

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

[LB352 LB616 LB628 LB691]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Friday, February 11, 2011, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB616, LB691, LB352, LB628 and gubernatorial appointments. Senators present: Bill Avery, Chairperson; Scott Price, Vice Chairperson; Lydia Brasch; Charlie Janssen; Russ Karpisek; Rich Pahls; Paul Schumacher; and Kate Sullivan. Senators absent: None.

SENATOR PRICE: Okay, ladies and gentlemen, welcome to the Government, Military and Veterans Affairs Committee room and hearing. We'll go ahead and get this rolling for today. I'd like to introduce all the senators that are here today. To my right, we have Senator Lydia Brasch, she's out of the Bancroft area; and on the left hand side here we have Senator Kate Sullivan and she's out of the Cedar Rapids area. The other senators that will be coming in as we go along, as you know we're still introducing bills so they're probably off in various committees introducing as the chairman is right now, so I'll take over the duties for the committee until he returns. As you know, bills will be taken up in the following order that were read from the agenda which was posted on both of the doors, if you have any questions. Sign-in sheets are at both entrances. If you please would sign in only if you're going to testify. And when you do sign in, there's a yellow sheet as most of you know, fill this out, and if you would hand it to the committee clerk before testifying, it would be greatly appreciated. If you're not going to testify but would like to be on the record as either a proponent or an opponent on a bill, there's another sheet there at the door that you can fill out, by both entrances. Please print your name, indicate who you are representing, and before testifying, please spell your name for the record, even if it is a common or easy name to spell. Introducers will begin to make their initial statements followed by proponents, then opponents, and neutral testimony. Closing remarks are reserved for the introducing senator only. Now while we're testifying and doing what we do, please listen to the witnesses that come before you so that we're not repeating information. That way we can keep things moving along at a nice pace. It is a Friday. I would also encourage all people to take this time as an opportunity to turn off your cell phone or silence them please. If you can put them in such a mode to leave them on, yet they don't interrupt, that would be greatly appreciated. If you have a prepared statement or an exhibit, what we'll do is we'll have you give it to the page who will distribute it. There should be twelve copies. Now we are using a light system this year. While I don't see a great number of people here, we will maintain using the light system. Just like a stoplight from left to right, green, amber, and red. When you see the green, you'll have four minutes. When you have the yellow or amber, you have one more minute, and the red, we'd ask you to wrap up your statements and if it goes on too long, I will interrupt you and remind you that the red light is there. This is for everybody's advantage so we can all get an opportunity to get in our testimony. Today, we're going to start off with gubernatorial appointments. And is Mr. Keith Hansen available to come forward? Welcome, Mr. Hansen. [CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2011

KEITH HANSEN: Thank you. [CONFIRMATION]

SENATOR PRICE: Well, you've been through this before... [CONFIRMATION]

KEITH HANSEN: Yes, sir. [CONFIRMATION]

SENATOR PRICE: ...so we'll just open it up for you to spend a moment to tell us a little bit about yourself, about the position you're applying to take again, and then we'll open up to comments and queries of the committee. [CONFIRMATION]

KEITH HANSEN: (Exhibit 1) All right. My name is Keith Hansen, K-e-i-t-h, Hansen, H-a-n-s-e-n. I am currently employed at the University of Nebraska Medical Center at the Center for Preparedness Education. It is a joint endeavor between Creighton University Medical Center and the University of Nebraska Medical Center. The reason I'm here today is to, hopefully, be appointed to the State Emergency Response Commission which is a group that works with industry and local groups to help firefighters, EMS, and law enforcement remain safe in response to chemical and other industrial incidents or disasters. Our job is to work with local communities to assure that chemicals that are used in industrial organizations are hopefully known to firefighters and EMS so if something happens in an area, they're able to go in and know what they're dealing with and they'll know how to deal with it ahead of time. So that is what I do. For the commission, I am a public health representative, meaning I work...I have a background in public health and public health education, community health education. Right now I work for the Center for Preparedness Education and we work to educate first responders, hospitals, and public health departments on disaster preparedness and response. [CONFIRMATION]

SENATOR PRICE: Thank you very much, Mr. Hansen. Are there any questions?
Senator Sullivan. [CONFIRMATION]

SENATOR SULLIVAN: Thank you, Mr. Hansen, for your comments. How long a term was your...is this...would this be your second term? [CONFIRMATION]

KEITH HANSEN: This would be my second term, correct. [CONFIRMATION]

SENATOR SULLIVAN: And how long was the first term? [CONFIRMATION]

KEITH HANSEN: Three years. [CONFIRMATION]

SENATOR SULLIVAN: Okay. And what you do for employment fits right in with what your role would be on the commission, is that correct? [CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

KEITH HANSEN: Yes, it does, very closely. [CONFIRMATION]

SENATOR SULLIVAN: How is it in terms of the information in training you provide first responders at the local level, how has that changed over the last several years in light of things that are going on in our world and our society? [CONFIRMATION]

KEITH HANSEN: Amazingly what we do has remained fairly consistent. Agents may change, some protocols may change, but for the most part responding to a chemical instant or biological instant is very much the same. We're concerned about personal protective equipment, we're concerned about protecting the responders, we're concerned about community spread. It's just, perhaps, different agents or causes of that spread. And amazingly, not really amazingly, but it's very similar to the things we do on any natural disaster whether it's the chemical, biological, tornado, flood, fire, what we do is we prepare people to respond to that and, hopefully, be able to take care of themselves for a while. [CONFIRMATION]

SENATOR SULLIVAN: And what about the people that you're preparing, so to speak? Because I know one of the concerns we have in rural communities is that the pool of people to draw from is getting smaller and more difficult to attract people to these positions. Have you seen any of that and as far as the quality of people being trained? [CONFIRMATION]

KEITH HANSEN: We do see that. I think it's hard to...hard to maintain that large volunteer pool in rural areas. These are some incredibly committed individuals and they spend a lot of time practicing, getting educated, getting trained on the areas that they need that education. So while the pool may be small, it's mighty. [CONFIRMATION]

SENATOR SULLIVAN: Good point. Good point. Thank you. [CONFIRMATION]

SENATOR PRICE: Thank you, Senator Sullivan. For those who didn't know, Senator Pahls has joined us along with Senator Schumacher. Any other questions? Well, I'd like to ask you, Mr. Hansen, due to background, do you interface much with the guard unit here in Nebraska, the CBRNE teams we have and our HAZMAT issue we have with the air bases? [CONFIRMATION]

KEITH HANSEN: I do not personally. I am aware of the guard unit and we have worked together in the past. [CONFIRMATION]

SENATOR PRICE: Okay. Great. Well, I would offer that you always take the opportunity to include them in training or ask about their training so we don't get duplication and they have some really good training. They do...we have four CBRNE teams across the state so that would be a great opportunity, too, as a multiplier, so. [CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2011

KEITH HANSEN: Okay. [CONFIRMATION]

SENATOR PRICE: Seeing no other questions, we appreciate you coming down today and testifying, and we'll move on to the next individual. [CONFIRMATION]

KEITH HANSEN: All right. Thank you very much. [CONFIRMATION]

SENATOR PRICE: Thank you very much, sir. Mr. Tim Hofbauer. Welcome, Mr. Hofbauer. [CONFIRMATION]

TIM HOFBAUER: Thank you. [CONFIRMATION]

SENATOR PRICE: Hope I pronounced your name correctly. [CONFIRMATION]

TIM HOFBAUER: (Exhibit 1) Yes, you did. You did a good job. My name is Tim Hofbauer, it's H-o-f-b-a-u-e-r, and I'm the Platte County, Columbus and Platte County emergency manager. I've been doing that for full-time for five years for...six years, part-time since 1994, so I've been involved in for a number of years. I'm the emergency management rep or representative to the SERC group. I represent the emergency managers throughout the state. I'm also a member of NCOR. It's Nebraska Council of Regents. It's a governance that we set up to help manage some of the homeland security and communications and daily communications projects throughout the state. What...and I'm kind of maybe expound a little bit on what Mr. Hansen talked about as far as SERC goes. Another area they are very heavily involved in is public education. Not only do we need to be concerned about getting the information to the first responders about what kind of hazards are out there, chemical hazards, things of that sort, but also the public has a right to know what's in their communities as far as hazards. So we provide a mechanism for the local emergency planning commissions or committees that are established throughout the state to have that information available so that if somebody from the public comes and wants to see what chemical is being stored or being processed in this particular plant that might be their neighbor or something, there's a procedure that they can go through to find out what that is. And so that's just another function of the SERC and something else that we do. I just wanted to add a little bit in addition to what Mr. Hansen had said. [CONFIRMATION]

SENATOR PRICE: Thank you very much. I'd ask, could you elaborate a little bit on the statewide communications backbone that you had talked about. I know that Nebraska has been a front runner in being a state that can go from border to border and be able to light up a system for our first responders. And I just wondered how that process was going and how that integration of local departments, and make sure we have a common operating platform for that, how's that progressing? [CONFIRMATION]

TIM HOFBAUER: There's kind of...I should say, not necessarily two, but they're merging

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

together. There's what we call the statewide radio system that is going to basically consist of state agencies as well as local agencies are showing interest to come on to that system too. And then there's also what is being done at a lot of...at the local level as far as interoperable communication and the committee that I'm on, through NCOR, it is our job to make available the process to marry them together so that that can happen. We're actually involved in that pretty heavily right now. And so there's kind of like...I shouldn't say two separate systems, but two systems that will be merged together through a common backbone that will enable that to work. [CONFIRMATION]

SENATOR PRICE: Well, good. I'm glad to hear that because I know there's been a lot of federal dollars that come to the Department of Homeland that pays for that. [CONFIRMATION]

TIM HOFBAUER: Yeah, there's a good program put together to make sure that that's happening. I think with NCOR and that, we've got a good program. [CONFIRMATION]

SENATOR PRICE: Well, thank you. And we are now joined by the Chairman and by Senator Karpisek, but I'll go ahead and let Senator Sullivan ask a question as the Chairman settles in. [CONFIRMATION]

SENATOR SULLIVAN: Thank you very much and thank you for your effort for being here and for your service. Are you at liberty to say when the last time there was a major chemical incident in the state and how we responded to it? [CONFIRMATION]

TIM HOFBAUER: There's actually smaller incidences that happen quite regular throughout the state, sometimes it's a nurse tank from a co-op that's being delivered to a field that falls, rolls in a ditch and a valve breaks or something like that, anhydrous leaks, things of that sort. I know there was a situation in Omaha a few years ago where they had to evacuate a number of people because of a leak on a railcar. In Columbus, for instance, we had a train derailment here a year or so ago. We lucked out because the next car that didn't tip over was a chemical car. If it would have tipped over, it could have possibly, you know, had a leak or something of that sort. So there's a lot of small ones, you know, that occur quite often. As far as real big ones, I can't put my hands on any one right now. [CONFIRMATION]

SENATOR SULLIVAN: So give me an idea of when an incident like that happens, and the first responders are notified and they in turn then...what's the chain reaction after... [CONFIRMATION]

TIM HOFBAUER: Sure. The chain of events, generally, you know, the call is made. Depending on the level of response that the first responders have, they...they're trained, basically, HAZMAT awareness where they approach the scene and if they don't have the training where they can really go in and do anything, they're instructed to get as

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

much information. And then in many cases it involves emergency management to coordinate along with the whole process for activation. There's assets throughout the state that are...we call them MOU, they've signed Memorandums of Understanding in their HAZMAT teams that can be deployed. There's also through...and I'm not sure the agency that's handling that, that has at the state level there's...it's called the NHIT, the Nebraska Hazardous Incident Response Team. I can't remember the exact acronym. This job is full of acronyms, but they're called then too, and then the MOU responders are also notified and there's a process to go through to determine what type of response is going to be needed. And at that point, that response is set out. Somebody mentioned something about the civil support team. They're part of that process too. Depending on what the hazard is, they have certain capabilities that maybe the NHIT team or the local MOU HAZMAT teams don't have, and so those resources are brought in too. The Nebraska Department of Environmental Quality is brought in too. It's a whole...there's actually a checklist like a branch list that we go, we follow, based on what's going on and who comes into the play. [CONFIRMATION]

SENATOR SULLIVAN: Okay. Thank you. [CONFIRMATION]

SENATOR AVERY: Senator Schumacher. [CONFIRMATION]

SENATOR SCHUMACHER: Thank you, Senator Avery. Mr. Hofbauer, yesterday we heard in testimony that there are things about 200 feet tall towers that are being put up to detect possible environment for windfarms. And that after these towers are constructed and they do their thing and decide whether or not there's a good spot for windfarm or not, they may be having a hard time getting taken down or they're just out there. And I know that they mentioned, I think, Boone County had a half dozen or a dozen of them. Would those things serve any function at all in the context of anything that you guys got to do? [CONFIRMATION]

TIM HOFBAUER: They would. It depends what their structure...how strong they are. Part of our communication system is involving...involves putting in microwave systems to tie the dispatch centers together so we can all integrate the system, and that process is going on now. I'm actually on the technical committee for that. And one of the biggest issues is finding towers for that, but the towers do have to meet a certain level of standards, a certain standard. And so depending on, you know, how heavy those towers were, how they were guyed, if they were guyed, you know, if they met the standards with whatever piece of equipment that was needed to be put on top, they would definitely be beneficial. [CONFIRMATION]

SENATOR SCHUMACHER: Apparently there's a Web page where the pilots go to, to look for the location of these things, so if that does you any good at some point. [CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

TIM HOFBAUER: Well, if you could send that to me. I know Mr. Schumacher because he's from Columbus and we do a lot of things together. If you could send that to me, that would be great. (Laughter) Yeah. [CONFIRMATION]

SENATOR SCHUMACHER: Okay. Will do. Thank you for coming down, Tim.
[CONFIRMATION]

TIM HOFBAUER: Sure. [CONFIRMATION]

SENATOR AVERY: Any other questions? Thank you, Mr. Hofbauer. [CONFIRMATION]

TIM HOFBAUER: Sure. Thank you. [CONFIRMATION]

SENATOR AVERY: That ends the hearing for...that ends the hearing on Mr. Hofbauer. We now have a reappointment to the State Personnel Board, Mr. Brian Tessman. Welcome, sir. [CONFIRMATION]

BRIAN TESSMAN: (Exhibit 1) Thank you. My name is Brian Tessman, B-r-i-a-n T-e-s-s-m-a-n, and I am seeking my third appointment to the State Personnel Board which is a five-year term, so I have been on it just over ten years now. I have a bachelor's degree in human resource management from Hastings College, and I currently work as a senior analyst for the office of the president and chief executive for TD Ameritrade. And in a nutshell, I speak on behalf of the executive management team as a face to our clients, and also work to mitigate risk exposure to the firm. That's really what I do. As far as the State Personnel Board, we essentially serve as one of the final steps in the employee grievance process. We assign our points hearing officer to listen to the grievances. We review the information. We work with the hearing officer and we either agree or disagree with that. And most of our business is conducted in closed session and then we come out and we announce our decisions. [CONFIRMATION]

SENATOR AVERY: Thank you. I see that you had a period of employment with Harrah's Entertainment. Do you mind telling us what your job was there?
[CONFIRMATION]

BRIAN TESSMAN: Sure. Sure. Actually that was more than five years ago. I had worked for them as a front service supervisor and I was in charge of about 60 associates in different departments such as the transportation department. There's a PBX and reservation center, as well as valet as well. And that particular position fell under the hotel operations side. [CONFIRMATION]

SENATOR AVERY: Yeah, I thought you were going to tell me you were a blackjack dealer and had some tips. (Laughter) [CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2011

BRIAN TESSMAN: No, actually I don't even gamble, so kind of boring there. (Laugh)
[CONFIRMATION]

SENATOR AVERY: Any questions from the committee? I don't see any. This is also a reappointment, right? [CONFIRMATION]

BRIAN TESSMAN: Yes, sir. [CONFIRMATION]

SENATOR AVERY: Yeah, all right. Thank you very much for coming.
[CONFIRMATION]

BRIAN TESSMAN: Thank you. [CONFIRMATION]

SENATOR AVERY: That will end our hearings on gubernatorial appointments and we will now move to bill introductions, LB616, Senator Heath Mello. Welcome, Senator Mello. [CONFIRMATION]

