

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Executive Board Committee
February 14, 2012

[LB711 LB1007 LB1133]

The Executive Board of the Legislative Council met at 12:00 noon on Tuesday, February 14, 2012, in Room 2102 of the State Capitol, Lincoln, Nebraska, to conduct a public hearing on LB1007, LB1133, and LB711. Senators present: John Wightman, Chairperson; John Nelson, Vice Chairperson; Mark Christensen; Deb Fischer; Russ Karpisek; and Chris Langemeier. Senators absent: Mike Flood; Steve Lathrop; Rich Pahls; and Lavon Heidemann.

SENATOR WIGHTMAN: (Recorder malfunction)...I'm John Wightman from Lexington, Nebraska, and represent the 36th Legislative District, will be serving as Chair. The committee will take up the bills in the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. To better facilitate today's proceeding, I ask that you abide by the following procedures. Number one, please turn off your cell phones or silence them. The order of the testimony will be the introducer, the proponents, then the opponents, then neutral, and then closing by the introducer, if they desire to close. Testifiers should sign in. Hand your sign-in sheets to the committee page when you come up to testify. Spell your name for the record before you testify. I'd ask that you be concise, that written materials may be distributed to committee members as exhibits only while testimony is being offered. Hand it to the page for distribution to the committee and the staff. We will need 13 copies. If you have written testimony but do not have 13 copies, please raise your hand now so that the page can make copies for you. If you do not wish to testify but would like your position to be part of the record, you can sign the form found at the testifiers table by the testifier sign-in sheets. So with that, we'll have self-introductions. But to my immediate right is Janice Satra, the committee counsel. And to her right, and I'll start with Senator Nelson.

SENATOR NELSON: I'm Senator John Nelson, District 6, Omaha.

SENATOR KARPISEK: Russ Karpisek, District 32, from Wilber.

SENATOR WIGHTMAN: And next would be Speaker Flood, but I don't think he's going to be present today. He's not here.

SENATOR CHRISTENSEN: Senator Mark Christensen, District 44, Imperial.

SENATOR WIGHTMAN: Then to his right would be Senator Heidemann, Senator Lavon Heidemann, from Elk Creek, Nebraska. And he's not here and I think will not be here. To my left is Jessica Shelburn, who is the committee clerk. Senator Langemeier.

SENATOR LANGEMEIER: Chris Langemeier, Schuyler.

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SENATOR WIGHTMAN: Now seated next to him, if they were here, would be Senator Pahls. I don't know whether he will be here today. Senator Fischer, do you...

SENATOR FISCHER: Deb Fischer, Valentine, District 43.

SENATOR WIGHTMAN: And then to her left would be Senator Steve Lathrop from Omaha. So with that, we'll take up the bills in the order that was posted. And, Senator Fulton, you're first up with LB1007.

SENATOR FULTON: Thank you, Mr. 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 here in the Legislature. I bring to you LB1007. At the opening of each legislative session our Clerk indicates the receipt of a number of reports received from state agencies and our 213 boards and commissions and informs us that we can review such reports upon request. Following entry of this statement in the record, I do not believe these reports are widely read. I therefore think it prudent that we take a look at what it costs to produce references that are rarely utilized, especially when we are talking about 199 such reports received just in the past 14 months. The idea for this legislation actually came to me through Defense Secretary Robert Gates. In 2011, then Secretary Gates announced the elimination of over 400 DOD reports that, in his words, consumed vast amounts of staff time and energy, are of questionable relevance, value, and in many cases have rarely been read. Every DOD report now must also include the cost of production. This action is projected to save the Defense Department \$1.2 billion over five years. Perhaps, I suggest, we could learn from this action. I've drafted this measure with the intent of placing no additional requirements on the Clerk other than including the respective cost of each report on the list that is required to be periodically provided. The cost of reports is required to be nothing more than a good faith estimate made by the entity producing these reports. I suspect that when members are made aware of the costs of generating documents, that they themselves may never use or rarely use, it will at least alert us to examine whether requiring a particular report to the Legislature is indeed worthwhile. This bill in and of itself does not eliminate any particular report, but merely affords an avenue by which a cost-benefit analysis could be done. [LB1007]

SENATOR WIGHTMAN: Thank you, Senator Fulton. I see there is no fiscal note as of now on what it would save or what it's now costing. But that's I guess what we're trying to get at, is that correct? [LB1007]

