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Government, Military and Veterans Affairs Committee
February 02, 2017

[LB127 LB365 LB494]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Thursday, February 2, 2017, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB365, LB127, and LB494. Senators present: John Murante, Chairperson; Tom Brewer, Vice Chairperson; Carol Blood; Tom Briese; Joni Craighead; Mike Hilgers; John Lowe; and Justin Wayne. Senators absent: None.

SENATOR MURANTE: (Microphone malfunction)...Veterans Affairs Committee. My name is John Murante. I'm the state senator for District 49, which includes Gretna and northwest Sarpy County, and I'm the Chairman of this committee. We are here today for the purposes of conducting three public hearings. We will be taking the bills up in the order on which they appear on the agenda outside of this room. If you wish to testify on any of the matters before us, we ask that you fill out one of these green sheets of paper. The green sheets are located on either side of the room. If you are here and do not wish to testify but you do wish to register your support or opposition for any of the matters before us, we ask that you fill out one of these sign-in sheets. Again, the sign-in sheets are located on either side of the room. I can assure you that if you fill in the sign-in sheet and suggest your support or opposition for any of the matters before us that opinion will be given just as much weight as if you had testified. If you do testify, we ask that you begin by stating and spelling your name for the record, which is very important for our transcribers office. The order of proceedings is that the introducer of the legislation will be permitted an opportunity to open, then we will listen to proponent testimony, followed by opponent testimony, and then neutral testimony, and the introducer will be given an opportunity to close. We ask that you listen very carefully and try not to be repetitive. If someone has already articulated a point that you wish to make, again we ask that you fill out the sign-in sheet located on either side of the room and we will take your opinion into account. In the Government Committee, we do use the light system. Each testifier is afforded four minutes to testify. When the yellow light comes on you have one minute remaining and we ask that you begin concluding your remarks. When the red light comes on we ask that you end your remarks and we will open the committee up to any questions that they may have of you. At this time, I'd like to request that everyone turn off or silence any cell phones or any other electronic devices, anything that makes noise. If you have a prepared statement, an exhibit, or anything you would like distributed to the committee we ask that you would provide 12 copies to our page who will distribute them to us. If you don't have 12 copies, don't worry about it. Again, give what you have to the page and he will make copies for you and distribute them to us. Our page for the day is Joe Gruber from Omaha, Nebraska. We will begin with the introduction of members. To the far left is Sherry Shaffer. Sherry is the Government Committee's clerk. Seated to her right is Senator Carol Blood who isn't there, but is in the front right now. Senator Blood represents Bellevue. To her right, Senator Joni Craighead represents Omaha, Nebraska. To my immediate left, Senator Justin Wayne also represents Omaha. To my immediate right, Andrew La Grone is the Government

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Committee's legal counsel. To his right, Senator Tom Brewer, who represents Gordon, Nebraska. Senator Brewer is the Vice Chairman of this committee. To his right, Senator Mike Hilgers from Lincoln, Nebraska. To his right, Senator Tom Briese from Albion. And on the far right, Senator John Lowe from Kearney. And we have dispensed with the formalities so, Senator Blood, welcome back to your committee on Government, Military and Veterans Affairs.

SENATOR BLOOD: Thank you, Senator Murante. Chairman Murante and members of the Government, Military and Veterans Affairs Committee, thank you for scheduling my bill, LB365, at your hearing today. My name is Senator Carol Blood, C-a-r-o-l B-l-o-o-d, and I represent District 3, which includes Sarpy County, the fastest growing county in Nebraska. Today I bring you a technical bill that I believe will benefit the taxpayers of Nebraska. LB365 is a way to try and help relieve some of the burden that's been placed on public entities, such as municipalities, counties, and other agencies over the last few years when it comes to requests for public records. These organizations have shared that they continue to receive rather large requests from out-of-state companies asking for things like GIS data or an entire database in reference to bidding and purchasing. The real issue is that the data isn't being requested in order to provide a service to the public at large, it's being sold commercially, generating a profit for those requesting the information. They are generating large profits on the backs of Nebraska taxpayers. In 2013, the burden grew when the Legislature passed LB363, which requires that these public entities perform the first four hours of research on information requests under the Public Records Act free of charge. This meant that the public entities could not charge for staff time or copies in the first four hours of the task. This could also not...they could also not charge for legal fees, which might be racked up by an attorney that might be needed to review the records and the request. So this is where I want to be really clear that I truly believe that the public has every right to these records and I support easy access to these records for Nebraska residents. This bill will not have a chilling effect on people in the state who have a real need for this information for one reason or another. But what LB365 does is make sure that companies from outside the state who are looking for this information as a way to make a profit will fairly compensate public officers, staff, and attorneys. It will not affect those who are domiciled in Nebraska nor the media. For example, you move across the river to Council Bluffs and need your information from Nebraska for your new job as a teacher. Your domicile was previously in Nebraska and you're still able to request information without charge. You'll note that my phrasing in the bill is "may" and not "shall." This is not a mandatory charge, but a tool that will help prevent large companies from taking advantage of our public servants. It shouldn't affect requests for things like credit checks for home, car, or personal loans either. I personally find it really hard to believe that when LB363 was brought forward that the intent was anything to make sure that public information is accessible to the general public. I do not believe that the intent was to create this loophole where outside organizations could come to Nebraska and take advantage of our good intentions. And then it creates a financial burden on our public entities that they can then use this information as a way to generate income. I think that's wrong

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ethically. As we step up to protect Nebraska taxpayers, there are big bills and there are small bills. No matter how simple this bill, the long-term effect is big. I ask that you help me protect these taxpayers and the public entities that serves the taxpayers by moving LB365 out of committee and onto the floor for debate. [LB365]

SENATOR MURANTE: Thank you very much, Senator Blood. Are there any questions? Senator Hilgers. [LB365]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Senator Blood. I certainly appreciate the spirit of which or the goal of this legislation. Just since we're building a record here, a couple of questions. You mentioned that there are out-of-state companies or residents who are getting in-state information for profit. Is there any...two questions. Is there any data, first, on the types of costs that are being imposed by out-of-state residents on counties or municipalities? And then secondly, while you're answering that, are there other nonresidents who are requesting information that might be caught up in this, requesting not for profit? Do you have any data on that? [LB365]

SENATOR BLOOD: I think you're going to get the best information from the people that are going to come and testify. I know that the mayor of Plattsmouth is coming, hopefully soon, and we have other entities that deal with that on a daily basis, so they definitely have had it happen. I don't think there's going to be...what I hear you saying is maybe there's some bad people that might fall in the cracks that aren't necessarily a big corporation or necessarily, you know, "Joe Blow" on the street who's calling to get minutes from the council meeting. You know, this is geared at big companies. And it's pretty obvious when someone calls and says, I want your entire database on whoever did bids in the city of Bellevue for the last year. Or I want all of your GIS information. That's not something that "Joe on the streets" is going to be asking for, that's something that somebody's going to be reselling. You'll note that in other states they have successfully--and been able to protect in courts as well--been able to institute policy where they eliminated the possibility that somebody could come in from a big company, that they just said, we're not going to provide you that information. And I think Virginia is where it went to the Supreme Court and they actually won and were able to protect it. So Virginia has enacted freedom of information laws that are only available to their citizens. Alabama, Arkansas, Delaware, Missouri, New Hampshire, New Jersey, Tennessee...so really, what we're doing is pretty minor compared to that. You know, whether you understand this or not, one of the things that the state does on a regular basis is hands unfunded mandates down to other public entities. And it's not an option whether we do something or not at a city level, at the municipal level, and so we have to do more with less. So why would we continue to burden them with something that they really shouldn't be burdened with? So statistically, I would talk to the people who deal with it every day. I don't know if they're going to have stats in print for you, but I think they're going

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to be able to really tell you that it's an issue and that it's an expensive issue. Once is once too many, but I know it's more than one time. [LB365]

SENATOR HILGERS: Thank you. [LB365]

SENATOR MURANTE: Senator Brewer. [LB365]

SENATOR BREWER: Thank you, Mr. Chairman. All right. Senator, we've already established that I'm kind of the Forrest Gump of the crew here, so we're going to go through this real slow. What I don't want to do is have legislation that puts a burden on, so when I read through this--I just made a quick note here--so we're charging citizens for a service a state employee is already being paid or salaried to do. So did I read that wrong when I went through there? [LB365]

SENATOR BLOOD: They're really not being paid to do that. It's an additional task that they're being asked to do. It's not a Nebraska resident asking for information. I'm going to work really hard on this one because I want a happy face on my bill from you, Senator Brewer, (inaudible). [LB365]

SENATOR MURANTE: It's an inside joke at the committee. [LB365]

SENATOR BLOOD: I hear what you're saying. We say that a lot about fees. It's like, well, why should I pay a fee to have a handgun, because I have the right to have a handgun and that's their job to go ahead and do my background check. And you know, where do you draw the line? Is it really their jobs to be catering to an organization outside of Nebraska who's asking for information that's probably going to take more than four hours? It's different when a citizen comes and says, hey, can I have the minutes from last week's city council meeting? Can I have the budget from this year's county meeting? There's a huge difference between those two things. And what I'm trying to do is protect the staff so they can do the jobs that they're paid for. This is above and beyond, I believe, the call of what their job descriptions as they're supposed to be doing. Their job description is to serve the citizens of Nebraska. Are they serving the citizens of Nebraska when an organization from California comes and asks them to put together information that they're going to have to leave their post--which you understand that as...in the military, they've got to leave their post--there might be citizens during that time that need to be served that they can't serve because they're digging for information for a company that's going to go ahead and sell it for a lot more than that person is making hourly? So I hear what you're saying, but I respectfully disagree. [LB365]

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SENATOR BREWER: No. All you did is clarify it for me. Thank you for your testimony. Thank you, Chairman. [LB365]

SENATOR BLOOD: Do I get a smiley face now? Half a smile? [LB365]

SENATOR BREWER: Well, I've turned the corner (inaudible). [LB365]

SENATOR BLOOD: All right. [LB365]

SENATOR MURANTE: Senator Blood, a question I have for you. It sounds like based on your opening that really the entities you're trying...the evil you're trying to correct--if you want to use that term... [LB365]

SENATOR BLOOD: It's a good term, yeah. [LB365]

SENATOR MURANTE: ...is for the resale of public information. So if that's what we're going for, why don't we limit the bill to just those people who are reselling the information? Why, if a Council Bluffs resident wants a public record because they got into a car accident in Douglas County, why are we impacting those folks? [LB365]

SENATOR BLOOD: But you don't really impact those folks. That's why we put the word "may" instead of "shall." How do you limit companies from coming into Nebraska and reselling the product? Really, the only way you can do it I think legally from my research is to really put it in state statute that, hey, if we make it so it's harder for you to get that information, you're probably not going to try to get that information. Right now, we make it free, so...but I hear what you're saying. I'd rather punish them and just say, hey, you can't have this information as well. But I do think Nebraska is a little different than the states that I quoted on, too, is in the fact that we're big on civil rights. We're big on making sure that our voices are heard and that people have ample opportunity to get information. And so to be really frank, I don't think I could push the envelop and get a lot of support. [LB365]

SENATOR MURANTE: It reminds me a little bit of legislation this committee dealt with in cooperation with Banking, Commerce and Insurance when it dealt with unclaimed property in the State Treasurer's Office when there were entities out there who were taking unclaimed property and what's on the Web site and selling that information, even though it was readily available and the state came in and regulated that. But that was narrowly tailored to the people who were doing the selling. And if you weren't doing the selling then there was no need to

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regulate their behavior. So we could talk about that in greater detail in Executive Session.
[LB365]

SENATOR BLOOD: And I think narrow was the right word. You know, how do you narrow it? So...and perhaps that's a bill for next year. But I think this is a start and it's a good start for protecting taxpayers. [LB365]

SENATOR MURANTE: Thank you very much. Any additional questions? All right. Seeing none, thank you very much. [LB365]

SENATOR BLOOD: Thank you. [LB365]

SENATOR MURANTE: We'll have proponent testimony. Welcome back. [LB365]

CHRISTY ABRAHAM: Chairman Murante, thank you. And members of the Government Committee, my name is Christy Abraham, C-h-r-i-s-t-y A-b-r-a-h-a-m, I'm here representing the League of Nebraska Municipalities. First of all, the League just wants to thank Senator Blood for introducing this bill. This was a bill that the League's executive board voted unanimously to support. We hear a lot at the League about cities struggling with public records. And one of the top complaints we have heard is what Senator Blood has already described so accurately for you, and that is these large requests for data that come in. And for all sizes of cities, from Lincoln down to Tamora, if you get a request for all of your bidding documents for the last three or four years, that's a lot of staff time and it's a lot of copying. And I think the little just twist of the knife is then when these documents are resold on a commercial basis, I think that really makes cities unhappy. So we tried to craft this bill as narrowly as we could, sort of separating out residents from nonresidents. And, again, as Senator Blood so ably talked to you about, there is a U.S. Supreme Court decision. And, basically, the Supreme Court upheld Virginia's public records act that wouldn't give any records to nonresidents. And they hung their hat on, but it's the Virginia citizens who are paying for the upkeep, for the storage, for the staff of those records. So it's only right that Virginia residents should have those but nonresidents don't have access to it. And I'm happy to provide that court case to your council if you're at all interested in it. [LB365]

SENATOR MURANTE: Thank you. [LB365]

CHRISTY ABRAHAM: And so this bill is not prohibiting people that come in from out of state from getting records. They can get as many records as they want. What we're trying to do is say, but we're not going to give you four free hours. Whatever the actual added cost is to make these copies, that's what we're going to charge you. And I do have a testifier coming behind me, he's

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the city administrator for Plattsmouth and he's going to talk I think in greater detail about the experience that he had in his community. It's a company called SmartProcure and they really, they ask for all their bidding and purchasing documents. And I don't believe Plattsmouth was the only community that had that request made by that company, but he can tell you more about that. But I'm happy to answer any questions you might have. [LB365]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions?
Senator Hilgers. [LB365]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you for your testimony today. [LB365]

