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Transcriber's Office

Executive Board Committee
January 30, 2014

[LB763 LB871 LB917]

The Executive Board of the Legislative Council met at 12:00 p.m. on Thursday, January 30, 2014, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB763, LB871, and LB917. Senators present: John Wightman, Chairperson; Greg Adams; Bill Avery; Kathy Campbell; Ernie Chambers; Mark Christensen; Russ Karpisek; Steve Lathrop; and Heath Mello. Senators absent: Bob Krist, Vice Chairperson.

SENATOR WIGHTMAN: I think at this point we'll go ahead and open. We do have a quorum. I know there's somebody right outside, but perhaps they'll be back in. Welcome to the Executive Board committee hearing. My name is John Wightman. I'm from Lexington and represent the 36th District. We will take the bills up in the order posted on the agenda. To better facilitate today's hearing, I ask that you follow these procedures. Please turn off cell phones or silence them. The order of testimony will be introducer, proponents, opponents, neutral testimony, and then an option of closing by the introducer. Testifiers must fill out the sign-in sheet and then hand it to committee page when you come up to speak. Please spell your name for the record before you begin your testimony. Written materials may be distributed to committee members as exhibits only while testimony is being offered. Hand any exhibits you have to the page for distribution to the committee members and staff. If you have written testimony but do not have the needed 13 copies, please raise your hand now so that the page can make additional copies for you. If you do not wish to testify but would like your position to be part of the record, you can sign the form found at the testifier's table by the testifier sign-in sheet. For introductions, to my immediate right is committee counsel, Janice Satra. To my left is committee clerk, Natalie Schunk. The Executive Board members, I'm going to let them introduce themselves. To my immediate right would be Senator Krist. He's not here right now and so we'll start out with Senator Chambers.

SENATOR CHAMBERS: Jack the Ripper...Ernie Chambers.

SENATOR ADAMS: Greg Adams.

SENATOR CAMPBELL: Kathy Campbell.

SENATOR MELLO: Heath Mello.

SENATOR WIGHTMAN: And then to my immediate left.

SENATOR KARPISEK: Russ Karpisek.

SENATOR LATHROP: Steve Lathrop, District 12.

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SENATOR AVERY: Bill Avery, District 28.

SENATOR WIGHTMAN: And Senator Christensen has just walked in. We will take up...well, first of all I'd like to introduce you to Audie, our clerk (sic--page) who will be here and will run copies if you need copies. With that, we will take up the bills today in the following order: LB763, LB871, and LB917. So first up is LB763, Senator Janssen.

SENATOR JANSSEN: Thank you, Mr. Chairman and members, and thank you for your beautiful service. It reminds me why I don't want to be on this board because I value my lunches. For the record, Mr. Chairman and members, my name is Charlie Janssen, C-h-a-r-l-i-e J-a-n-s-s-e-n. I represent the 15th Legislative District, which is Fremont and all of Dodge County. I appear before you to introduce LB763. LB763 would require state agencies to file an additional report with their budget forms and reports required by Nebraska statutes that identifies low utilization, low priority, and inefficient programs that are required by statute and are under jurisdiction of their agencies. It is clear that we are all in favor of frequent performance reviews of government programs, government practices, and it actually requires it. Our constituents many times demand it. This Legislature and previous Legislatures have required our state agencies to do a large number of different things over the years, nearly always in response to reasonable requests from members of the public. Sometimes these requirements do outlast their usefulness. We do have ways to discover this, including the good work of our Performance Audit Committee, which I think is actually--good is not the right word--I think they do great work. But I feel that it would be helpful to require state agencies during critical times when they file their budget requests it would assist all of us in our work. The Department of Health and Human Services, for example, is responsible for administering 205 programs according to the January 26 edition of the Lincoln Journal Star. I would challenge any member to name even one half of those programs off the top of their heads, and maybe I would be a little reluctant to challenge Senator Chambers to do that because he might do that. But I would be willing to yield to any questions if he has them. I think it would be helpful for DHHS could alert us of the fact of one or more of their programs are not wanted or needed to the extent that they have been in the past. This is just one example of an opportunity we have to further ensure Nebraska taxpayers that dollars are being used wisely where they are most needed. LB763 is one suggestion of how to do this. I wish a suggestion I would have taken was Senator Wightman's to turn my cell phone off because it's buzzing right now in my pocket relentlessly so somebody wants to get a hold of me. It must be lunch plans. You know, I'm not going to finish the rest of this. I just want to say that this came to me as an idea that we had, and I'd use this as a crowning achievement of our time. I've served with all of you in the Legislature. It was the LR542 when we had nearly a billion dollars in shortfall in our budget. And we all sat in committee hearings and we looked at low-utilization areas and we found some. And then we also realized that certain agencies in some cases were underappropriated. And so I thought this would just be another tool. I think the Appropriations Committee does a great job in looking through all

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this. I think this would give them another tool. So really that's why I brought this forward. And people ask me all the time, how are you going to cut spending? When you talk about lowering taxes, what do you want to cut? I think this would give a road map for that or justification for further appropriations. So that's why I brought it forward. It's pretty, I think, fairly simple as it goes. It's just another report. Thank you, Mr. Chairman. [LB763]

SENATOR WIGHTMAN: Thank you, Senator Janssen. Do we have questions? Yes, Senator Mello. [LB763]

SENATOR MELLO: Thank you, Chairman Wightman, and I've got only a couple of questions, Senator Janssen. At the fiscal note on LB763 the Department of Administrative Services Budget Division says there's no fiscal impact on the Department of Administrative Services. "It is assumed that the existing budget modification process can accommodate the reporting requirement included in the bill." Have you evaluated the existing budget modification process that currently is utilized by state agencies at the request of the Legislature's Appropriations Committee? [LB763]

SENATOR JANSSEN: Not nearly as in-depth as you probably have. [LB763]

SENATOR MELLO: Well, I'll give you a little background and I think the fiscal note I think kind of walks it through a little bit. The existing process is that the Legislature requests state agencies every two years as they do their budget to give us budget modifications of a certain percentage from 5 to 10 percent of their budget which then ideally, and agencies do this, is to prioritize low-priority, low-utilization programs within their agency and offer those up for the Legislature to make a determination of whether or not they want to fund those or fund them more... [LB763]

SENATOR JANSSEN: Right, which is great practice. [LB763]

SENATOR MELLO: I just want to make sure that if anything it seems like your bill is a little bit more duplicative in nature of that budget modification process. I appreciate what you're trying to do in the sense of wanting to identify these things. I think the bigger probably issue at hand moving forward is evaluating our current process and seeing if there is a way to maybe change or look at that in a different light, only because I printed them out real quick today before the hearing to just help refresh my memory. The Department of Health and Human Services provided 62 separate budget modifications last year as we went through their budget to the tune of about \$643 million that they had suggested that were low priorities to them that they felt we could cut. Department of Corrections gave us five modifications for \$33 million. So agencies are required to do this through our process, which is run through our Legislative Fiscal Office. And I think after the hearing today we can talk more off the mike if that's what you'd like to do to walk you through and see if there's ways you'd like to have us evaluate the current

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budget process that we utilize with DAS. [LB763]

SENATOR JANSSEN: Thank you, Senator Mello, for the question or sermon, whatever it was. I don't know. Yeah, certainly...and I thought about that. There is some redundancy within this bill. I think it's great that we're talking about it. It was brought purely out of wanting to I guess even add more transparency. Certainly the last thing I want to do is add more forms that if it's not going to be fiscally responsible. So if there's a better way to do this, I just wanted to open up the book for this and give that option. Certainly I trust this committee to make the right decision on that, and I certainly have full faith and trust in the Appropriations Committee to carry forward as they do. [LB763]

SENATOR WIGHTMAN: Thank you, Senator Mello. Senator Avery. [LB763]

