

LATHROP [00:00:00] [RECORDER MALFUNCTION] We'll finish with a closing statement by the introducer if they wish to give one. We ask that you [RECORDER MALFUNCTION] Brandt, to my left, and work our way across the panel.

BRANDT [00:00:18] I'm Senator Brandt from District 32, Jefferson, Thayer, Fillmore and Saline County, and southwestern Lancaster County.

PANSING BROOKS [00:00:26] Hi. I'm Senator Patty Pansing Brooks. I represent District 28 right here in the heart of Lincoln, so welcome.

LATHROP [00:00:38] No applause. [LAUGHTER] Just kidding.

MORFELD [00:00:41] Oh, right here? State Senator Adam Morfeld, northeast Lincoln.

SLAMA [00:00:48] State Senator Julie Slama, covering Otoe, Nemaha, Johnson, Pawnee, and Richardson Counties in southeast Nebraska.

LATHROP [00:00:55] And it looks like Senator DeBoer is just [RECORDER MALFUNCTION] pages are Alyssa Lund and Dana Mallett, both students at UNL. On the table inside the door when you came in, you'll find a yellow testifier sheet. If you're planning on testifying today, please fill out one of those sheets and hand it to the page when you come to testify. This helps us keep an accurate record of the hearing. There's also a white sheet on the table, where Senator Kolterman is, if you do not wish to testify but you'd like a record of your position on the bill. Also, for future reference, if you're not testifying in person on a bill and you'd like to submit a letter for the official record, all committees have a deadline of 5:00 the day before the hearing to receive those and make them part of the record. We'll begin testimony today with the introducer's opening statement. Following the opening, you'll hear from proponents of the bill, then opponents, and then finally those here in a neutral capacity. We'll finish with a closing statement by the introducer if they wish to give one. We ask that you begin your testimony, if you're going to testify today, by giving us your first and last name and spell them for the record. We utilize an on-deck chair right here, or over here to the left of the testifier's table. Please be in or sit in the on-deck chair if you intend to testify next. If you have any handouts, please bring 12 copies with you and give them to the page. If you haven't brought enough copies, they'll make more so the Senators have enough to review while you're testifying. We'll be using a light system. It's right here. When you begin your testimony, the light on the table will turn green; the yellow light is your one-minute warning; when the light turns red, we ask that you wrap up your final thought and stop. As a matter of committee policy, I'd remind everyone that the use of cell phones and other electronic devices is not allowed during public hearings, though Senators may use them to take notes or stay in contact with staff. At this time, I'd ask

everybody to look at their cell phones and make sure they're in the silent mode. Also, verbal outbursts or applause are not permitted in the hearing room. Such behavior may be cause to ask you to leave. And you may notice committee members coming and going. That has nothing to do with the importance or their view of the importance of the bill being heard, but Senators have bills to introduce in other committees and other meetings to attend to. And one last thing, since we're holding our hearings in the Warner Chamber while our regular hearing room is being renovated, please remember that water bottles, soda cans, or cups are not permitted on the desk to avoid any damage to the--

KOLTERMAN [00:03:47] Furniture.

LATHROP [00:03:47] --benches, yeah. With that, we'll begin our hearing on LB28. And, Senator Kolterman, welcome to the Judiciary Committee.

KOLTERMAN [00:04:02] Thank you. Good afternoon, Senator Lathrop, members of the Judiciary Committee. I'm Senator Mark Kolterman, M-a-r-k K-o-l-t-e-r-m-a-n. I represent the 24th District in the Nebraska Legislature. I'm here today to introduce LB28, a bill that authorizes damages for property taxes and special assessments paid on property lost through adverse possession.

LATHROP [00:04:26] Mark, can you pull that mike towards you a little bit? I'm told that people had trouble hearing yesterday in the back of the room.

KOLTERMAN [00:04:32] Can you hear me? Can you hear me now?

LATHROP [00:04:33] Yeah, better. Thanks.

KOLTERMAN [00:04:35] Sorry about that. I'm here today to introduce LB28, a bill that authorizes damages for property taxes and special assessments paid on property lost through adverse possession. Adverse possession is a method of acquiring title to real property by possession for a statutory period under certain conditions. Currently, case law requires that four elements must be proven in order to establish adverse possession in Nebraska: use of the property must be actual, requiring use of the property; exclusive, meaning only the trespasser is in possession; open and notorious, meaning occupancy is not hidden from owner or general public; and hostile, done without permission of the owner. A fifth element is required by statute. The property must-- use must also be continuous for over a ten-year period. Under current law, the record owner is responsible for any taxes assessed on the relevant parcel during the ten-year statutory period. This is true in spite of the fact that the trespasser has successfully demonstrated hostile, open, actual, and exclusive-- exclusive use of that property for ten years. Here, the trespasser is paying taxes on property that only the trespasser is using. Adverse possession is an important doctrine and encourages productive use of property. Land that is neglected, ignored, or forgotten is of little societal value; however, an abandoned parcel can be a

financial strain for state and local governments and a source of frustration for neighboring landowners. However, this doctrine can also be manipulated to take advantage landowners acting-- of landowners acting in good faith. Continued and active payment of property taxes on the relevant parcel is an indication that the record owner is aware of ownership and actively maintaining this investment. In these cases, a trespassing party should not be financially rewarded for his or her misdeeds. LB28 does the following. It retains the intent and purpose of adverse possession by leaving in place each of the five key elements. It falls short of requiring that the trespassing party pay taxes during the statutory period as other states have chosen to do. In doing so, it may dissuade otherwise beneficial claims. It also encourages an equitable approach by instead requiring that a record owner who is-- in good faith pays all taxes due on his or her property will be compensated for those payments when that parcel is lost to a claim of adverse possession. One of the reasons I'm introducing this legislation-- some of you have heard it before but it's changed some-- is on behalf of some Seward County residents and constituents of mine, Joe and Carol Schmieding. They were on the losing end of an adverse possession case. They are here today to tell their story, so I'll save their story for them to tell. I do want to be clear they are not disputing the court decision and this bill will in no way change their outcome or benefit them. The Schmiedings just want to ensure more protections for owners on the wrong end of an adverse possession case are heard and there's possibilities of recovery. With that, I want to thank you and ask for your support, and I'd be happy to try and answer any questions you might have. Following me, we'll have someone-- an attorney that will speak on this and then we'll have the Schmiedings and another farm family also.

LATHROP [00:08:52] Terrific. Thanks, Senator Kolterman. Any questions for the bill's introducer? Senator Chambers.

CHAMBERS [00:08:59] Senator Kolterman, is this bill different than the one you had last time?

KOLTERMAN [00:09:03] Yes, it is.

CHAMBERS [00:09:03] It seems so because I'm not getting the vibes that I got-- I was ready with certain arguments and it's almost like you read my mind, so I appreciate work that you did do between then and now.

KOLTERMAN [00:09:15] Thank you, Senator Chambers. It would be awfully hard to read your mind, but I appreciate hearing that from you.

CHAMBERS [00:09:20] All right. Thank you.

LATHROP [00:09:25] I don't see any other questions. And you have indicated you need to get back to Revenue Committee.

KOLTERMAN [00:09:29] I-- I will-- I apologize I won't be here for closing. I've talked to my constituents, but I'm brand-new on Revenue and I really need to be at that hearing.

LATHROP [00:09:39] OK. Perfect. Thanks.

KOLTERMAN [00:09:44] Thank you.

LATHROP [00:09:45] Proponents may come forward.

JOHN HLADIK [00:09:58] Good afternoon, Chairman Lathrop and members of the committee. My name is John Hladik-- it's J-o-h-n H-l-a-d-i-k-- and I'm testifying on behalf of the Center for Rural Affairs. I made a critical rookie mistake and brought nine copies, and so the wonderful page is-- is now handing those out after she's gotten three more. And I want to point out the first is a bit of a summary of the comments I'll make today, and the second is a letter of support from an urban planner who has engaged on this issue. I wanted to be sure you had that in front of you. The law of adverse possession originated in 2000 B.C. It first appeared in the United States in 1715, and in Nebraska our research showed that it has existed in its present form since 1869. It has not been modified by statute in 150 years, but a lot has changed over the past 150 years. The way we live, the way we farm, and the way we use land are all a lot different. Our population has grown and now we have technology at our disposal that we hadn't even conceived of at the time. Most of all, society has changed. Today you will hear two stories that illustrate the hardship that results when this 150-year-old law is misapplied; countless more exist. LB28 is a bill that recognizes these hardships. It allows for an equitable result and it strikes the appropriate balance between promoting productive use of land and respecting the hard-earned property rights of today's landowner. Cases in adverse possession are fairly common, and I have to admit they're more frequent than I thought they were when I first started to work on the issue. Westlaw shows that adverse possession was a key word in 5,000 cases in the United States between 1960 and 2015. That's about 92 cases per year. During that same period, there were 176 here in Nebraska. That includes 47 in the '80s, 28 in the 1990s, 33 in the 2000s, and 16 from 2010 to 2015, which comes out to an average about three cases in Nebraska per year. Recognizing the changing needs of society, dozens of states have modified adverse possession to reflect the demands of a modern economy. Many of those changes involve property taxes. To this point, 18 states have made payment of property taxes a required element of adverse possession. One purpose has been to encourage people to pay their taxes and another is to protect a purchaser of property. There has not been a single state to abolish this tax requirement since it's been instituted. Two states, Colorado and Washington, have taken a slightly different hybrid approach. In 2008, Colorado passed a law that gives the presiding court discretion to order the successful adverse possessor to compensate the title holder for the actual value of the property and for some or all of the taxes paid during that period. Washington updated its law in 2011 and under that law

a party who succeeds in an adverse possession claim may now be required to reimburse the record owner for property taxes at the court's discretion. In addition, in Washington, the court has discretion to award all or part of an attorney's fees to the prevailing party. This amendment was almost universally supported in the legislature. Members of the House passed the bill in a 96-1 vote, and the Senate voted unanimously, 47-0 in support. The legislature saw that the primary purpose was to balance the perceived inequities of adverse possession. The balancing of equities can be difficult in adverse possession because each case is so unique and each case is so fact specific. In many situations, damages are not going to be appropriate. But as today's stories will show, in some cases they will be. This is why Washington decided to give their courts discretion when deciding the award. The rationale there is that the courts would be in the best position to ensure the award was fair, because the judge would be present for the entire case and have a feel for all of the circumstances of the case. And that same philosophy applies here to LB28. This legislation still supports the theories and values behind adverse possession, encouraging productive use of land, limiting waste, and quieting boundary disputes. But it also appreciates the hardship that a loss of property can and does create. The law recognizes the record owner's loss and gives the court power to determine an equitable solution but only when that solution is appropriate. And with that, I would be happy to take any questions.

LATHROP [00:14:44] Very good. I see no questions. Thank you for your testimony. We appreciate--

JOHN HLADIK [00:14:50] Thank you, Chairman.

LATHROP [00:14:51] --your thoughts. Next up. Good afternoon.

JOE SCHMIEDING [00:15:03] Good afternoon. Dear--

LATHROP [00:15:05] You can pull that mike towards you just a little bit so everybody has a chance to hear what you have to say.

JOE SCHMIEDING [00:15:12] Dear Chairman and members of the committee, I'm Joe Schmieding, J-o-e S-c-h-m-i-e-d-i-n-g. Together-- we're here together with my wife, Carol, to submit this letter of support for LB28, which will provide damages for property taxes and other fees on property lost through adverse possession. LB28 was brought forth in part because of a case of adverse possession which-- a property which we purchased more than 30 years ago. We wish to share our story in support of this bill so that fellow Nebraskans are not left to endure similar circumstances under acts of adverse possession. We have lived and farmed for 46 years in Seward County, Nebraska. In 1986, we purchased 41.99 acres of land along Raymond Road northwest to Seward County. This property included a waterway, driveway running along the east side; and the time of the sale, there was no dispute on the acres of the property or the line and-- of the parcel.

