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Government, Military and Veterans Affairs Committee
February 05, 2009

[LB86 LB191 LB227 LB295]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Thursday, February 5, 2009, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB86, LB295, LB227, and LB191. Senators present: Pete Pirsch, Vice Chairperson; Robert Giese; Charlie Janssen; Russ Karpisek; Rich Pahls; Scott Price; and Kate Sullivan. Senators absent: Bill Avery, Chairperson.

SENATOR PIRSCH: Good afternoon, everyone. Welcome to the Government, Military and Veterans Affairs Committee hearing. My name is State Senator Pete Pirsch, representing District 4 in west-central Omaha. I am chairing today's committee hearing. I'd like to go around at this point in time and have the members of the committee introduce themselves, starting on my right here.

SENATOR PAHLS: Rich Pahls. I represent District 31 which is the Millard of Omaha.

SENATOR JANSSEN: I'm Charlie Janssen and represent District 15, which is Fremont and Dodge County.

SENATOR GIESE: I'm Bob Giese, District 17, Dakota, Dixon, and Wayne Counties.

SENATOR PRICE: Senator Scott Price, 3rd District, Bellevue and Gretna.

SENATOR SULLIVAN: Kate Sullivan, Cedar Rapids, District 41, central Nebraska, an eight-county area.

SENATOR PIRSCH: Very good. Sherry Shaffer is the committee clerk. Let me just make a few comments. Bills are going to be taken...the bills, and there are four, are going to be taken up in the following order today: We'll start with LB86, Senator Wallman is the sponsor of that; and then move to LB295, Senator Campbell; thirdly, we'll take up LB227, Senator Rogert; and last of all, we'll take up LB191, Senator Fulton's bill. Sign-in sheets are at both entrances. Sign in only if you are going to testify and give to the committee clerk. That is this beige sheet. So if you're planning on testifying up here at the front table, fill out the beige sheet. If you're not going to testify, but you would like to be on the record, either as a proponent or opponent of the bill; there is another different sheet you can fill out. This is a white sheet and you can find these on the tables near the entrances as well. If you could print your name and indicate who you are representing. If you are going to testify; before testifying please spell your name for the record, even if it is a simple name. Introducers will make initial statements, then we will move on to testifiers who are proponents in favor of the bill that's being offered. Then we will move on after all those who are proponents have testified to opponents of the bill. And finally, we will have testimony from those individuals who are

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testifying in the neutral capacity with respect to the bill. Then closing remarks are reserved for the introducing senator only. I just ask that as, you know, we have a number of bills in here today, and a number of individuals who are here to testify. If someone has already brought up the point in which you wanted to testify, just ask to the extent that you don't have to, try not to be repetitive. If you have a prepared statement or exhibit, I would just ask that you give it to one of the two pages that we have in here who will distribute it. We are...we need 12 copies of that. If you don't have 12 copies, just let the page know, and they'll make additional copies of that. Our two pages here today are Nick Bussey of Lincoln and Courtney Lyons of Plattsmouth. And with that, we will take up the first bill then. That is...and we are joined here now with...by Senator Karpisek. If you want to just give a brief introduction of your district, Senator.

SENATOR KARPISEK: Oh, District 32, which is Saline, Thayer, Fillmore, and Jefferson Counties.

SENATOR PIRSCH: Very good. And Senator Wallman, if you'd like to give the introduction then to LB86. [LB86]

SENATOR WALLMAN: Thank you, Chairman Pirsch, members of the committee. I look forward to talking to you this morning, this afternoon, I mean. And my name is Norm Wallman, W-a-l-l-m-a-n. I'm here today to introduce LB86. This is not a new bill. Senator Schimek brought it to you last year as LB721. This bill reinstates language regarding the completion of the landscaping for the courtyards within the Nebraska State Capitol Building. Due to the Great Depression, this was never completed. There have been a few attempts made in the past few years to finally finish what was in the original plan. I don't know if any of you have taken a look at our courtyards. You can tell by the design of the tile that there is something missing. You rarely see people in the courtyards, and I think this is a shame. I know this has a big fiscal note, but the longer we put off doing it...what should have been done in the first place; that fiscal note will continue to grow. With such an amazing building, we must finish what was started. And I think if this bill...I realize, I hope you would not give this an immediate...you know, IPP it, but I think there could be volunteers that get involved in this. And so appreciate your support. Any testifiers behind me? I don't know. Thanks. [LB86]

SENATOR PIRSCH: Thank you very much, Senator Wallman. Are there any questions for Senator Wallman? Senator Karpisek. [LB86]

SENATOR KARPISEK: Thank you, Senator Pirsch. Senator Wallman, I think this is a great idea, and I think you're right, the fiscal note is the problem. But are these the fountains and those things that we talked about last year? [LB86]

SENATOR WALLMAN: Yeah, it would be the fountains and there are different tiles, like a mosaic type of thing. And then the water comes, you know, the sun shines and it

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would be like rainbows, little rainbows and things. It's...some foreign countries have these, and it's quite awesome. [LB86]

SENATOR KARPISEK: Okay. I just wanted to make sure that I knew which bill we're talking about, and I think you're exactly right. And the fiscal note will be a problem. Is there any way, do you think, that we could try to get private money raised? [LB86]

SENATOR WALLMAN: I think we could if we...if we dedicate ourselves to getting something started. You know, it has to get started here. So we can't do anything until we have a program in place to fund the money to. [LB86]

SENATOR KARPISEK: Sure, thank you, Senator Wallman. Thank you, Senator Pirsch. [LB86]

SENATOR PIRSCH: Very good. Any other questions of Senator Wallman? Seeing none, we'll move on to the first proponent then. [LB86]

SENATOR WALLMAN: Thank you. [LB86]

SENATOR PIRSCH: You bet. Could I just see a show of hands? How many individuals are here to testify in favor of this bill? Just one, okay. Very good, sir. If you'd like to come on forward. [LB86]

WAYNE DRUMMOND: Good afternoon. My name is Wayne Drummond, and I testified last year when Senator Schimek presented this bill to you. I think we all do recognize the fiscal condition that we're in, in our country, but at the same time, this is an extraordinary opportunity. I forgot to spell my name. Okay. Wayne Drummond, W-a-y-n-e, Drummond, D-r-u-m-m-o-n-d. [LB86]

SENATOR PIRSCH: Thank you very much. [LB86]

WAYNE DRUMMOND: I am an architect, and I am also the dean of the College of Architecture at the University of Nebraska-Lincoln. We have just recently put in a landscape architecture program, by the way, after 40 years of seeking to do that. Senator Schimek...I haven't seen any revisions to the drawings, but last year they were the historic drawings that had been originally prepared by Bertram Goodhue's office. And this would be a fabulous project. I think everyone appreciates this building from coast to coast. And as the Governor pointed out this morning at our Capitol Commission meeting, this building has been recognized by the American Institute of Architects, and recognized two years ago at the 150th anniversary of the American Institute of Architects. This building polled number 65 in the nation competing with every building from the Chrysler Building to the National Capitol. The reality of it is that the enhancement and completion of these courtyards would be a true asset on every level,

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on every aspect of the use of this Capitol Building. It has great appreciation, and I would encourage you to think very seriously about it. I think it was stated this morning that this may be almost a \$2 million price tag. That...however, getting started on the project with your support would be deeply appreciated. If you have any questions... [LB86]

SENATOR PIRSCH: Thank you so much. Are there any questions? Senator Price. [LB86]

SENATOR PRICE: Senator Pirsch, thank you. Mr. Drummond, I just wanted to know if we're using historic drawings, I suspect our materials that are available today versus those days, would there be an impact that we could, either a savings of some sort or do something that would cause a change in the drawings? [LB86]

WAYNE DRUMMOND: I think the drawings that I have seen are essentially conceptual or schematic drawings. They are not working drawings that would be design development contract documents in order to do it. I would assume that the intent would be to deal with the spirit of what was planned and to utilize contemporary materials that would be in...very consistent with current practices in the use of materials and you would certainly want to look at durability and the long-term use and protection of those courtyards. [LB86]

SENATOR PRICE: Is it normal to build financial projections on something where you don't know the materials or anything of that nature? Coming to, I'm looking for a way to save. I mean, if we don't know what we're building, why does it cost almost \$2 million? [LB86]

WAYNE DRUMMOND: Well, I think that last year the estimate was somewhere around \$1.8 million based on those conceptual drawings. I think every project starts out with an estimate, rough order magnitude. We know how many square feet are in the courtyards. We know what the material surfaces were intended to be. We know the level of detail that were intended to be in the fountains. Given that, I think you can think about rough order of magnitude numbers. It could come in much less than that if it were clearly designed with the, you know, focus on the economy. But we have, over the last...I've served on the Capitol Commission for the last eight years, and we have spent a lot of money on the building over that period of time. And I think every Nebraska citizen appreciates what has been going on here and the preservation. And I think you are now in your new chambers or restored chambers and every project starts out with the idea of a number and a scope of work. And then as you refine it and get it detailed and then as you get the final bids or you negotiate those bids, then the number gets very hard, very real. But I think rough order magnitude, you've got four magnificent courtyards. If you thought of them as \$500,000 apiece, given the amount of surface, that's not a bad rule of thumb. I did not do the estimate, but I think that that would be an appropriate number to think about. [LB86]

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SENATOR PRICE: And finally if you don't mind and would indulge me, is there a breakdown on labor and material that we could see at some point in time to know how that ROM was built? [LB86]

WAYNE DRUMMOND: I don't know, is Mr. Ripley in the audience? Bob, you are here. Bob Ripley has been the director of that effort for building...I don't know that he actually has a breakdown, but roughly labor and materials in any building is, depending on the facility, is roughly a 50-50 proposition. Hospitals might be 65 otherwise. But if you get Bob up here to testify for you, I think he would have a better handle on any breakdown. But again, it would depend on the level of detail. If you decided to do hard surface versus soft surfaces, that's, you know, those are two radically different procedures. If you do inlay detail, that's one level as opposed to doing a plain surface. So the level of detail could be greatly considered at a wide variety of final design. But the intent and spirit of that is pretty clear. I think it would require the state of Nebraska making a major investment for the permanence of it. [LB86]

SENATOR PRICE: Okay. Thank you. [LB86]

SENATOR PIRSCH: Very good. Are there any...oh, Senator Sullivan. [LB86]

SENATOR SULLIVAN: Thank you, Senator Pirsch. It appears that there is probably common agreement that this would be a very worthy cause, but the stumbling block is funding it. Has anybody in...whether it's the commission or in conversations you'd had, entertained the possibility of looking into alternative sources of funding? [LB86]

WAYNE DRUMMOND: I think that was discussed last year. And again, I'm going to refer you to encourage Mr. Ripley to get up here. But there were...there was consideration of developing some sort of a foundation drive for it. I think the state, I came here from the state of Florida where we had matching building programs. In other words, if someone gave you \$100,000, the state would put in \$100,000. You might think of it in those terms which might be a significant incentive for people to actually donate as opposed to a few individuals taking claim and responsibility for such a major project on behalf of all the citizens. [LB86]

SENATOR SULLIVAN: Is there any organization or structure to date that allows donations to be made? I'm guess I'm thinking, you know, 501(c)(3) nonprofit foundation where tax deductible donations could be made. [LB86]

WAYNE DRUMMOND: Well, we have some of the...we have four of the finest community foundations here in Lincoln, Nebraska, that might exist in the entire nation. They are all 501(c)(3)s. Our University, of course, has a foundation, as you know. There might be others. I don't think that there are any provisions in state law that would

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prohibit a foundation from making an investment and a contribution. And again, I'm going to ask you to ask Mr. Ripley to come up and talk about it, because I think there was some limited conversation a year or two ago about creating such an organization that might help to support this activity. [LB86]

SENATOR SULLIVAN: Okay, thank you. [LB86]

SENATOR PIRSCH: Thank you. Are there any other questions? Seeing none, I appreciate your coming down here. Are there any other proponents? Okay, are there any opponents? Anyone here to testify in opposition to LB86? Okay. Anyone here to testify in the neutral capacity? Please come forward. [LB86]

BOB RIPLEY: Mr. Chairman, members of the committee. My name is Bob Ripley, R-i-p-l-e-y. I have the privilege of serving as Capitol Administrator for the Office of the Capitol Commission. I would testify in an information-only neutral capacity today. But since my name has been mentioned a couple of times, I thought perhaps I should come forward and defend myself. So if there are questions that I can attempt to answer with respect to this project, I would be happy to do so at this point. [LB86]

SENATOR PIRSCH: Very good. Are there any questions? Senator Sullivan. [LB86]

SENATOR SULLIVAN: Thank you, Senator Pirsch. Yes, if you could follow up, apparently there was some conversation as to getting some sources of funding elsewhere. Can you elaborate on that? [LB86]

BOB RIPLEY: There has been, at this point, only discussion of finding other sources of funding. The general discussion that has occurred on the project at this point has been that this, what has been proposed as part of this bill is part of an overall master plan for restoration of the Capitol grounds, like we have a master plan for restoring the building. Because the grounds themselves have been recognized by the National Park Service as an historic landmark as part of the landmark designation of the Capitol. So the design for the landscape of the building is very specific in terms of trees and plants in very specific locations according to what, the plan that was developed by Ernst Herminghaus, Nebraska's first professionally trained landscape architect, developed for the grounds in and put in place in 1934. The fountains were part of that. We commissioned a...and had two landscape consultants, one update most recently in 2006, the Landscape Restoration Master Plan with dollars that were current at that time, and it's been an update of those dollars that have brought forward the fiscal note that you have before you today. In answer to the specific question about private dollars, there has always been the belief that there could be private dollars for this purpose. If I'm not mistaken--and I don't know this to be true totally--a piece of legislation was passed that required that 70 percent of the Capitol grounds be restored through completion of the masonry project. That may well have been eliminated at this point.