CHRISTY ABRAHAM: Sure. [LB365]

SENATOR HILGERS: Along the lines of some of the questions I was asking Senator Blood, can you speak for your members as...I don't need specific statistics, but at what level are nonresidents who are not in this for-profit arena who are just giving legitimate, good-faith requests, how often does that occur for the municipalities? [LB365]

CHRISTY ABRAHAM: You know, that's a good question. And we don't hear complaints--I'll just say that--about folks from Iowa who need five or six copies, you know, five or six pages of something. We just...we don't hear about that because cities are happy to do that so it doesn't come to our attention. It's just these massive public data requests that we hear about. [LB365]

SENATOR HILGERS: Well, so...okay, so I guess the answer is, you're not sure. [LB365]

CHRISTY ABRAHAM: I'm not sure. [LB365]

SENATOR HILGERS: Which is fine. I just want to clarify. And then on the other part of language, because you mentioned that this is a...you know, you want to cover the cost. So there's two pieces here that I see that it could include for the actual added cost and includes the salary, but also charge for the services of an attorney. Do you...I imagine for the smaller municipalities they don't have an attorney on staff that can review this. But again, just generalizing across your members, for these types of large requests are municipalities hiring outside counsel, paying them by the hour or is it internal staff? [LB365]

CHRISTY ABRAHAM: No. That's a very good question, Senator Hilgers. There's maybe eight to ten cities that have a city attorney but the rest of them do contract with an attorney, so they all have legal representation. But, yes, if a large request came in for a smaller city and there was

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information that the city felt may be able to be withheld, that they would want an attorney to review that to see if it could be redacted, then they would have to pay that attorney to go through those records and redact them. [LB365]

SENATOR HILGERS: And so currently that would be an out-of-pocket expense if they hired their attorney? [LB365]

CHRISTY ABRAHAM: Yes. [LB365]

SENATOR HILGERS: Okay, thank you. [LB365]

CHRISTY ABRAHAM: Yes. [LB365]

SENATOR MURANTE: Thank you, Senator Hilgers. Any additional questions? Seeing none, thank you for your testimony today. [LB365]

CHRISTY ABRAHAM: Thank you. And I just wanted to add my gratefulness--is that a word?--to Media of Nebraska and Shawn Renner for his help on the bill. So thank you so much. [LB365]

SENATOR MURANTE: Welcome. [LB365]

KYLE MCGOWAN: Good afternoon. My name is Kyle McGowan, K-y-l-e M-c-G-o-w-a-n, and I'm with the Nebraska Council of School Administrators and supporting Senator Blood's bill to address primarily the commercial interest requests that we get from two schools for information. It was interesting that the same company that was just brought up by the previous testifier had contacted me...I've just recently retired as a superintendent at Crete. So a few years ago I get a access to public records request and want every financial transaction that's taken place at our school for the past ten years. And when I get kind of a large request like that I responded back saying, I think it's going to take more time and may cost this kind of money. And within a brief period of time they responded back saying, no, you have this accounting software and you can do this. And I went and checked with our business manager and, by golly, we did have that software. But it was more than just pushing buttons. And the issue...we give out information if not daily, weekly, to people wanting to know how much the superintendent makes to wanting their own records. And all of that is good and it's important to have that public information. The problem is--and I think this particular group was based out of Florida--is selling our information and I'm having to spend staff time making a profit for them. So I appreciate the sentiment. I think

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it, in the large...this is going to be a larger problem coming up for schools and other public entities. Thank you. [LB365]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you for coming down today, much appreciate it. Welcome. [LB365]

ERVIN PORTIS: Good afternoon, Mr. Chairman. Thank you, committee members. My name is Ervin, E-r-v-i-n, Portis, P-o-r-t-i-s, I am the city administrator for Plattsmouth. SmartProcure, that's the name of the company. They're located in Deerfield Beach, Florida. A couple of pretty smart retired cops figured out a good business plan. Let me tell you a little bit about that. But before I do so, I'll preface it. I was fortunate enough to be included at the table in conversations with Senator Avery in 2013 and 2014 as we were discussing the merits of LB363 in compromise legislation. I heard over and over again, it's the taxpayers of the state who pay for the information that we collect, we keep, we maintain. I agree with that. And then if we look at current statute it says...the statute says, you know, they should be liberally applied when citizens of this state, they have the full right to know and have full access to information of the public finances. I get that. I think we're all in agreement with that. But with the current examples--and I have two of them I'm going to share with you--SmartProcure, they were founded in 2011; they're headquartered in Deerfield Beach, Florida; they take advantage of state public records laws all across this country to secure a wide array of local government records; they turn that information and they sell it at a profit. They even asked me if I'd be interested in buying the profit or buying the product. They gave me a nice marketing brochure with Memorial Stadium in downtown Lincoln marketing their product. SmartProcure drafts this public records request to minimize their costs, if any, to get access to those records. But we have time invested in producing those records. And to me, it's not necessarily an issue of the expense, it's the time. I have a two-person finance office managing about \$14 million annually. They don't have spare time. For SmartProcure, they quarterly request any and all electronically and maintained purchasing records and it's limited to electronic records, without copying, printing, or scanning. They're trying to reduce their costs, but we had to...as the gentleman said before me, it's not as simple as going in and pushing a couple buttons. We have the information, it can be put into an electronic format, but it took the first time about six to seven hours; six to seven hours that my people just can't spare. Multiply that by 30 to 40 public entities in the state of Nebraska and then we probably are talking about significant dollars. How do they make their money? They turn around and sell that electronic data. They reformat it and they can turn around and sell it and they make a profit. Even offered to sell it to us. In another scenario, an out-of-state IT vendor requested all of our IT invoices for the previous six months, copies of all IT contracts, service agreements, maintenance records. We have the information, but it takes some time to gather it and put it together. We even advised them upfront that there would be a charge if we go beyond the four hours, which we did. Collecting the data took about seven hours so we invoiced for three hours. Oh, no, now we don't want it, after we've spent seven hours of valuable city clerk time. In a small municipality that is really valuable time.

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To me, that's the fundamental issue. So with that, any questions? One other thing I would like to point out. The bill as drafted does exclude the media, whether in-state or out-of-state. If the media wants this information, that is about public accountability and we would agree with that. [LB365]

SENATOR MURANTE: Thank you very much for your testimony. In your experience, are there...have you received any challenges on a fiscal level for requests made by nonresidents of Nebraska who do not intend to use the information for commercial purposes? [LB365]

ERVIN PORTIS: I'm not sure I understand your question. [LB365]

SENATOR MURANTE: So the company you keep bringing...that keeps getting brought up... [LB365]

ERVIN PORTIS: SmartProcure. [LB365]

SENATOR MURANTE: ...is...they intend to use the public records for commercial purposes. [LB365]

ERVIN PORTIS: Yes. [LB365]

SENATOR MURANTE: Do you have any challenges from requests from entities which do not seek to use them for commercial purposes? [LB365]

ERVIN PORTIS: No. No. We get a lot of public records requests. They're minor in nature, usually take 10 to 15 minutes to fulfill and willingly do so. [LB365]

SENATOR MURANTE: Okay, thank you. [LB365]

ERVIN PORTIS: The issue here is somebody's making a profit off the Nebraska taxpayers. [LB365]

SENATOR MURANTE: Okay. Thank you. [LB365]

ERVIN PORTIS: Thank you. [LB365]

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SENATOR MURANTE: Senator Lowe. [LB365]

SENATOR LOWE: This...thank you, Senator. And thank you for being here today. This bill does not charge Nebraska residents. Is that correct? [LB365]

ERVIN PORTIS: For the first four hours. [LB365]

SENATOR LOWE: For the first four hours. Okay. I was just curious if a outside entity could come in and hire a Nebraska resident to do this as an end around and you would still be going through the same process and everything else. [LB365]

ERVIN PORTIS: Yes, we've discussed that internally. There is a potential for the end around. Turned to Bill Drafters to figure out a solution there. [LB365]

SENATOR LOWE: And so after the first four hours then you would charge a Nebraska resident for doing this? [LB365]

ERVIN PORTIS: Yes. And another thing to think about, there was some conversation here about... [LB365]

SENATOR LOWE: May, you may charge. [LB365]

ERVIN PORTIS: We may, we may. There's some conversation here about attorneys and how many communities have attorneys. We don't have a full-time city attorney, but we pay a lot of money to an attorney based on...when we pay a flat fee based on estimate of hours worked. And when we got this request, because we have utility billing and utility customers and we had a serious question about what should be and should not be included in order to protect the identity in the customer account information in all of that vendor stuff that they wanted. So I had to have the attorney look at it. That's valuable time to the attorney and to us again because we pay that attorney based on our annual estimate of work. Does that make sense? [LB365]

SENATOR MURANTE: Thank you. And one final question that Senator Lowe kind of triggered was, are you aware of any Nebraska-based companies that use this sort of public information for commercial purposes or are these all out-of-state companies? [LB365]

ERVIN PORTIS: Our experience is they've been out of state. [LB365]

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SENATOR MURANTE: Okay. Thank you. Seeing no additional questions, thank you very much for your testimony. [LB365]

ERVIN PORTIS: Thank you. [LB365]

SENATOR MURANTE: Welcome. [LB365]

TREVOR JONES: Thank you. My name is Trevor Jones, T-r-e-v-o-r J-o-n-e-s, I am the director and CEO of the Nebraska State Historical Society. And I think, Senator Murante, I can answer your question about the folks that are using this service not for commercial gain but are still placing a burden on our organization. So one of the consequences...the reason that we support this bill is that we lose about \$15,000 of revenue a year to out-of-state residents who are getting to use our services for research for four hours for free. And what they're looking for at our shop, we do history, is they're looking...they might have a record that says that their grandmother lived in 1867 in Kearney County and they want to know if that's true and where she lives. And we have to do four hours of research to either verify that or go back and forth for no cost to somebody in California who's trying to track down their family. We're happy to do that work. We do that work for Nebraska residents all the time. But we're doing what I feel is not necessarily a public service. That's for that person's personal benefit as an out-of-state person. And we do a lot of sort of tracking down wild geese on that for people and we can't charge them for that first four hours. So if we could, that would be a revenue generator for us and we'd still perform that service. A huge number of our records are already on-line, so if that person wanted to they could do their own research and track down that information. But what we found is one of the unintended consequences of LB363 is people find out that they can just have us do it and then they don't bother and then my people are working on that and they're not serving the people of Nebraska, they're serving the people of California or Oregon or wherever, because genealogical history works that way. People moved around a lot. So we're in support of this bill for that reason, not for the commercial aspect, but because we think that we would like to provide these services that somebody is willing to pay for and charge them for that if they're not a state resident. [LB365]

SENATOR MURANTE: Okay. Thank you very much for your testimony. Are there any questions? Seeing none, thank you for coming down today. [LB365]

TREVOR JONES: All right. [LB365]

SENATOR MURANTE: Additional proponent testimony to LB365. Are there any additional proponents? How many more proponents do we have for LB365? Thank you. Welcome.
[LB365]

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JACK CHELOHA: Good afternoon, Senator Murante and members of the committee. My name is Jack Cheloha, that's spelled J-a-c-k, and the last name is C-h-e-l-o-h-a, I'm the lobbyist for the city of Omaha. As a good lobbyist, I sent the bill, LB365, out to various administrators and our city clerk in Omaha and asked them for their opinion and they came back and said we should support this. Through the course of discussions with the League of Municipalities, we participated in various phone calls, conference calls, etcetera, expressing concerns Omaha has relating to these matters. When I mentioned the company named SmartProcure, it set off bells and whistles for the city attorney who typically gets called to do legal opinions on open record requests. And so, therefore, it's also affected the city of Omaha. We feel that it'd be more than fair that we continue to give the four hours of time for our citizens in Nebraska, but for some group that's from out of state doing it for commercial purposes, this bill seems to hit the nail on the head and we would be fully supportive of that. Just in summary, it was short and sweet, one of the attorneys who wrote back said on LB365, it would allow us to charge full price for out-of-state public records requests and keeps the current pay system for in-state. I think this would end up saving us time and money. And for those reasons, we support the bill. And I'll try to answer any questions. [LB365]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you for coming in today, much appreciated. [LB365]

JACK CHELOHA: Thank you. [LB365]

SENATOR MURANTE: Additional proponent testimony. Welcome. [LB365]

BOB HILSKE: Thank you. Senator Murante, my name is Bob Hilske, B-o-b H-i-l-s-k-e, I'm representing the Nemaha Natural Resources District. We're located in Tecumseh, Nebraska. I wasn't really planning to testify on this bill, but after hearing the testimony it reminded me of what's been happening the past year. We have also been contacted by SmartProcure and a number of other NRDs have been contacted by them for similar information. They want vendor information as far back as 2010. They want it electronically. We have to scan through all the information. In my district, for example, we have a lot of vendor information that includes tax ID numbers, Social Security numbers, and we have to make sure that that information is cleared off of there before we send that out. And when we're dealing with a number of records, there's always the possibility that that record...that you miss one and that gets out there. Secondly, a concern that I have is, is that it...not necessarily with this company...and which, by the way, I would add is that I was driving down the street one day with the radio on and I actually heard an ad for this SmartProcure company on the radio. So I said, well, at least they seem like they're pretty legitimate. But anyway, I would add that if someone asks for, you know, gets address information, you know, information...addresses from our constituents that they actually...it may

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end up contacting a constituent down the road. And the constituent finds out, where did they get my information from? And it gets tracked back to, in our case, the natural resources district and they're not going to be very happy about that. That's always been a concern of mine. And finally, I would add that if we have a...we have a lot of people that own land outside of Nebraska and they'll contact us for information and we're more than happy to send them...it might be a copy of an easement that we have, something like that. The interesting thing is in the case of this particular company, they don't come up front and say, hey, would it be possible to get this information? They say, this is a public records request right up front. Most of the time when someone calls you they just ask you for it first. And then if you deny it, then they'll throw the public records requests card out there. So NRDs have been getting the same thing throughout the state. I wanted to make you aware of that. So we'd certainly support the concept what's going on here. Thank you. [LB365]

