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Government, Military and Veterans Affairs Committee
February 03, 2011

[LB234 LB254 LB278 LB556 CONFIRMATION]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, February 3, 2011, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB254, LB234, LB278, LB556, and gubernatorial appointment. Senators present: Bill Avery, Chairperson; Scott Price, Vice Chairperson; Lydia Brasch; Charlie Janssen; Russ Karpisek; Paul Schumacher; and Kate Sullivan. Senators absent: Rich Pahls.

SENATOR AVERY: Good afternoon. Welcome to the Government, Military and Veterans Affairs Committee. My name is Bill Avery. I am Chair of this committee, and I represent District 28 here in central Lincoln. Before we start, I'm going to introduce the members of the committee, even those that are not here. But if you look at their nameplates, you will know who they are. Senator Rich Pahls on the very end down there from Millard up in Omaha, he will be here soon; Senator Lydia Brasch, one of our new members, from Bancroft; she is seated next to, who will be here soon, Senator Charlie Janssen from Fremont; the big guy right here is Senator Scott Price, the Vice Chair of the committee, he is from Bellevue. To my immediate right is Christy Abraham, the legal counsel for the committee; and soon to be here will be Senator Russ Karpisek from Wilber; seated next to him is Senator Kate Sullivan from Cedar Rapids; and another new member of our committee, Senator Paul Schumacher from Columbus. The committee clerk is Sherry Shaffer. It is important that you know where she is because you're going to be...if you testify, you're going to be handing her this sheet. This is a sign-in sheet that gives us pertinent information about you and what position and bill you are testifying on. And we will ask you to print this very carefully and hand it to Ms. Shaffer when you arrive at the table to testify. If you do not wish to testify but you have an opinion on the bill and wish to be recorded for or against the bill, sign this sheet. And these sheets are available at each entrance to the room. This simply asks you for your name, address, what bill you are supporting or opposing. When we are in the hearing phase...we have a confirmation nomination to deal with first or appointment, but when we're in the hearing phase, you will notice that we have some colored lights. The green light means you have four minutes, and that's usually enough time to say most of what you want to say. That will be followed by an amber light which means you have one minute before the red light comes on which means stop. We have found that this has allowed us to schedule more bills on any given day and we have over 80 bills referenced to this committee this session, so we have a lot of work to do. So we'll ask you to cooperate with us on the light system, and please understand when the red light comes on you should be ready to terminate your remarks. Please pay attention to the testimony that is given prior to your appearance at the table. Sometimes I...if you're not paying close attention, you may repeat points that have already been made. We have a detailed record that we are transcribing as you speak, so it's not necessary to say something that has already been said. We will ask you also to...if you have exhibits, that is something you want to hand out for us to look at, we need 12 copies of that. You can

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give those to the clerk as well and she will have the pages distribute them. Our pages are Danielle Henery from Battle Creek and Kyle Johnson from Sutton. One last matter before we start. If you have with you electronic devices, particularly if they make noise, we'd ask you to turn them off or put them on silent. Most people have phones these days and if they all start going off during the hearings, it can be disruptive. All right. Now our first item of business will be to take up a gubernatorial appointment to the Nebraska Accountability and Disclosure Commission. We'll follow that with four bills starting in the order as they are listed outside the door: Senator Campbell's LB254; followed by LB234 from Senator Fischer; LB278 from Senator Coash; and LB556, Senator Dubas. All right. Now I will invite Mr. Roger Bradford von Gillern to come forward. He has been nominated by Governor Heineman to serve on the Accountability and Disclosure Commission. Welcome.

ROGER BRADFORD von GILLERN: Thank you.

SENATOR AVERY: Tell us a little bit about yourself and why you want to be on this commission.

ROGER BRADFORD von GILLERN: (Exhibit 1) Well, I'm a...I own a construction company in Omaha, Nebraska, Lueder Construction Company. We do work regionally. I've always been interested in matters of civic importance. I belong to a number of different civic organizations and believe very strongly the giving of your time is an important part of being a business leader in the community and serving the community, so when this opportunity arose, it felt like a great fit. I was asked to serve. Did a little bit of homework on the commission and learned that it was...it's obviously involved in governmental issues and political issues but not an elected office. And the first part interested me, the second part does not, so it was a great way to serve without the obligations and things that go along with being an elected servant. So it's been a good fit. [CONFIRMATION]

SENATOR AVERY: Thank you. Well, I'll start by asking you, you've already attended a couple of meetings, right? [CONFIRMATION]

ROGER BRADFORD von GILLERN: Yes, sir. [CONFIRMATION]

SENATOR AVERY: In your opinion, what is the main function of the commission?
[CONFIRMATION]

ROGER BRADFORD von GILLERN: It's kind of self-defining in the title, and I guess that's part of what intrigued me also was the accountability piece of the puzzle, and that's something that I feel very strongly about, and even in my own business dealings. And that is setting up systems that hold individuals accountable, whether it's to ethical matters or matters of law. That's an area that I feel very strongly about and that's what

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drew me to the commission or drew me to be interested in serving in that way. And obviously that's what the commission was set up for was to enforce the laws that are in place towards accountability and disclosure. [CONFIRMATION]

SENATOR AVERY: I have long been an interested observer of the A&D Commission, and my observations over many years has been that occasionally somebody gets appointed to the commission that's not fully committed to what the commission is supposed to be doing. And so I would ask you, for example, one of the things that you are charged with doing is administering the Campaign Finance Limitation Act which is sometimes not so popular with elected officials, what do you think about that act? [CONFIRMATION]

ROGER BRADFORD von GILLERN: It probably doesn't matter how I feel about it personally. I took a...I've made the commitment to serve to uphold that regulation and uphold those policies and laws, so how I feel about it personally I'm not sure is of a factor. I believe in it. I think it was...I think it's a good piece of legislation and I think that the support that our commission offers for that is important. [CONFIRMATION]

SENATOR AVERY: Thank you. Good answers. Any other questions from the committee? [CONFIRMATION]

SENATOR SULLIVAN: A couple from me. [CONFIRMATION]

SENATOR AVERY: Senator Sullivan. [CONFIRMATION]

SENATOR SULLIVAN: Thank you. So did I understand you correctly that you've already attended a couple of meetings? [CONFIRMATION]

ROGER BRADFORD von GILLERN: Yes, ma'am. I've been to three meetings. [CONFIRMATION]

SENATOR SULLIVAN: What have been your impression so far? [CONFIRMATION]

ROGER BRADFORD von GILLERN: It's a collegial group but not a group that is...no individual in the group is afraid to push back and stand firm in their own opinion. It seems to operate well. We've got a great chair in the meetings. The meetings go well. We get great feedback from Mr. Daley and Mr. Danberg on the true, legal issues. I'm not an attorney. I'm a business person, so I count on those opinions to a great degree. But the committee seems to work very well together and the committee enjoys what they do, and I think that's important because we've got ownership of it. [CONFIRMATION]

SENATOR SULLIVAN: So what do you think you bring to the table in being part of that

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group? [CONFIRMATION]

ROGER BRADFORD von GILLERN: I think I bring the...because I'm a little bit different in being a business person and many of the members of the committee have a law background, I think that's an important difference to bring to it. Not to start a debate over which is the most important because I'm in a room full of attorneys I'm sure, but I think that's a good balance to bring to the committee, appear more a business perspective to things rather than just the specificities about what the laws might say.
[CONFIRMATION]

SENATOR SULLIVAN: It's a good balance in the Legislature too. [CONFIRMATION]

ROGER BRADFORD von GILLERN: Yes. [CONFIRMATION]

SENATOR SULLIVAN: (Laughter) Thank you. [CONFIRMATION]

ROGER BRADFORD von GILLERN: Thank you. [CONFIRMATION]

SENATOR AVERY: I guess I want to ask you another question. And I appreciate people who are willing to offer their time to commissions like this. I know you don't get paid. And I have a bill, by the way, coming up later this session that would take your per diem away from you. (Laugh) [CONFIRMATION]

ROGER BRADFORD von GILLERN: I understand that. [CONFIRMATION]

SENATOR AVERY: It's all a part of balancing our budget. [CONFIRMATION]

ROGER BRADFORD von GILLERN: I didn't know I was getting paid when I took the job. I didn't know there was a per diem, so. [CONFIRMATION]

SENATOR AVERY: Yeah. Well, it's...sometimes these jobs are thankless tasks and I do want to congratulate you for being nominated and for being willing to serve. Sometimes serving on a commission can put you in a situation where you face a conflict of interest. If that were to happen to you, how would you handle it? [CONFIRMATION]

ROGER BRADFORD von GILLERN: I would just abstain from discussions as appropriate and certainly abstain from votes. I mean, those...it's interesting that you ask that question because many of the issues that we've already talked about have been individual's failures to do just that, where they had an interest in something and failed to separate themselves from that. So it's pretty clear that that would be a situation where I'd want to separate myself from that issue. [CONFIRMATION]

SENATOR AVERY: I usually just ask Frank Daley. (Laughter) [CONFIRMATION]

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ROGER BRADFORD von GILLERN: That's another good call. [CONFIRMATION]

SENATOR AVERY: Any other questions? Don't see any. Thank you very much for appearing today. [CONFIRMATION]

ROGER BRADFORD von GILLERN: Great. Thank you. [CONFIRMATION]

SENATOR AVERY: I know that you had to take away time from work, but we do appreciate you coming. [CONFIRMATION]

ROGER BRADFORD von GILLERN: Thank you. It's a pleasure to serve.
[CONFIRMATION]

SENATOR AVERY: All right. We will deal with the rest of this nomination in Executive Session, but now we will move onto our agenda of bills, starting with Senator Campbell. Senator Campbell is here to bring to us LB254. Welcome, Senator Campbell.
[CONFIRMATION]

SENATOR CAMPBELL: Thank you. [LB254]

SENATOR AVERY: This is your second time, right? [LB254]

SENATOR CAMPBELL: (Exhibit 1) Yes, it is. Chairman Avery and members of the committee, I am Kathy Campbell, senator for the 25th Legislative District, and that's Campbell, C-a-m-p-b-e-l-l. LB254 is intended to provide standards for real estate instruments filed with the county register of deeds. The Nebraska Association of County Officials is seeking these standards so that generations to come will be able to read and use these instruments. Increasingly, public records are microfilmed or digitalized--boy, that's...got through that word (laughter)--so that they may be stored in smaller versions. The layout of a record in the font size used to create it can make reading microfilmed versions hard to read, therefore, counties would like such instruments to conform to minimum standards to make them accessible to the future. LB254 is related to a bill introduced in 2009, LB295, which was also heard in the Government, Military and Veterans Affairs Committee. At that time, I asked that the committee hold the bill while NACO worked with interested parties to discuss the legislation, and the committee agreed to do so. I thank you for your patience and unfortunately just before lunch I learned there is not agreement on the bill after all. I do wish to thank NACO and the parties that worked together over these interims, and hopefully they will bring the parties back together and reach an agreement for the committee. I would like to highlight a few notable changes from LB295 that makes this bill different. LB251 (sic) has no references to changing an additional fee or refusing to file documents that do not comply with the standards it sets out. Fees and refused to file were major sticking points

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in the previous bill. This bill does not allow additional fees or refusal to file. Font size was another concern. The previous bill required at least a ten point font; LB254 does not. LB254 states that eight point font is presumed to be legible and presumption seemed a better alternative than requiring a strict limit. And the third reason is tax liens were not included in the list of documents that are excluded from the requirements. LB254 excludes tax liens. I do have an amendment and I will give that to the page now to distribute to all of you and basically to have with your bill file until we get back to you, because we'll probably have to change that. That I'd like you to consider if you advance LB254. It's a minor change and basically it states that LB254 does not affect requirements for filing instruments referenced in two other sections of the law. I'm presuming, Chairman Avery, that the testifiers that will come after me, both proponents and...I believe it is the State Board of Realtors that has some concerns that will probably testify in a neutral or opposition can give you much greater detail. And then I will check back with all the parties and then come to see you if we can reach agreement. And I do apologize but I did not know until just this noon. So with that, I'll... [LB254]

