

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 26, 2023
Rough Draft

BREWER: Good afternoon. Welcome to the Government, Military and Veterans Affairs Committee. I'm Senator Tom Brewer from Gordon, Nebraska, representing the 43rd Legislative District. And I serve as the Chair of this committee. The committee will take up the bills in the order posted on the agenda. Your hearing today is your chance to be part of the legislative process. It is your opportunity to express your position on the legislation before us. The committee members might come and go during the hearing. I will be leaving probably-- maybe after the first. I might be able to stay at the end. I'm third up in Judiciary, but some will come and go as necessary for other hearings that we need to go to. I ask that you abide by the following procedures to better facilitate today's meeting. First, turn off or silence any electronic devices. Please move up to the reserved chairs when you're ready to testify. Those are the first two chairs on either side of the aisle here in the center. And we just ask that after you present, go ahead and move farther back in the room so that we're able to have a clear spot for others to move forward. The introducing senator will make the initial statements followed by the proponents, opponents and neutral testimony. Closing remarks are saved for the introducing senator. If you are planning to testify, please pick up one of the green sheets on the table over there. Have it filled out. Please print legibly and fill it out completely. If you want to record your presence here, but not testify, there are white sheets on the table. Please sign in and use those. If you have handouts, make sure that you have at least ten copies. If you don't have them, pages can help you get some. When you come forward, give both the, the green slip and the handouts to either the page or the committee clerk. When you come to testify, please speak clearly into the microphone and tell us your name. Then spell both your first and last names for a accurate record. We will be using the light system today. Let's see. How many are here to testify on the first bill? Three. And how many on the second bill? All right. We'll stay with five minutes. No problem. So five minutes. You'll get a yellow light when you have a minute to go and the red light will come on when your time has expired. And if you go too far, Dick Clark will have an alarm that goes off here on the computer. No displays of support or opposition to a bill, vocal or otherwise, will be allowed in the hearing. The committee members with us today will introduce themselves, starting on my right.

RAYBOULD: Jane Raybould, Legislative District 28, a senator of Lincoln.

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

AGUILAR: Ray Aguilar, District 35, Grand Island.

LOWE: John Lowe, District 37: Kearney, Gibbon and Shelton.

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

HUNT: I'm Megan Hunt. I represent District 8, which is the northern part of midtown Omaha.

CONRAD: Hi, I'm Senator Conrad from north Lincoln.

BREWER: All right. And Senator Sanders is Vice Chair. Dick Clark is legal counsel and Julie Condon is the committee clerk. And our pages are Logan and Audrey. All right, with that, we will bring up our first presenter on LB47. Senator Dorn, come on up. Welcome to the Government Committee.

DORN: Thank you. Thank you, Chairman Brewer and other members of the Government Committee. Good afternoon. My name is Myron Dorn, M-y-r-o-n D-o-r-n. I represent District 30, which is all of Gage County and a portion of Lincoln and Lancaster County. I'm here to introduce LB47. Currently, under the law, a public body or advisory committee must give public notice of the time and place of each meeting in a newspaper of general circulation within that body's jurisdiction. In 2020, a bill permitting a city of the second class or a village to post a notice in a newspaper or post a written notice in three conspicuous, conspicuous public places in such city or village. That bill was passed. LB47 would add language into Section 84-1411 to allow rural fire protection districts and suburban fire protection districts to post a notice of their public meeting in those three places. The bill still allows those entities to publish a notice in the papers if they wish. I want to emphasize that these notice must be in conspicuous places. In other words, something like a bank or a post office. They can't be in the back of the service station, back by the restroom or whatever. That's not considered that way. I think it is appropriate to allow these smaller bodies who have limited financial resources to post the notice if they choose to, rather than to have it published in a newspaper. Like I said earlier up there, cities of the-- a city of the second class or a village, in 2020, they were-- this bill was a law passed and allowed them to-- this would be one of

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their public notice things that they could do. Mr. Johnson, here from the Panama Fire District, approached me this summer about this issue. Some of the smaller fire districts like that currently still have to post them-- or only in newspapers. They're not allowed to post a notice in their bank in Panama or their post office in Panama so they have the added expense of that. With that, I will close. I will probably ways-- waive closing, but I will be glad to take any questions.

BREWER: All right. Well, thank you for that opening and, and closing, I guess. All right. Questions for Senator Dorn? Yes, Senator Hunt.

HUNT: Thank you, Chairman Brewer. Thank you, Senator Dorn. This might be a question for someone coming after you, but I'm curious why they aren't allowed to post these notices in a bank or other public place, like, the reason why is, is interesting.

DORN: OK. The bill that came about in 2020 and was passed, that was because some of these entities-- and I-- maybe Mr. Johnson explained it-- because of the cost of it-- number.

HUNT: OK.

DORN: Remembering to do it is one thing. You have to do it ahead of time so that the newspaper now is published ahead of your meeting and those things, but also the cost. Some of them-- it depends on what city you're at, what newspaper you have, what the cost sometimes is. And some of those that are operating on a limited budget, then that does not-- they don't have that cost.

HUNT: OK.

DORN: When they can do it in three conspicuous places, for instance, a bank, a post office-- and like I said, they can't do it in the back of the service station, back by the restroom. That's not a place that's well--

HUNT: Um-hum.

DORN: --viewed. They also must-- and I forgot to mention this. My staff put this in here. They also must then include in their minutes of that meeting where they posted those.

HUNT: OK.

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DORN: So it's not like they were trying to get around the issue, but it's-- cost is the biggest thing sometimes. And then also now they have to contact that paper and they have to make sure that public notice gets it in there. I don't know if you've ever looked at all the public notices in the paper. The Hickman Voice down here, they have probably about 10 pages on average or 20 pages. They're one of the newspapers--

HUNT: Yeah.