SENATOR MURANTE: Thank you very much. Are there any questions? Seeing none, thank you for being here today, much appreciated. Any remaining proponent testimony to LB365? Seeing none, opposition testimony to LB365? Welcome back. [LB365]

JACK GOULD: Thank you. You got the second team today. Senator Murante, members of the committee, my name is Jack Gould, I'm here representing Common Cause Nebraska. We've had a fair amount of input into LB363, which has been mentioned several times today. And it's an important piece of legislation and part of my reason for being here is to make sure that that legislation stays in place. This bill is directed specifically at companies and it is directed at trying to raise the cost so that those companies cannot take advantage of other people. But the problem is, when you raise the cost you are also hurting a lot of other people, which I think has been brought up by the committee. Others...rich guys are always going to be able to buy things and rich companies are always going to be able to pay for records. So if we're directing the concern at that company, keep in mind little people who are also going to have to pay; as you mentioned, car accident reports, things of that sort. You also ought to take into consideration that it does not prevent Nebraskans from selling records. In other words, if Senator Murante decided to sell some of his records to this company, there's nothing here that would stop him from doing it. So I think you have to keep in mind that it doesn't do all the things that you'd like it to do. Those nonresident businesses that do business here are also affected by this bill and there is always this battle of retaliation. I mean, if you start passing legislation that curtails other states from being able to get information from us, it's very likely that they will return the favor. And so you end up in kind of a civil war over public records and I think that's something you've got to consider. I really think that a better approach to this bill is to find a way to attack specific companies and not to go after everybody else. And in this case, I keep thinking about antitrafficking laws that we have. And I'm not a lawyer, but it seems to me that if we were making an effort to try to stop this specific company or any other company that wants to sell public records we should go after them on that basis and provide a stiff penalty for selling them, because I don't believe four hours

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of secretarial work is going to stop these guys from doing the things that you'd like them to do. Thank you. [LB365]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Senator Briese. [LB365]

SENATOR BRIESE: Thank you, Senator. And thank you for being here. [LB365]

JACK GOULD: Yes. [LB365]

SENATOR BRIESE: You brought up a interesting thought here about other states. Do you know how other states handle this? Do they have a similar mechanism in place or do they use the current...something similar to what we currently have? [LB365]

JACK GOULD: Well, I only know what I heard today, I mean about Virginia. I haven't really heard other states that have laws of this type, but I think we want it to be citizens of the United States, not just citizens of Nebraska. And if that's the case, then we want to have an open records system that helps everybody and not just our people. [LB365]

SENATOR BRIESE: Okay, thank you. [LB365]

SENATOR MURANTE: Any final questions? Seeing none, thank you very much for being here today. [LB365]

JACK GOULD: Thank you. [LB365]

SENATOR MURANTE: Additional opposition testimony to LB365. Are there any additional opponents? Is there any neutral testimony on LB365? Seeing none, Senator Blood, you're recognized to close. [LB365]

SENATOR BLOOD: I do want to address several of the things that were said in closing. The states, as a reminder, that have prohibited information not being available to anybody but their citizens that I found in my research: Alabama, Arkansas, Delaware, Missouri, New Hampshire, New Jersey, Tennessee. And not to sound flippant in any way, but I don't think they're having any battles amongst each other or trying to create new laws to prevent the other state from getting something that they can't have. I've not seen that in any of my research. I just...I want to make this really clear, we're not creating a new fee. The...we're not disenfranchising anyone. The

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reason that I'm not trying to create policy that prevents these big companies from coming in and going after them is, first of all, that would create a fiscal note. And we all know right now anything without a fiscal note is not going to get through anyway. And there's an immediate need. What I bring forward is eight years on the third largest city in Nebraska city council and eight years on League of Municipalities Legislative Committee. So am I super sensitive to these issues? Absolutely, because I see how they affect staff. So I thought it was really powerful when the Historical Society comes up and tells you it cost them \$15,000. Now I know that nobody is lining up to give them extra money in their budget this year. Fifteen thousand dollars is a part-time employee, is half of a benefits package, I mean, that's something that's real. And in reference to what Senator Lowe said, we're not changing LB363. Those four hours for free remains the same. We're not trying to take that entity away. And I think that when we characterize that municipalities are going to use this against people and that people are going to fall through the cracks because they're trying to get information for an accident report, I personally think that that's just not going to happen. It's not happening now. What we're doing is, if they do hire somebody in Nebraska--which they might do now because it's on public record and they might get the idea...I always worry about things like that--we can't prevent bad guys from being bad guys, but we can make it so it's harder for them. Why wouldn't we want to create a hurdle to make it harder for them to come to Nebraska and quit screwing over Nebraska taxpayers, because that's what's going on? And we're talking about one company, but it's not just one company doing it. That's just...it seems to be the most egregious company that people are aware of. I look at a community like Plattsmouth or a community like La Vista, these small communities that if they have information that they have to get out and they have to have an attorney look at it, how much do you think that's going to cost? No offense to the attorneys that sit up here, but attorneys aren't free. They charge a lot of money. It wouldn't surprise me to see it be at least \$200 an hour. Senator Hilgers, would that sound right? [LB365]

SENATOR HILGERS: They're not cheap. [LB365]

SENATOR BLOOD: I know I'm not supposed to...I'm sorry, I shouldn't be asking a question. I apologize. I apologize, Senator Murante, I didn't mean to make it conversational. [LB365]

SENATOR MURANTE: I just need to find out which is more expensive right now. [LB365]

SENATOR BLOOD: I'm sorry. I didn't mean to make it conversational. I apologize. I broke the rule. I apologize for that. So I'm asking you to put yourself in their place. We're not taking away somebody's right to have information. We're not disenfranchising poor people. We're not talking about people who are calling for accident reports or somebody who are trying to get information to be a teacher. We're talking about egregious, big companies who are coming in and screwing

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our taxpayers. And personally, I'm not willing to take it. And with that, I ask that you please pass this through for debate on to the floor. [LB365]

SENATOR MURANTE: And thank you very much for your testimony. Senator Wayne. [LB365]

SENATOR WAYNE: Just real quick... [LB365]

SENATOR BLOOD: Are you going to tell me how much attorneys make now? [LB365]

SENATOR WAYNE: No. [LB365]

SENATOR BLOOD: All right. [LB365]

SENATOR WAYNE: He's more expensive than me. But so I come from a public education background. We have information requests all the time,... [LB365]

SENATOR BLOOD: Absolutely. [LB365]

SENATOR WAYNE: ...particularly by big companies. What really concerns me about this bill is the word "may," that if we're...because vendors we like who request information, we won't charge them. But vendors we don't like, we will. I think if we're going to set the bar for a out-of-town company, we should just set the bar. And so I want to know your thought process on "shall" versus "may." [LB365]

SENATOR BLOOD: I guess for me, that I have more faith in the system that they would do what was ethical. And I would like to keep it "may" because I want to be the spirit that we're not trying to prevent people from getting information. If the word "shall" and "may" were to prevent my bill from getting down to the floor, I would be in full agreement to changing it to "shall." [LB365]

SENATOR WAYNE: Thank you. [LB365]

SENATOR MURANTE: Final questions? Seeing none, thank you very much. [LB365]

SENATOR BLOOD: Thank you. [LB365]

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SENATOR MURANTE: (Exhibits 1, 2, 3) Before we close the hearing, I do have a letter of support from Rick Kubat of the Metropolitan Utilities District of Omaha and two letters of opposition, one from Richard Varn, the executive director of the Coalition for Sensible Public Records Access and the second from Diane Battiato, the Douglas County Assessor and Register of Deeds. And that closes the hearing on LB365. We'll proceed to the next item on the agenda, LB127. Senator Groene, welcome back to your committee on Government, Military and Veterans Affairs. [LB365 LB127]

SENATOR GROENE: (Exhibit 1) I miss that announcement. Thank you. I'm Mike Groene, M-i-k-e G-r-o-e-n-e. LB127...basically LB127 provides for a greater transparency through a change in the open meetings law in Section 84-1411 of the statute. It strikes language for political subdivisions to publicize meeting designation by each political body and requires in the public such notice in the newspaper of general circulation in each county, which we'll address later, within the public entity's jurisdiction, as well as any other method designated by the public body. In other words, they can duplicate it if they want to put it on their Web page or put in the door. They have to put it in a newspaper. The newspaper notice does not have to be published in every county, but must have a general circulation within the county. This proposal is also not intended to apply to state agencies, but just political subdivisions. Broad language in current law allows some political subdivisions to interpret the law and use their own method of publication that does not inform the general public, defeats the purpose of the open meetings laws appropriately. In order to make sure that political subdivisions are providing effective notice of their meetings to the general public, LB127 is intended to make sure citizens are given adequate notice of meetings conducted by government entities where decisions are made concerning the people's business. We are going to draw up an amendment to it, a committee amendment. It basically rewrites the bill after we have consulted with a mirage (sic: myriad) of representatives of hundreds of government entities in this state. And I'll address that amendment more than I will the bill. [LB127]

SENATOR MURANTE: Do you have a copy of that amendment, Senator Groene? [LB127]

SENATOR GROENE: It was supposed to have been passed out. [LB127]

SENATOR MURANTE: Yeah, okay, got it. Thank you. [LB127]

SENATOR GROENE: Basically, we again strike the: by a method designed (sic: designated) by each public body and recorded in its minutes. We add that requirement to the bottom where it really belongs, that you must also put in your minutes: the methods and dates of such notices. Well, if a citizen doesn't think he was notified, if it's in their minutes they can look. And the public body said, yes, it was here. Now you know where we published it, go look to make sure

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you find it. It's a double...and I understand that in the past a lot of the entities that...NACO, the counties have taken that to mean at the beginning of the year they notify their constituents what papers, what method they're going to use so that the people know for that following year where to look, which is a good idea. It still can be construed to mean that. But anyway, we changed the language. In the case of public bodies described in subdivision (1)(a)(i) of Section 84-1409 and if you look at Section 84-1409, "Public body means (i) governing bodies of all political subdivisions of the State of Nebraska," and it...(a)(i) in all public bodies...in the case of public bodies described in subdivision of a section...such body's advisory committee, published in a newspaper of general circulation...anyway, it's supposed to mean that it's only the public bodies that are local entities. It exempts state bodies. We worked with the State Accountability and Disclosure Commission. It was the lead state agency that helped us make sure that we weren't including state agencies in this law, because they have their own Web site and their own method of doing it, which works very well, that everybody in the state is used to going to to look at any commission, any entity that services state government that they can find where the meetings are going to be, and we have lots of those. But we also changed the language to say: published in a newspaper of general circulation within the public body's jurisdiction. We took that confusing language out about in the county, it was unnecessary. So if a jurisdiction is ten counties, it has to be in newspapers in that jurisdiction's...there might be three newspapers, there might be one. If you're in eastern Nebraska, World-Herald covers about all of it. In my area, The North Platte Telegraph, McCook Gazette, Imperial Republican pretty much covers the area. And you can also: be provided by any other appropriate method designed by the public body. So if you want to put it on your Web site to duplicate it, go ahead. What we are doing here is we have...there's been instances lately where attorneys have advised that you can put it on your Web site. That's all you have to do, is put it on your Web site, because a: method designated by each public body and recorded in its minutes. Put it on your Web site. What reinforces to me that we need to put it a newspaper is because of how many there are. I'm overwhelmed at how many lobbyists came to me with different government entities and subgovernment entities and interlocal agreements and said, this doesn't work for us in the...how can a taxpayer go to that many Web sites and keep track of when public meetings are being held? I always go back to the basics, we don't make it easy for government, we make it easy for the citizens who own the government. Never once should a government official say, that's too hard for me to do. That makes us do too much. Then don't be in government, because you work for the people, period. Every citizen should have an opportunity to know when a meeting is being held, no exceptions. A newspaper is commonly read in most communities. It's laying...it's there. You don't put it on a radio station, which we've had the broadcasts. That's there and it's gone. That newspaper is laying on your kitchen table. You can call the newspaper. And another critical part of this, especially in rural Nebraska is, we are not only notifying the taxpayer, we are notifying the reporter. Small newspapers, that reporter is running 24 hours a day covering five or six government entities. If you notify the paper he works at or she works at, he or she sees that notice and remembers, because I have been involved in this a long time and I'll call a paper and say, why weren't you at that meeting? And they'll go,

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what meeting? And then I get the old, oh, geez, we didn't remember that meeting or we didn't know that meeting was this week. If you notified a newspaper you were not only notifying the taxpayer, you were notifying the press. So anyway, that is the meaning of this law and I hope you like the amendment. It should clean up a lot of the anti testimony on the original bill because it wasn't written well and it was confusing with the county language in there. And it also did not exempt the state agencies. Thank you. [LB127]

SENATOR MURANTE: Thank you, Senator Groene. So I just want to be clear about two things. So it is your understanding and it's your intent that this bill only apply to political subdivisions and it does not apply to the state? [LB127]

SENATOR GROENE: Yes. Yes. And we cleared it with state agency. [LB127]

SENATOR MURANTE: Okay. And the issue of publishing notices in newspapers is something that has come before this committee often in a variety of different ways over the years. And there has been discussion about the propriety of allowing...with paper newspaper readership declining and digital newspaper increasing, whether a posting on a digital newspaper source is sufficient. In your view, is that sufficient if it's on omaha.com rather than printed in the paper (inaudible). [LB127]

SENATOR GROENE: It has to be in printed version and if the Omaha World-Herald wants to put it on their .com, go ahead. [LB127]

SENATOR MURANTE: They have to print it? [LB127]

SENATOR GROENE: Yes. [LB127]

SENATOR MURANTE: Okay. Senator Blood. [LB127]

SENATOR BLOOD: Thank you, Senator Murante. Mine is more of a clarification question. This is I think the second or third time you've been before the committee and you've talked about how things aren't being done where you're from. And you're from the McCook area? Is that the area that you're coming from? [LB127]

SENATOR GROENE: North Platte. [LB127]

SENATOR BLOOD: North Platte? [LB127]

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SENATOR GROENE: Lincoln County. [LB127]

