

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 21, 2022

M. HANSEN: All right. Welcome everybody to the Government, Military and Veterans Affairs Committee. My name is Matt Hansen and I'm serving as the Vice Chair of this committee and I'll be chairing today since Senator Brewer is out for a personal appointment. First things first, we'll go ahead and let the committee members start with introductions starting on our far right with Senator McCollister.

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

SANDERS: Good afternoon. Rita Sanders, District 45, the Bellevue-Offutt community.

LOWE: John Lowe, District 37, southeast half of Buffalo County.

HALLORAN: Good afternoon. Steve Halloran, District 33: Adams, Phelps, and Kearney County.

M. HANSEN: Perfect. All right and-- so I'm going to do this from memory. All right, welcome. And with that, I'll also recognize we have legal counsel, Dick Clark, and committee clerk, Julie Condon, on the left. Today, we're going to be hearing a bill and starting off with a gubernatorial appointment. For those of you who are unfamiliar with public hearings, what we'll do is have the appointee begin with their introduction and with the bill, we'll have the primary introducer begin with their introduction. After that, we will cycle through proponents, opponents, and then neutral. If you'd like to testify, there's a green sheet in the back of the room. Please make sure you fill that out and bring it up to the clerk or the page when you come up. If you'd like to testify-- excuse me, if you'd like to note your presence for the record, but not testify, we also have a white sign-up sheet in the back of the room. We're going to limit everybody to a light system of five minutes. The green light will start at the beginning, yellow will be a one-minute warning, and the red will be at the end of your time, at which point we'll ask you to wrap up. After your testimony, you may be asked questions from the senators. In addition, we ask that if you bring copies to hand out for the committee, we ask that you have 12 copies. If you have less than that today, please just hand what you have to the page and they'll help you make more. With that-- and a final reminder to silence and mute your cell phone. And I don't think I've missed anything glaring.

HALLORAN: Pretty good.

LOWE: So good.

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M. HANSEN: All right, so perfect.

LOWE: I'm impressed.

M. HANSEN: Yeah. So with that, we'll invite up-- is it a phone for the first one? All right. We'll start with our first appointment for Jerry Jensen. So the first appointment is a phone appointment, so we're going to stand just at ease until we get the conference call lined up.

[AT EASE]

JERRY JENSEN: Good afternoon.

M. HANSEN: Hi. Is this Jerry Jensen?

JERRY JENSEN: Yes, it is.

M. HANSEN: Hi, Jerry. This is Matt Hansen. I'm chairing the committee today.

JERRY JENSEN: OK.

M. HANSEN: So you're on speaker phone in the hearing room with us. We are joined by Senators McCollister, Sanders, myself, Senator Lowe, and Senator Halloran.

JERRY JENSEN: All right.

M. HANSEN: At this point, we'll ask you to do your introduction and you can have the floor to introduce yourself and your appointment.

JERRY JENSEN: Thank you very much. This is-- my name is Jerry Lee Jensen and it's a privilege to be appointed to serve on the State Personnel Board.

[PHONE RINGING]

JERRY JENSEN: I believe my professional-- good afternoon.

M. HANSEN: Hi. Is this Jerry Jensen?

JERRY JENSEN: Yes, it is.

M. HANSEN: Hi, Jerry. This is Matt Hansen. I'm chairing the committee today.

JERRY JENSEN: Yeah.

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M. HANSEN: So you're both on speaker phone in the hearing room with us. We are joined by Senators McCollister, Sanders, myself, Senator Lowe--

LOWE: This is weird.

McCOLLISTER: I've heard that before.

SANDERS: Oh.

JERRY JENSEN: All right.

M. HANSEN: At this point, we'll ask you to do your introduction and you can have the floor to introduce yourself and your appointment.

JERRY JENSEN: Thanks very much. My name is Jerry Lee Jensen and it's a privilege to be appointed to serve on the State Personnel Board.

[PHONE RINGING]

M. HANSEN: All right.

McCOLLISTER: Is that the media delay?

M. HANSEN: That must have been. Let's see what-- Jerry, are you still on the line by any chance?

STEVE RAMOS: No, no, no.

M. HANSEN: All right.

STEVE RAMOS: Not on the line.

M. HANSEN: Thank you, everyone. We're going to take a stand at ease until we get the phone call line set up here.

[AT EASE]

LOWE: Groundhog Day.