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Our predication was if it was indeed to be 70 percent, the fountains were essentially about 70 percent of that cost because it's the hard scaping that is, that hard cost of getting the fountains in the ground, the plumbing, the foundation, casting the fountains and so on that was the heavy cost. The belief in the discussion with the consultant was that it would be a far simpler proposition to raise money for landscape materials such as plants and other, and perhaps some turf or ground cover that would be the easier realm to raise dollars for, as opposed to pipes and footings and those sorts of things for fountains. Albeit the fountains were very beautiful once completed. So there is a good deal of infrastructure costs associated with putting the fountains in place. And so the discussion had always been fund-raising would be easiest and most likely for raising money for plants as opposed to hard scaping. That's not a direct answer to your question, but do I think the possibility of raising private dollars for such a project is realistic? I think it has the possibility of being very realistic. [LB86]

SENATOR SULLIVAN: Okay. [LB86]

SENATOR PIRSCH: Thank you. Any other questions? Senator Karpisek. [LB86]

SENATOR KARPISEK: Thank you, Senator Pirsch. Mr. Ripley, first I want to say how great the Chamber does look and doing a great job in some signs outside of the Capitol being gone are much appreciated and duly noted. [LB86]

BOB RIPLEY: You and all the members are quite welcome, I assure you. And I want to thank you for your kind funding support to get that work done. [LB86]

SENATOR KARPISEK: Is there any way that we could work with the University, the Architecture School, on this to get the costs down some or is that... [LB86]

BOB RIPLEY: I think...that's a good question. I'm always interested in making the costs as tight as possible. The estimates that are put together as, Dean Drummond said previously, are just that--they're estimates. And until actual contract documents that would define exactly what it is we prescribe and perhaps put some alternatives in there to see what we can do in terms of amending costs downward, until those contract documents are developed and we actually bid it, we'll need hard costs to really know what to request. And so, at this point, it's best estimate. With contractors and suppliers who know how to do this kind of work, given sketches and drawings to develop estimates, but it will really take the next step of developing bidding documents to nail that down. [LB86]

SENATOR KARPISEK: And I just wondered if we could even do that. I know so much of what you have to do has to be done just right, precisely, to keep the historic value. [LB86]

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BOB RIPLEY: Sure. [LB86]

SENATOR KARPSEK: And I didn't know if maybe a professional has to be involved in all those things that you deal with. [LB86]

BOB RIPLEY: Well, as you might expect, there's a professional in every niche that could possibly be imagined, and there are those who specialize in fountain construction. [LB86]

SENATOR KARPSEK: And that's where I wondered if the University could be involved even with some of the...to placing the things, and you know, I just think that would be wonderful to have the students and faculty actually doing it for the state to see, but. [LB86]

BOB RIPLEY: Well, I think it's a very specialized realm, and I would be willing to be open, our office would be willing to open to whatever suggestion the committee might have. [LB86]

SENATOR KARPSEK: We're just kind of on the ground floor right now. [LB86]

BOB RIPLEY: Sure. Sure. [LB86]

SENATOR KARPSEK: Okay. Thank you, Mr. Ripley. Thank you, Senator Pirsch. [LB86]

SENATOR PIRSCH: My question for you as the architect of the building--it's a very unique building and has been honored--with respect to his plans for the courtyard; were these kind of just broad conceptualizations or were these very defined, specific type of drawings so that you know...did he have intentions with respect to the type of fountain, where it would stand, how it would look, or are these just...was this just a notation on...mostly on the buildings saying a fountain could be...a fountain of some sort could be here or here? [LB86]

BOB RIPLEY: Although the drawings that Bertram Goodhue's office developed I would not call final bidding documents, they were clearly specific enough to define what the fountain would look like, its shape, the proposed cross sections through the fountains and footings, and those sorts of things. So they made projections sufficiently detailed to give pretty good estimates on costs. So we've refined some things depending upon the technology of fountains and those sorts of things today, but I think what we have in terms of documentation already would be sufficient to guide us at least in design through the execution of the bidding documents. [LB86]

SENATOR PIRSCH: What kind of fountains would they be? I'm just kind of...you piqued

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my interest now. Are they, I mean, as many different types of fountains...are they kind of a round circular one with perhaps a statute in the middle or... [LB86]

BOB RIPLEY: In essence, the easiest way to describe them...picture if you will, a kind of low, flat, soup bowl sitting in a saucer. In essence, that's it. It's a low saucer-like shape. I believe the diameter in the center of the courtyard is around 12 feet. So the saucer would be 12 feet, and then the fountain comes in from that, and it rises as a soup bowl might out of a saucer. And the central portion of that is around 18 inches in height and probably roughly eight to nine feet in diameter. The interior bowl to be lined with ceramic mosaic glass tile which Senator Wallman alluded to in his initial presentation. So the definition of what the foundations were to look like is, like I say, reasonably specific. [LB86]

SENATOR PIRSCH: Thank you, Bob. Thank you. Oh, Senator Price. [LB86]

SENATOR PRICE: Senator Pirsch, thank you. You bring up a good point. I know that Senator Wallman has said he didn't see many people in the courtyard, and I bet in the middle of January, you wouldn't anyway. And to that point though with the fountain, we are talking water, we are talking maintenance of water lines, maintenance of the bowl, so we have an initial \$2 million cost. Mr. Ripley, has your office looked at what the increased demand would be on your O&M budget for the building? [LB86]

BOB RIPLEY: In fact, our Landscape Restoration Master Plan has a layout for literally every component of the landscape restoration, not only the courtyards, but the perimeter referencing staff in terms of maintenance and all of that sort of thing. And so rather than try to wing it with regard to what might be there, it would probably be best that that documentation be given to you so you can examine it, knowing the costs that are in this book, as printed, are 2006 costs. So we've got a...we use roughly right now 4.5 percent inflation rate for each successive year. But this particular year, I doubt the inflation rate may be quite that much, at least in the last six months. [LB86]

SENATOR PRICE: So we could see you coming back to the Legislature for an increase in budgetary authority or to give more money to maintain? [LB86]

BOB RIPLEY: To be sure, there will be some maintenance involved with it. And so our...the combination of our maintenance staff who are the plumbers and electricians and so on, in concert with our ground staff would be those who would likely maintain this. So to say there's no additional cost once you put them in place would not be true. There clearly would be additional staff time. Whether that will require additional staff be hired or not, that's another question. But I'd have to refer to the Master Plan to know that. [LB86]

SENATOR PIRSCH: Very good. Senator Sullivan. [LB86]

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SENATOR SULLIVAN: Thank you, Senator Pirsch. One quick question. Because this will never see the light of day unless we get some funding for it, and I think we need to look for other sources, and the university did have some experience with a fountain years ago that was built in memory of someone. But because this facility and its grounds have been designated as a Historic Place, are there limitations in naming these fountains after someone if they...if we were successful in getting a major donation? [LB86]

BOB RIPLEY: Is there a specific policy written? No, not that I know of. There has been discussion of such things in the past, and it has always been shied away from, in terms of specific naming. It ends up being a public building then with a private corporation or individual's names on it and so to this point, any discussion that has occurred there, it has been kind of shied away from, let's put it that way. [LB86]

SENATOR SULLIVAN: But the Broyhill Fountain at the University did, was named after somebody, so. [LB86]

BOB RIPLEY: Indeed it was. Indeed it was. A student about the time I was in school, as a matter of fact. [LB86]

SENATOR PIRSCH: Great. Any other questions? Seeing none, I thank you for coming down here and testifying. [LB86]

BOB RIPLEY: Thank you. [LB86]

SENATOR PIRSCH: Are there any other individuals who are here to testify in the neutral capacity on LB86? Seeing none, I'll ask Senator Wallman if he'd like to...Senator Wallman waives his closing, and so we'll conclude then LB86 testimony, hearing. And we will take up the second bill, LB295. Senator Campbell. Good afternoon. [LB86 LB295]

SENATOR CAMPBELL: Good afternoon, Vice Chairman Pirsch and members of the Government Committee. I am Senator Kathy Campbell representing the 25th Legislative District and that is Kathy with a K-a-t-h-y, C-a-m-p-b-e-l-l. And I apologize if you're not having everybody spell their name, but in all the committees I've been in, we've had to spell the name. Before you this afternoon is LB295, which is really a bill that is trying to look into the future, and is a standardization of instruments recorded by the county register of deeds which is its very formal title. To give you some background to the bill, the Nebraska Association of County Officials came to me and asked if I would introduce the bill on behalf of the register of deeds portion of NACO. And so far, we have had a lot of comments on the proposal. There are items in the bill that need to be looked at and need to be changed and need to be rewritten. So what I am asking of you, the

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committee, this afternoon, is that we have asked the testifiers to come forward and briefly, and hopefully give you written comments, but to briefly outline some of their concerns. And what I would like to do is have the committee hold the bill, and we will meet with all of the people who testify toward or anyone who comes forward or who has written to us over the summer, and we will work through those problems and then bring back to the committee, hopefully, a better bill and ready to go. But I hope you understand that this afternoon, we wanted them to come and provide testimony for the record. So we clearly had an idea of what those problems might be. So I know it's somewhat unusual, but I'd rather work on it and not take a lot of the committee's time until we're ready. So that's what we're proposing today. And I apologize, I will waive closing, Senator Pirsch, because I am...we have a major bill in Health this afternoon on the behavioral health issues from safe haven. So I apologize that I will not stay because I like to usually stay. Any questions or... [LB295]

SENATOR PIRSCH: Yeah, Senator Sullivan. [LB295]

SENATOR SULLIVAN: Just one quick question, Senator Campbell. So then, am I to understand that everyone who testifies today will be part of the group that will meet with you over the summer to develop a new... [LB295]

SENATOR CAMPBELL: Absolutely. We'll try to address their concerns. And they have been very good about coming forward and finding me and telling me. So I think there's a pretty collaborative effort already in existence. [LB295]

SENATOR SULLIVAN: Okay. Thank you. [LB295]

SENATOR PIRSCH: Oh, good. Any other questions? Seeing none, thank you very much for introducing the bill, Senator Campbell. [LB295]

SENATOR CAMPBELL: Thank you. I appreciate it. [LB295]

SENATOR PIRSCH: We will move on then to our...well, how many individuals intend to testify in favor of this? Okay. How about opponent? Is that right? And in neutral capacity? Okay. So three total, very good. Thank you very much. [LB295]

LARRY DIX: Senator Pirsch, members of the committee, my name is Larry Dix, spelled D-i-x. I'm the executive director of the Nebraska Association of County Officials. Certainly, appearing today in support of LB295. And Kathy explained it very, very well. When we laid out the premise of the bill, we're looking at the documents and we're trying to look forward into future years for the filing of these documents so that future generations, there will be some standards and some consistencies. Quite honestly, what we're starting to see, some documents that are being filed in the computer era that we live in today, everybody has the ability to reduce fonts smaller and smaller and

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smaller. We're starting to see some of those come across where in future years as we copy them and file them and work with them, we want to make sure that these documents; especially these documents which are ownership documents, really can stand the test of time, and can stand up to the scanning and some of the things that we do today. We, too, are certainly in understanding that we want to work with a number of these groups. A number of the groups have discussed it with me. Quite honestly, some of the ideas that the groups have brought to me were things that we didn't even have in the bill that we think will improve the bill. And so it's our commitment, our goal to work with the realtors and the land title folks and the abstractors and quite honestly, anyone else who would oppose this legislation or would have some ideas over the summer months, and come back with something that I think is going to be beneficial to everybody in the state and especially our future generations. So with that, I'd be happy to answer any questions that anybody would have. [LB295]

SENATOR PIRSCH: Very good, Mr. Dix. Thanks for your testimony. Am I to understand then basically the impetus for this is as we move towards more, putting things on line, making electronic documents available, that it is extremely helpful to have more of a uniform type of format and so this is kind of a proactive approach towards looking to the day in the not too far off future where we're going to be interacting almost exclusively online, the government with the people, is that right? [LB295]

LARRY DIX: Yeah, as we look forward and as we really start thinking about future technologies and many of us have seen it in a number of our areas that if you, you can start to implement some standardization and granted, we don't want to standardize a document to the point where we're not getting the information that we need to file or the proper information on it. But as we look at technologies into the future, scanning, bar coding, those types of things, you really have to have a good, solid foundation, and you have to have some of those standards that are, that we believe need to be there, so we can move forward with some of that technology in the future which we will think will be a benefit to all the citizens in the state. [LB295]

SENATOR PIRSCH: Very good. Senator Pahls. [LB295]

SENATOR PAHLS: Senator Pirsch, thank you. Am I to understand that Senator Campbell is carrying this bill for your organization? [LB295]

LARRY DIX: Yes. [LB295]

SENATOR PAHLS: Am I also to understand you actually are looking for an interim study? [LB295]

LARRY DIX: I think we're going to actually work with the groups...if someone would want to introduce an interim study, I think we would be happy with that. If that doesn't

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come about, I think we have the commitments to work with the groups together to bring forth and address the issues that we have here. [LB295]

SENATOR PAHLS: Okay, but to understand, this means like for next session? [LB295]

LARRY DIX: Yes. [LB295]

SENATOR PAHLS: Okay. Okay. [LB295]

SENATOR PIRSCH: Any other questions? Senator Sullivan. [LB295]

SENATOR SULLIVAN: Thank you, Senator Pirsch. In the course of your conversations thus far and ultimately ongoing, I assume you are taking into consideration the fiscal impact not only for the counties, but also of the people that are doing the filings? [LB295]

LARRY DIX: Absolutely. It's...you know, and really when we start to talk about, you know, in the future and when we start as a concept about E-Gov, E-Government, you know, we want to have some input about how do we evolve to that stage. And in years past, I know we have actually brought legislation here in years past to try to identify fees that would equate to computerization and some things like that. But we also want to be cognizant of the fact that sometimes you can gain efficiencies through computerization that may not have to result in increase in fees to provide that service. So we're very, very open to that discussion. [LB295]

SENATOR PIRSCH: Thank you. Any other questions? Seeing none, thank you very much. [LB295]

LARRY DIX: Thank you. [LB295]

SENATOR PIRSCH: Are there any other proponents of LB295? [LB295]

JOHN DAUM: Good afternoon, Senators. My name is John Daum. That's J-o-h-n and D-a-u-m. I'm here on behalf of the Nebraska Land Title Association and also the Nebraska Bar Association, in opposition to this bill as it is presently written. [LB295]

SENATOR PIRSCH: I'm sorry, I had...I had asked for proponents at this point in time. [LB295]

JOHN DAUM: Oh, I'm sorry. [LB295]

SENATOR PIRSCH: Let me just...no, no. Don't go away. Let me just take a quick...is there anyone else here who is a proponent of this bill? Very good. Well, it's just fine.