Since that time, we have farmed the ground and paid the property taxes. In 2001, the land to the east of our farm was sold. At that time, the auction, I shared with the prospective-- prospective buyers that the property line was not clearly marked and the adjacent property was sold and as the deed reported, not 80 acres plus 17 feet of the Schmieding farm. Following the year-- years of conservation [SIC] with the-- conversations with the neighbor regarding the actual property line, in 2006, I found a survey marker which established the true boundary line. This marker clarified the strip of land was part of our property, as noted on the deed. In 2010, I prepared to modify the driveway and waterway. In that same year, a suit of adverse possession was brought against us by the neighbors. At the point of discovery, the neighbor found out-- found that they could not claim adverse possession by the use of the driveway for the time that we owned the property. To further their claim, they went back to the 1940s, prior to the birth of any of the parties involved, stating that they had a fence along the property in question until the late 1950s. The only testimony as to the location of the fence was shared by a gentleman who was seven at the time the fence went in and yet, despite having no fence marking the property line for over 50 years and having the deed and the years of paying taxes, property taxes, the court ruled in the favor of the other side. The costs of this case of adverse possession were significant to both us and the state. We have paid property taxes, spent decades on upkeeping the land and ditch, and lost the property in the end, and yet we were "imbursed" nothing. Further, because of this adverse possession, we had to shorten our pivot, losing acres of irrigated ground. We also spent thousands of dollars in legal fees over four years and hours of preparing for trial. We had to find a lawyer and prepare a reply in ten days during the peak of planting season, which is the most critical time of the year for any farmer. And these costs and inconveniences can be multiplied by the cost incurred by the court system in a case that should-- or could and should have been thrown out, instead of making it to the Nebraska Supreme Court because we had a deed and were paying property taxes. Our story is just one incidence where adverse possession has been used to the disadvantage of the property owner who has fulfilled their obligations of maintenance and taxes only to have property taken from them. This bill, though [SIC] the repayment of property taxes and fees, is a step towards its compensating landowners who have met these responsibilities of land ownership and let-- and yet lost the property. While this bill will help with the cost of the property taxes and guard fellow Nebraskans from similar circumstances, we feel that strong protections from adverse possession could be put in place as well. Ultimately, we believe a deed is a legal document and shows ownership of land. Adverse possession laws were not meant to settle boundary disputes which should be resolved through survey. In conclusion, we hope that you will advance and support this bill and be prepared to discuss adding the deed and property-- payment of property taxes to the required elements of adverse possession in the coming sessions. Thank you for the opportunity to comment on LB28 and for taking time to consider our comments and considerations. If you have any questions or require further information, please feel contact-- feel free to contact us at (402) 535-2841 or cschmieding@clarks.net.

LATHROP [00:20:47] Very good. Thank you for your testimony. We'll see if there's any questions. Senator Brandt has a question for you.

BRANDT [00:20:58] So, Mr. Schmieding, the Supreme Court ruled against you, is that right?

JOE SCHMIEDING [00:21:02] That is right.

BRANDT [00:21:03] OK. And it was based on-- on the current adverse possession law?

JOE SCHMIEDING [00:21:07] Yes, it was.

BRANDT [00:21:08] OK. And then you had a survey done?

JOE SCHMIEDING [00:21:12] I didn't have the survey done. It was done prior to my ownership and there was a copy of it that was in the courthouse in Seward that I obtained.

BRANDT [00:21:21] OK. Thank you.

LATHROP [00:21:25] I see no other questions. Thank you for your testimony today. We appreciate it.

JOE SCHMIEDING [00:21:28] You're welcome.

LATHROP [00:21:30] Next testifier.

HAL CUMMINS [00:21:47] Chairman Lathrop and members of the committee, my name is Hal Cummins, H-a-l C-u-m-m-i-n-s. I have farmed in York County for 30 years and wish to share testimony in support of LB28. My father has lost land to adverse possession. He purchased a piece of land. Fences were in place which were assumed to be correct. When a survey more than ten years later showed the boundary to be incorrect, he asked the neighboring landowner to move the fence approximately 20 feet, on to their property, thus aligning with the survey. They refused, citing adverse possession, and by law retained the land. My father had pastured his land every year he owned the property. Had the boundary line been correct, he would have pastured the disputed land also. After the survey showed the initial error, because of adverse possession, he received no benefit from the land. He only had the burden of paying the property taxes on a piece of land the deed said he owned but couldn't use. A deed and paying property taxes should provide proof of ownership. Any dispute over property lines should be settled by a survey. In the very early days of settling this country, when the goal was to quickly develop the land, adverse possession possibly contributed to the development goal. This is no longer the case, as virtually all land is used in a positive manner. Some land is commercially

developed, some used-- some used for housing, some farmed or ranched, and some left in varying forms of its natural state to facilitate wildlife, erosion control, and provide a place for humans to enjoy the outdoors. All are considered to be in the best interest of society. Since development is no longer the only goal, it highlights the need for adverse possession reform. I do not believe adverse possession should be warranted when achieved through the present five key elements only. A sixth key element, the paying of property taxes on the land in question, should be added, as 18 states have done. The paying of taxes is an important factor the Internal Revenue Service considers when establishing ownership. I fail to see why paying property tax would not be an important element in ownership of land. Paying property taxes also allows the deeded owner warning that a person was contemplating adverse possession of part of his or her deeded land. This would provide an opportunity to dispute the claim before the land is gone forever. LB28 provides the court with the authority to require the reimbursement of property tax and fees paid as deemed fair under the circumstances. This is a significant step toward the modernization of Nebraska's adverse possession law. We encourage members of the committee to move LB28 to the floor for debate.

LATHROP [00:25:16] Thank you, Mr. Cummins. Any questions for this testifier? Senator DeBoer.

DeBOER [00:25:24] Thank you so much for your testimony. I'm a city girl, so you maybe have to help me out with this a little bit. You say that you moved-- or that you were talking about a 20-foot move, or 10 foot-- I'm sorry, I lost the--

HAL CUMMINS [00:25:34] It was 20 foot.

DeBOER [00:25:37] Twenty foot? So help me understand about how much land these kinds of situations are talking about. So 20 foot by about, ballpark, how long?

HAL CUMMINS [00:25:46] Well, it would basically depend on how-- how long your boundary was with the-- with the individual. I'm trying to think back. I've chased cattle off this piece of land up to the feeding area many, many times when I was much younger. But to say how many it would be, I don't know. It'd probably be a couple hundred yards.

DeBOER [00:26:08] OK, yeah.

HAL CUMMINS [00:26:08] But that would be in that particular instance. If-- if you had a quarter-section, it would make a lot more difference and--

DeBOER [00:26:15] Right. I just was trying to get a sense from you--

HAL CUMMINS [00:26:18] Yeah.

DeBOER [00:26:18] --what in your experience it was. All right. Thank you very much.

HAL CUMMINS [00:26:21] Thank you.

LATHROP [00:26:24] I see no other questions. Thanks for coming down today. We appreciate your testimony.

HAL CUMMINS [00:26:29] Thank you for your time.

LATHROP [00:26:29] Are there any other proponents of LB28 care to testify? Is there anyone here in opposition or cares to testify in opposition to LB28? How about in a neutral capacity? Seeing none, we have one letter and that letter is from Dave Welsch, W-e-l-s-c-h, in support of LB28. And with that, we'll close the hearing on LB28 and move to LB55 and Senator Lowe's bill. I know I saw him walk in. Good afternoon, Senator Lowe.

LOWE [00:27:21] Good afternoon. Glad to be here in Judiciary.

LATHROP [00:27:25] Everybody looks forward to Judiciary Committee.

LOWE [00:27:29] Thank you, Chairman Lathrop and the members of the Judiciary Committee. My name is John Lowe; that's J-o-h-n L-o-w-e, and I represent the 37th District. Today I'm here to introduce LB55. This bill is intended to update the age of majority statute in regard to real property. Currently the language allows someone 18 years old to enter a binding contract or lease. Last August, a constituent brought to my attention that the current language can cause issue with a title company issuing title insurance for the purpose of real estate. So in other words, an individual can purchase property but he cannot get title insurance, which caused significant issues with the purchasing of this property. LB55 attempts to address that problem by adding the ability for an 18-year-old to acquire or convey title to real property. And I'd be happy to answer any questions.

LATHROP [00:28:33] OK.

SLAMA [00:28:36] I have one.

LATHROP [00:28:36] Senator Slama.

SLAMA [00:28:42] [RECORDER MALFUNCTION] Senator Lowe. Thank you for coming out today. I understand you've got some groups supporting this bill. What are those groups?

LOWE [00:28:48] Well, the-- it was brought to me by a local banker, and so the banking industry I believe is in support of this. The title industry is also in support of this. And those are the two main ones, and probably this 18-year-old.

SLAMA [00:29:08] All right.

LATHROP [00:29:08] Senator Pansing Brooks.

PANSING BROOKS [00:29:09] Thank you for-- thank you for coming, Senator Lowe. I know that we have-- I have a similar bill that's going to go before Banking and this deals with conveying title. Mine deals with conveying deeds. So I'm looking forward to working together with you on this.

LOWE [00:29:26] I would love to work together and maybe merge these two once they both come out of committee.

PANSING BROOKS [00:29:30] I mean it's just going to be an amazing alliance. It's going to be so good.

LOWE [00:29:32] There-- there is a first.

PANSING BROOKS [00:29:34] OK.

LOWE [00:29:34] There is a first.

PANSING BROOKS [00:29:34] That's good. Thank you.

LATHROP [00:29:38] That sounds like that's it. Are you going to stay for close?

LOWE [00:29:42] I will stay for close.

LATHROP [00:29:42] OK, good. Proponents? Good afternoon.

ROBERT J. HALLSTROM [00:29:54] Thank you, Chairman Lathrop, members of the committee. My name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m. I appear before you today on behalf of the Nebraska Bankers Association in support of LB55. Senator Lowe has given a little bit of background on the bill. I might also add that we were contacted by the same banker from his district with regard to issues, and the bill that Senator Pansing Brooks has been gracious enough to introduce on behalf of the NBA addresses issues relating to the ability to sign documents relating to the loan and the security interest position, if you will, deeds of trust, mortgages, financing statements. The background has to do with the title insurance agent-- or companies effectively saying that if you have a document that only requires one party to sign, it's not a contract. And the current law only says that

18-year-olds can execute contracts and be legally responsible therefor. So in order to address that issue, Senator Pansing Brooks's bill, which is LB172, addresses those issues relating to the promissory note and so forth that I mentioned earlier. Senator Lowe's bill addresses the actual acquisition or conveyance of property by an 18-year-old. I have raised one technical issue for Senator Lowe, and perhaps Mr. Erickson could take a look at this, and that has to do with making sure that the language on lines 10 and 11, "shall be legally responsible therefor," apply both to subsection (1) and (2) of LB55 so that we're not simply saying they can acquire or convey property, but they can acquire or convey property and be legally responsible therefor, making sure there isn't a disconnect between those two subsections.

LATHROP [00:31:46] Would you do that again? What-- what did you say needs to be different or clarified?

ROBERT J. HALLSTROM [00:31:52] Going to put my glasses on so I make sure I get the right--

LATHROP [00:31:54] I just want to make sure--

ROBERT J. HALLSTROM [00:31:55] Yes.

LATHROP [00:31:55] --we get it and not put it out without the changes.

