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Government, Military and Veterans Affairs Committee  
January 19, 2011

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[LB14 LB89 LB122]

The Committee on Government, Military and Veterans Affairs met at 2:00 p.m. on Wednesday, January 19, 2011, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB89, LB122, and LB14. Senators present: Bill Avery, Chairperson; Scott Price, Vice Chairperson; Lydia Brasch; Charlie Janssen; Russ Karpisek; Rich Pahls; Paul Schumacher; and Kate Sullivan. Senators absent: None.

SENATOR AVERY: I want to welcome everyone to the first meeting of this Legislature of the Government, Military and Veterans Affairs Committee. My name is Bill Avery. I am going to introduce first the members of the committee before we start our proceedings and talk a little bit about our procedures, and then we'll move on to Senator Christensen. I'm going to start on my far right with Senator Rich Pahls from Millard, a longtime member of this committee. I think he was here when I came, right, about four years ago. Next to him is one of our newest members, Lydia Brasch from Bancroft. Welcome to the Legislature and welcome to this committee. Next to her is Senator Charlie Janssen from Fremont; and next to him is the Vice Chair of the committee, Scott Price, from Bellevue. And to my immediate right is Christy Abraham. She is legal counsel for this committee. And on my left is Senator Russ Karpisek from Wilber. Sitting next to him is Kate Sullivan from Cedar Rapids. And next to her is another new member to the Legislature and new member of this committee, Paul Schumacher. He is from Columbus. And Sherry Shaffer is our committee clerk. We will take up the bills in the order they are posted on the agenda outside the room, starting with LB89, then we'll move to LB122, and finally LB14. Those of you who are wishing to testify, we'll ask you to fill out this form. Please print clearly and when you come to the table to present your testimony, give this form to the clerk and she will put everything in the record. If you wish to be recorded for or against a bill but do not wish to testify, there is a sign-up sheet available at the door. I believe it might be available at both doors. At any rate, please do sign this and indicate for or against and the bill number. Please print on this one as well. The introducers are given adequate time to make initial statements. They will be followed by proponents, opponents, and people testifying in a neutral capacity. Closing remarks, however, are reserved for the introducers. We are going to use the light system today and maybe even throughout the session. The light system is designed to help us move through the bills and still give everyone adequate time to make the points they want to make. The green light will come on first. You will have four minutes and then the amber light comes on and that's an indication that you have one minute to wrap up your remarks. If you go a little bit over, Senator Price will take care of you. He is the enforcer of the rules. He is 6'5" and weighs about...more than he will admit and a former bouncer, by the way. Is that more information than they need?

SENATOR PRICE: I'm okay.

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SENATOR AVERY: Probably so. Red means that you've run out of time. The intent is not to restrict debate in this committee. Most of you know that I spent a long time at the university as a professor of political science. I value debate. But we've found over the past couple years not using the light system that sometimes we were staying here a little bit longer than our bodies were accustomed to, so we were dragging a bit by the time 6:00 came and we were still hearing testimony. So we're going to try it. I'm going to ask you to please turn off your cell phones, pagers, any electronic devices that might make noise. If you want to put them on vibrate or silent, that is fine. Also listen carefully to testimony so that you're not repetitive and still get your points across. That will be fine. I also, if you have any prepared statements that you want us to have, any exhibits that you'd like for us to look at, give 12 copies to one of the pages. They're sitting over here in the black and white. Danielle Henery from Battle Creek is one of our pages; the other one is Kyle Johnson from Sutton. All right, now we will start with Senator Mark Christensen, LB89. Welcome, Senator.

SENATOR CHRISTENSEN: (Exhibits 1, 2, 3, and 4) Thank you. Thank you, Mr. Chairman, members of the Government, Military and Veterans Affairs Committee. I'm Senator Mark Christensen, C-h-r-i-s-t-e-n-s-e-n. I represent the 44th Legislative District. I'm here today to introduce LB89. LB89 would amend Section 81-2001 to change the current requirements for eligibility as Superintendent of Law Enforcement and Public Safety of the Nebraska State Patrol. Currently, Nebraska law requires four years of law enforcement experience to be eligible for appointment by the Governor to the position of Superintendent of Law Enforcement, Public Safety. LB89 would change the requirements to: one, a bachelor's degree from an accredited college or university; two, at least 15 years of law enforcement experience; three, at least 5 years of management experience in law enforcement; and four, a certificate of successful completion of command officer training offered by a nationally recognized program. Nebraska State Patrol duties, responsibilities, budget, and personnel have increased greatly since the current recommendations were put in place many years ago. These requirements would more closely align with the current national standard trends for similar positions and reflect the necessity...necessary experience needed to manage the growing responsibilities of the Nebraska State Patrol. I'd first like to make it clear on the record that this bill is not intended to be an attack on the Governor or to make a statement in regards to the current Superintendent of Law Enforcement, who, by the way, meets and exceeds all these new requirements. Because our current Governor has done an excellent job with his appointments, I believe this is a perfect time to discuss the merits of this change outside the realm of personal politics. I really see this bill as a recognition that this appointment position is of great importance to the safety of the people of Nebraska--one of the highest priorities of state government. The people of Nebraska deserve someone who has the knowledge and capabilities to run this essential agency with growing responsibilities. Understanding that there is a necessary division of powers between the executive branch and the Legislature, I believe the Legislature also has a responsibility to the residents of the state to demand competency without unnecessarily

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narrowing the pool of potential candidates to an unreasonable level. I believe this bill does that. Such a basic and necessary agency of the state government should not be exposed to the negative effects of poor morale and ineffectiveness just because we ask so little of a candidate for superintendent's position and to stick to a strict rule of separation of powers. I have packets I would like to hand out and have. One gives some relevant information showing the increase in the size and scope of the duties and responsibilities of the Nebraska State Patrol and shows...second shows the current policy regarding the promotional process of our State Patrol. If you look at the second page on the second handout describing the promotional process, you will see under "Eligibility Standards," number one and two, that the first promotion to rank of sergeant can only be reached (inaudible) after six years. The rank of sergeant is not even an administrative position. You would have to serve at least another two years to try to attain a rank of lieutenant, the first rank with administrative duties. This is a total of eight years, but our current standard of superintendent's position is only four years of experience. I believe that that sends a mixed message. The testifier following me was one with the patrol for 29 years and will provide you with some of the expertise that I will not be able to give you. However, I will try to answer any questions you may have. Thank you for considering LB89. [LB89]

SENATOR AVERY: Thank you, Senator. Questions from the committee? Seem to have answered them all. Are you going to stay for closing? [LB89]

SENATOR CHRISTENSEN: Yes. [LB89]

SENATOR AVERY: Okay. Proponent testimony. [LB89]

DARRELL FISHER: Chairman Avery, members of the Government, Military and Veterans Affairs Committee, my name is Darrell Fisher and I am here today in support of LB89. [LB89]

SENATOR AVERY: Would you please spell your name for the transcriber? [LB89]

DARRELL FISHER: Yes, sir. It's a common spelling, F-i-s-h-e-r, like the fish that swims, no "C." [LB89]

SENATOR AVERY: D-a-r-r-e-l-l? [LB89]

DARRELL FISHER: It is, sir. [LB89]

SENATOR AVERY: Okay. [LB89]

DARRELL FISHER: Having spent over 29 years in the Nebraska State Patrol, the last 3-plus years as the assistant superintendent, I can testify from firsthand knowledge how

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essential these requirements are to the successful tenure of any superintendent. During my time in the State Patrol, I personally witnessed an increase in the duties and responsibilities of the superintendent, an expansion of at least five new divisions: carrier enforcement in '85; alcohol, tobacco enforcement in '86; sex offender registry in '98; Internet crimes against children in 2000; and Capitol security in 2004. Numerous other technical support functions have been added and/or expanded, such as SWAT, hazardous devices technicians, canine, and the agency's devoted assistance to homeland security issues, to name just a few--all high-liability, high-risk positions. In addition, manpower increased by more than 100 employees in a ten-year period alone from 1996 to 2006. The Patrol's general budget has increased from just under \$15 million in 1981 to over \$57 million in fiscal year '09-10, a difference of over \$42 million. All total with grants, the Patrol's annual budget for fiscal year '09-10 was nearly \$82 million. With the legal and fiscal responsibilities of the superintendent, it is only logical the requirements for that person's selection be examined. Nebraska Revised Statute 81-2001 establishes the requirements of the Nebraska State Patrol superintendent, and I quote: The chief officer of the Nebraska State Patrol shall be Superintendent of Law Enforcement and Public Safety, who shall have had at least four years' experience as a law enforcement officer prior to his or her appointment, four years for the superintendent of an agency of nearly 750 sworn and civilian staff and an annual operating budget of over \$80 million. The last revision to this statute was 1981 and four years of experience is currently the only requirement. Sworn officers of the Nebraska State Patrol cannot even make sergeant with less than six years' experience on the Patrol, yet we ask for less experience for the chief. In addition, the Patrol currently gives bonus points for entry level trooper positions if the candidate has college credit hours up to and including a four-year college degree, yet no requirement for education for the superintendent. I firmly believe, having worked in the superintendent's office for over three years, that this position necessitates at a minimum the following basic requirements: a bachelor's degree from an accredited college or university; a minimum of 15 years of law enforcement experience; at least 5 years of management experience in law enforcement; and successful completion of a long-term command school. Having researched the surrounding states' requirements for selection of their chief and highway patrol superintendent, we know that at least half of those have selection requirements which meet or exceed Nebraska's. If one were wishing a job as a chief in any primary or first-class city in Nebraska or anywhere else in the country, these minimum requirements outlined above would almost certainly be listed for the job. I would direct your attention to the Web site of the International Association of Chiefs of Police at [www.theIACP.org](http://www.theIACP.org) and ask that you click on the jobs page. One look at any of those qualifications for those positions listed will validate this proposal. In addition, this proposed legislation has no fiscal impact. There is no appropriation or expenditure of funds required. It will not increase salaries for the current superintendent as the pay range is clearly commensurate with above requirements. In addition, I believe this proposal is clearly in keeping with the Governor's current emphasis on education as one of his priorities for his administration, as articulated by the Governor in his State of the

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State Address on 13 January. Abraham Lincoln once said you can fool some of the people some of the time but never can you fool all of the people all of the time. In the Nebraska State Patrol, you can't fool a trooper any time when it comes to achieving minimum standards. You might fool the people above you as to what you are but never the men under you. Character is a state of mind that reflects the inner qualities of an individual. With the close association most men have in the Patrol, it doesn't take long for a trooper to size up his leader. Troopers do not want to trust their lives or reputations to leaders whom they consider to be unqualified. A person with a low, weak, immoral, or vacillating type of character may have a brilliant mind, but this intellect won't make them leaders. Troopers instinctively rally to the leadership of strong, bold, and inspiring leaders who demonstrate their qualifications of leadership by endorsing sensible courses of action and who have the will to follow through, overcome, and exceed minimum standards for selection. This bill is not an attempt to tie the hands of the Governor or any future Governor. On the contrary, we respect this Governor more than he probably knows because he appointed Colonel Bryan Tuma shortly after he assumed the Governor's chair. Colonel Tuma meets and exceeds each and every one of these requirements contained in this bill. Further, Governor Heineman has clearly dedicated his administration to education, something this bill clearly does. If we can set some minimum standards and, subsequently, professionalize the head of our state law enforcement agency for no cost, why would we not wish to pursue this? The qualifications requested in this legislation are not only reasonable, logical, and commensurate with other states and cities of comparable size and responsibilities, but they help to ensure the person ultimately selected for this position has the necessary knowledge, skills, and abilities and experience to ensure success in this position. I greatly appreciate your time and consideration, and I would be very glad to answer any questions you may have. [LB89]

SENATOR AVERY: Thank you. Thank you. [LB89]

DARRELL FISHER: Thank you. [LB89]

SENATOR AVERY: Any questions for Mr. Fisher? Senator Pahls. [LB89]

SENATOR PAHLS: Yes, I have a question, and I may have misinterpreted this, but when I was listening to your testimony I heard you use the word "trooper" and I heard you use the word "men," but I did not hear the word "women." [LB89]