SENATOR AVERY: Well, we're pretty good at working out agreements in this committee. [LB254]

SENATOR CAMPBELL: Oh, absolutely. Yes, you... [LB254]

SENATOR AVERY: And we have Senator Price there and that really helps a lot. (Laughter) I know I pick on him a lot because he's so much bigger than the rest of us. He can take it. [LB254]

SENATOR CAMPBELL: Senator Price is a help on all committees. (Laughter) [LB254]

SENATOR AVERY: Any questions from the committee? Are you going to stay around for closing? [LB254]

SENATOR CAMPBELL: I will not, Senator Avery. I'm going back over to Health. We have four bills this afternoon, so going to go back. [LB254]

SENATOR AVERY: Okay. Thank you. [LB254]

SENATOR CAMPBELL: So I'll waive the closing. [LB254]

SENATOR AVERY: Okay. [LB254]

SENATOR CAMPBELL: Thank you, Senator Avery. [LB254]

SENATOR AVERY: Proponent testimony. Welcome, sir. [LB254]

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LLOYD DOWDING: (Exhibit 2) Thank you. Thank you, senators. I'm Lloyd Dowding. I'm the Sarpy County Register of Deeds. I'm a proponent of this bill, strong proponent.
[LB254]

SENATOR AVERY: Would you spell your name for us? Spell your name, please.
[LB254]

LLOYD DOWDING: Thank you. I forgot. Lloyd, L-l-o-y-d, Dowding, D-o-w-d-i-n-g. I've got a statement that I'm going to read, it's being passed out. I don't think I'm going to get through the green light, so just bear with me. I'd be happy to answer any questions. I'm here today to speak in favor of LB254. Nebraska needs to update and properly maintain its recording and preservation of books, records, maps, and papers kept or deposited in the office of the register of deeds. Land is a major source of wealth in our society and, because of its permanence and usefulness, represents the most valuable asset of our society. Its permanence makes it valuable and attractive to lenders as collateral for loans, and our governments derive substantial revenues from real estate taxes and other land-related transactions. In Nebraska, county recorders and clerks maintain permanent but ever-changing methods to record, preserve...and preserve these land records. We evolved from pen and paper to typewritten instruments to today's electronic systems made up of computers and scanners. What we haven't done is update our laws pertaining to how documents are prepared for presentation so that the formatting of documents can be easily and speedily recorded and preserved when presented for such purpose. PRIA, the Property Records Industry Association, is a working alliance...with alliance partners has created a standard that many states--and I put in there, there's 44 that I'm aware of--have stipulated by statute some or all of their standards of the PRIA standards. Nebraska presently has two formatting standards. One, a half-inch margin vertical margins and, two, two-and-a-half-inch by six-and-a-half-inch space at the top of the first page of recording. What you have in front of you, a bill, LB254, that broadens the scope of required formatting of documents. And I urge you all to vote to advance this and pass the updating legislation. Thank you.
[LB254]

SENATOR AVERY: Thank you, Mr. Dowding. Questions from the committee? Senator Sullivan. [LB254]

SENATOR SULLIVAN: Thank you. Thank you for your testimony. Would you explain to me why it is important to have consistency in the formatting of these documents?
[LB254]

LLOYD DOWDING: In the formatting of it? Primarily when you're taking in many documents a day, in my office we take in hundreds, trying to find the information that is required for us by statute to record that document, it's difficult. Sometimes you'll find them on the first page; sometimes you'll find them on the 15th page. Sometimes you'll

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find them on the top; sometimes you'll find them on the bottom. Sometimes you can't read them. Sometimes the paper comes in on tissue-type paper. We have documents brought into us on yellow tablet paper written in pencil. There's just no...you know, other than those two requirements, there's not much we can do about it but suffer through them, try to run those through our scanners, try to run those through the various systems that we have. Trying to, then, make microfilm and duplicate copies makes it a very difficult job. And what we're trying to do is simply standardize a lot of it. We took what we thought were the important things that the PRIA group has done on a nationwide basis...because we don't get documents just from the local attorney down the street or the local title company. We get them from New York, California, we get them from government agencies, we get them, you know, all over the country. And we try to get some kind of standardization so that we can operate in a more efficient and...of course makes that more fiscally responsible. [LB254]

SENATOR SULLIVAN: So do I presume correctly that the standards outlined in this bill would be acceptable and easy for you to meet for...in terms...? [LB254]

LLOYD DOWDING: For me to meet? [LB254]

SENATOR SULLIVAN: Well, for your...yeah, for you to accept. [LB254]

LLOYD DOWDING: For me to accept, yes, yes. That's...yes, very much so. [LB254]

SENATOR SULLIVAN: Okay. [LB254]

LLOYD DOWDING: Very much so. [LB254]

SENATOR AVERY: Other questions? Senator Schumacher. [LB254]

SENATOR SCHUMACHER: Thank you, Senator Avery. I think this through, the function of your office is basically to provide notice and recording of what the people have executed is basically deeds or land instruments, mortgages, things of that nature. To what extent if somebody that did not meet these margin requirements and these essentially printing requirements came to your office with a document that was an important document that did not meet the margin standards, what would happen, or the typesetting standards or the paper quality standards, if this were passed? What would happen? [LB254]

LLOYD DOWDING: If we could record it, if we could record it, we would. [LB254]

SENATOR SCHUMACHER: Okay. [LB254]

LLOYD DOWDING: But we have no right not to. [LB254]

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SENATOR SCHUMACHER: Okay. [LB254]

LLOYD DOWDING: Okay. But what we're trying to do...and even if they are important, I would think they would be important, one of the things that you forgot is that part of our charge by statute is the preservation of those records. [LB254]

SENATOR SCHUMACHER: Um-hum. [LB254]

LLOYD DOWDING: If they're not put together in a manner that when they're presented to us, I can show you documents back in the 1800s didn't have those standards; they're very, very difficult to come up with. And that might be that's put in history, but it's not. We had a railroad abandoned a track through Sarpy County here a few years ago. They had documents that were very important to the farmers that lived where those tracks went through because some of them had the right of revision, some of them did not. They had to dig through these old books which were really tough to find the information in. The books were falling apart. The reading, the writing, the standardization of the documents did not exist, made it very difficult. [LB254]

SENATOR SCHUMACHER: Were those books the original documents or the transcript of those documents? [LB254]

LLOYD DOWDING: We don't keep any of the original documents. We transcribe all documents. In the old days, you used to hand write them out, you know. We had a garter on each sleeve and a visor on; you sat at a big desk and you hand wrote it in a book. Today, we microfilm, we scan electronically, we do those things. [LB254]

SENATOR SCHUMACHER: So once the document is scanned, it makes no practical difference, right, or micro...a picture gets taken of it, makes no practical difference as to what quality of paper it is because the paper goes back home. [LB254]

LLOYD DOWDING: Well, yeah, if you're...this is true unless you can't...you know, sometimes it's very difficult to try and scan it. Sometimes you can't get the print to come off. You know, you've got a yellow tablet paper or somebody has handwritten something on there in the bill of sale or something and they've sold a cabin on the river, you've got things that you can't read, it makes it very difficult. [LB254]

SENATOR SCHUMACHER: So if after this bill is passed I'd come to you with a deed that has only a two-inch margin at the top, it'll still be recorded, you'll still charge me the same fee, and this basically is a guideline then for me? [LB254]

LLOYD DOWDING: If you came to us with that two-inch margin at the top, we would add a page by statute and charge you for an extra \$5. [LB254]

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SENATOR SCHUMACHER: Okay, okay. [LB254]

LLOYD DOWDING: Yes, we would. [LB254]

SENATOR SCHUMACHER: And that would be the worst thing that would happen to me? [LB254]

LLOYD DOWDING: That's about as bad as it gets. [LB254]

SENATOR SCHUMACHER: That \$5, you got to explain that to a client, so. (Laughter) I have no further questions. Thank you for your answers. [LB254]

LLOYD DOWDING: Thank you, Senator. [LB254]

SENATOR AVERY: Let me ask you, if you go to the bill it mentions that paper with watermarks would not be accepted. Is that because watermarks tend to be enhanced then when you photocopy them? [LB254]

LLOYD DOWDING: It has a tendency to, when you send...when you look at the document and it's got a watermark in it, you may not have much of a problem. When you scan that or when you microfilm that, that watermark becomes predominant, sometimes even blots out the language that was typed over the watermark or printed over it. [LB254]

SENATOR AVERY: A lot of times legal documents might be prepared on watermarked paper. [LB254]

LLOYD DOWDING: They have been, yes. [LB254]

SENATOR AVERY: Yeah. [LB254]

LLOYD DOWDING: Yes. That's one of the things we're trying to eliminate. [LB254]

SENATOR AVERY: Yeah, so how... [LB254]

LLOYD DOWDING: It's not necessary that there be a watermark on deeds of trust and mortgages and deeds and bills of sales. I don't know what the necessity is. It's just somebody has a...grabs a piece of paper and they happen to have watermarks on the back of it. [LB254]

SENATOR AVERY: How would you inform the people that you deal with that these new standards are there and you have to meet them? If somebody comes in with a

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watermarked document, are you going to make them go back and prepare it again and bring it back without the watermark? [LB254]

LLOYD DOWDING: If it's not going to create a problem for my recording process, I would probably accept it with an admonition that, hey, you know, we've got a statute that says it shouldn't have that on there, it's for your benefit, etcetera, etcetera, to help them out, so that there's a... [LB254]

SENATOR AVERY: But you would scan it first to see if it was going to be acceptable...? [LB254]

LLOYD DOWDING: We would, yes, yes. [LB254]

SENATOR AVERY: ...before you would...before the person left? [LB254]

LLOYD DOWDING: No, we don't do that. No, we don't. [LB254]

SENATOR AVERY: So you might have to call them back. [LB254]

LLOYD DOWDING: That's possible. [LB254]

SENATOR AVERY: Yeah. Questions from the committee? Senator Karpisek. [LB254]

SENATOR KARPISEK: Thank you, Senator. Thank you, Senator Avery. Thank you, Mr. Dowding. What do you do now if somebody brings something in and you can't get it to scan if it's on one of these green sheets and you can't do it and...? [LB254]

LLOYD DOWDING: Our normal process is we contact that party; we tell them we've got a document that's not recordable because of whatever that reason is. In the event, and we just had this happen last week, we had...I don't know what they used, some kind of squirrely, very minute type and you couldn't hardly read the original. And we wrote in our margin, which we're allowed to do over on the side, recorded at the insistence of the presenter, poor copy recorded or something like that. [LB254]

SENATOR KARPISEK: I guess I didn't know if you have to go to the time and expense of redoing it or you make them come in and get you a different copy. I mean, you don't have someone in your office sit down and rewrite it on... [LB254]

LLOYD DOWDING: Absolutely not. [LB254]

SENATOR KARPISEK: You can't do that. [LB254]

LLOYD DOWDING: No, we don't change anything. [LB254]

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SENATOR KARPISEK: Very good. Thank you. [LB254]

LLOYD DOWDING: You bet. [LB254]

SENATOR AVERY: Senator Schumacher. [LB254]

SENATOR SCHUMACHER: Sometimes the timing of when things are filed is important to the order in which deeds or mortgages are filed. In the event that you have a situation you described that you have difficulties in filing the document, is there a way to preserve that time that that was placed if they have to send it back so that everyone knows that this mortgage was indeed filed before the deed came in or vice versa? [LB254]

LLOYD DOWDING: Our procedure is that everything that comes to us is time stamped immediately. Whether we keep that document to do the process of recording or not depends on the presenter. If they're willing to come in and correct what we can get corrected, then we would do that. We always contact them. We don't just indiscriminately throw things out. But if you...I don't know, I guess I'm trying to figure out what the situation would be. If somebody brought in a document full of watermarks and small print and we took it, time stamped it, and we scanned it and we find it comes out just a blob, can't read it, what would we do? We would probably contact them. Normally they rerecord them. I've not really had any problem with anybody concerned about the time, I'll be honest with you. [LB254]

