

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Executive Board February 8, 2022

**HUGHES:** Welcome to the Executive Board. I am Senator Dan Hughes. I am from Venango, Nebraska, and I represent the 44th Legislative District. I serve as Chair of this committee. The committee will take up the bill that is posted today. Our hearing today is your-- the public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. I ask that you abide by the following procedures. To better facilitate today's proceedings, please silence or turn off your cell phones. Move to the front row when you are ready to testify. The order of testimony is introducer, followed by proponents, opponents neutral, then closing by introducing senator. If you are testifying, please fill out a green form found in the back of the room. Hand your green sign-in sheet to a page or the committee clerk when you come up to testify. Spell your first and last name for the record as you begin testifying. Speak clearly into the microphone and be concise. Because we are a lunch hour committee, we ask that you please keep your testimony to three minutes. When you see the yellow light come on, that means you have one minute remaining and the red light indicates that your time has ended. Questions from committee members may follow. If you do not wish to testify today, but would like to record your name as being present at the hearing, there is a separate white sheet on the tables that you can sign in for that purpose. This sign-in sheet will become an exhibit in the permanent record at the end of today's hearing. We ask that you please limit or eliminate handouts. If you do have handouts, the materials may be distributed to committee members as exhibits only while testimony is being offered. Please make sure you have at least 13 copies and give them to the page when you come up to testify. They will be distributed to the committee and staff. The committee members with us today will introduce themselves beginning on my left.

**VARGAS:** Tony Vargas, District 7, downtown and south Omaha, and I serve as Vice Chair of the committee.

**SLAMA:** Julie Slama, District 1: Otoe, Johnson, Nemaha, Pawnee, and Richardson Counties.

**McCOLLISTER:** John McCollister, District 20, central Omaha.

**HILGERS:** Mike Hilgers, District 21, northwest Lincoln and north Lancaster County.

**GEIST:** Suzanne Geist, District 25, which is the east side of Lincoln and Lanc-- southeast side of Lincoln and Lancaster County.

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**HUGHES:** And committee members to my right.

**PANSING BROOKS:** Hi. I'm Patty Pansing Brooks representing District--  
Legislative District 28, right here in the heart of Lincoln.

**LATHROP:** Steve Lathrop, District 12, which is Ralston and parts of  
southwest Omaha.

**HUGHES:** To my right is committee legal counsel, Janice Satra, and to  
my far right is our committee clerk, Mandy Mizerski. Our page for the  
day is Chloe Fowler. She is a senior at UNO, majoring in political  
science. With that, we will open our hearing on LB777. Welcome to the  
Exec Board, Senator Brewer.

**BREWER:** Thank you, Chairman Hughes and fellow member-- fellow senators  
of the Executive Board. I'm Senator Tom Brewer. For the record, that  
is T-o-m B-r-e-w-e-r and I represent 11 counties of the 43rd  
Legislative District, which is in central and western Nebraska. I'm  
here today to introduce LB777. I'm introducing this bill on behalf of  
my constituents. They brought this I to-- idea to me when I first ran  
for office in 2016. And just as a quick refresher, with the changes in  
the district, I now start-- I'm not very far past Grand Island because  
that includes Custer County now and goes all the way to Fort Robinson,  
South Dakota, Wyoming. So most of the Sandhills and the Panhandle are  
part of that. So as we go through this testimony, try and keep in mind  
that that's part of the problem that we're struggling with is you have  
a population who is very separated from the Capitol, this end of the  
state, who, because of their obligations, whether it be farming,  
ranching, or business, are unable to watch what happens here in the  
Legislature and therefore are very limited in the exposure that they  
can have and likewise are limited on their ability to come and testify  
in front of us. In this one-of-a-kind Unicameral, we-- that has been  
built around the idea of transparency for the public, which George  
Norris was very positive about, we need to remember that the, the idea  
behind this and the verbiage that we see on the, the building out  
back-- out-- on the north door-- hang on here, we got to-- here we go.  
This is better-- Norris liked to call the second house. If you read  
the inscription in the stone above the door, it says the salvation of  
the state is watch-- the watchfulness of the citizens. When you, when  
you stop to think about it, that really is the only check we have with  
only one house. A quote that I'm going to read to you: in a small  
house, a one-house legislature, all lawmaking goes on in one room.  
Now, we may not fully understand how a two-house system works because  
of the fact that this is all we've known our whole time here. But in  
most other states, there's a lot of things that happen behind closed

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doors and the people don't get exposure to it. What we're trying to do here is figure out a way to have that transparency. All lawmaking happens in an open way with the Unicameral. George Norris stressed this throughout his whole concept of why we needed a Unicameral. So when we looked at options to be able to get a voice to the people, we came to the realization that there was no way that, under the current system, we could ever have the ability for those people that are that far to pose from Lincoln, Nebraska, to be able to see what goes on here. We have, we have built this barrier of a electronic system that does not allow for them to be able to see what we do here, whether it be the committee hearings in the afternoon or the floor debate. So what we're asking now is that we have a-- an ability electronically for them to go and take those pieces of what happens in the Legislature that many times apply directly to them and actually, here it would sit. Now, why would you oppose this? Well, maybe if you say things on the floor you're not real proud of, you're not going to want a history of that and that's exactly what it's going to be. But more importantly, we see an effort to kill this concept because of the A bill that's put on it. And I really question that because if what is being recorded is the possession of the Legislature, why would it cost in excess of a half a million dollars to have that so it's accessible to the public? That's what we're trying to do with, with LB777. So with that, I'll take any questions.

**HUGHES:** Thank you, Senator Brewer. Are there any questions from committee members? I guess I have one. Do you have or have you had these constituents-- they have-- can record it on their DVR or those type of things if, if--

**BREWER:** Sure.

**HUGHES:** --if they want to--

**BREWER:** You--

**HUGHES:** --participate?

**BREWER:** You could, but, you know, a lot of times our floor debate, you don't know if someone's going to be filibustered. And so you might have to record, you know, day after day to finally get to the particular bill that's being discussed. And, you know, would it make more sense to have tens of thousands of people recording or would it be easier to have a library where people could come in and actually take what they need?

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**HUGHES:** And also you're-- I'm sure you've made them aware that the, the written record is our official record and they can certainly request that.

**BREWER:** They could, but understand that that, that is a, a fairly challenging thing to read through, you know, mountains of, of written testimony trying to, to come to an understanding of issues and debates.

**HUGHES:** OK, so you're just looking to-- you know, the information-- they know the information is available to them several ways. You're just looking for a way to make it easier to access.

**BREWER:** Yeah, to use the ability to electronically go into a library or a depository of this information and take out things that-- you know, some are going to be interested, obviously, in, in property tax issues, but some may be specifically looking at things that have to do with water. This would give them the ability to do that without having to go through literally mountains of, of paperwork.

**HUGHES:** OK, very good. Any other questions? Senator Geist.

**GEIST:** Thank you for bringing this bill. I actually brought this bill about four years ago. So--

**BREWER:** Yes, you did.

**GEIST:** --I'm, I'm curious if you know-- and I don't mean to put you on the spot. You might not know and I can ask someone behind you, but I'm curious if you know how many other states have both-- are you-- well, first, let me ask, are you thinking both committee hearings and floor debate or just floor debate?