SENATOR MELLO: (Exhibit 1) Good afternoon, Chairman Avery, members of the Government, Military and Veterans Affairs Committee. My name is Heath Mello, M-e-l-l-o, and I represent the 5th Legislative District which includes south Omaha and Bellevue. In a recent number of years, a number of states have been able to save significant tax dollars by partnering with the private real estate industry to improve their state property management departments. Just a few examples: the state of Michigan realized savings of \$13 million in the first 12 months; Virginia saved more than \$30 million over three years; and Florida has saved in excess of \$82 million since 2003. As a result of these public/private partnerships, some states are on pace to save upwards of up to 10 to 15 percent of the costs of maintaining their real estate portfolios. In our current economic climate, I believe it's vitally important that our state government maximize its existing resources and look to identify inefficiencies. LB616, which would require the Department of Administrative Services, DAS, to prepare a report on the potential for privatization of the state's real property management, would provide the Governor and the Legislature with an opportunity to do just that. My office met with DAS after the bill was introduced and stressed that the goal of LB616 was to encourage DAS to seek proposals from the private sector on the potential privatization of the state's property management system through the RFI/RFP process and to share that information with the Governor and the Legislature. This approach does not result in a fiscal impact, as noted by the Legislative Fiscal Office because the scope, nature, and extent of the work being done by DAS would be limited. I provided the committee with some samples of the work that private sector companies have done for other states, and at least one company that has been involved in these types of projects are here today to provide some more detailed information. With that, I thank you for your time and would be happy to answer any questions you may have. [LB616]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

SENATOR AVERY: Thank you, Senator. Would you like to comment on the fiscal note?
[LB616]

SENATOR MELLO: Well, the best way I guess...the best way to describe the fiscal note, in my interpretation of it, is that it provides some latitude, I believe, to the Legislature and to determine whether or not to provide any funding if we so choose to DAS to do this. I think it's very unique. The department said that it would cost \$150,000 to hire a consultant where the Fiscal Office stated that since the work is really limited of what DAS would be doing that it could instead collect the information and the data required to produce this report through what I argue is an RFI, Request For Information, or an RFP, Request For Product, process. And the best way I guess to describe without rereading the fiscal note is that this is to some extent left up, I think, to this committee as well as the Legislature as a whole in regards to whether or not we make changes to LB616 that would clarify any potential need for funding if the Legislature so chooses.
[LB616]

SENATOR AVERY: Thank you. Any questions from the committee? Senator Sullivan.
[LB616]

SENATOR SULLIVAN: Thank you, Senator Avery. Thank you, Senator Mello. How much of this that you're proposing do you think, if anything, is already being done by DAS? [LB616]

SENATOR MELLO: Well, in our conversation with DAS it was not relayed to me that they have...they're preparing to do a report so to speak on the potential privatization of the state's property management. I can tell you from a personal experience, in preparation for the 2009 Special Session, I had the Legislative Fiscal Office request information regarding the state's property on the sense of whether or not there was any potential opportunities for us to look at maybe selling property, of making contract changes. And it was to some extent I know from dealing with the Fiscal Office, it was an arduous task to collect that information where at the end of the day I wasn't able really to utilize any of that information for the special session purposes. I believe...I don't know if DAS is testifying in neutral or opposition or support on today's bill. I know that we worked with them to try to provide guidance in the sense of what we'd like to see with this bill and the sense that this provides an opportunity, I believe, more than anything else to DAS to expand the opportunity for privatization with some assistance from the Legislature. I think at times in this Legislature we have seen where agencies have a tendency to move on projects or initiatives without the Legislature's approval. And what I think LB616 does is that it provides DAS the opportunity to look at privatization with the understanding that they're collecting data, collecting research, providing that back to us as well as the Governor to determine if there are other changes that may need to happen for privatization to occur or whether or not there's really any cost savings associated with privatization. So I view this more as a way to provide them an

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

opportunity with the assistance of the Legislature, not so much mandating them to move towards this, but to be able to show us some cost-benefit analysis of why or why not we should go down the route of privatization. [LB616]

SENATOR SULLIVAN: Under current statute, how much latitude does DAS right now have to move into privatization in various areas? [LB616]

SENATOR MELLO: I would prefer that maybe DAS come up and testify in regards to what their interpretation of what that latitude is. They can obviously put out an RFI, an RFP without our permission so to speak to look at this very issue. But I think in the sense of potential statute changes I know, for example, this committee has heard testimony from a bill I introduced two years ago regarding service contracts in regard to some of the latitude that comes with service contracts and how that may or may not affect displacement of government workers. So I think to some extent that is an issue I would prefer to let DAS elaborate on a little bit further before I provide maybe my interpretation of what they can or cannot do. [LB616]

SENATOR SULLIVAN: Thank you. [LB616]

SENATOR AVERY: Any additional questions? Senator Schumacher. [LB616]

SENATOR SCHUMACHER: Thank you, Senator Avery. Senator Mello, could you maybe kind of explain what the genesis of this bill was and what you see as the end game of this study and this research. Where are we headed or where would you like to see it head? [LB616]

SENATOR MELLO: The genesis, Senator, is really I think an ongoing effort by other state and local governments to evaluate their operate...their internal operations in regards to property management, particularly knowing that governmental entities, political subdivisions own a lot of physical property, a lot of buildings. And some of the research that my office started to engage in looked at what other states were doing. We had contacted one of the testifiers today on the bill to provide a little bit more detail of what their specific company does to help out other states and other local governments. But we essentially identified that this is a process that in I think in an era right now of fiscal challenges across the country we have to be willing to look at whether or not the state is the best provider of property management in the sense of if there is a private company that can do a better job and save more money and be able to evaluate what we currently see as our job in government of managing our property, if they can do that in a better way, a more efficient cost-savings way, I think we should look to explore that. The end game essentially I think with LB616 is to provide the department the opportunity, to provide us their perspective on whether or not we can move towards privatization and save money in regards to our property management. From the research I handed out to the committee in regards to what other states have done, it's

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2011

proven that states do save money when they go through this process. Some states save more than others, but over the long haul there is yet to be any research I've seen where states lose money, so to speak, by looking at this process, depending upon I'd say the purchase agreements or property management contracts they may or may not sign. At the end of the day I believe still there will be, even if LB616 passes, and the department comes back with a report outlining some of the issues of privatization or a public/private partnership with the private sector, I believe there will still need to be some potential statutory changes, depending upon what DAS recommends. In part, as I mentioned before, we have existing statute right now that involves service contracts that I think we need to be mindful of as a Legislature but also in a sense of dealing with budgetary issues as well. If this, for an example, would come through, the department comes back, says we can enter into a contract that could save the state \$50 million by selling property and by changing our property management leasing options, that's something that at the end of the day will provide not just the Appropriations Committee but the Legislature as a whole an opportunity on whether or not we want to choose to save that \$50 million. [LB616]

SENATOR SCHUMACHER: Thank you, Senator Mello. [LB616]

SENATOR AVERY: Senator Pahls. [LB616]

SENATOR PAHLS: Senator Mello, I don't want you to regurgitate past testimony, simply you're saying this is our way of downsizing government potentially. [LB616]

SENATOR MELLO: I say, yes. I'd say this bill is an opportunity for us to evaluate the privatization of what currently the Department of Administrative Services does, a component of what they do in regards to property management, thus saving money possibly, the state being more efficient possibly. But I think the genesis, though, more than anything else is that LB616 provides the research to back this up. It's not just a we are going to do this and hope to see what happens. This is an initial step forward I'd say in the privatization process. [LB616]

SENATOR PAHLS: Thank you. [LB616]

SENATOR AVERY: Any other questions? Senator Price. [LB616]

SENATOR PRICE: Thank you, Chairman Avery. Senator Mello, just one quick question. One of the concerns I would have is how they would deal with property from lands that are held by the department on the military, our guard units. Would they be looking at those properties also? [LB616]

SENATOR MELLO: Once again, this looks at all state property and centrally it's a report to determine the opportunities for entering into a public/private partnership for property

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

management so it would evaluate all property. It doesn't mean that all property would be managed or that all property would be affected. It would simply provide I think that initial research and information on the opportunities to do this. [LB616]

SENATOR PRICE: Right. Thank you very much. Thank you, Chairman Avery. [LB616]

SENATOR AVERY: Thank you. If we wanted to reduce that fiscal note, we'd have to limit the scope of what you have in the current green copy? [LB616]

SENATOR MELLO: You know, Chairman Avery, without speaking for, I would feel it's not...it's probably not my position to speak on behalf of the Legislative Fiscal Office or the Fiscal Analyst who provided this fiscal note. I think that might be an issue that I would be more than willing to sit down with the committee, with the Fiscal Office and the Fiscal Analyst who did this, to determine how we could make changes to the green copy that would fit more of his fiscal note. Because I think my interpretation of his fiscal note is that it's...they could completely absorb all costs associated with this or, depending upon the scope of what the department chooses to do, it could cost...you know, it could cost up to an unquantified dollar amount. So in that sense I think we would maybe need some more clarification to move forward from the Fiscal Office in regards to how to narrow that scope to ensure that there would be no fiscal impact. [LB616]

SENATOR AVERY: Well, the state of Virginia saved over \$30 million over a course of some time. [LB616]

SENATOR MELLO: And without...I guess without...I don't want to speak on behalf of those who will testify after me, but I think, once again, we met with DAS and emphasized to them and stressed to them that the intent of this bill is for them to solicit information and solicit a request for a proposal or a request for information from the private sector to get this information; have them come back and say, we want to take a look at your initial portfolio and provide you some feedback. Which I just don't see, in my mind, how an RFI or an RFP costs a significant amount of money if you're simply putting that out there to the private sector to come take an analysis of what could be a potential contract that could save the state anywhere between, you know, \$1 million to, let's say, \$30 million, like it did with other states. [LB616]

SENATOR AVERY: And often, investments can lead to long-term savings. We have a hard time dealing with that in this state, I've noticed. We are looking...right now, it's, oh I see \$450: can't do that. All right, any other questions? Senator Schumacher. [LB616]

SENATOR SCHUMACHER: Senator Avery, thank you. Senator Mello, if we want to limit the scope of this and if the fiscal impact or the fiscal note is a little bit, turns out to be much, are most of the properties that would fall in the scope of what you're intending to do locate in either Lincoln or Omaha? [LB616]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

SENATOR MELLO: Well, they would be located...they would be properties located around the state. But it's not just the properties the state owns, but it's also our leases. Any property that the state may have a lease on would be affected by this report, as well, I mean in the sense of whether or not our current lease contract, we're getting the most, "bang for the buck" of whether or not there's ways to renegotiate existing property contracts and property leases with rental spaces around the state. [LB616]

SENATOR SCHUMACHER: Probably the higher concentration of those (inaudible) or so would be in the Omaha and Lincoln area, the eastern part of the state. [LB616]

SENATOR MELLO: At least properties that are physically larger, physical properties that are owned, such as the State Office Building in Omaha or the State Office Building in Lincoln. Those are two, I think, well-known, large properties that are owned by the state. But I know that there is leased properties across the state, whether it's Department of Labor Workforce Investment, Department of Health and Human Services, numerous other commissions potentially around the state that have their offices located in different communities. [LB616]

SENATOR SCHUMACHER: Do you think it would be viable if we were to do a pilot project or an initial project just to limit it to cities of that property in cities of the primary or metropolitan class? [LB616]

SENATOR MELLO: You know, I'm more than willing. I think the underlying issue here, Senator, and I'm more than willing to work with you or the committee on narrowing the scope or expanding the scope. I think the opportunity here is that we can probably potentially look to privatize a component of state government where it's proven to save a significant amount of money. And what this bill does is it provides the initial step to do that, which is to provide a report on the opportunities and maybe the challenges that exist for us to do that. So if you and the committee believe that we should limit it maybe just to a pilot project, I think that's an option as well. I think for us to see potentially larger savings, it would be worthwhile for us to look at all state property, since really all what we're talking about with LB616 is a report that determines whether or not we can sell property, potentially change agreements on leases, or enter into new leases potentially. So I think it's up to the committee and I'd be willing...more than willing to work with the committee to figure that out. [LB616]

SENATOR SCHUMACHER: Thank you, Senator Mello. [LB616]

SENATOR AVERY: I don't see any more questions. Thank you. [LB616]

SENATOR MELLO: All right. Thank you. [LB616]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2011

SENATOR AVERY: Are you going to stick around to close? [LB616]

SENATOR MELLO: Yeah, I will. I will. [LB616]

SENATOR AVERY: Okay. Proponent testimony. Anyone wish to testify in support? Yes. Come forward, please. [LB616]

PETER LARKIN: I filled one of these out, Chairman Avery. [LB616]

SENATOR AVERY: That goes to the clerk. [LB616]

PETER LARKIN: Chairman Avery, how is this volume level? Pretty good? [LB616]

SENATOR AVERY: Yes. [LB616]

PETER LARKIN: (Exhibit 2) My name is Peter Larkin and I am with CB Richard Ellis and my last name is spelled L-a-r-k-i-n. And Chairman Avery, first of all, I just want to say thank you very much for the opportunity for us to come out to speak in front of the committee today, so. Let me say this: I have been in the commercial real estate business for 28 years. I'm at CB Richard Ellis and I run a group inside of CB Richard Ellis that's called Public Institutions and Education. So we spend 100 percent of our time providing real estate services to states, cities, counties, and universities. That's our world. So what we put together for you today is a very, very quick presentation and I'm going to shoot through it very rapidly so we don't waste too much time on the front pages, because there's a couple pages on the back that I'd... [LB616]

SENATOR AVERY: The lights there will help you get through it. (Laughter) [LB616]

PETER LARKIN: I'll keep my eyes on that green one, Chairman. Absolutely. If we move to the first page, real quick; we don't have to spend any time on this. CB Richard Ellis is the largest real estate advisory firm in the world and we're about a \$5 billion company. We have about 31,000 employees. The third page is just some of our industry recognition awards that we're very proud of, particularly sustainability, thought leadership, and industry leadership. Page 4 is just some of the things that we do inside of our company. We're in the tenant representation business, which means we represent people who lease space, like the state of Nebraska does lease space. We are involved in development projects. We do acquisitions and investments. We are facilities managers, etcetera. We do a lot of things. Moving to page 5, which is more of a focus on the world that I live in: All of our public sector clients around the U.S.--and we'll show you some of our public sector clients in a second. They all have some of these very similar challenges on the financial side: limited growth in funding, budget cuts everywhere. New mandates are sustainability, technology, energy savings. Everybody is looking to identify excess property. On the resource side, just about every state, city,

and county that we work with has reduced resources. A lot of folks are near retirement. There is a need to redesign work place environment. On the performance side, the most important one is the second bullet down which is there is obviously intense public and media scrutiny on performance, and there's a real need to comprehensively manage your portfolio. The next two pages are just some quick things on some of the strategies that we're working with on some of our public clients. Everybody is going through strategic planning to find immediate and long-term savings. There is a great opportunity to utilize market leverage, which is to accelerate savings in a down market which we're in right now. Alternative financing is important where there's no state financing to start with. Public/private partnerships are very important. Next page: disposition of surplus assets, consolidating of locations, improving statutes and regulations affecting space procurement. Obviously, best practices in portfolio management, space planning, program, and documentation are all important. The next page, on page 8, the way we typically work with public sector groups and our public sector clients is three basic large silos. The first is we work with them to improve their organization and how they make decisions and manage their real estate. Number two is we help them optimize their portfolio, which is basically improving their utilization and collocating and consolidating space and getting rid of space that is not performing as well as it needs to be performing. And then the third big silo on the right is, on an ongoing basis, reducing operating costs and reducing capital expenses going forward to the extent we can. And you'll see embedded in there is, obviously, such important things as saving as much energy as we can. The next page, on page 9, it's just a quick chart of some of our clients around the country. We do federal government work; obviously, states and provinces; counties and cities; and we're also big in the infrastructure and quasi-public world as well. We can skip page 10 and go to page 11. And the important thing about page 11...well, I should say these are states and two Canadian provinces where we have had long-term contracts with states to help them with their real estate portfolio. And as you can see, there's a really wide range of states that our team at CB Richard Ellis has partnered with over the years. And I guess the word that I would use, it's a little different than the word that Senator Mello uses, is we really consider what we do as partnering and we spend a lot of time getting to know our government clients and helping them deliver their services to their constituents at a reduced cost. And every one of these contracts that you see on this page are multiyear contracts where we have helped these states operate more efficiently through rightsizing their real estate portfolio, and you can just, at your convenience, just take a look. If you have any questions about any of these states...I see that my red light is up here, Chairman, so I'm trying to go as quickly as possible. If you have any questions about any of these states, I would obviously be happy to answer any questions. And then we also, at the end of our presentation, we put two case studies in. And one case study is the state of Maryland. We do all the real estate work for the state of Maryland. It's a relatively new contract. We've had some great successes that are immediate monetary success as that you can see on this page: \$21 million in term savings; \$7 million in annual recurring savings that we've eliminated from their spending. The Province of Ontario, on the next

