulate them as secondhand goods dealers, again which is a lot less strict regulation. Lincoln has a separate ordinance that regulates them identical to their pawnshop dealers. So I do have an amendment, as well, that Lincoln Police Department indicated they would like, to provide clarification that the fingerprints...currently they're obtained by the pawnbroker and then given to the police department to hold on record for three years. So that's...amendment clarifies that. And also, we were approached by the representatives of eBay, who had a concern that this bill might impact those clients. That was not Senator Smith's intent. So, in addition to addressing LPD's issue, that amendment also

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exempts people who purchase and resell precious items exclusively through an Internet marketplace. There are currently six states that have enacted or are going to consider similar legislation: Alabama, Florida, Kansas, Kentucky, Virginia, and Washington. We anticipate many more states will regulate these dealers separately, because the price of gold continues to climb, and we see more of these businesses growing in existence. Senator Smith would like to address this issue sooner than later and asks that you give it serious consideration. In drafting LB937 and doing some research, like I said, we looked at our pawnbroker law quite a bit, and there's a lot of questions that come up in the current statute. One of them is, they are required to hold items for a certain period of days, 14 days, and then there's an exemption: except for jewelry only, 5 days. Nobody could answer why jewelry had to be held for a shorter period of time than any other item. I did talk with the pawnshop dealers that we worked with and the police department, and they would like it uniform or they have no problem with making it uniform. So LB941 simply does that: makes every item have to be held for at least 14 days. With that, I'll answer any questions. [LB937 LB941]

SENATOR ASHFORD: Do we have any questions? Yes, Senator Coash. [LB937 LB941]

SENATOR COASH: Thank you, Senator Ashford. You may have covered this, Lisa... [LB937 LB941]

LISA JOHNS: Um-hum. [LB937 LB941]

SENATOR COASH: ...but these guys who come into town, set up shop in a hotel for three days, put the ad in the paper...this eliminates that, right? [LB937 LB941]

LISA JOHNS: Basically, yes. [LB937 LB941]

SENATOR COASH: Because they're not...because...unless they're a Nebraska company. [LB937 LB941]

LISA JOHNS: They have to have...they have to operate from a permanent place of business. [LB937 LB941]

SENATOR COASH: Are these guys...I've never been... [LB937 LB941]

LISA JOHNS: I've never... [LB937 LB941]

SENATOR COASH: ...are these guys kind of...I mean, there must be a reason we're trying to squeeze them out. Are they taking advantage of consumers? Are they bad actors? [LB937 LB941]

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LISA JOHNS: They're...in my research, I did come across...there was a group...why Washington is considering this--and I can get you a copy of that article--there was a hotel group that traveled along, and the checks that they issued to the sellers of these items bounced. You can't track them; they're gone. They're gone in four days. Lincoln does actually track them; they said they do. But the other states...we don't have state regulation on these businesses at all. There was also a comment made...and I can't quote that person because they're not here to support that, but...that these kind of prey on older people, and they undercut the worth of the jewelry and take your gold and melt it down, so... [LB937 LB941]

SENATOR COASH: Okay. All right. Thank you. [LB937 LB941]

SENATOR ASHFORD: Any other...yes, Senator Council. [LB937 LB941]

SENATOR COUNCIL: Thank you. And thank you, Lisa. And Senator Coash kind of touched upon...there are a number of these enterprises that operate via the Internet and the television... [LB937 LB941]

LISA JOHNS: Television, correct. [LB937 LB941]

SENATOR COUNCIL: ...advertisements. So we're not broad enough in this legislation to capture... [LB937 LB941]

LISA JOHNS: No. [LB937 LB941]

SENATOR COUNCIL: ...those mail-in, you know, mail your gold and... [LB937 LB941]

LISA JOHNS: Correct. [LB937 LB941]

SENATOR COUNCIL: ...coins. [LB937 LB941]

LISA JOHNS: Correct. We're just... [LB937 LB941]

SENATOR COUNCIL: It's just those who are actually... [LB937 LB941]

LISA JOHNS: What's in here. [LB937 LB941]

SENATOR COUNCIL: ...present and operating in the state. [LB937 LB941]

LISA JOHNS: Absolutely. [LB937 LB941]

SENATOR COUNCIL: Okay. And the whole gold situation, I mean, you listen to the radio, there are these...all these advertisements about purchasing gold and that's, you

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know, better than currency. [LB937 LB941]

LISA JOHNS: It's the thing to do. [LB937 LB941]

SENATOR COUNCIL: And recently there was an expose on a number of these companies are selling far-less-pure gold than they're representing. People are paying \$5,000-\$6,000 for gold that's worth \$2,000. So I... [LB937 LB941]

LISA JOHNS: Right. [LB937 LB941]

SENATOR COUNCIL: ...but this--we may need to get to that at some point in time--but this... [LB937 LB941]

LISA JOHNS: Right. This does not touch... [LB937 LB941]

SENATOR COUNCIL: ...but this is not that. Okay. Thank you. [LB937 LB941]

LISA JOHNS: That is not that. And the amendment does specifically exclude Internet, at the request of eBay; we did exclude the Internet. And I don't know how you would regulate that, in a practical sense anyway. [LB937 LB941]

SENATOR ASHFORD: Thank you... [LB937 LB941]

LISA JOHNS: All right. [LB937 LB941]

SENATOR ASHFORD: ...Lisa. [LB937 LB941]

LISA JOHNS: Thank you. [LB937 LB941]

SENATOR ASHFORD: Proponents? [LB937 LB941]

DAN ROCK: Proponent. [LB937 LB941]

SENATOR ASHFORD: Okay. [LB937 LB941]

DAN ROCK: My name is Dan Rock, D-a-n R-o-c-k. I'm a lawyer in Omaha and represent Sol's Jewelry and Loan, which is a pawnshop in Omaha and La Vista. And our manager, John, was going to be here too, and he called me as he was driving in; he was having a problem. And I said: John, you're not going to make it in time; don't worry about it; I got this. Sol's is a professional pawnbrokers, and they belong to the national association of...Pawnbrokers Association. And there's been a movement within that organization that...Lisa was talking about the six states that have changed...there's a lot more states that are working on it, too, just like Nebraska is here. And the problem is

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gold is going through the roof for prices. And because of that, we're seeing all these people pop up buying gold left and right in strip malls; they come into town for the hotels for one weekend, and then they're gone. And so that's the problem. And the solution is this legislation that's before you today. The problem is, is that they're not regulated like a pawnshop. A pawnshop is very heavily regulated. A person comes in and wants to...and the nice thing about pawnshops right now is that there's these couple different TV shows about pawnbrokers, so people understand how they work a little bit better. When you come in, you can either sell the item to the store or you can pawn it. A pawn is a loan. We're keeping the item as security, and we give you a loan back, and then you have a certain amount of time to redeem it. What we're dealing, here, with is purchasing gold and not pawns. So these other stores are buying gold, but they're not pawning. And because they're not pawning, they're not regulated like the pawnbrokers are. So Sol's could get out of all this regulation really easily and just say: We're out of the loan business; we're just buying gold like everybody else. But they want to keep that side of the business too, and so they think everybody buying gold should be regulated like they are. The reason I think pawnbrokers are regulated when they buy gold is because it's easy to...for a thief to steal a ring and, if it's \$1,700 an ounce right now, come in, get a lot of money, and, you know, you know, buy drugs or whatever it is that they're going to do with it. When they come in, they have to get fingerprinted; we get photo ID; we know exactly who they are. And it's very often we're working with the police officers to get that ring back to the person it came from. You know, if they come into the hotel, this stuff is gone before Monday, and the police, the pawn units, don't necessarily work on the weekends. So this is a measure to put Nebraskans a little bit more safety to help us track the stolen items better and to keep everybody on the same, equal playing field. On the 14-day hold period, that other bill, that's a pretty straightforward deal, just kind of making things clean. Sol's has always held jewelry for 14 days, although they're not required to, just because...you know, it might be jewelry or it might be considered non-jewelry, but we just hold everything. I can talk more. [LB937 LB941]

SENATOR ASHFORD: Okay. Any questions? Senator Coash. [LB937 LB941]

SENATOR COASH: Thank you, Chairman. Just...the jewelry that your client...if they buy it, they're not pawning them; if they buy it, do they resell it, or do they melt it down and resell the gold, or both, or...? [LB937 LB941]

DAN ROCK: Both. They sometimes clean up the rings and they resell them on their retail floor. Other times, when they get surplus stuff, they'll...they actually mail it to someone, then, who melts it down and they just buy it by the ounce. [LB937 LB941]

SENATOR COASH: Okay. How...? [LB937 LB941]

DAN ROCK: If... [LB937 LB941]

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SENATOR COASH: Oh, go ahead. [LB937 LB941]

DAN ROCK: Can I respond to the question you had before about the...or maybe it was Ms. Council's question about the envelope sales, where the "800" phone numbers, they...you call them and you say, I've got some gold to sell; they send you an envelope; you put your rings in there and send it off, and you send it to Florida. If a business started in Nebraska where people were mailing things to Nebraska in those envelopes, this law would cover them, because then they'd be regulated in the state. But right now our citizens who send stuff off to New York and Florida have to be, you know, hoping that the Florida and New York laws are strong enough. [LB937 LB941]

SENATOR COASH: Right. Just...your client, how much of their business is buying and selling versus pawning? Because what you said was kind of interesting to me: well, we could just get out of the pawn business. Well, how much of that is the business? [LB937 LB941]

DAN ROCK: It, you know, or maybe a better way to say it is to split their business, you know, put a wall down the middle of the store and say, okay, this side, you know, we're not doing a pawn, so we don't have to, you know, check who you are. You know, I think it's at least 50/50, you know. And I wish John was here, because I don't know for sure. [LB937 LB941]

SENATOR COASH: That's fine. [LB937 LB941]

DAN ROCK: But when I'm in there, that's what it looks like. [LB937 LB941]

SENATOR COASH: Thank you. [LB937 LB941]

SENATOR LATHROP: I see no other questions. Thanks for coming down. [LB937 LB941]

DAN ROCK: Yep. [LB937 LB941]

SENATOR LATHROP: Appreciate hearing from you. [LB937 LB941]

DAN ROCK: Thank you. [LB937 LB941]

SENATOR LATHROP: Any other proponents of either bill? [LB937 LB941]

MATT SCHAEFER: Good afternoon, Senator Lathrop, members of the committee. My name is Matt Schaefer, M-a-t-t S-c-h-a-e-f-e-r. And I'm a registered lobbyist appearing on behalf of eBay in support of LB937 with Senator Smith's amendment. EBay is the