SANDERS: What day is Groundhog Day? Is that-- did we already have it?

LOWE: February 2.

M. HANSEN: Yeah, February 2.

SANDERS: It's coming.

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HALLORAN: Every day.

JULIE CONDON: Hi, Jerry. This is Julie from the Government Committee. Would you try and call back again, please? You keep getting [INAUDIBLE] busy?

LOWE: Brewer never has this problem.

JULIE CONDON: OK.

M. HANSEN: Hi, Jerry. Can you hear us?

JERRY JENSEN: Yes, I can and I think this should fix the problem.

M. HANSEN: Perfect. All right, well, we'll go ahead and start from the top if you want to do your introduction and introduce yourself to the committee.

JERRY JENSEN: OK, thank you. My name is Jerry Lee Jensen and it is a privilege to be appointed to serve on the State Personnel Board. I believe my education and professional career will provide value to the board in the role they provide. My professional career includes-- I worked for the state of Nebraska for 45 years, primarily in human resources at several agencies, including the State Patrol, Environmental Quality, DAS State Personnel, and the Department of Health and Human Services. My-- during my employment, I strived to continually be fair and impartial on the merits of each case and situation and resolving issues at the lowest level possible. During those years, I served as a member of the state's NAPE, [INAUDIBLE], and SCATA management/bargaining teams. In addition, I served on teams reviewing classification and compensation packages and the labor management committees as well. I was a certified facilitative leader where I trained managers and supervisors in leadership responsibilities. I administered labor agreements and personnel rules, as well as agency policies and procedures and at some times, it was statutory requirements. I ensured that the agency records management requirements were met and administered performance, payroll, and benefit programs along with recognition programs. I conducted supervisor and employee training programs, investigated and advised agency management concerning grievances and internal complaints, and actually, I represented the agency with the Attorney General's Office on several cases that did go to federal court. I managed staff credentialing, licensure, and certification requirements. And outside of my employment with the state of Nebraska, I served as an on-call court reporter for general reporting services. Four years ago, I did

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retire as the H.R. director of the Nebraska State Patrol. My education includes I have a bachelor's degree in paralegal studies with a minor in computer information management. During my employment, I did maintain certification as a senior professional in human resources from the Society of Human Resource Management, also known as SHRM. SHRM is an internationally recognized organization that educates, tests, and certifies HR professionals on current H.R. body of knowledge and maintaining certification requires a continuing education. I was a member of the Lincoln Human Resource Management Association, which is a SHRM learning system partner and SHRM is actually international. They have 165 countries and 115 million workers with 300,000 HR professionals and executive members. I would be happy to answer any questions you may have.

M. HANSEN: Perfect. Thank you for your opening. We'll see if there are questions from committee members. Senator McCollister has a question.

McCOLLISTER: Is this a reappointment?

M. HANSEN: Did you hear the question?

JERRY JENSEN: Yes. I'm a new appointee. I'm replacing Mary Shanahan and actually, I worked for Mary Shanahan for-- at the Department of Health and Human Services.

McCOLLISTER: Thank you.

M. HANSEN: Thank you, Senator. Any other questions? Senator Sanders.

SANDERS: Not a question, but a comment. This is Senator Rita Sanders. I'm a fellow quilter and I want to thank you for your time and commitment because it will take away from your hobby, so thank you for stepping up.

JERRY JENSEN: Oh, thank you. I do go to the quilt museum quite often.

SANDERS: Thank you.

M. HANSEN: Perfect. Thank you. All right, seeing no other questions from senators. We'll thank you for your, for your testimony/hearing.

JERRY JENSEN: Yes, thank you.

M. HANSEN: All right. Perfect. And then we'll go through any proponents on the appointment? Any opponents on the appointment? Any neutral testifiers on the appointment? All right, with that, we will

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close the hearing on the appointment of Jerry Jensen to the State Personnel Board and we will invite Senator Halloran up to open on LR769 [SIC]. I have since found the committee introduction and I think the main thing I missed was to recognize our pages, Bhagya Pushkaran, who's a junior from UNL, Lincoln, and Peyton Larson, who's also a junior at UNL. With that, welcome, Senator Halloran.