DORN: --that are a public notice publication for a lot of entities.

HUNT: With posting it in a public place, like a bank or a grocery store or something, are the banks saying no? Like, if the, if the fire district or someone came up and said, we want to post notice of our meeting, would the banks say you can't and that's why we need this law?

DORN: No, no. I don't know about that--

HUNT: OK.

DORN: --if they said no or not. Generally speaking, those-- the post office has generally a board to post notices on. The banks does in my hometown down there. The cafe-- we have a, we have a place where people can go hang sale bills and all those types of things. So that's where this type of notice would be.

HUNT: Thanks. I'm reading the bill and I see, like, you know, all of this language already exists in statute. It's just adding the fire protection districts and the rural fire districts to this already existing thing that--

DORN: Yes.

HUNT: It just raised questions for me of--

DORN: Well--

HUNT: --why can't you just put up the thing in the bank or whatever? But we'll see what people say.

DORN: The cities, the cities-- the bill allowed the cities to do that of the second class and, and smaller. This is just the rural fire departments did not get included in this during that bill.

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HUNT: OK.

DORN: Knew the bill was there, they did-- some of them because they visited with city people or whatever and they are just asking for now them to be a part of this also.

HUNT: OK. Thank you.

BREWER: All right, any additional questions? Seeing none, thank you, Senator Dorn. All right, first proponent for LB47. Welcome to the Government Committee.

ERIC JOHNSON: I'm Eric Johnson, E-r-i-c J-o-h-n-s-o-n. I'm president of the Firth Rural Fire Protection District Board. Our district covers southern Lancaster County and the southeastern portion and the northeastern portions of Gage County. So that includes both the village of Firth and the village of Panama. We, for years, have done the public posting. We have a bulletin board at both fire stations we have stationed in each village and also at the local post offices. We have been posting four places. We only became aware of this requirement last spring when my secretary attended firefighter school, a class for elected representatives. We as a fire board never had any indication that we needed to publish. So since we became aware of that, we've been publishing. But it is kind of a hassle. For The Voice News that covers down our area, we have to have it into them by Thursday or Friday of the week prior to the publication on Thursday. And it has to be published a minimum of three days in advance. So we have board meetings on a Tuesday so we've got to have the notice in a week and a half ahead of our meeting. And if something comes up and changes our meeting date, now we get to go through it all again. Now, we have the option of the Journal Star, but they charge three times as much as the village does. But the other thing, as Senator Dorn mentioned, there's pages and pages of legal documents. When I go to verify that our publication existed, I have to hunt for it because it's this little paragraph in columns and columns and columns of legal notices. So the bill, when it was passed, said that we had to publish in a paper. All we're asking is that we be able to do what cities of second class and villages can do and post it in public places.

BREWER: All right, questions? I don't know-- thank you. Oh, go ahead, John.

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LOWE: Thank you. Thank you, Chairman, and thank you for coming to-- testifying today, Mr. Johnson. What is the cost of publish-- publishing notice?

ERIC JOHNSON: The cost is not a great big issue unless you take into account that we've been under a budget lid since 1998 that's only allowed us a maximum 3.5 percent growth. Even though we continue to offer more and more services-- and in the case of our district, we're just undertaking an ambulance service because the LFR can no longer do it for us. So now all of a sudden, I've got \$120,000 additional expense on a \$147,000 budget. It doesn't add up real well. So the five-something a month that we pay The Voice is not a big deal. Lincoln gets, I want to say, 16-something. Not a big deal, but when we're, when we're so short on money, it is a big deal.

LOWE: All right, thank you.

BREWER: OK. Additional questions? Oh, yes, Senator Conrad.

CONRAD: Sorry. Just to follow up on that point, because-- I'm glad Senator Lowe asked the question because I hadn't been thinking about it. But just to make sure I understand, an arbitrary cap really has a lot of unintended consequences on your ability to provide good services for the citizens in your area.

ERIC JOHNSON: We had a very austere budget back in the '90s. I was-- had just gotten on the board back then and it was a minimal budget. Many of the volunteers, myself included, spent many hours working on equipment, manufacturing things because we couldn't afford to purchase. And then on comes this lid. Well, now we've got one of the smallest budgets of rural fire districts in the county, but we operate two stations with 12 trucks. Three-and-a-half percent growth on the cost of fuel in the last year--

CONRAD: Right, right.

ERIC JOHNSON: --makes life really tough.

CONRAD: Yeah. No, thanks for that follow up. It's really helpful. Thank you.

BREWER: All right, additional questions? Seeing none, thank you, Mr. Johnson, for your testimony. All right, we're still on proponents to LB47. Welcome to the Government Committee.

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KEVIN W. EDWARDS: Thank you, Senators. My name is Kevin W. Edwards, K-e-v-i-n W E-d-w-a-r-d-s. I'm the fire chief and administrator of the Millard Suburban Fire District, and I'm the administrator alone of the Papillion Rural Fire District. I'm a proponent to adding this option for fire districts in that I've had occasion when a paper has, has failed to receive my notices that I put in. And I've had to reschedule the meeting and do it again, where if I could have put out a posting, it would have been helpful. I do, however, see a need to maybe consider that the bill requires the notice to be posted in a conspicuous place in the district. Most fire districts don't have public or conspicuous places in their district. Those public and conspicuous places that we talked about-- that people have talked about, the bank, the post office and that, are not in the district generally. They're in the village or a second-class city, but the district surrounds or is adjacent to. So I would like to suggest that perhaps the bill be amended or consider that and put into the wording something that would allow us to post in places that aren't, aren't in our district necessarily, but are in the community that we help serve. I think that would be helpful.

