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Judiciary Committee
March 03, 2017

[LB444 LB577 LB623 LB638]

The Committee on Judiciary met at 2:00 p.m. on Friday, March 3, 2017, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB444, LB638, LB577, and LB623. Senators present: Laura Ebke, Chairperson; Patty Pansing Brooks, Vice Chairperson; Roy Baker; Ernie Chambers; Steve Halloran; Matt Hansen; Bob Krist; and Adam Morfeld. Senators absent: None.

SENATOR EBKE: Good afternoon. Welcome to the Judiciary Committee. My name is Laura Ebke from Crete, representing Legislative District 32. I chair this committee. I'd like to start off by having my colleagues who are here or are on their way in introduce themselves. So, Senator Baker.

SENATOR BAKER: Senator Roy Baker, District 30.

SENATOR KRIST: Bob Krist, District 10.

SENATOR HALLORAN: Good afternoon. Steve Halloran, District 33, Adams County and southern and western Hall County.

SENATOR EBKE: And I believe that Senator Hansen, Senator Pansing Brooks, and Senator Morfeld at least will be here. I'm not sure if Senator Chambers had another appointment or what was going on. Assisting the committee today are Laurie Vollertsen, our committee clerk; and then Brent Smoyer will be back here shortly. He's one of our two legal counsels. Committee pages are Kaylee and Toni. Are they both here? Okay. And on the table over there you will find some yellow testifier sheets. If you're planning on testifying today, please fill one out and hand it in to the page when you come up to testify. This helps us to keep an accurate record of the hearing. There's also a white sheet on the table if you don't wish to testify but would like to record your position on a bill. We will begin bill testimony with the introducer's opening statement. Following the opening we'll hear from the proponents of the bill, then the opponents, followed by those speaking in the neutral capacity. We will finish with a closing statement by the introducer if he or she wishes to give one. We ask that you begin your testimony by giving your first and last name and spell them for the record. If you're going to testify, I ask that we keep the on-deck chair filled at the front of the...front row there of seats. If you have any handouts, please bring up at least 12 copies and give them to the page. If you don't have enough copies the page can help you make more. We'll be using a five-minute light system today. When you begin your testimony, the light on the table will turn green. The yellow light is your one-minute warning. And when the red light comes on, we ask that you wrap up your final thought and stop. I'd also ask that if there are multiple people testifying on the same bill that you try to avoid redundancy,

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in the interest of time. As a matter of committee policy, I'd like to remind everyone that the use of cell phones and other electronic devices by the audience are not allowed. You can, I mean, obviously check your texts and things, but we ask that you not talk on the phone while you're in the committee hearing room. If you need to take a call, just go on out to the hallway, please. We are electronically equipped here so you do see senators with their computers and cell phones and other devices, checking on the bills. They can call things up on their bills and some take notes that way as well. One other thing: You may notice that some of us, including myself, will be in and out of the committee hearing at different times. That has nothing to do with the importance of the bills being heard, but senators may have bills to introduce in other committees or other obligations that pull them away for a bit. So with that, we'll begin today's hearing with LB444. Senator Walz. [LB444]

SENATOR WALZ: (Exhibit 2) Thank you, Chairman Ebke and the members of the Judiciary Committee. For the record, my name is Lynne Walz, L-y-n-n-e W-a-l-z, and I proudly represent District 15. Today I bring forward LB444, which would prohibit cities and counties from canceling health insurance coverage for law enforcement officers that are assaulted in the line of duty. I want you to know that this is the first time to speak to the members of the Judiciary Committee and I am incredibly honored to bring this bill forward to you today. I bring forward this bill on behalf of the Fraternal Order of Police. It is important that we protect the men...the brave men and women who put their lives on the line every day in order to protect us. I want to share briefly the story of Mike Hutchinson, a Deuel County deputy who was shot in the line of duty while serving a warrant on December 3, 2015. Mike and his family lost their health insurance while he continued to recover from his injuries because he was unable to meet the 30 hours a week work requirement. I want to thank Mike in advance, who is with us today, for sharing his story. LB444 would require that no cities and counties that already offer individual or family health insurance to law enforcement officers can cancel that policy if the law enforcement officer suffers an injury from an assault while in the line of duty. Section (3) of the bill also states that the city or county may cancel such health insurance if the officer does not return to employment within 12 months. We added this provision to ensure that small towns or counties aren't under great financial burden for long periods of time. I am flexible on talking about the amount of time, but I feel one year should be the minimum amount of time required. I have passed out a potential amendment that we have worked on with Mike, the Fraternal Order of Police, the Nebraska Fire Fighters Association, and many constituents around the state. This would strike "law enforcement officer" and replace it with "first responder," which is defined in the amendment. This would protect not only law enforcement officers but also include firefighters, paramedics, and EMTs. I am happy to work with the committee on any concerns that you may have. I encourage you to advance this bill as soon as possible. This is something that needs to happen now and not be kicked down the road. I'd be happy to try and answer any questions you may have. [LB444]

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SENATOR EBKE: Any questions for Senator Walz? Okay. [LB444]

SENATOR WALZ: Thank you. [LB444]

SENATOR EBKE: First proponent. [LB444]

MICHAEL HUTCHINSON: (Exhibit 3) My name is Michael Hutchinson, M-i-c-h-a-e-l H-u-t-c-h-i-n-s-o-n. On December 3, 2015, I was attempting to serve a high-risk arrest warrant when I was ambushed while attempting to retrieve equipment from my back seat. When I turned to see who was yelling at me, I was looking at the barrel of a shotgun. The suspect told me I was going to die that day; he was going to kill me. The suspect told me to turn over my weapon. I refused and he fired a shot at my feet. While he was attempting to eject the shell casing, I grabbed the shotgun to take it away. It was during this time I was pulling away and the suspect pushed me and I fell backwards. The suspect drew a pistol and shot me, causing excruciating pain. This was the last thing I was really aware of until I came to in the hospital days later. I was transported to the Ogallala Community Hospital by the Big Springs volunteer EMTs. Emergency surgery was performed to stabilize me to be flown by helicopter to the Northern Colorado Medical Center in Greeley, Colorado. My wife was informed of my injuries. I was shot four times. My pelvis was shattered and bladder was cut in two. I lost half my stomach, about a third of my large and small intestines. My liver was damaged. A lung had collapsed due to a bullet. Another bullet had missed my aorta by less than an inch. Later, my spleen and two of the three layers of my stomach muscles were removed. I had four surgeries and was on a ventilator tube for ten days because I couldn't breathe on my own. Infection risk was extremely high so only family was allowed in my room. I had a chest tube, a feeding tube, a PICC line, an ostomy, and a catheter. I had a four-inch wide open wound from my sternum to below my navel. My kidneys shut down. I was placed on dialysis. Twenty-one days after the shooting, I was moved to long-term acute care in nearby Johnstown, Colorado. After battling more infections and fevers, finally, after nearly three months in the hospital, I got to come home. I wasn't well or fine or back to normal. I'd lost a great deal of strength, 60 pounds, barely had an appetite. I was angry all the time. I had a hard time sleeping and was dealing with PTSD. I still had an open wound. My wife was still off work to care for me and drive me to medical appointments, 500 miles every week. On May 12, I had a reversal surgery at Northern Colorado Medical Center and I was expected to be in the hospital for three days. I contracted C. diff. and wasn't released until May 20. I also got an infection in the surgical wound requiring daily treatment from my doctor. Now the point of my story: on a holiday weekend, seven days after my last hospital stay, Friday, May 27, 2016, we received a letter stating, as of Tuesday, June 1, we no longer have health insurance. There was no time for us to react. We petitioned our commissioners to do the right thing and not drop our insurance since I couldn't work 30 hours a week due to the surgeries, injuries, and infections I had suffered. The commissioners refused. We attended two commissioners' meetings to ask them to reconsider. We were vilified by some people in the community for asking for perceived special treatment. The

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stress was incredible and felt like such a blow, especially for someone dealing with PTSD. I had nearly given my life for those same people who now acted like paying for health insurance was an unbearable burden. We had a choice of COBRA insurance at \$1,500 a month or purchasing our own insurance from the marketplace insurance for about \$144 a month. With my wife not working, we couldn't afford COBRA and we knew nothing about the marketplace insurance until after we researched it. We learned we would be penalized if we didn't make \$16,200 in 2016, and we barely made it. My wife had to return to work before we were ready, but we had no choice. We were without insurance for a month. My wife cut the end off her finger and was taken to the ER. It was embarrassing to tell people we didn't have insurance. My job was to protect and serve Deuel County. I believe the job I have done and my record speaks for itself. No officer who suffers a life-changing traumatic injury should have to worry about how his family is going to be taken care of. Guaranteed health insurance for one year is not too much to ask. Thank you.
[LB444]

SENATOR EBKE: Thank you, Mr. Hutchinson. Any questions? Senator Pansing Brooks.
[LB444]

SENATOR PANSING BROOKS: Thank you for coming to tell this story. It's pretty amazing to me and I just really appreciate your courage in your service, as well as your courage here to come... [LB444]

MICHAEL HUTCHINSON: Thank you. [LB444]

SENATOR PANSING BROOKS: ...and tell us this story. Thank you. [LB444]

MICHAEL HUTCHINSON: Thank you. [LB444]

SENATOR EBKE: Any other questions? Thank you for being here today. [LB444]

MICHAEL HUTCHINSON: Thank you. [LB444]

SENATOR EBKE: Next proponent. [LB444]

JIM MAGUIRE: Good afternoon, Senators. My name is Jim Maguire, that's J-i-m M-a-g-u-i-r-e. I'm president of the Nebraska Fraternal Order of Police. Thank you for the hearing. Thank you, Senator Walz, for introducing this important legislation. There's just a couple of parts that I want to point out that is in this bill that hopefully will put some people at ease. The main parts of this bill is if an officer suffers serious bodily injury due to an assault and that it only last 12 months.

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So we're not talking about an officer who happens to be running after somebody and sprains an ankle or something like that where they can't come back to work. This is they have to...it has to be an assault and they have to suffer serious bodily injury. And we put the 12 months in a time line to try and basically get them to...encourage them to get back to work as fast as possible, although while recognizing the burden that some of these cities and counties can have. But to me, they've already provided health insurance in the past and if this would happen in today's day and age within the VA, if you had somebody coming back from Iraq or Afghanistan and they found out that they could no longer attend the VA because they couldn't come back to work within 12 months, there would be absolute outcry. And that's where we're kind of at here. It's like nobody knew that this...these stipulations were in these insurance, within some of the more rural counties. This will only affect a small number of people. It's not going to affect Lincoln. It's not going to affect Douglas County. It's not going to affect a lot of the departments in Sarpy County. But it will affect a lot of the more rural areas that need help. And if this is the...this is the least that we can do for the family, because when an officer is injured or shot and they're going through the rehab, the family is going through that also. So I think I would ask you to support this bill. Thank you. [LB444]

SENATOR EBKE: Mr. Maguire. Senator Krist. [LB444]

SENATOR KRIST: Hi. Thanks for coming. So two questions: In, first of all, the white copy, it replaces the green copy of the bill as an amendment. And what I'm seeing here is the addition of, as the senator introduced it, exactly those points. But both in the green copy and in the white copy amendment that replaces the bill it says no...in Section 1, line 2, "No city or county." So to clarify, you said this wouldn't affect Lancaster...or wouldn't affect Douglas or Lincoln or Omaha. Is it the intention of this bill not to cover the cities of the municipal class and the first class or...? [LB444]

JIM MAGUIRE: It is. The intent is to make it a statewide statement on health insurance. However, in Douglas County, within the city of Omaha, we have our own individual injured-on-duty policies within a labor agreement... [LB444]

SENATOR KRIST: Okay. [LB444]

JIM MAGUIRE: ...that this will already be covered. So we would not benefit from this because we already have these protections. [LB444]

SENATOR KRIST: So there are already people who honor the people who are serving them by having in their insurance policies these same kind of protections. [LB444]

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JIM MAGUIRE: Absolutely. [LB444]

SENATOR KRIST: Okay. Then the second question is, does that...does the definition of assault cover everything? I mean I could imagine that an insurance company or someone who would not want to do right could say, well, we don't...you were shot by sniper, is that really an assault? Or you were shot with a stray bullet; you were not physically assaulted. Is it your intention or do you think we're covered by using the word "assault" to cover all? [LB444]

JIM MAGUIRE: I do think so because the definition of assault is there's an intentional act, so that's how we wanted to present this in here so it's not some kind of an accidental discharge or it's a traffic accident or something to that effect. The only way that a traffic accident where this would cover it is if the...if you want to call them the suspect, if they intentionally ran that person over then that would be covered by an assault. But if it's just a simple traffic accident, this section right here would not cover it. [LB444]

SENATOR KRIST: Okay. Mr. Maguire, I'm going to ask legal counsel to make sure that what we are really trying to do is what we're doing... [LB444]

JIM MAGUIRE: Okay. [LB444]

SENATOR KRIST: ...and that assault covers those acts because, again, not that an insurance company ever tries to keep their money,... [LB444]

JIM MAGUIRE: (Laugh) Right. [LB444]

