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Transcriber's Office

Government, Military and Veterans Affairs Committee
January 26, 2012

[LB767 LB779 LB885 LB923]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Thursday, January 26, 2012, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB767, LB779, LB885, and LB923. Senators present: Bill Avery, Chairperson; Scott Price, Vice Chairperson; Charlie Janssen; Russ Karpisek; Rich Pahls; Les Seiler; and Norm Wallman. Senators absent: Kate Sullivan.

SENATOR AVERY: Good afternoon. Welcome to the public hearing of the committee on Government, Military and Veterans Affairs. We have four bills that we will hear today and we'll hear them in the order they are posted outside the door and that is: LB767; LB779; LB885; and then LB923. Before we start the hearing, let me introduce members of the committee, those who are here and those who are not. Senator Pahls, on the end down here, is from Millard--that's senator Rich Pahls--and Senator Les Seiler from Hastings. Do I...should I keep saying the newest member of the committee...

SENATOR SEILER: Yeah, that's fine.

SENATOR AVERY: ...and the newest member of the Legislature? Actually, we're getting used to you now and you're not quite so new to us anymore, but Senator Seiler is from Hastings. Charlie Janssen is being delayed by a constituency issue, I think, and he'll be about 20 minutes late. He is from Fremont. Seated next to him is Senator Scott Price, the Vice Chair of this committee, from Bellevue. And next to me on my right is Christy Abraham, who is the legal counsel. I am Bill Avery, the Chair of the committee, and I represent District 28 and you're in it right here--south-central Lincoln. Soon to arrive will be Senator Russ Karpisek from Wilber. Senator Kate Sullivan from Grand...from Cedar Rapids cannot be here today. She had a death in the family but we'll welcome her back next week. And then next to her is Senator Norm Wallman from Cortland. Our clerk, Sherry Shaffer, will be the person you will want to provide this form. If you want to testify before this committee, we ask that you fill this out and it's clearly marked "For Testifiers Only." Please print clearly, give that to her, and we will have a clear record of who you are and other information that's relevant and you will of course record whether you're for or against the bill. If you are here and you wish to be recorded for or against any of these bills but you do not plan to testify, there is a second form here that you can fill out. These are both available at each entrance to the room. If you have any material that you would like for us to see--a copy of your testimony, for example, or any documents that you'd like for us to have for the files--we need 12 copies. You can give those to the clerk and she will have the page distribute them. Our page is Catherine Larsen from Omaha. And if you don't have 12 copies of your material, you can ask us to copy it for you and we'd be happy to do that. If you have a telephone or any other electronic device that makes noise, please turn them off and please also remember that we do not allow for tape recording, video recording, art--portrait

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art--snapshots, cameras, things of that sort. We will be using the lights system. The lights system is set on five minutes. When the green light is on, you have four minutes, and when the amber light comes on, then there...you have one minute to start to sum up your testimony. And when the red light comes on, we hope that you are finished. If not, I will probably remind you. All right, we are pleased to start our proceedings today with Senator Howard. And you've seldom come before this committee, so welcome. [LB767]

SENATOR HOWARD: (Exhibit 1) Well, it's my pleasure to be here today. Thank you, Senator Avery and members of the committee. For the record, I am Senator Gwen Howard, H-o-w-a-r-d, and I represent District 9. I am introducing LB767 to ensure that Nebraska officials who receive salary and benefits comply with the state law. Currently, Nebraska Revised Statutes 84-1601 and 84-1604 require that state employees and officers who receive benefits must work one-half of their regularly-scheduled hours, and that's a 20-hour week. Now reflecting on this, I'm very familiar with this as I was a state employee for 34 years, so I well know the requirements. When my office began looking at the benefits and compensation of the Liquor Control Commission for an interim study before the General Affairs Committee, it was unclear whether the commissioners were working at least half of their regularly-scheduled hours because those hours were not recorded. In anticipation of the interim study hearing, the executive director of the commission asked the commissioners to begin recording their hours. However, none of the commissioners turned in their hours to the...none of the commissioners turned in their hours, so the committee was informed that the commissioners were indeed recording their hours, but neither the committee nor the Auditor who had earlier requested the hour logs were given enough information to determine if the commissioners were following the law. It would be hard to know that if you didn't have the documentation. It's not my intention that LB767 create additional or onerous work for state officials. I do not want anyone to have to purchase new softwares or to start logging in every minute of their day. LB767 simply requires some method of recording the number of hours worked each week. To that end, I have distributed an amendment --and you have it, good--that will narrow the scope of the bill. As Russ Karpisek would say, he did this himself, cast his net a bit wide, so we've limited this. The amendment would in fact limit LB767 to state boards, commissions, committees, authorities, task forces, and councils who receive salary and benefits. LB767 seeks to ensure that board members and commissioners who have received the salaries and benefits, that they are entitled to. It's only possible to monitor whether those benefits are illegally received if someone writes down and turns in how many hours a commissioner or a board worker--or a board member--works each week. LB767 is a simple bill to ensure accountability and compliance with the law. People receive state compensation that we have an obligation to make sure that what they submit or what they tell us is accurate. I would welcome any suggestions, or if the committee has amendments that they would like to discuss with me, I'm certainly willing to do that. I thank you for your time and attention to LB767. [LB767]

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SENATOR AVERY: Let me ask you a question just for clarification--and thank you for your testimony. [LB767]

SENATOR HOWARD: Thank you. [LB767]

SENATOR AVERY: Was it your understanding that the audit that was done at the Liquor Control Commission revealed that there were individuals receiving benefits that were not entitled to it because they didn't actually work 20 hours a week? [LB767]

SENATOR HOWARD: It's hard to know without documentation. [LB767]

SENATOR AVERY: Yeah. [LB767]

SENATOR HOWARD: If they've worked it, I mean it's nice, we want to believe everybody. But as someone that had worked for the state system, it was expected that we would supply documentation that we had actually worked. [LB767]

SENATOR AVERY: And you got an AG's Opinion on this, right? [LB767]

SENATOR HOWARD: In terms of...? [LB767]

SENATOR AVERY: Did you get an Opinion from the Attorney General's office as to whether the Liquor Control commissioners were in fact working 20 hours? Or if it applied to the commission? [LB767]

SENATOR HOWARD: Well, I didn't, but the Auditor did. [LB767]

SENATOR AVERY: The Auditor did? [LB767]

SENATOR HOWARD: Right. [LB767]

SENATOR AVERY: And did you...opinion was that if they worked 20, they're entitled? [LB767]

SENATOR HOWARD: Well, if they...that would be same with anyone who was working for the state. You're entitled, but you're...the way it works is you have to pay...if you don't work full-time, then you have to pay in a subsequent amount if you're covered by the insurance program or whatever, same as with most businesses. [LB767]

SENATOR AVERY: Um-hum. Okay. Questions from the committee? Senator Price? [LB767]

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SENATOR PRICE: Senator Avery, thank you. Thank you, Senator Howard. In your amendment...and we'll just talk to that because it's what we're really talking about. What...how do you envision--or what do you envision--a system of records to be? [LB767]

SENATOR HOWARD: You know, I'm not going to second-guess the Commissioner. He would know better what works for him in terms of keeping track of people's time, whether it's a timecard. I mean they varied for the years that I worked with the department. At one time, you had to punch a time card, another time you kept track of your own hours, another time you put it in the computer system because that's all programmed in there. It's a pretty simple method and I would leave that choice up to him. The point is, it needs to be recorded. [LB767]

SENATOR PRICE: Thank you. [LB767]

SENATOR AVERY: Senator Seiler? [LB767]

SENATOR SEILER: Just to follow up on Senator Avery's...Senator Howard, he asked you whether you had acquired an Attorney General's Opinion. I believe that your presentation, you talked about an Attorney General's Opinion, but it was acquired by the Auditor. Is that correct? [LB767]

SENATOR HOWARD: Auditor, that's right. [LB767]

SENATOR SEILER: Just to clarify that for the record. [LB767]

SENATOR HOWARD: Sure. [LB767]

SENATOR AVERY: Senator Pahls? [LB767]

SENATOR PAHLS: Yeah, and just for a little clarification. Okay, the keeping of the time, it could end up being a big hassle or it couldn't. So are you suggesting something like a computerized system? Is that what you said? I mean, I'm just looking for... [LB767]

SENATOR HOWARD: Well, that's the very reason that I didn't...when Senator Price asked me basically the same thing, I'm not going to second-guess how the Liquor Control Commission or how Hobie wants to document the time, whether he wants to have people put it in the computer system. There is a program in the computer system right now for state employees that you can register what time you get to work, what time you leave your work. If that's what he prefers, I have no problem with that; the point being that it needs to be documented, just like it is for any other person that receives a salary and compensation for working for the state. [LB767]

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SENATOR PAHLS: Okay, let me ask you this then. Okay, then...and your own staff, how do you handle that? [LB767]

SENATOR HOWARD: They have time cards, just like yours. [LB767]

SENATOR PAHLS: Well, right, but do you...I mean I have not yet, in my 30-some years of doing what I've done, in a timecard...let's say the hours are 8:00-5:00 or 8:00-3:00. Very seldom have I seen anything different than 8:00-5:00, 8:00 to...you know what I mean? I'm very...I don't see 8:30-4:30. It's always the same, so it's almost...it's to me almost a mockery in some ways because...I mean unless there's vacations and things like that. [LB767]

SENATOR HOWARD: I was going to say, I...my staff sometimes gets sick. [LB767]

SENATOR PAHLS: No, no, I understand that. But typically, day in and day out when they're there, I have...I would like to have you just review their timecards. I'm not saying anything's wrong, but almost everybody puts down 8:00-5:00, 8:00-5:00. [LB767]

SENATOR HOWARD: Well, for me, I'd rather be able to produce a timecard document than nothing at all. [LB767]

SENATOR PAHLS: No, I'm not arguing with that. I'm just saying...but I'm intrigued by...you're saying there's a computer system available? [LB767]

SENATOR HOWARD: Well, yeah. I mean, that's what we got. We've timed in on a...as a state worker. I don't know why we don't require that down here, but yeah. [LB767]

SENATOR PAHLS: Okay. [LB767]

SENATOR HOWARD: But yeah, state employees have a...there's a program in the computer system. Then N-FOCUS, our friend N-FOCUS that you just go in and let them know what time you get there. [LB767]

SENATOR PAHLS: Well, to me it's really interesting to me because I sit on the Exec Committee and I said, let's make this easier than just having a sheet that everybody has to sign. I said, is there anything like that? [LB767]

SENATOR HOWARD: There is. [LB767]

SENATOR PAHLS: And you know the answer back? No. [LB767]

SENATOR HOWARD: Well, I wonder how... [LB767]

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SENATOR PAHLS: And that's from our own people in this building. [LB767]

SENATOR HOWARD: Well, maybe you want to walk across the street and ask them. [LB767]

SENATOR PAHLS: I...well, I may. I appreciate... [LB767]

SENATOR HOWARD: I mean I'm sorry. I don't mean to digress here. [LB767]

SENATOR PAHLS: No, I mean no. I asked are there any other ways just to get rid of all these pieces of paper moving... [LB767]

SENATOR HOWARD: And all those papers, it does seem a little dated, but... [LB767]

SENATOR PAHLS: Okay, thank you. [LB767]

SENATOR HOWARD: We're classic here. [LB767]

SENATOR PAHLS: You're just helping me. Thank you. [LB767]

SENATOR HOWARD: Thank you, thank you. [LB767]

SENATOR AVERY: Senator Price? [LB767]

SENATOR PRICE: Thank you, Senator Avery. Senator Howard, in that last conversation, perhaps it's more of an issue that we are the legislative body. We don't have ownership rights or license to the state's system. But that aside, this board does...I believe does some traveling, does some other work. I mean so did...is that something you take in consideration in Nebraska? They don't report always to the same desk, to the same office, and to the same PC. They may spend three hours driving somewhere to something. Is it...would that driving time be considered on the clock? [LB767]

SENATOR HOWARD: Well, it was when I was a case manager. We weren't always in the office. We left the office and visited families and sometimes we didn't get back to the office at 5:00 when you'd consider people ordinarily punching out, but there were ways to easily document that. [LB767]

SENATOR PRICE: Oh, I understand how the documentation...I just wanted to make sure I understand that when we talk about this that we're not locking them into a frame of time that isn't what...where they actually operate, so I understand. Thank you. [LB767]

SENATOR HOWARD: Yeah, and the very reason that I don't want to prescribe one

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method or another for Hobie Rupe...I mean there are factors to consider. [LB767]

SENATOR PRICE: All right. Thank you. [LB767]

SENATOR AVERY: I see another question here from Senator Wallman. [LB767]

SENATOR HOWARD: Oh, hi, Senator Wallman. [LB767]

SENATOR WALLMAN: Thank you. Thank you, Chairman Avery. Thank you for coming here, Senator Howard. [LB767]

SENATOR HOWARD: Well, thank you. [LB767]

SENATOR WALLMAN: I can see this is an issue with you. Now in the job description, is that prescribed to have to put so many hours a week in, do you know? [LB767]

SENATOR HOWARD: I don't know that there's any...I mean this is an appointed board... [LB767]

SENATOR WALLMAN: Yeah. [LB767]

SENATOR HOWARD: ...so I don't think there would be a prescribed that I'm aware of. The point being that how ever many hours you work during the week... [LB767]

SENATOR WALLMAN: Um-hum. [LB767]

SENATOR HOWARD: ...is that in some way you're able to say, here's where I documented it. [LB767]

SENATOR WALLMAN: Okay, thank you. [LB767]

SENATOR HOWARD: You're welcome. [LB767]

SENATOR AVERY: Any other questions? I don't see any. Are you going to stay around to close? [LB767]

SENATOR HOWARD: You know, I've got to go across the hall because we're talking about case management--just me. [LB767]

SENATOR AVERY: Okay. All right. [LB767]

SENATOR HOWARD: But I will leave Fran here and she'll fill me in if there's anything. [LB767]

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SENATOR AVERY: Okay, all right. [LB767]

SENATOR HOWARD: Then if you need me, I'm right over there. [LB767]

SENATOR AVERY: Okay, thank you. [LB767]

SENATOR HOWARD: Thank you. [LB767]

SENATOR AVERY: Proponent testimony? Anyone here wish to speak in favor of LB767? Don't see any. Anybody wish to speak in opposition to LB767? Don't see any there either, Senator. Anyone wish to speak in the neutral position? I don't think I've ever seen this happen. [LB767]

SENATOR HOWARD: All right. (Laughter) Thank you. [LB767]

SENATOR AVERY: (Exhibits 2 and 3) We do have, however, a letter of support from the State Auditor of Public Accounts, Mr. Foley, and we have a neutral letter from Carlos Castillo from the Department of Administrative Services. That ends the hearing on LB767. We'll move now to Senator Lautenbaugh and LB779. Welcome, Senator. [LB767]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman, members of the committee. This will be a less contentious hearing than the last time I saw you all, I'll represent at the outset. [LB779]

SENATOR AVERY: We're still grappling with that in Exec Session. [LB779]

SENATOR LAUTENBAUGH: This one's very simple. It isn't clear in existing law that the state has authority to lease vehicles. This would give them the authority to lease vehicles. In my mind, the goal is to minimize the amount we have to actually have wherever we have our fleet of vehicles, just in case we need one, because we can't lease as needed. That's what this is designed to do. I'd appreciate your support and I'd be happy to answer any questions you might have. [LB779]

SENATOR AVERY: Questions from the committee? Senator Wallman? [LB779]

SENATOR WALLMAN: Thank you, Chairman Avery. Of course I've got a question. Do you have any idea what this would save the state? [LB779]

SENATOR LAUTENBAUGH: I do not. I mean there would have to be a savings there because we don't have to maintain the vehicles. [LB779]

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SENATOR WALLMAN: Sure. [LB779]

SENATOR LAUTENBAUGH: I believe there are...I always joke that I work alone when I come here, but I believe there are actually people coming from DAS perhaps, Enterprise certainly, and they may be able to provide some actual hard figures. I...the savings just has to be there from an intuitive standpoint for not maintaining ownership of vehicles. [LB779]

SENATOR WALLMAN: Thank you. [LB779]

SENATOR AVERY: Currently, the state is required to purchase vehicles? [LB779]

SENATOR LAUTENBAUGH: It is. There was an Attorney General's Opinion a while back that said it is not clear that the state has the authority to lease, so under that interpretation, they don't have--I should say rent--so under that interpretation... [LB779]