ROBERT J. HALLSTROM [00:31:57] Appreciate it, Senator. On-- on lines 10 and 11, the language "shall be legally responsible therefor," the question that I raised with Senator Lowe and his staff was whether or not that language applies equally to subsection (b) and subsection (a) based on the way the language is-- is proposed. And reasonable minds may differ on that, but make sure we have it right.

LATHROP [00:32:27] OK.

ROBERT J. HALLSTROM [00:32:27] Happy to address any questions.

LATHROP [00:32:28] Any other questions for Mr. Hallstrom? Senator Chambers.

CHAMBERS [00:32:31] Good to see you again in these new quarters.

ROBERT J. HALLSTROM [00:32:35] Yes, and you're on the right instead of the left, as-- as normal.

CHAMBERS [00:32:39] When a situation arises where a piece of legislation is brought, there is some person or group or entity which will be benefited by the passage of that legislation. And sometimes there will be, on the contrary side, somebody disadvantaged

if that should be passed. I don't know that there would be opposition because this deals with 18-year-old youngsters. What are the bankers seeking to gain by the passage of this bill? And maybe you said it and I just didn't pick up on it.

ROBERT J. HALLSTROM [00:33:22] Well, I think, Senator, in general the benefit is going to-- to accrue to those 18-year-olds that are entering into these types of transactions. If you'll recall, when this legislation was passed, I think some of the policy arguments that were used were, if we can send an 18-year-old-- excuse me-- over to do service for his country or her country, then they ought to be able to enter into binding contracts, leases of apartments when they're going to school down in Lincoln and so forth, as I recall. And so I think the primary benefactors will be to the extent there are 18-year-olds that want to enter into loans, secured or unsecured, the promissory note aspect, or secured loans, deeds of trust, or mortgages, or simply taking title to the property and being able to have it insured for title insurance purposes that-- that they will be the beneficiaries. Indirectly, the bank wanting to make that loan will benefit because they generally would not make a secured loan without also having title insurance coverage for a real estate-secured loan.

CHAMBERS [00:34:27] You answered the question but I'm not sure that it satisfied what is-- what it is that I'm thinking about this kind of situation. Are the banks saying that currently they do extend loans to those who are 18 years old?

ROBERT J. HALLSTROM [00:34:48] The understanding under the law before we were-- it was brought to our attention by the banker that the title companies were taking the position that documents that were only signed by one party-- for example, a deed of trust is traditionally not signed by the bank-- didn't constitute a contract; therefore, a minor could legally disavow that contract. So in order for the 18-year-old to have the benefit of what I assume the law was originally adopted for in terms of acquiring, conveying property, and getting loans to purchase that property, the clarification of the statute is needed so that you have some single party-signed documents that are now also covered and legally binding for an 18-year-old.

CHAMBERS [00:35:37] But it's not a matter of bankers wanting to have an additional category of persons to whom loans can be made for the purchase of property, and the property within the collateral for the loan and the person who signed for the loan would be in a position legally so that that land could serve as collateral and if the youngster didn't pay off, then the land could be taken?

ROBERT J. HALLSTROM [00:36:06] That-- that would be something that could happen, Senator. I would suggest, based on the form of your question, we were not looking for an additional category of individuals to make loans for. We presumed the law already allowed that and when the title companies-- when it was brought to our attention that the title companies were saying that is not a transaction for which we will issue title

insurance, that the clarification in the law will simply allow us to do what we presumed we could do under the law as it-- as it currently stands.

CHAMBERS [00:36:36] But there are such things going on right now because the knowledge of the position of the title insurance companies was not known?

ROBERT J. HALLSTROM [00:36:47] Correct.

CHAMBERS [00:36:49] Would this be retroactive?

ROBERT J. HALLSTROM [00:36:53] It-- it will not be as drafted. I would assume that in any individual transaction, Senator, that was going to be secured by real estate, that under those circumstances, when the bank became aware that they would not have title insurance, that the transaction presumably did not get finalized.

CHAMBERS [00:37:13] That's all I would have. Thank you.

ROBERT J. HALLSTROM [00:37:15] Thank you.

LATHROP [00:37:17] Senator Wayne.

WAYNE [00:37:20] Is this part of a bigger issue-- and I'm ask-- not-- it's an unfair question to you-- regarding our age of majority being 19?

ROBERT J. HALLSTROM [00:37:28] Not from our perspective, Senator. I think historically when-- when the debate went on over moving to the age of 18 for the purposes of contracting and being legally responsible therefor, I think the Legislature talked at great length about whether or not they should move to 19 categorically. And there were issues raised regarding do we want to do that for child support, are there other areas where we may not want to make that quantum leap. We don't-- we did not have any interest in that particular issue at the time, but that's what I recall the-- the policy debate being.

WAYNE [00:38:04] And I only state that because, for the audience and the rest of the committee, us and Alabama are the only two states who have a gap between 18 and 19, so in the future it might be something we need to look at. I don't know if this committee or some-- somewhere, but it's an issue that continues to rise with each of these
[INAUDIBLE]

ROBERT J. HALLSTROM [00:38:19] Yeah. And, Senator, I would note that when the banker brought it to our attention, he raised that very issue and I kind of gave him the same explanation I gave to you today.

WAYNE [00:38:27] Thank you.

LATHROP [00:38:30] Lastly-- I don't see any other questions-- if you have some clarification language you want to make sure that-- that (a) and (b) are included as you've described, maybe you can let Neal know.

ROBERT J. HALLSTROM [00:38:40] Will do.

LATHROP [00:38:40] So if we have to amend it, we can do that before we get to the floor.

ROBERT J. HALLSTROM [00:38:44] OK.

LATHROP [00:38:44] OK. Thank you, Bob.

ROBERT J. HALLSTROM [00:38:46] Thank you, Senator.

LATHROP [00:38:46] Anybody else here to testify as a proponent of LB55? Anyone here in opposition or intending to testify in opposition to LB55? Anyone in a neutral capacity? Seeing none, as Senator Lowe is making his way down here for the close, let the record reflect that we have two letters in support, one from Amy Miller at the ACLU, the other from James Friesen at Town and Country Bank. We have two letters in opposition, one from Zachary Cheek and another from Catherine Kottwitz, K-o-t-t-w-i-t-z. That would do it for the letters. Senator Lowe to close.

LOWE [00:39:32] Thank you, Chairman Lathrop and committee members. I appreciate the time here before you today. We had brought the bill back to Bill Drafters after Mr. Hallstrom brought that up, and they saw no problem with the language. But we would not mind if the committee would like to make changes. We would like to go ahead and live with those changes. So glad to bring this bill before you today and thank you very much for this time.

LATHROP [00:40:00] OK. Thanks, Senator Lowe. Good to have you here. That will close our hearing on LB55 and we'll go next to LB146. And just for purposes of planning, this is a-- Senator Hansen, as he's making his way here. How many people intend to testify on this bill? Looks like two testifiers and we'll-- we need to alert Senator Brewer how long the preceding testimony will take, so we'll let Senator Brewer's office know. Senator Hansen, welcome back to the Judiciary Committee.

M. HANSEN [00:40:35] Thank you. Thanks for having me. Good afternoon, Chairman Lathrop and members of the Judiciary Committee. My name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent Legislative District 26 in northeast Lincoln. I'm here today to introduce LB146 which amends the Nebraska Revised Statute Section 30-4020, which is part of Nebraska's Uniform Power of Attorney Act. Currently this section sets forth when and how someone can accept or refuse a power of attorney. Among other things, the

statute provides that if a party has a question or needs further information about a power of attorney, they can request certification, translation, or legal opinion. It also provides conditions under which a party can refuse a power of attorney, and it provides remedies in situations which a party refuses a power of attorney in violation of the act, namely, when the person does not have a good-faith reason to do so. LB146 focuses on this last piece, the remedies available when a party refuses a power-- refuses to acknowledge a power of attorney in violation of the act. Under current law, a person who arbitrarily refuses a power of attorney is subject to (1) a court order mandating acceptance for a power of attorney; and (2) the attorney's fees and costs associated with giving such an order. While current law does not expressly preclude an action for damages, it does not address situations in which a person's refusal of a power of attorney creates economic harm. For example, if a securities broker arbitrarily refuses a sell order and the market subsequently declines, the principal would suffer economic harm. But the act does not speak to the remedies available even if the refusal is a clear violation of the act. This bill addresses the issue of liability for potential for economic harm by providing that a person who arbitrarily refuses a power of attorney can be liable for economic damages and prejudgment interest, in addition to attorney's fees and costs currently provided in law. What's important is that the changes here apply to only instances in which a party arbitrarily refuses the authority of an attorney in fact when he or she does not have a good-faith reason to do so. This bill does not remove or amend any of the safe harbor provisions that shield parties from liability when they legitimately question the authority of an attorney in fact. This bill was brought to me by the Bar Association and they will be testifying here today. With that, I would conclude my testimony and ask the committee to work on LB146.

LATHROP [00:42:57] Thanks, Senator Hansen. Any questions? Senator Pansing Brooks.

PANSING BROOKS [00:43:01] Thank you. Senator-- thank you for coming, Senator Hansen.

M. HANSEN [00:43:04] Thank you.

PANSING BROOKS [00:43:05] I was wondering-- and I-- are we going to hear more maybe when the bar testifies, but are-- are-- are there some specific stories that we have about what's happened with this arbitrary refusal?

M. HANSEN [00:43:16] Yeah, I-- to my understanding, that there's an attorney who will testify at some of the-- some client-based stories on what happened, but kind of the same principle is-- is-- is happening where they're asking a-- a-- somebody on behalf of their power of attorney to do something, maybe it's a financial transaction, and the delay in acknowledging or recognizing the power of attorney--

PANSING BROOKS [00:43:38] Costs money.

M. HANSEN [00:43:39] --causes the problems.

PANSING BROOKS [00:43:39] OK. Thank you.

M. HANSEN [00:43:40] Thank you.

LATHROP [00:43:43] Senator DeBoer.

DeBOER [00:43:44] Senator Hansen, thank you for being here.

M. HANSEN [00:43:46] Thank you.

DeBOER [00:43:46] I was wondering-- you've-- you've used the word "arbitrarily," but I don't see that word "arbitrarily" in the statute. Maybe I missed it-- or the bill, sorry.

M. HANSEN [00:44:00] Sure. You know, I'm not sure. I use the "arbitrarily" to describe it. If you look on page 2 of the bill, it gives you the ways that someone is not required to accept a power of attorney, and there's a few things where, you know, they're not-- they're not required to be part of the transaction with the principal, a few other things, and the main one is they have a good-faith belief that the power of attorney is not valid. So it's when they don't have a good-faith belief, they don't have any actual knowledge that the power of attorney isn't valid, or they don't have a reason to not use the transaction. So the-- so the word "arbitrary," I agree, is one I just kind of used to describe the denial--

DeBOER [00:44:40] Yeah.

M. HANSEN [00:44:40] --as opposed to the standard.

DeBOER [00:44:42] So I'm wondering if this in any way-- and I think you've answered this, but just so I've asked it, does this in any way put an additional burden on an individual to look into whether or not a power of attorney is correct?

M. HANSEN [00:44:56] I don't-- I would not say it changes the current duty because under the current Uniform Power of Attorney Act you have the-- when presented with a power of attorney, you have a limited time frame to ask for clarification. And then once you-- upon receiving that clarification, you do have to act. This is actually providing, I would say, more teeth for when there's kind of noncompliance with the act, and that's the intent.

DeBOER [00:45:20] Thank you.

M. HANSEN [00:45:20] Thank you.

LATHROP [00:45:23] I see no other questions. Are you going to stay and close?

M. HANSEN [00:45:26] I'd like to, yes.

LATHROP [00:45:26] OK, terrific. Are there proponents caring or wishing to testify on and in support of LB146? Good afternoon.