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[LB295]

JOHN DAUM: That's pretty embarrassing. Thank you. (Laughter) [LB295]

SENATOR PIRSCH: I think it worked out. No, no, I'm sorry, I should have enunciated more clearly. Very good. So we're on opponents on LB295. And Mr. Daum, take it away. [LB295]

JOHN DAUM: We do not disagree with, necessarily with the standardization of county records. We think that is a laudable goal. We've seen advances, or at least in my lifetime, we've seen a lot of advances in the way the documents are handled and that have been pretty positive for the most part. And we support standardization of documents. We would support legibility of documents. I think we support probably the main thrust of this bill. Our problem that we've spotted has to do with the possibility as the bill was written that certain legal documents that are presented to the register of deeds for recording may be rejected at a time when all the parties to a given transaction reasonably expect that the document has been recorded. Things such as font size and ink color--and those kinds of things, if not complied with--might cause a document to be rejected. I think these are the kinds of issues that we can work out with the proponents of the bill. And I'd like to thank Senator Campbell and Larry Dix of the Nebraska Association of County Officials for using their good offices to help us to grapple with this a bit further before we present it to the Legislature. I'd be happy to ask any questions...answer any questions at this point. [LB295]

SENATOR PIRSCH: Senator Pahls. [LB295]

SENATOR PAHLS: Thank you, Senator Pirsch. Now, am I to understand that this is actually sort of a coming together, expecting meetings to happen and then you'll come back next or the group will come back next year with a bill, that there's actually no bill that we're going to be discussing this year? [LB295]

JOHN DAUM: Senator, I'm not sure about that...we may, we may get the bill fixed in time to get it through this year yet. [LB295]

SENATOR PAHLS: Oh, so you're pretty optimistic that there aren't any major hurdles then? [LB295]

JOHN DAUM: I believe so, yes. [LB295]

SENATOR PAHLS: Okay, great, thank you. [LB295]

SENATOR PIRSCH: Any other questions? Very good. Thank you very much for coming down. [LB295]

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JOHN DAUM: Thank you very much. [LB295]

SENATOR PIRSCH: We will ask for any other opponents of LB295? Opponents? Very good. Anyone else who would like to testify in a neutral capacity on LB295? [LB295]

KORBY GILBERTSON: Good afternoon, Senator Pirsch, 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. I'm appearing today as a registered lobbyist on behalf of the Nebraska Realtors Association. Mr. Dix did forward a copy of this legislation or the proposed legislation to us before session started, and we started conversations with him pretty quickly thereafter with our concerns with the bill. As with the Bar Association, I think one of our primary concerns is giving the register of deeds the authority to reject documents. The register of deeds is a receiver and a filer, not a judge, and we have a real problem with that. And that might be one of the only issues that I think we would never agree with in this legislation. Other than that, the realtors are very much in support of trying to work toward some type of standardized forms for filing, just for the ease of filing. But our other concern, and I know I've talked to most of the committee members in the past is something that Senator Sullivan brought up, which is the fiscal impact not just to the register of deeds, but to the people who are filing these documents. And the realtors have always been very involved, and I know you had a piece of legislation earlier this session that you indefinitely postponed. But we want to consider while we're talking about this, also making sure that the register of deeds have the money that they need to be able to maintain these records, but then also not to just turn this type of document or the filing thereof into a profit center for the counties. So those are our concerns. I'd be happy to try to answer any questions. [LB295]

SENATOR PIRSCH: Senator Pahls. [LB295]

SENATOR PAHLS: Thank you, Senator Pirsch. So basically you have no problem with the idea other than the authority that's going to be given to? [LB295]

KORBY GILBERTSON: There are some...there are some more detailed issues about just the size and the font, and we just need to make sure that it's all workable. And I think that it will take some time. I'm not quite as optimistic about being able to turn this around before June, but we are more than willing to sit down and make sure that the documents are workable before we move forward with the legislation. [LB295]

SENATOR PAHLS: Okay, then I'm just trying to make this as clear as possible. Then you don't foresee the need of an interim study. You think the group could get together, but you still have a concern about the cost? [LB295]

KORBY GILBERTSON: I think that's a...I think that's a continuing underlying issue with

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these. For those of you who haven't been in the Legislature for years, we get bills in pretty much every year about filing costs with the register of deeds. And I think that that's another issue that should be brought into this while we're discussing it because it is a continuing issue, and the problem is that even though you increase the fee for filing a document with the register of deeds, that money does not go to the register of deeds. It goes to the General Fund. And so that might be something we need to consider. [LB295]

SENATOR PIRSCH: Very good. Senator Giese. [LB295]

SENATOR GIESE: No, I don't have anything. [LB295]

SENATOR PIRSCH: Oh, you didn't have a question. I'm sorry. I took that as you did. Thank you. Any other questions? Seeing none. [LB295]

KORBY GILBERTSON: Thank you. [LB295]

SENATOR PIRSCH: (Exhibit 1) Are there any other individuals who'd like to testify in the neutral capacity with respect to LB295? Very good. Oh, I see. There's been a couple of...just one. A letter that has been sent from the Nebraska Bankers Association with respect to this particular bill, and we'll enter that. Oh, I'm sorry, in the neutral capacity on LB295, and so we'll have that read into the record as well. Anything else? No. Very good. I believe that Senator Campbell has waived her closing. Therefore, that ends the hearing on LB295. And we'll proceed then to LB227. Senator Rogert is the sponsor, and I see he's here now. [LB295 LB227]

SENATOR ROGERT: (Exhibit 1) Well, you guys know how I work. I show up with a great big amendment every time for committee. I think most of you are aware of that one, though, this time. Senator Pirsch, members of the Government, Military and Veterans Affairs Committee, my name is Senator Kent Rogert. I represent the Legislative District 16. I'm here today to introduce LB227, a bill that allows an interior designer to obtain a title that certifies them as being qualified in a manner that is consistent with public safety standards. LB227, as it is currently written, creates a seven-member board appointed by the Governor that administers the act and certification under their prescribed duties outlined in Section 4 and under the qualifications listed in Sections 5 and 9. In summary, certification requirements include the NCIDQ exam or an equivalent four years of design education, two years of full-time work experience, a signed statement on the code of ethics, and submission of a certification fee. There are at least 26 states in the U.S. including the District of Columbia and Puerto Rico in addition to eight Canadian provinces with interior design registration laws. Each of them and each of the NCIDQ member boards for regulating these states require successful completion of this exam. The exam is used as a universal standard and basis for reciprocity across North America and all U.S. and

Canadian regulatory boards, and seeks to ensure that the certified interior designer has minimum competency when hired for projects with conditions that may include but not limited to, allergies, respiration problems, indoor air quality, local fire and building codes, ADA compliance, fumes from glue and paint, utilization and application of materials, sanitation, lighting, acoustics, clearances, and fixtures, local partitions, and emergency and handicapped exits. We include a three-year grandfather clause for those persons who are already practicing interior design as a resident in Nebraska and who meet the following conditions: 15 years of work experience; payment of a certification fee, or completion of the NCIDQ exam; 60 credit hours of interior design indication by B.A., diploma, or certificate; and have a combination of six years of education and work experience. We've also included stringent penalties that prohibit fraudulent use of certification title or encroachment upon other licenses such as architecture or engineering. We revoke, suspend, review certification and a classified misdemeanor. However, in order to control fiscal costs, I bring you an amendment today to LB227 that eliminates the creation of a specific interior design board, but keeps intact the Interior Design Certification Act. Instead, it requires that the Board of Engineers and Architects, include interior designer as one of its members on the board and require that they have at least two years of experience at the time of appointment. Additionally, the interior designer must become certified within one year of appointment, although expanding that experience is amendable. With the interior designer on the board renamed as the Board of Architect, Engineers, Architects, and Interior Designers, it is henceforth responsible for all current duties prescribed for the administering of Interior Designer Certification Act though it would be separate from the Engineering and Architecture Regulation Act. The board would regulate and administer this fund through all fees received for the administration for the Engineers, Architects, and Interior Designers Regulation Fund. Initially, we included language that allowed for gift donation contributions from the public and private sector for start-up costs for a specific interior design board member council, but decided that it would be more consistent and uniform with statute and fiscal principles to include an interior designer on an already established and existing board with members that could work in multiple cooperation with each other whether engineering, architecture, or interior design. Thanks, I'll answer any questions that I can, but there will be quite a few people coming behind me that will probably answer any technical questions you might... [LB227]

SENATOR PIRSCH: Well, thank you for your testimony. Is there any questions for Senator Rogert? Oh, Senator Pahls. [LB227]

SENATOR PAHLS: Senator Pirsch, Senator Rogert, I may just have one question and may have been there in the past. So you're telling me if a person oversteps their certification, they can have a chance of committing a crime. Is that... [LB227]

SENATOR ROGERT: I think if they use it...well, first, you could have your license revoked and suspended if you claim to be something other than an interior designer. If

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you claimed to be an interior designer and you're not, you could be certified...you could be issued a Class V misdemeanor. Yeah, which would be just a small criminal penalty. [LB227]

SENATOR PAHLS: Okay, thank you. [LB227]

SENATOR PIRSCH: Very good. Any other questions? Seeing none, we will move now to proponents of LB227. First, could I see a show of hands just to give me an estimate in terms of budgeting time here. How many people intend to testify as a proponent in favor of this bill? One, two, three, four. Okay, and how about are there any opponents, anyone who's going to testify against this bill? Very good. Anyone in a neutral capacity? Okay, very good. Then we'll start with the proponents, if the first proponent speaking in favor of this bill would like to come forward and have a seat in the chair there. Very good. Thank you for coming. [LB227]

WAYNE DRUMMOND: I'll do this correctly this time, Wayne Drummond, W-a-y-n-e D-r-u-m-m-o-n-d. I'm going to testify in favor of this...the concept of a certified interior designer. I may be accused from both sides of being concerned about this bill, piece of legislation. For many years, I have always advocated that we need to recognize the interior design profession. Therefore, I very strongly support the idea of the Certified Interior Design Title Act, and there is a difference between a title act and a practice act in terms of the liabilities and such that an individual professional must encounter. First off, I also then have to say that as the Dean of the College of Architecture here and having served as dean of multiple academic programs in the past, I think it's very important that we recognize that the young people who finish a degree, a four-year degree in interior design, have an extensive design education. It's a four-year degree, complete baccalaureate. These young people work very hard. The architectural degree is a six-year degree, and there are additional professional requirements, structures and such, that go with the architectural degree. However, our professions really work well together. We seem to fight over the bill or the title and the practice acts every year, and we've done that for almost 30 years. But I really believe that it's incumbent on our individuals that finish that program, that they be recognized with a professional stature, no matter how the final organization works out whether it goes under a particular board or creates a separate board. But from my point of view personally, it's absolutely immoral for me to talk to professionals and to talk to the parents of people who come in and spend a significant investment on their child's education. These young people work very hard, and that when they have that degree that they have no additional claim, once they do their two years' experience and they do the NCIDQ which is an examination, test of their skills that they have that they have no additional status from someone who, frankly, may have taken a six-weeks' night course. There's a difference between decoration and interior design, and I think this is a very sophisticated level of understanding. Our young people, for example, take roughly the first year and a half of design courses together with architects and landscape architects, basic design

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principles. They then continue on with their education in the specific manner that relates to codes, and it relates to the detailing or furniture; it relates to different projects that really have a very real set of skills to contribute to the specification of fabrics and, as stated, and my colleagues in the architecture profession. And, by the way, I am a registered professional architect, not advocating from the interior design side. I am advocating it from a professional recognition of young people who have completed the baccalaureate, completed the two-years degree, completed the NCIDQ, and I believe very strongly that they deserve recognition, certified interior designer. And I do believe, and I'm not trying to insult anyone who has not gone that route, and we have many very fine people in the professions dealing with that who have come that route. But I really think that it's really important for us to deal with this issue based on the issue of content and contribution. In our college, we spend a lot of time working on partnerships. And, in fact, this past fall, we finished a joint studio with 14 interior design students and 14 architecture students, and they worked very hard and diligently on integrated practice. And they each made their individual professional contributions, and they worked on healthcare issues of a major facility. And I think they're all introducing, and what I'm seeking is that we find ways within our multiple professions to have mutual respect for the contribution that each of these disciplines brings to and complements our professions. Having said that, I can't speak any stronger than total support for recognizing these young people who have made those commitments: four-year baccalaureate, two years of experience as a minimum, and passing the NCIDQ which is the National Interior Design Qualifications Examination. On the other hand, I have to be honest to all of you--there have been some late-minute changes in the bill, and I think you're going to hear testimony later on about the organization and how this fits in with the Board of Engineers and Architects because that board is dealing with the professional practice acts. And I think that I will leave the testimony to others, but I would just simply say very strongly in favor of recognition. How you solve it, whether you send it back to committee or whether you do it today, however you deal with it, I think you need to really carefully consider implications of which board and how that board is funded. So I'm predominately speaking on behalf, as a strong proponent of the bill, I simply ask you to give it full consideration. [LB227]

SENATOR PIRSCH: Thank you very much. Senator Price, you have a question? [LB227]

SENATOR PRICE: Senator Pirsch, thank you. Sir, I would like to ask, in your capacity, I believe you're the dean? [LB227]

WAYNE DRUMMOND: Yes. [LB227]

SENATOR PRICE: How many courses in this are for the architect and interior design do they share? [LB227]

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WAYNE DRUMMOND: Well, they share those basic design courses. They take a number of the history and theory courses together, and then they sort of separate into other areas. The interior design students take a number of courses that are dealing with codes. They take courses that are dealing with detailed specifications, and the way in which interior furniture and equipment is put together. Architecture students are required to clearly take physics, calculus. They take a lot more in the way of engineering-type courses so they understand their working relationship with electrical, with structural engineers from that point of view. So there's a much...there's a difference there. But this proposal to recognize interior designers, it clearly states that they are not to enter those areas of structural, you know, it's...there is no conflict with the architectural profession from that point of view, and, of course, this is what you would want to monitor. That's why we want to have a board of behavior so that the professionals...certified professionals would understand the roles and limits of where one profession interfaces with their education, their experience, and their expertise. [LB227]

SENATOR PRICE: Okay. To maybe be more succinct, and I apologize if I wasn't, how many courses deal with specificity to code and materials as opposed to form and function of colors and shapes? And we have an art part, I was told, that many art student...many students will come into the program, and there is a natural attrition. Some become more...lean toward the arts area, and others go on, and they go off in a different direction. But at some point in time, for code understanding, and material understanding, they have some shared coursework. And my understanding of reading the act that a certified architect can apply for certification, so I'm wondering which courses they share, that were outside of form and function and colors and shapes do they share? [LB227]

WAYNE DRUMMOND: Well, we could give you a detailed analysis course by course, but I think in spirit, both the architecture and the interior design students share the review by the faculty of every project they do from second year through fourth year in the case of the interior design students and the second year through sixth year in the case of the architecture students. Every course, every project, faculty hold them accountable for a review of the codes, everything from exits to material composition to, you know, structural sections. The interior design program does have a specific course that's taught by Professor Kathy Ankerson who is here in the, you know, in professional practice. I teach the professional practice to the architecture students. We do have two separate professional practice courses, but in philosophy and spirit they're basically the same. We talk about ethics; we talk about not performing services outside your area of expertise; we talk about your responsibility to the client, and the way in which you coordinate projects. So there is a lot in the way of professional ethics and technical knowledge. They are very compatible in the basic aspects of it. The extent of them goes broader with the architecture profession, there's no question about that, at least in my mind. I know, maybe someone will testify to challenge that, but in my mind, that's the way we are. [LB227]

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SENATOR PRICE: Thank you. [LB227]

WAYNE DRUMMOND: Okay. [LB227]

SENATOR PIRSCH: Very good. Any other questions? Seeing none, I appreciate your testimony. Is there another proponent of LB227? Great. Thanks for coming down today. If you just want to state your name and spell your name for the record. [LB227]

ERIN STOKES: (Exhibits 2 and 3) Yeah, sure. Good afternoon, my name is Erin Stokes, E-r-i-n S-t-o-k-e-s. I'm currently a third-year interior design student at UNL. I chose this school because it's one of the best in the nation. It's CIDA accredited, Certified Interior Design Association, and it's one of the most prestigious schools for interior design and architecture in the nation. As far as my education goes, the first two years of my education, I was...I took classes with architects, for the most part, and then after second year, you go ahead and branch out into your fields. I would say a lot of my education hasn't just been on the aesthetics of interior spaces or buildings, but many have been on interior material selection, and how that affects those spaces, the health of the people that use those spaces, and how they use the spaces...how they function in those spaces. I'm very passionate about this because I think it's not only fair to the profession of interior design to have a distinction, but it's also fair to the public to know that somebody who has gone through four years of school, who has two years of experience, and then has passed the NCIDQ, their education and knowledge is very different than someone who attended a community college and maybe received a two-year degree in interior design. There are two distinctions. My education really affects the user of the space, and that's why I feel so strongly about it. So I would say not only is it important to the profession that there's that distinction and that quality assurance in the field, but it's also important to you as users or to your family who use these interior spaces to know that you are receiving the highest quality, and the space that you function in is done well and done correctly. Any questions? [LB227]

