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Government, Military and Veterans Affairs Committee
January 23, 2008

[LB721 LB750 LB752 LB763 LB856 LB857]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, January 23, 2008, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB750, LB856, LB857, LB721, LB752, and LB763. Senators present: Ray Aguilar, Chairperson; Kent Rogert, Vice Chairperson; Greg Adams; Bill Avery; Mike Friend; Russ Karpisek; Scott Lautenbaugh; and Rich Pahls. Senators absent: None. []

SENATOR AGUILAR: (Recorder malfunction)...Veterans Affairs Committee hearing meeting. I'd like to introduce the committee members that are with us at this time. On my far right is Senator Scott Lautenbaugh from Omaha; next to him Senator Russ Karpisek from Wilber, Nebraska; and Senator Kent Rogert and Vice Chair of the committee from Tekamah, Nebraska; Christy Abraham is our legal counsel; my name is Ray Aguilar, I'm from Grand Island. On my left is Sherry Shaffer, the committee clerk; and next to her Senator Rich Pahls from Omaha; and next to him would be Senator "Wild" Bill Avery from Lincoln. The bills will be taken up in the following order: LB750, LB856, LB857, LB721, LB752, and LB763. Sign-in sheets are at both entrances. Sign in only if you're going to testify and then put the sheet--like this one--in this box in front of me. If you're not going to testify but would like to be on the record either as a proponent or an opponent on the bill, there's another sheet that you can fill out as well. Those are on the table near the entrances also. Print your name and indicate who you are representing. Before testifying please spell your name for the record, even if it's a simple one. Introducers will make initial statements, followed by proponents, opponents, and then neutral testimony. Closing remarks are reserved for introducing senator only. Listen carefully to the testimony, try not to be repetitive. If you have a prepared statement or an exhibit, give it to the pages who will distribute it or make copies for you, and we'll need 12 copies of each. Turn off your cell phones and pagers please, and I'm also going to introduce our pages for today: Ashley McDonald from Rockville, Nebraska, and Courtney Ruwe from Herman, Nebraska. Thank you for joining us, ladies. Okay, first to open on LB750 and I'll turn the table over to Senator Rogert as soon as I introduce Senator Greg Adams from York, Nebraska, who has joined us. []

SENATOR ADAMS: Sorry I was late. []

SENATOR ROGERT: Senator Aguilar. []

SENATOR AGUILAR: Good afternoon, Senator Rogert and members of the Government, Military and Veterans Affairs Committee. My name is Ray Aguilar. I represent District 35 and I'm here to introduce to you today LB750 which was brought to me by the Secretary of State's Office. LB750 designates the Secretary of State's Office as a voter registration agency in order to comply with the federal National Voter Registration Act. Under the bill the Secretary of State will accept completed voter

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registration applications and deliver them to the appropriate election commissioner or county clerk. The Secretary of State already accepts voter registration applications and performs the duties as outlined in LB750, but this bill formalizes that process by putting it into statute. The Secretary of State's Office is here today and will provide you with more details and answer any of the hard questions you may have. [LB750]

SENATOR ROBERT: Thanks, Senator. Are there any questions for Senator Aguilar? Seeing none... [LB750]

SENATOR AGUILAR: Thank you. [LB750]

SENATOR ROBERT: Proponents for the bill? [LB750]

NEAL ERICKSON: Senator Rogert, members of the committee, good to see you again in another year of Government Committee. For the record my name is Neal Erickson N-e-a-l E-r-i-c-k-s-o-n. I'm Deputy Secretary of State for Elections here today on behalf of Secretary of State, John Gale, in support of LB750. LB750 is the first of three pieces of legislation that we really have to get through this year based on some federal mandates. To provide a little bit of background on LB750, I got a call from the Department of Justice probably July or August of last year. Because of a clerical error on a report, they had flagged us and questioned some of the things about our NVRA compliance, and in lieu of issuing a consent decree or suing us, we talked this out and they wanted...as Senator Aguilar mentioned, you know, we currently accept voter registrations in our office. What this does is formalize it in statute. It also adds some language at the suggestion of the Department of Justice regarding county clerks offices, saying that it complies with Section 7 of the NVRA act. Basically the NVRA required DMV, public assistance agencies, but then required an additional agency outside of those. Twelve years ago, we had used Department of Education as that agency. Since that time, however, their programs have changed and the only thing they really do right now is voc rehab only for people with disabilities, so it doesn't meet the definition of another agency. That's why we're formalizing this into statute and will keep the Department of Justice happy with us. And so with that, I would answer any questions. [LB750]

SENATOR ROBERT: Any questions? None, thank you, Neal. [LB750]

NEAL ERICKSON: Thank you. [LB750]

SENATOR ROBERT: Any further proponents for the bill? Anybody in opposition? Anybody in a neutral capacity? [LB750]

SANDRA STELLING: Senator Rogert and committee, I'm Sandra Stelling, Jefferson County Clerk and Register of Deeds and Election Commissioner, and I am here on

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behalf of the Clerks, Register of Deeds, and Election Commissioners Association as cochair of the legislative committee. [LB750]

SENATOR ROBERT: Sandra, can you spell your name please? [LB750]

SANDRA STELLING: S-t-e-l-l-i-n-g. [LB750]

SENATOR ROBERT: Thank you. [LB750]

SANDRA STELLING: Sorry about that. We're here just to let you know that we are out here watching the bills and that we do not have any opposition to this or just to let you know we're here. [LB750]

SENATOR ROBERT: Thank you. Any questions? Thank you. Anybody else wishing to testify on this bill? If not, that closes the...Senator Aguilar is going to waive his closing, and that closes the hearing on LB750. [LB750]

SENATOR AGUILAR: Thank you, Senator Robert. We're now ready to open on LB856. Senator Lautenbaugh, please. [LB856]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman, members of the committee. My name is Scott Lautenbaugh, L-a-u-t-e-n-b-a-u-g-h. I sponsored this bill at the request of the Secretary of State's Office. Basically what this bill does is provides for a continuation of Congress after some sort of a disastrous event. After 9-11 plans were developed to allow Congress to continue to function should some catastrophe occur. Some of these changes were internal, such as adjusting quorum rules. However, since the U.S. Constitution requires that vacancies in the House of Representative be filled by special elections, guidelines were developed to conduct these elections in an expedited manner. The resulting legislation requires upon the declaration of the speaker of house that 100 or more vacancies exist, the governor of an impacted state will issue a writ of election to conduct an election within 49 days after the declaration by the speaker. As I indicated, this bill was brought at the request of the Secretary of State's Office, and I believe Neal Erickson is here from the Secretary of State's Office to answer any questions if you should have any. [LB856]

