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Government, Military and Veterans Affairs Committee
January 20, 2012

[LB719 LB733 LB860]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Friday, January 20, 2012, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB719, LB733, and LB860. Senators present: Bill Avery, Chairperson; Scott Price, Vice Chairperson; Charlie Janssen; Russ Karpisek; Rich Pahls; Les Seiler; Kate Sullivan; and Norm Wallman. Senators absent: None. [LB719]

SENATOR AVERY: Good afternoon. Welcome to the Government, Military and Veterans Affairs Committee. My name is Bill Avery. I chair the committee and I am from District 28, right here in the heart of Lincoln. Before we start, I'm going to introduce the members of the committee--some of which are still finding their way to the room--starting with Senator Pahls over here on the right. Senator Pahls is from Millard. He is next to Senator Les Seiler, our newest member, from Hastings. Senator Charlie Janssen from Fremont will be here soon, seated next to Senator Seiler. And Senator Scott Price, the Vice Chair of the Committee, from Bellevue, is sitting there because he's going to introduce the first bill. Seated next to me on my right is Christy Abraham, who is the legal counsel of the committee, and we are expecting Senator Russ Karpisek to come any moment. He is from Wilber. He will be seated next to Senator Kate Sullivan from Cedar Rapids and another new member of the committee, Senator Norm Wallman from Cortland. Sherry Shaffer is on the end down there, and Sherry is the committee clerk. We also have a page with us today, Catherine Larsen from Omaha. When you appear to testify, please fill out this sheet right here for testifiers. Provide the information requested and clearly print it and then when you...and give that to the clerk. If you have any material that you would like to distribute to the committee, we need 12 copies. Give those to the clerk and the page will distribute them. If you do not have 12 copies, we will provide them for you. The...we'll ask you, when you do take the stand there, that you clearly spell your name, state your name and spell it for the record so that we have a clear record. The sign-in sheet that you see is a slightly lighter color than the sheet you submit if you're testifying--this one. This is for people who are here, present, and wish to be recorded for or against any bill, but do not necessarily wish to testify. And those are available, as are these forms, at each entrance. The introducers will be given an opportunity to make the initial statements and they will be followed by proponents, who are followed by opponents, and those then testifying in neutral. Closing remarks are reserved for the introducing senators. I ask you to please listen carefully to previous testimony so that you do not repeat what has already been said. We will be using the lights system. The green light means that you have four minutes and when the amber light comes on, that means one more minute remaining in your total testimony. You should be completing your comments before the red light comes on. When the red light is on, you should be finished. If you have a cell phone or any other electronic device that makes noise, please silence them. And I would remind you that we do not allow for demonstrations of support or opposition to any testimony. We like to keep everything

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

Government, Military and Veterans Affairs Committee
January 20, 2012

very quiet and respectful of everybody's position. Okay, we'll start now with Senator Scott Price, LB719. Welcome, Senator Price. [LB719]

SENATOR PRICE: Thank you, Chairman Avery, members of the board--or the committee, I should say. Thank you. My name is Scott Price, S-c-o-t-t P-r-i-c-e, and I am the representative for the 3rd Legislative District in the Legislature and I appear before you today to introduce LB719. LB719 aims to change and eliminate provision for the Records Management Act, transmission of reports, and certain surcharge and convenience fees. Now, here's a brief history of the Nebraska State Records Board. The Board oversees and manages electronic access to state government information. This includes the authority to contract with a network manager for state government information and the authority to set reasonable fees for access to records. The board assists the Secretary of State, who serves as a state records administrator, in developing policies and procedures for state and local government records management and retention. The board sponsors a grant program for state and local government agencies for the development of programs and technology to improve electronic access to government information and services. The Secretary of State serves as chairman of the 12-member board. Other members are the Governor, the Attorney General, State Auditor, State Treasurer, Director of Administrative Services--or their designees--as well as representatives of the general public, banking industry, insurance industry, legal profession, media, and libraries. The proposed changes in LB719 changing...we want to make some of them more in the line of changing and updating the words that we use and associate for some things, and one of those would be changing the term "gateway" to "portal." It updates the definition of portal to mean the state-sponsored electronic information system. We would like to clarify the role and the duties of the board to include: approving fees for electronic information and services; updates the role and definition of the network manager; removes the 18-month provision regarding fees established by the board; requires state agencies--other than the court or the Legislature--entering into an agreement to provide electronic information and services for a fee to request approval of the fee from the board; it changes reporting period to an annual one rather than quarterly; removes public record statute 84-1205.06, due to inconsistencies with other public records laws; and removes the requirement that the state officials charging convenience fees have to follow the operating rules of the credit card company. The majority of the things we're going to try to do, again, are going to be merely administrative. Fifteen years ago nearly, we started on this journey of doing electronic transactions. Portal is a new word we use now to mean the cloud. We...I think we all understand that. I think that we're going to hear testimony behind me that will talk more directly and with specificity to the fees, the part that most people will take a jump on. We'll hear from other testifiers. Again, the 12-member panel--board--decided to bring these changes to us. And the Secretary of State asked me would I carry this bill and I said I would. And I would remind and then let the committee know that that did come out of a 12-0 vote, that all the participants were aware of what they were trying to do and representing their specific industries. And with

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

Government, Military and Veterans Affairs Committee
January 20, 2012

that, I would finish and yield to any questions. [LB719]

SENATOR AVERY: Thank you, Senator Price. Questions from the committee? Looks like you've silenced everybody. [LB719]

SENATOR PRICE: I think the people behind me, they want to see, sir. [LB719]

SENATOR AVERY: Okay. [LB719]

SENATOR PRICE: Thank you. [LB719]

SENATOR AVERY: All right, we'll have proponent testimony now. Welcome, Mr. Secretary. [LB719]

JOHN GALE: (Exhibit 1) Mr. Chairman. Chairperson Avery and members of the committee, first, I would like to thank Senator Price for introducing LB719 on behalf of the Nebraska State Records Board and the Secretary of State's office. The Nebraska State Records Board was created in 1961, originally to advise and assist the Secretary of State as State Records Administrator with record management duties and of course, in those days, we were dealing with paper records. That was the extent of it. We still do deal with an extraordinary level of paper records, but in 1997, with the beginning, I would say, kind of, of the Internet accessibility, the role and duties of the Nebraska State Records Board were greatly expanded to include providing citizens with electronic access to public records, developing and maintaining a gateway for accessing public records, approving reasonable fees for electronic access to public records, entering into agreement for management of the network, and exploring the amount and kind of public records provided through the gateway. And originally when this board was created, you know, I thought it was an amazing piece of creativity because it was a very new thing. We were one of the first--maybe the second--states after Kansas to enter into legislation that allowed us to hire a third party, an independent business, to be our portal provider. And that business has to compete at public bidding every time the contract expires and to give opportunity for other companies entering into that business to make their proposal so that we get the best business at the best cost for our citizens. So in 1997, it was found by the Legislature that there were a variety of agencies that were entering into contract with portal providers, totally independent of each other and not coordinated in any manageable way by the state, so I think probably it was the initiative of the office of the...the OCIO office that insisted that there be some way, that there be not only accountability and transparency, but consistency for purposes of state, so that every agency that is going to do Internet access or provide Internet services would be doing it in a similar fashion that's compatible with the central network system of the state. So, it was a fairly complicated piece of legislation that got this Nebraska State Records Board off the ground. And since that time, I would say, we probably started with about two agencies, and that was: the Department of Motor Vehicles, DMV, who were selling large

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

Government, Military and Veterans Affairs Committee
January 20, 2012

quantity of bulk records--driver's license records--through the portal manager, and that generated income; and then the Secretary of State's office, because of Uniform Commercial Code and corporation filings that were also records that were going to be made available through the Internet. The board is really kind of a large board. Every constitutional officer except the Lieutenant Governor is on that board and the director of the Department of Administrative Services is on the board, plus there are six representatives of different industries on that board, which Senator Price alluded to. There hasn't been much change in the legislation since 1997 and so the board has...as a board, realized that we needed to kind of expand the legislation to include all of the roles that are being played and that want to be played. And so this legislation is an attempt not only to, as Senator Price said, update some terminology, such as changing electronic network to portal and also kind of expanding the definition of electronic access to be electronic access that would provide records--access to records--as well as providing services...because what's happened is over the last 10 or 11 years. We as a board have worked with state agencies to develop 280 different Internet systems that provide citizens all across the state with the ability to not only access information, but also to go on-line and file applications with, say, the state Real Estate Commission if they want to be a realtor, to file their UCC documents and corporate documents with my office, so that citizens aren't now limited by the U.S. mail system. They can, in every part of the state, have 24/7 access to the ability to deal with the state in filing their records. So, this bill is an attempt to clean up that law and bring it into current compliance with what we are doing and what we'd like to do. Thank you, Senator. [LB719]

SENATOR AVERY: Thank you, sir. Questions from the committee? Senator Sullivan. [LB719]

SENATOR SULLIVAN: Thank you, Senator Avery and thank you, Secretary of State Gale. [LB719]

JOHN GALE: Senator. [LB719]

SENATOR SULLIVAN: A couple things in the testimony that you gave us. You referred to the board providing grants to state and local government agencies. I assumed the monies for those grants come from the fees? And then also, what dollar amounts are we talking about? [LB719]

JOHN GALE: Well, with each of the contracts that we approve that have been negotiated between Nebraska Interactive--who is the third-party provider--and the state agency, they enter into an agreement and they come up with a proposed fee. That consists of three things. One, it's a statutory fee which you as Legislature require to be paid with the filing of any kind of application or license renewal or original license filing, so there's statutory fee. And then, because it's an on-line filing, there is a credit card

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

Government, Military and Veterans Affairs Committee
January 20, 2012

charge and then there's a transaction fee and many times, that's just a flat \$1 or \$3 and the board receives 10 percent of that. So if there's a \$3 transaction fee per transaction...let's say the statutory fee is \$8 and then maybe you have a 2.4 percent credit card charge and then there's a \$3 transaction fee, the board gets 10 percent of the transaction fee and the remainder of that transaction fee goes to the provider--the Internet provider, Nebraska Interactive--who does the design and development of the software to create the application to allow public to have the ability to file on-line. [LB719]

SENATOR SULLIVAN: Um-hum. [LB719]

