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Health and Human Services Committee
January 23, 2013

[LB7 LB13 LB139]

The Committee on Health and Human Services met at 1:30 p.m. on Wednesday, January 23, 2013, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB7, LB13, and LB139. Senators present: Kathy Campbell, Chairperson; Bob Krist, Vice Chairperson; Tanya Cook; Sue Crawford; Mike Gloor; Sara Howard; and Dan Watermeier. Senators absent: None.

SENATOR CAMPBELL: Good afternoon and welcome to the hearings of the Health and Human Services Committee. We want to welcome you and certainly encourage your participation in our hearings. Before we start on the hearings, I want to go through some preliminary procedures so that you're comfortable in knowing what they are for this committee. We would refer you to the agenda outside if you didn't have a chance to take a look at it. We will follow that agenda in order. The introducer of the bill will open and then we will follow by the proponents, opponents, and those in a neutral position. And then the sponsor of the bill can provide closing statements, appear if she wishes. I would like to remind you all that you probably are carrying a cell phone. Double-check that it is turned off or on silent so that we will not be distracting anybody. How many people in the hearing room today wish to testify? Okay, almost everybody here. Sort of had to have a ticket, huh? (Laughter) Senator Krist said, okay, nobody in unless they're going to say something. Okay. We would remind you that if you are going to testify today that you complete the forms, the orange forms that some people are already...please print legibly and when you come forward to testify, you can hand your orange sheet to the clerk, Diane Johnson, over there. And as you start your testimony before us, please state your name for the record and spell it. The written sheet is to help the clerk here. The spelling of your name is to help the transcribers as they listen to the recording so that they make sure that they have your name correct. We do use the light system, and so you will start out with five minutes and it will be on green. And when it goes to yellow, you have a minute, and when it goes to red you can look up and I'll be like trying to get your attention to say, okay, finish the thought. This is to ensure everybody has an equitable number. If you have handouts, we would like those brought with you to the clerk when you bring up your orange sheet. And I think that may be all the little housekeeping procedures. We'd like to introduce the senators for you. I'm Kathy Campbell. I serve District 25, which is east Lincoln and eastern Lancaster County. And with that, we'll also have to my right.

SENATOR HOWARD: I'm Senator Howard and I represent District 9. It's in midtown Omaha.

SENATOR CAMPBELL: Okay.

MICHELLE CHAFFEE: I'm Michelle Chaffee. I serve as legal counsel to the committee.

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SENATOR GLOOR: Mike Gloor, District 35, Grand Island.

SENATOR CRAWFORD: Sue Crawford, District 45, and that's Bellevue, Offutt, and eastern Sarpy County.

DIANE JOHNSON: And I'm Diane Johnson, committee clerk.

SENATOR CAMPBELL: And Deven and Kaitlyn are our two pages. So if you need some assistance with anything, the pages will be glad to help you. Senator Watermeier and Senator Cook will be joining us. They both have bills up and are introducing them in other committees. So with that, we will start on today's agenda and open the public hearing for LB7, which is Senator Krist's bill to change and eliminate provisions relating to signatures and seals under the Engineers and Architects Regulation Act. Senator Krist, welcome.

SENATOR KRIST: Good afternoon, Senator Campbell and members of the Health and Human Services Committee. For the record, my name is Bob Krist, B-o-b K-r-i-s-t. I represent the 10th Legislative District in northwest Omaha along with the north central portion of Douglas County which includes the city of Bennington. I appear before you today in introduction and support of LB7. We live in an increasingly electronic world. The Internet and e-mail play a progressively important role on how business is conducted. Sending and receiving documents and technical papers via electrical means are now commonplace. Often rules and regulations regarding how businesses conduct their business, while providing their clients with the highest and best products without jeopardizing public safety and welfare, do not keep up with technology...should keep up with technology. This exact situation has created questions regarding the use of the engineers and the architects seal in documents and in electronic format. LB7 would provide the State of Nebraska Board of Engineers and Architects with the ability to regulate the rules and regulations and to adapt the changing technology of today's business world. Currently the State of Nebraska Board of Engineers and Architects' position is that any form of an electronic document is considered an electronic signature. This means that if an engineer or architect stamped, signed, and dated a document, then scanned it for transmit, they would be in violation of the act unless the document could be protected by an electronic revision approval system. The bottom line is that the political subdivisions are asking these folks to submit plans, and they're asking them to do that electronically; and the current statute requires them to do it on paper, hard copy, and signed and sealed. So, essentially, every time they submit something, for example of the city of Omaha, they're in violation in the statute and they're in a quandary, which we're going to try to fix. As you will hear the testimony, public agencies, including cities/counties, are requiring electronic submissions. Many of those public agencies are no longer accepting paper-planned sets. In addition, the electronic provision approval systems are cumbersome and very expensive. Even the biggest firms in the state do not utilize such a system, noting its expense. LB7

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eliminates the need for such a system. Engineers and architects find themselves caught between a rock and a hard spot. We just discussed that. The proposed changes in LB7 are purposely broad to accommodate future technology advances. We cannot forecast today without a need to rewrite the statute. This will allow for future adjustments to be made by the state Board of Engineers and Architects through the rules and regulations we allow them to promulgate the rules and regs in the future. Testifiers who will follow me will provide specific examples of situations they find themselves working in. You will also hear the representatives of the state Board of Engineers and Architects regarding their support for the proposed changes. In closing, I want to thank you for scheduling an early committee hearing on this bill; and I'd be happy to answer any questions if you had some, and I would like to reserve the right to close, Madam Chair. [LB7]

SENATOR CAMPBELL: Absolutely. Any questions for Senator Krist? If not, thank you, Senator, for opening; and we will begin our testimony with those who support LB7. Good afternoon. [LB7]

JON WILBECK: (Exhibit 1) Good afternoon, Senator Campbell and members of the committee. My name is Jon Wilbeck, J-o-n W-i-l-b-e-c-k. I am the executive director of the Nebraska Board of Engineers and Architects, and I am testifying in support of LB7. In accordance with the Engineers and Architects Regulation Act, each licensed architect and professional engineer must obtain a seal. This seal is placed on drawings, reports, specifications, other technical documents which, under the act, constitute the practices of engineering or architecture. That work, therefore, must then be performed by an architect or professional engineer. The seal contains the name of the design professional that either personally performed the work or who was in responsible control of the work, their board-issued license number, and other information. The seal may be a rubber stamp or generated electronically by computer drafting programs such as AutoCAD, Revit, or another electronic means. The licensee's signature must also appear across the seal for it to be valid, and the signature can be produced either by hand or electronically. When Section 81-3437 was first enacted in 1997, it was anticipated that the electronic use of a licensee's seal would become more prevalent than a physical stamp. And that has certainly been the case, but the electronic revision approval system also anticipated and referenced in the current law has not. To illustrate, under the current law a licensee who uses an electronic signature with an electronic seal must protect that signature with an electronic revision approval system. And such a system removes or otherwise invalidates a licensee's seal if any changes to that electronic document are made. As you will hear from professional architectural and engineering societies, these electronic revision approval systems are--as Senator Krist said--cumbersome and expensive. These systems adversely impact the conduct of their business. The focus of LB7 is to modify Section 81-3437. It will eliminate provisions in (3)(b) regarding the revision approval system for electronic signatures and seals. The modification is driven by today's electronic business environment. The changes will, in essence, vastly simplify the provisions related to the use of electronic architectural and

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engineering seals. In addition, the current law is contradictory and subject to interpretation. For example, the act says that the seal must be placed on documents whenever presented to the design professional's client or a governmental agency. But the act also says that documents transmitted electronically to a client or governmental agency without the revision approval system should have the seal removed from the file. That ambiguity in the current law creates confusion. If the provisions contained in LB7 are enacted, the Engineers and Architects Regulation Act will continue to allow a design professional's seal to be produced either by a rubber stamp or electronically. However, it will also allow the board to react efficiently through rules and regulations to emerging technologies and industry practices related to the use of a licensee's seal. The board anticipates meeting with these same professional societies this year to develop rules that not only conform to current technology in industry, but also continue to protect the health, safety, and welfare of the public. These same societies were instrumental in developing LB7's language. The rest of the proposed changes are editorial and a reorganization of existing language for clarity. And that concludes my testimony. I'd be happy to answer any questions that you have. [LB7]

SENATOR CAMPBELL: Are there any questions for Mr. Wilbeck? Senator Gloor. [LB7]

SENATOR GLOOR: Thank you, Senator Campbell, and thank you, Mr. Wilbeck, for taking the time to come in. Just one question and a clarification for me. Part of my reading on this says the requirement that the seal be affixed only under the direct supervision, and that direct supervision must be by an architect or an engineer... [LB7]

JON WILBECK: Professional engineer. [LB7]

SENATOR GLOOR: ...professional...may be exempted if permitted by the Engineers and Architects Regulation Act. So I'm guessing that the act currently allows that, and this language then would mean if that should change for sometime in the future, this would allow it to change as is spelled out. In other words, is it currently allowed? [LB7]

JON WILBECK: Currently allowed to seal a document under someone's responsible control? [LB7]

SENATOR GLOOR: Under direct supervision, yeah. [LB7]

JON WILBECK: Yes, yes, that is occurring right now. [LB7]

SENATOR GLOOR: Okay. [LB7]

SENATOR CAMPBELL: Any other questions? Senator Crawford. [LB7]

SENATOR CRAWFORD: Thank you, Senator Campbell. What are the protections as

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this is...as the law changes with this bill in terms of protection to that changes being made and draft or materials have a seal? [LB7]

JON WILBECK: Well, I think the board considers the licensed professionals themselves probably the best judge of how to best protect their own seal. So whether it's driven by the board is kind of what the board is trying to get away from. They, I think in these cases, they trust the licensees to be able to exercise responsible control of their seal as it's distributed to governmental agencies planned houses (inaudible). And I haven't heard of any real problems with licensees doing that, having more control over their seal. [LB7]

SENATOR CAMPBELL: Any follow-up questions? Thank you, Mr. Wilbeck, for your testimony today. [LB7]

JON WILBECK: You're welcome. Thank you. [LB7]

SENATOR CAMPBELL: Our next proponent for the bill. While the gentleman is coming forward, we want to welcome Senator Watermeier. Senator, would you like to say what district you represent and where? [LB7]

SENATOR WATERMEIER: Dan Watermeier from District 1, the southeast corner of the state. [LB7]

SENATOR CAMPBELL: Thank you very much. Good afternoon. [LB7]