BREWER: OK, concludes your testimony?

KEVIN W. EDWARDS: Yes. That's--

BREWER: OK.

KEVIN W. EDWARDS: --a proponent.

BREWER: See we have questions. Senator Hunt.

HUNT: Thank you. Chairman Brewer. I just want to thank you for your testimony because you totally cleared up the question I had earlier, so.

KEVIN W. EDWARDS: Well, thank you.

HUNT: I wanted to say for the record that I get it now so thank you so much.

KEVIN W. EDWARDS: OK, thank you. Thank you.

BREWER: All right, any additional questions? All right, thank you.

KEVIN W. EDWARDS: Thank you.

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BREWER: Welcome to the Government Committee.

JERRY STILMOCK: Mr. Chairperson, members of the committee, my name is Jerry Stilmock, J-e-r-r-y S-t-i-l-m-o-c-k, testifying on behalf of my clients, the Nebraska State Volunteer Firefighters Association, the Nebraska Fire Chiefs Association. I did not say the Fire Districts Association of the State of Nebraska because there is none. Which kind of begs the problem of you have a political group, a political subdivision group more specifically, pardon me, that is in charge of certain aspects. So you think of counties. Well, they have NACO. You think of cities and villages, they have the League. Think of school districts. They have a few of them-- associations. And you think of fire districts and there is nobody. There is no association, if, if you will. So a lot of it is just knowledge that's gained by Mr. Peterson [SIC] as he had-- excuse me, the previous testifier-- I don't know if it was Petersen or Johnson, pardon me--

RAYBOULD: Edwards.

JERRY STILMOCK: --to the gentlemen behind me as well as to you. Each year, the-- there is a volunteer firefighter and rescue personnel school. That's attend-- it's in Grand Island. And part of that is the elected officials class that the gentleman referred to and that's where the knowledge was gained. It's kind of like-- pardon the maybe poor analogy on a Thursday afternoon, if it's good for the goose, it's good for the gander. If cities of the second class and villages are able to do this, why not include fire districts? It's rhetorical by me to you perhaps, but the-- it has worked for years before. It, the fact of publishing by posting at three conspicuous places in and around the community. And the gentleman shared with you his thoughts on maybe "within the district" needs to be considered by all of you, but it makes sense. The-- just a couple of quick comments. Think in terms of-- let me explain this way, please, if you don't mind. A doughnut in a doughnut hole. A lot of times, a fire district is the doughnut which surrounds the doughnut hole, the city or village. So it's, it's made up of a lot of rural communities, a lot of rural agriculture, a lot of rural folks, some that own acreages, OK? So when that, when that 1998 budget limitation came in, think of who those people were that were making up the membership of those rural or suburban fire protection districts. They were primarily agricultural related, primarily trying to keep their property taxes down, but yet doing the job for the community that-- from which they served and making sure they had an adequate and sufficient budget for firefighting and rescue. If some were in a particularly low area of their budget and the budget that

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came in in 1998, they remained low-- the gentleman before me. So they continue to struggle, continue to struggle, continue to struggle to come up and that, that's, that's part of the problem. That's part of the problem. I don't know if I can offer anything else, but we're supportive of it as best we can. Though our membership of our two associations are firefighters and emergency first responders on the volunteer side, the membership does not consist of fire districts. But we try to lend some assistance when we're in. Senators, it looks like good legislation. We certainly are supportive of it and would ask you to advance it to General File.

BREWER: All right, thank you, Jerry. OK, questions? Questions? All right, seeing none. Thank you for your testimony.

JERRY STILMOCK: Very good. Thank you, Senators. Good afternoon.

BREWER: OK, any additional proponents? Any opponents? Welcome to the Government Committee.

DENNIS DeROSSETT: Thank you. Good afternoon. My name is Dennis DeRossett, D-e-R-o-s-s-e-t-t, first name, Dennis, D-e-n-n-i-s. Thank you, Chairman Brewer and members of this committee for the opportunity. I'm the executive director of the Nebraska Press Association, which represents 150-plus newspapers across Nebraska, and we're here today to testify in opposition to the language of LB47. Historically, Nebraska's newspapers have been a leading advocate for transparency in government through open records, open meetings, FOIA and public notice. LB47 takes transparency backwards for the taxpayers of these districts. Public notices are not just ads in newspapers, as some have suggested, not here, but throughout the years. Rather, they are one step of a proven legal process and that's a critical fact that's often overlooked. It's a proven legal basis that the government entities, as well as the courts, use newspapers as the independent third party to make important notifications to the public and to report its actions and activities. The printed notice also provides for verification, certification that the statutory requirements were met and fulfilled, and then with each public notice, a notarized affidavit is provided as proof of publication for the government to maintain in its records. Further, as of last year now, each notice is then permanently archived on the statewide public notice website, www.nepublicnotices.com. This notice-- again, a website was approved last year and since last October when it went into effect, there are 40,000 notices on the site. Since it was implemented by our association in June of 2021, there are 240,000 notices on the site;

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free site, fully searchable permanent record of public notice. The cost of public notice for rural districts, the ones that I checked ranged from \$6 to \$20 a notice. The rates are set in statute. And last year, this Legislature approved the first rate increase in 25 years so that newspapers received the first of a two-step increase. It went up \$0.03 this year and the line rate goes up \$0.02 next year-- or excuse me, this October 1. So when LB148 was introduced and passed back in 2019-2020, it specifically listed 35 government entities that should be required to publish their meeting notices, budget hearings and rural fire districts were one of those 35. So if LB47 is approved, you're going to see a continual repetition of those entities coming before you asking for the same. An appropriate analogy would be that if a building's foundation is chipped away at one stroke at a time, it will eventually collapse and the structure supports will fall. Well, transparency is the foundation of our democracy at every level of government and it should be made more solid, not continually chipped away at and be made more fragile. So units of government have been asking, seeking a modernization of public notice for years and we cooperate. We fully agree. The website, which was approved by this committee last year, is a mandatory requirement on newspapers that they upload to the site at no additional cost to government. And again, right now, 239,000 notices on that site, 40,000 since the law went into effect. So this is not about, you know, being against fire districts at all. It's about transparency. And we would like to see LB47 not passed out of this committee for-- to keep transparency at a high standard at all levels of government. So that's my testimony. Thank you and I'll be happy to answer any questions.

