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Government, Military and Veterans Affairs Committee
January 20, 2010

[LB721 LB722 LB753 LB791]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, January 20, 2010, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB753, LB791, LB721, and LB722. Senators present: Bill Avery, Chairperson; Scott Price, Vice Chairperson; Robert Giese; Charlie Janssen; Russ Karpisek; Bob Krist; Rich Pahls; and Kate Sullivan. Senators absent: None. []

SENATOR AVERY: Good afternoon. Welcome to the first meeting of the Government, Military and Veterans Affairs Committee of this session. This is the 20th day of the second session of the 101st Legislature. Before we get started, a few introductions and some housekeeping duties. I will first introduce the members of the committee, starting with my right: That's Senator Pahls, who comes to us from Omaha or Millard--Millard I think it is, right? Senator Charlie Janssen from Fremont; and soon to join us is Senator Robert Giese from South Sioux City; our new Vice Chair, Senator Scott Price from Bellevue; our committee counsel, Christy Abraham, to my right; I am Bill Avery, Chair of the committee; and soon to join us will be Senator Karpisek from Wilber; and next to him is Senator Kate Sullivan from Cedar Rapids; and our newest member of the committee, Senator Bob Krist of Omaha; and he is seated next to Sherry Shaffer, the committee clerk. We are going to take up four bills today. The agenda is posted outside the room. The first one will be LB753, followed by LB791, LB721, and LB722, in that order. Before we proceed, let me explain a few things. I want, first of all, all cell phones turned off or placed on vibrate so that we don't get distracted. And the sign-in sheets--if you're going to testify, the sign-in sheet that you need is this, and they're available at each door. If you're going to testify, please fill this out, sign it, and when you appear before us give a copy of it to the clerk. Print your name very clearly. And before testifying we want you to state your name clearly and spell it for the record. The introducers will make initial statements, followed by proponents and then opponents and those who testify in a neutral capacity. Closing remarks are reserved for the introducer only. If you are here in support of or in opposition to a bill and you do not wish to testify, you can record your presence and your position on this sheet. And those, too, are available at each door. The only thing that I would ask you to do is to keep your remarks brief. We're not using the light system today. And it is my practice not to use the light system unless we absolutely have to. Coming from an academic background, I value debate and like to give Larry Bare and other people here plenty of time to say what they want to say, including my good friend Mark Christensen, who is now here and prepared to introduce to us LB753. Senator Christensen. []

SENATOR CHRISTENSEN: (Exhibits 1 and 2) Thank you, Mr. Chairman and members of Government, Military and Veterans Affairs Committee. I'm Senator Mark Christensen, M-a-r-k C-h-r-i-s-t-e-n-s-e-n. I represent the 44th Legislative District. I'm here today to introduce LB753. LB753 would amend Section 81-2001 to increase the current

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requirements for eligibility for Superintendent of Law Enforcement and Public Safety of the Nebraska State Patrol. Currently Nebraska law requires four years of law enforcement experience to be eligible for appointment by the Governor to the position of Superintendent of Law Enforcement and Public Safety. LB753 would raise the requirements to (1) a bachelor's degree from an accredited college or university, (2) at least 15 years of law enforcement experience, (3) at least five years of management experience in law enforcement, and (4) a certificate of successful completion of command officer training offered by a nationally recognized program. Nebraska State Patrol duties, responsibilities, budgets, and personnel have increased greatly since the current requirement was put in place many years ago. These new requirements would more closely align with current national standard trends for similar positions and reflect the necessary experience needed to manage the growing responsibilities of the Nebraska State Patrol. I believe most of you have received these packets prior to this hearing, but I would like to hand them out again, which you should have. One gives some relevant information showing the increase in the size and scope of duties and responsibilities in the Nebraska State Patrol. And the second shows the current policy regarding the promotional progress in our State Patrol. If you look on the second page of the second handout, you will see under "Eligibility Standards," numbers one and two, that the first promotion to the rank of sergeant can only be reached, at the earliest, after six years. The rank of sergeant is not even an administrative position. You would have to serve at least another two years to obtain the rank of lieutenant, the first rank with administrative duties. This is a total of eight years. But our current standard for the Superintendent position is only four years' experience. I believe that sends a mixed message. The testifier following me was with the Patrol for 29 years and will provide you with some expertise that I would not be able to give you. However, I will try to answer any of your questions you may have, and thank you for your consideration of LB753. [LB753]

SENATOR AVERY: Thank you, Senator Christensen. Any questions from the committee? Senator Krist. [LB753]

SENATOR KRIST: How does your bill match up with the current qualifications of the present Superintendent? [LB753]

SENATOR CHRISTENSEN: The current Superintendent would exceed what we have in place right now. [LB753]

SENATOR KRIST: Has the minimum established in the bill? [LB753]

SENATOR CHRISTENSEN: Yes. [LB753]

SENATOR KRIST: Thank you. [LB753]

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SENATOR AVERY: Any other questions? Seeing none, thank you. Are you going to stay for closing? [LB753]

SENATOR CHRISTENSEN: Yes. [LB753]

SENATOR AVERY: We will now hear from proponents of LB753. [LB753]

DARRELL FISHER: Chairman Avery, members of the Government, Military and Veterans Affairs Committee, my name is Darrell Fisher; that's D-a-r-r-e-l-l F-i-s-h-e-r, and I am here today in support of LB753. Having spent over 29 years in the Nebraska State Patrol--the last three-plus years in the office of the Superintendent--I can testify from firsthand knowledge how essential these requirements are to the successful tenure of any Superintendent. During my years in the State Patrol, I personally witnessed an increase in the duties and responsibilities of the Superintendent and expansion of at least five new divisions, to include carrier enforcement in 1985, alcohol/tobacco enforcement in 1986, sex offender registry in 1998, Internet crimes against children in 2000, and Capitol security in 2004. There are numerous other technical support functions that have been added or expanded, such as SWAT, hazardous device technicians or bomb techs, canine, to name just a few--all high-liability, high-risk positions. In addition, manpower has increased by more than 100 employees in a ten-year period alone, from 1996 to 2006. The Patrol's general fund budget has increased from just under \$15 million in 1981 to over \$57 million in fiscal year '09-10--a difference of over \$42 million. All totaled, with grants, the Patrol's annual operating budget for fiscal year '08-09 was slightly more than \$82 million. With the legal and fiscal responsibilities of the Superintendent of the State Patrol, it is only logical that the requirements for that person's selection be examined. Nebraska Revised Statute 81-2001 establishes the requirements for the Nebraska State Patrol Superintendent. It says, in essence: The chief officer of the Nebraska State Patrol shall be Superintendent of Law Enforcement and Public Safety, who shall have had at least four years of experience as a law enforcement officer prior to his or her appointment. Four years--for the superintendent of an agency of nearly 750 sworn and civilian staff and an annual operating budget of over \$80 million. The last revision to this statute was 1981, and four years of experience is currently the only requirement. Sworn officers of the Nebraska State Patrol cannot even make sergeant with less than six years of experience on the Patrol, yet we ask for less experience from the Superintendent. In addition, the Patrol currently gives bonus points for entry-level trooper positions if the candidate has college credit hours up to and including a four-year degree, yet we require no college degree for the Superintendent. I firmly believe, having worked in the Superintendent's office for over three years, that this position necessitates, at a minimum, the requirements that are spelled out by LB753. In preparation for this legislation, I researched the surrounding states' requirements for the selection of their highway patrol, state patrol, or state police chief or superintendent. The documentation for this research was supplied to most of you before this hearing. At least half of those states have selection