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world's largest on-line marketplace, with 97 million active users around the world. EBay supports the consumer protections found in LB937 because the recent spike in precious metal values has given rise to a number of transient gold dealers who are typically unlicensed, have no local business address, and can engage in fraudulent activity. This activity includes undervaluing purchases or buying stolen goods. EBay itself has taken a number of measures to combat illegal and fraudulent activity. In order to buy and sell on eBay, users must register and provide valid contact information including their name, address, telephone number, and e-mail. Transactions completed on eBay are recorded and stored on the site, and the conclusion of the sale or auction is public. Additionally, eBay does not allow sale of stolen property on the site and notifies law enforcement of suspicious activity and helps investigate and prosecute users who sell stolen property. In that spirit, eBay supports the regulations in LB937, which will help combat fraudulent and illegal activity. I'd be happy to answer any questions. [LB937 LB941]

SENATOR LATHROP: I see none. Thanks, Matt. [LB937 LB941]

MATT SCHAEFER: Thanks. [LB937 LB941]

SENATOR LATHROP: Anyone else here in support of either bill? Good afternoon. [LB937 LB941]

DAVID BAKER: Good afternoon, Senator Lathrop. Thanks for the opportunity to address both bills. My name is David Baker, B-a-k-e-r. I'm deputy chief of the Omaha Police Department, here in support of both LB937 and LB941, LB941 most specifically. We feel it helps not only level the playing field but will assist law enforcement in extending the amount of time that these people who purchase gold...the business that purchases gold is required to keep it on hand, which would help immensely, moving it from 5 days to 14 days, allowing our pawn units and other things that don't work over the weekends, generally speaking, to be able to have a reasonable amount of time to check some of these businesses after the transactions occur, and in that way not only aid law enforcement but potentially any victims that have suffered a loss in precious items. And secondly, we believe LB937 creates an infrastructure under which it would be easier to check for stolen precious items. It makes it more difficult to come to town, immediately buy and sell, and then leave town, which makes it difficult, if not impossible on occasion, for us to be able to trace or detect when stolen items may be sold to these businesses. And for that reason we support both bills. [LB937 LB941]

SENATOR LATHROP: Very good. I see no questions. Must have been perfectly clear. [LB937 LB941]

DAVID BAKER: Thank you. [LB937 LB941]

SENATOR LATHROP: Thanks, Dave. Next proponent. Seeing none, anyone here in

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opposition to either LB937 or LB941 wish to be heard? Anyone here in a neutral capacity? Seeing none, Lisa waives close for Senator Smith. And so that will close our hearings on LB937 and LB941. And that will bring us to our own Senator Harr and LB1046. [LB937 LB941]

SENATOR COASH: Senator. [LB937 LB941]

SENATOR LATHROP: Oh, wait a minute. Wait, whoa, whoa, whoa, whoa, whoa. I'm sorry, did you want to be heard on either of those? [LB937 LB941]

RICHARD HEDRICK: I'm Richard Hedrick, H-e-d-r-i-c-k. [LB937 LB941]

SENATOR LATHROP: Mr. Hedrick, which bill do you want to testify on? [LB937 LB941]

RICHARD HEDRICK: Is what? [LB937 LB941]

SENATOR LATHROP: Which bill do you want to testify on? [LB937 LB941]

RICHARD HEDRICK: Well, I thought we were on LB937. [LB937 LB941]

SENATOR LATHROP: We were. [LB937 LB941]

RICHARD HEDRICK: Yeah. [LB937 LB941]

SENATOR LATHROP: Go ahead. You are testifying on LB937. We'll open that hearing back up to hear from you. [LB937 LB941]

RICHARD HEDRICK: I have a question why Nebraska Revised Statute 69-201 needs to be expanded by LB937. I oppose LB937 on the basis it is too broad. LB937 covers all persons who could at any time sell a precious item, as defined. LB937 would make all stores not covered by Nebraska 69-201 as thrift stores to pay \$100 to sell donated cheap rings, a \$5 ring plated with silver, as a precious item, as defined. Thrift stores will be in the same position as they were with donated toys. They cannot sell toys that had lead. They did not know which toys were lead, and so they threw them all out. A person could not sell any item as defined without going through a hassle of paying \$100 to the village or city. I, as others, go to the thrift store to buy a bargain. I don't sell items. I buy; I am a collector. Sometime I could change and sell something. With this bill, LB937, I would have to go through the hassle and expense of \$100 to comply with this. Would gold-plated electrical contacts in a computer be a precious item? Would a catalytic converter with platinum be a precious item? I can just imagine what the village treasurer would say when the first person came in with this \$100 to pay for...to be in compliance with this bill. How many of you have ran on...campaigned on less government? Thank you. [LB937 LB941]

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SENATOR LATHROP: Thank you. I see no questions. Just to be clear, your opposition is to LB937. [LB937 LB941]

RICHARD HEDRICK: What? [LB937 LB941]

SENATOR LATHROP: Your opposition is to LB937 and not LB941, is that true? [LB937 LB941]

RICHARD HEDRICK: LB937. [LB937 LB941]

SENATOR LATHROP: Your opposition was only to LB937, is that true? [LB937 LB941]

RICHARD HEDRICK: I...I'll have to look, in a minute, for you. [LB937 LB941]

SENATOR LATHROP: Okay. [LB937 LB941]

RICHARD HEDRICK: I can't remember exactly where I read it, but... [LB937 LB941]

SENATOR LATHROP: Okay. [LB937 LB941]

RICHARD HEDRICK: I'm not sure. [LB937 LB941]

SENATOR LATHROP: I just wanted to clarify, because... [LB937 LB941]

RICHARD HEDRICK: I didn't think that was... [LB937 LB941]

SENATOR LATHROP: ...it might make a difference to Senator Smith. [LB937 LB941]

RICHARD HEDRICK: ...a little different. [LB937 LB941]

SENATOR LATHROP: Okay. [LB937 LB941]

RICHARD HEDRICK: Yeah. [LB937 LB941]

SENATOR LATHROP: Good. Thank you. That will close our hearings on LB937 and LB941 and bring us to LB1046 and Senator Burke Harr. [LB937 LB941 LB1046]

SENATOR HARR: Thank you, Senator Lathrop and fellow members of Judiciary Committee. My name is Burke Harr, B-u-r-k-e Harr, H-a-r-r. And I represent Legislative District 8, which is the Dundee, Benson, Keystone area of Omaha. As with many professions, law enforcement is an ever-changing and exciting occupation. Laws, court decisions, techniques, technology, indeed the society that they regulate and serve is

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also in a constant state of flux. For this reason, it is necessary that law enforcement officers keep abreast of the latest technology of their field so they can more effectively serve the citizens, avoid civil liability, and develop the necessary supervisory and managerial skills. LB1046 changes provisions related to law enforcement certification and continuing education. This bill requires that each law enforcement officer attend at least 20 hours of continuing education courses in the area of criminal justice and law enforcement during a calendar year. This bill defines continuing legal education courses as courses offered in the form of seminars; advanced education, which includes college and/or university classes; conferences; instruction conducted within the law enforcement officer's law enforcement agency; or instruction conducted over the Internet. This bill limits the number of hours of instruction conducted over the Internet to no more than 10 hours annually. This bill also creates a central registry that will maintain training records with the director of the Nebraska Law Enforcement Training Center. Every law enforcement agency of the state or of its political subdivisions shall send a certified report at the completion of the continuing education requirement by its law enforcement officers. Failure to complete the continuing education requirements of this act shall result in the suspension of a law enforcement officer's certificate or diploma from the Nebraska Law Enforcement Training Center and a fine under Section 81-1403 of the Nebraska Revised Statutes until the continuing legal education is completed. An exemption is allowed, however, if the officer is able to show good cause for not completing the continuing education requirements if a waiver has been granted. A law enforcement officer is not required to meet the continuing education requirement in the year in which he or she first becomes fully certified, which is good. This bill also exempts a law enforcement officer while he or she is on active duty with the armed forces of the United States of America. Lastly, the bill includes a reserve employee, a full and/or part-time Game and Parks Commission conservation officer, and/or part-time deputy state sheriff as a law enforcement officer for purposes of training. You will hear a couple people coming after me, but I would like to make a couple of comments. First of all, this does have the endorsement of the FOP, and I'm not sure if...Sean Kelley was going to come, and I'm not sure if he's going to be able to make it...Fraternal Order of Police. And the fiscal note, which has a...\$25,000 fiscal note, and it's...I guess that may seem like a lot but, compared to a lawsuit and/or the cost/benefit of our officers being properly trained, I think pales in comparison. Excuse me, it's a \$75,000 fiscal note, which is broken down for you; I might disagree with some of those terms, but those are what were submitted, and so that's what we have to work with. I will entertain any questions you may have regarding this bill. [LB1046]

SENATOR LATHROP: And it looks like we have no questions. So we'll go right to proponents. Thanks... [LB1046]

SENATOR HARR: Thank you. [LB1046]

SENATOR LATHROP: ...Senator. Proponents of the bill. Can I see a show of hands of

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the number of people that are here to testify in favor? All right, if you folks want to come up one at a time and...you'll be heard. You're all familiar with the light system that will be green for two minutes, yellow for one, and then red means you're out of time. Welcome to the... [LB1046]

BOB LAUSTEN: Thank you. [LB1046]

SENATOR LATHROP: ...Judiciary Committee. [LB1046]