SENATOR AVERY: Yeah, I was going to ask you if you didn't really mean to be using the word rent. [LB779]

SENATOR LAUTENBAUGH: Yeah, yes. [LB779]

SENATOR AVERY: So it's...these would be short-term rental agreements for a few days at a time... [LB779]

SENATOR LAUTENBAUGH: Yes. [LB779]

SENATOR AVERY: ...and not long-term leases? [LB779]

SENATOR LAUTENBAUGH: Exactly. [LB779]

SENATOR AVERY: Okay. Senator Pahls? [LB779]

SENATOR PAHLS: That just made me think a little bit. Do you know, do we pay people to drive their own vehicles? Do you have any idea about that for the state? [LB779]

SENATOR LAUTENBAUGH: I don't know if we have...pay any individuals to drive their own vehicles or not. I don't know the answer to that. [LB779]

SENATOR PAHLS: Okay. Okay, thank you. [LB779]

SENATOR AVERY: Any other questions? I don't see any. Am I missing something? [LB779]

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SENATOR KARPISEK: Oh, he pointed at me. I drive my own car. [LB779]

SENATOR AVERY: Oh. [LB779]

SENATOR LAUTENBAUGH: I drive mine, too, sometimes, so yeah. [LB779]

SENATOR KARPISEK: Oh, I didn't know that. [LB779]

SENATOR LAUTENBAUGH: But I don't think that's what the questioner was alluding to probably. [LB779]

SENATOR KARPISEK: No. [LB779]

SENATOR AVERY: Thank you, Senator, for your testimony. Proponent testimony? Please come forward. Welcome. [LB779]

STEVE SULEK: (Exhibit 1) Thank you. Good afternoon. My name is Steve Sulek, spelled S-t-e-v-e S-u-l-e-k. I am the administrator of the Transportation Services Bureau and Materiel Divisions of Administrative Services. I would like to thank the committee Chair, Senator Avery, and all the members of the committee for the opportunity to provide testimony today in support of LB779. The Transportation Services Bureau, or TSB, provides transportation services to state agencies, boards, and commissions through long-term lease vehicles or short-term rental vehicles. Due to the seasonal nature of some state agency programs and other temporary influences, agency demand for TSB short-term rental vehicles often fluctuates. The Transportation Services Bureau fleet comprises just under 20 percent of the total number of vehicles owned by the state and TSB's short-term rental program operates using approximately 15 percent of the TSB fleet. LB779 would provide TSB with additional and more economically advantageous alternative of temporarily acquiring additional vehicles through short-term rental agreements. This would enable TSB to meet these temporary peak demand periods without incurring the unnecessary expense of purchasing and maintaining vehicles for a long period of time when they are actually only required for a few days, weeks, or months each year. We believe this bill provides TSB with an additional opportunity for selecting the most cost-effective solution for providing service and meeting the needs of the state. Again, I would like to thank all the members of the committee for the opportunity to provide testimony in support of this bill and would be glad to answer any questions. [LB779]

SENATOR AVERY: Thank you, sir. Questions from the committee? Yes, Senator Pahls. [LB779]

SENATOR PAHLS: Thank you. Well, the reason why I asked that question is many years ago when I taught for Wayne State, if I didn't use a Wayne State car...because

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sometimes I was afraid to drive them, to be honest with you, they were that bad at that time. It was a long time ago, long time ago. But they would pay me to drive my own if I were doing school business, of course. [LB779]

STEVE SULEK: Certainly. [LB779]

SENATOR PAHLS: Okay, does that still happen? [LB779]

STEVE SULEK: Yes, that's an agency-level decision. [LB779]

SENATOR PAHLS: Okay. [LB779]

STEVE SULEK: And often, an agency may make that decision based on the length of travel... [LB779]

SENATOR PAHLS: Okay. [LB779]

STEVE SULEK: ...if it's a very short period as opposed to say, you know, a couple hundred mile trip, something like that. [LB779]

SENATOR PAHLS: Okay, yeah, the... [LB779]

STEVE SULEK: It may be more advantageous for them economically to just reimburse you at the rate that the federal government allows. [LB779]

SENATOR PAHLS: Okay. Okay, thank you. [LB779]

STEVE SULEK: You bet. [LB779]

SENATOR AVERY: Senator Price? [LB779]

SENATOR PRICE: Senator Avery, thank you. Thank you, sir, for testifying. A little perplexed. We're saying here right now that 15 percent of your fleet is rented? [LB779]

STEVE SULEK: Fifteen percent of our fleet is used for short-term rentals through our pool program. The remaining 85 percent is used for long-term lease vehicles. [LB779]

SENATOR PRICE: I'm missing the jump between you have rentals and you want renting authority. [LB779]

STEVE SULEK: Okay, and I'm sorry that I'm...hopefully, I can clarify that. Basically, we provide two types of vehicles to agencies, both for long-term lease, which is...which if you're an agency and you require that vehicle, that you would be assigned that vehicle

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for the life of the vehicle, for five years. But we also have short-term rental pools located in a number of communities around the state, so if you needed a vehicle for an afternoon or for a couple of days, you're able to come in and rent that vehicle and just use it for that short period of time. So we can meet periods of peak demand which occasionally exceeds the number of vehicles we have in the short-term pool where we're renting vehicles to agencies. This would allow us to rent from a commercial source. [LB779]

SENATOR PRICE: I think that's the point. The intuitive leap was you can go outside the government to rent. You're actually doing intergovernmental transfer as it is now. [LB779]

STEVE SULEK: Right, right. [LB779]

SENATOR PRICE: That's what I want to get. [LB779]

STEVE SULEK: Um-hum. [LB779]

SENATOR PRICE: Thank you. [LB779]

STEVE SULEK: You bet. [LB779]

SENATOR AVERY: Any more questions? Senator Karpisek. [LB779]

SENATOR KARPISEK: Thank you, Senator Avery. Thank you, Mr. Sulek. How many vehicles do we have? [LB779]

STEVE SULEK: When you say we... [LB779]

SENATOR KARPISEK: The state. [LB779]

STEVE SULEK: The state. Well, I'm here to represent Transportation Services Bureau. Our fleet numbers just a little over 1,000 vehicles, and that's when I referred to 20 percent, approximately--a little under 20 percent of the total number--so you're looking probably in the neighborhood between 5,000 and 6,000 vehicles statewide, encompassing all the fleets. [LB779]

SENATOR KARPISEK: And, I guess, how many do you think that you could do away with if we went with this? [LB779]

STEVE SULEK: At this point, we're not anticipating that we could do away with any vehicles, but there are periods of time when an agency will come to one of our short-term pools and we do not have a vehicle available to provide them, so this would

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give us the opportunity to meet that need that we're currently not able to meet without incurring the expense of buying additional vehicles. [LB779]

SENATOR KARPISEK: So you still think you'd have to keep your inventory about where you're at? [LB779]

STEVE SULEK: At this point, I would estimate that to be true, sir. [LB779]

SENATOR KARPISEK: And then is there anything about maybe more expensive vehicles, though, like vans or things that maybe we wouldn't have to own or lease rather...and rather rent them instead of...so instead of the big money up front, we could just rent our way through? [LB779]

STEVE SULEK: Well, this bill and our interest in this bill is more for short-term perspective. [LB779]

SENATOR KARPISEK: Right. [LB779]

STEVE SULEK: That allows us the economic advantages in that direction. So in terms of utilizing this bill to permanently replace a leased vehicle--say a 12-passenger van--no, we're not anticipating that. However, if you were an agency and you needed to rent a 12-passenger van and we did not have one available, we would be able to rent one under these provisions. [LB779]

SENATOR KARPISEK: Very good, thank you. [LB779]

STEVE SULEK: You're welcome. [LB779]

SENATOR KARPISEK: Thank you, Senator Avery. [LB779]

SENATOR AVERY: Do you have any way of estimating the savings? [LB779]

STEVE SULEK: At this time, no, sir, I don't because this more provides us with an opportunity to meet the demand that we've not been able to meet. [LB779]

SENATOR AVERY: Yeah, okay. Any other questions? I don't see any. [LB779]

STEVE SULEK: Okay. [LB779]

SENATOR AVERY: Thank you for your testimony. [LB779]

STEVE SULEK: Thank you very much. [LB779]

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SENATOR AVERY: Any other proponent testimony on LB779? Please come up.
Welcome, sir. [LB779]

ANDREW LOWELL: Thank you, Mr. Chairman, members of the committee. My name is Andrew Lowell. I represent...A-n-d-r-e-w L-o-w-e-l-l. I'm with Enterprise Holdings and I am the director of Business Rental Sales. Transportation services are a part of all facets of business, from private multinational corporations to state municipal governments. All the way down to small businesses, people have to travel. While business travel at its core is similar, how that travel is managed can differ greatly based on the public or private nature of the renting organization. State entities have historically internalized the process. From purchase and disposal, rental management, maintenance, insurance, and repair, state governments have long burdened themselves with the sole responsibility of their fleet management. How states manage these expenses in utilization of their fleets are vastly different. Some states choose to use a model based on a lower occupancy to ensure vehicles are readily available, which comes at a higher carrying cost, while others prefer to run a lean fleet that maximizes vehicle turn but comes with an increased risk for maintenance issues, decreased program compliance, and decreased residual value due to overuse of vehicles. In recent years, state governments have turned to commercial rental firms to provide solutions. The most successful of these methods has been the concept of a virtual fleet. By helping a state remove underutilized vehicles or as a supplement to highly-utilized fleets, a virtual fleet allows for a seemingly unlimited availability with a compartmentalized cost structure. There are many benefits to outsourcing vehicle needs. While a state bears the financial burden for owned fleet for the life of the vehicle, the only financial commitment with a rental provider is for the time the vehicle is actually used. With an owned vehicle, the state is responsible for the purchase cost, depreciation, maintenance, storage and upkeep, personnel associated, insurance, repair, etcetera, while a rental provider only charges a prenegotiated daily rate, usually inclusive of mileage charges as well as collision and liability insurance. In many states, the incorporation of a virtual fleet strategy has resulted in the disposal of thousands of fleet vehicles because of inadequate utilization and cost-management efforts. Removing these vehicles has freed up valuable parking and provided a source of immediate revenue. In other states, fleet reduction was minimal or nonexistent. Instead, vehicles were reallocated to areas of higher use, thereby reducing the need to purchase additional vehicles. Enterprise holdings has been at the forefront of local business travel and has pioneered many of the programs in use by state and municipal governments across the U.S. With over 7,000 neighborhood locations and a fleet of over 1 million vehicles, we are uniquely positioned to service government or business however they would require. Throughout Nebraska, we have 40 locations including Lincoln, Omaha, Hastings, Norfolk, Grand Island, Kearney, Columbus, and North Platte, with a total fleet of over 4,000 vehicles. We provide rental services every day to the companies that represent the state of Nebraska, including ConAgra, Union Pacific, Peter Kiewit, TD Ameritrade, Mutual of Omaha, First National Bank of Nebraska, and many others. We feel confident we can

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bring the same value to the state that we've brought to these companies. As leaders in the rental industry and pioneers of this virtual fleet approach, we are confident in our strategy and our ability to help the government and our business partners achieve their goals. Thank you for your time. [LB779]

SENATOR AVERY: Thank you. Questions from the committee? Senator Karpisek? [LB779]

SENATOR KARPISEK: Thank you, Senator Avery. Thank you. You said across the country, yes? [LB779]

ANDREW LOWELL: Yes, sir. [LB779]

SENATOR KARPISEK: So obviously, state governments close to us, neighboring states... [LB779]

ANDREW LOWELL: There are a number. The state of Missouri has utilized their services for many years. We've worked with the state of Minnesota. We recently won a contract in the state of Illinois. Across the country, states like Georgia, California, Texas, Florida, a number of states have seen this as opportunity to either remove underutilized vehicles or in this case, to supplement an overused vehicle situation. [LB779]

SENATOR KARPISEK: So just kind of walk through. How does it work? I want a vehicle for tomorrow. [LB779]

ANDREW LOWELL: Well, in a traditional rental setting, you would contact the renting location or you could go on-line to reserve the vehicle. In many states, they'll use a mileage calculator tool that will determine, from a cost analysis standpoint, what's most effective. Based on the cost per use of a state vehicle versus the cost of renting a rental vehicle, if...in the cases where based on mileage the rental vehicle is cheaper, it would then direct you to rent from that...from a rental location. We have the ability to include purchase order numbers, things like that, job codes, so it could track back to specific departments--that's all billed internally. We would either pick the renter up at his office or home, bring them to our location, provide the vehicle. Upon return, we would return them right back, and then everything is just billed directly to the state. [LB779]

SENATOR KARPISEK: So it would always be...then we wouldn't actually have a lot somewhere that people would go to? [LB779]

ANDREW LOWELL: In this case, it...Lincoln, for example. We have eight locations here in Lincoln. We pride ourselves on convenience, so your state travelers would be able to actually pick up from a location that was closest to wherever they worked or wherever they lived. Their ride...they would not actually need to go to a specific facility; they could

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choose whatever is most convenient for them. [LB779]

SENATOR KARPISEK: Or be picked up? [LB779]

ANDREW LOWELL: Or be picked up, exactly. [LB779]

SENATOR KARPISEK: Commercials, you know? [LB779]

ANDREW LOWELL: Yeah, we do pick you up. (Laughter) [LB779]

SENATOR KARPISEK: I've seen that. [LB779]

ANDREW LOWELL: You've seen a few, I take it. [LB779]

SENATOR KARPISEK: Yeah. [LB779]

ANDREW LOWELL: Yeah. [LB779]

SENATOR KARPISEK: Thank you. [LB779]

SENATOR AVERY: Senator Wallman, you're next. [LB779]

SENATOR WALLMAN: Yeah, thank you, Chairman Avery. Yeah, thanks for coming. [LB779]

ANDREW LOWELL: Thank you. [LB779]

SENATOR WALLMAN: I've looked through leases where school buses and everything be...and what would the cost savings be here, do you think? [LB779]

ANDREW LOWELL: You know again, as everyone has said, it's very hard to tell, just because we don't know exactly what the state's intent are. Typically, when we do enter into an agreement with the state, the goal is initially to analyze what the fleet structure is, determine what the actual costs associated with ownership of a fleet vehicle are, so that we can compare it to our costs and then work with the state to say, you know, X amount of savings...try to drive that little savings. It's too early to tell what projected savings would be. [LB779]

SENATOR WALLMAN: Sure. [LB779]

ANDREW LOWELL: It does range. I mean obviously, being able to replace vehicles, you could...whatever the residual value from resale would be an immediate benefit to the state, and then the savings that would come from the maintenance expenses

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currently associated with depreciation expenses, insurance costs, any ancillary charges you take right now. So the savings are definitely there, but without it...a proper analysis, we wouldn't be able to tell. [LB779]

SENATOR WALLMAN: Yeah, thank you. [LB779]

SENATOR AVERY: Senator Price has a question. [LB779]

SENATOR PRICE: Senator Avery, thank you. Thank you, sir, for testifying. My question is that now that you said you've done it in Missouri and other states,... [LB779]

ANDREW LOWELL: Um-hum. [LB779]

SENATOR PRICE: ...what do you think the burden is to the state for interfacing with your contract generation system? Because obviously you run it over some platform... [LB779]

ANDREW LOWELL: Um-hum. [LB779]

SENATOR PRICE: ...that would have to be compliant, right? Or as is interfaced with our system? Can you talk to that IT for me? [LB779]

ANDREW LOWELL: Excuse me. Yeah, we essentially incur those costs. We build the platforms necessary to interface with our systems, meeting all proper Internet protocol. We typically would place them on a state Intranet site and then, as we do with most private companies, you would just go to your specific Intranet site, which is a secure site. That information then goes directly into our systems. From a contract standpoint, really there's no...there's nothing the state itself needs to be responsible for. [LB779]

SENATOR PRICE: So you build the interface and run all that part for the middleware to get it to the customer? [LB779]

ANDREW LOWELL: Yes, sir. [LB779]

SENATOR PRICE: Thank you. [LB779]

SENATOR AVERY: Senator Karpisek has another. [LB779]

SENATOR KARPISEK: Thank you, Senator Avery. So I'm sure that you do a lot of business in the...in our state already. [LB779]

ANDREW LOWELL: Um-hum. [LB779]