SENATOR AVERY: Thank you, Mr. Chair. Senator Hansen (sic), I think if I were an agency head I'd have no trouble identifying low-utilization, low-priority, no trouble with recommendations on improvements, elimination, things of that sort. However, how would you go about determining what is an inefficient program and what is not without any criteria in the bill to provide guidance to the agencies? [LB763]

SENATOR JANSSEN: Well, thank you, Senator Avery. Thank you for the question. I appreciate the...I think I've just become a much more handsome guy because you called me Senator Hansen and not Janssen and that's probably close... [LB763]

SENATOR AVERY: Did I say Hansen? [LB763]

SENATOR JANSSEN: Probably close to Social Security eligibility, which I don't think I'll get someday (laughter). So... [LB763]

SENATOR AVERY: I didn't ask you about the funding purpose of the... [LB763]

SENATOR JANSSEN: I also appreciate that. You know, and I agree. I think sometimes this just gives people a reason to want to come forward. It's an avenue to do that. Maybe there's particular--certainly within Health and Human Services, which I think we can all agree has had huge and enormous issues--maybe somebody to come forward and say, hey, this is not working very well. Like I said, and I sat in the Government Committee with you when we did that LR542 or whatever back in 2010. And I think we found out several agencies really kind of self-reported that they otherwise wouldn't have, things that were wrong within their agency. And we found that certain agencies, I just use Lieutenant Governor's Office, for instance, that it has a half-time employee and the Lieutenant Governor. It's a constitutional, I mean there was no room for cuts there. And so it gave me a better insight as a legislator what was going on within all the departments, especially the ones under the purview at the time of Government, Military, and Veterans Affairs. And that's certainly something that members of the Appropriations

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Committee see on a daily basis. I just think it really lightened...shed a light on a lot of agencies. [LB763]

SENATOR AVERY: I think the idea of trying to identify inefficiency is good. But without any criteria for establishing what is efficient and what is not you kind of got a goal here without any recommendations on how to get there. [LB763]

SENATOR JANSSEN: Oh, I don't think I opened on the bill and said I've got the perfect bill that's going to save the state tons of money over the years. I just thought this would be an idea that we could bring forward and vet it out, and I think it has some merit that, like I said, for me personally being a public servant it helped me to go through that exercise of studies. Unfortunately or fortunately, everybody can't be a member of the Appropriations Committee where they see all of these agencies and have a huge grasp on, you know, all the tentacles of state spending. So I thought this would be something, especially in the term limit era would give future state senators a chance to get a little bit more insight as they grow through their legislative careers. [LB763]

SENATOR WIGHTMAN: Thank you, Senator Avery and Senator Janssen. Senator Lathrop. [LB763]

SENATOR LATHROP: Thanks, Mr. Chair and Senator Janssen. I do have this fundamental concern about a bill like this, and it relates to the fact that we treat agencies like they're not the responsibility of the Governor or the executive branch. And I have sat here for seven years, now in my eighth year, and watched problems in the agencies. Health and Human Services, I watched it during the Beatrice State Developmental Center crisis. And to watch the Governor talk about the agencies like he's not in charge of them is troublesome for me. And when we talk about a process that would require the agencies to come to the Appropriations Committee or to the Legislature with programs that are low...inefficient, low utilization or low priorities, it sounds like the agencies, it further plays into the narrative that the Governor doesn't have control over the agencies. And I just have to say I think that's the Governor's job. It is the Governor's job in a very fundamental way to come to the Legislature and say, I run state government. It is my job constitutionally to run state government, to propose a budget and for me, Governor, to tell the Legislature these are where the problems are. And for us to say the agencies should come forward, I think we should say the Governor should come forward. But it's the Governor's job to run those places and to tell us where he thinks there are inefficiencies and where we're wasting money and not to treat them like they're somebody they have no control over. And I watch it in Corrections, I watch it in Health and Human Services. Those are his places to run. And if there are inefficiencies, it's the Governor's job to tell us what those are. And when we say the agencies shall come forward, it perpetuates, in my opinion, it perpetuates this notion that this Governor doesn't have control over these things and somehow running them is part of the Legislature's responsibility, which it is not. Right? We make policy and we

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appropriate a budget and they're the Governor's to run. And I struggle with this when I watch the mess in Corrections, when I watch all of the problems in Health and Human Services, and I hear a statement or a press release this is unacceptable, like, well, you're the guy running it. We think it's unacceptable too. And so I am a little concerned that it does perpetuate this idea that the Governor's ultimately not the...not the person that ultimately runs these places, not the person that ultimately proposes a budget. And then I guess I do have some concern about even if we put this into law those agencies are the very ones that want the money to spend and they're probably the last people in the world who are going to come to the Appropriations Committee and say, guess what? I want a bunch of money for things that are low utilized and low priority and inefficient programs. [LB763]

SENATOR JANSSEN: Yeah, Senator, thank you. [LB763]

SENATOR LATHROP: You're free to respond. I'll give you the floor now. [LB763]

SENATOR JANSSEN: Thank you. Thank you for your comments and I agree that the Governor certainly should be responsible for all the agencies. And I think I'm a big fan of separation of powers. And the legislative branch I certainly think and I know that you have personally put forward and we used a lot of our power as the legislative branch to push the executive branch, if you will, and even the judicial branch in certain cases. And I think this...I'm hopeful this would be another tool. If you guys don't see it that way, obviously there's great minds in this room and we can decide whether it is or it is not. But this is purely my intention to try to help government spending. There's really no other agenda to it, no 21 or anything no matter how you add it (laughter). It's a fairly simple issue and I just talked so much when I campaigned for reelection about people asked me, what's your crowning achievement down here, and I just kept coming back to that LR that we did back in 2010 where we looked at all the agencies and we trimmed money from state agencies. So I, you know, I can certainly understand where you can see that the Governor's Office may be...I don't want to create a rift would be my point. I want to create working together. And I'm an owner of a company as you are. [LB763]

SENATOR LATHROP: Right. [LB763]

SENATOR JANSSEN: And I want to know if...example, we just got rid of water coolers at my office because we looked, I mean, that's how little it went. We went down the, well, we put new filters in the water faucet and it worked fine and it was better water. And so we got rid of that. And that's just an idea of what if we look sometimes you can find it. And we weren't going underwater per se, no pun intended, on paying for Culligan water softeners. But it's just one thing that we looked at and we changed. [LB763]

SENATOR WIGHTMAN: Thank you, Senator Lathrop. Senator Chambers. [LB763]

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SENATOR CHAMBERS: Thank you, Mr. President. Senator Janssen, I'm not a conspiracy nut, but I just want us to look at this bill. It says LB763. L is the 12th letter in the alphabet. So put 1 and a 2. B is the second letter. Put another 2. When you add 1 to 2, you get 3. That second 2 makes 5. The digits in this bill are 763. 7 and 5 are 12. The 6th makes 18. And the 3 makes 21 (laughter). This is an Agenda 21, oh, did you need me? [LB763]

CYNTHIA GRANDBERRY: Yes. (Laughter) [LB763]

SENATOR JANSSEN: Thank you. [LB763]

SENATOR CHAMBERS: I have been summoned by a higher power. [LB763]

SENATOR WIGHTMAN: Thank you. Anyone else have a question? Thank you. [LB763]

SENATOR JANSSEN: Thank you. And again, I really appreciate your willingness to serve on this council during the lunch hour. [LB763]

SENATOR KARPISEK: Eat a burger for us. [LB763]

SENATOR WIGHTMAN: Do we have anyone else here that wants to speak in favor of LB763? [LB763]

SENATOR JANSSEN: I'm going to waive closing, Mr. Chair. [LB763]