SENATOR PIRSCH: Very good. Are there any questions for this testifier? Senator Sullivan, go right ahead. [LB227]

SENATOR SULLIVAN: Thank you, Senator Pirsch. Did you say you're a third-year student? [LB227]

ERIN STOKES: Correct. [LB227]

SENATOR SULLIVAN: So I presume that after graduation and two years' experience, you'll be taking the test, is that correct? [LB227]

ERIN STOKES: Correct, um-hum. [LB227]

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SENATOR SULLIVAN: Now, is that currently available to graduates that they could take this test right now? [LB227]

ERIN STOKES: Yeah, after two years of experience, yes. [LB227]

SENATOR SULLIVAN: But it's not a re...oh, oh... [LB227]

WAYNE DRUMMOND: But you wouldn't be certified. [LB227]

SENATOR SULLIVAN: Okay. [LB227]

ERIN STOKES: It's not a requirement. However, after you get your bachelor's degree, it's somewhat expected to receive two years' experience under an NCIDQ professional, and there is a handout a little bit that explains a little bit more about the NCIDQ test. And then after that time, you are eligible to take the test. [LB227]

SENATOR PIRSCH: I just have a question. So you graduate when then? [LB227]

ERIN STOKES: I will graduate a year from now. [LB227]

SENATOR PIRSCH: Okay, in a year from now. [LB227]

ERIN STOKES: Um-hum. [LB227]

SENATOR PIRSCH: And then you would begin your two-year study then under the NCIDQ certified materials... [LB227]

ERIN STOKES: Um-hum. [LB227]

SENATOR PIRSCH: Okay. And then would you have already taken then at the end of your baccalaureate then, is that when you take your exam? Typically, is that when the exam...or can you take your two-year experience... [LB227]

ERIN STOKES: You must have two years of experience under an NCIDQ accredited professional, and then you're eligible to take the test. [LB227]

SENATOR PIRSCH: I see. Thank you for clearing that up. [LB227]

ERIN STOKES: Um-hum, um-hum. [LB227]

SENATOR PIRSCH: Any other questions? Thank you for coming down here today. [LB227]

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ERIN STOKES: Thank you. [LB227]

SENATOR PIRSCH: Is there any other proponent of LB227? Do you want to come on forward, have a seat? Thanks for coming down here today. If you'd just like to start off by stating your name and spelling it for the record? [LB227]

NANCY NOVAK: (Exhibits 4, 5, and 6) Thank you, thank you for having me. My name is Nancy Novak. It's N-o-v-a-k. I'm a senior interior designer employed at Leo A. Daly architectural firm in Omaha, Nebraska. I graduated in 1988 from the University of Rhode Island with a B.A. in English, and then from Dakota County College in 1995 with an associate degree in interior design. I've worked in architectural firms of all sizes: small, medium, and large. And my day-to-day job in those firms has included working on floor plans, reflected ceiling plans, cabinetry design, finish plans, furniture plans, construction details, and specifications. And in my 14-year career, I have worked on a large variety of project types including schools, corporate offices, prisons, government work, and libraries. The project sizes that I've worked on have ranged from anywhere from 2,000 square feet on upwards of 300,000 square feet or more. But regardless of the size, I must always specify finishes and furniture that meet local, state, and national codes. Building codes and standards give strict instructions on the selection and use of interior finishes and furnishings because they are considered part of the fuel load and can contribute to the ignition and spread of fire. The codes that interior designers comply with include the International Building Code, the National Fire Protection Agency, Life Safety Code as well as those set by the American Disabilities Act. Interior finish regulations are related to fire and flammability as well as toxicity. An example of how this relates to interior finishes is most notable in the first five to ten minutes of a fire when interior finishes and furniture can either contribute to the fire or prevent the spread. And an example of this is if I was to specify a wall covering that was flammable. In the first few seconds that it caught on fire, it could spread that fire down a corridor, ignite other flammable materials within the building creating deadly smoke, heat, and toxic fumes. I've passed out to the senators a color copy of a floor plan that illustrates all the code-regulated finishes and furniture that are typical in an interior design project. This happens to be a public library, roughly about 28,000 square feet, and you can see the whole entire floor plan is colored. These are all code compliant finishes and furniture items that are shown there. Some of the work I do requires a stamp by a registered architect and some does not. And some of the design work I do is reviewed by code officials, and some is not. But regardless, if the work requires professional stamp or code review, by law, the work must still meet code for the commercial spaces I work in. And a good example of that, again, I'll use a library. If one of our local public libraries was to need new carpet or to have their stacks rearranged, and they wanted to hire an interior designer to do that work, right now it would be hard for them to distinguish the appropriate interior designer to select for that work. They could end up selecting an interior designer that does not meet the right education, experience, and testing

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qualifications, and they could mistakenly put a flammable material in that library or place stacks that do not meet ADA regulations or egress. You've heard about the quality of work at our state education. I think we've...the two previous speakers have done a good job illustrating that. But right now, our state does not recognize the difference between interior designers that meet the qualifications of education, experience, and testing versus some designers that may have little or no education, but yet can still call themselves an interior designer. The question is, how is the public going to be informed on how to select the appropriate interior designer to design a safe environment for them? This bill does not allow me to start practicing architecture nor does it change the current requirements for projects that require a stamped architectural set of drawings. It does, however, act as a tool for the public to be able to use and understand the qualifications of a qualified interior designer so that they can hire designers that will work to ensure their health. The Department of Defense right now states in their interior design qualifications that all interior designers and architects must first pass the NCIDQ to be able to practice work in their space. Our citizens should be able to understand the same distinction for their own well-being. Thank you. [LB227]

SENATOR PIRSCH: Thank you very much for your testimony. Are there any questions? Senator Price. [LB227]

SENATOR PRICE: Senator Pirsch, thank you very much. And I'm fumbling through this quickly ma'am, to understand. Now, in your testimony, I'd first like to...are you a certified designer? [LB227]

NANCY NOVAK: Well, we don't have certification in our state yet. I hope to be (laugh). [LB227]

SENATOR PRICE: But I mean, so you don't have...you don't have it from any other state? [LB227]

NANCY NOVAK: No sir, I did practice in the state of Minnesota, and they passed their certification just as I had moved back to Omaha. [LB227]

SENATOR PRICE: Okay. And in looking through this, and I apologize for not having it right now...we have a lengthy thing here, and I'm not sure what it is, a green copy. But there was an ability to grandfather someone in if they had a two-year degree and experience. Correct? [LB227]

NANCY NOVAK: That's right. [LB227]

SENATOR PRICE: All right, and... [LB227]

NANCY NOVAK: And I... [LB227]

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SENATOR PRICE: ...and I'm looking for that grandfather period that they'd have, and I can get to that. [LB227]

NANCY NOVAK: Okay. [LB227]

SENATOR PRICE: But my question, if you're doing it now, and working for the esteemed Daly firm, and you have a two-year degree, why could we...could we not extend that grandfather to anybody who has a two-year... [LB227]

NANCY NOVAK: Degree. [LB227]

SENATOR PRICE: ...degree? That's my question. [LB227]

NANCY NOVAK: Well, that's a good question. When I attended school which has been awhile now, about 14 years ago I graduated, and I think it kind of should be prefaced by saying, you know, our laws have been changing regularly. And in the last 30 years, interior design has changed dramatically to address those laws, so what once was in the home ec department is now in the architectural department. And just in the same, our governing...our professional governing bodies, so the CIDA which used to be called FIDER has been improving--I'm not sure if that's the right word--their qualifications for what type of education meets their standards. Now when I attended Dakota County College, I had already had a four-year degree. The idea of going back to school was pretty daunting cost-wise and time-wise, and I took a few courses at the University of Minnesota that was FIDER accredited. Luckily, someone there told me that that was an important thing to look for in the education that I was seeking. I later then...I was told at that point that Dakota County, a two-year program, was FIDER accredited. So when I attended that school, they were...and FIDER, excuse me, has recently changed to CIDA, but the same set of standards set for schools. Now that change has recently occurred from a two-year program to a four-year program, and I can't speak to how that has occurred. But at the time, that was the highest qualification that that school met, and that's why I chose it. [LB227]

SENATOR PRICE: Thank you very much. [LB227]

NANCY NOVAK: Um-hum. [LB227]

SENATOR PIRSCH: Thank you, and I believe on the amendment, just for reference sake, Senator Price, that's page 6, Section 8 like third line down from the top, those exclusionary ways in which to qualify that you spoke of. Are there any other questions? Senator Pahls. [LB227]

SENATOR PAHLS: Thank you, Senator Pirsch. Just let me ask you an up-front

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question. Why would you, you know, it appears you're well qualified. Why would somebody not want this to happen? What's the major problem with... [LB227]

NANCY NOVAK: Well, I think that there is a misconception about what this bill is, and Dean Drummond mentioned that, that this is a title act. This is not a practice act. Now working with all the related design disciplines that are in my firm, we have engineers, architects. I don't get opposition from the people that I work with. We all have special qualifications within our built-in environment that we work on, and they recognize, as you'll probably have seen from some letters of support that came from some of my coworkers. They recognize that we are making an impact on the health, safety, and welfare of the environment. In fact, I'm not quite sure why an architect that is stamping work that I have participated in wouldn't want to know that I meet those highest qualifications to ensure that his stamp is on the best quality of work as it relates to code. So I'm not sure I'm the right person to answer that question. I'm not...it's confusing to me why we have opposition. Now that's from professionals that I work with. I know other organizations. There's the National Kitchen and Bath Organization which is, in my opinion, a very valuable and great organization. They self certify, but they don't cover all of the aspects of interior design that we are talking about in this bill. They cover kitchens and baths, so I think that there might be a misperceived threat that this is going to hurt somebody's ability to work, but yet this is a title act; this is a tool to help the public distinguish between the difference. [LB227]

SENATOR PAHLS: Thank you. [LB227]

SENATOR PIRSCH: Senator Sullivan. [LB227]

SENATOR SULLIVAN: Thank you, Senator Pirsch. So when you say, this is a title bill rather than a practice one, it simply means then your business card, if you're certified, will simply show that you are certified... [LB227]

NANCY NOVAK: That's right... [LB227]

SENATOR SULLIVAN: ...in your title. [LB227]

NANCY NOVAK: ...that's right. And included in your handouts, there are some acronyms there. There's a list of all the professional services right now that could be listed behind an interior designer's name. It's extremely confusing. Personally, I belong to a professional organization, and I have an acronym behind my name. There's a number of professional organizations. It's...you know, the architects have a great organization, the American Institute of Architecture which I think the public, they have done a great job of informing the public of just what that means when you see that behind a professional's name. We need a unified, you know, acronym behind our names that explains that we have met these qualifications. [LB227]

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SENATOR SULLIVAN: So you mean, if this bill would pass, then you won't have all those (laugh) acronyms? You'll just have one? Or what about ASID and this one or you'll just have... [LB227]

NANCY NOVAK: I have...for me personally, and the type of work that I do, it doesn't benefit me to have my IIDA, my professional organization listed after my name. CID benefits me greatly. I mean, I talked about especially all the government work that I do. You have to show that you're qualified for all of those things for...like, if we get a project within Leo Daly, they ask for those qualifications to be submitted, so you can see in some of the language, that I highlighted in those handouts, it will say, you know, meets these qualifications and/or is certified interior designer in their state. So...and I practiced in a number of different states, so the majority of which I have to prove that certification or prove the qualification. [LB227]

SENATOR PIRSCH: Any other questions? Very good. Thank you for coming down here today. [LB227]

NANCY NOVAK: Thank you. [LB227]

SENATOR PIRSCH: Yeah, is there any other proponent? Do you want to come forward, sir? And if you can just start off by telling us your name and spelling it for the record. [LB227]

WYATT TUELL: (Exhibits 7 and 8) Sure. My name is Wyatt Tuell. First name W-y-a-t-t, last name Tuell, T-u-e-l-l, and I work for a Nebraska-based nonprofit organization that does home modifications for moderate to low-income families here in the state. And I design and project manage those projects for all those projects. And also part of my job, I also consult and help churches, schools, businesses, other organizations, make sure that their buildings are ADA compliant. And I'm also testifying here, not only as a designer and advocate for the disabled, but also my father is a disabled veteran and member of the Disabled Veterans. And my mother works for the Eastern Nebraska Veterans' Home in Bellevue which was the Thomas Fitzgerald Veterans' Home, so I have a very professional and personal connection with the disabled in the state. And this bill sets a standard for the profession that will greatly benefit the health, safety, and welfare of the people of Nebraska that are disabled or the population that is aging also. As of 2000, Nebraska had over 250,000 people that were listed as disabled, over...in 2006, over 13 percent of the population in the state was 65 or older. And as we know, that is just going to increase as the years go by because the population as a whole is getting older. Now, this bill will very much help the disabled because that...excuse me, designers will be able to help those people stay in their homes as long as possible. And for the businesses, they can help them make sure that they are ADA compliant. Now there are many ways that a designer who can help a person with a disability and the

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elderly stay in their homes. For example, bathrooms can be made accessible to roll-in showers, roll under sinks and counters, higher toilets. Kitchens can be made accessible with cabinets placed within wheelchair reach, roll under sinks and counters, placement of appliances such as built-in wall ovens that are to a height that, say a person that's elderly, can reach at a very comfortable level because this is not only for people that are in wheelchairs, it's for people that might be having a hard time just using a walker and having a hard time moving it in that respect. And, of course, even within a home, wider doors and better means of passage and maybe placement of furniture so that a person can move about their home with much better ease, and be able to live more independently on their own. And communities as a whole will benefit from certification of interior designers because every new building and every major renovation of a building has to be made ADA compliant. And even the current buildings right now, a lot of those buildings still do not meet full ADA requirements. I still receive in my organization complaints of buildings that are still not fully ADA compliant. And the certification of this bill will make for a community that is more accessible for people with disabilities as a whole. So not only will their homes be more accessible and be able to live more independently, but also they will be able to move about the community with more accessibility because if the profession as a whole is better educated and has a base knowledge of the ADA requirements, this is only better. So the more people that know the ADA, the better. And part of this bill is required, is the passage of the NCIDQ examination. Now part of that examination covers ADA. You cannot pass the exam without having a base knowledge of the ADA design guidelines. And also...the bill also mandates that there needs to be a continuing education of learning because the ADA is always changing, so it requires us to continue to learn and know about the changes of the ADA. And because the bill is a title act, if a person who is disabled wants to...and, or is reaching an age where it's hard for them to move about their own home, they're wanting to hire an interior designer to make their home more accessible. If they know that the person is a certified interior designer, they'll know that that person has a base knowledge on accessibility to design, so that person will have the qualifications to see if they can make their home more accessible for them. And the same goes with a business or an organization. If that business or organization knows that they're hiring a certified interior designer, they'll know that that person has the qualifications to make sure that their design and their building will become ADA compliant. And sometimes businesses may not even know that they need to be compliant with ADA or what parts, and that designer can make sure and educate that client to make sure that the building and everything in it is ADA compliant. So the main theory here or the main theme here is that the more people who know ADA, the better and the more educated designers that know that, the better, and the community as a whole and especially an increasing part of the community will benefit from this. [LB227]