SENATOR KRIST: ...but let's try to make sure that this is exactly what you wanted to do. [LB444]

JIM MAGUIRE: Okay. [LB444]

SENATOR KRIST: All right? [LB444]

JIM MAGUIRE: Thank you. [LB444]

SENATOR KRIST: Thank you. [LB444]

SENATOR EBKE: Senator Pansing Brooks. [LB444]

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SENATOR PANSING BROOKS: And to just piggyback on that a little bit, so if an officer is like...has made a traffic stop and is hit by another car in the line of duty as they're out...because they're out precariously on the highway, they're not covered here either, right? [LB444]

JIM MAGUIRE: Regarding this, and this was one of the reasons why we put it in there, no, they would not be covered because generally either the county's vehicle insurance or the other person's vehicle insurance or the underinsured motorist insurance that the individual officer...that would kick in and we're hoping (inaudible). [LB444]

SENATOR PANSING BROOKS: The uninsured motorist, is that what you're saying? [LB444]

JIM MAGUIRE: Yes. Yeah. So we're...the intent was just to start with dealing with what happened in Deuel County, and that was an assault, and to...if we need to explore expanding that, we certainly can. Obviously, we would be in support of that. But at a minimum it should be if you are assaulted you shouldn't have to lose your health insurance. [LB444]

SENATOR PANSING BROOKS: Yeah. And do you know if this extends--you may not know--to staff at prisons and other places like that? I mean how wide a scope is this? You don't know maybe. [LB444]

JIM MAGUIRE: I would have to look and see the definition of the amendment for first responder. But initially it was just for law enforcement and then it was we're going to first responders to include firefighters and such because they're also in harm's way. [LB444]

SENATOR PANSING BROOKS: Okay. So we're asking these people to put their lives at risk every day and we will not cover them. That's just shocking to me. [LB444]

JIM MAGUIRE: Yes. [LB444]

SENATOR PANSING BROOKS: Thank you for bringing this. [LB444]

JIM MAGUIRE: And it's unfortunate that we have situations like this where we find these gaps in the policies. [LB444]

SENATOR PANSING BROOKS: Thank you very much, Mr. Maguire. [LB444]

JIM MAGUIRE: Thank you. [LB444]

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SENATOR EBKE: Senator Chambers. [LB444]

SENATOR CHAMBERS: I understand what people say about the risks of a job, but nobody in any of these positions was drafted to be there. They took the position voluntarily. They are paid, and they apparently like the work. So why should they be treated differently from other city employees? Why not just say anybody who works for a city or a county and don't limit it to just certain categories of people? And you might understand this better than the people who hear me say this in this room. I've been in this world a long time and police officers and even firefighters have not always been popular. It's the popular thing now. The President says things; other people say things. And they're words and anybody can use words. There's going to come a time when there's not going to be that feeling and something like this would be repealed. So I'm asking you this question again: Why should it be limited to these people? [LB444]

JIM MAGUIRE: The original intent was just to limit the scope and the potential financial burden on the cities and counties. If we wanted to expand it to other employees, absolutely, I would wholeheartedly support that. But at this time right here and now we identified a problem and we're trying to address it. [LB444]

SENATOR CHAMBERS: You know why I like this man? (Inaudible) I asked you a question and you answered the question that I asked you, and I appreciate it. Thank you. [LB444]

JIM MAGUIRE: Yeah. Okay. [LB444]

SENATOR EBKE: Senator Baker. [LB444]

JIM MAGUIRE: Yes. [LB444]

SENATOR BAKER: Thank you, Mr. Maguire. Would...wouldn't workers' comp cover? I mean, granted, that's just the person who got injured. It would not take care of family, but would workers' comp? [LB444]

JIM MAGUIRE: Worker's comp would take care of all of the injuries to the injured officer but after that it is up to them to figure out. They don't care about the family. That is not their,... [LB444]

SENATOR BAKER: Yeah. [LB444]

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JIM MAGUIRE: ...if you want to call it, their deal. That's...it is...that's not their priority. It is the officer that they need to get well. But the majority of the officers that are out here handle the primary insurance. So when...if they lose their insurance, it really puts a burden on the entire family. [LB444]

SENATOR BAKER: I understand. Thank you. [LB444]

JIM MAGUIRE: Thank you. [LB444]

SENATOR EBKE: Senator Halloran. [LB444]

SENATOR HALLORAN: Yes, thank you, Mr. Maguire, for your testimony. I don't know if you...you a moment ago said you weren't necessarily familiar with the amended version. [LB444]

JIM MAGUIRE: I don't have a copy of it in front of me. [LB444]

SENATOR HALLORAN: Okay. It mentions in the amended copy, section (4)...and to begin with, I'm very empathetic and sympathetic for Officer Hutchinson and any other person in that situation. Thanks. But for clarity or for...just for my own clarity, in section (4) it mentions "volunteer or paid firefighter," I understand the paid firefighter, "or volunteer or paid individual licensed under a licensure classification." Can you give an example of who in the heck a volunteer might be that would...? [LB444]

JIM MAGUIRE: I'll be honest with you, I don't know. [LB444]

SENATOR HALLORAN: Okay. [LB444]

JIM MAGUIRE: I'm not going to answer something that I don't know. [LB444]

SENATOR HALLORAN: Well, I agree with Senator... [LB444]

JIM MAGUIRE: When we originally set this up, it was just for... [LB444]

SENATOR HALLORAN: Right. [LB444]

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JIM MAGUIRE: ...the intent is if you provide insurance to these individuals, you can't exclude them for something like this happening to them. [LB444]

SENATOR HALLORAN: I see. Well, I agree with Senator Chambers. I like you. You answered the question. You said you didn't know. [LB444]

JIM MAGUIRE: Thank you. [LB444]

SENATOR HALLORAN: Thank you, sir. [LB444]

SENATOR EBKE: Senator Krist. [LB444]

SENATOR KRIST: Well, just again for clarification, I think that that same volunteer statement is included in for the past few years with CIR so that it covers our volunteer fire department and in some cases volunteer sheriff's departments where there's a ride along, a volunteer. So that language is pretty common to a couple other statutes. [LB444]

SENATOR HALLORAN: Thank you. [LB444]

SENATOR EBKE: Thank you. Any other questions? Thank you for being here. [LB444]

JIM MAGUIRE: Thank you. [LB444]

SENATOR EBKE: Next proponent. [LB444]

DARREN GARREAN: Good afternoon. My name is Darren Garrean, first name is D-a-r-r-e-n, last name is Garrean, G-a-r-r-e-a-n, and I'm president of the Nebraska Professional Fire Fighters, representing approximately 1,500 firefighters and paramedics across the state of Nebraska from Scottsbluff down to Beatrice up to South Sioux City. I want to thank Chairperson Ebke and the committee for their time. I also want to thank Officer Hutchinson for his service and it is unfortunate what he had to endure which brings us here today. We are proponents of this amended bill. A couple things I guess as we...that got brought up as far as questions: I think the assault language, if it's in statute as what the assaults are listed specifically, I think that's...Senator Krist, was kind of what your question was. You wanted it to be specific to what is an assault, and I would agree with that. I also think that, Senator Chambers, you had a comment of opening this up to all employees. As firefighters, I think we would welcome that if that wanted to be opened up to other employees, not to be in a limited scope. But also wanted to, as

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far as the volunteer comment, that is throughout other statutes. I think just a broad brush of terminology. And the firefighting aspect, you may have like paid on-call or a volunteer may receive some type of compensation and everybody does it a little bit differently. Maybe a city or a municipality or a county wants to pay them something or give them some type of insurance. I think this was just to try to cover any of that. And with that, I'm open to any questions or comments, whatever, if there are any. [LB444]

SENATOR EBKE: Any questions? Senator Chambers. [LB444]

SENATOR CHAMBERS: You're aware that the only way a recovery can occur is if the injury is from an assault. [LB444]

DARREN GARREAN: I understand that and God forbid that this has to be brought forward and actually have to be. We have Officer Hutchinson that had to endure this, but if there was another firefighter/paramedic throughout the state of Nebraska that was injured from an assault, that it seems to be a growing trend throughout the nation, not just amongst police officers but firefighters/paramedics as well. And our wanting to, I guess, be part of this is understanding that hopefully that trend...we never have to use anything like this but it's a real fact. [LB444]

SENATOR CHAMBERS: Can you give me an example of a...and it can be a theoretical situation... [LB444]

DARREN GARREAN: Sure. [LB444]

SENATOR CHAMBERS: ...you would create where a firefighter would be assaulted to such an extent that he or she couldn't return to work for at least 12 months? And I meant not from a building falling or their truck turning over or somebody running into the...not an accident or anything that pertains to the job itself. How would this impact on a firefighter? [LB444]

DARREN GARREAN: I can give you my own personal experience... [LB444]

SENATOR CHAMBERS: Okay. [LB444]

DARREN GARREAN: ...that I have been assaulted on the job, whether it be with fists, which you know a little bit of ice and time, no big deal. I've also been held at knife point, which that kind of injury through a knife injury... [LB444]

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SENATOR CHAMBERS: Here's what I'm getting at. What would be the circumstances that would likely produce somebody assaulting a firefighter? Because if you're going to put the fire out on somebody's house, I don't think they would do it. So are you saying that there are people, in your opinion, who just don't like firefighters and would attack them? [LB444]

DARREN GARREAN: Yes. Yes, and I'm saying that on the job as a firefighter, as a paramedic, I have personally been held at knife point. And had that escalated into something where I was actually injured with the knife, there's no doubt that I would have had to spend time off, whether it was a year off of work I have no idea. [LB444]

SENATOR CHAMBERS: Okay. [LB444]

DARREN GARREAN: I have been told... [LB444]

SENATOR CHAMBERS: Now, see, I can give you what I gave the representative of the fire...the officers. You answered my questions. Stop while you're ahead. [LB444]

DARREN GARREAN: Okay. (Laughter) Absolutely. [LB444]

SENATOR CHAMBERS: Thank you. [LB444]

SENATOR EBKE: Other questions? Thank you for being here today. [LB444]

DARREN GARREAN: Thank you for your time. [LB444]

SENATOR EBKE: Next proponent. Do we have any other proponent testimony? Do we have any opponent testimony? Any neutral testimony? [LB444]

LARRY DIX: Good afternoon, Senator Ebke, members of the committee. My name is Larry Dix, L-a-r-r-y D-i-x. I'm executive director of the Nebraska Association of County Officials appearing today neutral on LB444. First, we want to thank Senator Walz for bringing this forward and also it goes without saying I want to thank Mr. Hutchinson for being here, being a Deuel County employee. When we look at the bill, there's a couple things that I hope that Senator Walz and the committee will look at and try to, from a technical point of view, help us clarify just so that we know exactly what we're dealing with. And I haven't...I have not seen the amendment so I can't comment to that. But from what I've heard the word "law enforcement" has been replaced with "first responder." So I think from a sheriff's deputy point of view, I think that

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would certainly meet that criteria. When I look actually on page 2, on line 8, and I think we're only looking for clarification and it may get more into a little bit of the technicalities. But where it states the city or county shall be obligated to provide such health insurance, typically in a county, many of the counties, they will provide health insurance. But many times the employee pays a share of the premium and I would assume--and I'm just assuming--that when the county or city would continue to provide that, they would provide that at the existing cost-share that they currently had on that policy. And I think maybe somebody would interpret that, but I think many times when we can get it into statute so that it's very clear that they would understand that, I think that would be beneficial. So I would certainly be willing to work with Senator Walz and the committee on some language for that component. The other part of this that during the discussion it was brought up on the first responders and who was covered by this, this would clearly be up to the committee also. But the question...in, at least in my mind, is we have some county employees. I don't know if you would classify them as first responders but they certainly would have the opportunity I believe to be assaulted, and those are our jailers, the folks that work in that environment. So I don't know if the amendment that Senator Walz brought forward would cover that. I don't know if the committee would want to address that. That goes a little bit to Senator Chambers' comments about allowing everyone to be covered. But that would be just a comment that I would want to make sure with the committee, that I thought of, of how it impacts county government. So from that point of view, I'd be happy to answer any questions that anybody has. [LB444]

SENATOR EBKE: Thank you, Mr. Dix. Senator Krist. [LB444]

SENATOR KRIST: Just...yeah, thanks for coming. I just would propose a change in the language. It's actually page (sic) 9 in the amendment. I just want to run this by you: The city or county shall provide at no cost, be obligated at no cost to provide such health insurance for the first 12 months, the city or the county. Would you like to do that instead of do the cost-share? [LB444]

LARRY DIX: I haven't seen the... [LB444]

SENATOR KRIST: No, I'm saying what it says is the city or county shall only be obligated to provide such health insurance for the first 12 months for the first responder employed with the city. I was wondering if we should just put at no cost to the individual. [LB444]

LARRY DIX: I mean we're looking for clarification, you know? [LB444]

SENATOR KRIST: Okay. So... [LB444]

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LARRY DIX: When we look at this, you know, I think, and even as we have looked over the years, you know, we're not looking at a large population. We're looking at some unique circumstances here. So just so... [LB444]

SENATOR KRIST: Yeah, I'm... [LB444]

LARRY DIX: ...so we would have a clear understanding of it. [LB444]