JOHN GALE: We then accumulate those funds and I would say probably over the last 10 years, we probably have made over \$2.5 million of grants, primarily to counties and other political subdivisions, many of which originally were to help them even create a Web site for their county. Many counties didn't even have Web sites 10 years ago, so we provided hundreds of thousands of dollars to help counties develop a Web site and train their people in order to maintain that Web site. In more recent years, there have been a number of smaller counties--some, probably, I'm sure in your district--that have needed funding to develop global information systems for, particularly, real estate records. And we think we've been very, very helpful with them because there just wasn't money available on the county level to do that. [LB719]

SENATOR SULLIVAN: Um-hum. [LB719]

JOHN GALE: So, most of our grants have gone to counties and political subdivisions who have financial limitations and need help to develop, really, better technology. So that's how it's funded. So probably, I'm going to say just as a general term, that maybe there's \$3 million generated every year through this program with these 280 applications that are generating fees and probably half of that goes to the agencies to pay their statutory fees over which we have no authority. We can't change your statutory fees. The fee for filing, you've set it and the agencies recover it through the on-line filing. Then, there's probably about \$1 million of it, I suspect, that pretty much goes back to the Internet provider who has done all of the development design, does all the maintenance and operation of the system, and then about \$500,000 comes to the State Records Board and is used for administration and for grants. [LB719]

SENATOR SULLIVAN: Okay. One of the things that the bill eliminates is that these fees be terminated after 18 months. How did that 18-month feature come about? [LB719]

JOHN GALE: Senator, that is a total puzzlement to me as well. No one knows for sure why that was included, but it was included in the original legislation and what it apparently was designed to say was any of these transaction fees that are approved by the board have to become part of the statutory law after 18 months or else they're void.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
January 20, 2012

[LB719]

SENATOR SULLIVAN: Um-hum. [LB719]

JOHN GALE: What we have done over the years apparently has just been benign neglect. We weren't on the board, any of us, and we had attorneys general and governors as well as secretaries of state on that board. None of us were aware of that need, but we were required to file quarterly reports with the Legislature as to our operation and to what services we were providing. So the Legislature has had a complete record of what the board's been doing and the applications that have been approved, but somehow between us, we never asked for that to become incorporated into law. But then upon reflection, as our portal operation subcommittee--which is made up of the constitutional officers, together with our general counsel and our executive director of the board--as we were examining the needs to update this legislation, this was discussed and we were all pretty much stunned that we had all kind of allowed this thing to drift along, both on the legislative side and on our side. But there really isn't any reason for this \$1 fee or this \$3 fee, as long as this board consisting of the number of people involved--including the OCIO and the Governor's office--is getting very thorough review. And we're not trying to change your statutory fees, which you do set. It just seemed like it was time to eliminate that. And then we're still willing and clearly support the need to file a report, but rather than a quarterly report, file an annual report with the Legislature as to our operation. [LB719]

SENATOR SULLIVAN: Thank you. [LB719]

JOHN GALE: Thank you. [LB719]

SENATOR AVERY: Senator Wallman? [LB719]

SENATOR WALLMAN: Thank you. Thank you, Chairman Avery. Thank you, Secretary, for being here. [LB719]

JOHN GALE: Thank you, Senator. [LB719]

SENATOR WALLMAN: I realize this is a lot of stuff, a lot of records. Who makes the decision when you get rid some of some of these things that are obsolete or out...you know, on microfilm. Where do...you store this all over around here, I suppose? [LB719]

JOHN GALE: We have an amazing storage facility down on 8th and K. Whenever you come in off of the parkway and you hit that first light, you'll see that large building, the old public utilities building, and that's full of paper records. [LB719]

SENATOR WALLMAN: Yeah. [LB719]

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

Government, Military and Veterans Affairs Committee
January 20, 2012

JOHN GALE: Not only paper records, but microfilm, microfiche, tapes, and other kinds of things that are stored under controlled-temperature conditions. All of those are kind of part of what our original duties were as State Records Administrator and we have been working very hard with state agencies to get them to allow...to hire us, in effect, to digitize all of those records or to eliminate them. Every agency has a state retention schedule and that retention schedule tells them what they need to retain and for how long and they're supposed to, at the end of the retention schedule, eliminate those boxes. Some don't. Some just continue to pay for the storage. They don't want to take the time to go through them again and they don't want to pay to digitize them. More and more agencies are, however, digitizing records so we can eliminate those boxes. So, the growth of the boxes? We probably have 65,000 boxes. That's probably about 5 million records; and that number has leveled off, it's not growing like it had been, and we're hoping that it will begin to decline. That's on the paper records side. This side, of course, is all digital. [LB719]

SENATOR WALLMAN: Yeah. Thank you. [LB719]

JOHN GALE: All portal. Thank you. [LB719]

SENATOR AVERY: Sixty-five thousand boxes? [LB719]

JOHN GALE: I'd be happy to give you a tour. It's a lot of records. [LB719]

SENATOR AVERY: I bet it is. [LB719]

JOHN GALE: It's a lot of records, but the...we have a great staff and they're very well-secured and maintained. They're immediately available to any agency that needs. The amazing thing is that if they...they have...these boxes are all coded--bar coded--and so when we know what agency wants what box, we can immediately locate the box and get the box to them the same day and they can find the record. So even though there are four floors floor-to-ceiling of boxes, we can find what people need. It's not a great way, long term, to preserve records, truly, because the lifetime of paper is not as great as the lifetime of digital--digitized--copies, but we're all moving in that direction. This... [LB719]

SENATOR AVERY: It's a big job. [LB719]

JOHN GALE: Excuse me, Senator. [LB719]

SENATOR AVERY: Big job, isn't it? [LB719]

JOHN GALE: It's a big job, yeah. It's kind of one of the stealth parts of my job that we're

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

Government, Military and Veterans Affairs Committee
January 20, 2012

very responsible for and we try to act very responsibly, both in terms of this portal, which is so valuable to our citizens...one of the things that our third-party vendor provides is free maintenance and update on the state Web site and that state Web site probably gets something like, I...it's something like 60-70 million hits a year, so the citizens really use that Web site and they use that for access to every agency, any bit of information that they want to find, and every agency Web site. So if you go to the state Web site and you find the Secretary of State's Web site, if you want to find election information, then it's linked there. So the public is really using that and they'll spend 1,500 hours--free hours, free to the state--whenever they do that update of that Web site, so it's a great service that is paid for by the users of the system. There's no general funds involved in this operation at all. It's all user funds. But this change would greatly upgrade and bring us into what I would say not only current compliance, but also future opportunity to grow this system and do it appropriately. [LB719]

SENATOR AVERY: Senator Janssen? [LB719]

SENATOR JANSSEN: Thank you, Chairman Avery. Thank you, Mr. Secretary. [LB719]

JOHN GALE: Senator. [LB719]

SENATOR JANSSEN: I have a question about the transaction fee or transaction taxes. Would your...under LB719, would you--your board--be allowed now to raise those transaction taxes or convenience taxes however you wanted to or is that set already or do you currently have that power? [LB719]

JOHN GALE: I'm going to allow the Treasurer to discuss that particular provision of the bill, Senator, but I would say to you we're kind of in an awkward situation right now because our vendor of course is not a state agency and our vendor has wanted to move from just a flat fee, like a flat \$1 or a flat \$3, to like percentage fees on percentage transactions. The Governor's been very, very supportive--in fact, very kind of insistent--that we provide this service because he has agencies that can't provide Internet services unless there's a percentage. The only way the vendor can do that now, because of the existing provision in the law, is to use another merchant bank other than the state's merchant bank and the Treasurer will explain that. This provision was drafted by the Treasurer, as a member of the board, to address that, to give us more flexibility, and bring more benefit, really, to the state. [LB719]

SENATOR JANSSEN: Okay, well, I'll look forward to hearing the Treasurer speak to that, because it sounds like a roundabout kind of tax hike to me, a little bit, a fee. I call it the tax, though. It just sounds that way to me and I'd trust the Treasurer can hear me, so he'll probably answer that question for me. [LB719]

JOHN GALE: Hopefully. What...we're seeing it as an expansion of services, expansion

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

Government, Military and Veterans Affairs Committee
January 20, 2012

of opportunity for citizens to use more agency and new more services, but I'll... [LB719]

SENATOR JANSSEN: That's another way to put it. [LB719]

JOHN GALE: ...I'll let the Treasurer address that issue. [LB719]

SENATOR AVERY: Any more questions? I don't see any. Thank you, Mr. Secretary. [LB719]

JOHN GALE: Okay. Thank you, Mr. Chairman. [LB719]

SENATOR AVERY: Any other proponent testimony? Mr. Treasurer, welcome. [LB719]

DON STENBERG: Thank you. Thank you, Mr. Chairman. Members of the committee, my name is Don Stenberg, Nebraska State Treasurer, spelled S-t-e-n-b-e-r-g. My testimony will focus on the language on page 9 of the bill. Now, under current state law, the State Treasurer and the director of the Department of Administrative Services are authorized to enter into a contract with a merchant bank for credit card services for the state of Nebraska. That contract was entered into some years ago by one of my predecessors and is currently held by the First National Bank of Omaha and is subcontracted to TSYS Merchant Solutions. State agencies currently do charge a percentage fee for on-line credit card transactions under existing law, and they present those to the State Records Board for the board's approval. Now, the rules of Visa International prohibit its bank customers from processing percentage-fee transactions, so First National Bank and TSYS follow that rule, and so we cannot process those state agency transactions under the state's credit card contract. Therefore, those transactions are processed through a...well, excuse me, let me back up a moment. So, Nebraska Online is the state's contractor to manage Nebraska.gov and they have a relationship with a bank that is willing to violate the Visa rules and process these transactions, so that's how these transactions are being done at the current time. Now, the Visa International rules provide that if state law mandates a percentage fee, that the merchant bank may process those transactions without being in violation of Visa International's rules. So the language on page 9 takes advantage of that provision of the Visa International rules so that Visa transactions through the state's Web site could be processed by the credit card...by the merchant bank that we have a state contract with. Now, because of the volume of state credit card transactions, we have a very favorable rate; and so if these were processed under our existing state contract, it would reduce the cost of these credit card processing transactions over what it currently is. It would also result in funds being placed in the State Treasury more quickly, which would increase our investment returns. It would also help remove the risk of loss to the state that would occur if Nebraska Interactive or its merchant bank were to go bankrupt because the state's bank accounts are fully collateralized and fully insured, whereas Nebraska Interactive and their merchant bank are not in that situation. The only