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requirements which meet or exceed Nebraska's. If one were wishing a job for a chief of any primary or first-class city in Nebraska or anywhere else in the country, these minimum requirements outlined above would almost certainly be listed on the job posting. I would direct your attention to the Web site for the International Association of Chiefs of Police, and you can click on the jobs page. One look at any of the qualifications for those positions listed will validate this proposal. In addition, this proposed legislation has no fiscal impact. There is no appropriation or expenditure of funds required. It will not increase salaries for the Superintendent, as the current pay range for the Superintendent is clearly commensurate with the above requirements. If we can set some of these minimum standards and subsequently professionalize the head of our state law enforcement agency at no cost, why would we not choose to do this? The qualifications requested in this legislation are not only reasonable, logical, and commensurate with other states and cities of comparable size and responsibilities, but they help to ensure the person ultimately selected for this position has the necessary knowledge, skills, abilities, and experience to ensure success in that position. I greatly appreciate your time and consideration, and I would be very glad to answer your questions on this matter. Thank you. [LB753]

SENATOR AVERY: Thank you, Mr. Fisher. Any questions from the committee? Senator Janssen. [LB753]

SENATOR JANSSEN: Thank you, Chairman Avery. Mr. Fisher, thank you for your testimony. Is it...I just want to be clear--are you saying that you think the Superintendent should have more law enforcement experience or more administrative experience? Does one outweigh the other, in your opinion, for this position? [LB753]

DARRELL FISHER: No. I would say that they need an equal amount of both. [LB753]

SENATOR JANSSEN: So if somebody were--had no background--although that couldn't be the case--but had no background in law enforcement but was a top administrator, to run a budget like you just mentioned, would that work for you? Would that be something you'd be agreeable to? [LB753]

DARRELL FISHER: There are certain requirements, as far as titles and rules and regulations, that require that position, I believe, to be a sworn law enforcement officer. [LB753]

SENATOR JANSSEN: Yeah, there is. There is currently. [LB753]

DARRELL FISHER: And so if that's the case, they would need to meet those requirements to be a sworn law enforcement officer, which would require training and experience. [LB753]

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SENATOR JANSSEN: In your opinion, do you think this is sometimes a political issue, politicized a little bit? [LB753]

DARRELL FISHER: I think it can be; it has been in the past. I don't believe it is currently, no. [LB753]

SENATOR JANSSEN: And that's not any motivation that you have toward pushing for this type of a change? [LB753]

DARRELL FISHER: No, sir. [LB753]

SENATOR JANSSEN: Okay. Thank you. Thank you, Chairman. [LB753]

SENATOR AVERY: Anyone else? Senator Karpisek. [LB753]

SENATOR KARPISEK: Thank you, Senator Avery. Mr. Fisher, thank you. [LB753]

DARRELL FISHER: Sure. [LB753]

SENATOR KARPISEK: Do you think that this narrows our pool considerably? Will we still be able to find more than just one person that would qualify for the job? [LB753]

DARRELL FISHER: Oh, most certainly. Does it narrow the selection? Yes, it does. But ultimately when you're selecting any position, whether it be in the private sector or in government, aren't we looking for the most qualified personnel? Our job in human resources is to vet those applications and--so that we have the best-qualified or the most-qualified people for that job. This bill will only ensure that. [LB753]

SENATOR KARPISEK: Thank you. Thank you, Senator. [LB753]

SENATOR AVERY: Senator Price. [LB753]

SENATOR PRICE: Thank you very much, Mr. Chairman. Sir, I (inaudible) real quickly there. Is there any caveat in here that you see where it would have to be a member of the Nebraska State Patrol? [LB753]

DARRELL FISHER: No. [LB753]

SENATOR PRICE: So any patrolman across the country? [LB753]

DARRELL FISHER: Yes. [LB753]

SENATOR PRICE: Okay. Thank you. [LB753]

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DARRELL FISHER: We've had Superintendents in the past from outside the Patrol. Both did an excellent job. [LB753]

SENATOR AVERY: Any other questions? Seeing none, thank you for your testimony. [LB753]

DARRELL FISHER: Thank you. [LB753]

SENATOR AVERY: Any other proponents? Before...come on up. Before I proceed further, I need to introduce our two pages. I overlooked that. Lisa Cook from Omaha and Mark Woodbury from Oswego, Illinois; I think that's 40 miles west of Chicago. If you have any material that you would like to have distributed, the pages will do that, but we'd like for you to first give that to the clerk. Thank you. Proceed. [LB753]

JAMES PARISH: Thank you. Chairman Avery, members of the Government, Military and Veterans Affairs Committee, thank you for allowing me to take a few minutes of your time to present my views on LB753. My name is James Parish, J-a-m-e-s P-a-r-i-s-h, and I am in support of LB753. I am speaking today as a citizen with a strong interest in public safety. Although I am employed by the Nebraska State Patrol, my testimony reflects only my views and that of some of my colleagues, not the official views of the Patrol. I would echo Mr. Fisher's comments. I have spent my entire career with the Nebraska State Patrol, having been sworn in on April 29, 1977, in this very building. I currently hold the rank of captain and serve as the troop commander for the Patrol's Troop D region in west-central part of the state. While in basic training, we studied the statute which created and provided the legal jurisdiction for the Patrol. At that time, the requirements for Superintendent were four prior years of law enforcement experience. I would imagine that that language was adopted in 1937, when the Patrol was established, or very shortly thereafter. I am sure when the original language was written, the requirement of four years of previous experience was adequate. That no longer holds true. In addition to the growth of divisions and budget, which you have previously heard, in 1989 the Patrol became a nationally accredited police agency. With accreditation come strict standards for a variety of police functions that could not have been foreseen in 1937 or 1977. Programs which address such topics as sex offender registry, concealed-carry, racial profiling, homeland security, and a host of human resource issues have elevated the need for a trained, educated, and experienced leader to direct the Patrol. In addition, the demands and expectations of citizens of this state have changed. There is a much higher expectation for a quick and proper response to a variety of requests. In the past 30 years, demands on the Patrol have significantly changed. While the responsibilities, expectations, and budgets have grown exponentially, the requirements for the agency director have not. While in basic training, I found it amazing that several candidates were eligible to be the agency director but none possessed the prerequisite qualifications to be a first-line supervisor of a small

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traffic unit. None were eligible to be sergeants, lieutenants, or higher, but they possessed all the necessary prerequisites to be Superintendent. There is no fiscal impact with this bill. Our current Superintendent possesses these credentials, as do all the members of his immediate command staff. Most of the captains meet these standards, as do most all of the agency's lieutenants. We all work for less money than we are currently paying the Superintendent. In addition, in my opinion, the standards proposed by this legislation are neither rare nor unreasonable. They are standards that many first-class cities in Nebraska demand. Many officers across the state and nation possess these prerequisites. No standards can guarantee that there would not be fiscal mismanagement or malfeasance. But with the prerequisites enumerated in the proposed legislation, the odds are significantly diminished that there would be either mismanagement or a leadership failure. I appreciate you taking your time to consider this bill and to look at the issues behind it. This legislation will benefit the citizens of this state by setting standards for trained and competent leadership of their state police force without any additional cost or need for funding. Thank you, and I would welcome any questions you might have. [LB753]

SENATOR AVERY: Thank you, Mr. Parish. Any questions from the committee? Senator Janssen. [LB753]