BREWER: All right. Thank you for your testimony. Questions for Dennis? All right, seeing none, thank you.

DENNIS DeROSSETT: Thank you.

BREWER: All right. Additional opponents to LB47? Seeing none, anyone here in the neutral capacity? All right, Myron, you were going to waive close? All right. That will close our hearing on LB47. There were one proponent, no opponents and no one in the neutral. All right, we'll just swap out the numbers and get ready to welcome up Senator Erdman. Good morning or afternoon, Senator Erdman.

ERDMAN: Good afternoon, Senator.

BREWER: Welcome to the Government Committee.

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ERDMAN: Thank you. Appreciate that. My name is Steve Erdman. I represent District 47, which is ten counties-- excuse me, nine counties in the Panhandle. So I'm here today to talk with you about LB102, about a surveyor bill. Just a brief bit of history how, how I got this bill, how this came to my attention. Several years ago when I was a lot younger and a county commissioner, we had a surveyor from the city-- from the county of Box Butte and his name was Casey Sherlock. Casey Sherlock is now the State Surveyor. And Casey and I served on the NACO Board together so Casey and I go back several years. Last year, I introduced LB1122, which was a bill that dealt with surveyors being able to enter private land and I did that again this year. And when Casey had seen that I had done that, he asked if he could help-- if I could help him do some cleanup work for the Nebraska Surveyor. So that's how the bill came about as it is today. So Casey is going to explain to you the technical parts of what he wants to change from the land surveyor, from the State Surveyor's position. But I want to, I want to touch briefly on what happened last year on LB1122 for the new members and maybe just refresh the memory of some of you that were here then. Last year, LB1122 came to me from several surveyors in my district that are private surveyors and they go out to make a survey. And because they do not have the opportunity to go on land without permission, they may find themselves in a position where they're trying to find a marker on a certain parcel of land that they have permission for. And they discover they can't find the marker so they need to go to the next quarter over, quarter-mile over or a mile over and look for a marker there. Because they don't have permission from that landowner, they then have to stop their survey and try to contact that landowner to get permission to go onto their property. And so there are some other issues that they had. Some surveys were trying to correct boundary lines where fences may not be on the right, right description-- legal description. And one of the landowners, the fence being to his advantage, doesn't want the survey to happen so he doesn't allow someone on his land. So what this bill does, what we did last year or tried to do was to allow those private surveyors to have very similar rights to the State Surveyor or to a county surveyor and go on property that they don't have to necessarily get permission. The bill also stated that if they make any, any damages-- they cause any damage on the property, that they would have to pay for those. They would have to have their identification on their vehicle so people knew they were a surveyor, a licensed person. And if they had an assistant, it had to be the same way. And so what happens sometimes when they go out to do that survey and they can't find the marker and they have to find the landowner if it's an

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absentee land or it may take several days. And so they have to go back to a location later after they've gotten permission. So it's-- it expedites their job. It helps them be efficient in what they do and it protects the landowner by protecting their property because a surveyor will have to pay for any damages. So that was-- that's basically what we tried to do last year with LB1122. And Casey has several other things that they would like to try to clean up, some language changes. It's been a while since they have had those adjustments made. And so I thought it was appropriate that we put all this together to try to clean it up all at once. So that, in a nutshell, is kind of where we're at. Casey will come up. He is going to hand you his testimony that explains each segment of the changes that he would like to make. But I would, I would conclude that-- my remarks with that and ask if you have any questions about the part that I just described about why we need to have this to go on to private property. Thank you.

SANDERS: Oh, that's right. I'm the Chair. Senator Conrad.

CONRAD: Thank you, Vice Chair Sanders. I actually looked to committee counsel. I was waiting for the nod there, so I, I definitely kind of can relate to that. Senator Erdman, one thing that got me in regards to your opening-- and I think this is a very interesting issue and very interesting bill, but when I think about your tenure in public life and in public service, I think of, you know, in how many instances you've been such a strong champion for private property rights and so protective and thoughtful about those constitutional protections that exist. So it definitely speaks volumes to me to know that because of that background and consistent perspective that you've brought to your work, that, you know, you understand the necessity for, you know, perhaps making some updates and evolutions to policy without running too far afoul of those precious private property rights. So it was, it was just striking to me and I just wanted to note that. I appreciate it.

ERDMAN: OK. Senator Conrad, thank you for those comments. I'd-- I'll just say this. I also sell real estate.

CONRAD: OK.

ERDMAN: Most of the real estate that we sell is ag land.

CONRAD: OK.

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ERDMAN: And many times in ag land, we'll sell a circle, a quarter of ground that has a pivot on it. And we have a survey off of the corner that's in a pie shape. And so it's, it's vital that when that surveyor goes out to determine the location of that property and describe it, that he's able to find these markers. And some of these markers have been there 100 years.

CONRAD: Yes.