BOB LAUSTEN: (Exhibit 2) Good afternoon, Senators. I'm here today to testify in support of LB1046. My name is Bob Lausten, L-a-u-s-t-e-n. I'm the chief of police in La Vista, 28-year law enforcement veteran. I've been a member of the Police Standards Advisory Council for the past five years and have been actively working on establishing a mandated continuing education requirement for law enforcement since 2008. Unfortunately, in Nebraska the advanced officer training requirement, or required continuing education, is prehistoric at best. Once an officer completes the police academy, there is no state-mandated minimum amount of training required the rest of his career. It is left up to the individual agencies to determine their training. The only training requirements currently is a 20-hour-per-year training for the sheriffs of Nebraska counties, not the police officers and deputies who do the work on the streets every day. In this room right now, Dave Baker, who just testified, myself, and Jeremy Kinsey don't have to go to any training whatsoever, but Terry Wagner, the sheriff of Lancaster County, who you'll hear from, has to go for 20 hours. It just doesn't make sense. It's interesting that what I'd consider less-complex occupations, such as barbers, tattoo parlor operators, real estate salespersons, and even defense attorneys, have continuing education requirements, yet law enforcement doesn't. Local control is great, but there's a case where a reasonable minimum standard should be established. That was a joke. To give an example of how archaic Nebraska laws are, I can hire a recruit today, put him in a police car, with absolutely no training whatsoever in any subject, work him for one year prior to having him attend a police academy, and he has full powers of arrest from day one, with no training whatsoever, for up to a year. The officer will have to qualify, not train, with a handgun once a year and shoot a course of fire where he can completely miss the target 15 out of 50 times and still pass. In addition, Nebraska, unlike other states, has no minimum training standards or requirements for SWAT teams, canine, chemical munitions, just to name a few. This bill is a start in the right direction for mandatory training. This doesn't mean that agencies around the state don't provide training; a lot do. In the metro area, most of the agencies require between 20 and 40 hours per officer, but the problem we run into would be outside of the Omaha area. In Cherry County, for example, what do they require? There are certain things that are similar in both areas, of training, yet we have no minimum standard for this. What's good about this bill: it doesn't mandate exactly what the training is. A Cherry County deputy with court services may be different than an Omaha police officer with gang investigation or a Falls City officer. And we know about the coroner problem in western

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Nebraska with investigating dead bodies. We have perishable skills in law enforcement: arrest and control, driver's training awareness, tactical firearms. These are things that are perishable that we have to train in every year, and there should be a minimum standard in the state to require us to do this. The fiscal notes: I would take exception with one of the fiscal notes after reading it that stated that there would have to be a lot of travel involved. As you see, you can train in a lot of different ways; there's an Internet-based training, and the good thing about that: it's limited to ten hours, because at least ten more hours should be in role-specific things, role-playing: tactical situations, training in your hallways of your police department, doing entries into...building entries, building searches, active-shooter investigations. There's nothing that's going to prevent a school shooting in Crawford, Nebraska, and your people have to train that way. And if the agencies say that they don't have the funds to do this, they're wrong, because they have to partner with other agencies. The sheriff's departments, in the small towns, are usually the backup officers for the small-town officers, and they should all be training together anyway. This bill is a start in the right direction... [LB1046]

SENATOR LATHROP: Very good. [LB1046]

BOB LAUSTEN: ...and I appreciate your support on this. [LB1046]

SENATOR LATHROP: Yes. Senator Council has got a question for you. [LB1046]

SENATOR COUNCIL: And thank you for your testimony. And it may be a better question for Senator Harr on his closing. But, when we talk about the courses on the Internet, would it be your understanding or expectation that, what is it, the law enforcement policy standards advisory council would, like, certify certain of those Internet courses or...I mean, for example, lawyers: we have ten hours of continuing legal education, but not every course that I pull off the Internet will be accepted by the Nebraska Bar Association. To your knowledge, would there be some kind of screening process in terms of, you know, identifying those courses that would be accepted toward your ten hours or your... [LB1046]

BOB LAUSTEN: I don't believe so, Senator. In the original proposal we had from PSAC that we spent about four years putting together, we talked about leaving the course topics up to the agencies, and they would have to document that they would...that they provided that type of training. When we got into identifying individual courses, again, it depends, because of the diversity of our state. And whether we had a range of topics, that could be something, but, again, it's an ever-changing field, and I think it's hard. And if we shot everything to the Law Enforcement Training Center to...or PSAC to make that determination, I think it would be an ever-evolving list of courses that come up, because there's just so many resources available right now on the Internet or through publications or anything else that you do. So to answer your question, I don't know. [LB1046]

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SENATOR COUNCIL: All right, because that's the...and maybe this is something that Senator Harr and I can talk about, because I applaud law enforcement for recognizing the need to standardize training across the state. That's very, very, very important. And the example that you gave, you know, the sheriffs are the backup to the small-town police officers, and they have different level of training and they're responding to the same situation, they may approach their response differently and place each other in harm's way. So it's very important that we do that. I just want to make sure that, just like...you were here in the room when we were talking about these on-line gold places, and I just want to make sure that we have some way of ensuring that the courses, you know, are legitimate courses. And I don't know how you do that without, I mean, there are thousands of them out there, I agree. But, you know, perhaps we can...the council can identify some preferred, you know, sources of those courses, you know. [LB1046]

BOB LAUSTEN: And, Senator, and the 20 hours--and 10 of it being on the Internet--20 hours a year, that's less than 2 hours a month... [LB1046]

SENATOR COUNCIL: Right. [LB1046]

BOB LAUSTEN: ...that you'd be conducting... [LB1046]

SENATOR COUNCIL: Right. [LB1046]

BOB LAUSTEN: ...in any type of training. And it's... [LB1046]

SENATOR COUNCIL: Right. [LB1046]

BOB LAUSTEN: ...you know... [LB1046]

SENATOR COUNCIL: Because I see, I mean, I...I mean, I get pop-ups on my Yahoo account every day, you know: Learn to be a law enforcement officer. I mean, I don't...and they're indicating I can get it done in, like, eight hours, so, I mean, I'm just saying I don't know how legitimate those things are. But you may want to have some kind of screening system, and it may be PSAC that does it, but...just to be sure that we're getting meaningful training and meaningful (inaudible). [LB1046]

SENATOR LATHROP: Very good. Thank you. Thanks, Chief. Sheriff. [LB1046]

TERRY WAGNER: Senator Lathrop, good afternoon, members of the Judiciary Committee. My name is Terry Wagner, W-a-g-n-e-r; I'm the sheriff of Lancaster County. I'm here today on behalf of both Lancaster County Sheriff's Office and the Nebraska Sheriffs' Association in support of LB1046, and I appreciate Senator Harr bringing this forward. And I was on the Police Standards Advisory Council for 15 years and served

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with Chief Lausten. We did work on this for a long time and had hoped to get it promulgated as a rule/regulation. Instead, it's before you now as LB1046. I can tell you that some of the questions that arose in the two to three years that we proposed this across the state to other law enforcement agencies...and the big questions were, just as Senator Council asked, you know, who approves the courses to be taught? And the answer to that question is, the agency head does. And for example, we have a daily briefing for a shift that comes on duty. If that day we're going to cover a new policy and it's 15 minutes, that's a quarter of an hour of training, you can document that for those employees that participate in that training. And that serves to help fulfill that requirement. The next is the travel requirement; I think the Game and Parks Commission fiscal note indicates that travel is required. That's not true. I think this bill was designed to make it as easy as possible but to be meaningful training for each individual agency, depending upon their needs in their community. So I think the only other topic that was covered or the other big question that was asked in the presentations that we did to the sheriffs' association and the Police Officers' Association of Nebraska was, who covers the shift when Terry Wagner is training? If I'm a two-man sheriff's office in a smaller county and one of the members is training and the other member is off duty, who covers? And that is a problem, there's no question about that. But I think collaboration between the counties, the State Patrol, and the cities in those areas, and the villages, will help alleviate some of the pressure that that creates on those agencies. With that, I would urge you to support LB1046, and I'll answer any questions the committee might have. [LB1046]

SENATOR LATHROP: Very good. I see no questions. Thanks for... [LB1046]

TERRY WAGNER: Thank you very much. [LB1046]

SENATOR LATHROP: ...coming down, Sheriff. Do you guys have requirements right now? [LB1046]

TERRY WAGNER: We do. We have an internal policy where we require 40 hours... [LB1046]

SENATOR LATHROP: That's an internal policy, though. [LB1046]

TERRY WAGNER: Right...40 hours per employee per year. Sheriffs are required by law to have 20 hours of training per year. [LB1046]

SENATOR LATHROP: The elected sheriff of each county. [LB1046]

TERRY WAGNER: The elected sheriffs. [LB1046]

SENATOR LATHROP: Okay. [LB1046]

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TERRY WAGNER: So we're the only law enforcement officers, as Chief Lausten said, in Nebraska that are required to have... [LB1046]

SENATOR LATHROP: By state statute. [LB1046]

TERRY WAGNER: By statute. [LB1046]

SENATOR LATHROP: Okay. Very good. Thank you. [LB1046]

JEREMY KINSEY: (Exhibit 3) Squeeze in this chair here. Good afternoon, Senator Lathrop and members of the Judiciary Committee. My name is Jeremy Kinsey; it's K-i-n-s-e-y. I'm the vice president of the Nebraska Fraternal Order of Police state lodge and also the president of La Vista Fraternal Order of Police lodge number 28. I'd like to thank you for this opportunity to address you today, let you know that the FOP supports LB1046. Not to take anything away from our predecessors in the law enforcement field, but the law enforcement officer of 2012 is entirely different from the law enforcement officer of the '50s and the '60s. In fact, it's entirely different from the law enforcement officer of 1990, when I began my career. The law enforcement officer today is a professional and an expert, on many standards. The officer of today is simply not just a peacekeeper, he or she is a crime scene investigator, digital photographer, collector of scientific evidence, and knowledgeable in computer crimes and electronic evidence, just to name a few. To maintain proficiency in many areas that today's cop has to be skilled in, the officer needs training. This is where many of Nebraska's law enforcement professionals have been let down. With many law enforcement agencies in Nebraska already currently exceed the proposed 20 hours of mandated training, some officers in the state do not necessarily benefit from regular training nor are they mandated after attending basic training. Understandably, over the last few years, the budgetary belt-tightening of municipalities across the state has prevented agencies from providing their law enforcement officers certain training. But is training a law enforcement professional really a line-item that should be reduced? LB1046, with the proposal for law enforcement officers to be able to attain half of the proposed mandated requirement by using the Internet for training, is an excellent start. There are countless on-line seminars held on the Internet. In fact, an officer with my agency who primarily handles computer crimes is today attending a webinar on social networking investigations. And maybe to answer Senator Council's question, I believe it's through the Southern Police Institute, which is a widely regarded and respected police training organization. This type of training is free and available to any police officer. I think I can safely say that police chiefs and sheriffs in this state want to maintain the highest level of professional law enforcement officers that they can to provide service to the communities they're responsible to protect. Regular and current training in any profession helps develop and maintain learned skills and also helps avoid liability issues. Today representing over 2,800 law enforcement officers in the state, I tell you that we, the peace officers of

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Nebraska, also wish to maintain the highest level of professionalism in our chosen and most noble profession. I urge each one of you to give careful consideration to this bill and send LB1046 to the floor with your endorsement. Thanks, and I'll stand for any questions. [LB1046]