SENATOR KRIST: Sure. I guess my point in that is that oftentimes and in the Hutchinson case I believe that it was almost impossible for them to do anything during that period of time. [LB444]

LARRY DIX: Right. [LB444]

SENATOR KRIST: ...because neither one of them was working. [LB444]

LARRY DIX: Right. [LB444]

SENATOR KRIST: And I'm almost saying that giving an insurance company a clause to get out of something, I'd almost push that that insurance would continue at no cost to the individual... [LB444]

LARRY DIX: Right. [LB444]

SENATOR KRIST: ...and put it in statute. [LB444]

LARRY DIX: Right. And I think what we're saying is as long as it's really clear. So... [LB444]

SENATOR KRIST: Okay. Good. [LB444]

LARRY DIX: ...so we can, as counties, can apply and read the statute and make sure it's really clear as to what the obligation is. [LB444]

SENATOR KRIST: Okay. Thank you. [LB444]

SENATOR EBKE: Any other questions? Thanks for being here, Mr. Dix. [LB444]

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LARRY DIX: Thank you. [LB444]

SENATOR EBKE: Any other neutral testimony? [LB444]

LYNN REX: Senator Ebke, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities, and I've just received a copy of the amendment, haven't had time to really study yet. But I think a lot of our questions have been answered. We just wanted to make sure that we're talking here about a situation where a municipality is actually offering health insurance because we have thousands of volunteers that work with cities as paid...as volunteer firefighters, and we basically cover for them disability, workers' comp, but we don't do health insurance, per se, because they're not full-time employees. So with that, I think that's one issue. And another issue that we've talked to Senator Walz about is the issue of what happens if that individual comes back on light duty. In other words, when does the clock start ticking if you're dealing with a light duty situation where the officer actually does come back? And so with that, I'd be happy to respond to any questions, but in the bill as it is right now and as we understand, and again, I've not really had a chance to vet the amendment and send it out to our city attorneys across the state, but I think based on what I understand this to be, we would still maintain a neutral capacity at this point. But again, we need to send it out and see what others think. Happy to respond to any questions, though, that you may have. [LB444]

SENATOR EBKE: Ms. Rex. Any questions? Senator Krist. [LB444]

SENATOR KRIST: What's the definition of light duty? [LB444]

LYNN REX: Well, for example, something short of what they would otherwise be doing. So if you're a law enforcement officer, Senator Krist, and you're out in a car making arrests, doing things of that nature, and then light duty is you come back and you can only work at the dispatch desk or you're not able to run or chase somebody down or something. Something short of what you're doing now would constitute light duty. [LB444]

SENATOR KRIST: Does light duty...would the definition of light duty or could it define a minimum number of hours? [LB444]

LYNN REX: It would have to be. I mean basically I think it kicks in with the...I'm looking at the green copy of the bill here. It says the city or county shall only be obligated to provide such health insurance while the--is currently law enforcement officer--is employed with the city or county. And I'm just saying if they're coming back and they're still working in the light duty

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capacity, they're still employed, they're still under health insurance coverage as well, and they may be getting workers' comp medical benefits along the way as well. [LB444]

SENATOR KRIST: Okay. Thank you. [LB444]

LYNN REX: You're welcome. [LB444]

SENATOR EBKE: Senator Baker. [LB444]

SENATOR BAKER: Thank you. So if a person is back on light duty, if they're working 40 hours or more, they would be covered. [LB444]

LYNN REX: Yes, they are. [LB444]

SENATOR BAKER: And if they were working fewer than 40 hours that's the situation we're talking about, that we would want them to be insured. [LB444]

LYNN REX: Well, I think that's one of the...they would. That's one of the issues we're talking about. I mean they would still be insured for at least year... [LB444]

SENATOR BAKER: Yes. [LB444]

LYNN REX: ...if it's less than full-time, is what we understand. [LB444]

SENATOR BAKER: Right. Thank you. [LB444]

LYNN REX: I think that's her intent. [LB444]

SENATOR EBKE: Okay. Any other questions? Okay. Thank you. [LB444]

LYNN REX: Thank you for your time. Thank you. [LB444]

SENATOR EBKE: Any other neutral testimony? Okay, Senator Walz, do you want to close? [LB444]

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SENATOR WALZ: Thank you. I want to try to clarify a couple questions. First of all, Senator Halloran, you were talking about section (4) regarding what does a first responder mean. And section (4) just defines what a first responder is, okay? If you look at the top, Section 1, it says, "No city or county offering an individual or family health insurance policy to first responders shall cancel." So they already have to be offered that policy, all right? I think that was all the questions I was going to answer. I just want to again stress the importance of passing this bill to support those who protect us. What happened to Mike should have never happened. We need to make sure that this never happens again. I urge you to advance this bill to General File and am happy to work through any of the concerns brought up today to get this advanced and passed. Thank you. [LB444]

SENATOR EBKE: (Exhibit 1) Thank you, Senator Walz. Do we have any letters? We have one letter in support from Steve Hensel, Police Chiefs Association of Nebraska. That concludes the hearing on LB444. Thank you for being here today, Senator Walz. Is Senator Bostelman on the way, do we know? Okay. [LB444]

BREAK

SENATOR EBKE: Okay. We're in the process of getting an amendment, I believe. But, Senator Bostelman, would you like to open on LB638? And just for your information, I'm going to have to sneak out for a few minutes probably during this, so don't be surprised. Senator Krist will take the helm. [LB638]

SENATOR BOSTELMAN: Great. Okay. [LB638]

SENATOR EBKE: Okay. Go ahead. [LB638]

SENATOR BOSTELMAN: (Exhibits 5 and 6) Super. Thank you. Good afternoon, Chairwoman Ebke and the Judiciary Committee members. My name is Senator Bruce Bostelman, that is B-r-u-c-e B-o-s-t-e-l-m-a-n. I'm proudly representing Legislative District 23 and I'm introducing LB638. LB638 has been--and the amendment is coming--amendment and it is my intent that the white copy amendment, AM325, replace the bill in its entirety. I have been working with Senator Hilgers and Senator Wishart on their respective bills, LB577 and LB623, and we are all in support of each of these bills. It is my intent to use LB638, as amended in AM325, as a vehicle to carry forward and accomplish the intent of all three of these bills. LB638, as currently amended, adds local correctional employees to provisions of statute which prohibit and penalize criminal attacks on public service individuals, including peace officers, probation officers, firefighters, out-of-hospital emergency care providers, and state correctional employees of the Department of Correctional Services. Local correctional employee is defined as an employee of

a county, city, or village jail. These individuals work in the same field as their state correctional counterparts and can face an increased risk of attacks since they are dealing with individuals at the heightened state of their initial incarceration or arrest and may still be under the effect of drugs or alcohol. Adding local corrections officers to these statute provisions provides these officers with that protection and adds consistency to our Criminal Codes. LB638, as amended, also incorporates provisions of Senator Hilgers' LB577. This portion of the bill creates the offense of assault on a peace officer, firefighter, or out-of-hospital emergency care provider by ambush. An individual commits this offense if he or she knowingly and intentionally attacks a peace officer, firefighter, or out-of-hospital emergency care provider while such officer, firefighter, or provider is engaged in the performance of his or her official duties and such person either, one, attacks without warning from a concealed position or, two, approaches an unsuspecting peace officer, firefighter, or out-of-hospital emergency care provider and attacks unexpectedly; and finally, intentionally or knowingly causes serious bodily injury to such peace officer, firefighter, or out-of-hospital emergency care provider. Assault by ambush of a peace officer, firefighter, or out-of-hospital emergency care provider would be classified as a Class IC felony. The idea of addressing attacks on these individuals, whose job it is to protect and serve the public, through legislation is not a new one. Nebraska currently has statutes which prohibit assault on similar public service individuals and specifies particular penalties for such actions. Under existing Nebraska law, assault of an officer, emergency responder, state correctional employee, Department of Health and Human Services employee, or a healthcare professional in the first degree, meaning that he or she intentionally or knowingly causes serious bodily injury to the individuals described while they're on duty, shall be guilty of a Class ID felony. This bill simply addresses a particular version of the attack on these individuals--ambush attacks--and classifies the crime as a Class IC felony. The very nature of ambush, which as defined requires attacking unexpectedly or from a concealed position, indicates that this crime is not simply reactionary in nature but, instead, consists of a planned, coordinated, and thought-out violent action taken against these public service individuals who are trying to carry out their official duties and serve the public. Ambush-style attacks on these individuals creates a particularly problematic public safety concern. When the very individuals whose duty it is to respond to the emergencies are being attacked in this manner, it further complicates their ability to protect the public and places the public in harm's way. Ambush-style killings are on the rise and we must address this problem and detour and punish these violent actions. According to an article in U.S.A. Today this last November, the number of police officers gunned down has increased 167 percent this year. That's in 2016. Noting statistics from the National Law Enforcement Officer Memorial Fund, a total of 115 officers were killed in the line of duty in 2016. A 15 percent increase over 2015. Overall, more officers have been shot and killed so far this year than in any full year since 2017, according to the article. Numerous incidents of ambush-style attacks against these individuals have occurred and are continuing to occur. Though many of these incidents involve attacks against police and law enforcement officials, these are not the only individuals that are being affected. Firefighters in Webster, New York, were ambushed by a gunman while

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responding to a house fire, which resulted in the death of two firemen. Similarly, a Youngstown, Ohio,...in Youngstown, Ohio, shots were fired at firefighters on the job and two firemen were injured. These instances of violence against first responders highlight why this bill is important. When these firefighters are ambushed while attempting to do their job, not only does it affect the firefighters themselves but the public at large, placing additional property and lives of innocent members of the public in danger. These specific type of criminal actions against those individuals who serve the public in times of emergency shall, as peace...such as peace officers, firefighters, and emergency responders, cannot be tolerated and deserve to be specifically addressed by our Criminal Code, and LB638 would accomplish that. The individuals who protect and serve the public are not only at risk while on the job but off duty as well when they are at home with their family or out in the public. This bill, as amended, would also make it unlawful for any person to purposely and by force or by direction of threat or by threat of harm to any person or property retaliate against any of the following individuals: judicial officers, peace officers, probation officers, firefighters, out-of-hospital emergency care providers, local correction employees, employees of the Department of Correctional Services, employees of the Department of Health and Human Services, or healthcare professionals who are in the process of or have discharged his or her lawful duties. The violations for retaliation against these individuals varies based on the severity of the offense and is as follows: (a) would be a Class IIIA felony if the offense involves a threat or direction of the threat to property; (b) is a Class III felony if the offense involves a threat or direction of threat of harm to an individual described in such subsection; (c) would be a Class II felony if any...if an individual described in such subsection suffers serious bodily injury; and (d) Class IC felony if an individual described in such subsection suffers serious bodily injury. LB638 prohibits and provides penalties for retaliating against these individuals because they carried out their official duties. Retaliatory attacks against these public service individuals, again, creates a public safety concern. Though these individuals understand that portions of their job are inherently dangerous and retaliatory attacks against these individuals, when they are off duty and out in the public or at home with their families, for simply carrying out their official duties should not be condoned, and these specific crimes should be addressed. The targeting of these individuals in a retaliatory manner for something that occurred while they were working in their official capacity can endanger the public at large. When these individuals are off duty, they could be at home with their family and children, out in the public at restaurants, and in various public events. If these individuals are subjected to retaliatory attacks for fulfilling their duties at such times it poses a danger not only to themselves and their family but to innocent bystanders and members of the public. These retaliatory attacks do not fall within our current assault on first responder statute because they are individual...because they, individuals, are not on duty...because the individuals are not on duty, making the situation even more dangerous for all involved. This bill is addressing a specific problem and a narrow group of incidents. These individuals protect and serve the public and are being targeted specifically for carrying out their official duties. This bill addresses only those incidents where someone retaliates against such public service individual because they were

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involved in a civil or criminal matter against them during the course of their official duties. The number and group of these incidents where this statute would apply is very narrow, but these incidents are significant and severe and need to be addressed. This problem has been identified at the highest levels of our government. President Obama commented on the ambush report compiled by C-A-N, CAN, and the International Association of Chiefs of Police stating, and I quote: This is totally unacceptable and we must act to address this persistent threat, end quote. The President's Task Force on 21st Century Policing in 2015, on page 62, noted that, in quotes, "The 'bulletproof cop' does not exist. The officers who protect us must also be protected--against incapacitating physical, mental, and emotional health problems as well as against the hazards of their job. Their wellness and safety are crucial for them, their colleagues, and their agencies, as well as the well-being of the communities they serve." These retaliations are not just happening elsewhere but close to home. There have been incidents in my own district where retaliation has taken...was taken against a deputy in Colfax County whose house was shot through by a drive-by from an individual whom he had dealt with...whom he had dealt with in his official capacity. The bullets went through his two-year-old son's room. Another local incident includes Pierce County, Nebraska, where a bomb was placed and detonated in a sheriff's car at the sheriff's department. These are the types of retaliatory attacks that are occurring when...that are occurring even in our own communities, and LB638 is meant to deter and address such actions. We are not the only state that has and continues to address these concerns. Currently 47 states have laws that enhance penalties for attacks on certain professions, namely law enforcement and first responders. Several states have introduced legislation this year that would prohibit and provide penalties for targeting individuals because of their work as first responders. Adopting LB638 as amended is good policy because it sends a message that these specific types of crimes and attacks, such as ambush and retaliation on those who protect and serve our communities, cannot and will not be tolerated. This bill aims to help deter these types of crimes, which harm not only these groups and individuals but the public at large. Therefore, I ask for your support of LB638, as amended, and its advancement to General File. Thank you. [LB638]