TERRY ATKINS: Good afternoon, Senator Campbell and members of the committee. My name is Terry Atkins, T-e-r-r-y A-t-k-i-n-s, and I reside at 4222 Terrace Drive in Omaha, Nebraska, and I am a professional engineer. In addition to being here on behalf of myself, I am also here on behalf of the American Council of Engineering Companies, (ACEC). ACEC provides support to our members on issues that impact their businesses, and I'm here today just to testify in support of LB7. In recent years, as technology has changed, we are more and more being asked to operate in an electronic world. We're being asked to e-mail drawings and documents, post items to FTP sites, and just generally transmit our work in an electronic form. We want to conduct our business in a manner that does not violate the law, but still meets the requirements of our clients and keeps up with technology. It is important that we remain competitive in the marketplace. Our members have increasingly been asked to submit their work electronically. This is true for both government approvals as well as clients that want to go paperless. The law, as currently written, does not allow us to comply with these requests. This leads to difficult situations. For instance, if the community requires an electronic submittal, and the engineer wants to comply with the law, they may be delayed in getting a permit or have to do additional work that may be unnecessary or uncompensated. We believe LB7 resolves this problem. The law as currently adopted

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precludes us from transmitting a drawing containing a seal, signature, and a date. This means we cannot even scan a paper drawing and transmit it without violating the law. Many times we are working with clients that are not local, or we may be submitting plans to an agency that is not local. This means we have to produce paper drawings and ship them to the agency or the client. Some clients currently go so far as to write into their contracts that all drawings will be provided electronically. This creates a conflict with us and the law, and it puts us in a tough spot. Some firms are providing the documents as to not lose clients; but again, they are in violation of the law when they do this so it puts them in a difficult spot. The current law allows for encryption software to prevent tampering with someone's drawing. This software is very expensive and still does not prevent fraud. In today's world, I can obtain an engineer's name, registration number from the state's Web site, place it on a drawing, find another drawing or an example of that person's signature, scan it, lift it, place it over the signature and produce a paper drawing without anybody knowing except for the person whose signature I replicated. We do not believe that...so we do not believe that the current law even prevents malicious intent and/or fraudulently produce--the production of drawings. The one thing that is out there that can help with this currently is, when we submit stamped drawings, communities review those drawings; and although we'd like to think that everything we produce is perfect, many times the communities have questions on our drawings. And although not a perfect solution, it does lead to a back-and-forth where a community may call or ask for a revision, or ask for information, and the engineer at that point would say, wait a minute, that's not my drawing. In addition to that, most firms have internal controls in terms of how drawings are produced, stamps are produced. We need to control from the liability perspective and a public safety perspective how our signatures are being used. LB7 offers the changes to the law that are necessary to allow us to compete in an ever-changing market. It will also allow the Board of Engineers and Architects to adopt rules as necessary to protect public health and safety. Thank you for the opportunity to speak, and I would be happy to answer any questions. [LB7]

SENATOR CAMPBELL: Questions from the senators? I think you covered some of the questions that had been asked and provided additional clarity, so thank you very much. Our next proponent. Good afternoon. [LB7]

JOE KOHOUT: Good afternoon, Chairwoman Campbell and members of the Health and Human Services Committee. My name is Joe Kohout, K-o-h-o-u-t, appearing today as registered lobbyist on behalf of the Professional Engineers Coalition in support of LB7. Mr. Atkins did a wonderful job of laying out for you exactly the concerns. Last night our board met and looked at LB7 and at the end of the day it came back to this and said, this bill represents a significant change, a significant, positive change in the daily lives of the practitioners in the industry. And that's at the end of the day why we appear today in support. So I would try to answer any questions that you might have. [LB7]

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SENATOR CAMPBELL: Senator Krist, did you have a question? [LB7]

SENATOR KRIST: No. [LB7]

SENATOR CAMPBELL: Other questions? Thank you, Mr. Kohout, very much. Our next proponent. Welcome. [LB7]

SARA KAY: Hi. Senator Campbell, members of the committee, my name is Sara Kay, and it's spelled S-a-r-a K-a-y, and I'm the executive director for the American Institute of Architects, the Nebraska chapter. And I think everyone has spelled out exactly the intent of this bill, so I have nothing else to add. I just wanted to indicate that our organization is in support of LB7 and thank you for introducing it. We appreciate it. [LB7]

SENATOR CAMPBELL: Any questions? Probably the best, shortest testimony. (Laughter) I just want you to know you're starting off our year on a very good foot. [LB7]

SARA KAY: Very good. I'm glad I could help. Thank you. [LB7]

SENATOR CAMPBELL: Thank you. You were helpful. Our next proponent. [LB7]

JAY DAVIS: Good afternoon, Senator Campbell and members of the committee. [LB7]

SENATOR CAMPBELL: Good afternoon. [LB7]

JAY DAVIS: (Exhibit 2) I'm going to try and make it equally as short if I can. How's that sound? [LB7]

SENATOR CAMPBELL: Ah. Sure. [LB7]

JAY DAVIS: My name is Jay Davis, J-a-y D-a-v-i-s. I am the assistant planning director and superintendent of permits inspection division for the city of Omaha. We obviously support this bill. In fact, there's a letter coming around from Bob Stubbe, who is our public works director. We're one of the guys or one of the people that are trying to move forward electronically in plan review. And this law was starting to cause us a little headache because we can't accept the documents legally because they couldn't...they were in violation of law to send them to us this way. This is an unintended consequence for us because we're about to go to the board and ask them anyway to do this, so we appreciate that. So from our standpoint, it's just a way to clean up our new process as we move forward to become more efficient in what we do. So with that, I'm going to stop. I really don't have any more to say because everybody else ahead of me did a wonderful job, and I like that. So if anybody has any questions, we'll... [LB7]

SENATOR CAMPBELL: Questions? Just out of curiosity, how many of these

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documents do you think the department reviews on an annualized basis? What's the volume here? [LB7]

JAY DAVIS: Well, we did 40,000 building permits last year, or 40,000 permits. So out of that, probably a good 30 percent of those are large documents. For example, the TD Ameritrade project came to us in paper form, and we had 27 sets of drawings that--not kidding you--were that big around. Our field inspectors had the luxury of using a new technology from one of the architectural firms that did the work where we went out in the field and didn't have to open up the big sets of plans because we had a 60-inch TV screen to look at. And what that does from an inspector's standpoint is, you're seeing real time visually in a 3-D type environment and then going to the actual inspection to look at it. And for some inspectors who have difficulty interpolating between a 2-D drawing and a three dimensional actual thing that they're looking at, it's really quite helpful. And it's actually saved us time. It saved the contractor and the architects time as well. [LB7]

SENATOR CAMPBELL: I appreciate that in the sense of giving the senators an idea of the volume and the importance of this bill. [LB7]

JAY DAVIS: Yeah, well, if we keep...I hate to say killing trees. I refuse to use that, but I just did. (Laughter) If you look at some of the size of the documents that come in to us that they have to produce, and we require three sets on everything that we do; and because of that, you're putting a lot of pounds of paper into the office and people have to handle, so. [LB7]

SENATOR CAMPBELL: From a company that grows trees, we do appreciate (laughter) that comment. Any other questions? Thank you, sir, very much. [LB7]

JAY DAVIS: You're welcome. Thank you. [LB7]

SENATOR CAMPBELL: Our next proponent. Okay. Anyone in opposition? Anyone in a neutral position? I see Senator Krist moving. I'm assuming that he would like to close on the bill. [LB7]

SENATOR KRIST: Or position myself for the next bill. You're right. Senator Howard asked me before we started if she was going to see an example of how this is done. Not to belabor the point, the key is to have people that know what they want, are able to put it together; and they did a wonderful job, and they know who they are. But I believe that this is the right thing to do when we're moving...we're helping when people move into the new age of technology, so I ask for your support. [LB7]

SENATOR CAMPBELL: I appreciate that, Senator Krist. With that, we'll close the hearing on LB7 and proceed to open the hearing on LB13, which is also Senator Krist's

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bill to require radon resistant construction and radon mitigation statements for residential construction and create a building codes task force. Senator Krist. [LB7 LB13]

SENATOR KRIST: (Exhibit 3) Good afternoon again, Senator Campbell and members of the Health and Human Services Committee. And I'm still Bob Krist, B-o-b K-r-i-s-t, representing the 10th Legislative District in northwest Omaha, along with the northern central portion of Douglas County which includes the city of Bennington as well. I appear before you today in introduction and support of LB13. Awareness of the dangers of exposure to radon have become increasingly alarming over the past several years, much like concerns surrounding exposure to asbestos 20 years ago. I introduced LB13 because it is time to take this issue head-on and deal with it in our homes, and the best way to start is with new residential construction. LB13 requires that after the first of the year, all new residential homes include radon resistant construction. Radon is an odorless, colorless, tasteless gas. It occurs naturally, is radioactive, and created as uranium in soil decay. Radon is the leading cause of lung cancer in nonsmokers. This should be an even greater concern for families in Nebraska. Our state has the third highest emission of radon gas in the country because of the concentration of uranium in our soil. Many federal home loan programs require radon testing and mitigation. To ensure that all families are protected, taking this step is necessary. Thank you for your attention and consideration. In closing I want to thank you for scheduling this committee hearing early in the process, and I'd like to get this to the floor as soon as possible. I will reserve the right to close, if you don't mind, Madam Chair. I handed to you a letter from Joann Schaefer, and Dr. Schaefer has some technical changes which I 100 percent agree with. One of the things that was my error in looking over this proposal is that I'm asking a committee to come together and study this and tell us what to do and come back and give us some ideas about how to go forward, yet an implementation date was put in prior to the time when the committee would report. So that change of date would be instead of January of '14 (2014), would be January of '15 (2015) to allow them enough time. I think that's what the day is, but you'll see that in Dr. Schaefer's change as well. And I thank the doctor for her comments. [LB13]

SENATOR CAMPBELL: Excellent. Any questions from the senators? Oh, sorry, Senator Krist, Senator Gloor has a question. [LB13]

SENATOR KRIST: I was running away. [LB13]

SENATOR GLOOR: I was going to ask, and then you started to run away. I thought I'll catch you. I know you're going to form a task force, Senator Krist, but are there any preliminary comments or feedback you're getting from...and maybe we'll hear some of that today about what kind of cost this could add to an average home that's being constructed? [LB13]

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SENATOR KRIST: You will hear the cost and you'll hear whether we're capable. I know many issues that we have heard and other committees have heard, for example, can we put sprinklers in? Do we have that technology? We debated that extensively, and I think you'll hear that we do have it. We need to do some training and that the cost is negligible. [LB13]

SENATOR GLOOR: Is this spoken to at all by the Uniform Building Code, you know, the entity that gets involved in giving us guidance and in some cases dictates of how we're supposed to... [LB13]

SENATOR KRIST: I believe it is referenced in terms of passive, and again you'll hear that in substantive in the testimony. I do know from personal experience that if you're about to take a VA loan, you don't have a choice. The federal requirement is to have a radon test for the home as part of the loan structure. So if it's not here, it's moving quickly in our direction. [LB13]

SENATOR GLOOR: Well, interestingly enough, I've moved into a new home that's been previously...previously built home, but I have a radon testing kit that I have to complete when I get four days in a row which may be a while yet, but...(laughter)...to do a radon test, and so I recognize it can be a significant public health issue. So thank you. [LB13]