DICK CLARK: (Exhibit 1) Chairman Wightman, members of the Executive Board, my name is Dick Clark, D-i-c-k C-l-a-r-k. I'm director of research for the Platte Institute. Thank you for the opportunity to speak very briefly today over this lunch hour in support of LB763. This bill would modestly expand the duties of state departments, offices, and institutions with regards to information that they're required to provide to the Department of Administrative Services during the biennial budget process. Specifically, it would require agencies to provide information about low-utilization, low-priority, and inefficient programs that are provided for in law and which are within the ambit of that agency's authority. Requiring that this additional information be provided to DAS will mean that DAS Budget has more information to draw on in assisting the Governor in developing his budget recommendations. It's important for the state of Nebraska to be responsible as a steward of taxpayer dollars. This added layer of transparency within government will provide one more mechanism to facilitate that responsible stewardship. I promised to be brief, so I'll just thank you again for the opportunity to speak today. [LB763]

SENATOR WIGHTMAN: Thank you. Senator Lathrop. [LB763]

SENATOR LATHROP: In what way do you think this is transparent? If some agency

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had, and let's just say the guy over at Corrections, whoever that might become, takes a note over to someone in DAS and says, I think this program or that program is inefficient. In what respect is that transparent? [LB763]

DICK CLARK: Well, Senator, I think that what I had in mind when I was reading the bill is that this really had more effect in terms of some of the independent boards and commissions, noncode agencies that may not have the daily working relationship with DAS Budget or the Governor's Office that the code agencies might. So I don't think that the impact, say, with the Corrections example that you brought up would be as pronounced as maybe with some of the agencies not, yeah. [LB763]

SENATOR LATHROP: Okay. Let's take any board that you've just identified. If somebody walks over to DAS or e-mails to whoever the guy is over at DAS and says, here you go. This is an inefficient program. How does the public become aware of that? How is that more transparency? [LB763]

DICK CLARK: Well, I would just split the hair that I did talk about transparency within government. And so I was being clear that it's agencies being more transparent to one another. [LB763]

SENATOR LATHROP: So it's not transparent to the public. [LB763]

DICK CLARK: Now I do think that the creation of that public record does provide the opportunity for some additional transparency for the public as well. [LB763]

SENATOR LATHROP: So you think this would be a public record. [LB763]

DICK CLARK: Yes. Another question would be whether or not it's subject to disclosure to the public, and I'm not prepared to speak to that today, Senator. [LB763]

SENATOR LATHROP: Okay. That's all I have. [LB763]

SENATOR WIGHTMAN: Thank you, Senator Lathrop. Yes, Senator Mello. [LB763]

SENATOR MELLO: Thank you, Chairman Wightman. And thank you, Dick, for coming in today. You obviously have state government experience working in the Governor's Policy Research Office, and I read Senator Janssen what the Department of Administrative Services said regarding LB763, which is it's assumed that the existing budget modification process can accommodate the reporting requirements in LB763. Would it be your interpretation that DAS is simply saying this is already being done through the budget modification process? [LB763]

DICK CLARK: Well, I'd hate to speak for DAS Budget. Certainly I don't have any ability

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to do that. But my interpretation when I read the fiscal note was that this is an additional piece of information that will be incorporated into the process that's already established. It's...there's the potential there for that additional piece of information to become an action item. I don't know if it would. But again, it's just a modest additional mechanism to that end. [LB763]

SENATOR MELLO: Does...and if you don't have the answers, I can get them in another way possibly, but is your understanding kind of how the budget process works that through this budget modification process that agencies list priorities when they give up things that they suggest that the Legislature consider cutting? [LB763]

DICK CLARK: I have to confess that I'm not as intimately acquainted with the process as you are, sir, so I'll leave that to a better informed individual to speak to. [LB763]

SENATOR MELLO: Okay. I appreciate it. Thank you, Dick. [LB763]

DICK CLARK: Yeah, thank you, Senator. [LB763]

SENATOR WIGHTMAN: Thank you, Senator Mello. Anyone else have any questions? Thank you, Mr. Clark. [LB763]

DICK CLARK: Thank you. [LB763]

SENATOR WIGHTMAN: Anyone else wanting to speak in favor of LB763? Anyone asking to speak in opposition to LB763? [LB763]

MICHAEL CHITTENDEN: (Exhibit 2) Good afternoon, Senators, and thank you. My name is Michael Chittenden, M-i-c-h-a-e-l, last name Chittenden, again, C-h-i-t-t-e-n-d-e-n. I am the executive director of The Arc of Nebraska, which is a support agency that advocates and supports people with intellectual and developmental disabilities. We oppose LB763, which serves to require a report from state agencies on inefficient, low-utilization, and low-priority programs. While we recognize the intent to ensure the good stewardship of Nebraskans' taxpayer monies, we have several concerns with the bill as written. Inefficient is not defined. And, Senator Avery, you went and expounded on that and that's kind of the theme of this testimony. Without proper criteria, no goal or stated purpose of any program can be evaluated. The bill should be amended to provide those criterion. Low utilization is not defined. As an example, currently the state of Nebraska has an autism waiver. The Legislature has chosen not to fund this waiver. Technically, it could be considered a low-utilization program, not by the fault of any agency running the program or by the people who would like to use the program because I assure you, it could be highly utilized once funded. Low priority, again, is not defined and should be amended. We suggest that this bill have better definitions and criteria in place before advancing it. It just simply has too many possible

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unintended consequences for the people and citizens of the state of Nebraska. The Arc of Nebraska stands ready to work with Senator Janssen and the committee on any further amendments that you would request, but we do request that this not be advanced. Thank you. [LB763]

SENATOR WIGHTMAN: Thank you, Mr. Chittenden. Any questions of Mr. Chittenden? Thank you again. [LB763]

MICHAEL CHITTENDEN: Thank you again. [LB763]

SENATOR WIGHTMAN: (Exhibit 3) Do we have anyone else wishing to speak in opposition to LB763? Do we have anyone wishing to speak in a neutral capacity? Seeing none...oh, we have one letter that we need to...and we have a letter that is in front of the members here from Doug Kagan, president of Nebraska Taxpayers for Freedom, in support of LB763. Okay, and Senator Janssen has waived closing. We'll make this part of the record, by the way. With that, we'll close the hearing on LB763 and we'll take up LB871. Senator McCoy or Harr, excuse me. That's the next one. I didn't mean to cut you out. [LB763]

SENATOR HARR: Oh, Senator Hansen did last night so (laughter). Chairman Wightman, members of the Executive Committee, I am Senator Burke Harr. I represent midtown Omaha, which is comprised of Dundee, Benson, and the Keystone neighborhoods. I think this is my first time in front of the Exec Board so excited to be here. I would like to start by saying this bill is not directed at the Legislative Fiscal Office. They do a fantastic job with the resources they have. My hope is this job will make their job easier and to build on what they already do and to make better legislation. I introduce this bill this session that, among other things, could lower taxes across the state. As you can imagine, this bill is very complex. Anytime you change the rates and brackets, you change the numbers and you are dealing with numbers in the millions. To be able to formulate a policy, you need to have access to the data. I have an excellent staff that can do the research. And we have a terrific legal Research Office as well. And we have, as I already mentioned, a wonderful Fiscal Office. But what we don't have is access to the data. We cannot research this subject and we cannot get the end results we want without the data. Last week I had the opportunity to address the Tax Commissioner Kim Conroy in her appointment hearing in the Revenue Committee. Our office contacted the Department of Revenue during the interim and also once the session began. We were trying to get data from them. The department was unable to provide that information. When I asked the Tax Commissioner about this, her answer was, and I quote, if you want the data, you have to introduce a bill. Okay. Well, if you don't get the answer you want, I'm not sure what you're supposed to do. How can you know what a bill is and what it will do and what it will cost without the data? How can you possibly formulate policy if you don't know what the potential outcome is? If you don't know the input, you're not going to possibly get the output you want. LB871