KARA BROSTROM [00:45:44] Good afternoon. My name is Kara Brostrum, K-a-r-a B-r-o-s-t-r-o-m, and I'm an attorney for the law firm of Baylor Evnen here in Lincoln, Nebraska, specializing in estate planning and estate administration, and I'm also vice chair of the real estate, probate, and trust section of the Nebraska State Bar Association. Thank you for allowing me to speak today. I'm testifying in support of LB146. LB146 solves a real-life problem identified by practitioners, those who draft power-of-attorney documents and counsel clients. In other words, I'm here day-- today to represent those who are on the ground helping individuals. LB146 provides adequate recourse in the event damages are incurred as a result of an unreasonable or bad-faith refusal of a power of attorney. I'm more than happy and prepared to go deeper into the legal nuance of the statute and I can likely bore you with legal research-- research that I've prepared spanning all 50 states. But I thought it may be helpful to provide a practical example. Your parent, while in good health, visits an attorney and executes a power of attorney acknowledged in front of a notary public. In their old age, your parent loses capacity due to dementia. Unfortunately, it's something that I'm seeing all too often. As agent for your parent, you visit one of their financial institutions to liquidate an investment account when the market is good to consolidate accounts. That financial institution-- of course, I won't mention any names-- arbitrarily refuses to accept that power of attorney, the market takes a turn for the worse and, as a result, the investment account has depreciated. As the statute exists today, it fails to address liability for arbitrary refusals and the issue of liability for damages incurred. The goal of LB146 is to encourage timely acceptance without creating unreasonable liability risks. This would fix the existing statute where, as it stands, if damages are incurred, the act unfairly favors third parties to the detriment of the individual citizen, your parents, your constituents, and even yourselves. LB146 does not expand damages. It merely provides the principal, or your parent, and the agent, you acting on their behalf, adequate recourse in the event that they suffer direct damages as a result of an unreasonable or bad-faith refusal of a power of attorney. As I'll discuss a little bit-- in a little bit, financial institutions are protected, as was stated by the senator, with safe harbors. After testifying last year, I will mention, though I'm fortunate for the opportunity Nebraska provides for testimony, I was a little frustrated as I did not have an opportunity to respond to my opposition's argument. I would not be doing my job if I did not anticipate and address those concerns, first that this is not a real problem. I am not a lobbyist. I'm a practicing attorney representing a large group of practicing attorneys specializing in estate planning, specifically the real estate and probate trust section; and also, the legislative committee of the Bar

Association voted to pursue LB146 because it is a real issue. Second, because 26 states have adopted the Uniform Power of Attorney Act, as we did in 2012-- and to be accurate, it has been introduced in Mississippi now-- and such states have not added such a provision like this, that we shouldn't either. While it's certainly useful to look to other states to see progressive new laws and uniform acts that have passed and to occasionally use their-- use those statutes as a baseline, to keep a statute as is simply because other states have is an ineffectual strategy that is one that precludes our state from improving and moving forward. I'm here today because the current statute is insufficient. Further, that LB146 creates a cause of action and increases liability for financial institutions. The law as adopted provides any third party acting in good faith all the protection needed, even when they refuse to accept a power of attorney. For example, a third party is provided broad protection for good-faith acceptance of any power of attorney that appears valid without the duty to even independently verify its validity; there are also safe harbors; limits liability to facts known by the employee. And even acceptance of a document obtained through fraud or forgery does not result in liability if there is no actual knowledge of these facts. Third parties even have additional resources at their disposal. They may require the agent execute a certification as to a factual matter and even may request a legal opinion as to any matter of law. Financial institutions and third parties are protected not only for good-faith acceptance but also for a reasonable refusal. Why are we not protecting principles, your parents, as well as agents, you acting on their behalf? We should honor the terms and provisions of a power of attorney your parents signed when they possessed legal capacity and understood the significance of their grant of authority to the agents named in such document, and we should provide reasonable recourse if they are directly harmed when those power of attorneys [SIC] are not honored. I urge you to support LB146 and I'm happy to answer any questions.

LATHROP [00:50:59] Very good. Thanks for your testimony.

KARA BROSTROM [00:51:00] Yes.

LATHROP [00:51:02] Senator Brandt has a question for you.

KARA BROSTROM [00:51:03] Yes.

BRANDT [00:51:04] Thank you for appearing today. I guess I-- in your example, you said that the brokerage firm did not honor the power of attorney?

KARA BROSTROM [00:51:11] Or-- or refused it, not pursuant to the statute. So in the statute, there are two provisions that we're kind of working with. So one of the statutes says acceptance of and a reliance upon an acknowledged power of attorney. But then there's also liability for refusal to accept an acknowledged power of attorney. So we're trying to address-- the purpose of LB146 is to address the situation when really we've got

kind of a bad actor or a poor reason for rejecting a power of attorney, thus resulting in a delay and then damages incurred by principal and agent.

BRANDT [00:51:46] So in your example then, they intentionally went against the power of the attorney, knowing it was valid, in your example.

KARA BROSTROM [00:51:53] Not necessarily knowing it was valid, but not for a-- a-- a deemed purpose pursuant to Nebraska statute because there are provisions that do allow them to refuse. So for example, they're not required to accept an acknowledged power of attorney if the person is not otherwise required to engage in a transaction, if engaging in the transaction in the same circumstances would be inconsistent with law, if the person has actual knowledge of the termination of the agent's authority or the power of attorney before exercise of-- exercise of the power, if a request for certification, a translation, or opinion of counsel is refused, if the person in good faith believes that the power is not valid or that the agent does not have the authority to perform the act requested, if the person makes or has actual knowledge that another person has made a report to a local adult protective services office stating a good-faith belief and if the person brought-- has actual knowledge that another person has brought a judicial proceeding for construction of that power of attorney and, finally, the power of attorney becomes effective upon the occurrence of an event or contingency.

BRANDT [00:53:02] Thank you.

KARA BROSTROM [00:53:03] You're welcome.

LATHROP [00:53:07] Senator Slama.

SLAMA [00:53:08] Yes. You said you've done a lot of research--

KARA BROSTROM [00:53:11] Yes.

SLAMA [00:53:11] --on this issue. Do you have any statistic as to its prevalence within the state?

KARA BROSTROM [00:53:16] So not necessarily in the state of Nebraska. So just to kind of give you a background of how we've proposed this, we did propose a similar bill last year, just didn't get out of committee, which I heard was common. But what I did in establishing this, this is an issue that we identified kind of in our practice group and then I did kind of a 50-state survey to see what other states were doing. But my entire point is-- and I-- we adopted the uniform act in 20-- I think 2012, I believe, is what I have in my notes. And so there are 26 states that have adopted the uniform act. But what we're seeing now on the ground, even though we've adopted such an act, is that we want to add some teeth to the statute and make it specifically tailored to the economic damages

that can be occurred [SIC] in this situation. So I cannot speak to the breadth in the state of Nebraska, but I will tell you I do have a-- I do have my memo. I did rely upon quite a few Law Review articles just because, as individuals with aging and incapacity situations, these are issues that are becoming at the forefront of our practice. So I'm not-- I can't answer your question specifically to Nebraska. Now I can share with you some examples that I've, you know, either experienced or been able to listen to from our real estate, probate, and trust section of the bar. But I did more of kind of a 50-state analysis and then we kind of brought it down to what we're seeing specifically here in Nebraska.

SLAMA [00:54:50] Um-hum. OK. And out of the states that have adopted the Uniform Power of Attorney Act, are there states outside of this that have adopted similar measures in terms of adding on this additional liability?

KARA BROSTROM [00:55:03] Not that I-- not that I came across. Now I've not updated my research since last year, but not that I've come across, no.

SLAMA [00:55:12] OK. And outside of this proposal, would those-- to have to encounter this failure to accept power of attorney have any other type of legal remedy? Would there be any overlap with this bill?

KARA BROSTROM [00:55:30] I'm not sure if I can answer your question accurately, but I do-- in the proposed bill, it says that it does not limit other remedies. But what I will tell you, an example I do have in Nebraska now that I'm thinking about it, this did come up in a situation with a conservator, and I have the case in front of me. Now there weren't-- they didn't go for damages, but they did go for the enforcement, for the approval of the attorney in fact, and then they-- for approval of the power of attorney document, as well as the attorney's fees and costs incurred, to force the acceptance of the power of attorney. But as to remedies, I can't fully answer that. Now in the proposed bill, we did make sure, working with some individuals who work in the litigation aspect-- I'm more transactional-- that it wouldn't-- it wouldn't limit other remedies under Nebraska law.

SLAMA [00:56:22] OK. Thank you.

KARA BROSTROM [00:56:23] You're welcome.

LATHROP [00:56:26] I see no other questions. Thank you for your testimony.

KARA BROSTROM [00:56:28] Yes. Thank you so much for your time.

LATHROP [00:56:30] Anyone else here to testify as a proponent on LB146? Anyone here in opposition?

ROBERT J. HALLSTROM [00:56:52] Chairman Lathrop, members of Judiciary Committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m. I appear before you again on behalf of the Nebraska Bankers Association, this time in opposition to LB146. Notwithstanding Ms. Brostrom's anticipatory rebuttal of the remarks that I made last year, I will go ahead, nonetheless, with my intended testimony. As she indicated, the Uniform Power of Attorney Act was adopted in Nebraska in 2012 to address concerns that provisions of law relating to powers of attorney in the various states provided a patchwork of inconsistent and sometimes conflicting provisions. I think it's important to note that in crafting that uniform act the Uniform Law Commissioners oftentimes put together many different types of uniform acts, many of which have been adopted in the state of Nebraska. The NBA, through its participation with the American Bankers Association, was actively engaged in the development of the final product from the Commissioners on Uniform State Laws. And even in Nebraska there was quite an undertaking with regard to the Nebraska Bar Association and recommendations of the special committee of the Bar Association's real property, probate, and trust law section and law, in fact, gave rise to the adoption of the Uniform Power of Attorney Act in Nebraska. What we're concerned about is the expansion of damages provided for under LB146 as proposed. When you look at the comments of the Uniform Power of Attorney Act, they indicate that those who had vetted the various laws and done research on the 50 state laws had seen that there were a handful or more of states that did have some significant level of damages, in many cases treble damages which wouldn't be available in Nebraska. But at that time, before the adoption of the Uniform Power of Attorney Act, only 11 states had any-- any form of damages beyond attorney fees. Seven of those have yet to adopt the Uniform Power of Attorney Act. Of the four states that did, three of them have done away with their extra damages and have adopted the uniform act which provides for a court order to mandate acceptance and for reasonable attorney fees and court cost. As a result, we think, having been vetted through that process, that there is no reason to change the law with regard to the power-of-attorney provisions. I've provided an amendment. And I've talked with the Bar Association. I appreciate their getting together with me to try and talk through a potential solution. But I think the solution is already found in the language that they have, although they've gone a little bit too far in providing for economic damages and prejudgment interest. If you look at the bill, the bill basically provides now specifically, and expressly on the face, that they will provide damages to be recovered in these types of situations where there's a failure to accept an acknowledged power of attorney in the same fashion as the principal could recover damages if the financial institution or the securities firm refuse to do business on the-- in the manner requested by the principal. That should be sufficient. Whatever those damages are, they are sufficient. The NBA, through my representation, has indicated that we will go along with that; however, our concern comes with the fact that there is an insistence on saying, but we really want to say it in the statute and we want to provide economic damages and we want to provide prejudgment interest. And by the way, if you look at prejudgment interest, the witness before me suggested they were not expanding any remedies. Prejudgment interest under Section 103.02 of the statute has a format laid out that you have to make an offer, the

offer has to be rejected, and on and on. This one simply says prejudgment interest will be available from the date that the person refused to accept the acknowledged power of attorney. I think that's a significant difference in expanding damages. So with that, we have our amendment attached. We think that will address the issue. Whatever the damages are that the principal could recover can be recoverable under this type of situation without running the risk that we're putting something new or expanded into the statute. And with that, I'd be happy to address any questions of the committee.