SENATOR BLOOD: Lincoln County? So when I see these bills, what I'm puzzled is that I know that they're being done in Omaha, Lincoln, Bellevue and they do that under state statute. So why is western Nebraska following the state statute and reading it such that they have to have it in print and if, indeed, they have the ability to... [LB127]

SENATOR GROENE: You made a statement, you know. You don't know. You know how many subdivisions there are? [LB127]

SENATOR BLOOD: Excuse me? [LB127]

SENATOR GROENE: There are tons of subdivisions have...if you want to...Senator Blood, if you want to show me a newspaper and show me the latest...you don't have to show me. Tell me the announcements that were in for...what do you call those districts? [LB127]

SENATOR BLOOD: SIDs? [LB127]

SENATOR GROENE: SIDs and I'll look at it. [LB127]

SENATOR BLOOD: Stop by my office. We have a copy of the Bellevue Leader, which is the local paper for Bellevue. Tomorrow we should have a copy of the Papillion Times. Omaha World-Herald is on-line, all of their announcements. So I'm not questioning your intent of the bill, what I'm asking is for clarification. I'm confused because I personally do see the public entities putting them in the paper. We're not posting them on bulletin boards in grocery stores, like I hear that's going on in some of the other parts of the state. I guess I'm trying to understand in my head why state statute is being interpreted one way by one half of the state and maybe not the other way in the other half of the state. Why? [LB127]

SENATOR GROENE: I understand. [LB127]

SENATOR BLOOD: I'm trying to get some clarification. [LB127]

SENATOR GROENE: And I'm glad you said that, Senator Blood, because a lot of entities came to us and they said, we put it in this paper, we put it in this one, we post, and NPPD told me that. I said, you're already doing this. You're already doing this. And the instances you had, this doesn't harm those individuals. They're already doing it. [LB127]

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SENATOR BLOOD: Because they follow state statute. [LB127]

SENATOR GROENE: No, there isn't a...the statute says...it's been...because historically, the newspaper has been the...the old statute said, by a method designated by each public body and recorded in its minutes. With technology, some of them have now said...some interlocal agreements in my area, the lawyer said, well, just put it on your Web site, because that is the method designated by your public body. Historically, the newspaper has been the place we always put those notices, but the statute doesn't say that. [LB127]

SENATOR BLOOD: Doesn't the open meeting statute state that it needs to be in print, or not? [LB127]

SENATOR GROENE: That's what we're changing here, is the open meeting...meeting by a method...maybe some of the testifiers will say otherwise, but a method designated by each public body and recorded in its minutes. And that's...small towns will stick them on the post office door. [LB127]

SENATOR BLOOD: And I appreciate that and I truly am trying to get some clarification, because I find it puzzling. [LB127]

SENATOR GROENE: I understand that. I'm sorry I got defensive earlier; I have a habit of doing that. [LB127]

SENATOR BLOOD: I forgive you. [LB127]

SENATOR GROENE: Any other questions? No, I'll be okay. [LB127]

SENATOR MURANTE: This isn't the Education Committee, Senator Groene. [LB127]

SENATOR GROENE: This is a kinder, gentler committee, I understand that. [LB127]

SENATOR MURANTE: Are there any additional questions? [LB127]

SENATOR GROENE: This is the "funnest" committee. I miss it, being on it. [LB127]

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SENATOR MURANTE: And we miss you, Senator Groene. I see no additional questions. Thank you very much, Senator Groene. We'll proceed to proponent testimony on LB127. Proponent testimony. Seeing none, opposition testimony. Welcome back. [LB127]

LARRY DIX: Good afternoon, Senator Murante. Members of the committee, my name is Larry Dix, L-a-r-r-y D-i-x, I'm executive director of Nebraska Association of County Officials appearing today in opposition to LB127. And I would...I want to make sure we're clear on this. I've had a conversation with Senator Groene about that. My understanding, there's an amendment. I haven't seen the amendment so as you can imagine, I'm a little bit...I'm going to have a hard time testifying to what you are sort of stating. But my understanding that what I brought to Senator Groene's attention in LB127 was in...was actually on page 2, line 8, where it talked about, "within the public body's jurisdiction" which in our reading meant that there would...it would be a requirement to have a newspaper within that jurisdiction. So in our mind, it's within that county boundary and that became problematic. Now, what I would say even not seeing the amendment, when we get to the western part of the state we do run into a situation of some limited access, limited number of newspapers. And in the original bill it talked about a newspaper of general circulation, which I think that may be open to a little bit of interpretation. I don't know if there's a statutory reference to what general circulation means. I think there is a reference in statute that talks about the legal newspaper and it's defined by how many copies should be published within a 52-week period, so you might want to look at that. Even with that, we are starting to see some of the very, very rural counties that it may be circulated but the time in which it's circulated and the time in which they have to have notice sometimes precludes us from getting the notice to the newspaper. And that's why when Senator Groene referenced at the beginning of the year, from a county we always say, here are the newspapers, here are what we are calling our legal newspapers where we know we're going to publish meeting notice, and a Web site, because there are times when we run into the situation where even though we would notify the newspaper, the one that's there of general circulation does not circulate often enough to allow us to have those meetings. So that's why we have always added in the option for a Web site and we think that's important. The other example that I would give you, in Sheridan County--Senator Brewer, that's an area you're probably familiar with--we believe a number of people in Sheridan County probably get the North Platte paper, some of them may get the Chadron, some may get the Alliance, and some of them probably get the Rapid City paper, none of which are in their county. And so I'll close with that and look for any questions. I know there's going to be some people that follow me that certainly deal with this issue all the time, but I'd be happy to answer any questions. [LB127]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you for coming down today, much appreciated. Ms. Rex, welcome back. [LB127]

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LYNN REX: Yes, thanks, Senator. Senator Murante, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. First of all, we'd like to thank Senator Groene and his staff for being courteous to meet with us, which we really appreciate, and address some of the issues that we raised. We do have some other issues still, which is why we're in opposition to this measure, respectfully. I would like to indicate, for those of you who don't have a copy of the amendment, I appreciate the amendment because I think what he's trying to do is to say that there were some that read the original bill to say that you had to have, for example, a newspaper in every county as opposed to the Omaha World-Herald that may get past 20 counties, something of that nature. So I think that is certainly an improvement to it. But notwithstanding, we do stand in opposition to the bill. There are 380 villages in the state of Nebraska, population 100 to 800, many below 100 because they've been reducing in population. We have 117 cities of the second-class; those are 800 to 5,000. Most of the second-class cities do publish. Almost...well, I'm not saying none, but most of the villages do not. They post in three public places. They have done that for decades. That's what they've always done. In their minutes...and when you notice, we'd like to have the language reinstated on lines 4 and 5, which say, "Each public body shall give reasonable advance publicized notice of the time and place of each meeting by a method designated by each public body and recorded in its minutes." And the language that's stricken on lines 4 and 5 is intended to do two different things. You've got a requirement that in an ordinance, someplace in Bellevue, Nebraska, Senator Blood, where you said probably 40 years ago, here's how we're going to give notice in the city of Bellevue, Nebraska, just like Tamora has and just like Geneva has and Oshkosh, Nebraska. And then you have another requirement in the act that when you actually have your minutes you say that in your minutes and we then did...this is how we gave public notice as required by ordinance "ABC." So you have two different standards there. I think that there are several things that I think come into play here, one of which is that the reason why the Nebraska Supreme Court has never identified what reasonable advance publicized notice is, contradictory to what they...not contradictory, but in contrast rather, what the Nebraska Supreme Court has said is what reasonable advance publicized notice isn't. And the reason for that is, the recognition that with all the public agencies in the state of Nebraska and political subdivisions, what constitutes reasonable advance publicized notice in Schuyler is different than Omaha is different than any other entity. And, in fact, it was the Schuyler case where the mayor at that time actually filed a lawsuit against the city of Schuyler on reasonable advance publicized notice, whether or not when they basically adjourned at a meeting Friday night was it adequate to post notice then for a meeting at 10:00 the next morning? And the Nebraska Supreme Court said, no, that's not reasonable advance publicized notice. But my point in all of this is, we have small entities. And Larry Dix...I just want to underscore without repeating his testimony, the timing of when those newspapers are out there doesn't always match when those public bodies meet, but for decades and decades folks in villages and cities of the second-class, in particular, have in fact been posting. And that's important. I think also, an idea for your consideration--because some states do this and I think it would be a great thing to do--we have many of our villages that do not have

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Web sites. Almost all second-class cities do, first-class cities, of which there are 30, and Omaha and Lincoln certainly do and most of the second-class cities have Web sites. But that is to require every public agency in the state of Nebraska to contact the Secretary of State's Office or fill out a form and say, here is how we give notice in Oshkosh, Nebraska. Here's when we have our meetings. Here's how we give notice. And it can be on the Secretary of State's Web site. But you can't require everybody to do it by a Web site because not all of our municipalities actually have a Web site. I would just submit to you that this bill also on its face impacts interlocal agencies, like the League Association of Risk Management. An individual who is from that agency will be here today. That's a public agency. The League is a nonprofit organization, just like NACO representing counties, created the Nebraska Intergovernmental Risk Management Association for counties. The League created years ago the League Association of Risk Management; that is a public agency. They have over 150-some members and, of those, it's representing over 60 different counties. I mean, it's municipalities, but they're from 60 different counties. So they've got a standard way in which they provide notice. And again, on their Web site so people can get at information, and in addition by posting and making sure individual notice to each and every one of their member municipalities and entities that do belong. So with that, I would just like to respectfully oppose this measure. We think it does...there's a difference in terms of the various sizes of municipalities, the various implications in terms of how people are used to getting that kind of notice. And in addition, I want to underscore this for you: On lines 7 through 11, in the event there are particular entities that maybe are big enough and should be doing something of this nature, then you could limit it. Or wherever there's been a problem, if there's a problem identified, that you could tie that language in and limit it to an entity if there is an entity per se that is causing that kind of an issue. But I just respectfully oppose the bill. I also want to indicate that 84-1411(4) indicates that any media, whether it's newspaper, radio, whatever can be put on a media list. And once they're put on a media list--which almost all of them do--then the city and village is required to give them...automatically give them notice. So with that, I'm happy to respond to any questions you may have. [LB127]

SENATOR MURANTE: Okay. Thank you very much for your testimony. I do have a couple of questions for you first. [LB127]

LYNN REX: Sure. [LB127]

SENATOR MURANTE: So do I understand your testimony correctly that there are political subdivisions which publish their notice of meetings and the minutes in a way that is not a newspaper?. Is that accurate, that they don't all publish it in newspapers? [LB127]

LYNN REX: Well, for example, in the minutes they're required to publish official proceedings, which is different than minutes--in 19-1102--and so they're required to do that. Not Lincoln and

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Omaha, but the other cities in the state of Nebraska, the other 527 cities are required to do that. But in terms of the Open Meetings Act and the giving reasonable advance publicized notice under Chapter 84, Article 14, the larger ones do... [LB127]

SENATOR MURANTE: But not all? There are some that don't? [LB127]

LYNN REX: Oh, some that don't. No. [LB127]

SENATOR MURANTE: Okay. So the question...notwithstanding the technicalities of within a general jurisdiction of a political subdivision, the general philosophy and principle that Senator Groene is trying to get to is when there is notice of a public hearing and notice of the minutes, it should be published in a newspaper. That general philosophy, is that something your organization supports or is that something that you oppose? So I'm trying to get at, are you principally opposed to the bill or are you opposed to the way it is constructed and we can work out the differences? [LB127]

LYNN REX: We're not opposed ever to folks having notice and the requirement that also in the publication of minutes. We're not opposed to that. What we are opposed to is a mandate that it be through a paper of general circulation within the county, when we've got 380 villages that fundamentally do not do that. They post, that's what they've been doing, that's how their people know that's where they go. In addition, and another element that you could do is do what some states have done, and that is say that the Secretary of State shall in fact have...so if I want to sit at home and say, who's having a meeting tonight? Throughout the state of Nebraska I can pop up any different entity and see that they're going to have a meeting tonight or they're not. That's another way. But not to...and some do it directly on their Web sites, too. So, for example, the League Association of Risk Management, they've got it on...they post and they also have it on their Web site. They also give individual notice to each member municipality and entity that belongs. So we are opposed to a requirement, Senator Murante, that says, you are required to publish in a paper of general circulation in a county wherever you're located. Again, first-class cities, they're doing that. They also post. Most of them also have it on their media sites. It's a different deal when you're dealing with first-class cities. [LB127]

SENATOR MURANTE: Got it. Thank you. Senator Brewer. [LB127]

SENATOR BREWER: Thank you, Mr. Chairman. All right. Obviously, I've got to represent my district and I don't want to say I represent the most remote part of Nebraska, but I do. So the concern is the Web site issue. It sounds great, but I've walked and rode a good share of that district and I am telling you that there is not the availability to have that access to the Internet. Every Friday your information has to be to the paper and every Wednesday that paper comes out.

