

Transcript Prepared By the Clerk of the Legislature
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Appropriations Committee
March 06, 2013

[LB424]

The Committee on Appropriations met at 1:30 p.m. on Wednesday, March 6, 2013, in Room 1003 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB424. Senators present: Heath Mello, Chairperson; John Harms, Vice Chairperson; Kate Bolz; Danielle Conrad; Bill Kintner; Tyson Larson; John Nelson; Jeremy Nordquist; and John Wightman. Senators absent: None.

SENATOR MELLO: I apologize. We are unable to start right now until we have one more member so we can have a quorum of the committee to begin today's hearing. So we're waiting for one more member, then we'll get started. Good afternoon and welcome to the Appropriations Committee. My name is Heath Mello. I'm the state senator from District 5, representing south Omaha in the Nebraska Legislature, and I am the Chair of the Appropriations Committee. I'd like to start off today by having members do self-introductions, starting with Senator Bill Kintner.

SENATOR KINTNER: Hi. I'm Bill Kintner from Legislative District 2, which is south Sarpy, Cass, and about a third Otoe or Nebraska City and Otoe County.

SENATOR MELLO: Sitting next to Senator Kintner is Senator Jeremy Nordquist from District 7 who represents south Omaha and downtown Omaha. He currently is in another committee introducing a piece of legislation. Sitting next to him is Senator John Nelson from District 6 in central Omaha. He also is in another committee introducing a piece of legislation.

SENATOR HARMS: I'm John Harms, 48th Legislative District, Scotts Bluff County.

SENATOR WIGHTMAN: John Wightman, District 36, all of Custer and Dawson County and a small part of Buffalo County.

SENATOR MELLO: Sitting next to Senator Wightman is Senator Danielle Conrad from Lincoln's 46th District in north Lincoln, who hopefully will be joining us shortly. Sitting next to her is Senator Kate Bolz from District 29, representing south Lincoln. She also is introducing a piece of legislation in another committee. And finally...

SENATOR LARSON: Senator Tyson Larson, District 40, O'Neill.

SENATOR MELLO: Assisting the committee today is Anthony Circo, our committee clerk, and Jacob Fricke, who is a junior at Nebraska Wesleyan and is our committee page. Doug Nichols, to my left and your right, is our fiscal analyst for today. In the corner of the room you'll see some yellow forms. If you're planning on testifying today, please fill out those forms in their entirety. It helps us keep an accurate record of today's hearing. When you come up and testify, please give Anthony the yellow sheet. When

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you sit down, please tell us who you are and spell your first and last name for the public record. If you have any handouts, please give them to Jacob before you begin. We ask that you have 11 copies. If you do not have 11 copies, Jacob will help make extra copies for you. If you're here today and you're not planning to testify but you want to be on the record as having been here, there's a white sheet on the table. And we ask that you sign in on that sheet, tell us your name and address, the bill number, and if you're here in support or opposition to the bill. We will hear bill testimony in the following order: first, the introducer of the bill, followed by supporters, those in opposition, those in the neutral capacity, and ending with the closing statement by the introducer. We will be using a five-minute light system. There are lights at the front of the table. When you start, the light will turn green. When the yellow light comes on, that's your one-minute warning. And when the red light comes on, we ask that you wrap up your final thoughts. At this time, I would ask all of us, including senators, to please check our cell phones and make sure that they are on the silent or vibrate mode. With that, at this time we will begin today's hearing with LB424, introduced by Senator Colby Coash.