ERDMAN: And so when they have to go and look longer and farther, then it costs more money for the survey. And they in turn pass that along to the landowner or the people who are selling. So it's not only just a convenience, but it's also an economic thing that we're talking about.

CONRAD: No and I definitely appreciate that. And having grown up in the country, I know I've sometimes stumbled across those kind of historic--

ERDMAN: Yeah.

CONRAD: --kind of relics that are out there and sometimes hidden by grass or--

ERDMAN: Yeah, that's right.

CONRAD: --weeds or--

ERDMAN: RighT.

CONRAD: --things like that too. So I appreciate it. Thanks.

ERDMAN: Yeah, thank you.

SANDERS: Thank you, Senator Conrad. Are there any other questions? Seeing none, thank you, Senator Erdman.

ERDMAN: OK, thank you.

SANDERS: Thank you.

CASEY SHERLOCK: Good afternoon.

SANDERS: Good afternoon.

CASEY SHERLOCK: Good afternoon, Senator Sanders and was prepared for Senator Brewer, but-- and the, the other members of the Government, Military and Veterans Affairs Committee. My name is Casey Sherlock, C-a-s-e-y S-h-e-r-l-o-c-k. I appear before you today in support of LB102. I currently serve as Nebraska State Surveyor and also ex-officio secretary of the Board of Examiners for Land Surveyors. Serving in the capacity of State Surveyor by statute automatically makes me their secretary. As Senator Erdman did allude to, our paths-- past lives have crossed and our paths have crossed. I am a western Nebraska kid. I came from Alliance and I did serve on the NACO Board with, with Senator Erdman. I tested-- I appear before you today to testify in support of LB102 on behalf of the State Surveyor's Office and on behalf of the Board of Examiners for Land Surveyors. I want to make sure that you know what I'm here-- in what capacity. The State Surveyor's Office and the Board of Examiners put forth a significant amount of time and effort towards revising some language. We've been working on this. I've been State Surveyor now for five years, so we've been working on things for four or five years and it finally came to a point where we revised our rules and regulations this past year, were approved in September by Governor Ricketts. So we've been making some advancements on, on revising things that haven't been changed for quite some time. I want to thank Senator Erdman for, for working with us, for helping to get this put together. The majority of the pages of this bill, as you've undoubtedly seen, incorporate the use of the term "professional" and the replacement of the term "registered" with "licensed." The term "professional land surveyors" were determined by the Supreme Court to be professionals. Land surveying was determined to be a profession. I think probably a lot of you in this room, I'm going to assume, would have assumed land surveyors were professionals. We've certainly considered ourselves professionals for a great many years. The Supreme Court noticed or noted, noted that we do, we do require professional education, professional continuing education, years of service, the same things that are essential to becoming a professional. So after that, that takes up a majority of the pages. So after that, there's really four topic areas that we're trying to revise with this bill. The first topic of revisions has to do with the Nebraska State Plane-- Nebraska Plane Coordinate System Act. This is hidden, buried in our statutes that almost nobody even knows exists except for surveyors and, and GIS professionals and people in the, in the areas that, that, that depend on it. The current statute specifically defines-- and you can see it crossed out in the text-- the, the exact numbers of the projections, the exact details of the projections. So we're on a, on a tectonic plate on the Earth's surface

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and we're constantly changing, moving. Gravity is having an effect on the earth. The Earth's rotation is affected. Everything changes. And so you have to be keeping-- not only tracking where you were, but tracking where you're going to be when you're talking about geodetic position. And I'm getting into a lot of the details with that. But with, with the movement that we experience, latitude and longitude of where you're at changes. So the National Geodetic Survey is a, is a subsidiary of, of NOAA. And the NGS has been responsible for determinations of projections forever, all the way back to Thomas Jefferson that established the first Coast Survey. So this is, this is clear back to the early 1800s, I believe it was. And essentially, I've been designated by the NGS as the geodetic coordinator for the state of Nebraska. And essentially, that makes me the liaison between any, any state projections and the NGS. So that's a direct conversation between me and them. I did work with multiple other state agencies: Department of Transportation, GIS Department, the OCIO, local professional societies, engineers, architects, the, the surveyors, so that we were all on the same page working through this. Secondly, the bill incorporates the aspects of a bill from last year, LB1122. I think Senator Erdman did a good job explaining that. I'm not going to go into that a bunch. If you have questions, we can get into that. Third, there's revisions to the fees charged by the survey record repository. I'm also responsible for, for maintaining the survey record repository. All surveys conducted across the entire state are mailed to my office. We microfilm them, index them, digitally archive them and send them back out to the counties. Right now, the fees are \$2.50 for certain surveys and \$5 for other surveys. There's a fee for a search of the repositories records of \$10. And the fees get complex in trying to determine does this survey get \$2.50 or does this one get \$5? It's very hard to explain. And we want to make the fee one flat fee, just it's \$5, that's it. I see my light is on--

SANDERS: I'll go, go ahead and allow for--

CASEY SHERLOCK: Can I--

SANDERS: --your continued testimony.

CASEY SHERLOCK: I have just a minute or so maybe.

SANDERS: Thank you.

CASEY SHERLOCK: So what we want to do is, is make that one flat fee. And just for a note, I did take and itemized out exactly how many

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surveys we had, had taken in over the past five years. And then I took the amount of funds that we took in from those surveys and it was-- right about \$4 was the average cost per survey that comes into our office. So our-- the total, the total changes is not going to be significant. And with the reduction in the other fee, I'm expecting a neutral, a neutral fee. And of course, surveys received comes up and down. If we were-- the repository was established in 1982. If we were adjusting for inflation, that would have made that fee about \$15 today. So we're not-- we don't need to increase. We don't need any additional funding. We want to make that as neutral as possible. Fourth, there's revisions to the Land Surveyors Regulation Act direct, directly requested by the Board of Examiners for Land Surveyors. All of you, I believe, should have received a communication from me of a letter from the Board of Examiners themselves, authored by the chair, for those changes in that act. There's, there's very-- there's many key components of this bill and I'm sure you've read through it and you've maybe got some questions about a particular thing. So with that, I'll, I'll end my testimony and, and open it up to any questions I can hopefully answer.