SENATOR PIRSCH: Thank you very much. Any questions? Seeing none...oh, Senator Karpisek. [LB227]

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SENATOR KARPISEK: Thank you, Senator Pirsch. Mr. Tuell, I understand where you're going with the handicapped, but I guess you're making it sound like a carpenter or anyone wouldn't be able to make a countertop that's wheelchair accessible. [LB227]

WYATT TUELL: Well, they could, but they don't know all...they may not know all the regulations, and there's no guarantee to know if that carpenter or contractor would know. There's no way for the consumer to know for sure if that person meets the requirements. The requirements of this bill would assure that, and the consumer would be able to make a very educated choice in that, and they would know and feel comfortable with hiring an interior designer in that respect. [LB227]

SENATOR KARPISEK: Which I would say if you're doing commercial work or things like you're doing would be fine. If it's just a private house, do you think that this certification would allow them to charge more than someone who doesn't have the certification? [LB227]

WYATT TUELL: Are you saying, so if somebody has a certification that...are you saying would they charge more... [LB227]

SENATOR KARPISEK: Yes. [LB227]

WYATT TUELL: ...for that? Since this is just a title act and the profession...there's no reason for that to be increased that I see, it may be up to the individual designer to do that on their own. But I don't see any reason... [LB227]

SENATOR KARPISEK: Well, I guess I'm... [LB227]

WYATT TUELL: ...because right now...right now... [LB227]

SENATOR KARPISEK: ...just thinking with four years of school and two years of on-the-job training, we know what doctors charge, lawyers (laughter). [LB227]

_____: Butchers (laughter). [LB227]

SENATOR KARPISEK: Butchers, yeah. But I guess going kind of what you're saying too is for the low-income people. If you can just get somebody in to lower your countertops and raise your stool and do a few things for you, maybe you don't care if it's ADA. But I guess maybe I'm arguing myself here because then they wouldn't have to get someone with the degree. [LB227]

WYATT TUELL: Well, for say residential, for your private one-person home, it's not covered under the ADA. But if you have a desired...I know as the basic fundamentals of that, it's better to have it. And if it's not a private home...because we deal a lot with

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housing like apartments or hotels, those need to be compliant. [LB227]

SENATOR KARPISEK: So we're talking more about commercial-type things than residential. [LB227]

WYATT TUELL: Well, it's both because if a person doesn't have the ADA background, foundation, knowledge, they come into a private home, they may not know the best way to make the home accessible, some of the basic fundamentals. Because those fundamentals that are in the commercial can very easily be carried over to the residential. [LB227]

SENATOR KARPISEK: Thank you, Mr. Tuell. Thank you, Senator Pirsch. [LB227]

SENATOR PIRSCH: Sure. Are there any other questions? Seeing none, thank you very much. [LB227]

WYATT TUELL: Thank you. [LB227]

SENATOR PIRSCH: And we'll see if there are any other proponents testifying in favor of LB227 at this time. Okay, seeing none, we'll then move to opponents, those testifying against LB227. And before you start, could...well, could I get a showing of hands again of those who are going to testify as opponents? One, two, three, four, five. Thank you. [LB227]

KRISTA KESTER: Thank you,... [LB227]

SENATOR PIRSCH: You bet. [LB227]

KRISTA KESTER: ...Senator. My name is Krista Kester, K-r-i-s-t-a K-e-s-t-e-r. I am a litigation partner with the Woods and Aitken Law Firm here in Lincoln. I'm not, however, here...notwithstanding the jab at lawyers (laughter), I'm not here with respect to the lawyerly practice today. Also, as contrasting me to the other...most of the other people in the audience that someone earlier referred to is it must be a bunch of interior designers because aren't they well put together? I'm obviously not one of them either. That being said, I am the public member of the State Board of Engineers and Architects, and I've been in that position for a relatively short period of time. I'm the first to admit it. I was appointed last July, sat my first meeting with the board in...I believe I was on vacation for the August meeting, and so I sat for the first meeting in September. So, again, I'm a relatively new member of that board. I am not an architect by training. I am not an engineer by training. Lord knows, I am not an interior designer by training. In fact, my undergraduate degree is in animal science, beef genetics, so we can talk about cows and the south end of them all you'd like. But one of the...I recognize to you and present to you my credentials as a public member of the State Board of Engineers and

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Architects a little bit hesitantly, because in fact, as has already been pointed out, the board's pretty implicated by the amendment that's been proposed by Senator Rogert. And yet the board has had absolutely zero opportunity, and I emphasize again, zero opportunity to consider the amendment that's been proposed and just presented to you minutes ago. In fact, we have had no opportunity as a board even to address the original form of LB227 that was introduced. And so I'm not here representing the board. I can't be. Melinda Pearson, the executive director of the board, will testify in a neutral capacity shortly after I testify, I assume, and she'll talk about the fiscal note that she was asked to prepare on behalf of, you know, the request that she received from the Legislature. Once again, I can forecast that one of the things Melinda is going to say is, I did produce the fiscal note that I was requested to produce. But that note has not been vetted to the board. The board has had no opportunity to study it, to think about whether it accurately captures the fiscal issues that would be presented by the involvement of...or the placing of some aspect of this title act over the board. And most certainly, we've had no opportunity to talk about it in terms of the current amendment which would open up the Engineer and Architects Act, and, in fact, alter the structure of the board itself by placing another member on it and placing a whole another certification title act within it. Now once again, these are matters that certainly are of legislative creation, and are appropriate for the Legislature to consider. However, my conclusion, which we'll get to as I go along here, is that this bill is way out of line in terms of timing, and I can kind of tell you why as we go through this. So again, I am appearing as a board member, but not on behalf of the board, because I'm not authorized to do so. We have not been able to take any kind of a formal position on it whatsoever. I do want to point out...Senator Pahls, you earlier asked the question of Senator Rogert, I believe, when he mentioned the classified misdemeanor, and you asked whether that would mean, in fact, there was criminal implication to calling yourself a certified interior designer when, in fact, you weren't. And I could not hear his entire response, but I understood him to say, not necessarily. I would refer you to Section 72 on page 5 of the amendment where it says very clearly, "Any individual who violates this section is guilty of a Class V misdemeanor." That's not an and/or we could do other things. It says, you are guilty thereof. So I wanted to point that out before I got any further. I guess, you know, as a threshold matter, I'm not persuaded of the necessity of the act, the title act, in general. And I've heard some compelling and passionate statements here today, and certainly there are things there to discuss and, no doubt, things that do have merit. Having heard what I've heard today, I'm not persuaded that there's a reason that Nebraska should enlarge its government to include that. But I'm willing to admit that there are...that there may be proponents of this act that could persuade me differently if they had the opportunity to do so. And here's where we really come back because (laugh) there has been no opportunity. Once again, the amendment that was passed out was, in fact, not provided to the board by any of the proponents of the legislation and not by the sponsoring senator. We became aware of it this morning, and I saw a copy of it so, I mean I had actually before you did today which, in my mind, indicates that it's not a very timely or well-thought-out attempt to legislate, particularly to create new legislation in

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Nebraska. And so it's this absence of opportunity that's the real problem. One of the...what's been proposed here, and once you go through the amendment a little more thoroughly, is that the board, the existing Board of Engineers and Architects, would be enlarged by one member. It's hardly a...you know, that in and of itself is hardly an earthshaking event, but what they would do then is also impose both responsibilities for the certification or licensure, whatever they're going to call it. I think that the amendment confuses issues on occasion or confuses that nomenclature, but...so the new...the board enlarged with the addition of an interior designer would oversee certification; it would also oversee compliance. Now as Melinda Pearson is going to tell you in a little while, and as was noted by the proponents of this legislation to Ms. Pearson earlier this week, they realized that the fiscal note is going to show that there's no way that this certification that this title act can support itself because it would cost somewhere upwards probably of \$300 per applicant for it to cover its own costs if it were just administered based upon Melinda's very best guesses in a very short period of time as to numbers. So, I mean, and that's really what gave rise to the amendment was the fact that they realized criminy, people aren't going to register if it's going to cost them hundreds of dollars to do so. And that's when they came back in and so urgently amended the act so as to, in fact, put them within the Board of Engineers and Architects rather than just having the Engineers and Architect Board administer the costs that were associated with the certification. But what's particularly interesting about the amendment is that if you turn to Section 9, which is on page 6 of the amendment, it indicates that the fees received pursuant to the act would be remitted to the...for the credit to the Engineers, Architects, and Interior Designers Regulation Fund, so the money that was received as a result of the certification applications would go into what is now the Engineers and Architects Fund, so it would flow right in there. But what's really interesting, recognizing that under the fiscal note they can't support themselves. They have to have subsidization by a significant amount in order to make this fly. They say fees credited to the fund pursuant to the Interior Designers Certification Act shall only be used to defray the cost of administering this act which means what they're openly doing is asking for the engineers and architects who are within the board's structure now and subject to the board's oversight regulation is we want you all to subsidize us. And I don't know, that just seems unfair at its very most basic level, and it's certainly unfair when there's been no opportunity for these issues in this process to be thoroughly and carefully discussed amongst the participants. The other thing that this concept that's been proposed by the amendment which is to bring an interior designer onto the existing board and to place this title act within the full jurisdiction of the board...the new board, is that it mixes a practice act as we've kind of been discussing here, and some of these are kind of new concepts for me too, you know, lawyers...lawyers, I mean, what can we say? But you got this practice act which governs engineers and architects, and then...now you're going to slip in there a very different creature under this title act. You know, both still have administrative costs and both have certification licensure issues, and both have compliance issues, but by everybody's admission, a title act is not a practice act. And yet, what this amendment would do would be to mix the two within a

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single board. Now I do believe, and I try not to speak out of turn with respect to my experience on these matters given my short tenure on the board, but I understand there are what we would call super boards in some other jurisdictions where there are many different sort of subgroups that serve within the same board. And, again, I think that may be an approach that is doable, but it is...and reasonable minds may differ on whether it's appropriate or feasible in Nebraska. But I don't think that reasonable minds can differ, that making that sort of a conversion or transition, that significant change in the structure of the existing board, shouldn't be the offspring of thorough analysis and great discussion amongst the various participants that would be affected including potentially other arms or aspects of state government that I'm not even certain I could identify sitting here. But, I mean, what we have here is just a premature attempt by the interior designers. I understand they've brought this bill before the Legislature in the past and not been successful. I understand, based upon some of the comments that we've heard here today that they are anxious and I understand that. There's obviously an economic financial interest that they have in distinguishing themselves and, you know, that's hardly offensive. But once again, this is not the time or the way to impose this sort of change on an existing government agency and board which is exactly what this is doing. Now as an attorney, I pretty frequently hear somebody say oh, this is like, you know, the slippery slope, and all this parade of horrors is going to happen next. And I generally resist the effort to or, you know, roll my eyes back because rarely is it true. But really here, without some thought, without some studied intent, this is not a good idea for the Legislature to move now. And I think that the effort to push this through, and the timing that is being proposed, would be a great mistake. I think that what the committee should do is reject the effort with the clear message that you all need to go out kind of like they're doing with respect to the uniform registration of deeds and ownership documents is you all go out for a year or for a summer, and kind of work these details out, because I think there are details; I think there are common threads and common interests. But, again, to ask it to be done on this timing without any involvement or participation or insight from the Board of Engineers and Architects is a mistake, and we are quite opposed to it on that level without ever getting to the merits of the certification itself. I certainly can address any questions that the committee might have. [LB227]

SENATOR PIRSCH: Great. Senator Pahls, you had a question for Ms. Kester? [LB227]

SENATOR PAHLS: Thank you. And to be honest with you, that's one reason why I just opened up the page, and I did see that so that brought...at just a glance, it did bring some concern. But also, I have a concern here is when somebody does a technique or a strategy is like what I call around, you know, and end around,... [LB227]

KRISTA KESTER: Uh-huh. [LB227]

SENATOR PAHLS: That have continually met resistance, so they're looking for any

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avenue to get some...I'm not saying it's right or wrong, but there seems to be no compromise, and I've been around long enough to hear these stories several times. There doesn't seem to be a compromise here, and but I'm telling...you're telling me you're willing to sit down and make... [LB227]

KRISTA KESTER: Certainly willing to sit and discuss the issues and how this might happen and if it's appropriate. One of the board members indicated to me that he thought the committee had asked for a study to be done last year when this proposed legislation did not get out of committee. Now I don't know that to be a fact. I don't have any idea. But I think that's the sort of thing that would be very helpful to all of us to address. How do we do this understanding their desire to have a title act and the current needs and structure of the board as it is? But certainly there's a willingness and, in fact, there has been a willingness in the past to discuss some of these things. And you want to talk about the runaround, the end run is what happened to us this year. [LB227]

SENATOR PAHLS: Right. Sometimes people do that because they feel that they are not being listened to, I think. [LB227]

KRISTA KESTER: Well, and I think...and, again, Ms. Pearson may be able to talk more about the history of last year. But last year, when I think the basic structure of the existing LB227 was brought to the committee, was brought to the Legislature, the board officially said, we will be neutral, because at that point, all they wanted was basically the administration, you know, the day-to-day administration of it by the Board of Engineers and Architects. And what you do then is you figure out what's...you have to pay your own way. I mean, you know, the architects and engineers aren't going to subsidize you, but we can do that. And that was the position as I understand it from last year which was, we'll be neutral on the bill. You all fight over the merits of it, the board will be neutral, understanding if you get it passed, we'll have to figure out what the...you know, what it's going to take for the interior designers to pay their way. What's that fee going to be, and how are you going to accommodate that? But I don't believe that the evidence would show that there's been resistance by the board to the concept of certification. I think just the opposite, in fact. I think that we've been pointedly neutral, not wanting to be involved in the discussion and the issue of the merits. But here where, in fact, they're proposing a dramatic impact on the board as it exists, and on what I can kind of consider the board's constituents in terms of the engineers and architects that we regulate and oversee, where they're being asked to subsidize by the structure of the amendment, a whole another sort of practice area, but not even...just a title area. And that's where we're struggling, but we certainly have in the past, and would continue to discuss with them how to achieve what it is they're wanting to achieve, and what is a fiscally responsible way to get that done that the current proposal is not? [LB227]

SENATOR PAHLS: Well, do you...and I know you haven't been around that long, do you think they're asking things totally out of what should be expected of... [LB227]

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KRISTA KESTER: In what, in the amendment or in the original bill? [LB227]

SENATOR PAHLS: In what they're...in what they want. [LB227]

KRISTA KESTER: In having a title act and being certified? [LB227]

SENATOR PAHLS: Yeah, yeah. Yes. [LB227]

KRISTA KESTER: As a board member, I don't believe that that is an unreasonable request. Again, understanding that there are financial... [LB227]

SENATOR PAHLS: Yes, yeah. [LB227]

KRISTA KESTER: ...things you have to...got to figure it out from the budget standpoint. [LB227]

SENATOR PAHLS: Okay. [LB227]

KRISTA KESTER: No, I don't believe the certification is an unreasonable request. Now, I may have a different response from a personal standpoint, but that's kind of irrelevant here today. [LB227]

SENATOR PAHLS: Okay, okay. Thank you. [LB227]