SENATOR LATHROP: Thanks, Officer. Do you have training that goes on right now inside the police department? [LB1046]

JEREMY KINSEY: Yes, we do have training quite often. [LB1046]

SENATOR LATHROP: Okay. [LB1046]

JEREMY KINSEY: One of our detectives is actually, or officers, is in training in the police department, in the office, currently, as we speak, in a webinar. [LB1046]

SENATOR LATHROP: Okay. So if the Nebraska or the U.S. Supreme Court or the 8th Circuit Court of Appeals has some decision dealing with what you can and can't do as a law enforcement officer in gathering evidence or arresting someone, do you guys...will somebody brief you on that shortly after it happens, give you that kind of an update? [LB1046]

JEREMY KINSEY: Sure. And as the sheriff just pointed out just a little bit ago, especially at roll call training, we'll get decisions handed down that come from whichever court, could be the Supreme Court. We'll get a U.S. Supreme Court update--it might be a search and seizure thing--where it's discussed in roll call as soon as it has come out. And that is counted towards training, in our books. You know, we spend 15, 20... [LB1046]

SENATOR LATHROP: So you would, of the 20 hours this would require, you would take credit for what you learn in roll call? [LB1046]

JEREMY KINSEY: Absolutely. If it took a half an hour... [LB1046]

SENATOR LATHROP: Unless or until we get to a point where you have to certify the continuing education. [LB1046]

JEREMY KINSEY: Correct. [LB1046]

SENATOR LATHROP: Okay. I think I get it. That's all I had. And I see no other questions. [LB1046]

JEREMY KINSEY: Thank you, Senator. [LB1046]

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SENATOR LATHROP: Thank you for coming down; we appreciate hearing from the FOP. Anyone else here to testify in favor of either of the...I guess, LB1046? There's only one bill. [LB1046]

DAVID BAKER: Good afternoon again... [LB1046]

SENATOR LATHROP: Welcome back. [LB1046]

DAVID BAKER: ...Senator Lathrop. David Baker, B-a-k-e-r, deputy chief of the Omaha Police Department. I'm here to testify in support of LB1046. I won't belabor the points already made by my fellow law enforcement officers, except to say that we do feel that this is critically needed in the state of Nebraska for our law enforcement officers. I want to thank Senator Harr for bringing it to this committee. We...in Omaha we do currently have a minimum of 32 hours a year. It was at 40. Because of the staff reduction in our force, we've had to go down to 32. Just by way of explanation, that does not include any optional training, does not include roll call, does not include any training videos that are offered while officers are out in the field or in-service. That is training that is academy-based training, every year. We have a high commitment to that; we feel it's necessary to continue. As you know very well, the laws are in a constant state of flux, as are court opinions. And we need to have those updates as they come along. But we also need to have reinforcement and understand the changes in policy and the changes in the laws as well as honing our skills and practicing what we've already learned. And at 20 hours, that is a relative minimum. We understand that it may be a hardship on some of the smaller departments, and, although empathetic with that, it's a larger hardship on the citizens of this state to have an untrained law enforcement officer. And we believe that at the very minimum we owe our citizens that. And with that, I'll take any questions. [LB1046]

SENATOR LATHROP: Yeah, I can see where the training would increase the probability...or diminish the probability that a seizure would go bad, you'd end up missing a conviction or something like that...if you're getting updates on court decisions and things like that. [LB1046]

DAVID BAKER: Yes, and we do those...that's not part of our minimum mandatory training. And we also offer numerous other courses. We are able to do that because of the size of our agency and because of the budget that we have. Unfortunately, that's not the case throughout the state. And there are law enforcement officers that need and deserve the training and the ongoing requirement. And I think it will help with the local governments to budget for that type of thing and understand the importance of keeping our law enforcement officers trained to the highest level. [LB1046]

SENATOR LATHROP: Good. Thanks, Dave. I see no other questions. Anybody else here to testify in favor? Anyone here in opposition to LB1046? Anyone here in a neutral

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capacity? Welcome. [LB1046]

WILLIAM MULDOON: Hello. [LB1046]

SENATOR LATHROP: Come forward. [LB1046]

WILLIAM MULDOON: (Exhibit 4) Good afternoon... [LB1046]

SENATOR LATHROP: Good afternoon. [LB1046]

WILLIAM MULDOON: ...Senator Lathrop and committee. My name is William Muldoon, M-u-l-d-o-o-n. And I am the director of the Nebraska Law Enforcement Training Center. I'm here today to testify in a neutral capacity and answer any questions the committee may have. LB1046 requires all Nebraska law enforcement officers to obtain 20 hours of law enforcement-related continuing education annually. I want to make it clear, I am supportive of continuing education and think it is a worthwhile endeavor for any profession and for law enforcement. I'm also confident that the Law Enforcement Training Center and the Police Standards Advisory Council can implement the requirements of the bill. Current law requires sheriffs to obtain 20 hours of continuing education, and the training center oversees the record keeping for this requirement. The training center also maintains a database of individuals holding Nebraska law enforcement certificates and handles the record keeping for the existing handgun certification requirement. There are three reasons I'm here today in a neutral rather than a proponent capacity. The first is that the Police Standards Advisory Council has a pending continuing education proposal for law enforcement officers before it and has not finalized this process. Draft rules and regulations have been prepared and distributed to the various stakeholders, and the council has tabled the proposal temporarily while it reviews the potential impact on small law enforcement agencies. The second reason for my neutral testimony is the fact that the current law allows the Police Standards Advisory Council to adopt continuing education requirements. Section 81-1403, found in Section 3 of the bill, already provides that the council shall adopt rules and regulations for law enforcement continuing education. The third reason is that there is a potential fiscal impact of LB1046 as currently drafted. The potential fiscal impact results from the requirement in Section 8 for the training center to maintain continuing education records in a central registry. How records are reported to the training center and how much detail is required will have an impact on how we capture that information and at what cost. If an agency roster signed by the agency head attesting that each officer of the agency has obtained the required amount of continuing education hours is acceptable, the requirement will be met at a lower cost. If detailed records are required as to what specific courses were taken by the state's 4,100 officers, in that case, additional training center clerical staff may be needed or an interface for agencies to enter the data into our training center database will have to be developed. Lastly, I'd like to bring one minor correction to the committee's attention. On page 16, lines 6 and 13,

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the reference to Nebraska Law Enforcement Training Center should be changed to the Police Standards Advisory Council, which is the body that issues the law enforcement certificates in Nebraska. And thank you. With that, I'll answer any questions the committee may have. [LB1046]

SENATOR LATHROP: Very good. Thank you, Mr. Muldoon. I see no questions. [LB1046]

WILLIAM MULDOON: Thank you. [LB1046]

SENATOR LATHROP: Thanks for your input. Anyone else here in a neutral capacity? Seeing none, Senator Harr to close. [LB1046]

SENATOR HARR: Thank you, Senator Lathrop and fellow members of Judiciary. Well, I guess the first thing I'll address is the neutral testimony from Mr. Muldoon. I'm not quite sure, again, when you're evaluating how good a program is, if it has a fiscal note, I'm not sure that's a reason to come in, in neutral. I mean, I understand what he's doing, but I think this is important enough that we can spend state revenue on this. And all we're doing is codifying what's already happening. I know county attorneys and deputy county attorneys, we used to be the only attorneys that were required to have continuing legal education, and we changed that because we thought it was better to have good lawyers. I think law enforcement is probably much more important, and there's more of a public interest in that area, to make sure that they receive the proper training so that they can work to the best of their abilities. I appreciate Senator Council's comments, and I think that's something that we can definitely work with and probably should work with. So I appreciate that, and I would entertain any questions. If not, I would ask that you please pass LB1046. [LB1046]

SENATOR LATHROP: I see no questions. Thanks, Senator Harr. [LB1046]

SENATOR HARR: Thank you. [LB1046]

SENATOR LATHROP: That will close our hearing on LB1046 and bring us to Senator Christensen, no stranger to this committee, and LB1127. Not quite a frequent visitor as you used to be. Welcome. [LB1046 LB1127]

SENATOR CHRISTENSEN: (Laugh) Thank you. You're ready, Senator? [LB1127]

SENATOR LATHROP: Yeah, you're...you may proceed. [LB1127]

SENATOR CHRISTENSEN: Thank you, Mr. Chairman and members of the Judiciary Committee. I'm Senator Mark Christensen, M-a-r-k C-h-r-i-s-t-e-n-s-e-n. I represent the 44th Legislative District; I'm here today to introduce LB1127. LB1127 seeks to provide

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an alternative sentencing for check fraud offenders writing bad checks or a no-account check. It would allow as a possible condition of probation a requirement that such offender not be an account holder of any account in which funds may be accessed by check or draft for the term of his or her probation. The funds in such an account may be accessed by debit card without violating the conditions of the person's probation. This would allow, in appropriate situations, a nonviolent offender to continue working and contribute to society as they pay restitution for their crime and at the same time reduce their ability, while on probation, to repeat their crime. This will provide opportunities to reduce costs to the state for incarceration while increasing the possibility that they will be able to repay what was stolen. Moreover, this follows a slight shift in judicial and correctional philosophy to an approach that looks for areas where we can change sentencing for nonviolent offenders to lower prison populations and costs to the state along with maintaining intact families and productive citizens. To give an example why I brought this bill, there's a gentleman in one of the counties I represent that wrote a bad check and is serving time in the pen right now, but I had two or three of his neighbors call me and said, you know, if he wasn't in jail, I would hire him in a heartbeat; great worker, I'd just never take his check, because he couldn't handle money. And so that made me think, because they asked me, how do we get him out functioning in society yet not being able to harm society? So developing this bill, I worked with Bob Hallstrom with the Nebraska Bankers Association addressing their concerns. And, of course, with this legislation, that keeps the sentencing an option for the court; there's no way of accurately estimating any savings or costs to the state. If you look at the fiscal note, it shows no fiscal impact. However, during the time I was developing this idea, the bankers had contact with corrections to see who in the current prison population had convictions under statutes addressed in this legislation. At that time there was 13 offenders, and 7 of those were nonviolent or first-time offenders or had no other violations other than bad checks. Seven may not look like a lot, but when you begin looking at the potential cost savings to incarcerating them, the possibility of lengthening the time that it may take an offender to provide the victim restitution for a crime, and any financial hardships to the offender's family that might be provided by the state, I believe it is a positive move for Nebraska. LB1127 continues to allow flexibility in sentencing while putting the burden on compliance with probation conditions on the offender. I believe the question the Legislature needs to continue to look at is this: What is the appropriate penalty for nonviolent offenders? LB1127 is a small piece of the whole correctional and judicial system but nevertheless a piece headed in the right direction. Be glad to work with the committee and all parties on any concerns they have, and I thank you for your consideration. [LB1127]