SENATOR SCHUMACHER: Well, I mean... [LB254]

LLOYD DOWDING: I know there's a statute about the essence of time and getting it on there but I've not...in like in 20-some years, I have not run into that. I don't know what...we normally will not record something that we can't read. [LB254]

SENATOR SCHUMACHER: Well, I wouldn't think that it would come up in a case where somebody brings a first mortgage in and for some reason there's a problem with the typeset or whatever. So you send it back home, somebody brings another mortgage in, it gets filed or it's readable, scannable, whatever, and it gets recorded, which one of those is the first mortgage? [LB254]

LLOYD DOWDING: I'm not a lawyer but I can tell you that that's already been taken into court and that's already been decided that the time on the first mortgage is not required to... [LB254]

SENATOR SCHUMACHER: Okay. [LB254]

LLOYD DOWDING: ...to make it the first mortgage. I don't know the legal ramifications

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or anything like that. It's in the statute book about the first mortgages on that case.
[LB254]

SENATOR SCHUMACHER: And then one follow-up question. If you do tape something to the top to make it enough margin at the top, what if doing that forces something off the bottom? Do you cut the page or what happens? Say you got something that's a full length of text, you don't have the margin at the top so you tape, like you described before, something at the top, but that makes the thing longer than 14 inches. [LB254]

LLOYD DOWDING: No, we don't do that. We add a page, sir. We add a page. Statute requires or allows us to add a page with a \$5 charge, so that page that we add in it's very...I don't have a copy of one here, very predominant, says exactly what it is and that becomes the first page of the document, the cover page. Yeah. [LB254]

SENATOR SCHUMACHER: A cover...kind of a cover sheet you have. Okay. I understand now. Thank you. [LB254]

LLOYD DOWDING: Um-hum. [LB254]

SENATOR AVERY: Senator Brasch. [LB254]

SENATOR BRASCH: Curious, who originates or creates or designs said deeds? Is it something going to Office Depot or is it the banker or can anyone do this by your specs here? Is there an industry standard or...I know watermarks at one point were almost a copyright that you knew as an authentic document because the watermark is exclusive to a person or a business. [LB254]

LLOYD DOWDING: Um-hum. [LB254]

SENATOR BRASCH: So right now you're saying any piece of white bond will do as long as...you know, are there predesigned forms out there you can buy off the shelf...
[LB254]

LLOYD DOWDING: Um-hum. [LB254]

SENATOR BRASCH: ...or who are we talking to when we're having these specs?
[LB254]

LLOYD DOWDING: There are. We've got a printing...the (laugh) name just...we sent a lot of people to them, I should own stock... [LB254]

SENATOR BRASCH: You're going to offset printers...they are... [LB254]

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LLOYD DOWDING: It's a form company in Ralston, Nebraska. They print, they've got all kinds of printed forms, you know, from deeds, quitclaim deeds, trusts, you name it, and you fill in the blanks. You can get them on-line from various people on-line, you can do it. Banks, most of the large banks have preprinted forms that are filled out. The title closers, I should say, not necessarily the title companies but the closers have access to these documents, and they can be put on just plain paper. There's no... [LB254]

SENATOR BRASCH: So will these instructions then go to that company in Georgia or wherever it might be? [LB254]

LLOYD DOWDING: Yes, it would be known. And these are not unusual requirements. These are...as I said right now, PRIA, which is a national concern who works with government and business agencies to come up with these standards, banking industry, title insurance industry,... [LB254]

SENATOR BRASCH: These are already standards? [LB254]

LLOYD DOWDING: These are standard in many, many states, 44 that I know of. [LB254]

SENATOR BRASCH: Thank you, Mr. Dowding. [LB254]

LLOYD DOWDING: Um-hum. [LB254]

SENATOR BRASCH: Thank you, Chairman. [LB254]

SENATOR AVERY: Senator Price. [LB254]

SENATOR PRICE: Thank you, Chairman Avery. Thank you, Mr. Dowding, for coming down. It's good to see someone from home down here testifying. I've kind of got a two-part question for you. And one of the things that we've talked a lot about a lot of things here, but you've mentioned in testimony and I think Senator Campbell did also that what we run into now is data can be all over the place within a document. So part of this is also aligning so you have data fields available in standardized places so you can save some time. So I'd like you, if you can, spend a moment talking about how this makes it better for your office in time. If you're dealing with hundreds of documents and you have to read every page to find something in so many different places, how that gums up the process. [LB254]

LLOYD DOWDING: Well, the primary time is it takes time for the clerks to be able to find the information so that they know what they're recording. We don't require a lot of information. We need to know who sent it to us. We need to know who to send it back to. We need to have a place for our recording information which we're incorporating in

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this. We're enlarging on what the statute now provides us. We need to have...we need to be able to find the legal descriptions of the property. We need to find the preceding recording instrumentation of the document that...if it's releasing something. We need to know where the signatures are and be able to read the signatures. That's part of this. But, you know, if I signed a document, it'd be a good chance...I don't know, I signed this...you can't...if I didn't have my name down there, you'd probably be hard-pressed to figure out what I just signed there. Sometimes I do it better because my wife makes me, but it's...when I'm just signing things...and most people do the same thing, they sign things, you don't know. We need to have a name there so we can see it. We need to have notarization of these documents. We need to have these notarizations set in such a way that they're not covering up people's signatures so we know what's going on. [LB254]

SENATOR PRICE: So it's safe to say, though, and I guess what I'm trying to get to is, you spend a good amount of time with a document. Total time spent with a document, a good portion of that time is just trying to find out where the required fields of data are versus making the transaction. [LB254]

LLOYD DOWDING: Right. [LB254]

SENATOR PRICE: Thank you. [LB254]

LLOYD DOWDING: I'm sorry. (Laugh) [LB254]

SENATOR PRICE: No, that's good. [LB254]

SENATOR AVERY: I don't see any more questions, Mr. Dowding. Thank you very much for your testimony. [LB254]

LLOYD DOWDING: I thank all of you very much for your time. [LB254]

SENATOR AVERY: Any other proponent testimony? [LB254]

BETH BAZYN FERRELL: Good afternoon, Chairman Avery, members of the committee. For the record, my name is Beth Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm appearing for the Nebraska Association of County Officials in support of the bill. We'd like to thank Senator Campbell for introducing this bill on our behalf this year and two years ago. Last year, we did make a commitment to her to work on the bill, and we would like to thank the parties who were involved in that. And you have our pledge that we will go back to the folks that were involved again and we will try and get the remaining issues worked out. We see this bill really as much about the filing standards themselves on the original documents that come in as the future of land records in Nebraska. We've been in here on a number of other bills talking about technology, and particularly a bill that

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Senator Wightman introduced about coming up with some funding for counties to help preserve and maintain records and make technology available for those land records. We see this as a step in that direction too. By making the records more standard, as you've heard, that will make them easier to scan, that will have standards for legibility so that when the documents are scanned in the future, we'll be able to read those. And we just see this as a very helpful bill as a step toward the future. I'd be happy to try to answer questions. [LB254]

SENATOR AVERY: Now do you think that you're going to be able to get all parties together and reach agreement soon or is it going to take another year? [LB254]

BETH BAZYN FERRELL: I would hope that we could do it soon. I think the issues that we have remaining are relatively small and I think we can get those worked out. [LB254]

SENATOR AVERY: Okay. Questions? Senator Sullivan. [LB254]

SENATOR SULLIVAN: Right along with that...thank you, Senator Avery. And maybe you don't want to disclose this now, but, I mean, what's the stumbling block? [LB254]

BETH BAZYN FERRELL: I think there has been an ongoing question of some of the issues that...you had asked Mr. Dowding about what is the authority to reject a document that comes in and at what point or what are the obligations of the register of deeds to verify legibility and that sort of thing. I believe we had a question, one of the questions that had just come up dealt with the watermarks. So I think that there are things that we can work through. [LB254]

SENATOR SULLIVAN: Okay. So then in the summary it says, okay: Any printed form accepted for recordation that does not comply with the provisions of this bill will not affect the validity of the recording. So even though maybe it doesn't match the formatting standards, still will be a valid instrument? [LB254]

BETH BAZYN FERRELL: Well, and that would go back to the...someone has handwritten a bill of sale for a cabin. There are going to be instances no matter what the standards, the formatting standards are, where those documents are going to come in. And maybe one of the parties has died in the interim or something like that. So there's always going to be something, some documents that will be outside of what the standards are, and we'll just have to deal with those individually. [LB254]

SENATOR SULLIVAN: So the question is then how much teeth does this have? [LB254]

BETH BAZYN FERRELL: Well, as Mr. Dowding said, there are 44 other states that we're aware of that have some formatting standards similar to this, similar to what PRIA

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has recommended. And so most of the documents that would come in would be in line with those standards because, as he said, most of the documents come from title companies or from realtors or folks that are really involved in the industry. And, you know, it would just be those others and there would be a relatively small number of those that probably wouldn't comply. And as he said, once the forms are, you know, in compliance, that's just what would be used. [LB254]

SENATOR SULLIVAN: Okay. [LB254]

SENATOR AVERY: Senator Price. [LB254]

SENATOR PRICE: Thank you, Chairman Avery. And that talks exactly...thank you, Senator Sullivan, for bringing that up and Ms. Bazyn, in that, I was looking at the bench stock question, you know, a lot of people have a lot of forms sitting on their shelves and they want to be able to burn through those before they go to a new form, this new format. So, I mean, is that in any way, shape, or form a concern you're hearing from people that say, hey, I've got 15,000 copies of the way we do these instruments and can I use those before I have to go to the new format? [LB254]

BETH BAZYN FERRELL: I guess it's not really a question that we've been asked but I think it's something that would be possibly part of the consideration. [LB254]

SENATOR PRICE: All right. Thank you. [LB254]

SENATOR AVERY: Thank you, Senator Price. Anybody else? Thank you for your testimony. Any other proponent testimony? Welcome. [LB254]

DEBORAH SCOTT: Thank you. Good afternoon, Chairman Avery and committee. I did have some notes here, but I'll just kind of throw them out because my friends back here have pretty much addressed it. I am Deborah Scott, D-e-b-o-r-a-h S-c-o-t-t. Today, I'm representing the Nebraska Land Title Association. We have approximately 110 company members and roughly 430 employees, and I happen to be one of those employees working in the industry. Our interest in LB254 is a result of the direct impact that this bill has on our day-to-day operations. The NLTA, Nebraska Land Title Association, had the opportunity to sit down with the NACO folks this past fall and hammer out some of the issues resulting in the changes from last year's LB295. We were able to reach consensus in what we have today, the LB254 as amended. There is an amendment that Senator Campbell presented when she put LB254 out here today. The amendment is critical from where we sit. We, as title companies, don't prepare the mortgages, the easements, the other subordination agreements and other agreements that affect the real estate. And so the LB254 without the amendment holds the title company in the position of having to enforce the statute that's not frankly a position that we need to be in or even want to be in. The amendment is critically important. It says

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essentially that whether or not the document conforms to the standards set forth in today's LB254, that they need to be recorded regardless. And that was a concern of Senator Schumacher and Senator Sullivan and Senator Brasch, so I just want to throw that out there and open it up for questions. [LB254]

SENATOR AVERY: Thank you. [LB254]

DEBORAH SCOTT: Um-hum. [LB254]

SENATOR AVERY: Questions from the committee? I don't see any. [LB254]

SENATOR SULLIVAN: Oh, can I just... [LB254]

SENATOR AVERY: Oh, I'm sorry. [LB254]

SENATOR SULLIVAN: Thank you. So does this amendment basically represent what has...is the consensus so far or are there still some issues hanging out there? [LB254]

DEBORAH SCOTT: As far as the Nebraska Land Title Association is concerned, we'll support the bill with the amendment. It addresses our concerns that if a nonconforming document is presented, that it is still the duty of the register of deeds to accept it. [LB254]

SENATOR SULLIVAN: Thank you. [LB254]

DEBORAH SCOTT: You're welcome. [LB254]

SENATOR AVERY: Thank you. [LB254]