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

Government, Military and Veterans Affairs Committee
January 20, 2012

Nebraska bank that is affected by this legislation is the bank that currently has the Visa contract with the state. So this legislation would put that bank in compliance with the Visa rules, if they were to process percentage fee transactions for the state of Nebraska, and it would also prohibit Visa International from retaliating against that bank and against TSYS. This provision saves the taxpayers' money, it safeguard's the state's money, and it protects whatever bank from time to time is the state's credit card processor. So that's my testimony. I'd be happy to answer questions. [LB719]

SENATOR AVERY: Thank you, thank you. Questions from the committee? Senator Wallman? [LB719]

SENATOR WALLMAN: Thank you, Chairman Avery. Yeah, welcome, here. [LB719]

DON STENBERG: Thank you. [LB719]

SENATOR WALLMAN: This bank contracts, is that let every two years, three years, five years? [LB719]

DON STENBERG: It varies. They generally are any...run anywhere from three to seven years. A lot of times, they may be four or five years with a one- or two-year extension. There's approximately two years left on current contract. It was recently extended in exchange for some reduced--further reduced--fees and some other provisions favorable to the state of Nebraska. So that will be going out for an RFP on that in approximately two years, so it'll be opened up to any bank that wants to try and secure the state's business. [LB719]

SENATOR WALLMAN: Okay, thank you. [LB719]

SENATOR AVERY: Any other questions? I don't see any. [LB719]

SENATOR JANSSEN: Oh... [LB719]

SENATOR AVERY: Oh, yes, I do. Senator Janssen. [LB719]

SENATOR JANSSEN: Thank you, Chairman Avery. Thank you, Mr. Treasurer. I just had a question about...you said it would affect only one bank, the... [LB719]

DON STENBERG: Whoever has the state's credit card contract at any particular point in time. [LB719]

SENATOR JANSSEN: As written, could it affect other banks, though? [LB719]

DON STENBERG: I don't see how it could. [LB719]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
January 20, 2012

SENATOR JANSSEN: It wouldn't be in your scope to do that? [LB719]

DON STENBERG: It's not intended to do that; I don't see how it would. It's very specific that it's the...dealing with the state's selected bank, if you read the statute. [LB719]

SENATOR JANSSEN: Yeah, I'm just looking for the unintended kind of consequence that might be there... [LB719]

DON STENBERG: Right. No, I don't think there are. [LB719]

SENATOR JANSSEN: ...that we'd be writing bank policy in this. [LB719]

DON STENBERG: No, what we're doing is we're taking it...you know, Visa International is a very large private company, for-profit company. They have a very large share of the market, so banks that want to issue Visa cards are basically strangled by these rules. They've got to do it Visa's way or they can't do it...or they can't offer Visa cards, which many banks, of course, want to be able to do. But, the Visa International rules recognize that they can't trump state law, so they provide an exception that allows percentage fee transactions if state law provides for it. They provide for it only for the state of Nebraska's transactions, not for any private merchant. [LB719]

SENATOR JANSSEN: Thank you. [LB719]

DON STENBERG: Um-hum. [LB719]

SENATOR AVERY: Any more questions? I don't see any. Thank you very much for your testimony. [LB719]

DON STENBERG: Okay, thank you very much. You bet. [LB719]

SENATOR AVERY: Any other proponent testimony? Welcome, Mr. Dix. [LB719]

LARRY DIX: Good afternoon, Senator Avery and members of the committee. My name is Larry Dix, L-a-r-r-y D-i-x. I'm executive director of the Nebraska Association of County Officials, appearing today in support of LB719. And, you know, much of the discussion really has been focused on state agencies and things like that, but as we move through the electronic era, county governments are also providing a lot of access to county records. And so when we go through and look at this, I would ask the committee to be mindful that when we extend these provisions, that we also can extend them to local government. The reason I say that...when Mr. Stenberg was talking about the issue with Visa, that is becoming an issue at the county level also, because there are numerous counties that are allowing folks to pay taxes via credit card and there are some issues

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

Government, Military and Veterans Affairs Committee
January 20, 2012

starting to arise with the Visa credit cards because of the convenience fees and the way that Visa International has interpreted or how they have established their rules. So, my reason to be here is sort of twofold. One, to support what's been going on. As you heard from the Secretary of State, there's been some grants that go down to some of the small counties to help them with their Web access and I would tell you there's a number of counties that now have their Web pages up because of those grants. And then number two, that when we look at this legislation, that we make sure that local entities are also included right along with state entities when we allow some of the provisions that are in LB719. So with that, I will close my testimony and try to answer any questions anybody may have. [LB719]

SENATOR AVERY: Thank you for your testimony. Questions from the committee? Don't see any. Thank you. [LB719]

LARRY DIX: Thank you. [LB719]

SENATOR AVERY: Any other proponent testimony? Anyone wish to testify in opposition to LB719? [LB719]

JERRY STILMOCK: I have a handout, please. Thank you. [LB719]

SENATOR AVERY: Welcome, sir. [LB719]

JERRY STILMOCK: (Exhibit 2) Thank you, Mr. Chairman. Members of the committee, if I may, Mr. Secretary of State, Mr. Treasurer, my name is Jerry Stilmock, S-t-i-l-m-o-c-k. I appear before you today as a lobbyist for the Nebraska State Bankers Association, in opposition to LB719. Two principal issues that I want to address, two principal reasons why I appear in opposition on behalf of my client, the first being interfering with and coming into...the government trying to change operating rules of the situation with credit cards and debit cards. Number two, to touch on the issue of federal preemption, the opposition of the NBA to the bill is predicated upon the specific provisions in...that Mr. Stenberg referred to at page 9 of the bill, which seek to override the rules of the card issuer with respect to surcharges and convenience fees. We are concerned with respect to the precedent of a governmental entity attempting to override operating rules of banks and payment card networks in this area of the law. We didn't even complete this portion of the bill and--those that are proponents of the legislation--and then of course NACO has come in and said we would like to be included, too. And it goes to that reason of once that door is open, once government steps in and tries to change a contract between the provider by the state and the Visa network system, we believe that that's an improper use of government in trying to change that contract. There are definite benefits that are attributed to by the use of electronic payment cards. I'd ask you to consider these, please. The benefits are already in place. Governmental entities are guaranteed the payment when they're used...when the obligations are paid by debit or

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Transcriber's Office

Government, Military and Veterans Affairs Committee
January 20, 2012

credit cards, while of course checks could be returned unpaid, insufficient funds. Government entities suffer fewer losses because of the cards replacing the cash which could be lost or stolen or even from inside the governmental entity. You don't have to think back too long ago. Douglas County had a rather significant theft from the treasurer's office, from an internal employee, of directing cash and/or checks to that person's own benefit. With electronic payments, of course, that is removed from touching the worker's hands. A couple years ago, Otoe County--same situation, different office--district court office. Cash, checks coming through that office and those funds are misappropriated--stolen by employees. So yes, we believe there is a benefit already being conveyed to government by using electronic payments. The government officers that receive payments electronically are better able to serve the citizens more quickly and efficiently, less cash to be counted, less checks to be sorted, deposited, or reconciled. Probably the biggest thing is the government that uses electronic payments is giving...getting and receiving credit that much faster than going through the normal channels of, perhaps, a check through paper means. Consumers are also receiving a benefit. Let's say the consumer, should they choose to use a credit card for their payment, they may not have that payment readily available to them in cash at their bank account, but they can use their credit card as a convenience, should they so desire, to go ahead and make that real estate tax payment and basically get those funds and be able to pay the government earlier through the use of a credit card. Consider that then by contrast, banks bear the risk in cost of providing these valuable services. They pay the cost of the creating the highway that...upon which these funds are transacted. They maintain and establish improvements to the network that's used around the world and, you know, billions of times a day. Secondly, I want to leave that issue of the benefit that's already being received by the federal government and also touch on briefly...with the amber light coming on...my comments to the committee also include that portion of preemption--the issue of preemption--upon national banks. Quickly and briefly, the Nebraska...the National Bank Act was created by Congress so that the actions by a national bank would operate smoothly and uniformly throughout the country, from state to state, without interference by states coming into play. We believe that the language in LB719, in relation to page 9, would pose an interference to what the--I did it again--the National Banking Act provides, and therefore would be preempted, not allowing the state law to be asserted against national banks due to the preemption established by the National Bank Act. Thank you. [LB719]

SENATOR AVERY: Thank you, Mr. Stilmock. Is this a completely new mechanism that's being proposed here that is not found in any other state? [LB719]

JERRY STILMOCK: The research provided by others to the Nebraska Bankers Association shows that there are no other states that have attempted this. There are no other states that have successfully accomplished this, principally upon the National Banking Act, and due to the preemption and a series of cases which began with the United States Supreme Court in the...what's referred to as the Barnett case, which

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
January 20, 2012

established the preemption line between federal and state law. So to answer your question, no. [LB719]

SENATOR AVERY: What do you think would be the effect of preemption of federal law if we were to adopt this legislation? [LB719]

JERRY STILMOCK: Based upon the research that I've looked at, Senator Avery, it'd be challenged in federal court and the federal court would find that the language in...at page 9 of the bill...is preempted and therefore void against national banks because of the National Banking Act. [LB719]

SENATOR AVERY: And the state would incur the cost of litigation? [LB719]

JERRY STILMOCK: I believe it would, sir, yes. [LB719]

SENATOR AVERY: Um-hum. Any other questions from the committee? This is pretty serious and I hope that I can understand exactly what your objection is. You're suggesting, I believe, that all of the numerous benefits that you had talked about... [LB719]

JERRY STILMOCK: Yes, sir. [LB719]

SENATOR AVERY: ...from card transactions would be adversely affected...or would they disappear? [LB719]

JERRY STILMOCK: What...rather, Senator, I'm saying government that accepts this form of payment is already receiving a huge benefit and therefore, if the government chooses to transact business electronically, the benefit, for the reasons I've listed, is already consideration enough for using electronic payment. Don't add on to that the additional surcharge or convenience fee that's being requested in this bill. There's already a huge benefit that's already being bestowed. [LB719]

SENATOR AVERY: Okay, I get that part. Now what, then, is the harm to the banking industry? [LB719]

JERRY STILMOCK: We would be forced, because of the language change, to do something that has already been provided in contract. It's already been provided in contract that the Visa Network will not allow surcharge or these convenience fees to be charged, and that will impact and trickle down to the banks of which form our membership. [LB719]