SENATOR AGUILAR: Thank you, Senator. Any questions for Senator Lautenbaugh? Seeing none, thank you. [LB856]

SENATOR LAUTENBAUGH: Thank you. [LB856]

SENATOR AGUILAR: First proponent. [LB856]

NEAL ERICKSON: Members of the committee, once again for the record, my name is

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Neal Erickson N-e-a-l E-r-i-c-k-s-o-n. I'm Deputy Secretary of State for Elections here on behalf of the Secretary of State, John Gale, in support of LB856. I'd like to thank Senator Lautenbaugh for introducing this bill on our behalf, and he did an excellent job of explaining what's in there. I can tell you a little bit of history behind it. This actually was buried in a federal appropriations bill--a 60,000 page bill--when it was passed in 2005, and all the states started getting some inquiries from GAO last summer. Well, what have you done about this? Well, most of the states hadn't done anything because they had never come across this provision. But Senator Lautenbaugh is right, it was a provision that was put in to...as a follow-up to 9-11, should there be some catastrophe where 100 or more vacancies exist in Congress, and it provides for an election process that has to occur within 49 days, which is tough but, you know, we'll get it done if we have to in those situations. So with that, I would answer any questions you might have. [LB856]

SENATOR AGUILAR: Questions for Mr. Erickson? Seeing none, thank you. [LB856]

NEAL ERICKSON: Thank you. [LB856]

SENATOR AGUILAR: Are there other proponents for the bill? Are there any opponents to the bill? Neutral testimony? Welcome. [LB856]

SANDRA STELLING: Thank you. I'm Sandra Stelling, S-a-n-d-r-a S-t-e-l-l-i-n-g, Jefferson County Clerk and Register of Deeds and Election Commissioner and cochair of our Clerks, Register of Deeds, and Election Commissioners Association here to say that we are out here, we are looking at these bills, and if you have any questions of us please contact us. [LB856]

SENATOR AGUILAR: Any questions for Sandra? Seeing none, thank you. Any further testimony? Senator Lautenbaugh, will you care to close? Senator Lautenbaugh waives closing and that closes the hearing on LB856. We're now prepared to hear LB857. Once again, Senator Lautenbaugh. [LB856]

SENATOR LAUTENBAUGH: Thank you, Mr. Speaker, members of the committee. I'm here on behalf of LB857. My name is Scott Lautenbaugh, L-a-u-t-e-n-b-a-u-g-h. This is another bill I introduced at the behest of the Secretary of State's Office. The past two election cycles have seen the major political parties move their national conventions later during the year. This year the Republican Party has its convention beginning after Labor Day. The Republican convention closes on September 4, and traditionally that evening is when the vice presidential nominees confirmed. However, the Nebraska election calendar has September 4 as the last day to certify the presidential and vice presidential nominees to the Secretary of State. So this bill merely addresses that and makes it possible for the nominees to actually appear on the ballot. Once again, Neal Erickson from the Secretary of State's Office is here to answer any questions you may

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have regarding this bill as well. Thank you. [LB857]

SENATOR AGUILAR: Thank you, Senator Lautenbaugh. Any questions for the Senator? Seeing none, thank you. [LB857]

SENATOR LAUTENBAUGH: Thank you. [LB857]

SENATOR AGUILAR: First proponent. [LB857]

NEAL ERICKSON: Members of the committee, I'm Neal Erickson, Deputy Secretary of State for Elections here on behalf Secretary of State, John Gale, in support of LB857. Senator Lautenbaugh summed up the situation correctly. The Republican Party is closing their convention on September 4. Currently in statute our statute says 60 days prior to the election. That would have been the last day for them to certify to us. What this bill will do is take it to a date certain of September 8. That's the first day we can be guaranteed it's not Labor Day. It is also, we feel, something we can live with. The certification for ballots this year is on September 12. The earliest it could probably be is September 10. So this would provide us enough time to be able to accommodate the party certifying by such a date. So with that I would answer any questions you might have. [LB857]

SENATOR AGUILAR: Senator Friend. [LB857]

SENATOR FRIEND: Thank you, Mr. Chairman. Neal, the language just struck me a little bit. The stricken language on line 3 actually says at least 60 days prior to any general election and so on. Why...and there may be...Scott may have alluded to it or Senator Lautenbaugh may have alluded to it. Why do you want to put a specific date in there? What happens if the Republicans or Democrats turn around, you know, four years from this next one and say, well, we're just going to push it back all the way until September 31? I mean...okay. [LB857]

NEAL ERICKSON: Yeah, and I understand, and if that would happen then we have got a lot more problems because then we have to start modifying certification dates for ballots, things like that. This one we can accommodate under the current structure with our ballot certification deadline, etcetera, it makes it tighter than we've had it. Like I said, where, you know, normally we would have at least ten days between the time the party gives the nomination and certifying the ballot. This could cut it as short as two, but we feel we can make that happen. You know, ten years ago with some of the technology we had, we might not have been able to do that, but now we can do that. And so even in that worst-case scenario of two days after their certification...or actually after their nomination we can still certify ballots to the local officials. [LB857]

SENATOR FRIEND: Okay. Thanks. [LB857]

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SENATOR AGUILAR: Other questions for Mr. Erickson? Seeing none, thank you. [LB857]

NEAL ERICKSON: Thank you. [LB857]

SENATOR AGUILAR: Further proponents... [LB857]

NEAL ERICKSON: Senator Aguilar, I appreciate you guys getting out...you know, having this scheduled early and Christy and I had a bet that I couldn't get this done in 15 minutes and we're getting pretty close, (laughter) so thank you all very much, appreciate it. [LB857]

SENATOR AGUILAR: Thank you. Further proponents of LB857? Opponents? Neutral testimony? [LB857]