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attempts to address this issue. LB871 will require the Fiscal Office to prepare a fiscal note within ten days from a request, ten business days from a request. It will allow the Fiscal Office to require the appropriate department to prepare an agency fiscal note within five days from the request. And this differs a little from Senator McGill's LB996 which is four days. The request must include an official bill draft from the Bill Drafting service. The reason for an official bill draft is to cut down on the number of requests and to work with the expertise and the knowledge of our Bill Drafters Office to help focus the issue so that we aren't sending off just a bunch of e-mails, but rather to say, what are we trying to do and to formulate the idea of what a state senator is trying to get across to help them better frame the issue. I ask you to look at the fiscal note on this bill. Look at the great expense the executive agencies believe this bill will have. What does that tell you? It tells you that there is a great thirst for knowledge on the cost of what the executive branch currently is not providing us. The Department of Revenue thinks they need to hire two attorneys or two employees, one an attorney, to be able to tell us so that we can make good policy. The Department of Insurance thinks they need somebody, and I'm sure other agencies as well. And to be quite honest, if this bill were to pass in its current form, which I'm not sure it would, we'd probably need more staff in our Fiscal Office as well. I don't have in here, and I meant to and I just in the haste didn't put it in there, have a cutoff date, maybe early December, mid November, to give time because we do have to prepare for session. I understand that. And while we're in session it's hard. But it's not in there. What we find is once we get our fiscal notes, fiscal notes help expose flaws in our bills that we wouldn't otherwise be able to find. Perfect example, this afternoon I'm doing a bill on credit card swipes, and I had not excluded...long story short, after getting the fiscal note a mere 24 hours beforehand, it exposed a flaw in my bill I had not seen or anticipated. Now I had 24 hours to go and make an amendment and I'm doing that and it brings down the fiscal note quite a bit. But by having that fiscal note earlier, it allows me the ability to make better legislation when I introduce it. My idea is and why I include the Fiscal Office is because if the executive branch or executive agency provides me numbers, I don't have the experience as a state senator to know what those numbers mean. Our Fiscal Office has the analysis and the experience to say whether these numbers are good, whether these numbers are bad and to provide some input and also provide input like they did today on how to improve a piece of legislation. So that's what I'm looking for. I don't claim to have the answers. Perhaps a better way is to have our own office, similar to what Congress does with the CBO. What is clear is that there is a level of frustration among not just my staff and my office but among other senators I talk to of getting information from the executive branch. I come here before the Executive Committee; and as I look around the room, I see a lot of committee Chairs. Committee Chairs have access to agencies that a regular senator like myself does not. And it's easy just to discard us--the weebies, if you will--we be here before you; we be here after you. Especially with term limits, it's hard for us to develop the relationship with those agencies and the trust and the confidence. And so what happens is there are walls that go up. And when those walls go up, it's hard for us. Senator Lathrop in the last bill talked about one of our jobs

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is policymaking and appropriations. Well, you can't make policy decisions if you don't have all the data. And you can't really appropriate properly if you don't know how much something costs. So when you're making a bill, you want to know how much that bill is going to cost. And maybe you change the way you write it to change the fiscal note. I can give examples where I've had to do that and examples where, well, there's some funny numbers, not anything our office does but anyway, I (inaudible). But...well, I'll go into it. So I had a bill last year on interdependency in Nebraska Advantage Act. I said agencies, two companies shall be considered interdependent. It had a fiscal note of \$5 million I think approximately, which meant if two companies were owned by the same parent company they were deemed to be interdependent automatically and they said fiscal note. Another bill was introduced that says shall be deemed and the burden is on the department to prove that the companies aren't interdependent. Well, what happens? If it's to my advantage, I'm going to argue as an owner of a business that they're interdependent. And it's up to the department to prove they aren't. If it's not to my advantage, I'm not going to say they're interdependent. So the actual cost is greater because more people would apply or qualify and yet it had a zero fiscal note. These are the kind of things that you learn the longer you're in the Legislature. Now we're very limited to four, maybe eight years if we're fortunate. And so I think it's important that we have good staff and I think it's important that while we are here we have access to good information. That's what the intention of this bill is and that's what I'm looking to do. I don't want this to be perceived as a front on anyone within our branch. So with that, I'd be open to questions. [LB871]

SENATOR WIGHTMAN: Thank you, Senator Harr, Burke Harr I might say, with two r's. Senator Adams. [LB871]

SENATOR ADAMS: Thank you, Senator Wightman. Senator Harr, let me give you a scenario that I'm most familiar with and you tell me if I'm not understanding your bill or your intentions. When I chaired Education and we developed elements of change in TEEOSA, the Chair of the committee always had priority to the state department or to Tom to run an analysis to see where we were at and to save time. My fear here is we could have on any given year 249 school districts playing around with TEEOSA that want to say, hey, let's change that element, run that for me. Let's change that element, run that for me. And frankly, the reality is we don't have the staff at the department nor in your area to do all of that. [LB871]

SENATOR HARR: Yeah. [LB871]

SENATOR ADAMS: It's just not there. And it also creates some policy nightmares. That's a whole other story but. [LB871]

SENATOR HARR: Yeah, you know, and I thought about that and you're exactly right. Number one, if I want access to information as a senator, I have to exercise some

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self-control and I have to use some discretion, with the understanding that if I abuse this process I will lose it. So there has to be some understanding among the senators that, hey, I'm not going to abuse this process, number one. Number two, I would say that you are very fortunate as Chair of Education that the Department of Education is a separate but not under the executive branch so they were very friendly and open to working with you. That's not always the case. And it's not an indictment of this Governor. There are other Governors who have done it in the past, bipartisan, Democrats and Republicans. But we need access to that data. And I understand what you're saying, and it's a valid concern. And I'm open to changing or making amendments to this bill so that does not happen. But what I don't want to do is have a situation where you have to run it through the Chair because I may not agree with what the Chair wants or I may...the Chair may try to stifle information. And so I want every member to have access. And it's a balancing act. But if I had to err, I want to err on the side of too much information, not enough information. And I want to err on the ability of those who are elected by their constituents to have information because they're ultimately responsible to their constituents. The bureaucrats aren't. [LB871]

SENATOR ADAMS: Do you see another problem in that let's assume we did this timing-wise? It would be one thing for a senator to approach the Department of Ed or the Department of Revenue in June or July and say, can you help me out? Give me an estimate on what this is going to take. But the reality is we as senators, let's face it. We do our work in December and January. And we've got these varied departments we're talking about overwhelmed with requests just in the actual bills that have been introduced. So timing becomes an issue here too. [LB871]

SENATOR HARR: Well, and I think it needs an amendment that says a cutoff time, be that November 13, December 13, we all procrastinate until the last day. We know that. That's not exclusive to senators. That's human nature. But maybe what we do is just change this the way senators think, too, and say, hey, I'm going to be more responsive. And maybe we need to say something--the closer you are the timing changes. But what I want is, again, it's allowing senators to write better laws. That's the idea at the end of the day. And it's giving us access to information so we can write better legislation. And again, I'm not saying this is the answer. I'm saying we need to reevaluate, because I know there's a level of frustration out there that we don't have all the information we want or need to be proper policymakers. [LB871]

SENATOR ADAMS: Thank you. [LB871]

SENATOR WIGHTMAN: Thank you, Senator Adams and Senator Harr. Senator Chambers. [LB871]

SENATOR CHAMBERS: Senator Harr, in the recent past, there was an attempt...oh, I'm sorry. Which one were you calling on? [LB871]

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SENATOR WIGHTMAN: You. [LB871]

SENATOR CHAMBERS: Oh, okay. [LB871]

SENATOR MELLO: You're it. I'll be next. [LB871]