SENATOR AVERY: And so that would then...you would incur a cost? [LB719]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
January 20, 2012

JERRY STILMOCK: Yes. [LB719]

SENATOR AVERY: Okay, so the cost of doing business for you would increase? [LB719]

JERRY STILMOCK: That...I don't know that I'm prepared to say that the cost of our doing business would increase, but certainly the consumers are going to be forced to pay more because instead of paying 100 percent, they're going to be paying 100 percent of that tax bill--I used real estate tax--100 percent of that tax bill, plus a convenience fee. [LB719]

SENATOR AVERY: Um-hum. And right now, there is a percentage payment for the transaction, percentage of the transaction itself? [LB719]

JERRY STILMOCK: My understanding is that that's a fixed fee that's being used now. [LB719]

SENATOR AVERY: Um-hum. [LB719]

JERRY STILMOCK: The percent...and so far, the conversation, as I understood from Mr. Treasurer Stenberg, is that it only applies as to the Visa Network accounts and... [LB719]

SENATOR AVERY: Um-hum. [LB719]

JERRY STILMOCK: ...to the Visa Network accounts. [LB719]

SENATOR AVERY: And the way it operates now, we're having to do kind of an end run around the international Visa laws in order to collect these transaction fees, right? [LB719]

JERRY STILMOCK: The...from Mr. Treasurer's...Stenberg's comments, yes, the...by the vendor being able to find somebody that will resist... [LB719]

SENATOR AVERY: Um-hum. Stand up and do it? [LB719]

JERRY STILMOCK: ...defy the agreement it has with networks, yes sir, with the Visa Network. [LB719]

SENATOR AVERY: Hmm. I'm not a banker and I don't claim to understand all of banking transactions' rules and practices and procedures, but I'm a little bit surprised by your testimony because in listening to the Secretary and the Treasurer, it sounded to me like it was a pretty reasonable proposal. [LB719]

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

Government, Military and Veterans Affairs Committee
January 20, 2012

JERRY STILMOCK: It really didn't listen to the question and if I may respond. [LB719]

SENATOR AVERY: Sure, you may. [LB719]

JERRY STILMOCK: I guess you really didn't state a question--if I may respond to your statement to reiterate that to our knowledge--other than the state of Nevada, which came about in a different framework--there was...there is legislation that was attempted and...on a similar basis, but it was brought up on the benefit of private entities seeking to change these rules, rather than the state or any of its political subdivisions. To our knowledge, that was the only attempt at something like...such as this, sir. [LB719]

SENATOR AVERY: Do...is part of your opposition based in a philosophy of the relationship between your industry and government? Is this partly a statement that we don't believe government ought to be even considering regulations of this kind or changing the law in this manner when we already have the National Banking Act? [LB719]

JERRY STILMOCK: Yes, sir. [LB719]

SENATOR AVERY: And that's sufficient? [LB719]

JERRY STILMOCK: Yes, sir. I mean, yes, sir to we already have the National Banking Act that most likely is going to preempt anything that has to do with national banks that are nationally chartered banks. [LB719]

SENATOR AVERY: Um-hum. [LB719]

JERRY STILMOCK: And also, that government shouldn't step in to try to change what has already been worked out between the network provider and the recipient here, the state of Nebraska or its political subdivisions. Nobody's forcing the state of Nebraska or the political subdivisions to use this system. If they don't want it, then they don't have to use it, sir. [LB719]

SENATOR AVERY: Um-hum. I'm not trying to give you a hard time. [LB719]

JERRY STILMOCK: No. [LB719]

SENATOR AVERY: I'm just trying to understand. [LB719]

JERRY STILMOCK: No, if my tenor or my tone or my facial expression is tending to convey that, it's not the case, sir. [LB719]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
January 20, 2012

SENATOR AVERY: And I'm sure you understand banking procedure better than I do. [LB719]

JERRY STILMOCK: And I'm attempting to... [LB719]

SENATOR AVERY: And you have a very serious look on your face when you talk about banking. [LB719]

JERRY STILMOCK: I'm attempting...I feel like I'm speaking to the judges here. (Laughter) [LB719]

SENATOR AVERY: I don't see any more questions. [LB719]

SENATOR SEILER: I have one. [LB719]

SENATOR AVERY: Oh yes, we have one. Senator Seiler. [LB719]

SENATOR SEILER: On this National Bank Act,... [LB719]

JERRY STILMOCK: Yes, sir. [LB719]

SENATOR SEILER: ...does that apply to a state-owned bank or are they not in the Visa business? [LB719]

JERRY STILMOCK: It would not apply to state-chartered banks, Senator Seiler. [LB719]

SENATOR SEILER: And are they in this Visa business? [LB719]

JERRY STILMOCK: Yes. [LB719]

SENATOR SEILER: Okay. [LB719]

JERRY STILMOCK: So, I'm going to leap or perhaps expand that thought. If...it's our belief that if the Legislature adopted language as appears on page 9, it would be to the detriment of state-chartered banks because the National Banking Act would not govern over state-chartered banks. State-chartered banks would have to live by the law. Nationally-chartered banks in Nebraska would be exempted from the law because their charter comes from the federal government. [LB719]

SENATOR SEILER: Okay. [LB719]

JERRY STILMOCK: Yes, sir. [LB719]

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

Government, Military and Veterans Affairs Committee
January 20, 2012

SENATOR AVERY: I am going to probably ask you and Mr. Stenberg and maybe Secretary Gale, maybe some time as we go through this process and we want...may want to sit down with you and talk this out some more. [LB719]

JERRY STILMOCK: Of course. We will do so however we can and provide whatever research that we have available to us to all parties, sir. [LB719]

SENATOR AVERY: Yeah, I appreciate that. [LB719]

JERRY STILMOCK: Yes, sir. [LB719]

SENATOR AVERY: Senator Pahls? [LB719]

SENATOR PAHLS: I have a question. Welcome to the Department of Banking, you know. [LB719]

JERRY STILMOCK: I thought about that. How about we split this...? (Laughter) [LB719]

SENATOR PAHLS: Yeah, right here. I'm just curious. Has your organizations, have they been asked for any input before this bill came on-board? Has anybody come to you ahead of time and says hey, we're going to be doing something like this? What kind of effect would this have with the banking industry? [LB719]

JERRY STILMOCK: To my knowledge, sir, no. [LB719]

SENATOR PAHLS: Okay. [LB719]

JERRY STILMOCK: No. And to explain to the committee, there's two of us principally involved in the lobbying on behalf of our client, the Nebraska Bankers Association. [LB719]

SENATOR PAHLS: Right. [LB719]

JERRY STILMOCK: I'm not aware of any conversation with Bob Hallstrom in advance of this. [LB719]

SENATOR PAHLS: But you're more than willing now, let's see if we can iron out anything if it needs to be? [LB719]

JERRY STILMOCK: Certainly. [LB719]

SENATOR PAHLS: Okay. Okay, thank you. [LB719]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
January 20, 2012

JERRY STILMOCK: Yes, sir. [LB719]

SENATOR AVERY: Well, you understand the process. We often do this, you know, where as a bill progresses through the committee, we often will try to get additional information, so we'll probably be talking to you again. [LB719]

JERRY STILMOCK: Yes, sir. Anxious for that opportunity. Thank you, lady and gentlemen. [LB719]

SENATOR AVERY: All right. Thank you, Mr. Stilmock. [LB719]

JERRY STILMOCK: Um-hum. [LB719]

SENATOR AVERY: Any other opponent testimony? Any neutral testimony? Senator Price, you are recognized to close. [LB719]

SENATOR PRICE: Thank you, Chairman Avery. Committee members, we spent 99 percent of our time on one section of the bill, so we know where the meat of the work is ahead of us. I took down a lot of notes and when we get a chance to and we Exec and we talk about it, we'll talk about it and I'll be respectful of your time. I would note first and foremost, I appreciate the efforts of the banking industry to come here and tell us their concerns and to illuminate the issue with the federal rules. And I do appreciate that. I can't help but comment: If it's good for some of government, why isn't it good for the rest of government? Government is for the people, the public purpose. We've heard this before. We currently have a fee associated for the transaction, for the benefit of the transaction to happen right now, because an office can't just incur a debt with no fee to cover it, so we already do that. Right now, if you go to an office that does it, you'll...you already pay a surcharge, a flat rate, so this is not new. This is not a new thing, it's not a new tax. Right now, it's allowed. They have a process. Visa International goes...it happens right now today. Right now, there's a fee being charged. I don't know which way you want to slice it, but it happens right now. It might be that at...before we let the next contract, we put this language in place. We could put that in place right now as a next bidding of the contract, so that becomes a state policy so we're not going in the middle of a current contract and meddling. That's a very valid point, so I appreciate that. There were members of the industry on the board. So Senator Pahls, when you asked: Was anybody afforded the opportunity to know this was coming? Yes. Did anybody go directly to the people that they know to be the ones that represent the lobby here? Obviously not, but it was four of their members, came out 12-0. So again, I believe and I picked up this bill because it made sense on the...if you want to say the peripheral issues, it made sense to clean that up. We are moving forward. We hear in this committee a lot of testimony and a lot of bills to say: How are we going to deal with this burgeoning electronic industry? How do we use technology to going forward? Are we going to always rely on paper, newspapers, public notice? This is what we hear, here,

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

Government, Military and Veterans Affairs Committee
January 20, 2012

all the time. We in the Legislature are moving forward and think: How do we go about using technology? I just got an e-mail from Senator Lautenbaugh asking about the task force on technology. We're going to go there kicking and screaming, but we're going to be there. This doesn't mean we're going to get rid of everything. Obviously, when we went to the...reducing the paper, we increased paper. I'm not advocating that, though why couldn't someone go into the public office and pay a bill with their debit card, if they're there, and pay that? They could maybe go home and get on-line and do a transaction, but they couldn't use their credit card. Did we serve people that way? So that's why I'm carrying this bill. I will work with all parties. You know I'm a guy who gets along and gets things done, so we'll move and we'll get this along. But the idea that was brought up about interfering with the operating rules and coming and changing contract? Obviously, something we're going to have to deal with. Federal preemption? I guess states have no rights anymore. The people don't...we just don't have anything. So, between those two poles that have opposite, we'll work together to bring this bill about and see what we can do to move forward on this and I appreciate your time and your patience and would answer any questions you have. [LB719]

SENATOR AVERY: Any more questions for Senator Price? I don't see any. Thank you. [LB719]