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SENATOR KARPISEK: Do you do it for any public bodies now? [LB779]

ANDREW LOWELL: Here in the state? Yes, sir. [LB779]

SENATOR KARPISEK: Yeah. [LB779]

ANDREW LOWELL: We work with the University of Nebraska both here in Lincoln and in Omaha, a number of the medical centers, Lincoln school district, a school district in Omaha. I'm trying to think. There's another couple smaller school districts that we work with as well. And again, a lot of these are very similar situations that in most of those cases, we provide supplement to existing fleet where it doesn't make sense for them to purchase new vehicles, so we provide short-term rental options. The University has been our...one of our largest clients for many years. They have an existing pool fleet here at the University, but there are times throughout the year where there's a need for more vehicles and they come directly to us. [LB779]

SENATOR KARPISEK: Do you have any idea how long that's been going on at the university? [LB779]

ANDREW LOWELL: With the university, in excess of 10 years. [LB779]

SENATOR KARPISEK: Oh, okay. Very good, thank you. [LB779]

ANDREW LOWELL: Thank you. [LB779]

SENATOR AVERY: Any more questions? Seeing none. Thank you very much for your testimony. [LB779]

ANDREW LOWELL: Thank you for your time, everyone. [LB779]

SENATOR AVERY: Any other proponent testimony on LB779? Any opposition testimony? Anyone wish to testify in the neutral position? Senator Lautenbaugh? [LB779]

SENATOR LAUTENBAUGH: Yeah, Mr. Chairman, members of the committee, I'll be brief. I think the savings are hard to quantify, obviously as you heard, because of the nature of what we're talking about. But just intuitively thinking, this does give the state another tool, another arrow in the quiver--I'm just trying to find the cliche that will make you all roll your eyes because we've heard it too many times already and it's only January--something that will allow them to be more effective and more efficient, hopefully. I don't see it as a controversial measure by any means and I'd appreciate your looking favorably upon it. I'd again be happy to answer any questions you might have. [LB779]

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SENATOR AVERY: Thank you. Questions? Senator Pahls? [LB779]

SENATOR PAHLS: Well, then you...what you're telling us, you think this should...would be a consent calendar bill? [LB779]

SENATOR LAUTENBAUGH: I can't imagine why it wouldn't. [LB779]

SENATOR PAHLS: Okay. [LB779]

SENATOR LAUTENBAUGH: I don't think I've ever had one of those before, but this might be one of those, yeah. [LB779]

SENATOR AVERY: We wouldn't want to shock you too much. I don't see any more questions, thank you. [LB779]

SENATOR LAUTENBAUGH: Yeah. [LB779]

SENATOR AVERY: That ends the hearing on LB779. We'll now move to Senator Ken Haar's bill, LB885. Welcome, Senator Haar. [LB779]

SENATOR HAAR: (Exhibit 1) Thank you very much. Senator Avery. Members of the committee, thanks for listening. My name is Ken Haar, K-e-n H-a-a-r, and today we're talking about LB885. There is an old management saying that says you can't manage what you don't measure. You can't manage what you don't measure. And I'm passing around a graph right now and this is data straight from Omaha Public Schools where they use Energy Star rating for all their schools and a very interesting graph. I love graphs in the first place, but when you look at this graph...you know, if I were a school administrator, I would say, what is going on at Sunny Slope? Now, not all those schools are named on here because it just doesn't all fit and I'm not picking on any Omaha Public School, just using this as a good example. I guess if I were a parent and my kids were going to Miller Park and I looked at this, I'd feel pretty good. And if they were going to one at the other end I'd say, so what's happening to my child because of this difference in rating? And I think if I were a taxpayer I'd say, well, since we're talking about Energy Star...and everybody kind of knows what that means; we'll have a little more on that later. But you know, since this is about Energy Star and energy efficiency, how can we bring up this...those on the right-hand side, you know? Because it's going to save energy, and we all know that saving energy saves money. My bill, LB885, requires the DAS to receive an Energy Star Portfolio Manager audit for each state-owned building under their purview. Now just going back to the graph for a minute, Omaha Public Schools is doing an Energy Star rating on every one of their school buildings--I just gave you the one for the elementary schools--and they're actually paying a firm to do this. Portfolio Manager is a free service provided by the EPA and the

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Department of Energy and again, we'll get some more detail on what these things mean a little bit later. You can't manage what you don't measure. Another bit of data, and I haven't handed all this out, but in one year, for example, Omaha Public Schools has gone from an average Energy Star Rating of 46.5 up to 54, so they're doing something about it. Fifty is average. Fifty is average and in fact you can put these numbers into the Department of Energy's rating system and see how you compare to schools across the nation, not just to schools...not just to your own schools. So we have a similar project going on for the state of Nebraska for public schools. The Nebraska Energy Office put out a project last year, paid by some ARRA funds, making it...giving public schools the opportunity to participate in this program of having...getting Energy Star rating, and about 60 percent of the public schools in Nebraska participated and hopefully one of these days we'll be able to see the chart like this for Nebraska public schools. Not only does it give you some information for management, but I think it also creates some competition, and that's what I'm hoping is going to happen with this...the schools across the state. People are going to look at this and if they're near the bottom end, they're going to say, gee, why are we there and what can we do? I also think it's going to be very useful for school boards talking to their constituents about how they can save energy by improving in...on energy efficiency. So once again, it's really pretty simple. It's simply that...get an Energy Star rating for all the state buildings under the DAS. Now that...if you look carefully at the bill, that excludes quite a few state buildings. Eventually, I'd like to see this extended to all state buildings. But as you know as we go around and talk to constituents, they're always talking about efficiency and effectiveness and so are we and this is one simple way to talk about that. And it has real meaning because we all know that the price of electricity, the price of energy, is increasing. If you looked at the fiscal note that came with it, this would cover about 276 buildings--and it gets back to you can't manage what you won't measure--and there's some complexes of buildings where they have just one meter for multiple buildings. That's where most of the cost of this...the fiscal note comes from. However, as you may also notice, it says for the 49 buildings that are individually metered, they use Portfolio Manage (sic) currently to track energy use. So with that, we...I want to thank the...some of the other people that will follow, not so much talking maybe for or against the bill, but about energy efficiency and the importance and about Energy Star itself, about this Energy Star rating system. Whether this is the...Energy Star is the system that will finally come out as the way to do it, we're going to see a lot more use of this in homes, in buildings, all kinds of buildings, and it has real significance because the cost of energy is increasing. And I'd be more than happy to answer any questions. [LB885]

SENATOR AVERY: Okay, let me start with the fiscal note. [LB885]

SENATOR HAAR: Yeah. [LB885]

SENATOR AVERY: I see here that the Fiscal Office estimates that they would have to put meters in 227 currently unmetered buildings... [LB885]

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SENATOR HAAR: Um-hum. [LB885]

SENATOR AVERY: ...at a cost of \$11,000 per building. Do you have any way of evaluating the...how close that estimate is to reality? [LB885]

SENATOR HAAR: No, and I... [LB885]

SENATOR AVERY: It seems like an awful lot of money for a meter. [LB885]

SENATOR HAAR: Yeah, but these are major buildings and so it's not a...I talked with people from the DAS yesterday and we talked about this and I have no way to vouch for the actual numbers, but I know this is a concern that...where you have a whole campus--not a campus like at the university but a campus of buildings with one meter. It is a problem. But again, if we're going to begin to use data to manage, then we have to be able to measure individual buildings and it's an expense that's going to have to be made eventually. [LB885]

SENATOR AVERY: And these unmetered buildings or the ones that are on one meter tend to be campuses that DHHS manages? [LB885]

SENATOR HAAR: You bet. [LB885]

SENATOR AVERY: Yeah. [LB885]

SENATOR HAAR: Yeah, exactly. [LB885]

SENATOR AVERY: Like Beatrice Developmental Center? [LB885]

SENATOR HAAR: I'm not sure if Beatrice is under...I expect so. But within the bill it says who is, and some examples of the agencies that wouldn't be covered are like Parks and Recreation, the prison system,... [LB885]

SENATOR AVERY: Um-hum. [LB885]

SENATOR HAAR: ...and those other kinds of things. And eventually, I'd like to see everybody come under this. [LB885]

SENATOR AVERY: Um-hum. [LB885]

SENATOR HAAR: It's common sense; it's something we need. [LB885]

SENATOR AVERY: How many states do this now? [LB885]

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SENATOR HAAR: I don't know how many states do this. I know there are...of a number of states, though--for example, Missouri--where they have all state buildings monitored and coming to one point where they have people looking at energy usage all the time, building by building and so on, and they've saved a lot of money. [LB885]

SENATOR AVERY: Um-hum. [LB885]

SENATOR HAAR: And again, not only are people saving money doing this right now, but we know that because of EPA regulations, because of the cost of transporting coal, all those kinds of things, the cost of the coal itself, that our cost of electricity will continue to rise. [LB885]

SENATOR AVERY: Thank you. Questions? Senator Janssen. [LB885]

SENATOR JANSSEN: Thank you. Thank you, Chairman Avery. Thank you, Senator Haar. [LB885]

SENATOR HAAR: Yeah. [LB885]

SENATOR JANSSEN: Senator, some buildings, though, that we have that might be newer...and of course there's a big fiscal note but do you think we should put meters in there even though we're not sure there's a problem at all? [LB885]

SENATOR HAAR: You bet. Again, it's a way of measurement and in fact, you'd find that...and architects are really getting into this as well, as well as building managers. But new buildings that are built, more often than not these days, have multiple monitoring systems built right into the new building. So, for example, talking about a school. You may have a system so that you could tell when the lights in the gym were on and those kinds of things, so the more detailed the data we can get out of this sort of system, the better we can manage them. [LB885]

SENATOR JANSSEN: So even though there's no actual proof that there might be a leakage or anything, you think it's worth the money to put into that building. [LB885]

SENATOR HAAR: You bet. [LB885]

SENATOR JANSSEN: Okay, thank you. [LB885]

SENATOR HAAR: Um-hum. [LB885]

SENATOR AVERY: Any other questions? Senator Price. [LB885]

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SENATOR PRICE: Thanks, Senator Avery. Thanks, Senator Haar. Do you have any idea what the return on investment time is? So you know you have your initial cost. If you've looked at Missouri...if your cost is \$11,000 to put in the meter, wonder how long does it take before you get that \$11,000 back in...on average? [LB885]

SENATOR HAAR: Um-hum, that I don't know. [LB885]

SENATOR PRICE: Okay, thank you. [LB885]

SENATOR HAAR: Um-hum. [LB885]

SENATOR AVERY: You would expect, though, to have some recovery of costs over time? [LB885]

SENATOR HAAR: Well, of course. And not only is this a challenge to improve your Energy Star rating, but it also tells you...or it's one piece of information about where you would invest money to do upgrades and those kinds of things. Again, just the chart by itself just raises a lot of questions and that's the point. Now it doesn't tell us whether maybe this school or that school is going to be closed--then you wouldn't obviously invest a lot of money in it--but it's management data that will save money in the long term for sure. [LB885]

SENATOR AVERY: My guess is there's a very strong correlation between age of building and these right here...rankings here. [LB885]

SENATOR HAAR: I would guess so too. [LB885]

SENATOR AVERY: Rankings, yeah. [LB885]

SENATOR HAAR: Yeah. [LB885]

SENATOR AVERY: Senator Pahls. [LB885]

SENATOR PAHLS: I did not work for the OPS school system, but I can tell you Miller Park is one of the older buildings in the city. [LB885]

SENATOR AVERY: Is it? [LB885]

SENATOR HAAR: Okay. [LB885]

SENATOR PAHLS: It's down...it's in way north Omaha, one of the older buildings. [LB885]

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SENATOR AVERY: Thanks for supporting me. [LB885]

SENATOR PAHLS: Yeah, so. And to be honest with you, there are school districts that I've been associated with as a school district that has seen so much power in this they have tried to actually make cooler and the lights go on and off out of the room when nobody's there. They're finding out by their past experiences, by looking at charts like this, that those buildings are having issues and they're finding out it's just not the age of the building. Even the some of the newer ones... [LB885]

SENATOR HAAR: Um-hum. [LB885]

SENATOR PAHLS: ...there have been some fallacies in the air conditioning systems that were put in and in the heating systems, so I think there...by having districts look at that, at least it makes them aware of what they need to do. [LB885]

SENATOR HAAR: Um-hum. [LB885]

SENATOR PAHLS: And like you say with the cost of energy, this would be a...the concept behind this seems pretty positive. [LB885]

SENATOR AVERY: Senator Karpisek? [LB885]

SENATOR KARPISEK: Thank you, Senator Avery, and thank you, Senator Haar. And I like saving energy, too, and it makes sense. However, so now we have this. So then what? [LB885]

SENATOR HAAR: Well, again, at the very top level it raises a lot of questions and it teaches in a lot of ways. I mean again, if I were a parent or a taxpayer realizing that energy costs money, I'd say well, how can we improve things? To actually drill down in the data? You know, that's what we have the professional people who may be architects or engineers, who go into a building and actually do an energy audit. And again, there are all kinds of energy audits from very general to very specific, but then you have to go in and ask the questions about the envelope of the building, the use of the building. You know, are things being used properly? So there's all kind of factors that would go into taking something on the low end of this scale and raising it up. [LB885]

SENATOR KARPISEK: And then I think the school would come back to you as a parent and say, so do you want to pay more property taxes or do you want to cut some programs or how are we going to do this? And where do we start and where do we end? Should we build a new building? I think it's a great idea. I don't know that it needs to be mandated... [LB885]

SENATOR HAAR: Uh-huh, uh-huh. [LB885]

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SENATOR KARPISEK: ...for everyone without...so then what? What...how long are we going to have the building? I mean maybe if we had in there if you're under 35 percent, you have to do something. Then I guess the vacant buildings, why do we even have the electric...anything happening in a vacant building? [LB885]

SENATOR HAAR: Um-hum. Well, certainly common sense has to come into all of this and as a Legislature, I don't think we'd ever be at the point of being able to mandate that below a certain level and so on. This is an indicator, this is full of questions that need to be answered by people with expertise in engineering, architecture, and also operation and maintenance which becomes a huge...sometimes it's the building itself that's not using so much energy because of the construction of the building, but the operation and maintenance of that building. So this is the opening salvo, it raises questions, and...but I think it's also an indicator that...of how we're using energy and educating people on energy efficiency. [LB885]

SENATOR KARPISEK: All right, thank you, Senator Haar. [LB885]

SENATOR HAAR: You bet. [LB885]

SENATOR KARPISEK: Thank you, Senator Avery. [LB885]

SENATOR AVERY: Other questions? I don't see any. Are you going to stay around... [LB885]

SENATOR HAAR: I will. [LB885]

SENATOR AVERY: ...for closing? [LB885]

SENATOR HAAR: Thank you very much. [LB885]

SENATOR AVERY: Okay. All right, thank you. Proponent testimony? Welcome, welcome. [LB885]

JUDY SUNDE: Thank you. I'm Judy Sunde, J-u-d-y S-u-n-d-e, and I'm here representing the Omaha Public Power District. Good afternoon and thank you for the opportunity to join you today to discuss the ease of energy benchmarking and the value associated with energy benchmarking and disclosure, as proposed in LB885. OPPD is pleased to be here as the state of Nebraska is considering utilization of this program. Benchmarking the energy use of buildings is a critical first step in a path to superior energy efficiency. Since its inception in 1992, the Energy Star program has helped individuals and organizations nationwide find cost-effective, energy-efficient solutions by providing easy-to-use tools and free training to maximize the use of those tools. As an