SENATOR CHAMBERS: Okay. There was an incident where a certain political party, which name I won't give at this time because that's not really here or there, pressure was put on members of that party who are also members of the Legislature. The mere fact that a senator would be the one fronting for a request does not necessarily mean that the senator is the one seeking the information. Somebody else could use that senator and some senators have shown themselves amenable to that kind of pressure with the amount of time that could be entailed and some of the kind of requests that can be made and the number which may be made. Before I go beyond that, is the bill...does the bill contain language restricting the number of requests that one individual can make during a specific period of time? [LB871]

SENATOR HARR: No, it does not. And that's something that we could amend into it if this bill were to go forward because I think that's a good idea. [LB871]

SENATOR CHAMBERS: So it could be a situation where unintended consequences can result. [LB871]

SENATOR HARR: Yes. [LB871]

SENATOR CHAMBERS: I just want to say that much because I'm not accusing at this time anybody of anything. But I always have to look at what can be done under a bill when it's presented. And I put that in the context of what has been done in maybe analogous situations, if not exactly the same. That's why I asked you that line of questioning. [LB871]

SENATOR HARR: Yeah. You know, as a defender of the downtrodden, you understand that there are people out there that don't want information out because it's not to the advantage of those in power. And so the idea here is to get that information that people don't want to give. That's what I'm looking for or that for whatever reason is not available to us. And so that's what I'm looking for. And you may not be a committee Chair so you don't have that power as a committee Chair. You have a great deal of power that other senators don't because of your longevity here and the respect that you have built. [LB871]

SENATOR CHAMBERS: Who, me? [LB871]

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SENATOR HARR: You. [LB871]

SENATOR CHAMBERS: Hear, hear. [LB871]

SENATOR HARR: And the honesty...yeah, well, and the honesty that you have. But it takes time to build that relationship. Correct? We don't have that time to build relationships or to prove ourselves to be that honest, ethical person because of term limits. And so it's very difficult. You have...next year we're going to have 17, 18, 19 senators, maybe more, coming in who don't have any experience, who have not built up those years of relationship and do not have that reputation that precedes them. And so it becomes even more important that we be able to have access to that data. [LB871]

SENATOR CHAMBERS: Then it might behoove some senators to maintain good contact with me so that if there's something they need and they can't get it...and I have helped people in the past, nothing extensive. But if you as a former member of the county attorney's office will bear with me for a few more seconds, there's sometimes when you weigh the good to be achieved from the possible harm that may result from it because there is no exact and perfect answer to this. So in the weighing, a decision is made. And it may not be made the same way with everybody. I think this is one of those areas where there are competing, legitimate interests. [LB871]

SENATOR HARR: Um-hum. [LB871]

SENATOR CHAMBERS: And at this point, I have more questions than...I have sufficient questions to trouble me with the approach being taken. [LB871]

SENATOR HARR: Yeah. [LB871]

SENATOR WIGHTMAN: Thank you, Senator. [LB871]

SENATOR HARR: And I would agree with that too. I have a lot of questions. [LB871]

SENATOR WIGHTMAN: Thank you, Senator Chambers. Senator Mello. [LB871]

SENATOR MELLO: Thank you, Chairman Wightman. And thank you, Senator Harr. I've got a couple of questions. Senator Chambers asked one of them in regards to the first sentence of the bill, "A member of the Legislature may request draft." You just said that there was no limit in regards to the number of bills that a senator could do in a bill. You have to assume, though, that if a senator drafts a piece of legislation they're going to request one. Is that a safe assumption? I mean if you're going to get a fiscal note in October on a bill that you want to introduce in January and you have it drafted, you would request a fiscal note. [LB871]

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SENATOR HARR: Currently or under this bill? [LB871]

SENATOR MELLO: No, under this bill. I mean your... [LB871]

SENATOR HARR: Oh. Yeah, I would assume so, yeah. [LB871]

SENATOR MELLO: So essentially every piece of legislation someone would draft...you would assume that they would ask for a fiscal note under this bill. [LB871]

SENATOR HARR: Oh, I have no idea on that. I mean I've drafted legislation because I know...either I know it doesn't have a fiscal impact when it's drafted. We have a lot of legislation like that. Or it's policy based and so the fiscal note isn't as important as the policy. Some, you know, I sit on Revenue and some bills we say, hey, we have x amount of money to spend. Let's figure out how to spend that money in a prudent way and not spend more and not spend less. And so that's where it becomes more important. But I would not think every...I mean even bills I have introduced this year, and I've introduced a lot, probably too many. Twelve inch...one, for instance, one bill I have requires cable to be buried 12 inches. I'm not going to get a fiscal note on that. I have another one that changes liability on automobile accidents. I'm not going to get a fiscal note on that. So...and I could go through the list. I'm not going to on a lot of bills. But are bills? Yes, definitely. And is this used as a hunting expedition? Possibly and probably. And that's where we as a body have to either create rules that limit how many we can do as a senator or we have to find a way to self-regulate ourselves. Because if this does get abused, it should be repealed. [LB871]

SENATOR MELLO: If we were to adopt LB871, the Legislature passes it, do you believe that the confidentiality of these essentially preliminary fiscal notes would need to become public? That if you drafted a piece of legislation from the Bill Drafter, according to your bill, and you requested a fiscal note under your bill, wouldn't that have to become a public document as well then? [LB871]

SENATOR HARR: I'm not well versed in our public documents law. I don't know why we would have a problem with it being public record, though, do you? I mean I shouldn't ask questions. [LB871]

SENATOR MELLO: I'm just asking though in the sense that it would become, essentially it would become a public fiscal note on an idea, not a piece of legislation. [LB871]

SENATOR HARR: I don't think it would become the official fiscal note. [LB871]

SENATOR MELLO: But it would become public, though, and be used for attribution in the public realm. [LB871]

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SENATOR HARR: I suppose it could be, yeah, yeah. And that, yeah, that is an issue, yeah. [LB871]

SENATOR MELLO: That confidentiality issue that currently right now a senator can approach the Fiscal Office and it's a confidential nature (inaudible) that individual senator and the Fiscal Office on any given request that would essentially... [LB871]

SENATOR HARR: I don't think you'd be prohibited from doing what you currently do now. This would just be another avenue. It wouldn't prohibit you. If you wanted that same confidentiality and to go to the office, I don't see anything in this legislation that would prohibit that. So you would have to understand when you're going to file this that, hey, some of this is going to get public. And it may or may not. I think it would largely be determinant upon what that senator wants or doesn't want out. [LB871]

SENATOR MELLO: If they made this request, it would become public though. This specific process you lay out in statute would become public. [LB871]

SENATOR HARR: Okay. Fair. But, yeah, there are other processes that we currently use, yeah. [LB871]

SENATOR MELLO: Yeah, that you can currently do. [LB871]

SENATOR HARR: Yeah. [LB871]

SENATOR MELLO: The bill says to prepare an agency it requires the Legislative Fiscal Analyst to prepare an agency fiscal note within five business days. Do you know is that faster...is that a faster time frame than what we currently do in regards to asking the Fiscal Office through our rules to produce fiscal notes for us during session? [LB871]

SENATOR HARR: I think it probably...in my conversation, it varies from bill to bill. Some are done almost immediately and some are not. And I think...and it has to do with the complexity of the bill. And, you know, these...well, we can talk about that, yeah. If five is too short, we can amend the days. But again, what we want, the overall aim in here is to get us the information so we can make good policy. [LB871]

SENATOR MELLO: That leads me maybe to my one kind of...one other kind of just definitional question I have is it says within ten business days, you mention it in your testimony. Walk me through a scenario here. If I was to request a fiscal note on a bill that was drafted by the Bill Drafting Office, I put this request under LB871 to the Fiscal Office. They give me a fiscal note back. I look at it, don't like it, and I want to change three words. They would have another ten days then, correct, under your bill, business days, to issue another fiscal note for that new bill request that you made on that same