**BREWER:** Well, I think it should be both because what we, what we have a challenge here in Nebraska is the inability. And sometimes it's just-- and sometimes it's, it's the requirements to, to make days of driving, but also weather is a factor in their ability to come and speak on different issues. So committee hearings are essential. They're kind of the foundation of, of the bills, but then the floor debate decides whether they become law or not. So I think the two need to come together for people to fully understand what's--

**GEIST:** OK.

**BREWER:** --what's happening here.

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**GEIST:** Well, in light of that, do you know how many other states actually do this?

**BREWER:** I wish I did, but I do not. But I can go to work on that--

**GEIST:** OK.

**BREWER:** --and get an answer.

**GEIST:** All right. That's all.

**HUGHES:** Senator McCollister.

**McCOLLISTER:** Yeah. Thank you, Mr. Chairman, and thank you, Senator Brewer. I understand the need for transparency. I certainly favor that. I'm kind of curious, how do we obligate NE-- NETC to do this? They're not a part of the state, are they?

**BREWER:** Well, they receive funding from us to do this. I guess my question would be back if they're recording this, isn't it our property already? It's just figuring out how to build a, a way to have it available for someone to, you know, sort through and find a particular day of testimony or a subject.

**McCOLLISTER:** I get that. So they currently receive General Funds?

**BREWER:** Well, I don't know how else we would pay for them to record this, so I, I would have to assume they do, but again, I'll double-check, but how else would we pay them to do it if it wasn't from General Funds?

**McCOLLISTER:** Yeah. OK, thank you very much.

**HUGHES:** Any additional questions? Senator Pansing Brooks.

**PANSING BROOKS:** Thank you. Thank you for bringing this, Senator Brewer. What I was wondering is was there any discussion about having the Legislature-- once it's been, once it's, it's been filmed and taped, could the Transcribers Office or some other office hold that information so-- I mean, I don't know where the bulk of the cost is. They've already filmed it, so it's, it's obviously the cost of, of, of just creating a bank of these videos. So is that something that-- did, did you check to see if, if by chance, the Legislature would have the ability to hold that and make it available? I'm just--

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**BREWER:** Well, I think that was the idea behind the bill is that it, it forces that availability. I mean, they're recording it every day. We're-- you know, I think in some cases, we're missing opportunities to, to have some way to archive some of the things that are said on the floor. The, the speeches that, that you and I gave on Standing Bear, I would like to have had that recorded so I could come back and, and show that for future generations. I would have liked to recorded Rob Clements' comments about his father. There are things like that are lost to time that, that we don't have.

**HUGHES:** If, if I could maybe help understand since I've been on the-- this board for my eighth year now, this is something we have discussed at length in the past and I think some of the testifiers coming up behind maybe not proponent or opponent, but maybe in the neutral capacity could answer some of those questions of cost and what it looks like and where it would be stored and who owns it and those type of things.

**PANSING BROOKS:** OK, thank you.

**HUGHES:** So any additional questions? Thank you, Senator Brewer. You'll stay--

**BREWER:** I'll stay for close.

**HUGHES:** Perfect. Very good, so now we will open up testimony of the proponents of LB777. Anyone wishing to testify as a proponent? And if you wish to testify, if you'd please come populate the front row, that would be great. Welcome.

**CINDY MAXWELL-OSTDIEK:** Thank you. My name is Cindy Maxwell-Ostdiek. That's C-i-n-d-y M-a-x-w-e-l-l-O-s-t-d-i-e-k and I live in District 4, which is in west Omaha and I'm here today to-- as a proponent for LB777, requiring the Nebraska Education Telecommunication Commission to develop and maintain a digital archive of Nebraska Legislature video coverage. And I am so thankful to Senator Brewer for bringing this bill and I have also followed Senator Geist in the past with this as well. I'm a fan of the Legislature and this is a passion project for me as well. Nebraska's nonpartisan Unicameral requires the second house. It doesn't work for Nebraskans the best it can when we're not involved and it is difficult for Nebraskans if they're unable to come to the Legislature in person due to distance, of course, but also work, school, disability, illness, family care responsibilities, flat tire. Many things can restrict us from being able to come to the Legislature and we might not be aware at the time of specific

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legislation that impacts our lives or livelihoods. We may want to return to a recording of a hearing or floor debate to better understand what our, our senator or a committee has discussed. I'm concerned I might run out of time this morning, so I want to start with my request as an everyday Nebraskan, a civic-minded person. I'm a taxpayer and a mom and I want our Unicameral to create the best laws possible for our children and theirs. I ask, please, that you invite, involve, and listen to the concerns and ideas of Nebraskans to make our state better. When implementing this law, please ensure the recordings are available immediately and easily searchable, at least by date, bill, or resolution number, committee, introducing senator, individual senator comments, and keywords. All recordings should please be closed-captioned as well. In the past, people used to tape the Legislature, but VCR and DVR recordings are not easily shareable and many Nebraskans don't even carry traditional cable anymore. It's expensive. This resource should be offered free to Nebraskans because we should be able to access this public information no matter our income. Transcripts are an important official record and floor debate transcripts are available within a day or two. Committee hearing issue-- transcripts, however, do take time to produce and can sometimes be available up to months later after the session is even finished. I'm cofounder of a legislative study group and we started recording the legislative proceedings a few years ago. We have offered this to the public and within our group members and we have hundreds of recordings available. I can go into more detail, but I see that the red light is on. I have a lot of information I'd love to share about the technology and storage of it, but I do ask that you use best practices, please, and other states are accomplishing this.

**HUGHES:** Very good, thank you. Are there any questions from committee members? Senator Pansing Brooks.

**PANSING BROOKS:** So I, I-- thank you for coming here, Ms. Maxwell-Ostdiek.

**CINDY MAXWELL-OSTDIEK:** Um-hum.

**PANSING BROOKS:** I, I am interested how you're storing that. I have seen your legislative study group that does tape the Legislature and what's going on. How are you storing that and how much expense is it costing you?

**CINDY MAXWELL-OSTDIEK:** Sure. Our members in the study group, we realized early on, were not able to follow along during the day. So there was a member who was able to show us how to record using a free

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online platform. It's software that's open source and it's very technical and I was so grateful that he had taught us how to use it, but it was not user friendly. Now we're using a different platform online that is very user friendly and we're able to record not only one broadcast, but we can do several at a time, so we're catching more of the committee hearings now. We offer it on our Facebook page, our public page and within the private group, as well as YouTube. And the ones that I recorded before we had this new software, I have stored on a external hard drive. It's a five-terabyte drive and we've only used one so far and I have-- let's see here. I'm so sorry. I wrote this down-- over 300 files and it's used about a, a terabyte and you can buy an external hard drive for \$100..

**PANSING BROOKS:** OK.

**CINDY MAXWELL-OSTDIEK:** So that part isn't expensive at all.

**PANSING BROOKS:** So what-- how much-- I don't know what the files are. Like, is it a day or is it--

**CINDY MAXWELL-OSTDIEK:** Right, I-- we record the legislative floor proceedings and we also record committee hearings. Since we've been using this new platform, this-- 20 days we're into the session about right now. We have about 240 hours. So we've missed a couple of hearings and we've missed a couple of the, couple of the-- technology is an issue sometimes. You can have Cox go down in your neighborhood and not be able to, you know, access the internet and that has happened a couple of times. We're just human. That's why we want this, please, done at the Legislature so it will be a reliable service to all Nebraskans at their convenience.

**PANSING BROOKS:** So how much is it costing you to archive this?

**CINDY MAXWELL-OSTDIEK:** I will download off of the online platform to the external hard drive, which I've already paid for. So it's about \$100 for a five-terabyte drive.