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

page, is a bigger contract that we have, which is a real, true outsourcing of facilities management and transaction management, energy management, etcetera. It's a larger contract where the Province of Ontario employees have actually become CBRE employees. The state of Maryland is more of a transaction management where we just help them reduce their costs through aggressively managing and transacting their portfolio. [LB616]

SENATOR AVERY: Thank you. [LB616]

PETER LARKIN: So that's it, Chairman. [LB616]

SENATOR AVERY: Thank you for your testimony. Any questions from the committee? Senator Karpisek. [LB616]

SENATOR KARPISEK: Thank you, Senator Avery. Thank you for being here. Where...maybe I missed it...where are you based? [LB616]

PETER LARKIN: I live in Washington, D.C. [LB616]

SENATOR KARPISEK: And is the company based there? [LB616]

PETER LARKIN: We are...the answer to your question: Our corporate headquarters is in Los Angeles, but we have 60-plus major offices around the U.S. The way we work is I'm a national team leader, so I work in all of the local or regional offices like Bennett's office out in Omaha, and we team and we provide our clients with sort of national best practices but also the best local real estate expertise. [LB616]

SENATOR KARPISEK: Very good. Thank you. Thanks for being here. [LB616]

SENATOR AVERY: Senator Schumacher. [LB616]

SENATOR SCHUMACHER: Thank you, Senator Avery. How many employees have you guys got in Nebraska? [LB616]

BENNETT GINSBERG: One hundred fifteen. [LB616]

SENATOR SCHUMACHER: One hundred and...? [LB616]

BENNETT GINSBERG: One hundred fifteen. [LB616]

SENATOR SCHUMACHER: One hundred fifteen. Okay. And how do you make your money? [LB616]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2011

PETER LARKIN: Well, we are, at our...Senator, at our heart of hearts, we are transaction people. So we go out in the marketplace and we execute leases and we buy and sell land and we dispose of buildings and we create public/private partnerships. And in the marketplace, when you successfully execute transactions, there are typically commissions that come out of that and we get paid on those commissions. So all of these contracts that we looked at here in my presentation are no-cost contracts. So our public clients do not come out of pocket to get us on board. So we come on board and we stay with our clients for three or four or five years, and when we execute transactions for them, we get paid out of the transactions. But obviously, they want to see what the savings are, so we have to justify our contract and our partnership every time we do a transaction for our clients. [LB616]

SENATOR SCHUMACHER: So, much like a real estate fee in the leasing (inaudible). [LB616]

PETER LARKIN: Absolutely. Yeah. [LB616]

SENATOR SCHUMACHER: And the long and short of that is that you would manage real estate for these clients. [LB616]

PETER LARKIN: We manage real estate. We manage and execute transactions. We manage construction projects. We're facilities managers. We're property managers. We do everything from managing cleaning companies, to helping our clients rebuild the inside of their buildings, to helping them sell that building if they decide it's no longer a part of their portfolio. So we do all of those things. [LB616]

SENATOR SCHUMACHER: Thank you. I don't have any further questions. [LB616]

SENATOR AVERY: Any more? Senator Brasch. [LB616]

SENATOR BRASCH: Just one question. Thank you. I'm curious: Are you privately owned or publicly owned? [LB616]

PETER LARKIN: We are a private sector company but we're publicly traded. [LB616]

SENATOR BRASCH: You are publicly traded. [LB616]

PETER LARKIN: Yes, ma'am. [LB616]

SENATOR BRASCH: Okay. Thank you. [LB616]

SENATOR AVERY: Any more questions? I don't see any. Thank you for coming to Nebraska and for your testimony. [LB616]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2011

PETER LARKIN: Thank you, Chairman. [LB616]

SENATOR AVERY: Any more proponent testimony? Any opponent testimony? Good afternoon. [LB616]

ROD ANDERSON: Thank you, Senator Avery. Good afternoon. My name is Rod Anderson, spelled R-o-d A-n-d-e-r-s-o-n. I am the administrator of the State Building Division for the Department of Administrative Services. I'm here to testify in opposition to LB616. LB616 requires the State Building Division to submit a report to the Legislature and Governor on the potential of privatization of all real property owned or leased by the state and managed by the State Building Division. Currently, we manage approximately 3 million gross square feet of state-owned property, equaling 28 facilities and 199 buildings, and 1.2 million gross square feet of privately owned property. Due to the variety of the properties we own and lease, we believe the development of the report requires the hiring of a professional consultant. We estimate that the consultant would cost \$150,000, and we arrived at that estimate based on the recent completed consulting project done by the division. It has been suggested, within the industry, private companies would be willing to create an analysis that could meet the reporting requirements at no cost to the state. However, the underlying expectation on the company's part is that the company providing the report would then get the contract for managing the properties. We consider a report of this magnitude to be a service contract that should be competitively bid under current law requiring the contract to be bid on anything over \$150,000. LB616 authorizes a report; it does not authorize the property management agreement. Therefore, the report as service should be competitively bid separate from any privatization arrangement. The cost of the report then is a practical result of the premise of LB616. LB616 fails to establish standards by which potential efficiency and economies and improvements can be measured and applied to the future planning opportunity. The lack of standards adds to the difficulty in isolating key criteria for analysis. This concludes my testimony and I'd be happy to answer any questions for me. [LB616]

SENATOR AVERY: Let me start by asking you, do you think that such a study might indicate some areas where savings could be captured? [LB616]

ROD ANDERSON: I think any...you know, any outside resource offering to us, to help to improve, to save a dollar, we welcome. The current contract that we had with an outside firm, we did exactly that. We were looking at a piece of property and we need some analysis on that. So we always welcome it--any advice. [LB616]

SENATOR AVERY: So you recognize that savings could possibly be had, but you don't want to spend any money to get there? [LB616]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

ROD ANDERSON: Not that it...we're just saying that it would cost \$150,000. And what we're looking at in the bill here is that we need to have it competitively bid. In other words, I want an independent...we would...I would recommend that we have an independent study--bipartisan, as far as having a company that would analyze the data for the good of the state and not the good of them to make a profit off of it. So if we would do a report, we would want...we would not feel it would be wise to have that same company then come out and help us with the efficiencies, whether it was selling something or negotiating a lease for us. Currently, we negotiate 345 leases for the state, state agencies. I think on the most part we do a great job. Can we do a better job? Absolutely. In the research, you know, that we do, the independent reports that we see from Omaha and from the Lincoln area, there is a range between \$10.50 a square foot all the way up to \$21 a square foot Class B commercial property. Our average rate across the state is \$11.88. So that tells me, I think we're doing a good job. Can we do better? Absolutely. I think 345 leases, undoubtedly so. [LB616]

SENATOR AVERY: How much is spent each year, do you know? [LB616]

ROD ANDERSON: On commercial leases? [LB616]

SENATOR AVERY: Yes. [LB616]

ROD ANDERSON: On commercial leases, just under \$11 million. [LB616]

SENATOR AVERY: Senator Pahls. [LB616]

SENATOR PAHLS: So what I'm hearing from you, if we can dispel some of your concerns, if you had sat down with Senator Mello, perhaps we could work something out, because I see you're saying that you're okay with having somebody take a look at what's going on. You just have a concern how it is done. But the overall concept of having an outside agency of some type take a look at what's happening in the state isn't necessarily a bad idea. You just have some concerns, so it appears to me the concerns that you have with this, if you would sit down with Senator Mello, there's a possibility that this, a bill of some type, could be worked out. [LB616]

ROD ANDERSON: Yes. You know, obviously, our concern would be...and once you go to privatizing something about selling property off, as we heard earlier, is that, you know, before we have any discussion I would think the Legislature, we would all like to talk about our parameters as far as selling, you know, the State Capitol off, or the State Office Building off, and then leasing it back. That would be something we would work out. [LB616]

SENATOR PAHLS: And yes, and I understand that. To me, that seems like when the argument, now we're going and selling the Capitol off, selling something...I mean that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2011

seems like we're trying to throw...automatically throw up roadblocks. What I'm asking, if you and Senator Mello or the people who work with you could sit down and iron out some of these things, you would not necessarily be against this idea. [LB616]

ROD ANDERSON: Correct. [LB616]

SENATOR PAHLS: Okay. Thank you. [LB616]

SENATOR AVERY: Senator Price. [LB616]

SENATOR PRICE: Thank you, Chairman Avery. Thank you for testifying today, sir. I know, again looking at the bill, I don't see, as Senator Pahls was saying, you know, it seems the concern of yours is in the competitive bidding of a contract. [LB616]

ROD ANDERSON: Correct. [LB616]

SENATOR PRICE: I'm looking in here and it just says here, of Section 1, the DAS shall prepare and submit to the Legislature a report. It doesn't really say anything about entering into any contracts at that point in time. So it sounds like: generate a report, tell us what we can do better and smarter, faster, cheaper, and from there we can make a decision whether or not we want to have you, which says down here--way, way down in Section 2--"the potential for the department to enter into a contract." So there's no contract to make a report so I don't think we...and so I want to make sure we have our cart and horse relationship correct here and understand what we're doing. What Senator Mello is proposing is: gather up all the information, put it all together in one. And I think you probably ought to do this anyway. And then predicated on that, make a decision on whether or not we can competitively bid a contract to do a better job, or to help as you said. We're not all the way there yet and we can choose the construction of that contract and that effort as we go along, but until we have a baseline we're really not making a well-informed decision. Do I have that read right? [LB616]

ROD ANDERSON: I believe so, Senator. It is...our concern would be is that as long as we can separate the report, who...in our... [LB616]

SENATOR PRICE: It's your report. [LB616]

ROD ANDERSON: Yeah, our report. As long as it is separated from any company that would obviously be handling any portion of any of the recommendations that are in there. In other words...does that make...am I making sense? [LB616]

SENATOR PRICE: Right. Yeah. No, absolutely. And I fully see that and I just see that I think our...we've gone and made an assumption that, say, that automatically leads to a company doing something. If you'll do it, then together with the Legislature, (inaudible)

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

we'll see if we want to enter into a contract and make the competitive bidding process. So I wanted to make sure that I had that understood, because from some of the testimony I thought you might have thought that it already demanded that you enter into a contract or an agreement for the company to do the report that was going to be burdened on you. [LB616]

SENATOR AVERY: Do you think there is a possibility that the state might have leases above market value? [LB616]

ROD ANDERSON: There is a possibility. Absolutely. Once again,... [LB616]

SENATOR AVERY: But you don't know for sure, right? [LB616]

ROD ANDERSON: No. I mean we could... [LB616]

SENATOR AVERY: But a study like this might tell you. [LB616]

ROD ANDERSON: Absolutely. We competitively bid our leases. So we go out there, and at that time, absolutely, we receive bids on them. And then we make our determination not only on the dollar amount but obviously the location, the type of program that's out there, whether it's with Health and Human Services or the Labor Department. They have certain requirements and where they need to be. Same thing with the National Guard. We've worked with them on leases for the recruiting centers. They had special areas that they would like to have their recruiting center at, so we worked with them as far as location goes. Did that drive the price down to the very rock bottom? Absolutely not. But I think we were competitively bidding out there for all those leases. [LB616]

SENATOR AVERY: Within those parameters. [LB616]

ROD ANDERSON: Absolutely. [LB616]

SENATOR AVERY: Senator Schumacher. [LB616]

SENATOR SCHUMACHER: Thank you, Senator Avery. How long have you been in your present position? [LB616]

ROD ANDERSON: I think about a year and a half. [LB616]

SENATOR SCHUMACHER: Pretty new guy yet, huh? (Laugh) [LB616]

ROD ANDERSON: Pretty new. I was actually the property manager prior to that. Prior to that, a facility manager for the state of Nebraska. Altogether, with the state, over

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2011

30-some years. [LB616]

SENATOR SCHUMACHER: Has there been in--at the time, at least, you've been at or near your present position--an analysis done of the state's property, the kind of which is contemplated by this bill? When was the last time something like that was looked at to evaluate whether we're...so we can give ourselves a scorecard? [LB616]

ROD ANDERSON: I don't believe anybody has gone in-depth as far as doing a complete analysis of each single building the state owns or leases. Like I said earlier, we were doing one right now because we're looking at what we could do as far as some efficiencies and whether it's best to own this piece of property or to sell it. So, no, to answer your question. [LB616]

SENATOR SCHUMACHER: Okay. So it might do us some good to have an outside perspective on, you know, what's coming up short, what's coming up long; what's a good deal, bad deal. [LB616]

ROD ANDERSON: It could not hurt. [LB616]

SENATOR SCHUMACHER: Where is the highest concentration of the state's property located in the...? [LB616]

ROD ANDERSON: Commercial leased property? Commercial leased property would be in Lincoln. Omaha would be the next, and then outside. [LB616]

SENATOR SCHUMACHER: I have no further questions. [LB616]

SENATOR AVERY: Senator Pahls. [LB616]

SENATOR PAHLS: Thank you, Senator Avery. I see this as an opportunity because I heard government is too large; we're too inefficient; the business world does a better job than we do. And I think this is a time to sort of partner and find out whether there's some truth to that. We may find out that what you...you know, you're doing about the best that can be done. And I'm not saying you're not, but if we have...if we take a look at this and look at their skills, because if I...without just one, you know, 10-minute run-through, it looks good. And if they happen to be saving dollars in other states, there must be something going on that perhaps the state of Nebraska could benefit from. That's why I'm asking again is if you're working with Senator Mello, I think perhaps something...and maybe not today, but in the very near future, could be worked out. And I'm hearing you're saying you're in agreement with that. [LB616]

ROD ANDERSON: Yeah. I...having someone look at it. Obviously we want transparency in government, and I think we all agree on that. And so absolutely we

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2011

would welcome anybody looking at them. Once again, I just...my concern, as I stated before, is making sure that this is separated, those two points, as far as someone looking at it and then handling it. [LB616]

SENATOR PAHLS: Yes. And I appreciate your concern because it's always easy for somebody to come in and say something. I mean some guidelines have to be brought forth. [LB616]

ROD ANDERSON: Absolutely. [LB616]

SENATOR PAHLS: No question of that at all. Thank you. [LB616]

SENATOR AVERY: I think you have answered all our questions. Thank you for your testimony. [LB616]

ROD ANDERSON: Thank you, Senators. [LB616]

SENATOR AVERY: Any other opponent testimony? Any neutral testimony? Senator Mello. [LB616]

SENATOR MELLO: Quickly. Chairman Avery, members of the committee, I'd like to thank you for the hearing today as well as to reiterate to the point that my office is more than willing to work with the Department of Administrative Services, as well as with the Government Committee, to find a solution to this situation in the sense that the idea of being...there's an opportunity to save money through potential public/private partnerships with our property management. And I think any way we can find a solution to this idea will only be more beneficial to the taxpayers at the end of the day, particularly if we can see and realize some of the cost savings that many other states who have gone through this process. So with that, thank you. [LB616]

SENATOR AVERY: Thank you. We have another question. Senator Janssen. [LB616]

SENATOR JANSSEN: Thank you, Chairman Avery. Senator Mello, thank you. I always like to ask you a question. I hate to let you leave without a question. First off, whoever put this thing together, it's very nice actually. I know you didn't but I wanted to...(laughter)...I wanted to... [LB616]

SENATOR MELLO: I will not take credit for someone else's work, so. [LB616]

SENATOR JANSSEN: I just wanted to say that. And, of course, I'm always a little leery when you bring us a bill. I'm just kidding. But privatization, this looks like it appears to be privatization somewhat...public/private partnerships you're talking about. Is that...so I'm to understand that you're on board with privatization of government facilities,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

government contracts, and whatnot? [LB616]

SENATOR MELLO: I think the evaluation of public/private partnerships should be something the state continually looks at. And I think in this particular circumstance where we have seen a significant cost savings with a public/private partnership model of property management, this particular instance is something I think the state should look at. Absolutely. [LB616]

SENATOR JANSSEN: Are there other ideas of privatization we should be looking at? [LB616]

SENATOR MELLO: I think that there's always...you know, I think there's opportunities with whether it's potential contracting issues, other purchasing issues, issues actually I think I brought up to this committee before that the state needs to continue to look at. I think issues should be taken on an issue-by-issue analysis. I don't think that I'm trying to make a broad argument here in the sense of all of government should be privatized. I believe I'm making an argument in the sense that this particular instance, this issue in regards to government operations, there's cost savings by this innovative model. [LB616]

SENATOR JANSSEN: But you and I could both agree that privatization in some areas does help. It's just sometimes a little painful up front. [LB616]

SENATOR MELLO: Well, for example, in this particular instance, this is a, I believe, a public/private partnership model that begins to privatize some of the state government operations where it has the potential to save a significant amount of money. [LB616]

SENATOR JANSSEN: Thank you, Senator Mello. [LB616]

SENATOR AVERY: And to finish your thought there, the pain is at the front end--\$150,000. [LB616]