SENATOR LATHROP: This would essentially say to somebody, as part of a sentence for writing bad checks: You can maintain an account over at Wells Fargo, since that's who we usually use in our hypotheticals, that you can maintain an account at Wells Fargo but you can't write any checks, you just get to access your money by debit or credit card. [LB1127]

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SENATOR CHRISTENSEN: Correct. [LB1127]

SENATOR LATHROP: Okay, I think I get it. Senator Council, you're recognized. [LB1127]

SENATOR COUNCIL: Thank you, Vice Chairman Lathrop. And thank you, Senator Christensen. I appreciate the intent of your bill, because the cost of incarcerating nonviolent offenders can be substantial. But I'm looking at this, and I'm trying to...and figuring, trying to figure out how it would work--and I don't see anybody here from probation--because one of the concerns right now is, under your bill, if it were enacted, I get ahold of a check, okay, or I find an account that I can access by check or draft, or I go to the bank one day, and the bank hasn't put in any safeguards to prevent me from getting a counter check. I have an account and I just go in and ask for a counter check. Is it your expectation that, under your bill, if my probation officer finds out that I wrote a check and that, even though the check was good, you know, it was covered, that I would be subject to, potentially, probation revocation? [LB1127]

SENATOR CHRISTENSEN: I guess it would depend how the judge stated that, but my intent was you could write no checks or drafts. So that's the way it was written, yes, that you would be in violation then. [LB1127]

SENATOR COUNCIL: Okay. Okay, because that's, I mean, that's, again, your intent is noble, I agree with it, but I'm just concerned that maybe, you know, if the person is not writing a bad check, that by putting them in a position where just the mere writing of a check could subject them to probation revocation and ultimately jail...although probation is moving more towards administrative sanctions in those areas, it doesn't prevent a judge from, you know, revoking a probation sentence. And I think one of the other bills you were talking about on if a probation is revoked, the underlying...the term for the underlying offense would be the sentence. So maybe we can think of some way to, you know, to...I don't know if we can statutorily mandate an administrative sanction for, you know, a violation. Because if that person accessed...somehow or another got a check, I mean, or opened an account where they got a check and they wrote another bad check, the statute already provides that subsequent violations enhance the penalty. So that, in and of itself, should be a deterrent. But I'm just concerned about if we impose that kind of restriction and they're writing a check but they don't write a bad check, then they're subject to probation revocation and incarceration on the underlying charge. Let's give some thought to that. [LB1127]

SENATOR CHRISTENSEN: I originally went to the bankers and asked them if we could have a debit-only account, where they couldn't access to that, and, in coming through their potential liability and maybe concerns there, moved this direction to being a possible probation side of things, because then the judge could say, you don't have the

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rights to use a check, and if you do then you'll violate probation and may have to go to the pen and serve your time or whatever the judge would decide at that time. My initial hope was like my example, that we could keep somebody that's a good worker functional in society and yet maybe give them some training time of using, like, a debit card, where they can't overdraw and can't issue that bad check, and not be a cost to society. [LB1127]

SENATOR COUNCIL: No, I wholeheartedly agree with... [LB1127]

SENATOR CHRISTENSEN: Yeah. [LB1127]

SENATOR COUNCIL: ...what your approach is, but I'm saying you may have the situation where it was the one-time, really big screw-up, you know, and they're placed on probation. And while a lot of business can be transacted by debit card now, you know, people still have financial obligations where you can't use a debit card...I guess you could use a debit card to go get a money order, but those...I'm just concerned about the fact that we're really restricting people from potentially engaging in lawful activity as a means to prevent them from being incarcerated. Let's just think about it. [LB1127]

SENATOR CHRISTENSEN: You know, my hope was that we could not only train them in this time but protect citizens from having them write a bad check and at the same time, as I said, train them, because of the costs. [LB1127]

SENATOR COUNCIL: Right. [LB1127]

SENATOR LATHROP: Okay. I will say this, that it does give us an interesting idea, and it is taking sentencing and then what are we going to do with offenders outside of just locking them up and fining them. So whether we buy into it ultimately or not will remain to be seen, but it is good that you're bringing us creative ideas. [LB1127]

SENATOR CHRISTENSEN: Okay. [LB1127]

SENATOR LATHROP: So thanks for that. [LB1127]

SENATOR CHRISTENSEN: Thank you. [LB1127]

SENATOR LATHROP: And that was the introduction. So we'll take those in favor of or in support of LB1127. [LB1127]

KENT ROBERT: Good afternoon, Senator Lathrop... [LB1127]

SENATOR LATHROP: Welcome, Mr. Rogert. [LB1127]

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KENT ROBERT: ...the very few members of the committee that are here. My name is Kent Rogert, R-o-g-e-r-t, and I'm here representing today the Nebraska Statewide Property Owners Association, which is a coalition of residential rental home owners. And we, however, we do support this idea. One of the most frequent receivers of bad checks can be rental home owners. And we're here to support this idea as a possible way to help folks, you know, maintain good renting agreements with their tenants. We also are here to ask that if this is something we'd like to move forward on, Senator Christensen had a bill last year, LB231, on how to deal with those bad checks that are written for things that aren't immediate goods, such as rent. I've worked a little bit trying to come up with some language with the criminal defense attorneys association, and we haven't got there yet. And if this was to be attached onto a criminal bill that came out of this committee, we would ask that maybe we try and look at some language out of LB231 that everybody could agree on to address those issues. [LB1127]

SENATOR LATHROP: Very good. Thanks, Kent. I see no questions for you. [LB1127]

KENT ROBERT: Thank you. [LB1127]

SENATOR LATHROP: Next proponent? Anyone here in opposition to LB1127? Seeing none, how about anyone here in a neutral capacity, LB1145...or, pardon me, on LB1127? I'm getting ahead of myself. I'd already turned the page. No one here to testify? [LB1127]

SENATOR CHRISTENSEN: I waive, unless there's questions for me. [LB1127]

SENATOR LATHROP: Okay. Well, wait a minute. [LB1127]

SENATOR COUNCIL: It's not a question, Senator Lathrop; it's just a comment. Mr. Rainey and I were discussing the issue about being prevented from engaging in otherwise lawful activity, and he was quick to remind me that the judges can impose about anything they want. I mean, you can be on probation for a nonalcohol-related offense and the probation orders you not to consume alcohol, which is an otherwise lawful...so I guess the question, too, is the necessity is...probably the judges have the authority to do this now, but I appreciate what, you know, you want to put it...set it out in statute that that is recognized by the Legislature as an option available. I don't know if we want to state that the probation order "may include"...and then that doesn't...it does not violate judges' discretion. I think right now that's problematic to say that it "shall include" or any person "shall not be an account holder." What we may be looking at to communicate to judges: that if you're dealing with someone with bad-check charges, that, you know, among the plethora of conditions you can impose on their probation, you could also impose this "no access to a draft account." I just have problems telling judges what to put in probation orders, but I... [LB1127]

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SENATOR CHRISTENSEN: I understand that. [LB1127]

SENATOR COUNCIL: Okay. Thanks. That's all I had, Senator Lathrop. [LB1127]

SENATOR LATHROP: Thanks, Mark. [LB1127]

SENATOR CHRISTENSEN: Thank you. [LB1127]

SENATOR LATHROP: That will close the hearing on LB1127 and bring us to the last bill of the day, LB1145. Senator McGill's stand-in, yes, come on up. [LB1127]

SENATOR COUNCIL: Wow, you're tall.

SENATOR LATHROP: What's that?

SENATOR COUNCIL: I said she's so tall I just...

SENATOR LATHROP: And she does not have red hair.

SENATOR COUNCIL: I have to go sit in on the Revenue Committee.

SENATOR LATHROP: Okay. Okay, very good.

AMY WILLIAMS: I am not Senator McGill. [LB1145]

SENATOR LATHROP: Welcome to the Judiciary Committee. [LB1145]

AMY WILLIAMS: Thank you. [LB1145]

SENATOR LATHROP: You're free to open. [LB1145]

AMY WILLIAMS: All right. My name is Amy Williams, A-m-y W-i-l-l-i-a-m-s. I am the legislative aide to Senator Amanda McGill, District 26, and I am here today on her behalf to introduce LB1145, is the bill that provides a comprehensive approach to attack human trafficking in Nebraska. We heard compelling testimony after the senator's interim study on this subject and she believes that we cannot wait any longer to address these atrocities that plague our state. During the interim, Senator McGill teamed with Polaris Project, a national organization, to draft the legislation in LB1145. Polaris has chosen Nebraska as a state of focus for 2012 and Mary Ellison, Polaris director of policy, will here on March 12 to facilitate a community organization event. Senator McGill would like to express her gratitude to all of the dedicated and talented people working in our state to combat human trafficking. She has enjoyed meeting with many of them and looks forward to working closely with these individuals as we continue to

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address this tragedy in our state. Senator McGill asked that I extend an apology for her absence today. She was asked to attend an event at the Pentagon, but rest assured she is watching this hearing from Washington, D.C., as we speak. Senator McGill is committed to give the stakeholders in our state the tools that they need to do their best work on the issue of human trafficking. What these capable individuals need now is our support. They need statutes that provide the necessary structure to attack this problem aggressively and effectively. The senator has also received a great deal of input regarding provisions in LB1145. The forfeiture of assets provision, for example, will most likely need some refining and the senator welcomes the opportunity to amend this, the portions of the bill, as necessary. Some of those commenting on the provisions in this bill have concerns about the forfeiture of assets provisions already in Nebraska law, so that may not be something that we can resolve today. And Chief Casady may be able to answer more questions about that but he said not in three minutes, so we'll see what we can get done. LB1145 requires the National Human Trafficking Resource Center hot line number must be posted in key establishments throughout the state. We've received feedback about which establishments may be most appropriate and the senator is open to additional amendments on that provision as necessary. LB1145 also mandates training for government officials on human trafficking. This provision would require the state to invest some time and resources to develop the training curriculum, however, there are curriculums that are already available and being utilized in other areas of the country. LB1145 also allows victims of sex trafficking to file for a motion to vacate a conviction of prostitution. This bill requires the applicant to act with due diligence but allows for flexibility when the safety of the applicant, the applicant's family, or other victims involved is a concern. LB1145 authorizes law enforcement officials to seize property, as I discussed before, obtained due to a violation of the state human trafficking statute. This bill would enable the state to generate financial resources rather than to expend them and, therefore, would have a positive fiscal impact. LB1145 also establishes a Commission on Human Trafficking. We heard from the experts during the interim study that we do not have good data regarding this problem in our state. We have excellent anecdotal information but we need clear data in order to attack the issue most efficiently. This provision would have a minimum fiscal impact, as the commission will utilize existing government officials who, in the course of their normal work, would interact with the issue of human trafficking. The final provision of LB1145 provides for a tougher penalty for pandering and increases the penalty if the victim is a minor. With that, I can answer any questions and there are other people that are here to testify. [LB1145]