Energy Star partner, OPPD promotes the Energy Star program and offers assistance by providing programs and incentives to encourage energy efficiency. The cornerstone of the Energy Star program for buildings is energy benchmarking because, simply put, you can't manage what you don't measure. Experience has shown that many property managers and those operating buildings simply don't have a true understanding of just how much money they are spending on energy bills and don't know if their energy use is truly high or truly low. Experience has also shown that once people are armed with this information as a result of benchmarking, many will act on the information. And in the state of Nebraska, the desire to act will lead them back not only to Energy Star, but to Nebraska utilities and Nebraska businesses for assistance in identifying and implementing energy efficiency projects. Portfolio Manager is an interactive software that is referenced as the proposal that legislative bill...as the EPA mechanism by which the state buildings in Nebraska can benchmark their energy performance. Portfolio Manager is a free benchmarking tool that is offered by the Energy Star program and it measures and assesses energy in a standardized way. It allows the users to benchmark and track energy and water consumption for a single building or across an entire portfolio of buildings in a secure on-line environment. Once the state has collected 12 months of utility data and some other basic pieces of information about the building and its operations, benchmarking that building in Portfolio Manager takes as little as 15 minutes and it can be maintained for only a minute or two each month. Since the state has a large number of buildings, Energy Star offers a bulk data upload template to streamline the data entry process. A little time spent entering basic data into Portfolio will allow the state to access the water used...that access the energy and water use and set building baselines against which improvement can be measured, identify underperforming and top-performing buildings to prioritize energy efficiency efforts, verify efficiency improvements, obtain data to support budgets and expenditures, document performance in energy service contracts, communicate energy performance with the general public. Organizations of all types have used Portfolio to benchmark...Portfolio Manager to benchmark the energy performance in more than 200,000 buildings representing over 20 billion square feet, or more than 25 percent of the total U.S. market. Here in Nebraska, 73 buildings representing over 9.3 million square feet have already attained Energy Star status, due substantially to their Portfolio Manager score. More than 946 Nebraska buildings representing almost 94 million square feet are already benchmarked utilizing this tool. The state-owned building at 1313 Farnam in downtown Omaha has already received Energy Star status, as well as four other buildings in the state...as well as four other GSA buildings in this state. The Energy Star program has become a trusted and unbiased authority on energy efficiency and has committed to continually upgrading the tool for adding new user-friendly features. The program also has the flexibility to share others...information with others through an online feature and can be easily utilized and implemented for the transparency provision of the proposed legislative bill. With the passage of LB885, Nebraska will join a growing number of states leveraging Portfolio Manager and Energy Star offerings to reduce energy use in state buildings. This will also allow the state to

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make better-informed decisions and is expected to drive facility managers to improve energy efficiency in their building, thus freeing up budget dollars for other benefit. Easy to use, easy to maintain, easy to access by the public, free to use and free training--these are all positive attributes of Portfolio Manager. A bit of effort provides information to be better stewards of tax dollars and make great energy decisions. I took all my time. [LB885]

SENATOR AVERY: Good timing. [LB885]

JUDY SUNDE: I apologize for that. (Laugh) [LB885]

SENATOR AVERY: Good timing, good timing. [LB885]

JUDY SUNDE: Thank you. [LB885]

SENATOR AVERY: Senator Pahls has a question. [LB885]

SENATOR PAHLS: Thank you for your testimony. I have a question. Right now, you have information on some buildings that the state of Nebraska owns, is that what I understood you to say? [LB885]

JUDY SUNDE: The Portfolio Manager program has some of that information. [LB885]

SENATOR PAHLS: So if we wanted to see the good, the bad, and the ugly, we already have some... [LB885]

JUDY SUNDE: You...whoever holds the password for the state account would be able to access that information. It's password protected as a secure... [LB885]

SENATOR PAHLS: Right. [LB885]

JUDY SUNDE: ...on-line environment. [LB885]

SENATOR PAHLS: Sure, right. [LB885]

JUDY SUNDE: For example, OPPD has all of our buildings benchmarked. You couldn't access that without of course... [LB885]

SENATOR PAHLS: No, right, I understand that. But you're saying it's there for us--now when I say "us," I mean for whomever--to find out whether this is valid. Is that what you're telling me? [LB885]

JUDY SUNDE: I'm not sure I understand. [LB885]

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SENATOR PAHLS: Well, with what you're proposing, I mean that there's a... [LB885]

SENATOR PRICE: Cost savings? [LB885]

SENATOR PAHLS: Yeah, a cost savings is all I mean. Can you prove a cost savings? [LB885]

JUDY SUNDE: From the actual benchmarking? [LB885]

SENATOR PAHLS: Yes. [LB885]

JUDY SUNDE: Whether there is a cost savings? The cost savings comes into play because people will then become aware of their performance and want to do something to improve their performance, so the cost savings would come back to individual projects that would improve energy performance. Is that... [LB885]

SENATOR PAHLS: Yeah, okay... [LB885]

JUDY SUNDE: ...answering your question? [LB885]

SENATOR PAHLS: I think I'm getting there. So, you mentioned a building in Omaha. [LB885]

JUDY SUNDE: Thirteen-thirteen Farnam, owned by the state, yes. [LB885]

SENATOR PAHLS: Okay, okay, by the state. So you...there's already information about that building to see whether whatever they have done has been beneficial? [LB885]

JUDY SUNDE: What they do...what you do in Portfolio Manager is you benchmark your score... [LB885]

SENATOR PAHLS: Right. [LB885]

JUDY SUNDE: ...and you're going to score 1 to 100. [LB885]

SENATOR PAHLS: Right. [LB885]

JUDY SUNDE: A 50 is average, 75 or above is the first hurdle to becoming an Energy Star building. [LB885]

SENATOR PAHLS: Right. [LB885]

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JUDY SUNDE: What they've done with that building is they've scored over a 75...
[LB885]

SENATOR PAHLS: Okay. [LB885]

JUDY SUNDE: And then to actually gain Energy Star status, a professional engineer has to come in and check your documentation, approve that your indoor light levels or that your indoor air quality meet standards, that it's a well-running building, and then they award the Energy Star Award. The bill is looking at Portfolio Manager just for the baselining information. [LB885]

SENATOR PAHLS: Right. [LB885]

JUDY SUNDE: But that's more of...Energy Star status is kind of another adder. [LB885]

SENATOR PAHLS: Oh, okay, I was trying to figure...okay, okay. So that's why the...
[LB885]

JUDY SUNDE: The rating just tells you where you're at so you decide...if you're scoring a 90 over here and a 40 over here, maybe we should...and we only have so much budget, maybe we should focus it over... [LB885]

SENATOR PAHLS: Okay, then I'm...I look at Miller Park here that's really scored high on this particular chart. I know it's an old building and it's been renovated. That would tell me what, if I...? [LB885]

JUDY SUNDE: That would tell you that they are managing their energy very, very efficiently compared to literally thousands and thousands of schools across the United States; they score in that percentile of energy efficiency. [LB885]

SENATOR PAHLS: And a good deal of that is because probably it has been renovated. I know Sunny Slope is not an old, old building, but it is way down here. They may have some really, truly problems in that building. [LB885]

JUDY SUNDE: Right, right. [LB885]

SENATOR PAHLS: Okay, okay, thank you. [LB885]

JUDY SUNDE: Um-hum. [LB885]

SENATOR AVERY: Senator Price. [LB885]

SENATOR PRICE: Thank you, Senator Avery. Thank you for coming down to testify.

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This Portfolio Manager, we've heard when you've discussed it that it has thresholds of performance. You know, you can set it probably at one level to monitor. Does it have the ability to control? Like when we heard from Senator Haar, is that the same tool you would use, say I want to manage my lights or my heat? [LB885]

JUDY SUNDE: No, it would...that would be a completely different tool. Those...this is limited to the benchmarking and so that you can set baselines. And then what you do every month is you enter your utility data... [LB885]

SENATOR PRICE: Oh. [LB885]

JUDY SUNDE: ...and it is going to tell you oh, your kilowatt hours went down and you'll say oh, well that's what we expected because we did this lighting retrofit that was supposed to have that kind of impact... [LB885]

SENATOR PRICE: Okay, great. I was concerned that it was a SCADA or a SCADA light. [LB885]

JUDY SUNDE: No, no. [LB885]

SENATOR PRICE: All right, thank you. [LB885]

SENATOR AVERY: Senator Wallman? [LB885]

SENATOR WALLMAN: Thank you, Chairman Avery. Yeah, thanks for coming down. This really...electricity has always piqued my interested and if I'm a large user like OPPD, do I have a demand charge? You know, do I have to...is it extra to go over that? [LB885]

JUDY SUNDE: Oh, our commercial customers that are demand and nondemand rates, and a commercial customer's school would typically fall under a demand rate. I'm saying school because we're talking about schools, but... [LB885]

SENATOR WALLMAN: Sure. So in other words, I'd have to get the whole system ready to benefit from this--all the schools--wouldn't I? [LB885]

JUDY SUNDE: I'm sorry? [LB885]

SENATOR WALLMAN: I would have to get all the schools be pretty energy efficient to really benefit from that demand charge. [LB885]

JUDY SUNDE: Well, each school has their own individual... [LB885]

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SENATOR WALLMAN: Oh. [LB885]

JUDY SUNDE: ...demand charges. [LB885]

SENATOR WALLMAN: Okay, thanks. [LB885]

JUDY SUNDE: Um-hum. [LB885]

SENATOR AVERY: We have another question from Senator Price. [LB885]

SENATOR PRICE: Just real quick, when I get my home bill from OPPD, I have a chart. So if my kids or myself--I won't blame my kids for everything. (Laughter) And if they're leaving the TV on or leaving the window open or cooling or heating the house, whichever the utility is, I have a chart that comes and tells me my kilowatt usage or my...you know, and...so isn't it kind of already a portfolio manager? Which is...you know, are you saying... [LB885]

JUDY SUNDE: Well... [LB885]

SENATOR PRICE: ...we can't do that? You can only do that on a bill, you can't do it for individual facilities. Is that what we're talking about here? [LB885]

JUDY SUNDE: Well, you're looking at your comparison against yourself... [LB885]

SENATOR PRICE: Right. [LB885]

JUDY SUNDE: ...which is okay, but Portfolio Manager looks at all the buildings, the 200,000 buildings that have already been entered into the software. And so I might have a 2,000 square foot house and you might have a 2,000 square foot house and we each have four people living in our homes and your bill might be three times as much as mine and it might be: Well, why is that? [LB885]

SENATOR PRICE: My kids. [LB885]

JUDY SUNDE: Yeah. (Laughter) [LB885]

SENATOR PRICE: Thank you. [LB885]

JUDY SUNDE: Yeah. [LB885]

SENATOR AVERY: Senator Karpisek? [LB885]

SENATOR KARPISEK: Thank you, Senator Avery, and thank you, Miss Sunde. The

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cost here, do we...would we buy the meters from OPPD or do you buy them from somewhere else? [LB885]

JUDY SUNDE: OPPD provides their own meters with every electric bill, so if a building is getting an OPPD bill for that particular building, it would have to have an OPPD meter. There's all sorts of submeter situations, so I'm not quite sure what the situation is with the metering... [LB885]

SENATOR KARPISEK: But... [LB885]

JUDY SUNDE: ...that... [LB885]

SENATOR KARPISEK: Okay, I don't know if we're talking about the same meter or not. I'm talking about the energy saver meter and... [LB885]

JUDY SUNDE: What...all that Portfolio Manager requires is your utility meter. [LB885]

SENATOR KARPISEK: Oh, okay. [LB885]

JUDY SUNDE: So the meter on the outside of the building is the only meter. You don't need a special meter or anything like that. [LB885]

SENATOR KARPISEK: Hmm. [LB885]

JUDY SUNDE: If you've got some situations where maybe you've got a meter and there's three buildings being ran off one meter, which...I don't want to hazard a guess at different situations. But then you'd want to submeter those and the submeters are not owned by the utility in any instance that I'm aware of by any utility. The submeters are owned by the customer, and that might be a... [LB885]

SENATOR KARPISEK: Okay, and then how about the...I'm sorry, I don't remember the name... [LB885]

JUDY SUNDE: No, that's okay. [LB885]

SENATOR KARPISEK: ...of the system. [LB885]

JUDY SUNDE: Portfolio Manager? [LB885]

SENATOR KARPISEK: Yes. [LB885]

JUDY SUNDE: Um-hum. [LB885]

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SENATOR KARPISEK: And is that a separate company or...? [LB885]

JUDY SUNDE: No, the Portfolio Manager is the software developed by the Energy Star program. So it's free software, they offer free training every month on how to use it, and they constantly update it for changing environments. They try to make it a lot more user-friendly all the time. I've entered numerous accounts on Portfolio Manager to be able to get a score out of it, so it's not hard to do once you know what you're doing. [LB885]

SENATOR KARPISEK: So I guess I'm just missing where is all the fiscal note, this one-point-whatever million dollars that it's going to cost to do this--and maybe you're not the right one to ask. [LB885]

JUDY SUNDE: And I was going to say, I apologize, I'm probably the not...not the right one to ask. But Portfolio Manager and Energy Star--the tool and the software--are all at no cost. Of course, your utility meter is provided by the utility, so I'm not equipped well to answer that. [LB885]

SENATOR KARPISEK: I guess the long way around...I was just trying to see what OPPD would want to split with the state on the cost. (Laughter) [LB885]

JUDY SUNDE: You know, I'm having a hard time getting around the cost associated, so I don't know the answers to those questions. [LB885]

SENATOR KARPISEK: And I suppose you wouldn't be able to give us that today anyway, right? [LB885]

JUDY SUNDE: I suppose I'd get a lot of trouble if I answer that. (Laughter) [LB885]

SENATOR KARPISEK: All right, thank you. Thank you, Senator Avery. [LB885]

JUDY SUNDE: Thank you. [LB885]

SENATOR AVERY: Senator Price, you have another question? [LB885]

SENATOR PRICE: Oh, no, huh-uh, I'm good. [LB885]

JUDY SUNDE: Thank you. [LB885]

SENATOR AVERY: Okay, you seem to have satisfied everybody. Thank you for your testimony. [LB885]

JUDY SUNDE: Thank you. [LB885]

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SENATOR AVERY: Any other proponent testimony? Welcome, Mr. Winston. Happy birthday. [LB885]

KEN WINSTON: Well, thank you. Now that I'm so much older, I...good afternoon, Chairman Avery and members of the Government, Military and Veterans Affairs Committee. My name is Ken Winston, last name is spelled W-i-n-s-t-o-n, here appearing on behalf of the Nebraska Sierra Club in support of LB885. We think that LB885 is a...provides a mechanism for state government to figure out how to reduce its...to determine its energy usage, first of all, and that that would provide a gateway to figuring out how to reduce its energy usage. And just to put it another way, if you can reduce your energy usage, you...it's a way of saving money. And we think that if you're not figuring out how to save money and how to save energy, that that money is being wasted. However, I'm going to talk a little bit about the fiscal note just because I'm...this is probably the fifth or sixth bill that I've testified on dealing with energy efficiency in state government in the last 10 years and all of them have suffered the same fate, which is death by fiscal note, and we'd hoped that that would not be the fate of this bill. And I guess I'm just going to...since I'm old now I can use old sayings. If you want to get something done, you find a way to get it done. And we really think that the fiscal note doesn't reflect reality and part of that is once again my years of experience with state government. Back in the '90s, the Nelson administration did an assessment of state buildings. I'm not exactly sure how they did it, but they did an assessment of energy usage in state buildings and I know there's an energy office report drawing dust on a shelf someplace that talks about it. And so surely if they could do it back in the '90s, we can do it in 2012. And we also think that this can be done without General Fund impact and I'd...I was listening to the person from OPPD and she said we supply the meters. I guess one of the other things I'd like to talk about is back in ancient history, I was on the school board here in Lincoln and we worked hand in hand with LES on energy efficiency projects and I know that LPS--Lincoln Public Schools--still works with LES on their energy efficiency projects. And they went about retrofitting their entire school system in the past 10 years--they're still working on it--but as of five years ago, they were estimating that they were saving \$1 million a year on energy costs. I don't know what it is today, but that's real money. And the other thing is, in response to Senator Karpisek's question, they were estimating that they could do this, that they would get a payback on their investment in seven years or less. And oftentimes, they would find that the energy costs...for example, the energy costs to heat--just heat--one of their older school buildings was like \$1.20 per square foot and the costs to heat and cool it were like \$0.69 a square foot, so it was like they cut their heating and cooling costs in half and went from just heating to both heating and cooling. And I guess...I know this is talking a little bit about some things that have...go beyond the scope of this bill, but I think the main point is you need to figure out what you're doing before you can start doing it better. And that's the idea of the bill is let's figure out what we're doing. And one of the other things that...and hopefully some of the architects and engineers will talk a little bit about this.