SENATOR PRICE: Thank you. [LB719]

SENATOR AVERY: That ends the hearing on LB719. We'll now move to the next item on the agenda, LB733. Former member of this committee and Vice Chair of this committee, Senator Pete Pirsch. [LB719]

SENATOR PIRSCH: Thank you, Chairman Avery, members of the Government, Military and Veterans Affairs Committee. It's a pleasure to be back here in my stomping grounds. I am state Senator Pete Pirsch, P-e-t-e P-i-r-s-c-h, for the record. I represent Legislative District 4. I am the sponsor of LB733 on behalf of the Secretary of State's office. I'm honored to do so. I truly appreciate the Secretary's ongoing efforts to proactively improve all of the various processes that his office touches. And by the way, it's good to know and I wish I had known this when I was moving off this, is that he had 64,000 boxes sitting up there that I could have borrowed, but I do want to... (Laughter) This is kind of a simple--and hopefully a more simple--concept that we have going here in this bill and I trust not controversial. And I do want to mention, as we get going here, that it is supported by the Nebraska Bar Association and that being said, I'm sure that I cannot reproduce the clarity with which the Secretary of State can explain this bill, so I'm going to get out of the way unless there's any questions. And I will, Chairman, waive my right for to close on this insofar as my Revenue Committee is meeting at this time. [LB733]

SENATOR AVERY: Thank you for your testimony. I'm surprised that we don't already

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

Government, Military and Veterans Affairs Committee
January 20, 2012

provide for this. [LB733]

SENATOR PIRSCH: Well, it... [LB733]

SENATOR SEILER: Mr. Chairman? [LB733]

SENATOR AVERY: Yes. [LB733]

SENATOR SEILER: I think what happened was the two bills passed each other at the same time. The limited liability company legislation came at the exact same time and it was just that they didn't know that that bill was going to pass. [LB733]

SENATOR PIRSCH: Two ships passing in the night. [LB733]

SENATOR SEILER: Yeah. [LB733]

SENATOR PIRSCH: I think you're exactly right. [LB733]

SENATOR AVERY: Yeah. [LB733]

SENATOR SEILER: Yeah, that's the only reason it was left out. [LB733]

SENATOR PIRSCH: Yeah. [LB733]

SENATOR AVERY: Okay. [LB733]

SENATOR PIRSCH: Thank you. So, if there's any questions... [LB733]

SENATOR AVERY: Any questions? Don't see any. [LB733]

SENATOR PIRSCH: Okay, thank you. [LB733]

SENATOR AVERY: Are you going to stay for closing? [LB733]

SENATOR PIRSCH: No, I'm going to waive, if that's okay. [LB733]

SENATOR AVERY: Okay. Yeah, sure. [LB733]

SENATOR PIRSCH: Okay, thanks. [LB733]

SENATOR AVERY: Proponent testimony? Welcome. [LB733]

COLLEEN BYELICK: Chairperson Avery, thank you. Members of the committee, my

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

Government, Military and Veterans Affairs Committee
January 20, 2012

name is Colleen Byelick, it's C-o-l-l-e-e-n B-y-e-l-i-c-k. I'm the general counsel for the Secretary of State's office. Mr. Seiler, you are exactly correct. The original bill, LB791 in 2010, that provided for on-line filing for a variety of corporate documents, was going through the legislative process at the same time as the Nebraska Uniform Limited Liability Company Act, and so that act therefore was not included in the original on-line filing bill. Since the passage of the original bill in 2010, the Secretary of State's office has promulgated rules and regs for on-line filing and has developed an on-line filing program and today, we are accepting corporate documents for corporations, professional corporations, and nonprofit corporations. And limited liability companies are the most used and the most newly-formed entity at this time, and so that's our next phase of on-line filing. And so this bill would just help us to include those documents in our on-line filing program and as part of our on-line rules and regs. And I'd be happy to take any questions you may have. [LB733]

SENATOR AVERY: Thank you. Questions from the committee? Comments? Yes, sir. [LB733]

SENATOR SEILER: I'd like to apologize for preempting your testimony. [LB733]

COLLEEN BYELICK: (Laugh) That's great. [LB733]

SENATOR AVERY: Yeah, after I read through the statement here I can see that it's already included. Senator Sullivan? [LB733]

SENATOR SULLIVAN: Thank you. It's nice to have this opportunity to correct an oversight, but it also gives us opportunity to ask: How are these on-line filings and corporate documents going? [LB733]

COLLEEN BYELICK: Well, we just launched this program in December... [LB733]

SENATOR SULLIVAN: Um-hum. [LB733]

COLLEEN BYELICK: ...and so since then, we've had about 50 filings, so we're still kind of in the very new initial phase, but this is what we're hearing from businesses and attorneys and all of our constituents. Whenever we go out and speak to groups, they want to know when are you going to...when are we going to be able to file these documents on-line? So that's what they're really wanting and it's more efficient. It's efficient on our end, we're not dealing with as much paper records and checks and cash and that sort of thing, so there's efficiencies all around to be gained by doing these types of filings on-line. [LB733]

SENATOR SULLIVAN: Are you comfortable with the security mechanisms in place so that information is not compromised? [LB733]

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

Government, Military and Veterans Affairs Committee
January 20, 2012

COLLEEN BYELICK: We are, and we go through Nebraska.gov and we also have the OCIO as part of our network, and so we're comfortable in doing that. And we also review all of these documents, too, so when someone goes on-line and files, that there is still a person in our office that reviews it. Basically, they all come into a queue and someone from our office opens it up and looks at it and makes sure it's correct and that all the required elements are there and then approves it. And then when they do that, it gets entered into our system, the person's credit card gets charged, and we all go on our way. So it's not quite an automatic process where there's no human involvement or human person looking at these things. [LB733]

SENATOR SULLIVAN: And as far as storage of the information, you've got some checks and balances there as well? [LB733]

COLLEEN BYELICK: Right, and the other thing about it is, is that once something is filed, then someone can search the record. And so if a filing wasn't inserted properly, you'd find out because someone would be calling and saying: Where's my filing? I don't see it; I can't find it. So, there are checks and balances. We actually upload the images the next day so that we're checking to make sure that everything that got entered into our database has an associated image with it, so there are processes that we follow to make sure that everything is being done properly. And I would also say that we...our developer tests this, we test these applications inhouse, we have beta-testers test these, and then actually once we go live, we still have a process where we don't open it up to the public. We open it up to a select few so that we watch and make sure that everything is going along as it should be. And then once all those phases are done, then we open it up and publicize it to the general public that they can start using the system, so it...that's why it tends to be a lengthy process, but all of those checks and balances are important to make sure that we're doing things correctly. [LB733]

SENATOR SULLIVAN: Thank you. [LB733]

SENATOR AVERY: Any others? Senator Seiler? [LB733]

SENATOR SEILER: I would like to compliment their office on handling LLCs and corporations, much to the chagrin of my paralegals when they make a mistake in typing. You get a phone call right away. [LB733]

COLLEEN BYELICK: Um-hum. [LB733]

SENATOR SEILER: So, they run a very good office with regard to transactional...and security of the documents. [LB733]

COLLEEN BYELICK: Thank you. [LB733]

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

Government, Military and Veterans Affairs Committee
January 20, 2012

SENATOR AVERY: Any other questions? Thank you for your testimony. [LB733]

COLLEEN BYELICK: Thank you. [LB733]

SENATOR AVERY: Any other proponent testimony on LB733? All right, any opponent testimony? Neutral testimony? Senator Pirsch has waived closing, so that will end the hearing on LB733. We'll now move to LB860 and invite Senator Hansen forward. Welcome, sir. [LB733]

SENATOR HANSEN: (Exhibit 1) Thank you, Chairman Avery and members of the Government and Military Affairs Committee (sic). I almost brought my hat so we could put that over there and not remind you that it's Friday afternoon, but... (Laughter) My name is Tom Hansen, T-o-m H-a-n-s-e-n, and I represent Legislative District 42. I'm introducing this bill on behalf of the Lincoln County Sheriff's Department. LB860 changes the minimum requirement of classroom instruction from 150 hours to 60 hours to obtain a truth and deception examiner's license. A sworn affidavit must be submitted to the Secretary of State that he or she has completed a minimum of 60 hours of classroom instruction and fulfilled the necessary internship training. In the bill, if you turn to the bill on page 4, the back side, in line 6 is the name of the National Institute for Truth Verification and National Association of Computer Voice Stress Analysts. This is a current instruction center for the certification. You may wonder why law enforcement in Nebraska is interested in a different manner...method of truth and deception testing. Well, it's not new. There's 1,800 law enforcement agencies nationwide that use this CVSA apparatus--and that includes our Special Forces and the Department of Defense--and it has several advantages over a polygraph system. If you refer to the handout, it has a list of advantages. It compares the computer stress analyzer to a polygraph and it contains in there the initial price of the software is more. But beyond that, the tuition, length of training--six days compared to eight weeks for polygraph training--it's less expensive, less expense is incurred in room and board and salaries and time away from their home department, 0 percent inconclusive results on exams--which I thought was extremely huge benefit--and it can analyze audio tapes--but I need to mention that in Nebraska, those are not legal to analyze. Some states they are, Nebraska is not. Drugs, medical conditions, or age will not affect the testing. There's no known countermeasures that work to defeat this system. It's affordable to counties and towns that are looking for technology to help their law enforcement departments. It is about a \$13,000 savings between the two programs. There are testifiers here behind me that will give an historical background in a sense of how this CVSA system works. That's all I have, Chairman Avery. Is there any questions now, or...? And I will be here for closing. [LB860]

SENATOR AVERY: Thank you. I'm glad you didn't bring your hat. [LB860]

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

Government, Military and Veterans Affairs Committee
January 20, 2012

SENATOR HANSEN: Okay. (Laughter) Thank you. [LB860]

SENATOR AVERY: You're going to stay for closing, Senator? [LB860]

SENATOR HANSEN: Yes, I am. [LB860]

SENATOR AVERY: All right. Proponent testimony? [LB860]