SENATOR MELLO: Well, I...once again, I believe that there is the opportunity, I believe, with some of Senator Pahls's comments in the sense that we might not...there is not, I believe, a necessarily a dollar amount that we need to associate with this bill at this point, because it's still kind of left up to interpretation as Senator Price also mentioned, from what the department believes they feel that they should do, our interpretation, compared to what we as the Legislature, and I believe kind of the supreme legislative body that dictates legislative intent and statutory intent actually provide them. [LB616]

SENATOR AVERY: Good defense of our branch of government. (Laughter) Senator Sullivan. [LB616]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

SENATOR SULLIVAN: Thank you, Senator Avery. Senator Mello, it just occurred to me, are the issues raised in your bill and the questions asked thereof something that falls under the purview of the Performance Audit Committee? [LB616]

SENATOR MELLO: You know, Senator Sullivan, I never looked at it in that sense. In part, I would need I guess a little bit more time to consider that. I think the partial aspect is that because the Legislature doesn't manage state property, this is purely an executive branch function that falls within the Department of Administrative Services. That is where the bill is geared towards of that particular agency. It's something that I could easily bring to the Performance Audit Committee in regards to the potential of evaluating what the legislative role would be in that process. But at the end of the day, it's still I think the executive branch's responsibility and that's why we laid it out that way in LB616. [LB616]

SENATOR SULLIVAN: Thank you. [LB616]

SENATOR AVERY: I don't see any more questions. Thank you, Senator Mello. [LB616]

SENATOR MELLO: Thank you, Chairman. Thank you. [LB616]

SENATOR AVERY: That ends the hearing on LB616. We'll now move to LB691, Senator Lydia Brasch. [LB616]

SENATOR BRASCH: Good afternoon, Senator Avery, Chairman, and members of the Government, Military and Veterans Affairs Committee. My name is Lydia Brasch, L-y-d-i-a B-r-a-s-c-h, and I am the Senator elected to represent District 16. I am before you today as the introducer of LB691. LB691 prioritizes Nebraska agriculture by recognizing and embodying the many uses and benefits of ag products included in numerous commercial products of industrial and everyday use. Many products come from...are from deicers to disposal tableware to window cleaner and they are made from Nebraska grown crops such as soybeans and corn. With agriculture serving as the core of our state's economy, I believe it is in the best interest of the state and our citizens to support opportunities to make use of these products and lead by example. Biobased products are more readily available than ever and the preference requirements within LB691 are essentially an extension of an already existent federal biopreferred program that requires our federal government to give preference to biobased products. Other states, particularly those in the Midwest, are following suit and recognizing the cost effective and environmental aspects of purchasing biobased products. The Nebraska Soybean Association brought this legislation to us, and it is, in fact, modeled after legislation already adopted by the state of Ohio. LB691 requires that the Department of Administrative Services and other state agencies and the university and state colleges purchase materials identified as biobased products. Biobased products are described as commercial or industrial products that are composed of biological products,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

renewable domestic agricultural materials, or forestry material, or are an intermediate ingredient, or feed stock. LB691 requires the materiel director to establish a biobased preference program for purchasing materials that have the highest biobased content and requires our colleges and universities to implement a similar purchasing program. The material administrator must set minimum biobased content specifications for awarding contracts in a manner that ensures that the biobased content of the biobased products is consistent with federal guidelines. A Web site does exist for the federal biopreferred program to simplify the biobased content criteria and to more easily identify biobased products of which more than 15,000 have been identified through the biopreferred program. LB691 establishes exceptions to the biobased purchasing preference determining that a biobased product is not suitable if the product is not available within a reasonable period of time, or if the product fails to make the performance standard set forth in the applicable specifications for the product, or if the price of the product is not competitively priced. The material administrator has leeway with regards to the price of biobased products by setting a percentage, up to 5 percent, perhaps. That is, the biobased product may exceed when considered against the purchase of a nonbiobased product. A biobased product must certify that it meets the content requirement set by the biopreferred program. Also an annual report indicating the quantity and types of biobased products purchased must be submitted to the Governor and to the Legislature. Must other states lead the charge in promoting and utilizing ag based bioproducts? It is my belief that what is good for agriculture is most definitely good for our ag producers and good for Nebraska. LB691 acknowledges multiple benefits by extending the market for agricultural products and it calls for our investment as stakeholders, and leadership as Legislatures, in agricultural industry. Truly, this serves to benefit everyone in moving forward through the use of products that are agriculturally friendly. Thank you for your consideration, and I'm happy to address any questions that you may have. [LB691]

SENATOR AVERY: Thank you, Senator. Do I have questions from the committee?
Senator Sullivan. [LB691]

SENATOR SULLIVAN: Thank you. Thank you, Senator Brasch. You said this idea was brought to you by the Soybean Association? [LB691]

SENATOR BRASCH: Yes, and they are here today. [LB691]

SENATOR SULLIVAN: Oh, so they'll probably be telling me about what sorts of products. [LB691]

SENATOR BRASCH: They could answer those questions. [LB691]

SENATOR SULLIVAN: Okay. This carries quite a hefty fiscal note. So what price do we have for promoting ag products? [LB691]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

SENATOR BRASCH: Because it does carry a hefty fiscal note, what we would like to do is continue forward on this, this summer, in looking closer at the pricing. And there are several other states that do have this program, perhaps see how they handled the fiscal responsibility. We are prepared and asking in Executive, perhaps, that we hold, and this summer do an interim study on how several other states...I have a list of them here, North Dakota, South Dakota, Ohio, Arkansas, Indiana. It's not in the bill, but in some of the information we do have...they are able to carry this product for...this proposal forward with their neighboring states. It is hopeful that we can also look at cost comparisons, how they administer the programs. Perhaps it overlays with another program, perhaps it looks into our Innovation Campus. You know, how can we take this, and we do need to do more work with DAS in looking at the fiscal note. You are correct. [LB691]

SENATOR SULLIVAN: Do you have any idea how many biobased products right now we use in state government? [LB691]

SENATOR BRASCH: That's a very good question. I'm not sure. And some of the pricing, my legislative aide did just a random checking of products of cups, glass cleaners, and the prices are very close. They are, you know, not too much more expensive for us to use. And we do believe the reinvestment in our ag products will balance the cost out. But they are within, you know, \$5 in several cases and less. And in one case here, even the bioproduct is less expensive. [LB691]

SENATOR SULLIVAN: Thank you. [LB691]

SENATOR AVERY: (Exhibit 1) Because it bears directly on the question that just came up about the fiscal note, I will take this opportunity to note that we have a letter from the Department of Administrative Services indicating a neutral position on this and expressing their desire and willingness to work with us on reducing the fiscal note over the next year. [LB691]

SENATOR BRASCH: Excellent. [LB691]

SENATOR AVERY: Anybody else? Senator Pahls. [LB691]

SENATOR PAHLS: So as I take it, we really don't need much more discussion on this because you say, your intention is to create a study this summer? [LB691]

SENATOR BRASCH: On the fiscal note, on the expense that with DAS we want to take a look at how other states are administering it, compare their initial look at the fiscal note, and see if it's done some other way someplace else. [LB691]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

SENATOR PAHLS: Are you planning to carry through with a resolution that we as the Government Committee take's this as a study this summer, is that what...? I'm trying to figure out. I'm not... [LB691]

SENATOR BRASCH: Yes. [LB691]

SENATOR PAHLS: Okay. Okay. [LB691]

SENATOR AVERY: Any other questions? Don't see any. Thank you. [LB691]

SENATOR BRASCH: Thank you. [LB691]

SENATOR AVERY: Proponent testimony. Anyone wish to speak on behalf of LB691? Good afternoon, sir. [LB691]

SCOTT RICHERT: (Exhibit 2) Good afternoon, Senators. I'm Scott Richert, S-c-o-t-t R-i-c-h-e-r-t. I live in Gresham, Nebraska, and I currently serve as president of the Nebraska Soybean Association. I'm here today to present testimony in support of LB691 to provide requirements relating to purchasing biobased products by state government. If adopted by Nebraska, this biopreferred program would be very similar to the federal USDA BioPreferred Program that was created by the 2002 farm bill and expanded by the 2008 farm bill. The purpose of the USDA program is to increase the purchase and use of biobased products. As defined, biobased products are commercial or industrial products other than foods or feed that are composed in whole or in significant part of biological products, renewable agricultural materials, including plant, animal and marine materials, or forestry materials. Currently, there are more than 2,000 companies nationwide who offer biobased products in preferred purchasing categories. There are over 20,000 biobased products available for purchase. LB691 would require state agencies to purchase the approved biobased products in lieu of traditional products when the biobased products meet the criteria guidelines as outlined in LB691. Criteria guideline may relate to product availability, performance standards, comparable in price, and availability. According to a recent study conducted by the Nebraska Soybean Board, Nebraskans strongly embrace the concept of government using more bioproducts. Eighty-one percent support requiring state and local government agencies to use bioproducts if they are equivalent in price and quality to the petroleum-based products they currently use. To educate about bioproducts, the Nebraska Soybean Board is scheduled to launch a new Web site in late February, NEbioproducts.org, which will offer information on bioproducts created from renewable resources such as soybeans. A direct mail and advertising campaign is also a component. In addition, a bioproducts symposium is also planned to bring in key thought leaders and decision makers. Nationwide the soybean industry has placed a big emphasis on growing the marketplace for biobased products. The Clean Environment Company in Omaha is one Nebraska based company that manufactures biobased products that are being sold to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

customers including state and federal agencies, national parks, and even the military. The purpose of Nebraska Innovation Campus is to develop a premier private-public sector sustained research campus. We feel research on biobased products would be a good fit for the campus. LB691 would be a good first step in that direction to support this industry. The state of Ohio recently passed a similar biopreferred bill this past year which was one of only a few bills passed. We hope it is the desire of the committee to consider LB691 and have Nebraska also be a leader in the use of biobased products. LB691 falls right in line with the 2007 Midwest Governor's Association bioproduct procurement resolution. Governor Heineman signed on to that resolution which directs states to implement bioproduct procurement programs either by legislation or executive order. A copy of that press release is attached. We realize there may be some questions within the Department of Administrative Services as to implementation of this program. We would be willing to continue discussions and dialogue with the department and other parties to fully educate them on the resources available to them for this program. There are many resources and products out there to make the procurement process workable. The Nebraska Soybean Board and Nebraska Soybean Association are more than willing to help with that education process. In conclusion, biobased products continue to gain consumer confidence and they have the potential to replace petroleum-based materials. They are good for America, and this bill would support Nebraska jobs and our state's number one industry, agriculture. Thank you for your time and I'll answer any questions. [LB691]

SENATOR AVERY: Thank you, Mr. Richert. Questions from the committee? Senator Sullivan. [LB691]

SENATOR SULLIVAN: Thank you, Scott, for your testimony. Can you give us some examples of some biobased products made from soybeans? [LB691]

SCOTT RICHERT: Oh, well there's the soy ink. There's soy foam that's in a lot of Ford vehicles. John Deere is making plastics out of it. Some of the panels on combines and things are made out of that. And then there's...I was on the Web site last night and there's just a host of other things and you don't know exactly which biobased item is made out of it, if it's...you know, there's carpet, there's deicer made out of corn...items from corn, just all sorts of things. I know there's some spray foam for like sealing cracks in windows, around windows and things. There's a spray foam that's made out of soy oil. There's a...oh, it's not a WD-40, but a lubricant spray that's made out of soybean oil. [LB691]

SENATOR SULLIVAN: Okay. And you referenced the Web site, did you use...well, I wanted to ask you a little bit about your checkoff dollars because I assume you use those dollars for projects like this and promotions like this? [LB691]

SCOTT RICHERT: Correct, yeah. The checkoff is the one working on putting the Web

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

site together for the education and the...well, the education of how the program would work and what's available out there. The Web site that...I was on the USDA Web site last night because USDA has a bioproducts Web site where you can go on and look and see what's available. [LB691]

SENATOR SULLIVAN: Has that Web site resulted in both private and public entities using more biobased products, or is it too early to tell? [LB691]

SCOTT RICHERT: That I don't...it's probably too early to tell. The national one has been ongoing and I assume that has been happening, but I don't know for sure. [LB691]

SENATOR SULLIVAN: Okay. And has your association interacted with any organization, businesses, or for that matter, DAS in encouraging them to use biobased products? [LB691]

SCOTT RICHERT: It's just getting started, I guess is what I'll say. It's...I truthfully thought I would be here next year, (laugh) but it all at once it started moving. So it's...we're really just ramping up because the checkoff is...their rollout of their Web site in education is going to happen later this month. So in the state, we're just getting started with it. [LB691]

SENATOR SULLIVAN: I guess that was one of the questions that kind of ran through my mind was, how much of it do you want to be driven by just the good efforts of your association, or does it take legislation to drive the bus? [LB691]

SCOTT RICHERT: It would be great if it was all us, you know. But a lot of times for these items, you know, you get...you go...if I generalize it with myself, you go to the store and you buy the same item you always bought even though there might be something else on the shelf, and so maybe you don't try it unless it's a lot cheaper or something like that. So I guess part of the thought is if it's required to at least check into those items, it will allow that to happen a little more readily. [LB691]

SENATOR SULLIVAN: Okay. Thanks. [LB691]

SENATOR AVERY: Thank you. Senator Schumacher. [LB691]

SENATOR SCHUMACHER: Thank you, Senator Avery. Do you have any examples of where there is a biobased product that is comparable in price and quality to something the state is using now, or the state has not chosen a biobased product in the competitive environment? [LB691]

SCOTT RICHERT: I can't answer that question. I don't know. [LB691]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

SENATOR SCHUMACHER: So we don't know where...if we're treating you fairly now or not, is that basically it? [LB691]

SCOTT RICHERT: I personally don't know. It may be the case that they are already using a number of products. I do not know that. [LB691]

SENATOR SCHUMACHER: So is it your understanding, too, that right now the purpose of this bill, basically, is to begin a level of discussion rather than taking immediate action? [LB691]

SCOTT RICHERT: My personal thought was, I was surprised at the fiscal note. I didn't think it would be that much for that size of the thing, but when...my intention was, it would really be almost cost neutral. So when we saw that, yeah, that's...we don't want to spend big bucks. We want to make it workable. [LB691]

SENATOR SCHUMACHER: We don't want to spend big bucks (laughter). No further questions. [LB691]

SENATOR AVERY: Anybody...any other questions? Thank you, sir. [LB691]

SCOTT RICHERT: (Exhibit 3) I also have some written testimony for the Nebraska Corn Association that I'd like to drop off. [LB691]

SENATOR AVERY: All right. You can give that to the clerk. Any other proponent testimony? Welcome, Senator. [LB691]

LORAN SCHMIT: Thank you, Senator Avery, members of the committee. My name is Loran Schmit, and the last name is spelled S-c-h-m-i-t. I'm here today representing the Nebraska Association of Ethanol Producers, and I have no prepared testimony, but listening to the bill and having read it several different times, I just would like to say that there isn't any new idea that doesn't have to overcome challenges. And particularly, as Senator Sullivan said, identified when there's a large fiscal note attached to it. And just like to comment that when LB775 was introduced, Senator Vard Johnson was asked what the fiscal note on it would be. He said, well, we can't imagine more than 8 or 12 plants taking part in that and the total loss of revenue over the life of the program would be about \$100 million. The last time I checked I believe there's about 175 plants that have taken...or operations that have taken part and the fiscal note is somewhere around \$2 billion. But we fight like cats and dogs to preserve that program and I think that most of us would agree that it has done some good. Being a little more paranoid than most people, I'm a little more inclined sometimes to be critical of that kind of a program. But at the same time, I don't know where we would be today in this comparative world if we had not done some of those things. Sometimes, you know, you have to nudge state government. All legislatures are inclined to be a little reluctant to try new ideas and I

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

testified here earlier this week in support of LB198. And the idea was to encourage the use of flex fuel vehicles. And I was under the impression that at least some of the agencies today used a majority as flex fueled vehicles, but they do not. In fact, there's a very small percentage that really use them. And so one would think that the state government was entered into a partnership with the Legislature to encourage a production of ethanol from Nebraska-based products would be the first in line to use that kind of a product. Even though they've been under executive order to do so, in many cases we have not done that. So most effectively, of course, to discourage an idea is to have a huge fiscal note and sometimes we have to be realistic and say, as Senator Brasch has indicated, we have to learn to walk before we run. And she has come up with an idea which I think is well-founded. I was very interested to know that the soybean people were doing this. I'm sure the corn board and the corn growers would also support this idea. All of those checkoff boards when they were started, were not looked upon with a lot of favor by persons that had to make the contribution. But today I believe that each one of those boards and the members who pay the money to support them would just...would very likely justify their existence in what they've done. It's easy to look back today at \$2 corn, \$1.50 corn, and say, well, it would have gone to \$7 anyway. I think those of us who are related to agriculture know that without the new markets we've created we would not have the kind of crop prices we have today. And if we would not have those kind of prices, we would be in the league with Detroit and some other places who have very serious problems. And I just want to say that I don't think we need to talk about the entire fiscal amount right now. It's good to have there in mind, but we should not be reluctant to try a new idea and that we try to incorporate it. And as has been indicated, the agencies are willing to work with the Legislature. I think it's a good idea, and I just recommend that the bill be advanced. I'd be glad to answer any questions. [LB691]