SENATOR KRIST: Thank you, Senator Bostelman. Do I understand that Senator Hilgers and Wishart are going to come in and introduce their bills to us as well? [LB638]

SENATOR BOSTELMAN: Yes. They'll at least speak to them. [LB638]

SENATOR KRIST: Okay. Can I see a show of hands of those that are going to speak to LB638, either proponent or opponent? Okay. One, two, three, four, five, six, seven. Seven. Thank you very much. That's just to give Senator Hilgers an opportunity to get here on time. All right, any questions for Senator Bostelman? Senator Chambers. [LB638]

SENATOR CHAMBERS: Is this your priority bill? [LB638]

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SENATOR BOSTELMAN: It would be, yes. [LB638]

SENATOR CHAMBERS: It will be? [LB638]

SENATOR BOSTELMAN: Yes. [LB638]

SENATOR CHAMBERS: Why should these people get this kind of protection? You talk about what happened in other states. Did you see on television where these cops snatched a man out of a car, several of them, they piled on him, one put his knee in the man's Adam's apple? The man died from compression of his throat and his chest, no charges at that time. I've seen other instances where black men were shot. One guy was running away from the cop. The cop shot him in the back. White jurors let these people go. Prosecutors will not charge. So you feel the way you feel. I feel a certain way toward cops, not just because of what they do to black people. There was a woman on her porch. She had a knife. She threw it at the cops. Three or four cops shot her. Grand jury said, no charges. That's murder, to me. There was an incident at UNO library where a guy had a knife in the library and was menacing people. Two students disarmed him. Cops could have killed him and they'd get away with it. You're new here but I have a very strong aversion to putting some people in a special category where the law is concerned. A crime is a crime. I think it would be worse for an old woman walking down the street to be attacked than a cop with a gun. How about a lawyer who handles divorce cases and somebody lies in ambush and shoots him, which happened in Grand Island or Kearney? How about the lawyer? You want to put them in here too? [LB638]

SENATOR BOSTELMAN: They are included in there: officers of the court. [LB638]

SENATOR CHAMBERS: So you put the...the lawyers are in this bill too? [LB638]

SENATOR BOSTELMAN: Yes, sir. [LB638]

SENATOR CHAMBERS: Okay, and it mentions a practitioner of the law? How does it describe him or her? [LB638]

SENATOR BOSTELMAN: In here it talks...it's the...it's officer of the court, I believe. Let me find the right...judicial officer. [LB638]

SENATOR CHAMBERS: A lawyer is not a judicial officer. [LB638]

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SENATOR BOSTELMAN: My understanding from when we went to Bill Drafting, we talked to them about this, that was the way that they were going to... [LB638]

SENATOR CHAMBERS: A lawyer is not a judicial officer. [LB638]

SENATOR BOSTELMAN: Okay. [LB638]

SENATOR CHAMBERS: And they used to say lawyers are officers of the court. The Code of Professional Responsibility does not describe a lawyer as an officer of the court. A lawyer is a member of the legal profession, subject to the code, but the lawyer is not an officer of the court. A lawyer does not carry out any judicial duties. So are you going to put specifically now anybody who has a law degree, a Juris Doctor? [LB638]

SENATOR BOSTELMAN: No. [LB638]

SENATOR CHAMBERS: Would that...would that person be included in there? [LB638]

SENATOR BOSTELMAN: No. [LB638]

SENATOR CHAMBERS: Why not? [LB638]

SENATOR BOSTELMAN: Well, it would be the judges, the trial counsel, and defense counsels. [LB638]

SENATOR CHAMBERS: Why do you say defense counsel? They're not lawyers. They're not judicial officers. [LB638]

SENATOR BOSTELMAN: If we need to reword that portion of it, then we can. You know, I'm willing to do that. [LB638]

SENATOR CHAMBERS: No, I was listening to you. Read in there where it says a defense lawyer. [LB638]

SENATOR BOSTELMAN: It doesn't. It says judicial officer. [LB638]

SENATOR CHAMBERS: It says what? [LB638]

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SENATOR BOSTELMAN: It says judicial officer. [LB638]

SENATOR CHAMBERS: A defense lawyer is not a judicial officer. [LB638]

SENATOR BOSTELMAN: Okay. [LB638]

SENATOR CHAMBERS: So are you going to specify...? [LB638]

SENATOR BOSTELMAN: We can do that, yes. [LB638]

SENATOR CHAMBERS: No. Are you? Is that your intent, to do that? [LB638]

SENATOR BOSTELMAN: We will. [LB638]

SENATOR CHAMBERS: What about a former spouse who is waylaid and ambushed? [LB638]

SENATOR BOSTELMAN: No. [LB638]

SENATOR CHAMBERS: Are you going to put that person in? [LB638]

SENATOR BOSTELMAN: No. [LB638]

SENATOR CHAMBERS: Their life doesn't count? [LB638]

SENATOR BOSTELMAN: It does. [LB638]

SENATOR CHAMBERS: So why don't you put them in it too? How about an elderly lady?
[LB638]

SENATOR BOSTELMAN: Because we're very...because... [LB638]

SENATOR CHAMBERS: How about an elderly lady? [LB638]

SENATOR BOSTELMAN: Well, what we're looking at in this bill is the fact that our...those covered--police officers, firefighters, emergency response person--that they are...this is a very

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narrow, very specific, very thought-out, calculated retaliation or ambush on those individuals, and we're seeing a rise in that. So it's not a wide group. It's only a specific... [LB638]

SENATOR CHAMBERS: I know what you're doing. I can read it in the bill. [LB638]

SENATOR BOSTELMAN: Sure. [LB638]

SENATOR CHAMBERS: I'm asking why you didn't see other people's life as being equally important. How about a pharmacist? [LB638]

SENATOR BOSTELMAN: They are equally important. [LB638]

SENATOR CHAMBERS: So pharmacists are included? [LB638]

SENATOR BOSTELMAN: No. [LB638]

SENATOR CHAMBERS: Why not? They get attacked for drugs. Some of them have been shot, some of them killed and some of them are waylaid when they're leaving their pharmacy. They're attacked, made to go back in, and get the drugs. [LB638]

SENATOR BOSTELMAN: I guess if that's something we need to look at in the future then that's something we could address. [LB638]

SENATOR CHAMBERS: These bills I have always fought and I'll fight this tooth and nail. I've seen these people commit what I call murder and they don't get charged. Just so you know. [LB638]

SENATOR BOSTELMAN: Okay. Thank you. [LB638]

SENATOR KRIST: Thank you, Senator Chambers. Any other questions for Senator Bostelman? Will you stay to close? [LB638]

SENATOR BOSTELMAN: Certainly. [LB638]

SENATOR KRIST: Okay. Thank you. Let's start with the proponents. The first proponent, please come forward. Welcome back, Mr. Maguire. [LB638]

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JIM MAGUIRE: Thank you. Thank you, Senators of the Judiciary Committee. My name is Jim Maguire, J-i-m M-a-g-u-i-r-e. I'm president of the Nebraska Fraternal Order of Police and we are here supporting LB638 with its amendments. Specifically, I will get into the retaliation part of the bill and the ambush part of the bill. Specifically, regarding the retaliation part, this bill...both bills were drafted and with the cooperation of Douglas County Attorney Don Kleine. And when we started looking at the retaliation part, we started looking at existing laws and language that are both in federal statute and in the state of Ohio. They have specific bills that deal with targeting of, if you want to call them judicial officers, but officers of the court. It is...regarding some of this, the majority of it is probably going to be happening in a rural setting because, you know, you're a smaller community. They're going to have...they're going to know who the prosecutors are, who the officers are. But we certainly can't exclude some of the organized criminal organizations such as the Mexican drug cartels, who I can absolutely assure you are alive and well in Nebraska and certainly in Omaha. And if they could get some of their people off on some of these charges through some kind of intimidation retaliation, they certainly will do it. Regarding the ambush bill, the bill itself is about the specific targeting of law enforcement officers. In 2016 there were 21 law enforcement officers killed in ambush-style attacks, which marks a significant increase from 2015 when we only had 6. In 2017 we've already had two, so the problem is not going away. According to the latest statistics in the FBI, which is 2015, the law enforcement officers assaulted, there were 50,212 officers assaulted with 14,281 officers being injured. So it's not just the assaults and everything else that are occurring but it's the specific targeting of the officers that this bill is trying to accomplish. To me it seems just another step forward. You have first-degree murder, second-degree murder, manslaughter. So you've got...now we have for assault on an officer: first degree, second degree, third degree. But now we need to include an additional degree on that which would be the ambush portion because we are seeing it over and over and over again and we have to try and discourage some of these folks out here that are crafting a way to specifically target law enforcement. I, me personally, I'm also worried about the sovereign citizens where they don't like the government and they are...the Missouri man that went down to Baton Rouge, he was a sovereign citizen. So just to give you some examples of what has been going on around this country, back in 2016, January 7, 2016, Officer Hartnett of the Philly P.D. was...he was just driving his cruiser down the road when a man came up behind him and started shooting him. July 7 were the ambush killings in Dallas where five officers were killed but seven more were wounded. And ten days later, July 17 was the ambush killings in Baton Rouge where three officers were killed, another three officers were wounded. Then we go in September 17, Sergeant Sylvia Young of Philly P.D., again, she was just sitting in her cruiser when a suspect walked up to her car and shot her eight times. The suspect then shot another officer shortly afterward. November 2 were the ambush killings in Des Moines. Officers "Tony" Beminio and Justin Martin were killed. November 20 was kind of a big day around here in the Midwest where you had a San Antonio police officer pulls over a person. As writing him a citation, another person who was unrelated to the situation pulls behind the cruiser and shoots them. Then, just a few hours later in Missouri, a person pulls up to a St. Louis

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P.D. officer in his cruiser and shoots him. Both were completely unprovoked. So this is a problem nationwide. It is not going away. And the intent of this bill is to get out in front of this and to discourage people from even thinking about doing this. Thank you. [LB638]

SENATOR KRIST: Thank you, Mr. Maguire. Any questions? Senator Chambers. [LB638]

SENATOR CHAMBERS: So if I walk up to you and I say, I'm going to blow you away, and I shoot you, that's different than if I walk up behind you? In other words, if I give you notice then I'm not charged under this bill, am I? [LB638]

JIM MAGUIRE: That is correct. [LB638]

SENATOR CHAMBERS: And that makes sense to you? [LB638]

JIM MAGUIRE: The senseless killing of anybody doesn't make sense to me, but it's the...if they want to be a sniper or something like that. It's the thought of taking it to a new level is what...is the difference between this and a, if you want to call it, a regular assault on an officer. If you are at a traffic stop and you've already approached this person and then all of a sudden they start pulling out a handgun and you get into a shootout, that is different than you just driving down the road and all of a sudden here comes somebody just running after you. This is if, you know, if...the danger that we have is if we have to go to a house and there's a disturbance and we have made contact with those people and they get upset with what we do and they assault us, then that's just regular assault on an officer. But if they're going to call us and lure us in so that we can get close and they're going to hide in a room and they're going to assault us through some kind of a sniper action, that's what this would cover. That's the intent of this bill because it is happening nationwide. [LB638]

SENATOR CHAMBERS: I had made a comment about cops being my ISIS because an officer, he wasn't an officer, he was an officer in the military and he brought a bill so that people could carry guns in taverns. We were in this room and I said, what are white people afraid of? What are they so afraid of they want to carry these guns everywhere? He brought up ISIS, al-Qaeda, and that's what he said these white people are afraid of. I said, well, they haven't ever done anything to me. And I gave examples of what cops had done in Omaha. And I said the police are my ISIS, meaning the fear that they have of ISIS is the fear that black people have of police. And ISIS has done nothing to anybody here; cops have done to us. There was a situation in my community where the cops came to this family. They ran into the house. An old elderly black woman in a wheelchair, they knocked her over. They grabbed these guys. They threw them down. They assaulted them. But they didn't know they were being filmed on somebody's camera. So when it came to their attention, one of the cops took it and destroyed what was in the camera. He was