SENATOR KRIST: Thank you, Senator. [LB13]

SENATOR CAMPBELL: Thank you, Senator Krist. With that, we will go ahead for the first proponent for LB13. [LB13]

DAVID HOLMQUIST: (Exhibit 4) Good afternoon, Senator Campbell and members of the Health and Human Services Committee. It's a pleasure to be here to testify. My name is David Holmquist, D-a-v-i-d H-o-l-m-q-u-i-s-t, and I am a registered lobbyist. I represent the American Cancer Society Cancer Action Network. The American Cancer Society Cancer Action Network is a sister advocacy organization of the American Cancer Society. I appear today in support of LB13. First, I'd like to express my appreciation to Senator Krist for agreeing to sponsor this legislation and for his enthusiastic support of this measure. Awareness of the dangers of exposure to radon has come increasingly to our attention over the past several years. Because of this awareness, the federal government, states, and municipalities have engaged in discussion of the best and most appropriate ways to reduce exposure to radon. This awareness and these discussions mirror the concerns surrounding asbestos exposure a number of years ago. Simply stated, radon exposure increases the risk of lung cancer. In fact, exposure to radon gas released from the soil and building materials is the second leading cause of lung cancer in North America. And the combined effects of radon exposure and smoking are particularly dangerous. Nebraska has the third highest prevalence of radon in the nation. And 71 of our 93 counties have radon concentrations

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in excess of the action level as promulgated and stated by the Environmental Protection Agency. The level at which they suggest anything higher must be taken care of is 4.0 picocuries per liter. I'm not a scientist. Picocuries are beyond me; but that's the number, 4.0. So we need to keep that in mind. And these counties include our most populous: Douglas, Sarpy, and Lancaster. And I've passed around a map that shows the concentration of radon statewide. The average radon level in Nebraska across all 93 counties is 6.3 pCi/L or 2 percent above the level at which radon exposure is considered dangerous. And as I stated earlier, radon exposure increases the risk of lung cancer. Lung cancer attributable to radon exposure is estimated to cost 21,000 deaths annually in the United States or about 8 percent of lung cancer deaths. Other parties would say 15 percent. Either 8 percent or 15 percent, it's too high; and more deaths are caused from exposure to radon than are caused in drunk driving accidents in this nation. So it's an issue we have to address. Based on this figure and because our cancer registry does not keep records isolating lung cancer causes, we estimate roughly 72 deaths in Nebraska annually to radon exposure. And I did simple math to try to come up with that number. But 72 deaths may not seem very big in the overall scheme of things, but let me remind you that these are 72 mothers and fathers, sisters and brothers, and other loved ones who are losing their lives prematurely. And these deaths may leave emotional scars and financial stresses on families and also may present financial burdens to the state and society at large due to increased medical costs and lost productivity. I doubt that any of us would willingly enter an area where we would be exposed to asbestos. We should be aware of the same concerns about radon exposure. LB13 sets in place a reasonable and realistic approach to resolving the problem of exposure to radon. It's an important first step in assuring that the places where we live don't expose us to high levels of radon concentration. The bill will assure that all new homes, whether single family or multiple family dwellings, would have measures in place to mitigate harm for radon exposure. The bill as it is written is closely aligned with what passed in Illinois last year and in Minnesota a couple of years ago. And Iowa is considering a bill similar to this. None of those states is in the top three like we are. The others are Vermont, and I want to say Nevada, but I'm not sure. I can get that for you if you need it. The letter from HHS, with the technical concerns, we fully support. We think these are appropriate changes that need to be made. I will probably let others follow me about the cost, but I understand that a mitigation system that is done as a passive system would cost around \$500, and an active system can cost \$800 to \$2,000 depending upon where we are in the state. And also we believe that there are enough professionals in the field now doing the work that they can make all of this happen and we can write rules and regulations that will address those issues. So thank you for the opportunity to speak in support of the legislation, and I'd entertain any questions you might have. You will also receive drawings of what a passive system looks like and an active system. The passive system is the one that's a little more "cartooney" with a red roof, and the active system and passive system is on the third page which shows how passive systems are constructed. [LB13]

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SENATOR CAMPBELL: Questions from the senators? Senator Howard. [LB13]

SENATOR HOWARD: You mentioned staffing. How many radon contractors are there, and what is a radon contractor? [LB13]

DAVID HOLMQUIST: A radon contractor must be someone who is licensed by the Nebraska Department of Health and Human Services and they actually have an inspector who goes out and looks at these things. The number of companies, I will have to get back to you on. I want to say there are 30 or 35 actively in the state right now. And, of course, as with anything, if we have these rules and regulations in place, the companies will ramp up to meet the demand, so. [LB13]

SENATOR HOWARD: Are they predominantly in the eastern portion of the state? [LB13]

DAVID HOLMQUIST: The greatest number is in the eastern portion of the state, but this is, again, an issue where one of the reasons it's more costly in the western part of the state is if some people have to travel. But we fully expect that other construction companies would become certified and be able to do this work statewide. [LB13]

SENATOR HOWARD: How long is the certification process? [LB13]

DAVID HOLMQUIST: I'll have to defer to someone who is in the business. There are two people behind me who are radon experts and would have much more expertise than I do. [LB13]

SENATOR HOWARD: Okay. Thank you. Thank you, Chairman. [LB13]

SENATOR CAMPBELL: Other questions? Thank you, Mr. Holmquist, for your testimony today. [LB13]

DAVID HOLMQUIST: Thank you. [LB13]

SENATOR CAMPBELL: Our next proponent. Good afternoon. [LB13]

CURTIS DREW: Good afternoon, Senator Campbell, members of the committee. My name is Curt...Curtis Drew. Last name is D-r-e-w, and I'm the president and owner of National Radon Defense. We're a national network of radon mitigation and testing companies based out of Omaha; and we have dealers all over North America, even in Canada, doing radon testing and mitigation work like we're proposing here, so I can answer some of those questions you might have. I'd like to start off, I am in support of this bill because we've been mitigating homes in the United States for about 35 years, in the United States; and we learned about the dangers of radon in the early '80s. And in

that time period, we've mitigated about one million homes in the United States, and we've actually built more homes in that time period that have high radon problems than we've mitigated. So we're not keeping up with the problem. We keep building homes that have high radon levels instead of doing things like this where it's building them resistant to radon. And so, this is the only way that we can really catch up to the problem and start building homes the right way and protecting homeowners when they're built versus they're trying to catch them after the fact. And, you know, as previously mentioned, that there's some other states that have radon resistant new construction like this code in place, and Illinois was the last state to put forward a bill that just got passed that's going into effect this year. Minnesota has had a bill, or had a legislation for like three or four years, and what we've seen there is that the builders now are following a building code and so they're actually building radon resistant construction the right way. And what we find in Nebraska is that we've got consumer awareness now of the issue, so when people are building their homes and they know about radon, they're asking the builder to build it radon resistant. Well, when the builders do that, they don't really necessarily have a code to follow. There's nothing in place saying, okay, we have to do it this way so it actually works. So what happens then is somebody buys a home and they have a false sense of security that their house is now radon resistant and they move in and never even test their home. They're like, oh, this is radon resistant. And so that's a real issue in our state because a lot more homes are being built supposedly radon resistant, but not actually radon resistant. So as consumer demand keeps continuing...consumer awareness, excuse me, keeps growing, that's fostering demand for this technique. And unless we have a code in place for these builders to follow, you know, we're not really helping the problem. And the next woman, Debbie, will testify about what she's seen locally as far as the different types of systems she's seeing installed that are supposedly radon resistant that really have not done anything to cure the problem inside of a house with radon. So that's why I'm very much in favor of putting together a code like this. And we do have quite a few companies that are licensed to do this type of work and, obviously, when this legislation goes through we can certainly increase crews locally to keep up with the demand. In order to become a radon mitigation company or a licensed company, to answer your question, you have to go through a certification course. And that certification course is offered through a national organization. It's typically a week-long course that a contractor would sit through and take an exam. You know, after half the week they would go through materials about testing for radon and taking an exam and need to pass that exam. And then the next half of the week they would go through a course about mitigating homes and then pass an exam and then apply to the state of Nebraska to get their license. And that application not only includes, you know, that they've passed this course; but also their qualifications as a contractor to do this type of work. [LB13]

SENATOR CAMPBELL: Excellent. Questions from the senators? Senator Gloor. [LB13]

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SENATOR GLOOR: Thank you, Senator Campbell. Thank you for your testimony. This is really sort of an educational question for me, I think, as I read the legislation. It doesn't appear to me that this will affect previously built, already constructed homes. But some of us live in areas of the state that have high groundwater problems; and try as we might, our sumps can't keep up with the flow of water sometimes. So when that water overwhelms the sump, begins to seep in at different places in the basement, has it broken...I mean, are you at greater risk for radon exposure because you now have water coming into your basement that's basically uncontrolled from the active systems that are venting? [LB13]

CURTIS DREW: So if you have a radon system currently and you have a water problem, or if you don't have a radon mitigation system currently? [LB13]

SENATOR GLOOR: Well, let's say that this went into effect and we had both active and passive systems in place. If the water level ended up being so high that you had water seeping into your basement, not around the sump, but coming in, you know, at the floor joists where the wall meets the floor and whatnot, would you be at risk of radon seeping in, in spite of your active and passive systems? [LB13]

CURTIS DREW: Yeah, that could change the structure possibly after the water settles back down, maybe cracks got bigger, maybe the foundation has changed, maybe the soil has changed a little bit underneath the slab now that the water is potentially adjusted the soil conditions. [LB13]

SENATOR GLOOR: But the water itself wouldn't be necessarily carrying trace...I mean, radon, I understand, is a gas. [LB13]

CURTIS DREW: Right, the water necessarily does not contain a high level of radon in it. [LB13]

SENATOR GLOOR: Okay. [LB13]

CURTIS DREW: It's more a gas, correct. And so I think they would be mutually exclusive. [LB13]

SENATOR GLOOR: Okay. [LB13]

CURTIS DREW: Yeah. [LB13]

SENATOR GLOOR: Thank you. [LB13]

SENATOR CAMPBELL: Other questions? So do you put in systems in new homes then? You build them with a passive or active system? [LB13]

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CURTIS DREW: We have dealers that do, yeah. Typically with new construction, you know, it's up to the builder whether they want to sub that work out to a licensed radon mitigation company to do the passive system or have their current contractors plumb the system. You do need a radon-licensed company to put a fan on it to make it an active system, so. [LB13]

SENATOR CAMPBELL: So the active system is the second one that we're...and you don't have the... [LB13]

CURTIS DREW: Oh, the pictures. [LB13]

SENATOR CAMPBELL: ...benefit of that. I can't remember. [LB13]

SENATOR KRIST: Passive is the cartoon. [LB13]