**PANSING BROOKS:** Nowhere near \$500,000 a year.

**CINDY MAXWELL-OSTDIEK:** Well, I'm sure it's different when you would archive it on the Legislature website. I do know that Omaha City Council just uses YouTube. Theirs are available on YouTube. It's not an official transcript, but if I could say one more thing, please?

**PANSING BROOKS:** Yeah.



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**CINDY MAXWELL-OSTDIEK:** I know that there's concern about how these videos may be--

**PANSING BROOKS:** Altered?

**CINDY MAXWELL-OSTDIEK:** --portraying people or they could be altered. This technology is out there right now. We're recording. There can be any number of other organizations or people recording and there's no official video recording to compare these to. So if something were modified, it's not secure right now that you'd be able to compare it easily, that the public could easily compare it to an official recording. So I just wanted to bring that up because I do think it's an important security consideration for all the senators.

**PANSING BROOKS:** Um-hum.

**CINDY MAXWELL-OSTDIEK:** Did I answer your question?

**PANSING BROOKS:** Yeah, it did. I think the Legislature is notoriously slow in changing on technology, so I-- we do know that, so-- but it's really nice to hear this portion about how, how possible it, it is to do this, so--

**CINDY MAXWELL-OSTDIEK:** Well--

**PANSING BROOKS:** --thank you.

**CINDY MAXWELL-OSTDIEK:** Oh, I'm sorry.

**PANSING BROOKS:** No, go ahead.

**CINDY MAXWELL-OSTDIEK:** You were commenting about other states--

**PANSING BROOKS:** Um-hum.

**CINDY MAXWELL-OSTDIEK:** --and I did not go through-- I'm, I'm that nerd who was going to go through and look at every state, but, but I didn't accomplish all of it. But I can tell you just off the top of my head the way two different states do it. Colorado, like Omaha City Council, uses YouTube.

**PANSING BROOKS:** OK.

**CINDY MAXWELL-OSTDIEK:** They link it to their website. Iowa has a process that seems more like C-SPAN, so, you know, they have more where you could click in and--

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**GEIST:** Um-hum.

**CINDY MAXWELL-OSTDIEK:** --search a little bit easier--

**GEIST:** OK.

**CINDY MAXWELL-OSTDIEK:** --instead of just by date.

**GEIST:** Well, I was going to ask that question--

**HUGHES:** Senator Geist.

**GEIST:** --so-- she already answered. Thank you.

**HUGHES:** Senator Geist--

**GEIST:** Yes.

**HUGHES:** --for the transcribers, so we know who's talking.

**GEIST:** Yes.

**CINDY MAXWELL-OSTDIEK:** I'm so sorry.

**HUGHES:** Very good. Any other questions? Seeing none, thank you for coming in today--

**CINDY MAXWELL-OSTDIEK:** Thank you.

**HUGHES:** --Ms. Maxwell-Ostdiek. Next proponent. Welcome.

**NICOLE FOX:** Thank you, Chairman Hughes, members of the Exec Board. Nicole Fox, N-i-c-o-l-e F-o-x, representing the Platte Institute in support today of Senator Brewer's LB777. Even though Nebraska media seems to be enjoying the launch of several news outlets in the past year, there are still gaps to fill in providing coverage about the policy issues that impact Nebraskans. In the last decade, technology and the internet have opened access to the legislative process and created new ways for citizens to interact with their elected officials. Legislative documents are created, tracked, and transmitted electronically and an unprecedented amount of information is being made available to the public online. This transition has made legislative work more efficient and it has enhanced the transparency, accountability, and access. Live webcasts for legislative floor proceedings are available in all 50 state legislatures, the District of Columbia, Puerto Rico, and the Virgin Islands. Twenty-four states and the District of Columbia also broadcast legislative proceedings on

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television and Nebraska is one of those 24 states. Forty-six states, plus the District of Columbia, Guam, Puerto Rico, and the Virgin Islands archive legislative proceedings in audio and/or video format. The four states that do not archive legislative proceedings include Alabama, Illinois, Montana, and Nebraska. Legislative archives can be found primarily on states' corresponding legislative websites or YouTube. And just so you know, in my written comments at the bottom, I have a website noted. It's NCSL and you can go there and access all 46 states, their video and audio. As you may know, the Platte Institute has a longstanding interest in government transparency. In 2021, we were selected to partner in implementing the recommendations of Blueprint Nebraska, which seeks to reimagine and streamline government services by improving the citizen experience through digitization. During the 2021 interim, the Platte Institute sent a letter to Nebraska Public Media and the Office of the Clerk of the Legislature offering to begin a formal conversation between each of our teams to explore ways to resolve this problem and any barriers that may need to be removed. The Platte Institute appreciates the great work done by the Nebraska Public Media to provide access to real-time coverage, but why not take things a step further and find a way for hardworking Nebraska taxpayers to be able to have access to recordings to some of those proceedings after the fact? In reflecting on last Thursday's afternoon committee hearings, I'm sure several citizens were interested in some of the agency budget requests before the Appropriations Committee. While at the very same time, they were probably also interested in some of the proposals in front of the Revenue Committee addressing the rising property tax problem. While transcripts of floor debate and legislative hearings are made available to the public can be-- it can sometime-- be some time before official transcripts become available. Also, a recorded yea or nay vote may not always be taken on major legislative proposals and the ability to view a video recording might be the only means of ascertaining how or why policy decisions were made. Some opponents claim that the archiving of legislative proceedings will lead to the stockpiling of political ammunition, but let's be realistic; there already exists ways to obtain the information to be used as political ammunition and both various media outlets, special interest groups, and campaigns are doing that.

**HUGHES:** Senator Fox, your red light is on.

**NICOLE FOX:** So I will conclude my remarks and if you have any questions, I'm happy to answer them.

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**HUGHES:** Very good, thank you for coming in. Any questions? Senator Slama.

**SLAMA:** Thank you, Mr. Chairman, and thank you, Senator Fox, for coming in today. So let me make sure I heard this right; 46 other states are capable of and are already doing this in some way, shape, or form?

**NICOLE FOX:** Correct.

**SLAMA:** Fantastic.

**NICOLE FOX:** Yeah.

**SLAMA:** I just want to make sure we drove that point home.

**NICOLE FOX:** Yeah, thank you.

**SLAMA:** Thank you.

**HUGHES:** Any additional questions? Thank you, Senator, always a pleasure to see you. Next proponent. Welcome.

**WESTIN MILLER:** Thank you, Senator Hughes, members of the committee. My name is Westin Miller, W-e-s-t-i-n M-i-l-l-e-r. I'm the director of public policy at Civic Nebraska. Senator Fox covered literally everything I was going to say, so let me just re-emphasize that we are one of only four states not doing this and I think that Nebraska voters are starting to notice. Obviously, a big part of our work that is not involved in the Legislature is trying to get folks just connected with issues that they care about and the fact that we can't even send a video clip of important debate is just a huge barrier. This is a-- like accessibility 101. I think obviously we have a transcript. It is accessible if you know how to do it, which is not-- it's not a one-click process, certainly. And I think that-- I think there's just no substituting for actually seeing the entire legislative experience and it can't just be reduced to a transcript. So thank you, Senator Brewer. At risk of being a huge nerd, this is my favorite bill of the whole session. I think that this is just-- it's good for schools, it's good for journalism, it's good for everything. This is just basic transparency and I hope we can figure out how to get it done.