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charged with tampering with evidence. The others were not charged with any offense. They may have been disciplined but no criminal charges. There was an incident that I described when I made the ISIS comment where this...this happened to have been a white guy. They said he was suspected of having committed a robbery at a Dollar Store someplace. Cops had come around, several cars. He was on the hood of one of the police cars. He was going to climb over the fence and a cop shot him in the back. And when they asked why he did it. And he killed him. The man was unarmed. He said that he felt this man was armed and menacing these other cops. Well, why did the one shoot him in the back and the cops who were supposedly menaced not? Why didn't they shoot him? And this cop was charged with nothing. And you all think cops are great because you are one. I live in a community and I see what they do. I've seen them take little boys and make them get down on the street, on the ground. I was coming from a store and these little boys had a cap pistol, one of them had a cap pistol, and this female cop treated him like that was real. It was a cap pistol. You could see it's a cap pistol. He wasn't menacing anybody. She made him get down on his knees. That's what we see in our community. And if a black child sees his father treated like that, what's that going to make him think about these cops? See, there are things you all don't see or you play like you don't know it exists. Why is it that if there's a video of somebody doing something to a cop, they release that immediately? If it's a cop doing something to somebody, they won't release that. And that's why in Chicago, when these cops lie and say this black kid was approaching the cops menacingly, and that's why the cop shot him 16 or 17 times. And when they finally, the mayor, under pressure, released the video, the kid was walking away and the cop shot him all those times, and the other cops lied and they had the lying reports that showed where they told the lie. All of them stuck together. I don't see the cops as those who protect and serve in my community. The difference between the cops and ISIS, people want to say they cut your head off and so forth. When I made my comment, I didn't say cops cut people's heads off. I said the fear that white people have of ISIS is the fear that black people have of the police. I don't have any fear of ISIS. I have no fear of al-Qaeda. But tell me about a white cop, and now the black cops, and that's where the fear comes in because not only do they do it, they're going to get away with it and they know they'll get away with it and they stick together. So I'm letting you know what my attitude is and why I don't see a basis to give them this kind of protection. And they have guns. [LB638]

JIM MAGUIRE: Senator, you've given me a lot to...a lot of different scenarios and I will try to address some of them. I know that we're talking about the Seward Street incident, but wrongdoing was located, was identified. The Omaha police chief handled it and the judicial system played out. And that's...in regards to some of these assaults that have happened throughout the United States regarding police and the communities that they protect, all I can do is say this. I don't...if there is an officer out there doing bad things, I don't want to work with them--I don't know an officer anywhere that wants to--because, one, they're going to jeopardize my job, they're going to jeopardize my pension, and they're going to jeopardize my freedom. We want to get rid of them just as much as you do, but the process has to play out. There is a process

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for that. And whether or not you feel that they were justly charged or not, it's...I see it, too. There should be officers that I think have been disciplined too harshly and sometimes I do think that some of them haven't been disciplined harsh enough. But it's the system that has to play out. But regarding this bill, this is specifically talking about an ambush where it is targeting law enforcement and some of the incidents that you brought up, those were encounters with police but they were...the law enforcement certainly wasn't targeting them to kill them as if...as they are in this bill. [LB638]

SENATOR CHAMBERS: They knew what they did would kill that man when they...if I threw you down on the street and I had four buddies and I put my knee on your Adam's apple and you die, I say, well, I wasn't intending to kill him. [LB638]

JIM MAGUIRE: If I can respond to that? [LB638]

SENATOR CHAMBERS: Sure. [LB638]

JIM MAGUIRE: I know which incident that you are talking about. But looking at the video, you cannot tell if the person was on his...was on his back or his stomach, but there are certain policies when it comes to arresting suspects that require that you maintain control of that suspect. And almost historically throughout...I know that it's been taught in Grand Island and it's being taught at our department, the knee is not to be placed on their neck. It may look like it's on their neck, but the knee is supposed to be placed on their shoulder blades so that you can maintain control of that person, because there have been incidents where law enforcement officers have been killed by not maintaining control of a suspect that they have to arrest. [LB638]

SENATOR CHAMBERS: There was a black woman and a white man parked at Carter Lake doing nothing. A cop came up and the white man was behind the wheel. He was in the driver's seat. Guess which one the cop grabbed and threw down on the ground--the black woman. He didn't just throw her down on the ground. He slammed her against the side of the car. And they happened to have taken photographs, the two people, and you can see her blood running down the side of the car. And nothing was done. I brought it to Marty Conboy. I talked to Don Kleine about it. Nothing can ever be done. Nothing. [LB638]

JIM MAGUIRE: I don't recall. [LB638]

SENATOR CHAMBERS: You're looking at somebody who is treated, not personally, they don't bother me. I'm not...I don't play like I'm tough. I'm not going to let any man hurt me and I not try to put a hurting on him. And I don't carry guns and they do. They make us like I am. But, see, I

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try to restrain it so that I can try to sit in these places and see if we can do something with the law. I have a law degree. I try to do things by the law. I attack unconstitutional laws by writing briefs. But I'm not sitting there calmly and writing like somebody would write a novel. I am seething. And sometimes it's all I can do to function. Then I hear this kind of stuff by white people who have no idea of what they're talking about or what I'm talking about. A woman was driving her car and her car was struck by an unmarked police car. And I'm not going to keep going through these incidents because all it does it upset me and it doesn't affect anybody here. But I'm going to fight these bills tooth and nail so you all can tell the Attorney General, you can tell Don Kleine, and they can bring all the cops in this state and I will not be intimidated. I will say what I have to say. I'll say it on the floor of the Legislature and I'll do everything I can to stop these things from becoming law. I don't think they ought to put on a higher pedestal and that the life of a cop is more important than somebody else's. You know what somebody told me? And I'll tell you his name so you can talk to him later. He said, and he's in one of these categories. He said, I don't like this idea of our being given special protection under the law because we have guns. We can defend ourselves. But how about the little old lady, the mother who's with her child and she is attacked by a marauder or by a cop? What then? You all don't come here with bills like that. You get good pay. You get good benefits. White cops have killed black people. And then they say that it upset me so much that I can't be a cop anymore. So they get something like one-third of what they were making for the rest of their life, over \$1,000 a month, and they got away with murder, in my opinion. And you know why I'm saying this? A lot of people will whisper and pretend that they're such and such, but I want everybody to know exactly what I am, where I am, and let them write all their editorials about what I say because I've not killed anybody. I've not attacked anybody physically. I've gotten all kind of threats and I don't report them to the police. The only threat I reported that came to me here was to a member of the State Patrol, because this guy told...he wrote me a letter. I said here's...I'm not going to tell you who he is but I want you to know if he comes to my office and I won't use a weapon like a stick or a stone, but I'm going to hurt him and I want you to be able to say that I told you that I had this threat. So when I get through doing to him what I do to him, you'll know it wasn't me just picking on somebody. And he was bigger than I am too. I'm going to leave it alone now and I've said it to you because you are an officer. If you were just an ordinary citizen here supporting a bill like this, you wouldn't hear any of this from me. You represent all the officers who are cops and you said what I often say futilely. If the cop's job is to be professional, fight crime, apprehend criminals, cops have never arrested another cop when he was doing wrong in Omaha, never. One made a black woman perform oral sex on him, and she was smart enough to collect his semen on a plastic card. And, naturally, he denied it, but she produced the evidence. And I had talked to her. And when he went to trial, I think he had something to do with UNO, a professor from UNO came and testified as to his good character. Now he used his position as a police officer and he was given probation. [LB638]

JIM MAGUIRE: But he was still charged. [LB638]

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SENATOR CHAMBERS: Huh? [LB638]

JIM MAGUIRE: That officer was still charged. [LB638]

SENATOR CHAMBERS: Say it again. [LB638]

JIM MAGUIRE: That officer was still investigated and he was still arrested. And regarding the protections for law enforcement rather than the common citizen, if you want to call them that, if we want to expand this type of degree to a citizen, we certainly could. But I just don't see the specific targeting of the citizens at large as we are seeing regarding law enforcement and firefighters throughout this country. And we're just trying to get ahead of this before it makes its way into this state. And that's the intent behind this bill, is to get out in front and to ensure that if there are folks that are out there thinking about doing these sort of things, they know that the large gavel of the law is going to come down hard on them, and as well it should. [LB638]

SENATOR CHAMBERS: It won't make any difference. When they make up their minds to do this, they don't care about that at all. That means nothing because, first of all, they don't expect to get caught. [LB638]

JIM MAGUIRE: There may be some truth to that, but there still needs to be the added protections. It goes along with the enhancements with DUIs and some of these other assaults that happen. But there has to be...the punishment has to fit the crime and this is what we're trying to do. [LB638]

SENATOR CHAMBERS: Well, I'm going to leave it alone, as I said, except to say this for everybody in this room, for the media, let them write their editorials, this is going to be me against all the cops on this bill and we'll see if you all can bulldoze it through the Legislature. [LB638]

SENATOR KRIST: Thank you, gentlemen. Any other questions for Mr. Maguire? Thank you. [LB638]

JIM MAGUIRE: Thank you. [LB638]

SENATOR KRIST: Next proponent. Welcome back. [LB638]

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DARREN GARREAN: Thank you, Senator Krist, members of the committee. My name is Darren Garrean, first name D-a-r-r-e-n, last name Garrean, G-a-r-r-e-a-n. We rise in support of LB638 as amended. And I know you heard from Senator Bostelman as far as some events around the country over the last year--Youngstown, Ohio; and in Maryland--where there were firefighters that...paramedics that were sought out, shot and injured, one of them killed. It seems to be a trend. We talked about this on the previous bill. I just wanted...our concept or our thought that this bill is doing is a changing of from the incidence of a rising escalation in violence at a scene as opposed to somebody that turns it into a, lack of a better term, a sport similar to somebody would that would go out and hunt an animal. So what you're doing, in my opinion and in what we think, is you're changing the thought process of going from basically fighting or weapons or things that would happen, initiated on scene, to going out after the fact and, like I said, going out and hunting or turning that into a sport. And it is our opinion that there is a difference in that. And I think that's what this bill does. In order to be expedient, I'll close. And if there's any questions or comments, I'd be glad to answer. [LB638]

SENATOR KRIST: Any questions for Mr. Garrean? Seeing none, thank you very much. [LB638]

DARREN GARREAN: Thank you. [LB638]

SENATOR KRIST: Thanks for coming. Next proponent. Welcome, Mr. Stilmock. [LB638]

JERRY STILMOCK: Senator Krist, members of the committee, my name is Jerry Stilmock, J-e-r-r-y S-t-i-l-m-o-c-k, representing the Nebraska State Volunteer Firefighters' Association and the Nebraska Fire Chiefs' Association. Many communities, as you know, are protected and served by volunteer firefighters and volunteer medical personnel. When that page, that summons goes out, they leave their ordinary lives, as ordinary people, and they become extraordinary people. What we don't want to see happen is that they be subject to ambush or retaliation. I can only relate to you one incident, but it's a tragic incident. It involved a weapon, it involved a volunteer firefighter, and it was 30 miles away from the Capitol, just outside of Ashland. Take you back to June several years ago and it was a brush fire reported without a burn permit. Volunteer firefighters were summoned. When that happened, unbeknownst to the volunteer firefighters reporting, one of them...well, they were all shot at but one of them was struck by a bullet. So, yes, it's only one incident I can relate to you but, yet, it captures the essence of a small community, that they're being served by volunteers. And was it an ambush? Was it a retaliation? If anything, it may be closer to an ambush. The fact pattern of such, the details of that I'm unable to relate to you, but I can tell that it happened and it happened in Nebraska. And we're hopeful that legislation like this would prevent that from happening again. Thank you, Senators. [LB638]

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SENATOR KRIST: Thank you, Mr. Stilmock. Any questions? Seeing none, thank you, sir, for your testimony. [LB638]

JERRY STILMOCK: Thank you. Thank you, sir. [LB638]

SENATOR KRIST: Next proponent. [LB638]

DENISE KRACL: (Exhibit 7) Good afternoon. My name is Denise Kracl, D-e-n-i-s-e K-r-a-c-l. From 1999 to 2004 I was a probation officer in Nebraska. I supervised adults and juveniles, as well as felons and misdemeanors, but I did not supervise a high-risk caseload. In other words, I did not supervise violent offenders. My husband, my two dogs, and I lived outside of Schuyler, Nebraska. We lived over a mile from any kind of blacktop. We were fairly in the middle of nowhere. One afternoon I left my office--it was a nice sunny day--and I drove from downtown Schuyler. As I drove out of Schuyler, I observed a vehicle that had one of my probationers in it. He was heading the opposite direction. I was headed west and he was headed east in the middle of a three-lane highway. I drove to my house and saw that no one had followed me. I went outside and I played with my dogs for a little while. As I was standing in my driveway, I turn around to see my probationer pull in behind me. He turns off his car. He had blocked my car in. At that time, as I said it was a few years ago, I was 5'3" and about 130 pounds, standing with my dogs, no cell phone, in my lawn. The probationer, who was over 6' tall and male, walked up behind me. He stood over me and I started to figure out that this was not going to go well. I asked him how he had found me and he said that he had turned around, done over 100 miles an hour to try to find me, but when he couldn't, he searched every road, going up and down each of the roads, until he finally found me. I asked him how I could help him and he basically looked down at me and said, I found what I was looking for, and turned around and walked away. I was shaken, but this is part of my job to deal with people and to try to talk people down, so I went about my way. Later, about three months after this incident happened, I received a call from the sheriff's department. The sheriff's department immediately asked, where are you? And I said, I'm at my house. And they said, stay right there, lock all the doors, and we're sending a sheriff's deputy to you right now. They had received a panicked phone call from a woman who said that her husband was going to beat his probation officer's head in. That probation officer was me. I'm happy to say that local police came and got...the sheriff's department got to me first. And then the sheriff's deputy and I actually went to go look for the probationer to try to get him some help because there was no way that we were going to let him try to find me first but also not have him out in the public in that state. We were able to find him and the local sheriff's department was able to talk him down. The SWAT team had been activated but were not necessary because we were able to handle the situation. That situation could have ended very, very differently. I knew from that point on he knew where I lived and at any time could have come to my home. Thank you. [LB638]