DARRELL FISHER: "Men" meaning all mankind, sir. Women do an exceptional job in our agency. [LB89]

SENATOR PAHLS: Right. I understand that, but I did hear referring to men and I thought it would have been even more appropriate if the name "women" would have been involved. Thank you. [LB89]

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SENATOR AVERY: Any other questions for the committee? Senator Schumacher. [LB89]

SENATOR SCHUMACHER: Thank you, Mr. Chairman. Historically, has there been a problem with the incompetency in that position? Have the Governors, not necessarily this Governor but previous Governors, put people in that position who were incompetent? [LB89]

DARRELL FISHER: We did have an issue a few years ago with a superintendent who did not meet these qualifications and, in fact, he was promoted to the position from an extremely low-ranking position, did not have the opportunity to mature in a management position. He made grave mistakes. [LB89]

SENATOR AVERY: Do you think this is a decision better left to the chief executive of the state? [LB89]

DARRELL FISHER: Our intention here or this bill's intention is certainly not to tie the Governor's hands. The current Governor has done an outstanding job, absolutely no qualms about the job that he has done. We are concerned that with only four years in the current statute that I believe even the Governor could use some guidelines when it comes to appointments. [LB89]

SENATOR AVERY: Any more questions? Senator Janssen. [LB89]

SENATOR JANSSEN: Hansen, Janssen. Thank you, Chairman Avery. Mr. Fisher, thank you for your testimony. You just mentioned something about grave mistakes were made. Since I'm probably going to have to vote on this bill, can you detail or give me some...what these grave mistakes were? [LB89]

DARRELL FISHER: Most of the mistakes that were made were errors made in judgment based upon no experience in a management position. He meddled in personnel matters, he meddled in internal affairs matters, he meddled into selection process matters, supervision matters, matters that weren't under the purview of the superintendent. But unfortunately, his position was he wanted to be a champion for troopers rather than being a champion for the agency. When you're in an agency like this and you have 750 people that you have to worry about in addition to all the citizens of the state and their welfare and their safety, you can't champion individual causes. You have to think with your head. And the one issue that I can tell you is we had some issues with some interdiction stops, some criminal interdiction stops that were made where we felt that individual rights were being trampled on, and we tried to bring those to his attention and we were essentially told to butt out. [LB89]

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SENATOR JANSSEN: Were there any lawsuits or anything that would substantiate that? A lapse in judgment is just...could be in the eye of the beholder, as that case may be. You disagreed with his judgment but somebody else agreed with his judgment or...? I don't know and I'm...so I'm asking. [LB89]

DARRELL FISHER: We had FBI agents who indicated to us that we were nearing a DOJ investigation for civil rights violations. [LB89]

SENATOR JANSSEN: But again, that's unsubstantiated. Are the FBI agents here to testify to that? [LB89]

DARRELL FISHER: No, sir. [LB89]

SENATOR JANSSEN: Okay. Thank you. [LB89]

SENATOR AVERY: Any other questions from the committee? Seeing none, thank you, Mr. Fisher. [LB89]

DARRELL FISHER: Thank you, sir. [LB89]

SENATOR AVERY: Any other proponents? Seeing no proponents, how about opponents? Mr. Bare. Welcome. [LB89]

LARRY BARE: Thank you. Senator Avery, members of the Government, Military and Veterans Affairs Committee, for the purpose of the record, my name is Larry Bare, B-a-r-e. I'm chief of staff to Governor Dave Heineman. We heard this bill, you heard this bill last year. The bill is the same, so I decided that my testimony from last year might be appropriate. Our opposition comes from the general opposition to the infringements on the Governor's appointment authority. The constitution gives the Governor the authority to appoint, gives the Legislature the authority to confirm or choose not to confirm. And so I would argue that, particularly as it relates to agency directors, the Governor's ability to appoint people who are going to be in his cabinet, the key leaders of his organization are going to make successful or her successful or unsuccessful in what they're doing and that he or she ought to have the maximum flexibility to make those choices. That's why they ran for Governor. I've served every Governor, either directly or indirectly, for the last seven, and I believe they would all echo that same opinion. One of the most important jobs that they have is to make the choices of the people who will represent them, present company excluded. So as I can understand, as an example with boards and commissions, the Legislature's desire to have certain groups represented, have a certain number of groups represented, certain requirements and restrictions and numbers of Republicans and Democrats and 3rd District and 1st District, 2nd District and all those kinds of things, and in making those appointments we can deal with that. We balance those issues out. But I would argue that as it relates to members of his

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cabinet, a Governor should not be restricted in his ability to pick the person that he or she wants any more than currently exists. Senator Christensen did not change his bill. I did not change my testimony. And I would ask that the committee not change their position and choose not to advance this bill to the floor. I'd be pleased to try to answer any questions you might have. [LB89]

SENATOR AVERY: Let me start with Senator Sullivan. [LB89]

SENATOR SULLIVAN: Thank you, Senator Avery. Thank you, Larry, for your testimony. A question: Are there any other agency heads that the Governor appoints that also have some educational requirements attached to them? [LB89]

LARRY BARE: There are. There are requirements. For example, the director of Natural Resources is required to be an engineer, although this Legislature debated the wisdom of that requirement and the consideration of introducing a bill last year to change it. There are some requirements for the director of the Department of Administrative Services in terms of age and some experience requirements. And I think your counsel would agree, it kind of varies all across the board. If you wanted to do anything, I'd suggest you might strike the requirement for four years and leave it totally clear that the Governor's discretion to appoint someone and your responsibility to confirm or reject that person are what's going to determine who's going to be the head of the State Patrol. [LB89]

SENATOR SULLIVAN: Okay. [LB89]

SENATOR AVERY: Senator Pahls. [LB89]

SENATOR PAHLS: Thank you, Senator. So if I'm to interpret what you're telling me, the logic that I should use to make this decision is based on the constitution. [LB89]

LARRY BARE: The constitution gives the appointment authority for a number of positions, but particularly agency directors, to the Governor and it gives the Legislature the authority to confirm or reject those appointments. [LB89]

SENATOR PAHLS: So then you're telling me yes. [LB89]

LARRY BARE: Yeah. [LB89]

SENATOR PAHLS: Okay. Thank you. [LB89]

SENATOR AVERY: Any other questions? Senator Schumacher. [LB89]

SENATOR SCHUMACHER: Is this...thank you, Senator. Is this position one that



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requires confirmation by the Legislature? [LB89]

LARRY BARE: Yes. [LB89]

SENATOR SCHUMACHER: Okay. So then the Governor would make a nomination and then the Legislature would have to approve that nomination. [LB89]

LARRY BARE: Yes. If the Legislature is in session, it would be done at that time. There is a provision that a Governor can make an appointment while you're not in session. That person would serve then until you came into session and would have the ability to approve or reject the appointment. [LB89]

SENATOR SCHUMACHER: And then if the person who held the position did do grave errors and it was problematic, what would be the mechanism for getting rid of them? [LB89]

LARRY BARE: Agency directors are not appointed for a term, by and large. There are a couple of kind of bizarre exceptions to that. Anybody who is not appointed for a term, according to the constitution, can be removed by the Governor at his or her will, period, no if, ands or buts. If it is an individual who is appointed for a term, then there has to be "for cause" after a hearing, but all of the agency directors are not appointed for a term--I think that's correct, I can't think of one that is--and therefore, the Governor has the authority to remove them at any time. There is, to my knowledge, no authority for recall by the Legislature. [LB89]

SENATOR AVERY: Any more questions? Yes, Senator Karpisek. [LB89]

SENATOR KARPISEK: Thank you, Senator Avery. Thank you, Mr. Bare. So on what grounds, though, could the Legislature really say that we don't want to approve this person because I think they should have 15 years of experience? I can imagine that the Governor's Office would say, well, statute says I can do it and we don't need to...they don't need to. [LB89]

LARRY BARE: There is no restriction on your authority to simply reject the appointment, period. You don't have to have a reason. The constitution doesn't require you to have a reason. If you don't think the person is qualified to do the job, don't confirm them. [LB89]

SENATOR KARPISEK: But I think you would have to have some sort of an argument to get that motion moved on the floor. [LB89]

LARRY BARE: That would be a matter for the legislative branch and I would not want to infringe on your authorities to undertake your responsibilities in a way that you feel is appropriate, if you get the drift of my comment. [LB89]

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SENATOR KARPISEK: I absolutely do, Mr. Bare. (Laughter) Thank you very much. Thank you, Senator Avery. [LB89]

SENATOR AVERY: That was apparent. Any other questions? Thank you, Mr. Bare. [LB89]

LARRY BARE: Thank you. [LB89]

SENATOR AVERY: Any other opponent testimony? Anyone wish to testify in a neutral capacity? Seeing none, Senator Christensen, you are recognized to come back and close on LB89. [LB89]

SENATOR CHRISTENSEN: Thank you. Appreciate the opportunity today. And I was going to say I visited with a lot of state patrolmen since I introduced this bill last year and I have not found one who would say this shouldn't be passed. I'm going to close with one thing. Each one of you knows state patrolmen from your district. Ask them about this bill. I think that's all that needs to be said. Ask them what they think. I've not found one that did not believe in it. I have asked 10, 20. I have went out of my way asking people. I ask you to do your own investigation before you make a determination on this bill. Thank you. [LB89]

SENATOR AVERY: Thank you, Senator. I don't see any other questions. Thank you for your testimony. That ends the hearing on LB89, and we will now move to LB122. Senator Harms has been notified that his bill is up and he will be here in a moment. Good afternoon, Senator Harms. Welcome to the Government, Military and Veterans Affairs Committee. We are now ready to hear your opening statement on LB122. [LB89]

SENATOR HARMS: (Exhibit 1) Thank you, Senator Avery and colleagues. My name is John N. Harms. I represent the 48th Legislative District and I am the introducer of LB122. First, thank you for giving me the opportunity to come in and visit with you about this legislation. This bill would add Jack McBride's name to the Terry M. Carpenter Nebraska Educational Telecommunications Center in honor of all of the accomplishments and contributions this man has made to the field of broadcasting. Jack McBride devoted his entire life to building one of the country's premiere, educational broadcasting networks, not only in this great state and in the nation but, more importantly, in the world. And I was really surprised when I began to look at his resume and to study his resume of what this man has accomplished throughout the world. I mean he's been in Yugoslavia, he's been in Indonesia helping build these programs with countries that just couldn't afford otherwise to do it, and he's made a big difference in the world as well as in our state as well as this country. I have given you a copy of his resume for your review. I'm not going to walk you through that resume, but I can tell you in my previous world or my previous profession I had the fortunate opportunity to read

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many resumes. I'm here to tell you that that resume is about as complete of any resume I've ever seen, and what this man has accomplished in his lifetime, to me, is absolutely unbelievable. So what the resume does, it really shows you, as you look through it, what this man has accomplished and what he's done in this particular telecommunication world. The interesting thing about Jack McBride is that he was so involved in this process, long before anybody else was nationally. He always had Nebraska on the cutting edge, moving us forward, looking for new ways to deliver these services, and I believe that this change brings honor to both Terry M. Carpenter and to Jack McBride for the services they've had in this state. I've had the fortunate opportunity to know both of these gentlemen, and when I was much younger, which was a long time ago, I had the opportunity to work with Terry Carpenter just briefly as I first got started in my leadership role as an administrator. He was a legend. He was a legend in this house today. He is. He was an outstanding senator and he contributed greatly. If it would not have been for Terry Carpenter, this building would never have been built. But Jack McBride worked next to him and putting everything into the program and developing the program and making it an elite program, not only in this nation but in the entire world. We are so fortunate in the history of this great state to have two men like this. I have nothing but respect for both of these men and I would never bring any shame to either of their names. I will tell you that Jack, as I said, devoted his entire life to educational television and I would hope that I can encourage you to pass this on for discussion on the floor. I'd be happy to answer any questions you might have in regard to this particular request. Senator Avery, I... [LB122]

SENATOR AVERY: Let me ask you if you would... [LB122]

SENATOR HARMS: Sure. [LB122]

SENATOR AVERY: ...just make it clear that this is not a proposal to take Terry Carpenter's name off. [LB122]