SENATOR CAMPBELL: Oh, the passive is the cartoon. [LB13]

SENATOR KRIST: And the active is the more technical. [LB13]

SENATOR CAMPBELL: Okay. So the active is the more technical that you probably put in a house because it looks like there's a fan and it's venting totally. [LB13]

CURTIS DREW: Sorry, I don't have the pictures in front of me, but... [LB13]

SENATOR CAMPBELL: That's okay. I was more interested in whether... [LB13]

CURTIS DREW: The difference is basically, you know, the active system has a small fan on it that it's actively pulling the air from underneath the slab out of the house. And those systems work pretty much all the time. Passive systems are basically just rough-ins, if you will. So, if you did have a high radon level, you just put a fan on it and you're done with the system. Primarily...you know, aesthetics is a big issue with the radon mitigation system putting them on outside of a home. You know, you see a fan and pipe running out the outside of the house, and it's not the most attractive thing in the world to add to your house. So plumbing it while you're building the house makes a lot of sense from that perspective because you don't see it on the outside of the house, and then the other thing is that you can put safeguards into place that potentially a passive system can reduce your radon levels just right there because you're creating a path of least resistance, an open pipe for the gas to travel versus just coming through the concrete. So, you know, a passive system can work at reducing radon levels; an active system typically always works. [LB13]

SENATOR CAMPBELL: Okay. Senator Crawford. [LB13]

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SENATOR CRAWFORD: Just to clarify. I've seen language of three different things. The one is... [LB13]

CURTIS DREW: Okay. [LB13]

SENATOR CRAWFORD: ...active system, passive system, and then one is radon resistant construction. So we've talked a bit about the difference between the active and passive. [LB13]

CURTIS DREW: Right. [LB13]

SENATOR CRAWFORD: So now, reconnect that back to the radon resistant construction that we're going to be requiring. [LB13]

CURTIS DREW: Okay, so radon resistant new construction is a passive system. Those are the same thing. [LB13]

SENATOR CRAWFORD: Okay. [LB13]

CURTIS DREW: And then an active system is just taking that system and putting a fan on it. [LB13]

SENATOR CRAWFORD: Okay. [LB13]

SENATOR CAMPBELL: That helps. Okay. Thank you very much for the clarity... [LB13]

CURTIS DREW: Okay. [LB13]

SENATOR CAMPBELL: ...to the issue... [LB13]

CURTIS DREW: Sure. [LB13]

SENATOR CAMPBELL: ...for your testimony today. [LB13]

CURTIS DREW: You're welcome. [LB13]

SENATOR CAMPBELL: Our next proponent. Good afternoon. [LB13]

DEBBIE KALINA: Good afternoon. Thank you, Senator Campbell. Senators, thank you for the opportunity to be here. My name is Debbie Kalina, D-e-b-b-i-e K-a-l-i-n-a, and I am the president and owner of Radon Pros, radon mitigation and testing company in Omaha, Nebraska. I have been a licensed radon mitigation specialist for over 13 years

now and have owned my own company now for about 7 years. I think the gentlemen that went before me, they did a very nice job of explaining radon. I would like to clarify the last question from Senator Crawford. They're...between radon resistant new construction and passive radon mitigation systems, a passive radon mitigation system as was discussed is the piping that goes from the floor slab all the way up through the house and through the roof and just the natural stack effect of that air coming up into the house, as that air that's typically 54 degrees or so, comes up into the house and it is warmed as it goes up in through this conditioned air space, that can help move that air from under the slab and then vent it safely outside. Radon resistant new construction is actually a little bit fuzzy because it can be any number of things. And we see builders using that term when it's not really a passive system. They will say, well, this house is radon resistant or it has a radon resistant system. And what we see as mitigators, as a company that's called in, say, once the construction is completed and oftentimes even after the people have moved into the house, we are called in and they have done a radon test, and they find out that it's above 4 so they want to have it activated, and we will go there and we'll run into a number of different things. Sometimes it's fine and all we have to do is cut the piping in the attic and add the fan and we're good. And that's wonderful because then, you know, we aren't dealing with the aesthetics like Curt was talking about that, you know, we have to figure out where on the outside of the house we can run the piping. And they're not the most beautiful things, but we do try to make them as aesthetically acceptable as possible. But sometimes when we're called to a home to activate what they were told was a passive system, we will arrive and they...like, we went to three houses last week in Fremont to activate passive systems. And two out of the three houses were not able to be activated because their piping was run by somebody that didn't understand the way that a radon mitigation system works. And when we got up into the attic and the way that the eave is on the house, that pipe was right here. So we need at least two to three feet to be able to install that fan in the attic down the road, if it's needed. And when we have people that are installing the systems that don't understand what they're doing, they don't leave the...it's not usable. And so what they did was useless. We can't get into that eave close enough to tie into that piping so those people paid for a system that's not usable. So that's not a good situation. And we are left telling these homeowners that we can't use it. And so that's a difficult situation. Another thing that we see sometimes is...which is okay, but people will run a pipe from the basement just below the floor joist up through the house and just into the attic. So it's plumbed for a radon system, but it's actually not going to do anything because it's not connected to the floor slab or to the sump pit or the drain tile or anything like that. So I agree with what Mr. Drew was saying that people do have a false sense of security when they're told that they have radon resistant new construction, or a passive system, and they don't realize that they do still need to test. And if it wasn't installed by somebody that knows what they're doing, it may not be doing anything at all. [LB13]

SENATOR CAMPBELL: So that's making the assumption in Senator Krist's bill that as

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you put this task force together to put some standards in place, that would give a greater assurance to the homeowner that these standards that are under this code would have to be followed in the installation. [LB13]

DEBBIE KALINA: Exactly, yes. [LB13]

SENATOR CAMPBELL: Because at this point the homeowner doesn't have really any code that they could look at to say, well, this is by code, and... [LB13]

DEBBIE KALINA: Yeah, correct. [LB13]

SENATOR CAMPBELL: At this point when you're building a new home...let's say you're building a new home and you know that there's been some radon in the area so you go ahead and put this in. Are there...do the inspectors, code inspectors, for any of the cities...I mean, do they even inspect for the radon systems? [LB13]

DEBBIE KALINA: I would say that they would inspect for, like piping penetrations and penetrations through fire walls and that sort of thing, just kind of as a plumbing, you know... [LB13]

SENATOR CAMPBELL: Issue. [LB13]

DEBBIE KALINA: ...it would be under that type of thing. But as far as radon, I don't believe, no, they wouldn't. [LB13]

SENATOR CAMPBELL: Because there's no code for them to check against. [LB13]

DEBBIE KALINA: Right, right. And another thing, you know, when piping is installed it has to be continually falling. We can't install it and go over and up and down because then we create a trap. And the systems that we install do produce quite a bit of moisture; especially once they're activated, there's the air that we're pulling out from under the slab is fairly moist, and especially when you get into that attic space that's not conditioned, it will cause condensation on the walls of the pipe. And so if it's not installed properly or, you know, it goes up and it's not...it's going down instead of up, that can trap...cause a trap and choke off the system so it's not doing anything at all. And another difficulty that we can see as mitigators is when we come into a house and all the piping is behind finished walls, we don't know if it was installed properly or not. You know, we have to assume, which I don't like to do, that it was installed properly; but we have no guarantee that it was. And as far as like the sub-slab depressurization or drain tile depressurization, if we're pulling air from underneath the floor slab, if we see a pipe that just goes through the concrete, we don't have any idea if that's tied to any strip drain or perforated piping or anything under the slab. So we've gone to houses, you know, typically with a...with new construction, we will tie in with a sump pit or drain tile,

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but if we get to a house that's got a passive system and the pipe goes straight down into the concrete, we have no idea what's under that concrete. We don't know if they excavated a pit or if they tied it in with the drain tile, so we have no idea how effective that system is going to be. [LB13]

SENATOR CAMPBELL: Ms. Kalina, I'm just curious and asking as your expertise, the map that we were given by Mr. Holmquist, can you see the state there? [LB13]

DEBBIE KALINA: Yes, ma'am. [LB13]

SENATOR CAMPBELL: Is there any real explanation why there would be a tier of counties right in the middle where it's the lowest? [LB13]

DEBBIE KALINA: Well, my theory for that is that that's the Sandhills area and, you know, where we are, the eastern third of the state is pretty clayey, so it's difficult for the soil gases to escape. And so, you know, we build basements in our houses and so it's a lot easier for the soil gases to try to come through a block wall, piping protrusion, or even a floor slab protrusion than to go through eight feet of clay. So...and we do see even slab on grade houses that have the high levels of radon, too. But that's my theory that within the Sandhills area, that it's a lot easier for the air, the outside air and the soil gases in the sand to equalize and there's not going to be that big discrepancy in air pressure. Typically our houses operate at a negative air pressure, and so that's what draws that radon into our houses. But I think in that Sandhills area, that's my personal feeling is that that's why we don't see as much of a problem there. [LB13]

SENATOR CAMPBELL: Interesting. Thank you. That helps. Other questions from the senators? Yes, Senator Crawford. [LB13]

SENATOR CRAWFORD: Just wanted to clarify the question about credentialing. So you are a licensed radon mitigator. Now, some of these houses you're talking about that you go into and the systems are installed incorrectly, would that...was there any licensed person who was involved in that construction, or is part of the issue that the code needs to ensure that there's a licensed person directing that construction? [LB13]

DEBBIE KALINA: No, it would not have been anyone that was licensed in radon mitigation. Typically what we see is that it's a plumber or, you know, the handyman, the extra guy that does other stuff for the builder. Oh, well, it's just PVC pipe. All you have to do is glue it together and it's easy. So, you know, I mean that's how they look at it, and they don't realize the science behind how it actually works. So on the surface, it looks like it's no big deal; but there is some science behind it. And so that's where people do need to be licensed and understand and to be trained in it to do that. [LB13]

SENATOR CRAWFORD: Thank you. [LB13]

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DEBBIE KALINA: Uh-huh. [LB13]

SENATOR CAMPBELL: I doubt whether any of us will walk away feeling we are radon specialists. (Laughter) Because you've really clarified, I think, some of the points for the senators on the science to this on what we should be looking for. [LB13]

DEBBIE KALINA: Thank you. Thank you. And if you have any further questions down the road, please... [LB13]

SENATOR CAMPBELL: Senator Watermeier, I'm sorry. [LB13]

SENATOR WATERMEIER: I guess I do and it might come out, obviously, in the task force that will discover these things; but I'm just curious about testing. When a project is put in place in a residential home or any residential made home, can you turn a switch off, plug it up, and know that radon takes 48 hours or two weeks to build up. Is there a way to test a system to know if it's working or not? [LB13]

DEBBIE KALINA: Yes. [LB13]

SENATOR WATERMEIER: How long does it take principally for radon to show up? [LB13]