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SENATOR KRIST: Thank you for your testimony. Any questions? Thank you so much for coming. [LB638]

DENISE KRACL: Thank you. [LB638]

SENATOR KRIST: Next proponent. Welcome. [LB638]

ANDREW YOST: (Exhibit 8) Thank you. My name is Andrew Yost, A-n-d-r-e-w Y-o-s-t. I stand here...I come today as a law enforcement professional, currently run the jail in Butler County, Nebraska, which is located in David City. I guess I'd preface by saying that I understand the concerns that Mr. Chambers has brought forward. Here to simply tell my story. On July 7 of 2011, in the early morning hours, an individual who was later arrested fired shots from a stolen firearm into my home. They were driving a moving vehicle. One shot penetrated the exterior wall, traveled through the exterior wall, through my son's bedroom, and lodged in the closet, within 7 feet of where my son laid sleeping. For the next several months I continued to do my job protecting the citizens, however, living with the thought that somebody had targeted me for whatever reason that was unknown at the time. In March 2012 the individual was eventually arrested. Investigation determined that the attack on me and my home was not due to anything I had done. It was not as a result of an arrest I had made. It was not as a result of any contact in a negative context I'd had. It was simply because there was a marked patrol vehicle parked in my driveway. The individual was eventually convicted, served a short time in the Department of Corrections, and has since been released. These responders referred to in this bill are mothers, fathers, husbands, children that race to help people, and I ask for your support on LB638. Thank you. [LB638]

SENATOR KRIST: Thank you, Mr. Yost. Any questions? Seeing none, thank you very much. Thanks for coming. [LB638]

ANDREW YOST: Thank you. [LB638]

SENATOR KRIST: Next proponent. [LB638]

JOE BONCORDO: Good afternoon, Senators. [LB638]

SENATOR KRIST: Welcome. [LB638]

JOE BONCORDO: (Exhibit 9) My name is Joe Boncordero, Joe, J-o-e, Boncordero, B-o-n-c-o-r-d-o. I work for Metro, the city bus company in Omaha, Nebraska, here and I don't know if

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everybody realizes how many and how often we're attacked. It's a daily thing to either be threatened. Every couple weeks it becomes a physical assault. What I'm asking you to do is interject us also into this bill to include mass transit operators. I could tell you story after story about our assaults on us. And I do have to agree with Ernie that sometimes, you know, it's the little guy that needs to be protected. Now we're sitting in a bus seat, unprotected, strapped in. And the problem with that is we cannot defend ourselves because we have no training, we have no weapons, we have nothing to protect ourselves. But the biggest problem is the very next day, if assaulted, we could be picking up that same exact person because of their civil rights to ride the city bus, mass transit. As a bus driver, I drive the same route, the same time, the same day, everything. And so he...and it has happened. In the last three months we had one operator assaulted four times by the same individual, and there's nothing we can do about it. We have had threats, we have had passengers try to urinate on us, we've been hit, we've been spit on. We just had somebody just a couple weeks ago, we can't drop nobody off in a construction zone, so the construction zone happened to go for five blocks. So the operator said, well, I'm sorry, I have to wait till we get to the end of this construction. Well, at the end of the construction the guy hits him, hits him in the temple, breaks his glasses. To this day he's still having headaches. We've had many, many assaults. In the mid-'80s we even actually had a bus driver shot and killed. There's nothing we can do to protect ourselves and nothing we can do to stop somebody from riding again. So what I would like for you to do is to insert "mass transit operators" in this to make it a penalty. On that packet that I handed out, there's 31 other states that have laws specifically for to protect mass transit operators because we are so vulnerable. We're defenseless. I mean can you consider yourself sitting there in the seats you're sitting in, strapped in, and somebody decides they want to hit on you? Well, the first thing you got to do is protect yourself. You can't go to take your seat belt off. There's nothing we can do. We need some kind of special laws to protect us. We are defenseless. We're not like other people who go to see the crime scenes and everything. We don't know when it's going to happen. Most of the time it's over a simple quarter, a simple transfer. Our job is to collect fares. If we challenge somebody, that's usually where the violence comes in. And we've had many, many people have been assaulted, spit on. I myself not too very long ago, we can't allow anybody to get on with their car battery because of the chemicals in the car battery, so he threw a cigarette lighter at me. Luckily, I stepped back and the lighter hit the window, broke the window. That's how hard he threw it at me, simply over I could not let him ride, doing my job. Every time we're attacked or threatened, it's simply because we are doing our job. So I, please, ask you to support LB638. [LB638]

SENATOR KRIST: Thank you, Mr. Boncordo. Any questions? Senator Baker. [LB638]

SENATOR BAKER: Thank you for being here. Do you feel heavier penalties would stop any of the confrontations that you've described? [LB638]

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JOE BONCORDO: No, it wouldn't have stopped the first assault, but I sure hope this bill would stop the second one if we could do something with the perpetrators. What I would do is we could post inside our buses the actual law. I think once the word got around, because all of our...a lot of our riders are regular riders, and if the word did get spread throughout the ridership, I think it would cut them down. We're not going to stop them all, I know that, it's (inaudible) to think that we could, but if we could just slow this down. You know, I know I've listened to you guys. You talk about other cities and other states. Like I said, I got 31 other states. In New York City, every 36 hours somebody is violently attacked, an operator is violently attacked. It just happens all over. Even passengers are violently attacked. [LB638]

SENATOR BAKER: Thank you. [LB638]

JOE BONCORDO: You're welcome. [LB638]

SENATOR KRIST: Thank you, Senator Baker. Thank you. Senator Halloran. [LB638]

SENATOR HALLORAN: Thank you, Senator Krist. I would be supportive of your request, but just for the clarity, we've been kind of given the impression that...kind of been given the impression that cops are worse than criminals. Were any of these people that assaulted you cops or parole officers? [LB638]

JOE BONCORDO: No. [LB638]

SENATOR HALLORAN: Firemen... [LB638]

JOE BONCORDO: No, just... [LB638]

SENATOR HALLORAN: ...or first responders? [LB638]

JOE BONCORDO: No. [LB638]

SENATOR HALLORAN: So generally, it was just someone in the public? [LB638]

JOE BONCORDO: Just...yeah. Yeah. [LB638]

SENATOR HALLORAN: Okay. Thank you. [LB638]

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JOE BONCORDO: Thank you. [LB638]

SENATOR KRIST: Thank you, gentlemen. Thank you for coming. Next proponent. Welcome. [LB638]

CRAIG GOTTSCHALK: (Exhibit 1) Thank you. My name is Craig Gottschalk, C-r-a-i-g G-o-t-t-s-c-h-a-l-k. I'm here representing myself, but I am also the assistant director of the Hall County corrections facility in Grand Island. It was two days ago that I was informed that LB638 was coming before your committee. I appreciate your time and that to look into it, and was made aware that correctional officers at the local level were going to be added to the bill as part of the process. It's very much appreciated, in my perspective and speaking for my officers and brothers and sisters that work in that arena, because local corrections officers interact with and address our citizens at sometimes the most dangerous, volatile, and emotional points in their life following their initial arrest as well as the beginning of their incarceration. It is something that their lives and emotions are thrown into a whirlwind, which they don't appreciate, have a hard time understanding, and cannot fully fathom what's going on for...to them at that point in time until they actually get back to maybe a sober level to where they can emotionally understand what's going on and intellectually understand the situation that they're in. Those initial 24 to 48 hours when they come into our facilities at the local level, they are at their most traumatic and stressful point of their lives, which at the same time puts the correction officers in those settings in a challenged situation as well. I have worked as a local correctional officer on the floor as a supervising sergeant for many years and now I am correctional administrator and have been on the receiving end of two inmate attacks on myself. Have responded to numerous attacks and assaults on other officers as well as been subject to several written, verbal, and specifically planned out threats to myself, to my family and their lives, health, and safety. While these assaults and these threats are an accepted part of the risk that I accept going into my job each day, it is something that Nebraska's current legislation, as was being proposed before they added the correctional officers at the local level in, left some gaps, and I appreciate the addition of the local correctional facilities and their officers into this process. It has been an issue for my family that, you know, our lives have changed because of my choice to become a correctional officer just in how we carry ourselves in the general public because of the threats that I have received, the ones verbally to a point where it was voiced by an inmate in our facility that they were going to, in essence, open my wife and kids from gullet to groin, wrap the intestines around my neck, and watch my reactions as they died. I understood it was a threat. It was coming from an incarcerated individual who was behind a locked and secured cell wall. I was not necessarily personally threatened and felt threatened, but understood that if and when the individual came out, he knew who I was, he knew the facility I worked in and, through the Internet and use of just common media, had an opportunity to find out where I lived and where my family resided at. His well-thought-out plan and as was stated to me was by Christmas that following winter that this incident would occur. And again, it was something that at the local level, an correctional officer

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and that, that's my choice to put myself at that risk. The family, though, that has come along in that process. And I appreciate the recognition of the local correctional officers in this plan at this time. With that, I would encourage your support for the bill as it moves forward, and ask if you have any questions. [LB638]

SENATOR KRIST: Any questions? Thank you, Mr. Gottschalk. [LB638]

CRAIG GOTTSCHALK: Thank you. [LB638]

SENATOR KRIST: Next proponent. First opponent. [LB638]

SPIKE EICKHOLT: Senator Krist and members of the committee, Spike Eickholt, first name S-p-i-k-e, last name E-i-c-k-h-o-l-t, appearing on behalf of the Nebraska Criminal Defense Attorneys Association as their registered lobbyist. We are opposed to the bill. I visited with Senator Bostelman earlier this week to explain that we would be opposing his bill, and at that time he told me about the amendment, AM325, that he was going to bring to the committee. So my testimony is going to be directed toward that. It's our understanding that AM325 does essentially three things. First, it adds a new category to the sort of...I don't know if you call them special victims or super victims of sort of designated individuals who are, if a person assaults those categories of people, it's an enhanced felony, and it adds the local correctional officers. We oppose the adding to that list and it's...we understand sort of the...we do understand the issue and the dynamic that many of these people who work on the front lines of law enforcement and the front lines of first responders have to deal with. But as we've testified in years past when this list is added is that we get into the scenario where we are adding more and more categories and elevating more and more levels of criminal actions to the felony-level offense. We've proposed in the past, when we proposed making these things felonies, if it is...I just want to remind the committee, as everyone probably knows, it is against the law to assault anyone. It's an assault. If it's a third-degree assault, it's a misdemeanor. If it's done with a weapon, it's another felony, it's a higher felony. And if it's done causing serious bodily injury, it's a very serious felony. There are other crimes that can be added to those kinds of activities: use of a firearm, use of a weapon, terroristic threats, a whole series of felony offenses. And we would argue as an organization there is enough crimes on the books with enough ample penalties. I think Senator Schumacher testified earlier this week on another bill that a prosecutor can easily craft a series of offenses against somebody and put that defendant away very easily. So we would submit that adding another category to the felony level of assault on a first responder or whatever you want to categorize that or a peace officer is not necessary. Secondly, the second thing the bill does is it creates this new crime of ambush on an officer, and that's on page 4 of AM325. We are opposed to that for some of the reasons that Senator Chambers explained before that we're making it a new Class IC felony to sort of, without giving notice to the victim, if you will, to cause a serious

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assault. It's already against the law, whether the intended victim sort of realizes or anticipates the assault or anticipates the ambush or whatever you want to call it. Somehow making a new crime where the victim does not anticipate it seems illogical. Some of the terminology here, I would just submit as a practicing lawyer, is going to be litigated quite a bit. Line...page 4, line 13 has the term "attacks." That's not defined anywhere in the statute, neither is "ambush." Page 4, line 18 has "without warning." That's also not sort of defined. And similarly on page (sic--line) 19, "unsuspecting," and then line 20, "unexpectedly." Those things aren't defined. It's unclear if that's an objective test, if it's a subjective to the victim or to the perpetrator, and those things just are not delineated. And if the committee is going to do something with that, we would respectfully request some sort of definition be done to that, if the committee wants to do that. Page 7 deals with the third part of the AM and that is sort of this notion of a threat, creating a threat against a judicial officer or other types of thing. On page 8 of AM325, line 14, judicial officer does include the category of public defender. Just so the committee is clear, we did not request that. We oppose that, this amendment, or this bill even with that category. But if you look at pages 7 and 8, it sort of criminalizes this notion of making a threat against someone or someone's property if that person is somehow discharging or has discharged his or her lawful duties. And the categories of people who are subject to this threat include judicial officers, peace officers, probation officers. Judicial officers are judges and are lawyers. As a public defender, I've been threatened repeatedly. I've been assaulted, never serious, nothing like the people you've heard talk...testify earlier today, but I have been. I've heard my clients mutter and curse and disparage judges all the time. You're dealing with unhappy, unpleasant situations. I'm almost out of time. One of our members in 2013, an NCDAA member, Todd Elsbernd, and I'll spell his name for the record, E-l-s-b-e-r-n-d, was a criminal defense lawyer. He was in private practice in Grand Island. He was murdered ambush style by a litigant on the other side. As he represented...Todd represented a woman who was divorcing her soon-to-be ex-husband. The other opponent, the other...the guy who killed Todd, killed his wife and then killed Todd. I understand the desire to do something to target this ambush warning. And I think Senator Baker asked about before would the increased penalty be a deterrent. And I'd argue, representing people before, that that really is not what people are thinking about in the situation. When they commit these acts, they're thinking about getting caught. And the reason I don't think it's a deterrent is that the offender, the person who killed Todd Elsbernd, ended up killing himself in prison. He wasn't thinking about what the penalty was at the end of it when he did what he did. So we would encourage the committee to not advance this bill or the amended bill. [LB638]