SENATOR COASH: Thank you, Chairman Mello, members of the Appropriations Committee. For the record, I am Colby Coash, C-o-l-b-y C-o-a-s-h. I represent District 27 right here in Lincoln, and thank you for the opportunity to present LB424, which is a bill to appropriate funds to the Nebraska State Patrol's Internet Crimes Against Children Task Force. Here's what led me to taking a look at this task force. It's probably a result of being a relatively new father and having a three-year-old and watching how fast he was latching on to my iPad, and how skilled he is at navigating technology as a three-year-old. And knowing what some people will do with children who have that kind of access, I started to just explore for myself what the state does in response to protecting children like mine. And that led me to the Internet Child...or Internet Crimes Against Children's Task Force, commonly eye-kak (phonetically) or ICAC, which was founded in 2000 in response to the growing use of Internet among children. The task force is currently comprised of 52 state, county, and law enforcement agencies and county attorneys, in addition to two federal agencies. You may wonder why this task force is specific to Internet crimes against children and why such a specialized task force is needed. It is because the Internet is truly a different animal than traditional crime mediums for the following reasons. The Internet yields repeated long-term victimization of children. Child pornography images are available for indeterminate amount of times and can be downloaded by untold amounts of viewers. Secondly, Internet crimes are usually multijurisdictional. The taking, downloading, uploading, etcetera, of images and videos transcend jurisdictions. Coordination among various law enforcement entities is critical to prosecute these crimes. Thirdly, the supposed unanimity of the Internet can make it more difficult for children to be forthcoming about their victimization. They may not be as inclined to report their experience to a trusted adult, relying instead on the hope that no one will discover that they have been exposed to or involved in Internet pornography. And finally, the ever-advancing and often expensive forms of communication technology present unique challenges. Law

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enforcement must obtain and learn how to use a proliferating mass of devices and applications in order to keep up with perpetrators. Despite these challenges, the Internet Crimes Against Children's...the Internet Crime Against Children's Task Force has been successful in combating and prosecuting these crimes. Here's a couple of examples just from the past two years. They've completed 565 investigations, which have led to 86 arrests; the training of 159 law enforcement personnel and 59 prosecutors; 54 presentations to 3,600 attendees; the investigation of 226 cyber tips that are tips that come from social media to the National Center for Missing and Exploited Children and are funneled through the Nebraska State Patrol. In order to help the Nebraska State Patrol maintain this success, Nebraska needs to help fund this task force. In 2009, the federal American Recovery and Reinvestment Act provided about \$480,000 from April of '09 through 2011. This requested appropriation in this bill, that is \$250,000 in fiscal year '13-14 and \$250,000 in fiscal year '14-15, offsets the loss of that federal funds. I brought this because I wanted to have...I wanted the committee to have a vehicle to address this, to bring it to your attention that this is...that this appropriation, because of the loss of federal funds and...has been reduced. And just ask for your thoughtful consideration as you deliberate the budget, keep this in mind. I don't have anybody here from the Patrol to answer questions on this bill, but I do know they have an agency appropriation on the agenda today, so maybe you can take that opportunity to ask them any questions you have about this particular program. Thank you. [LB424]

SENATOR MELLO: Thank you, Senator Coash. Are there questions from the committee? Senator Harms. [LB424]

SENATOR HARMS: Thank you, Senator Mello. Senator Coash, how do you define children? I don't see any age in here or anything, so what's the definition here and what age are we actually looking to,... [LB424]

SENATOR COASH: Well, the... [LB424]

SENATOR HARMS: ...on, or however you want to word that, because it's not there. [LB424]

SENATOR COASH: What I... [LB424]

SENATOR HARMS: I mean it's not on the yellow...or, excuse me, the green copy. [LB424]

SENATOR COASH: We'd have to dig into the specific part of the agency under the Nebraska State Patrol. Children in our state is defined 19 or under, so the victims that...it's my understanding that the investigations regarding children, the victims can be 18 and they can be young children. They go after crimes against kids no matter what their age is. [LB424]

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SENATOR HARMS: Okay. Explain to me how does this actually work. I mean, what's the structure like and how does it actually work? Does a child have to identify it or what really...can you get...do you have any better...? I support it. I just want to have a little bit better... [LB424]

SENATOR COASH: Sure. [LB424]

SENATOR HARMS: ...understanding how it works. [LB424]

SENATOR COASH: Well, the task force is run through the State Patrol and includes a fair amount of Patrol resources currently, but it also includes other law enforcement agencies. As I mentioned before, they train other agencies and prosecutors. And it's kind of a clearinghouse for their investigation process. And so when they...when there's a tip about a victim or an investigation, it kind of goes through here so that...and the main reason you have to have a central place is because of that jurisdictional issue. You can't just give it to the local sheriff because the crime may have gone across state lines or something like that, and so you've got to have a higher level of authority. And that's what this task force does. [LB424]