SENATOR LATHROP: Very good. Any questions for Amy? Seeing none, thanks for the...what's up? Oh, okay. Thanks, Amy. Those who wish to testify in favor of the bill may come forward. We'll start with the chief. Are you still a chief or do you have a different title? (See also Exhibits 5-7) [LB1145]

TOM CASADY: Oh, that's what everyone is going to call me. [LB1145]

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SENATOR LATHROP: You're safety director or something now, aren't you? [LB1145]

TOM CASADY: I'm actually the public safety director of Lincoln, Tom Casady. [LB1145]

SENATOR LATHROP: Okay, good. Good to have you here. [LB1145]

TOM CASADY: (Exhibit 8) Everyone will continue to call me chief, I'm sure, for the rest of my life. I was here back in December to testify at the interim study hearing and I'm here to express the city of Lincoln's support for LB1145. I gave some local examples back in December of human trafficking that's actually happened here in Lincoln, real cases, and although very few of these come to the attention of the police, I'm convinced personally they're more common than most people realize, including the police. Today, however, I'd like to focus on the main reason I'm here to support LB1145 and that's the fact that the bill changes the crime of pandering from a Class IV felony, punishable by 5 years in prison at the maximum, in some cases to a Class III felony, punishable by up to 20 years in prison. And those are for cases where the person enticed into prostitution is under the age of 18. I think this charge treats the crime with the gravity it deserves. Shortly after my appointment as police chief back in 1994, our officers became involved in a human trafficking investigation, and in this case a 28-year-old man here in Lincoln was ultimately convicted of the crime of pandering. And he had lured a girl who had just turned 16, she was...had only turned 16 a couple of weeks prior, into prostitution. And the case that led to this conviction had been a situation where this man had arranged for an act of prostitution between the 16-year-old girl and a 47-year-old professional man here in Lincoln. The john in this case was convicted of debauching a minor and sentenced to two years of probation. Debauching a minor is a Class I misdemeanor. And the pimp was convicted of pandering and sentenced to a term of two to four years in prison. He served a little bit less than two years and was subsequently released, and since that time he's been convicted of contempt of court here in Lincoln, assault, three additional sex-related misdemeanor crimes here in Lincoln, and one felony federal weapons violation that sent him to Leavenworth for a few years. Something is just not right about this. When a man can be involved in human trafficking and the sex trade, lure a barely 16-year-old girl into prostitution, it ought to be a more serious offense and I think the court should have more leeway in imposing a more serious sentence in certain circumstances. Thank you very much. I'll... [LB1145]

SENATOR LATHROP: Very good. Thank you for your testimony. I see no questions, so we'll take the next proponent. [LB1145]

LAZARO SPINDOLA: (Exhibits 9-10) Good afternoon, Senator Lathrop, Harr, Coash. Thank you for receiving me today. My name is Lazaro Spindola, that would be L-a-z-a-r-o S-p-i-n-d-o-l-a. I am the executive director of the Latino American Commission and I would like to thank Senator McGill for introducing LB1145, although, I

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don't know, the notion that such a bill needs to be introduced makes me wonder about the convenience of belonging to the human species because other species don't have the predators among their own species. So looking at the language of LB1145, we see that "actor means a person who solicits, procures, or supervises the services or labor of another person," and we also see that "commercial sexual activity means any sex act on account of which anything of value is given, promised to, or received." We also see that forced labor or services means labor or services that are performed or provided by another person and are obtained or maintained through knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document. After such a mouthful, I got to confess that this commission hears frequent stories of individuals who are demanded sexual favors in order to get or keep a job. We hear stories of individuals whose documentation is sequestered in order to lower salary demands or deter complaints. Often in these cases, the victims are afraid to approach law enforcement, due to threats made by the actor. We do not have the resources to investigate or pursue this type of accusation nor do we have the authority to do so. Victims are reluctant to speak out and many stories are heard through third parties and, thus, merit corroboration. The best we can do is advise and refer the victims to law enforcement agencies or to the state attorney office. Nevertheless, there is an old Cuban saying: If you can hear the river, there is water in it. The water might be flowing the way it should but maybe not. On the other hand, Section 6 of LB1145 specifies that, "A commission is hereby established for the purposes of investigating and studying human trafficking." I respectfully request that when this bill becomes law the Latino American Commission be included as part of this investigating commission. I encourage you to pass LB1145. Thank you very much. [LB1145]

SENATOR LATHROP: Very good. Thanks for your testimony. Can you tell me what you think the most-effective part of this bill would be to stop human trafficking? [LB1145]

LAZARO SPINDOLA: Oh, the most effective part would be the part about posting signs, bilingual or multilingual, about the National Human Trafficking hot line and also the provision of information about some authority where the victims can go that they will feel safe, that they will feel that the information that they will provide would be used to enforce the law. [LB1145]

SENATOR LATHROP: That really is the hardest part for them, finding the way out, isn't it, or being able to safely leave whatever threat that keeps them involved in this activity? [LB1145]

LAZARO SPINDOLA: These kind of heinous crimes, usually the victims are very reluctant to talk about them. What I have seen is that when there's an appropriate network of relationships or extended family, they will usually make these comments to somebody else. That somebody else might come to us because they can trust us, and then we might approach the victim. But this is just the beginning of the discovery of the

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truth... [LB1145]

SENATOR LATHROP: Okay. [LB1145]

LAZARO SPINDOLA: ...and we are not in the criminal investigation business. [LB1145]

SENATOR LATHROP: Sure. Sure. Okay. Well, thank you for your testimony. [LB1145]

LAZARO SPINDOLA: You're welcome. [LB1145]

SENATOR LATHROP: The next proponent. [LB1145]

AL RISKOWSKI: (Exhibits 11-13) It's Al Riskowski of the Nebraska Family Council, Riskowski is R-i-s-k-o-w-s-k-i, and I am so grateful to Senator Amanda McGill and for introducing this really important bill and to you in the Judiciary Committee for prioritizing LB1145. Let me say initially thank you for doing that. Human trafficking is not new. It's gone on for centuries. However, human trafficking is the fastest growing and one of the largest moneymaking illegal activities in the world today, with the United States being a destination point. Nebraska has not been spared this illegal activity. Currently, human trafficking here in the state of Nebraska is a low-risk, high-profit, illegal activity. I believe this bill will result in a higher risk and a lower profit potential for those involved with it. I've had the opportunity to interview a number of individuals who have done extensive research in regard to human trafficking and I asked them what are the initial steps Nebraska should take in combating human trafficking. They all agreed that the education of police and the public on identifying a human trafficking victim was a critical first step. Because of abuse and threats, a typical human trafficking victim is usually unwilling to admit to their situation. It is important to know what to look for and what questions to ask. And what I had handed out to you are typical posters that are free for the taking, produced by Health and Human Services, and we have already tried to distribute some of them into some of the schools and other places and this is a type of a poster that could be placed to help alert people to this issue and start looking and become aware. I believe that also this bill will establish an important commission to investigate and study the human trafficking problem here in Nebraska. I expect this commission to evaluate the problem, as well as recommend efforts on how to help Nebraska become a slave-free state. One last point I'd like to make, we've sponsored some efforts to educate in regard to the human trafficking, and the chief of police from Council Bluffs, Ralph O'Donnell, emphasized in one of our educational times that the view of prostitution should not be this is a victimless crime. "This is a crime," this is a quote by him, "This is a crime where often the women are held in the grip of prostitution through assault and intimidation. We need to see these women as the victim." And I believe it is so important to evaluate an individual prosecuted for prostitution not only about what they did but it's also about what has been done to them, and if I can just in 30 seconds kind of capsule a story. Sergeant Bassett spoke to us at Nebraska Family

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Council telling us about a sting that was done actually on the corner of 11th and E here in Lincoln a few years ago and they dressed up a police officer as a prostitute, put her on the street. They had a prearranged apartment where they were going to arrest as soon as money was exchanged, and Sergeant Bassett said this lady was not on the street, this officer was not on the street very long at all, minutes, when a man approached her, went up to the predesignated apartment. Once he got inside the apartment, they were just waiting outside the door, going to arrest this man as soon as the money exchanged hands, but instead of wanting to solicit prostitution from her, this man turned to her and said, I now own you, I'm taking you to Chicago, I'm going to sell you, and if you do not do what I ask you to do--and then Sergeant Bassett used words I can't use here--I'm going to beat the X out of you. That can be the experience of a girl. And so I believe it's so important that's also part of this bill to vacate a conviction for prosecution. If in fact a girl is caught in that kind of a situation, it needs to be evaluated and looked at appropriately. So thank you again for your consideration on this very important bill. [LB1145]

SENATOR LATHROP: Do you have any estimate how many of the women that are involved in prostitution are doing it under the threat of some kind of an assault, not unlike what you've just described? [LB1145]

AL RISKOWSKI: I don't know. I do know, I do have even on the back, the FBI have stated that at least 25 percent are juveniles when they're pulled into prostitution here in the state of Nebraska. They don't have a choice. By law, they don't have a choice. [LB1145]

SENATOR LATHROP: Sure. [LB1145]

AL RISKOWSKI: So you've got that large number. There are also, in speaking with the FBI, who have their Innocence Lost Program in Omaha, have related that they rarely, in their situations, run into girls who are willingly doing it. Now they may have gone on the street for various reasons, either they're forced on the street or it's drugs or whatever, but they are soon experiencing what Sergeant Bassett explained, someone takes them over and they lose the freedom to make choices from that point on. [LB1145]

SENATOR LATHROP: Okay. Thanks, Al. I think that's all the questions too. [LB1145]

AL RISKOWSKI: Thank you. [LB1145]

SENATOR LATHROP: The next proponent. Good afternoon. [LB1145]