SENATOR KRIST: Spike, you're a frequent visitor here. You owe us 30 seconds. You owe 30 seconds... [LB638]

SPIKE EICKHOLT: I know. [LB638]

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SENATOR KRIST: ...on your next round. (Laughter) Thank you for your testimony. Any questions? Senator Halloran. [LB638]

SENATOR HALLORAN: Thank you, Senator Krist. Just a quick question: Are laws mostly intended to retard crime from happening or to deal with it after it has happened? [LB638]

SPIKE EICKHOLT: Well, I think it's both. [LB638]

SENATOR HALLORAN: I understand that, but primarily what's the purpose of the...what would be the primary purpose of the law? [LB638]

SPIKE EICKHOLT: I think essentially it's based on controlling people's behavior. I think that people know, if I'm answering your question, I think that people know when they assault an officer it's against the law. I'll tell you that most of the assaults on an officer, and this is not to diminish the seriousness of these situations, but almost all the assaults on an officer that I've had have been intoxicated people being arrested for something else, panic, overreact, and in some sort of physical struggle cause injury. Many times it's incidental to the officer. And again, that can be very dangerous to everyone involved. But I think ultimately criminal law is to correct and control people's behavior. [LB638]

SENATOR HALLORAN: I would suggest it's not working very well. [LB638]

SPIKE EICKHOLT: It might not be, but... [LB638]

SENATOR HALLORAN: In any respect with almost (inaudible). Speeding (inaudible). Anyway, I rest. That's okay. I don't expect to get (inaudible). That's fine. Thank you for your testimony. [LB638]

SENATOR KRIST: (Exhibits 1, 2, 3, and 4) Any other questions? Thanks for coming. Any other opponents? Anybody here in a neutral capacity? Let me read in letters for LB638: Craig Gottschalk in support; Debbie Von Seggern, Nebraska Emergency Medical Services Association; Carrie Rodriguez, District 5 chief probation officer; and Craig Loveless in support. We have none in opposition on this bill. That concludes. Would you like to close? [LB638]

SENATOR BOSTELMAN: Yes. I would like to thank all of the testifiers today for coming and testifying. I think it was a worthwhile discussion that we had. I thank the Judiciary Committee for hearing the testimony today and on this bill. I think a particularly identified problem has been presented in LB638 and its amendment, and it's on the right path to addressing them. This is a

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public safety issue. We need to protect and support those who protect and serve us. This bill is not creating something entirely new. We already have the framework here in Nebraska for this. This bill is just for narrowing and identifying particular types of these attacks that are problematic and serve...and severe and need to be addressed. It is, again, a public...it's a public issue. It's a public safety issue. I'm willing to work with the committee and others on this to address concerns and get legislation advanced that will accomplish the intent of this bill and address any issues that are being faced. You can always think of more to add or better ways to clarify and to improve a statute, but at the end of the day this bill is addressing a specific and identified problem and is a step in the right direction. I thank you. [LB638]

SENATOR KRIST: Thanks. Senator Chambers. [LB638]

SENATOR CHAMBERS: Senator Bostelman, I gave my strong opposition comments to a man very capable of hearing what I had to say. He was not a private citizen speaking. I do not dislike him. I didn't know he was going to support a bill like this. When he first spoke I said this is not the only reason I like him. So none of this is personal. But ever since...well, I was in high school and I would speak out for my community. They knew I wasn't afraid of anybody. And when I was a kid in high school, when the police did something people would call me. When the television people wanted an interview, I was the one, a kid, who would come and talk to them because I was not afraid. And I knew why those other people were afraid, but if something happened to me, then it happened. But somebody had to say something. So here's what I'm going to do, because I could say anything. These people will not be aware of it but I'm going to hand out some material to my colleagues to show how I react to things. I worked in a barbershop and this happened when I was not there. None of us were there. In the early morning hours, an unmarked police car went by and shot out the windows with a shotgun. A neighbor saw it and reported it. At that time, I was thinking that if things like this were brought to the attention of the authorities, something would be done. So I contacted the FBI. They conducted an investigation and they said, since there's no evidence that whoever did this was intending to deprive this man of his civil rights, there is no action that will be taken. The windows were shot out; no intent to deprive me of anything. There were some youngsters passing out handbills because cops had killed a young black man, and they were doing it around Tech High and they were arrested. And I was furious because I had helped prepare the handbills--not to be given to kids but I was handing them out--described the cops as dangerous. So since they could be arrested for handing these out, you know what I did? I went downtown to the city hall and when the chief of police and the mayor came out of that building, I handed them the handbills. I said now if you're going to arrest these young black kids, arrest me. And they didn't do it. Then they dropped the charges on the kids. Cops knew what was going on. They didn't do anything. I had to do it. I will show you where the FBI investigated me for a considerable period of time and I was flattered when I got some of the information by way of a public records request on at least two occasions. J. Edgar Hoover was the director at that time. He had Robert Kennedy shaking in his boots, had

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JFK shaking in his boots and other people in Washington, D.C. But the agents were told and this is what they put in the report. The director said, do not confront him publicly or he will embarrass the agency. The FBI, going to leave me alone. I know what I'm talking about. Another young black guy got killed. Two cops well over 6 feet, over 200 pounds on top of him. A neighbor across the street had described the (inaudible), the punches falling on him. One cop said this kid reached around, took ahold of his pistol in his holster and tore the holster and pulled it out. I looked at the police reports and I think one cop shot the other one, and I said so. But to show me what they thought of me, these two guys were given an honor, an award of valor. So I made a large sign like those sandwich boards people carry. And the Omaha Police Department sits...it's downtown. It sits back from the street. There's kind of a little wall around it. Then there's...I guess you might call it a pavilion or something like a courtyard in front of it. They were going to have this ceremony. So you know what I did? I went down there alone and I had my sandwich board. I said killing was not good and nobody should ever be rewarded for it. And as the cops filed in and they look daggers, their families, and I stood down there among them, not like cops--I got guns and I'm going to attack unarmed people. I went down there like you see me now, no weapons, nobody, just me. And I had other one-man protests. And I'm going to hand this out to all my colleagues and you will see that I'm not lying. Sheriff Dunning, who just endorsed Heath Mello, and now there's a dispute between him and the mayor, the sheriff, I was going to conduct my protest at the courthouse, which I did. The sheriff was a part of a group of law enforcement people, state senators, judges, and others, and they were going to have a meeting, and he missed it. And he put something out on the Web--I guess they had it then--that he was sorry he missed the meeting, but he heard Senator Chambers was going to come downtown for a one-man protest and, in hopes that he would be arrested, I wanted to be there to watch as the Omaha police arrested him. Senator Schimek was outraged and she wrote him a response, how unprofessional that was. She didn't use profanity. But, see, I put myself in the same harm's way of the people in my district. But they don't put their hands on me and I don't know why. But I'll tell you this. Everybody is going to die. We just don't know when. And a cop could blow me away and there wouldn't be any charges against him. I know it. Everybody in my community knows it. But I'm not silenced. I'm not frightened. I don't tell people pass a law to protect me. I don't carry guns. And yet I see these cops coming in here terrified: I need a gun because my family. I had a family. I've had my children, when they were small, menaced by the police and they'd laugh. And I'd come home and I'd see the police car and not able to catch it but I'd run after the car and then they'd take off. But one thing that did: The cops could look out the window and laugh at me, but it gave me kind of an iconic status in my community because here was a black man willing to chase armed police away from his small children. That's just a little of what I have personally experienced, and I've seen a lot more. And as cowardly as these cops are, if they had gone what I had gone through they could not function. They would be hiding. I don't hide from anybody. I don't bother anybody, but I'm not going to let anybody bother me to the extent I can prevent it. And here's why I say this to you. You don't know me. Undoubtedly you heard the things that these white people have heard. That's why Senator Halloran walked out

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of here. I know what they are thinking because they've said it. But I don't walk away. I stay and I confront it and I don't hide, and I don't need a whole lot of company along with me. So the cops have a senator who will speak for them, they have senators who will support them. And when I speak about the problems in my community, the senators en masse on the floor of the Legislature wanted to read the riot act on me. The World-Herald editorialized against me. The Lincoln Journal Star editorialized against me. And I stayed in that Chamber and then I laughed at them and I told them here's the difference between the police and ISIS. ISIS will tell you what they'll do to you and they'll do it. The police put on their car, we protect and serve, and they lie. So that's the environment and the background that I come from. And I don't believe in ambushing. White people will, as was done the first day of the Legislature to some of my colleagues. But it wasn't against the law to ambush a senator. I don't do things to you all out of ambush. I tell you what I'm going to do and I come at you and I do it. I'd be ashamed to bring something like this for these people who are armed and dangerous. But you have a different orientation. You see the world through different eyes. You think what you're doing is totally appropriate, and for you it is. But to the same extent you want to come and protect these cops who've got the guns, as I've said before, my loaded mouth they fear more than a loaded gun. And I'm going to protect my community to the extent that I can. And my community doesn't comprise just black people in the 11th District but all of the people in this state who have had the police set upon them because they're unpopular kids in a neighborhood. They're the guy in town who will talk back to the sheriff or offend some white rich people. And you know why I know this? Because they call me, asking me for help. That will let you know that whatever I've said while you're in that chair, it has nothing to do with you personally and you're doing what you think is right, and that's good. But I'm going to do what I think is right, too, and I say this for those who are on a par with me and can talk back to me. So however way you'd like to respond, I will sit here and listen to you. [LB638]

SENATOR BOSTELMAN: I appreciate your comments. You're right, you know? You will defend and you will speak for those who you feel is right and I will do the same and I think that's mutual respect for an individual that we would have. I still feel that in this case we've had good dialogue. We've had good discussion between those who are here that have testified, and I appreciate that opportunity. [LB638]

SENATOR KRIST: Thank you, gentlemen. That concludes the hearing on LB638. And back to the Chair. [LB638]

SENATOR EBKE: Thank you, Senator Krist, for flying the plane while I was gone. (Laugh) We are going to open our hearing on LB577. Senator Hilgers. [LB577]

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SENATOR HILGERS: Thank you, Madam Chair, members of the Judiciary Committee. My name is Mike Hilgers, M-i-k-e H-i-l-g-e-r-s. I'm elected to represent District 21, which covers the citizens of northwest Lincoln and Lancaster County. I introduced LB577. That bill dealt with a small piece of what is now LB638, which is the ambush portion. I introduced that, intending to work on that during the session and maybe bring some amendments to the committee because I believe in that, in providing some sort of deterrent effect and punishment for those who would ambush our police officers and law enforcement officials. Because that is now part of LB638 and because time on the floor is limited and I don't think a motion to withdraw would have been time effective, I'm going to ask this committee to IPP LB577. [LB577]

SENATOR EBKE: Okay. Thank you. [LB577]

SENATOR CHAMBERS: With pleasure. (Laughter) [LB577]

SENATOR EBKE: Thank you, Senator Hilgers. [LB577]

SENATOR HILGERS: With extreme prejudice? [LB577]

SENATOR EBKE: I don't guess we need to do anything else. Anyone...anybody want to challenge him on that IPP? [LB577]

SENATOR KRIST: Just a question: Is anybody out there adamant about testifying on this bill in any capacity? Because if you are, that's your right, but it's been requested to be IPPed, so just to cover (inaudible). [LB577]

SENATOR EBKE: Okay. Thank you. [LB577]

SENATOR KRIST: Thank you, Chair. [LB577]

SENATOR HILGERS: Thank you. [LB577]

SENATOR EBKE: Okay. [LB577]

SENATOR MORFELD: Do you want to close on that or...? (Laughter) [LB577]

SENATOR EBKE: Given that, I guess that closes the hearing on LB577. We will move to LB623. Senator Wishart. [LB577 LB623]