SENATOR HARMS: Oh, absolutely not. No, actually the way it would be is it would be the Terry M. Carpenter and the Jack McBride. Terry Carpenter would always stay to the front, even in the letters and the correspondence and, you know, their stationery. Everything would stay the same. Essentially, we add Jack McBride. And the reason for that, I think, and my thought is that if it wouldn't have been for Terry Carpenter, to be very frank with you, that building probably would not have been built, but he had the vision, along with Jack McBride, to be able to pull that together. I think they worked pretty close together in regard to this issue and I think it would be nice to be able to honor both men. That's correct. Thank you for that. That was a great question. Thank you very much. [LB122]

SENATOR AVERY: Senator Pahls, you have a question. [LB122]

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SENATOR PAHLS: Thank you, Senator. And I've read this, because this was given to me earlier, and it's second to none with some of the same experience, and by no way do I want to take away from what Jack McBride has done. I also am familiar with Terry Carpenter. What I'm wondering, is there a possibility or is there another way, because this man does deserve some recognition? We know that. I mean I can remember watching ETV for years. Is there...is this the only major way, because I know in the past when we've changed names on buildings, one brings to mind when we did it with the Veterans' in Douglas County. There was a lot of...there's mixed emotions. Is this the only way, in your mind, that you can see that we can honor or the most appropriate? [LB122]

SENATOR HARMS: Well, I think it's the most appropriate at this time. I think there might be other options that you might have. But I think for what he did and for what Senator Carpenter did in that relationship, I think that both men should be honored for what they've accomplished. And so I understand what you're saying. Yeah, I'm sure there probably would be. It is something we would have to think about. If it would be your choice not to move it on, then we would just rethink the process. [LB122]

SENATOR PAHLS: Okay. Can I extend it then? You're telling me if Terry were alive, he'd say do it. [LB122]

SENATOR HARMS: I think that he would. I think if you had sat down with Terry Carpenter and had a conversation with him, I think that he probably would because he knows the role that he played and he knows the role that Jack McBride played. But Jack McBride, unless you were a part of that system, a lot of people would not understand what he's accomplished, what he's done, because the building is one thing but then when you put all of that together, the brilliance and the vision that this man had, to me, is unbelievable. I mean it truly is an honor to have both of these men in Nebraska and to consider this. But if you choose not to do that, I can understand that. And I'm just bringing it forward because I have some strong views about that aspect of it. [LB122]

SENATOR PAHLS: Thank you. [LB122]

SENATOR HARMS: So is there any other question? That was a good question, Senator Pahls. I appreciate that. [LB122]

SENATOR AVERY: Senator Sullivan. [LB122]

SENATOR SULLIVAN: Thank you, Senator Avery. And thank you, Senator Harms. And I apologize, I wasn't here for your first comments so you may have covered this, but was this a personal thought of yours or has this come from talking with members of the NET board or... [LB122]

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SENATOR HARMS: This came from people within the state of Nebraska that had an interest in seeing this done. And I think they came to me because I'm from western Nebraska and that's where Terry Carpenter was from. [LB122]

SENATOR SULLIVAN: Sure. [LB122]

SENATOR HARMS: So I think that's probably the reason why I'm here at the table. And secondly then I also knew both men and have had the opportunity to work with both of them and I have nothing but high regard for both. [LB122]

SENATOR SULLIVAN: Thank you. [LB122]

SENATOR HARMS: And the one thing that I am not interested in doing is bringing any doubt or any shadow on either of the two men, because that's not the reason I'm here. [LB122]

SENATOR SULLIVAN: Uh-huh. [LB122]

SENATOR HARMS: It's the reason is I'm trying to get so that people can honor both men who are very important to Nebraska history and contributed greatly to this state. [LB122]

SENATOR SULLIVAN: Uh-huh. Okay. Thank you. [LB122]

SENATOR HARMS: So any other questions? [LB122]

SENATOR AVERY: Senator Schumacher. [LB122]

SENATOR SCHUMACHER: Thank you, Mr. Chairman. As I peruse the resume here, it appears that this is a gentleman who was very much involved in modern communications. Would it be more appropriate maybe to honor him, instead of by a name on bricks and mortar, by a call sign on one of the NETV systems or the state's...one of the state's major Internet servers so that people all over the world would get the...be able to see our tribute to him in the media that he chose to dedicate his life to? [LB122]

SENATOR HARMS: Right, you could do that if you would like. I mean this is really up to you as a committee. I'm just bringing this forward. I think that where we are going will bring a lot of attention to him because everything will be based upon the Terry M. Carpenter and the Jack McBride Telecommunications Center. So all the correspondence that would go out, all the advertising that might go out will always have that in front of it. So I don't think that really, to me, makes much difference, but, Senator, it's really what you want to do as a committee, and I'm bringing it forward to you

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because I have an interest in seeing this accomplished. But on the other hand, it's your decision to make so... [LB122]

SENATOR AVERY: Senator Brasch. [LB122]

SENATOR BRASCH: Senator Avery. Senator Harms, will there be any costs altering the signage, the building, using up letterhead, using up business cards. Has there been any type of... [LB122]

SENATOR HARMS: I believe there probably will be some costs. I don't know what that would amount to but I don't think that would be a problem. I believe that if you would choose to do this, we may very well be able to raise those dollars, you know, locally, people who would contribute that are really supporters of this system, this structure. So that's a good question. Thank you. [LB122]

SENATOR AVERY: The fiscal note, I might just point out, it is assumed that the costs associated with changing the name would be borne by private foundation funds. [LB122]

SENATOR BRASCH: Private foundation, okay. [LB122]

SENATOR HARMS: Yeah, I think that's exactly correct. [LB122]

SENATOR AVERY: No impact on the state. Thank you. Any more questions? Seeing none, thank you, sir. [LB122]

SENATOR HARMS: Thank you. [LB122]

SENATOR AVERY: Do you plan to stay for closing? [LB122]

SENATOR HARMS: Where we are with our budgeting process, I'm probably not going to be able to stay. [LB122]

SENATOR AVERY: Okay. That's all right. [LB122]

SENATOR HARMS: I apologize for that but we're at a point now where we're making some decisions, so... [LB122]

SENATOR AVERY: Already. [LB122]

SENATOR HARMS: Yes, we are. [LB122]

SENATOR AVERY: Yeah. Thank you. [LB122]

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SENATOR HARMS: We're moving along. So thank you very much. Appreciate it. I'll stay here for a little while, okay? [LB122]

SENATOR AVERY: I know you have a lot of work. All right. Thank you. Proponent testimony? It is your turn, Mr. Hull. [LB122]

RON HULL: Well, thank you, Senator Avery, and thank you, each one of you, the members of the Government, Military and Veterans Affairs Committee. Really appreciate you giving me this time to do this. Oh, my name is Ron Hull, H-u-l-l. You'd be surprised how many people get that wrong. It's a "u." I'm a longtime employee of Nebraska Educational Telecommunications, since 1955 to be honest. But it's been my observation over the past 50 years that when a really good idea comes along, Nebraskans are right there, they see the merit and they go for it if it is really a good idea. It has nothing to do with being liberal or conservative or anything else. It has to do with instinct, which I like to call the Nebraska instinct. When we needed a Capitol Building, this state built many say the eighth best building in the United States, and you enjoy it every day. It truly is remarkable work of the Nebraska people. I think the one-house Legislature, a radical idea at the time in, what, late 1930s, Senator George Norris, that has served us magnificently all of these years. That's a real idea and Nebraska got behind it like that. And when television came along in 1954, Jack McBride signed on the air the eighth educational television station in the United States, I mean years before New York had it, before Los Angeles had it. Jack did that and we have had for over 50 years the wholehearted support of the people of Nebraska. This Legislature, all the Legislatures we've worked with, every Governor and certainly the people of this state have given us undaunted courage, undaunted support all this time. November 1, 1954, Jack had three staff members and a secretary put this station on the air here. There were no cameras, no equipment of any kind. We shared space out at Channel 10, KOLN TV, for three years. Jack is an Omaha boy, a Nebraskan, educated at Creighton Prep and Creighton University. But the one word you really should remember I think about this man, he was a visionary. Jack literally could look ahead and he would say, now we're going to be here in seven years, and I would be...I was there with him for all these years. I would say, Jack, we only have 14 people. And we were there seven years later and on and on. From that very meager beginning, and Jack had envisioned this back in the '50s, a statewide educational television and radio network which would serve every single home in Nebraska, and that became true. And he was our manager from 1954 until 1996, when he retired. He truly was, and I really appreciated Senator Harms's comments about the international and national impact he had. Jack was one of five of the major proponents of educational television in the United States of America and I promise you, I can back this up. He was respected throughout this country. He served as an advisor to myriad station developments in this country, and over 12 foreign countries invited him to come in and help plan their educational television systems. He has brought a great amount of credit to all Nebraskans. He's so respected that when

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that building was built in 1971, all the stations across the land--he knew all the managers, of course, it's a rather small fraternity--everybody has called it since 1971 the house that Jack built, and that is literally true. Jack built it. Well, as I mentioned and has been mentioned, Jack devoted his life to building education via television for our state. It's been a long dream of mine and myriad others of really hundreds of people who have worked there over the years of having that building, the house that Jack built, also carry his name along side Terry M. Carpenter's, making it the Terry M. Carpenter and the Jack G. McBride Telecommunications Building. We do owe Senator Carpenter a lot. We got the building. I would say that Jack McBride made building that building what it is; made it worth it in taxpayers' dollars, in all the efforts that all of us have worked there. We use that building in behalf of the people, and Jack did that. I hope...of course I want to see LB122 become reality. I hope that you'll agree that he has earned this recognition, that he has deserved this recognition, and I really thank you for giving me the time that you have. [LB122]

SENATOR AVERY: Thank you for... [LB122]

RON HULL: And I'd be happy to... [LB122]

SENATOR AVERY: ...ending right on the red. [LB122]

RON HULL: I just noticed that. (Laugh) [LB122]

SENATOR AVERY: Thank you. (Laughter) [LB122]

RON HULL: You know, I'm in broadcasting. [LB122]

SENATOR AVERY: You know what red lights mean. [LB122]

RON HULL: Yeah, I do know. [LB122]

SENATOR AVERY: It means you're on the air, though. [LB122]

RON HULL: Oh, there's a hook. [LB122]

SENATOR AVERY: Yeah. Questions from the committee? Senator Pahls. [LB122]

RON HULL: Sir. [LB122]

SENATOR PAHLS: I would just like to say I appreciate what you've done for us also. [LB122]

RON HULL: Well, thank you, Senator. Thank you. And, like anything, I always say, you



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know, that it's a privilege of having the work to do. That's the payoff, is having that privilege, and I thank you. [LB122]

SENATOR AVERY: Senator Sullivan. [LB122]

SENATOR SULLIVAN: Thank you, Senator. Thank you, Mr. Hull. And when you said there are myriads of people in support of this idea, I take it that your board of directors, the foundation... [LB122]

RON HULL: The commission, our staff, and staffs that go all the way back for many years. [LB122]

SENATOR SULLIVAN: Uh-huh. [LB122]

RON HULL: Yeah. And there is no cost. Senator Avery said this. Nontax funds will be used to change the sign, if we're lucky enough to have this happen, in front of the building, the sign in front of the building, and that's rather minimal but it's to be nontax funds, no state funds, and the stationery, we order stationery regularly and that's the only other place that the names appear. I feel that if this is lucky enough to become reality that the attendant publicity that may come from this, we have not a name change but modification of the name of the building, but that is going to bring renewed interest, renewed attention to Terry M. Carpenter and to Jack McBride, and we owe both of those men a whole lot. [LB122]

SENATOR AVERY: Thank you. Senator Schumacher. [LB122]

SENATOR SCHUMACHER: Thank you, Mr. Chairman. [LB122]

RON HULL: Sir. [LB122]

SENATOR SCHUMACHER: Is there any other precedent in the state for adding a name to an already existing named facility and...that you're aware of at least? [LB122]

RON HULL: No. I know that Nebraska Wesleyan has a major building that has two names on it, but I do not know, Senator. [LB122]

SENATOR AVERY: Senator Karpisek. [LB122]