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concept and same idea? [LB871]

SENATOR HARR: I think I'm following. I think that's probably right, yeah. But again, the hard work has already been done. And probably that change is made from a discussion with the Fiscal Office. So, for instance, again a bill I have today the office was awesome. They helped me and I had an amendment done on it. Now that one I was able to determine what the cost was, and it wouldn't have required a new fiscal note to be done because I could look at it and say, oh, well, if I do this it takes away this cost. Boom, it's done. So again, maybe, maybe not. [LB871]

SENATOR MELLO: Okay. I appreciate your comments in regards to I think the good work our Legislative Fiscal Office does. It just...looking at the bill though, the bill is directing the Fiscal Analyst to do all the work, not the state agency. So I understand and appreciate your focus. I understand and appreciate your focus, which is targeted towards executive branch agencies, and I applaud that focus. But reading through LB871, the Legislative Fiscal Analyst is listed ten separate times of doing something where DAS Budget Office and/or state agency is listed once. And so I just...I appreciate the kind word you said, but reading the bill I think your bill as drafted directs more of the effort to the Fiscal Office to do the work instead of getting information from state agencies. And as you and I have spoken before, regardless of a member's committee chairmanship or lack thereof, each individual member has that constitutional ability to send information requests to state agencies either under their own office or through our Legislative Research Office or to make the request to the Fiscal Office if asked. And so I just...I appreciate I think the focus of what you're trying to do because I've had those concerns with state agencies over the five years I've been in the Legislature of them not giving me information. But through that five-year period and much to the chagrin of our former Speaker who made it a habit to remind everyone how many letters I'd send to state agencies seeking information, that was a process that is available to all senators in the method of trying to get information. So I appreciate what you're trying to do. I probably obviously disagree with some of the intricacies of how this works out. But trying to get particularly from the Department of Revenue, I've had experiences like you're mentioning. And there is I think some ways that we can look at of trying to get information regarding tax-related information in a different way that hopefully would suffice what I think your main concern is. [LB871]

SENATOR HARR: Thank you. If I have a chance to respond, I would, first of all, argue that the number of times a person is mentioned does not directly correlate with the amount of work requested always. Sometimes it does; sometimes it doesn't. And the reason I have included the Fiscal Analyst and the Fiscal Office in here so often is because I love them and I want their analysis because data without analysis is worthless. And we don't always have the ability to analyze the data, and so we need to filter it through them. And so that's why they're in here so often. Now you talk about the letters you wrote to the Speaker and you cc'ed the Speaker. And I think you cc'ed the

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Speaker not so much out of courtesy as also to let that agency know that, hey, the Speaker is aware I'm asking these too. So in essence, you're using the color of the Speaker to help get your response, which shows that we senators standing alone don't always carry the clout of those who go above us, whether they be committee Chair of Appropriations, the Speaker, HHS, whatever committee we're working with. And so there is a method to your madness of what you did. And so all I'm trying to do is to lighten the burden a little bit on. And so it's a different way of doing it. I'm not saying it's right. I'm not saying it's wrong. And, you know, again maybe if I'm a state senator if there's statute, I can read the statute and say, okay, this is the way to go about doing it whereas writing a letter is ad hoc. And so each senator has to go through and learn on their own. And again, with term limits, it's...some are better at it than others. Some have more time to devote to this than others so that's all this is trying to do. [LB871]

SENATOR MELLO: One last question, it's just more of...and Senator Chambers kind of alluded to a little bit is you're taking a process in LB871 that's in our rules exclusively. We don't have a statutorily required process of doing fiscal notes, of getting information from state agencies that draft those fiscal notes in part because the only thing that matters to the Legislature is what our Legislative Fiscal Office states, not what any state agency says. I mean Department of Revenue could say a tax bill of yours costs \$100 million where the Fiscal Office could come out and say it costs \$1. What we do is take the advice and the strategic guidance and analysis from our Fiscal Office. That's a pretty big policy change of taking something out of the rules governing our internal operations as a Legislature and putting it in state statute. Would you kind of agree that it's kind of a pretty big leap in regards to...? [LB871]

SENATOR HARR: Well, I don't know if I'd agree that it's a big leap. What I would do is explain why I do that though. [LB871]

SENATOR MELLO: Okay. [LB871]

SENATOR HARR: If we put...again, we're separation of powers, if we put something in our Rule Book, the executive branch doesn't fall under the jurisdiction of our rules. So the idea is we put a statute so it falls under the jurisdiction of the executive branch. If we put a change to rule, because that's what we looked at originally, that's all good and well, but they can look at you and go, I don't care what you put in your rules. It doesn't affect us. So if you put it in statute, it affects them. That's the reasoning behind putting it in statute. [LB871]

SENATOR MELLO: I only have one last question and maybe just more of the issue at hand that you have is with state agencies. Under your bill, couldn't a state agency simply give the Fiscal Office an indeterminate dollar amount on any particular idea and say, Senator Mello, your idea to cut x, y, and z taxes we're unable at this time to come up with a determination of what it would cost? [LB871]

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SENATOR HARR: Sure. [LB871]

SENATOR MELLO: The agency would be fulfilling the request under LB871 giving an indeterminate cost to the Legislative Fiscal Office and the Fiscal Office then has no information from the Department of Revenue which they then in turn would give you... [LB871]

SENATOR HARR: Indeterminate probably. [LB871]

SENATOR MELLO: Or give whoever, me, whoever introduces a bill an indeterminate cost. Wouldn't that, the way this is kind of laid out, couldn't that occur on every bill that an agency could just say we're not going to do this; thus we will do this and...? [LB871]

SENATOR HARR: I'll take it one step further. They could just not respond. There is no enforcement mechanism in this bill and that is intentional because we don't necessarily want an enforcement mechanism. We hope that this is enough that there is a law that they will follow through with it. Now if they choose not to enforce it, we do have an enforcement mechanism, which is to come before you and to ask for a subpoena. Now that's an extreme step and we don't want to have to do that. But what this is doing is providing, again, we're the policymakers and it's providing policy for a way for the executive branch and the legislative branch to interact with each other. [LB871]

SENATOR MELLO: I appreciate it. Thank you, Senator Harr. [LB871]

SENATOR WIGHTMAN: Thank you, Senator Mello. Senator Campbell had her hand up and you have no further questions. [LB871]

SENATOR CAMPBELL: In the interest of time, I'll withdraw them. [LB871]

SENATOR WIGHTMAN: They've probably been answered. Thank you. Senator Avery. [LB871]

SENATOR AVERY: I guess there's pressure on me in the interest of time not to ask my question. [LB871]

SENATOR HARR: Yes. [LB871]

SENATOR AVERY: This won't take long. But what would be your reaction to giving every senator five requests and a deadline, say, November 15 you have to get your requests in by then or you don't get any requests at all? You only get five. [LB871]

SENATOR HARR: I would think that would be a great idea. The only exception I would

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make is for newly elected individuals because they may not know by November 15 whether they're elected or not. So I would say probably for newly elected maybe ten days after their election has been certified would be the only exception I would make. But other than that, I think it's a great idea. [LB871]

SENATOR AVERY: Thank you. [LB871]

SENATOR WIGHTMAN: Thank you, Senator Avery. Any other questions? Thank you, Senator Harr. [LB871]

SENATOR HARR: Thank you. [LB871]