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SENATOR WISHART: Well, good afternoon, Chairwoman Ebke and members of the Judiciary Committee. My name is Anna Wishart, A-n-n-a W-i-s-h-a-r-t, and I represent the 27th District in west Lincoln. I am here today to introduce LB623, a bill that would increase the penalty for an assault on a county correctional officer. In the two years I spent canvassing District 27 when I was campaigning for the Legislature, I met many corrections employees who lived in the district. I decided to bring this bill on their behalf. In 2014, the Legislature made an assault on a state correctional officer and first responder an aggravated offense. It is my intent with LB623 that county correctional officers be included in this category. LB623 creates the category of public safety officer and includes a peace officer, a probation officer, a parole officer, a firefighter, an out-of-hospital emergency care provider, an employee of a detention facility, and employees of the Department of Health and Human Services in specific instances. As the committee has already heard, along with Senator Hilgers, this bill has been amended into Senator Bostelman's bill, LB638, and as all three bills provide increased protections for our first responders. Senator Bostelman has obviously presented the amendment to the committee and I believe he's already spoken to any of the specifics included in his amendment, so thank you for your consideration. And I would be happy to answer any questions about LB623 that the committee may have. [LB623]

SENATOR EBKE: Questions about LB623? Senator Chambers. [LB623]

SENATOR CHAMBERS: Did you say you'd be happy to answer questions? [LB623]

SENATOR WISHART: Yes. [LB623]

SENATOR CHAMBERS: To show people that I'm just not too tight with you, even though I've expressed great respect for you on the floor of the Legislature, I have to make you unhappy today by not asking you any questions. (Laughter) [LB623]

SENATOR EBKE: Anything else? Okay. [LB623]

SENATOR WISHART: Thank you. [LB623]

SENATOR EBKE: Do we have proponent testimony for this? [LB623]

SENATOR WISHART: And I'll be here to close. [LB623]

SENATOR EBKE: Okay. Thank you. And since...given Senator Hilgers, while you're stepping up here, at Senator Hilgers' request, I did not read letters into the record, but I will now. LB577

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had two letters: one in support from Debbie Von Seggern of the Nebraska Emergency Medical Services Association; and one opposed from Amy Miller of the ACLU. That, again, was for LB577. Go ahead. [LB623 LB577]

MIKE MARVIN: (Exhibit 3) Good afternoon, Senator Ebke, members of the committee. My name is Mike Marvin. I'm the executive director of the Nebraska Association of Public Employees, Local 61. We are the collective bargaining agent for over 10,000 Nebraska state employees, including the corrections officers. I'm here today to urge your support of LB623. I am not going to talk long here. I have some people behind me that are going to testify. It's getting late in the day. I will let them come up and testify. But I wanted to be on the record that we understand that this bill is going to be merged in with two other bills and that we are supportive of that merger, and we would ask you to move this bill out of committee and on to the floor. And with that, I would be happy to answer any questions. [LB623]

SENATOR EBKE: Senator Chambers. [LB623]

SENATOR CHAMBERS: You've testified before this committee on other occasions, right? [LB623]

MIKE MARVIN: Yes, I have, Senator. [LB623]

SENATOR CHAMBERS: And have I been present at those hearings? [LB623]

MIKE MARVIN: Yes, you have, Senator. [LB623]

SENATOR CHAMBERS: So you know what my tactic is, don't you? [LB623]

MIKE MARVIN: Yes, I do, Senator. [LB623]

SENATOR CHAMBERS: And you came here knowing that. [LB623]

MIKE MARVIN: I came here knowing that, Senator. [LB623]

SENATOR CHAMBERS: I have a question. [LB623]

MIKE MARVIN: Yes. [LB623]

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SENATOR CHAMBERS: If you were in one of those situations that they sometimes put on the "Twilight Zone" and you saw the Titanic docked but you also saw what was in store for it, and you are the kind of person who when you had these visions you knew they came true, would you book passage on the Titanic? [LB623]

MIKE MARVIN: No, I would not. [LB623]

SENATOR CHAMBERS: Your bill may have done that very thing. I just thought I'd throw that out there. (Laughter) I don't have anything. [LB623]

MIKE MARVIN: Thank you, Senator. [LB623]

SENATOR EBKE: Senator Baker. [LB623]

MIKE MARVIN: Yes, Senator. [LB623]

SENATOR BAKER: Thank you, Mr. Marvin. Looking at your letter here,... [LB623]

MIKE MARVIN: Yes. [LB623]

SENATOR BAKER: ...you speak of, "One other issue that needs to be raised is... [LB623]

MIKE MARVIN: Yes. [LB623]

SENATOR BAKER: ...at the Regional Centers the people that suffer the most assaults are the Mental Health Security Specialist." Are you suggesting these criminal penalties be applied to mentally ill people as well? [LB623]

MIKE MARVIN: Senator, those people at the regional center that are patients there, not all are not capable of making a decision between right and wrong. Some who have been adjudicated or some who have...are in the midst of a psychotic episode would not be eligible to be charged. But there are others there who can be charged and I would urge that they be charged. And I did forget to touch on that issue. I'm glad you raised that. I sent this to Senator Wishart. I didn't catch it till yesterday and I have not had a chance to have that discussion with her. But, yes, the mental health security specialists are the people who do the day-to-day care and under the current law that says healthcare professionals, they are not considered professionals because they don't have

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a license. And that's why I'm asking that we look at that as we go forward with these bills.
[LB623]

SENATOR BAKER: So right now a person at the regional center who's there, they've been committed in some manner, they are subject to the penalties of law at present? [LB623]

MIKE MARVIN: Yes, unless they've been adjudicated as--this is my understanding--unless they've been adjudicated as not responsible, they are. Not everybody, because they are there, doesn't know the difference the between right and wrong and can make their choices based on right and wrong. But if they've been adjudicated as not responsible, you're talking a whole different thing, or if they're in the middle of a psychotic episode then it is a different situation.
[LB623]

SENATOR BAKER: Thank you. [LB623]

MIKE MARVIN: Okay. [LB623]

SENATOR EBKE: Any other questions? Thank you for being here today, Mr. Marvin. [LB623]

MIKE MARVIN: All right. Thank you. [LB623]

SENATOR EBKE: Next proponent. [LB623]

RALPH HEALEY III: Senator Ebke and the members of this committee, I appreciate your time. My name is Ralph Healey, R-a-l-p-h H-e-a-l-e-y. I'm an employee of the Youth Rehabilitation and Treatment Center in Kearney, but I'm not representing the agency. I'm here on my own time. LB623 is strongly supported by my coworkers and I. In the last year at YRTC-Kearney we went from an interim administrator to a full-time administrator who brought common sense to our operations and things started to get better. Since then, our leader has been passed around and we now have another one. But things are starting to get a little better but it's taken quite a lot of time. In that same year they have been doing studies, trying to figure out and lower our assault rates in our facility. We went from a high of 40 to about an average of 21 sitting today. With 110 front-line staff in our facility, with 21 of them being assaulted every month, that means you have a 19 percent chance of being assaulted every month, month after month after month. That means our people are getting assaulted, on average, about twice a year. I feel this would help encourage our youth to think more before they act. Currently it's very difficult to charge a youth. Their frequent argument is, well, they're kids. So they have to stack up quite a large number of assaults before they're even considered or brought before a court. The rest of the time they just get a letter

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saying: Please don't do this again; we take this very seriously. Well, they get that three or four times and they start to laugh about it. So when they finally get 15 or 25 assaults, they're finally brought before a court. They're a youth. It's going to be pleaded down. And they might serve one or two, and get three, maybe nine months with some good time for that. I feel this would help increase that severity so when it does get pled down and maybe they only have one left, well, they've got one serious crime under their belt to account for the 25 that could have been dropped in this case. These may be kids but they're big and they hurt people frequently, and we have a large number of people getting hurt at our facility and it's created a very high turnover for us. I'd ask that you please consider this bill because youth with no consequences or limits become adults that cost taxpayers piles of money in court and probation costs and then fill our crowded prisons. Maybe this bill won't accomplish what it needs to accomplish, but we'd like to see it passed because I feel it would strongly help the people at our facility since we're currently excluded in this bill, would help unexclude us from some of the protections. Thank you. I'm ready to take questions if you have any. [LB623]

SENATOR EBKE: Thank you for being here. Any questions? Guess not. Thank you. Next proponent. [LB623]

JIM MAGUIRE: Good afternoon, Senators. Jim Maguire, J-i-m M-a-g-u-i-r-e. I'm president of the Nebraska Fraternal Order of Police. A lot of the comments that have already been made would be repetitive if I went through an actual statement. I just want to be on record as supporting this, this bill. Thank you. [LB623]

SENATOR EBKE: Questions? Okay. Thank you. [LB623]

JIM MAGUIRE: Thank you. [LB623]

SENATOR EBKE: Next proponent. [LB623]

ARRON ADAMS: Good afternoon. My name is Arron Adams, A-r-r-o-n A-d-a-m-s. I have worked at the Youth Rehabilitation and Treatment Center in Kearney for nearly 10.5 years, seen some big ups and downs. I've talked to several of you in meetings before. We are in support of this bill and the merger with the other bills as well. Something I always want to remind you guys is we're not working with Charlie Brown, Linus, and the rest of the "Peanuts" gang. We've got some big kids up there that are up there for some serious issues. I brought along our annual report from last year to give some of you an idea of what we have: 27 youth were up there for assault; 2 were up there for assault of an officer or healthcare professional; criminal mischief, 13--that could be anywhere from assault to whatever it may be; 2 for sexual assault; 1 for strangulation; and there are several other ones, probation violations, that could be an assault as

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well. So we're looking at nearly half of our youth are up there for a violent crime. We're not working with first-time offenders. But I also want you guys to take a look at the number of youth that we have up there and the problems we have in the adult system. The people in this room have spent years trying to correct some of those problems in the prison system, and we've been neglected in the juvenile system. And this might be a way of strengthening that by showing that there are some consequences. I want to reiterate what Ralph just said. We understand that these youth aren't going to get prison time if they shove one of us or if they happen to assault us in some way. We don't expect that necessarily. But what we are dealing with, and we hear it on a daily basis, is, well, nothing is going to happen. And we have really no grounds to stand on. We send a letter to the State Patrol. The State Patrol investigates and decides if there's charges filed. We've got some youth up there with 20 or 30 assaults--nothing happens. There's internal discipline that we deal with as a facility. Until they end up hurting somebody severely does the State Patrol then move forward to press charges, and then that youth has 30-some charges he's facing that are going to be pled down to 1 or 2. I also want it to be known that a lot of these youth go to foster homes and group homes, and we're giving inaccurate information if we're not creating a paper trail of documented assaults on our employees. If one of these youth was going into your home, you'd want to know exactly what you're working with, wouldn't you? I would ask you to think about that. So it's kind of a way to keep everybody on track and make it equal. And what we're really pushing for is to make it a proactive approach to helping with the adult system as well. [LB623]

SENATOR EBKE: Thank you. Any questions? Senator Halloran. [LB623]

SENATOR HALLORAN: Thank you, Mr. Adams, for your testimony. We ought to job shadow you for a couple weeks. [LB623]

ARRON ADAMS: Yes, you should. We welcome that. [LB623]

SENATOR HALLORAN: It would be helpful for us to understand what you're working with. But thanks for your testimony. [LB623]

ARRON ADAMS: No problem. [LB623]

SENATOR EBKE: Anything else? Okay. Thank you for being here. [LB623]

ARRON ADAMS: Thank you. [LB623]

SENATOR EBKE: Next proponent. [LB623]

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ROBIN SMITH: Good afternoon. I'm Robin Smith, R-o-b-i-n S-m-i-t-h. I don't have a prepared statement. I kind of rode along. But I've dealt with this for...I'm a 30-year employee of the institution, or a little more. I've been dealing with this and with the Legislature for about 15 years. I can't really speak any better than these two did, but it's been, like I said, it's been an ongoing problem. And I'm here just to support that bill. [LB623]

SENATOR EBKE: Any questions? Thank you for being here today. Any other proponents? Opponents? [LB623]

SENATOR MORFELD: Four minutes, thirty seconds. [LB623]

SENATOR KRIST: Yeah, 4 minutes, 30 seconds. [LB623]

SPIKE EICKHOLT: That's right. (Laughter) Hi. Good afternoon, Madam Chair, members of the committee. Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t, appearing on behalf of the Criminal Defense Attorneys Association testifying in opposition of LB623. I spoke with Senator Wishart earlier this week to explain the reasons why we are opposed. I testified earlier to the component that was, I believe, her bill that is in the amendment to Senator Bostelman's LB638, and I gave the reasons why we oppose the addition of this category of enhanced offense. I'm not going to restate that point or those points. I just ask the committee consider those points when you decide what to do with this bill. [LB623]

SENATOR EBKE: Okay. Any questions? I think you beat the clock. (Laugh) Thanks for being here. Any other opponents? Any neutral testimony? Senator Wishart. [LB623]

SENATOR WISHART: Happy to answer any further questions. [LB623]

SENATOR EBKE: Any questions? You hit a Friday afternoon. (Laugh) Thank you. [LB623]

SENATOR WISHART: Thank you. [LB623]

SENATOR EBKE: (Exhibits 1 and 2) We do have a couple of letters for LB623: one from Amy Miller of the ACLU, opposed. Okay, is this in opposition as well? And one for Corey O'Brien of the AG's Office in support. Okay, that concludes the hearing on LB623. [LB623]

SENATOR KRIST: Can I say it? [LB623]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

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SENATOR EBKE: Yes. [LB623]

SENATOR KRIST: You don't have to go home but you can't stay here. [LB623]

SENATOR EBKE: There we go. (Laughter) [LB623]