SENATOR FULTON: Yeah, I don't know that it would cost anything. The bill simply requires the agency or commission to put forward a good faith estimate as to how much it costs to produce this report. And so a way that could be done I would envision would be how many man-hours did it take to put together and produce this report. And what I envision, and if it pleases the committee to work to this end, what I'm looking at is that when we have this...the list of periodicals available for us, that there could be a line

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added that lists how much each of these good faith estimates were. So I don't think there should be fiscal note. [LB1007]

SENATOR WIGHTMAN: Thank you. Senator Langemeier. [LB1007]

SENATOR LANGEMEIER: Chairman Wightman, thank you. Senator Fulton, you talked about 199 reports done. We have about 1,050 bills introduced this session. Do you think we could expand this to bills, that we put on there the cost of every bill so everybody knows they're spending 5,000, 6,000 bucks just to throw a bill in for the fun of it? [LB1007]

SENATOR FULTON: It's fair, it's a fair question. There is a fiscal analysis that's done for each particular bill. And so there's going to be a fiscal note. We know what it does to our budget. This is one of these issues that some of these reports, I mean I, personally, I've looked at some of these reports but a lot of them I haven't. And it just seems to me that if we would like to eliminate some of these reports, which I'll bet if the Legislature thought through it there are some of these reports we could do without, you can't do a cost-benefit analysis unless you know how much that report costs. And so I understand your question. I mean, there are bills we put out, I had a bill yesterday that's not going to go anywhere, and there was some time and manpower spent. So the same principle would apply. But what I'm trying to accomplish here, and it would be in years when I'm gone from this place, you can't do a cost-benefit analysis if you don't know how much it costs. So this is step one. [LB1007]

SENATOR LANGEMEIER: Thank you. [LB1007]

SENATOR WIGHTMAN: Thank you, Senator Langemeier. Senator Fulton, I assume that in order to put together any meaningful data we would be probably a year or two, at least one year getting these...even if we passed the legislation, we'd be one year collecting data before we would ever get to the point that we'd be implementing it, probably. [LB1007]

SENATOR FULTON: Perhaps, and I recognize that. I'm bringing this forward, it's an idea that perhaps someone would run with next year, if the committee doesn't want to work with it this year. But I do think it's possible to at least put forward a good faith estimate as to how much this particular report costs to be put in front of senators. And if indeed, Senators, if we're not utilizing the reports then there could be a motion out there in the future to eliminate such and such report. Well, if you don't...you can't do a cost...I get back to that, you can't do a cost-benefit analysis if you don't know how much it costs. So I understand this is, at this point, it's an idea. And if we don't move forward with it, at least the idea has been broached. [LB1007]

SENATOR WIGHTMAN: Thank you, Senator Fulton. Any other questions? Senator

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Nelson. [LB1007]

SENATOR NELSON: Thank you, Senator Wightman. Senator Fulton, do you think we could also include on there that they estimate the amount of time it would take the recipient to read the particular report? (Laughter) It might cut down on the size. [LB1007]

SENATOR FULTON: Perhaps that's an amendment that the senator might introduce. (Laugh) [LB1007]

SENATOR NELSON: Thank you. [LB1007]

SENATOR WIGHTMAN: Thank you, Senator Nelson. Any other questions? Thank you. Do we have anyone, any proponents that would speak on behalf of LB1007? No proponents. Do we have any opponents of LB1007? Do we have anyone that would want to address us in a neutral capacity? And you waive closing? Senator Fulton waives closing. We'll go ahead and close our public hearing on LB1007. We'll open a public hearing on LB1133. Senator Avery, welcome. [LB1007 LB1133]