SENATOR JANSSEN: Thank you, Chairman Avery. Mr. Parish, thank you for your testimony. You kind of mentioned this would ensure that we have a trained and competent Superintendent. Have you seen anything in the past with our current--well, currently what we require, current requirements, that have led you to believe that were untrained and noncompetent? [LB753]

JAMES PARISH: We've had a variety of...most of the people have possessed those prerequisites. There have been some issues in the past, I think, where the Patrol could have done a little bit better. That is not the case now, and we would like to not see that happen again. [LB753]

SENATOR JANSSEN: What are some of the cases where they could have done better, where there was some incompetence? [LB753]

JAMES PARISH: Well, probably, there were no educational requirements whatsoever in dealing with budgets or personnel. There was no--there are no demands for experience in management or leadership categories, which has led to issues with human resource problems. [LB753]

SENATOR JANSSEN: What type of issues? I mean, I hear your telling me what we don't have... [LB753]

JAMES PARISH: Right. [LB753]

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SENATOR JANSSEN: ...but I haven't heard a specific example of where the...because you said this would--if we don't pass this bill we would lend ourselves to what you would say is incompetent Superintendents and untrained and, you know, like, when you say there's issues with human resources, I guess for the committee's sake, we'd like to know exactly what those issues are, because we're going to be asked... [LB753]

JAMES PARISH: Sure. [LB753]

SENATOR JANSSEN: ...to go in front of our entire body with a bill... [LB753]

JAMES PARISH: Right. [LB753]

SENATOR JANSSEN: ...and it needs to be prepared. And we need examples further than just: lack of education has led to budgetary problems. Where at in the budget did it lead to problems that you saw the incompetence? [LB753]

JAMES PARISH: Right. The...in terms of human resource, we deal with a very diverse work force. And without some experience in dealing in those diverse issues, what we've had in the past has led to some civil action in terms of promotional processes that were not clearly defined or outlined. And later on we found that to be problematic. In terms of terminations of employees, there have been issues with that in the past as well, where it has led to lengthy and protracted legal issues because they weren't handled correctly. Some cases in point dealt with a trooper who was accused of spousal abuse, and we didn't seem to handle that very well. That's been a number of years ago. Those kinds of issues come up from time to time when you have a work force of 750 young people. And without somebody who understands processes and has some experience to deal with those processes, it sometimes leads to--or has the potential to...and it did in the case...in particular, Trooper Steve Hauser was a case that maybe many in this room are familiar with that were quite troublesome in the way that whole situation was handled, in my opinion. [LB753]

SENATOR JANSSEN: Thank you. [LB753]

JAMES PARISH: Thank you. [LB753]

SENATOR AVERY: Senator Krist. [LB753]

SENATOR KRIST: Captain, thank you for your service and for your testimony. I hear you saying that you're very happy with this leadership and with probably most of leadership in the past few Superintendents but that you want a guarantee that the level of competence is there and that you think these standards are going to make sure that that's in force. Is that correct? [LB753]

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JAMES PARISH: That is correct. Our current leader--our current Superintendent, Bryan Tuma, exceeds all of these standards, a well-qualified individual, knows exactly what he's doing. And we haven't had the kinds of problems that we had faced with his predecessor. Also, if you look back over time, most of the Superintendents that we had, had extensive experience in management positions and leadership. There may have been some that lacked the educational requirements, but I would submit that, out of the last four or five at least, that there was maybe only one that lacked even the educational requirement. [LB753]

SENATOR KRIST: And a follow-up to Senator Price and Senator Karpisek's questions. Understanding that this person could be most qualified and be applying from outside our system, can you give me a rough number of what, in terms of the number of people that you think are inside the system, that are qualified to apply should the Superintendent decide to move on? [LB753]

JAMES PARISH: I'm--I would say it's some over 50... [LB753]

SENATOR KRIST: Okay. [LB753]

JAMES PARISH: ...maybe higher than that. I didn't poll how many. I command--I have...of the people that I directly supervise, there are four out of five people who possess those prerequisites. And I think that's fairly standard statewide. Many people, and as I did, too, finished a degree after I became a member of the Patrol, after I went to work. And I think we have a lot of young people that do that. So as they work their way through the process in different, various assignments, they pick up these requisites as they go, inside the system. [LB753]

SENATOR KRIST: I don't want to put words in your mouth, but would you, then, say that we're not handicapping ourselves in terms of future application to the process, and by implementing these criteria we can guarantee the standard that you as a professional would like to see? [LB753]

JAMES PARISH: I believe that's true, yes. I don't see any shortage of people with these prerequisite qualifications. In fact, of the...prior to Superintendent Tuma, Superintendent Nesbitt, prior to that was a gentleman by the name of Ron Tussing. Ron would have met all of these prerequisite qualifications, too, and he came from outside. He was not a member of the Patrol, but his experience, training, and education would have met these. I believe probably, back some ways, Bob Tagg, who was also from outside, probably would have met these. I'm sure he had the educational component and would have had the experience. And he was a former member of the FBI, and one of the schools that's nationally recognized is the FBI National Academy. So I would assume that that also would not have...both of those gentlemen, I think, were very successful. They came

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from outside. And Darrell Fisher mentioned that he thought they had been successful, and I would concur, that I think they both ran a good ship. And I think the citizens were well served under their leadership. [LB753]

SENATOR KRIST: Thank you, Captain. Thank you, Mr. Chairman. [LB753]

SENATOR AVERY: Any other questions? Seeing none, thank you very much for your testimony, Mr. Parish. Any other proponents? Anyone wish to speak in opposition to LB753? I have already been warned that you were coming. (Laugh) [LB753]

LARRY BARE: Senator Avery, members of the Government, Military and Veterans Affairs Committee, for the purpose of the record, my name is Larry Bare, L-a-r-r-y B-a-r-e. I'm Governor Heineman's chief of staff. I'm here today to testify in opposition to LB753. Our opposition comes from a general opposition to infringements on the Governor's appointment authority. The constitution gives the Governor the authority to appoint, gives the Legislature the authority to confirm or choose not to confirm. And so I would argue that, particularly as it relates to agency directors, the Governor's ability to appoint people who are going to be in his cabinet, the key leaders of his organization, who are going to make him successful or unsuccessful in what he's doing, that he ought to have the maximum flexibility to make those choices. That's why he ran for Governor or she ran for Governor. And I've served every Governor, either directly or indirectly, for the last seven, and I think they would all echo that same opinion. One of the most important jobs that they have is the people that they pick, present company excluded. So I can understand, as an example, with boards and commissions the Legislature's desire to have certain groups represented and a certain number of groups represented and certain requirements and restrictions and even numbers of Republicans and Democrats and 3rd District, 1st District, 2nd District, and all those kinds of things. And in making those appointments, we deal with those, and we balance those issues out. But I would argue that as it relates to the members of his cabinet, the Governor should not be restricted in his ability to pick the person that he or she wants any more than currently exists. And I have the greatest respect for the two people who spoke before me; I've known them both. I have the greatest respect for the organization. I count on those people daily. They do a great job. Colonel Tuma is a great leader, happened to be appointed by the current Governor. But I argue that we need the flexibility to appoint people. I would read one other...this is in the statutes: "a person well equipped to analyze problems of law, administration, and public policy." Those are the requirements that you've placed on yourselves for your own Ombudsman. And I would argue that those kinds of requirements are what should be applied in this case. It is true that the Patrol, with its rank structure, has certain steps and stages that you go through. You're not going to have anybody appointed as the head of the State Patrol with four years of law enforcement experience, by any Governor. But I would argue that leaving those decisions to the Governor, you obviously have the opportunity to confirm or not confirm his or her appointment...is the best way to proceed. So with that, I'd be happy to answer