**HUGHES:** Very good. Thank you, Mr. Miller. Are there questions from the committee members? Seeing none, thank you--

**WESTIN MILLER:** Thank you.

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**HUGHES:** --for coming in today. Next proponent. Welcome.

**JENNIFER HICKS:** Hi. My name is Jennifer Hicks, J-e-n-n-i-f-e-r H-i-c-k-s, and I think it'd be really a shame to not see this get out of committee because I'm here today alongside people that I usually am in opposition with when, when I give public comments. So to see that this is a bipartisan support for this, I really hope that you do move it out of committee. The reason that I think it's important is for the transparency, the sake of transparency. And I will give you an example. I was here maybe a couple of weeks ago giving public comment on LB858, which had to do with an election integrity bill and, and during that, during that hearing, Senator Blood had made some statements repeatedly that were inaccurate and I, on the record, corrected the mistakes that she had made. And so when the news came out and reported what happened in that hearing, none of, none of the misinformation was reported. And so when, when the transcripts come out-- and Senator Blood is a candidate for Governor, so if those transcripts come out after the fact, after our May 10th-- in what-- she's-- I don't even think she has-- does she have a challenger? I don't know, but, but these things matter because these people need, people need access to that information in a timely fashion because they don't have a way to go and correct the record or see what, what the facts are and, and it is important to be able to do that in a timely fashion. It leaves us, the second house, at a disadvantage and we're at the, at-- the, the media gets to say whatever they want to. You get to say whatever you want to here and it isn't recorded and it isn't accessible. And so we need the kind of transparency in a timely manner that lets people be able to see the truth or, or what was said and be able to decide for themselves. And so given that this does have bipartisan support, I see no reason that, you know, you shouldn't be able to get this out of committee.

**HUGHES:** OK, very good. Thank you, Ms. Hicks. Are there questions? Seeing none, thank you for coming in today. Next proponent. Welcome.

**AMBER PARKER:** Hello. Gorgeous day outside. My name is Amber Parker, A-m-b-e-r, Parker, P-a-r-k-e-r. You know, last time I was in front of the Exec Committee, I had a testimony and I'll get to that in a little bit. I first want to say thank you to Senator Brewer for standing up for transparency on this LB777. Recent-- friend actually today brought this to my attention and I'm just going to read the quotes that they had shared because I believe Nebraska, the Nebraska people who are the citizens of the state and are supposed to be the second house. So I'm going to share what my friend shared. They said the Nebraska Public Media would have Nebraska Public Media create an archive for all video

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of the Nebraska Legislature. It would be indexed, archived so it's searchable. I find it interesting that after session, that transcribers aren't finished till June or July. How can we be watchful citizens? How can we appropriately contact our representation and be well-informed citizens of this state without LB777? We can't. That is the answer. I'm now going to get into my public testimony on May 18, 2021. Senator Dan Hughes, I understand the light had went off, but I was crying out because there was a committee hearing where a senator targeted me and was trying to use the State Patrol to bully me and people brought this to my attention. In the sharing, I was crying out because I have met-- after hours, I went into your guys' offices. I talked with many on this, this board and crying out and saying, this is greatly concerning. I want to put on the record the State Patrol never bullied me. They've been nothing but respectful. But Senator Hughes, you called two sergeant of arms [SIC] on me. They got in my personal space, shoulder to shoulder, and pushed me out of the room. One went so far and followed me out into the hallway. I'm here today to say when I went through the written transcripts, none of this was recorded of what I had read and seen and I have the transcript prepared by Clerk of the Legislature Transcribers Office, Executive Board, May 18, 2021. Not everything happening in these meetings is being shown on these transcripts and that's greatly concerning. So I believe it's important that the people see the truth and have a visual example. The Nebraska Department of Education has no problem showing what's taking place at meetings. They sometimes shut off the microphones and, and control things that way and I don't like that. But also, you have local school boards. There should not be a fiscal issue and I do urge you guys here to get this LB777 out of committee. Thank you.

**HUGHES:** Thank you, Ms. Parker. Are there any questions from the committee members? Seeing none, thank you for coming in today. Additional proponents? Any additional proponents? We will switch to opponents of LB777. Any opponents? We'll switch to neutral testimony. Any neutral testimony? Welcome.

**MARK LEONARD:** Thank you. Good afternoon, senators. I'm Mark Leonard, M-a-r-k L-e-o-n-a-r-d, and I'm the general manager of Nebraska Public Media and thank you for the opportunity to speak with you and answer questions and, and offer some of the research that we have gathered over the last four weeks since LB777 was introduced. Referring back to a letter that was sent from the Platte Institute, yes, I was in receipt of that and I did reply to that directing them to pursue with the legislative office because it was their authority in terms of how this was handled. I did not hear back after that, but we welcome any

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conversation in terms of how we can improve our service and make the work of the Legislature more transparent. I think throughout our history with the Legislature, we have been partners in making commitments to making this body as transparent as possible by broadcasting and streaming not only the floor debates, but also hearings and Supreme Court and other court hearings and public hearings. We, every year, are expanding what we are able to, to produce and distribute, increasing the quality, increasing the number of rooms that we can originate from. We have facilitated the closed-captioning of the broadcasts as part of our commitment to accessibility for, for all citizens of the state. But what we discovered in researching this proposal is that out of the other 47 states that are doing it, in most cases, that is not the public broadcaster. That is another entity doing that. What I'm familiar with are other states which also offer streaming services, live streaming of the sessions, but not the archiving or indexing because technically that's a much more complicated endeavor. It has implications because it becomes a permanent commitment and you have to allow for ever-increasing amount of storage because the assumption is that this wants-- you want to-- this-- you would like the sessions to be kept in perpetuity. Our technical team-- and I've got-- our chief technology officer, Ling Ling Sun, and our chief financial officer, Randy Hansen, have spent the last month working with three primary vendors to determine feasibility. And the vendor that we've had the most success with in terms of pricing this and giving us a feasibility plan is the same vendor that provides U.N. TV, United Nations Television online service, which does exactly what the bill is asking for, which is provides a permanent solution that is indexed and accessible and secure for all of the, the official business of the United Nations. We've looked at that. We think it's a, a robust, really good solution. The pricing that we put together was based upon the best information that we could put together from a company called Kaltura and I've given you some notes if you'd like to look back on this later with some links to some more information. We remain, in our approach to this, willing to revise and further research, but what I did not want the committee to do is to be seeing a proposal that is not achievable, will not fulfill the needs that, that you're asking for, and has a robustness that means that it's-- it will be at a high level of dependability and accessibility. The budget figures, similarly, we did not want to lowball, so we gave you the, the references that we got from the vendors and we built in some escalation depending upon usage by you and the public in terms of downloads because--

**HUGHES:** Mr. Leonard, your light is on, but--

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**MARK LEONARD:** OK, I'm sorry.

**HUGHES:** --I will allow you to finish because this is information I feel the committee needs.

**MARK LEONARD:** Great. So the robustness of the system was really important to us. It cannot be hackable. And most importantly, the storage is in the cloud. It is not in on-premises servers, which is how we've stored all of our material in the past. That technology is dated. It is fragile, it's expensive, and it will not keep up with the video needs of our own, much less the Legislature's. So as most of the industry is moving to cloud-based media delivery, this would be an appropriate technology for the Legislature to use because it "future-proofs" this plan. It is not, not cheap to get into. We know that because we are doing the same thing with our servers as we decommission them instead of replacing them. Storage capacity is a finite capacity when you, when you're using your own on-premise service. By using a third party, it is scalable depending upon what your, your needs are and there's a price associated with it. I will stop and take any questions if you would like.