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But I've heard lots of presentations about one of the things they can figure out just from dealing with the meter is they can say, gee, why is the energy cost so high at this time of day, just like Senator Price said. And they can say, what are we doing at that time of day? How can we reduce that? What parts of our facilities can be shut down? Are there lights that are on at times of the day when they shouldn't be on? Are we running our heating and cooling system at times of the day when it shouldn't be on? So I think I'd like to have the committee think of this as this is something you'd like to get done and that we don't want to let this fiscal note prevent this from getting done because in the long run, finding out what we're spending on energy will save money, will save taxpayers' dollars, and I am sure all of you guys--all of you senators--are adamant about saving taxpayers' dollars, and this would be a way to do that and I'd like to encourage you to find those ways. Thank you. [LB885]

SENATOR AVERY: Thank you. Questions from the committee? I don't see any. Thank you for your testimony. [LB885]

KEN WINSTON: Thank you. [LB885]

SENATOR AVERY: Any other proponent testimony? Okay, we'll move to opponent testimony. Anyone wish to testify in opposition? Any neutral testimony? Welcome, sir. [LB885]

CORY FUEHRER: (Exhibit 2) Thank you, Chairman Avery, members of the committee. My name is Cory Fuehrer, that's C-o-r-y F-u-e-h-r-e-r. I'm an energy efficiency program manager with Nebraska Public Power District and have been an employee for the last 21 years. NPPD is the largest electric-generating utility in Nebraska and provides nearly 50 percent of the electricity consumed in the state. In addition to supplying electrical energy to 80 communities on a retail level, NPPD supplies electricity to an additional 52 communities and 25 rural power districts on a wholesale level. I'm providing this testimony to the Government, Military and Veterans Affairs Committee today in a neutral capacity to inform you of the benefits of benchmarking energy consumption within facilities and then to briefly discuss what NPPD is doing in the way of energy efficiency and conservation initiatives. Over the last four years, NPPD, with the support and cooperation from our wholesale utility customers, has established a comprehensive and multifaceted set of programs that are focused on providing...in improving efficient use of electricity by our collective joint end-use customers. These programs are offered to both residential...to all residential, commercial, industrial, governmental, educational, and agricultural end-use customers under our efficiency program's umbrella called EnergyWise. In addition to providing technical assistance to...related to energy efficiency, we also offer financial incentives to help offset the investment costs for efficiency improvements. At present, we have 10 programs in place that cover a wide array of energy efficiency opportunities. In addition to providing this, we also have found that our most successful programs...or some of our most successful programs have

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addressed the area of lighting efficiency, in particular with commercial and industrial, educational, and governmental customers. Lighting improvements that were made under our 2011 program year will yield an energy savings of more than 142 million kilowatt-hours over the life of the measures. That's the equivalent to providing electricity to power 8,900 Nebraskan homes for one year. In partnership with the Nebraska Energy Office, our residential customers of NPPD and our wholesale customers have access to a 2.5 percent low-interest loan for high-efficiency heat pumps through the Energy Office's "Dollar and Energy Saving Loan Program." Other incentives are available as well for irrigation efficiency improvements, as well as adding insulation to home attics. For years, NPPD has worked with our wholesale customers, now through Demand Waiver program, to control summertime electrical demand due to significant irrigation and air-conditioning loads. When our system is reaching a peak, communication and pricing signals alert the Wholesale Utility Customers to control their electrical loads. Together, we have been able to reduce about 600 megawatts of power off of our summer peaks, which is the equivalent to not having to add an additional power station. NPPD and our Wholesale Utility Customers have put considerable effort into educating our end-use customers as well as heating, ventilation, air-conditioning, construction and electrical contractors, lighting specialists, and irrigation contractors. Currently, we have educational programs in place for all market segments. Also, NPPD has a dedicated staff for in-school energy-related presentations that are available throughout the service territory, and you have...we have funded starter kits for many classes, along with many other Nebraska utilities, that target fifth-graders. Finally, NPPD is demonstrating our commitment to energy efficiency by improving our own facilities. Heating and air conditioning improvements as well as lighting upgrades will be saving millions of kilowatt-hours through...in all of our facilities. NPPD recently completed construction of a new office facility in Norfolk that incorporated state-of-the-art technologies, installed renewable energy systems, and used highly-efficient building materials which enabled us to obtain the "Gold" level certification under the Leadership in Energy and Environmental Design Green Building Rating System. To assist in the evaluation of school facilities across our service territory now for nearly a decade, NPPD has employed a benchmarking database that helps us to recognize areas of energy efficiency opportunities and confirm those improvements. I would point out that Portfolio Manager would also provide an effective means of measuring those improvements and verifying their impact. I'd point out that the data that goes into a Portfolio Manager is obtained from the utility meter which is the property of the utilities but is reported monthly on your power bill. So with that, I'd address any questions. [LB885]

SENATOR AVERY: Thank you, sir. Thank you very much. Questions from the committee? I don't see any. [LB885]

SENATOR KARPISEK: Yeah, yeah. [LB885]

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SENATOR AVERY: What? Yeah, Senator Karpisek. [LB885]

SENATOR KARPISEK: Thank you, Senator Avery. So you're tracking some of this now in some schools? [LB885]

CORY FUEHRER: That's correct. We've assisted a few schools. Essentially, the administration takes that responsibility--excuse me--on a monthly basis to maintain that. [LB885]

SENATOR KARPISEK: And can you help out a little bit with the cost that we see here? Is that...again, you might not be the right person to ask, but when the school does it, what does it cost them? [LB885]

CORY FUEHRER: The school, assuming that they have the water billing that they get, the gas if gas is used for heating source, and electricity, they're receiving that information on a monthly basis. It simply needs to be entered into the system. Where some of the numbers are being generated from specifically, I can't necessarily say, but I can tell you that that data has to be available for that individual facility. And as talked about earlier, perhaps submetering becomes necessary if you have multiple buildings at a single-service location. [LB885]

SENATOR KARPISEK: Okay, what I'm...I do want to thank you for the fifth-grade starter class kit. I have two of the bulbs in at home and the water restrictor and... [LB885]

CORY FUEHRER: Hey, all right. [LB885]

SENATOR KARPISEK: ...and the thermometer in my fridge. Now...however, the problem with that was my fridge was too warm, so I had to turn it down rather than the other way around. [LB885]

CORY FUEHRER: Ah, but look at all the money you're saving on food you would have been throwing out. [LB885]

SENATOR KARPISEK: Well, there you go, I guess. (Laughter) And I haven't hurt myself putting the little whistler in the filter yet for the furnace, so...but thank you. I mean that's a great thing and my daughter was really excited to get that all done, so that was a great deal. [LB885]

CORY FUEHRER: I'm glad you appreciated that. [LB885]

SENATOR KARPISEK: Thank you, Senator Avery. [LB885]

SENATOR AVERY: You mentioned that you have a facility in Norfolk that has a "Gold"

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LEED designation. What are the various levels of LEED rating that you can get?
[LB885]

CORY FUEHRER: Yeah, they'll go from the bronze up through the platinum-level status. [LB885]

SENATOR AVERY: Platinum is as high as you can go? [LB885]

CORY FUEHRER: Correct. [LB885]

SENATOR AVERY: Any questions from the committee? Senator Wallman. [LB885]

SENATOR WALLMAN: Thank you, Chairman Avery. Would, you know, so-called energy management--like Honeywell or some of those--pick up some of this cost if you contracted with them for a number of years? Do they do that, do you know? [LB885]

CORY FUEHRER: Many of their services that they provide have this incorporated, as well as some of the control software that was brought up or discussed previously. [LB885]

SENATOR WALLMAN: I hate to pick on one company, but that's what I thought of. [LB885]

CORY FUEHRER: Yeah, but... [LB885]

SENATOR WALLMAN: Thanks. [LB885]

SENATOR AVERY: Any other questions? I don't see any, thank you very much. [LB885]

CORY FUEHRER: Thank you. [LB885]

SENATOR AVERY: (Exhibit 3) Any other neutral testimony? I want to read into the record a letter of support for LB885 from Verdis Group, located in Omaha. Verdis Group is an energy and sustainability consulting firm. Anyone else wish to testify? If not, Senator Haar, you're recognized. [LB885]

SENATOR HAAR: Wow, no lights, so now I can really talk about green schools and everything. (Laughter) No, I want to thank the people who came and testified today. And I've...we've worked with Judy Sunde, for example, and she's helped out with the Green Schools Summit and I...she's a real expert and also a trainer on Energy Star. And I'm glad it was clearly pointed out that Energy Star is a benchmarking system. Now if you're not going to do anything, then benchmarking becomes useless, but benchmarking is a powerful tool when you realize that energy is one of the major expenses that schools

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have and where to spend your resources. I'm also glad it sort of clarified...for example, I sat down with a guy from Johnson Control. He pulled out his smart phone and told me his furnace was running at home, you know. So I mean you can get to all different levels of control and...but Energy Star is benchmarking. Senator Karpisek, earlier you mentioned about...so what do you do with the data once parents see that, you know, their school is maybe way down there? I just have a couple thoughts on that. In Gering where they're building a new school and they're building it...I'm not sure what LEED standard. But they went and visited some schools in Colorado that really were energy efficient and LEED certified and the parents came back demanding from the school board that this is the kind of school building they should have for their children, because when you get...and with Energy Star, once you get to 75, then you have to have an engineer come in and they look at not just how much energy you're using, but at air quality and lighting, and those two items are especially important for children. Kids are suffering more and more from allergies these days and so on, so you could pretty much as a parent say, looking at Miller Park, those kids are going to have a better chance of managing their allergies than a school at a lower level because at that level above 75 on the Energy Star, you know that someone has also checked out the lighting and the air quality, both really important things. And the use of this rating is becoming much more widespread in many arenas. For example--I believe it's beginning this year in California--any home that is sold, whether it's used or new, will have a HERS rating, which is basically Energy Star rating for homes. And people are looking at this because they're understanding that a major cost of your home is not only your mortgage and your insurance, but your energy. I'm sure we're not going to have the mandatory HERS rating in Nebraska any time soon, I would imagine, but consumers are getting smart about this whole thing of energy efficiency. And already there are homes in Nebraska, for example, that are getting the HERS rating because then the consumer can also look at this whole area of energy efficiency. So once again, I appreciate it. I...the data I gave you is not in a graph form out on OPS's Web site, but the data is there. I just took it, put it into an Excel spreadsheet, but the data is public. The data is public and so one thing that came out today and I will follow through on as well is, you know, knowing that we have some state buildings that are Energy Star rated. I'd like to see that publicly appear somewhere so that we can kind of start to get an idea of what's going on. So again, I appreciate your very good questions and your attention to this issue and thank you so much. [LB885]

SENATOR AVERY: Okay, any more questions? Senator Price. [LB885]

SENATOR PRICE: Thanks, Senator Avery. Senator Haar, I appreciate you bringing it forward. And we've heard a lot of questions about cost and reading the fiscal note, it seems to me the whole cost is based on the metering, where they have an FTE. I mean if you're going to enter data in for 227 buildings, you could...decent amount of data entry. But my question for your bill, would you consider a rolling implementation? In other words, if you want to say, let's start it now, let's baseline now, every building out of

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this number of buildings that already has a meter, let's start...let's load that data up. And then any buildings that are retrofitted or whatever the requirement would be, put a meter and then follow, so that would be part of the normal refresh rate or life cycle cost of that building but not say, let's get all 200-something right now and I've got to go buy 200 meters right now. Does that make sense? Would you consider that as a way of doing this? Because I think the fiscal note assumes I've got to do it tomorrow and that's a big cost. [LB885]

SENATOR HAAR: Senator Price, I think that's a good idea. I recognize that to transition to a new paradigm, really, which is we have to now quit counting on really cheap electricity and start looking at energy costs. To get from here to there is going to take some time, and so some transition process makes a lot of sense. Maybe just starting to publish those that we already know. But our risks are already...like Senator Karpisek's question as well is: Is there some cost sharing that's possible here to get the program off the ground... [LB885]

SENATOR PRICE: That's not cost sharing. [LB885]

SENATOR HAAR: ...where the state doesn't have the meters in place? So yeah. [LB885]

SENATOR PRICE: Thank you. [LB885]

SENATOR AVERY: I don't see any more questions. [LB885]

SENATOR HAAR: Okay. [LB885]

SENATOR AVERY: Thank you very much. [LB885]

SENATOR HAAR: Thanks, you made me think. [LB885]

SENATOR AVERY: That ends... [LB885]

SENATOR KARPISEK: I forgot to ask NPPD that question. [LB885]

SENATOR AVERY: That ends the testimony...or the hearing on LB885. We'll now move to LB923. Senator Mello, welcome. [LB885]

SENATOR MELLO: (Exhibits 1 and 2) Good afternoon, Chairman Avery and members of the Government, Military and Veterans Affairs Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District in south Omaha. And while this issue is about state procurement, it is noticeable that in this committee hearing I know you just spoke about Energy Star portfolios and buildings that we have

only one CFL light bulb that's currently in this hearing room. So as we discuss energy efficiency in state buildings, it just goes to show that we have an awful long way to go as a state. Long before the Great Recession began, America has seen a long steady decline in manufacturing over the last decade. And the state of Nebraska has not been immune from this trend, as manufacturing operations like the Tenneco plant in Cozad and the Vise-Grips plant in DeWitt have closed in recent years. In the case of the Vise-Grips plant, which was located in Senator Karpisek's district, the company did not close the plant due to the economic downturn but rather closed with the specific intention of shifting operations to China. This past fall, the Revenue and Urban Affairs Committees held a hearing on an interim study I introduced, LR263, which dealt with the tools and strategies that could be employed by the state and local governments to help create manufacturing jobs in Nebraska. One of the policy ideas that was brought forward at the hearing was the concept of Buy American or Buy Nebraskan policies. LB923 would adopt the Nebraska Buy American Act and is based off concepts that were developed by the Alliance for American Manufacturing, a coalition of American manufacturing companies and the United Steel Workers. Buy American provisions, also known as domestic sourcing laws, had been on the books at the federal level for nearly 80 years. While the committee may remember the more recent inclusion of Buy American provisions in the American Recovery and Reinvestment Act of 2009, the Buy American concept is a bipartisan one. President Ronald Reagan actually expanded Buy American provisions for federal highway projects in 1982. The language in LB923 is modeled off Buy American provisions currently present in federal law, and the basic goal of the bill is to ensure that taxpayer dollars spent on infrastructure projects by our state government are directed towards manufacturers here in the United States. Under the bill, any contract for the construction or maintenance of public works by a state agency is required to contain a provision that the iron, steel, and manufactured goods used or supplied in performance of the contract or any relevant subcontracts must be manufactured in the United States. The bill also contains three exceptions under which the Buy American requirements would not apply: the first, if the required materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; (2) the inclusion of the required materials and products would increase the cost of the contract by more than 10 percent; and (3) application of the requirement would be otherwise inconsistent with the public interest. If an agency finds that one of these three exceptions is applicable, then they must provide notice to the public of such a finding, but the notice can be provided on-line either through the agency's Web site or on the Department of Administrative Service's Web site. In addition, LB923 provides that if any federal agency, state agency, or court determines that a contractor has intentionally misrepresented materials as American made when they are not, the contractor would be barred from receiving future contracts from the state. According to a 2009 report by the Alliance for American Manufacturing, for every \$3 we spend buying American, we put one more American back to work than if we had not bought American in the first place. Nationwide polling has also shown that strong public support for Buy American policies. In recent polling, 91 percent of voters

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said that they would support policies to ensure their tax dollars are used to buy American-made materials. This support remains strong across the political spectrum, with 90 percent of Republicans, 94 percent of Democrats, and 88 percent of Independents supporting Buy American provisions. Since introducing LB923, my office has received a large number of questions about the provisions of the bill as well as concerns about specific language in the legislation. Another question that I have been asked regularly is: Why is the bill Buy American and not specifically Buy Nebraskan? There are numerous manufacturing companies already here in Nebraska--NuCor Steel in Norfolk, Behlen Manufacturing in Columbus, and Ash Grove Cement in Louisville, just to name a few--that would benefit significantly from Buy American provisions. In addition, the inclusion of Buy American preferences in our procurement statutes should serve as an incentive for manufacturers elsewhere in the country to consider Nebraska when looking to expand or relocate. Committee members should have received a copy of AM1776, which addresses several concerns brought to my office by the Associated General Contractors. First, the amendment would eliminate manufactured goods from the Buy American requirement, restricting the bill to American-made iron and steel. This change would help clarify the confusion about whether or not the manufactured goods requirements is applicable to the equipment used in construction, and should eliminate the fiscal note from the Department of Roads, as they already use American iron and steel in all construction projects, including those that are not utilizing federal funds. Additionally, the amendment would clarify that contractors who claim products are American-made when they are not would lose the ability to receive future contracts from the state for a one-year period. I believe that LB923 represents a commonsense starting point as we look to update our state procurement policies, and I would be happy to work with the committee going forward to address any concerns from state agencies that would implement the new procedures in LB923. Thank you for your time and I'd be happy to answer any questions you may have. [LB923]