SENATOR AVERY: Thank you, Senator Wightman, members of the committee. My name is Bill Avery, B-i-l-l A-v-e-r-y, District 28, here in Lincoln. I am bringing to you LB1133 which proposes a new way of redistricting. You know, of course, that redistricting is the most partisan and most divisive activity that our Legislature undertakes or any legislature undertakes, except perhaps for those that have what I am proposing today. The partisan way of redistricting fosters ill will, distrust in our uniquely nonpartisan Legislature. It has the very real potential to damage relationships and make it difficult for us to come together for the good of the state and the good of this institution. So while our recent experience is still fresh in our minds, I thought I would ask you to consider a different approach. You know, of course, that other states do have independent commissions. And this legislation would create a redistricting commission, similar to the commission I proposed to you or I pitched to you last week on compensation of salaries. It would authorize an independent advisory commission to aid our work on redistricting every January ending in '01. Twenty-one other states already have such commissions that draw up a plan and advise the legislature on plan development or act as a backup if the legislature fails to draw up a plan of its own. This includes Iowa. I think you probably are familiar with Iowa and you may have read some news stories about how smooth their process actually developed this past year. The Independent Redistricting Commission that I am proposing would be comprised of two members from each legislative caucus who do not share the same political affiliation. Other member qualifications would be they have to be registered Nebraska voters, could not have changed political affiliation in the past year, could not be registered lobbyist, cannot be public or political party officeholders, cannot campaign or hold public office within the redistricting authority for two years, cannot be relatives of any

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officeholders. These are pretty standard restrictions in cases like this. The objective is to create a commission that absolutely has no stake in how the new district lines are drawn. That is to say the commission should have nothing to gain, it should have nothing to lose by participating on the committee. The commission would select their own chair, their own vice chair. The chair would have no voting rights. This commission would be comprised of an odd number of votes and no politically weighted tiebreakers. Of course, the commission would abide by existing open meetings laws and public records statutes in our state. It would also be required to develop a Web site to provide an open avenue for citizens to understand the process, watch the redistricting process unfold, submit opinions, check on upcoming dates, allow the public ready access to the commissioners. LB1133 requires the commission to work also with the Legislative Research Office, sharing software, supplies and personnel, much like we did last spring. While drawing these district lines, the commission would adhere to standard, constitutionally prescribed principles such as protecting one person, one vote, equal distribution, contiguous and compact districts, no packing, no fracturing, no dilution or augmentation of districts based on race, ethnicity, language and things of that sort. When drawing district lines the commission is required to ignore registered voters, political affiliations, previous election results, demographics, and incumbent domicile. Basically, the only thing the commission would consider is the target population, which is derived by total Nebraska population divided by the number of seats available for the target population in each district. We've seen how the mapping software has improved over the past decade. And we have experienced the wonder of that magical software in the last round. I expect that in the next decade the software will be ten times even better than it was this time. How would it work? By April 1 of years ending in '01, the commission, with the aid of the Legislative Research Office, would use census information, drawing a baseline map for each office, sticking as close as possible to existing lines. Then the commission holds at least four statewide public hearings. You may recall that we did this by teleconference last year. It seemed to work fine. I think we'd be able to allow that with the commission. The commission would take testimony from these hearings. Then working with the Legislative Research Office they would formulate a draft, submit that to this committee, Executive Committee, for introduction on the floor. The Legislature then could only consider technical amendments and would not be able to make substantive changes to the bill. And the Legislature then would take a straight up or down vote. If the plan fails, probably would or it might, then the Speaker of the Legislature would have three days to prepare a resolution that outlines major objections and submits this to the commission for their consideration. The commission would then redraw district lines with the directions outlined in the resolution, keeping that in mind, and then resubmit plan two to the Legislature within ten days. The Legislature would have seven days to consider the new plan. If plan two is rejected, then you go to plan three. If plan three fails, they would repeat the process. Then the commission would draft a fourth corrective plan, again based on objections in the legislative resolution. And that would go to the Supreme Court and the Supreme Court's decision would be final and binding. After a redistricting plan has been approved, the

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redistricting commission's work would be suspended. The commission, however, could be reconstituted if there was a legal or constitutional challenge to any of the plans. The Legislative Research Office would transmit all records, testimony, maps, videos, whatever to the Secretary of State for recordkeeping. The director of the Legislative Research Office would also submit a factual and financial report to the Legislature detailing the commission's work and any expenditures made. You'll note that there is a fiscal note of \$12,000 to cover the expenses of the commission. Finally, as a safeguard I put in here a severability clause which states that if any provision of the act is determined to be unconstitutional it would not affect the entire act but only that section. I believe other states do have severability clauses in their statutes that...those states that use commissions. I know the state of Washington does. This is in Section 29 of the green copy. It's new language, it's not underlined in the green copy. With that, I would ask for your consideration of this. And I'd be willing to take any questions. [LB1133]

SENATOR WIGHTMAN: Thank you, Senator Avery. Senator Langemeier. [LB1133]