ROBERT SANFORD: (Exhibit 14) Good afternoon, Senator Lathrop and committee members. My name is Robert Sanford, R-o-b-e-r-t S-a-n-f-o-r-d, and I am the legal director for the Nebraska Domestic Violence Sexual Assault Coalition. I'm here today to

express the support of the coalition and its membership to LB1145. While preparing to speak to you today, I had hoped to come and share great stories of success, but that is not the case. The fact is that few programs within our network have knowingly provided assistance to victims of human trafficking, though many have probably served them in some way. One can ask why the numbers are so low. Is it because human trafficking is not happening within our borders? Dare we be so naive as to think that such a crime does not happen in Nebraska, a state whose slogan greeting newcomers is "the good life"? We know that human trafficking takes place in other states bordering ours. Does this slogan magically remove the cares of those being forcefully brought to our state? Even though I cannot stand before you today and confirm that Nebraska has a specific number of incidents of human trafficking, I can tell you what we have learned. According to a 2004 report by the U.S. State Department, it is estimated that between 14,500 and 17,500 men, women, and children were trafficked into this country every year. Citing statistics from End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes, LOVE146 notes that as many as 100,000 U.S. children are forced to engage in prostitution or pornography each year and another 300,000 U.S. children are at risk. On average, these children are brought into this between the ages of 11 and 14 years of age when they're first trafficked. The National Coalition Against Domestic Violence adds that a 2005 report by the U.S. State Department found that more than 80 percent of trafficking victims are female. I ask again, why are we able to identify only a few cases? I believe the answer is fear and lack of education. Victims of trafficking fear coming forward. They have been told they will be arrested for prostitution. They are led to believe they will be deported if they seek help. Children who are trafficked often flee from abusive homes and believe they will be forced back into those homes. All of these victims have two things in common: They are trying to survive, and they know someone who has been arrested, deported, or returned to that abusive home. Providing education for law enforcement, victim advocates, prosecutors, and others addressing this issue is an important part of eliminating human trafficking. This is why the coalition partnered with other organizations, educators, and state and federal agencies to form the Nebraska Network Against the Trafficking of Humans in 2011. This network is working hard to grasp the extent of trafficking within Nebraska and to provide training to those responding to this crime. LB1145 is a step forward for this state. Passage of this bill will help victims of this crime recognize that Nebraska really can provide the good life. [LB1145]

SENATOR LATHROP: Very good. Thank you for your testimony. Any questions for the witness? I see none. Thanks for coming down. [LB1145]

ROBERT SANFORD: Thank you. [LB1145]

SENATOR LATHROP: Appreciate it. Next proponent? Anyone else here to testify in favor of the bill? Good afternoon. [LB1145]

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SRIYANI TIDBALL: Hi. My name is Sriyani Tidball. I work at the University of Nebraska. I'm on the faculty of the College of Journalism and one of the members on the team of professors that have been involved in research on human trafficking for the last four years. I also am the advisor of an organization of students that was started two years ago called NUSAMS, which stands for Nebraska University Students Against Modern-day Slavery, very active group. I'm really thrilled that this bill has come to the front and this is about my fifth time here. And I, you know, I'm not sure if you are aware that Shared Hope International, who gave report cards to all the states, gave us an F, along with 15 other states. The rest of them passed, but we didn't. And I think it's really neat that, you know, that we are actually talking about it and that all of you care enough to have us come here. So thank you. We're a proponent. We are very...we are campaigning you about this cause. Thank you. [LB1145]

SENATOR LATHROP: Do you expect our grade to improve if we pass this bill? [LB1145]

SRIYANI TIDBALL: Well, it will be a start, maybe a D but let's keep going up. [LB1145]

SENATOR LATHROP: Ooh, okay. [LB1145]

SRIYANI TIDBALL: Well, it depends on how much... [LB1145]

SENATOR LATHROP: So we're not going to go to the top of the class overnight. [LB1145]

SRIYANI TIDBALL: Yeah. Well, let's see. I mean we are here backing you all the way. We'd love to... [LB1145]

SENATOR LATHROP: Okay. Well, thanks for all the work you do and your students do on this. I've appreciated having you come in and testify during the interim study and the bill has been prioritized so we expect to get something passed this year. [LB1145]

SRIYANI TIDBALL: Actually, today on Facebook, what you're doing here is right up there for everybody to see. [LB1145]

SENATOR LATHROP: Oh good. [LB1145]

SRIYANI TIDBALL: Yeah. [LB1145]

SENATOR LATHROP: Very good. Well, thank you. [LB1145]

SRIYANI TIDBALL: Thank you so much. [LB1145]

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SENATOR LATHROP: Thank you for your testimony and your thoughts. [LB1145]

SRIYANI TIDBALL: Hi, Brenda. Thank you. [LB1145]

SENATOR COUNCIL: Good to see you. [LB1145]

SENATOR LATHROP: Anyone else here to testify in favor? [LB1145]

JUDI GAIASHKIBOS: Thank you, Senator Ashford and members of the committee, Senator Lathrop. I am Judi gaiashkibos, the executive director of the Nebraska Commission on Indian Affairs. Do I need to spell my name? Don't need to? [LB1145]

SENATOR LATHROP: Maybe you better, just to make it easy for the transcriptionist. [LB1145]

JUDI GAIASHKIBOS: Oh, okay. J-u-d-i g-a-i-a-s-h-k-i-b-o-s, and I'm a member of the Ponca Tribe of Nebraska and I am here to lend support to LB1145 and to the previous testifiers, especially my colleague and friend, Sriyani Tidball. And I really think that this gives Nebraska an opportunity to make this state a really great place for all people to live and a good life for all. The other hearings I was before, I believe this committee or another committee, about this same topic and I shared with you that we believe that there is some of this going on at Whiteclay, human trafficking, and that our Indian women and children are very vulnerable. So on behalf of all native daughters and all women of all colors in the state of Nebraska, I would like to encourage you to move this out of committee and out to the floor and for Nebraska to support this. And if there's anything that the Indian Commission can do or I can do to be supportive to the creation of that commission, I would be happy to lend my 17 years of experience working with our tribes and with the Legislature and the state towards that effort. That's all. [LB1145]

SENATOR LATHROP: Thank you. Very good. I see no questions. Thanks for your testimony though. [LB1145]

JUDI GAIASHKIBOS: Uh-huh. Thank you. [LB1145]

SENATOR LATHROP: We always appreciate hearing from you. Anyone else here to testify? Anyone here in opposition to the bill? Seeing no one in opposition, which is good, anyone here in a neutral capacity? Welcome back. [LB1145]

DAVID BAKER: Thank you. Thank you, Senator Lathrop, members of the committee. My name is David Baker, B-a-k-e-r. I represent the Omaha Police Department. I'm the deputy chief there. The Omaha Police Department strongly supports this bill and every part of this bill, outside of the forfeiture clauses in the bill. We can't state strongly enough how repulsive, how heinous this type of activity is in our state and the absolute

need for this bill. The reason we are...or I am appearing in a neutral capacity today is concerns over possible due process in the bill in terms of forfeitures, seizures without warrants. There is language in here that we find problematic. Although this is a very heinous crime, we cannot, we should not suspend any part of our constitution or attempt to do so in fighting any crime. Without that, we don't have a basis for criminal activity being fought. We have some issues regarding a poorly defined means of disposal and returning property to those who aren't proven to have been involved in this type of activity as well, the lack of replevin in at least one case. We're also concerned somewhat about the functionality of, for example, the cost of the commission's investigations that's supported here. The commission is an important part of this. We believe and support that it should exist and should be formed, but in order to do it right we think it should also be properly funded. Now there's going to be some investigations, some needs that are going to occur in this, and we need to look at that as well and ensure that it can do what we're asking for it to do, which is some fairly large-scale investigations and sharing of information throughout the state and things of that nature. And finally, the lack of compensation, I should say, or even limited immunity for law enforcement agencies who do seize property, in some cases real property where we have buildings or houses and things of that nature that are seized. For example, if we seize as a law enforcement agency a building and then there are costs to moving people out of that building, to keeping it secure during the time where it's a matter for the courts and then the final disposition, all those things are going to have a real cost. And if you look at something like the Omaha Police Department, you say, well, why is that that much of a concern, you may be able to absorb some of that. We might, but we need to look at this statewide as well and understand that there's a need to recover those costs so that we maintain an aggressive stance throughout the state towards these types of seizures once we get the constitutional issues addressed. And...but in closing, I think our primary concern here is some of the constitutional questions in seizing property without a warrant, seizing real property, which would require a search without a warrant, and the language that we shall do this rather than may do this takes away a lot of our ability to have discretion and to use discretion. We want to make sure that while we're going after these criminals full force that we're also protecting their constitutional rights, as well as the constitutional rights of the accused who may not be guilty. And with that, I'll be happy to accept any questions. [LB1145]

SENATOR LATHROP: Very good. Thanks, Dave. Senator Council. [LB1145]

SENATOR COUNCIL: Yes, thank you, Deputy Chief Baker, and I appreciate your testimony, and in fact you touched upon one of the few concerns that I have about the bill. And in fact again committee counsel and I have been over here conversing and I apologize, for those who think we're not paying attention. I'm always asking counsel, do you have the same concern I have on forfeitures? I've asked Mr. Rainey how do we get around the due process, warrantless search issues on drug seizures, and I believe it's because there's a federal statute that as long as local law enforcement is engaged in

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this activity with federal law enforcement, that that's what gets us past... [LB1145]

DAVID BAKER: That's what gets us past that, yes. [LB1145]

SENATOR COUNCIL: ...the due process. And, right, but we... [LB1145]

DAVID BAKER: And I should note, too, there is due process in federal forfeitures. There are... [LB1145]

SENATOR COUNCIL: Right, there's due process, right, but it's a different system in terms of... [LB1145]

DAVID BAKER: Right. I don't mean to imply that there is no due process there. [LB1145]

SENATOR COUNCIL: Right. [LB1145]

DAVID BAKER: We're concerned with the possible lack thereof prior to seizing property or entering real property and having to search it in order to effect a seizure, that type of thing, absent a warrant. We have constitutional concerns with that particular part. [LB1145]

SENATOR COUNCIL: Okay. And the other issue with regard to the commission, I think you were referring to, you know, proper funding of it and setting up the structure and things. I'm just curious, what would be your thought of placement of the commission that's called for in this bill under the Nebraska Crime Commission? [LB1145]

DAVID BAKER: I think that would be a good place for it. [LB1145]

SENATOR COUNCIL: Okay. [LB1145]