CHARLES NICHOLS: (Exhibit 2) Good afternoon, ladies and gentlemen, Chairman Avery. My name is Charles A. Nichols, C-h-a-r-l-e-s N-i-c-h-o-l-s. First and foremost, I'd like to thank Senator Hansen for introducing this bill. I'm an investigator for the Lincoln County Sheriff's office in North Platte, Nebraska. My law enforcement career began in 1982 with Lincoln County. I also worked as an officer and investigator in Larimer County, Fort Collins, Colorado, for 11 years. I am also the only publicly-licensed voice stress examiner in the state of Nebraska. This has to begin with somewhat of a short story, beginning in the summer of 2006. I had conducted an investigation into a burglary. I had a suspect sitting in front of me, jumping up and down and wanting to take a lie detection examination to prove his innocence. At the time, Lincoln County was not able to provide this area of law enforcement responsibility to its citizens. I called the Nebraska State Patrol. It was going to be three weeks before I could schedule an exam. I called the local police department. It was going to be at least eight days until I could schedule an exam with them. In eight days, the subject was no longer cooperative, there was no examination given, and the case went unsolved. Now, coming from Colorado, I was familiar with the voice stress analysis as a truth verification discipline widely utilized in Colorado, as well as over 1,800 other agencies in the United States and abroad. In the fall of 2006, I attended the National Institute of Truth Verification voice stress examiner's course and became a certified examiner. I came back to Nebraska and discovered that not only does our state require licensing, it also requires 150 hours of certified training for voice stress. There is no voice stress training on planet Earth that offers 150 hours' worth of training. NITV, or the National Institute for Truth Verification, the gold standard in voice stress training, is a 60-hour course. It is nationally recognized and nationally standardized. The Nebraska statute governing the number of training hours needed to be a voice stress examiner is antiquated. It was written almost 25 years ago, setting the bar so artificially high that although there is a licensing requirement, it assures obtaining a voice stress examiner's license to be virtually unattainable, even after graduating as a certified examiner. The course, taught by the National Institute of Truth Verification, is used in the following police departments and/or highway patrols: Atlanta P.D.; Salt Lake City P.D.; California Highway Patrol; Nashville P.D.; Miami P.D.; Colorado Springs and Longmont Colorado police departments, just to name a few. The training curriculum and certified examiner's course offered by the National Institute of Truth Verification is also P.O.S.T. certified within those states that have adopted the police officers and standards training curriculum. Those states are: Arizona, Colorado, Georgia, Illinois, Indiana, Missouri,

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

Government, Military and Veterans Affairs Committee
January 20, 2012

Nevada, Ohio, Arkansas, Connecticut, Kansas, New York, Tennessee, Utah, and Wisconsin. NITV's curriculum is also pending in the states of Minnesota, Maryland and Mississippi. I believe this speaks to the fact that NITV's training program is held in high esteem throughout the law enforcement community across the United States. In conclusion, I believe in accountability. I also believe in our state's licensing requirement. However, if we have a licensing requirement, let it be one which is obtainable. I respectfully ask that consideration be given to lowering the current statutory requirement of 150 hours to 60 hours, which would then place the great state of Nebraska on par with the rest of the United States and the current national standards of training and certification throughout the country concerning voice stress examiners. Thank you. [LB860]

SENATOR AVERY: Thank you, Mr. Nichols. Would you do me a favor and explain to me a little bit about how this works, this stress testing? [LB860]

CHARLES NICHOLS: Yes, I would. Currently, in the United States--almost worldwide--there's virtually two disciplines in truth verification. One is polygraph examinations and one is voice stress examinations. Lincoln County chose voice stress over polygraph for some of the same reasons that Senator Hansen described. For a smaller agency with budgetary constraints, one that maybe only has one or two investigators, it's a 60-hour course instead of an 8- or 10-week course. The cost is about cut in half. Lincoln County has roughly \$13,000 invested in me as far as the original purchase of the instrumentation, my room and board, and training expenses, as compared to the other discipline, which can be over twice that much. [LB860]

SENATOR AVERY: So you have instruments that you can use to measure stress? [LB860]

CHARLES NICHOLS: Yes. [LB860]

SENATOR AVERY: But you have to be trained to identify when stress is being measured and when it's not? [LB860]

CHARLES NICHOLS: That's correct, Mr. Chairman. Our vocal chords act like any other muscle in our body. They operate at different frequencies when we're under stress and those frequencies change when we're not under stress. Just as the polygraph records the changes in our blood pressure, our galvanic skin response--or perspiration, if you will--and our breathing rhythms, the voice stress instrument recognizes and detects the difference in the microtremors of vocal chords. When we speak a simple answer as to yes or no, it records those and it displays a voice graph with different cycles showing on the graph. [LB860]

SENATOR AVERY: Um-hum. [LB860]

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

Government, Military and Veterans Affairs Committee
January 20, 2012

CHARLES NICHOLS: That's the most simplistic way I can explain it. It's worked very well for our agency, we're solving crimes with it, and quite literally, it's just another investigative tool. [LB860]

SENATOR AVERY: I know this bill does not actually address this, but I'm curious about this kind of technology. I presume you have some way to distinguish stress from the situation of being interviewed by an investigator and stress that might be induced by guilt. [LB860]

CHARLES NICHOLS: Absolutely. As examiners, we're all aware of the phenomena that we call situational stress. [LB860]

SENATOR AVERY: Um-hum. [LB860]

CHARLES NICHOLS: And there's more than one chart--same exam, same questions, but it's run two different times--and as voice stress examiner, we attempt to alleviate any and all of that initial situational stress that might be present. [LB860]

SENATOR AVERY: Now, let me ask you something that actually is in the bill, and that is: The portion of the bill that would allow the State Patrol to have access to working papers, are you aware that this is in the bill? [LB860]

CHARLES NICHOLS: No, sir, I'm not. [LB860]

SENATOR AVERY: Okay. I'm not opposing that, I'm just...noted that it's there. Pardon? We have, from time to time, noted that working papers become a point of contention from different agencies don't want to reveal a large share of their working papers with investigators, so... [LB860]

CHARLES NICHOLS: As in personal notes and that type of thing? Is that what you're speaking to? [LB860]

SENATOR AVERY: Well, it...these happen to be specifically dealing with the Auditor's working papers. I am just told that this is a mistake. [LB860]

CHARLES NICHOLS: Okay. (Laughter) [LB860]

SENATOR AVERY: A mistake in our documents. [LB860]

CHARLES NICHOLS: You're forgiven. [LB860]

SENATOR AVERY: Forgive me. Strike that from the record. (Laughter) I looked at that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
January 20, 2012

and I thought that didn't make sense. All right, any questions? [LB860]

SENATOR PRICE: Yes. [LB860]

SENATOR AVERY: Senator Wallman. [LB860]

SENATOR WALLMAN: Yes, thank you, Chairman Avery. Yeah, thanks for coming here. [LB860]

CHARLES NICHOLS: Thank you. [LB860]

SENATOR WALLMAN: Do you...do judges and juries use this information to convict people? Is it just one tool in the toolbox or...? [LB860]

CHARLES NICHOLS: No. In fact, polygraph nor voice stress examinations are allowed in court. The only exception would be by stipulation of both a defense attorney and a prosecutor. But other than that, they're not used in court. [LB860]

SENATOR WALLMAN: Thanks. [LB860]

SENATOR AVERY: Senator Price? [LB860]

SENATOR PRICE: Thank you, Chairman Avery. Thank you, sir, for making the long-distance travel to come here. [LB860]

CHARLES NICHOLS: Thank you, Senator. [LB860]

SENATOR PRICE: Afford us your expertise. Do you know when this requirement came into statutory light? When was it created? Nineteen...? [LB860]

CHARLES NICHOLS: I can speak lightly to that historical issue. I believe we have another proponent that can speak to that in more detail. [LB860]

SENATOR PRICE: Yeah. [LB860]

CHARLES NICHOLS: It's my understanding it was somewhere around 1979-1980. [LB860]

SENATOR PRICE: Okay, great, and I'll just ask one more question and anybody who wants to answer it later can feel free. Is it...has the technology been static since then or has the technology gotten better? [LB860]

CHARLES NICHOLS: The technology has gotten much, much better. [LB860]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
January 20, 2012

SENATOR PRICE: It was rhetorical in nature, but I wanted that to stick to the tape. [LB860]

CHARLES NICHOLS: Yes, everything is digitized, as we all know, to include the instrument that I use to conduct examinations. Back in the early days, it was not digitized. It was an analog instrument, much more complex. [LB860]

SENATOR PRICE: Um-hum, a condenser mike, right. All right, thank you so much. [LB860]

CHARLES NICHOLS: Thank you. [LB860]

SENATOR AVERY: Senator Pahls? [LB860]

SENATOR PAHLS: Thank you. [LB860]

CHARLES NICHOLS: Yes, Senator. [LB860]

SENATOR PAHLS: I have just a couple questions. Now, I am assuming you are a law enforcement officer. [LB860]

CHARLES NICHOLS: Yes, Senator, I am. [LB860]

SENATOR PAHLS: Your training involved...can you just explain to me a little bit, other than this particular...? I mean, did you go to...? [LB860]

CHARLES NICHOLS: My entire law enforcement training? [LB860]

SENATOR PAHLS: Yes, right. [LB860]

CHARLES NICHOLS: I began in 1982 with Lincoln County. I went out to Colorado, worked there for 11 years. I've been a criminal investigator for nearly half of my 30-year career. My training has been everywhere from routine road patrol, answering calls for service, to doing investigative work. Out in Colorado, I was part of the organized crime task force run out of the capitol in Denver. I've been an investigator of organized crime, political corruption cases, drug cases, everywhere from homicides to suicides to assaults, burglaries, thefts, forgeries. [LB860]

SENATOR PAHLS: To do those things, did you have...did you go through a training process? [LB860]

CHARLES NICHOLS: Yes, I graduated from the Nebraska Law Enforcement Training

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
January 20, 2012

Center originally, and then... [LB860]

SENATOR PAHLS: Okay now, I'm just curious. That's what I was trying to...the academy that you...is it an academy? Is that what you call it, the Law Enforcement...? [LB860]

CHARLES NICHOLS: Yes. [LB860]

SENATOR PAHLS: Now, do they offer this type of course work within that academy? [LB860]

CHARLES NICHOLS: No, this is more of a specialized area of investigative work. It's an additional tool--just another tool on our belt to give us a direction in any specific case we might be working. [LB860]

SENATOR PAHLS: Was that...I'm using the word academy. Do they support this program that you went through? [LB860]

CHARLES NICHOLS: Well, I think lie detection has been supported nationwide in all law enforcement academies, from... [LB860]

SENATOR PAHLS: But no, the particular program that you're talking about. [LB860]