SENATOR KARPISEK: Thank you, Senator Avery. Mr. Hull, in 20 years, when they want to put your name on the building and so on and so on, will there be room for all these people? What I'm trying to get at is where do we stop? Where do we...where do we say, no, he's done so much, he deserves his own building, that sort of thing? [LB122]

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RON HULL: That's a very easy answer. You stop after Jack G. McBride. He's the founder of all that this service has brought to this state. [LB122]

SENATOR KARPISEK: Thank you. [LB122]

SENATOR AVERY: Is it fair to say that Terry Carpenter built the building and Jack Carpenter (sic) built the programs in it? [LB122]

RON HULL: Terry Carpenter built the building and Jack G. McBride provided the educational services and made that building worthwhile to all of us. [LB122]

SENATOR AVERY: Any more questions? I don't see any. Thank you very much for your testimony. [LB122]

RON HULL: Thank you very much, Mr. Chairman and the rest of you. Thank you. [LB122]

SENATOR AVERY: Any more proponent testimony? Welcome, Mr. Schimek. [LB122]

HERB SCHIMEK: Members of the committee, my name is Herb Schimek, H-e-r-b S-c-h-i-m-e-k. I'm one of the few people around here who probably remembers when Terry Carpenter was in the Legislature. I've spent 40 years as a lobbyist. I am here representing myself today and not any client. I served on the ETV Commission for eight years, was chair for six. What Jack produced and taught was absolutely incredible. I would go to those meetings and the energy within the building and the number of people who were producing fantastic programs that made our state look great around the country. We have, I think without a doubt, the best ETV system in the country. With that I'll stop, but I just wanted to say that Jack was the one behind all of that. [LB122]

SENATOR AVERY: Thank you. Any questions? I don't see any. Thank you. [LB122]

HERB SCHIMEK: Thank you for your time. [LB122]

SENATOR AVERY: Any other proponent testimony? Does anyone wish to speak in opposition to this bill, LB122? Welcome. [LB122]

BARBARA CARPENTER: (Exhibit 2) Thank you. Members of the Government and Military Affairs Committee, Senator Avery, first of all, I'd like to say that I got a chance to meet many of you yesterday. I'm new at this so there are several of you that I didn't get to meet and it wasn't from lack of trying, let me tell you. It was just that you were so busy I couldn't get to you or I sent a message to you on the floor and you either weren't there or couldn't come out. So I did try to get to each one of you yesterday and I got to

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actually 90 percent of you, so that was pretty good. [LB122]

SENATOR AVERY: Would you spell your name for the record? [LB122]

BARBARA CARPENTER: My name is Barbara Carpenter, C-a-r-p-e-n-t-e-r, and I'm representing the Carpenter family. So we're alive and well in Nebraska. Just want to let you know that. Several years ago this bill was presented, I believe, in the same manner it's been presented now, and my husband, late husband, came down to testify and they were surprised to see him because they thought the Carpenters were all dead. So I'm here to tell you that we're alive. And do we have to be alive in order to save an honor that was bestowed upon a family member? It was a question really. LB122 is about two great men: Terry Carpenter and Jack McBride. It's not about the Carpenter family being opposed to any recognition for Mr. McBride. It's obvious that Mr. McBride is well deserving of recognition. If this tribute was offered to both men 30 years ago, like it was offered to my father-in-law, our family would have been honored to be in the same company as Jack McBride and we wouldn't be sitting here today. But the diminishing of the precedent to recognize another is not right. I give you an analogy of Tom Osborne Field, which has been named after our beloved Tom Osborne. If Mr. Osborne, let's just say he passed away and they wanted to add Bo Pelini's name to that field. Don't you think that would diminish a little bit of the honor that was bestowed upon Mr. Osborne at that time? I think it would. Men and women like yourselves, unsolicited by our family, voted to bestow this honor to Terry Carpenter. This tribute has always shown to us the respect and the love those people had for Terry and for the many things he did for the state of Nebraska. You all are in charge of the Nebraska history and you also are in charge of having an obligation to keep it intact. I hope that each and every one of you makes history in the same manner that Terry Carpenter did. Unfortunately, with term limits, it's going to be a little harder for you guys, but we hope that your family, if you do, that your families feel the pride of having known that your accomplishments were acknowledged and that a building would be named after you. I know many of you did not know Terry, but those who did and those who bestowed this honor should be respected and their vote should be respected, for 30 years ago this honor was bestowed upon him. If you can alter the name of an honor, adding another name to it, to that honor, can you not also delete a name down the road? If we set a precedence to do this, and I believe the Fitzgerald Home was mentioned, two wrongs don't make a right. If you can do it now and you did it then, it's going to keep on happening. We need to stop doing that. If we're going to honor people, we need to respect the honor that we've given then and not come back a few years later and decide that we're going to change that. Terry Carpenter, as well as Jack McBride, deserve to have their own separate tributes for their accomplishments. They both were extremely brilliant men. They both deserve a special honor. I hope each of you understand the deep concern we have for you not to move this bill forward. Renaming the public telecommunications building may well honor Mr. McBride but at the diminishment of Terry Carpenter's legacy. Thank you. [LB122]

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SENATOR AVERY: Thank you, Ms. Carpenter. [LB122]

BARBARA CARPENTER: Uh-huh. [LB122]

SENATOR AVERY: Any questions from the committee? Think you're going to get away clean. [LB122]

BARBARA CARPENTER: Thank you. [LB122]

SENATOR AVERY: Any other opponent testimony? Anyone wish to testify in the neutral capacity? Seeing none, Senator Harms has waived closing on this so this will end the hearing on LB122. We'll now move to Senator Wightman's bill, LB14. (Laugh) Senator Wightman, I see you got your bill in early this time. [LB122]

SENATOR WIGHTMAN: Well, thank you. I appreciate you getting it scheduled so early. [LB14]

SENATOR AVERY: Right behind Executive. [LB14]

SENATOR WIGHTMAN: (Exhibit 1) Chairman Avery, members of the Government and Military Affairs Committee, for the record, I'm John Wightman, spelled J-o-h-n W-i-g-h-t-m-a-n. LB14 has been before you under different numbers before. Last year it was passed on and appeared on General File. It seeks to increase recording fees charged by the county register of deeds for recording documents, such as deeds, mortgages, and other legal documents listed on page 5, lines 6 through 9 on the bill itself. The fees are increased from what's currently \$3 for filing a mortgage foreclosure and \$5 for all other documents, to \$10 for the first page of a document and to \$6 for subsequent pages. LB14 would repeal the 50-cent indexing fee for each lot or section, if it's farmland, for the first five lots or sections. Considering the indexing fee, the current fee for a single-page instrument is really \$5.50, up to \$7.50 if there were five lots or more covered by the instrument. The elimination of the indexing fee will simplify the system for both the users and the register of deeds but will reduce the revenue generated by the fees. But that's created a lot of problems in the past because many of these documents that get filed have incorrectly calculated how much was due on the indexing fee and, as a result, a number of long-distance calls have been made by register of deeds and...to the party, frequently an attorney. I know I'd hate to admit that an attorney couldn't count the five properly but...so the increase in user fees is split into two equal parts. The register of deeds also face...excuse me just a minute...two equal parts. One part will increase the user fee to address cost increases that occurred since 1987, and one part of the user fee will be used to...for purposes of preserving and maintaining public records, and to modernization and technology needs relating to such records. And I might, as an aside, say that I think the first two times this was presented

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it was opposed by the Realtors Association and they wanted to have a portion of this piece set aside for technology. And so last year we presented the bill and then, before it got to the floor, we amended that bill to provide that half of the increase would be for increased technology, which makes the recording transparent to the public in that it's now on their Web site and they can bring it up. And so somebody in their home, whether it's a realtor or whether it's a title insurer or whether it's just somebody checking the title to a particular property, has access to that from their own home if they have Internet service. The basic user or filing fee should be increased to address increased administrative costs. For example, this bill, the last time it was changed, and I'll explain a little more of that later, the current \$5 filing fee would, if you look at the Consumer Price Index over the past 27 years, would be \$11 at the current time. We're asking it to be increased by \$10...to \$10, but we're not asking that subsequent pages be increased but by 50 cents a page. So obviously, the counties have had increased costs, including salaries, health insurance and overhead, during this period of time. Users, the people most benefited by the filing, should pay a user fee, we suggest, that is adjusted for inflation and somewhat commensurate with the services that are being performed. Through the public filing of these documents, the owner and the mortgage holder are protected from other claims against the property, but after 27 years the taxpayers of the county have been bearing the costs of inflation by themselves and not able to pass on that cost. So, as I say, the basic user fee is really only increased from \$5 to \$7.50 because the last \$2.50 of that goes to the increased technology which will create the transparency. As I say, the second part will be used for record preservation and modernization, as they are now. The register of deeds also face increased costs because of the need to preserve aging records and to move to an on-line and electronic system to access deeds, mortgages, and all types of filed documents. Many of the people benefited by an electronic system will be people engaged in real estate transactions, such as prospective buyers, realtors, and mortgage lenders. Because of the pressure not to raise property taxes, the fund for building an on-line system should be paid by users of the system through an increase in filing fees. As I stated, the Nebraska Realtors Association has opposed this the first two years that I introduced it and last year dropped that, and as a result, it did get to the floor. LB14 also increases the fees paid to the Nebraska Secretary of State for recording documents under the Federal Lien Registration Act and the Uniform State Tax Lien Registration and Enforcement Act. The fee is raised from \$6 to two times the fee required for filing other documents with the register of deeds, and that's because of a dual filing that is filed once with the register of deeds and then also filed with the Secretary of State. Since these documents must be filed both with the Secretary of State and the county, the fee is split evenly between the Secretary of State and each designated county in the filing. Last year, during the floor debate on LB686, which was the number assigned to this bill a year ago, the filing fee for documents became confused with the documentary stamp tax, which is a separate and distinct tax. And some of you may remember that one of the senators brought up the fact that he was here when this had passed before on the increase in the documentary stamps. Well, we didn't have a chance to research it

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sufficiently but we later found out that the percentage has been changed, and I think the pages have passed out something to you that shows how these divisions of the documentary stamp tax has varied over the years. And as you'll see that when they passed through the last one, which I don't...let's see, I think it was in 1995 perhaps, '93...the change was in 2005, we stayed with the same 50 cents that went into the county general fund out of the documentary stamp taxes. What was increased was the amount that went into the Affordable Housing Fund, which went from \$1 to \$1.25. So the increase got used up there but the fee that was paid to the register of deeds at the local county office stayed the same. Actually, it went down just a little, because if you multiply this out you'll find that it goes down a fraction of a cent or approximately a cent but pretty much stayed the same. And the attempt was to make it stay the same with the four-digit percentage number that's shown. The pages have a handout for you, as I say, and I think you have that in front of you. The county officials, particularly the register of deeds but in some instances the county commissioners, have requested this bill. The increased fees will help the counties balance their budgets by authorizing fees that are commensurate with the services rendered rather than subsidize these services with property taxes, and I think there's been a unanimous vote of the county officials and you'll be hearing Mr. Dix later testify in favor of this as well. So in effect, it's been over a quarter of a century since the user fees have been increased, at least that were able to be passed on to the register of deeds and to the county generally. Funds, I said, are needed for new technology to preserve old records and to be provided on the Internet, and that all takes additional funding. Some counties have done some of that. More needs to be done. Some counties have not been able to do any of that yet in the smaller counties. Now I know it's a concern, it's a concern of the Governor that maybe fees are going to be increased and somehow subvert his thought that no taxes would be increased, but I say there comes a time when you have to pass that on. And for one of the things we're doing for the counties this year, or at least it's in the Governor's proposed budget, is that there would be no county aid any longer. So that is part of the Governor's proposed budget. Well, if we don't take that into account in looking at user fees, I think it's going to be very difficult for counties to live within their budgets. That amount is going to vary from county to county, obviously. But I've been informed that this is the only fee increase bill that is supported by the Nebraska Association of County Officials, or NACO, and I think Mr. Dix will address that issue. I'd be happy to answer any questions. As I say, will be followed by some of the...in addition to Mr. Dix, some of the register of deeds or at least one of them from across the state. Thank you. [LB14]