DEBBIE KALINA: It takes...well, it takes 48 hours to conduct a short-term radon test. After a radon mitigation system is installed, the system should run for at least 24 hours. Radon itself has a half-life of 3.8 days. So after 4 days, if the source is cut off, it's going to decay within that structure naturally. But there's got to be a continual source, and that's what keeps coming into the house and causing the radon to get... [LB13]

SENATOR WATERMEIER: I'm just trying to guess a little bit where the task force is going to take us because it's different than asbestos, where it's just a black and white. You either have it in the building or you don't. This is going to involve some subjectivity about really how it's tested. [LB13]

DEBBIE KALINA: Well...a test should be done...when we install an active radon mitigation system, and I would see this with a passive system, that if it's in new construction, it should be done after the home is completely operational and the ventilation system is running and operable. So it should be run just as somebody was living in the house at that point in time. The doors and windows need to be closed, and the ventilation system needs to be running in the auto position so that it's clicking on and off normally just like somebody was living there. So I think that those are some things that would have to be identified as part of the requirements for doing that test. But I do think that it should be required that a test be done after a passive system is

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installed because, once again, you get that false sense of security that, oh, well, I've got a passive radon system. Well, that doesn't mean that it's absolutely over because the passive system will work about 50 percent of the time. So a posttest, a post...once the house is completed, a test would be required, definitely. And the state of Nebraska currently requires that homes that have been mitigated for radon be retested at least every two years. So that it is something that you want to keep doing. It's an ongoing thing. [LB13]

SENATOR WATERMEIER: Yeah. I'm sure, like you said, there's lots of subjectivity to it and the time of year, humidity, my...Senator Gloor's question about the water levels and things, so the task force will find all of these things. [LB13]

DEBBIE KALINA: Uh-huh. Yes. [LB13]

SENATOR CAMPBELL: Good question. Thank you. Any other questions? Thank you very much for coming and your testimony today. [LB13]

DEBBIE KALINA: Thank you. [LB13]

SENATOR CAMPBELL: Our next proponent. Those who oppose LB13. Those who wish to testify in a neutral position. [LB13]

JAY DAVIS: Good afternoon again, Senators. [LB13]

SENATOR CAMPBELL: Good afternoon, and we want you once again state your name and spell it. [LB13]

JAY DAVIS: Jay Davis, J-a-y D-a-v-i-s. I am representing the city of Omaha. I'm also representing the Nebraska Code Officials Association as well. There's nothing like being a 300-pound gorilla in a room when you realize there's something going on here. A couple of things. The information you've gotten from the people before me is basically accurate. There are some things that need to be clarified. The building code, the International Residential Code in particular, in fact it goes back before that, but the current codes we're working in do have an appendix chapter to the code dealing strictly with radon. It's appendix chapter F. It's currently under review by all of the jurisdictions on Douglas County, Sarpy, Washington Counties currently to...for our 2012 code adoption because for the first time ever we're actually all working together to see if we can get on the same page, which would be...is kind of interesting, but it needs to be done. But a couple of things that really need to help understand, Senator Gloor asked about, you know, was it water can cause a problem with that. Not necessarily. It is a gas. Gases go out with the water. And somebody, I think it was Senator Campbell, asked why Hall County may not be in that map. And the (inaudible) explanation was partly correct that the sandy soil does make a difference when you set the slab down on

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there, the sandy soil can still breathe. What makes it different in Omaha? The clay that we have doesn't breathe. And it would be like trying to put a small pipe underneath that book and take all the air out from underneath it. It can't happen. So the construction process has to change. And currently the builders are not required by code to put a granular fill underneath along with a vapor barrier, 6 mil of vapor barrier, under their new construction homes. The appendix chapter does deal with that, and it deals with it not only in the granular fill and the poly that you have to put down, but it also deals with an active or passive system. The real difference is, do you put a fan on top or do you not? There are piping methods that change a little bit with that, but the code has that guidance in there. We allow any builder currently to use that guidance as they move forward. The question came up about inspection. I would love to inspect everything that we have to inspect in a home. Unfortunately, we do 40,000 permits, and we have six building inspectors. We've got a lot of area to cover. And I'm not alone. Every jurisdiction is the same way. And so for us to try to get out and physically look at everything on a job site, one of two things is going to happen. The builder is going to get upset because we're slowing them down to the point that they can't get their job done, or people are going to get upset because they can't move in their homes. So we have to rely, as building officials, on people who are certified or licensed or experts. And if we come into a situation, we ask them for a third-party report. That's how we do our work. That's how we get our backups to what we do. Even on...I'll go back to TD Ameritrade. We couldn't be on that job site every day, and there's some very sophisticated structural systems in there that required third-party to look at, including x-ray and ultrasound. So the process is built into the code books, and we like to continue to work with that and we will continue to work with that; but as building officials we have to stay somewhat neutral. And it's tough for us because we know, we hear, we live, we work, we play like everybody else does, but we have to go by the words that are written in our book. By saying that we're neutral, we would obviously love to be part of that, the task force, because I think the codes are a greatly misunderstood set of books. You hear time and time again...I hear it every day; but as we move forward, as the codes have moved forward, they're adopted across the country by groups of individuals who have spent a lot of time in this business whether it's under construction or whether it's in the actual code enforcement side of it. I'm currently on what's known as the major jurisdictional committee for the ICC, or International Code Council. The reason I got accepted to that is because Omaha and Lincoln, this area, are what they consider major jurisdictions. It's been kind of interesting. I'm finding out my counterparts across the country...I don't really have it so bad, so, but...so, anyway to wrap it up, we are staying neutral on it. We understand it's in the code. We do what we have to if this goes forward. We'll move it forward, but we also want to offer both the city of Omaha and the Nebraska Code Officials Association, any kind of guidance that we can give because that's what we do. We live in the books, so. [LB13]

SENATOR CAMPBELL: But you live in the books because the homeowner has an expectation and some comfort level that when they move into that, it has been

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inspected and it's built to code. [LB13]

JAY DAVIS: Correct. [LB13]

SENATOR CAMPBELL: And having watched two different systems for a period of time in which whether you built in the city of Lincoln or whether you built in the county of Lancaster, I have a great appreciation for homeowners who have expectations of a code system. [LB13]

JAY DAVIS: You know, that's a very good point. The problem we're starting to run into is code officials. Of course we always hear it from the builders, it's a money thing. When it comes to safety, I don't listen to money. I'm sorry, that just doesn't fit my vocabulary. But there are some commonsense things we have to worry about. On one hand, right now, we have the energy committees who are trying to make the houses tighter and tighter and tighter. And we have radon which is coming out of those houses because we're making tighter, tighter, and tighter. So now we have a...basically a dual-edged sword. Which is the most important to the homeowner in the area of safety? Well, both of them are. One's not necessarily as much as safety as it is comfort, but it's still...that's part of what we do. I won't talk about sprinklers. It's a very unpopular subject, but... (laughter)...but the reality is that is a safety feature. And do you put it in there, or do you take it out? It's a decision the code official has to make, but what expectations does the homeowner have if it's in or if it's out? In fact, the false expectations of a homeowner or anybody else are actually worse than the realization of, does the system work or not work? So. [LB13]

SENATOR CAMPBELL: Exactly. Questions from the senators? Senator Gloor. [LB13]

SENATOR GLOOR: Thank you, Senator Campbell. And I always enjoy talking about sprinklers, but I'm glad I haven't had to this year anyway. (Laughter) [LB13]

JAY DAVIS: Yeah, me, too, right now. (Laughter) [LB13]

SENATOR GLOOR: Yeah. What I hear you saying in part, and I want to give you a chance to correct me on this if I'm wrong, is that we may be talking about a cost increase on this. If people have to put down a permeable layer, whether it's gravel or whatever fill is found appropriate to use underneath some homes that otherwise wouldn't allow for that appropriate seepage to a pipe that would expel it or not. I mean, there is a possibility that might be the case and, if I look at the map, a large number of areas in the state. [LB13]

JAY DAVIS: I believe it's 71 of the 93 counties. And, yes, it's true. It's a change in construction method. Now, can I put a cost number on that? No, I can't, but if you're used to going in Omaha and Sarpy County and Washington County and just pouring

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your slab on top of the existing grade, there would be a cost difference to them because they have to put down a granular fill and then the poly vapor barrier. But the code is specific on that. If you want the system to work properly in that soil type, you have to do that. It requires a minimum of 4 inches of granular fill and the poly to go on top of that to contain it to get it to the pipe to take it out of your passive system. Or, the good news is, if you put a fan on top of that, that helps that situation even more; but the passive system is where they start. That's the least restrictive in the code. So you are correct. We would have to add some type of fill underneath the concrete slab currently to allow that air to move underneath there freely. [LB13]

SENATOR GLOOR: Well, and I'll make a statement that's really more for the record, but it's one of...as you can appreciate, realism when it comes to enforcing codes. Large areas of this state affected by this, the enforcement, the building inspector, doesn't exist. I mean, it falls on the counties and two brothers who have been doing contracting work in the Sandhills for 50 years only find out about code changes when they can't buy the things that they want because somebody says, it's not in code anymore. I think there's...we have to be realistic and understand there will be homes to continue to be built across the state not complying with this because we have nobody to enforce it. And plus the people doing the construction are oblivious to it. [LB13]

JAY DAVIS: And that's difficult in all of our jobs, and I understand it more so. I grew up in the East Coast so I'm a little bit different. I understand that in the construction industry we always had inspectors and everybody was around and always worked. It didn't matter if it was rural or city area or urban area. But that's been a good concern, especially since I got involved last year with some of the upcoming things on committee for statewide review, that it's very true. My wife is from the Sandhills area. Very beautiful area. I'd move up there any day of the week I could, but you're right. Tom and Bob have built houses for 50 years and all of a sudden, you're right, they go to the lumberyard, they get mad at the guys back on the east side of the state going, hey, how come we can't buy this anymore. But the whole problem we have with that is, how do we regulate that? The State Electrical Division has done it, the State Fire Marshal does it, but if you look at what they have to do on their daily routes in western Nebraska, there's no way that they can catch everything that goes on anyway. Even though I only have six building inspectors, I do also have seven electrical inspectors, seven plumbing inspectors, and five mechanical inspectors. But the point is, we look at everything we can for the minimum, which isn't happening out in western Nebraska; and I don't know how we ever fix that, to be honest. Well, I do, we have some ideas that we've tossed around how maybe this will help. Even in areas where there may be...like Norfolk, where there's seven smaller communities that Norfolk deals with that they actually do the inspections for them on a contract basis. That's something we've talked about in our organization, the Nebraska Code Officials Association, to maybe we can help move this a little farther west; because we do have code officials out in Sidney. We have code officials in North Platte, Ogallala, that could move up and start to pick up some of these

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areas. Even if it's only a cursory inspection, it's still maybe better than none on some of these things, so. [LB13]

SENATOR GLOOR: Okay. Thank you. [LB13]

JAY DAVIS: You're welcome. [LB13]