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And that's pretty much every paper in the district and I can give you the name of the editor of every one of those papers. And it is how they get the news. Every week on Wednesday that news is opened and you know who's in the court report and you know what meetings are going on. And so for me it would be invaluable for that information to be in that form. I understand that out of 360 that may not apply to all of them but I think for the ones that are in the far remote areas, they live with that paper because that's their source to the world what's going on. So...and I just wanted to share that with you that we have somewhat limited capabilities, especially when it comes to the Internet. [LB127]

LYNN REX: There is no question there's a digital divide. And that's why I suggested, Senator--I really appreciate your comment--why we can't have a mandate for municipalities that it has to be on a Web site because some of them don't have Web sites, some of them don't have that kind of access. But what I'm suggesting is, if you wanted to have something that was dealing with a Web site you could put it on the Secretary of State Web site. And I'm not saying in addition to everything or just exclusively, I'm suggesting that the way in which local governments and certainly municipalities have been giving notice, we have not received complaints from citizens. And periodically we do, we get a complaint from somebody saying, you know, we don't like the zoning ordinance or what can we do about this, that, or whatever? We have not had--I've been with the League since 1978--we have never had a complaint in our office by a citizen calling saying, oh, my gosh, how come the city or village of X doesn't let us know when they're meeting? We've had complaints about why do the meetings last forever. We've had complaints about other things, but not about that. And I absolutely understand your point. And also, for those that are publishing in a paper of general circulation, I think that's great. And they are required to put...it's one thing to say you're required to put your minutes in it, under 19-102, because there's no time sensitivity to that. In other words, after the meeting is over you have to have your minutes done within ten days or before the next regular meeting, whichever comes first, and then you publish. That's a different standard than what we're talking about here. [LB127]

SENATOR BREWER: Thank you. [LB127]

SENATOR MURANTE: Any final questions? Seeing none. [LB127]

LYNN REX: Thank you so much for your courtesy. And, again, we look forward to working with Senator Groene and his staff and appreciate them meeting with us in advance. Thank you so much. [LB127]

SENATOR MURANTE: Mr. Bonaiuto, welcome back to the Government Committee. [LB127]

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JOHN BONAIUTO: Thank you. See if I get in less trouble here than I do in Education. It's Senator Groene right behind me. [LB127]

SENATOR MURANTE: I find that highly unlikely. You may proceed. [LB127]

JOHN BONAIUTO: Senator Murante, members of the committee, John, J-o-h-n, Bonaiuto, B-o-n-a-i-u-t-o, representing the Nebraska Association of School Boards, referred to as NASB. And NASB's opposition to this bill is that we believe that K-12 public school districts are really working hard to follow the intent of the open meetings law. The school board meetings in communities are consistent in that boards meet once a month or twice a month, same location, usually the same time, so the information is advertised. It can be posted in some communities that...we were not too long ago talking about counting days in a weekly newspaper. So in some communities you post because that is a way that the community does understand when meetings are held. And the on-line is also available. So it's done in different ways. But I can tell you that for our association--and we work with all the school districts across the state--we talk about open meetings at new board member workshops right after a school board member is elected. We talked about open meetings in seminars. We have an open meetings book. We really try very hard to impress upon school board members how important the open meetings law is and following the open meetings law. We like to have more people come to the school board meetings and be part of the community and talk about education in that community. So we ask that the committee indefinitely postpone this bill, because we're not sure that it's needed. The law is the law and people should be following it. And anyway for schools I believe that we're trying to do that. Can we do it better? More than likely. You could always improve. So with that, I'll conclude my testimony. [LB127]

SENATOR MURANTE: Thank you, Mr. Bonaiuto. I'm going to ask you the same question I asked Ms. Rex, because Senator Blood had sort of asked this of Senator Groene at the beginning. [LB127]

JOHN BONAIUTO: Sure. [LB127]

SENATOR MURANTE: Are there school boards in this district...in the state of Nebraska which do not publish notice of meetings in newspapers, but by another method? [LB127]

JOHN BONAIUTO: Senator, I'm going to say I believe there are, I just don't know how many. And those are the districts that would be posting on their site or at a...consistently at a particular location where the community knows that these meetings and events will be posted so that... [LB127]

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SENATOR MURANTE: Understood. Just trying to...there was some disagreement about whether any political subdivisions...or whether they all do it anyway or not. So I think we've cleared that up at this point. [LB127]

JOHN BONAIUTO: I think the vast majority do, but there are those that still are doing the posting. [LB127]

SENATOR MURANTE: Okay, thank you. Additional questions? Seeing none, thank you very much for your testimony. [LB127]

JOHN BONAIUTO: Thank you. [LB127]

SENATOR MURANTE: Welcome. [LB127]

CHRIS DIBBERN: (Exhibit 2) Good afternoon, Chairman Murante and members of the committee. My name is Chris Dibbern, and that's C-h-r-i-s D-i-b-b-e-r-n, and I'm the general counsel to a small political subdivision, so we are legion. But Senator Groene should be commended because he did narrow the bill. Not having state agencies, not having interlocals helped the bill, but there's many political subdivisions and one of them is a group that I'm the general counsel for. We sell at wholesale to 70 small communities in Nebraska. And in the back of the handout is a map of our four states, but also the majority of our members are Nebraska communities, small dots on the map. We do publish by putting our publication in the Lincoln Journal Star and we have never had a complaint about not knowing about a public meeting. We generally meet in North Platte, Nebraska, Senator Groene, and we...there are some wonderful small newspapers in Nebraska. But as the bill was originally drafted I think we would have had a problem trying to find a jurisdiction within every county. So I've not seen his...I've not read his amendment, but I've heard about it and I think the amendment helps. However, I'd like to suggest to you that we do enter the twenty-first century and that is Web sites. And if you did have a Web site the public would be able to look at an agenda--not just a public meeting, not just a record that you're meeting--but they could look at the agenda for your meeting. They could look at it 24/7. It would be available at any time, not just that good day that the paper is laying on the table or if they happen to catch it. It would be available. It would result in cost savings. I think that's something that you're all interested. And it would be more transparent, that people would get to see what's on the agenda, what are we doing. If a Web site were available--and, Senator Brewer, you're right, it's not available in every city, village of our state, we know that, too--but it's also available to more people than you think. I mean, as far as age differences, I have two great uncles now that are 75 and 80 years old and they have Facebook pages. So it is more available. So today the public is by a method designated. You've talked about a great deal of that. And I would suggest in lieu of a paper of general circulation you could add: or on its Web site, if available.

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And then you'd have 24/7 notice, it would be more transparent, it would be a cost savings to the entity. And I'd be happy to work with legal counsel to help you with that. [LB127]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? Senator Brewer. [LB127]

SENATOR BREWER: Thank you, Mr. Chairman. All right, just for a quick reference on your map here. [LB127]

CHRIS DIBBERN: Yes, sir. [LB127]

SENATOR BREWER: See this area where's there's absolutely none of the towns? [LB127]

CHRIS DIBBERN: Yes. [LB127]

SENATOR BREWER: That is the 43rd District. [LB127]

CHRIS DIBBERN: None of our towns. That's okay, we love to serve Chadron or Valentine or more. [LB127]

SENATOR MURANTE: Are you not counting Alliance, Senator Brewer? [LB127]

SENATOR BREWER: It's on the edge. [LB127]

SENATOR MURANTE: Okay. [LB127]

CHRIS DIBBERN: Thank you very much. [LB127]

SENATOR MURANTE: Thank you very much for your testimony. Welcome back. [LB127]

BOB HILSKE: (Exhibit 3) Thank you. Senator Murante and members of the committee, my name again is Bob Hilske, B-o-b H-i-l-s-k-e, I'm the general manager of the Nemaha Natural Resources District and I'm here today on behalf of the Nebraska Association of Resources Districts and the Nemaha NRD in opposition to LB127. I would note I only had a brief opportunity to look at the amendment. The testimony that's being circulated was written before the amendment was out there, so it reflects the original bill. But I would note here that since the

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inception of Nebraska's NRDs in 1972 we have recognized the importance and need to provide our constituents with timely information on our meetings and events. This includes public meeting notices in a wide variety of small town weekly and larger daily newspapers as well as using local media, mail, social media and Web sites. Unlike most political subdivisions, our jurisdictional areas are defined by watershed boundaries following county lines where possible. This results in NRD boundaries often including small portions of numerous counties. For example, the 4,000-square mile Lower Elkhorn NRD, which is in northeast Nebraska, encompasses all or parts of 15 counties including only two square miles of Antelope County and one square mile of Dakota County. My district has eight counties and we have 10 square miles of Cass County. There are numerous examples of this throughout Nebraska and under these situations it's difficult to determine which papers someone might receive and there is often little benefit to publishing notice in that particular county's paper. Most NRDs typically notice meetings in several newspapers serving their respective districts. Some districts, such as the Lower Platte NRD here in Lincoln, utilize the Lincoln Journal Star newspaper as their sole noticing source, while others use newspapers of general circulation...several newspapers of general circulation in their district. All districts also have meeting information on their Web sites. And NRDs make prudent decisions to assure that all constituents have reasonable access to the meeting information. We see little benefit to noticing in every newspaper, as the original bill suggested. In addition--because of the additional cost and probably limited additional access by the public--in addition to using legal notices, every NRD as I mentioned provides information regarding meetings on their Web sites, which often provides far more information than a notice published in the newspaper. Today constituents are far more likely to access Web sites--and I realize parts of the district...parts of the state may not have that available--or social media to search through a newspaper for meeting information. As originally written, LB127 also raises some specific concerns and questions that are not clearly addressed in the bill. Some counties, such as Wheeler County, do not have a newspaper that are qualified to publish legal notices. The bill does not offer how noticing criteria would be met in this situation and there is no definition for what qualifies as a newspaper of general circulation in a county. I would add, as a manager of an entity like this, if I have to make that decision I may select a paper that I think is of general circulation, but that doesn't necessarily mean that the constituents living in that county think it's a paper of general circulation. So that could become an issue if you have a citizen or a constituent that's upset or concerned about an issue, then you have a definition problem that only a court can decide. Occasionally, NRDs experience problems with local newspapers that don't publish notices. And basically, with the way the bill was written the concern would be that if one of the counties, if one of the papers didn't notice, then you'd have to cancel your meetings. And I would kind of wrap up with we have to have...sometimes we have to have quick meetings with short notice times. And it's difficult to do sometimes with rural papers because they have different noticing time frames. And then finally, again I would end with that we're making every possible effort to make sure our constituents get the information on the meetings, know when the

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meetings are, because that's important to make sure that we operate and do the things we want to do properly. I'll take any questions. [LB127]

SENATOR BREWER: All right. Thank you for your testimony. I got the con now, I guess, so questions? Around, around, all right. Again, we'll take and continue to look at the issue. And, obviously, I've got a unique circumstance--we're out west--because if you're in Chadron there's one Chadron paper, if you're in Valentine there's one paper. So it isn't so much a question out there. And to my knowledge they've been pretty good about making sure, especially with NRD because it's such a hot topic out there, that it's in the paper. So I guess the thing that is going to be critical is timely...enough in advance so that it's able to get out to folks so they know. And I understand what you're saying. I hadn't had a chance to see every county to realize that Wheeler County didn't have any newspapers, but that is an issue. So thank you for your testimony. [LB127]

BOB HILSKE: Okay, thanks. I would add, I lived in Valentine for 16 years, worked for the NRD up there and we used the papers we had and that was the best option we had available. [LB127]

SENATOR BREWER: That was some fine work you did, too. All right, thank you. [LB127]

BOB HILSKE: Thanks. [LB127]

SENATOR BREWER: Okay, next. Kommen sie hier. [LB127]

JIM TIMM: Good afternoon. [LB127]

SENATOR BREWER: Good afternoon. Welcome. [LB127]

JIM TIMM: (Exhibit 4) Members of the committee, thanks for having me. My name is Jim Timm, J-i-m T-i-m-m--that does rhyme--I'm the president and executive director of the Nebraska Broadcasters Association or NBA. The NBA is a not-for-profit trade association that represents the interests of Nebraska's TV and radio stations that have been licensed by the Federal Communications Commission or FCC to serve the people of their respective communities of license. The NBA shares Senator Groene's interest in better publicizing meeting notices. And I want to thank the senator's office for providing last night a copy of the amendment. I'm here today on behalf of our member radio and TV stations and their various digital media outlets, to oppose LB127 as amended and request the following amendment. I'd like to refer you to the amendments to LB127; they were introduced here this afternoon. If you could see page 1, lines 9 through 14, which currently state: Such notice shall be, in the case of a public body described in

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subdivision (1)(a)(i) of section 84-1409 or such body's advisory committee, published in a newspaper of general circulation in each county within the public body's jurisdiction and may also be provided by any other appropriate method designated by the public body or such advisory committee. The NBA respectfully requests that that language be amended to read as follows: Such notice shall be, in the case of a public body described in subdivision (1)(a)(i) of section 84-1409 or such body's advisory committee, made public via one or more of the following means: published in a newspaper of general circulation; aired on a FCC-licensed radio or TV station; or posted on the Web site of a FCC-licensed radio or TV station. Such notice may also be provided by any other appropriate method designated by the public body or such advisory committee. For the citizens of Nebraska, public meeting notices that are promoted more broadly, would notify more people, and generate greater interest and participation in matters of concern to local taxpayers. Consumer media habits have changed dramatically in just the last five years alone. Public meeting notices in newspapers simply do not reach as many people as they once did. For the FCC-licensed radio and TV stations that serve the citizens in Nebraska, this amendment would allow them to offer their services to help inform and reach more people. Without our proposed amendment LB127 would result in a legislated monopoly for newspapers, given the limited funds that affected entities have available to publicize meeting notices. Please amend LB127 as outlined this afternoon. As a result, more Nebraskans will be better informed and Nebraska media companies will be allowed to compete for the chance to earn public notice revenue on a level playing field. Thank you for your consideration. I'd be glad to answer any questions. [LB127]

SENATOR BREWER: Thank you. Any questions? Oh, I'm sorry. Commander, you have the con. [LB127]

SENATOR MURANTE: That's all right. Just fine, Colonel. Are there any questions? Seeing none, thank you very much for your testimony. [LB127]

JIM TIMM: Thank you. [LB127]

SENATOR MURANTE: Welcome. [LB127]

KYLE SHEPHERD: Thank you. I'm Kyle Shepherd, K-y-l-e S-h-e-p-h-e-r-d. Thank you for the...committee for letting me speak on LB127, which we respectfully do oppose. I represent the Nebraska Cooperative Republican (Platte) Enhancement project, otherwise known as N-CORPE. It's an interlocal agency comprised of four natural resources districts. In 2015, N-CORPE changed their bylaws to publish meeting notices on their Web site and also on the Web site of the four member NRDs, with an Opinion from the AG's Office. This move was a response to logistical problems of printing meeting notices in area newspapers. On two different accounts, a