SENATOR AVERY: Thank you, Senator Wightman. Question from Senator Price.  
[LB14]

SENATOR PRICE: Thank you, Chairman Avery. Senator Wightman, the question is, what is different about this bill? What have we done with this iteration that addresses the concerns that kept it from proceeding from General File? [LB14]

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SENATOR WIGHTMAN: Basically, that we were not able to answer the question last year as to what happened with the additional documentary stamp tax that was added in 2005, and in 2005 none of that went to the register of deeds office. That was all passed on to the Affordable Housing and to the state of Nebraska. It stayed at 50 cents and it has been there for the past 17 years. [LB14]

SENATOR PRICE: All right. Thank you. [LB14]

SENATOR AVERY: Senator Sullivan. [LB14]

SENATOR SULLIVAN: Thank you, Senator Avery. Senator Wightman, can you help me a little? Clarify when we talk about preservation and modernization, you said that some of the counties have been able to do this so it's sporadic at best. And if it is then...and if they haven't done any of...taken any of those steps, really the only way you can access the data...the instrument is to actually go into the office. [LB14]

SENATOR WIGHTMAN: Is to go into the office and do it. Many of the counties have and some of them have done it partially. [LB14]

SENATOR SULLIVAN: And when they've done it, has it mostly been on new instruments that have been filed? Has there been any attempt to put on, like scan, older documents? [LB14]

SENATOR WIGHTMAN: Some of the counties have done older documents. I think some of them have much of it done but... [LB14]

SENATOR SULLIVAN: Uh-huh. [LB14]

SENATOR WIGHTMAN: And I think it varies, but it's largely the larger counties that have been able to do that. [LB14]

SENATOR SULLIVAN: Okay. But that's really the overarching goal, is to have all of these instruments in all counties available on-line. [LB14]

SENATOR WIGHTMAN: That would be a goal but certainly some of it is to pass some of that on through just so that the cost of providing this service is being paid for but \$2.50 of it is being set aside... [LB14]

SENATOR SULLIVAN: Uh-huh. [LB14]

SENATOR WIGHTMAN: ...under our proposed bill for new technology and to be able to bring these on-line. [LB14]

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SENATOR SULLIVAN: Okay. Thank you. [LB14]

SENATOR AVERY: Senator Pahls. [LB14]

SENATOR PAHLS: Thank you, Senator Avery. Senator, let's say that I understand and I support your...the purpose and the rationale of LB14. Okay, let's say we're moving this along and there does seem to be some...there's going to be a collision course a little bit with what the Governor has said. So that means you'd need at least 30 votes if he is not in support of this. [LB14]

SENATOR WIGHTMAN: I understand that. We hoped that he may be on board and that's why I addressed the issue, Senator Pahls, that this is the only bill that NACO was supporting. [LB14]

SENATOR PAHLS: So you feel just...and I know you don't have...you haven't gone up to knock on the door of the state Governor,... [LB14]

SENATOR WIGHTMAN: No. [LB14]

SENATOR PAHLS: ...but you do believe that we can make this bill palatable to his thinking, because that's 30 votes, if not. [LB14]

SENATOR WIGHTMAN: I think Mr. Dix has addressed this issue with members of the Governor's staff this morning, but I, you know, I've not been kept abreast of all that has happened in that regard. [LB14]

SENATOR PAHLS: Okay. Thank you. [LB14]

SENATOR AVERY: Anyone else on the committee? I think most of us remember that debate last time so most of the questions have been answered already. Thank you, Senator. [LB14]

SENATOR WIGHTMAN: Thank you. [LB14]

SENATOR AVERY: Are you going to stay for closing? [LB14]

SENATOR WIGHTMAN: I think I will. [LB14]

SENATOR AVERY: Okay. Are there proponents of LB14? [LB14]

DIANE BATTIATO: Oh, Mr. Chair,... [LB14]

SENATOR AVERY: Welcome. [LB14]



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DIANE BATTIATO: ...welcome. Good afternoon, members of the Legislature and the Government, Military and Veterans Affairs Committee. I appreciate you allowing me to be here. This is my first time addressing the committee so bear with me because I'll probably really make a mess of it. But I'm Diane Battiato, D-i-a-n-e, Battiato, B-a-t-t-i-a-t-o, and I am Douglas County Register of Deeds. I appreciate being here and I am a full proponent for LB14, and I just wanted to just bring some brief comments to you because sometimes I get carried away and I don't know how to stop talking, so please, I'm going to watch that light. First of all, I really want to thank Senator Wightman for reintroducing this bill again. As a register of deeds and a public servant for Douglas County, I feel that it's very important for us to be able to provide continued efficiency of our very important land records that we all are a part of, that are history of not only our city, county, state but our country as well. For those of you who heard the bill last year, formerly LB686, you are very privy to a lot of the details of that. Those of you who weren't here last year, I just wanted to shed a little bit of light on that. As it went through the process last year, it did have AM1598 that, as Senator Wightman described, split the increase for half of it to stay in the register of deeds office for technology and preservation and half would retain into the general fund. This was a great step for all of us because so many times fee bills are passed and the respective office does not reap any of the benefits because it falls into the general fund, which was really a problem with some of the entities supporting the bill because it wouldn't really do the justice that the proposed fee increase should do. The amendment passed and it was very, very welcome that it passed, but then the bill itself fell about six votes short on the floor from passing into law, and we were very dismayed about that. Just as a point of reference, those of you sitting in the room on the committee today, on the floor four of you voted for the bill, the amended bill, one voted against, one was excused, and two of you are new to the Legislature. So we feel like we have a lot of experience and knowledge in the history of the bill right here in the room that we can go forward with. There's one...as you consider this bill, there's one very important factor that I would like for everyone to keep in mind, is the fact that this fee increase associated with this bill is just, in fact, a user fee, not a tax increase. In other words, only those users, only those filers who submit documents to the respective county register of deeds or ex-officio county clerks' offices will actually be paying this service. I know there's been some confusion about the fee and I just, you know, I'd like to clear those things up. The second thing, you know, it's essential for us now more than ever to pass this bill for a couple reasons. The first one is so that we, as public servants and the keeper of all the land records in the state of Nebraska in our respective counties, that we are able to comply with our state mandate to preserve the property ownership forever. Our records never stop, our records never go away, we only add to them. And also operate our offices as efficiently as possible. And number two is to provide our users, including some of you and your constituents, with efficient technology services such as the option of on-line access to the public records. If you'll recall, as Senator Wightman said, some of the opponents to LB686, which was the predecessor to LB14, objected to the bill because of the

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documentary stamp tax issue in 2005 when they were increased. It's very true that those were increased, but it's also important to remember again that the county's share of that increase was actually reduced after that bill was passed. It was reduced from the county retaining .2858 percent of the amount collected each month to .2222 percent of what we collected each month. So our revenue in that respect went down even by only a percentage of a cent; still was very reflective of our overall revenue. The register of deeds' offices are charged with preserving property records and to do so we must have adequate funds to allow us to utilize the ever-improving technology that's in front of us and the ever-improving records preservation and maintenance of that technology. I urge your support of LB14. It will position us to meet our state mandated charge as well as to meet the services for others. So thank you for listening. [LB14]

SENATOR AVERY: Thank you. Questions from the committee? Senator Sullivan. [LB14]

SENATOR SULLIVAN: Thank you, Senator Avery. Thank you for your testimony. So can you tell me how Douglas County is on the road to modernizing and preserving through technology? [LB14]

DIANE BATTIATO: Oh, my gosh. Well, I don't know if you have that much time,... [LB14]

SENATOR SULLIVAN: No, just make it brief. (Laugh) [LB14]

DIANE BATTIATO: ...but I'll make it very brief. We went on computerized indexing back in the mid-'80s. [LB14]

SENATOR SULLIVAN: Oh. [LB14]

DIANE BATTIATO: We began scanning and imaging in 1993. Since then we've been making a lot of baby steps in the technology. We started electronic recording August of '09, which massively enhanced our process. We relatively now do about one-third of our daily documents electronically; two-thirds of that is still paper documents. So we still have the staff, we still have all the needs, you know, of complete paper documents. We're working at trying to get in some new records management system processes intact. As a large county, of course, as the more volume of parcels we have, the more history of volume of parcels we have, the larger that cost is. So we've been very much unable to proceed in great effort because of the cost involved. If we had some type of influx of increased fees that we haven't had since the '80s or the late '70s, early '80s, it would at least help us grow toward those options of increased scanning of our historical data. Right now they're all on microfilm and they're still in our old books. From 1989 forward, they're all on computer and image, but we still have a lot of history that we are unable to really, you know, preserve and access any other way than, like you said

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earlier, coming into the office. [LB14]

SENATOR SULLIVAN: Okay. Thank you. [LB14]

DIANE BATTIATO: Thank you. [LB14]

SENATOR AVERY: Senator Pahls. [LB14]

SENATOR PAHLS: Thank you, Senator. I must say the letter that I received from you or your office was well done, easy to read, and that's the kind of information we need,... [LB14]

DIANE BATTIATO: Thank you. [LB14]

SENATOR PAHLS: ...right to the point. And I appreciate that. [LB14]

DIANE BATTIATO: Thank you very much. We worked real hard at doing that. [LB14]

SENATOR PAHLS: Thank you. [LB14]

SENATOR AVERY: Senator Schumacher. [LB14]

SENATOR SCHUMACHER: Thank you, Mr. Chairman. Am I reading this correctly then that, for the first page, the price goes up from \$5 to \$10 and that's doubling, and then for subsequent pages the price goes up from 50 cents to \$6, a twelvefold increase? [LB14]

DIANE BATTIATO: No. No, from \$5 to \$6. [LB14]

SENATOR SCHUMACHER: For the second page? [LB14]

DIANE BATTIATO: For the subsequent pages. [LB14]

SENATOR SCHUMACHER: What about for indexing? [LB14]

DIANE BATTIATO: And they're dropping the indexing. I think, Senator, is that up to five lots or is that all the indexing? [LB14]

SENATOR WIGHTMAN: All of them. [LB14]

DIANE BATTIATO: All the indexing. Right now we're having to count every lot. If we get a plat that has a hundred lots, we have to count all those hundred lots and it's 50 cents per lot. So, as the senator said, some of that revenue will go away because we're not doing the indexing of the lots. We are indexing the lots, that's how we index, is per legal

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description, but we're not charging for the individual lots as we were in the past. [LB14]

SENATOR SCHUMACHER: To the extent that this is a user fee then...and I take it this is per deed. It can be a deed to a \$5 piece of land or a deed to a \$1 million piece of real estate,... [LB14]

DIANE BATTIATO: Million dollar. [LB14]

SENATOR SCHUMACHER: ...it's the same fee. [LB14]

DIANE BATTIATO: Yes. [LB14]

SENATOR SCHUMACHER: Do you have any estimate on how much money this is going to generate for the counties? [LB14]

DIANE BATTIATO: Well, it's really hard to. You know, I can go in retrospect. The difficulty is if we anticipate...a good average is 100,000 or 120,000 documents a year in Douglas County. Say if you average, make it easy for the math, 100,000 documents, we could say, okay, the minimum increase would be \$2.50 if it was a one-page document. So that would be an increase annually of \$250,000 on those 100,000 documents. What's hard to generate as far as the fiscal impact of that is that how many of those 100,000 documents are actually 1 page and how many of them are 20 pages. We have an average, we usually average around five pages per document, if somebody were to ask us, you know, what our average per document page is, so I think if we'd calculate at a five-page document, I think it would be an increase of \$5 per document, \$5 and then \$2.50...I mean \$2.50 and \$2.50, so it would be a total increase of \$5 per document if we had a five-page document. [LB14]

SENATOR SCHUMACHER: Is there any consideration been given to the filing fee for transactions, say, under \$50,000 or over \$50,000, or is this just too small potatoes to worry about that? [LB14]

DIANE BATTIATO: Well, the problem is the only filing fees...the filing fees are never calculated on dollar amount. Like if you purchase a property for \$50,000 versus \$1 million, the filing fees themselves are the same no matter what that dollar amount is. It's per page of instrument. The dollar amount is the document stamps. [LB14]

SENATOR SCHUMACHER: I recognize that that's, right now, it is a fixed amount per page. [LB14]

DIANE BATTIATO: Uh-huh. Uh-huh. [LB14]

SENATOR SCHUMACHER: But I'm questioning whether or not it would be fairer...