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any questions you might have. [LB753]

SENATOR AVERY: Thank you. If I may exercise my privilege as Chair of the committee, I'll ask the first question. [LB753]

LARRY BARE: Sure. [LB753]

SENATOR AVERY: Is it fair to say that, your testimony notwithstanding, that these four requirements you would not find unreasonable? [LB753]

LARRY BARE: I think somebody who had these qualifications would fare better in the transition process when a new Governor comes in, in selecting somebody to name as his designee. I have no problem with the requirements; I have a problem with the requirements being placed in law. I think Governors need to have the ability to make those choices and be judged on the choices that they make and particularly for cabinet-level positions. That is his cabinet; that is his group or her group who are going to decide the success or failure, in many ways, of his or her administration. [LB753]

SENATOR AVERY: Did I see you stirring over there, Senator Pahls? No? Senator Price. [LB753]

SENATOR PRICE: Yes, sir. Mr. Bare, a quick question. Of the other cabinet positions, are there any education requirements? [LB753]

LARRY BARE: Probably the most stringent one would be the director of the Department of Administrative Services. That's kind of a strange one. I think you have to be 30 years of age. I don't think there's any other age requirements other than a couple of constitutional requirements. Your legal counsel and I were chatting about that earlier today. There are some others which...there used to be one where the advisory committee to the agency had to make the recommendation to the Governor of the person that they could appoint. That didn't work very well at all. That's how I first became an acting director. (Laugh) [LB753]

SENATOR PRICE: Thank you. [LB753]

SENATOR AVERY: Any other questions? Seeing none, thank you. [LB753]

LARRY BARE: Thank you, Senators. [LB753]

SENATOR AVERY: Any other opponents? Anyone wish to testify in a neutral capacity? Senator Christensen, you may close. [LB753]

SENATOR CHRISTENSEN: Thank you Chairman, fellow senators. You know, I think

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that by raising these standards also incentivizes our State Patrol people to better themselves--which better our State Patrol--in their objective to, hopefully, move up. As, if you can see the goal that you have to achieve, then you're going to set yourself up to go after it. And that's why I think having some standards out there is a very good thing. You know, I think even with these standards in this bill, we would have ample number of people to select from. At the same time, as I said, I think we'd be encouraging others to take the training to be able to move up. You know, and then I look at the requirements we have for people. You know, to be Governor takes a vote of the people. You know, for the office of state legislator or state senator takes a vote of the people. I realize the Governor has the vote of the people, that's making this appointment, but I think the State Patrol represents the safety to the people. And that's why it's important to have that standard set in place, so we know we have the best people there protecting the people of the state of Nebraska. Thank you. [LB753]

SENATOR AVERY: Thank you, Senator Christensen. I think everybody has gotten their questions in. Thank you for your testimony. [LB753]

SENATOR CHRISTENSEN: Thank you. [LB753]

SENATOR AVERY: That ends the hearing on LB753. I see that Senator Pirsch has arrived, and we will now move to LB791. Welcome, Senator Pirsch. [LB753]

SENATOR PIRSCH: Welcome, Chairman Avery... [LB791]

SENATOR SULLIVAN: Welcome back. [LB791]

SENATOR AVERY: Yeah. [LB791]

SENATOR PIRSCH: ...and colleagues. [LB791]

SENATOR PIRSCH: I am state Senator Pete Pirsch, P-i-r-s-c-h, representing Legislative District 4 and the sponsor of LB791. This is a bill that had been brought to me by the Secretary of State's office. As we all know, the Secretary of State has a wide variety of duties. One of those duties is handling corporation and business entity filings in accordance with the Business Corporation Act. Currently the Business Corporation Act does not provide for delivery of such filings by electronic transmission. Most of the other business entity acts are silent on the issue of electronic transmission and electronic filing. LB791 was introduced to address the issue. The purpose of LB791 is to provide for electronic transmission and electronic filing of corporate documents filed with the Secretary of State and to authorize the Secretary of State to enact rules and regulations to implement electronic transmission and electronic filing of corporate documents. Please do note that LB791 is limited to corporation and business entity filings handled by the Secretary of State. And I think we agree that if the Internet and

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computers are not just a fad and going away, and if we agree that there is time savings and cost savings that can come with making previously paper-bound duties electronic, it's probably in the state's best interest to pursue those with vigor. So thank you. [LB791]

SENATOR AVERY: Thank you, Senator Pirsch. Any questions from the committee? Senator Pahls. [LB791]

SENATOR PAHLS: Yes. Senator Pirsch, I'm looking this over and, although I sit on the referencing committee, this seems like this should be in front of Banking instead of Government. (Laughter) I know that's not your issue; I just... [LB791]

SENATOR PIRSCH: Yeah. Yeah. [LB791]

SENATOR AVERY: Just got past you, huh? [LB791]

SENATOR PIRSCH: I guess you might want to pose that to somebody who's on the Executive Board. But I do appreciate... [LB791]

SENATOR AVERY: Any questions? That wasn't really a question, was it? (Laugh) Senator--not...Senator Price. You're in Pirsch's seat. (Laugh) [LB791]

SENATOR PRICE: I thought I was in my seat; thank you very much. Thank you very much, Mr. Chairman. (Laughter) Senator Pirsch, one of the things that has been brought up by our committee staff here talks about there being a provision in the Business Corporation Act which prohibits the use of electronic transmission and filing of documents. I suspect you'd want to see that amended to be removed. [LB791]

SENATOR PIRSCH: Yeah, and I'm going to allow for the...there'll be someone who testifies here after me and can better address that than I. But, yeah, any conflicting language--and, to be quite honest, I'd need to take a specific look at that. But, yeah, any language that would be in contradiction of the idea here that is present in LB791 would have to be changed then. [LB791]

SENATOR PRICE: And you wouldn't see this allows for electronic filing but wouldn't necessitate the removal of the ability to file via paper or in person, correct? This is in addition to. [LB791]

SENATOR PIRSCH: Yeah, and, you know, I fail to see...I mean, if there is some odd circumstance where the Secretary of State would think that paper is necessitated, then my understanding is this bill would allow for it. [LB791]

SENATOR PRICE: Thank you. [LB791]

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SENATOR AVERY: Anyone else? Senator Krist. [LB791]

SENATOR KRIST: Thank you. Senator Pirsch, when...is there any cost? I mean, is the software already in place for this...I'm looking at the revenue, and it looks like there's no fiscal note on it. [LB791]

SENATOR PIRSCH: Yeah, and that's my understanding, is there would--there's no fiscal note. There's no cost in passing this bill, is my understanding. So again, for more of a thorough analysis, I'd invite you to, you know, to direct your specific questions to the Secretary of State... [LB791]

SENATOR KRIST: Secretary's office. Okay. Thank you. [LB791]

SENATOR PIRSCH: ...yeah, who to my understanding will be testifying here shortly. [LB791]

SENATOR AVERY: Anyone else? Thank you, Senator Pirsch. [LB791]

SENATOR PIRSCH: Sure. [LB791]

SENATOR AVERY: Are you going to stay for closing? [LB791]

SENATOR PIRSCH: You know, I have a--I'm in the midst of a Revenue Committee meeting... [LB791]

SENATOR AVERY: So you'll waive? [LB791]

SENATOR PIRSCH: ...so I will waive... [LB791]