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local newspaper was provided with notices but the notices were not printed. This mistake caused, on one account, for a meeting to be canceled and rescheduled and on another account an inquiry by the Attorney General's Office. Now, not only is N-CORPE in control of when and how the notices are published, it has also saved valuable staff time and over \$1,900 per year or annually in taxpayer money. LB127 appears to require publication in newspapers in every county an organization serves. In our case that would be 16 counties across southern Nebraska, southwest Nebraska, and up into the central Sandhills. The restriction to have to publish in these counties would not only increase the chance for error in published notice, it would also severely limit how we could schedule meetings, increase staff time ensuring publications are printed, and would surely cost the taxpayers more money than we currently save. N-CORPE did not move to Web-based notices because we wanted to obstruct the public attending our meetings, but for the exact opposite reason, so we could increase the exposure to the public of our meetings, to have more reliable and efficient meetings, and also save on the cost of paid notices. Thank you for your time and I'd take questions if you have any. [LB127]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thanks for coming down today, appreciate it. [LB127]

KYLE SHEPHERD: Thank you. [LB127]

SENATOR MURANTE: Additional opposition testimony to LB127. How many more opponents do we have? All right. Saved the best for last, I see. [LB127]

JACK CHELOHA: Good afternoon, Senator Murante and members of the committee. My name is Jack Cheloha, that's J-a-c-k, and last name is spelled C-h-e-l-o-h-a, I'm the lobbyist for the city of Omaha and I want to thank you for giving me the chance to testify in opposition of LB127. So as not to be redundant, I think most of the points have been stated here. Usually, it's our philosophy that if something is not broken, you don't need to fix it. Regarding our public bodies in Omaha, while we have good attendance, we typically publish notice of the meeting in a newspaper of general circulation called The Daily Record. And then our agenda and minutes, etcetera, are available on the city clerk's Web site. It seems to work fairly well. In this age of modern technology, it seems like we should be going towards the way of the World Wide Web as opposed to circulations that are declining. And for those reasons, we would be opposed to the bill. And I'll try to answer any other questions. [LB127]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thanks for coming down today, appreciate it. [LB127]

JACK CHELOHA: Thank you. [LB127]

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SENATOR MURANTE: Welcome. [LB127]

TRACY JURANEK: (Exhibit 5) Thank you. Mr. Chairman and members of the committee, I am Tracy Juranek, T-r-a-c-y J-u-r-a-n-e-k, and I'm here in opposition to LB127, representing the League Association of Risk Management, also known as LARM. And I am also certain that the LARM board would oppose LB127 for several very important considerations. LARM's membership is disparate and located across Nebraska, currently from 60 of Nebraska's 93 counties. The LARM board is required by its bylaws to meet quarterly. To conduct business effectively, the LARM board meets on multiple occasions throughout the year. The open meetings law authorizes half of LARM's meetings to be by phone conference. The other half must be regular meetings with board members participating in person. LARM currently e-mails the meeting notices to the LARM board and every member. Meeting notices are posted in two public places. Seldom does anyone but board members, staff, and LARM contractors participate in our meetings. LARM serves 154 members that are municipalities, natural resource districts, economic development districts, townships, rural fire districts, boards of public works, landfills and sanitary and improvement districts. Their representatives and constituents seldom read legal notices. The clear majority of members rely on LARM itself to communicate coverage, claims, liability and loss control issues. They rely on LARM to communicate meeting schedules and agendas. Assuming that LARM may have ten meetings annually, LB127 would require LARM to incur the expense of at least 600 legal notices in the largest newspaper of general circulation in the counties in which members are located. This would not only be an unnecessary expense, it would not be effective in providing a legitimate notice of meetings. Rather, it would create merely the presumption of public notice. Thank you for your time. I'll take any questions. [LB127]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? Seeing none, thanks for coming down today, appreciate it. [LB127]

TRACY JURANEK: Thank you. [LB127]

SENATOR MURANTE: Additional opposition testimony. Seeing none, neutral testimony. [LB127]

CURTIS KAYTON: Afternoon. Chairman Murante and members of the committee, I'm Curtis Kayton, C-u-r-t-i-s, last name, Kayton, K-a-y-t-o-n, I'm the general manager Southwest Public Power District located in Palisade, also representing our customers and the 34 members that make up of the Nebraska Rural Electric Association, whose members collectively serve over 230,000 customers over 87,000 miles of energized power lines and all or parts of 83 counties in the state. I will not belabor a lot of the points that have already been made; we share those. And

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after reading this testimony or this bill, we did do a quick poll of our member systems and did learn that virtually all of us are advertising our notices, posting our meeting notices in a publication of general circulation. We did have the question with the county thing. As Senator Brewer has pointed out, we have a smattering of smaller little community papers in our service territory that operate on a much smaller footprint. And so Senator Groene has a...he just handed me his amendment. Appreciate that...for that. That will provide clarification on the real intent of general circulation in advertising our meeting notices, so I thank him for that. Also, we...hopefully it does address that we did feel that it would be problematic if we had to add to the amount of the publications, because in the event that one of the publications would omit our meeting notification we sent to them or misprint it, then does our customer have a grounds to say they weren't duly notified of when their meeting is? And our meetings have been on the third Wednesdays for years and years and years, so. Nonetheless, we do appreciate Senator Groene's attempt to keep transparency and adequate notification to customers and ratepayers of the state when their publicly elected officials meet. And we will help them whatever way we need to. I would answer any questions. [LB127]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thanks for coming down. Additional neutral testimony. [LB127]

BO BOTELHO: (Exhibit 6) Good afternoon, Chairman Murante and members of the Government, Military and Veterans Affairs Committee. My name is Bo Botelho, the operations officer for the Department of Administrative Services. It's spelled B-o B-o-t-e-l-h-o. Again, I don't necessarily need to repeat everything that's been said previously. I would point out that Senator Groene's amendment would resolve the issue for the state. But obviously the state's issue for this bill is that we have jurisdiction in every county and if the state was required to publish a newspaper in every county for every meeting that would fall under the Open Meetings Act in the state of Nebraska, it would be extremely onerous to the state as well as expensive. For DAS alone it would be about 42 meetings per year. You multiply that times 93 counties and we figured that an average cost of \$20 for the publication, we're in excess of \$78,000 a year for DAS alone if we're required to meet this on behalf of the state. Again, the amendment would remove the state from this obligation of publication in every county in which it has jurisdiction. So that would resolve the issue for the state. With that, if you have any questions, I'll be happy to answer them. [LB127]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? Seeing none, thanks for coming down (inaudible). [LB127]

BO BOTELHO: Thank you. [LB127]

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SENATOR MURANTE: Welcome. [LB127]

ALLEN BEERMANN: Thank you very much. My name is Allen Beermann, A-l-l-e-n B-e-e-r-m-a-n-n, I represent the Nebraska Press Association. I'm appearing in a neutral capacity today for the purpose of...a really ethical purpose, because newspapers get paid for advertisements, legal notices. And...but I have some information I think might be helpful to this committee. First of all, with regard to readership of newspapers in Nebraska, currently we have 625,000 yearly paid subscriptions. All of the polling done in our state and neighboring states in the Midwest, we have an average weekly readership of 85 percent of adults in our state. Yes, it is true today under the current statute you have the option of publishing in a newspaper, posting in three places, two places, whatever is available in your community, or to put on the Web site. Now the Web site has some issues. First of all, with the Web site and publishing there you never get a proof of publication. In a newspaper, every legal notice that's run of a meeting or any other legal notice, you do get a proof of publication affidavit, including the clip of what was published. And that's a permanent record. Multiple private lawsuits and a lot of public lawsuits, when they involve the propriety of a meeting, the first thing the judge or one side of a court case will ask for is, did you have a proof of publication? Is there a notice of this meeting? So that becomes very, very important. We're also learning in this state frequently, occasionally, in the last four years we had 20 and 19 counties, respectively, that were knocked out of power for 17 and 22 days countywide. Everything electrical was shut down. Every newspaper did publish and carried every legal notice. This is becoming a real issue, especially in the East Coast and somewhat in our state. When you have storms and power is knocked out you lose the capacity to post notices, you do not have the capacity to find a notice. We've also done a lot of polling in this country and in other countries--and as recently as yesterday, in the United Kingdom--government Web sites are read by an average of 9 percent of the people. It's higher in one category in this country and every other. In Game and Parks, where it involves hunting and fishing licenses, they have a 28 percent usage of the Web site. So those are all issues that are involved. We wonder about the radio and television amendment, because they do not get an affidavit and, in essence, a proof of what was published. And we're not sure that most people when they would go home at night and I would say to Linda, I need the clicker. There's going to be public notices on the television running at 10:30. I need a pad and paper, I'm going to start writing it down. That's not the way it works. So anyway, I'd be happy to answer any questions you may have. I, too, want to thank Senator Groene for his dedication to open meetings and open records, revisiting this issue and letting many people speak to the issue because it is very, very important. Thanks for the courtesy shown by this committee. I appreciate it. [LB127]

SENATOR MURANTE: Thank you, Mr. Secretary. Senator Brewer. [LB127]

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SENATOR BREWER: Thank you, Mr. Chairman. Well, first off, on a personal note, thank you for all the support you've given over the years to the military. You have been a great champion for us, so I appreciate that. [LB127]

ALLEN BEERMANN: Thank you. Thank you. [LB127]

SENATOR BREWER: And should I ever have a bill, I would really want you to be the neutral person in that. You have done a great job. The point you make with the local papers is really well taken, because what people forget is, you can have Web sites scattered all over the place, but what the papers do is they have the sports, they have the community activities, they have obituaries, everything is in one place. And in those remote regions, that's why the papers are so popular and that's why people go there to read them is so that's that one-stop shopping that gives them the information they need about their community and their counties. So for that, you're 85 percent is probably 99 percent where I'm from. It's the other oddballs that are on the eastern end... [LB127]

ALLEN BEERMANN: Your district is 93 percent, Senator. [LB127]

SENATOR BREWER: Is it, really? Okay. Anyway, thank you. [LB127]

ALLEN BEERMANN: Incidentally, the Press Association newspaper members are about 120 papers, free of charge, publish every week and every day if it's a daily, all of the legal notices on the Press Association Web site. And it's so accurate that you can plug in key words. You could put in the word mayor, every legal notice that has the word mayor in it will pop up and so it's very easy to use. [LB127]

SENATOR BREWER: Thank you. [LB127]

SENATOR MURANTE: Thank you. Any final questions? Seeing none, good to see you, thanks for coming down. [LB127]

ALLEN BEERMANN: Thanks for your courtesy. [LB127]

SENATOR MURANTE: And, Mr. Speaker. We've got nobility in the office today. [LB127]

GREG ADAMS: Thank you. I promise I will take up very little time. I realize that it may sound a bit redundant but on behalf of the community colleges, when we first reviewed the bill...we

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publish in our newspapers. As you can imagine as you move across the state, our community college service areas get larger and larger. We also have the Web sites, but we do rely on the newspapers. Our only concern was in the green copy, did it mean that we had to go seek out a newspaper in every county which becomes difficult and very costly? This amendment truly fixes our issues. I'd take questions, otherwise I have no more. [LB127]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you. Good to see you. [LB127]

GREG ADAMS: Thank you. [LB127]

SENATOR MURANTE: Director Daley, welcome back. [LB127]

FRANK DALEY: The nobility is gone and (inaudible). Chairman Murante and members of the Government, Military and Veterans Affairs Committee, my name is Frank Daley, D-a-l-e-y. I serve as the executive director of the Nebraska Accountability and Disclosure Commission. I'm here in a neutral capacity as to the bill, but we want to support the amendment if this bill were to move forward. The amendment makes clear distinctions. It returns state agencies to the situation in which they can use the methods best calculated to reach the interested people and so to notify them of their meetings. By way of example, the Accountability and Disclosure Commission posts notices of our meetings on our Web site. We also post notices on a Web site maintained by the state of Nebraska where all of the state's agencies post notices of their meetings. We also maintain a list--anyone can be on it--where we will send you a copy of our agenda and notices of our meeting. It takes nothing to be on the list other than the request. Finally, one of the other things we do is that if there are special constituencies that would be affected by our meetings in a particular situation, we take special steps to reach out to them. We recognize the purpose of this bill. It's to ensure that there is good and adequate notice of governmental activity and we support that concept wholeheartedly. So I do want to thank Senator Groene for working with us on the amendment and thank you for the opportunity to testify. [LB127]

SENATOR MURANTE: Thank you for coming down today. Any questions? Seeing none, much appreciated. [LB127]

FRANK DALEY: Thank you. [LB127]

SENATOR MURANTE: Any remaining neutral testimony to LB127? Is there any remaining neutral testimony? Seeing none, Senator Groene. [LB127]

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SENATOR GROENE: Thank you, Mr. Chairman. I was listening to testimony. Some good points were made. And the one I didn't hear, but you could surmise when the discussion came from the Web site. There's one thing about a newspaper, it's date certain. You're going to get it Thursday. You're going to get it Wednesday. It's going to get a daily paper at a certain time of the day. What time, what date, how many days ahead, does an entity put it on their Web site? How do we know when it was put there? I passed out a letter of a constituent of the N-CORPE group. They used to put it in the papers. He said he has seen it there two days ahead, three days ahead, not at all, showed up later. Newspapers are date certain. You get that notice. To Senator Brewer, ranchers, farmers, they get that paper in the mailbox. And if you say they don't get it in time, it doesn't say you couldn't put it in two weeks ahead, you couldn't mail it...put it in the paper a week ahead and get it a Wednesday and that rancher gets it on Friday, but he's seven, eight, ten days before the following Monday. So you could do that, that's reasonable. It doesn't say it has to be the just preceding paper. I would like to make sure I understand...I've given advice to people running for office, always say something positive first, and I forget that. There are a lot of good public entities and we've talked to a lot of them that are really good about getting information out. They know they are public servants and they do...it's always we pass laws for the exception to the rules. But...and it doesn't bother them. If we took the county out, general...Black's Dictionary, law dictionary--I've got lawyers in my office so they found this for me--Black's Law Dictionary: General circulation is a term of art in most states and it is a newspaper that contains news and information of interest to the general public rather than to a particular segment--particular segment, Web sites are to a particular segment, they're not general--that is available to the public within a certain geographic area that is circulated mostly to paid subscribers and that has been continuously serving the same readership area for a specific time. That is what we mean by...they said it's not in law; it is in law what general circulation means. So also, the state of Nebraska Web site, one testifier said that...one of my staff said...came up with the idea also, why don't we just put it on the state Web site? Some states do. It's not a bad idea for redundancy, but there's a problem. Anytime you ask a Web site or a tech people in the state do, there's an A bill so it wasn't a good year to bring...to add this to it. It would have added an A bill for the technology, but it's something to consider in the future. Curtis Kayton from the Southwest Public Power District, his district overlaps N-CORPE. He sat up here as a good public official and said, we put it in those papers, we've always put it in those papers. N-CORPE says they can't. So those papers are available. We need to be date certain when people get their notification. And we started this hearing by saying Web sites. Historically, custom has been newspapers. This is nothing new. There didn't need to be a law, because what we did was put it in the newspaper. Legal counsel is out there telling them, well, maybe Web sites are better, maybe a newsletter, put it in your newsletter. Well, the cost, we can lower the cost. I'm glad nobody said there was a cost, because I've told a couple of the lobby while I was eating a \$50 meal and they were staying in a \$300 room, that if you can't afford 50 bucks in a newspaper, how are you buying me a \$50 meal at this lobby event? But anyway, what comes first? The people and the notification. And they can afford...there's some things that is worth the cost and an ad in the newspaper is very important.