SANDERS: Thank you for fitting that all in.

CASEY SHERLOCK: Yes.

SANDERS: Are there any questions? Senator Conrad.

CONRAD: Thank you so much, Vice Chair Sanders. And thank you for this excellent presentation, Mr. Sherlock. I really learned a lot in a really short period of time, reading your materials and listening to your presentation. One thing that I was thinking about-- and I'm brand new to this committee, so trying to get up to speed on the issues and appreciate your indulgence. But I was just trying to, trying to think through, like, the applications of new technologies to your work as a surveyor and if there were any ways to maybe utilize drones or other sort of technology to maybe accomplish some of the work without having to have a physical intrusion on private property, so to speak. I'm just-- I-- that might be a completely ridiculous question, but from this vantage point, just trying to get up to speed and kind of think through those things. If you have any response?

CASEY SHERLOCK: Sure. Very fair question. And actually, there are a lot of sand-- land surveying-- private land surveying companies that utilize drones--

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CONRAD: OK.

CASEY SHERLOCK: --and utilize that technology for, for flight work where they can do the boundary work. You still have to have control on the ground--

CONRAD: OK.

CASEY SHERLOCK: --because you still have to relate that. The drone has to know where it is. And the drone technology for positioning with the geodetic positioning I was talking about has gotten much better where the drone knows where it at-- where it's at. In the old days of aerial photography, when a plane would fly, they would actually have to set targets out. Great, big white pluses on the ground. And maybe you've seen that, but there will be-- in aerial photos, if you look closely, you'll see those big pluses that are on the ground and that would-- they would get a position on that plus on the ground and then tie the aerial work to that. So-- but with the advancements in that technology, they don't have to put that as, as much. But land surveyors do have smaller unmanned aerial vehicles that they do use to, to gather as much data as they can without doing quite so much. Typically, that's going to be in a scenario where you have a development and they want to map it and--

CONRAD: Right.

CASEY SHERLOCK: --and map it within boundaries of, of where their, where their subject property is. The issue with getting beyond the property is all of us are pieced together in puzzles and every person has individual rights. And so what the land surveyor's job is, is to balance those rights equally amongst everybody. So if you've got a row of lots, there's five in a row and you only have corners on each end of the five, you have to make sure that every single person along the line gets their share of either the excess or deficiency. So not one person is ever shorted and so, so to speak. So that's where when you go to survey a square, this is the square you need, but the corner in the back isn't there. You got to keep going down the line till you find the next corner so that you can balance all of those lines down the back side. So that's where getting, getting access to things on the ground and-- well, I, I don't-- as a land surveyor, I don't see that our-- it might come in the future where you have a theoretical position on a corner and you have that permanently for forever. The problem is with the movement I talked about because as we're on this ship moving, we're moving a couple of centimeters a year. And so over

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a course of time, that geodetic position has changed. So that's why the monument is so important.

CONRAD: Right.

CASEY SHERLOCK: And those, those 100-year-old monuments you referred to earlier.

CONRAD: I've seen some of those. No, that's so interesting and thank you for the kind of the, the lesson in terms of how the technology interfaces with some of the work and those kind of updates and why that may or may not be sufficient to addressing some of these concerns. And to be clear, I'm not giving full-throated support to drones usage for everything all of the time. I have my own separate privacy-related concerns about some of those matters, but--

CASEY SHERLOCK: Sure.

CONRAD: --thank you. That's, that's very helpful. I appreciate it.

CASEY SHERLOCK: Absolutely.

SANDERS: Senator Raybould.

RAYBOULD: Yes. I have a question about changing it from "registered" to "professional." I know that the surveyors have to put their stamp--

CASEY SHERLOCK: Right.

RAYBOULD: --on the drawing, so. And in that little circle, doesn't it say registered surveyor?

CASEY SHERLOCK: It does.

RAYBOULD: So, so if we have to change that to "professional," do they have to change their stamping of the documents?

CASEY SHERLOCK: That is correct.

RAYBOULD: OK.

CASEY SHERLOCK: So that was, that was part of the, the--

RAYBOULD: OK.

CASEY SHERLOCK: --process with the Board of Examiners is if we institute this change, this is going to be an expense that's going to come back to the board to update those. We have evolved to modern times and created a digital seal. So there are a lot of our surveyors that are using a digital seal that may not even need a rubber stamp anymore. But if we do have to do the rubber stamp, they're about \$25 a piece and that's--

RAYBOULD: And then--

CASEY SHERLOCK: --some of the expense that will take place in making this change.

RAYBOULD: OK. And then I guess using the term "professional," so when I think professional, I think of professional engineer, PEs, so that when they sign their documents, they sign their, their, their name. Casey Sherlock, PE.

CASEY SHERLOCK: PE.

RAYBOULD: But in-- so with a, a professional surveyor, are they permitted to have that professional designation of Casey Sherlock, PS, professional surveyor? Or tell me about the, you know, the difference between changing it from "registered," you still have to be-- you mentioned continuing education credits. And how do you get that professional designation? It's, like, with specific coursework or years of training or internship? I, I guess to me when you get that term "professional," it's tied into a pretty strict and rigorous program and course of study.