HALLORAN: Thank you, Vice Chair Hansen, and thank you, Government, Military and Veterans Affairs Committee. For the record, my name is Senator Steve Halloran, S-t-e-v-e H-a-l-l-o-r-a-n, and I represent the 33rd Legislative District. For federal-- per federal regulations passed in 2016, access to federal tax information is limited to staff of state agencies who have completed the required background investigation. Nebraska currently has no such authority regarding fingerprinting of state employees for purposes of accessing federal tax information. Fortunately, since 2016, our agencies have been able to operate without federal penalty, but time is running out for our agencies to comply. Without complying, state employees who administer critical programs for all of our constituents will no longer be able to complete the requisite background checks. For example, DHHS workers need to access the IRS Income Eligibility Verification System to support programs for child support enforcement, CSE, Supplemental Nutrition Assistance Program, S-N-A-P, SNAP, and aid to dependent children, ADC, also known as Temporary Assistance to Needy Families. Additionally, for the Department of Labor, one of the requirements for funding the state's unemployment insurance program is to pursue certain unemployment debts through the Treasury Offset Program. This program requires the department to submit certain unemployment debts for offset against individual federal tax refunds. Because these programs involve tax-- federal tax information, the department must require all employees with access to federal tax information to pass a federal background check. LB769 seeks to comply with federal requirements regarding access to these databases in order to help the children and families of Nebraska receive the help they need. Members of the committee, I thank you for your time. And with your indulgence, I'm going to run through a list of-- short list of frequently asked questions. Much of those will be addressed by people that will follow me, but I think that may help clarify some issues. Why is this a priority? This is a federal requirement. Without putting the fingerprint law in statute, Nebraska risks its ability to access the IRS database to help the families and children of Nebraska. Our state could face federal sanctions or lose federal funds unless we have all employees who need access to this database. Why should people support this? This would allow Nebraska state agencies to comply with federal

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regulations and have the ability to access the information they need to do their jobs. Which agencies would this affect? If passed, this bill would most significantly impact the Nebraska State Patrol, the Department of Health and Human Services, Department of Revenue, Department of Labor, and Department of Banking and Finance. Who developed this legislation? I'm bringing this on behalf of the state agencies listed in the bill. This language was developed by our state agencies and approved by the FBI. The FBI's approval prior to introduction is required for Nebraska to implement this law, as Nebraska State Patrol will need to submit the agency employee fingerprints to the FBI. Does everyone in these agencies get fingerprinted? No; only the employees that have access to federal or state tax information to perform their job duties. Who will pay for the fingerprinting? The state agencies that need to have these background checks completed will absorb their cost into their current budget. With that, I would try to address any questions you may have.

M. HANSEN: Thank you, Senator Halloran. Any questions? Seeing none, thanks for your opening. And with that, we'll invite up our first proponent to LB769. Welcome.

STEPHANIE BEASLEY: Thank you. Good afternoon, acting Chairperson Hansen and members of the Government, Military and Veterans Affairs Committee. My name is Stephanie Beasley, S-t-e-p-h-a-n-i-e B-e-a-s-l-e-y, and I'm the director for Children and Family Services, or CFS, Division within the Department of Health and Human Services. I'm here to testify in support of LB769, which will allow DHHS to submit employee background checks to the FBI to comply with IRS publication 1075. DHHS would like to thank Senator Halloran for sponsoring this legislation. LB769 gives Nebraska state agencies the ability to comply with IRS federal security measures. LB769 gives DHHS a quick, cost-effective opportunity to meet federal requirements for tax information security, will also allow the impacted state agencies to continue current operations. CFS faces significant consequences if unable to obtain this federally required clearance. State agencies use federal taxpayer information, or FTI, in a variety of settings. The CFS division uses FTI in child support enforcement and economic assistance programs like SNAP or Supplemental Nutrition Assistance Program as it's known. FTI is extremely sensitive data and the federal guidelines governing its use require that state employees who have access to this data undergo national background checks, which includes fingerprinting. DHHS intends to use services available through the Nebraska State Patrol to perform these required background checks. However, the Nebraska State Patrol and the impacted state agencies need specific statutory authority to conduct these background checks,

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including fingerprinting. The language included in LB769 would create this authority and allow DHHS to comply with federal guidelines. The language included in LB769 received FBI approval, which is also required to implement this legislation. Failing to pass this bill carries the consequences of losing FTI, which is the federal taxpayer information system. And without access to that, the Child Support Enforcement Program would also lose its ability to offset federal tax refunds for unpaid child support, resulting in an estimated loss of \$10 million annually in child support payments. Furthermore, CFS staff will be unable to utilize the federal income and eligibility verification system for economic assistance programs like SNAP and losing access to the system could result in a 2 percent federal penalty for TANF-related programs and funds totaling over \$1.1 million annually. In summary, LB769 will allow our Nebraska state agencies to continue normal operations while assuring federally required data security. The Department of Health and Human Services respectfully requests that the committee support this legislation. I'm open to any questions you might have.