SENATOR AVERY: Okay. Thank you. [LB791]

SENATOR PIRSCH: ...my closing remarks. Thank you. [LB791]

SENATOR AVERY: Anyone wish to testify in support of this bill? Welcome. [LB791]

COLLEEN BYELICK: (Exhibit 1) Welcome. Thank you. Chairperson Avery, members of the Government, Military and Veterans Affairs Committee, my name is Colleen Byelick; it's C-o-l-l-e-e-n B-y-e-l-i-c-k. I am the associate general counsel with the Secretary of State's office; and on behalf of Secretary of State John Gale, we'd like to thank Senator Pirsch for introducing and sponsoring LB791. As stated by Senator Pirsch, this provides for the electronic transmission and electronic filing of documents delivered to the Secretary of State for filing pursuant to the various corporate and business entity laws. So this would include documents such as articles of incorporation and organization,

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amendments to articles, changes to registered agent and registered office, and things such as trade name and trademark applications. As previously stated, the Business Corp. Act does not provide for delivery of filings by electronic transmission, and most of the other business entity acts are just silent on the issue altogether. The purpose of this bill is to make it clear that we can accept electronic filings and also allow us to provide guidance on acceptable forms through rules and regulations. We believe that this bill would be of great help to our filers by allowing electronic access across the board to filings. And we think this would greatly enhance the services we provide to the business and legal community. So we would urge that the committee advance LB791. [LB791]

SENATOR AVERY: Thank you. Senator Krist. [LB791]

SENATOR KRIST: Is this the right place to ask the questions? [LB791]

COLLEEN BYELICK: Yes, sure. Ask away. [LB791]

SENATOR KRIST: Okay. Thank you. If I look at your Web site right now, can I electronically file right now? [LB791]

COLLEEN BYELICK: You can electronically file a lot of UCC documents currently. And last year we started electronic filing of biennial reports for limited liability companies. And then this year we've started electronic filing of occupational tax reports for corporations. So we've started on a very limited basis on the corporate end of things, but we have been doing this on the UCC end of things for a while. [LB791]

SENATOR KRIST: So the software is there for you to tweak to be able to do this now? [LB791]

COLLEEN BYELICK: Right. We currently use Nebraska Interactive or nebraska.gov as our service provider, and then they communicate with our document management system to allow for the filings. So we kind of currently have the systems in place to do this sort of thing. And what we've done on the filings, the corporate filings, that we're currently doing--the biennial report and occupation tax report--is there's a user--an additional user fee that kind of facilitates some of the development of these things. And that's approved by the State Records Board. [LB791]

SENATOR KRIST: And there's no cost to that. It's an internal change? [LB791]

COLLEEN BYELICK: Well, the way that Nebraska Interactive is able to develop these things is through that portal fee. They get a percentage of that portal fee, and they develop these software and the applications to do this for us for free then. And they recoup their cost as filing comes in through that portal fee that's approved by the State Records Board. So that's currently how it's being done. [LB791]

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SENATOR KRIST: Thank you for that clarification. Thank you, Chairman. [LB791]

SENATOR AVERY: Senator Sullivan. [LB791]

SENATOR SULLIVAN: Thank you, Senator Avery. Just want to clarify--am I assuming correctly that if this were to take place, the documents still could be filed the traditional way, through snail mail? [LB791]

COLLEEN BYELICK: Yes. Yes, this is just an additional option. [LB791]

SENATOR SULLIVAN: Okay. [LB791]

COLLEEN BYELICK: This is really something that filers are asking. And specifically attorneys that, you know, file a lot of documents want to do this. [LB791]

SENATOR SULLIVAN: Um-hum. [LB791]

COLLEEN BYELICK: But we're not trying to take away paper by any means. [LB791]

SENATOR SULLIVAN: All right. [LB791]

SENATOR AVERY: Senator Giese. [LB791]

SENATOR GIESE: Thank you, Chairman Avery. Ms. Byelick, I'm really excited to see that the Secretary of State's office is on board and on the same page as the Governor. One of his key components as we go forward with our budget crisis is using technology to help us reduce costs. Will there be a cost savings with this, do you foresee? [LB791]

COLLEEN BYELICK: Eventually there might be. Initially, probably there won't be a cost savings on our end. There might be a cost savings for the users that are doing these filings. They won't have to mail them in; they won't have to hire a courier or use runners or that sort of thing to get the documents in. Eventually it depends on how much data entry is done by the user, because then that would eliminate data entry being done on our end. But we don't want to discourage electronic filing by making the user do too much. So there's kind of a balance there. So, you know, eventually, as things take off, then we may be able to decrease, you know, staff that's needed to do the data entry and that sort of thing. [LB791]

SENATOR GIESE: Well, thank you for being here and testifying, and thank you for working with Senator Pirsch on this issue. [LB791]

SENATOR AVERY: Senator Price. [LB791]

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SENATOR PRICE: Mr. Chairman, thank you. Ms. Byelick, I really like the idea that we're using technology moving forward; I really do. Just one quick, maybe obtuse, question. Taking the filings is one thing; taking the fees is something else. Are we going to be taking the fees electronically too? [LB791]

COLLEEN BYELICK: Right. Right. [LB791]

SENATOR PRICE: Like we're going to have a PayPal account or something like that that we're using? [LB791]

COLLEEN BYELICK: Right. I mean, currently what we do is you can either use, like, ACH, which would be an electronic check, or you can use your credit card to pay currently through the online filings that we have. [LB791]

SENATOR PRICE: All right. Great. Thank you. [LB791]

SENATOR AVERY: Any other questions? Seeing none, thank you for your testimony. [LB791]

COLLEEN BYELICK: Thank you. [LB791]

SENATOR AVERY: Anyone else wish to testify in support? [LB791]

BILL MUELLER: Mr. Chairman and members of the committee, my name is Bill Mueller, M-u-e-l-l-e-r. I appear here today on behalf of the Nebraska State Bar Association in support of LB791. When our bar committee looked at this last Friday, we voted to support it. Currently we see more and more electronic filing going on all the time. If you want to file a lawsuit in the federal court in Nebraska now, you have to file your lawsuit electronically. We are expanding electronic filing in the state courts. We have model programs going on in certain counties, and the plan of our Supreme Court is certainly to provide for electronic filing in each of our 93 counties. The bar does support the expansion of electronic filing, and we would support LB791. Be happy to answer any questions you may have. [LB791]

SENATOR AVERY: Thank you. Any questions? Senator Giese. [LB791]

SENATOR GIESE: Thank you, Chairman Avery. Mr. Mueller, so you would concur, then, that anything that we can do on-line would potentially be a cost saving for the state and court system and other entities? [LB791]

BILL MUELLER: I think that those entities certainly feel that way. I know that the courts feel that way. And what we hear from lawyers...and I was curious, because I wondered

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what a lawyer in Columbus would think about electronic filing--or Ogallala or somewhere else. And without exception on our committee, there was a lot of support for electronic filing, so I think that there certainly are cost savings to the individual, as the prior witness testified. If you're in Ogallala and you're going to incorporate someone, you have to either have it couriered, couried, to Lincoln or you have to mail it. I just think that in this day and age, people think about electronic transmission first; they really do. [LB791]

SENATOR GIESE: Thank you. [LB791]

BILL MUELLER: Thank you. [LB791]

SENATOR AVERY: Senator Pahls. [LB791]

SENATOR PAHLS: Since you're such a proponent of electronic transmission, do you think we ought to vote that way? [LB791]