CASEY SHERLOCK: Yes, very similar. The engineers and architects do have a very rigorous, detailed path towards licensure. Surveyors do too. There's-- you can get-- if you have a degree in land surveying, it counts about so many years of credit towards your license. You have to have a-- in a nutshell, you have to have six years of experience in the field of land surveying to qualify for a land surveying license under the stewardship of another land surveyor. So it's the apprenticeship-type scenario. But when you do go for that formal education towards land surveying, that does count towards your years of experience as well. And then beyond licensure, you have 30 hours of continuing education that's required every single year. Similar-- I believe engineers is the same-- are the same way. The professional designation would be PLS for a professional land surveyor. There are, as I've learned coming into state government, there are surveyors that

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are healthcare surveyors. I get phone calls looking for a healthcare surveyor once in a while. I think they go to various healthcare areas and do surveys. But PLS would be the designation and the designation for professional would come when you receive your licensure. And I believe in part of the bill is the definition of what a professional land surveyor is. So we've designated a difference between a land surveyor can be anybody that's working under, under the direction of the land surveyor. But a professional land surveyor is one who's been issued the license by the Board of Examiners, so.

RAYBOULD: And so you-- the Board of Examiners is the accreditation and supervisory agency to validate that these are professional surveyors, correct?

CASEY SHERLOCK: Correct, correct.

RAYBOULD: Thank you.

CASEY SHERLOCK: And part of that board was-- board oversight and regulation was the rules and regulations that we just revised. The minimum standards for land surveys was, I want to say, six or seven pages. Through the Professional Society of Land Surveyors, we just increased that to about 13 pages and are very, very more detailed about the, the, the requirements of surveying and, and, and the rules and regulations. So that's kind of the process of, of improving our, our realm.

RAYBOULD: OK. Thank you very much.

CASEY SHERLOCK: You're welcome.

RAYBOULD: No questions.

SANDERS: Thank you, Senator Raybould. Senator Lowe.

LOWE: Thank you, Vice Chair, and thank you, Mr. Sherlock. Markers, are they standard or have they been-- different materials been used over time? How would I know if I'm running across a, a stake in the ground or a piece of rebar or something that should be kept there?

CASEY SHERLOCK: Good question. So, yes. The answer is yes. The, the markers in the ground have evolved significantly over the years. The original government survey started in Nebraska around 1855. And at that time, they were using posts and mounds; wood posts, piled up dirt around it with pits in certain directions that they put out in the

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prairie in the middle of nowhere. When, when more solid, permanent objects were available, stone, for instance, they would use stone. The evolution of iron into being placed at, at markers is probably-- I have a historian back here, but I want to say maybe late 1800s, somewhere in there, that they were using iron. So when we're talking about those 100-plus-year-old markers, we're looking for hopefully a stone in the middle of nowhere. But sometimes, you're looking for a post or even an outline, maybe as big as this sheet of paper, of where they dug a pit and placed the dirt up against a post. We were out in Dundy County not too long ago and bladed the soil off and we found the outlines of two pits that were placed there in 18-- 1870, I believe it was. It's one of those one-in-a-million type finds. It's-- you found a patch of dirt. Well, that's gold to me. So that's evolved very much over time. And the minimum standards have currently a minimum specification for the size, the length, the diameter. And every marker that's placed has to be identified with the professional surveyor's name and number so that when somebody finds that, they can account for that monument came from this individual. Some of those old stones were marked. They chiseled them with a [INAUDIBLE] corner or they chiseled, chiseled them with lines on them that marked how many miles over and how many miles up they were from the township corner. Not too often did they chisel their number on them. Licensing in Nebraska started around 1953 and at that time, there were-- started out with LS 1. And some of those early surveyors would take a brick and they would chisel their number on them. And we do find those from time to time, very, very fun to find. Or we might find a brick with their initials on it. To us, it's just, it's-- there's nothing like it. It's a, it's a passion.

LOWE: History.

CASEY SHERLOCK: Yes, yes. It's history. It's living history.

LOWE: Thank you.

CASEY SHERLOCK: You're welcome.

SANDERS: Thank you, Senator Lowe. Any other questions? Thank you.

CASEY SHERLOCK: We could probably be here all day talking about some of this.

SANDERS: We could.

RAYBOULD: We sense your passion for this--

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CASEY SHERLOCK: Good.

RAYBOULD: --profession.

CASEY SHERLOCK: We absolutely love it. Thank you very much for your consideration.

SANDERS: Thank you for your testimony. Are there others, proponent?

CASEY DUNNGOSSIN: Good afternoon, Vice Chair Sanders and members of the Government and Military and Veterans Affairs Committee. For the record, my name is Casey, C-a-s-e-y, Dunningossin, D-u-n-n-g-o-s-s-i-n, and I'm the Nebraska State GIS Coordinator. So two Caseys today. You may hear me repeat just a few of the things that Casey mentioned earlier in his presentation. But I am here to speak in support of LB102, specifically Sections 11 through 13. I hope to provide some insight and answer any questions on why modifying the language related to the Nebraska State Plane Coordinate System, also known as the Nebraska State Plane, is important to Nebraska agencies, businesses and private citizens. As State GIS Coordinator, I work with all state agencies who use geographic information systems, or GIS, to collect, track, maintain, analyze and develop data, develop GIS data, maps and applications. Currently, state agencies maintain and create data using the North American Datum of 1983 and the North American Vertical Datum of 1988 as the underlying measurements of the current state plane. A datum identifies how a coordinate system is laid over the earth. The Earth is not perfectly round, but really a rather lumpy rock with moving parts. This means that when people try to create flat maps or show spatial location, we must use a standard set of measurements or no one would agree where Memorial Stadium is. You could also think of it as similar to how a house foundation settles. As time goes on, there's slight adjustments to where the tectonic plates have shifted and the North American Plate moves about one inch west, southwest each year-- yeah, each year. This means that this room is about three feet and four inches away from where it was in 1983 when the datum was created. However, on maps and globes, we still depict this room in exactly the same place as it was in 1983.