SENATOR LANGEMEIER: Chairman Wightman, thank you. Senator Avery, thank you. And thanks for your service on the Redistricting Committee. [LB1133]

SENATOR AVERY: I'm still hurting from that, by the way. (Laughter) [LB1133]

SENATOR LANGEMEIER: I didn't think it was all that bad. The way you described that bill, that's exactly what we did. You said there were... [LB1133]

SENATOR AVERY: You can see tracks on my back. (Laughter) They're still there. [LB1133]

SENATOR LANGEMEIER: Yeah, they're from Senator Mello. You're welcome. (Laughter) You talked about 21 states do this independently and 29 don't. Have you gone back to look at the lawsuit history or I would argue... [LB1133]

SENATOR AVERY: That's a good question. [LB1133]

SENATOR LANGEMEIER: Have there statistically been more lawsuits, challenges by the commission? For example, Texas, that was challenged, went to court, the judge redrew it, and now the Supreme Court threw that out because that was... [LB1133]

SENATOR AVERY: Was that a commission? [LB1133]

SENATOR LANGEMEIER: ...that was more biased than the original one, so I think that was interesting. [LB1133]

SENATOR AVERY: But was that a, I'm sorry,... [LB1133]

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SENATOR LANGEMEIER: I don't know. I don't know. [LB1133]

SENATOR AVERY: I don't think it was a commission. [LB1133]

SENATOR LANGEMEIER: I'm just saying that's an example where that's...it's had some levels of challenge to it. I know a lot of states are challenged. [LB1133]

SENATOR AVERY: Yeah. If I may speculate on what the answer to that question is without having the actual knowledge of it, (laugh) I would guess that those states that don't have commissions have far more court challenges. In fact, I attended a workshop at I think an NCSL meeting where they said that something like 80 percent of the states that use the strict partisan method wind up with challenges in the courts and sometimes over little things like 16 voters, which I thought was pretty remarkable. [LB1133]

SENATOR LANGEMEIER: Okay, thank you. [LB1133]

SENATOR WIGHTMAN: Thank you, Senator Langemeier. Senator Nelson. [LB1133]

SENATOR NELSON: Thank you, Senator Wightman. Thank you, Senator Avery. This is a lot to read here. But I take it if...can't...no officeholder, public officeholder can be on the commission, so that cuts out anyone from the Legislature. Is that correct? [LB1133]

SENATOR AVERY: Right. [LB1133]

SENATOR NELSON: The caucuses would nominate somebody, and they could have been a senator years before, I guess. [LB1133]

SENATOR AVERY: Yes, absolutely. [LB1133]

SENATOR NELSON: Yeah. Okay. [LB1133]

SENATOR AVERY: And that might be an asset. [LB1133]

SENATOR NELSON: And the other thing is apparently the commission would not take into consideration, or could not, the place of residence of the member of the Legislature in that particular district in trying to... [LB1133]

SENATOR AVERY: And I...you know, that's a suggestion. I believe that it is entirely constitutional. We discussed this when we went through the process to take into account the incumbent's domicile. [LB1133]

SENATOR NELSON: Okay. [LB1133]

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SENATOR AVERY: But a lot of the commissions do not. And that's why I included that language. [LB1133]

SENATOR NELSON: All right, thank you. [LB1133]

SENATOR WIGHTMAN: Thank you, Senator Nelson. Senator Christensen. [LB1133]

SENATOR CHRISTENSEN: Thank you, Chairman. Thank you, Senator. When you...clarify a statement, you said 21 states now do this or have it as a backup. When you say backup, they'll go as a partisan division and then, if that doesn't work, they go to the backup? [LB1133]

SENATOR AVERY: Yes, that exists in some states. And some states use a commission to advise the legislature. The legislature may set up its own commission or own committee, like we did, and they have an independent commission to advise them on development of plans. [LB1133]

SENATOR CHRISTENSEN: So how many would use it as a backup versus their main system of them 21? [LB1133]

SENATOR AVERY: I don't have that number, but we've researched that and I can get it for you. [LB1133]

SENATOR CHRISTENSEN: Okay. Then I guess I was wondering if you...isn't it when they...if they can...the floor has got to approve it and they go through each different bill and keep rejecting them, I know we're going to the courts. And I assume that's what keeps them from just rejecting them all and making it very partisan anyway. But what's it going to cost? And how do you get on the time docket of the Supreme Court that's booked out so far and get things done? [LB1133]