BILL MUELLER: (Laughter) I don't have an opinion on that, Senator. I hadn't thought about it. And I had nothing to do with where this bill was referenced. [LB791]

SENATOR PAHLS: Thank you. [LB791]

BILL MUELLER: Thank you. [LB791]

SENATOR AVERY: Any more questions? Seeing none, thank you, Mr. Mueller. [LB791]

BILL MUELLER: Thank you. [LB791]

SENATOR AVERY: Anyone else wish to testify in support of LB791? Anyone wish to oppose LB791? Any neutral testimony? Seeing none, Senator Pirsch has left the building. (Laughter) So that will end the hearing on LB791. We'll now move to my bills, so I will turn the Chair over to the Vice Chair, Senator Scott Price. [LB791]

SENATOR JANSSEN: Can we use the lights now? [LB791]

SENATOR PRICE: Thank you, Chairman. Welcome, Senator Avery. Glad to see you here. And, no, we will not be using the lights at this time. Please go ahead with your introduction of LB721. [LB721]

SENATOR AVERY: Thank you, Senator Price. I am here to introduce LB721. My name is Bill Avery, spelled A-v-e-r-y. I represent District 28 in the Legislature. This bill is coming to you at the request of the Department of Administrative Services. It changes the qualifications of the State Building Administrator. With this bill, the administrator will

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be required to have a bachelor's degree or higher from a college or university or to have at least five years' experience in property management or building management. Additionally, the administrator is required by this bill to have at least four years' administrative experience in planning, design, or construction of major construction projects. Currently the administrator is required to have a bachelor's degree and four years' administrative experience. This bill would add...a little bit more flexibility would provide that the administrator may have at least five years' experience in property or building management instead of a college degree. The current interim Building Administrator does not have a college degree but does have five years of experience within the DAS Building Division and would therefore qualify. Some of the duties of the Building Administrator include maintenance of all state property, ground crew management, and managing architects. We do have someone here from DAS, who will follow me and could answer technical questions, should you have some. But I will try to answer any questions you might have of me. [LB721]

SENATOR PRICE: Are there any questions? Seeing none, will you be here to close? [LB721]

SENATOR AVERY: I may. [LB721]

SENATOR PRICE: Thank you, Senator. Please, proponents? [LB721]

LAURA PETERSON: Good afternoon, Senator Price, members of the Government, Military and Veterans Affairs Committee. My name is Laura Peterson, L-a-u-r-a P-e-t-e-r-s-o-n. I'm general counsel for the Department of Administrative Services, here in support of LB721, which was introduced at the request of the department. As you heard Senator Avery say, it does allow the substitution of five years of experience for the degree requirements or the degree as it's currently required. The department recently had a vacancy in this position and found that many people including several within the division had extensive relevant experience and may have been the most qualified candidates but lacked the degree required by the statute. The proposed change would allow flexibility in filling this position with the most qualified applicant, whether it is a degree or significant experience that makes the individual most qualified. I encourage you to advance the bill. This concludes my testimony, but I will answer any questions if you have them. [LB721]

SENATOR PRICE: Are there any questions from the committee? Yes, Senator Janssen. [LB721]

SENATOR JANSSEN: Thank you, Chairman Price. I guess I'm kind of thinking back to a couple of bills ago that we've heard this morning (sic). For one group we want to increase the qualifications. And now, I mean, honestly, we're decreasing a little bit to expand the pool. So I guess I'm just--I guess I'm--I don't even know if I had a question

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here; I'm just kind of putting that out there that something's got to give in there. I guess I'll save that for executive committee someday, but I just wanted to get that on the record. So thank you for your testimony. [LB721]

LAURA PETERSON: Okay. [LB721]

SENATOR PRICE: Any further questions? I just have one question. If we push this and it goes and becomes the law of the land, will the individual in the position now be removed because they don't meet the qualifications? [LB721]

LAURA PETERSON: Actually, the position is currently vacant. There's an acting individual who is filling that role while they determine exactly what they're going to do with that position. So it's not filled at the moment, but I don't think there's any intent to place anyone in or remove anyone from a job, related to this; I think it's just that it came to our attention. In this particular field there are a lot of people who come up through the ranks, so to speak, who may or may not have had an opportunity to obtain a degree but might be more than qualified for the position. [LB721]

SENATOR PRICE: Great--didn't want any unintended consequences. Senator Pahls. [LB721]

SENATOR PAHLS: Yes. I have a question. Would we decrease the pool significantly by taking away the college degree? [LB721]

LAURA PETERSON: Actually, we're leaving in the language that's currently there, so you could have a degree or you could substitute five years of experience for the degree. So I don't think you're decreasing the number of people in the pool, but... [LB721]

SENATOR PAHLS: Well, again, I have some--I value experience, because I think that's what really makes the world go around. But it seems to me, again, we're going backwards here. You're saying there are so many good candidates out there who do not have the college degree, but they have the experience. [LB721]

LAURA PETERSON: I think in this particular field of building maintenance and grounds crews and leasing, there are a number of qualified applicants who have learned on the job and who do not have a four-year degree. [LB721]

SENATOR PAHLS: Okay. [LB721]

SENATOR PRICE: Thank you. Yes, Senator Sullivan. [LB721]

SENATOR SULLIVAN: Thank you, Senator Price. Do you have any idea how many of these--I guess I'd call it job descriptions--are actually put in statute? [LB721]

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LAURA PETERSON: Each one of the division administrators for the Department of Administrative Services--and there are 11 or 12 divisions of Administrative Services--and each of the division administrators have some level of qualifications required in statute. Most do not have a degree requirement, unless it's a specialized degree. So, for example, the State Accountant, who's the head of the Accounting Division of Administrative Services, is required to be a CPA, because they do the financial statements for the state of Nebraska. But many of them--most of them, in fact--do not require a specific four-year degree. [LB721]

SENATOR SULLIVAN: And this position--the deciding person is the head of DAS, that makes this decision? Or who hires this person? [LB721]

LAURA PETERSON: The director of the Department of Administrative Services appoints this individual who's the head of Building Division, which is responsible for building, construction, contracts--they have a staff of architects, a staff of ground crews who mow the lawns and keep up properties that the maintenance folks who work on our properties and also who manage the leases of private property or our property that is leased or sold to others. [LB721]

SENATOR SULLIVAN: Thank you. [LB721]

SENATOR PRICE: Any further questions? Seeing none, thank you very much. [LB721]

LAURA PETERSON: Thank you. [LB721]

SENATOR PRICE: Are there any other proponents? No further proponents. Any opponents? Anybody in the neutral capacity? Seeing none, Senator Avery--Senator Avery waives closing. That closes our hearing on LB721, and we will move to LB722. Senator Avery is going to introduce this one also. Please, Senator Avery. [LB721]

SENATOR AVERY: Thank you, Senator Scott (sic). My name is Bill Avery, A-v-e-r-y. I represent District 28. I am here to introduce LB722, again at the request of the Department of Administrative Services. There are three provisions in LB722 relating to the Department of Administrative Services. The first would involve a change in insurance limits. This change would allow the Risk Manager to determine the amount of the blanket corporate surety bond for all state employees not specifically required to give bond. Currently the state is limited to an amount not to exceed \$1 million. This insurance policy is to protect the state from state employees who commit wrongful acts. The insurance company that provides coverage for the state is offering additional coverage at no additional cost. The state wants to be able to accept this offer, and this bill allows the state to accept the additional coverage. The second change proposed in LB722 deals with historical property. This would allow a state-owned building that is