SANDRA STELLING: Senator Aguilar and committee, I'm Sandra Stelling, S-a-n-d-r-a S-t-e-l-l-i-n-g, Jefferson County Clerk and Register of Deeds and Election Commissioner and cochair for our Clerks, Election Commissioner and Register of Deeds Association here on behalf of our association and wish to testify in a neutral position that we're out here still watching our bills. [LB857]

SENATOR AGUILAR: Thank you so much for coming down today. Any questions for Sandra? Seeing none, thank you. Further neutral testimony? Senator Lautenbaugh, would you care to close? Senator Lautenbaugh waives closing and that will close the hearing on LB857. Next up is LB721, Senator Schimek. [LB857]

SENATOR SCHIMEK: (Exhibits 1, 2) Good afternoon. [LB721]

SENATOR AGUILAR: We appreciate your excellent timing. [LB721]

SENATOR SCHIMEK: Good afternoon. Thank you Mr. Chairman and members of the Government, Military and Veterans Affairs Committee. I have to confess. I didn't quite think committee counsel was probably accurate when she said that the first three bills would just go flying by today. So I have to confess that I was rather shocked when my aide came to get me already, but I'm glad that I'm having the opportunity to be before you today. For the record my name is DiAnna Schimek and I represent the 27th Legislative District, and if I could have some water, I'd appreciate it. Thank you. I'm here today to introduce LB721, and that is the bill that would reinstate the intent language regarding the completion of the landscaping of the courtyards within the Nebraska State Capital Building. And this has a long history and so I want to try to outline it as briefly but as completely as I can, but I'd be happy to answer questions. I know that some of you weren't here when in 1999 we passed LB297 which reestablished the Capitol

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Commission, and I won't go into that long history, but the Capitol Commission hadn't been meeting for years and it was something that I thought needed to be done, particularly in light of the fact that we had the masonry project going on. The duties of the commission laid out by the bill included the establishment of policies and guidelines for implementation of the Capitol landscape restoration master plan, and that plan called for at least 70 percent of the landscaping to be done by the time the masonry project was completed, whenever that would be, and you know that's been a moving target all along. And if I could get a page, I do have some handouts, and I would like to go over them just a little bit with you. The first thing in the packet that you will find is the landscape restoration master plan, and I'm not going to go over that entire history. But when our Capitol was built, there was a landscaping plan that was also put together that would say how we'd landscape the interior and the exterior of the Capitol. And very briefly, the exterior of the Capitol was to be done in not a real showy fashion, but it was supposed to be done so that the Capitol itself would be very visible from the streets and there wasn't supposed to be a lot of clutter. It was supposed to be a rather sedate plan for that landscaping. Where the color and all of the elaborateness--I guess you would say--was to come within the courtyard interiors because it was envisioned that there would be a lot of color inside the Capitol in terms of murals and so forth, and the courtyards ought to reflect that. So envisioned in this plan were the courtyards a little bit like you see them designed today with the walks crossing and a center part which did have some fountains there once upon a time. But what...and you'll see that on the second sheet that's in your packet how this was supposed to look, and then you'll see along the perimeter all the different types of vegetation. It was mainly supposed to be flowering trees and shrubs and bulbs and all that kind of thing, very showy, very beautiful. And then you'll see on the third sheet the actual drawing of the fountains that were designed by the original Capitol architect. And then there's a story about how the bill was being advanced by the Legislature at the time, and then finally the last gives you a more of an overall look at the entire master plan for restoration. Okay. So fast-forward to the year 2003, and in that year former Senator Chris Buetler introduced LB755 that created the Office of Capitol Administrator, and that bill as I recall was advanced to the floor of the Legislature and it was somewhat controversial, not as controversial as some of the bills I carry but it was somewhat controversial. And at the same time there were two other bills that were advancing and out on the floor, and one was Senator Chambers' bill about how we use the interior spaces of the Capitol and how the Legislature should be the determinate of that, and then Senator Hudkins' bill which had to do with Capitol security and how we would make the Capitol more secure. Well, these bills and all their stages kept going along and finally it was determined that all of this should be put into one bill, and I think that was because we were getting near the end of the session and we wanted to get those all taken care of. So an amendment was worked on by those participants and it was brought to the floor of the Legislature, and it was I think April 17, if I remember rightly from looking at the file, that this amendment was introduced. And in that amendment which incorporated all of these ideas there was language struck and nobody seemed to be very aware of it. Nobody

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was aware of it. I certainly wasn't aware of it. The language struck was this landscaping language where 70 percent of it would be done by the time the masonry project was finished. It wasn't until last year on the floor of the Legislature that it came to my attention that that language had been struck and that's why no money was put into the budget. And incidentally this letter from Senator Beutler gives you his perspective on this particular bill and what actually occurred. So this bill before you today simply reinstates the language that was deleted so that legislative intent is clear when it comes to finishing the Capitol masonry project. Now in the meantime in November I did go to the Capitol Commission and kind of outlined this history for them and asked that they take a look at this issue as well, and I think the commission was sympathetic. I think they were receptive to the ideas. Funding was one of the issues that came up at this meeting, and I explained that there may be a few options. For instance, so-called 901 Funds may be available for this project. It was my understanding at that time--I don't know if it's changed--that approximately \$500,000 for the second year hadn't been totally allocated. The project could also be funded by private monies which would take a fairly significant fund raising campaign, and I asked the commission to consider that. And then also I presented the idea that there maybe should be legislation and that's what this is all about. So I felt even though there were several different options for doing this, this probably needed to be done. So I guess what I'd like to say to you in closing is that the interior landscaping plan for the Capitol is the only element--as far as I know--that was never completed. Now we did do some landscaping, but the fountains were never put in that were supposed to have been in. And over the years there's been a deterioration of the landscaping, and of course you know that from even just coming in the south entrance of the Capitol where we've replaced vegetation with bark and other kinds of creative things. And I guess I feel like if the Depression era Nebraskans could come up with the money to build the Capitol that we ought to be able to find the money to finish this. This is the last element as far as I can see, and other generations to follow I'm sure would appreciate this effort and appreciate the final product. With that, Mr. Chair, I am completed I believe. [LB721]