M. HANSEN: Thank you. Are there questions from the committee? Senator McCollister.

McCOLLISTER: Yeah. Thank you, Senator Hansen. Just a few questions. In the bill, I don't see any due process guarantees that if an employee turns in their fingerprints according to the requirements and there's a hit, what, what rights does the employee have to take up that issue with the, the employer?

STEPHANIE BEASLEY: Senator, it's a great question, one we've had lots of conversation about. There are some hits or crimes that, if determined, would-- might make it-- them-- the employee unable to access the IRS per their guidelines. However, we will work with those employees. Our intent is, is not to sanction an employee in any way. There are lots of positions. They may not be able to access this database, per the IRS, but given the data security measures that we want out there for the noncustodial parents and the parents that we serve, we would work to find another position for them that could accommodate, given their background.

McCOLLISTER: What level of offenses are you talking about?

STEPHANIE BEASLEY: You know, there would be things-- and I can get you the list, but these are things that would be concerning like forgery or a conviction that would make accessing Social Security numbers,

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income, etcetera, detrimental as a security measure and so-- but I can get you the list of--

McCOLLISTER: Possession of marijuana?

STEPHANIE BEASLEY: I do not know if that's on the list, but I do not believe that it would be.

McCOLLISTER: Wow.

STEPHANIE BEASLEY: Again, these are, these are issues that would relate to having someone's personal financial information that you can access and utilize.

McCOLLISTER: How about parole violation?

STEPHANIE BEASLEY: I'm uncertain, Senator, but I can get the list to you.

McCOLLISTER: How many employees do you anticipate would be subject to this provision?

STEPHANIE BEASLEY: So we have contracts with vendors who also do child support enforcement and access our CHARTS system, so CHARTS stands for children have a right to support. So the FTI database is sort of woven into our CHARTS system. We have in total just right under 210 staff and vendors who access the CHARTS system that would need to be-- to have background checks in child support enforcement and then we have about 50 on our economic assistance program. So we have a much smaller set of people who are accessing for SNAP. We run these income eligibility verifications through a very small number of people, given the level of information that they are able to access through FTI. And so it's probably just right under 260 staff for this first fingerprinting and then we're estimating probably 10 to 20 a year as we bring more people on board or we lose staff and have to hire more, that we would, as they onboard, do fingerprinting for.

McCOLLISTER: Would you have any objection if we attached a due process provision in the, in the, in the bill?

STEPHANIE BEASLEY: It would be my intent to work with any staff person. So I, I certainly would be open to looking at-- it is my intent that if someone did have something on their record that they hadn't disclosed prior and, and that we found it, that we either find a position that they can do or we work with them to resolve the issue.

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McCOLLISTER: In those departments that this is currently in place, how many employees have, have tested such that you couldn't employ them in that? Is this a widespread problem or is this--

STEPHANIE BEASLEY: I--

McCOLLISTER: --a minor situation?

STEPHANIE BEASLEY: I genuinely don't suspect this will be an issue. The bigger issue is the risk of loss to the system, which would not allow us to do the tax refund offset to the tune of about \$10 million that we collect in child support enforcement. So I haven't heard from our team saying that they had concerns about this fingerprinting bill. So I suspect that none of them have concerns about what would be found. We don't do fingerprinting at onboarding and so I don't have a ratio to tell you of who has not passed a background check with us.

McCOLLISTER: I see. Thanks very much.

STEPHANIE BEASLEY: Thanks, Senator.

M. HANSEN: Thanks, Senator McCollister. Seeing no other questions, thank you for your testimony.

STEPHANIE BEASLEY: Thank you.