RAYBOULD: That's why I get lost.

CASEY DUNNGOSSIN: To ensure that data are accurately displayed on maps and applications and are seamless with other states or geographies, Nebraska agencies must be able to reproduce spatial data into the new Nebraska State Plane with the, with the new projections when the new

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projections are released by the National Spatial Reference System. Nebraska agencies share over 300 spatial layers internally and 117 of those layers publicly. These datasets will need to be reprojected using the new Nebraska state plane and republished for online use. While this will require time, effort and coordination, it is a necessary step to ensure spatial integrity of data is maintained and remains accurate-- as accurate of a representation of our world as possible. Once the new reference frames are released, federal agencies will be required to use them. If not using the new state plane, agencies will have to spend time identifying discrepancies between projections of any data shared to or from federal agencies to include point cloud data, water gauges, highway data, contour data and digital elevation models. Thank you for your time and let me know if you have any questions.

SANDERS: Are there any questions?

RAYBOULD: It's fascinating.

CASEY DUNNGOSSIN: So.

SANDERS: Yes, great information. Yes. Thank you very much. Are there any other proponents? I see none, neutral? Oh, opponents. Any opponents? Neutral. None? Neutral? Mixed it all the way down for you. Yep.

JOHN BERRY: Good afternoon, members. My name is John Berry, J-o-h-n B-e-r-r-y. I'm a licensed professional surveyor in the state of Nebraska. I have been involved in the profession of surveying for over 40 years. I am currently the Lancaster County Surveyor. In general, I, I am in favor of this, of this bill. However, I respectfully request that some wording be added or changed in some of this. On page 7, Section 23-1911, beginning on line 29, the bill reads, "In all counties where no regular office is maintained in the county courthouse for the county surveyor of that county, the county clerk shall be the custodian of the official record of surveys and all other permanent records pertaining to the office of county surveyor." My office is not in a courthouse. It is, it is currently in a county-owned facility. My office currently contains nine file cabinets, several bookshelves and several plat cabinets which contain 24-inch by 36-inch survey plats, as well as cadastral maps, aerial maps and basically everything that is sent to us, we keep. Surveys are continuously dropped off or mailed to my office for filing, including those sent from Casey's office, the county-- you know, the State

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Surveyor's Office. In performing surveying work over the last 40 years, 30 years in practice through a consultant, I have continuously went to many courthouses in the state of Nebraska. And in general, those courthouses do contain the survey records. However, there are exceptions. In various counties, some records are not maintained in the courthouse. They are actually in the county surveyor's private house and/or his private business. And even some, some records are stored in county-owned property such as a maintenance shop or something along that line. I would respectfully request the wording be changed to in all counties where no regular office is maintained in the county courthouse or any other owned-- county-owned property for the county surveyor of that county. And over the years, I've done a lot of work in counties and it's, it has been hard to find survey records in some areas, especially smaller counties in western Nebraska, in areas like that. You know, they are not held in a county-owned facility. Generally, you have to contact the county surveyor and if they're out working, you cannot get to those records. So, I mean, this is, this has been in, in this bill for a long time. I mean, it's been on-- been in our statutes for a while, but I would like to just get it cleared up a little bit that, that it's required to be in a county-owned facility.

SANDERS: All right.

JOHN BERRY: I'd be happy to answer any questions.

SANDERS: Are there any questions for Mr. Berry? Seeing none, thank you for your testimony.

JOHN BERRY: Thank you.

SANDERS: Good information to have. Are there any other neutral testimony? Seeing none, Senator Erdman, would you like to close?

ERDMAN: Thank you. Thank you very much. That was interesting, right?

RAYBOULD: Yes.

CONRAD: Yes.

SANDERS: Yes.

ERDMAN: And I appreciate the questions you ladies had. That was, that was appropriate. I appreciate that. So listening to the testimony of the neutral testifier, I would make this suggestion that I get with

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the State Surveyor, Mr. Sherlock, and speak to him-- speak with him about those issues and see if, if necessary, we'll come with an amendment that includes his comments or suggestions. But you'll see that land surveying is, is intriguing. And in my county, Morrill County, we don't have a county land surveyor. We put that out for, for bids. We have a firm we hire. But all the records are stored at the courthouse. We have a room that we store the records of the surveys. But so I'd appreciate that. It would be great if this bill was either part of your Christmas tree bill or perhaps maybe even make the consent calendar. That would be greatly appreciated. So we will be in touch with Mr. Sherlock directly to make sure we make any adjustments that need to be made and get those to you.

SANDERS: Any questions? Senator Halloran.

HALLORAN: Madam Chairlady, thank you. This is a fascinating topic. I walked into this thinking I'd be bored to tears, but I'm not. And I have to thank you because now, now I have an excuse for not being able to find something and I can blame it on plate tectonics. I know that stuff's been moving, but I've now discovered more.

SANDERS: Are there any other questions for Senator Erdman.

ERDMAN: Then the other, the other issue when you're Senator Halloran and my size, it's pretty easy to get far out of your reach.

SANDERS: There are no other questions.

ERDMAN: Thank you.

SANDERS: You did have four letters, proponents, zero opponent and zero neutral.

ERDMAN: Thank you.

SANDERS: And thank you for bringing this bill forward.

ERDMAN: Thank you so much for your time.

SANDERS: And this closes the hearing for LB102, so thank--