SENATOR AGUILAR: Thank you, Senator Schimek. Questions for Senator Schimek? We'll start off with Senator Pahls. [LB721]

SENATOR PAHLS: Thank you, Senator Schimek. Will the public have access to these interior courtyards? [LB721]

SENATOR SCHIMEK: Of course. [LB721]

SENATOR PAHLS: Have you--in your tenure here--have you seen very many people out in those courtyards? [LB721]

SENATOR SCHIMEK: No, and that's a really good question and I think...I mean, I've been to a couple of receptions out in the courtyards. The Capitol cafeteria itself has tried

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to promote outdoor dining in some of the nicer parts of the year. I truly believe that if this were done you would see a lot more receptions and a lot more activity in the courtyards, be very elegant. [LB721]

SENATOR PAHLS: Well, the part that I'm getting at, not just inside but even on the outside of this magnificent building, we want children to come down and visit our Capitol, and I hear a lot of times from people that they have a hard time finding a place to eat, etcetera, etcetera. And so I'm just thinking this could be, if this is done correctly, this could be an avenue for our young citizens to... [LB721]

SENATOR SCHIMEK: Unless it were January 23, yes. [LB721]

SENATOR PAHLS: That's true but you know maybe (laugh)... [LB721]

SENATOR SCHIMEK: But no, I agree with you. It could become that kind of an... [LB721]

SENATOR PAHLS: And that's the part I'm looking for. I think we should make this really citizen-friendly, and at times I really sort of question that when people are looking for places...right now I'm thinking of students, and I'm also thinking on the outside. I mean when I see...I don't know if I've seen it recently, but don't walk in the grass. [LB721]

SENATOR SCHIMEK: Um-hum. [LB721]

SENATOR PAHLS: And I understand that, but I'm telling you that really...that just sends a message to me and I don't know if I'm dreaming that or not, but I think I at one time saw those signs. [LB721]

SENATOR SCHIMEK: You did. [LB721]

SENATOR PAHLS: Okay. [LB721]

SENATOR SCHIMEK: Unless I'm going kind of berserk too. [LB721]

SENATOR PAHLS: And another thing that really intrigues me, we are working on the outside of the Capitol and every doorway you walk into what do you see? You see construction. I have not seen a lot of people, even in the summertime at all three of the entrances that are...I know we need to have them so they can put their equipment and things like that, but I'm wondering do we need three areas that haven't been sort of cleaned up? I mean, when was the last time you've seen much action happen to the...on the doorway to the east of us? [LB721]

SENATOR SCHIMEK: And I can't answer your questions, Senator, but I'm assuming

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that we'll have to go back to that area for something yet maybe why it's still there. Bob Ripley, incidentally, is in the room and I think that he would be a better person to answer those questions. [LB721]

SENATOR PAHLS: Yeah, and the only reason I've captured you right now is because I'm afraid I may have to leave to another bill that I'm introducing. [LB721]

SENATOR SCHIMEK: Okay. [LB721]

SENATOR PAHLS: That's the reason why I'm asking some of these questions. [LB721]

SENATOR SCHIMEK: Maybe somebody else can ask the question if you're not here when Mr. Ripley...if Mr. Ripley is asked to come forward. [LB721]

SENATOR PAHLS: But do you understand right now? I do know that we're working on different sides of the building. [LB721]

SENATOR SCHIMEK: Yes. [LB721]

SENATOR PAHLS: But when I do not see much action going on, it seems like they're almost storage places. [LB721]

SENATOR SCHIMEK: Um-hum. [LB721]

SENATOR PAHLS: And that's just a concern I have, and also I think we need to make the outside of our...more student friendly or...I mean, I think it would be wonderful if we could have a place where people could actually picnic out here instead of being afraid of going in the grass. [LB721]

SENATOR SCHIMEK: That's interesting. You know that during the Depression they slept on the Capitol grounds at night. There are pictures that I've seen... [LB721]

SENATOR AVERY: During the evening, yeah. [LB721]

SENATOR SCHIMEK: ...where people came to the Capitol grounds and slept because it was so hot, it was so dusty, it was so awful. [LB721]

SENATOR PAHLS: I thank you. I'm just asking because I thought maybe you...thank you. [LB721]

SENATOR SCHIMEK: I know. Thank you. [LB721]

SENATOR AGUILAR: Thank you. Senator Friend. [LB721]

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SENATOR FRIEND: Thank you, Chairman Aguilar. Senator Schimek, this might not be a very good question, but I'm curious. In the language that was inadvertently scrapped in 2003, it says: and at least 70 percent of the landscaping design shall be completed by the completion of the Capitol masonry restoration project begun in 1998. Who is it that...Nebraska Capitol Commission that decides what that--do you know--that decides what that 70 percent is? I mean, are there engineers that figure that out? I mean, is there a landscaping police? I mean, how do we...(laugh) by the way, the landscaping...I walk on the grass all the time so I'm waiting for the landscaping police to come and get me. But no, I mean, this is...there's no definition in here and I'm just curious. I mean, who makes that judgment because that could be sort of significant when they're trying to say hey, we're at 70 percent now. I don't know how that's defined, I guess, or by who. [LB721]

SENATOR SCHIMEK: Well and I would say that the Capitol administrator would probably be the key person on that, at least the one who would offer the plan and have the Capitol Commission perhaps accept it. But that's a legitimate question. Now one thing I didn't point out to you, you do have a fiscal note and I've been reviewing that with some people, and it occurs to me that I should tell you that 70 percent of that fiscal note would go towards the courtyards, that the rest of it goes towards the outside landscaping which, of course, needs some replacement as well. One of the things about doing it before the Capitol masonry project is finished is that the people who could best install the fountains would still be here. And it's my understanding that there are some drainage problems and some...I think they're called air intake problems that have to be redone within the courtyards, and if you're going to install these fountains you're going to have to probably tear up the sidewalks. And so that air intake problem and the installation of the fountains would probably be best done while the workmen are still here on the Capitol restoration, on the masonry project. [LB721]

SENATOR AGUILAR: Further questions for Senator Schimek? Seeing none, thank you. [LB721]

SENATOR SCHIMEK: Thank you very much. [LB721]