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As to Mr. Beermann, I think he was shocked I called him. They did not bring this to me. I called him and asked him particulars about what is custom. Is it already required to put it in the newspaper? And he said, no, and he gave us some direction. But anyway, we worked with all the entities. As you can see, we basically wrote a new bill in the amendment. But it's time to put it into statute folks, because things are moving fast. We are going away...we duplicate knowledge. I read a newspaper, I look at Web sites, I watch the TV, but I always read a newspaper. If you go to the library...and you'll see poor people down there reading the newspaper, people who can't afford the subscription. One of the most popular things at a library and on daily use is people coming in to read the paper. They don't get on the Web site. They don't get on the computers. They read the newspaper. So thank you and I would...hopefully, you would...any questions or if you think we need to tweak it. One more thing, the idea that some newspapers forget to do it, send them an e-mail. Send that newspaper an e-mail; you've got documentation that you notified them. That will stand up. Don't use a phone, because there's no record. Thank you. [LB127]

SENATOR MURANTE: Thank you. [LB127]

SENATOR GROENE: Any questions? [LB127]

SENATOR MURANTE: Senator Brewer. [LB127]

SENATOR BREWER: There's probably a good lesson learned for the five freshmen on this committee, because if you have Senator Groene, you usually draw a crowd. It's because you do the hard stuff. So thanks for doing the hard stuff. [LB127]

SENATOR GROENE: Well, when...make me feel good. When the government doesn't like something, that means I'm doing something right. But most of the government entities here do like it. [LB127]

SENATOR BREWER: Thank you. [LB127]

SENATOR MURANTE: You're always welcome in this Government Committee, anyway, Senator Groene. Before we close the hearing on LB... [LB127]

SENATOR GROENE: Can I say one more thing? I got to straighten it out because I turned around and seen the lady in the crowd. Interlocal agreements are covered by this, because they're part of local government, they are an extension of local government. A testifier said that we left out the interlocal agreements. We left out interlocal agreements that are part of state government. If you're a tourism bureau, if you're an NRD, N-CORPE, you are covered because you are an

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extension of the local government. Sorry, Senator Murante, to break your normal pattern of testifying. [LB127]

SENATOR MURANTE: (Exhibits 7-10) Apology accepted. Before we close the hearing on LB127, and we will do that quickly, we have opposition from Brandon Kauffman, the city finance director of the city of Lincoln and Common Cause Nebraska. We have letters in neutral from Tim Texel from the Nebraska Power Review Board and Timothy Kenny of the Nebraska Investment Finance Authority. And that does close the hearing on LB127. And the mass exodus begins. Senator Briese, welcome to your committee on Government, Military and Veterans Affairs. [LB127]

SENATOR BRIESE: (Exhibit 1) Thank you. Senator Murante, and members of the Government, Military and Veterans Affairs Committee, I'm Tom Briese, T-o-m B-r-i-e-s-e, and I'm here to present for your consideration LB494. Nebraska Revised Statutes 84-712 makes available for examination by citizens of all public records of the state or any political subdivision. (Nebraska Revised Statute) 84-712.05 allows entities to withhold from public view various categories of records. There are currently 20 such categories of items or information that can be withheld. LB494 adds another category that can be withheld from public view for, "Information relating to critical physical and cyber assets of energy infrastructure, including, but not limited to, records, maps, drawings, equipment, computer programs, data, identity of personnel responsible for control or maintenance of such physical or cyber assets, or other related information the disclosure of which would pose a threat to public safety or the security of critical energy infrastructure." And I've submitted an amendment to LB494 that alters that language somewhat. And I could go through that with you, but I think by looking at the amendment, comparing it to the language you can see what those changes might be. We live in an era where it's not inconceivable that adverse interests could undermine the economic health and security of our state and our nation by disrupting our energy infrastructure. Providing this exception to our public records law could help minimize this risk. I do note that this provision mirrors some elements of the rules promulgated by the Federal Energy Regulatory Commission relative to Freedom of Information Act exceptions for critical energy infrastructure information. The exception proposed by LB494 is perhaps somewhat broader than the federal exception. I believe that in light of the potential risks to critical infrastructure this expansion beyond what is exempted under the federal rules is justified. However, I would be willing to listen to any concerns the stakeholders may have with the language and hopefully address the concerns of all parties. And with that, I'd be happy to answer any questions. There will be some experts following me that are going to be well versed on this issue. But again, I'd be happy to answer any questions you might have. [LB494]

SENATOR MURANTE: Thank you very much, Senator Briese. Are there any questions? Seeing none, thank you very much for your opening. [LB494]

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SENATOR BRIESE: Thank you. [LB494]

SENATOR MURANTE: Proponent testimony. Welcome. [LB494]

SHELLEY SAHLING-ZART: Thank you. Good afternoon, Chairman Murante and members of the Government, Military and Veterans Affairs Committee. My name is Shelley Sahling-Zart, S-h-e-l-l-e-y, Sahling-Zart is S-a-h-l-i-n-g-Z-a-r-t. I'm vice president and general counsel for Lincoln Electric System but I'm here today testifying for the Nebraska Power Association. The Nebraska Power Association is a voluntary association representing all of the states' publicly owned electric utilities. That includes public power districts, municipalities, public power and irrigation districts, and rural public power districts and cooperatives. First of all, I'd like to thank Senator Briese and his staff for bringing this...introducing this legislation on our behalf. It is a little bit of a duplication of federal law, but it's a very important one that we think is necessary to be in state law, which I'll address in a second. We're here to support this bill, obviously. First of all, let's start at the federal level. The Congress passed the Fixing America's Surface Transportation Act, the FAST Act. You've probably heard that in reference to a number of different measures. Part of that directed the Federal Energy Regulatory Commission to promulgate regulations and to expand the Federal Power Act to protect critical electric and energy infrastructure information. It also allowed the sharing of some of that information without fear that the sharing of that information with other public entities would result in its disclosure. And it also put in place sanctions for the unauthorized disclosure of that information. So what we tried to do with this is really look at putting the provisions in state law. I talked with a number of people that, number one, don't know this exists in federal law yet. It was just published in the Federal Register by FERC last month, so it's not even been codified. You can't find it in the code yet, but it will be there shortly. But any of you that have tried to slog through federal code, it is a slog. It's hard to find some of these things. But we don't expect that many Nebraskans are going to go looking for this information in the federal regulations, they're going to look to the Nebraska Public Records Act. So our thought was to put simpler language, but similar language, into the state records law, keeping in mind again that these are public records that may be lawfully withheld. The Legislature has identified a number of categories. This would add an additional category of information that may be withheld; it's not required to be. So just addressing some of the concerns we heard as we worked with groups. For example, the crop dusters. Some of the pilots that do crop dusting were concerned that they wouldn't be able to get information regarding location of towers and heights of towers. This will not change any of that. Obviously, there's a public safety concern with that as well and we would continue to provide this information. This is really aimed at the critical electric and energy infrastructure that could be used by bad actors, terrorists, if you will, to take down the power grid, to take down major economic centers. And sometimes it's a little hard for us here in Nebraska to think that we're subject to that. It sounds a little John Grisham-like, but it is a reality today and we do believe that the heartland are some areas that they may go to for the shock and awe value if nothing else, so

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we do believe our assets here are vulnerable, need to be protected. I have worked...and I appreciate the work of Mr. Renner with Media of Nebraska. We are in discussions with them on some compromise language. There is a provision in this bill that goes further than the federal regulation, which is the provision that relates to the identity of personnel engaged in these critical asset functions. The idea being that if those people are identified and you can figure out where they live and who their family members are, that you could use that information to threaten them, extort them, whatever to get the information or access to the critical infrastructure. We're having discussions with Media of Nebraska. I think we can work out an agreement on some of that language, but wanted to address why that was in there. With that, that's the crux of the bill and I'd be happy to answer any questions. [LB494]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? Senator Brewer. [LB494]

SENATOR BREWER: Thank you, Chairman. All right. Well, first off, to follow up on your...the points you were making, we found a number of documents in foreign countries--which will remain anonymous--that indicated target locations in Kansas, Nebraska, Missouri, and Iowa. So what you're doing is a very good thing. My concern is, how do you guard against abuse of this, the government using it to, say, hide certain kind of activities? Are there safeguards to where a person would have some degree of confidence that that wouldn't happen? [LB494]

SHELLEY SAHLING-ZART: I would tell you, Senator Brewer, I think one of the first safeguards is going to be the courts. If people think we're abusing that, they're going to take us to court. Obviously, this information will probably be looked at by a judge and he'd probably make...he or she would make the determination whether we were overreaching. So I think the courts is largely where the safeguard is. [LB494]

SENATOR BREWER: For those that are naysayers, I will tell you that you are on target being concerned about what you're concerned about, and thank you. [LB494]

SHELLEY SAHLING-ZART: And I'd just like to add that I grew up reading the Wood River Sunbeam and that was where we got the information. [LB494]

SENATOR BREWER: Good. [LB494]

SENATOR MURANTE: Thank you. Senator Hilgers. [LB494]

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SENATOR HILGERS: Thank you for your testimony today. I have a couple of questions. So the FERC regulation, is that in Chapter 18, Section 388? [LB494]

SHELLEY SAHLING-ZART: It will be codified there, yes. [LB494]

SENATOR HILGERS: Okay. Now this is more broad and it's not just relating to the personnel provision, but it doesn't appear to directly track the regulation. Is that correct? [LB494]

SHELLEY SAHLING-ZART: What we tried to do, Senator Hilgers, was kind of simplify the language. I mean, we are in the amendment referencing the definitions in 18, so the amendment does kind of clean that piece up and make the direct reference for at least defining what the critical infrastructure are, if that helps. [LB494]

SENATOR HILGERS: It does a little bit, but why not just use the language from...just why not track the regulation entirely? [LB494]

SHELLEY SAHLING-ZART: And I'm happy to have a conversation about doing that, we can do that. I thought the language in the federal one was, to Senator Brewer's point actually, a little broad and vague. And we were specifying some types of records that are within there as opposed to...I'd have to look at the language again, but I thought the federal language was a little broad in some of the sections. But that's a discussion I'm happy to have. [LB494]

SENATOR HILGERS: So I...and I, along with Senator Brewer...my concerns...my appreciation of the goal and concerns track Senator Brewer. The one...besides that, the one thing that triggered for me as an attorney--and I see this a lot--and it's a trap word in my view, which is relating to. Relating to is very broad. [LB494]

SHELLEY SAHLING-ZART: Agree. [LB494]

SENATOR HILGERS: And my concern is that that is sort of...that is the exception that could swallow or that's the wording that could swallow a whole lot of information that goes beyond the scope. [LB494]

SHELLEY SAHLING-ZART: I don't disagree with you. As an attorney, I don't disagree with you. I think part of our concern is that this really is an evolving area of regulation, which the next testifier I think is going to address, and it's hard for us to know what all is going to be...come within the purview of this kind of information. So part of it was to kind of intentionally keep that sort of open ended so we could include those. But if it's too open ended, again, if we can agree

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on the underlying concept that this is an important area of protection, I think massaging the words is pretty easy to get to. So thank you. [LB494]

SENATOR HILGERS: Okay, thank you. Thank you. [LB494]

SENATOR MURANTE: Thank you. Any final questions? Senator Wayne. [LB494]

SENATOR WAYNE: So besides the...Senator Hilgers' questions, what other differences between FAST and this bill? [LB494]

SHELLEY SAHLING-ZART: Other than the identity, that's really about it. [LB494]

SENATOR WAYNE: And will this information, if this were to be passed, how would this affect private development? [LB494]

SHELLEY SAHLING-ZART: I'm not sure I track your question. [LB494]

SENATOR WAYNE: (Inaudible), solar, building in, tapping into the infrastructure. [LB494]

SHELLEY SAHLING-ZART: I don't know. It wouldn't affect the development insofar...except unless they were...for example, we used to pretty freely give out maps of our transmission systems across the country, our fiber systems and things. We don't do that. I mean, those are things that we shouldn't have...we shouldn't be providing road maps to people to do us harm. So in terms of private developers, I mean, we'll still work with them within a local area and help identify those. If necessary, it might be that we'd have a developer sign a nondisclosure agreement if we were providing information that we didn't want in the public domain, which frankly we do with them now. I mean, developers come to us and want to keep their pricing information confidential, so we execute those kind of agreements with them now. Did that answer your question? [LB494]

SENATOR WAYNE: Yes. But I also...we have to...I'm concerned about the related information part. That's...the attorney in me just thinks that's very vague. [LB494]

SHELLEY SAHLING-ZART: And I'm happy to...we can look at narrowing that. Not a concern. [LB494]

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SENATOR MURANTE: Seeing no additional questions, thank you very much for your testimony. [LB494]