**HUGHES:** OK, very good. Thank you, Mr. Leonard. Senator Hilgers.

**HILGERS:** Thank you, Mr. Chairman. Thank you for being here. I appreciate the input. So-- and these are the proposals themselves, which is helpful to have. How much-- what degree are the costs driven by the, the sort of in-perpetuity storage requirements that maybe were part of the RFP?

**MARK LEONARD:** I can't give an exact breakdown on that. It's, it's conceptual in terms of the first year being design and construction costs, the recurring costs of are what are paying for the additional ongoing archiving, consorting, searchability capability of it. So the recurring costs are more related to that.

**HILGERS:** So I guess one of my questions would be, as a follow-up from this hearing, if you could maybe give us some-- the committee some sense of that because one thing I've heard from the testifiers, as well as Chairman Brewer, is that to some degree, this is important because-- one of the reasons why this video would be important was because there's a lag in time before which we receive the actual transcripts. And so if there was-- I'm not saying the Colonel wouldn't agree with this as a, as a potential solution-- if there was a limited archival requirement, would that cut the cost down?



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**MARK LEONARD:** So again, it could, but again, I couldn't put a number on that in terms of how that's broken down.

**HILGERS:** No, that's why I'm-- that's where I'm going with the question. If you wouldn't mind following up the committee with that information afterwards.

**MARK LEONARD:** We will try to pin that down.

**HILGERS:** And then my other question is--

**McCOLLISTER:** I have a question.

**HILGERS:** My other question is to what degree is-- I know you-- understand you're in a neutral capacity, but is it, is it-- is there any-- is it just a cost question? You're providing this information if the Legislature appropriates the money and, and directs or asks you as our partner to help us with-- do that? Is there any other objection? Is its scope creep or mission creep for what you all do?

**MARK LEONARD:** No.

**HILGERS:** Is just a cost question.

**MARK LEONARD:** Full alignment.

**HILGERS:** OK.

**MARK LEONARD:** But we believe very much in the transparency of government for all the same reasons that have been stated.

**HILGERS:** OK. Is there anything else that we should be thinking about as part of this proposal that wasn't-- this RFP, as I understand, was driven in response to the-- LB777--

**MARK LEONARD:** Yes.

**HILGERS:** --is that right?

**MARK LEONARD:** Yeah, we [INAUDIBLE]--

**HILGERS:** Is there any--

**MARK LEONARD:** --to that point.

**HILGERS:** In the interest of transparency and having more tools at the Legislature's disposal, is there something that we ought to consider

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to maybe broaden what we're trying to do in LB777 that you see maybe a blind spot or something that we could do to improve upon?

**MARK LEONARD:** I think that there are obviously some, some govern-- governance issues related to it, the terms with which you want to use. The closed-captioning piece, the reason that that is not real time now is that the live broadcast of it is live closed-captioned. Those notes come back to the Clerk's Office where the written transcript is prepared because we're not not-- the, the transcribers that we use are off site, not our employees. And the accuracy of their transcription, we cannot guarantee, which is why the Clerk's Office goes back, reexamines it, makes edits.

**HILGERS:** OK, thank you. Thank you, Mr. Chairman.

**HUGHES:** Additional questions?

**McCOLLISTER:** I've got one.

**HUGHES:** Senator McCollister.

**McCOLLISTER:** Thank you, Mr. Chairman, and thank you for being here. We've-- in the-- we've heard that about 46 states, I, I would guess, have this kind of service, is that correct?

**MARK LEONARD:** I won't dispute that. The majority of them are not provided by public broadcasting. They're provided by other entities, in some cases, the cable systems, other technology partners.

**McCOLLISTER:** Well, after hearing Senator Hilgers' question, I'm wondering if we could do a survey of what the states offer and what, what those services cost. I'm thinking that we could, you know, perhaps add services or reduce cost if we were to do a survey of what other vendors other states use. And maybe you could add that to it here too, as-- when we look at this bill a little further.

**MARK LEONARD:** We'd be happy to.

**McCOLLISTER:** Thank you.

**MARK LEONARD:** Continued research, if you decide to go forward, is absolutely part of this. If you would like additional research to flesh out the proposal, we can do that also. Again, I did not want to come in with no notes or no basis for what we're-- what the-- how we understand the request and how we would react to it.

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**HUGHES:** Senator McCollister.

**McCOLLISTER:** Yeah, I think the prospects for this bill are good, so I would hope you could do that search fairly quickly.

**MARK LEONARD:** We can do that.

**McCOLLISTER:** Thank you.

**HUGHES:** Senator Slama.

**SLAMA:** Thank you, Mr. Chairman, and then I, I would just like to second Speaker Hilgers' request for a better breakdown of what the numbers are and what they mean because I-- we've heard today and I know people who wake up in the morning, they've got their DVR set up on auto, it stores on a hard-- \$100 hard drive, and that's all they have to do. So to see the reality of what's happening now and then to see a proposal with a \$500,000 set-up cost and then about half a million dollars in ongoing fees, I'd, I'd really like to see a breakdown of that just to better understand.

**MARK LEONARD:** You have to understand that we are actually feeding up to 12 screens closed-captioned all the time. And what you're asking is all of those be recorded, indexed, and made to be searchable. That in itself is a media management position, which is based into this.

**SLAMA:** Sure. No, I'd just like to see the breakdown of line by line, here's how we get to that number, so we, as a committee, can just see and explore that number more and better understand your approach.

**MARK LEONARD:** We would like that also and that's going to take time for the, the vendors to provide. Only one is provided complete quotations up to this point.

**SLAMA:** Fantastic. Cool, thank you.

**MARK LEONARD:** It's a cutting-edge technology. It's not a, it's not a baked-in technology now.

**SLAMA:** Well, I, I completely understand the types of technology used and I would hope that Nebraskans, when seeking recordings for transparency-- we don't necessarily need cutting edge, we just need a searchable video file that we can access to better serve and-- what the public views are ongoing proceedings, so.

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**MARK LEONARD:** And if we were to build that on site, that would be a capital cost for servers. We're trying to find something that is more, more stable and budget neutral for the Legislature.

**SLAMA:** Fair enough. I'm aware of the cloud. Thank you.

**HUGHES:** I, I do have a question. So when we've had this discussion over the years, there was always a question of who owns the video. Is that-- has that been resolved with-- between NPM and the Legislature?

**MARK LEONARD:** I, I think that we've always thought that the Legislature owns that video. I don't know-- we haven't had any confusion.

**HUGHES:** It seemed like there was some question and I'll have to double-check with the Clerk on this, but there was some question that if we begin archiving and-- you know, who actually owns that video if you capture it for us and we have the servers to, you know, search, you know, that-- I'll, I'll have to follow up on that. Senator Geist.

**GEIST:** I can actually follow up on that for you if you'd like because--

**HUGHES:** OK.

**GEIST:** --I have, from-- 2015 testimony and 2018 testimony that those videos actually belong to us and that came from the Clerk's Office and it was research at the time for this bill. One of the things that I'll just throw out there that has been a bit of a frustration for some of us here is that committee clerks already have access to videos. And so even as a senator, if I wanted to watch-- which was the whole premise of why I ever brought this bill-- if I wanted to watch a committee hearing that I wasn't part of, but would like to be more informed on how a hearing went, I would either have to have someone at home record that or on an app, record that. But if it's already being recorded and it's already stored--

**MARK LEONARD:** It's not, though.

**GEIST:** But then how does a committee clerk do the transcribing of that committee?

**MARK LEONARD:** They transcribe it and then that, that video is lost. It's recorded over. It's-- we don't have anything. We have everything, I think, back to 2018, but at a certain point, you free up space on servers for new material.