DEBORAH SCOTT: Um-hum. [LB254]

SENATOR AVERY: Any more questions? All right. Thank you. Any more proponent testimony? Anyone wish to speak in opposition? [LB254]

KORBY GILBERTSON: Good afternoon, Chairman Avery, members of the committee. For the record, my name is Korby Gilbertson, it's K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today as a registered lobbyist on behalf of the Nebraska Realtors Association. Last year, we were involved in discussions on what then was LB295. And let me start by saying, we're opposing the bill as drafted because it still contains some things that we had raised concerns with last year in LB295 and those have not been addressed yet. We were not part of the discussions this fall in regards to this legislation. So let me start by saying that I'm not trying to be an obstructionist. We're just still...have some concerns that haven't been addressed. One of the overarching concerns for the realtors is that all

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of a sudden the register of deeds would have the ability to reject a filing or somehow turn that ministerial position into a judicial job. Last year, one of the things that raised that concern was, there was a document circulated...and I didn't make copies of it because I didn't think I'd have to bring this up, but there were documents circulated that a register of deeds form could give to somebody and say, here's the following problems with your filing, you need to get these fixed or else we can't accept your document. That was something that really raised the ears of (laugh) the realtors and they did not like that because there are so many documents involved that they don't have control over how they get prepared and things like that, that they were concerned. Secondly, is the watermark issue. I know that a lot of times...I don't know if they still use it, and legislative, all the Unicameral paper that comes from senators' offices used to be on watermarked paper. Lots of paper comes through that. I know I tested it again on our copier in our office. Our copier and scanner does not pick up the watermark. It somehow figures out how to ignore it. So I'm assuming most new machinery does that. That is one concern of the realtors, that a watermark language be taken out. In LB254, there is language that says visible inclusions and there also is a second statute...and I don't have that number with me, but there is a legibility statute that deals with filings of the register of deeds. So I think that certain things like the watermark or other things that would be visible inclusions on that would obviously impact the legibility, and that should already be covered under existing law. The third issue that was raised back when LB295 was introduced last year was the font size. The realtors had requested that the font size stated in the proposal be removed and that was not done. And so that would be another reason that they are still concerned with the legislation. And with that, I'd be happy to try to answer any questions. [LB254]

SENATOR AVERY: Thank you, Ms. Gilbertson. Let me ask you this, if we were to remove the criterion of watermarks or the language in there affecting watermarks, what would be your suggestion that the register of deeds do if one comes in, they copy it, the watermark obscures a critical information? [LB254]

KORBY GILBERTSON: Um-hum. I think that they could I guess request that someone come in and refile it, but I don't think they should have the ability to reject anything. That's our primary concern. And, again, I have not seen the amendment that was presented by Senator Campbell. [LB254]

SENATOR AVERY: Let me read it to you then. [LB254]

KORBY GILBERTSON: Okay. [LB254]

SENATOR AVERY: It would amend, "On page 4, after line 1," it would insert, "(5) The changes made to this section by this legislative bill do not affect the duty of a register of deeds to file an instrument presented for recordation as set forth in sections 23-1506 and 76-237." Would that satisfy you? [LB254]

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KORBY GILBERTSON: Okay. I always say I'm not at liberty to answer for a client (laugh) without asking them first, but I'd be happy to take that back to them. [LB254]

SENATOR AVERY: Yeah. But it sounds to me as if it might go part of the way if at least... [LB254]

KORBY GILBERTSON: Right, and last year I must say...this year you've already heard LB14 that was introduced by Senator Wightman, last year I think it was LB68...I can't remember the number, LB684 or something, LB686? LB686, last year it was introduced with LB295, and those bills were worked on kind of in concert. And we, at that time, did recommend to the realtors that they support the legislation with the proposed amendments. There were just a couple things that didn't get addressed, and so I think if we can get those addressed, they should be fine. [LB254]

SENATOR AVERY: So you think that you'll be able to work it out in time for us to get it out of committee? [LB254]

KORBY GILBERTSON: I would certainly hope so. [LB254]

SENATOR AVERY: You know, one would look at this and say, this should be a no-brainer. And... [LB254]

KORBY GILBERTSON: I think it should be but, you know, there's also...when people look at LB14 that the realtors had opposed for a number of years which was a pretty substantial increases in fees, then all of a sudden they have to have pretty much a blank first page that's going to cost them \$10. And then now everything else has a bigger margin and bigger type print, and so all of a sudden something that was four pages to file is eight and now they're paying, you know, an increased fee. That was a hard hurdle to get people over. So that's... [LB254]

SENATOR AVERY: And that was debated on the floor last year and failed. [LB254]

KORBY GILBERTSON: Last year and I think that might be why it didn't go anywhere, so (laugh). [LB254]

SENATOR AVERY: Any questions from the committee? Thank you for your testimony. [LB254]

KORBY GILBERTSON: Thank you. [LB254]

SENATOR AVERY: Any more opposition? Mr. Hallstrom. [LB254]

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ROBERT HALLSTROM: Chairman Avery, members of the committee, my name is Robert J. Hallstrom. I appear before you today as a registered lobbyist for the Nebraska Bankers Association in opposition to LB254. Most of the concerns of the bankers have been identified without engaging in "wordsmithing." I think while the amendment, if I get a chance to look at it and compare those cited sections, perhaps that goes a long way to addressing some of our concerns. But if you look at page 4, it currently says, "Any printed form accepted for recordation." Well, if it's not accepted, it may be valid if it's recorded but if it's not accepted for recording, then you don't have a document that's filed. As Senator Schumacher has pointed out, there are a number of issues with regard to priorities for mortgages and deeds of trust that are based on the filing order of those documents. Notices of commencement and filings of deeds of trust have a particular order that they are required to be filed in. If one of them was to be accepted and the other one not accepted, that could disrupt the order of filing and their priority vis-a-vis construction liens and those types of things. On the page 3 of the bill... [LB254]

SENATOR AVERY: Could I interrupt you with a question right there on that point? [LB254]

ROBERT HALLSTROM: Yes. Sure. [LB254]

SENATOR AVERY: I usually don't do this, but would the word "presented" instead of "accepted" be better? [LB254]

ROBERT HALLSTROM: Again, Senator, the amendment that they've proposed may take it out of the realm of our concerns, but I need to look at that amendment. And I think, again, "presented" better than "accepted," but you still have to get to the point that they have to accept it and file it and what that language is may be taken care of in the amendment. [LB254]

SENATOR AVERY: I think it might be. [LB254]

ROBERT HALLSTROM: On page 3, it talks about: any embossed or ink stamp shall not cover or otherwise materially interfere with any part of the instrument. I'm assuming it's not uncommon to distribute instruments across state lines. You may have a notary from out of state may not be familiar with these requirements put a stamp down at the bottom part of the page. And, again, it may all be conditional upon what that amendment says and how its response is, but that's another issue that we have. From a cost factor, Ms. Gilbertson pointed out the issue of having worked, as the bankers did, on LB14 this year and the bill last year to where our concerns about the increased fees had been addressed because some monies were taken for modernization and technology at the local filing offices, which we supported. And now we have a double whammy in that the standards are going to even more narrowly confine how much text can be on the first page and any subsequent page, which ends up...you know, it raises an interesting

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question, if we need standards, why don't we have a standard that allows more text to be on each page, thereby, limiting the number of pages and the number of filing fees or the amount of filing fees that you pay? But that's just me. So with that, I'd be happy to address any questions. [LB254]

SENATOR AVERY: What do you think other...in the 44 other states that use these standards, what do you think bankers and realtors do? [LB254]

ROBERT HALLSTROM: Well, they probably adapt to them once the law is recorded, but they probably raised many of the same questions that we're raising at this point at the front edge of the discussion in our state I would assume, Senator Avery. [LB254]

SENATOR AVERY: Senator Sullivan. [LB254]

SENATOR SULLIVAN: So I take it you have not been privy to some of the coordination compromises in discussions? [LB254]

ROBERT HALLSTROM: I have not, Senator. And in fairness, I didn't get a chance to go back to my file. I know I was here last year to testify on the bill, but I believe Senator Campbell indicated in her opening remarks that she was going to ask the committee to defer action. And I just don't at this moment remember whether I identified myself as an opponent that should have been called to participate or not. [LB254]

SENATOR SULLIVAN: "Gotcha." Okay. [LB254]

SENATOR AVERY: Well, we'll make sure she knows to... [LB254]

ROBERT HALLSTROM: Make sure I'm on the list, if you would. [LB254]

SENATOR AVERY: You and the realtors and all interested parties. Any other questions? Senator Schumacher. [LB254]

SENATOR SCHUMACHER: Thank you, Senator Avery. Is the eight-point type, is that...pose any difficulties for you guys? [LB254]

ROBERT HALLSTROM: I'll have to double-check with that, Senator. Korby and I were...Ms. Gilbertson and I were talking about that in the back of the room and I didn't have an answer as to whether or not that causes problems. I know some of the discussion that was mentioned by Senator Campbell was that requiring ten-point font was problematic by some who participated in the discussions. I will determine whether or not that's an issue for us. [LB254]

SENATOR SCHUMACHER: A couple of little technical things that the bill doesn't

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address, space between lines, an issue for you at all? [LB254]

ROBERT HALLSTROM: I would think that, you know, the preprinted forms would all be standardized in that respect and probably double-spaced if it's not a preprinted form. [LB254]

SENATOR SCHUMACHER: So there's no need for us to address the space between lines? [LB254]

ROBERT HALLSTROM: Not that I would think of at this moment. [LB254]

SENATOR SCHUMACHER: In my practice I've found that if you squeeze them a little bit, you can save 5 bucks the client's like. (Laugh) [LB254]

ROBERT HALLSTROM: Yeah, and you're exactly right. But if that's not part of the standards, then we don't have to worry about it. [LB254]

SENATOR SCHUMACHER: Okay. And the last thing, this makes reference to the print has got to be in black ink. Would a more proper fitting with reality or reforms and everything, in black print? I don't know how much is done in ink anymore. [LB254]

ROBERT HALLSTROM: I would assume so. And that may be a matter of semantics as to whether or not it's considered to be ink or print when it's on a preprinted form. [LB254]

SENATOR SCHUMACHER: Okay. I don't have anything further. Thank you, Mr. Hallstrom. [LB254]

SENATOR AVERY: Now that's detailed--ink versus print. Okay. Senator Sullivan. [LB254]

SENATOR SULLIVAN: Thank you. Does the Bankers Association, your group, work with the PRIA, the Property Records Industry Association? [LB254]

ROBERT HALLSTROM: Not that I'm aware of. I'm not familiar with them. [LB254]

SENATOR SULLIVAN: Okay. [LB254]

SENATOR AVERY: Any other questions? I don't see any. Thank you for your testimony. [LB254]

ROBERT HALLSTROM: Thank you. [LB254]

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SENATOR AVERY: Any other opponent testimony? Anyone wish to testify in a neutral position? Senator Campbell has waived her closing on this. That ends the hearing on LB254. I see Senator Fischer is in the room and enjoying herself in that nice discussion. And we will now have LB234. Welcome, Senator Fischer. [LB254]

SENATOR FISCHER: (Exhibit 1) Thank you, Senator Avery and members of the Government, Military and Veterans Affairs Committee. For the record, my name is Deb Fischer, F-i-s-c-h-e-r, and I am the Senator representing the 43rd District here in the Nebraska Unicameral. The purpose of LB234 is to allow counties the option to reduce office space and facilities for the Nebraska Department of Health and Human Services. If the Department reduces programs and staff in that county, currently under 68-130, counties are required to provide facilities to the department as such facilities existed on April 1, 1983. Cherry County Commissioners asked me to introduce this bill. Cherry County, along with many counties across the state, will see a significant decrease in services provided by the department. Counties will also likely see their state aid eliminated according to the Governor's budget recommendations, and LB383 which was heard and advanced by the Revenue Committee last week. Cherry County used to have five staff people located in the county and had office space to match that staffing pattern. Now Cherry County only has two staff people from the department and is still required to provide office space at the 1983 level. The cost for the office space is \$1,200 per month. Cherry County is aware that they will likely lose these two department staffers, yet they will still be required to provide office space for the department. From a practical perspective, I think we should allow counties to decrease this required office space if the state is decreasing their services and eliminating their state aid. Counties will have to make difficult budget cuts just as we are and we need to allow them to make cuts where they can. Unfortunately, my commissioners were not able to drive in today, but I believe you have been given a letter from the Cherry County Board. However, my office did provide you with that letter, and I would be happy to answer any questions, if you have them. I believe NACO is here to testify in favor of the bill also. I would be happy to try and answer any questions for you on this. [LB234]