SHELLEY SAHLING-ZART: Thank you. [LB494]

SENATOR MURANTE: Welcome. [LB494]

KEVIN WAILES: Thank you. Good afternoon, Mr. Chairman and members of the committee. My name is Kevin Wailes, K-e-v-i-n W-a-i-l-e-s, I am the CEO of LES and I also serve in a secondary role. I am the cochair of the Electric Subsector Coordinating Council, which is a national organization working with federal government relating to these issues. So my primary intent in following Shelley's comments was really to try to put some perspective and context with respect to what the electric utility industry is doing related to physical and cyber security and particularly as it relates to the efforts that we are making to accomplish that, because this is some sort of a companion to this proposed legislation. Our industry is the only industry in the country that has mandatory cyber security standards with penalties and audits associated with it. And it even includes penalties associated that are up to \$1 million a day per violation with respect to compliance. In addition to that, in the last few years alone, for example, LES has spent several million dollars related to cyber security and physical security. Now, as a part of that process...to describe, I'm going to kind of go back and talk about what this Electric Subsector Coordinating Council is, the ESCC. This is a group of 31 CEOs in the country across all three sectors, the rural electric co-ops, the municipals, and the investor-owned utilities, that are working with the federal government at the secretary...deputy secretary level of Department of Energy and the Department of Homeland Security. It was actually facilitated...and there's a long story that my four minutes won't allow, but that group meets a minimum of three times a year. Notwithstanding drills and those types of things, when we have those meetings it includes the Department of Defense, FBI, the Federal Energy Regulatory Commission, a lot of the three-letter agencies and it's a very strong working relationship to work out issues of that. And the predominant goal for this has really been kind of four areas. And those areas would include basically, for example, tools and technology that the government might have to find bad actors like this or information they have that we might not normally have access to as utilities. Information sharing, which is critical. Before the time we started this...basically, this version of the council, there were really...hardly anybody in our industry had security classifications. For example, LES now has six employees that have secret or higher classifications, so we in fact can get that information in working with the government. Resiliency and response is a key issue. And also working with the federal government, not only in trying to make sure we prevent things happening, but if in fact they do how are we going to respond to them and how do we work with our federal government partners in order to make that happen? And then cross-sector coordination between the major critical sectors--for example, transportation, finance, communications--and trying to make sure that we are prepared, not only with the prevention

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piece of it but also for any kind of recovery and how we might do that. There's several working groups that work under all of that, so it's a major effort in what we're doing to try to prevent the things that are not unlike this bill trying to protect the information. So the continuing evolution of threats means that we're continuing to evolve how we deal with them, how we work with our partners to do that. This bill is not intended to withhold information, but really to give us the opportunity to protect something that's critical in order for us to provide important services to our community and, of course, across the country so that we don't have an impact on something that might have an adverse impact elsewhere in the country, so. I'd be happy to answer any questions. [LB494]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thanks for coming down, much appreciated. [LB494]

KEVIN WAILES: Thank you. [LB494]

SENATOR MURANTE: Additional proponent testimony to LB494. Welcome. [LB494]

KRISTEN GOTTSCHALK: Thank you, Senator Murante and members of the Government, Military and Veterans Affairs Committee. My name is Kristen Gottschalk, K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k, I am the government relations director and a lobbyist for the Nebraska Rural Electric Association and that is who I am testifying on behalf of today. And normally, we would just sit back and be comfortable being part of the MPA testimony, but we did want to emphasize some aspects of this bill that we felt were very critical that may be topics for compromise on the language. For one thing, the language is very simple and we appreciate the simplicity of this language. But the possible compromise I'm referring to is the language dealing with the protection of the identity of personnel responsible for the control or maintenance of physical or cyber assets. As Shelley mentioned, there are some very real risks. We don't want to think of them as being able to happen in the state of Nebraska, but we're seeing the path in other places that we may even consider more...or less likely to have those things happen. So the disclosure of names could not only pose a threat to the public access and public safety, but also to those public servants in those positions and even, quite frankly, to their families as well. And what we tend to see in some of these situations is the press likes to know the names of people and the salaries that they make and that makes for good press. We put the names and salaries in the paper and I hope that that's not a point in the purpose of this part of the compromise. It may make a popular read, but protecting the critical assets of those people is an important move and it's an important component of this piece of legislation. With that, I'd end my testimony and would be happy to answer questions. [LB494]

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SENATOR MURANTE: Thank you for your testimony. Are there any questions? Seeing none, thanks for being here today. Welcome. [LB494]

JILL BECKER: Good afternoon, Chairman Murante and members of the Government, Military and Veterans Affairs Committee. My name is Jill Becker, J-i-l-l B-e-c-k-e-r, and I appear before you today as a registered lobbyist on behalf of Black Hills Energy. And we wanted to voice our support of this legislation. Just to ensure that the committee knows this, during the promulgation of the rules of the FAST Act, as was earlier mentioned, it defines a critical electric energy infrastructure information. So while the act originally had the word electric, the definitions now include the term critical energy infrastructure and that's how we, as both an electric and a natural gas company, get pulled into this type of legislation. We just wanted to voice our support for the policy behind this, that we really don't want to have to be forced to disclose this information. And as you heard earlier, while some may have an interest in having a map of everything that shows our facilities, it really is just not a good idea to have that type of information out in the public domain. And so we certainly support the policy reasons behind this piece of legislation. One thing I would like to mention, there's been some discussion about tracking the specific language found in the act, itself, as far as using the definition. We would support that. We really want to make sure that there's not really an issue of having to determine does it fall in or does it fall out. If the determination is made, should we just track the federal legislation, we would be in support of that. I'd also like to point out that in the green copy of the bill it gives a list of what this information would include in the specific languages: other related information which would pose a threat to public safety or the security of critical energy infrastructure. And we would also like to see that extended to match closer to the FERC definition, which would also include economic and national security. So we certainly appreciate the bill introducer's efforts to make this as simple as possible. There are hundreds of pages of regs if you're interested in reading them. So we support keeping it close and just a tighter definition. But like I said, we really support the policy efforts behind this and we're happy to work with the committee and the bill introducer to ensure that the language is something that we can support. But we definitely support the policy behind it. With that, I'll be happy to answer any questions. [LB494]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? Seeing none. [LB494]

JILL BECKER: Thank you. [LB494]

SENATOR MURANTE: Welcome back. [LB494]

CHRISTY ABRAHAM: Thank you. Senator Murante and members of the Government Committee, my name is Christy Abraham, Abraham is A-b-r-a-h-a-m, I'm here representing the

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League of Nebraska Municipalities and we just want to go on record of supporting this legislation. And that is assuming that a compromise amendment can be reached by all parties, including Media of Nebraska. That's all I have. Thanks so much. [LB494]

SENATOR MURANTE: Thank you so much for your testimony. Seeing no questions, thanks for coming down. [LB494]

CHRISTY ABRAHAM: Thank you. [LB494]

SENATOR MURANTE: Additional proponent testimony to LB494. Is there any additional proponents? Opposition testimony to LB494. Welcome. [LB494]

SHAWN RENNER: Thank you. Good afternoon, Senator Murante and members of the committee. My name is Shawn, S-h-a-w-n, Renner, R-e-n-n-e-r, I represent Media of Nebraska, Inc. For the new members on the committee, Media of Nebraska is a nonprofit corporation that represents the interests of the print and broadcast news media in the state. Its constituent members are the Nebraska Press Association, the Nebraska Broadcasters Association, the Nebraska Daily Publishers Association, the Omaha World-Herald, and the Lincoln Journal Star. I'm here to offer I guess what I'd characterize as soft opposition to the bill. My clients aren't opposed to the idea underlying the bill, they understand the security concerns and don't have a problem with trying to further those security concerns. Our problem is with the specifics of the bill. And I want to tell you that I've been in contact with both Senator Briese's aide and Ms. Sahling-Zart. I've had a number of conversations with them and it's my belief we will ultimately be able to arrive at language that's satisfactory to both sides. We're not there yet. And I want to point out a few things so that the committee at least understands the media's point of view on this topic. First, Ms. Sahling-Zart alluded to this, but I want to be clear with the committee, it is my view after having read the regulations that they preempt state law to the extent that state law would require or allow an electric utility to provide the information that the federal regulations say can't be provided. So in that sense, I believe the amendment to our public records statute is unnecessary. I think federal law already takes care of it. That said, I understand the point made by Ms. Sahling-Zart that it's difficult to tell someone who asks for information and is denied to go look at the Federal Register or the Code of Federal Regulations and try to figure out why that is. And for that reason I don't think my clients have any objection to including a new exception under the state public records statutes. That's an area of concern, it's a general matter. One of the goals of the news media is to limit to the extent possible exceptions to that act because that is our daily diet of information. That's how we obtain information about how government works. That's how we provide information to the public about how government works. There is one provision of the bill as drafted--and I was given a copy of the amendment that was provided by Senator Briese, I haven't had a chance to study it yet but I think I understand the essence of it--there's one

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bit of overreach, in my view. This exists in the current bill and I don't think the amendment takes care of it. It's been identified, and that is the identity of personnel information that's going to be subject to being withheld from the public. The federal legislation and regulations by FERC furthering the federal legislation do not cover that information. That ought to tell you something about what the federal government thinks how important that is. There are pages and pages and pages of FERC regulations. They are mind numbing, I guess, I would characterize them. I read them as part of this process and you will not find any language in there that requires the utilities to not disclose the information about the identity of personnel. That's important to us for a variety of reasons. As I said, I recognize also Senator Hilgers' concern with the related information. The bill as drafted also had a included but not limited to, which is another problem for lawyers because you don't know what that means in a real way. I think we can work through those issues and, in fact, I've had conversations about them, so I'm fairly sanguine that we'll be able to come to agreement. But until we do, media opposes the bill as it's written. And I'll study the amendment, I'll be back in contact with the principals, but I wanted to register our concerns with the committee at this point. And thank you for the time. [LB494]

SENATOR MURANTE: Thank you for your testimony. Are there any questions?
Seeing...Senator Wayne. [LB494]

SENATOR WAYNE: So if I was a private company, would I have to release the manager's name and address and how much they make a year? [LB494]

SHAWN RENNER: Yep. It's not clear under the bill as drafted how that would play. But currently, yes. No. It's a private company. I'm sorry, no. If you're government, an agency, yes. [LB494]

SENATOR WAYNE: So could it be that--this is more of a hypothetical or making you speculate a little bit--but could it be the fact that most of the states don't have public power, federal didn't think about the fact that public power employees do have to disclose that information so they were playing to the majority of the country, which is...that doesn't apply to most of the other industries, so Nebraska should take a second look at that because everywhere else in the country that information isn't available to the public? [LB494]

SHAWN RENNER: I don't know. It's probably the best true answer. Here's what I do know: It is certainly true that there are other public power entities throughout the country. Nebraska is the only state that has solely public power, but there are certainly a number of public power entities throughout the country. So I don't think, while I wasn't involved in creating the FERC regulations and I can't tell you what the motivations were, I do not think it would be accurate to say that those apply outside of Nebraska only to private companies. I think they apply to public

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companies as well. So my guess is that that was considered. I couldn't tell you what all conversations went into it, but I know for a fact that there are public utilities in various parts of the country outside of Nebraska. [LB494]

SENATOR WAYNE: Okay. [LB494]

SENATOR MURANTE: Thank you. Seeing no additional questions, thank you very much for your testimony. [LB494]

SHAWN RENNER: Thank you. [LB494]

SENATOR MURANTE: Continuing on opposition testimony to LB494. Are there any additional opponents? Is there any neutral testimony. Seeing none, Senator Briese, you are recognized to close. [LB494]

SENATOR BRIESE: Thank you again. And Mr. Renner is correct that the amendment that we drafted doesn't comport to the federal regulations as per personnel. Secondly, there was some angst over the terminology related to critical energy infrastructure. And sitting there we did a little research on that and Section 388.113 of the rules implementing the FAST Act, part C in particular, found on page 93749 of the Federal Register defines critical energy infrastructure information as, "information related to critical electrical infrastructure." So there's some precedent for the word related, but just because the feds are doing it doesn't mean we need to necessarily, so. I certainly appreciate the work and input of all stakeholders here and I'd be happy to work with everyone in developing the right language. Thank you. [LB494]

SENATOR MURANTE: Thank you, Senator Briese. I have a couple of questions for you that don't really have anything to do with the merits on your bill, but just establishing a record and a precedent on a related subject matter. You've been on the Government Committee now for a little bit over a month, is that correct? [LB494]

SENATOR BRIESE: About four weeks. [LB494]

SENATOR MURANTE: Okay. In your experience on the Government Committee, have we dealt with any legislation that has otherwise dealt with energy infrastructure or energy policy broadly? [LB494]

SENATOR BRIESE: Not that I recall. [LB494]

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SENATOR MURANTE: And your bill attempts to amend Section 84-712, which is the Public Records Act, correct? [LB494]

SENATOR BRIESE: Yes. [LB494]

SENATOR MURANTE: And you are attempting to create an exception to the Public Records Act as it relates to information relative to energy infrastructure. [LB494]

SENATOR BRIESE: Yes. [LB494]

SENATOR MURANTE: So despite the fact that this committee does not deal with energy infrastructure and has not dealt with energy infrastructure, this bill is in the Government Committee because it creates an exception to the Public Records Act, is that correct? [LB494]

SENATOR BRIESE: Sounds like a reasonable statement to me. [LB494]

SENATOR MURANTE: All right. This discussion may come up on the floor, so we needed to establish that. [LB494]

SENATOR BRIESE: I might be gone that day. [LB494]

SENATOR MURANTE: Thank you, Senator Briese. [LB494]

SENATOR BRIESE: Thank you. [LB494]

SENATOR MURANTE: (Exhibits 2, 3, 4) And before we close the public hearing, we have letters of support from Tim Texel of the Nebraska Power Review Board and Rick Kubat from MUD, and a letter of opposition from David Corbin of the Sierra Club. And that closes the hearing on LB494 and ends our public hearings for the day. Thank you all for being down. [LB494]