SENATOR AGUILAR: Are there any proponents for LB721? Welcome. [LB721]

WAYNE DRUMMOND: Thank you, Senator Aguilar, Senators. My name is Wayne Drummond. I'm an architect. I'm also the dean of the College of Architecture at the University of Nebraska-Lincoln, and we have a new landscape architecture program that I want you all to be aware of, and also I serve on the Capitol Commission, have been doing so for the past seven years. I think that what we have here is a wonderful internationally known building, and Senator Schimek is correct. The landscaping components of the building in the project have really never been fully completed. Ernst

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Herminghaus is the first registered landscape architect in Nebraska. He also gave the city the design for Pioneers Park. I really want to strongly support and encourage you to restore this component to the bill--or the bill to the master planning component of the Capitol. It is really critical that we do have the landscape appropriately developed and maintained. I think Senator Schimek has outlined; there are some issues of construction and sequencing that need to be dealt with. But at the same time I think particularly, Senator Pahls, your question about who uses the courtyards; virtually everyone uses them visually, and I think it's really important whether they go into the courtyard or not that they understand that, you know, this is a public place. So from that point of view and from a design point of a view and mostly from a citizen participation and pride in this state, I would really encourage you to restore this into the master plan and to encourage the funding and support that would be required, I think Senator...to complete the plan. During our last Capitol Commission meeting we also did discuss the notions of private funding and contributions that could be added to make the program complete. But the drawings and sketches and things that you have before you are the originals from the original designers of the Capitol, and I think from both a historic value and from a preservation and from a citizen appreciation point of view it would add a great deal if these projects were realized. Effectively sir, that's my testimony. I would be glad to answer any questions that any of you might have of me. [LB721]

SENATOR AGUILAR: Thank you. Are there any questions for the Dean? Yes, Senator Avery. [LB721]

SENATOR AVERY: Thank you, Mr. Chair. Dean Drummond, I don't know if this is a question that should be directed at you or perhaps Mr. Ripley, but I don't know if he's going to testify, so I'm going to ask you. And if you... [LB721]

WAYNE DRUMMOND: I think he will testify for information purposes. [LB721]

SENATOR AVERY: Okay. Well, you can pass it to him. I'm looking at the drawing of the fountain. [LB721]

WAYNE DRUMMOND: Yes. [LB721]

SENATOR AVERY: And I was just wondering if the fountains were ever built and perhaps are being stored somewhere in the basement and just waiting for their opportunity to shine in these courtyards? Do you know the answer to that? [LB721]

WAYNE DRUMMOND: I'm going to state my understanding they have never been built, and Bob? We'll wait for him to come and testify. I think Bob has many, many things, artifacts, drawings, and documents in the basement. To the best of my knowledge they have never been completed. [LB721]

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SENATOR AVERY: I've always wanted to get down there and look around and see if there... [LB721]

WAYNE DRUMMOND: You'd have a fascinating day, Sir. You really would. [LB721]

SENATOR AVERY: I'm sure I would. I think it's possible that I can now get down there, but every time I try, the door is locked. [LB721]

WAYNE DRUMMOND: Well, there's... [LB721]

SENATOR AVERY: But I'm sure the Chair could pull some strings for me. [LB721]

WAYNE DRUMMOND: Well, there are a lot of security issues, sir. I've covered this building from top...I actually had a chance to sit on the shoulder of the sower during the restoration period, and I have also had the tour of the archives, and I want to tell you, you've got some very dedicated people working hard to maintain the quality of this building. [LB721]

SENATOR AVERY: It's a great building. [LB721]

WAYNE DRUMMOND: It is indeed. [LB721]

SENATOR AGUILAR: Further questions for the Dean? Seeing none, thank you. [LB721]

WAYNE DRUMMOND: Thank you very much. [LB721]

SENATOR AGUILAR: Next proponent. Are there any opponents of the bill? Neutral testimony? Seeing none, Senator Schimek. I'm sorry, what capacity are you? [LB721]

BOB RIPLEY: Neutral. [LB721]

SENATOR AGUILAR: Neutral, welcome. [LB721]

BOB RIPLEY: Excuse me? You did say neutral? [LB721]

SENATOR AGUILAR: I did. [LB721]

BOB RIPLEY: Very well. Mr. Chairman and members of the committee, my name is Bob Ripley. I have the pleasure and the privilege of serving as Capitol administrator for the office of the Capitol Commission. I was asked by... [LB721]

SENATOR AGUILAR: Please, spell your last name, Mr. Ripley. [LB721]

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BOB RIPLEY: Pardon me? R-i-p-l-e-y. [LB721]

SENATOR AGUILAR: Thank you. [LB721]

BOB RIPLEY: Thank you. And I was asked by Senator Schimek to appear today to attempt to answer questions you might have with regard to the intent of the bill, in particular anything that might arise from--I assume--some of the documentation you were handed out earlier today that was likely taken from this document which is the most recent update of the landscape restoration master plan for the Capitol. And if there are questions, I would attempt to answer them at this point. [LB721]

SENATOR AGUILAR: Questions for Mr. Ripley? Yes, Senator Friend. [LB721]

SENATOR FRIEND: Senator? Thank you, Senator. Mr. Ripley, I've piqued my own curiosity now. Do you know...I mean, what 70 percent...I mean that seems...we've used this language before. We've used it before 2003. I mean who's defining that, do you know? [LB721]

BOB RIPLEY: This particular landscape restoration master plan has a page of calculations broken down by areas of the grounds and what the projected costs for those areas would be. I don't know what...there couldn't have been any planning or anything known of this at the time that the bill was originally written earlier because this master plan and the cost figures within it were developed in October of 2006. But it just so happens that of the various categories of the grounds to be restored, if the 70 percent is the kind of critical figure in the restoration of the grounds, the total amount with adjusted cost figures for the restoration of the grounds would be--at today's dollars--roughly \$2.5 million. If you take 70 percent of \$2.5 million, it almost exactly hits the numbers that it requires to restore the courtyards. So the remainder of the grounds would be the 30 percent. The perimeter lawn that you see from driving around the building represents 30 percent of the cost of restoring the Capitol grounds, and the courtyards--the four interior courtyards including fountains being the most expensive component of that--just happen to represent 70 percent of that total construction cost. It's just kind of the way the figures worked out. [LB721]