SENATOR AVERY: Thank you, Senator. Any questions from the committee? Senator Sullivan. [LB691]

SENATOR SULLIVAN: Thank you, Senator. And with your background in state government, and this is, I guess, for a philosophical question, where should state government be, leading the charge, or going hand in hand with private, and where do they balance the use of tax dollars that you might have to expend a little bit more to further an idea? That's what I'm trying to figure out. [LB691]

LORAN SCHMIT: Well, you know, sometimes you can't give your colleagues too much information, Senator. When we started out, as I said, with LB775, had we ever even thought it would have a revenue impact of in excess of \$2 billion, the bill would never have gotten out of committee. If we had known when we started out on the ethanol program that we were going to have an investment of \$150 million, they would have tarred and feathered everyone who was involved in it because it would have been way out of reach. But when you look at the price of corn today, I like to brag about this

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

because we've got at least a \$3 premium per bushel on corn today. A billion and a half bushels of corn, that's \$4.5 billion of new money in this economy this year because we created a new market. There would probably still be an ethanol industry in Nebraska today if this Legislature hadn't been involved, but it would be different than it is. I don't think it would be as successful, and I don't think that the economy would be as booming as it is. And it's kind of interesting to try to meld the two. I like to think that the Legislature should lead, and then there comes a time when industry takes over. I think that's exactly what happened with the ethanol industry. For 10, 15 years, this Legislature almost wandered in the dark, couldn't get any support. Everyone ridiculed the idea. All of a sudden it took off and today we have 13 billion gallons of ethanol in the marketplace. If the people who say ethanol shouldn't be used, if we were to propose to withdraw that 13 billion gallons of product from the marketplace, it would be bye-bye \$3 a gallon gasoline. I don't know where it would be. I'm not that kind of...I'm not long on the oil markets, so I shouldn't make a prediction, but it would be much, much higher than it is today. And, you know, we all need to look at the Middle East and watch what's going on over there to understand the volatility of the area. And, you know, Senator Price is an old Air Force man. He knows that sometimes when an airplane stalls, it takes a lot of nerve to punch the nose down and try to get back airspeed. But if you just sit there with a wheel in your belly, Senator, you must...to hit the ground. So sometimes when we're in an area like we are today, where the economy is not good, we're tight for money, I think the Legislature has done a very good job. Sometime you have to push the nose of the airplane down and get back some airspeed to get going again. I think that's what Senator Brasch is trying to do. [LB691]

SENATOR SULLIVAN: Thank you. [LB691]

SENATOR SCHMIT: Thank you. [LB691]

SENATOR AVERY: I like your metaphor. [LB691]

SENATOR SCHMIT: Thank you, Senator. [LB691]

SENATOR AVERY: Senator Pahls. [LB691]

SENATOR PAHLS: Since we appear to just be talking, (laughter) I want to talk. The thing what you intrigued me is when you're sort of giving the good Senator over here a bad time about flying, well, you're a helicopter pilot, are you not? [LB691]

LORAN SCHMIT: We had to pull the nose up in the helicopter. (Laughter) [LB691]

SENATOR PAHLS: Okay. Okay. I just... [LB691]

SENATOR PRICE: The autorotation does fine. (Laughter) [LB691]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2011

SENATOR PAHLS: Thank you. [LB691]

SENATOR AVERY: Thank you, Senator. [LB691]

SENATOR SCHMIT: You have to always be careful what you say, Senator. (Laughter) [LB691]

SENATOR AVERY: Any other proponent testimony? Any opposition testimony? Anyone wish to testify in a neutral position? Seeing none, Senator Brasch. [LB691]

SENATOR BRASCH: Normally, I would have waived but I did want to come here and thank Senator Schmit very much. It's vision like that, and the pioneers that came here despite Lewis and Clark calling us the great American desert, and now we're farmland. You know, we are rich. We are...and I come here today not only for the soybean but as a farmer. We need things like this. My legislative aide, Sarah Skinner, she put the word environment in here a few times and I took them out and we argued, and what's good for farmers is also green. So if it helps any of the city people in this room, it helps farmers, it helps the green of our country, of our future, and again, thank you committee. Thank you, Chairman, and Senator Schmit, and the Soybean Board for your vision. Thank you. [LB691]

SENATOR AVERY: Thank you, Senator. That ends the hearing on LB691, and we will now move to LB352. Senator Lautenbaugh, I think, is pinned down in the Judiciary Committee with four or five bills but I believe his legislative aide is going to be here. So we'll stand down for just a few minutes until the testifier arrives. [LB691]

BRENT SMOYER: (Exhibits 1 and 2) It's so hard to be in 12 places at once. Mr. Chairman, ladies and gentlemen of the committee, my name is Brent Smoyer, B-r-e-n-t S-m-o-y-e-r. I, once again, come to you on behalf of Senator Scott Lautenbaugh. He apologizes that he can't be here. He wants you to know it's nothing personal, just business. (Laugh) Today, I bring forward LB352 which was brought to us at the behest again of our friends over in Blair, in District 18 and, of course, I guess on behalf of airports across the state of Nebraska. As it says in the statement of intent, LB352 proposes to redefine the term airport hazard area as found in the statutes and precisely to find what the hazard area would be, and to extend the approach zones from current 3-mile limit to 10 miles from the airport to provide increased safety. Now the current definition of airport hazard area is a bit vague and outdated. It does allow for consideration...it does not allow for the consideration of the effect of safety of height of structures more than 3 miles from an airport, particularly in the approach zones. Therefore, LB352 proposes to amend the current airport hazard area definitions by redefining airport hazard zones, and by providing descriptions of the very safety zones within the hazard area. They would deal in lengthening the approach zone from 3 miles

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

to 10 miles to conform with current federal aviation administration in Nebraska Department of Aeronautics zoning and licensing standards. You will actually find, as part of the handouts here, a letter from the Nebraska Department of Aeronautics stating their support for the bill. They think it's a good idea. It fits right in with their safety measures. You will also, of course, find an attachment there as an amendment including further definitions that we would hope the committee would consider. I know Rod Storm will be following me up here to testify and he can explain further the tightening of the definitions. We also have a wonderful visual aid as far as the Blair airport is concerned with the current 3-mile radius highlighted, and then the proposed 10-mile strip for the approach zone. As you can see, it would not take up the entire radius of the airport, but instead would be effective with the approach zone. And, of course, not being a pilot myself, I'm assuming the approach zone is probably going to work better than that and in that function, of course, there are experts who will be following me for the testimony here. Now the approach zone extension itself is required due to the advances in avionics equipment and technology over the past five to eight years. The advance in avionics has a lot of airports in all parts of Nebraska to replace existing visual approaches with precision instrument type approaches allowing access to communities when weather conditions such as fog, rain, and snow would not have previously allowed access by air. Of course this is particularly important for the small communities for medical outreach cargo and business-related flights. With that, I close the opening for LB352. Would take any questions or clarifications you have. Otherwise, we do have a plethora of experts following me. [LB352]

SENATOR AVERY: Well, in keeping with our practice of not quizzing staff members, (laughter) we'll defer to...I see John Wood is in the audience too. We'll pick on him. Thank you, Mr. Smoyer. [LB352]

BRENT SMOYER: Yes. Yes, well, we've got some great experts. Thank you, Mr. Chairman. [LB352]

SENATOR AVERY: Proponent testimony. Welcome, sir. [LB352]

ROD STORM: (Exhibit 3) Good afternoon, Mr. Chairman and committee members, my name is Rod Storm, R-o-d S-t-o-r-m. I am the city administrator for the city of Blair. I apologize of my handout. A lot of it's repetitious for what Mr. Smoyer handed out. I didn't realize he was going to do such a good job of presenting the bill, and so we just wanted to make sure that you had all the information you needed. I'm not going to read my statement. It's been a long afternoon already and it's Friday afternoon, so I'm sure you want to get out of here and I know there are still a number of people behind me. LB352 is a bill to help strengthen our zoning regulations for the protection of the airports across the state of Nebraska, both big and small. This bill would help protect those approach zones to provide the safety that we need for the aviation industry in the state of Nebraska. We have a number of competitors today for air space out there across the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

state that are all viable, economic participants for the state of Nebraska. And all we're looking at is trying to be able to help protect the public use of airports in the state of Nebraska to maintain the economic vitality that they provide to our communities from a safety standpoint for our pilots, and our communities help be able to get in not only goods and services, but particularly the medical services that are provided by those airports. So with that, I would answer any questions that you might have relative to LB352. [LB352]

SENATOR AVERY: Senator Price. [LB352]

SENATOR PRICE: Thank you, Chairman Avery. Thank you, Mr. Storm, for coming in and testifying today. It would have been great if you could have been here yesterday. But either way, just because we're doing stuff that deals with air space, my question is, what economic impact are we going to have here? When we...I'm pretty familiar with the Offutt Air Force Base and some Air Force things, and AICUZes, and stuff such as that. My concern is, statewide, what are we going to run up against, people who have current economic activity underway because we talk about height of objects out at ten miles? [LB352]

ROD STORM: Sure. What we're looking at with the zoning is to be able to protect and keep those objects out of the air space in those approach zones particularly out to that ten-mile area so that it doesn't render those airports useless. And I think if you look in there, there's a couple drawings shows you their airport as well a diagram in there that shows you the current...how the zoning would be from a profile standpoint out to the three mile where you have the 150 foot, and then it continues up at the 50 to 1 out to approximately 900 feet high at, above the end of the runway out at the ten-mile area. So I guess what we're saying is, is the airports are an integral and viable part of the economic structure of the communities and we need to protect that air space so that there's no towers, no interferences built with those. [LB352]

SENATOR PRICE: No, and I understand that. My point was, and as city administrator, what activities, economic activities are underway now that prompted this? In other words, is it...can you tell me for Blair there are no economic activities underway that would encroach within that ten-mile area? [LB352]

ROD STORM: What you have is potential in those areas. You have a lot of competition from the cell industries with the increase of 3G, 4G, or whatever all, the amount of towers necessary to provide those type of services. We need to make sure we protect our air space to allow them areas where they can grow and develop their industry, but at the same time protect the investments that we have in the airports. Statewide you have a number of studies going on relative to wind towers, wind power. Those are viable economic impact to the state, you know, to the state of Nebraska. And we just need to make sure that they go where they don't interfere with the air space and the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

safety of our avionics industry in the state. [LB352]

SENATOR PRICE: So you, just again, like Senator Pahls likes us to do, down to the very basic, you're not aware the city of Blair has an economic activity that will be impacted by this? [LB352]

ROD STORM: No. [LB352]

SENATOR PRICE: Thank you. [LB352]

SENATOR AVERY: Thank you. Senator Schumacher. [LB352]

SENATOR SCHUMACHER: Thank you, Senator Avery. On a normal approach to an airport, at what point, how from the end of the runway do they get down to 150 feet? [LB352]

ROD STORM: Senator, I guess that's a question I'd have to defer to somebody after me. As city administrator and the responsibility to operate the airport, my expertise is more in the management, finance, and the zoning, and that type of thing. I can't tell you as far as approaches and that type of thing...I mean, as far as the actual flying, and so forth. [LB352]

SENATOR SCHUMACHER: One hundred and fifty feet, a lot of cell towers are above 150 feet. A lot of various communications towers are above 150 feet. One hundred and fifty feet isn't a very high thing. [LB352]

ROD STORM: That's correct. [LB352]

SENATOR SCHUMACHER: Okay. And yet we're protecting an area three miles out at 150 feet and when we get out...if I'm reading this map right, ten miles, we're protecting an area 889 feet in the air? [LB352]

ROD STORM: Yes. What you have is, it's based off the end of the runway so your terrain...if your terrain goes up, that 900 feet could be, I'll say, 600 feet. If you had a hill or something out there that was six, seven hundred feet above the end of the runway, that narrows that down so it wouldn't be a total of 900. But that's 900 feet from the touchdown point or the elevation of the runway. [LB352]

SENATOR SCHUMACHER: In a time when most of the aircraft got GPS devices, probably soon, if not already soon, was able to store the information regarding aerial obstacles, why do we need more instead of less of these protected zones? [LB352]

ROD STORM: Because it's those instrument approaches that allow the aircraft to be

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

able to get down to the lower heights and be able to move over those obstacles.
[LB352]

SENATOR SCHUMACHER: At 150 feet? [LB352]

ROD STORM: Yes. [LB352]

SENATOR SCHUMACHER: I have no further questions. [LB352]

SENATOR AVERY: Senator Price. [LB352]

SENATOR PRICE: Does this mean we would have to change a classification of aircraft that could fly in and the pilots into an airport, because right now if you IFR...if you have VFR situation, visual flight rules, and now we're going to change it to IFR and that could allow more traffic, is that what this is going to do or change the classification? [LB352]

ROD STORM: It will protect those airstrips so that the IFR traffic can get into them, yes.
[LB352]

SENATOR PRICE: Okay. Thank you. [LB352]

SENATOR AVERY: You have another? Senator Schumacher. [LB352]

SENATOR SCHUMACHER: One more question, Senator, thank you. In normal VFR rules you stay above 500 bucks...500 feet, except on approach? [LB352]

ROD STORM: Again, that's...I will defer to somebody behind me. [LB352]

SENATOR AVERY: Okay. Thank you for your testimony. Somebody behind him.
(Laughter) Good afternoon, sir. [LB352]

LANCE SCHIPPOREIT: (Exhibit 4) Good afternoon, Chairman Avery and members of the Government, Military and Veterans Affairs Committee. The language of LB352 is quite confusing and quite intimidating. Excuse me, my name is Lance Schipporeit, the spelling is S-c-h-i-p-p-o-r-e-i-t. I'm the Ainsworth Airport Manager. Okay, to answer your questions, this graphic, it's a four-page graphic of all examples of the language of LB352. And the ten miles seems extravagant, I understand that, but it's only 3.2 miles wide at the outermost point. So in essence, it's a small portion of the pie in the sky, if you will. So economically speaking, everybody, the small communities want Jets in. They want to accommodate Jets. The approach speeds of Jets are quite extravagant. So, I guess, that's what the reason for this graphic is, is to help maybe define that. But this example gives examples of a turf runway, a visual runway, and an instrument approach runway, and the top page, if you will, for the most part, gives the layout of an

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

overview. Any questions? [LB352]

SENATOR AVERY: Thank you, sir. Questions for the testifier? Senator Schumacher. [LB352]

SENATOR SCHUMACHER: Thank you, Senator Avery. On a normal glide path for a landing, at what point from the end of the runway would the aircraft be 150 feet in the air? [LB352]

LANCE SCHIPPOREIT: That would be 3 miles. [LB352]

SENATOR SCHUMACHER: Three miles? You dropped three miles... [LB352]

LANCE SCHIPPOREIT: Or wait a minute, excuse me. The general, the normal traffic pattern is 1,000 feet. [LB352]

SENATOR SCHUMACHER: Right. And then on glide, as you're coming in, at what point do you cross 150-foot marker, from 150 foot in altitude coming in toward the end of that road? [LB352]

LANCE SCHIPPOREIT: Generally that would be like a 50 to 1 glide slope. [LB352]

SENATOR SCHUMACHER: So how far from the end of the runway am I at 150 feet on a normal landing? [LB352]

LANCE SCHIPPOREIT: Well, let's see...what would that be? (Laughter) Quick calculator. [LB352]

SENATOR SCHUMACHER: We'll figure it out. The Nuns would not be proud of me not being able to do that in my head right now. So it's not very far out. [LB352]

LANCE SCHIPPOREIT: Right. [LB352]

SENATOR SCHUMACHER: Right. I mean, it's certainly not ten miles or even three miles out. [LB352]

LANCE SCHIPPOREIT: The three-mile vale, if you will, is deemed, is classified as a turning zone or turning area. So airports with multiple runways, in some cases, you don't have a choice of runways within that three miles. [LB352]

SENATOR SCHUMACHER: You're not below 150 feet either, though. [LB352]

LANCE SCHIPPOREIT: No, I hope not. I'm not going to be in that airplane. [LB352]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2011

SENATOR SCHUMACHER: No further questions. [LB352]