LATHROP [01:01:20] Any questions for Mr. Hallstrom? I see none.

ROBERT J. HALLSTROM [01:01:24] Thank you.

LATHROP [01:01:25] Thanks for your testimony, Bob. Anyone else here to testify in opposition to LB146? Anyone here in the neutral capacity? Senator Hansen to close.

M. HANSEN [01:01:46] Thank you, Senator Lathrop and members of the Judiciary Committee. I'll close just by saying that I appreciate that the bankers and the Bar Association have had an opportunity to talk and discuss so far. And I hope those conversations continue to be ongoing and would be happy to update the committee as we develop more progress.

LATHROP [01:02:06] Yeah, if you could-- if you guys can come to some solution, that would be good to know.

M. HANSEN [01:02:12] All right.

LATHROP [01:02:14] I think that's it. Thanks, Senator Hansen. Good to have you here. Next up-- that will close our hearing on LB146 and next will be LB154, and Senator Brewer is here to introduce that measure. Good afternoon, Senator Brewer.

BREWER [01:02:35] Good afternoon. Awesome committee room.

LATHROP [01:02:42] Yeah, thanks.

BREWER [01:02:43] May a bit-- be a bit ironic with the artwork in here and the subject at hand. Thank you, Chairman Lathrop, and good afternoon, fellow senators of the Judiciary Committee. I am Senator Tom Brewer; for the record, that is T-o-m B-r-e-w-e-r. I represent the 43rd Legislative District, which is 13 counties of western Nebraska. I am here to introduce LB154. This bill is only one page in text. The details are very easy to understand and an easy, quick read. My introduction will be relatively short to give some time to testifiers to follow me that will have more pertinent information specific to the bill. The bill attempts to answer a very serious question: Why do Native American women turn up missing in numbers far more than the national average for every other

demographic? To help answer that question, the bill directs the Nebraska State Patrol to conduct a study. The aim of the study is to learn how we can better use or increase-- use or increase our state criminal justice resources to-- to the reporting in identifying of missing Native American women in Nebraska. It directs the State Patrol to coordinate with federal law enforcement agencies, Nebraska-- Nebraska's Indian Commission, the Native American tribes of Nebraska and various Indian advocacy groups, as well as local law enforcement agencies, in an effort to understand the scope of the problem and develop a more effective solution to address it. At the conclusion of study, the bill directs the Patrol to submit its study to the Executive Board of the Legislature by 1 June of 2020. This bill has generated a lot of interest in the past few days. There is a very strong support to add to the missing Native American women, also, children as an objective of this study. With that, I have added an amendment to do just that. Please understand that this particular group falls into a unique position because many times the tribal police and the Bureau of Indian Affairs do not communicate; the local county law enforcement agencies either do not or have not coordinated. The State Patrol and federal agencies tend to be pillars that are separate also and what happens is this failure to communicate between these agencies have left a no man's land where people can fall through the cracks and there is not a way to track the numbers and have the accountability that we need. So it is this combination of the inability to communicate these challenges that have forced the requirement to do this very bill. So with that, I thank you and would be subject to questions.

LATHROP [01:06:05] All right. We'll see if there are any. Senator Pansing Brooks.

PANSING BROOKS [01:06:10] I want to thank you, Senator Brewer, for bringing this bill. I-- we've been working together on this and we've been highly on alert about the fact that across our country this is a serious issue about the missing Native American women and children. And I just want to thank you for bringing this. It's not only important for Native Americans; it's also important for women and children. And when you look at the statistics regarding, and I presume there will be people telling that, but the statistics are staggering about the number of missing Native-- Native Americans. And we know that this has to do with trafficking as well as other issues of domestic violence and assault. So I just want to thank you very much for being willing to work together on this and bring this forward.

BREWER [01:07:02] Well, you've always been a great champion, so I thank you for your help, your help in writing this bill. But, too, I guess I would like to-- to help everyone understand that because a reservation can be a very closed society, when individuals leave the reservation, sometimes there's no network to follow them or to account for them. And when that happens, sometimes they-- they go missing and there is no one to realize they're missing. And right now, Montana's numbers are at about 24. This morning I spoke with the commander of State Patrol. We think the number is 13, but again, we

really don't know because there isn't the communication lines to figure out what that ground truth is.

PANSING BROOKS [01:07:52] Yes. I just want to add that it's my understanding that-- that Nebraska ranks seventh among states with the highest number of missing Native American women and children, so that's not one of our most proud numbers.

BREWER [01:08:06] No, that's-- no, that-- that is not.

PANSING BROOKS [01:08:08] Thank you.

LATHROP [01:08:11] Senator Chambers.

CHAMBERS [01:08:11] Senator Brewer, I am very pleased with this bill. And as I stated on the floor of the Legislature, and I'm going to continue to do it, women are a category of persons for whom I have a great amount of affection and concern. Looking at me, you wouldn't know that I have Native American blood in me, but it shouldn't surprise anybody that black people do. If you saw my grandmother, then it would be obvious because people have seen pictures of her and they thought that she was a Native American. When you have a kinship with a group, you feel things more keenly than if not. It's one thing to have a generalized concern about all humanity, all people. And I mention that kinship that I have with Native peoples because I am keenly aware of how much concern is given for other groups. I'm one of those people who do watch television and a day doesn't go by, hardly, when on the news it might be a white woman who has been missing and they do a repetitious story, but the community gets involved, the neighborhood, the city, the state, the FBI. And it makes it appear-- and I'm a person who studied Aristotle and about Aristotle at a Jesuit university. And you start, when you're looking at a problem, with observation and gathering facts, then you draw a conclusion or a generalization. So I'm giving that background to make it understandable why, if we get this bill or don't get it, I'm going to raise that issue more and more. And I would invite people to watch television. I had started writing the names of states and cities that I see on television where they'll say this woman went missing and she's white. Well, one of them just turned up the other day that they had been looking for and she-- she was alive and is well now. If we who have a direct connection with those who are not given the attention that they should get, then I think we're derelict in what we do. But because of my reputation in this state, where they got term limits to make sure I didn't stay in the Legislature, if I raise certain issues, that almost leads to a knee-jerk reaction of negativity. There is almost automatic opposition to it. So when others raise the issue, when others start the engine of the train and put it on the track, well, I can hitch a ride and maybe be one who will be viewed as cooperating, not leading an effort which would make them feel, if they defeat the effort, somehow they've damaged me. So I want to say that for the record to let you and my god-daughter know how pleased I am with the both of you. Now you're young enough to be my son, but we haven't established that yet, so I'm not going to be

presumptuous. But I'm really hoping that we can persuade people that all human beings are our brothers and sisters. We have to be concerned about all of those who need our help. And as members of the Legislature, there is a great amount of good we can do by calling attention to an issue. And I want you and my god-daughter to know-- I don't even get her permission anymore before I spring it on people-- that anything that I can do, I'm willing to do. And if it ever looks like I'm going overboard, I won't mind you, as we say in the streets where I live, pulling my coat and tell me, let us do a little bit more, and you not be out there quite so much in the front. And I won't be offended because we have a result that we want and I'm willing to do any and everything I can to help us achieve that result. And I really don't have a question.

BREWER [01:13:14] Well, just to follow up on what you said, sir, there is no doubt in my mind that you have, or your spirit, that probably does reflect somewhere where you definitely have a kinship. And do understand, too, that-- that the reason-- well, obvious reasons why we added the children part, too, is that we didn't want to have this situation where if we're going to take a snapshot, let's take a snapshot of the overall picture, not just a slice of it.

LATHROP [01:13:49] Looks like that's it. Thanks, Senator Brewer. Are you going to stay and close?

BREWER [01:13:53] Sir, I'm going to stand by. I testify in Revenue almost as soon as I finish here, so I-- I'm going to try to. As soon as I'm done there, I will come back. And if-- if I'm not here, I will waive closing; if I can be back, I will.

LATHROP [01:14:11] OK. Fair enough. We appreciate that.

BREWER [01:14:13] Thank you.

LATHROP [01:14:14] We have someone that's going to testify first in support.

APRIL MARIE SATCHELL [01:14:36] Hello.

LATHROP [01:14:36] Good afternoon.

APRIL MARIE SATCHELL [01:14:38] Thank you. My name is April Satchel, and this is my granddaughter, India Joy Wright. [PHONETIC]

LATHROP [01:14:44] Can you give us your full and last-- first and last name, please, and spell them for us.

APRIL MARIE SATCHELL [01:14:48] Yes. April, A-p-r-i-l, Marie, M-a-r-i-e, Satchell, S-a-t-c-h-e-l-l.

LATHROP [01:14:58] OK, and one more thing, if you can get a little bit closer--

APRIL MARIE SATCHELL [01:15:00] Sure.

LATHROP [01:15:00] --to the mike so that everybody in the room can hear your testimony.

APRIL MARIE SATCHELL [01:15:04] Sure. I have brought my granddaughter, India. This is India Joy Wright. And the bill right now, that Senator Brewer has brought before, affects us. Right now, our lives don't matter. A non-Native man can rape us, murder us, and as long as we don't know who that person is, the law right now does not protect us. I did prepare a speech because my life matters, my granddaughter's life matters, and so do other members of my tribe, other tribes. So in my teachings that I pass on to her as a woman, as my granddaughter, as my legacy, about life I must be sure she understands the dangers of being Native American and female. More than half of Native women have been sexually assaulted, a rate of 2.5 higher than white women, according to the 2016 National Institute of Justice study. In some U.S. counties, primary Native land, the murder and sexual assault rape is ten times higher than any other American women. Assailants are often white and non-Native. According-- and men. According to the study for the U.S. Department of Justice by sociologists-- excuse me, you've got to help me-- at the University of Delaware and North Carolina Wilmington, as of 2016, there were 5,717 cases of missing Native women reported to the National Crime Information Center. That is a 67 percent level of victimization of perpetrators that are non-Native, making it a hate crime. It means we are being targeted for who we are. The Violence Against Women Act of 2013 gave reservations criminal jurisdiction over nonindigenous people who commit domestic or dating violence against Native women; however, it does not cover non-Natives who do not know their victims. So are you telling me that my granddaughter, should she fall victim? If we don't know who the perpetrator is, they will not go after the person who took her life or my life? It's not right, is it? It's not. It isn't just about surviving. It's about thriving. Homicide is the third leading cause of Native women between the ages of 15 and 27. House Bill 2951 passed unanimously in the House with a 48-1 vote in Senate. Nebraska is one of those six states that does not have, you know, anything to help us. Why aren't we given the same rights? Why can't we have the same rights of my sisters up here or my sisters in the crowd? Why-- why don't we have the-- why am I standing before this committee right now? Why-- why-- you know, and asking for this protection? When I am an American, why don't I have protection? Why doesn't my granddaughter have protection? I'm asking on behalf of this to please-- I'm supporting it. Please help my people because right now, you know, the sex trafficking thing for my people goes way back years, you know? And what's going to make these people stop if there's nobody going after these people? It's never going to stop. The Indian Child Welfare Act was supposed to protect our greatest resource, our greatest asset, our legacy, and it did not do that; kept our children in foster care. So how does our people, with a history of less

than 50 years, how-- for one, how do we come back from the over 500 years of genocide? But how? How do we recover? How do we rebuild? How do we show that our lives matter if, for one, we have to come before these right now and ask for that when it was given to other people?

LATHROP [01:21:03] Very good. Thank you very much for your testimony. I know that was probably not easy for you either. Let's see if anybody has any questions before we excuse you, OK? I see no questions. Thank you very, very much for coming down here today. We appreciate your-- your thoughts and your input. Good afternoon.