CHARLES NICHOLS: The voice stress program? [LB860]

SENATOR PAHLS: Yes. [LB860]

CHARLES NICHOLS: I'm not aware if the Nebraska Law Enforcement Training Center even addresses any lie detection in their basic academy curriculum. [LB860]

SENATOR PAHLS: To me...because it seems like somewhere along the line, we picked out 150 hours--somewhere they did, a number of years ago. It seems to me that I would see this type of training, if it's...and it's verified or certified, would be part of a program, because I'm thinking. Let's say you were a doctor right now. We would expect you to go back occasionally to get additional training. [LB860]

CHARLES NICHOLS: Yes. [LB860]

SENATOR PAHLS: Or, I mean, if you're a school teacher. And I'm assuming attorneys, don't they have to get additional training? [LB860]

SENATOR SEILER: CLE. [LB860]

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

Government, Military and Veterans Affairs Committee
January 20, 2012

SENATOR PAHLS: Yeah. [LB860]

CHARLES NICHOLS: And once you are a certified voice stress examiner, I am required to recertify with advanced training and recertification every two years. [LB860]

SENATOR PAHLS: But then, should that be part of the...in the bill, then? You see what I mean? [LB860]

CHARLES NICHOLS: Well, that's part of the... [LB860]

SENATOR PAHLS: Just to be certified? [LB860]

CHARLES NICHOLS: ...the training center's mandate, in order to keep my certification, is that I have to recertify. [LB860]

SENATOR PAHLS: Okay. Am I reading it...and I could be reading it wrong. In the bill, it says that you must maintain that certification, then? [LB860]

CHARLES NICHOLS: Yes. [LB860]

SENATOR PAHLS: Okay, thank you. [LB860]

CHARLES NICHOLS: You're welcome. [LB860]

SENATOR PAHLS: Appreciate it. [LB860]

SENATOR SEILER: I have just one quick question. [LB860]

CHARLES NICHOLS: Sure. [LB860]

SENATOR SEILER: Excuse me, Mr. Chairman. [LB860]

SENATOR AVERY: Yes, Senator Seiler, you are recognized. [LB860]

SENATOR SEILER: I have just one question, thank you. On the cost sheet that was handed out, they had six hours...or six days of training. Are those 10-hour days? [LB860]

CHARLES NICHOLS: Yes. [LB860]

SENATOR SEILER: Or are they contiguous? [LB860]

CHARLES NICHOLS: Or even longer, sometimes. [LB860]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
January 20, 2012

SENATOR SEILER: Okay. I wondered if maybe your recertification/continuing education was to get to that 60 hours. [LB860]

CHARLES NICHOLS: No. [LB860]

SENATOR SEILER: That's all I was asking about. [LB860]

CHARLES NICHOLS: No, that's... [LB860]

SENATOR SEILER: Okay. [LB860]

CHARLES NICHOLS: There's a lot of homework and a lot of 10-hour days, if not longer, during the original certification. [LB860]

SENATOR SEILER: Thank you. I have no further questions. [LB860]

SENATOR AVERY: Thank you. Any other questions from the committee? Thank you, Mr. Nichols. [LB860]

CHARLES NICHOLS: Thank you. [LB860]

SENATOR AVERY: Additional proponent testimony? Good afternoon. Welcome. [LB860]

TOM GORGEN: (Exhibit 3) Good afternoon. Thank you, Chairman Avery, Senators, Senator Hansen, General Counsel Byelick. My name is Tom. My last name is Gorgen, spelled G-o-r-g-e-n. I live in Omaha, Nebraska. And I am here as part of the group speaking in favor of the change and my job is the history part. In the late '70s, Senator David Newell asked me to help his office develop and write what is the Nebraska Truth and Deception Examiner's Act, the base act. The reason he got involved was the senators were getting complaints about these instruments in the state, how they were used, who used them, why they were being used, and it was just kind of the wild, wild west, to be honest with you. So, they sought out experts in the field and we worked very hard to develop the statute. I think one of the questions asked was the 150 hours, how we got there. I was the first person to bring voice stress into Nebraska in 1973. As Chuck said, it is analog. I mean, the instrument was--or is--about this big. That's one part, there was another part, and there was a lot of mechanics involved and a lot of this and a lot of that. The training requirement for voice stress in the '70s, when that was developed, was three days. I had three days of training and that was the standard nationwide. When we got to looking at the different discipline of polygraph and voice stress and putting together the statute and all the different groups that were represented that needed to be considered in that process, why, we got into a situation of these

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

Government, Military and Veterans Affairs Committee
January 20, 2012

hours, of 250 versus 150. Today, when I look back, we didn't look down the road far enough when we selected the 150, but we selected the 150 because there was a couple places you could actually get that in the United States in the early '80s. After the bill was passed, the Secretary of State asked me to work with them to help implement the statute, which I did, and then I was appointed. There's an advisory board that advises the Secretary of State on this...these topics. There are four voice stress examiners and four polygraph examiners--in fact, we meet in this room--and what we do is applicants for licensing--law enforcements, civilian, whatever--make their application, go through the process, and then the board reviews it and advises the Secretary of State of the technical aspects of the application. By the way, that board is noncompensated, which is a terrific thing, because we're there because we really feel that the industry in our state has served itself well over the years. And I don't want to preempt anything Colleen might say, but I don't recall. There might have been one complaint in the 30 years I've been involved in this, but the statute really fixed the original issues that Senator Newell was trying to address. It also went beyond the issue of testing. You know now, in the government, the federal government has the Polygraph Protection Act, which you can't force someone to take a lie detection test. Nebraska was ahead of that by about 10 years because that was in our original statute, so there are some mechanical problems with the statute now. This is one of the biggest ones. As a board member, I'm always asking applicants: What can we do better to make the process of applying for a license better? What can we...how can we improve our statute? Over the years, recommendations have been made. One of the recommendations was...in the beginning, an applicant was required to run 100 examinations before they presented themselves to the board to take the test. Well, in the '80s, it was easy to come up with 100 examinations, but as time has gone on that has changed, so the different law enforcement agencies in our state, particularly the State Patrol, has come to us and said 100 is too many, we need to reduce it. So we would change the rule and reg and reduce it to 75 first. It's currently at 50. So, technology has changed. Chuck's instrument, the new voice stress instrument, is a computer about this size. It's all digitized. There are specific rules about how the tester administered conditions. The examinations are...certain procedures are in place to protect the subject of the test. Chuck is required to have a cold-call review of it, of the examinations. He's required...now, let's go to training. After two years, it's mandatory. So things have so far progressed from when we started when we had no rules, no anything, basically, and we had these instruments and we ran around getting tests. So, my purpose in being here is to try and answer questions. I did pass out a document for you to review. I'm not going to read it to you--that's silly. But I'll stop talking and just make myself available to answer any questions and just simply close by saying thank you for allowing me to be here. [LB860]

SENATOR AVERY: Great timing. Thank you. Questions from the committee? Senator Sullivan? [LB860]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
January 20, 2012

SENATOR SULLIVAN: Thank you, Senator Avery and thank you, sir, for your comments. I'm just a little confused, though. You're a licensed voice stress examiner? [LB860]

TOM GORGEN: Yes, ma'am. [LB860]

SENATOR SULLIVAN: So what was Mr. Nichols? [LB860]

TOM GORGEN: Mr. Nichols is a licensed voice stress examiner also. There are two licenses. One is public--that is a law enforcement person. [LB860]

SENATOR SULLIVAN: Which is what he is. [LB860]

TOM GORGEN: What he is, and I am a...well, I was a police officer years ago and I had a public license and a private license and after leaving law enforcement, my license is now private. [LB860]

SENATOR SULLIVAN: Okay. [LB860]

TOM GORGEN: So I work in the private sector. [LB860]

SENATOR SULLIVAN: And he said he was the only public one in the state right now. [LB860]

TOM GORGEN: Yes, ma'am. [LB860]

SENATOR SULLIVAN: Why do you suppose that is? [LB860]

TOM GORGEN: Why? It's 150 hours. When Chuck called me...and he was pretty angry. His agency had spent all this money, he had the piece of equipment, and now he couldn't administer tests and he was upset with me. [LB860]

SENATOR SULLIVAN: Um-hum. [LB860]

TOM GORGEN: And I wasn't alone, but the gentleman that worked with me is now deceased, so I'm the only one still standing, as they say. We did create the original statute and the lot of the rules and regulations and it was in response to abuse of tests and of subjects. That's why the statute is like it is. There was problems in this state, but those problems have been fixed. So when Chuck first called me, he was angry he couldn't administer tests. So the Secretary of State, I contacted and said: May I open up my school again? I had had a school in the '80s that offered 150 hours of training and it was licensed by the Nebraska Department of Education and the Secretary of State had approved it. They gave me permission to open the school to assist Lincoln County to

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

Government, Military and Veterans Affairs Committee
January 20, 2012

take them from the 60 hours they already had up to the 150. And then he needed an intern sponsor, someone to monitor him for a year to run these 50 exams, so they also granted me that privilege. And so I, every day, drove out to--or not every day, but during the period of a year-and-a-half--drove to Lincoln County and helped teach Chuck and then administer tests. And we solved crimes with that thing and it was wonderful and we got him through the initial qualification, which is the 150 hours and the 50 examinations, and then he presented himself to the Secretary for review and then eventually got his license. [LB860]

SENATOR SULLIVAN: So are there many more private licensed examiners? [LB860]

TOM GORGEN: No, there's six left. From some...we started, I think, with 24. We're down to six. In the last 20 years, no one other than Chuck has presented themselves to get this license, because there's no place you can find 150 hours of training. [LB860]

SENATOR SULLIVAN: So do you anticipate if the statute is changed, that there will be more individuals interested in...? [LB860]

TOM GORGEN: I anticipate many law enforcement agencies will look at it and review it. This issue came up three years ago with Senator...then-Senator Smith, Adrian Smith, but his bill was designed to eliminate the reg altogether--no regulation. I'm sort of in favor of regulation. I think it's a good idea in this area--not all areas, but in this area. So Senator Smith...in this room, we all talked about it and the bill didn't go anywhere. At the time, there were three law enforcement agencies that spoke with me about wanting to get the instruments, if they could get past this 150 hours of classroom, which they can't find anywhere. [LB860]

SENATOR SULLIVAN: Thank you. [LB860]

TOM GORGEN: I hope that helped. [LB860]

SENATOR SULLIVAN: Um-hum. [LB860]