LANCE SCHIPPOREIT: Okay. [LB352]

SENATOR AVERY: Senator Sullivan, you have a question. [LB352]

SENATOR SULLIVAN: Thank you, Senator Avery. Thank you. Not that this helps me any better understand this, this is confusing, and I'm just trying to figure out what the real intent is and who it impacts. You mentioned every airport wants to be able to accommodate Jet landings, but then I've also heard that, okay, we have to fall in line with FAA new regulations and this is a safety reason because of cell phone towers going up. What's the real reason we need these changes? [LB352]

LANCE SCHIPPOREIT: Well, as far as I can tell, these zoning regulations date back to 1943. I mean, the copy of the Section 3-301 prepared in 1943, might have been amended in 1974 to accommodate zoning boards. What's changed is, we got cell towers coming up everywhere. [LB352]

SENATOR SULLIVAN: Okay. And everything that's being suggested here is going to work for the Ainsworth Airport? [LB352]

LANCE SCHIPPOREIT: Say that again. [LB352]

SENATOR SULLIVAN: Everything that's being recommended here with this legislation is going to be okay for the Ainsworth Airport? [LB352]

LANCE SCHIPPOREIT: Yes. [LB352]

SENATOR SULLIVAN: Okay. [LB352]

LANCE SCHIPPOREIT: Yeah, at local governments we've spent...locally, we've spent half a million bucks improving the minimums. So...and one careless placement of a tower can annihilate that approach. And that's the FAA. You're actually...an airport sponsor is actually required to oversee or mandate their zoning. So this LB352 would give the local zoning boards and planning commissions the tools that they need to do what's required by FAA advisory circulars and grant assurance agreements. [LB352]

SENATOR SULLIVAN: Thank you. I need to hear that. Very good. [LB352]

LANCE SCHIPPOREIT: Okay. [LB352]

SENATOR AVERY: Senator Price has another question. [LB352]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

SENATOR PRICE: Thank you, Chairman Avery and thank you, Senator Sullivan, because you kind of tripped something for me there. We're looking at airport with one runway, two approaches, do we have other airports that have more than one runway? I'm looking at...I'm shaking it, I'm thinking, yes, I'm bet you're looking... [LB352]

LANCE SCHIPPOREIT: Certainly, I mean, Ainsworth isn't the site of an old Army Aircorp base so it has two... [LB352]

SENATOR PRICE: Yeah. So my point is, now we're talking about sending out to ten miles in multiple vectors, kind of have an approach from multiple directions. Now, I'm even, perhaps, would be concerned about a greater area than that three mile. I could have a three-mile one and 60 degrees off that have another three-mile one, so we really have to be careful that we could end up with a cone... [LB352]

LANCE SCHIPPOREIT: Sure. [LB352]

SENATOR PRICE: ...somewhere along the line. But I don't think you'll have more than two, you know, approaching. But I just want to make sure that was on the record that we're going...it's not just a single approach runways that we have. [LB352]

LANCE SCHIPPOREIT: Depending...each airport is different depending on what's there. In the case of the Ainsworth Airport, it has excellent minimums to the main runway which is what, a half a mile and 200 feet vertical. So the cross runway or the secondary runway is 250 feet in a mile. So and that's all done. So I mean, once something gets built or whatever, you know, it could just ruin the approach ascent. [LB352]

SENATOR PRICE: Okay. Thank you. [LB352]

LANCE SCHIPPOREIT: Okay. [LB352]

SENATOR AVERY: Senator Schumacher. [LB352]

SENATOR SCHUMACHER: Thank you, Senator Avery. Does the FAA have any rules on putting towers in the glide path area of runways? [LB352]

LANCE SCHIPPOREIT: It goes back to...it falls back on the local government to provide...when you get a grant, for instance, when a local community gets a grant, they're required to have zoning in place, you know, to protect the federal government's investment to runways and instrument approaches, things like that. [LB352]

SENATOR SCHUMACHER: So if I own a radio station and want to put up a 1,000-foot

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2011

tower, 500 feet off the end of a runway, I wouldn't have to file any forms with the FAA? I just...assuming there was no local zoning, I just put up my tower? [LB352]

LANCE SCHIPPOREIT: Depending...there again, it goes back to local zoning. In the case...I can tell you what Ainsworth has and we've got a planning commission, a board of adjustment, and zoning administrator. And if anything is proposed to be built, it goes through these channels. So at that point, it's...what's done is, it's called a obstruction survey that the FAA conducts this survey based on the height and the area of the location, and they either deem it a hazard or no hazard. If it's a hazard, then it goes back to the local zoning board to stop it. [LB352]

SENATOR SCHUMACHER: So the FAA is involved? [LB352]

LANCE SCHIPPOREIT: Oh, yes. [LB352]

SENATOR SCHUMACHER: So I'd have to go get my blessing from them to put my 1,000-foot radio tower just 500 foot off the end of the runway? [LB352]

LANCE SCHIPPOREIT: Absolutely. [LB352]

SENATOR SCHUMACHER: Okay. So this is kind of a regulated thing already. [LB352]

LANCE SCHIPPOREIT: Yes. [LB352]

SENATOR SCHUMACHER: And so why do we need to add to regulations? [LB352]

LANCE SCHIPPOREIT: There again, it falls back, the FAA doesn't mandate at a local level zoning. It's supposed to be in place if the airport receives a grant. [LB352]

SENATOR SCHUMACHER: Don't they care about radio antennas then in the middle of runways? [LB352]

LANCE SCHIPPOREIT: Certainly, but I mean, the FAA doesn't operate that airport or they don't run local government. [LB352]

SENATOR SCHUMACHER: But they do give the okay to the airport to the antenna construction. [LB352]

LANCE SCHIPPOREIT: Provided it passes the obstruction survey. [LB352]

SENATOR SCHUMACHER: Okay. So it's got...no further questions. [LB352]

SENATOR AVERY: I don't see any more questions. Thank you, sir. [LB352]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

LANCE SCHIPPOREIT: Thank you. [LB352]

SENATOR AVERY: Any more proponent testimony? Good afternoon, sir. [LB352]

MIKE OLSON: Good afternoon, Senator Avery. Mike Olson, airport director, Central Nebraska Regional Airport in Grand Island. [LB352]

SENATOR AVERY: Can you spell your name, please? [LB352]

MIKE OLSON: M-i-k-e O-l-s-o-n. First of all, I'd like to answer, clean up some of the confusion here. When the tower wants to be...or when a company wants to construct a communications tower, they file through the FCC. And the FCC also files that through the FAA. Okay. We'll clean that up right there. And you had some other questions. How high..or how far out from the end of the runway are you at 150 feet? I would say quarter of a mile. You're close. So I just wanted to clear those up for you a little bit before we...before I said a few more things on this bill. First of all, the Central Nebraska Regional Airport supports this bill. We are bound, as the previous testimony, we are bound by the FAA to protect our approach surfaces when we do receive federal grants. Currently, we're...the FAA requires 50,000 feet, which is just short of ten miles at approach, for an ILS approach, instrument landing system approach, and that's about 890 feet at ten miles, when you do a 50 to 1 slope. So what we're saying is, up to 889 feet would be okay at ten miles. Anything higher than that would be an obstruction to the approach surface at ten miles. And it goes...if you start from the other runway, it's 105 feet per mile with a 50 to 1 slope. Now here's another thing that we need to consider, too, with obstructions. We have a...part of the instrument landing system is a localizer. A localizer is a beam that guides you left or right of center line through your instruments as you land. If we have an object in that approach zone, that affects the localizer beam and it could give you erroneous information. And that's critical when you're landing in fog, snow, rain, or what we call, instrument flight rules, IFR conditions. So that's the importance of this zoning requirement, and I guess I'll answer any questions that you may have. [LB352]

SENATOR AVERY: Thank you, sir. Questions from the committee? Senator Schumacher. [LB352]

SENATOR SCHUMACHER: Thank you, Senator Avery. That localizer you talked about, that's not GPS related? That's a different technology? [LB352]

MIKE OLSON: That's different technology. That's part of most airports instrument landing systems right now. It's part of a glide...well, okay. I won't comment. [LB352]

SENATOR SCHUMACHER: Okay. They...I know, and I take my little Garmin thing out

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2011

and I pretend I'm flying an airplane and I have...I mean, if there's a 1,000-foot tower out there, it shows up on there, beeps when I get close to it. Isn't that sufficient protection? [LB352]

MIKE OLSON: Is that special protection? [LB352]

SENATOR SCHUMACHER: Isn't that sufficient protection? [LB352]

MIKE OLSON: Does every aircraft have that? [LB352]

SENATOR SCHUMACHER: Most likely, yeah, these days, unless they're really little. [LB352]

MIKE OLSON: Well, don't we have to protect all aircraft? [LB352]

SENATOR AVERY: You're supposed to answer questions, not ask them. [LB352]

MIKE OLSON: Oh, I'm sorry. I'm sorry. I'm sorry. [LB352]

SENATOR SCHUMACHER: And I'm perhaps am guilty of kind of leading into that. So you're telling me if I'm nine miles out and I want to put up a 1,000-foot radio antenna, which is above the 880-some feet, I'm going to be able to blow right past the FCC, FAA, and they would give me my okay? [LB352]

MIKE OLSON: No. What happens is, the airport will receive a determination of hazard from the FAA, and it's up to the airport to go to the local zoning and say, this is...we can't tolerate this. Or the airport could say, even though the FAA has determined this as a hazard, we will allow it with proper lighting so aircraft can see it. [LB352]

SENATOR SCHUMACHER: So the FAA sends out letters to the local guys, local guys get confused on the mail, don't respond to the letter, does the FAA at that point, or FCC at that point say, well, the local guys didn't respond, let him put his tower up? [LB352]

MIKE OLSON: That could very well happen. And then what happens is, the approach is rezoned or adjusted. And you may lose your ILS, your instrument approach, if it's deemed that, you know, it is an obstacle that, you know, can't be overcome. [LB352]

SENATOR SCHUMACHER: Is there a handbook or manual or set of code and federal regulations that tells...that the FAA has got that says, look, if this guy wants to put up an antenna that high, that close, it's a no-go, or is that all just discretionary? [LB352]

MIKE OLSON: Well, that's the game that we play sometimes with the FAA. They put these guidelines out but they don't stand behind airports when we go to fight this. They

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

put the guidelines out, they don't come to your airport when you go to the local zoning committee meetings. They don't support you per se. They may write a letter, but clearly, if you put a 1,000-foot tower, as you had mentioned, right at the end of the runway, you've got a major obstacle. [LB352]

SENATOR SCHUMACHER: But I would never get by the FAA on that. Certainly, somebody would say, this is really goofy, stop this guy. [LB352]

MIKE OLSON: Right. That's the determination of hazard that we would get from the FAA. [LB352]

SENATOR SCHUMACHER: And the FAA...so it's not like this is an unregulated area right now. There's a lot of regulation already in place. And I got to get by the FAA before I ever get to you. [LB352]

MIKE OLSON: Correct. [LB352]

SENATOR SCHUMACHER: Okay. I have no further questions. [LB352]

SENATOR AVERY: I don't see any more questions. Thank you, sir. [LB352]

MIKE OLSON: All right. Thank you. [LB352]

SENATOR AVERY: Any more proponent testimony? You're going to clean up, Mr. Wood? [LB352]

JOHN WOOD: I'll try. Senators, thank you. My name is John Wood. I'm the executive director for the airport here in Lincoln. I don't have any prepared remarks. Real quickly, we're very fortunate in Lincoln. All of our air space is contained within Lancaster County. We've had a very good relationship with local zoning folks for years and years and years, long before I even got here. And we're currently working with local zoning to do some things that take us out to ten miles locally without any state oversight. That's not the case around the state. Perhaps, I can begin to answer some of...or answer differently some of your questions. First off, the federal government's...you know what it can do and what it can't do. If I'm putting up an object, tower, wind turbine, building, doesn't matter, yes, I do have to file a form with the FAA if I'm within a certain radius of an airport, and they will determine whether that's a hazard or not. The FAA, the federal government, cannot tell me I can't build it. They can tell me I have to mark it or light it. They can tell it's a hazard, but they cannot dictate locally the building codes and the zoning and the building permits whether it can be built or not. That's up to local government. So it is possible you could have an airport with an existing instrument approach today and somebody wants to build an object, say, five miles out, just to pick a number. They can file with the FAA. The FAA can come back and say, this is a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

hazard, this is going to affect that approach. In fact, it may negate that approach where that approach is no good anymore, but they can't stop that person from building it. That's up to local zoning, local building permits. The federal government has no jurisdiction in that area. The 50 to 1 slope, it's not under the FAA guidelines for air space protection. If you've got a precision instrument approach, they want to protect a cocoon, if you will, around what that airplane is supposed to fly. And so they establish this 50 to 1 slope, which is...gives him some safety, gives him ground lower than what the guideline...you know, if he's right on his approach he's going to fly, for the very reasons that not all airplanes, not all pilots, not all weather conditions allow for absolute accuracy on every approach. So you've got a 50 to 1 slope that protects that approach from that ten miles out which is where the federal government determines that that's where the approach starts. Somebody may start sooner, but they, you know, from ten miles out they begin to line up on the runway for landing. And so you're protecting that piece of air space so that those airplanes have a protected area to deviate from, if they do, to fly down to get to that runway. So that's what you're trying to protect. Does that help? [LB352]

SENATOR SCHUMACHER: It starts to. [LB352]

JOHN WOOD: Okay. [LB352]

SENATOR AVERY: Let me ask you, Mr. Wood, this bill then does what you were just describing, it provides that protection? [LB352]

JOHN WOOD: That's correct. Today, in Nebraska, the bill or the requirement at the state level only goes out three miles. And three miles is a nice circle around an airport and it certainly protects all those approaches in close within that three miles. It protects air space for aircraft that are in the pattern and working around the airport or are visual, but it doesn't go out to this ten-mile limit where especially precision instrument approaches start under FAA air space protection guidelines. And that's what this is intended to do is to put some zoning requirements, if you will, the building permit requirements, that even though I've filed and it's a hazard, and I've put a light on it, doesn't mean I'm not interfering with the approach out there. That's up to local city, county governments, as the case may be. [LB352]

SENATOR AVERY: Thank you. Senator Price. [LB352]

SENATOR PRICE: Chairman Avery, thank you. And you know, I'm not the sharpest tool in the shed so it finally dawns on me something that it could be, and maybe you can help me out, that we have airports contained in a county within a three mile but as soon as we push it up to ten, we're now going to go into another county. [LB352]

JOHN WOOD: Absolutely. [LB352]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

SENATOR PRICE: So the zoning would be problematic in the adjoining county. [LB352]

JOHN WOOD: Absolutely. [LB352]

SENATOR PRICE: And thereby we would have a way to smooth and create a unified plan in this scenario. Or am I driving it from the top down? [LB352]

JOHN WOOD: You may have a county next door, you know, that's two miles...the county line is two miles away from where the airport happens to be located, and the next county maybe doesn't have an airport, doesn't care, doesn't deal with it, maybe doesn't have zoning. We certainly...I can't list them all. We certainly have an awful lot of counties in Nebraska that are small and rural and don't have any zoning at all. So yes, this would help. This overlays it, goes across all the counties. [LB352]

SENATOR PRICE: Well, thank you very much. [LB352]

SENATOR AVERY: Any more questions? Senator Schumacher. [LB352]

SENATOR SCHUMACHER: Thank you, Senator Avery. The number 150 foot, this thing, it strikes me. Yesterday we were talking about these windfarm sensors at 180 feet or something like that, or 190 feet. Is this targeted basically at the wind and cell industry as far as the threat that you perceive? [LB352]

JOHN WOOD: The 150 feet comes from FAA regulations that have been in effect for a very long time, 50, 60 years, maybe the '30s. I'm not sure. And there...the 150 feet isn't directly related to the approach surfaces on the runway. The 150 feet is anything that's sticking up...that's 150 feet off the ground. Whatever the height of the ground is. For aircraft that may be flying around, ag sprayers would be a good example. There's a unique industry that's consistently flying below 150 feet to do their job. Others can fly below 150 feet in nonpopulated areas anytime they want to, and that can be civilian or military. So the whole 150 feet thing comes from general aircraft activity in nonpopulated areas. I think you asked earlier about, can you not fly below 500 feet? There are restrictions unless you're approaching or departing an airport to flying below 500 feet over populated areas or over large gatherings of people for safety. But if I'm out, you know, ten miles west of Crete where there's nothing but farms, I can fly as low as I want to and be legal as far as the FAA is concerned. So you've got two different issues there. One is the glide slope, the 50 to 1 that protects the approach to that runway, that pie slice you were talking about. The 150 feet is the general...covers everything, so that pilots can see anything that's sticking up above that. [LB352]