CHANDRA MICHELLE WALKER [01:21:35] Good afternoon, Senators. My name is Chandra Michelle Walker. I'm chair of the Native caucus for the Democratic Party. I'm here to represent an issue that we have been aware of over the last couple of years, the murder and missing indigenous women. As you hear before me, the-- the numbers are high, 2.5, then the national average of-- and compared to any other women, you know, one out of three women experience some type of violence against them. But for Native American women, it's four out of five. And so, you know, it-- it-- it-- not only does it-- it doesn't surprise me because for a long time I thought that was a norm. You know, I'm a survivor of rape and domestic violence and, you know, I get stalked and harassed, and I thought that was the norm until I realized it wasn't the norm. And, you know, it's-- it's very heartbreaking that, you know, last couple years, almost every week I'm sharing on my social media another Native girl goes missing or another Native woman goes missing, and it doesn't make national media attention. You know, a lot of it has to do with sex trafficking in man camps. This summer I was up, an intern in Minnesota, and they're fighting in the pipeline, 3-- Enbridge 3 pipeline. And, you know, I wasn't aware of my elements at the time. I didn't realize who I was walking down the street when I had non-Natives, white people coming up to me and telling me I shouldn't walk the street alone in broad daylight because they said I'm Native American, I'll go missing. And, you know, that was a really big eyeopener when I was up there in Minnesota, how-- how bad it is. You know a part of-- a lot of this has to do with jurisdiction. On the reservation, a non-Native could come in there and commit a crime and as soon as they get off the reservation, there's nothing that the BIA or the tribal officers can do. And then you've got the State Troopers saying, well, that's not our jurisdiction. That's how a lot of this falls through the cracks. And so we've been pushing this as a Native caucus as a main issue that, you know, this goes hand-in-hand with us fighting for clean water, fighting against those pipelines. And now with Nebraska, we have a high rate of sex trafficking. I don't know how that exploded, but it exploded so high that, you know, there's a lot of threats coming to my Native population here in Nebraska. And so I just want to commend Senator Brewer for taking us up. You know, I really admire him ever since he got in Legislature. He does battle for us Natives, for all tribes. And so, you know, I'm happy to stand with him and work with some of his issues too. So if you have any questions.

LATHROP [01:24:24] I'm going to have you spell your name for us.

CHANDRA MICHELLE WALKER [01:24:33] C-h-a-n-d-r-a.

LATHROP [01:24:33] Last name?

CHANDRA MICHELLE WALKER [01:24:34] Walker.

LATHROP [01:24:36] W-a-l-k-e-r?

CHANDRA MICHELLE WALKER [01:24:37] Yes.

LATHROP [01:24:37] OK, terrific. Just-- that was kind of a housekeeping thing. Let's see if anybody has questions for you, Ms. Walker. Senator Pansing Brooks.

PANSING BROOKS [01:24:47] Thank you. Thank you for being here today, Ms. Walker. I was wondering-- you mentioned man camps could you describe what that is, because I don't believe that everybody knows what that is.

CHANDRA MICHELLE WALKER [01:24:56] So man camps are where it's just literally a camp city of men that work on pipelines; because it's such a laborious job, the majority of men apply there. So they create these man camps wherever there are pipelines they're working on to build through the-- the ground. And that's where a lot of high notorious rape and murder goes on for Native women, because they're so close to the reservations that they go and kidnap and snatch these women or they get into sex trafficking from pimps. And so that's why we call them man camps; they're created from these different pipelines that's going through across America.

PANSING BROOKS [01:25:35] Thank you.

LATHROP [01:25:35] Senator DeBoer.

DeBOER [01:25:37] Thank you for testifying today. I just wondered if you could, for the record, clear up a statement that Senator Brewer made. He said that we have-- I can't remember if he said 11 or 13-- in Nebraska, and I'm wondering if he meant women this year or what time period that would be so we can have kind of a sense of this. I think you might know that.

CHANDRA MICHELLE WALKER [01:25:58] The-- it might be-- I want to say maybe he had worked really hard with the Whiteclay issue and it might be around Whiteclay that's documented. When I grew up, I think there was about three Native American women inside Lincoln that went murdered, you know, found murdered in a home by their boyfriends. And I think one of them was never un-- wasn't solved. The rest of them, you know, a year later they caught the perpetrator. But when he said 11, he-- it might be

up-to-date database. I haven't talked to him about that. But he is a big pusher of shutting down Whiteclay, and there's a lot of women that end up murdered in the streets and they can't-- they can't find out, you know, how, what happened, or who.

DeBOER [01:26:42] Thank you. I-- then I guess I would ask you, because I know you're an activist on a lot of these issues--

CHANDRA MICHELLE WALKER [01:26:48] Yes.

DeBOER [01:26:48] --and thank you for that, do you have a sense of how big, how many women and children go missing per year in Nebraska?

CHANDRA MICHELLE WALKER [01:26:57] In Nebraska, no, because that's the-- that's why he pushed this issue--

DeBOER [01:27:02] That's--

CHANDRA MICHELLE WALKER [01:27:02] --for State Troopers is because that. Actually, nationally we don't know. I work with people that sits on these national boards and domestic violence and they won't-- they can't count, they can't keep count of it.

DeBOER [01:27:13] That's what I wanted to know is--

CHANDRA MICHELLE WALKER [01:27:15] So the study will help us.

DeBOER [01:27:18] Yes. Thank you.

CHANDRA MICHELLE WALKER [01:27:19] OK. Thank you.

LATHROP [01:27:20] OK. I see no other questions. Thank you for appearing today, Ms. Walker.

CHANDRA MICHELLE WALKER [01:27:27] OK. Thank you guys.

LATHROP [01:27:27] Anyone else here to testify in support of LB154? Good afternoon.

RENEE SANS SOUCI [01:27:48] Well, good afternoon, Chairman. Is-- am I correct?

LATHROP [01:27:53] Sure.

RENEE SANS SOUCI [01:27:56] My name is Renee Sans Souci. My name is spelled R-e-n-e-e, last name S-a-n-s S-o-u-c-i, and I'm here to offer her testimony in support of LB154 on this day of January 24, 2019. And I send greetings to the Judiciary Committee.

"Eyo'n'ia!" That means, "Hello. How are you?" And, Senator Brewer, Senator Pansing Brooks, and members of the Judiciary Committee, as I had said, my name is Renee Sans Souci. I am a member of the Omaha Tribe of Nebraska, and I serve on the state board for Nebraskans for Peace. I would like to-- like it to be known that I am here to show support for LB154, a bill for an act relating to the Nebraska State Patrol to require a report on missing Native American women in Nebraska. It has come to my knowledge that there are missing Native American women here in Nebraska. There was one young girl I know of here in Lincoln who is still missing and I believe that there are more. Last fall, a former student in the program I had been working with went missing for several weeks. There was no coverage of her missing in the press, neither newspapers nor television stations. And most distressing of all was that there was no known photo of her to display. Since I had taken photos of her during a trip we had taken during the summer, I created a missing person's alert and shared it on social media. Fortunately, she was reunited with her family a few weeks later. What LB154 will do is assist in conducting a study to identify members, identify numbers of missing Native American women in Nebraska, as well as determining how to increase state criminal justice protective and investigative resources for reporting and identifying missing Native American women in Nebraska. As an Omaha tribal woman who resides in Nebraska, I see an urgent need-- an extreme need, I'm going to add-- for the gathering of such data and a system that will focus on the coordination between federal, state, tribal, and urban Indian organizations to determine the scope of the problem, identify barriers, and find ways to create and improve partnerships between all of the above mentioned. I am also here testifying as a mother with Native daughters and sons. I maintain a hypervigilance over my children and teach them how to protect themselves in any setting they encounter. I am certain that I am not the only Native mother who does this. It is exhausting. Thank you to the Judiciary Committee for consideration of LB154. It is a beginning of hope for Native American women and their families. Sincerely, Renee Sans Souci, Omaha tribal member, Nebraskans for Peace, state board member.

LATHROP [01:31:59] Thank you for that. Let's see if anybody has any questions for you before you leave. Senator Pansing Brooks.

PANSING BROOKS [01:32:06] I just want to thank you so much for coming, Ms. Sans Souci. And I think that the advocacy that the members of the various tribes that are here today, we're very grateful for you coming to speak to this body and to really help to inform what is going on and the-- and the true terror and the heartrending situation that many Natives find themselves in. And we need to work to protect our-- our brothers and sisters among the tribes and give as much credence and power to searching for and validating the lives of the Native people as well as we do our own. So thank you for being here and for highlighting this important issue.

RENEE SANS SOUCI [01:32:58] Thank you.

LATHROP [01:32:59] Thank you. I see no other questions. Thank you for coming down today, testifying.

KELLEE KUCERA-MORENO [01:33:18] Hi. I'm Kellee, K-e-l-l-e-e, Kucera-Moreno, K-u-c-e-r-a, hyphen, M-o-r-e-n-o. I have not prepared anything written. I came to the Capitol today knowing there was something to testify on. And first of all, I would like to thank the Judiciary Committee. This year I don't know what the bills are, but I know you guys are awesome, and last year, the legislation, us constituents just need to pick up and run with the ball. Everything I needed to learn, I learned in kindergarten and in this Judiciary Committee. Two years ago-- last year, I fell in love with the Unicameral and I-- we need to follow through on this as a constituent. And there's three people up here that Senator Chambers has spent numerous-- a lot of time with me and at this stage I'm not really going to go to his office anymore. I'm going to have him point to where I need to go and listen. He's taught too much; he's already taught us everything we need to know. I'm a constituent, too, and Senator Patty Pansing Brooks is my senator and I need action too. I'm welcome to go to her office and talk and go all over. We need action. And, Senator Lathrop, thank you so much for what you've done in the past. We need studies because I can't believe this. I don't want to believe this, but I know and I trust these people up here. I trust-- Senator Brewer has sat with me. He's picked up his pen and paper like he's going to listen to me. I know these people. And a picture is worth a thousand words. I saw my very first picture of-- of a slave woman on the ground with a slave owner over her with a whip and three middle-aged white men with their hands crossed on their chest watching. That is learning a lesson real quick. I didn't learn that in school and I'm 57. I don't want to see pictures of this. I want to see the report. I want to know. And we need to trust that you all are going to do the right thing. If it's anything to do with Native American people, period, it's the right thing to do. Trust your-- trust your senators this year. There's 49 of them. So whoever is out there listening, there's 49 senators that we need to trust. Thank you.

LATHROP [01:35:42] Thank you. I see no questions for you today, but thank you for your testimony.

KELLEE KUCERA-MORENO [01:35:48] Thank you guys.

LATHROP [01:35:58] Good afternoon.