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**GEIST:** But in 2018, we were told that we had ten years of archives.

**MARK LEONARD:** By who?

**GEIST:** By the Clerk.

**MARK LEONARD:** OK, I'm not aware of that.

**GEIST:** OK. And I'm just reading off of the transcript, so I'm not saying anything that's not public record, but that's, that's been one of the frustrations is that, well, if a committee clerk has access to this, why don't you just open up so at least senators can watch it?

**MARK LEONARD:** I think that would be a question for the Clerk's Office.

**GEIST:** OK.

**HUGHES:** I, I-- so the clerks-- the committee clerks are listening, listening to a transcript. They're not watching a transcript.

**GEIST:** OK, I guess I was on the-- under the impression it was a vid-- that they could see the recorded video.

**HUGHES:** No.

**GEIST:** Is that incorrect?

**HUGHES:** That is, that is-- my committee clerk shaking her head--

**GEIST:** Is saying that that's incorrect.

**HUGHES:** --yes, that they are listening--

**GEIST:** Well, then I stand corrected.

**HUGHES:** --to a transcript and that's because the written transcript is our, our official record.

**GEIST:** Oh, I understand that. I'm not arguing that, that-- what's the official record at all.

**HUGHES:** No, it's a, it's a--

**GEIST:** I'm not arguing that.

**HUGHES:** --listening transcript. Senator Pansing Brooks.

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**PANSING BROOKS:** Thank you. Thank you for being here, Mr. Leonard. I appreciate it. So were you surprised by the costs?

**MARK LEONARD:** Not surprised, no. I actually thought it would be higher, to be honest.

**PANSING BROOKS:** Because of the cost of storage, is there going to have to be-- are there going to have to be people hired to manage this?

**MARK LEONARD:** We're projecting one full-time position to manage this.

**PANSING BROOKS:** OK and--

**MARK LEONARD:** That's in addition to the three full time that we have on site here taking care of the origination of, of the video.

**PANSING BROOKS:** So just in the world of a personal user of the internet, we all sort of have an idea about how much a terabyte or a couple of terabytes on our phones would cost. It seems like it ought to be sort of general knowledge. I mean, I don't know. How, how many terabytes do you think that you're going to need per year and then will exponentially increase?

**MARK LEONARD:** I would defer to our-- my technology chief on that, but the, the choice is whether you're going to be putting it on on-premise servers, which you then maintain, software agreements, all of that, or you move to--

**PANSING BROOKS:** Are you speaking about in the Capitol?

**MARK LEONARD:** Could be Capitol, could be at Nebraska Public Media. Currently, we use servers on site. We are phasing those out over time because that is a, that is a weak technology. We're--

**PANSING BROOKS:** Right.

**MARK LEONARD:** --moving to cloud based. This-- these are companies that can offer that cloud-based management, but we, we have to use third parties to do that.

**PANSING BROOKS:** Right. It seems like it's just going to get less and less expensive, but--

**MARK LEONARD:** We would hope so.

**PANSING BROOKS:** OK.

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**HUGHES:** OK.

**PANSING BROOKS:** Thank you.

**HUGHES:** Senator Slama.

**SLAMA:** Thank you, Mr. Chairman and Senator Pansing Brooks' question actually triggered one question in my mind. Can you just walk me through the process? What's stopping the Legislature now from saying we don't want to spend \$500,000. We can spend \$500, get an iPhone, put it on a tripod, and record everything, put it on YouTube and have that be the accessible means by which we record and distribute our sessions?

**MARK LEONARD:** You could; making that searchable and, and indexable would be your challenge.

**SLAMA:** OK. But there's nothing really stopping us now from just saying--

**MARK LEONARD:** No.

**SLAMA:** --let's tripod this and get it set up that way?

**MARK LEONARD:** Yep.

**SLAMA:** Cool.

**HUGHES:** Senator McCollister.

**McCOLLISTER:** Yeah, I'm just wondering-- and thank you for being here-- whether you'd make the commitment to at least get three bids?

**MARK LEONARD:** We're working on that right now. We're, we're in touch with three different vendors.

**McCOLLISTER:** OK.

**MARK LEONARD:** They have not supplied the materials yet.

**McCOLLISTER:** And you'll find out how many states they currently serve?

**MARK LEONARD:** We will do that research and see what technology is being, being used in each state. It's much easier for us to get that on services that are operated by public broadcasters, which we have been in contact with. When they're operated by other third parties, we don't have as, as ready an access to that.

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**McCOLLISTER:** Thank you.

**MARK LEONARD:** But I can, I can get a list and in fact, the woman who was here earlier said she listed on-- your website, does that seem right?

\_\_\_\_\_ : Yes.

**MARK LEONARD:** I'd love to check on that and compare it against our notes.

**McCOLLISTER:** Thank you.

**HUGHES:** OK, so I guess the-- other questions? Senator Lowe.

**LOWE:** Thank you, Chairman, and thank you for being here today. It was-- Senator McCollister brought up to Senator Brewer about funding for NET. Do you know where that funding comes from?

**MARK LEONARD:** That's an appropriation, General Fund. We are a noncode agency.

**LOWE:** OK and do you know about how much that is?

**MARK LEONARD:** About \$11 million.

**LOWE:** \$11 million. Thank you.

**HUGHES:** OK, so my clerk-- our clerk said she can see the video when she transcribes it, but I do not store that video.

**GEIST:** Right.

**HUGHES:** But I, I think we're kind of comparing apples and oranges here. And Mr. Leonard, don't let me put words in your mouth, but the videoing and storing is probably a very cheap-- and, and we know that, but the making it searchable, you know, being able to pick out key phrases or keywords or highlights, that's where it gets fairly pricey. Is, is that a fair statement?

**MARK LEONARD:** It's the fact that you've got up to 12 streams simultaneously that are going into this third party server. They have to be tagged by obviously date, they have to be tagged by bill number, anything else that you want to be searchable and stored in a-- it's a card catalog in effect. You can have-- you can own all the video in the world, but if you can't find the video, it's of no use. And this is a way of setting up a standardized system for anyone with a user



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interface that's relatively simple to be able to put in one of several different search criteria and go right directly to that archived video.

**HUGHES:** So what, what are-- what would the parameters be of our search? Would it just be a date and an LB number or how far can we-- how far down in the weeds can we make that search?

**MARK LEONARD:** Well, it's, it, it's up to you what you-- what information you want to be relevant-- what you think is the most relevant information to the public in terms of finding it. You can create multiple fields that have that information and then it's just a matter of searching that video database to find it. So when you first set up the system, creating a template for that metadata is part of the design of the whole project, which is why we are responding because it's such a robust proposal in LB777. We wanted to make sure that we had that full capability and this was the way of achieving it because we did not find any other examples besides the U.N. TV that we're aware of that can provide that level of detail.