SENATOR AVERY: Let me start. Are you concerned about whether or not a...should this become law, whether or not it might lead some of our trading partners, people who now buy Nebraska goods, to do likewise? Canada, for example? Mexico? [LB923]

SENATOR MELLO: Senator Avery, that's a good question and one that's always up for debate, I think, depending upon one's perceptions of what free and fair trade actually means in regards to international economic policy. I would argue that the United States has the most open market in the world, a position that's backed by our massive trade deficit with other nations. Countries and states currently have some procurement policies like this on the books and countries like China, India, Russia, and Brazil, and other nations currently block our exports in regards to their own countries' procurement policies that mirror similar Buy American or, in their instance, Buy Indian, Buy China, Buy Russian, Buy Brazil procurement policies. And so I think to that extent there's not an awful lot of complaints coming from those countries in regards to accessing our markets because they currently do, as I mentioned, due to our enormously large trade

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deficit. In respects to NAFTA countries, Canada and Mexico, one could argue that that could have a potential impact. But Canadian provinces as well as cities within Canada, we researched that they have similar Buy Canadian procurement policies as well. So the reality is, is it's a policy that countries have adopted at their national, state, and local levels. This just I think brings Nebraska in line with the federal government of harmonizing our procurement statute, at least with the committee amendment AM1776 with public infrastructure projects as it regards to iron and steel exclusively. [LB923]

SENATOR AVERY: Well, I know that you are familiar with the Smoot-Hawley Act of 1929 because you took my class and we talked about it. (Laughter) And you also are aware that that set in motion a train of events where we got into trading wars with our...or actually tariff wars where we put tariffs on our products, then our trading partners put tariffs on their products. We weren't buying theirs but they weren't buying ours and that help set the table for the Great Depression and we should have learned something from that. Don't you think that Buy America legislation is similar to that and could lead to the same sort of dire consequences? [LB923]

SENATOR MELLO: Senator Avery, respectfully, I acknowledge...yes, I remember those courses and your education of me and some of your classes that we discussed this issue and I think one could argue that the policies under LB923 are limited in scope. We actually...it's funny you mentioned the broader issue, I think, of whether or not we would be able or we would engage, I think, in a much broader economic, international economic trading war so to speak, because I received just such an e-mail from a company based out of Omaha recently, right this morning, right before the testimony that once again raised the question that we didn't completely address, I think, in LB923, is in regards to state governments already having local bidding preferences. It might not guarantee that you have to buy...you might not have to buy the product from the United States or buy the product from the state of Nebraska, but giving preferences to companies located within certain geographic areas in which the United States does that currently through a variety of procurement both at the federal and through state and local ordinances and laws. I would argue that currently our massive trade deficit proves that our open markets right now, we are suffering, I think, due to the lack of policies like what is in LB923 that ensures that our American-made manufacturers compete on a semi-level playing field in comparison to China, Brazil, Russia, or India not just in regards to the environmental and working standards that currently don't exist in these other countries, but more importantly, I think, the general ability of flexibility we give to state agencies to consider the location of the company here in the United States. Ideally we'd like to see that narrowed to Nebraska or give a special preference to Nebraska companies. We didn't go there in this legislation but as I mentioned before I'd be open to working with the committee to explore that issue as much as anything else on the Buy American provision. [LB923]

SENATOR AVERY: Would you also be willing to work with the committee on some of

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these exceptions, for example a 10 percent increased cost on a \$50 million project? That's five million bucks. That's a lot of money. [LB923]

SENATOR MELLO: You're absolutely right, and I think it's worth noting that the federal exemption is 25 percent. We...and I think in this trying to provide, I think, a more commonsense perspective allowing a little variance, so to speak, for an American-made company that's producing iron or steel, we felt a 10 percent exemption...we thought was reasonable in regards to trying to provide American manufacturers that ability to provide a bid that, yes, may not be the lowest cost bid but it does have what I feel is a stronger economic impact in not only a Nebraska economy but the United States' economy by spending, let's say, an additional 1 percent on iron and steel where we know those dollars that we would be spending on purchasing those products would be recycled faster through the American economy instead of shipping those dollars over to a Chinese or an Indian company. [LB923]

SENATOR AVERY: I would... [LB923]

SENATOR MELLO: So yes, I would be willing to work with that exemption, but that's...to give clarification, the federal exemption is 25 percent. We...our bill is not harmonized with that 25 percent; we go 10 percent. But we would be willing to look also at a lower percentage if the committee wants to explore that issue. [LB923]

SENATOR MELLO: I would point out that Buy America federal law was passed in 1933 in the middle of the Depression. [LB923]

SENATOR MELLO: And expanded under President Reagan in 1982. [LB923]

SENATOR AVERY: Senator Price. [LB923]

SENATOR PRICE: Thank you, Senator Avery, and the education is awesome. On the face of it I agree with you. I might as well say that. But I was reading through it and I found something, I don't know if you want to address it or not, on page 5, line 9, on the green copy. It says "newspapers of a general circulation." I don't know that we have any of those anymore. [LB923]

SENATOR MELLO: (Laugh) [LB923]

SENATOR PRICE: So you might want to look at...you might be hamstringing yourself there right from the git-go. And we're seeing that in other venues, so that's my input. [LB923]

SENATOR MELLO: Thank you. [LB923]

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SENATOR AVERY: Senator Seiler. [LB923]

SENATOR SEILER: Senator, do you have a round number that you think is the contracting value you're talking about with steel and other products that would fall under this bill for a state contractor? [LB923]

SENATOR MELLO: Senator Seiler, that's a great question, and looking at the Legislative Fiscal Office's fiscal note, that essentially to some extent is unanswered. I think the last sentence of the fiscal note from our Fiscal Office says, "The full impact of the bill's provisions cannot be determined at this time." [LB923]

SENATOR SEILER: I was hoping you would do better. [LB923]

SENATOR MELLO: (Laugh) At this point, sometimes I guess...sometimes all we can do is rely upon, I guess, what state agencies may give us or may not give us. And I think in this instance by putting that 10 percent exemption, unfortunately most agencies automatically assumed that goods would cost 10 percent more. We have plenty of research that we can provide the committee afterwards not only from the Alliance for American Manufacturing, but for the record, ABC News did an extensive special national broadcast news in regards to various American-made products and goods that actually cost less than Chinese or other foreign goods, which it all depends on whether or not consumers are looking for those goods. And so while those are anecdotes, Senator Seiler, I think it does provide a glimpse in the sense that state agency procurement processes can be changed to give preference to American-made products without the product actually costing more. It's simply a matter of...and as this committee knows from dealing with procurement issues and government contracts, it's more a matter of whether or not those agencies seek to put those parameters in place and provide that information out to American-made manufacturers who actually produce iron and steel for products. [LB923]

SENATOR SEILER: The answer is no. [LB923]

SENATOR AVERY: Senator Janssen. [LB923]

SENATOR JANSSEN: Thank you, Chairman Avery. Thank you, Senator Mello. And I, like Senator Price, agree with the title of the bill and I also agree with Senator Avery that your bill probably will throw us in the Great Depression again, but just kidding about that. (Laughter) My first question was actually answered with the amendment. I thought it might be going down the wrong road with the manufactured goods and it was on the first page. So turn your attention to the third page, and I'm in line 9 just to make it simple, and you had mentioned "Public works means any structure, building, highway..." I want to...being a member of the Transportation Committee, I want to concentrate on "highway." With it costing up to 10 percent more or 9 percent more, I mean that's

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significant in the highway budget. In this case, do you see it leading to I guess less construction and maintenance of roads and in some cases then killing jobs in the construction industry? [LB923]

SENATOR MELLO: Well, thank you for the question, Senator Janssen. And while I politely...respectfully disagree that this would cause any recession or Great Depression to my friends and colleagues--Senator Avery, yourself--the provision actually, as I mentioned in the testimony, the Department of Roads, where highways would currently be financed and funded, currently already buy all American-made iron and steel. So in theory, using both state tax dollars and federal tax dollars, there would not be a cost, additional cost, so to speak, to any highway project or reduce, I would say, any job creation activity that would come on behalf of this legislation to the contractor who received the bid, so to speak. More than anything else, if you look through the fiscal note, with the amendment, and understanding where the Department of Roads came through explaining they already do this, the underlying issue would affect probably more than anyone else would be the state colleges, the University of Nebraska, and any other state agency that does any kind of construction projects, building or otherwise, where they would use iron or steel. So I think for that component I don't see that having an impact on highways or job creation, so to speak, on the highway end because they already currently do it according to their fiscal note and to the research we've done. [LB923]

SENATOR JANSSEN: So do you think even with subcontractors dealing with the Department of Roads or highway construction, they would be, I guess, adversely affected by this, that would also, I guess, hinder jobs and job creation and roadways being built? [LB923]

SENATOR MELLO: You know, all I can do, Senator Janssen, is direct you and the rest of the committee to the fiscal note provided by the Nebraska Department of Roads, and it's revised January 23, 2012, where the second paragraph states: Currently, FHWA criteria requires a Buy America specification on all federal aid projects for iron and steel manufactured items that are permanently incorporated into the construction project. The Department of Roads utilizes these requirements in all projects including state-funded projects. I guess in my mind that should answer your question, I hope. If not, you might have to seek...I think seek more clarification from the Department of Roads, because it's our interpretation that LB923 as amended doesn't affect the Department of Roads at all because they currently already do this practice. [LB923]

SENATOR JANSSEN: Okay. I'm on the same page in line 14. You just mentioned "rail rolling stock." What does rail rolling stock mean? Same page, line 14, page 3, the very last...does it mean trains? [LB923]

SENATOR MELLO: Trains. [LB923]

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SENATOR JANSSEN: So any... [LB923]

SENATOR MELLO: Train rails. [LB923]

SENATOR JANSSEN: So any train rails have to...I'll be...I've got a few more questions. On page 4, line 8, it says...I'm just picking up middle sentence, "...taken place in the United States, regardless of origins of its subcomponents." So if we had a Toyota, for instance, they could build all their components or we could send...well, let's use the Vise-Grip plant. They could send and make and manufacture all their parts in China as long as they came back to DeWitt or Tecumseh or wherever and made them there; they would fit under this act. [LB923]

SENATOR MELLO: Under the amendment which clarifies it specifically to iron and steel exclusively, regardless of example of company or where it's coming from, if for some reason the materials or the minerals and the mineral ores that were used, so to speak, divided in another country, sent as separate ores to the United States and melded in the United States to create the iron or steel, that would qualify then under this act. But since the amendment specifically removes manufactured goods, we're talking exclusively iron and steel for public work projects. So I think to answer your question, I think unless the mineral ores that are used to create iron and steel are both, I would say, separated, mined and separated and then melded together in a foreign country, that would not qualify. But if they were mined, separated, brought to the United States as raw materials and melded at an American-made steel plant, that would be considered American-made. [LB923]

SENATOR JANSSEN: So if I was working on a...at a state college--I went to Wayne State so I'll use it--and if I'm using a wrench that was made in China, am I in violation of the Build America (sic--Buy American) Act? [LB923]

SENATOR MELLO: Once again, it's not involving wrenches or manufactured good. It's purely iron and steel in regards to the construction of public works. [LB923]

SENATOR JANSSEN: As written though? [LB923]

SENATOR MELLO: As written, I guess...I guess the question is...is the written copy has been dramatically changed by the amendment, so I guess it's more of a hypothetical conversation to be having, since the new legislation is AM1776. [LB923]

SENATOR JANSSEN: As soon as it's adopted. [LB923]

SENATOR MELLO: Just in general it changes the legislation dramatically, so the green copy is... [LB923]

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SENATOR JANSSEN: Okay. Well, I agree with you. I agree. [LB923]

SENATOR MELLO: The green copy is problematic in the sense of we did not provide, I think, as great a detail and clarification of what manufactured good was in the bill statutorily. Also, in talking with other entities, while yes, we would like to see American-made bolts and nuts made and utilized in construction projects, that ultimately can be somewhat problematic for exactly the point of subcontractors perhaps running to a convenience or a hardware store to get products for the day because of an emergency and have to verify that these were made American. We simply took a step back, realized while that would be the best intention, good public policy shows that this is done well at the federal level with iron and steel exclusively; we moved exclusively to iron and steel through the committee amendment which dramatically changes the bill. [LB923]

SENATOR JANSSEN: Well, I thank you for that answer. I totally agree with the committee amendment, and that did clarify a lot of questions that I did have. On page 4...I'm just going with line 23. It says, satisfactory...well, the whole thing is...if you can read this, it says "satisfactory quality," and that's kind of talking about your...are you on line 23, "satisfactory quality?" I...who's...how do you prove that? What's the...and that's in three provisions of... [LB923]

SENATOR MELLO: That's left up to the state agency. [LB923]

SENATOR JANSSEN: The state agency will decide if it's... [LB923]

SENATOR MELLO: The state agency... [LB923]

SENATOR JANSSEN: Okay. [LB923]

SENATOR MELLO: ...can provide if they get a bid back and say that they can't find satisfactory iron or steel for a construction project, they can provide notice that they do not have to follow these provisions. It's an exemption. It's a flexibility that we build into the bill to allow the state agencies to determine what products they ultimately feel are the highest quality they need to construct a building or a public works project. [LB923]

SENATOR JANSSEN: And then just going to the top of page 5, line 1, finishing the sentence, "...the overall project contract by more than ten percent," which you had indicated. Does that include in the 10 percent the staff time that it's going to take or is that just the actual product cost? [LB923]

SENATOR MELLO: That's left up to the actual project contract. That's left up to the bid, depending upon the state agency, in regards to how they put their contract bid out. So

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once again it's, more than anything else, the contract that they would put out to the public can't be more than 10 percent to buy American; or if it is, they can ask for an exemption from it because it would cost more than 10 percent. [LB923]

SENATOR JANSSEN: So it doesn't really...it could cost 9 percent more but they spend...the agency could spend 5 percent more on their staff time trying to figure out what to use but that would still qualify under your build America? [LB923]

SENATOR MELLO: I guess I'm not fully...I guess I'm not fully understanding the logic premise of the question of not really involving staff time. That's not really, quote, unquote, part of the contract, so to speak. If you are contracting as a state agency to a company, you're not incorporating your costs into the contract that they're providing. You're actually contracting for them to provide a service or product back to you. So I guess I'm just not...I guess I don't have that...I can't answer your question because I don't understand how that logic would... [LB923]

SENATOR JANSSEN: Well, I guess as an agency I'm talking to the taxpayer, us taxpayers to the agency. If I'm the Department of Roads and now I have to jump through all these hurdles and it's like, well, do I have to decide if this is satisfactory quality? Do I have to decide if it's within 10 percent? If...and maybe that's...I see the Director of Roads here. They'll probably answer that. Would that be much more burdensome on them in their industry? Would it cost more? And I guess it's not on the contract. I'm just looking at the...we always look for the unintended consequences of legislation; that's what I'm kind of looking for here, so. But thank you for your answer. And I did agree with the...I had the same question Senator Price had on the newspapers. But I notice you did put "or" in there for that... [LB923]

SENATOR MELLO: Yes. [LB923]

SENATOR JANSSEN: ...which could make our friends at the NPA a little upset. They probably would want "shall" in there. On page 5, line 14, you said within "fifteen days." Is that...how did you come to that 15 days for time? Is that reasonable? And I'm asking that now so maybe people behind me can answer that question...that I wanted to know how you came to that. [LB923]

SENATOR MELLO: The 15 days..."for a reasonable period of time not to exceed fifteen days" is roughly two weeks. And you classify determining it is three business weeks, so to speak, Monday through Fridays. That could be negotiated. I think the reality is that we want to provide an avenue so that it wasn't going to, quote, unquote, slow down a project so long or delay projects or give the appearance that it was going to delay projects dramatically to have to follow what we feel is a very commonsense proposal. That time, if you or the committee feels that the time should be shortened, by all means I'm amenable to that. It's something that in devising the 15 days it's what other states