SENATOR AVERY: (Exhibit 1) Since you mentioned the letter, I will read into the record now a letter from Mark Adamson, chairman of the Cherry County, Nebraska, Commissioners Office. [LB234]

SENATOR FISCHER: Thank you. [LB234]

SENATOR AVERY: Does this bill at all address any responsibilities that a county might have to the poor or to people in poverty in the county? [LB234]

SENATOR FISCHER: In what way, Senator? [LB234]

SENATOR AVERY: I'm asking. I don't... [LB234]

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SENATOR FISCHER: Counties have obligations to provide certain services to the poor, yes. This bill doesn't address that though. It's only dealing with the required office space under current statute that we have, even though there are no staff people in those offices. I guess, I'm viewing this as a money savings for the counties because... [LB234]

SENATOR AVERY: Because if you don't need the space, you shouldn't be paying for it, right? [LB234]

SENATOR FISCHER: Exactly. And \$1,200 may not sound like a lot to some counties but to my sparsely populated counties, that does add up because they have to rent space elsewhere for the department. [LB234]

SENATOR AVERY: Senator Sullivan has a question. [LB234]

SENATOR SULLIVAN: Thank you, Senator Avery. Thank you, Senator Fischer. I have several counties that are impacted by this as well, so I just want to clarify a little bit. So this would remove the...the space requirement that's based on the 1983 standard. So going forward, if there's either some transition period where they're not sure how many staff people will be there, or maybe there will be none at all on a permanent basis. I mean, who then decides how much office space needs to be provided? [LB234]

SENATOR FISCHER: I believe that will be worked out between the counties and the department. But what I see is, that the counties would be required to provide office space when the individuals from the department come to the counties to conduct business. And I would think that they would be able to do that within their courthouses, just as we do for driver's license examiners. [LB234]

SENATOR SULLIVAN: Okay. Exactly, yeah. So that it removes what really amounts to be a much higher standard if you go back to 1983. [LB234]

SENATOR FISCHER: Right. [LB234]

SENATOR SULLIVAN: Okay. Thank you. [LB234]

SENATOR AVERY: And that hasn't been changed since '83? [LB234]

SENATOR FISCHER: It uses the '83 standards, Senator. I can't tell you what the date is on the statute, but the standard is from 1983, that staffing pattern. [LB234]

SENATOR AVERY: We have trouble changing the laws older than that. (Laugh)
Senator Karpisek. [LB234]

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SENATOR KARPISEK: Thank you, Senator Avery. Thank you, Senator Fischer. Maybe Senator Sullivan asked this in a different way. Does it have to be in the courthouse? [LB234]

SENATOR FISCHER: No, it doesn't. In fact, in Cherry County they have to lease space, which is why it costs that \$1,200 a month because the courthouse offices are full. But just as we make space in our county courthouses for driver's license examiners when they come, anymore it might be once every three months, but when they come to our courthouses, I know that my counties believe that they can offer space in the courthouse to the staff people from HHS. [LB234]

SENATOR KARPISEK: So, it just has to be...I'm trying to see what they have to even...are there some standards of per person how many feet they need or...? [LB234]

SENATOR FISCHER: There were previously. I know Mr. Winterer is here and would be able to probably answer those questions easier than I can. [LB234]

SENATOR KARPISEK: Great. Thank you, Senator Fischer. Thank you, Senator Avery. [LB234]

SENATOR AVERY: Any other questions? Looks like you're getting off easy. [LB234]

SENATOR FISCHER: That's nice. [LB234]

SENATOR AVERY: Are you going to stay to close? [LB234]

SENATOR FISCHER: I will waive closing, Senator Avery. I would like to let you know that I am working on an amendment with the department and we're both agreeable to it and it will be in how notice will be provided when there has been a decrease in services or vacancies. And so, I think this looks like a consent calendar for you, probably. [LB234]

SENATOR AVERY: Thank you. You're always welcome in this committee. [LB234]

SENATOR FISCHER: Okay. I always enjoy it very much. Thank you. [LB234]

SENATOR AVERY: Any proponents to LB234? Welcome, sir. [LB234]

KERRY WINTERER: (Exhibit 2) Good afternoon. Good afternoon, Senator Avery and members of the Government, Military and Veterans Affairs Committee. My name is Kerry Winterer, that's spelled K-e-r-r-y, last name W-i-n-t-e-r-e-r. I'm CEO of the Department of Health and Human Services. I'm here to testify in support of LB234, if amended. I'm going to read some of this testimony here and I think it will make clear, I

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think, exactly some of the questions you had before and then happy to respond to other questions at the end. LB234 is intended to allow counties to reduce office space and service facilities if the department reduces programs and employees within the county. The current statute requires counties to maintain office and service facilities used for public assistance programs as they existed on April 1, 1983. Prior to July 1, 1983, county boards had responsibility for the county departments of public welfare, including costs for building space, equipment, employees, and some program costs. Several pieces of legislation in 1982 and 1983 authorized the transition to state administration of the 89 county welfare offices and 1,200 county employees. Also transitioning to the state at that time was all office space, equipment and some program costs. As part of ongoing discussions, legislation later allowed counties to keep the office space, but to maintain it for public assistance programs as it existed on April 1, 1983. As it is today, some counties provide county-owned space and others lease equivalent space for the department in the community. Since 1983 a number of programs and responsibilities have been added to the work of the department through federal and state mandates, policy changes, and agency mergers. In many locations, we've gained efficiencies by consolidating employees who used to be in different agencies but now are all employees of DHHS. These include employees responsible for public assistance, child support enforcement, child welfare, juvenile services, developmental disabilities, public health, and operational activities. We've responded to changing needs in various ways. In some locations we have consolidated space to that provided by the counties. In others, we have actually leased space in addition to that provided by the counties. Counties currently provide DHHS with about 19,500 (sic) square feet and the department leases an additional 100,251 square feet. Throughout the state in this fiscal year, the department has actually reduced the use of leased space by 23,626 square feet, consolidating into county provided spaces when possible. The Department of Health and Human Services is committing to helping people live better lives wherever they reside. While we continue to improve access to our public assistance programs through efficiencies such as automation and the creation of customer service centers, we are also committed to having a presence and being available to people across the state. We will continue to have full-time offices in many counties. In other locations, such as in Hall County, we will use county-provided space as a satellite location for those clients in the county who require the support of local public assistance staff for face-to-face meetings and other purposes. The same programs and services are always being provided in the counties, but staffing may vary either on amount of time or by coverage, with multiple staff from different locations to be cost-effective. If this bill advances in its current form and makes space unavailable, it may lead to fewer direct services provided to people in that county. I support LB234, and as the senator mentioned, we're talking now about specific language for that amendment which would limit reductions to county-maintained facilities to instances where HHS provides notice of those reductions. If the agency reduces its presence and notifies a county that it is vacating a particular facility, that county should have the flexibility to adjust accordingly. In summary, the space provided by the counties continues to be the focal point of local

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service delivery for the Department of Health and Human Services. I appreciate the opportunity and would be happy to answer any questions. [LB234]

SENATOR AVERY: I have one. Your last sentence, in summary the space provided by the counties continues to be the focal point of local service delivered. What if DHHS were to eliminate or reduce services and in the meantime we pass this bill, LB234, and the county has reduced office space, would it not be the fault of the county, perhaps the responsibility to expand their services to pick up the slack caused by an elimination or reduction in services from the state, and thereby they would need more space, but they would have given it up by this time? [LB234]

KERRY WINTERER: Right. Right. I think that clearly is an issue, and I think as the bill is currently drafted. Fundamentally, the counties have this obligation to provide X number of square feet in the county which is essentially equivalent to what they were...what they had allocated that space back in 1983 when they had many of these services. The statute requires them to continue to provide to the department an equivalent amount of space. It doesn't have to be in the courthouse. If they have to go lease the space elsewhere, then they have to pay the lease amount. The statute would really allow them to essentially adjust that as there were changes in programs and staff that the department may be experiencing. Now what we would want to be able to do is provide some kind of notice and determine when we were pulling back on a particular program, such that we didn't have a need for that space in the future. As you said, one of the issues here could be if the county pulled back on its space and then our program revamped, who then has to bear the brunt or provide that space? We're doing a lot of things all the time. ACCESSNebraska is an example of how we're changing our configuration of office space around the state. In a particular county, we may not necessarily need that space that they're committed for. And in those circumstances, we're certainly willing to work with the county and say, well, you've been providing us 2,500 feet but based on where we think we are and what our needs are going to be, we think we only need 1,200 feet or whatever. The statute doesn't really provide for that kind of mechanism or flexibility at this point. [LB234]

SENATOR AVERY: And if the counties found themselves in a situation where they had to expand services they provide because of cuts at the state level, then it would be up to them to find extra space, right? [LB234]

KERRY WINTERER: That's correct, for their programs and services, yes. [LB234]

SENATOR AVERY: Okay. Senator Sullivan. [LB234]

SENATOR SULLIVAN: Thank you. In those situations then when you have already given notice that staff will be reduced in a given county, how does the county prepare when they may, in fact, have been having a separate space maybe away from the

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courthouse, they've been told that there will no longer be permanent staff there, they may be...it's not even clear at this point how often the temporary staff may be appearing, how do you determine what sort of expectation you're going to have for space on the part of the county? [LB234]

KERRY WINTERER: It seems to me that the obligation rests on us to plan and anticipate what we really need in that county, not only what we need today relative to the various programs. And as the testimony says, the programs we're offering now far exceed what they were back in 1983. And so in many cases, the space requirement is more than it was back at that time. But I would say it's our responsibility to look forward and plan and anticipate what our space needs are so that we can work with the county and say, well, 12 months from now or 6 months from now, we expect we're going to need less space. And so, therefore, we should work with you in terms of accomplishing cutting back on that space, if that's appropriate. But it's very much a county-by-county thing and the situation in terms of what services are we providing, how many folks do we need to have there, what impacts or other things that may affect the staffing requirements over the foreseeable future. [LB234]

SENATOR SULLIVAN: And in that arrangement, it will be the counties' responsibility to provide the space. [LB234]

KERRY WINTERER: They will still have a continuing obligation to provide the space unless we simply chose not to have services in that county, which would be very unlikely. It would still, I would think, be a minimal requirement for them to continue to provide the space because, as I said, I don't foresee that we would not need space in some counties. [LB234]

SENATOR AVERY: The savings that we're talking about here would go to the counties? [LB234]

KERRY WINTERER: Yes, because it's a county... [LB234]

SENATOR AVERY: Is there any way to estimate how much money you're talking about? [LB234]

KERRY WINTERER: It's very difficult. We try to do that but it's so much county by county and then in some cases it's space that they already have in their courthouse. In some cases because, as was mentioned earlier, in Cherry County they actually have to lease space for us because they have no county-owned space. So it varies so much county from county, it's very difficult to...very difficult to estimate that. [LB234]

SENATOR AVERY: Yeah, I understand. Senator Price. [LB234]

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SENATOR PRICE: Thank you, Chairman Avery and thank you, Mr. Winterer. My question talks about elasticity here. We're looking at, you know, shrinking and when we lose aid to counties and things like that. What happens if it comes back? How do we...I mean does this leave...I saw some "mays" and things in there, but if we take out the '83 limit, the guidelines from 1983, do those automatically come back? I mean, how do we come back again and say how much is this square footage per person? How do we put that mechanism or is it still there and it's nothing to be concerned about? [LB234]