SENATOR FRIEND: Okay. Good, so that's perfect. So it's fiscally driven and there's a budget out there. There's a percentage of the budget that goes...I wanted to make sure that it wasn't, you know, I guess arbitrary. [LB721]

BOB RIPLEY: Sure. [LB721]

SENATOR FRIEND: I know arbitrary things don't happen down here, but I guess I was just curious. [LB721]

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BOB RIPLEY: I don't know how 70 percent was arrived at. It just happened to work out that that is the precise--almost within \$10,000 in a \$2.5 million project--it's almost precisely the amount for restoring the Capitol courtyards. [LB721]

SENATOR FRIEND: Okay. Thanks. [LB721]

BOB RIPLEY: You're welcome. [LB721]

SENATOR AGUILAR: Senator Avery. [LB721]

SENATOR AVERY: Thank you, Mr. Chair. How much time would you estimate that we have to make that 70 percent complete? [LB721]

BOB RIPLEY: Seventy percent completion? [LB721]

SENATOR AVERY: It's by the end of the reconstruction or the restoration of the masonry project, right? [LB721]

BOB RIPLEY: At the time the original bill I believe was written, no one knew what the intended date of the masonry restoration project completion was to be. We now know that. It will be calendar 2010. So we have '08, '09, and '10 to deal with the completion of the masonry project and it will be completed at that time. And the budget and all those sorts of things are thankfully set and committed by the Governor and the Legislature. So that we do now know the end date to that. So we would have essentially...if you're talking about beginning in July of 2008, we'd have roughly two-and-a-half years to effect the restoration of the courtyards if it's that 70 percent that you're looking to achieve. [LB721]

SENATOR AGUILAR: Further questions for Mr. Ripley? Senator Pahls. [LB721]

SENATOR PAHLS: Yes, I'll continue with some of my questions. Is your intent to make the courtyards really citizen-friendly, other than viewing them? [LB721]

BOB RIPLEY: Sure. The courtyards have always been open and open for public access, with the exception of when we've had construction going on overhead when it was unsafe to do so. So we have always had them open and invite the public to go out. They have been a bit Spartan in terms of something appealing to invite someone to perhaps go into, and therefore the courtyards haven't had the kind of use that we might have had if they were, in fact, fully developed. However, school groups have--in warmer months of the year--gone out and used the courtyards for bringing their bag lunches and use. So this is not a good time of the year for that example, but they clearly have been used for that kind of thing and the construction has slowed down that kind of use just because there's been work going on overhead. [LB721]

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SENATOR PAHLS: Thank you. [LB721]

BOB RIPLEY: Certainly. [LB721]

SENATOR AGUILAR: Further questions? [LB721]

BOB RIPLEY: Senator Pahls, I would offer this observation: The reason the three construction yards remain around the perimeter of the building is for one principal reason to complete the masonry project and that is to have the overhead construction crane access to the various quadrants of the building to restore the roof, and the roof work has just begun. The crane is in the west yard. We're working on restoring the west Chamber roof now in the northwest quadrant which that crane can reach. When we're done with that portion of the roof, we'll move the crane to the south yard, remove the west yard, restore the south portion of the building with that crane access. Do the same on the east side and each time we move the crane, the next time when it removes from the south yard we will restore that yard, do the same on the east and come around to the north. That's why those yards remain. [LB721]

SENATOR PAHLS: Yeah, and I understand that. I was just...it just seemed to me that it was sort of a long period of time. [LB721]

BOB RIPLEY: Yeah, it has been. [LB721]

SENATOR PAHLS: When are you suggesting that this will...I mean, I'm just curious, when will that process of the land being reclaimed for its use? [LB721]

BOB RIPLEY: The minute that phase of work is completed. I would anticipate, give you some "guesstimate," we will complete the northwest quadrant and the roof of the west lounge and the Legislative Chamber...we will complete that by the end of the summer into the fall of this very year, and then the crane will move to the south side and they will pick up from there, do the south-central portion and so on. So they'll work their way around the perimeter of the building. So 2010, the roof and the masonry will be completed. [LB721]

SENATOR PAHLS: Great. Thank you. I appreciate that. [LB721]

BOB RIPLEY: Not at all. [LB721]

SENATOR AGUILAR: Further questions? Seeing none, thank you Mr. Ripley. [LB721]

BOB RIPLEY: Thank you. [LB721]

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SENATOR AGUILAR: Any other neutral testimony? Seeing none, Senator Schimek, would you like to close? [LB721]

SENATOR SCHIMEK: Thank you, members of the committee and Mr. Chairman. I appreciate the opportunity to present this to you today. I really think it's something that we really ought to do, and I would be happy to work with the committee in any way to get this bill done this year. I don't know if anybody else will feel exactly the same as I feel about it after next year. Presumably at least I'm raising the issue with you so that you know that it's there, and I think that if we're going to get it done...I'm assuming that there will be some kind of a...not a dedication ceremony, but maybe some kind of a ceremony once the masonry project is all finished. I think there should be some kind of a celebration. It would be very nice if this landscaping project could be a part of that celebration. So I just ask that you seriously consider advancing the bill. Thank you. [LB721]

SENATOR AGUILAR: Thank you, Senator Schimek. I appreciate the fact that an outgoing senator takes the initiative to introduce this. [LB721]

SENATOR SCHIMEK: You know that we won't be here when the masonry project is finished. That makes me sad because we've been living with it longer than you have, Senator Pahls. In fact, we got to go up on the sower and sit on top of the Capitol which I never envisioned in a million years that I would do, but I did it. It was fun. [LB721]

SENATOR AGUILAR: Any other questions for Senator Schimek? Thank you. [LB721]

SENATOR SCHIMEK: Thank you. [LB721]

SENATOR AGUILAR: And that closes the hearing on LB721. We're now ready to open on LB752. Senator Flood, would you join us, please? Speaker Flood. Welcome. [LB721]