SENATOR WIGHTMAN: (Exhibits 4, 5) Anyone else wishing to speak in favor of LB871? Anyone here wishing to speak in opposition to LB871? Oh, while we're at it we have two letters that I want to get into the record: one from Nebraska Appleseed in support of LB871 which we'll make a part of the record, and one from Voices...Aubrey Mancuso, Voices for Children, supporting LB871. We'll make both of those a part of the record. No one in opposition. Anyone in a neutral capacity? And I'll say at this point that I've asked Mike Calvert, the Legislative Fiscal Agent, to appear here. He's not asking to do this, but I requested that he do this. So, Mr. Calvert, can you tell us what you would see the problems with the short time frame that you would have and whatever else that you think? [LB871]

MICHAEL CALVERT: Well, there are a couple...I don't know if any of you are familiar with how the Federal Reserve operates, but they periodically will issue reports and they'll say that they have a neutral view of the economy but they'll have a negative or a positive bias. Well, on this particular case I have a bit of a negative bias so I hope you'll understand. Order of magnitude, first of all, we checked with Bill Drafting and typically Joanne tells me that in any legislative session you can expect about 50 percent more bill draft requests than there are actually bills introduced. So the first initial universe you're dealing with in a, I'd say like a typical long session where there might be over 800 bills introduced you'll be talking about in excess of 1,200 requests. So potentially that's my universe. And from one perspective probably is a good rationale for my fiscal note to look like there will be some substantial cost because that is a big workload. And also from an agency's perspective, it's going to be a workload, particularly in certain agencies. So that's one of the elements, but that's not the only one. So the potential in terms of number of bills is pretty substantial. And when you stop to consider the earlier example, and I don't remember who brought it up, but where there was a request, an evaluation was done within the time frame and there was a decision by the requester, well, we need to change three or four words, we'll submit a new request. So there is an iterative process potentially here where maybe the results on the first request are not favorable and we need to make some changes. I look at that as a new request. So that universe might be something more than 1,200 or so. Okay? That's not the only thing

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that's going to dictate the difficulty. It's going to be not only the volume but the timing and the complexity of the requests that are received by our office for this kind of an analysis. Timing is really important. The later you go into the year, the less time you have, the more compressed it's going to be in terms of being up against a session, less opportunity for that iterative process. So frankly, I kind of look at this in terms of that universe and the timing and so on. What's the incentive not to make a request? So the potential I think is for most of these bills, and I agree there are going to be some obviously on their face are not going to have a cost consequence, but anything that is even remotely close, what's your incentive not to make a request? You have every incentive to make a request. We're in effect vetting the bill for you and the agencies are vetting the bill for you and DAS Budget are vetting the bill for you. So I would expect absent any limits that you would have a substantial number of requests potentially just out of, I mean, pure common sense. Complexity, you always run into problems the earlier the better with very complex legislation, and that's fairly typical with tax bills. I sympathize with Senator Harr with his difficulty with tax legislation. Those sorts of things need to be worked out pretty early. And we have always had in my office an open-door policy with respect to accessing either myself, the deputy director, or the analysts. If you're contemplating some possible legislation, sit down and talk to the analyst. Frankly, a lot of legislation has a long history. It's been introduced before in some form or something very similar. We're also very good at accessing data and being able to give you some indication. Now it is a more informal process, but I think that's fairly desirable in that we're not put in a position of, in my estimation, this legislation putting us in a position of being some kind of a lever against an agency. And I will tell you this right now. We have a very delicate and difficult relationships with agencies but they're good. And that has evolved over a period of many, many years. And I see this as a bit of a threat to that kind of relationship whereby we've got basically a ten-day window and it's statutory and it seems to imply that there is a much greater obligation here for everybody to perform. And if you fall short, I can see being used as a lever against an agency. And I have some problems with that in relation to us performing our other duties with respect to budget process, working with legislators and agencies in terms of developing legislation. I mean we do get into that process. So I have some concerns. I appreciate Senator Harr's observation that he loves the Fiscal Office. That's great. I...and I've worked with him a couple of times and learned a great deal in that whole process. But analysis takes time. Just because, I mean he used the phrase that our analytical capabilities are valued. I appreciate that. But it takes time and the timing of all of this potentially is very, very difficult because I do agree with the earlier comment--it has a tendency to kind of build up and all arrive sometime in November and December. And that's really going to be true in those years where you have elections and you have a group of new senators coming in, and they won't be hitting the front door until sometime in mid November. And they will have access to this process and they will use it. That would be in November and December so there will be a lot happening during that time period. I know you've got a very short time period, and I'm sorry if I've taken so much time. There are other things I could bring up; and if you are interested, I would

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encourage you to contact me. [LB871]

SENATOR WIGHTMAN: Thank you. [LB871]

MICHAEL CALVERT: But I have some real misgivings about what's proposed. [LB871]

SENATOR WIGHTMAN: Thank you, Mr. Calvert, for being here. Does anyone else have any questions that they would like to ask Mr. Calvert? I guess one thing. Would there be a likelihood it would increase the number of staff that would be required in your office or not? [LB871]

MICHAEL CALVERT: Well, it depends again on the volume and the complexity and the timing, but I mean there is that potential. The first question that I would have then is where do I put them in terms of our space assignment? I don't have a place for them. Also it's problematic in that I could see the workload escalating rather dramatically but then potentially diminishing. And this is not going to be a part-time job. You almost have to have somebody on a full-time basis that has the knowledge and experience and the skill set. [LB871]

SENATOR WIGHTMAN: Thank you. Any other questions? Thank you for being here. [LB871]

MICHAEL CALVERT: Thank you for the opportunity. [LB871]

SENATOR WIGHTMAN: Closing? [LB871]

SENATOR HARR: Yes, just quickly in the interest of time. The first thing I would say is thank you very much for your time. That was neutral-negative in case you didn't catch it. (Laughter) The time frames are flexible. We can adjust those. What's important here, folks, is that we get the legislation done and we get it done right. There is a cost to doing this. There's no ifs, ands, or buts about it. But what we do is costly if we screw up as well. I would hate to screw up a piece of legislation, go back to my constituents and they say, well, why did you screw it up? And for me to say, Fiscal Analyst didn't have enough physical space in their office. We have to do what we have to do. And what we need to do is look at what is our end goal? Good legislation and making sure we get our constituents the information they want and/or need. That is why we're here and to make good policy. And so instead of looking, I sometimes think we...I know I do, well, that's not how we've done it in the past. What we always need to be doing is challenging ourselves and saying, how can we do this better? How can we get this information across? How can we find out more? And it's through that that we get good legislation. You know, this would become a process of vetting bills. And maybe through vetting bills we find out our bill is awful like I have today. But what it does do is it gives you an ability to vet it ahead of time so we don't waste your lunch hour, so we don't waste committee

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time. And we do it in a timely manner over the year instead of squashing everything in a short time. So one last final thing is, you know, Mike's great. Again, he has a relationship with the Governor's staff and with staff agencies. I don't and I don't have that time, so that's what we're looking to do is to require that...to force that relationship in essence. So thank you very much. I appreciate it. [LB871]

SENATOR WIGHTMAN: Thank you, Senator Harr. We'll move on, next one is LB917 introduced by Senator McCoy. Senator McCoy. [LB871]