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[LB14]

DIANE BATTIATO: It would be a little... [LB14]

SENATOR SCHUMACHER: ...to load that on the big transactions... [LB14]

DIANE BATTIATO: Uh-huh. [LB14]

SENATOR SCHUMACHER: ...where this becomes a miniscule percentage of the transaction... [LB14]

DIANE BATTIATO: Uh-huh. [LB14]

SENATOR SCHUMACHER: ...rather than on the smaller transactions. [LB14]

DIANE BATTIATO: Uh-huh. Well, and that's true, but the only documents that we are aware of what a value of a property would be would be on deeds, deeds of trust. Death certificates, easements, any other type of affidavits we have no idea what that property would value at because there's no revenue attached to it. There's only filing fees attached to it. [LB14]

SENATOR SCHUMACHER: But the bulk of the documents filed are deeds or mortgages or deeds of trust. [LB14]

DIANE BATTIATO: Yeah, but the deeds of trust and the mortgages, they would have a dollar amount on the loan amount,... [LB14]

SENATOR SCHUMACHER: Yeah. [LB14]

DIANE BATTIATO: ...but not necessarily the value of the property except for the deed. [LB14]

SENATOR SCHUMACHER: So there would be a way to judge the value of the use of the system that these documents we're getting, I mean... [LB14]

DIANE BATTIATO: For those two documents, yes. [LB14]

SENATOR SCHUMACHER: ...a \$500,000 mortgage uses the system... [LB14]

DIANE BATTIATO: Uh-huh. [LB14]

SENATOR SCHUMACHER: ...ten times more than the \$50,000 one. [LB14]

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DIANE BATTIATO: No, filing, they're still only going to file it once so there really isn't... [LB14]

SENATOR SCHUMACHER: They get twice...they get ten times the protection though, don't they? [LB14]

DIANE BATTIATO: Well, there's no protection. All we're doing is preserving their records. You know, we're like the librarian. [LB14]

SENATOR SCHUMACHER: Yeah. [LB14]

DIANE BATTIATO: So I don't know...I don't know if protection...I guess I don't know that answer. I'm sorry. [LB14]

SENATOR AVERY: Any more questions from the committee? [LB14]

DIANE BATTIATO: Thank you so much. [LB14]

SENATOR AVERY: Don't see any. Thank you for your testimony. [LB14]

DIANE BATTIATO: Thank you. [LB14]

SENATOR AVERY: Any other proponents? [LB14]

KORBY GILBERTSON: (Exhibit 2) Good afternoon, Chairman Avery, members of the committee. For the record, my name is Korby Gilbertson. It's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today as a registered lobbyist on behalf of the Nebraska Realtors Association and in support of LB14. I was trying to remember if this was number four or number five times we've been on this bill. I think one of the problems last year really was, when we were standing behind the glass and were shocked it didn't advance, was that perhaps the three years prior to that we had done too good of a job fighting the bill. (Laughter) So I'm...so this is the second year that we have been working with the counties and interested parties to come to some kind of agreement and, I'm happy to say, we still support the bill and think that the way that it's drafted now really does address our concerns. We have had a longstanding policy of not increasing fees just because they haven't been increased for years. The real heartburn came from this bill was the fact that the fee increase would just go to the general fund for the counties that receive them and not go for anything towards the records management. I've talked many times with Diane about this issue and I think that this is the best outcome thus far, because it not only helps big counties like Douglas County that have a lot of records to keep, but it helps the smaller counties, too, that don't have as many filings. So we're very much in support of it. And I wanted to touch a little bit about on Senator Schumacher's question about the cost of recording a document being based on the cost

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of the property that the document is from. And historically in Nebraska we've always based any record...any public record document storage has to be based on the price or the cost of storing that document, because when you look...because the register of deeds is the receiver of that paperwork. It doesn't matter if it's worth \$1 billion or 10 cents, all they're taking is that piece of paper. That piece of paper doesn't have a bigger value because it's worth \$10 million...because the property it's written about is worth \$10 million. They're still...they have the same duty to record and protect those documents regardless of the value of the property. And many times...and I know we'll have bills next week and the following weeks regarding public documents and the issues of how much public entities can charge for receiving a copy of a public record or things like that, and the argument has always been that it should be reflective of the cost of providing the record or the cost of maintaining it, and that's the only basis that it should be on. With that, I'd be happy to try to answer any questions. [LB14]

SENATOR AVERY: Thank you. Any questions from the committee? Senator Schumacher. [LB14]

SENATOR SCHUMACHER: Thank you, Mr. Chairman. Ms. Gilbertson, when you say it has to be based on that, that's just not "has to," we choose to have it based that way. [LB14]

KORBY GILBERTSON: Absolutely. [LB14]

SENATOR AVERY: Any other questions? I don't see any. Did you raise your finger, Senator? (Laughter) [LB14]

SENATOR JANSSEN: That was me. I don't have a question. [LB14]

SENATOR AVERY: Thank you, Ms. Gilbertson. [LB14]

KORBY GILBERTSON: Thank you. [LB14]

SENATOR AVERY: Any other proponent testimony? Hi. [LB14]

JEAN BAUER: Senator Avery and members of the committee, my name is Jean Bauer, J-e-a-n B-a-u-e-r, and I'm the register of deeds for Scotts Bluff County, and I came last year and testified in support of this bill and I'm here again in support of this bill. I think everybody has kind of addressed all the issues that we face daily as register of deeds and county clerks and how this would really help us to do our jobs better. We have two components of this bill, technology and records preservation, and what I'm going to share with you today are two instances, one of each, which just happened in the last couple of months. We, as Diane talked about, we are implementing e-recording statewide where we receive documents for recording via the Internet. It's really caught

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on in our county. We started in February of 2010, recorded eight documents in February of 2010, and we record probably five times that. We probably record eight documents a day now via that process. Douglas County, although I really like Diane and I really like Omaha, but Douglas County is not representative necessarily of the state in general. I feel Scotts Bluff County is a little more representative of the state in general. We're a mid-sized county. We're faced with a lot of issues just because we're a lot smaller in number. What happened recently, we had a county out in our neck of the woods, Deuel County, and she is really excited about e-recording and, you know, ready to get started, but she only has one computer in her office. It's just a two-person office. And the computer that she has right now is provided by the state and it's to perform some state functions as county...she's also a county clerk as well as a recorder. I also think she's clerk of the district court and several other titles. And so she can't really use that computer for her e-recording processes. Their county is like many other small counties across the state--at maximum lid levy, no money for even a new computer, believe that or not. So that kind of...you know, when you hear that in today you just kind of go, I can't even believe that's even possible, but it is possible and it's something the smaller counties of this state are facing every day. Another reason happened up in Sioux County, Nebraska, which is also just to the north of us, and we've had a lot of oil and gas people out in our area and apparently in Sioux County you can make your own copies as a user of this office. Somebody took a book off the shelf, they got some pages out of it, they made a copy. Here six months later she discovers, when getting this book off the shelf, several pages, like 30 of them, are gone out of the deed book. They're missing. She doesn't know if somebody put them in another book, if one of the oil and gas people took them, what, you know, what happened to them. So she goes to her microfilm and she's not quite sure that that microfilm is stored in the state archives, so how do we reconstruct those records? And that's another issue that's faced...these small counties are facing. It's not even just technology, but a lot of these counties don't have even money to microfilm records because they don't have...they just don't have the money. And this bill, this user fee increase, would allow those smaller counties to have those options available to them. And that's really all I have so I'd be happy to answer any questions. [LB14]

SENATOR AVERY: Well, we'll be happy to ask them,... [LB14]

JEAN BAUER: Okay. [LB14]

SENATOR AVERY: ...I think. Senator Karpisek. [LB14]

SENATOR KARPISEK: Thank you, Senator Avery. Thank you for your testimony. What number is on your license plates? [LB14]

JEAN BAUER: (Laugh) Twenty-one. [LB14]



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SENATOR KARPISEK: That's what I thought. We're twenty-two so we're quite a ways still up the ladder. [LB14]

JEAN BAUER: Uh-huh. Uh-huh. [LB14]

SENATOR KARPISEK: So when you talk about smaller counties, yet there are many. [LB14]

JEAN BAUER: (Laugh) Yes. [LB14]

SENATOR KARPISEK: I would say I hope she put those books where they can't just go get them anymore. [LB14]

JEAN BAUER: Well, unfortunately, our offices are public access. Anyone can walk into our offices, pull a book off the shelf and look through them, and we really...I mean not very often do you even...I mean you can engage them in conversation, but if they don't want to tell you what they're looking for or why they're there, that's their business. That's the public office. [LB14]

SENATOR KARPISEK: Side of it. [LB14]

SENATOR AVERY: That's the beauty of transparency. (Laughter) [LB14]

JEAN BAUER: Yes. [LB14]

SENATOR KARPISEK: Yeah, I think that...I think that's a little further than what's intended but fine. [LB14]

JEAN BAUER: Definitely. Definitely. [LB14]

SENATOR KARPISEK: What...and maybe someone said that, but what is an average length of one of these? I mean how much money do they usually...I know average is probably hard to say but... [LB14]

JEAN BAUER: Average length of a document? [LB14]

SENATOR KARPISEK: Yes. [LB14]

JEAN BAUER: I would say Diane was correct. I'd say anywhere from four to five pages is an average length. Most deeds are 1 page but then we have deeds of trust that are anywhere from 2 pages and most of the bigger ones are anywhere from 15 to 20. [LB14]

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SENATOR KARPISEK: So even with the increase, you're not talking hundreds or thousands of dollars. [LB14]

JEAN BAUER: We are not talking...I mean maybe in a large county like Douglas County, but let's just look at maybe Banner County, for instance, who is 85 on the license plate. You know, they may only record maybe 1,000 to 2,000 documents in a year's time so...but it still provides them with money to do some things. And, granted, you may have to do some records preservation projects piecemeal, some, you know, some one year, some the next, that kind of thing, but we're all prepared to do those sorts of things. [LB14]

SENATOR KARPISEK: Thank you, and I'm glad you still have numbers on your plates. I wish everyone did. [LB14]

JEAN BAUER: Me too. (Laughter) [LB14]

SENATOR KARPISEK: Thank you. [LB14]

SENATOR AVERY: Any other questions for Ms. Bauer? [LB14]

SENATOR SULLIVAN: Well, I... [LB14]

SENATOR AVERY: Oh, okay. [LB14]

SENATOR SULLIVAN: Well, I'm just dying to know if they found those 30 pages. (Laugh) [LB14]

JEAN BAUER: She has not found the pages but she is working on the... [LB14]

SENATOR SULLIVAN: Oh. The microfilm? [LB14]

JEAN BAUER: ...the microfilm, yes. [LB14]

SENATOR AVERY: Senator Schumacher. [LB14]

SENATOR SCHUMACHER: Thank you, Mr. Chairman. Can you maybe bring me up to speed when you mentioned the growing use of e-recording? [LB14]

JEAN BAUER: Uh-huh. [LB14]

SENATOR SCHUMACHER: What is actually...what is...what happens, how is that done, what kind of toys do you need to do it? [LB14]

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JEAN BAUER: Basically, what you need to do it on our end of the spectrum is you need a computer and Internet access and a printer. Those are the three basic things that you would need. What the submitters scan, they need a scanner. They scan the documents and they submit them to us via the Internet. It's a secure connection. You know, you're way above me in the technology for them. I have an IT guy that I say, make this...I want it to do this, and he does that and I don't know how it happens. But it comes across. It's all secure, it's protected. We stamp it with a date, a time, and an instrument number. We record it and can actually send the document back to him right away. That whole process could take as little as 10 to 15 minutes, even...in some cases even less. [LB14]

SENATOR SCHUMACHER: Okay. So basically you've got a facility that this digital record is sent to. It's recorded in your office, as good as if it was an original that was filed there? [LB14]

JEAN BAUER: That's correct. [LB14]