SENATOR AVERY: Senator Pahls. [LB860]

SENATOR PAHLS: Yes. If this is a valuable way of catching the one you want to catch, I'm surprised that the law enforcement, they haven't said hey, we'll get, we'll suck up, we'll find that 150 hours. I mean, this strategy, this technique has that much value--which I'm assuming it does--I'm surprised that we don't... [LB860]

TOM GORGEN: No one offers it. The people that invented the computerized digital voice stress instruments now do not require 150 hours. It takes 60... [LB860]

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

Government, Military and Veterans Affairs Committee
January 20, 2012

SENATOR PAHLS: Okay. [LB860]

TOM GORGEN: ...to operate that instrument. The old analog like we had,... [LB860]

SENATOR PAHLS: Right. [LB860]

TOM GORGEN: ...they gave us three days and we were just about dangerous at three days, but that's the way it was. In the beginning, it was three days. Now, it's up, it's increased, actually, with the analog from the original. The 150 came as a compromise that I was part of, trying to get the bill to move forward through the legislative process. I mean, it was just that simple. It was put together that way and at the time, there were two or three national organizations, and then me locally, that would give 150 hours of training, so it was thought it would work. [LB860]

SENATOR PAHLS: Okay, and I...okay, but I still think that if this is a valuable tool... [LB860]

TOM GORGEN: Um-hum. [LB860]

SENATOR PAHLS: I am still surprised. I understand the difference in the machine. I'm surprised in the number...how to operate it, because if we are...I want to make sure that these people know what they're doing, because they're going to...if they give me a stress, they will put me under stress, innocent or guilty. [LB860]

TOM GORGEN: That's why we have the...that's why I was against Senator Smith's bill, because he had wanted to eliminate the whole process. [LB860]

SENATOR PAHLS: Okay. [LB860]

TOM GORGEN: Let me tell you what's going to go on and what happened with Chuck. The 60 hours is fine, but the real training occurs for the year internship when they come back. And for a year, they're monitored by someone who is already certified and approved and that monitoring is not just by telephone. It's in-person monitoring--watching the examinations, sitting through the examinations--and so the Secretary's rules and regulations are still established that make it very clear that that applicant has to take these 50 examinations under control of someone else. Once those exams are done, then it's going to come before this advisory board again--these four voice stress and these four polygraph people--and we're going to look it over and if we don't like what we see, we will advise the Secretary. We have no authority to deny a license, but we have authority to advise, which we do. And you know, then again, the Secretary will make his decision based on what we do, so there's not just 60 hours, here's your instrument, go out and run tests. [LB860]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
January 20, 2012

SENATOR PAHLS: Right, and I don't mean to imply that. This bill, let's go...does it...the way you think it should be, there would be a number of enforcement agencies in the state of Nebraska that would be behind this. In other words, the Omaha, the Lincoln, some of the county sheriffs and the highway patrol say this... [LB860]

TOM GORGEN: There's going to be some speakers that address that in a minute. [LB860]

SENATOR PAHLS: Okay, that's all right. Okay, thank you. [LB860]

SENATOR AVERY: Any other questions? Don't see any. Thank you, sir. [LB860]

TOM GORGEN: Thank you, Chairman. Appreciate it. [LB860]

SENATOR AVERY: Additional proponents? Good afternoon, Mr. Kelley. [LB860]

SEAN KELLEY: (Exhibit 4) Good afternoon, Mr. Chairman. Members of the committee, my name is Sean Kelley, S-e-a-n K-e-l-l-e-y, appearing today on behalf of the Fraternal Order of Police in Nebraska, with 2,800 law enforcement officers across the state among 46 different law enforcement agencies. We're here today first, to thank Senator Hansen for introducing this piece of legislation. We think it is a crucial investigatory tool that more law enforcement agencies could take advantage of in the future. We do support: (1) training--we do think it's important that 60 hours are required; and (2) we do support continuing education, whether that's statutory or through renewed certification. So with that, I'd be happy to try to answer any questions you may have. [LB860]

SENATOR AVERY: Any questions of Mr. Kelley? Senator Sullivan. [LB860]

SENATOR SULLIVAN: Thank you, Senator Avery. Thank you, Mr. Kelley. [LB860]

SEAN KELLEY: You're welcome. [LB860]

SENATOR SULLIVAN: Kind if picking up on Senator Pahls's comment earlier is that--if I understood it correctly--why, or do you know why this might be not part of the ongoing or regular training of a law enforcement officer, part of their curriculum? [LB860]

SEAN KELLEY: I would just have to draw on the information I was given by investigator Nichols, and that's just that it was impossible to get 150 hours of training. [LB860]

SENATOR SULLIVAN: Okay. [LB860]

SEAN KELLEY: I think to go back to 60 would be...which is the national standard, is much more attainable for law enforcement. [LB860]

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

Government, Military and Veterans Affairs Committee
January 20, 2012

SENATOR AVERY: Any other questions? Don't see any. Thank you for your testimony. [LB860]

SEAN KELLEY: Thank you very much. [LB860]

SENATOR AVERY: Any other proponent testimony? Welcome, Colonel, right? [LB860]

JEROME KRAMER: Sheriff, yeah. I'm sheriff Jerome Kramer, K-r-a-m-e-r. I'm the sheriff of Lincoln County and of course as you know by now, it's our county that does the...the lone department that has the CVSA in the state and I'm also here as a representative for the Nebraska Sheriffs Association. We had a meeting this morning and they, too, have got on-board, recognizing that this is a valuable instrument. As sheriff of Lincoln County and having several years of experience seeing what the results are of this instrument, I'm very impressed with what we've been able to do with this instrument. Of course, fighting crime and hiring quality employees is very important to us and this instrument has been flawless for...since the day we started using it. We've hired good employees and we've arrested people--made good, solid arrests--and we've exonerated people that are innocent. We've proven that they weren't involved in crimes, so in all aspects of crime and management, this is a very valuable tool and its success has been proven by our department and I would like to see this move forward. [LB860]

SENATOR AVERY: Thank you, sir. Questions from the committee? Don't see any. Thank you. [LB860]

JEROME KRAMER: If I did understand your questions earlier, you asked about the training. I thought you were directing it more to why isn't this offered at the training center? [LB860]

SENATOR SULLIVAN: Um-hum, yes, I did, yes. [LB860]

JEROME KRAMER: Okay. This would be similar to, say, like advanced accident investigators--people that are going above and beyond the normal law enforcement. We have people that are experts in traffic investigation and experts in, say, sexual assault investigation and this is just another one of those specialized fields, so that's why they don't want to offer it as a regular curriculum, because everybody doesn't need it. [LB860]

SENATOR AVERY: Got another question? [LB860]

SENATOR SULLIVAN: Thank you, and might as well...but brought up another thing. Well, because you represent the Sheriffs Association, do you anticipate other counties might be interested in taking this on and hiring a person who is certified like this?

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Government, Military and Veterans Affairs Committee
January 20, 2012

[LB860]

JEROME KRAMER: Absolutely, absolutely. There's surrounding counties, a lot in western Nebraska, out in our area, that are very interested in this because as the testimony was earlier, it's no-budget, limited manpower, the people absent from work get the training. They just can't afford the loss of manpower for the extended amounts of time and they can't afford the initial input. [LB860]

SENATOR SULLIVAN: Thank you. [LB860]

SENATOR AVERY: We have a handout here that shows the cost of polygraph and training is more than twice what it is for a CVSA. [LB860]

JEROME KRAMER: That's pretty accurate. It's roughly twice, yes. [LB860]

SENATOR AVERY: Hmm. I don't see any more questions. Thank you for driving down from Lincoln County. [LB860]

JEROME KRAMER: Okay, thank you for all you do. Appreciate it. [LB860]

SENATOR AVERY: Thank you. Any other proponent testimony? Welcome back. [LB860]

COLLEEN BYELICK: Chairperson Avery, members of the committee, again for the record, my name is Colleen Byelick, C-o-l-l-e-e-n B-y-e-l-i-c-k, general counsel with the Secretary of State's office. We just wanted to note our support for the bill. We do license polygraphs and voice stress examiners and as has been mentioned, it's currently virtually impossible to get a voice stress license. And so we see the need for an attainable licensing scheme and would indicate our support for the bill. [LB860]

SENATOR AVERY: Thank you. [LB860]

COLLEEN BYELICK: If anybody has any questions... [LB860]

SENATOR AVERY: Questions from the committee? Don't see any. Thank you. [LB860]

COLLEEN BYELICK: Thank you. [LB860]

SENATOR AVERY: Any other proponent testimony? Any opponent testimony? Neutral? Senator Hansen, you are recognized to close. [LB860]

SENATOR HANSEN: (Exhibit 5) Thank you very much, Mr. Chairman. There were a few questions asked and hopefully answered to your satisfaction. I know we're not

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supposed to bring props in here, but I do have one copy--and I've carried this since last April--of the laptop and the microphone. It's very simple. I'll leave this here for the committee to pass around at any time. We did explain to you that this was...Mr. Gorgen explained that since 1980, we've had these same regulations in place and it's time for an update, especially with the education part of it, that the 150 hours is just not...it's nowhere available and that's the problem. We did meet with the Secretary of State earlier last summer--I can't remember exactly when. But anyway, they were very good to work with. They're the ones that license these analysts, so we think it's a really good program. Technology has increased. The size of the instrument, of course, has shrunk, so...and when I did go through this with the Lincoln County sheriffs and the new jail in Lincoln County, they also showed if the software can tell if the analyst is making a mistake or reading it properly. If not, it will come up a box, like those boxes we all hate to see on our computer screen, that says you're not reading this right and...but it will...and they can send it off, just like these...the doctors send an x-ray to someone else to have it read, so they can send those graphs of the stress in your voice when it changes and they can send those off to other people to have them reread, too. And recertification, I think, is very important, that every two years...I don't think it's in the bill. But through the institute that does the education part, they're just automatically recertified. Not automatically--I mean, it's automatically reviewed every two years for that recertification. But, I think it's time to give Nebraska's law enforcement departments a truth verification system that's affordable, workable, and trustworthy. Thank you. [LB860]

SENATOR AVERY: Thank you, Senator. Any other questions from the committee? Thank you very much. [LB860]

SENATOR HANSEN: Thank you. [LB860]

SENATOR AVERY: That ends the hearing on LB860 and the hearings for today. Thank you all for coming. [LB860]