SENATOR AVERY: Well, if you have...if you get to, what, the fourth plan and the Legislature has rejected three previous plans, the fourth plan goes to the Supreme Court. There would be some costs. But the cost of doing business in the court is absorbed in their budget. I mean it wouldn't be an additional cost. There would, however, be a requirement, I presume, that the Attorney General's Office would be the...they would defend the plan, since the plan would come out of statute that we passed. [LB1133]

SENATOR CHRISTENSEN: Okay, thank you. [LB1133]

SENATOR WIGHTMAN: Thank you, Senator Christensen. I guess I'd have one question. I, too, had the same question as Senator Langemeier, whether this was going

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to be...cause more court battles than we have right now. And I was going to ask your opinion. But you speculated and I think that would be close to an opinion. [LB1133]

SENATOR AVERY: You know, I think that we could probably get that information. We didn't get that deep into the analysis. Given my record with this committee, I figured I was starting a conversation and not completing one today. (Laugh) I don't want to prejudice the committee, but I'm looking at Senator Langemeier here and I see the mirth on his face indicates something. (Laugh) [LB1133]

SENATOR WIGHTMAN: I guess one other question I would have, I assume is it a growing number that are going to an independent commission or have states switched out of that independent commission back to the legislative process again? Do you know? [LB1133]

SENATOR AVERY: I think so. I don't know which states. But I can tell you that the good government people and organizations, citizen groups around the country have been pushing these kind of proposals for many decades. And quite frankly, we've improved the process of redistricting in this country significantly. And I think it's to our credit that we even do redistricting because there are not a lot of democracies that will go to the pain...through the painful process that we do to protect one person, one vote. And democracy, if we're going to be true to the principles of democracy we need to do that. The Japanese have never done it. And you still have in the Japanese Diet the rural districts and the rural constituencies vastly overrepresented in both chambers. And it is...it's to our credit that we set the bar pretty high for ourselves. And that's a great example for the rest of the democracies around the world. [LB1133]

SENATOR WIGHTMAN: And, of course, we have done that without redistricting commissions I guess but... [LB1133]

SENATOR AVERY: We...but we have had some pretty bad history. And that's the reason why the idea came about to set up independent commissions was to reduce the partisan fighting as much as we can. [LB1133]

SENATOR WIGHTMAN: Thank you, Senator Avery. Any other questions? Thank you. [LB1133]

SENATOR AVERY: I do think, however, sir, that we got through it last year without any permanent scars. I think those tracks on my back will go away eventually. (Laugh) [LB1133]

SENATOR WIGHTMAN: We're already there perhaps. Yes, Senator Langemeier. [LB1133]

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SENATOR LANGEMEIER: Thank you, Chairman Wightman. If not, term limits will handle it for us. (Laughter) [LB1133]

SENATOR AVERY: Thank you. [LB1133]

SENATOR WIGHTMAN: Are there proponents? Welcome. [LB1133]

JACK GOULD: Senator Wightman, members of the committee, my name is Jack Gould, that's G-o-u-l-d, and I'm here representing Common Cause Nebraska. First of all, I would like to congratulate Speaker Flood. I spoke with him probably a year before the process of redistricting began, expressing Common Cause's concern for having an open and transparent process. And he assured me that would happen. And I thank Senator Langemeier particularly for the committee's openness and transparent. It was easy to get to the maps. The public was invited to every hearing. And I think that shows a great step forward. I can remember a time when the hearings came before the maps. And I can remember when the committee hearings were all in secret, there was no press or public allowed. I can remember when the only time we got to see the maps was when the bill was actually introduced on the floor. And so I think we've come a really long way in improving the process. And I think the body should be congratulated for that. The one aspect of the bill that Senator Avery is bringing that I think is important is the idea that this process is not supposed to be a political one. And if you read the federal guidelines, the goal is to keep politics out of this as much as possible. However, when you attend the hearings which are open and you hear the debate, you get the idea that the goal of, whether it be the Democrats or the Republicans, is to try to draw the boundaries as close to zero deviation without either losing a political advantage or gaining a political advantage. And it's interesting to sit in the audience and listen to the debate because the underlying philosophy is, you know, what direction are we trying to go? Is there an advantage here or disadvantage for one of the political parties? I think that Senator Avery's bill is designed to take that out of it. An independent committee may not be perfect in the sense of political bias, but it certainly goes a long way from having the individuals who are directly affected by the political boundaries that are drawn, drawing the boundaries. And so I think this is one of the goals that Common Cause has been promoting for probably 40 years. And we're glad to see the bill brought before you. And I just...to remind you the fact that although we're approaching the geographical goal of zero deviation, and I think most of the maps did do that, we also need to approach the goal of zero political influence. And my hope is that an independent committee would approach that and would be another step forward on the whole redistricting process. Thank you. [LB1133]