SENATOR SCHUMACHER: If our wind industry likes to go to 198 feet, and you may be familiar, how high up do these wind turbine things run? [LB352]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

JOHN WOOD: My understanding is you can have some of them now 300 feet high, tips of the blades. They're getting big. [LB352]

SENATOR SCHUMACHER: What...is there much... [LB352]

JOHN WOOD: So if I built a wind turbine out in a very rural area, it's required to be...well, you know, they've got to put little red lights on the tips of the blades or whatever, I'm not sure what the marking requirements are, and that's all we're talking about. So if there's a pilot flying out there, and maybe the visibility isn't quite that good, he's got that visual marking that's on the highest part of that obstruction, be it a cell tower, wind blade, to be able to see it. That's what the 150 feet is about. [LB352]

SENATOR SCHUMACHER: And the 150 feet is what we would be putting into our rule. Is there much safety to be gained, I mean, since the wind industry likes to go to 198 feet, if we said 200 feet instead of 150? [LB352]

JOHN WOOD: Well, again, I think the 150 comes from trying to be consistent with the FAA guidelines. The FAA is going to make them mark and light anything that's going to be over 150 feet HEL. [LB352]

SENATOR SCHUMACHER: But yesterday, they was talking 200 feet or don't you know? [LB352]

JOHN WOOD: I wasn't here yesterday, don't know. I don't know the context, sorry. [LB352]

SENATOR SCHUMACHER: Okay. All right. I'm just trying...I'm confused now because I think I heard 200 feet yesterday. [LB352]

JOHN WOOD: Yeah, I'm not aware of the context. [LB352]

SENATOR SCHUMACHER: I don't have any further questions. [LB352]

SENATOR AVERY: I don't see any more questions. Thank you, sir. [LB352]

JOHN WOOD: Thank you, Senators. [LB352]

SENATOR AVERY: Thank you for coming. More proponent testimony? Okay. Come on. Spell your name for us, please. [LB352]

TOM TRUMBLE: My name is Tom Trumble, last name, T-r-u-m-b-l-e. I come before you as a concerned citizen and I would like to support LB352. I'll just quickly go down

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2011

through what the bill does. It actually updates some very outdated zoning regulations that have been adopted years ago and there's been a lot of things that have transpired in those years to bring technology further ahead. So it gives the counties and the cities a method to review these air space cases, make a decision based on a set of regulations, which I think Lance handed out the drawings. They're quite detailed. The FAA reviews any objects that are going to be built if they're in excess of 250 feet above the ground, or maybe it's 200, I'm not quite sure on the exact number. They offer their opinion whether it is an obstruction or not. That information would then be used by the zoning boards to make a decision on whether or not that object is viable for a building permit. The FAA does not have any control over whether the county or the city, whoever the jurisdictional body is, would allow a building permit. So let's say, whoever wants to come in and build that 1,000-foot tower off the end of John's runway out here, and what the FAA would ultimately do if that was a object that offended him, is they would raise the approach minimums on the instrument approaches. So maybe his two hundred and a half instrument approach would go to 902 and all of a sudden, United and whoever is going to say, well, we can't come in there anymore on an instrument approach. So that's part of what it does. It's really giving the counties, the cities, the airports a method to enforce a code. And it does define what the code is within that bill and that's part of the drawing. It's very complex. The 150-foot number is based on a very close proximity into the airport three miles. There again, it's still open to review. It's not statewide at 150 feet. As you get farther out, things get taller. So it doesn't say that you cannot build objects. It just defines what they can be. And it gives the counties, the zoning people a method to review that. So it does affect the FAA grant assurances. The airports when they sign the grant assurances to receive money to improve their airports from the FAA, they sign that they're going to protect that airport. It would be just like going out and building a new interstate highway across the state and then let people build a bridge across it that's only ten feet tall. So it's the same principle to protect the airport. And as a pilot, and I'm sure you can relate to this, when you're out there in the dead of night smoking around in a 200 foot ceiling and you need to get into an airport, it's very assuring to know that the FAA and the airport have done what they can do to make sure there isn't sticking something up there that's going to come up to greet you on your way down into the airport, so. Any questions? [LB352]

SENATOR AVERY: Thank you, sir, for your testimony. Questions from the committee? Thank you. [LB352]

TOM TRUMBLE: I don't want to run off. Thank you. Appreciate your time. [LB352]

SENATOR AVERY: Any other proponent testimony? Any opposition testimony? Good afternoon. [LB352]

KRISTEN GOTTSCHALK: (Exhibits 5 and 6) Good afternoon, Senator Avery and members of the Government, Military and Veterans Affairs Committee. My name is

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

Kristen Gottschalk, K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k. I am the government relations director and registered lobbyist for the Rural Electric Association. I'm here today to submit to you testimony on behalf of Elkhorn Rural Public Power District in opposition to the bill; information provided by RVW, an engineering firm out of Columbus, Nebraska; and additionally provide some comments based on the...for the Nebraska Rural Electric Association. We do, at this point, oppose the bill as drafted. The concerns center around expanding beyond what we currently have and what that may mean for existing structures as well. Questions came up regarding what economic development or economic benefit services may be out there. I think you will have to acknowledge that your power lines, distribution, transmission, and high voltage transmission all have a tremendous amount of economic value to the state. The FAA actually goes beyond three miles when they do an evaluation. When we build power lines, we actually have to plan specifications to the FAA as long as it's in that five-mile range. And they can and do have an impact on how those power line structures are constructed, or if they can be in that area. And keep in mind, power line structures, if you're trying to service a specific consumer, it may be difficult to bypass or avoid this transition zone or the approach zones, and so we'd have to come up with alternative ways. Another thing that I think needs to be pointed out, is that the higher the ground in that approach zone from the level at the end of the runway, that means the shorter the structure can be. So we're looking at a total height and it can have some impact. There is a concern on the impact of increased cost for new structures being built, power line structures being built within these areas, and even the ability for line placement. Of course, you've heard me testify before on behalf of the association that we're very concerned with safety. That, that continues, but we do believe that there is a line that we need to be aware of and where does a safety concern not...is not truly needed with respect to the cost of needing to get those utility structures in there. I don't think I said that right, but...(laugh) With that, I'd be happy to answer any questions you may have. [LB352]

SENATOR AVERY: Thank you. Senator Price. [LB352]

SENATOR PRICE: Chairman Avery, thank you. Ms. Gottschalk, thank you for coming here. I'll try to be brief. Do you currently have FAA hazard designations on power lines and (inaudible) right now? [LB352]

KRISTEN GOTTSCHALK: Yes, you mean... [LB352]

SENATOR PRICE: That are from three miles to ten that they came back and said, this is a hazard to the 150-foot rule. [LB352]

KRISTEN GOTTSCHALK: Yes, in fact the letter from Rural Elkhorn Public Power District outlines that they had a couple of recent projects where they submitted their plans to the FAA. FAA came back and said you either have to bury this power line, reroute, or reengineer the line, and add safety structures such as lights to those

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2011

facilities. [LB352]

SENATOR PRICE: And they did that, right? [LB352]

KRISTEN GOTTSCHALK: And they did that. [LB352]

SENATOR PRICE: So in other words, if they're already following the FAA guidelines, so this wouldn't be an...this wouldn't impact something that you already have to do anyway. [LB352]

KRISTEN GOTTSCHALK: No, it would not impact our compliance with the FAA. [LB352]

SENATOR PRICE: Okay. And then would you agree that if this is passed, this is a local authority...it's a local jurisdiction question. They're going to have to sit there and say, power line, airport. Eh...because that's all we're doing. We're just saying, hey, you would have to go to that authority and they would make a determination. So already we already have this basically in place as it is. [LB352]

KRISTEN GOTTSCHALK: Not to the extent that it's currently in statute. [LB352]

SENATOR PRICE: Right. But, I mean, but you could see how it would still come to a local authority, a local control issue. [LB352]

KRISTEN GOTTSCHALK: This would impact...it also would impact existing structures if I'm not mistaken because they would then be classified as nonconforming. And that could come... [LB352]

SENATOR PRICE: That would be the local guys' problem. I understand. Thank you. [LB352]

KRISTEN GOTTSCHALK: And that could come into play as well, but yes. [LB352]

SENATOR AVERY: Thank you. Senator Sullivan. [LB352]

SENATOR SULLIVAN: Thank you, Senator Avery. I'm confused, Kristen. FAA has a five-mile radius for you but they're recommending a ten-mile radius in their new regulations, is that right? [LB352]

KRISTEN GOTTSCHALK: They have currently now, they have a five...if we're building within a five-mile radius of an airport, we have to file our plans with FAA. And they're...you'll have to excuse me because I'm not fully aware of what the FAA's standards are or their proposed standards are for the future, but if...I don't think it

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2011

expands the federal requirements. This law would not expand the federal requirements. It would expand the local requirements. Does that make... [LB352]

SENATOR SULLIVAN: Okay. But I thought the recommendation was coming from the federal FAA? [LB352]

KRISTEN GOTTSCHALK: That's what the first testifier did indicate, yes. (laugh) [LB352]

SENATOR SULLIVAN: Okay. Okay. [LB352]

SENATOR AVERY: Senator Schumacher. [LB352]

SENATOR SCHUMACHER: Thank you, Senator Avery. Ms. Gottschalk, how much space does a power industry need above the ground to comfortably be able to put their infrastructure into place, even these big, you know, long power lines like NPPD is putting in, in some places, without having to go through a lot of local bureaucratic procedures that this thing might require? [LB352]

KRISTEN GOTTSCHALK: Well, I don't believe there's a height restriction with respect to filing plans with FAA, so we could even have a 30-foot power structure distribution line going in that we would still be required to file that, for review. It probably would come back without impact under the current rules. [LB352]

SENATOR SCHUMACHER: Okay. Can you live within the 150-foot plane? [LB352]

KRISTEN GOTTSCHALK: The concern...with most distribution line that's not going to become an issue except when you look at some of the rural area airports where a small airport may be in the valley and there will be power line structures within what would be considered this new approach zone on elevated land, that would bring it into that area. So again, it's not necessarily the height of the structure, it's the height of the ground. It means that the height of the structure has to be lower. [LB352]

SENATOR SCHUMACHER: So it's your interpretation that when we talk in terms of 150 feet or whatever, it's altitude from the end of the runway rather than distance off the ground at the end of the hill on the north side of the Platte River or (inaudible)? [LB352]

KRISTEN GOTTSCHALK: Yes. [LB352]

SENATOR SCHUMACHER: So it would be a pretty short pull on the north side of the...if there was a big hill or something down the road. [LB352]

KRISTEN GOTTSCHALK: The potential is there. And for high voltage lines, which are significantly higher, the potential is greater. And I would say, the most significant

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2011

concern would be for structures such as wind turbines. [LB352]

SENATOR SCHUMACHER: So from the traditional power industry, how much space do you need off the ground? [LB352]

KRISTEN GOTTSCHALK: Again, it's going to depend on the structure. Distribution line, 30 to 40 feet, transmission lines are going to go up to about 150 feet in some cases. [LB352]

SENATOR SCHUMACHER: If it was 200 feet, you'd have plenty of elbow room to keep you out of the...having to tangle with the locals too much. [LB352]

KRISTEN GOTTSCHALK: I'm going to have to caveat up my answer here. I'm a wildlife biologist by training, a lobbyist by accident, and the engineers would probably be better suited to answer that. It would alleviate some concerns. It would be what I would expect. [LB352]

SENATOR SCHUMACHER: I have no further questions. [LB352]

SENATOR AVERY: Any more questions? A lobbyist by accident. [LB352]

KRISTEN GOTTSCHALK: A lobbyist by accident. (Laugh) [LB352]

SENATOR AVERY: Thank you for your testimony. [LB352]

KRISTEN GOTTSCHALK: Thank you. [LB352]

SENATOR AVERY: (Exhibit 7) Any more opponent testimony? Any neutral testimony? But before I close the hearing on LB352, I have a letter of support from the Aircraft Owners and Pilots Association to be read into the record. That ends the hearing on LB352. We'll now move to LB628 and invite Senator Cook to come forward. I think she got tired of waiting and left. So we'll stand at ease for a moment. [LB352]

SENATOR PRICE: All righty, well, it looks like we're going to be able to move forward on LB628. Senator Cook, welcome to the committee, and please open on your bill. [LB628]

SENATOR COOK: (Exhibit 1) Why, thank you, Senator Price, members of the committee. I apologize for floating back and forth but we were in an Executive Session voting on some things, so thank you for your patience. Honorable members of the Government, Military and Veterans Affairs Committee, my name is Tanya Cook, T-a-n-y-a C-o-o-k. I'm the state Senator representing Legislative District 13. I appear before you today as the introducer of LB628. LB628 addresses one of the major barriers

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

to the self-sufficiency of low income Nebraskans, reliable transportation. Reliable transportation provides individuals the means to support themselves and their families by greatly expanding their career opportunities. LB628 is enabling legislation that allows the elected boards of counties, cities, and public utilities to donate motor vehicles that have reached the end of their useful life to Nebraska nonprofit organizations. This is a simple bill, but the passage of this bill can make a huge difference in the lives of everyday Nebraskans. Again the bill is permissive, authorizing legislation for the elected boards of political subdivisions to donate surplus vehicles to nonprofits. No political subdivision would be required to donate vehicles. You have before you a letter of support from the Douglas County Board of Commissioners pledging their support of the legislation. Yes? You will have before you a letter (laugh) of support from the Douglas County Board of Commissioners pledging their support of the legislation. The support, this proposal, and the fact that they want to take part in it. You will hear testimony from the Nebraska Rural Electric Association pledging their support of this legislation. They support the proposal and want to take part also. Nebraska Rural Electric has spoken to my office about a possible committee amendment to allow them to take part in a national program to donate bucket trucks for the purpose of rural electrification in impoverished countries. I support this concept and am willing to work with the committee to make this possible. It is clear that the need exists for voluntarily providing reliable transportation. LB628 provides a means to make this possible. As you see, there's no fiscal impact for the enactment of LB628. What is not manifested in the fiscal note for the bill is the positive impact on the state's budget that reliable transportation will have on Nebraska families. It is my sincere belief that with the enactment of a vehicle donation program by a political subdivision, even on a small scale, the state will benefit by supporting families in their quest to become self-sufficient. The idea for this simple cost-neutral legislation was brought to me by Mr. John Winkler, who will testify following this introduction. I want to thank him publicly for his activism and insight to bring this legislation to fruition. He's here today and will testify about the need for this legislation and how the idea came to be. I appreciate your consideration and support for the advancement of LB628. Thank you. [LB628]

SENATOR PRICE: Thank you, Senator Cook. Chairman Avery has returned. I'll take a prerogative here to ask a question right off the bat, if you don't mind, Mr. Chairman. [LB628]

SENATOR AVERY: Proceed. [LB628]

SENATOR PRICE: Thank you. And that is, in the bill when it says a motor vehicle has reached the end of its useful life. Is there a statutory definition of useful life? [LB628]

SENATOR COOK: I am not aware of whether or not there's one in state regulations. I guess what I'm relying on is that old moniker of local control in terms of the governing agency making that decision determining through their own accounting what the useful

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2011

life of that vehicle would be. [LB628]

SENATOR PRICE: The reason I...thank you. Because the reason I asked that, we had a bill earlier where we talked about letting a police car...I'm going to use that as an example, sit on a lot until it's devalued below \$250, at which point in time it can be...it could be auctioned off. So we have somewhere else in statute where we have something. But here, it would seem, not through any nefarious or bad deed, that a local board could say, yep, the \$40,000 thing is...we don't need it anymore so we're going ahead and donate it off. So that's why I was concerned about if we understood where else the statute linkage might be that we problematic to leaving something its useful life. [LB628]

SENATOR COOK: All right. Well, I'd certainly would be open to whatever the committee might be able to suggest to make it flow with the rest of the statute. Again the people testifying behind me may have more of an explanation about their...where they got useful life from, but as far as I'm concerned, if you need to make it consistent within our statutes, I would be open to seeing that in a committee amendment. [LB628]

SENATOR PRICE: And that's why we always are pleased to see you before the committee because you're so able to work with us. [LB628]

SENATOR COOK: Well, yeah, well thank you, Senator Price. [LB628]

SENATOR AVERY: Thank you. Any more questions from the committee? Let me see if I'm clear on this because I was out when you presented, but the County Purchasing Act right now does not permit donation, right? [LB628]

SENATOR COOK: Correct. [LB628]

SENATOR AVERY: Okay. Thank you. All right. Are you going to stay to close? [LB628]

SENATOR COOK: I'm going to stay and listen for a while and then cap it off with a very short, pithy, and convincing closing which will inspire you to advance it yet today. [LB628]