SENATOR FLOOD: Thank you, Mr. Chairman, members. For the record, my name is Mike Flood, spelled F-I-o-o-d and I represent Legislative District 19, which includes all of Madison County. I'm here today in my capacity as Speaker of the Legislature to introduce LB752. LB752 would authorize the Governor and the Speaker, both of whom serve as members of the Capitol Commission to send a representative to a meeting of that commission if they are unable to attend. The representatives would have full voting privileges for the meeting that they attend. First of all, I want to make it abundantly clear that it is not my intent in introducing this bill to shirk my responsibility to serve as a member of the Nebraska Capitol Commission. Last year I only missed one meeting of the commission due to a conflict with the meeting within my district. Just the opposite, my intent is due to the importance that I place in the work of the Capitol Commission that I introduce this bill. The purpose of the bill is to ensure that the legislative and the executive branches of the government have voting representation at each meeting of

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the Capitol Commission. The positions that can fill in for the Governor and the Speaker have been very limited in their scope. In a case of the Governor, only the Lieutenant Governor may sit as a designate to represent the executive branch's vote. As far as the Legislature is concerned, the Speaker could appoint either the Clerk of the Legislature or the chairperson of the Executive Board. The Chair of the Exec Board is a natural choice since the Executive Board is responsible for determining the Legislature's use of its own space within the Capitol. However, since the Nebraska Legislature is a citizen Legislature with members having outside responsibilities--especially during the interim--I include in this bill the option of the Speaker designating the Clerk of the Legislature to attend the Nebraska Capitol Commission meetings since it is likely that both the Speaker and the Exec Board Chair may be unable to attend a commission meeting held during the Legislature's interim. The Clerk of the Legislature is a full-time year-round position. Thus the Clerk would be available during the absence of both the Speaker and the Chair of the Executive Board. However, unlike any other staff position of the Legislature, the Clerk is elected by the entire Legislature giving this position authorization by the full body. While I do not support future Speakers choosing just any staff person to serve in his/her stead at a Capitol Commission meeting, I believe the Clerk of the Legislature is in a unique position due to his/her election by the full Legislature. With that in order to ensure Nebraska Capitol Commission representation of the legislative and executive branches, I would ask the committee to advance LB752 to General File and would be happy to answer any questions that you have. [LB752]

SENATOR AGUILAR: Thank you, Mr. Speaker. Are there questions for the Speaker? Seeing none, thank you. [LB752]

SENATOR FLOOD: Thank you. May I be excused? [LB752]

SENATOR AGUILAR: You may. Any proponents of the legislation? Opponents? Neutral? Senator Flood waives closing and that will end the hearing on LB752. We're now ready to open on LB763, Senator Avery front and center. [LB752]

SENATOR AVERY: Thank you, Chairman Aguilar. My name is Bill Avery, spelled A-v-e-r-y. I represent District 28 here in Lincoln which I might say because of the nature of my bill, my district includes this Capitol Building and I'm proud to say that. LB763 would create a task force to study the State Capitol environs, with a particular focus on Centennial Mall. This mall actually serves as a scenic doorway for the State Capitol. It stretches seven blocks north of the Capitol's front door. It's an important part of the original design of the building by the architect Bertram Goodhue. Its fountains are often featured on postcards and calenders and they've been a part of the state's identity for a long time and a source of pride I think in the appearance of this Capitol Building and its environs. However, if you've been on the mall at all, you know that it's deteriorated over time. It is now 40 years old and 2 of the original 6 fountains remain in use--only 2. Two have been filled with dirt and converted to grass. Two others are broken and sit empty,

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one of which was run over by a car and there's not enough money to repair it. A casual walk through the mall reveals broken concrete planters. I walked through it today just to remind myself of how bad it is. Planters are broken. Red oak trees that once filled these planters no longer are there. Some of the planters have plaques commemorating people who donated perhaps the tree for that planter. Now the plaques sit there commemorating an empty space. There are worn-out benches, cracked sidewalks, overgrown bushes, the general appearance of serious disrepair, and these conditions did not develop overnight. They came about because of years of underfunding from maintenance and improvements. What I am proposing is a task force that would include: The mayor of Lincoln or his/her designee; a member of the State Capitol Environs Commission; a member of the State Capitol Commission; a representative of one of the downtown Lincoln development groups, the Downtown Lincoln Association is an example, the Downtown Neighborhood association; a representative of the State Board of Landscape Architects; a representative of the Nebraska State Historical Society; two at-large members; and two state senators. The task force would be responsible for: Reviewing the environs of other State Capitols as appropriate and desirable, considering and analyzing possible design options, considering funding strategies, all with a commitment to preserving the historical place of Centennial Mall and the environs of this building. The findings of the task force would be submitted to the Governor and to the Legislature in a final report. The Legislature has authorized and we are currently in the midst of a much needed restoration of this grand structure. Now I believe is the appropriate time to turn our attention to the environments, that is to the larger area in which the Capitol resides. It's interesting that Senator Schimek came forward with her bill. I did not know that she was working on that. She did not know that I was working on this. There's a convergence of interest there, I think owing to a lot of pride that we have in this building. There are a number of questions that the commission would try to answer. Do we want to leave the mall as it is? In which case it would further decline. Do we want merely to repair it? Perhaps it's time for a new design. How will these repairs/new construction be financed? I think that there has been some discussion in the past about creating a trust fund, perhaps with private money, to do this. I would certainly entertain any of those kinds of proposals that would not cost the taxpayers money. But these are the kinds of questions that the commission or the task force would look into. So I urge that you advance this to General File for consideration by our colleagues. Thank you. [LB763]

SENATOR ROBERT: Thank you, Senator Avery. Have you...you've done quite a bit of research on this. In your estimation or research have you come upon a possible cost of total restoration back to the way it was say 30 years ago or 20 years ago when it was still in good shape? [LB763]

SENATOR AVERY: It's my understanding that the original plan by the landscape architect that was hired back in '22 or maybe 1932 was never fully implemented. If you look south, particularly west, we don't have those vistas that I think were envisioned by

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Goodhue. The only mall that really is in good shape is the one leading to the city government, Lincoln Mall. I have seen some previous studies. I believe the last one was in 2002 and the estimate then was \$7-8 million, but that would be for an entirely new design and a totally new construction. My guess is it would cost a little bit more than that now. Some will say, well, this is a responsibility of the city of Lincoln. I think it's a shared responsibility. The city of Lincoln I think would have to share in some of that, but so would we. It's an important part of this building's total environment. [LB763]