COLETTE M. YELLOW ROBE [01:36:00] Good afternoon, Senators. My name is Colette M. Yellow Robe. That's Y-e-l-l-o-w R-o-b-e. Thank you for the opportunity to speak here today. I am an enrolled member of the Northern Cheyenne Tribe. "Na-nee-hove Vonahe'e," that's my Cheyenne name. I just told you my name is "Ceremonial Woman," so I appreciate this time. I grew up here in Nebraska on the Winnebago Indian Reservation, a couple hours north of here. And I want to take this time, as I was instructed when I was younger, to acknowledge myself in front of my elders in the audience, and excuse me for

any mistakes that I make. Let me start with my gratitude, my thank-you to Senator Brewer for introducing this legislation and all the back work that others have done as well. That's commendable. And thank you to your committee for bringing this to hearing today. I'm going to outline at least three main reasons why I feel it's very important to consider the advancement of this bill and then of course its ratification in our state. Number one, it is a sound strategy to begin to address the infrastructure issues within our state when it comes to reporting missing and/or murdered indigenous women and, to be an inclusive feminist, I would address all women, eventually, and our families and our children. Unfortunately, as some of those before me have already outlined for you, but it bears repeating, four out of five Native American women are victims of sexual and/or physical violence in this society, and I am one of those women before you today. I am a survivor of sexual assault and abuse and I'm also a domestic violence survivor, and now I consider myself a thriver. Nebraska is listed within the top ten states in the United States or the-- or America, if you will, for being the highest number of states with the highest number of, what we know of, missing and murdered indigenous women. Omaha is also within the top ten cities within the United States with the highest number of reported missing and indigenous women, murdered women. I've always loved Nebraska. I grew up a Husker. And I can tell you right now that is not a good reflection of how compassionate our state is. So I would implore you to take those statistics very seriously. We need to do something about that mark on our record. Finally, why should we consider this? Because it's not just the right thing to do, but we have younger generations, as our first testifier so eloquently displayed to you, we have children and families and subsequent generations to think about. This is beyond the right or moral compass. This is strictly showing humanity and acknowledgment and respect for all members of our state of Nebraska, including the original or indigenous peoples to this day in our country. Thank you for your time, Senators.

LATHROP [01:39:06] Thank you for your testimony. I see no questions for you today.

COLETTE M. YELLOW ROBE [01:39:12] Thank you.

LATHROP [01:39:13] Thank you very much for coming down. Oh, I'm sorry. Good afternoon.

LEO YANKTON [01:39:34] Good afternoon. My name is Leo Yankton, Y-a-n-k-t-o-n. "Imaciapi Hoksila Luta," that means "My name is Red Boy," as well. So I'm in support of LB154, and I'm going to tell you a little bit about my experience with sex trafficking because I believe this directly relates with sex trafficking. So in 2016, I have a large social media following-- following. I had a woman, she changed her name to "Sage," but I had a woman contact me and told me she had just escaped from being sex trafficked and she was in Kansas City. And she told me she didn't know anyone that could help her and she asked me to come and help her. So I didn't own a weapon. So I have a truck and a landscaping company and I took a shovel with me to Kansas City and I went to go pick

her up. And I was terrified, but I felt morally obligated to go pick this woman up. When I showed up at the residence that she told me she was going to be at, she was not there. And a man came to the door and it was almost like out of a movie. He looked like a sexual predator-- predator, but this was the person that she went to, to escape from sex trafficking. But this man was in white boxers and a white tank top and he just looked-- I don't know. He just looked, to me, suspicious. And so he told me she wasn't there and I didn't believe him. And I'm a-- I'm a six-foot-six man who used to be 250 pounds, and I stood there staring at him for a long time. And I looked-- tried to look past him into his house and I think he noticed what I was thinking because I was thinking about pushing him into the house and looking for her. And he told me-- he went from being indignant to being a little bit afraid and he told me, no, she's not here, I'm telling you the truth. And so I left and I had kept trying to call her and she never got back to me and I left her messages. Finally she called me and she said that she had to leave there because people were looking for her and they started asking about her friends that were in that area. So I had recommended that she went to a women's shelter. So she called me. I had come all the way back to Lincoln and she called me and she told me she was at a women's shelter but that she wanted to come to Lincoln. So I brought her to Lincoln. I came back, went and brought her to Lincoln. I brought her to Voices of Hope, and Voices of Hope connected her with the FBI. And the FBI, come to find out, this-- these people who had abducted her were part of a drug ring. And so the FBI actually moved her out of Lincoln and moved her into protective custody and I'm not sure where she is now, and that was in 2016. In 2017, I was asked to help again with someone, but that was someone who had already been taken out of sex trafficking, a 19-year-old girl, and I was asked to actually just haul some furniture to this house for her, and so I did this. At the time, the-- the young girl actually even tried to hit on me. She said, oh, you're-- you're big, why don't you come over here and protect me, you know, and I-- I immediately identified her trauma as being something that she actually almost-- that-- that sexual dysfunction, like she-- she almost identified with it, you know, and felt comfortable with it. These-- both these women were white women. These were not Native American women. And I personally feel that even though this is a bill for Native women, I believe this has a ripple effect that will affect all the different aspects of the criminal organized-- organized crime in Nebraska and even in other states, in other countries, because I-80 is a corridor, a drug corridor. We've known that for a long time. So this would affect drug cartels; this would affect drug rings, child pornography rings. I just became a teepee maker in 2017. In 2018, I found out I had stage IV cancer and I had to stop everything and do the chemo and the radiation. Luckily I was able to do a targeted chemo so I didn't lose my hair or damage my organs. But I was-- I was finally cleared January 6. And so I'm already back here trying to help with this. But in 2017, when I was making teepees, I met up with a Boy Scout group. And it was at Morrill Hall and I put up a teepee and I taught him about teepees and that's another thing. You know, these-- these people who prey on women, even if it's Native women because they know that Native women are easy target, they'll-- they'll gain confidence, you know, and a lot-- a lot of times these sexual deviants, they don't just look for one specific type or one specific demographic, because there is deviants that-- that

desire different lustful, dysfunctional things, you know. So this here will create a ripple effect and it will help to shine light on other criminal activity, and that's what's extremely important about this. It's not just a Native woman issue. This is a criminal endeavor issue that, by passing this on and actually having it become law and having it become something that manifests even more-- I don't know the right word to use. But more thorough law enforcement, it will actually help to reduce other crimes and it will help to stop other victims besides just Native American women, and I think that's extremely important. And even though I am Native and this is my community, I don't-- I don't stop at that. You know, it doesn't-- it doesn't matter to me what race or what class a person is. If they're-- if they're a victim of a sex crime, I am thoroughly willing to risk my own life to help support them. And that's why I'm here, because I feel-- I feel helpless. Honestly, I feel helpless. You know, I'm strong, but what can I do? I'm one person. But by passing this, it can help to actually start a ripple effect that can actually really combat these issues.

LATHROP [01:45:32] Very good.

LEO YANKTON [01:45:33] Thank you.

LATHROP [01:45:34] We appreciate your testimony. Let's see if there's any questions. Oh, Senator Pansing Brooks.

PANSING BROOKS [01:45:40] Thank you. Thank you for coming, Mr. Yankton. I know your passion and advocacy and the work you've done with the tepees has been really interesting and highlighted a lot of the indigenous culture and art, which has been great. And I also want to thank you for standing up because it really helps to have all voices, including male voices, standing up for this issue. So I really appreciate your-- your work to help-- help people who are in troublesome spots, and thank you for all of that.

LEO YANKTON [01:46:10] Can I speak on one more thing? Just indulge me one more time, and this is a hypothetical. OK. So this woman here, this was a very tragic, sad story. Sydney Loofe, I'm sure you've all heard of Sydney Loofe. OK, well, she became-- she came missing from a dating Web site. But the people who were accused of abducting her, Aubrey Trail and Bailey Boswell, when Aubrey was interviewed, the 51-year-old man, he said that he had a fetish. OK? So a fetish means that he has a pattern of behavior. So who knows who he might have victimized first? He might have victimized several Native women before he decided to prey on Sydney, you know, and that's what I mean when I'm talking about this ripple effect. It-- it can-- it can spread wider than just the Native community. Thank you.

LATHROP [01:47:02] Right. I don't see any other questions, but thank you for coming down today.

LEO YANKTON [01:47:09] Thank you.

LATHROP [01:47:09] We appreciate hearing from you. Good afternoon.

NATE GRASZ [01:47:21] Good afternoon. Chairman Lathrop and members of the committee, my name is Nate Grasz, N-a-t-e G-r-a-s-z. I'm the policy director for Nebraska Family Alliance and I'm here today to express our support for LB154. For over ten years, Nebraska Family Alliance has made addressing human trafficking a priority. And while we have seen tremendous strides in raising awareness on this issue and implementing policies to deter traffickers and aid survivors, the troubling connection between missing Native American women and human trafficking has long been overlooked. A 2012 report by the National Human Trafficking Resource Center demonstrated that the number of Native American women involved in prostitution is severely disproportionate to the population and are overrepresented as victims of trafficking. The United States Department of Justice estimates that Native American women are more than twice as likely as all other women to be victims of violence and that one in three will be raped during her lifetime. These statistics and the others that you've heard this morning are important in the context of this bill because we also know that disappearances of young women can often be traced back to some sort of trafficking. In order to better combat trafficking of Native American women, better data collection and more effective collaboration between agencies is essential. To that end, LB154 is a needed first step to determine the-- the size and scope of the problem and identify barriers to achieving the necessary data collection and collaboration to ensure Native American victims of trafficking receive the attention, support, and resources they need. I would like to thank Senator Brewer for introducing this bill, as well as Senator Pansing Brooks and her staff for all of their work and dedication to this issue, and respectfully and encourage the committee to advance LB154. Thank you.

LATHROP [01:49:12] Thank you, Mr. Grasz. I see no questions for you today. But thanks for being here. Good afternoon.

SCOUT RICHTERS [01:49:33] Good afternoon. Thanks. Hello. My name is Scout Richters, S-c-o-u-t R-i-c-h-t-e-r-s, and I am legal and policy counsel at the ACLU of Nebraska. First, I wanted to thank Senator Brewer and Senator Pansing Brooks for bringing this vital legislation. I am circulating some written testimony, but briefly I just want to say we really support this bill because we think that it begins to address this crisis that is obviously and sadly extremely prevalent here in our state. From the very limited data that we do have on the issue from Nebraska, we know that right here in our state American Indians were five times more likely to die from homic-- of homicide than whites. And also in the report I reference in my written testimony, the-- the report from the Urban Indian Health Institute, we know that the high-- the high rates of murdered and missing women and girls were extremely high in our state as well. We wanted to reiterate our gratitude to Senator Brewer and Pansing Brooks for really shedding light on this issue and leading

this-- these efforts because we feel that addressing this crisis really starts with gathering the data and understanding the gaps in the reporting and really coming together to find solutions. And it--additionally, it really works toward our shared goals of gender equity and racial justice, as well, so we would be happy to do anything we can to support the bill and the amendment. And I'd be happy to answer any questions.

LATHROP [01:51:09] Thanks.

SCOUT RICHTERS [01:51:10] Thank you.

LATHROP [01:51:13] I see no questions. Thanks, Ms. Richters.

SCOUT RICHTERS [01:51:17] Thank you.

LATHROP [01:51:17] Anyone else here to testify as a proponent? Good afternoon.

SCOTT SHAFER [01:51:32] Good afternoon. Hello, Senators. My name is Scott Shafer, spelled S-c-o-t-t S-h-a-f-e-r. I'm speaking today on behalf of the Nebraska Commission on Indian Affairs in support of LB154. My apologies from my director, Judi gaiashkibos. Without her, this wouldn't be happening. As many of you well know, it's hard to say no to Judi, and that goes for Senator Brewer as well. And unfortunately, she's out of state this week or she would dearly love to be here testifying, and I would be much more comfortable if she was here testifying instead of me. With that being said, as part of LB154, the Nebraska Commission on Indian Affairs has been tasked with working with the Nebraska State Patrol to convene meetings with federally recognized tribes, tribal law enforcement, and local law enforcement. Our agency is ideally suited to facilitate these collaborations in respect to ensuring that tribal sovereignty and government-to-government relationships are honored. The issue of missing indigenous women and children in the state of Nebraska and across the United States has long been perceived as a serious problem; however, unfortunately, in far too many instances, the extent of the problems have been anecdotal and nearly impossible to assign an accurate and verifiable number to. In short, it is hard to fix a problem if you don't have an adequate understanding of the true extent of that problem in a macro sense, as well as down to a case-by-case level. Researching this issue has been difficult as there are a maze of jurisdictions and a variety of oftentimes fragmented reports from a variety of local, state, and federal sources. The most comprehensive information that we've been able to find was compiled by the Urban Indian Health Institute out of Seattle, Washington, of all places. There was no good federal clearinghouse that we felt confident pulling numbers from. As part of their compiling their research, they have identified numerous challenges in compiling information, and I was struck by they deem this to be a national data crisis, and our concern is that Nebraska also suffers from this data crisis. Some causes of this crisis include underreporting, racial misclassification, poor relationships between law enforcement and tribal communities, poor record-keeping protocols, and

transient residency and movement between reservations and urban areas. I believe Senator Brewer touched upon that in his testimony. And I believe this last point is important as this is not just a reservation-based at-risk population; more indigenous women live in urban areas, such as Lincoln and Omaha, than live on reservations. Although this legislation does not directly address murdered indigenous women or women who are victims of human trafficking, all too often these cases are interconnected. Too many women have fallen through the cracks and too many are rendered invisible through systematic flaws in reporting. No agency can resolve issues of missing women when they're not even aware that they are missing. No agency can adequately respond to violence it cannot track. Again, our agency looks forward to working together with law enforcement to help find solutions to these problems, and I'd be happy to answer any questions you might have.