SENATOR PIRSCH: Very good. Any other questions? Senator Price. [LB227]

SENATOR PRICE: Senator Pirsch, thank you very much. Ma'am, I was trying to do a little homework here; constituents were helping me out on both ends, so I decided to go to the state and look what we have on certifications. And I read here, the most general type of certification professional-wide, in order to apply professional standards, to increase the level of practice, and possibly protect the public. I've heard a lot of protecting the public on, you know, furniture, and fumes, and code for disability, code for various things, a lot of public protection spoken to. And then it says in parenthesis, "though this is also the domain of licensure." So I would like a clarification of why we're not going for licensure versus certification, and...or is that opening up way too much of a can of worms? [LB227]

KRISTA KESTER: Well, and I appreciate your question. I think...I always criticize law students who, you know, when they're practicing an answer to a Court of Appeals, you know, in a mock setting where they say, well, that's a good question. Of course, it's a good question, I'm the judge. I hate to say it but, Senator Price, that's a good question. And I really don't know for sure the answer because in my mind, if it's simply a

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certification, it's a marketing tool. If it's for public health, safety, and welfare, you ought to be called to task on it, and you have to answer professionally for what you do pursuant to that licensure. So in all honesty, I don't understand even the function of a title act, and I've never had anybody really explain to me other than that it's good to recognize when you've been to a lot of school. Well, you know, I guess that's...if our government is of the view that being in a lot of school is worthy of a certification, then I guess, you know, sobeit. But I don't understand if it deals with public health, safety, and welfare, why it isn't the domain of licensure and not simply certification? I don't know other than that. [LB227]

SENATOR PRICE: Okay, thank you. [LB227]

SENATOR PIRSCH: Very good. Any other questions? Very good, thank you for coming down. [LB227]

KRISTA KESTER: Thank you. [LB227]

SENATOR PIRSCH: And are there any other opponents who want to testify? Very good. And to the extent that some of your remarks have been touched upon by others. I want to make sure that everyone has a chance to testify here today and ask questions, so very good. If you can state your name for the record. [LB227]

KEVIN CLARK: Kevin Clark, K-e-v-i-n C-l-a-r-k. Good afternoon, thank you for letting me speak today. I'm speaking to you on three roles today: the board member of the Nebraska Chapter of the Institute of Architects; an owner of a 30-person architecture firm here in Lincoln; and a registered architect in our state of Nebraska for the last 14 years. Many states have implemented sunrise processes as a way to curb the growth of occupational licensing. Currently, the states of Colorado, Washington, West Virginia, and Arizona, have sunrise processes to evaluate the need of new occupational or business licenses. The application must specify the actual harm to the public and safety in the absence of the regulation and demonstrate how those problems can be cured through the regulations. The process of individual occupations being licensed is an increasing trend in our country, and many are using this sort of process as a way, as a gate to see if they should be registered. The sunrise review process in the states differ slightly, but the general themes are three. Whether the unregulated practice of the occupation can clearly harm or endanger the health, safety, and welfare of the public, and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument. Secondly, whether the public needs and can reasonably be expected to benefit from an insurance of the initial and continued professional ability, and whether the public cannot be effectively protected by any other means or a more cost beneficial manner. The NCIDQ exam, which we've heard about today, is the National Council for Interior Design Qualification. They offer certification to interior designers through the passage of the NCIDQ exam. There are also a variety of interior

design organizations that recognize that exam, two being the American Society of Interior Design. ASID is a membership of an organization charged with promoting the value of interior design. There are many levels of membership. The top level is a professional member. That person has passed this exam that we spoke of. The International Interior Design Associates is another organization similar to the ASID who require professional registration by that passing of that exam. Then they are a professional member of that organization. As an architect, when we work with interior designers, we look for those initials behind someone's name, ASID or IIDA. In seeing those initials, we know that they have passed this exam, they've gone to school, they understand the requirements of this profession. These institutes provide a wealth of opportunities for interior designers to credentialize their profession. Let us take a look at the profession of interior design through that sunrise criteria that I spoke of earlier. Is there clearly a recognizable harm or endangerment of the health, safety, and welfare of the public? I say no. The benefit, the built-in environment in our state is already protected by the licensure of architects and engineers. They are charged with the protection of health, safety, and welfare. When I stamp a drawing, when I submit that for construction, if something happens, it is my stamp; it is my name; and it is that felony that would be leveled upon me if there was a loss of life. Can the public benefit from this certification? Is the public or an individual professional calling for this legislation? Is someone asking for protection other than the profession? No. In this case, a profession that is fragmented between multiple professional groups and clubs that would like our state government to help increase their credentialing and clarify who they are. Lastly, can the public be protected by other means? And I say it can. The NCDIQ exam and membership in the ASID allow the public to find talented and very qualified interior designers. Using the sunrise criteria, there is not a public need for certification of interior designers. Using my own practice, there is not a need for the certification of interior designers. And then finally, using the American Institute of Architects, 150 years of design and construction law knowledge, there is not a need for this certification. It is the role of government to protect the public, not recognize a graduate's individual accomplishments, as Dean Drummond mentioned, or clarify and clear up professional individuals' organizations. And I would offer questions. [LB227]

SENATOR PIRSCH: Thank you for your testimony. Any questions for this testifier? Seeing none, thank you very much, and we'll move to the next testifier. Welcome. And whenever you're ready, if you could just start off by stating your name and spelling your name for the record. [LB227]

JENNIFER KLEIN: (Exhibit 9) I will do that. Good afternoon. My name is Jennifer Klein, K-I-e-i-n. I'm a licensed professional electrical engineer. I'm also the president of the Nebraska Society of Professional Engineers, and I'm here on behalf of the Professional Engineers Coalition which is a group that comprises three constituent organizations: the Nebraska Society of Professional Engineers, the American Society of Civil Engineers, and the Professional Surveyors Association of Nebraska. The American Society of

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Mechanical Engineers is also an associate member of our coalition. I'll summarize my testimony because it's been passed out, but basically, the Professional Engineers Coalition opposes LB227, a bill that certifies interior designers basically because currently, state statute provides specific direction on the need for a licensed design professional and architectural engineering designs in order to safeguard life, health, and property, and to promote the public welfare. Often licensed engineers and architects to work in a team environment with other professionals, many of whom who do hold an industry or association certification in their area of expertise, but aren't required to by state statute. A lot of them that I work with are professionals like certified lighting designers, certified acousticians, registered communication distribution designers, also lead accredited professionals. But regardless of our team composition, ultimately the responsibility and the accountability lies with me, the licensed design professional engineer or architect to ensure that safeguard of life. The Professional Engineers Coalition encourages the betterment of an individual in an area through education and testing and further recognizes their need to distinguish among a group by title designation. However, the Professional Engineers Coalition does not agree that this warrants additional government regulation. The government regulation certified by interior designers could create confusion which it already has here with certification and license with the public, and it could provide unintended risk for Nebraskans. So for these reasons, the Professional Engineers Coalition opposes LB227. I'd be glad to answer any questions. [LB227]

SENATOR PIRSCH: Very good. Thank you. I think Senator Pahls has a question. [LB227]

SENATOR PAHLS: Yes. I'm reading your words here, and I'm a little bit troubled, though. It says that, we could be potentially, if we would do anything, create unintended risk to Nebraskans. So if we say, if we go for certification of interior designers, are these organizations truly believe that we are putting people at risk? [LB227]

JENNIFER KLEIN: Well, we're creating confusion just like we did today. There's certification versus licensure. If my father-in-law, who owns a business in Chadron, decides to move, he's going to ask the question, who am I supposed to call again? Am I supposed to call a professional engineer or professional architect or do I just need an interior designer? What am I supposed to do? And having this government regulation is kind of confusing the issue. I think that's what we meant by intending some confusion, so. [LB227]

SENATOR PAHLS: Okay. Thank you. [LB227]

SENATOR PIRSCH: Any other questions? Senator Price. [LB227]

SENATOR PRICE: Senator Pirsch. Thank you, ma'am. I got a question for you. And I

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even wrote it down just to make sure I wouldn't flub it up too much. Do you know, is there a requirement that if you have an existing structure that you're refurbishing, but you're not moving any walls there's not going to be any code worries for ADA. But you're just redoing the inside of an existing structure? Do the people who are contracting that work, are they required by law to have an architect or an engineer or somebody come in and make those plans, and make sure that there's safety for all the folks that would be using that facility? [LB227]

JENNIFER KLEIN: Right. There's state statutes, rules, and regulations that define when you need to have one and when you don't. And I don't want to sit here and quote it because it's not in front of me, but Melinda can definitely tell you when that is. But it's in the rules and regulations, when you need one and when you don't. [LB227]

SENATOR PRICE: So there are times when you're not requested to use one, but you could put materials on the floor, that if they caught on fire would produce all these horrible chemicals... [LB227]

JENNIFER KLEIN: Right. [LB227]

SENATOR PRICE: ...in the wood and the finishes, etcetera,... [LB227]

JENNIFER KLEIN: Right. [LB227]

SENATOR PRICE: ...so that could happen, and then who would...there would be no one to turn to other than the person who let the contract, I suspect. [LB227]

JENNIFER KLEIN: Right. There's no accountability in those situations, and that's just by the rules and regulations that are already in place, saying in these situations, we don't require a licensed professional. So anybody can do it. They don't have to be certified in anything. They can do that work, and that's a rules and reg thing, so. [LB227]

SENATOR PRICE: All right, thank you. [LB227]

SENATOR PIRSCH: Any other questions? Seeing none, I thank you for coming down here today and testifying... [LB227]

JENNIFER KLEIN: Thank you. [LB227]

SENATOR PIRSCH: ...and we'll see if there's any other opponents. Any other opponents for LB227? And, again, if you can just start off by stating your name and spelling it for the record. [LB227]

STEVE NABITY: My name is Steve Nabity, N-a-b-i-t-y, and I am a current board

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member and five-term past-president of our Nebraska's Chapter of the National Association of Remodelers as well as a home improvement and remodeling contractor for the last 19 years. My business and residence is in District 3, and I come from the Millard district, been in this area of the state a long time, and I'm also a certified remodeler through a national program through the National Association of Remodeling Industry. And I believe in certifications and education and continued education for all industries, and I think it's probably available for most industries. To create legislation and statutes to maybe put one certification above all the other ones that are also very important. I'm not sure if that's the way that we want to go. Certifications, I can use those for my marketing, and I can explain to my customers or clients that this is my education background, and this is maybe why you should hire me over somebody else. I don't know if we really want to get into creating bureaucracies and laws when most industries have certifications and education. That's kind of where I'm at. [LB227]

SENATOR PIRSCH: Very good. Are there any questions for Mr. Nability? Senator Sullivan. [LB227]

SENATOR SULLIVAN: Thank you, Senator Pirsch, and I don't know if...actually, my question doesn't directly pertain even to this legislation, but I've been listening to all the testimony, wondering if I was going to be able to identify a source for a question. And I don't think I still have identified where I might go. February is radon month and I've got problems with radon in my basement, and that is, apparently, the leading cause of lung cancer for people, and you have your home tested, and it tells you, get it fixed. Well, is it a remodeler? Is it an architect? Is it an interior designer? I mean, I don't know where to go to get that solved, and I don't know that licensing or education or a certificate will help me in that respect (laugh). [LB227]

STEVE NABILITY: Well, I think that radon testers can probably tell you where to go, and then the people that you go to can tell you whether they are knowledgeable in that area or not. And then you can pick maybe who you like to hire that you feel is knowledgeable in that area. Otherwise, licensing was maybe a whole another issue that could address that. [LB227]

SENATOR SULLIVAN: Okay. [LB227]

SENATOR PIRSCH: Senator Price. [LB227]

SENATOR PRICE: Yes, Senator Pirsch, thank you. Real quick, Mr. Nability, how is it possible to keep up with code changes? [LB227]

STEVE NABILITY: The jurisdictions change every six years or so, code requirements. And I can speak in the Omaha area and most of the surrounding area. They just adopted new codes that are international codes, and through keeping in contact with

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your code representatives and continuing education in the industry, that's kind of how you do it. And when you do a project that requires following the codes and permits, you apply for a permit, and all the jurisdictions have plans examiners that look over those drawings no matter who drew them, an architect, a designer or a contractor or a homeowner. They examine the plans and look to see if they follow code and make recommendations. Then there are inspectors who come out, and double check to make sure that it happens. And you've got egress windows and things like that. If you design a place to have a piece of furniture out of the way so that you can get out of a building in case of fire, there's no law that exists that I know of that says, what happens if that piece of furniture got moved in the next day? So you can design in a lot of things, but that doesn't mean that it's going to stay that way. [LB227]

SENATOR PRICE: All right. Thank you, sir. [LB227]

STEVE NABITY: All right. [LB227]

SENATOR PIRSCH: Senator Pahls. Just a second, Mr. Nabity, if you...one more question. [LB227]

STEVE NABITY: Oh, yes. [LB227]

SENATOR PAHLS: Here's...I'm taking from your conversation you see this maybe, more or less, as a marketing tool other than... [LB227]

STEVE NABITY: I would think that you would want to use it as a marketing tool in your conversation with customers and clients and say this is why you want to deal with me, and this is maybe why you don't want to deal with somebody else. [LB227]

SENATOR PAHLS: Right. Because my concern is somebody alluded to the fact that it could be a safety issue, but do you see this causing confusion? [LB227]

STEVE NABITY: You know, we all deal with safety in our industry, and there are consumer protection and, you know, most people that create products want to do it so that they're not going to be sued and they're...you know, maybe there's ways to look at that already. [LB227]

SENATOR PAHLS: Yeah, yeah. I see what you...I see what you...yeah, yeah. Well, the confusion I have, I chair Banking, Commerce and Insurance and I mean, man, there are layers of insurance, you know, certification and being able to sell. So that's why I'm trying to get through this morass of which direction the groups are actually going. I mean, that's more for...I'm just talking right now. I thank you, Mr. Nabity. [LB227]

STEVE NABITY: Thanks. [LB227]

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SENATOR PIRSCH: Very good. Any other questions? Seeing none, we'll move on. Any other opponents who care to testify on LB227? [LB227]

D'LEA BECKER: (Exhibit 10) My name is D'Lea Becker, D'-L-e-a B-e-c-k-e-r. [LB227]

SENATOR PIRSCH: Thank you very much. [LB227]

D'LEA BECKER: I'm here on behalf of the Nebraska Kansas Chapter of NKBA, and I'm the vice president of Government Relations as well as a designer. A lot of things have been just discussed. In your packet on your right, that is supporting documentation, some of the e-mails and letters we've received, and some more information that I'll refer to on your left is a 3-page...I'm trying to keep this to three or five minutes as I was advised a long time ago... [LB227]

SENATOR PIRSCH: Thank you very much. I appreciate that. [LB227]

D'LEA BECKER: ...that you don't like long-winded people (laugh). [LB227]

SENATOR PIRSCH: Yeah (laugh). [LB227]