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have used and the federal government has also looked at that time period of providing an ample time for feedback, so. [LB923]

SENATOR JANSSEN: If this were to pass as amended--this just kind of came to me--how would this affect hopefully what will happen so we can put workers back to work? I know there's a lot of good union jobs waiting for the Keystone XL pipeline. How would it affect that? [LB923]

SENATOR MELLO: If...I...Senator Janssen, I guess the best way to answer that is if our state agencies are in the process of building any kind of pipelines, which they would be the ones doing the contracting for this, then somewhere along the lines they may have to purchase iron or steel for a public works project. But... [LB923]

SENATOR JANSSEN: Right, and I get it's a state agency. But I... [LB923]

SENATOR MELLO: But I mean I think the reality is that this is not a procurement issue that would affect a private company, so to speak, who's building a private construction or public works project such as a building or a pipeline or, you know, a privately funded monorail or highway or bridge. This only affects state agencies that would have to follow this procurement process. [LB923]

SENATOR JANSSEN: So you kind of answered my question: is not at all. [LB923]

SENATOR MELLO: No. [LB923]

SENATOR JANSSEN: Right. Okay, thank you. [LB923]

SENATOR AVERY: The university would be considered a state agency in this bill. [LB923]

SENATOR MELLO: Yes. Yes, and they have submitted a fiscal note as well. [LB923]

SENATOR AVERY: Yeah, I saw that. That...pretty hefty too. [LB923]

SENATOR MELLO: I think it can all be debated, Senator Avery. It can always be debated. (Laugh) [LB923]

SENATOR AVERY: Everything can. Senator Wallman. [LB923]

SENATOR WALLMAN: (Laugh) Thank you, Chairman Avery. Thank you. I'm proud to be an American. And number one, I don't think there's a country has steel as good as ours. Welders tell me this. And that should have been on the Keystone pipeline: American. And in Alaska it wasn't all American. I know a welder. It almost leaked from

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day one. I'm not going to say where it came from; you probably know. And so yeah, the cost really is irrelevant here if you have to work on it right away. It could be 40 percent, 30 percent. And some other things are probably different, but steel for major projects is important. Thank you. [LB923]

SENATOR AVERY: Senator, isn't it true that America really doesn't make a whole lot of iron and steel anymore, and that most of it comes from South Korea? [LB923]

SENATOR MELLO: (Laugh) Well, Senator Avery, I think that...once again I think that's debatable in the sense of regards to the growth, I would say, in the iron and steel industries without getting in a very longstanding philosophical debate in regards to tariffs and tariffs on iron and steel industries. The opportunities exist, I think, for the manufacturing industry of iron and steel to grow under procurement policies like this. I think...Senator Wallman's comments I think ring true, I think, with some of the testifiers who will come in support of the bill, is that this is...the backbone of American infrastructure is the iron and steel that we use to construct buildings, to construct roads and highways, bridges, railroads. And it seems only fitting that we would want to ensure as a state utilizing state tax dollars that we want to see those tax dollars reinvested in American companies hiring American workers to produce an American good that ultimately we as Americans will benefit the greatest from, so. Hopefully that answers your question. [LB923]

SENATOR AVERY: That's good enough. I'm not going to badger you. (Laughter) Any other questions from the committee? Thank you. [LB923]

SENATOR MELLO: Thank you. [LB923]

SENATOR AVERY: I think you should stay around for closing. Proponent testimony. Mr. Mass. [LB923]

KEN MASS: (Exhibits 3 and 4) Senator Avery, members of the committee, my name is Ken Mass; that's M-a-s-s. I am representing the Nebraska AFL-CIO today and in support of LB923. I'm passing around a letter and also some talking points. I'll get into the letter and you can have the talking points for yourself. Domestic content preferences work to maximize the use of American steel, concrete, glass, rubber, and other manufactured goods in the construction of public buildings and for roads, bridges, sewers, schools, and other infrastructure projects. To realize the job creating and economy-expanding potential of Buy America preferences in our procurement laws, it is important that the preference apply to all manners of state infrastructure and spending programs in a way that maximizes domestic content and does so with full transparency. Waivers are available to account for short-term limitations in instances where availability or poor quality or unreasonable cost merits the sourcing of materials from outside the United States. When applied effectively, Buy America works to create more jobs in the

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United States. According to an Alliance for American Manufacturing report entitled "How Infrastructure Investments Support the U.S. Economy," 18,000 new jobs would be created for every \$1 billion in new infrastructure spending on our nation's transportation, energy, water systems, and public schools. Yet, of greater importance, when the use of U.S.-made materials is maximized with a strong Buy America provision, manufacturing employment gains from infrastructure investment increases by up to 33 percent. Using hard-earned tax dollars to create jobs in Shanghai and Bangalore would be unwelcome news to the American public. As such, public support for Buy America laws could not be stronger. Ninety-one percent of voters say they support policies to ensure that their tax dollars are used to buy American-made materials. That includes 94 percent Democrats, 88 percent Independents, and 90 percent Republicans and 89 percent of Tea Party supporters. Senator Mello is to be strongly commended for his introduction of Buy America legislation in Nebraska. Passage of a strong preference that includes transparency measures will ensure that it is enforced and not ignored by the administering agencies. One way to improve upon existing language in the bill would be to increase the unreasonable cost threshold under which a waiver from the Buy America preference may be granted. LB923 allows a waiver when using the U.S.-made results in the project's overall cost increasing by 10 percent. This threshold is fairly low compared to the Buy America preference used by the federal level by the U.S. Department of Transportation, which is 25 percent unreasonable cost threshold for waivers. The federal statute has been in existence since President Ronald Reagan signed the preference into law in 1982. The law has been working well for 30 years and has been effective at creating American jobs when tax dollars are spent. The lower threshold in the pending bill has the potential to allow for more state procurement from China and other foreign countries. Transparency in public procurement is an important tool to deter corruption and to maintain the public trust in government contracting. Taxpayers deserve an open and transparent accounting of how and, importantly, where their tax dollars are being spent. With respect to the Buy America preference, the inclusion of transparency measures is critical to ensuring that the law will be adequately enforced. The Alliance for American Manufacturing has identified three ways to boost transparency: (1) provide for a transparent accounting of all the spending on foreign and domestic goods in state procurements, including the amount spent on particular goods and where they were purchased from; (2) require that all requests for waivers of the Buy America preference be posted on-line for 15 days so that the domestic suppliers can comment before tax dollars are shipped overseas; and (3) permit those who bid on state procurements to disclose the number of American jobs that would be created or support if their bid would be accepted by the state's contracting officer. For those reasons...and you've got the talking points you can go over yourself. A lot of those were in my presentation. I'd feel free to answer any questions. [LB923]

SENATOR AVERY: Thank you. Senator Price. [LB923]

SENATOR PRICE: Thank you, Chairman Avery. Thank you, Mr. Mass. I can't believe

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how much of the...it makes my heart happy, to be honest with you. [LB923]

KEN MASS: Thank you, Senator Price. [LB923]

SENATOR PRICE: But I did have a question for you. Can you size that domestic supply that's used in Nebraska right now or that is in use? In other words, if the total amount of steel and iron used in Nebraska in a given period of time is, you know, 200 tons, 200 million tons, whatever that number is that we're getting, right now 90 percent of it is not coming from American manufacturers? [LB923]

KEN MASS: I can't give you an actual percentage is how much came not from U.S.A. manufacturing. But I can tell you there is a, as we have lost...as Ash Grove. Senator Avery (sic--Senator Mello) talked about Ash Grove in Louisville. I don't know if anybody has ever been down to that plant, but for a while it was shut down. They were importing concrete in bags from China. And now they have brought all that back and they're doing it back in that plant, so... [LB923]

SENATOR PRICE: And it helps me to size the level of effort when we look at this. Some people may say, well, if I look at on those national scales, it's insurmountable. But I'm...we're focused here in Nebraska. And how much steel and iron is being used in construction projects in Nebraska? We understand roads is already covered. So outside of that, how much is the state doing? Maybe it doesn't represent itself either through the fiscal process or the PR process as really being that large as compared to the whole. So that's my question. If you can find it at another time or someone else has it, I would appreciate that. [LB923]

KEN MASS: Okay. I'll see if I can get some numbers for you, okay? [LB923]

SENATOR PRICE: And the other thing is I've heard lately through the efforts for the sewer separation effort and other things up around Milwaukee and Detroit, where the iron and steel business is kind of coming back, they don't have a supply of workers who are feeding it. This is a shortness of the supply. So would it be feasible that within all of this that we do and everything that your organization does, that we work to bring vocational education back to Nebraska? [LB923]

KEN MASS: That would be great. [LB923]

SENATOR PRICE: Thank you. [LB923]

KEN MASS: That would be outstanding. This is a tidbit. My father-in-law worked in the coal mines and the steel mines in Pennsylvania. [LB923]

SENATOR PRICE: That's where my family came from. [LB923]

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KEN MASS: And it's sad for him to go back there periodically and to drive through that area. He remembers the hustle and bustle and it's sad. But there again it's coming back. Different materials but it's coming back, so yeah. [LB923]

SENATOR PRICE: Thank you. [LB923]

SENATOR AVERY: You don't see this as a remedy though. [LB923]

KEN MASS: It's a start. It's a start. We could have Avery Concrete Company being formed, huh? [LB923]

SENATOR AVERY: (Laugh) Any other questions for Mr. Mass? Thank you. [LB923]

KEN MASS: Thank you. [LB923]

SENATOR AVERY: Thank you. Any other proponent testimony? Welcome, sir. [LB923]

GARY SCHAEFER: Thank you. This is the first time I've ever done something like this, so don't please kick me out if I do something wrong. [LB923]

SENATOR AVERY: Just spell your name so we know who you are for the record. [LB923]

GARY SCHAEFER: Gary Schaefer, S-c-h-a-e-f-e-r. I am vice president of the United Steel Workers Local 286 which represents Veyance Technologies which used to be Goodyear Tire and Rubber. If there is ever a facility...and when somebody starts talking about Buy American, as a facility, our membership, everybody associated with us, we always encourage Buy American. We've lost about 1,300 jobs approximately in the last 15 years. A lot of it has to...I have nothing against the Chinese, the Mexicans, and all the other stuff, the other populations around the world that are producing this stuff, but we have lost a lot of jobs over here on North 56th Street and it had everything to do with that. With my knowledge of going into negotiations, which some of the stuff I can't say because they were a proprietary information when we was doing negotiations, they could actually produce stuff in Lincoln, Nebraska, for the same cost as they could in China if you figured in the logistics as far as the transportation and all the other stuff. So there's a lot of things that come into play where that's at. Why the decision always has been made to move it overseas, I don't know. I guess that's another debate. But I am fully in favor of LB923. I applaud Mr. Mello for bringing it to the forefront. As far as one of the questions...and I've been sitting and listening and trying to fathom--this is the first time I've been to a hearing--but at some point in time, in my estimation, the mentality has to change as far as this Buy American thing, the 10 percent. I don't know what the magic number is that you guys talk about, but the more people you put back to work as

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taxpayers would benefit all of us. So the more people you have, it would be a snowball effect. Okay, so the guy is paying taxes. Could you imagine...our mayor would really like it if there was 1,300 more people working over at Goodyear because of the payroll taxes, the sales taxes, and everything else is going...that would be going on. So I don't know, I guess as a whole I'm in favor of LB923 and I wish you folks would take a serious look at it. [LB923]

SENATOR AVERY: Thank you. Questions? Senator Wallman. [LB923]

SENATOR WALLMAN: Thank you, Chairman Avery. How do you feel...how can corporates, you know...I know some of the things, the benefit packages, some of these countries have national healthcare and stuff. So we really can't compete on a level playing field in that, our corporates, do you think? [LB923]

GARY SCHAEFER: In some instances, yes, we can. It has somewhat something to do with the benefits and the packages and stuff and I can give you an example and I'm proud of it. Here in Lincoln, we took away from China washing machines, dryers, and belts because of the logistics part of it. There was a sense for a long, long time, personal perception that it was to please the people on Wall Street, the bankers. We're over there, we're doing what you guys want; we're trying to cut costs by doing it over there when in reality you can still do it over here. But it was to appease a certain segment of the population and I...just personal opinion. But we actually have taken some work away from China. [LB923]

SENATOR WALLMAN: Thanks for coming. [LB923]

GARY SCHAEFER: Thank you. [LB923]

SENATOR AVERY: Any other questions? Thank you, sir. Thank you, Mr. Schaefer. [LB923]

GARY SCHAEFER: Thank you. [LB923]

SENATOR AVERY: (Exhibit 5) Any other proponent testimony? I do have a letter of support from Kim Quick, representing the General Drivers and Helpers Local Union 554 to enter into the record. Any opponent testimony? Welcome, sir. [LB923]

MONTY FREDRICKSON: (Exhibit 6) Good afternoon, Chairman Avery, members of the committee. I am Monty Fredrickson, M-o-n-t-y F-r-e-d-r-i-c-k-s-o-n. I am the Director-State Engineer of the Department of Roads. I am here to testify in opposition to LB923 as written. I will caveat some of our remarks because we were not aware when we came down this afternoon of the potential amendment, so that may alleviate a number of our concerns. Existing federal law does have Buy America requirements for

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all federally funded highway and bridge projects for iron and steel materials that are permanently incorporated into projects. And I will come back and talk about permanently incorporated in a minute. The Department of Roads utilizes the federal Buy America requirements on all projects, including state-funded projects. LB923 as written requires that all public works projects incorporate iron, steel, and manufactured goods produced in the United States for construction, reconstruction, repair, improvement, or maintenance of our highways, bridges, and buildings. It goes on to talk about the definition of manufactured goods and the components. While the department's fiscal note indicates an increase in expenditures of an estimated \$2 million, there are several areas of concern with LB923 as it is currently drafted that could affect NDOR's estimate. First, the distinction between components and subcomponents in the manufacture of goods is not clearly defined. That concern may go away if the amendment eliminates manufactured goods. That was one of our biggest concerns. We didn't obviously have much concern with iron and steel because we are currently buying America in all of our projects. Two, we spend about \$50 million a year in supplies and materials used to maintain and operate our highway system from a maintenance standpoint. We were thinking those supplies and materials would be subject to this, being manufactured goods, so again that would not be the case if the amendment limits this to just iron and steel. The third point was that the goods used or supplied in the performance of a contract shall be manufactured in the United States. This phrase, "performance of the contract," is not defined and is inconsistent with federal Buy America requirements that are only for materials that are permanently incorporated into the project. So that does need to be very clear that if you are using, in the case...if manufactured goods was still a part of this bill, then if you use plywood as a temporary form to build a bridge, that would have to also comply with these requirements as written. However, the federal government says that is not a material that is permanently incorporated into the work. It's only the steel that is embedded in the concrete deck and the piers that has to be Buy America. So we would like to see that clearer. And then we had the concern that even the equipment that the contractor used would have to be Buy America. But again, if we're limited to iron and steel, then we wouldn't have a concern there. And we had a concern about the term "contract" if manufactured goods was still a part of this. So I think that's clear enough if we're talking just iron and steel. And we also had a concern about the violations by any contractor, that they would be banned from bidding. And if I heard Senator Mello correctly, he has proposed an amendment there that would provide some recourse or due process for the contractor and it wouldn't be a lifelong issue. This concludes my remarks and I'd be happy to answer any questions. [LB923]

SENATOR AVERY: Thank you. Questions? Senator Seiler. [LB923]

SENATOR SEILER: I just have one. When you are talking about buying American steel for the roads for the rebar and things like that, are you also talking about buying in Nebraska? [LB923]

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MONTY FREDRICKSON: No, it's just Buy America. [LB923]

SENATOR SEILER: You know, are those products available in Nebraska for, like, from NuCor and places like that? [LB923]

MONTY FREDRICKSON: I believe so. [LB923]

SENATOR AVERY: Okay. Senator Janssen, did you have a question? [LB923]

SENATOR JANSSEN: Just thank you for your testimony. And if this were amended with AM1776, would you think the Department of Roads would find itself in a neutral or favorable position on this? Or can't you say just on the fly here, but just assuming it's amended or...? [LB923]

MONTY FREDRICKSON: Well, I haven't seen the amendment, but the fiscal impact for us was all about the manufactured goods issue and us trying to estimate how much staff time it would take to keep track of this and prove that these products were made in America and then the potential extra cost of those, trying to figure out what percent of our contracts would that involve. So yes, it is certainly...the potential is there that we would be neutral on this if those things are taken away. [LB923]