SENATOR CAMPBELL: Senator Crawford. [LB13]

SENATOR CRAWFORD: Thank you, Senator Campbell. So do I understand you correctly that there's an appendix F in this International Code... [LB13]

JAY DAVIS: Yes. [LB13]

SENATOR CRAWFORD: ...that lays out radon mitigation standards... [LB13]

JAY DAVIS: Correct. [LB13]

SENATOR CRAWFORD: ...that could be used in terms of the definition of radon resistant construction or what would need to be...the code that would need to be used. [LB13]

JAY DAVIS: The radon resistant construction is a dangerous term. They don't actually address that in the code that way. What they do address is the active and passive systems and how you have to install each. So if that becomes the term for radon resistant construction, then that's how we would use that, yes. But the appendix chapter is in there. It's in the 2006, 2009, and 2012 versions. [LB13]

SENATOR CAMPBELL: Go ahead. [LB13]

SENATOR CRAWFORD: Are there any provisions in the code for different standards that would be required in high radon areas versus low radon areas? [LB13]

JAY DAVIS: Yes. [LB13]

SENATOR CRAWFORD: Okay. So that... [LB13]

JAY DAVIS: As a matter of fact, the counties that are listed in the book are very similar to what's on the map. I haven't looked at the map closely but, for example, Hall County is out of it, although Adams County is in it, so they're side by side counties, but they're...and so they had made provisions for that. If you're in an area that's not considered zone one in the code book, then you don't need to...there's no worry with that. Those don't require any at all. Then you're putting in for peace of mind. [LB13]

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SENATOR CRAWFORD: One last question. [LB13]

JAY DAVIS: Yes. [LB13]

SENATOR CRAWFORD: If the task force were to include someone who would bring in this expertise so the construction of the task force would be recognizing and being effective in terms of coordinating with existing code building inspection, who would you recommend as potential members that we might consider having on the task force in that capacity? [LB13]

JAY DAVIS: Well, the last person I want to volunteer is myself, although I would love to do that. There's another gentleman sitting in the room. In fact, I borrowed his code book. Jim Harper from Hastings...or Grand Island. I'm sorry, you live in Grand Island, Jim. I forgot. Jim is another person who deals a lot in the International Code Council. He's been on the code process for an awful long time. Jim and I have put together for a really long time. I've learned a lot from Jim. I think like we learn from each other. And the Nebraska Code Officials Association also has...what do we have? Seventy-plus members right now who are all in the code business. Some of...not all of us are from this area. Like I say, I see we have North Platte, we have Sidney, we have Ogallala. So we have a wide cross section of people involved in the code. Those of us that spend a little more time learning about it, to write it, to help processes go forward, Jim and myself, and probably the two that do it the most just because of our daily work. But I don't have time so...no, I was kidding you. [LB13]

SENATOR CAMPBELL: Sometimes if you watch Holmes on Homes, you find out how really important it is to abide by a code. [LB13]

JAY DAVIS: You know, I have kind of a...when I talk to builders groups, I say this in a loving way, I love HGTV. My wife loves it, too, because it's how our gardens look like they do. But she watches HGTV, and then I watch Holmes on Homes because everything everybody just learned to do on HGTV, yeah, Holmes is tearing it up. We're going, yeah, call your local code officials, so it's interesting. It's actually scary... [LB13]

SENATOR CAMPBELL: It is. [LB13]

JAY DAVIS: ...some of the things that they uncover because people don't realize it's just minute little things that can cause them age, a problem in a residence. [LB13]

SENATOR CAMPBELL: I'm always amazed that a person like myself who has no building expertise whatsoever, but I'm fascinated by what he finds in homes. [LB13]

JAY DAVIS: Like I said earlier, people don't understand what we actually do. They just

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think we show up and put red tags on the wall and cost you money, but there is really a science behind what we do. And the science that we work with actually comes out of these series of science books. We...these are basic minimum standard guides for us to use to make sure that we're meeting a minimum safety and welfare for the people that live, work, or play, so. [LB13]

SENATOR CAMPBELL: Thank you very much for your testimony today. [LB13]

JAY DAVIS: You're quite welcome. Thank you for allowing me to keep blabbing. I appreciate that. [LB13]

SENATOR CAMPBELL: Absolutely. I know there's another proponent in a neutral position. Good afternoon. [LB13]

JUSTIN BRADY: Good afternoon. Senator Campbell and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist for a coalition of Lincoln and Omaha metro area homebuilders in a neutral capacity. Originally they were opposed to the bill. We spoke to Senator Krist this morning and he addressed it in his opening about the date. Their concern was, why would you pass a law that says you must start this construction and follow it before the task force comes back and gives you the recommendations? So, with that I'll try to answer any questions. I will assure you I know less about radon than all of you on the committee, but you're welcome to try to ask, so. (Laughter) [LB13]

SENATOR CAMPBELL: That's a bold statement on your part. Senator Gloor. [LB13]

SENATOR GLOOR: Thank you, Senator Campbell. Justin, did...have the homebuilders talked at all about cost? I mean, do they see this as a potential increased cost? [LB13]

JUSTIN BRADY: It will be a potential increase. I asked, with it being new construction. The numbers I got back were anywhere from \$200 to \$800 maybe. I mean, depending on the size of the basement and the size of the house, but it's not...but again being the new construction, obviously, as the previous testifier talked about, you know, installing PVC pipe and doing that ahead of time is a lot cheaper doing it up-front, so. Those are at least the numbers that I got back when I asked that question, Senator. [LB13]

SENATOR GLOOR Thank you. [LB13]

SENATOR CAMPBELL: Okay. Any other questions from the senators? Thank you very much. Is there anyone else in the hearing room who wishes to testify on LB13? Okay. Senator Krist is moving to provide a closing statement. [LB13]

SENATOR KRIST: Thank you, fellow members of the committee, for your insightful

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questions. I do believe that the testifiers have given you the technical expertise, and I think we have some things to talk about to go forward. I would remind you, Senator Crawford in particular, your questions about the assignment itself. It starts on page 15, basically, and it says, the radon resistant code...building code task force is created, the task force consists of the following members. And this is really the chief medical officer that runs this task force. I assume that almost everyone who was addressed in terms of expertise is here. My experience with building codes in the time I've been in the Legislature is, the code is the code, and how local political subdivisions or local rural areas decide to implement that code is completely and totally up to those elected officials and those code supervisors. I guess the strength I see in this bill is that we're not creating an atmosphere that is costing a lot of money. We're talking about new construction, and we're actually emphasizing the fact that the homeowner beware. There is a certification and training process and an installation...a proper installation of a passive and an active system, and we're hanging our hat on the fact that this task force is going to tell us how best to move in this direction. So, we're...again, I know it's not our job to tell them how to do business; but we're helping them move towards that direction. So with that, I would take any questions, but again I know less than Justin, so. (Laugh)
[LB13]

SENATOR CAMPBELL: Any follow-up questions from the senators? Thank you, Senator Gloor...Senator Krist, sorry. And with that we'll close the public hearing on LB13 and move to LB139, also introduced by Senator Krist, which would change vital statistics information relating to annulment and dissolution of marriage. Senator Krist.
[LB13]

SENATOR KRIST: (Exhibits 5 and 6) Good afternoon, Senator Campbell and members of the Health and Human Services Committee. For the record, my name is still Bob Krist, B-o-b K-r-i-s-t, and I represent the 10th Legislative District in northwest Omaha along with the northern central portion in Douglas County which includes the city of Bennington. And I appear before you today in introduction and support of LB139. The bill is very simple, and in its core, it seeks to add one "check the box" question to an existing Department of Health and Human Services vital statistics form that is already completed in connection with every divorce in the state. I've circulated a copy of the current DHHS vital statistics form and the proposed question which is based on a question taken from the form used in Washington State. As you can see, the proposed...when you get it, you will see that there is a proposed question, which is question 2 on the Washington form, would ask the parties to "check the box" that best summarizes the parenting time arrangements contained in a divorce decree. This question is more precise than the question 12b, and I'll repeat those two when you get your forms. It is currently asked for on the DHHS, and updating our state form will provide critical information about variations in parenting time awards in Nebraska. This information is important because numerous mental health studies demonstrate a link between certain types of parenting, time awards, and emotional and physical health of

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our children of divorce. One leading scholar calls inadequate parenting time a public health crisis. This form is already in use elsewhere, and there are well-established procedures in place to collect the forms and to compile the information collected. None of these procedures will change. As I said earlier, this is a very simple bill and collecting critical information with minimal impact to existing processes and procedures. Initial testifiers behind me will underscore the importance, I hope, in the upgrading the system of the Department of Health and Human Services. I would like to reserve the right to close, and I'd also like to say this. This is not probably the best ultimate fix, but it is a step in the right direction. It's a cheap implementation of an additional form. The fiscal note on this one is insignificant in terms of what we're asking them to do, and it's a collection of that data. I think you're going to hear from some experts. They'd like to see us go to a different level. I'm not unwilling to talk about that in committee, but this by itself is certainly a step in the right direction in my opinion. Thank you, Madam Chair. [LB139]

SENATOR CAMPBELL: Questions? Senator Gloor. [LB139]

SENATOR GLOOR: Yes, and I probably would have waited on this, Senator Krist; but as you know, I've got to leave and may not be back. Hopefully, by the time I get back you'll be done with this hearing, but... [LB139]

SENATOR KRIST: I hope so too. [LB139]

SENATOR GLOOR: ...but I'd like to read this. It was just an e-mail that I got not that long ago from my district court clerk who is a lady I've worked with for a while. Lot of respect for, sharp lady, and her comments are: "This bill places the clerk in the position of extrapolating information from the decree in our parenting plan. Each decree and parenting plan would have to be read and interpreted by someone in the clerk's office. For good reason, clerks do not interpret orders or pleadings in a case. We protect their integrity by archiving and storing them. We also ensure that they are part of the official court record. When called upon to do so, the clerk will copy or scan or produce the record as it exists on file for any party, person, or agency that has a need to review the record." Then she also makes a comment that she's been uncomfortable about being placed between HHS vital records and parties in a case or the legal counsel. And so, again, I haven't even had a chance to think about it in relationship to this bill and the context, but wanted to get it on the record and have it out there for you so we can talk about it further when we...and perhaps somebody who is going to provide testimony can address that also. [LB139]

SENATOR KRIST: Sure. I'd just quickly like to respond. [LB139]

SENATOR GLOOR: Sure. [LB139]

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SENATOR KRIST: That is the kind of thing that we need to be very careful of because obviously we know that the clerks are not... [LB139]

SENATOR GLOOR: Yeah. [LB139]

SENATOR KRIST: ...legally responsible to interpret and/or make judgment. I believe that if the language in the bill does not simply say, record and forward, or record and report, then we have an issue that we need to discuss. But we can do that in Exec and I'm more than willing to change or adjust. But there will be people that follow that will tell you that they don't think this is the ultimate fix either, so. [LB139]