D'LEA BECKER: And so I'm going to go through this fairly quickly. We've covered a lot of it here and there's a couple little excerpts I'll put in there. In response to public safety and welfare, more to the point is the fact that this is not consumer or consumer advocacy groups driven, who seeking the regulation to remedy a bad problem or an experience. Rather, it's the interior design lobby who is asking the state to adopt a law. The public is not asking for protection. The Division of Consumer Affairs is not. The Attorney General's Office and the Better Business Bureau is not. And we'll get to some statistics later. Nebraskans are protected by the built industry, by the state architectural and engineering and their practice acts, existing building codes. And in answer to your question, Senator Price, basically your building codes is the person...like if somebody is remodeling their home, they have to have that approved by a building code when it's open before they close it up. So your protection is right there with your building marshals and inspectors. And as far as materials, I mean, we could go down to Home Depot and put in a carpet, and it'd catch fire, and it's going to burn, you know, just so we could put those people out of business just because they sold that product. Nebraska citizens have consumer protection laws to pursue damages caused by deceptive practices from any trade. The next bullet talks about Colorado, and this is the sunrise report...that's on the next page. But did an extensive study of all complaints received in all of the states with interior design regulation. Eight states reported no complaints. In all other states with the possibility exception of one, a fraud case, all the complaints involved administrative violations, and were not complaints related to the practice of interior design. See the enclosure. IDPC, I've sent you some e-mails with copies of

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some of their newsletters. That is the Interior Design Protection Council, and we'll mention later, but that is within the ASID organization. Those are people withdrawing and complaining about the lobbying efforts of ASID. So a rebuttal to ASID, since 1907, only 52 lawsuits have been filed against interior designers in the entire United States. The majority of these cases involved contract disputes, not damages, that represent a menace to public health, safety, and welfare. Again, see the enclosure of state of Indiana. NKBA says we are not for LB227. It will not increase consumer protection. It will only add increased consumer confusion and additional cost to the consumer. NKBA believes there's no justification to add state regulations and license for interior designers. Most of that is covered in your practice acts with your engineers and architects. Second page, in response to a title act, it is ASID's first step towards a practice act. And with the fact that they just did this last little foot shuttle with trying to get on the board, as you heard their objections, that is their goal is to go to a practice act. Title certification is well known as the Trojan horse of interior design regulation. Once a foot in the door is established through a seemingly innocuous title act, historically ASID will come back to expand it into a full-blown practice act. It's their hallmark. That's what they've done in all their other states. What our first opponent testified to was mixing the two acts in the practice act. There's no way it wouldn't step immediately into a practice act if the board took it on, and you put a title act in with another board that's on a practice act to be functioning and overseeing it. All LB227 does is protect the interests of a select few. As such, the proposed law is anticompetitive in that it favors one small group of interior designers over the majority of the design community and does so without serving any identifiable, valid public policy. Who has come forward complaining about safety, health, and welfare that they've been impacted with themselves personally to start this or grassroots, like Mothers...MADD, Mothers Against Drunk Driving? They've been impacted. The Nebraska NKBA Chapter opposes LB227 because it will eventually lead to a practice act creating a monopoly within the industry. Justice Parker from the Alabama Supreme Court declared the state's act unconstitutional, and stated that the court should not embrace the paternalistic notion that the average citizen is incapable of choosing a competent interior designer without the state's help. See enclosure, Indiana. As the Colorado Department of Regulatory Agencies hears our sunrise, states in its December 16, 2008 sunrise review of a similar proposed bill in Colorado, although the applicant asserts that certifying interior designers will serve to add credibility to the profession, this is inconsistent with the first sunrise criterion which asks whether regulation is necessary to protect the public. Therefore, sunrise reviews and subsequent recommendations do not serve to add credibility to professions. Instead, it recommends to create a regulatory framework to provide protection to the public when harm has been identified. See Colorado enclosure. In response to costs to create a board and oversight staff of this act, this was our shuffle just before this meeting. According to the physical impact statement, Indiana, that bill will cost the state \$106,000 annually to administer. And with so few designers currently qualified, according to some estimates--there's less than 100 in Indiana--there would be very little income from regulation, registration dues to cover

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administrative costs. In an economy that is already suffering, passing such an unnecessary piece of legislation would classify as just bad government. Governor Daniels vetoed a similar attempt to regulate Indiana designers in 2007. And if an act came into a practice act, so many people would be put out of business, we not only would have administrative costs, we'd have unemployment costs created by this act and fewer consumers served because of lost revenues. Nebraska has maybe 100, 150 designers that fall in those categories that are in their narrow jurisdiction that they're trying to pass, so how does all of that business funnel through 100 to 150 people and get done? The state would lose revenues from all the businesses that couldn't practice under those few people that would have to, you know, agree to everything. The first opponent brought this to your attention as well. In response to bad legislation is bad for business. Governor Paterson of New York agreed with arguments made in opposition to the bill 1312, and noted that courts have found similar legislation restricting the use of title, interior designer in other states to be overbroad, unreasonable, and vague. Governor Paterson further concluded that the bill previously vetoed twice by former Governor Pataki would also limit new entrance into the field of interior design and, thus, restrict competition. Interior design education programs in Nebraska are the gatekeepers for whom can design and those who graduate, less than half take the NCDIQ test, and of those who take the test, only 40 percent passed. And the key...you got a letter from the director of the department over in Kearney, and her letter is also enclosed in the back of your packet on the right. And she says, just the justification of the figures, they graduate probably in the two schools, 30 students per year. And there's only 100 designers...we'll just keep it in a nice round figure. Within two to three years, there would be no people to take people for their practicum so that under those people with those limited certifications. So there would be no way for the graduates who are graduating and paid all that money to go to school to get out and get their own certification. And back in the medieval days, there were medieval guilds with servanthood, and in some of the newsletters that I sent you from IDPC, that's exactly what has happened in Florida where they do have a practice act. So you can look at those three enclosures. Allied members within ASID have formed a grassroots campaign there to expose and challenge those promoting restrictive ASID legislation. The Interior Design Protection Council, there's their Web site and e-mail, and I've given that to you through letters and e-mails. ASID members are moving out. Groups are leaving. People that have taken the NCDIQ who have 20 years of experience do not want this to happen to their other friends who are designers and maybe haven't taken the test. They feel that their portfolio will get them the business that they deserve and want. There are people in architects...interior architect that design the magazine, that don't have the NCDIQ that are designers, that have been doing business for years and are extremely successful. Insurgence of independence, November issue of Woman Fashion Vision, an expose on why unaffiliated designers, the vast majority of practicing designers are resisting the efforts led by ASID to regulate the profession. ASID is putting its own members at risk and out of business. And I would like to go back to an e-mail you got, and it was because of what was brought up about the practice act.

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During the last year, IDPC has raised awareness of the Florida issue by exposing the ruthless aggressive actions of Smith, Thomas, Shaw, and Manausa, the law firm retained by the Board of Architecture and Interior Design to prosecute the design community. IDPC has also publicized the devastating effects on the lives of these victims, hard-working, small business owners just trying to earn a living, many of which are allied members of ASID, the organization whose money and muscle supply the lobbying efforts for this special interest legislation across the country. And that has to do with the Section 72 that was brought up by the first opponent. The situation in Florida is unbearably out of control, said Patty Marlowe, executive director of IDPC. Individuals who are perfectly qualified to practice their profession are being cited, fined, and put out of business for absurd uses, issues like having interior designer on their Web site, business card, advertising, or even a bookmark. And you were the one that brought this one up. H'm? [LB227]

SENATOR PIRSCH: Ms. Becker, I just say...and I appreciate that we have this in written... [LB227]

D'LEA BECKER: Okay, and that's it. That's it. [LB227]

SENATOR PIRSCH: ...we have your testimony in written form as well... [LB227]

D'LEA BECKER: Okay, and down the last three. ASID requests special treatment. Nothing...they're looking for special treatment, not to protect the public. We have government agencies to handle that. It is harmful to the state economy and especially in these days, and it will further harm the business affiliation with other building industries in the trade. Thank you so much. [LB227]

SENATOR PIRSCH: Very good. Are there any questions for Ms. Becker? Thank you very much for your testimony here today. Oh, you did have one? I'm sorry, I didn't see Senator Pahls. Go right ahead, Senator. [LB227]

SENATOR PAHLS: That's fine. No, I'm fine. [LB227]

SENATOR PIRSCH: Okay. Thank you. Now are there any other opponents? Go right ahead. [LB227]

JACKIE McCULLOUGH: (Exhibit 11) Good afternoon, Chairman Pirsch and members of the Government, Military and Veterans Affairs Committee. I'm Jackie McCullough, J-a-c-k-i-e M-c-C-u-l-l-o-u-g-h, the executive director for the American Council of Engineering Companies of Nebraska. ACEC Nebraska doesn't believe that providing a certificate to interior designers falls under the intent of the law to protect public safety. We're opposed to the bill and the amendment and would echo many of the reasons that you've heard earlier this afternoon. And I'd limit my testimony to the letter that we're

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distributing, and would be happy to answer any questions. [LB227]

SENATOR PIRSCH: Great. Thank you for coming here today. Are there any questions of Ms. McCullough? Senator Karpisek. [LB227]

SENATOR KARPISEK: Thank you, Senator Pirsch. Ms. McCullough, I guess the question is, they go through four years of schooling. Is there anything that they...I mean how do...they're not differentiated. I could say that I'm a lawyer because I could spew out some statutes, and I could get hired and get you into court and lose terribly. So, and I'm not saying that they could do that, but I mean there's got to be some differentiation, doesn't there, between someone who's gone to school and graduated and not? [LB227]

JACKIE McCULLOUGH: Perhaps. I don't know, you can go to school and be a music major, and you can create concertos and all kinds of things and be hired and you don't have certified after your name. I'm not the best person to answer that question for you, but I don't think so. [LB227]

SENATOR KARPISEK: Okay. Thank you. Thank you, Senator Pirsch. [LB227]

SENATOR PIRSCH: Sure. Are there any other questions? Seeing none, thank you very much for coming down here today and testifying. And we will ask for any other opponents. Are there any other opponents, LB227? Seeing none, are there any individuals who come down here today to testify in a neutral capacity with respect to this bill? Very good. [LB227]

MELINDA PEARSON: (Exhibit 12) Good afternoon, Senator Pirsch and members of the committee. My name is Melinda Pearson, M-e-l-i-n-d-a P-e-a-r-s-o-n. I'm the executive director for the Nebraska Board of Engineers and Architects. The Engineers and Architects Board currently supports administrative processes for two other boards, the landscape and the geologists board. These are done through annual Memorandums of Understanding that are voluntarily entered between the two boards, and they are annually renegotiated. The cost of services is currently undergoing a detailed analysis by our staff, and the two boards will likely be reflected, their costs will likely be reflected in future budgets. As the executive director of the board, I have been asked to submit a fiscal note on this bill which you have, and you have that in front of you. However, I want to note that the fiscal note that you have covers only the expenses of the engineers and architects, and is a line item on the estimated interior designers board appropriation which you did not get. So the cover letter is just some of my testimony in neutral. But I would ask for you to look at the green sheets which is what I submitted. In the green sheets is my worksheet on what I...when asked in three days to estimate what it would cost to administer this board, and that's what in three days I did. And the first column is expenditures, see EA Additional, FY09/10 is the first year that this board would become effective, January 1, 2010, so that's a six-month budget. And it goes through the

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additional cost to the engineers and architects, and at the bottom you see \$39,199. In the next column is each additional year FY10/11 so for the full year, the expenses to the Engineers and Architects Board I estimated for \$48,110 which is in the fiscal note that had been attached. But for whatever reason, the next two columns were not included in the fiscal note that you got even though I submitted them. And that is the interior designer board would also have expenses, so their expenses would include the 39...for the first six months, their expenses would include the engineers and architects memorandum of \$39,199 for a total of \$52,524 for the first six months. That's setting up the agency. And then in FY10/11 for the first full year in effect, that would be the engineers and architects \$48,110 for the memorandum, and then for a total of \$68,960. So on page 2, I wanted to be sure that I understood the whole concept, so I ran through some revenue options. And Option C basically shows that. If you have 100 licensees which is what I've estimated. We went to other states, didn't do an exhaustive search, but went to other states that license interior designers, took the number of people that were in that state, and basically did a ratio, so, and then checked it against some of the other states that regulate interior designers and checked those numbers, and it appeared to be somewhat consistent. So we came up with about 100 people in Nebraska would seek certification. Now the fee by their statute LB227, could be between \$100 and \$300, so if they charged the most that they could possibly charge, \$300, they would be able to pay for about half of their expenses. And I let them know that as soon as I had this fiscal note, I called them into my office and said, just to let you know, this is what it's going to say because this is the best guess I have. And when I looked at the total which was \$50,000-some, I can see it's about half of what Indiana said for the same 100, so that's pretty interesting. So I think this morning when I heard...I heard rumors of the amendment at the beginning of the week, and then a third party sent it to me. And I was surprised, but I think that that's probably why the amendment is in front of you is because I think the interior designers, in order to pay for their own agency, they would have to...if you look at revenue Option A and B, they would either have to have 150 licensings paying \$385 so they'd have to increase their statute for the maximum amount that they could charge. So they're either going to have to increase the maximum that they can charge, and I would venture to say that may reduce the number of people who are going to seek certification if you're in the \$400 or \$500 range. So I think that's why I see this...we've seen this amendment. Neither I nor the Board of Engineers and Architects has an opportunity to review the amendment, and so it's difficult to speak with any sort of authority on the details or specifics. I can be fairly certain that the board would have grave concerns to switch this bill from what it had discussed with their board last year. They came to the Engineers and Architects Board last year and met with them, the coalition did, and I think that they came to sort of a good understanding. And the engineers and architects discussed with them the possibility of administering them like they do landscape and like they do geologists, and that was the last we heard until LB227 which said in the statute that the engineers and architects will administer them...not might, not possibly...but they will. That was the first time I had heard that, and the board too. And then recently now, since this morning, we

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see they went to join the board. They want the entire fund to regulate both acts, but they want their money to go to just the certification process. So anyway, so that is my testimony. I would be glad to answer any questions that you may have of me. [LB227]

SENATOR PIRSCH: Thank you very much. Are there any questions? Senator Price. [LB227]

SENATOR PRICE: Senator Pirsch, thank you. Ma'am, thank you. [LB227]

MELINDA PEARSON: Um-hum, um-hum. [LB227]

SENATOR PRICE: I want to clarify a time line for myself. [LB227]

MELINDA PEARSON: Okay. [LB227]

SENATOR PRICE: You were asked approximately three days ago to build a fiscal note projection? [LB227]

MELINDA PEARSON: I was...no, I was asked a week ago. I was given three days, but I was asked a week ago to give it for LB227. [LB227]

SENATOR PRICE: All right, and this bill was read into the record on January 13. [LB227]

MELINDA PEARSON: And I can't tell you exactly the date that I got the fiscal... [LB227]

SENATOR PRICE: Request. [LB227]

MELINDA PEARSON: ...request. But I had three days to do it, and I had it in on Monday. [LB227]

SENATOR PRICE: Okay, thank you very much. [LB227]

MELINDA PEARSON: So I must have been asked Wednesday, yeah. [LB227]

SENATOR PIRSCH: Very good. Any other questions? Seeing none, thank you so much for coming down here today and testifying. [LB227]

MELINDA PEARSON: Um-hum. Thank you. [LB227]