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designated for sale by the Vacant Building and Excess Land Committee and listed on the National Register of Historic Places to be sold to a nonprofit community organization that intends to use the building for the purposes for which it was designed or intended. Under current law, state buildings that are to be sold must be sold in a particular order of priority: one, to a state agency or political subdivision of the state, persons who will use the building for middle-income or low-income rental housing for at least 15 years, or referrals from the Department of Economic Development. What would happen with this provision of LB722 is that the State Building Division can follow the current process or offer the building to a nonprofit organization if the building is listed on the National Register of Historic Places. The third change proposed in LB722 relates to state-owned vehicles. It would eliminate a reference to state vehicles acquired through the federal surplus property program. The federal government has repealed a rule that had been in place for some time that required vehicles to continue to be licensed with the federal government for a certain period after being purchased by the state or by any state. Since the federal government has repealed that rule, this provision of state law is no longer necessary, so we propose that it be eliminated. Again, there is a representative here from DAS to answer additional questions, but I, of course, will be happy to answer any as I can. Thank you. [LB722]

SENATOR PRICE: Questions from the committee? Yes, Senator Pahls. [LB722]

SENATOR PAHLS: Senator Avery, as I look at this bill, this almost looks like a Christmas tree bill. [LB722]

SENATOR AVERY: It is the kind of bill that we often compose in this committee and you do in your committee, where you have several bills that are proposed to you that are similar in nature that they can be packaged into one bill. And it reduces our workload and facilitates discussion and passage of the bill when it gets to the floor. [LB722]

SENATOR PAHLS: Thank you, Senator. [LB722]

SENATOR PRICE: Any further questions? Yes, Senator Sullivan. [LB722]

SENATOR SULLIVAN: Senator Avery, regarding the second component, does it have to be a building, or can it be a park? [LB722]

SENATOR AVERY: A historic park like Cooper Park over here? You know, I'm not sure I can answer that and be confident that I was correct. [LB722]

SENATOR SULLIVAN: Okay. [LB722]

SENATOR AVERY: But I do think it does deal with buildings, because they can build...well, I don't know. I'll defer that question to the DAS. [LB722]

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SENATOR SULLIVAN: Okay. [LB722]

SENATOR AVERY: It does refer to "excess land" as well. [LB722]

SENATOR SULLIVAN: Okay. [LB722]

SENATOR AVERY: So probably it includes both. [LB722]

SENATOR PRICE: All right. I have a couple questions for you, Senator Avery. On the first part, additional coverage at no additional cost--what a great deal. Almost seems too good to be true, so that makes me--it gives me cause for concern. And I tell you what, I'll let someone who follows you talk to that, but I wanted to get that out. And the second part is, on the part with the buildings, when you talk about a nonprofit intends to use it. That word "intend" could be played with: I intended to do it; I tried for three months to set it up, but it didn't fall through, so then I turned it into something else. You know what I mean? So my question is...I would entertain that we look at "intends" a little better, and we try to make that a tighter definition. Like, if you're a nonprofit and you're doing a certain thing, you have to do it...so that "intend" bothered me or gave rise to concern. And then what priority would the nonprofit fall, because the other ones seemed specific in priority? Do they go at the bottom of the priority list, because it seems silent on that. [LB722]

SENATOR AVERY: I don't know. I think that the current priority, of course, is a state agency or political subdivision of the state or someone who uses it for low-income housing. You'll have to ask the next testifier if there is a specific order. [LB722]

SENATOR PRICE: Fair enough. Thank you. Thank you, Senator Avery. The next thing we'll have is proponents. [LB722]

SENATOR AVERY: Thank you. [LB722]

LAURA PETERSON: Good afternoon, Senator Price, members of the committee. My name is Laura Peterson, L-a-u-r-a P-e-t-e-r-s-o-n. I'm general counsel for the Department of Administrative Services. I'm also the state Risk Manager. I'm here in support of LB722, which was introduced at the request of the department. In this bill, like others you've considered on behalf of Administrative Services recently, we're seeking an administrative flexibility and appropriate policies that provide for accountable government without compromising efficiency. We're seeking to accomplish several things, as you've already heard. First, Section 1 of the bill would authorize me as the state Risk Manager to purchase higher limits for employee dishonesty insurance coverage. We currently purchase employee dishonesty insurance coverage as part of a crime policy, which protects the state from theft by others; and then additionally we're

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protecting ourselves from theft by state employees or wrongdoing by state employees. Based on the amount of money in locations such as the Treasurer's office and the Department of Revenue at any given time, we purchase insurance limits for crime by others in excess of \$30 million per occurrence. The state's insurance company currently offers the state coverage for employee dishonesty at the same limits as the crime policy--because they're packaged together--for no additional premium. But we cannot receive the higher limits due to the limitation in statute that we're asking you to remove. We have never had an employee dishonesty claim that comes anywhere near the \$1 million limit in statute, and I do not anticipate any employee dishonesty claims in the higher amounts. However, it seems that the state is offered higher limits at no additional premium cost. We should take advantage of that extra protection. I would only purchase higher limits if they could be obtained with no additional premium. Section 2 of the bill amends the vacant building and excess land sale provisions when the property to be sold is on the National Register of Historic Places. In these cases of historic properties, the Building Division would be authorized to give priority to a not-for-profit community organization that will use the property for its original purposes, rather than to first give priority to political subdivisions and entities that would use the facilities for low-income housing. For example, if the state determined it wanted to sell a historical facility such as the Joslyn Castle, the Willa Cather House, or the Ferguson House, we could make the sale to the related organizations, such as the Joslyn Castle Trust or the Willa Cather Foundation, etcetera. It is our intent to preserve the historical and cultural significance of these state properties as best we can. The final section of the bill would eliminate an outdated provision relating to titling of vehicles when they are purchased from federal surplus property. As you heard previously the federal government retained the title for a period of time to ensure that the purchasing entity was not simply reselling the vehicle for a profit. That federal practice made it necessary for us to have a statutory exemption to our requirement to title the vehicles in the name of the state of Nebraska. Because the federal government discontinued the practice of retaining title, this bill would remove the corresponding exemption. I encourage you to advance the bill. It concludes my testimony, and I would be happy to respond to your questions. [LB722]

SENATOR PRICE: Questions from the committee? Senator Pahls. [LB722]

SENATOR PAHLS: You piqued...thank you. You piqued my interest when you mentioned Joslyn or the Ferguson or Willa Cather's. Was that a Freudian slip or something? Are those up? [LB722]

LAURA PETERSON: No. We're not currently...none of those have currently been declared vacant or excess. I was simply trying to give you examples of the kinds of properties the state has that would also be on the registry of historic places. [LB722]

SENATOR PAHLS: Okay. I'm just going to take it for a step--for, like, the Joslyn Castle--if there's a foundation there and you allow them to purchase it... [LB722]

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LAURA PETERSON: This proposed language would allow us to sell the property to, in this case, the Joslyn Castle Trust, rather than access the current priority, which would first be to offer it to political subdivisions, then to low-income housing--entities that wanted to provide low-income housing--and then to entities referred by the Department of Economic Development. So it would allow that community not-for-profit organization to jump ahead, so to speak, in the list of priorities. [LB722]

SENATOR PAHLS: Right, and possibly keep the thing more an historical value than... [LB722]