SENATOR GLOOR: And had I heard that, I might not have even needed to have read it since I won't... [LB139]

SENATOR KRIST: Certainly. [LB139]

SENATOR GLOOR: ...and can't, I wanted to. Thank you very much. [LB139]

SENATOR KRIST: Thank you. [LB139]

SENATOR CAMPBELL: Thank you, Senator Krist. And with that, we'll take the first proponent for LB139. Good afternoon. [LB139]

JIM CREIGH: Good afternoon. Thank you, Senator Campbell. My name is Jim Creigh, which is spelled J-i-m C-r-e-i-g-h. I'm an attorney in private practice in Omaha. I'm also the founder and president of the Midwest Family Law Association and I'm speaking on behalf of that organization today. I'm appearing today in support of LB139. I'd like to reiterate some points made earlier by Senator Krist. LB139 is a simple bill. It adds one "check the box" question to an existing form that's been in use for many years. It does not require the creation of any new forms or procedures. The proposed question itself has been used in Washington State for five years without any known issues. The information sought by the question is critical to understanding and improving our family law system and to protecting the physical and emotional health of children affected by divorce. If you take a look at the existing vital statistics form and take a look at question 12b. This is at...it's a useful question, but it could be more precise. It asks...and in response to Senator Gloor's question, this form is not completed by the clerk of the court. It's completed by the plaintiff in the case. So the clerk does not have any involvement in the preparation of this form. The sole role of the clerk is to collect the form, and then once a month all of the court clerks in the state forward the forms on to HHS in Lincoln. And that's been the process for many, many years. But if you look at question 12b, you'll see it asks the party completing the form to check a box which says, with respect to children under the age of 18 whose physical custody was awarded to husband, wife, joint, or other. And so, it's pretty blunt; and so if you check the box that

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says they were awarded to the wife, that could pick up anything between 100 percent of the parenting time up to probably 45 percent of the parenting time. If you compare that with question 2 on the Washington State form, you will see it breaks it down in much more granularly. And the reason why this is important is because there's been probably three dozen mental health studies that demonstrate a linkage between the amount of parenting time that a child has and long-term outcomes for those children. And in particular, there seems to be an inflection point at 35 percent. So if a child has less than 35 percent with either parent, then that's a strong predictor of negative outcomes long-term, both emotionally and also physically. Children that get less than 35 percent of the parenting time with one of their parents are at risk of, among other things, early mortality. And so this...and that's, because of that, that this researcher at Arizona State named Dr. William Fabricius has described our current custody practices as a public health crisis. [LB139]

SENATOR CAMPBELL: Questions from senators? Senator Krist. [LB139]

SENATOR KRIST: If I could...thank you for bringing this to me. You know, I'm extremely serious about taking care of our kids in all walks, foster care, the juvenile justice system and, of course, in these situations. Kids at risk need to be identified. And I really appreciate your bringing it forward and your service in that area. Thank you very much. [LB139]

JIM CREIGH: I appreciate that. Thank you. [LB139]

SENATOR CAMPBELL: Senator Howard, did you have a question? [LB139]

SENATOR HOWARD: Is Washington State the only state that's implemented this change? [LB139]

JIM CREIGH: I haven't done a comprehensive review. They were certainly the first. And as you can see, the form that they've created, in my opinion, is a pretty elegant form. It's very simple, "check the box." And then what Washington State does is, every year they compile this information and then they publish the compiled results on an annual basis, which is very helpful not only for researchers but also for their administrative office of the courts as they monitor trends in these types of awards. [LB139]

SENATOR HOWARD: Thank you. [LB139]

SENATOR CAMPBELL: I just note for the record, I had a conversation this week with one of our providers in the Lincoln and Lancaster area who do a lot with foster care, and they have started a dads program in which they're trying to do exactly what that research talked about is creating ever greater length with fathers and dads. And one of their programs is a program for dads who are incarcerated. And I'm fascinated with that

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program. And actually one of the senators, Lincoln senators, has introduced a bill about it. So it's very topical here in terms of how important that involvement is for both parents. [LB139]

JIM CREIGH: Well, and it's interesting that you say that, Senator Campbell. You know, there was an article just this morning in The Wall Street Journal talking about, you know, the trend toward greater father involvement in child rearing, and especially mentioning some of the mental health research that goes along with that and the improved outcomes not only for children of divorce, but they're obviously the ones that are most affected, but also children in intact families as well. And then, a week or ten days ago there was an article in USA TODAY that pointed out, you know, some reports that the, you know, the young man involved in the Connecticut school shooting may have started to go downhill after his parents divorced and, you know, his father was no longer a part of his life. So, you know, that's just to reiterate the point that not only do these effects...not only are these...have effects on the children themselves, but they also have a much broader public health consequence as well and it affects all of us, not just the children and the parents. [LB139]

SENATOR CAMPBELL: Senator Krist. [LB139]

SENATOR KRIST: Yeah, as long as we're doing shout outs, Senator Bolz's bill is a result of a program that's been in place in our penal system in the penitentiary for years, and has excellent results. We're just trying to add the funding to it and keep it going. And the point is, it's not only the kids who are benefiting from that, but recidivism is going down... [LB139]

JIM CREIGH: Right. [LB139]

SENATOR KRIST: ...because the connection is now being made into the family as a result of that stuff. So, kudos to her for going forward with that, and Gregg Nicklas and his guys for bringing that program forward, and also again, thank you for bringing it forward. [LB139]

JIM CREIGH: Sure, my pleasure. [LB139]

SENATOR CAMPBELL: Did you have a question, Senator Crawford? [LB139]

SENATOR CRAWFORD: I wondered if...just for the record, if you could spell the name of a person you mentioned, William... [LB139]

JIM CREIGH: Oh, Fabricius. His last name is spelled F-a-b-r-i-c-i-u-s, and he is a tenured professor of psychology at Arizona State. He also chaired a two-year committee that studied and substantially rewrote that state's custody laws. That bill passed about

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six months ago and took effect on January 1. So he is considered one of the national experts on custody and parenting-time issues. [LB139]

SENATOR CAMPBELL: Okay. Any other comments, questions? Go right ahead. [LB139]

SENATOR CRAWFORD: Just to clarify, how will this...how is this form used after it's been submitted and recorded? How's the information used? [LB139]

JIM CREIGH: Well, I think you'll hear...right...I think you'll hear, after I conclude, from a representative from Voices for Children. Among other things, they use this data as part of their annual Kids Count booklet, which was...the new edition was just released this morning. And so, it's used primarily for, you know, policymakers, but also for researchers. And although I don't know this, but I suspect it's also used within our state judicial system as well, you know, to try to make informed decisions and to monitor trends in these various different areas. [LB139]

SENATOR CAMPBELL: Any other questions, Senator? Any other questions? Okay. Thank you very much. [LB139]

JIM CREIGH: Thank you. [LB139]

SENATOR CAMPBELL: Our next proponent for LB139. Our page is running him down. Okay, those who wish to testify in opposition to LB139. Good afternoon. [LB139]

JANET WIECHELMAN: (Exhibit 7) Good afternoon, Senator Campbell and committee members. My name is Janet Wiechelman, Janet is J-a-n-e-t. Wiechelman is W-i-e-c-h-e-l-m-a-n. I am the Clerk of District Court for Cedar County and also the legislative liaison for the Clerk of the District Court Association. I am here in opposition of LB139 as our association has concern in the reporting of information in the dissolutions to the Bureau of Vital Records. Last year our association testified on LB904 due to the issues that had arose in the reporting of the dissolutions from the clerks of district court to the Bureau of Vital Records. In the testimony offered, examples were given how a clerk of district court obtains the information from the legal representatives or from the parties representing themselves. It was also stated at that time that there are complications in the clerk of district court obtaining the worksheet which has been provided by vital records from the attorneys for the parties. If the language as to when the information is to be provided to the clerk of the district court is stricken from statute, problems will occur in the reporting process. It is imperative that a specific time be stated. If an action of dissolution has been stipulated by the parties and the parties waive the hearing, neither of the attorneys nor the parties will ever appear before the court on the matter. In those occasions, the clerk is not able to approach the counsel or parties prior to that entry of the decree because of the neglect of providing the

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information on the worksheet. We would prefer that the specific time for providing the worksheet continue to be at the time of filing of the complaint. This will allow the court staff time to obtain information that may have not been reported prior to the decree being entered by the court. This form is submitted by the plaintiff and her legal counsel. So the issues that are listed on the...for the statistical purposes are also their interpretation how they wish the case to be entered, not necessarily how the court will enter the case. Even though the worksheet is provided at the time of the filing of the complaint, the information reported to Vital Statistics for statistical purposes in the decree of dissolution. Currently the categories that are reported to vital records for statistical information are physical custody, child support, property settlement, alimony, and medical reimbursement. The information is only completed as a yes or no. An example of the worksheet and a completed certificate is attached which shows how a particular case has been reported to vital records. A part of this legislation adds that the legal custody of the minor children be reported. The physical custody is already reported on the dissolution certificate. Therefore, if the legal custody was included, the clerk of the district court would be able to report this information. However, these categories are determined by the Bureau of Vital Records and are required through their procedures and policies, not by statute. As a side article to that, that particular question as far as the physical custody, it is an issue we have to insert into JUSTICE specifically. We have to say how many children are under the age of 18, and we do have to then indicate how it is, to mother only, father, joint, how it's stated. And the certificate I provided also shows a particular case where the custody was split between the parents for your information. As a final point to our opposition to LB139 is the requested parenting time determinations of each child, if any, who is affected by the action be included in the statistical information for vital records. Even though Nebraska Revised Statutes 43-2929, which is the statute for the Parenting Act, provides in (1)(b)(ii) for the apportionment of parenting time, it is not something that has to be stipulated by the parties in the parenting plan and included in the decree of divorce. I am attaching for your information the proposed Parenting Plan Court-Created and a Decree which are available on the Supreme Court's Web site to individuals who wish to proceed without counsel. Neither of these forms include the specific information as requested. In order to report the parenting time determinations correctly to the Bureau of Vital Records, this information needs to be specifically set forth in the particular form, set forth in Parenting Plan and the Decree of Dissolution. I understand that the state of Washington has a particular form which is required to be filed that discloses this information. However, their parenting plans include that data. Without the foregoing information being available by the inclusion within a court order, the clerks of district court would oppose this legislation. The clerks of district court report the information as provided by the parties or legal representatives and then the statistical information which is available in the decree. We would request LB139 not be advanced to General File because of the issues that we have highlighted for you. We do understand the necessity of obtaining this information. However, we believe in the process that's currently available it would have to be amended in some form or done in another form. As was related by Val