SENATOR PIRSCH: Are there other individuals in the audience who are here to testify in a neutral capacity regarding LB227? Very good. Seeing none, I would see if Senator Rogert...is he here to close? Is he waiving? Okay, he has waived, so...I've just been

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informed. So that will end the hearing for LB227, and we will venture forward and take up our last bill of the day, LB191 which is Senator Fulton is the sponsor. [LB227 LB191]

SENATOR FULTON: (Exhibit 1) Thank you, Mr. Vice Chairman, members of the committee. For the record, my name is Tony Fulton, T-o-n-y F-u-l-t-o-n, and I represent District 29. I'm here to introduce to you LB191. I have passed out a letter of support of this...for this bill from the Lincoln Chamber of Commerce, so that should be making its way around. I'll go ahead and begin. As a small business owner, I have become aware of the hurdles that small businesses must overcome in order to succeed. In addition to the hurdles posed by the marketplace, those imposed by government regulations create a certain restraint on the entrepreneur's willingness and ability to undertake risk. Small businesses, in general, often lack the foreknowledge and the resources to effectively comply with the regulatory requirements of government on both the federal and state level. I am therefore introducing LB191, the Small Business Paperwork Relief Act, as a small way for government to support small businesses, the economic backbone of Nebraska. The federal government has long recognized the additional costs created for small businesses related to compliance with government regulation. These costs range from additional personnel to the cost of paper filings to the fines imposed for unintentional compliance failures. To mitigate against unnecessary compliance costs to small business, Congress created the Small Business Paperwork Relief Task Force under the Office of Management and Budget in 2002. This task force was charged with reducing the costs of regulatory compliance for small businesses. Among the recommendations contained in its 2004 report were increased Internet usage for both notice to and compliance from small businesses, and increased coordination with state governments to improve compliance and reduce the incidents of penalties. To this later end, the Small Business Paperwork Relief Act--from which LB191 is modeled--was introduced in both houses of the 110th Congress. Actually in Ohio, just recently here in 2008, this...there was a similar bill introduced to what I have introduced...what I am introducing today, which passed unanimously in the House and by a wide margin in the Senate. I think there were a few votes against. So this has become law in Ohio presently. LB191 provides assistance to Nebraska's small businesses by allowing for a one-time six-month suspension of fees levied for failure to comply with the state government regulation. It is important to note that such a suspension is not applicable in the case of a criminal investigation or the collection of a tax. This suspension is not meant to provide an incentive for small business to flaunt compliance with legitimate regulation; rather, it is meant to ensure that an unintentional failure to comply does not engender a succession of noncompliance or the burden of additional financial penalty. Concluding, LB191 is intended to provide Nebraska's small businesses with greater ability to comply with legitimate government oversight and in turn improve the efficiency of such oversight. The success of small business and thus, our economy, is not dependent so much on government restraints as much as it depends on the restraint of government. And I will be glad to answer any questions if I can. [LB191]

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SENATOR PIRSCH: Very good. Thank you, Senator Fulton. Are there any questions for the senator? Seeing none, we will move on to proponents. Are there any proponents of LB191? Very good. Let's move to opponents. Are there any opponents of LB191? If either one of you gentleman want to step forward, we'll take opponents now. If you'd like to start off by stating your name for the record and spelling it and stating any title or position. [LB191]

BRUCE RAMGE: (Exhibit 2) Thank you, Senator. Good afternoon. My name is Bruce Ramge. For the record, that's spelled B-r-u-c-e R-a-m-g-e, and I'm the Deputy Director of Insurance. Director Frohman had planned to be here today but is sick, so I'm here to testify in opposition to LB191. LB191, as it affects the department, is too broad in scope. It applies to "information collection requirements" and "small business," defined as an entity with fewer than 100 employees and not controlled by an entity participating in the Small Business Investment Fund and not engaged in farming or ranching. It is important to note that the definition of small business would apply to most insurance agents and would also apply to a number of small insurers regulated by the department. Conversely, the exceptions set out in the bill are too narrow. While it appears that the intent may be to go after obscure routine reporting requirements, information collection requirements could easily be read to encompass a wide variety of important reporting to the department. For example, Nebraska statute requires that all insurance agent licensees of the department respond to DOI inquiries within 15 days. When the department investigates a constituent complaint, the insurance agent's explanation of the case is often of primary importance. A limited number of these complaints would involve criminal activity as exempted from the bill, but the vast majority does not. If licensees get one free pass on answering inquiries in a timely way, it will cause difficulties for the department's resolving constituent complaints. Similar problems present themselves in other areas of department responsibility, but in order to keep my testimony brief, I'd like to share one other area where the exemptions from the bill are too narrow. Financial examination for insurer solvency involves a massive amount of data collection. A number of Nebraska domestic insurers has less than 100 employees. An insurer which seeks to deny access to financial data showing financial instability would be able to do so under this bill. Ultimately, the department would obtain this information, but not until after undergoing unnecessary bureaucratic processes to make that happen. The one free violation provision of LB191 is not only burdensome for the agency, but inconsistent with the department's statutory mission to enforce and execute all the insurance laws of this state and see that all laws respecting insurance companies and insurance agents are faithfully executed. I ask that this bill not be advanced to General File, and I'd be happy to answer any questions you may have. [LB191]

SENATOR PIRSCH: Thank you very much. Are there any questions? Senator Pahls, we'll start with you. [LB191]

SENATOR PAHLS: Yeah, Deputy Director, I want to make sure, because the last group

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I want to mess up with, of course, is the Insurance Department. But I heard the testimony from Senator Fulton who said that a number of states have...this is already in place. Would their insurance departments be ran that much differently, I'm wondering? [LB191]

BRUCE RAMGE: You know, I'm not familiar how this would impact those states, and I apologize. [LB191]

SENATOR PAHLS: Okay. Okay. So I mean, if we could clear up some of the issues here, would that...would that move it up on your scale of acceptance? [LB191]

BRUCE RAMGE: I can't speak for other agencies, but I believe that that could be done for the Department of Insurance. [LB191]

SENATOR PAHLS: Okay, thank you, Bruce. [LB191]

SENATOR PIRSCH: Very good. Senator Giese. [LB191]

SENATOR GIESE: Thank you, Senator Pirsch. Mr. Ramge, can you tell me then or give me some more examples of how this would happen and why this would happen? [LB191]

BRUCE RAMGE: Sure. For a little background, we receive and investigate approximately...well, last year 1,533 written complaints from constituents, and roughly a third of those we would need to contact the insurance agent. And if we were not given timely responses, that would frustrate not only our efforts, but the constituent's ability to get the matter resolved or a response. And in terms of financial records, it's important that our financial examiners have timely access to the books and records of an insurance company or if they have questions about changes in the financial statute, it's important that they receive information as quickly as possible. [LB191]

SENATOR GIESE: Thank you. [LB191]

BRUCE RAMGE: You're welcome. [LB191]

SENATOR PIRSCH: Very good. Any other questions? Senator Karpisek. [LB191]

SENATOR KARPISEK: Thank you, Senator Pirsch. Mr. Ramge, do you think if it wasn't six months, maybe a month for the in-between time...I can't think of the right word, would that help? Not help? [LB191]

BRUCE RAMGE: In terms of providing time for response? [LB191]

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SENATOR KARPISEK: Right. [LB191]

BRUCE RAMGE: Yes. Right now, we allow 15 working days and so that's fairly close to what... [LB191]

SENATOR KARPISEK: Well, and I don't want to put words in Senator Fulton's mouth, but I am a cosponsor of this bill, and I don't think that's what I am...think this bill is about. I do have to say about not only burdensome for the agency, but I ran a small business and you want to talk about burdensome is the amount of paperwork that they're inundated with, with no one to tell them how to do it. Do you, does your agency go out and tell a new business how to start doing any of the reporting? [LB191]

BRUCE RAMGE: Generally not, but we do offer assistance and we have a really open-door policy to assist people when they have questions. And we also are...try to remain mindful of not overtaxing small businesses with unnecessary requests for information. [LB191]

SENATOR KARPISEK: Sure. I know when I started I...luckily the bank helped me. But otherwise, there was nothing other than get it in, we want it in now, and if not, we're going to penalize you. And I thought it was a very bad way to treat someone trying to do a business in the state. And that's why I really liked this bill. So I think hopefully we can work through some of this stuff, because I don't like how it's being used on our own people. [LB191]

BRUCE RAMGE: Thank you. [LB191]

SENATOR KARPISEK: Thank you. [LB191]

SENATOR PIRSCH: Thanks. Any other questions? Seeing none, thank you for coming down here today. Good afternoon. [LB191]

BRYAN TUMA: (Exhibits 3, 4, and 5) Good afternoon, Senator Pirsch, members of the Government, Military and Veterans Affairs Committee. I am Colonel Bryan, B-r-y-a-n, Tuma, T-u-m-a, superintendent of the Nebraska State Patrol, and I am here today to testify in opposition to LB191. The Nebraska State Patrol's concern is that LB191 could have a negative impact on highway safety. We understand the intent of LB191 is to minimize regulatory measures directed at small business owners. State Statute 58-307 defines a small business as a company with 100 or fewer employees. In the commercial motor vehicle industry, a majority of companies and operators have fewer than 100 employees. Hence, this bill would directly affect the ability of the Nebraska State Patrol to audit, inspect, and enforce the regulatory measures intended to enhance safety requirements for the commercial motor vehicle industry. Enforcement and regulatory efforts in the Carrier Enforcement Division can occur through contacts at the roadside or

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through an on-site inspections process conducted at company facilities. Our comprehensive enforcement program targets drivers, equipment, and company operations. In fiscal year 2008, the Nebraska State Patrol conducted 39,947 roadside inspections; 8.7 percent of those drivers inspected were placed out of service. Of the 12,048 vehicles inspected, an average of 2.8 violations per vehicle were discovered and 36.5 percent of those vehicles were placed out of service. Since 1989, commercial motor vehicle fatalities have dropped from 115 to 42 in 2007. Our efforts to detect safety defects and place drivers and vehicles out of service are essential to our efforts to reduce traffic crashes and fatalities. Our Compliance Review program requires on-site examinations of motor carrier's accounts, records, and equipment. The focus is on: driver's hours of service, vehicle maintenance and inspection, driver qualifications, commercial driver license requirements, financial responsibility, accidents, hazardous materials, and other safety and transportation records to determine whether a motor carrier meets the required safety fitness standards. Those companies who fail to meet these requirements face the assessment of civil penalties. Not every state conducts compliance reviews, but those who do must comply with the federal requirements for conducting them. We receive federal funding because of our participation in this program, and a limitation on our ability to impose civil penalties would likely jeopardize this funding. The emphasis of our enforcement and regulatory programs are to ensure the safety of motor carriers and to enhance highway safety. A vast majority of all commercial motor carriers willingly comply with these Federal Motor Carrier Safety Regulations. These same regulations are adopted in our state statutes which allow our troopers to address the myriad of safety and regulatory requirements. Our inability to immediately place drivers and equipment out of service when these violations are detected will compromise highway safety and will place the state of Nebraska out of sync with other states and federal safety regulations. The commercial motor vehicle industry is heavily regulated. Historically, the industry sought the assistance of the federal government and states to impose greater safety and regulatory measures to improve the industry's safety record. I would urge the committee to carefully assess the impact of LB191, and how that would have on...excuse me, assess the impact LB191 would have on our ability to address safety and regulatory measures in an appropriate and timely manner. I did have a couple of handouts, and I would point them out to you. The first handout is a one sheet single-sided document, "How Effective are Compliance Reviews?" and that's just to give you some appreciation for what the compliance review process entails. I didn't want to go into a lengthy explanation of that today. Only to say the information there, I think, will indicate to you that process does have some merit. The second handout is called, "Compliance Review Effectiveness Model," and on the second page of the handout; on page 2.1 on the second paragraph, it does define the purpose and the scope of the CR or the Compliance Review program. Then on page 3.2 or 3-2, the first paragraph at the top of the page illustrates the significance of the Compliance Review program to impacting crash rates for carriers both large and small. And I think what you'll come away from...if you look at that data there, the CR program has the most significance or impact on smaller carriers, proportionately having more

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positive impact on the reduction of the crashes by those smaller carriers as opposed to the larger carriers. And then finally on page 3-3, that graph illustrates the crash rates for Nebraska, both pre- and postcompliance review, and what it illustrates is the impact of crash fatalities on commercial motor vehicle drivers. We are having a reduction in fatalities because of that program. I want to thank you for your consideration, and I'd be happy to address any questions you may have. [LB191]

SENATOR PIRSCH: Thank you very much. Are there any questions then for Superintendent Tuma? Okay, well, seeing none then, we will move to...are there any individuals here to testify in opposition to this other than these two gentlemen? Any individuals here to testify in the neutral capacity. Okay, I would just ask Senator Fulton if you'd want to close. [LB191]

SENATOR FULTON: Thank you, again, Mr. Vice Chairman and members of the committee. Just as a reminder, I am...frankly, I am pleased to actually have some attention on this one this year. The opposition hopefully will sharpen this bill, and if it's the intention of the committee to move forward with the bill, then I would be glad to work, and I actually have some suggestions now which would...which might entice the committee. As a reminder, this bill doesn't say that a small business shouldn't comply nor does it grant permission to a small business to flaunt legitimate regulatory authority of government. What the bill says is that a state agency or political subdivision shall not impose a fine or penalty on a small business. So let's consider what happens today. We have a small business who doesn't comply with an information request to government. That government entity seemingly or ostensibly would say, you must comply with a letter or a call or what have you. That wouldn't change under this bill. Those...the mechanisms that are in place now if a small business doesn't comply won't go away with this bill. So just to bear that in mind. We're talking about the fee or the penalty that's ascribed to not complying once. Now we have had the chance to review the Ohio statute and the differences; there are a couple of differences which might be useful for the committee to consider as amendatory language. If the violation has the potential to cause serious harm to the public interest, as determined by a state agency or a regulatory authority director--that was an exemption in the Ohio bill that passed fairly...more overwhelmingly. And I think that would address the potentiality that exists with example one of the first opposing testimony. Colonel Tuma's testimony, the second example; there is language in Ohio that said the violation...that would exempt a violation which presents a direct danger to the public health or safety, results in a financial loss of an employee, or presents the risk of severe environmental harm. So these are exceptions that existed in Ohio, and so I'm hopeful that the intent behind this bill--and that is to show an appreciation on the part of the state for what small businesses do--could be moved forward. And if there are any excepting...if there are any exceptions that need to be provided for within the bill, I think we can look at other states that have already put these types of bills forward. So if it pleases the committee, I'd be willing to work collaboratively to that end. And with that, I'll close. If there are any questions, I can

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try to answer. [LB191]

SENATOR PIRSCH: (Exhibit 6) Very good. Any final questions? I will, before we adjourn here today, read into the record a letter that's been sent by Robert Hallstrom on behalf of the NFIB, Federation of Independent Business, and we'll have that read into the record in support of LB191. (See also Exhibit 7.) So thank you very much for coming down here today all, and we stand adjourned. [LB191]

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Disposition of Bills:

LB86 - Held in committee.
LB191 - Held in committee.
LB227 - Indefinitely postponed.
LB295 - Held in committee.

Chairperson

Committee Clerk