LAURA PETERSON: Right. The intent is...for example, the Joslyn Castle Trust is a good example. Right now the Joslyn Castle Trust actually manages Joslyn Castle for the state under a property management agreement between the state and the trust. Obviously, the sole purpose of that organization is surrounding that property. And so they would have the purpose of their organization as maintaining the property in its original condition, its original intent. Additionally, the fact that it's on the National Register of Historic Places provides some of the protection that you were talking about around this intent, because, I don't know how much you know about the--being on that registry of national historic places, but it puts significant restrictions on types of changes that you can make to the property and the structure without jeopardizing the registry. [LB722]

SENATOR PRICE: Yeah, this building is on that, so... [LB722]

LAURA PETERSON: Yeah. Right. [LB722]

SENATOR PAHLS: Thank you. [LB722]

SENATOR PRICE: Any other questions? Yes, Senator Sullivan. [LB722]

SENATOR SULLIVAN: Thank you, Senator Price. Okay, just a couple clarifications then. Does this include historical parks? [LB722]

LAURA PETERSON: Interesting. First of all, we don't have any park property that is on the historical registry that is owned by the state that I'm aware of that doesn't have buildings associated with it. The National Register of Historic Places does provide for properties or parks to be registered on that registry without having an associated structure or building. However, the actual drafting of the bill says "building"--if we are going to sell a "building." So I believe that in the language of the bill we would be restricted to using this option of jumping the priority only for buildings that are on the historical registry. I don't know that that was necessarily intentional, but the drafting of the bill itself would limit us to exercising this for a building. [LB722]

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SENATOR SULLIVAN: So, in other words, you'd be open to discussion of that? [LB722]

LAURA PETERSON: If you wanted to change it to say "buildings or land" that were on the National Register of Historic Places, I don't see why we wouldn't be open to that. The vacant building and excess land process is for the sale of buildings and land. So both types of properties are processed through that process, and I don't know that we intended to limit it to buildings; it just was drafted that way. [LB722]

SENATOR SULLIVAN: And the term "vacant"--is that key? I mean, does it have to be vacant and not being used? [LB722]

LAURA PETERSON: No. The term is actually "vacant and excess," so it's one or the other. What that means for the process purposes is that the state agency who owned it or the state agency who was utilizing that land and/or building has determined either that it's--it might be vacant, or they have just determined that it's excess to the needs of that state agency, that they no longer need it for whatever purpose they were using it for. So it may not be vacant; I mean, in some cases we've been renting it, but we determine it to be excess to the needs of the state, and so therefore we want to sell it. We may continue to lease it through the sale time. There are all sorts of, sort of, alternatives of how that comes about, but it's not...many of the properties are not vacant; many are but are not vacant at the time of the sale. [LB722]

SENATOR SULLIVAN: And this may not be pertinent to this piece of legislation, but just...how do you go about setting a value on items--or buildings that you're going to sell, in this case? [LB722]

LAURA PETERSON: There's a requirement in the vacant building and excess land statutes that requires us to do an appraisal. It does not mandate that we sell the property at the appraised price, but it also has language about doing the sale in the best interest of the state. So we generally set that appraised value and then look at it to see if it's coming close. And it also depends what priority entity is purchasing it. So, for example, I think that the theory behind having other state agencies and then political subdivisions have priority over private entities in bidding--when we're not talking about a historical property like what we're talking about here--is that public money, state money, if it's state property, was already expended to purchase that land or that building for a public purpose. And then we may not sell it to another public entity at the same kind of price that we would sell it to a private entity, because the theory is it's going to stay in public use, and public money has already paid for it. So oftentimes, if you're selling it to another public entity, they may or may not hit that appraised price. But that appraisal is a requirement of the process. [LB722]

SENATOR SULLIVAN: Okay. [LB722]

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LAURA PETERSON: So we at least have an idea of what the value of the land is.
[LB722]

SENATOR SULLIVAN: Thank you. [LB722]

SENATOR PRICE: Senator Krist, do you have a question? [LB722]

SENATOR KRIST: Yes, Senator Price, thank you. What are we trying to divest ourselves of? [LB722]

LAURA PETERSON: We're actually not trying to divest ourselves of anything right now. I'm not aware of any historical property that's currently been declared vacant or excess. But we did recently renegotiate the management agreement with Joslyn Castle Trust. And they expressed an interest someday if that would be a building that we were interested in getting rid of, that they would be interested in having the ability to purchase it. I think that kind of just got us thinking that we really don't have the flexibility, and if you look at one of those properties--the Joslyn Castle Trust or Willa Cather House, the Ferguson House even here, although now it was actually vacant for a while and then was taken over by some other state agencies--that, is it really what the state wants to do--to prioritize, for example, using those buildings as low-income housing? You know, we may want to do that for certain kinds of buildings, but if they have historical significance to the state, we want to provide flexibility to be able to sell it to those who will maintain the original usage. But right now, there's nothing declared vacant that we're imminently planning to sell. [LB722]

SENATOR KRIST: So I'm going down a slippery slope here--and I'm sorry. [LB722]

LAURA PETERSON: That's okay. [LB722]

SENATOR KRIST: But I'm just...so Joslyn Castle or the property happens to be something that the state does not want to continue to up-keep for whatever reason; it's on the historical registry; you have to get a fair-market appraisal in order to divest ourselves of that piece of property. A nonprofit comes forward and wants to buy that, and you said we don't have to sell it at the market value; we can adjust it any way we want to. Not to confuse the issue or call anybody's integrity into question, but if we allow the nonprofits to come in and do that, are we starting a real estate business of our historical buildings within the state, or is there...? I guess, what's the intent? What's driving this? Is it all just Joslyn that's trying to--that had made that offer at one point, or...? [LB722]

LAURA PETERSON: No. I mean, again, I would say I don't think there's any one property driving this at all. I think it's simply a recognition on our part that the current

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priority system may not be the most appropriate priority system for sale or even divesting it in a way other than sale, whether it's leasing or...one of the options in the Vacant Building and Excess Land Fund (sic) is also--fund procedures--is also to trade, that the state can say: We have this building or property or whatever that we don't need anymore, but we'd really like to have this other one. We can...and there's a certain amount of flexibility built into the process. But what is not flexible is this priority order of: You must first offer it to state agencies, political subdivisions, low-income housing, and entities referred by the Department of Economic Development. And just looking at...but first of all, there are very few pieces of property that are on the National Register of Historic Places. And many of them we wouldn't divest ourselves of ever--like the State Capitol Building, for example. But of the ones that there are, there are entities who have--their entire entity was created solely for the purpose of supporting and continuing that property and the ideas behind that property. Willa Cather Foundation, for example; the Joslyn Castle Trust--there's no other purpose for that organization. So I'm hesitant to say that a whole set of nonprofits would, you know, be created, espousing the purpose of the property for the purposes of us to divest ourselves and become a real estate agent in that way just from this bill. And again, the bill allows discretion of the state, so there's nothing to say that because it's on the historic--registry of historic places and we've decided that the agency that's been managing it or using it has decided that it's vacant or excess that we have to sell it to a nonprofit. It leaves the discretion to actually use the current process of priorities as well, sort of depending on the property. But I think, you know, primarily what we're seeking is the flexibility of if there's a good fit there, for the community to retain the historic nature of that property and viability for the community, that we be allowed the flexibility to be able to do that. [LB722]

SENATOR KRIST: Thanks for putting up with my questions. [LB722]

SENATOR PRICE: Thank you. Any further questions? Seeing none, thank you. Are there any other proponents? Any opponents or neutral? Seeing none, Senator Avery--Senator Avery waives. That closes the hearing on LB722 and concludes today's business. Thank you very much. [LB722]