SENATOR McCOY: (Exhibit 6) Thank you, Chairman Wightman and members. I'm here...first for the record, my name is Beau McCoy, B-e-a-u M-c-C-o-y. I'm here to introduce LB917 which would transfer ownership of a portion of state land not needed by the Norfolk Regional Center to Northeast Community College. The maps that are being handed out now hopefully will make a little bit of sense from a bird's eye view that the Northeast Community College land is outlined in red and the state-owned property is yellow with diagonal lines. As all of us know, the Norfolk Regional Center has a long history going back to being opened in 1888 as a state hospital for the insane and is now being used for the 120-bed sex offender treatment center, which is how this legislation came about. After the session concluded last year, I had the opportunity to take a tour of the sex offender program in Norfolk, and I happened to ask while I was there, you know, what are the other buildings on the property being used for, and obviously have fallen into great disrepair many of them, and are old buildings going back to some of them to 1918 and the most recent ones being in the mid-'50s. What this legislation would seek to do would be to transfer this ownership to Northeast Community College and allow them to demolish those buildings, which, as we started to ask questions and found out from Department of Administrative Services and the State Building Division, that the cost to demolish the nine buildings that are still there is very large. With the asbestos that's in some of those buildings, the tunnels underground, it's a large project; and it is one that is at no small cost to our state government. So hopefully...I would view this legislation as mutually beneficial in that we could transfer the ownership, allow Northeast Community College to continue to grow, continue the good work that they do for students across our state and to give them the opportunity to have property that connects to land that they already own. And in turn, these buildings can be demolished and hopefully this land utilized for other purposes. The cost, as you see on the fiscal note, would be to survey the property so they make sure that Health and Human Services has the land that they still need to continue the program that's in place, the sex offender program. And there are a few things that we would have to work out in process, most notably there are two cemeteries on the property that we want to protect and respect for those that have been buried there in the past. And with that in the interest of time, I would end my part of it, Mr. Chairman, and take any questions if there are any. [LB917]

SENATOR WIGHTMAN: Thank you, Senator McCoy. Can you tell us right offhand how

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many acres or the size of the tract that... [LB917]

SENATOR McCOY: It would depend on how much was determined would still need to be maintained for the sex offender program. But, Senator Wightman, it would be somewhere in the neighborhood of 70 acres, give or take just a little bit. [LB917]

SENATOR WIGHTMAN: Is that the total or the amount that they would... [LB917]

SENATOR McCOY: It's my understanding that's the total or what's anticipated would be able to be transferred. There's a maintenance building with the steam heat that's part of the existing program that's there. In addition, you kind of see on that picture there's a very corner, northwest corner of the property, there are two buildings there that were purchased I believe privately back in 1990 that are currently used for apartments I believe. And those were...ownership was transferred and, of course, this doesn't necessarily involve that, of course. But it would be approximately 70 acres. [LB917]

SENATOR WIGHTMAN: Thank you, Senator. Senator Christensen. [LB917]

SENATOR CHRISTENSEN: Thank you, Chairman. Do you have any idea what the demolition costs would be on what's there and what would have to go down? [LB917]

SENATOR McCOY: As I mentioned, we asked that question and, of course, we don't know for sure because it depends on whether you're going to do it in today's dollars right now or whether it's spaced out over time. But if it were to be done all in one project today, been told it would be somewhere around a million dollars. [LB917]

SENATOR LATHROP: Did you say one million? [LB917]

SENATOR McCOY: Yes. [LB917]

SENATOR LATHROP: That sounds low. [LB917]

SENATOR McCOY: And it may be low, Senator. It's...there's...it's difficult to determine because at this point it's not known to the extent that the asbestos is in each one of those buildings because I asked that same question. Being in the construction industry, it seemed a little bit low to me as well. But from what we understand, that could vary that cost depending on the level of asbestos abatement that might have to be done in some of those individual nine buildings. [LB917]

SENATOR WIGHTMAN: Senator Chambers. [LB917]

SENATOR CHAMBERS: Senator McCoy, in the first line of your bill it mentions "Notwithstanding sections 72-811 to 72-818." In general, what do those sections deal

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with, if you know? [LB917]

SENATOR McCOY: Well, that would be, Senator, the vacant building and access...the statute that deals with the Vacant Building and Excess Land Committee... [LB917]

SENATOR CHAMBERS: Okay. [LB917]

SENATOR McCOY: ...and the process whereby we would go through that. [LB917]

SENATOR CHAMBERS: And I'm trying to hurry up and get my questions because I got to go where Senator Avery is going. In the last sentence, I know what you mean, but it says that donation shall be approved by the Governor. I think a better phraseology would be approval of the Governor shall be required and not make it appear that the Governor is being mandated to give approval once this is done. And I don't think your...the way it's drafted and I know you didn't...I meant I assume you didn't draft it. [LB917]

SENATOR McCOY: That would be the way Bill Drafters put it together. [LB917]

SENATOR CHAMBERS: Right, but I meant whoever selected this language I think it should indicate, and like I say, instead of saying, "The donation shall be approved by the Governor." That would indicate that after this work is done the Governor is mandated to approve it. I think what they mean to say is that approval of the Governor shall also be required, meaning that the Legislature and the Governor would have to agree. [LB917]

SENATOR McCOY: That would be correct, Senator. In practice, that will be, as I understand it, that's the process that we would need to follow to follow statute as what you just indicated. [LB917]

SENATOR CHAMBERS: Right, and I just wanted the language to coincide. [LB917]

SENATOR McCOY: Yes. [LB917]

SENATOR CHAMBERS: I have to go because my bills are going to be up in the committee where Senator Avery is going. [LB917]

SENATOR WIGHTMAN: Thank you, Senator Chambers. Anybody else have any questions? Thank you. I would ask that Senator Scheer, since he is a cointroducer of the bill, if he wanted to make any comments or...I would assume it would be in the positive. [LB917]

SENATOR SCHEER: I will make a very quick. I appreciate the time of those that are

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left, the three of us. I think the estimates of Senator McCoy are vastly underestimated. I don't believe you're going to get a third of that done for a million dollars. But I would agree with the assessment that it's sort of a win-win deal. It rids the state of a potential liability and exposure. It provides additional growth opportunities for the college that is adjacent. It would seem sort of a shame as you look at that picture. The college actually surrounds that property, and it would not make sense to have something else by or end up getting that property literally in the middle of a college campus. So with that, I would just end. Thank you very much. [LB917]

SENATOR WIGHTMAN: Thank you, Senator Scheer. Okay. Anyone else? And I know we have some that are. [LB917]

MIKE CHIPPS: Do you want me just to make a quick comment, Senator Wightman? [LB917]

SENATOR WIGHTMAN: Yes, that would be fine. [LB917]

MIKE CHIPPS: Okay. Mike Chipps. [LB917]

SENATOR WIGHTMAN: We're obviously losing a lot of our people. [LB917]

MIKE CHIPPS: I know we are and this will only take three minutes or less. But basically what we're handing out to you is similar to what Senator McCoy gave to you. [LB917]

SENATOR WIGHTMAN: Could you give your name for the... [LB917]

MIKE CHIPPS: Mike Chipps, M-i-k-e C-h-i-p-p-s. I'm the president of Northeast Community College. [LB917]

SENATOR WIGHTMAN: Thank you. [LB917]

MIKE CHIPPS: (Exhibits 7 and 8) Thank you, Senator. Basically all I would do is echo what's been said by Senator McCoy and Senator Scheer is that it seems to be a win-win. What I did is we put together some bullet points. We also put together some photographs. Some of you haven't been on the campus lately. It sits right in the middle of our 800 acres of which we had...the board, back about 30 years ago or so, purchased that land from the state; and we're asking this piece to be donated. So I want to make sure that you understand that difference. Being a fellow Nebraskan for all of my life, I just think that this is a good thing for fellow Nebraskans to do for each other. It does come with some mixed blessings, sir, because it has to do with the issue of taking those buildings on which Senator McCoy has that rough fiscal note of a million dollars, which we still need to do that because it's in the middle of our beautiful campus and it's really in a dilapidated condition, as you would know. It hasn't been really well maintained for

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many, many years. So we need to do this for the betterment of the college, for the state, and for our citizens. Thank you. [LB917]

SENATOR WIGHTMAN: Thank you. Does anybody else wish to speak in favor of LB917? Anybody wanting to speak in opposition to LB917? Anyone wanting to speak in a neutral capacity on LB917? Seeing none, and Senator McCoy has waived closing. So with that and the few numbers we have here, I think we'll be adjourned for the day. [LB917]