KERRY WINTERER: Well, I don't know that...I'm not exactly sure how the bill, if it's passed into law, would work relative to regaining that space. One of the things that we're concerned about is ultimately giving up that space and then two or three years later may need that back again. And so that, I think, is part of our concern and that part of our approach to this would be to understand our plan and then work with the county so that they can...we can come to some understanding about what those requirements are. It doesn't make a lot of sense to have just hundreds of feet just sitting there empty, but at the same time if there's an anticipated need for that sometime in the future, I think you've got to plan for that in some fashion. That almost seems to me to be something that you deal with each county with. [LB234]

SENATOR PRICE: Well, I would hope that the work would be done, say, some type of a formulation that would be agreed upon that you could say, hey, if you come back there will be space. That's all I would hope that they could have it that way. Thank you. [LB234]

KERRY WINTERER: And we're sympathetic, I think, with the counties and their need to be fiscally responsible and they don't want to be paying for space that isn't used. So we're sympathetic to that. [LB234]

SENATOR PRICE: Thank you. [LB234]

SENATOR AVERY: Senator Brasch. [LB234]

SENATOR BRASCH: Thank you, Chairman Avery. Thank you, Mr. Winterer. I did get an e-mail this morning from a county clerk in our district and they were supportive of this and they did express that they could see if there was a change needing to be made in the future, they would be happy to accommodate that space. But they were in favor and I don't know how many other, you know, county clerks see this as a savings or a benefit, but they, in writing, said there would not be a problem to open space back up should the need be there. [LB234]

KERRY WINTERER: Thank you. [LB234]

SENATOR AVERY: I have two questions here. Let's get Senator Schumacher. [LB234]

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SENATOR SCHUMACHER: Thank you, Senator Avery. If I can recall a situation maybe three in Platte County, the welfare department consisted of two people and two small rooms in the courthouse. Shortly after the reform, a large building showed up that had a lot of people in it. I'm not sure if it was the county or the state that's paying rent on that building, but I think it must be the state or the county board would have really bellyached. Let's say that you reduce your facilities in a county, and I would tell you if the department reduces the programs and employees in a county, the county may reduce office and service facilities accordingly. Let's say that new building or the additional building on the highway, what I call the highway, is reduced...you reduce staff by half. Okay. Now that reduction is coming out of the building that you're paying for rather than the county is paying for. Okay. This language would seem to say that the county's obligation, even though it originally was two rooms, is reduced by half. I mean, see what I'm trying to get at? I'm not doing a very good job of it. [LB234]

KERRY WINTERER: Yeah, I understand and I think there is a word in there. It's "accordingly" which, I think, has some ambiguity with it. And I think this is part of what we're working with the senator on to try to make that more...be more specific about how this would work. [LB234]

SENATOR SCHUMACHER: Okay. I agree with you. There has to be, in that situation, what "accordingly" means. [LB234]

SENATOR AVERY: Maybe the words "as needed" could be used instead. Senator Sullivan. [LB234]

SENATOR SULLIVAN: Thank you, Senator Avery. So who is all involved in the coordination of developing an amendment? [LB234]

KERRY WINTERER: Right now it's been discussions between us and Senator Fischer and her office. [LB234]

SENATOR SULLIVAN: What about the...any input from NACO, so represent... [LB234]

KERRY WINTERER: I have to apologize because we've just begun working on that as of this morning. And so that's why we don't even have amendment language for you at this point to try to resolve this. So I assume that there will be others involved, but that would be, basically, up to the senator. [LB234]

SENATOR SULLIVAN: I hope so because...okay. As you can see there's potentially quite a variation among counties and I think that needs to be represented. [LB234]

SENATOR AVERY: We'll be in touch with Senator Fischer. Any more questions? Thank

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you for your testimony, Mr. Winterer. [LB234]

KERRY WINTERER: Sure. [LB234]

SENATOR AVERY: Any other proponent testimony? [LB234]

SENATOR PRICE: Welcome, Mr. Uhe. [LB234]

FRED UHE: Good afternoon, Senator Price, members of the Government, Military and Veterans Affairs Committee. My name is Fred Uhe, last name is U-h-e. I am the chief deputy county clerk in Sarpy County and also the registered lobbyist for Sarpy County. Following Mr. Winterer's comments, I guess I'm changing some of my comments mentally as we go, so bear with me. The issue we originally wanted to come...I had spoken to Senator Fischer after she introduced this. I was somewhat intrigued because we ran into a similar situation in Sarpy County where currently we provide them 4,000 square feet of free space. They do lease an additional 1,155 square feet from us. I believe it's \$17.98 a square foot. But the 4,000 square feet was the original issue of my discussion with Senator Fischer. Our maintenance folks had remarked to our administrators that things were going on at HHS. There were boxes, people were moving. So we were attempting to notify them and they said, no, we're reorganizing. There's some changes but we wish to hold on to this space. Now we recently signed a lease for 4,800 square feet for our election commissioner and extension office, which that lease begins March 1 at a total cost of about \$56,000 annually. So you can see with the shortage of space in Sarpy County that changes in HHS did intrigue us. I do like the notice situation because it's probably not up to our maintenance people to advise us there are changes going on at HHS, people moving out of our buildings. But I guess one fear I have, if there are other paid space within the Sarpy area, I think there would probably be some incentive for HHS to move into our free space which still leaves the Sarpy County taxpayers at risk for leasing additional space as we grow. And Senator Price, as you know, we recently opened two years ago a \$5 million administration addition and with the...since I've been with the county 20-some years, we've added two juvenile judges, one district court judge, a county court judge, and potential of further growth, additional judgeships heading our way. So space is definitely an issue. We feel that if the state doesn't need the space they should return it to the county so we're not out in the open market bidding for other space. But I would encourage the department, I guess, to work with NACO, and Sarpy County would be willing to participate, identify the needs and staffing levels in Sarpy County, the type of services, and I think there are other state agencies are probably out in the open market bidding for space. I know we leased space for our probation office for a day reporting center and we actually do that in Bellevue because it was on a bus line and was able to meet the needs of some of the citizens that needed those services. So I think you could argue that perhaps with HHS, bus service would be more appropriate than Papillion where our courthouse is. So with that, I will close and be willing to take any questions. [LB234]

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SENATOR PRICE: Thank you, Mr. Uhe. Are there any questions from the committee? Seeing none, thank you for your testimony today. [LB234]

FRED UHE: Thank you. [LB234]

SENATOR PRICE: Good to see you again, Fred. Can we have our next proponent, please, for LB234. Welcome, Ms. Bazyn. [LB234]

BETH BAZYN FERRELL: (Exhibits 3 and 4) Senator Price, members of the committee, for the record my name is Beth Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm appearing in support of the bill on behalf of Nebraska Association of County Officials and you'll be handed out two letters in support of the bill from Cuming County and Otoe County. My testimony is going to be somewhat like Mr. Uhe's. We had taken a position in support of the bill, but after I've listened to what the department has testified to, I think we would still be in support of the concept. But we would really look forward to working with the senator and the department in coming up with just the right language to address some of the concerns that you've spoken about today. Be happy to answer questions. [LB234]

SENATOR PRICE: Why, thank you very much and thank you for the brevity. Are there any questions from the committee? Seeing no questions, again thank you for your testimony. Do we have any further proponents? Would anybody like to testify in opposition? Do we have any takers for neutral position? Seeing none. Senator Fischer has waived her closing so that will close the hearing on LB234. And we will begin then on the hearing on LB278 with Senator Coash, and again welcome Senator Avery back. [LB234]

SENATOR AVERY: Welcome, Senator Coash. I would take note of the fact, this is your first time appearing before this committee. [LB278]

SENATOR COASH: It is. [LB278]

SENATOR AVERY: Well, have at it. [LB278]

SENATOR COASH: (Exhibit 1) Thank you very much. Well, good afternoon Chairman Avery, members of the Government, Military and Veterans Affairs Committee. For the record, I'm Colby Coash, C-o-l-b-y C-o-a-s-h, and I represent the 27th Legislative District right here in Lincoln, here to introduce LB278. Very simple straightforward bill having to do with paying wages to county employees. Although statutory authority now exists for state of Nebraska to pay wages to state employees by the electronic transfer of funds, no such authority currently exists for counties. The concept behind LB278 is very simple. It provides counties with the same statutory authority enjoyed by the state to pay their wages by electronic transfer. Counties can save money and time by

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mandating direct electronic deposit of paychecks for county employees. However, with all statutory authority giving counties the discretion to pay these wages electronically, they may be subject to legal challenge if mandatory electronic deposit of wages is implemented. Testimony from Lancaster County is going to clarify this and how this bill came about. I'll point to a couple of things. First, I'll point to the fiscal note which has zero to the state but also mentions that this has the potential to save counties money. And I think with the possibility of eliminating state aid to counties, we owe it to them to do whatever we can to allow them to reduce their costs. Many states have this, and I've passed out some information about other states that have done this so you'll know we're not the first and probably won't be the last. So in closing I hope you'll...the committee will look favorably on this legislation and advance it for consideration. Thank you.
[LB278]

SENATOR AVERY: Thank you. I would just note that two years ago I got a bill passed that actually allowed the Department of Administrative Services to do this. [LB278]

SENATOR COASH: That's right. [LB278]

SENATOR AVERY: And you would be surprised at how many people opposed that.
[LB278]

SENATOR COASH: Well, we'll find out today but I...it allows LB167 and this is...amends a different part of the statute, of course, but has the same intent to allow that particular type of transfer for wages. [LB278]

SENATOR AVERY: This committee has been trying to drag the state, kicking and screaming, into the 21st Century in technologies. [LB278]

SENATOR COASH: You can use this bill to drag the counties. (Laughter) [LB278]

SENATOR AVERY: A question from Senator Sullivan. [LB278]

SENATOR SULLIVAN: Thank you, Colby. Just wanted to make sure, though, that it's the counties "may", they not "must", and so... [LB278]

SENATOR COASH: That's correct. [LB278]

SENATOR SULLIVAN: ...in the situations where, perhaps, a staff person doesn't have a bank account or doesn't want it direct deposited, there's that option, is that correct?
[LB278]

SENATOR COASH: Well, this language is authoritative in nature and not...or permissive in nature and not authoritative in nature. There is a "may." [LB278]

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SENATOR AVERY: Senator Price. [LB278]

SENATOR PRICE: Thank you, Chairman Avery. Thank you, again, Senator Sullivan, because that's the first thing I picked up on were the "mays." And in looking at it, what I hate to see happen and I don't know if it's happened yet with what we did before with the state. Now, all of a sudden, someone says now the only way we're going to do this is through that and you don't see where this legislation leaves a, well, yeah, we "may," but we decided to go to "only." [LB278]

SENATOR COASH: Well, you know, Senator Price, that's a fair question. I would say that counties, we're giving them the clear statute authority that they may and I think the county boards would be able to make that decision whether or not they will. My intent is to clarify that they have the authority to mandate it. Is that... [LB278]

SENATOR PRICE: Okay. I just want to make sure it's understood (inaudible)... [LB278]

SENATOR COASH: Not that they have to so a county can decide, no, we're fine the way we are but if a county makes the decision that they do want to move in this direction, that it is clear in the law that they have the authority to do so. [LB278]

SENATOR PRICE: Thank you, Senator Coash. I just want to make sure it's understood that I don't want to see a county board going by later say, yeah, we "may," now we made a "must" on our own and therefore, we've hamstrung some people. So I appreciate your testimony. [LB278]

SENATOR AVERY: Let me clarify that further. The county may adopt this new way of issuing paychecks. If someone, though, as Senator Sullivan mentioned, does not have a checking account, they could opt out of that, I presume, right? [LB278]

SENATOR COASH: I wouldn't...Senator, maybe, I wouldn't presume to say that would necessarily be the case. I think we would want to double-check because the reality is, the way I understand this legislation, is that if a county board made the decision that said, we want to make sure all of our...we want every employee to get their paychecks electronically, that every employee would have to. Right now, the law is unclear whether or not the county has the authority to make that decision. But it does not mandate that they make that decision. This is not a law that says every county now has to pay all their employees electronically. [LB278]