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Bendixen, Clerk of the District Court from Hall County, the decrees are available on the courtwide state system, which is the JUSTICE program system. Decrees are available if someone would like to review them. Also as far as the issue, like I said, when these are filed...the worksheets are filed, they're filed by the plaintiff. Many times these cases when they are filed, they are contested cases. So the plaintiff is going to ask for custody of the children. He's going to indicate that. He's going to indicate he wants property settlement, but we cannot take it by that information. We have to take it by what the decree declares in it and the Parenting Plan is attached to the decree. And that is how we enter the information for the physical custody, the property settlement, the child support, all of that is what we enter into the information on JUSTICE system. I'll be willing to answer any questions if you have any. [LB139]

SENATOR CAMPBELL: Questions? Senator Krist. [LB139]

SENATOR KRIST: You reviewed this piece of legislation when, as a group? [LB139]

JANET WIECHELMAN: We have sent e-mails last week on it. [LB139]

SENATOR KRIST: And no one contacted my office to talk to me about your findings? [LB139]

JANET WIECHELMAN: We did talk to Larry Dix's office, which is NACO association, and had...I think it was last week already, and I told him we don't have the finding information so what we are objecting to, it's just that we have concerns, number one, with the taking out of being indicated at the time of filing complaint because the problems we have been before this committee on. I apologize if for some reason this information did not get to you, but we had contacted them. I would be willing to work with you on bringing...you know, this legislation. I agree if something does need to be reported, I'm just not sure through the vital records is the way to handle it because, like I said, it is included in the policy procedures of vital records. It is not in statute as to what the statistical information is included. [LB139]

SENATOR KRIST: Well, I'd make this comment during my closing, but I'll afford you the opportunity to comment to my comment... [LB139]

JANET WIECHELMAN: Sure. [LB139]

SENATOR KRIST: ...which is the, I think, the gentlemanly thing to do. The way I do business, if you come to me and tell me there's an issue, I try to handle it before we ever get into the committee hearing. So for the future, if you would let Mr. Dix know to come to the presenter or introducer, because I want to talk to you if there's an issue. Now, I know that Senator Gloor made a somewhat similar comment with the clerk, but, and I'll...please respond to that if you would. [LB139]

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JANET WIECHELMAN: We would love to work with you. We'd like to find a way that we could input this information. I can't say what the Court Administrator's office would say. They're not here, either. And the other ones that operate the system, which we enter this information into, which is then relayed to Bureau of Vital Records. I don't know what they have to say about it, but if we can find a way to enter the information that you want that's in a decree, we'd be more than willing to do it. We just have concerns where it's not being available now in the decrees and the Parenting Plans that we would have a hard time determining what we enter. [LB139]

SENATOR KRIST: Thank you. Thanks for coming and testifying. [LB139]

SENATOR CAMPBELL: So what goes into the Vital Statistics may be very different than what is in the final court decree? [LB139]

JANET WIECHELMAN: Well, specifically what was stated, as far as state of Washington, they have that separate form that gives that percentage breakdown. There's never anything like that included in a Parenting Plan in Nebraska. At a survey of clerks of district court, none of them could recall where a breakdown was that would be included. If it was included, the worksheet that we originally would receive, knowing we have to enter that information at the time the decree is entered, we would do so, but without a percentage being stated, that make a determination by the clerk of the court in reading the decree to make that, and we're not willing to do that. We're simply just linked information as stated in the decree and Parenting Plan. [LB139]

SENATOR CAMPBELL: So, here's a question for you. If the plaintiff had to update that list by the decree, could that then be attached? Because what you're saying is that they fill this out prior to, and then the court acts and a decree comes forward. So the information that Senator Krist is trying to get at really is in the final court decree. [LB139]

JANET WIECHELMAN: That is correct. [LB139]

SENATOR CAMPBELL: Okay. Could it be required that the plaintiff update the form to reflect the final decree? [LB139]

JANET WIECHELMAN: As long as it was within...was stated in the decree, yes. We could work with that. What we enter into the computer is electronically sent to the Bureau of Vital Records. So it has to be information that's prior to us entering that decree. So once the decree is signed, we enter that information and then we send it forward. Perhaps, it could just be supplemental worksheets be done at that time. [LB139]

SENATOR CAMPBELL: Okay, but it could be required of them to provide that prior to

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your filing the decree? [LB139]

JANET WIECHELMAN: Well, we like to stay with the worksheets that they give us, as required be filed at the time of the complaint; but that doesn't always happen either. But if we would do some type of supplemental, we would like again have a specific time frame... [LB139]

SENATOR CAMPBELL: Right. [LB139]

JANET WIECHELMAN: ... so the attorneys and the persons would deal pro se people, people doing divorces without attorneys. They need to have that specific time frame also. [LB139]

SENATOR CAMPBELL: So the information that's in the Vital Statistics, does it also then appear in the JUSTICE system? [LB139]

JANET WIECHELMAN: The clerks at district court do scan the post-certificate given by the attorney or the parties and also the finalized one. However, because of confidential information included in that, it is considered a confidential document. Therefore, anybody who would use JUSTICE would not have access to those documents. [LB139]

SENATOR CAMPBELL: That was the question because you could see where I was going there. [LB139]

JANET WIECHELMAN: Because the date of birth, Social Security numbers, and...is on that information; and according to Supreme Court rule, that's confidential. [LB139]

SENATOR CAMPBELL: Okay. It would seem to me that there's some kind of workable solution here depending...I mean, it's who's required to get that information and to make sure it's accurate to the decree, not to the worksheet. Would that be what you're trying to tell us? [LB139]

JANET WIECHELMAN: Right. Uh-huh. [LB139]

SENATOR CAMPBELL: Because the worksheet says what they'd like to have. [LB139]

JANET WIECHELMAN: At times there are parties who state they like to have a lot of things; but again, you pray...you're praying for things... [LB139]

SENATOR CAMPBELL: Okay. [LB139]

JANET WIECHELMAN: ...but what you get at the end is not. (Laugh) [LB139]

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SENATOR CAMPBELL: Thank you. That helps clarify for me what you're indicating. Questions from the senators? Thank you for testifying. [LB139]

JANET WIECHELMAN: Thank you. [LB139]

SENATOR CAMPBELL: Those who wish to oppose LB139. Those who wish to appear in a neutral position. Good afternoon. [LB139]

SARAH FORREST: (Exhibit 8) Good afternoon, Chairwoman Campbell, members of the Health and Human Services Committee. My name is Sarah Forrest, and I'm a policy coordinator at Voices for Children in Nebraska. I first want to start by thanking Senator Krist for introducing this bill. Those of you who know Voices for Children know that we have a love of data, research, and analysis; and we are extremely supportive of efforts to increase what we know here in Nebraska about parenting time, about child custody, because it is a lack of information in our state and we think that we have a lot of room for improvement when we look at how child custody is impacting children's well-being. You all may or may not know this, but Voices for Children has long been involved in the creation of Nebraska's Parenting Act. We were involved back in 1993 and most recently in 2007 when there were some major revisions to the Parenting Act with a broad group of stakeholders. Since its establishment, the Parenting Act has been questioned. There have been folks that have been questioning, is it doing what we want it to do, which is make sure kids are safe, which is make sure that the blow of divorce is softened. And I think they can have meaningful relationships with both their parents but, you know, in cases of domestic violence, or other concerns, that they're still being kept safe. And so, we admire LB139 and it's starting attempts to get out more information about what is going on with children in child custody cases. That being said, we think that while this would be an expansion, it will leave some significant gaps in our understanding of the Parenting Act and its implementation. And these are outlined in your testimony. One of the problems is that the Parenting Act applies to, obviously, children whose parents are not married, but are settling child custody disputes. And that is a growing number of children in Nebraska. And so we don't know what's going on for them, and this is an incomplete picture of how child custody is being settled. Are kids having adequate relationships with fathers and mothers? How are we splitting that time? It would also not allow for the impact of different factors on parenting time and custody decisions to be reflected. For example, the presence of domestic violence. The representation of both parents, the process followed before the plan was decided upon. For example, was it a trial? Was it a court-ordered plan? Was it something that was reached in mediation? We want to be able to capture modifications to parenting plans that may be made subsequently down the road. And fourth, the Administrative Office of the courts here in Nebraska really is the entity that's poised most to make changes, to work with the courts to make sure that kids are getting what they're needing, and that we're implementing the Parenting Act the way it should be implemented for the best interests of children. And with this information being collected by Vital Statistics, one of the things we need to just

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ask ourselves is, what is that transfer of information? Are the courts using the information? Are we getting it where we need it to go so we can have a loop of continuous quality improvement in making sure that children's lives are being affected the way we want them to be affected, if that makes sense. So, just to reiterate, we are fully supportive of expanding the data we collect on child custody cases here in Nebraska, and we would urge the committee to consider ways to build upon the bill that's in front of you and just think about some of these broader policy questions. If we want more data to assess how the Parenting Act is functioning, we think we need to expand it beyond just parenting time allocated to each parent to get at some deeper questions and expand our view. Thank you. [LB139]

SENATOR CAMPBELL: Do you know of any research that's being done inside the court orders? [LB139]

SARAH FORREST: Well, I do... [LB139]

SENATOR CAMPBELL: And I realize that's...I'm sorry, I realize that's, you know, information that may be closed, but I didn't know whether the court system itself was looking at any of that. [LB139]

SARAH FORREST: I do know that...I believe that there exists a Parenting Act Fund with some amount of money. And I know that there was research that the Administrative Office of the courts was beginning the process of sort of contracting with a researcher as recently as this summer. I don't know where that process currently stands, but I know that it is something that they are interested in. And with the JUSTICE system that was mentioned, the courts do have a capacity to capture more information. I believe that the conciliation court in Douglas County has expanded a list of factors which they record for mediated custody cases both divorce and not divorce, but that that is not statewide at all. So there is some interest at least in some local levels and in the Administrative Offices of the court of sort of getting at, is the Parenting Act working? What are we seeing? But those studies haven't come to fruition yet. [LB139]

SENATOR CAMPBELL: Okay. Would that be under the auspices of Janice Walker? [LB139]

SARAH FORREST: I believe Janice would probably be the person you'd want to talk to first, yes. [LB139]

SENATOR CAMPBELL: Questions, Senator? Thank you for your additional information for us to take a look at. [LB139]

SARAH FORREST: Yes, thank you, and thank you Senator Krist. [LB139]

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SENATOR CAMPBELL: Others in the audience who wish to provide neutral testimony. Do you wish to close? [LB139]

SENATOR KRIST: Can I do it from here? [LB139]

SENATOR CAMPBELL: Sure. [LB139]

SENATOR KRIST: Thank you for answering my questions, and I look forward to working with anybody who wants to make this better. And thank you for bringing it forward. I would say only that we probably have a lot of work to do to make sure that the right data is getting to the right spot, and we'll have that discussion. And thank you, fellow members of the committee, for your indulgence and for your attention. [LB139]

SENATOR CAMPBELL: Okay. With that we will close the public hearing on LB139 and it concludes our hearings for the day. [LB139]