SENATOR ROBERT: Thank you. Any other questions for Senator Avery? Senator Adams. [LB763]

SENATOR ADAMS: You know I think you're on to something here, Senator. I haven't thought about the environment around the Capitol until you bring this. I guess in part you've already answered my question. My immediate response when I saw this was where's the city of Lincoln on this? And their planning department has not envisioned anything there to your knowledge? [LB763]

SENATOR AVERY: I think we have the Parks and Rec Department director here. Yes, he is here and he will be testifying. He can answer your question better, but my understanding is that the city of Lincoln simply does not have any money. I mean the infrastructure money for the city of Lincoln is just absolutely stretched to the maximum. In fact, the city has legislation that's being proposed this year to give them the authority to issue bonds in order to do some more work in raising money for infrastructure. When you have competing priorities, you need roads and sewers for newly developed areas, areas like we have around the Capitol often get neglected because they're already built, even though they are in bad shape, they're still functional--barely. We did some work on the south entrance. I'm talking about on south...what is it? 14th Street, 15th Street, new lighting, and if you look closely you can see it looks pretty good. But there needs to be work done there too. I think probably some creative ways of financing the upgrading of some of those private structures, but I don't know what we would ever do with J Street going to the east since it doesn't have a direct path to the Capitol as Goodhue envisioned, but this is a special building. I mean we ranked the...we were number 67 on that list of 150 outstanding architectural structures in America that toured the building here. I think that's something we should be proud of and we should preserve it and enhance it as much as we can. [LB763]

SENATOR ROBERT: Any other questions for Senator Avery? Thank you, Senator. [LB763]

SENATOR AVERY: Thank you. [LB763]

SENATOR AGUILAR: Thank you, Senator Rogert. Are there any proponents of the bill? Please come forward. Welcome. [LB763]

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LYNN JOHNSON: Thank you. Good afternoon. My name is Lynn Johnson. I'm the parks and recreation director with the city of Lincoln and I'll provide some information on kind of the planning. [LB763]

SENATOR AGUILAR: Mr. Johnson, could you spell your last name, please? [LB763]

LYNN JOHNSON: Yes, it's J-o-h-n-s-o-n. Some information on kind of the context within which Centennial Mall exists and then a little bit of information on the planning that's been done recently on the project. I think, as has been indicated, Bertram Goodhue's plan for the Nebraska State Capitol and environs envisioned wide avenues and malls extending from the four cardinal axis of the building. When this building was designed in 1920, he envisioned that that would help place the building within kind of downtown and establish the setting for this prominent building. South 15th Street mall, now Goodhue Boulevard, was recently renovated, as Senator Avery indicated, with ornamental street lighting, automated irrigation and renovation of the turf medians. Lincoln Mall, which is the eastern axis...pardon me, which is the western axis, was renovated in conjunction of construction of the office building at 1010 Lincoln Mall in 2004. Construction of Centennial Mall occurred in 1968. Centennial Mall is the north axis from the building. At that time, the four outer blocks were closed to vehicles and the central three blocks remain open to vehicular traffic. The mall was designed by Lincoln landscape architect, Larry Enersen, and was intended to be a tree-lined extension of the State Capitol Building steps and lawn connecting the State Capitol Building to the University of Nebraska campus. Unfortunately today Centennial Mall can best be described as being in deteriorated condition. As Senator Avery indicated, landscape plannings have reached the end of their useful life. Stepped and paved areas are cracked, heaved and deteriorating. Fountain bases and mechanical systems are also deteriorating and only two of the six of the original fountains are operational. Site furniture needs replacement and the circulation, although it was innovative for its time. Larry Enersen did anticipate making the mall handicap accessible or accessible to individuals with mobility limitations, but it doesn't meet current standards and it needs to be updated. There have been a series of efforts to develop a plan and strategy for renovation of Centennial Mall over the past decade. In 1997, landscape architectural firm EDAW prepared an ambitious plan to redesign Centennial Mall. This plan proposed to close the center three blocks to vehicular traffic. Concerns about loss of on-street parking, the impacts on traffic circulation, and the \$17 million estimated cost stalled this plan. The EDAW plan proposed recognition in celebration of Nebraska's natural and cultural history along Centennial Mall. This concept has been carried forward into subsequent planning efforts and we envision that information regarding each of Nebraska's 93 counties will be incorporated into a future mall renovation project. Most recently in 2002, UNL professor Tom Laging prepared a conceptual plan that was essentially consistent with the original vision of Larry Enersen. This plan has been endorsed by the Capitol Environs Commission and serves as the basis for some more detailed master planning that we

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did in 2005. We had an intern that summer who took kind of the broad conceptual drawings that Tom Laging prepared, and then tried to apply them more directly and try to do some estimation of cost. And what are the cost figures that Senator Avery indicated of an estimate of about \$7-8 million for renovation of the mall is consistent with what we found that summer in reviewing those plans. The city of Lincoln appreciates and supports LB763. We believe that there is value in bringing consensus to a single vision for renovation of Centennial Mall. We also feel that funding will likely be accomplished through a public/private partnership. The guidance of the proposed task force would be important in advancing renovation of a public landscape feature that is integrally linked to Nebraska's State Capitol Building, and I did want to indicate the city of Lincoln would be happy to provide the staff support to the task force, and I would be happy to answer any questions that you might have this afternoon. [LB763]

SENATOR AGUILAR: Thank you, Mr. Johnson. Are there questions for Mr. Johnson? Seeing none, thank you. [LB763]

LYNN JOHNSON: Thank you. [LB763]

SENATOR AGUILAR: Any other proponents? Are there any opponents to the bill? Neutral testimony? Seeing none, Senator Avery, would you choose to close? He waives closing and that closes the hearing on LB763 and all of our hearings for today. Thank you for your attendance. [LB763]

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Disposition of Bills:

LB721 - Advanced to General File, as amended.
LB750 - Advanced to General File.
LB752 - Advanced to General File.
LB763 - Advanced to General File, as amended.
LB856 - Advanced to General File.
LB857 - Advanced to General File.

Chairperson

Committee Clerk