**HUGHES:** So how, how far-- how searchable did you-- did the RFPs--

**MARK LEONARD:** We didn't give a number.

**HUGHES:** OK, even how far down in the list we needed to go?

**MARK LEONARD:** Multiple factors, that's all we were, we were--

**HUGHES:** OK, very good.

**MARK LEONARD:** --narrowed the fields.

**HUGHES:** Very good. Additional questions? Seeing none, thank you for coming in and helping us with this.

**MARK LEONARD:** Thank you.

**PATRICK O'DONNELL:** Well, I'm here, Senator.

**HUGHES:** Mr. Clerk, welcome.

**PATRICK O'DONNELL:** Mr. Chairman, members of the board, Patrick O'Donnell, P-a-t-r-i-c-k O'-D-o-n-n-e-l-l, Clerk of the Nebraska Legislature. Senator Brewer, I'm testifying in a neutral capacity and I'm sincere when I say that to you even though I'm going to say some things that you may find disagreeable. Let me begin by saying to you

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LB777, as currently constituted, has no fiscal impact to the Legislature, OK? But there are a whole bunch of issues that you need to decide as a board as to how you want to proceed. I concur with everything Mr. Leonard said with respect to the costs associated with this project, OK? Senator, it's not as simple as putting up your telephone and recording a particular hearing. As Mr. Leonard noted, you've got things going on constantly, simultaneously. The big unknown will be-- storage is a significant cost. The big unknown is the cost associated with accessing that information out of the cloud. For example, two years ago, Senator Brewer and Senator Chambers had an exchange about the flag, if you'll remember, and Senator Brewer gave an elegant perspective that he had with respect to the flag. That video went viral. I mean, thousands of people went and looked at that video. That's going to cost you money, OK? The more usage it gets, the more significant the cost. That's why I completely concur with Mr. Leonard in terms of the costs that are going to be associated with this project. You want to spend the money, I'm good with that. I just-- but understand it's not an inexpensive proposition, especially if you start talking about archiving old video, indexing it depending on how-- what kind of search criteria you want available to you as an end user. Senator Hughes referenced the concern that I had. And by the way, I want you to know that my conversations began the day the bill was introduced. That's the first time I saw it. I gathered my folks, including Jayne Scofield, the I.T. manager, Dick, Brandon, to begin assessing what this project would look like, OK? Senator Hughes referenced this issue. Who owns the video? I have maintained for a very long time-- I think Senator Geist referenced this-- that the Legislature owns that video. But once you start putting it out there through a third party, what controls do you have in terms of how it's being used? What NE-- NPM is suggesting to you is that they're going to contract with a third party, outside provider, to make this-- create this archival video portfolio. I don't have a problem with that, but remember one thing. We're a dot-gov entity. NET is, is a-- I assume a dot-net entity. If you go with a third-party organization, it's going to be a dot-org activity. That means advertising and all that comes with that, OK? You've heard testimony about the 46 videos [SIC]. I would suggest to you that most of that stuff is being posted on YouTube, OK? If you want to go there, that's fine, but that's a different animal than we're-- what we have today here in our environment. That ownership issue gets-- starts to get blurred when you have it resting with a third party in terms of how they're going to make it available to the public, so just be sensitive to that. I want to give you an example of what can happen. State of Florida, similar situation. They work with Florida State University and

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something called Florida Channel. Florida Channel provides broadcasting of the legislative floor work. They stream legislative committee activities just like we do right now with NPM. In October of 2021, the state of Florida entered into a settlement agreement with an ADA complaint petitioner who had filed suit alleging ADA violation because the streaming activity was not closed-captioned. The settlement agreement says state of Florida-- State Legislature of Florida will provide closed-captioning in 2022 at all costs-- it also would cost them \$140,000 to settle that lawsuit. Again, I'm not being argumentative with it. I just understand-- want you to understand the repercussions and implications to all this. So that ownership issue, I believe, is important. Talk to you about the Florida situation. Finally, let me suggest this to you. If you choose to consider moving the bill forward, we would ask that you consider incorporating into the bill language that would make it clear the official records of the Legislature are those that are compiled by our Transcription Office, are compiled by the committee chairs as they do their work and ultimately submit that stuff to the Clerk's Office. We are the repository for the official records. I would encourage you to consider adding language to that effect, so that the video, wherever it may reside, doesn't become the official record. Mr. Chairman, I'll be happy to answer any questions.

**HUGHES:** OK, thank you, Mr. Clerk. We appreciate that. Are there questions from the committee members?

**GEIST:** I--

**HUGHES:** Senator Lowe, you were first.

**LOWE:** Thank you and thank you, Patrick, for being here.

**PATRICK O'DONNELL:** Yes, sir.

**LOWE:** Might there be a way that you could archive, like, just a set period of time, like a week, so that if there's problems with somebody's cable, they weren't able to access it that day, that they could go, but then after that, it just terminates?

**PATRICK O'DONNELL:** I, I don't know how to answer that. I mean, I, I think there are a lot of options on the table to you. I think it depends on what it-- you want it to look like. We're, we're five weeks into the session, so my response to you today, as Mr. Leonard's response, is based upon quickly trying to put together an assessment of what we can do, what it's going to cost the state. That's probably

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entirely possible, Senator. I'm not the guy that ultimately is going to be able to answer that question. I'm going to have to talk to a lot of other people to find out if that's possible.

**LOWE:** My thought was that, well, you don't have to have a room full of servers.

**PATRICK O'DONNELL:** Yeah, no I--

**LOWE:** It could be basically one server and, and--

**PATRICK O'DONNELL:** Yeah, well--

**LOWE:** --[INAUDIBLE] and record it.

**PATRICK O'DONNELL:** --we're-- at least my perspective on this, and I think it's true of NPM, is that we feel if we were to do something internally, we would also have to hire a person whose job it is, is to manage that video. The cost, as I said, I think what we have seen and what we think we would do is similar to what NPM has told you this afternoon. May there be cheaper alternatives? I, I suspect that's true, but we came at it from the standpoint of a, a preserved archival inventory of video of legislative proceedings. I don't know how far back we could go. Senator Geist was right when she referenced 2010. We do have video back to 2010, but I will tell you, the technology in 2010 is the Neaderthal compared to what we have out there today. And how usable that is now, I don't know, OK? We just haven't had time to do that iss-- I suspect we could go back when we-- the transcription process that we use now is a modified word-to-text process for the committees, OK? So we have video. This was a-- this resulted from your bill in 2017. And we now have some ability for word to text. It's not real time. It is-- and NPM works with this in terms of making that video available to a-- we run it through a different process, but that's not inexpensive either. I know I'm trying to-- I'm not trying to appear argumentative. I just want you to understand there's lots of nuanced answers to what you could or couldn't do.

**HUGHES:** Senator Lathrop.

**LATHROP:** Can you explain your concern about ownership? So currently, the Legislature owns this, but if we bring in a third-party vendor, what's the concern about ownership at that point? We wouldn't no longer be the owners, right? There would just be a copy of that bill that--

**PATRICK O'DONNELL:** Well--

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**LATHROP:** --somebody else has.

**PATRICK O'DONNELL:** Senator, I don't know-- I, I-- NPM, I think, agrees with us that we own the video today. We have always assumed that would be the case, but I think once you start bringing in an outside third-party provider of sorts, that line gets fuzzy. It gets blurry in terms of what they can do. They're probably going to do advertising. Not that that's a big deal, but, you know, we don't do advertising on the video that you see today. You know, I worry about the ADA situation in terms of if they're doing something and they're not doing it the way we think it should be done, do we have some culpability there, potential liability? I don't know the answer to that. That's what happened in Florida, though. So I, I-- can I-- I'd, I'd like to think we own the video. You control it and you can decide how you want to use it. It's a public, it's a public-- it's property of the public, obviously, but-- well, I don't know what else to say to you.