SENATOR SCHUMACHER: Okay. Are you aware of any cooperative arrangements between counties where the Arthur County Clerk and the Deuel County Clerk and the Kimball County Clerk and the, you know, Nance County Clerk have a common facility? Because once they're recorded, why do they have to be recorded individually in individual offices? [LB14]

JEAN BAUER: Well, they have to come to that specific office to be recorded and the reason for that...the most important thing I can think of is that not only do we assign a date and a time to an instrument but we assign an instrument number. So I don't know how, for instance, I in Scotts Bluff County could use a cooperative facility like what you're talking about and say that was in North Platte. How would somebody in North Platte know what number to assign to that document? And they are sequential. So, you know, it really needs to come to that specific county. It's not something that could be done across county lines. I mean, I just don't have any way to envision that happening. [LB14]

SENATOR SCHUMACHER: Do you envision a continuing shift to this e-filing? [LB14]

JEAN BAUER: Definitely. [LB14]

SENATOR SCHUMACHER: Should we perhaps, before we set up 93 little receiving stations, figure out a way that we could assign a common set of numbers and communicate those and have one or two receiving stations or maybe just one? [LB14]

JEAN BAUER: To be honest with you, I have not thought that aspect...I've never even thought of that. So I'm not opposed to that but there would have to be a lot of discussion about that. I mean that's...you know, we're open to all new ideas. I don't know how...in

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fact, quite honestly, I'm not even sure by law that could happen because I think that that document has to be recorded in that county where that property resides, and unless there would also be a change in the law and some other laws...yeah, I think you're getting into an area where many things would have to be changed. [LB14]

SENATOR SCHUMACHER: Then one follow-up question then. In some counties, and I know it happened in Platte County, before the register of deeds' office actually began a process of digitizing the records,... [LB14]

JEAN BAUER: Uh-huh. [LB14]

SENATOR SCHUMACHER: ...several private companies already had digitized the records. Has that happened in your county? [LB14]

JEAN BAUER: What do you mean private companies had digitized? [LB14]

SENATOR SCHUMACHER: Title companies. They come through and they've taken their microfilm and they've scanned the microfilm and... [LB14]

JEAN BAUER: Typically, the title companies that are doing that are usually national title companies. They do it in states. They run what they call their title plants. They are not the official records. In Nebraska, an abstractor/attorney would have to research the official records. A title plant in Nebraska I don't think is recognized by law. It's not. So I know in Colorado a title plant is recognized by law. They can do that. I know that. But I know in Nebraska it's not. So primarily, I think these title plant people are doing that for their own in-house generation of business. [LB14]

SENATOR SCHUMACHER: Uh-huh. Uh-huh. [LB14]

JEAN BAUER: Uh-huh. But in Nebraska, they still have to come to the courthouse, whether that's by Internet or in person, to check those records. [LB14]

SENATOR SCHUMACHER: Okay. [LB14]

SENATOR AVERY: Any additional questions? Senator Brasch. [LB14]

SENATOR BRASCH: Thank you, Senator Avery. In hearing, it sounds like years have gone by of diligence in working to the point where we are today, and my question is when you talk about the need for technology, the technology in our District 16, I believe all of the clerks have submitted, you know, they are proponents here. But the technology in a courthouse is not just for that one office and, you know, everyone uses it, from the clerk going to the Secretary of State, e-mail comes in and out, things are scanned for different purposes. So it's not like this fee would be turn it on and off just for

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the sole purpose of this fee. It's just increasing technology through all our counties. They need computers. They need the equipment, the training. [LB14]

JEAN BAUER: Uh-huh. [LB14]

SENATOR BRASCH: Okay. This fee, from the voice of our clerks, is like a handler's fee. It's the time that they need to take to process, to archive electronically, to share, to manage. And so in that sense it sounds like there could be just a gap in the technology and then that the time is long overdue to increase the handling fee or the user fee, correct? Am I... [LB14]

JEAN BAUER: I think it's long overdue. [LB14]

SENATOR BRASCH: And that's what I'm hearing today. [LB14]

JEAN BAUER: Yes. [LB14]

SENATOR BRASCH: And it's not so much the technology is holding it. The technology is across the board in every courthouse... [LB14]

JEAN BAUER: Right. [LB14]

SENATOR BRASCH: ...for all purposes,... [LB14]

JEAN BAUER: Uh-huh. Uh-huh. [LB14]

SENATOR BRASCH: ...from voting to this department to, you know, whichever, because archiving knows no volume, whether it's 1 document or 10,000, 100,000. [LB14]

JEAN BAUER: Yes. [LB14]

SENATOR BRASCH: It's all electronic. There's no space required, no cabinet. So we're just saying the handler's fee, the user's fee is long overdue. You're asking again for the approval. [LB14]

JEAN BAUER: That's correct. [LB14]

SENATOR BRASCH: And it's being supported by the realtors and by NACO and all statewide. [LB14]

JEAN BAUER: That is correct. [LB14]

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SENATOR BRASCH: And the objection could possibly be that I spent a lot of time, over a year, in the district, and they will see it as the courthouse wanting more money. Call it a tax, call it a fee, you know, that's where the push back could possibly come. [LB14]

JEAN BAUER: Uh-huh. [LB14]

SENATOR BRASCH: Do you agree with that or do you think people are coming in saying, why don't you raise that fee for me today? (Laughter) [LB14]

JEAN BAUER: Well, quite honestly, I think that a lot of the general public...I mean, I guess I look back to when I bought my first home and we paid our filing fees for our deed and our mortgage and that kind of thing. I couldn't have told you if those were considered high or if they were considered average or anything. I think a lot of times the fees are so small in comparison to the size of the property that you're buying that...and we only bought...our first home cost \$45,000. (Laugh) So, you know, I think you just don't necessarily...it's not really a cost factor in, well, if this costs me \$10 rather than \$5, I'm not going to buy this \$50,000 property. I just don't see it that way. I think that we have...our public has changed so much. I mean our IT guy recently went through and changed our Web site to be compatible with...you can click on something with your mobile phone, your BlackBerry or something. And even five years ago, who would have thought, you know? And we have to keep up with our public and what our public is demanding, and our public is demanding that those things be done on the Internet. My daughter is looking for a second job. Everybody, apply on-line, apply on-line, you know, nobody wants to see you face to face. I think people are getting used to, you know, doing business that way. I think it's kind of sad but that's the reality of it. [LB14]

SENATOR BRASCH: Thank you. Thank you very much. [LB14]

JEAN BAUER: Yeah. Yeah. Uh-huh. [LB14]

SENATOR PRICE: Are there any further questions? Thank you very much, Ms. Bauer. [LB14]

JEAN BAUER: Thank you. [LB14]

SENATOR PRICE: Do we have any further proponents for this bill? [LB14]

COLLEEN BYELICK: Members of the Government, Military and Veterans Affairs Committee, my name is Colleen Byelick, it's C-o-l-l-e-e-n B-y-e-l-i-c-k. I'm the general counsel with the Secretary of State's Office. On behalf of Secretary Gale, we would like to indicate our support for the counties in their efforts to increase their fees. We believe that with budget conditions the way they are, that when users are able to pay a reasonable fee for services that it gives state and local agencies the ability to provide

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quality services, and it doesn't increase pressure on the general taxpaying public when those that are going to be using the service are paying for services that directly impact them. It's also our understanding that this bill would increase our fee for filing state and federal tax liens, and those liens are first presented to the Secretary of State for filing and subsequently transmitted to the designated county by our office. We index the notice according to the name of the debtor and then transmit the filing to the county, who indexes it on their grantor/grantee index and then also against property records. Most of these notices are one page and so it's our understanding that we would be receiving a \$10 fee for the filing and that the county would be receiving a \$10 fee. We currently charge \$10 for most of our other filing, UCC type filing fees, and so we believe this is pretty consistent with our other fees. So like I said, we support the counties in their efforts and we think this is consistent with similar documents that are filed in our office. And I will try and answer any questions you may have. [LB14]

SENATOR PRICE: Thank you very much. Are there questions from the committee? Seeing none, thank you very much. [LB14]

COLLEEN BYELICK: Thanks. [LB14]

SENATOR PRICE: Do we have another proponent, please? Mr. Dix. [LB14]

LARRY DIX: Good afternoon. For the record, my name is Larry Dix, spelled L-a-r-r-y D-i-x. I'm executive director of the Nebraska Association of County Officials, appearing today in support of LB14. A couple of points that I want to make I think, I think our register of deeds have just more than adequately covered and answered any of the detailed questions, but there was some conversation about, you know, do people view this as a tax increase, do they view it as a fee increase, you know, sort of where do we go from there? And I think that's sort of where...once we move to the next stage and we get this bill on to the floor and start having that discussion. One of the things I think we must look at, and this is I think evident by the folks who supported the bill, these are the folks that are going to pay a significant share of the fees, that they are there and supporting it, but the other benefit to this is when you start to look at this and we can see the technology out there and we can see people, we've got products out there called Nebraska Deeds Online, and you start to watch when people are using those sites. County government is slowly moving towards not just an 8:00 to 5:00 process anymore. Our citizens are demanding that they see access to some of those records 24 hours a day, 7 days a week, and this moves us. This will assist us in moving in that direction. So I think it's very, very justifiable. It brings more access to our public, to our citizens. And a number of those people are going to save a significant amount of money by not having to drive to the courthouse. So, you know, we can get wrapped up in this tax increase idea. To a certain degree, we've got to come back and say, this is the way the world is moving, we need to move in that direction. And we need to provide the benefits and the fiscal stability so that we can provide that information. I'm pleased with

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the number of counties that are starting to look at e-recording. That is a new phenomenon that started in Douglas County just over a year ago and it's starting to take off all across the state and it will continue, just by the nature of what people want and how they want to access their government. So I think that's...I think it's very, very positive and I think when we have that debate and we have that discussion, those kinds of points need to be pointed out to folks that this is a user fee. I got to tell you, I have not interacted with the register of deeds' office very many times. I would tell you that until I purchase another house, for the most part I'm probably not going to interact again or have to pay that fee. And so it isn't something that every citizen in the state of Nebraska is going to be assessed a fee. It's only the one who uses the system. And the benefit of that, I think, will come back to each and every one of those individuals, plus many more taxpayers who are paying nothing, who do not go in and file. They still get the benefit out of what we're doing here today. So certainly the NACO board voted unanimously to support this. We think it's a great concept. We thank Senator Wightman for bringing it forward. We think we have worked over the years to remove any opposition to that, to this bill, and I would ask that the committee advance the bill and bring it out to the floor for full debate. I would be happy to answer any questions anybody would have. [LB14]

SENATOR PRICE: Thank you, Mr. Dix. Senator Pahls. [LB14]

SENATOR PAHLS: Thank you, Vice Chairman. I have a question, and I don't know if I misinterpreted one of the previous speakers, but I know you're very familiar with what goes on in the county. I was amazed when I heard some counties have one computer. Did I...is that just for that office or...? [LB14]

LARRY DIX: Yeah, that would be, you know, I think what they were referring to. In some of the small counties where you will have...and sometimes it's hard to understand how small some of these counties are, but will have a clerk who serves multiple...wears multiple hats but in that office probably are the clerk and a part-time deputy. That's really who runs that office and sometimes that is just a computer that serves multiple functions. Many times people will commonly refer to a computer as a terminal that's connected to a network, so there may just be one terminal in that office. But either way, that's...you'll see that for the most part most of the counties will have, you know, a number of terminals and in a number of counties they will have terminals so the public can walk up to the counter and access within the courthouse building. [LB14]

SENATOR PAHLS: Yeah. One thing, what I like about all this technology we're talking about in the counties because you might be able to recall about two or three years ago when I had a bill called one-stop shop, you go to a car dealership and you could do everything, buy your...you know, pay your tax, everything there. But one of the criticisms from some county officials was, well, we...this technology, we can't do it because they're not up to date, but if we become more up to date then bills such as that should be in more favor I think. [LB14]