SENATOR AVERY: Perhaps Senator... [LB923]

SENATOR JANSSEN: Thank you. [LB923]

SENATOR AVERY: ...we'll get that in the closing. He might be able to answer some of those questions. Any other questions from the committee? Thank you, Mr. Fredrickson. [LB923]

MONTY FREDRICKSON: Thank you. [LB923]

SENATOR AVERY: Any other opponent testimony? Welcome, sir. [LB923]

STEVE HOTOVY: (Exhibit 7) Good afternoon, Senator Avery and members of the Government, Military and Veterans Affairs Committee. My name is Steve Hotovy. That's spelled S-t-e-v-e H-o-t-o-v-y, and I am the administrator for the 309 Task Force for Building Renewal of Administrative Services and I'm here today to provide testimony in opposition to LB923 as written. Our agency has not seen the amendment. Our opposition to this bill is based on the experience that efforts to create preference for procurement of goods and services usually generates retaliatory actions on the parts of others. This legislation would add new complexity to procurement processes used by state agencies, boards, and commissions. The required process would be more labor intensive, increase the amount of time it takes to complete procurement transactions,

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and would increase overhead costs associated with procurement. This would in turn decrease the number of potential and eligible vendors interested in providing goods and services to the state, which in turn would ultimately increase acquisition costs for these goods and services. The negative impact on construction procurement would be similar to that for goods and services. Fewer contractors willing to meet the requirements of the proposed bill and fewer building materials and products eligible to be utilized for state construction would lead to higher construction costs. LB923 allows up to a 10 percent increase in total project cost before a waiver process is initiated. Cost increases in this percentage range add up to significant amounts of money that will cause a decrease in the number of projects undertaken. This would likely have the negative effect of deferring important life-safety and energy efficiency projects. The allowable increase of up to 10 percent is in conflict philosophically with existing state statutes that require award of construction contracts to the low responsible bidder as well as the reality of the global marketplace. In addition, the added responsibilities for monitoring the requirements of the bill and advertising the results of the waiver process results in higher operational costs. In conclusion, we believe the passage of this bill would have a negative impact on the costs and efficiency of state government. I'd like to thank you and the committee for the opportunity to testify today and I would be glad to try and answer any questions you may have. [LB923]

SENATOR AVERY: Thank you, Mr. Hotovy. Senator Price. [LB923]

SENATOR PRICE: Thank you, Chairman Avery. Thank you, Mr. Hotovy, for testifying. Am I to understand that you're saying that there's going to be...that this is going to be a market driver during your market surveys and your acquisition strategy? So you're going to go out on an acquisition...I'll slow that down. [LB923]

STEVE HOTOVY: Yeah. [LB923]

SENATOR PRICE: You're going to go out on an acquisition. And part of that acquisition, you're going to have a market survey. Hopefully, your people are out to find who can build and construct these buildings. And then when you're in that portion, you're saying that there would be a significant burden for them to go find out who could comply with the Buy America and buy American steel? [LB923]

STEVE HOTOVY: The bill as originally written... [LB923]

SENATOR PRICE: Right. [LB923]

STEVE HOTOVY: ...was pretty all-encompassing. [LB923]

SENATOR PRICE: Right. But now with the amended one, knowing that we're just looking at steel and ironwork, would you...could you proffer that that might be somewhat

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modified because you're not looking at everything, you're looking at the iron and steel, and your acquisition expert is already in a market survey and able to narrow the parameters of it? [LB923]

STEVE HOTOVY: Conceivably. But I wouldn't want to comment until we actually read the amendment. [LB923]

SENATOR PRICE: I understand. Thank you. [LB923]

SENATOR AVERY: And the amendment hasn't been adopted yet by the committee, so it still is not actually proven. [LB923]

SENATOR PRICE: It's still the green copy. [LB923]

SENATOR AVERY: Any other questions from the committee? Thank you, sir, for your testimony. [LB923]

STEVE HOTOVY: Thank you. [LB923]

SENATOR AVERY: Any other opponent testimony? Welcome. [LB923]

CURTIS SMITH: Well, thank you. Thank you. Senator Avery, members of the committee, my name is Curtis Smith, C-u-r-t-i-s S-m-i-t-h. I'm the executive director of the Associated General Contractors, Nebraska Chapter, and I come here in opposition again of...another in opposition to LB923 as written. I want to qualify that. First of all, I am here really...two things I want to do. First, I want to thank Senator Avery and his staff because I was the one that went and we talked yesterday and perhaps it wasn't soon enough, but it pointed out some of our concerns. And those concerns I think have already been addressed and I appreciate what he did and I...if the amendment were here we could probably all of us simplify this some. But I think Director Fredrickson addressed very similar things to what a contractor would be concerned with. We, I think, all are in favor of the Buy American clause in itself and thinking we are going to create something here and continue the manufacturing goods and so on within the United States and we appreciate that effort. I think we want to mention two things. The ambiguities in the materials incorporated or just used, which I think has been clarified within the...will be clarified within the amendment. The second biggest concern we had was lack of appeal process or so on, on the debarment from bidding. As you would all know, a debarment for a contractor from bidding is a pretty drastic measure, especially if there's no term limit on that or no appeal process. But I think Senator Mello has indicated that he would address that within the amendment. We also had concerns...and I don't know how that would be addressed. Maybe it's not a problem with so many steel because steel carries mill certifications with it and are provided to the owner in a...in Nebraska highway specifications, anyway, they're provided to the owner

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in full of showing that they are melded and made in the United States. So that would be a moot point on documentation requirements if there were any long-term tracking of who's going to keep the records, who's going to be responsible for all those things. And I think all those have gone away, I hope, with the amendment. Again I want to...I would like to thank Senator Mello for his attention to the amendment, thank the committee for hearing my comments, and that concludes my testimony. If you have any questions, I would be offering to answer. [LB923]

SENATOR AVERY: Thank you. Thank you, Mr. Smith. Questions from the committee? I don't see any. [LB923]

CURTIS SMITH: Don't see any? [LB923]

SENATOR AVERY: No. [LB923]

CURTIS SMITH: Okay. Thank you. [LB923]

SENATOR AVERY: Okay. Thank you. Any more opposition testimony? Any neutral testimony? Welcome, sir. [LB923]

RICK WIPPERLING: Hello, Senator Avery, members of the board. My name is Rick Wipperling, W-i-p-p-e-r-l-i-n-g. I guess I'm probably not talking quite on point but my concerns are the same. We used to have crony capitalism. Now we have crony socialism by the fed and such. We have bailed out GM and I don't really like to see state vehicles that have a GM emblem on it or a Chevy. The GM business model didn't work and that's that. And they still owe us a great deal of money, so I would like not to see the state of Nebraska support a failed operation. The made in America also includes Toyota, Honda, VW, Hyundai, Mercedes, and others. GE never paid any taxes last year. I know 50,000 pages was their tax return. Mr. Immelt is the CEO of GE and the member of the business alliance crony capitalism. The Chevy Volt has been approximated at \$250,000 each. In the Iditarod snow sled dog race, at that temperature, it would be about 23 miles per charge and the Chevy Volt would come in a day-and-a-half behind the lead dogsled team. Blue jeans can't be totally made in America because of the ink. The Jones Act, when the hurricane hit New Orleans, Bush lifted the Jones Act. We could receive help from ships from other countries. Obama did not lift the Jones Act. And there was a ship called "The Whale," the world's largest oil reclaimer from the ocean. It came all the way from the Far East and was unable to be used. It's kind of all I got. And steel, sir, I know a little bit about steel. I've read lots of mill certs. The steel from, say, NuCor, because they use recycled materials primarily, it's hard to get the grade down to where a guy can work with it by welding. A lot of it's 44, 45, and 36 is your blacksmith's ideal. And I don't believe NuCor has a billet to make rebar. They make hot rolled rounds and I-beams and I don't think they make angle irons. That's really all I have today. Thank you. Any questions? [LB923]

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SENATOR AVERY: Thank you, sir. Senator Wallman. [LB923]

SENATOR WALLMAN: Thank you, Chairman Avery. Thanks for coming. Do they use virgin steel then for high-quality pipe? [LB923]

RICK WIPPERLING: They don't make pipe. [LB923]

SENATOR WALLMAN: No. I meant in the South, like Alabama, isn't it? Birmingham? [LB923]

RICK WIPPERLING: Oh. [LB923]

SENATOR WALLMAN: I agree, recycled steel has... [LB923]

RICK WIPPERLING: Has some quirks to it, yes. But they're working well to get rid of those quirks and they're doing...they're coming a long ways but they still have some. We had a lot of Russian plate and...yeah, I worked at Norfolk Iron and Metal for a couple years and so I know about a lot of this steel that they had there and...yeah, and a lot of the steel mills are closed back East as everybody knows and the EPA can, you know, wipe their nose on that one. I'm sorry, but...and these electrical prices, we're going to take our...we're going to take the mercury out of the coal at a high-dollar price and we're going to take your mercury light bulbs and stick them in your kids' bedroom. That's what I think about that mercury business. Good day. Thank you. [LB923]

SENATOR AVERY: (Exhibit 8) Thank you. Any other neutral testimony? All right, I have a letter of opposition here from Mr. Jean Petsch, representing the Nebraska Building Chapter of the AGC of America. I don't see any more testifiers. Senator Mello, you're invited back to answer the questions that were raised by Mr. Fredrickson. [LB923]

SENATOR MELLO: Very brief, just to draw attention to the committee's...the fiscal note prepared by the Department of Administrative Services. The first line of the second paragraph does state this legislation has the potential to add to the cost of the goods. There is no way to project actual increased costs. I think it should be clarified in regards to what the testimony you heard from the Department of Administrative Services that their original assessment in the fiscal note was they could not project costs. So it was purely conjecture I would say in regards to their opinions of the green copy. But the underlying issue, as I mentioned in the opening and the questions from Senator Price, Janssen, Seiler, and Avery is I'm open to work with the committee, obviously. I think the underlying amendment harmonizes more than anything else the existing federal law that we have regarding iron and steel. As you heard from Director Fredrickson, the Department of Roads who in theory would be affected by this mostly, currently with the amendment already operates under that parameter. So the other entities that would be

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affected mainly by it would be the state colleges, the university, and the Department of Administrative Services if they are engaging in buying or purchasing iron or steel. So with that, I'll answer any further questions you have. Otherwise, I'd be willing to work with the committee on an amendment. [LB923]

SENATOR AVERY: I don't know if this is a fair question or not, because there were a lot of issues raised by the director of the Roads Department. And he often said, well, we don't know if the amendment addresses this. Can you shed some light on what your amendment actually does and how it might go...how far it might go toward answering some of the questions raised? [LB923]

SENATOR MELLO: Those who raised the opposition from the Department of Roads, the Department of Administrative Services, and the AGC, both Nebraska Chapter and the Building Chapter in opposition, mainly focused on the manufactured goods components that are in the green copy of the bill. Senator Janssen asked questions seeking clarification on that. The amendment removes the manufactured goods concept out of the entire bill, so the underlying bill focuses on iron and steel exclusively, which to answer essentially what Director Fredrickson, Mr. Hotovy, and others raised, that is where their fiscal note is coming...and impact mostly is on how to determine what manufactured goods are and ultimately to what Senator Janssen's question was: What's the level of, quote, unquote, manufactured goods? Are you talking a hammer, are you talking nuts and bolts, or are you talking rebar, whatever it may be? By removing that out of the underlying bill we're exclusively talking iron and steel. Where it could be, I guess, further clarification, Director Fredrickson said iron or steel that is implanted or permanently implanted or permanently ingrained within the structure. We could possibly clarify that language further, kind of mirroring the federal language in regards to what that iron and steel would be used for in public work projects. But the underlying opposition is mainly the manufactured goods component which under the amendment is removed. [LB923]

SENATOR AVERY: You are aware of the philosophical argument that if I make widgets and I can make them cheaper than you can and a higher quality and you make gadgets better than I can at a better price, that you ought to buy my widgets and I ought to buy your gadgets. That's the theory of comparative advantage; you know about it. Don't you think that Buy America really violates that basic fundamental economic principle? [LB923]

SENATOR MELLO: Senator Avery, I... [LB923]

SENATOR AVERY: Everybody is better when I buy from you and you buy from me. [LB923]

SENATOR MELLO: I think one can make an argument that the fundamental economic

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arguments or economic foundations in a globalized economy due to globalization already picks winners and losers based on existing developed or underdeveloped countries. I think the countries that I mentioned, China, India, Brazil, and Russia, have an unfair trade advantage in comparison to the United States in regards to some manufacturing of products. I think iron and steel is one product that by giving a reasonable, I think, commonsense preference, it's not guaranteeing that we're going to always purchase American-made iron and steel, but giving a preference first, understanding that these countries also have preferences to buy more of their own domestic products--I think it tried to level the playing field to some extent with our, I think, emerging and growing trade deficit. One could probably argue the complete opposite of what my interpretation is in regards to that international globalized economic theory, but that is why we have a democracy and that is why we are part of that democracy as a legislative branch. [LB923]

SENATOR AVERY: Okay. That's a good answer, but...(laughter). If...technically, we are in violation of the General Agreement on Tariffs and Trade with our Buy America policies at the federal level right now and we're in dispute with the GATT on that, so just for the record. Any other questions? Senator Seiler. [LB923]

SENATOR SEILER: I just have one. I know you do a lot of research on your bills and I appreciate that. Did you see any protocol on bidding where they gave the state the...that contract was being built in, to the first chance, and then they go up to the United States level after that? [LB923]

SENATOR MELLO: You know what, Senator? That's a good question and it's funny because that, more than anything else, we have gotten feedback from Nebraska companies in regards to looking at this bill of wanting to explore the issue further beyond iron and steel, because there's been issues raised of our current state procurement process that the Nebraska companies have raised concerns with. And if you give me the 30 seconds, the e-mail I received this morning from a company, Priority Data, based out of Omaha, Nebraska, they wrote, "I'm writing to you, as our company would like to express our interest and support in the concept behind your bill, LB923. Our company, Priority Data, is an outsource vendor based here in Omaha. All work is done in Omaha by local employees. We provide data entry and other clerical support functions. We bid on government work from around the country. We regularly find that many states either require work to be done in their state or offer a local state bidder preference of 5-20 percent. We believe in the true free market so we are not looking for Nebraska to consider limited work to only Nebraska but instead to consider instituting a bidder's preference when the work is being completed in this state. As an example, we lost a bid this past year by less than \$20 with the Nebraska Game and Parks Commission. That work was sent out of state. While it appears on paper that the state is better off financially because of the reality, on a larger scale that is not true. To save \$20 we give up thousands of dollars of local Nebraska employees' payroll leading to

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taxes and revenues in a variety of ways." Essentially, to answer your question, these are the kinds of e-mails that we've received from other businesses that explore the issue of looking at contractor preference not just with iron and steel or manufactured goods, but just general state contracting. The other states have bidder preferences. They're not looking to make it exclusively only Buy Nebraskan, but to at least provide an avenue or a preference to Nebraska companies when putting bids in, to take that into consideration. This legislation as drafted, even with the amendment isn't focused exclusively on Nebraska. It's Buy American, not Buy Nebraska. I'm open to that concept and hearing more and more from other businesses in Nebraska who share that general concern of not wanting to be exclusively Buy Nebraskan, but give a preference so to speak. This committee ultimately...I know you'll deal with other contracting laws from other senators I know throughout session and that's a question that, Senator, I think I'd urge you to ask other senators. And we'll continue to look into it in regards to legislation I brought before this committee before on personal service contracts and other contracting preference issues. [LB923]

SENATOR SEILER: Thank you. That's all I have. [LB923]

SENATOR AVERY: Senator Pahls. [LB923]

SENATOR PAHLS: It's interesting, and I'll give you a second to talk about that, because two years ago I was trying to promote that concept that you were just talking about now and an unbelievable pushback, unbelievable pushback. I just couldn't believe it, so I said, for another day. Perhaps for you. [LB923]

SENATOR AVERY: Any other questions? We don't see any. [LB923]

SENATOR MELLO: Thank you, Senator. [LB923]

SENATOR AVERY: Thank you for your forbearance. [LB923]

SENATOR MELLO: Thank you. [LB923]

SENATOR AVERY: That ends the hearing on LB923 and our hearings for today. [LB923]