DAVID BAKER: I think we could find and we might be able to leverage grant money for it as well in that type of a situation. So there's other considerations as well besides just budgetary funding, but we need to ensure that we do properly fund it if we want it to be effective and to be the most effective so that it has the resources to do what we're asking of the commission. [LB1145]

SENATOR COUNCIL: Okay. And you notice I ask that question after the Crime Commission director left so...it's all right. Thank you. [LB1145]

SENATOR LATHROP: Senator Harr. [LB1145]

SENATOR HARR: Thank you, Senator Lathrop. And thank you, Deputy Chief Baker. Do

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you have a copy of the bill in front of you? [LB1145]

DAVID BAKER: Yes, I do. [LB1145]

SENATOR HARR: Okay. Section 4, which starts on page 4, do you think we need to strike all of Section 4 or is it salvageable in any manner? Because as I read it, it looks like we might have to cut all of 4. Is that your opinion? [LB1145]

DAVID BAKER: The problem with 4 is proceeding without a warrant in a good deal of this... [LB1145]

SENATOR HARR: Yeah. [LB1145]

DAVID BAKER: ...and having sufficient probable cause. We even look at the language of saying "intended." All I need is probable cause to believe that you intended to do something with a particular piece of property, and I use real property as an example because it is the most egregious violation of privacy that we can do in terms of coming in a seizing without a warrant, searching without a warrant, and things of this nature. And I don't think it has to be thrown out. I don't think we necessarily have to throw out the whole thing. And I am not an attorney so I have a difficult time proposing what the correct language would be, but I do think we need to revisit this. I think that was mentioned by the introducer of the bill. I'm sorry, I forgot her name. But I do think that's been addressed. It needs to be addressed. We strongly support this bill. We strongly support the forfeiture part. We just want to make sure that it's constitutionally correct and that we're not essentially, in our zest to prosecute, to capture the criminals, to incarcerate these criminals and to punish them to the fullest extent of the law, we also have to be mindful that we are obligated to protect their civil rights and make sure that we do in the process, and I don't think that's an impediment as much as it sounds. That's simply the way we do business and we need to continue to do that. We need to be wary of that in the statutes that we put on our books. [LB1145]

SENATOR HARR: I appreciate that. Thank you very much. [LB1145]

SENATOR LATHROP: Thanks, Deputy Chief. [LB1145]

DAVID BAKER: If I could make one more comment, Senator? [LB1145]

SENATOR LATHROP: You may. [LB1145]

DAVID BAKER: Again, I do not want any of the comments that I made today to in any way diminish our support for the bill. [LB1145]

SENATOR LATHROP: You have been very clear about that... [LB1145]

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DAVID BAKER: Thank you. [LB1145]

SENATOR LATHROP: ...and we appreciate your support of the underlying policy. [LB1145]

DAVID BAKER: Thank you. [LB1145]

SENATOR LATHROP: Jim. [LB1145]

JIM CUNNINGHAM: Senators, good afternoon. My name is Jim Cunningham, C-u-n-n-i-n-g-h-a-m, and I'm the executive director of the Nebraska Catholic Conference, and I'm here to just share with you a few observations regarding this bill and I'll conclude with a concern that we have about the provisions of the bill. First, an observation: As one who...first of all, let me make very clear that human trafficking is a horrible affront to human dignity and I would certainly agree with the introduction of this bill when it was pointed out that this committee has heard a good deal of compelling testimony about the horrible nature of human trafficking and of the facts that there is evidence of human trafficking here in Nebraska. Let me start just with one rather casual observation as one who has read the bill. This has to do with Section 6 and it's on page 10 of the bill. There's some terminology there. The term used is "human trafficking services." From my observation, that's a bit of an awkward term because when you think human trafficking you think of services for the victims in human trafficking, and I'm not sure that's what that means there. And there is no definitional section for the bill. The only definitions are in the criminal code section. Perhaps there's a way to more artfully state the intent there and I believe it has to do with human traffickers servicing their clients, is what I assume that might mean, but maybe there's a better way to phrase that. I provided this bill via e-mail to the Department of Human Trafficking at the United States Conference of Catholic Bishops and they have had years of experience in addressing this issue, primarily from the perspective of foreign nationals who are trafficked but also certainly the domestic side as well. And just a couple of observations that they had that I'd like to share with you, first of all, with regard to Section 6 and the commission, one of their observations was is that it seemed to be awfully heavy in its membership on the prevention, prosecution, and law enforcement side and without any particular reference to victims or child victims in particular. Now perhaps that's addressed by the fact that there are six public members on the commission and maybe that's the intent there. But there's no reference at all to any type of juvenile justice services or child welfare services, and it would seem that that would be an important component of the commission. Their other comment had to do with Section 8 back on page 16 of the bill, and again this might be more of a wording situation. Can I finish? The red light is on. [LB1145]

SENATOR LATHROP: Certainly. Yeah, sure. [LB1145]

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JIM CUNNINGHAM: I have one concern I want to express. [LB1145]

SENATOR LATHROP: That's fine, Jim. Go ahead. [LB1145]

JIM CUNNINGHAM: The wording of subdivision (f), they made a suggestion that perhaps it would be more meaningful if that provision said the necessity of implementing victim-centered models or victim-centered responses because their comment was that the way that's worded it seems almost to deal exclusively with the style or intention of law enforcement and maybe there's a more...more could be addressed in this section. And then the other suggestion was in subdivision (g) that perhaps after the word "safety" on line 13 that it might be meaningful to add the words "and well-being" to...as a way of indicating that there are longer term repercussions and longer term needs of victims of human trafficking. And finally, I want to share with you our concern and this is a concern that was expressed to the Catholic Conference board by the education administrators on our board and that was they are concerned and questioned the appropriateness of including high schools as a place to have the mandatory signage or mandatory posting of signage. And I think in particular our concern would be that this is a state-imposed mandate not only of the duty to post the sign but of exactly what the sign has to say. And as private schools, we are sensitive to that notion of such a mandate. And I would request that the committee...one thing I would observe is that it includes high school but it doesn't include postsecondary institutions, which seems a bit curious. But I would ask the committee to consider either removing the words "high school" or make it applicable--this is Section 5, Senator, on page 9 of the bill--or make it just applicable to public schools. And one of the reasons that I mention that is because this type of issue is not going to be addressed in a vacuum in our schools. It's going to be addressed in curriculum, either social justice or respect life or the dignity of human beings, and we would much prefer to have the freedom to address this in our own way in that respect rather than have it mandated exactly what we have to do as a response. And then thirdly, as an option there if you don't see fit to do either of those first two options, a third option would be to give us a little more flexibility to design and word the sign in the way that we see fit to coordinate with our curriculum. Thank you. Our preference would be that it not be applied to private schools. [LB1145]

SENATOR LATHROP: Making a note. [LB1145]

SENATOR COUNCIL: Could I ask a question, Senator Lathrop? [LB1145]

SENATOR LATHROP: Yes, certainly, Senator Council. [LB1145]

SENATOR COUNCIL: And thank you, Jim. Always appreciate your input. And I was jotting down notes as we were going along but can you provide the committee with, in writing, your suggestion what...the changes you just articulated? [LB1145]

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JIM CUNNINGHAM: Absolutely. [LB1145]

SENATOR COUNCIL: Thank you. [LB1145]

JIM CUNNINGHAM: Yes, I'm sorry I didn't do that. I just today was able to make contact with our national office. I thought that was important to get their input since they have a lot of experience in this area. [LB1145]

SENATOR COUNCIL: Okay. It would be helpful to see it so I make sure that I've got all the points you were... [LB1145]

JIM CUNNINGHAM: Great. I will do...I will have that in your office on Tuesday, Senator, or I'll give it to LaMont, sure. [LB1145]

SENATOR COUNCIL: Senator Ashford, yeah, give it to LaMont. [LB1145]

JIM CUNNINGHAM: Will do. Thank you. [LB1145]

SENATOR LATHROP: Oh, I'm sorry. Senator Harr. [LB1145]

SENATOR HARR: And when you're making, for instance, you wanted to define human trafficking services, are you going to include a definition with that? You mentioned that in Section 6 on page 10, line 22. [LB1145]

JIM CUNNINGHAM: I didn't have a suggestion in mind, Senator. It just, as I was reading this, it occurred to me that that was kind of awkward wording. [LB1145]

SENATOR HARR: Okay. [LB1145]

JIM CUNNINGHAM: And... [LB1145]

SENATOR HARR: I don't disagree with you, that's why... [LB1145]

JIM CUNNINGHAM: ...and that the context should be clear, because when you talk about human trafficking and services, if you look at the criminal code definition of services, which doesn't apply to Section 6 of the bill,... [LB1145]

SENATOR HARR: Yeah. [LB1145]

JIM CUNNINGHAM: ...that defines services in one context. That's the context between the perpetrator and the client. [LB1145]

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SENATOR HARR: Yeah, I agree. [LB1145]

JIM CUNNINGHAM: But you also, of course, have services for the victims of trafficking. So that could be a little clearer, it seems to me. [LB1145]

SENATOR HARR: Yeah. Appreciate it. Thanks. [LB1145]

SENATOR LATHROP: Okay. I think that's all the questions, Jim. [LB1145]

JIM CUNNINGHAM: Great. [LB1145]

SENATOR LATHROP: Thanks. [LB1145]

JIM CUNNINGHAM: Thank you. [LB1145]

SENATOR LATHROP: Anyone else here in a neutral capacity? Seeing no one left to testify, Amy to close. [LB1145]

AMY WILLIAMS: I've been directed to (inaudible). [LB1145]

SENATOR LATHROP: I'm sorry? [LB1145]

AMY WILLIAMS: I was directed to...I was asked to close. [LB1145]

SENATOR LATHROP: Yes, you're free to close, so... [LB1145]

SENATOR COUNCIL: Yeah. Wait, I think she got the same text message I got. [LB1145]

AMY WILLIAMS: Yes, basically. [LB1145]

SENATOR LATHROP: Okay. [LB1145]

AMY WILLIAMS: The senator has watched the testimony and would just like to reiterate that she thanks the committee for their attention and their consideration. She is very willing to work with the committee on the asset forfeiture provision or any other provisions necessary, and she appreciates the concerns and the suggestions that were brought forth by the testifiers and she's taking all of those into account. [LB1145]

SENATOR LATHROP: Very good. Thanks, Amy. Any questions? Seeing none, that will close our hearing on the bill and close our hearing for the day. [LB1145]