M. HANSEN: And we'll invite up our next proponent. Welcome.

KELLY LAMMERS: Good afternoon, Vice Chairman Hansen, members of Government, Military Veterans Committee. My name is Kelly Lammers, K-e-l-l-y L-a-m-m-e-r-s. I am director of the Nebraska Department of Banking and Finance. I'm appearing today in support of LB769. LB769 proposes that the Department of Banking and Finance employees, along with employees of four other state agencies, be subject to an FBI background investigation in order to access federal and state tax information. This background investigation is now required by updated federal standards. The Nebraska Department of Banking and Finance is a regulatory agency established by Nebraska law required to conduct examination of banks, credit unions, and other licensed financial service provider entities and individuals, including registrants under the Securities Act of Nebraska. Department professionals perform licensing research, conduct investigations, and review consumer complaints. These responsibilities require our investigators, examiners, analysts, attorneys, and licensing staff to occasionally evaluate or otherwise handle federal or state tax information. The department included a fiscal note with LB769 acknowledging that add--

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that of the 67 teammates employed, it's estimated that 40 will need the background report conducted to continue to access the federal tax information. The department believes it can adequately absorb this expense within its existing budget. I want to thank Senator Halloran for introducing this legislation, which will help continue the department's access to information necessary to protect the state's citizens and efficiently regulate our financial institutions. Happy to answer any questions.

M. HANSEN: Thank you. Senator McCollister.

McCOLLISTER: Yeah, thank you, Senator Hansen. If a prospective employee refuses to offer their fingerprints, what will the department do?

KELLY LAMMERS: In a case of a prospective employee, we would explain that this is a part of their job. We would also evaluate how the job was advertised. We see this as an issue of transparency, Senator. This is one in which we believe that the taxpayer needs to know who is touching their information. And at the same time, we need to offer an incredible employment opportunity for those people wishing to join our team. So in that case, we would share with them the requirements of the job. Our examiners currently go through background checks. So this is something that is adding the fingerprint, but it, it does not change the fact that we do look at backgrounds.

McCOLLISTER: So unlike the previous testimony where we heard that if a hit or an employee had some record that-- you don't care. Whatever-- every employee that applies to your department would be subject to fingerprints.

KELLY LAMMERS: Oh, I, I apologize, Senator. That, that was not my intention. Examiners, investigators, some positions such as that, we would require that level of, of security, if you will. Other positions within the department, we would evaluate based upon only those hits that are relevant to financial abuse, relative to those issues of fraud, embezzlement. So it, it would be related to financial crimes, if you will, and trust of the information that's available before them.

McCOLLISTER: So as a matter of course, you do a background check on every prospective employee, including a drug test?

KELLY LAMMERS: We do not do a drug test, sir.

McCOLLISTER: A background check?

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KELLY LAMMERS: We do a background check on examiners. We have approximately 37 examiners out of our staff of 67.

McCOLLISTER: But receptionists don't have to go through any of that process?

KELLY LAMMERS: No, sir.

McCOLLISTER: OK, thank you very much.

M. HANSEN: Thank you, Senator McCollister. Seeing no other questions, thank you for your testimony.

KELLY LAMMERS: Thank you.

M. HANSEN: With that, we'll invite up our next proponent to LB769. Last call for proponents. All right, is there anybody who wishes to testify in opposition to LB769? One last call. All right, anybody wish to testify neutral? OK, seeing none, Senator Halloran, would you like to close? And while Senator Halloran is approaching, I'll note we have two position letters for the record and they are both proponents with no opponents and no neutral.

HALLORAN: Well, thank you, committee, and I would like to thank Ms. Beasley and Mr. Lammers for answering questions that I was probably wholly incapable of answering, but they were good questions. I think when it comes to confidentiality and dealing with people's tax returns and the kind of-- the-- being essential for providing many of the programs that we have discussed here, I don't know that this-- I don't know that they're-- that we have much choice in this if we want these agencies to be able to perform their duties and provide these functions for the people that need them. With that, I would close for any questions.

M. HANSEN: Senator McCollister.

McCOLLISTER: Yeah. Thank you, Senator Halloran. As you were developing this legislation, did you think about or consider a due process clause or provision in the bill?

HALLORAN: I did not and I'm not sure that the federal regulators gave that much concern either. It's a federal regulation, right, that was passed in 2016, something that can be considered. I will counsel with the various agencies that we're working with to see what we can do with that.

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McCOLLISTER: Thank you.

M. HANSEN: Thank you, Senator McCollister. All right, seeing no other questions. Thank you, Senator Halloran.

HALLORAN: Thank you.

M. HANSEN: And this will close the hearing on LB769 and our Government hearings for today. Thanks, everyone.