SENATOR WIGHTMAN: Thank you. Any questions? Senator Langemeier. [LB1133]

SENATOR LANGEMEIER: Chairman Wightman, thank you. Thank you for coming and testifying. As much as you want to get away from politics, do you not think that this

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committee of individuals picked in the state won't be a representative that's closely aligned to the Republican Party and closely relayed in by the Democratic Party? And won't they become the super committee, like we saw in Congress that got billions in lobbying? Do you not think those people will just get lobbied to the nth degree? [LB1133]

JACK GOULD: Well, you know, I know it's always going to be difficult to keep politics, this is a very political process so it's difficult to keep it out. But one thing I can draw attention to is that Senator Avery's bill takes the three districts and takes two individuals from each district, one a Democrat, one a Republican as I understand it. And in that case it's an even debate. I don't think you could take the last committee and say it was an even debate. And I'm not trying to favor either the Republicans or the Democrats, but I think it was a 5 to 4 ratio politically. Am I right? [LB1133]

SENATOR LANGEMEIER: Um-hum. [LB1133]

JACK GOULD: So I think that alone, having an even distribution of representation evens the playing field. Now on the other hand, you know, the lobbying of candidates, I mean, that's going to happen no matter what. I think, you know, if the Legislature clearly or makes it clear to the public that the intent of this process is to keep politics out of it, that makes a statement right from the start. And the individuals that are selected have a responsibility to try to keep the politics out of it. Again, I'm not that much of an idealist to believe that it's perfect. But at the same time, I think it's better to have this kind of a committee. And it's better for this Legislature to step away from this battle. As he said, in the end people get hurt. And it would be better for the Legislature to be able to direct its time toward legislating bills rather than the huge amount of time that I know you had to put in, in directing the process. And I'm not at all critical of the work that you did. I just think that we're still operating within the bounds of a system that has a lot of political overtones. [LB1133]

SENATOR LANGEMEIER: Sure, thank you. [LB1133]

SENATOR WIGHTMAN: Thank you, Senator Langemeier. Any other questions? Thank you for being here. [LB1133]

JACK GOULD: Thank you. [LB1133]

SENATOR WIGHTMAN: Do we have other proponents? Do we have anyone that wants to testify as an opponent of the bill? Do we have anyone wanting to testify in the neutral capacity? Senator Avery, do you desire to close? Senator Avery waives closing. We will now close the public hearing on LB1133. And I'll ask Senator Nelson to take over the Chair. [LB1133]

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SENATOR NELSON: Thank you. We will now open the public hearing on LB711. Senator Wightman. [LB711]

SENATOR WIGHTMAN: Thank you, Senator Nelson. I was asked by the Clerk of the Legislature to introduce LB711. As you know, the membership of the Executive Board is set in statute. In addition to the Chairperson, Vice Chairperson, Speaker, and Chairperson of the Appropriations Committee, the board membership includes six at-large members, two from each of the three caucuses. LB711 changes caucus breakdown for at-large membership on the Executive Board so that it takes into account the changes that occurred during redistricting last year. You should also know that LB711 mirrors a rule change that was introduced at the beginning of the session to change the membership on the Committee on Committees' caucuses. I'd be happy to answer any questions you might have, but I have asked Clerk Patrick O'Donnell to come up and testify next. And he may be able to answer specific questions better than I with regard to historic perspective, a little bit of discussion on how the districts were changed with the census. We're always going to have some overlapping of the legislative districts with Congressional districts, and that's something that's a little difficult to address. But we'll discuss that. Thank you. [LB711]

SENATOR NELSON: Thank you, Senator Wightman. Are there other proponents that wish to testify? [LB711]