SENATOR AVERY: That will be the first one today. (Laughter) Proponent testimony. Welcome, sir. [LB628]

JOHN WINKLER: (Exhibit 2) Thank you. Chairman Avery and members of the Government Committee, my name is John Winkler, J-o-h-n W-i-n-k-l-e-r. Today I'm testifying as a private citizen, a concerned citizen, in no professional capacity. In fact, I took a day of vacation to attend your hearing today, so. I've got time to make up on that, but. I'm obviously in support of LB628. As Senator Cook said, this bill would simply

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 11, 2011

enable cities, counties, and public utilities to donate surplus vehicles to nonprofit organizations, if their elected board and council so chose to do that. This idea was generated upon my participation and completion in the Greater Omaha Chamber of Commerce Leadership Omaha Class. And as part of our curriculum, we were introduced to the challenging world of unemployment and homeless in our community. We were placed in the most hostile conference room in the downtown Chamber office. We were provided with as much snacks and refreshments as we could possibly have that day, and our exercise was based on the fact that we were unemployed or underemployed, and we, obviously, had no vehicle. We had to rely on public transportation in this exercise. Some of us had children, some of us had disabilities. We had a number of factors we had to overcome. The mission of our exercise was to navigate the public health and welfare system and utilize only public transportation. And we had to survive for one month on these limited financial resources. Our class was loaded with doctors, engineers, master degree professionals. We said we had all the confidence in the world that this...we could navigate this system. And let me tell you, we all failed miserably. We quickly learned that the biggest obstacle to finding and retaining a job, and to navigate the host of services and support in the community was transportation. We take for granted every single day that we hop into our vehicle and we can drive to the doctor, the grocery store, our jobs. I drove here to Lincoln today to testify, to participate in government, and some folks, obviously, don't have that ability. I did some research in the greater Omaha area, and I discovered that in the summer of 2010 the local Workforce Development Office in Omaha had 146 persons that were qualified for employment that actually had job openings that were available to them but they could not take them because they didn't have transportation. And although these statistics are very simplistic, an average family of three costs the state around \$8,664 in welfare, food stamps, etcetera, if unemployed. Therefore, in just the summer of 2010, our Workforce Development Office could have saved over \$1 million in benefits, not counting the additional revenue of payroll taxes and a more productive society in work force if transportation was made available. Over the last six to eight months I've been working with agencies such as the Siena/Francis House, the Stephen Center, and others to help to address a fraction of the transportation issues facing their clients. I've been in contact with the city of Omaha, the Douglas County Board of Commissioners, Omaha Public Power District, to also talk about this very issue. The city of Omaha, in fact, does have a provision in the city's ordinance that allows for the city council to donate surplus property to any organization for the public good. However, this ability appears only exclusive to Omaha. Although Douglas County and OPPD have expressed support for the idea, current law prohibits them from doing so. I did attach a letter of support from Douglas County Board of Commissioners to my testimony. The more formal letter will be mailed to you when it's signed. In closing, I would urge the committee to advance LB628 to the floor. And Mr. Chairman and members of the committee, I would be more than happy to answer any questions that you may have of me. Thank you for your time. [LB628]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

SENATOR AVERY: Thank you, Mr. Winkler. Questions from the committee? Senator Schumacher. [LB628]

SENATOR SCHUMACHER: Thank you, Senator Avery. Now I'm trying to visualize how this is going to work. You have a county board that has a clunker, it's all depreciated out, lots of miles on it, bald tires, and now it's going to give it to the charity. What's the charity going to do with it? [LB628]

JOHN WINKLER: Depending on the nonprofit organization, I've also spoken to, for example, Metropolitan Community College. They have an automotive program. There's also an organization, it's called the Vehicle Dreams, or Dreams, or something like that. I talked to them and they also...they take private cars. They only get like one a year and they donate it to...or the individual. But they have relationships with car dealers and auto body vendors and things like that. So they get the car up to a working condition. In speaking to Douglas County and the city of Omaha and OP, when they fully depreciate out a vehicle, they all follow GASB reporting requirements and those of those nature. So when that comes before the county board, obviously, or the city council, they have to make a motion that these are surplus property. So there's a formal action by the board that calls them surplus. And then they again can...this will enable them to choose what to do with a particular piece of equipment. So there is resources in place. Now most of the county, city vehicles, OP, are very well maintained. So most of these probably are to the point where they are very good vehicles still, but according to the individual entity's policies, it could be ten years, it could be a certain mile amount, it could be a certain value. Those are considered surplus and then those are auctioned off many times or considered surplus and so...and so on. So they're not all completely destroyed clunkers. Now although cities and counties have been probably stretching out their maintenance a little more as budgetary concerns take hold, but these are very useful vehicles. And it would be up to the nonprofit to determine, you know, what they could do with it. There's a lot of help in the community to get those back up into a working condition. And if that's with the community college or with a local vendor, that would be up to them, but there is a lot of assistance out there. [LB628]

SENATOR SCHUMACHER: So the governing body has a pretty decent car even though it's statistically at the end of its useful life or whatever. And it makes its donation and the local community college or something puts new tires on it or new windshield blades or whatever it takes, what do they do with it then? Now the charity's got a car. [LB628]

JOHN WINKLER: Sure. Again that would be, typically, mostly the charity is going to...or the nonprofit is going to utilize that to transport clients, if that's to work, if that's to services. For example, the Easter Seals contacted me and they would love to have a van or a bigger vehicle to transport expectant mothers to various services. So that would be one example of what they would do with it. Maybe they have a graduation

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

from one of their...you know, their clients have a...made it through their program and they're ready...and they have a new job accepted but no way to get there. As part of this program...so it's up to...do they sell it to that individual or do they donate it to that individual and then it's...but basically it's up to the nonprofit. If the local government unit that donates it wants to put stipulations on that, you could only use it for your particular organization. You can't sell it or donate...or do anything else with it. That would be up to the body to make that determination. I personally after exercising this class got on a bus at 10th and Cumings to try to get to the Village Pointe mall on 168th and Dodge. Eleven bus transfers and about four and a half hours later and it was summertime. And so that in itself, I could not gain...I could not live downtown and work anywhere west of 72nd Street. So that brought it to my attention right there. [LB628]

SENATOR SCHUMACHER: I'm still not making the connection between donation of presenting a car to charity and how the person needs to get an interview that's living ten miles out from where the job is supposed to be, gets that car to get down there, and how this works. [LB628]

JOHN WINKLER: Again it would be up to the individual nonprofit. Do they award that vehicle to the client? Does the client then, once they get the car, then they have to license it, they have to, obviously, insure it, but they can only do that, obviously, if they have employment. So it's up to the individual, I would think, charity or nonprofit organization of what they do with it. Or simply do they use that vehicle, do they check it out? Or do they use their own staff to drive those particular clients to those interviews or to that job? So there's various needs out there. Is it the individual or the organization, it depends on the organization. There may be some organizations that testify behind me that would give you a better, clearer picture of what they would do if they had the ability. [LB628]

SENATOR SCHUMACHER: Thank you. I don't have any further questions. [LB628]

SENATOR AVERY: Senator Karpisek. [LB628]

SENATOR KARPISEK: Thank you, Senator Avery. Thank you for being here, Mr. Winkler. And I think it's a very noble idea. My concern is, doesn't the local body owe it to their taxpayers to get the most they can back out of that vehicle? [LB628]

JOHN WINKLER: Sure. And that's the initial question is, you know, well, the taxpayers paid for this. And again we could get philosophical. The taxpayer is also paying for someone to be unemployed. And that person that lives in the community also could be a taxpayer if they had employment. You have a vehicle that probably is worth on average to the local governing body after being fully depreciated and utilized, a few thousand dollars. That's probably the most they get from auctions. Maybe more if they're lucky. To take that one vehicle and turn around, just in these meager statistics

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

that I have, if you donated one a year or one a month, you're making a significant dent in what the state pays and what the impact is on that local governing body. And again, as elected officials, it's up to them. Douglas County would be more than willing...at least the commissioner said, we'd be more than willing to participate. This is a good idea. City Council, same thing. So that's why we want to enable those local governing bodies to make that decision and if they get such a backlash from their constituents, they don't have to do it. But let them explain the benefits of it and what it means to their constituents to have productive people in their society and in their communities that can work and be...and pay taxes and do all the things that we should be encouraging. [LB628]

SENATOR KARPISEK: Do you know if any of these, like Easter Seals or any of them, do they take private vehicles now? Do they...and I can do that and talk to someone else, but... [LB628]

JOHN WINKLER: Yeah, you know, there's programs that, you know, that...but it's, again, it's the volume. You...they may get one a year, which is great. I mean, you know, that's a good thing. But there just isn't the...there's such a demand there just isn't that ability for them to meet it at all. [LB628]

SENATOR KARPISEK: Okay. Thank you, Mr. Winkler. Thank you, Senator Avery. [LB628]

SENATOR AVERY: Senator Price. [LB628]

SENATOR PRICE: Mr. Chairman, thank you. Mr. Winkler, thank you for bringing it forward. I guess there are things we'll have to wrestle with here. Like we said on the philosophical part, public money is used to buy something and then can we turn it over. But I think that we could find that there are other places where we donate publicly bought things to...back to the community. And all I could say, as a guy who is a recipient of that at one point in time when I had a dysfunctional car, and then I had no way to get my family and my pregnant wife around out in the middle of the desert, it came in kind of handy. So I just think it's a great opportunity to explore it at least and I'm sure that the committee will wear this down to the nub. (Laughter) Thank you. [LB628]

SENATOR AVERY: What Senator Price is pointing out is the impact this could have on individuals too, not just to the savings to the county or jurisdiction. Any other questions? Don't see any. Thank you, Mr. Winkler. [LB628]

JOHN WINKLER: Thank you, Senator. [LB628]

SENATOR AVERY: Any more proponent testimony? Welcome, sir. [LB628]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

BRAD ADDEN: (Exhibit 3) Thank you. Good afternoon, Chairman Avery and the committee members. My name is Brad Adden, B-r-a-d A-d-d-e-n. I'm the finance director for Siena/Francis House, a homeless shelter in Omaha, Nebraska, which serves the Omaha metro region as well as the state of Nebraska. I think Mr. Winkler kind of lead into some of my discussion. We do have a process where we provide vehicles to clients. The Siena/Francis House has several operations, one of them is a day services center which helps with the guests that come in that are homeless or addicted to help them through employment training, job training, and bus transportation, job skills, things like that. Last year, 2010, 62 people were employed through that process. Another operation we have is the Miracles Treatment Center and we had 67 individuals graduate from that program and that's where somebody that's been addicted goes through...goes through the process and obtains sobriety, and then we find them a job through the employment training process through that. Siena/Francis House last year served 3,287 different individuals. Of that amount 371 were U.S. Veterans and we served 430,000 meals, and so there is an impact on the city of Omaha and throughout the state. You know, there's various nonprofits that we coordinate with. It's amazing to see the miracles that happen there. You see people that transform that were broken, hopeless, depressed, and then they become extroverts, have a personality, smiles. You see...we take care of babies at the location. About a month ago we had eight babies, two premature twins, and so you see that joy that those people are being taken care of. And I want to go back to the process of the vehicles is that once a person graduates and goes through that process, they are...we'll try to get a donated vehicle to them and they must be able to obtain a driver's license and insurance, and then be looking for a job or have a job. And we do have a waiting list of individuals that do want to, you know, try to get a vehicle. And we do have vehicles donated just solely to the Siena/Francis House. We just recently acquired a 1993 Lincoln Town Car that is solely for the organization. We do want to address the needs of the clients but we also have needs. You know, we need pickups to go pick up furniture. I mean, a cargo van to pick up supplies. Our operations director went and picked up 400 pounds of ice milk and brought it back in her little Hyundai car, and it was just kind of a problem. It's...we just need vehicles that, you know, the pickups, cargo vans, buses to take people to off-site AA meetings. And the process is there but we do work miracles at Siena/Francis House and this would fill that need that we would be able to provide useful vehicles to those individuals. [LB628]

SENATOR AVERY: Thank you, sir. Thank you. Questions from the committee? I don't see any. Thank you for your testimony. [LB628]

BRAD ADDEN: Thank you. [LB628]

SENATOR AVERY: Any more proponent testimony? Welcome back. [LB628]

KRISTEN GOTTSCHALK: (Exhibit 4) Thank you, Chairman Avery and members of the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

Government, Military and Veterans Affairs Committee. I would like to...my name is Kristen Gottschalk, K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k. I am the government relations director and registered lobbyist for the Nebraska Rural Electric Association, and I'm here today to testify in support of LB628 on behalf of that association, it's 35 rural electric members, and I'm also here today to testify on behalf of the Nebraska Power Association which represents all of the electric utilities in the state of Nebraska. We are pleased to be able to offer our support for this bill. We do believe that there's a lot of merit in the bill as drafted. We've seen that there can be a greater impact within a community with some of these types of donations than the actual dollar value of the vehicles. We would like to offer the possibility of an amendment. And that amendment could be as simple as removing the reference to...under the definition of the Nebraska Nonprofit Act to something more specific, related to the issue that I want to talk to you about. Our national organization, the National Rural Electric Cooperative Association, has a program that's been in effect for more than 45 years, and it is our international program that allows rural electric utilities to donate utility vehicles as well as other materials such as used transformers, that sort of thing. Of course, we're only speaking specifically about utility vehicles today to this international program that provides the assistance in developing rural electrification in these impoverished countries. They do go beyond that. In fact, the National Rural Electric Foundations international program was the first electric organization in Haiti and was able to help restore power to the hospitals fairly quickly after the earthquake. And so we do feel very strongly this is a very meritable program. I did provide you a handout that outlines that. And we would like to see, perhaps, some form of amendment that would allow our electric utilities, not only to contribute locally, but to be able to contribute into this type of national program. And we would look at this to be whatever is the most effective way to allow for these types of international donations, but certainly not in any way detract from Senator Cook's original bill. With that, I'd be happy to answer any questions. [LB628]

SENATOR AVERY: Thank you. Questions from the committee? I don't see any. Thank you very much, Ms. Gottschalk. [LB628]

KRISTEN GOTTSCHALK: Thank you. [LB628]

SENATOR AVERY: Additional proponent testimony? Welcome, Mr. Kelley. [LB628]

SEAN KELLEY: Thank you. Good afternoon, Mr. Chairman and members of the committee. My name is Sean Kelley, S-e-a-n K-e-l-l-e-y, appearing here today on behalf of the Douglas County Board of Commissioners. The Douglas County Board of Commissioners has passed a resolution in support of this legislation. However, they would offer a friendly amendment on line 5 after charitable organization to state community betterment. I think, perhaps, the question of Senator Karpisek earlier to make sure that these...that the donation of these vehicles will be going to help out the community. So with that, I'd be happy to answer any questions if you have any. [LB628]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 11, 2011

SENATOR AVERY: Thank you. Questions from the committee? Don't see any. Thank you. [LB628]

SEAN KELLEY: Thank you. [LB628]

SENATOR AVERY: Any more proponent testimony? Any opponent testimony? Anyone wish to testify in a neutral position? Okay, now Senator Cook, it's your turn. [LB628]

SENATOR COOK: All right. Thank you very much, Mr. Chair, members of the committee. Once again I want to emphasize the real opportunity that we have. We talk on the floor and we talk amongst ourselves. We've met constituents that, some of them are brand new to being in a tight spot. Many of my constituents it's not really a brand new situation, but I think that we as public servants have a heart for service and a heart to help people. And with something, a measure like this would not only maintain the local control of the governing body making the donation of the vehicle, but also that of the nonprofit organization's board of trustees or board of governors. So I would like to reflect a little bit. Mr. Winkler mentioned his experience within Leadership Omaha. I had a similar experience within Leadership Omaha and that has been the '97, '98 class. So I guess after all these years, the same issue pops up over and over again, and we live in a greater metropolitan area that has an operational public transportation system and taxi cabs, and people living on a grid where you can have neighbors and maybe church vans helping out. I think that this has even greater applicability across the state. Mr. Winkler mentioned his bus ride out to Village Pointe. That didn't exist when I was in Leadership Omaha, but I had...I, too, had an experience of trying to get from my apartment to a downtown meeting. That took more than a hour on...and that was only one direct transfer. And then I was, of course, imagining what it might be like to have to drop a child at childcare, and get dressed up for an interview, and all those sorts of things. So I think that there's a great opportunity. I'm open to working with the supporters and the committee toward the amendments that were brought up. Thank you for your consideration. [LB628]

SENATOR AVERY: Thank you, Senator Cook. I don't see any more questions. Okay. Thank you very much. That ends the hearing on LB628 and the hearings for today. I thank all of you for coming. [LB628]