SENATOR AVERY: That's the same we probably faced at the state level. [LB278]

SENATOR COASH: This probably is a very similar issue but, you know, that's been going on now for two years. I don't hear...I don't have any constituents banging down

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my door saying, I want to work for the state but they won't hand me a check, they'll...
[LB278]

SENATOR AVERY: Well, if we were to decide that we wanted to amend this to clarify that, an individual, an employee of a county might opt out of this if they chose to, you wouldn't object? [LB278]

SENATOR COASH: This is the committee's bill at that point and I would like to see this move forward just for the purposes I've outlined and be glad to work with you on that.
[LB278]

SENATOR AVERY: Thank you. Senator Schumacher. [LB278]

SENATOR SCHUMACHER: Thank you, Senator Avery. Senator Coash, is this intended to be limited to just salary and reimbursements or does this authorize counties to make all kinds of payments by electronic funds transfer or direct deposits? [LB278]

SENATOR COASH: It's not limited to just salary and reimbursable expenses, but it is for employees only, is the way I would understand that, if you look at lines 16 and 17.
[LB278]

SENATOR SCHUMACHER: Which lines do you see that? [LB278]

SENATOR COASH: I'm sorry, 16 and 17. And I've got the Lancaster County administrator that may be able to answer more of those questions of the application on this. [LB278]

SENATOR SCHUMACHER: I'll have to look at that language a little bit. I think it can be read both ways. [LB278]

SENATOR COASH: We modeled this after Senator Avery's wonderful piece of legislation, so. (Laughter) [LB278]

SENATOR AVERY: Any more questions? Thank you, Senator. Are you going to stay for closing? [LB278]

SENATOR COASH: Yeah, I'm going to stick around and listen. [LB278]

SENATOR AVERY: Okay. Proponent testimony. Mr. Eagan, how are you? [LB278]

KERRY EAGAN: (Exhibit 2) Good afternoon, Chairman Avery, members of the Government, Military and Veterans Affairs Committee. My name is Kerry Eagan, that's K-e-r-r-y E-a-g-a-n. I'm the chief administrative officer for the Lancaster County Board of

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Commissioners. I'm here to testify on behalf of Lancaster County in favor of LB278. Having a copy of my testimony distributed, I will not read word for word from that and just try to make some major points regarding why we think this legislation is necessary and why it's a good idea. Lancaster County is always looking for ways to save tax dollars. And we particularly like it when we can save money and increase efficiency at the same time, which doesn't happen all that often. LB278 falls into this category. As you'll see in my written testimony, it costs the county about \$2.50 to issue a paper paycheck. In comparison, direct electronic deposit is a couple of cents. It's definitely less than 5 cents. We presently have...5 cents per paycheck, I should say. We presently have a voluntary program for electronic deposit, employees can sign up for it. And this is exactly what the state had until a couple of years ago. We have 100 lingerers or so, people who just do not want to do it. And as Senator Avery pointed out, it's amazing how much opposition there is to the concept of direct electronic deposit, which is great once you start doing it. And this is costing the taxpayers about \$6,500 a year for this privilege for us to hand them a paycheck and then they get in their car and drive it to the bank. So this \$6,500 doesn't even include the indirect cost of distributing the paychecks, the clerk's time, the employee's time to come pick it up, other employee's time to pick it up for them, taking it to the bank. There's a lot of cost that we just cannot put a figure to, but it's probably way more substantial than the \$6,500. The county board wanted to move to the next step and say, we are going to mandate electronic deposit. And I'll get to the questions earlier, in a little bit later about whether that includes absolutely every single employee and, as you'll see, it probably does not. But we do want the authority to make it mandatory and the board advised the county attorney, well, draft us a resolution to implement this. The county attorney came back and very strongly advised us that we do not have...and this was after extensive research by the county attorney, that we don't have the enabling authority in state law to mandate the electronic deposit of paychecks. And also it would include other types of payments as it very closely mirrors the state statute so it's any type of payment pretty much that...which we do already in almost every case anyway. So it's really a very complicated area legally when you start digging into all the research, but we came to the conclusion with the advice of counsel, that the best solution for us was simply to give us the same discretion that is already enjoyed by the state. And for the benefit of the committee, I've attached the state laws that reads today, which is 81-1117.05, and a copy of, I believe it's LB167, which came out of the 2009 session removing the language which required the consent of the employee to implement the electronic deposit. So essentially we are asking for authority for mandatory payment by electronic transfer of funds. In saying this, however, you need to know that there's federal law in this area through the Federal Deposit Insurance Corporation, U.S. laws and regulations, that say that this right is not unlimited, and we would certainly comply with federal law in any part of our program. There's concerns with the EEOC that maybe this has disparate impact on minorities who might not have equal access to banks. There might be serious religious objections, people who are...I don't know how to use the term, Luddites, but they fear technology. They don't want anything to do with technology or they have a religious belief against the use of

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technology. And we would have to honor those considerations. There's also some concerns from a disability point of view that someone might because of a disability, might not be able to access a computer. I think it's just the opposite that a direct deposit would aid someone whose, maybe, mobility is affected. Regardless, there are federal regulations out there and just as the state now has a broad discretionary authority to implement this, it's not an unfettered discretion. There are going to be cases where an individual can make a good case to the county that I should be exempt from this. However, in our 100 people or so, and I'm not going to name any names because I'll be accountable for that later, there's no good reason other than, I don't want to. Well, this, I don't want to, is costing the taxpayers \$6,500 a year, and it's an ongoing expense, and it's probably going to go up in the future. So in 99.9 percent of the cases, there is not going to be a good reason why you shouldn't have electronic transfer of funds. And as Commissioner Schorr pointed out, as soon as our aging workforce ages a little more and we get rid of all the old people, as she said, the young people are going to jump at the opportunity for this because they embrace technology a lot more than the people maybe that are stuck in their ways. But again we think the best solution is to do the broad enabling authority. We will comply with federal law just as the state does. We will be reasonable about it. There will be people that will make a good case that it shouldn't apply to them and we will honor that. Without this, though, if we were to implement it, we would be subject to legal challenges as our legal research has indicated. So be happy to answer any questions. Sorry, I went over the time. [LB278]

SENATOR AVERY: Just a personal story. My 91-year-old mother has finally accepted the direct deposit like that and she is still wondering how it gets there. (Laughter) She's not quite sure, but the money is there. Any...Senator Schumacher. [LB278]

SENATOR SCHUMACHER: Thank you, Senator Avery. So, basically, would you say it's highly likely that Lancaster County will pay all of its vouchers if this passes by electronic transfers and you have to set up a...give the county your banking information and things like that for that to happen if you're a vendor? [LB278]

KERRY EAGAN: Oh, we haven't addressed that issue. I don't think we're set up to do that now and there's still a lot of checks that are issued and we haven't even looked at that issue. I think that we would work with our vendors individually and try to work in that direction. Our concern is the payment of wages. So if your concern is the same authority that the state has essentially, and I don't know if they're paying all of their payments by issuing all their warrants by electronic fund transfer either. It's a good question, Senator, but our focus has been on the wages. We saw the state's statutes as the opportunity, the best vehicle for doing that and it does include that broad language. [LB278]

SENATOR SCHUMACHER: But you could...if this passes, you could, if you wanted to. [LB278]

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KERRY EAGAN: Yes, and they could probably make the same objections. We can't force them to deal with a certain bank as the FDIC regulations point out, and it would be the same rights that the individuals would have to object to that. But we weren't looking at going that direction. What we wanted to implement was all the paychecks were going to be done by electronic fund transfer. [LB278]

SENATOR SCHUMACHER: Thank you. [LB278]

KERRY EAGAN: You're welcome. [LB278]

SENATOR AVERY: Thank you, Mr. Eagan. [LB278]

KERRY EAGAN: Thank you. [LB278]

SENATOR AVERY: Sorry to have a little side conversation, but it was about legislative history. Thank you. [LB278]

LARRY DIX: Good afternoon, Senator Avery and members of the committee. For the record, my name is Larry Dix. I'm the executive director of the Nebraska Association for County Officials appearing today in support of LB278. I think Mr. Eagan really, really covered everything. But what I would like to bring forth, when we were talking with Lancaster County we were sort of surprised that Lancaster County, a progressive county, that all the employees weren't receiving payment via electronic, in electronic format. So we went out to our software vendor and said, well, how many of our counties right now are sort of having their employees receive payment that way? And over 50 of them are already in that mode. So, you know, I don't know if that says that we've got some other counties that are very, very progressive in that nature, but we certainly have a number of counties that are doing it in that fashion. I did ask the question of some of the counties, what if there was somebody that just had this overwhelmingly compelling reason why they could not, and I think pretty much what Mr. Eagan said is, if you can have the proof that that is a reason why not, then the county would cut a paper check. But once it was implemented in these counties, there's really no looking back and there's been no complaints that we're aware of from anyone that's really wanting it in a paper format. So with that, I'd be happy to answer any questions that you have. [LB278]

SENATOR AVERY: Thank you. So am I to infer from what you just said, that over 50 counties in this state are inattentive to the law? [LB278]

LARRY DIX: I would tell you 50 counties made the offer to their employees that they could have direct deposit and they accepted it, the offer. [LB278]

SENATOR AVERY: Way to go. (Laughter) Any questions from the committee? Thank

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you, Mr. Dix. [LB278]

LARRY DIX: Thank you. [LB278]

SENATOR AVERY: Any more proponent testimony? Anyone wish to speak in opposition to LB278? Any neutral testimony? Senator Coash, you are recognized to close. [LB278]

SENATOR COASH: Thank you again, Chairman Avery. I think the lack of opposition should speak to this bill. The state had a good reason to ask for this in 2009 and it was to save money. And I think what's good for the state in this case is also appropriate for the counties. For those employees who have legitimate reasons to oppose this, I think the federal government gives us reasonable exceptions for that. And in closing, I would just...\$6,000 means a lot to Lancaster County and they're pinching every penny, and I would encourage the committee to utilize NACO to see what kind of a savings this could offer the other counties that you may represent. I think this is reasonable. I think it's a reasonable extension of what was done two years ago and I'd encourage the committee to consider this and move forward. Thank you. [LB278]

SENATOR AVERY: Thank you, Senator Coash. Any more questions from the committee? Thank you for bringing this bill. That ends the hearing on LB278, and we will move to LB556. Senator Dubas is on her way so we'll stand at ease for a few moments. Oh, here she is. You move quickly. [LB278]

SENATOR DUBAS: Just down the hall. [LB556]

SENATOR AVERY: Welcome. [LB556]

SENATOR DUBAS: Thank you. Good afternoon, Senator Avery, members of the Government Committee. My name is Senator Annette Dubas, D-u-b-a-s, and I represent the 34th Legislative District. I heard a rumor that when I introduced a similar bill like this two years ago that the Government Committee just loved it so much that they wanted me to come back with another one, so that is what I've done. (Laughter) This bill is, again, very similar to the one I introduced two years ago that dealt with the boundary between Polk and Merrick County. This bill, LB556, deals with the boundary between Merrick and Hamilton County and those boundaries are river boundaries. And with the advent of GPS and wonderful technology that we have today, if you look in the statutes now that defines the counties boundaries, you know, there's a lot of definitions about range and township and those types of things, but if it's a river, that's the boundary. You know, it just basically states it's that river and channel. Well, we all know that no river stays fixed and those points move and change constantly, so really to determine which side of the boundary property lies on, it's a very difficult thing to do. But with the advent of GPS we can now pinpoint those coordinates exactly, and I'm sure

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that you've read through every page of the bill that I've presented to you today and have it all memorized. Bill drafters loved this bill, proofreading it was definitely a challenge. But, basically, that's what it is. It's GPS coordinates so that that boundary can be fixed in the river so that each county now knows through GPS which parts of that river belongs to Merrick County, which parts belong to Hamilton County. Both assessors, Merrick and Hamilton agree that this will allow them to accurately determine the accretion lands and assess their values. Both counties have agreed to what has been brought forward. My office worked very closely with county surveyor, Duane Katt, who will...hopefully, is here today. I haven't had the chance to check, but I know Merrick County surveyor and other people in the county, the assessors worked on this too, and they both split the cost of what it did to implement these GPS coordinates and everybody is agreeable. Now all it means is that the Legislature needs to give its stamp of approval. So I'd be happy to entertain any questions that you may have and, hopefully, somebody is behind me that will be able to answer them even better. [LB556]