PATRICK O'DONNELL: (Exhibit 1) Mr. Chairman, members of the board, my name is Patrick O'Donnell, Clerk of the Nebraska Legislature. And let me just expand a little bit upon what Senator Wightman offered to you. And I don't want to give you more history than you need. But following every redistricting process, at least as long as I've been with the Legislature, there have been efforts to redraw, if you will, the makeup, the composition of the different caucuses. Okay? And not getting...but...and that's not always been an easy process. What you have in front of you is my review of the proposed makeup of the three caucuses that we...that you could have as a result of the redistricting of the Congressional districts that you did last time. Now are the Congressional districts the magic bullet here? Not necessarily. It's just the way we've always done it. If there are other caucus definitions that you want to apply, you could. But this is based upon what we've done for as long as I've been here anyway in terms of establishing who belongs to what caucus. And that's important, as you know, because it affects who...your elections to membership on the Executive Board. The rule that Senator Wightman talked about was considered by the Rules Committee. That would affect the makeup and membership of the Committee on Committees' caucuses and the selection of members to serve on the Committee on Committees. Does this have to be done now? Well, only if you want to have a new system in place for January of 2013, when you come back and reorganize. I'll just leave it with this. I think the one thing that jumps out at me is obviously with the redistricting process this time you moved a far western district to Sarpy County. Senator Louden's district was moved to

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Sarpy County. If you don't do this, that means that Sarpy County will be caucusing...or that representative elected to that district in Sarpy County would be caucusing with the 3rd District. Okay? And I'll leave that up to you as to whether that makes sense or if that's the approach that you want to utilize in terms of the makeup of the caucuses. This is not...I don't want to represent to you that this was an exact science. I simply looked at the map as was presented. The map I worked from was this one up here. And just so, let me quickly explain this to you. The 3rd District, Congressional District, obviously is everything west of the line that comes here. The 2nd is the metropolitan Douglas, Sarpy County areas, and then the 3rd, obviously, is this kind of cherry outline here. And so what you see are the changes as reflected, you know. The obvious example would be Speaker Flood moving from the 3rd to the 1st or that district moving from the 3rd to the 1st, since Madison is entirely in the 1st Congressional Caucus. Last thing I'll say to you is there's always one caucus that's going to have 17 members, just the numbers dictate that. There will be two with 16 and one with 17. For as long as I can remember the 2nd District has always had 17. There is some question that was raised with me at the Rules Committee meeting about whether or not Senator Price, given the makeup of his district, is...has more of a district in part of Congressional District 1 or Congressional District 2. You know, I have to tell you I didn't consider that very seriously. I just looked at the map. But the numbers support that he has more residents in Congressional District 1 than he does in 2. But, as I say, the 2nd District has always had 17 members, with the 1st and 3rd having 16, or at least as long as I've been around. So that's all I'm going to say, Senator. I'll be happy to try and answer questions. [LB711]

SENATOR NELSON: Yeah. Are there any questions for the Clerk? Senator Karpisek. [LB711]

SENATOR KARPISEK: Thank you, Senator Nelson. Thank you, Mr. O'Donnell. Was this done ten years ago? [LB711]

PATRICK O'DONNELL: We tried, and as I recall, Senator, we did not. There were members at the time who expressed concern about moving from one caucus. They had worked with the caucus they had been in for some time and were reluctant to move into a caucus. I will also remind you, that was pre-term limits. So term limits I think has changed some of that dynamic. But clearly, I don't think we made these changes back in 2001. [LB711]

SENATOR KARPISEK: Thank you. [LB711]

SENATOR NELSON: Are there any questions? If not, thank you. I should have asked if there were questions for Senator Wightman. Did anyone have any questions that you want to raise at this time? Thank you. Are there other proponents? Are there any opponents that would like to testify? Are there any persons who would testify in a neutral capacity? Senator Wightman, do you care to close? [LB711]

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SENATOR WIGHTMAN: I'll waive closing. [LB711]

SENATOR NELSON: Senator Wightman waives. [LB711]

SENATOR WIGHTMAN: If somebody has a question I might try to answer that, but I don't know that I could add, shed any more light... [LB711]

SENATOR NELSON: All right. [LB711]

SENATOR WIGHTMAN: ...than Mr. O'Donnell has already. [LB711]

SENATOR NELSON: Thank you. That will close the hearing then on LB711. [LB711]