**LATHROP:** OK.

**HUGHES:** Senator Geist.

**GEIST:** I just have a quick question and, and you had mentioned the concern about, about the video becoming the public record and wanting it more specified.

**PATRICK O'DONNELL:** Right.

**GEIST:** Is this just not tight enough language when it says such archive shall not be considered an official record and is intended solely for educational informational purposes? Is it because they use-- that this archive, that that's not tight enough?

**PATRICK O'DONNELL:** To me, it says it in the negative. I would rather have something that says the official records of the Legislature, those that are maintained by the Clerk of the Legislature's Office and consist of both the transcripts and the committee records that are supplied by the various committee chairs--

**GEIST:** Oh.

**PATRICK O'DONNELL:** --during the course of-- I've got language drafted. I'll share it with Janice.

**GEIST:** You've got that down. OK, I was just curious what-- if, if it-- because it seems to be stated here--

**PATRICK O'DONNELL:** I, I--

**GEIST:** --but it's just not--

**PATRICK O'DONNELL:** It's, it's--

**GEIST:** --exactly what you're saying.

**PATRICK O'DONNELL:** It's in the negative from what-- as I look at it. I'd rather have something more of an affirmative statement of--

**GEIST:** OK.

**PATRICK O'DONNELL:** --that piece of the puzzle.

**HUGHES:** Senator Slama.

**SLAMA:** Thank you, Mr. Chairman, and thank you, Mr. McDonnell-- for being here-- O'Donnell, sorry. Just a quick question on the ADA issue you raised, can you explore that a little bit more? Because I am seeing this on what we currently have is a visual transcript with words and yet I can see that being potentially discriminatory if one, you're illiterate or two, you're blind. So can you just walk me through how our current system doesn't open the door for potential legal liability on the ADA side?

**PATRICK O'DONNELL:** Well, the floor activity is closed-captioned.

**SLAMA:** No, I'm talking the written transcript being the only thing that's available as the official record of the Nebraska Legislature.

**PATRICK O'DONNELL:** Well, Senator, I, I can tell you that we have, on occasion, when requested, provided some visual aid services, for example, to someone that might have some vision issues. We haven't had a lot. I mean--

**SLAMA:** Sure.

**PATRICK O'DONNELL:** --I'm trying to think of an instance where we had someone who requested our records in a different format and it doesn't happen very often. So I, I'd have to think about that a little, I guess.

**SLAMA:** Yeah, no and I'm just thinking back to the Florida case where on that one occasion, the court saw that as discriminatory and I want to make sure that as an Exec Board, we're taking the same approach

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with caution and understanding when we're dealing with our current system too.

**PATRICK O'DONNELL:** Yeah and I'm not-- I'm touting the horn of the Legislature--

**SLAMA:** OK.

**PATRICK O'DONNELL:** --when I say this to you. I pride myself, from my tenure here, for our record-keeping ability. You've, you've heard some stuff today that other states are doing things and they are, but I will tell you, I don't know if anybody does anything more than we do. Now, we may not have all of the video that you see posted on YouTube for some state legislatures, but in terms of being able to rely on those transcripts, rely on the committee chairs for the records that they ultimately turn-- return to my office, I think our records are as good as anybody's in the country. They're not real time, as you all know, but I-- you know, we're, we're now done with the 2021 stuff. That got done in December. So I, I'm not being defensive, I just want--

**SLAMA:** Sure.

**PATRICK O'DONNELL:** --you to know I feel good--

**SLAMA:** Yeah.

**PATRICK O'DONNELL:** --about what we've done.

**SLAMA:** And we're grateful for your work and the work of--

**PATRICK O'DONNELL:** Well, it's the work of a lot of people.

**SLAMA:** --the Clerk's Office--

**PATRICK O'DONNELL:** Yeah.

**SLAMA:** --the committee clerks. Yeah, absolutely.

**PATRICK O'DONNELL:** Yeah.

**HUGHES:** OK. Additional questions from committee members? Seeing none--

**PATRICK O'DONNELL:** Thank you, Mr. Chair.

**HUGHES:** Any additional neutral testimony? Welcome.

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**DICK CLARK:** Mr. Chairman, members of the committee, my name is Dick Clark, D-i-c-k C-l-a-r-k. I work for Senator Brewer, but I am appearing on my lunch break in my individual capacity, not representing anybody else. I do come to you as someone who has sat on the GIS council representing Governor Heineman when I worked in PRO. And we actually had an issue arise in relation to intellectual property rights, derivative works, works for hire, and I wanted to shed a little bit of light on how that played out. There were grants that were submitted in order to enable all of the 93 counties to get their GIS systems up and running with all their real estate plats and everything else and make that publicly accessible. And there was a dispute with the contractor for most of these counties' GIS workshop over who owned the creative works that were generated under that contract. Now it's a little bit different because that was talking about a private entity that was contracting to create new material, new content; not merely to archive it or transfer it. However, this touches on more generally the, the issue of the state maintaining a copyright interest in the creative works of its contractors or employees. And I can tell you that not all states do that. About six states-- and I can get you a comprehensive list later-- six states have a public domain dedication for works for hire or works that are created by employees of the state. And I think that's a policy recognition of the fact that that belongs to the people and it shouldn't be bottled up in some bureaucracy. Now we used to have to rely on copyright because without granting an intellectual monopoly to a printer, we couldn't get our statute books printed. And so we would grant a monopoly right to produce our statute books so that Compton's or somebody else would run that run of the law books for that laws of Nebraska edition. Electrons are cheap, senators, and we live in an age where that is primarily how we disseminate media. It's not through physical media, it's through electronic media. And the agency problems raised by the Clerk can be cured by simply opening this up, having a public domain dedication of the content produced by Nebraska Public Media, and allowing third parties to do as they will. I'm not sure why the Legislature would have an interest in controlling how content is used by third parties once it's left the mouth of a senator and it's out in the world. With that, I'd be happy to answer any questions.

**HUGHES:** Thank you, Mr. Clark. Are there any questions from committee members? Seeing none, thank you for coming in today. Additional neutral testimony? Seeing none, Senator Brewer you're welcome to close. We do have position comments. For the hearing record, we had three proponents.



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**BREWER:** Thank you, Mr. Chairman. Well, I think everybody learned a little out of this noon committee hearing. First off, I got to tell you I'm a little shocked, didn't know it was \$11 million that's, that's going into what we currently have. I don't have a problem with changes. If, if there are things we need to tweak, adjust with the bill, I'm fine with that. But I think the bottom line that we have to remember here is there's a lot in Nebraska that doesn't see what goes on here. You wonder why people are angry, they're angry because they don't understand what's going on and how it's happening and they can't afford to come and see it or they don't have the time. We're going to look at giving them the opportunity to do this. Now, is it going to maybe be a little bit hard? Is it going to be a little bit painful? Does it mean changing what we've done forever? Yeah, it does. Doesn't mean it's wrong. I mean, we're-- we pride ourselves on being this Unicameral that's supposed to be special and unique and that worries about the second house. It's the second house we're denying here, for crying out loud. We ought to be the ones that lead these 46 states, not the one that's at the end of the line not wanting to catch up because technology is hard and we don't understand it. So I would just ask that you look at passing this bill out. Again, I'm willing to tweak as needed to make sure that what we send forward is right. I can work with the, the Clerk's Office for that, but this is an opportunity we shouldn't let go. With that, I'll take any questions.

**HUGHES:** Thank you, Senator Brewer. Are there questions from committee members? Seeing none, that will conclude our hearing on LB777. Thank you, everybody, for coming.