LATHROP [01:54:48] Thanks, Mr. Shafer. Senator Pansing Brooks.

PANSING BROOKS [01:54:53] I just-- thank you for coming today, Mr. Shafer. And also please tell your-- the director, Ms. gaiashkibos, thank you. It was her efforts to take us, Senator Brewer and I, to lunch to discuss this issue that really gave us impetus on this bill, as well as Mechelle Sky Walker and others. So I just want to thank again the leadership of Ms. gaiashkibos.

LATHROP [01:55:21] I see no other questions. Thanks for coming down, Mr. Shaffer.

SCOTT SHAFER [01:55:24] If I might add, I did bring a letter from Sheriff Mike Vance. He's the Seward County Sheriff and the former chief of police of Santee Police Department, and he wanted to provide a page of written testimony to be entered into the record as well.

LATHROP [01:55:38] If you want to share that with the--

SCOTT SHAFER [01:55:41] Thank you.

LATHROP [01:55:41] --page, we'll include it. Anyone else here to testify in support of LB154? Anyone here to testify in opposition or in a neutral capacity. Seeing none, and recognizing that Senator Brewer did not make it back from his other responsibilities, the record will reflect that we also have letters of support from the following: Scout Richters at the ACLU of Nebraska; Angie Philips, Douglas County Democratic Party Women's Caucus; Fran Kaye, on her own behalf; Pamela McDonald, on her own behalf; Ivy Svoboda, Nebraska Alliance of Children Advocacy Centers; Tiffany Siebert Joekel, J-o-e-k-e-l, Women's Fund of Omaha; Renee Geller, on her own behalf; and Marcia Blum, National Association of Social Workers-Nebraska Chapter. And we will also have the record reflect a letter of support from Sheriff Michael Vance from the Seward County

Sheriff's Office. And with that, we'll close the hearing on LB154. And that brings us to LB264, Senator La Grone, who's making his way up here. Welcome, Senator La Grone.

La GRONE [01:57:05] Thank you. Thank--

LATHROP [01:57:10] You may proceed.

La GRONE [01:57:11] Thank you. Thank you, Chairman Lathrop and members of the committee. I'm here today to introduce LB264, bill to provide that the Disposition of Personal Property Landlord and Tenant Act applies only to residential properties and self-storage units. This issue was raised in Pan v. IOC, a case decided last year by the Nebraska Supreme Court. The court found that the act applies to commercial leases. The bill would limit the act to residential property and self-storage units by changing the word "building" to "dwelling unit" in several areas and adding self-storage units or facilities. I'm sure that after me a representative from the Nebraska Association for Commercial Property Owners will speak about why they believe the appropriate place to deal with what happens to personal property when a tenant vacates a lease space and leaves behind personal property is a commercial lease agreement. But I would be more than happy to answer any questions on the topic you might have.

LATHROP [01:58:01] Looks like you're going to get by with no questions.

La GRONE [01:58:04] Thank you.

LATHROP [01:58:04] Are you going to stick around to close?

La GRONE [01:58:06] Yeah, I--

LATHROP [01:58:07] OK.

La GRONE [01:58:08] --will likely waive, but I'll stick around.

LATHROP [01:58:09] OK. Those that want to speak in favor of LB264, if you want to come forward. Good afternoon.

GENE ECKEL [01:58:29] Good afternoon. Senator Lathrop and members of the Judiciary Committee, my name is Gene Eckel; that's G-e-n-e E-c-k-e-l, and I am a board member for the Nebraska Association of Commercial Property Owners, and I'm here in support of LB264. As the Senator mentioned, the purpose of this bill is to exclude commercial property from the Disposition of Personal Property Landlord and Tenant Act. And what that act does, it outlines the process that a landlord has to go through to dispose of personal property left behind by a tenant. I believe this act was-- was enacted in 1991. And so for the last 30 years or so, the landlords, tenants, property management

companies, and lawyers were under the impression that the act only applied to residential property. So when this-- when the Supreme Court's ruling came out last October, it kind of threw everything into disarray. There was, you know, thousands of commercial leases out there that are now affected by statute and-- and rights that were never intended upon when those commercial leases were entered into. The concerns here is that there's-- there's good reason for the act, and the reason we believe is because tenants in residential properties typically lack the sophistication and bargaining power against the landlord. In contrast, when you're in commercial property, those are typically going to be tenants that are companies, sometimes multimillion-dollar companies, and they have the power of negotiation and sophistication to go there and bargain for terms that are agreeable to them and they typically use a broker to assist them system with that. In most situations when you're dealing with property left behind at commercial property, it's because the company went out of business or they're going to go out of business and that's what's leading up to the eviction for nonpayment of rent, or they've just simply abandoned. But when they do that, they've typically taken away all the property that's of value to them or they've already sold off that property. So they leave behind other stuff that they don't want, but it may be too big or too cumbersome for the commercial landlord to move, as was allowed by the act; or it has multiple lienholders on it, and so they have to go back and look at the UCC and there's competing liens on it and those people want to look at the property and maybe take it themselves. So there is some kind of process there that's already in the commercial property world that will deal with that property that's left behind. That's really what it is, and that's why we want this act to be amended so it just applies to residential properties. You know, thank you for your time today. I would urge the committee to support LB264 and advance it to General File, and I'd be happy to answer any questions at this time.

LATHROP [02:01:35] I--

CHAMBERS [02:01:35] Excuse me.

LATHROP [02:01:35] Oh, I'm sorry. Senator Chambers.

CHAMBERS [02:01:37] I'm trying to-- it's hard for us to hear what's said. Are you saying that the law as it exists now and was enacted did not contemplate these storage operations but now it applies to those operations and the people who own these storage units have to go through steps that they don't think they should have to go through when property has been abandoned? Is that what's being said?

GENE ECKEL [02:02:09] That's not what I'm-- I'm here today-- I'm just talking about when you go to a commercial property like a storefront or a restaurant and someone leaves their property behind, and they usually have a process where they go through the common law where it's conversion or replevin to get the items back from a landlord if the landlord chooses to not give it back. But typically those tenants have already taken

the items they want of value or have sold them off. But I'm not talking about the self-storage units. That's not what we're here to address. We're just talking about commercial property. We just think that it's-- it only applies to the residential properties and the act currently states that it applies to the storage facilities.

CHAMBERS [02:02:48] This bill will give me an opportunity to have an occasion to talk to our newest member of the Legislature, so I won't pursue this with you anymore. But I just wanted to alert him that I'll be talking to him about the bill.

GENE ECKEL [02:03:01] That's perfectly fine with me.

CHAMBERS [02:03:03] Thank you.

LATHROP [02:03:04] To be clear, what-- what you're doing is carving out commercial property owners from the Landlord and Tenant Act so that whatever the-- that act provides for, for somebody leaving an apartment or leaving a rented house, still applies; whatever that act provides for with respect to a storage unit will remain in place. But if it's a commercial property like a strip-- strip mall kind of a situation, when that tenant leaves and they leave behind a desk or shelving or anything else, that would be outside of the Landlord and Tenant Act and be done by other commercial means.

GENE ECKEL [02:03:43] That is correct; it is exactly right.

LATHROP [02:03:46] OK.

GENE ECKEL [02:03:47] Thank you very much.

LATHROP [02:03:48] I don't see any other questions. Thanks for coming down today. Anyone else here that is here to testify in favor of LB264? Anyone here to testify in opposition to LB264? Anyone in a neutral capacity?

ROBERT J. HALLSTROM [02:04:15] Chairman Lathrop, members of the committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m. I appear before you today on behalf of the Nebraska Bankers Association in a neutral capacity, so I've got a triumvirate of representation here: support, opposed, and-- and neutral. On this bill, the only thing I wanted to bring to the attention of the committee is if this bill is to move forward, if you are taking out commercial properties, you may want to consider also taking out self-service storage units and facilities. The reason I say that, I was caught a little bit off guard and had forgotten some of the discussions surrounding LB492 from the 2017 Session. We worked with the-- I think it was the Nebraska self-service storage facility association in putting together what is now statutory Section 76-1601 through 1609, which provides a relatively extensive set of rules of the road for self-service storage facilities, which I think provides more adequate protections for both the owner of the

property, provides a lien for the self-service storage facility provides notice and protection to lienholders, as well, and provides a system for distribution of those proceeds to pay off the lien, lienholders; anything goes back to the property owner. So there's a fairly extensive statutory system in play. I recall talking at that time: Why do we have two separate systems for self-service storage units? And I've talked to Senator La Grone indicating that we're not opposing the bill but just thought we'd bring to the attention there's about two or three references to self-service storage units or facilities, interestingly enough, not in the definition of premise, although the bill would put them in there. They're referenced in the definition of landlord and tenant only, as I-- as I could see, through this statutory provision. So if the committee is so inclined to do that, I'd draw your attention to 76-1601 through 1609, which I think protects all parties in a better manner than the Landlord and Tenant Act does. Be happy to address any questions.

LATHROP [02:06:29] Who did you say you were representing in this?

ROBERT J. HALLSTROM [02:06:32] The Nebraska Bankers Association, Senator.

LATHROP [02:06:33] Bankers? OK. Senator Chambers.

CHAMBERS [02:06:35] Mr. Hallstrom, I know that you are a civic-minded citizen and you're interested in the operations of your government. But from the years that I and you have been interacting, I know that you never come to hearings just because of your interest as a civic-minded citizen, and I was curious as to which bill you might be speaking on and my curiosity has been assuaged. So when you leave on this bill, if you continue to sit here, that will alert me that I will have the opportunity to be benefited by your wisdom again before the day ends. And that's all that I have.

ROBERT J. HALLSTROM [02:07:25] Senator, that's better than having a jaundiced eye, so I appreciate that.

LATHROP [02:07:30] I see no other questions for you.

ROBERT J. HALLSTROM [02:07:34] Thank you.

LATHROP [02:07:35] Thanks for coming down, Bob. Anyone else here to testify in support of LB264-- or, pardon me, in a neutral capacity? With that, there are no letters for the record. Senator La Grone, you're free to close.

La GRONE [02:07:47] I don't have anything else to add. Senator Chambers indicated he might have something to ask me on it, so I want to afford him that opportunity, but we can--

CHAMBERS [02:07:55] Not on the record, just--

La GRONE [02:07:56] OK.

CHAMBERS [02:07:58] --conversation.

La GRONE [02:07:58] Then I'm-- I'm good.

LATHROP [02:07:59] OK. That will close our hearing on LB264 and finish our hearings for today. Thank you.