SENATOR HARMS: Thank you. [LB424]

SENATOR MELLO: Are there any further questions from the committee? [LB424]

SENATOR KINTNER: I'd state one small one. [LB424]

SENATOR MELLO: Senator Kintner. [LB424]

SENATOR KINTNER: Mr. Chairman, thank you. Senator Coash, what's the state and the federal government, what kind of cooperation do they have? And obviously, when it goes over state borders, because of the Internet, is it a seamless operation with the federal...some federal department or task force? What is it? [LB424]

SENATOR COASH: Well, the FBI is one of the federal agencies that are part of this task force, and you've got to have one agency that kind of drives the boat, so to speak, and is able to coordinate all of this. And in our state it's the State Patrol, which is why this...these funds would go to the State Patrol to administer and continue their work in working with these other agencies. [LB424]

SENATOR KINTNER: Okay. Thank you. [LB424]

SENATOR MELLO: Senator Conrad. [LB424]

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SENATOR CONRAD: Thank you so much, Senator Coash, for bringing this legislation forward. Did you have a chance to visit with the Patrol in preparation of this legislation about how these activities were funded prior to the stimulus grant being received? [LB424]

SENATOR COASH: You know, not specifically how it was going before that. [LB424]

SENATOR CONRAD: Okay. [LB424]

SENATOR COASH: I can just tell you that with the stimulus, they were able to fund some additional resources, which are going away, and it's just going to hamper their ability to go after these guys. [LB424]

SENATOR CONRAD: Sure. [LB424]

SENATOR COASH: And so I did not...my path to this was just exploring the state's role in investigating and prosecuting these crimes, and that led me to this task force and that led me to find out that the resources they have now are here and they're looking to go down. And that would have an impact on their ability to continue this work, which I thought was important. [LB424]

SENATOR CONRAD: Right, it is important work. There's no question about that. But I'm just trying to figure out this work happened prior to the state receiving stimulus funds to provide... [LB424]

SENATOR COASH: Uh-huh. [LB424]

SENATOR CONRAD: ...for the resources for this kind of work. And so those resources are going away and I'm not sure if you're familiar with the committee's general kind of guideline that we hesitate to replace federal funds... [LB424]

SENATOR COASH: Right. [LB424]

SENATOR CONRAD: ...with state funds, regardless of the request that comes forward. [LB424]

SENATOR COASH: The purpose, sure. [LB424]

SENATOR CONRAD: It's not to say that it never happens, but I was just trying to get a sense of how it was funded before the stimulus funds and kind of keeping in line our general guidelines in regards to that kind of issue. Because if the state starts a precedent of replacing all kind of lost federal funds with state funds, we wouldn't have much of a budget left. [LB424]

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SENATOR COASH: That would be a long road. [LB424]

SENATOR CONRAD: Yeah, absolutely. I think it's critical work and I'm glad you brought this forward because we do need to have a discussion about it. And maybe the Patrol can provide some more discussion. [LB424]

SENATOR COASH: I would hope so, Senator Conrad, because obviously between 2000 and 2009 they were getting some of this work done. [LB424]

SENATOR CONRAD: Yes. [LB424]

SENATOR COASH: And no doubt that this won't...this program isn't going to go away without this bill. But it certainly is going to force the Patrol, like every other agency, to decide where their resources are going to be, not because...not because the federal government reduced funding but because I think that they need every resource they can to...I would have considered bringing this bill to increase the resource had they not reduced federal funding, because I feel strongly about this. Just so turns out, this is a timely conversation that I had. [LB424]

SENATOR CONRAD: Okay. And so your legislation essentially anticipates one officer who will kind of coordinate these efforts, is that...if I'm reading the fiscal note correct. Is that right, an investigative officer who will provide new training and some other activities? [LB424]

SENATOR COASH: Should the Patrol get an increased appropriation, that is how they indicate they would use that, that fund. [LB424]

SENATOR CONRAD: Okay. [LB424]

SENATOR COASH: But...and I do defer to their judgment on where those funds are best spent to get the biggest bang for our buck, but I certainly think the committee ought to ask those questions and... [LB424]