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LARRY DIX: Well, and, Senator, and I appreciate your comment. And I think many of you will remember, you have heard me many times come here and say we need to use technology to solve some of the problems that we have out here. NACO has been a very large proponent of technology. We consistently try to move counties to get involved in Nebraska taxes on-line where you can look at your taxes, Nebraska Deeds Online where you can research that. We've actually (inaudible) to look at assisting other counties to do the recording, and we're a big proponent of technology. We think that's the direction we have to go. [LB14]

SENATOR PAHLS: Thank you. [LB14]

SENATOR PRICE: Thank you. Are there any questions? Senator Schumacher. [LB14]

SENATOR SCHUMACHER: Thank you, Mr. Vice Chair. I read through the bill here and I guess the meat of it appears on page 5 where it simply says that this additional revenue will be used exclusively for purposes of preserving and maintaining public records in the office of register of deeds and for modernization and technology needs relating to such records, not be substituted for other allocations of county funds. So what is in here that just stops somebody from giving everybody a salary raise? [LB14]

LARRY DIX: I think the language pretty much describes that it must be used for records preservation and modernization. [LB14]

SENATOR SCHUMACHER: Well, it says, purposes of preserving and maintaining public records of the officer of deeds and for modernization. So, I mean, if you give somebody a salary increase, then aren't you preserving the public records, just like the job requires? [LB14]

LARRY DIX: Well, I think if the, you know, committee would want to clarify and put in there, if that is the will of the committee to make sure that that is not utilized for that. But I would tell you that the elected officials in the counties, those salaries are set prior to an election and they cannot be increased or diminished during that four-year term. So in...we'll use the Douglas County Register of Deeds for an example, Diane could be doing a wonderful job and receiving some money and say, since I'm doing such a wonderful job I'd like to have a salary increase. That's prohibited by law that... [LB14]

SENATOR SCHUMACHER: But not for staff. [LB14]

LARRY DIX: But not for staff. That's right. [LB14]

SENATOR SCHUMACHER: Okay. Now in just kind of laying out this general thought that, golly, gee whiz, modernization and technology would be good, is there any place

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where we are requiring in other statutes or in other laws that this be done in some type of a uniform format? So should we get to the point where we might want to have cooperative agreements between counties to do the register of deeds' functions or may get to the point where we want to mandate a consolidation of counties, that the records that were put together and digitized and modernized in Arthur County somehow fit seamlessly into the records of the consolidated county or the cooperative county, is any of that laid out where we're not inventing the wheel over and over again? [LB14]

LARRY DIX: In there, there's nothing in the bill that's laying that out, but you will...there will be a bill coming forth, and I believe it will be in front of the Government Committee, that talks about some standardization of the deeds being filed so that records do start to go down the standardization route. There is another bill that talks about that. Certainly we'll see that later on this session. But this bill here does not lay out specifics within that bill that says each document shall have this heading, anything like that. And I think earlier there was a conversation about you would almost...these documents that come into the register of deeds' office, they are submitted not by government, not...they aren't created by the register of deeds. These documents are created by all of us. All of us could create one of these documents to be filed but I don't think there's any standardization that we would all have to say, well, we know we have to have it in this format. And this bill does not standardize that. [LB14]

SENATOR SCHUMACHER: But while we all may create a different document and use different margins and typesets and things like that, when it is digitized, when it's scanned in, when it's put into the great memory bank of the sky, certain Internet and scanning protocols are used. And so while the piece of paper may look different, the data derived from it needs to be able to be taken from this computer to that computer or merged at a later point or read. And I guess I trust you, though, when you say that we've got another bill that maybe addresses this. [LB14]

LARRY DIX: Well, certainly, you know, there have been some standards in the register of deeds' office over the years. One is microfilming, and microfilming is microfilming. I can take a microfilming roll from Arthur County and I can take one from Platte County and I can take one from Sarpy County and I can probably read that microfilming roll on the same machine. So over the years there have been standardized versions of that. Now that we've entered the electronic realm of storing documents, you could say that there are certain standardized formats that are available. One is PDF, pretty common. Everybody knows PDF. Adobe is a great company that's developed that. But you could also store that document in JPEG. And I would contend that if you would store it as a PDF or a JPEG then you probably, on almost any computer system today, could read either one of those documents. So there is some standardization built into automation as we know it today, but where we go down the road from there, whatever Adobe comes out with next, I don't know what that would be. But there is some standardization there. There is also some standardization in the fact that we know that these documents

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have...most of these documents, depending on what the document is, a grantor and a grantee and there are some standardized indexing that you would have. So there is a little bit of that. [LB14]

SENATOR SCHUMACHER: Then one follow-up then: Once this equipment or this data and documents have been digitized, is included in here or is there some protocols laid out for the proper backup and do these servers have to be in each individual courthouse? What's your contemplation there? [LB14]

LARRY DIX: Yeah. Well, there certainly is nothing in the bill. I would tell you that it would behoove everybody to back up computers, just like we have today. We all have personal computers and I would assume all of us are backing those up, you know, weekly, daily, in our own homes. But the other scenario to that is that once there is a law on the books that says each county shall microfilm all their documents, and those microfilm documents then are created and are brought to the state and are housed at that location, and so there is still that requirement on the books. Regardless of what we have over here on the computer, there's still the requirement to microfilm these and bring these to the state, to the archives and store them. [LB14]

SENATOR SCHUMACHER: Is there a like requirement then for the duplicate of the hard drive or the digital to be stored with the state? [LB14]

LARRY DIX: No, there is not. And one of the things that when you start getting into technology, you start moving a little bit rapidly in the fact that I could come forward and I could lay out an 8-inch diskette, a 5.25-inch diskette, a 3.50-inch diskette, a CD, a DVD, and I would ask you to...okay, all the data is on all of these. Can you read the information off the 8-inch diskette anymore? Probably not, probably very few places. But that's only been over a 15-year period of time. And so our technology is racing ahead so fast that it's very hard to write standards into a bill so that we could guarantee the technology into the future. [LB14]

SENATOR SCHUMACHER: So then a digitized document is then printed out and microfilmed and that's our backup? [LB14]

LARRY DIX: A digitized document can go directly from the digital copy to microfilm. [LB14]

SENATOR SCHUMACHER: And that is the backup. [LB14]

LARRY DIX: That is the official... [LB14]

SENATOR SCHUMACHER: I mean if a tornado comes and takes the courthouse... [LB14]

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LARRY DIX: That is the official sort of law of the land that microfilming still has to happen in these courthouses with these documents. [LB14]

SENATOR SCHUMACHER: And then the duplicate is stored in some state archive off premises. [LB14]

LARRY DIX: The duplicate is stored, yes. [LB14]

SENATOR PRICE: Thank you, Senator Schumacher. Are there any further questions? Sir? [LB14]

SENATOR KARPISEK: No, thank you. [LB14]

SENATOR PRICE: Okay, thank you. Thank you very much, Mr. Dix. [LB14]

LARRY DIX: Thank you. [LB14]

SENATOR PRICE: Do we have any other proponents? Right now what I would like to do is I'd like to read into the record a letter from Mary Eickhoff there from Richardson County and another one from Sandra Stelling. (Exhibits 3 and 4) Both of them are in support of the bill. Thank you. Saying that, are there any opponents to the measure? Opponents? Seeing none, are there anybody available to testify neutral? Seeing none, Senator Wightman, would you like to close? [LB14]

SENATOR WIGHTMAN: Thank you, committee members. Just a couple of items that I would like to discuss briefly in my closing. I know that Senator Schumacher has had a number of questions, but some of them dealt with whether or not it should be geared to the value of property and indeed we do have that, of course, because it's kind of a dual system. One is the documentary taxes that is geared, and having almost 50 years of history now in the practice of law, I can remember that was a federal tax when I first started in 1963 and it was 55 cents for \$500 of consideration. It has continued on to where the state took it over and I can't tell you what year that was but probably seven or eight years after I started to practice. And the state immediately had passed a law, I think, actually a little bit prior to the time the federal went off. It went into effect upon the repeal of the federal law. And then it started out at 55 cents and then went to \$1.10 per \$1,000 and finally it reached \$2.25. However, very little of that has gone to the county. It's gone to fund other purposes and the primary one is the Affordable Housing. You'll see a bill this year being brought as part of the Governor's proposed budget that will redirect some of that Affordable Housing money, if it's passed, to site development for economic development. So just a little background on that. And so, actually, the differential in value is certainly taken into account in connection with the deed, but I think the fact is that probably we still aren't going to be bearing all of the cost of

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recording, handling, the office of register of deeds even with all of the amount. And still some of it will be a tax on the public and perhaps rightfully so because, as was stated by some of your other testifiers, some of the value is to the public that they are able to access these documents. Maybe in the past it wasn't by electronic means but is now, but they had access to these books and it took a lot of storage just to store all of these books that we've had for many, many years. So that is taken into account. I would like one more time to visit a little bit why the increase in the first page and that is because the first page, if there are going to be questions and phone calls made, they almost all are going to regard the document itself, not each page of the document. And so I was told by a register of deeds that, in effect, most of their time is spent with the first page of that document or the document itself, and that's why we're saying a \$5 to a \$10 proposed increase in the first page, where it's only a very small percentage with regard to subsequent pages. With that, I thank the committee. [LB14]

SENATOR PRICE: Thank you. Are there questions from the committee? Senator Karpisek. [LB14]

SENATOR KARPISEK: Thank you, Senator Price. Senator Wightman, I would just like one more time to hear you say that you consider this a fee and not a tax. (Laughter) [LB14]

SENATOR WIGHTMAN: I will say that again. [LB14]

SENATOR KARPISEK: Great. I just wanted to make sure we had that on the record. (Laughter) Thank you, Senator. [LB14]

SENATOR WIGHTMAN: And as a matter of fact, if we don't keep fees current, I see counties having to raise taxes, because if these are really being charged to a user...am I doing better now, Senator Karpisek? [LB14]

SENATOR KARPISEK: You are doing great. (Laughter) Thank you, Senator Wightman. I just... [LB14]

SENATOR WIGHTMAN: Thank you. [LB14]

SENATOR PRICE: Thank you, Senator Karpisek. [LB14]

SENATOR KARPISEK: Thank you, Senator Price. [LB14]

SENATOR PRICE: Are there any further questions from the committee? Senator Pahls, please. [LB14]

SENATOR PAHLS: I would, since you're smiling. (Laughter) No, I notice a number of

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our questions we asked today seemed like we were getting into what I call the workings of county government to some degree, and I believe that we should...we're setting policy. We should have standards, but we have to be careful that we don't try to micromanage what they're to do. We should be setting the standards...I mean we need the protection, etcetera, etcetera. If that's not in statute someplace, maybe we need to take a look at that. I don't know if you're carrying the bill that Dix was talking about was being brought forth. [LB14]

SENATOR WIGHTMAN: No, I'm not. [LB14]

SENATOR PAHLS: Okay. I thought maybe you were. [LB14]

SENATOR WIGHTMAN: I am carrying the bill with regard to redirecting some of the funds and that comes from the Governor's budget. [LB14]

SENATOR PAHLS: Oh, okay. Well, I just thought, I mean, we may have to look at the standards but how they do it and all that, I think that's stuff that we're hiring professionals to do. But the reason I'm saying that, I thought you were going to bring that bill. So you're not guilty. [LB14]

SENATOR WIGHTMAN: No, I'm not, but I think we do have to be careful in setting the standards too strictly because of the fact that we still allow people that are not attorneys, are not lenders, to bring documents to be filed. And so if we set those standards too strictly, we get away from people participating in their own government and so it's a pretty fine line, I think, that you've got to develop along that. [LB14]

SENATOR PAHLS: Okay. Okay. Okay, I just thought you were carrying the bill. [LB14]

SENATOR WIGHTMAN: No, I'm not. [LB14]

SENATOR PAHLS: I thought I'd give you some preemptive...you know, this is a preemptive strike. (Laughter) Thank you, Senator. [LB14]

SENATOR WIGHTMAN: Thank you. [LB14]

SENATOR PRICE: Thank you, Senator Pahls. Any further questions? Seeing none, thank you, Senator Wightman. [LB14]

SENATOR WIGHTMAN: Thank you, Senator Price. [LB14]

SENATOR PRICE: This closes the hearing today on LB14 and closes today's hearings. Thank you for participating. [LB14]