SENATOR AVERY: Thank you. I have one for you. Do you think you could put your expertise in boundaries to work on Carter Lake? (Laughter) [LB556]

SENATOR DUBAS: Well, you know, GPS, I know that's...I know that's a tough one. But again, I think GPS gives us opportunities maybe that we didn't have before, but that's a tough one. [LB556]

SENATOR AVERY: Questions? Senator Sullivan. [LB556]

SENATOR SULLIVAN: So have the coordinates already been established? [LB556]

SENATOR DUBAS: That's what these are. [LB556]

SENATOR SULLIVAN: Okay. And then they will take effect if this...at the point in time that this legislation becomes effective. [LB556]

SENATOR DUBAS: When the bill...yes. [LB556]

SENATOR AVERY: You have memorized all of these coordinates? [LB556]

SENATOR DUBAS: I have...not. (Laughter) [LB556]

SENATOR AVERY: Any more questions from the committee? I don't see any. Are you going to stay around for closing? [LB556]

SENATOR DUBAS: I'll just stay to make sure that you're... [LB556]

SENATOR AVERY: Goes well. [LB556]

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SENATOR DUBAS: ...clear with everything. And if I need to close I will, otherwise I'll waive. [LB556]

SENATOR AVERY: Okay. All right. Okay. Proponent testimony. Come forward, please. [LB556]

DUANE KATT: Senator Avery, distinguished members of the committee, my name is Duane Katt, D-u-a-n-e K-a-t-t. I am the county surveyor for Hamilton County and was also the contract surveyor for Merrick County that did the work on this and establish coordinates. As Senator Dubas said, the main thing on this, the main reason is to establish a fixed boundary for our assessors to assess the value of the properties. And without having a fixed boundary the way it is now, the property could be in Hamilton County today, and if we have a three inch rain it could be in Merrick County tomorrow. There's also another issue that we have to have a fixed boundary...or that we need a fixed boundary for and that's for the issues of phragmites, purple leaf, spurge, and all of those things that we have in the river because the counties themselves are responsible for their portion of the containment of that. I am open for any questions that you would possibly have on the boundary. [LB556]

SENATOR AVERY: So you could actually have your obligation for phragmites and other invasive species in the river reduced or expanded, right, by changing...by the changes in the size of your portion of the river? [LB556]

DUANE KATT: By changing the line, yes, we could have it either increased or decreased. What we tried to do when we established this line was follow the old south channel of the river as close as we could and by doing that, I think we're...it's almost a wash. One area might gain a little bit, another, you know, lose a little. But it's primarily the same place that it was. It's just that it will be in a fixed position now instead of a floating position. [LB556]

SENATOR AVERY: Yeah. So your obligation wouldn't change then. Just as a matter of curiosity, what was the date of the boundary that you are using as your benchmark? Do you know? [LB556]

DUANE KATT: I believe it was 1862. Am I correct? Eighteen eighty-two, excuse me. [LB556]

SENATOR AVERY: Thank you. Questions from the committee? Senator Schumacher. [LB556]

SENATOR SCHUMACHER: Yes. So, basically, you went to the northwest corner of Section 7 in 10 North 8 West and then you took your GPS thing and you...what told you

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where to go where from that point? [LB556]

DUANE KATT: When we started our survey, we were in a period of a drought and for about a three-year period the river would dry up and then in the spring, and then start to flow in the fall. In order to trace that south channel that was described in our description, we would chase the stream as it dried up and then as it began to flow we would chase it again with GPS, and by chasing it, a number of shots along the area following the stream. That's the information that we used to establish where the south channel was and to establish our line for the county line. [LB556]

SENATOR SCHUMACHER: I take it the original description of the county referred to the south channel then or...? [LB556]

DUANE KATT: The thread of the south channel. [LB556]

SENATOR SCHUMACHER: And that thread, that means the middle or the edge or...? [LB556]

DUANE KATT: The last portion of the river to carry water. Last portion of the channel to carry water. [LB556]

SENATOR SCHUMACHER: Is there any particular reason why, when you laid out the description of the line here, that you started this particular corner and then used metes and bounds rather than GPS coordinates. [LB556]

DUANE KATT: To shorten...what you are stating is we have GPS coordinates on the river side. We just basically have a metes and bounds description going around the other three sides of the county. Is that what you're referring to? [LB556]

SENATOR SCHUMACHER: Right. Well, this is metes and bounds here, isn't it? [LB556]

DUANE KATT: Yes. Yes, the entire thing is a metes and bounds description. [LB556]

SENATOR SCHUMACHER: Okay. Right. And so instead of saying, I mean, you know...so many, you know, follow this description to this particular latitude and longitude as per coordinates off of this GPS satellite because those can vary. I mean, if we were ever going to replicate this thing here, we would have to use probably GPS to replicate it. [LB556]

DUANE KATT: That's correct. [LB556]

SENATOR SCHUMACHER: Because an engineer could hardly get out there with his little thing back and forth and figure this thing out. [LB556]

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DUANE KATT: Right. Correct. [LB556]

SENATOR SCHUMACHER: So would it be more in line with modern technology instead of starting at this point and doing metes and bounds, metes and bounds back and forth, that we make at some point, reference in here to GPS coordinates, based upon a particular satellite configuration? [LB556]

DUANE KATT: What we have is, we have it tied down to our GPS GIS control within the county, which is our section corners, quarter corners, and meander corners on the river. The reason that we did that is we need those coordinates also for the ownership lines. And in order to replicate our ownership lines and the lines in the river, we use that as control. Trying to think of a simple way of explaining this. We have coordinates on a number of points on the river and section corners, quarter corners, meander corners on both sides of the river will be tied into that metes and bounds description. [LB556]

SENATOR SCHUMACHER: But the statute...this law that we're passing doesn't tie them in. And no point at all these thence, thence, thences, do I say...see something that says thence to these coordinates. So once I start off here, if that satellite has varied the slightest, it may throw me off a whole lot if I'm trying to replicate it. In the very nature of things, 25 years from now because that satellite isn't going to be there 25 years from now. So I've got to refer somewhere another to some fixed point so that if this starts to vary, I know that I'm lost. And there isn't. I mean, man, this thing goes on for feet and feet and feet, 5,000 feet, 12,000 feet, and so I'm just out there wandering around 25 years from now based upon something that you couldn't replicate with anything but a satellite. So I don't know where I'm at. I mean, shouldn't there be somewhere in this description some locked down, some... [LB556]

DUANE KATT: By that metes and...by that metes and bounds description to those points, those points, if this bill passes, they will be monumented in the river. There will be monuments placed at each one of those locations. [LB556]

SENATOR SCHUMACHER: Okay. Should we make reference to that here? Otherwise, in law, we're just relying on that bird up there or birds. [LB556]

DUANE KATT: I guess by the control that we used to establish this, we're not just...let me explain on the process a little bit. We do not just go out with a...like a handheld GPS or anything like that and get these coordinates. We're using a base station or a series of base stations that are tied into the other control that we have within the two counties. We have a...one of our main control points is at the airport in Aurora. And we have 93 other control points throughout our county, and we have a number of them in Merrick County that we use for control points. We have coordinates on all of those points. If one satellite goes down, if a whole series of satellites go down, by going in and establishing

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a control...a series of control using other identifiable corners that are in the river, we will be able to retrace that. And by having the points themselves monumented, we will be able to use the monumented points as control also. [LB556]

SENATOR SCHUMACHER: So I guess my question...I understand, I think we're halfway on the same wave length. You kind of recognize the need for some physical thingy at points along the way. [LB556]

DUANE KATT: Right. [LB556]

SENATOR SCHUMACHER: Okay. Should we reference those physical thingies at points along the way so that a few lines down here we say, to thingy number one located in the river. So that if we get lost or if there's some variation over time for next 50 years or 25 years, however long this description is used, the last one was used apparently over 100 years... [LB556]

DUANE KATT: Correct. [LB556]

SENATOR SCHUMACHER: ...that we aren't lost. We can say, oh, you know, from whatever was here, we should be at that thingy there and we're not, so we got to back calculate. [LB556]

DUANE KATT: I understand where you're coming from now on this. What we are doing is, if this bill is passed, we supply a plat for both counties, ours and Merrick's, that has this tied into a very tight network up and down the river, basically every corner that is a section corner, any government corner on the river. And there will be a plat made that ties this in to every one of those corners. [LB556]

SENATOR SCHUMACHER: So really we wouldn't have to rely upon the bird in order to find this. [LB556]

DUANE KATT: No, no. [LB556]

SENATOR SCHUMACHER: Okay. All right. That's all. I'm satisfied now. [LB556]

DUANE KATT: I'm sorry, I got confused on your question there. [LB556]

SENATOR SCHUMACHER: And I'm probably confusing, so I'm good for that, but I'm satisfied now. Thank you. [LB556]

SENATOR AVERY: Actually I was learning something about it. All right. Any questions? No questions. Thank you for your testimony. [LB556]

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DUANE KATT: Thank you for your time. [LB556]

SENATOR AVERY: Additional proponent testimony. Welcome. [LB556]

JENNIFER MYERS: Good afternoon, committee members and Chair Avery. My name is Jennifer Myers. Myers is M-y-e-r-s, and I actually work for the assessor's office. I am not the assessor, but I work as a clerk in the assessor's office and I do most of the GIS work in the Geographical Information Systems. I work for the assessor's office in Merrick County. I'm here as a proponent of this bill. As Senator Dubas stated, we are...have come to agreement with both assessor's offices in Hamilton and Merrick Counties as to where this line is going to be. I did have the privilege two years ago of hand typing that 35 page bill that Senator Dubas proposed, so I understand that...I'm sure you will all memorize this and help me in any problems I have getting this one typed into the computer. But I just want to let you all know that this bill does reflect a very more precise bill than probably was presented two years ago. And that is one reason that I'm here today to definitely let the committee know that we are in support of this and where the lines have been chosen to be drawn. We will be working with Hamilton County on the tax valuation of the lines because we will be probably switching some parcel boundary and valuations back and forth between the two counties. We have, according to the fiscal note, there will be a positive impact on both counties one way or another between switching between the lands, but the ownership will not change. It will just be that who is going to be taxing the ground respectively in the counties. So with that, if you have any questions I'd be glad to answer them. [LB556]

SENATOR AVERY: Thank you. Questions from the committee? Senator Sullivan. [LB556]

SENATOR SULLIVAN: Thank you, Senator Avery. Thank you for your comments, but just to clarify, you said that there's, I think, been a more refined process with this one. So are there problems with the boundaries that were established with Polk and Merrick? [LB556]

JENNIFER MYERS: There isn't. We've got that all drawn in and everything and that is, it is fine at this point. You know, if we have any problems down the line, we'll have to get those addressed. But we...the GPS points were not used as technology savvy as Mr. Katt has done them for Hamilton and Merrick County line. [LB556]

SENATOR SULLIVAN: Okay. [LB556]

SENATOR AVERY: Any other questions? Thank you for your testimony. [LB556]

JENNIFER MYERS: Thank you. [LB556]

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SENATOR AVERY: Any more proponent testimony? Anyone wish to testify in opposition? Neutral testimony? Senator Dubas, you're recognized to close. [LB556]

SENATOR DUBAS: Well, unless the committee would have any additional questions, I think my supporters, hopefully, were able to answer your questions and appreciate your attention and, hopefully, we can get this out and get it on consent calendar and zip it right through. [LB556]

SENATOR AVERY: This is a good candidate. Thank you. [LB556]

SENATOR DUBAS: Thank you. [LB556]

SENATOR AVERY: That ends the hearing on LB556 and the hearings for today. I would ask the committee to stay around for a little bit of fun in Exec Session. [LB556]