SENATOR CONRAD: Great. [LB424]

SENATOR COASH: ...see if you think that you agree or not. [LB424]

SENATOR CONRAD: Okay. Very good. Thank you. [LB424]

SENATOR MELLO: Are there any further questions from the committee? Senator Coash, I have one and it's kind of a slight follow-up of Senator Conrad's. Just if you can provide any feedback of how did you get to the \$250,000 number, only because as I

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look through the fiscal note that came from the State Patrol, about half of it goes to operations and the other half goes to the actual employee. [LB424]

SENATOR COASH: Uh-huh. [LB424]

SENATOR MELLO: And so I wanted to check and see, if this committee moved forward and considered this appropriations request, if we gave it a lower amount, what would be the impact, so to speak,... [LB424]

SENATOR COASH: Sure. [LB424]

SENATOR MELLO: ...to the actual intent of what you're trying to do with the legislation. [LB424]

SENATOR COASH: Yeah, I think those are fair questions. When I said, well, what...when I went to talk to the Patrol about where...what would it take to get you to stay at the level you are,... [LB424]

SENATOR MELLO: Uh-huh. [LB424]

SENATOR COASH: ...this was the number that I got. And I do have somebody from STAN that's going to testify and I think.. [LB424]

SENATOR MELLO: Okay. [LB424]

SENATOR COASH: ...will be able to answer that more clearly for you. [LB424]

SENATOR MELLO: Okay. That's helpful. Thank you, Senator. Are there any further questions? Seeing none, thank you, Senator Coash. [LB424]

SENATOR COASH: Thank you. I have two bills in Judiciary and I'm going to waive closing and... [LB424]

SENATOR MELLO: Okay. [LB424]

SENATOR COASH: ...follow up with all of you later. [LB424]

SENATOR MELLO: All right. [LB424]

SENATOR COASH: Thank you. [LB424]

SENATOR MELLO: Thank you, Colby. That will move us to proponents of LB424. [LB424]

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MATT SCHAEFER: Good afternoon, Chairman Mello, members of the committee. My name is Matt Schaefer, M-a-t-t S-c-h-a-e-f-e-r, appearing today before you on behalf of the State Troopers Association of Nebraska in support of this legislation. The association was hoping to have a member of the task force or a trooper who's familiar with the task force come and answer some of your questions today, but the scheduling unfortunately did not work out. But we did think it was important to highlight some of the good work that the task force is doing and I think Senator Coash covered a lot of that. I would add, for your information, that in 2011 there were three forensic analysts assigned to the task force, one crime analyst, and then the task force had ten trained investigators of troopers that were trained investigators, not solely dedicated to the task force but that were able to respond to tips as they came in. To Senator Kintner's question earlier, there is a U.S. Department of Justice ICAC Task Force program and Nebraska's task force is 1 of 61 task forces around the country. And so I think the DOJ is the one that kind of coordinates this on the federal level. Some of the investigative tactics that the task force is able to use with technology in its specialized training, things like looking at cell tower location of victims' cell phones, intercepting communications and e-mails, analyzing computers and hard drives and mobile phones, looking at e-mail accounts, Internet searches, GPS devices of drug couriers or the origin of illegal drugs. Technology can be used in a lot of those ways to track down some of these perpetrators. I looked at that fiscal note and the legislation doesn't contemplate how the money would be spent, but certainly it wouldn't require a new person necessarily. You could put that money into more equipment and training of other officers that already exist to do more of this work. With that, I'd be happy to try to answer any questions, but some of the more detailed ones might be better for the agency to handle. [LB424]

SENATOR MELLO: Thank you, Mr. Schaefer. Are there any questions from the committee? Seeing none, thank you, Matt. [LB424]

MATT SCHAEFER: Thank you. [LB424]

SENATOR MELLO: Are there any further proponents of LB424? Seeing none, are there any opponents to LB424? Seeing none, are there any testifiers in the neutral capacity? Seeing none, Senator Coash waives closing and that will end today's public hearing on LB424. And we'll move the committee now to our agency budget hearings. [LB424]