

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

Government, Military and Veterans Affairs Committee
February 22, 2012

[LB975 LB1006 LB1024 LB1076]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, February 22, 2012, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB975, LB1006, LB1076, and LB1024. Senators present: Bill Avery, Chairperson; Scott Price, Vice Chairperson; Charlie Janssen; Russ Karpisek; Rich Pahls; Les Seiler; Kate Sullivan; and Norm Wallman. Senators absent: None.

SENATOR PRICE: (Recorder malfunction)...some of the preliminary. I'm Senator Price. I'm the Vice Chair of the committee. Senator Avery, who is the Chairman, is introducing bills in other committees, so I'll be running this for now. I'd like to take the time right now to introduce the members that are here and are going to be here: Senator Pahls, from Omaha, will be joining us shortly along with Senator Les Seiler, our newest member, and he is out of the Hastings area. Senator Charlie Janssen, who sits to my right, will be down here. Of course I am Senator Price. To my left is Christy Abraham. She is our legal counsel. Senator Avery, again, will be here later on, probably to introduce a bill, then to his left would be Senator Karpisek who will be down here shortly, along with...we have Senator Kate Sullivan from Cedar Rapids and Senator Norm Wallman from Cortland and of course our committee clerk, Sherry Shaffer. Bills will be taken up in the order that we have on the agenda that's posted outside the door. There are sign-in sheets at both entrances, and you only need to sign in if you are going to testify. Now for testifiers, there is a yellow sheet that needs to be filled out, and it needs to be dropped off with the clerk when you testify. If you wish to register your support or opposition to a bill, there's another sheet you can sign in, and you do not have to testify, but that will be noted. What we would like to do...make sure you print your name to indicate who you're representing before testifying, and please spell your name for the record. So when you make your approach to the table, if you don't, I'll stop you and ask you to spell it because we have people transcribing it and they want to make sure they get the name correctly. Introducers will make initial statements, followed by the proponents, then we'll have opponents and neutral testimony. Closing remarks are reserved for the introducing senator only. Now we have a lot of people here today, so what I'd like to do is make sure everybody listens to the testimony that you hear before you, and if you have something to add to the record, please add it, but let's try not to be repetitive so we can be aware of everybody else's time needs. We will be using the lights system here. The green light will go on when you start to speak, the yellow light will indicate that you have one more minute, and at the red light we would like you to wrap it up. If you don't, I will interject and ask you to wrap it up, and you'll have a total of five minutes to present. We'd like you to turn off your cell phones or make sure you put them on vibrate. We don't want to have your nifty ringtones going while other people are testifying, so we'd appreciate that. If you are...if you have a prepared statement or exhibit, please give it to the page, who will make 12 copies and distribute if you don't have copies already. That page is Catherine Larsen, and she's been kept pretty busy

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

Government, Military and Veterans Affairs Committee
February 22, 2012

chasing down senators today, and she comes from Omaha. With that, we will begin the hearings today with LB975. Senator Smith, welcome.

SENATOR SMITH: (Exhibit 1) Thank you and good afternoon, Senator Price and members of the Government, Military and Veterans Affairs Committee. For the record, my name is Jim Smith, J-i-m S-m-i-t-h, and I represent the 14th Legislative District in Sarpy County. I am here today to introduce LB975, which would allow the adoption of the Fair Bidding Act. I did file an amendment, AM1937, to the bill yesterday and it has made...has been made available on the Legislature's Web site. I...and I have copies here as well. I would like the committee to please consider this as a committee amendment and will be basing my introduction today off of AM1937. Already there has been a lot of conversation and speculation about this bill, and I want to clarify from the onset today LB975 is not a labor bill, it is not about union versus nonunion, and it is not about the pros nor the cons of project labor agreements. LB975 is about government construction contracts and about the efficient procurement of goods and services by governmental units to promote the economical, nondiscriminatory, and efficient administration and completion of publicly funded construction projects. It is about the government being competent stewards of the taxpayers' money--of our money. Under LB975, the state of Nebraska and its political subdivisions would ensure that requests for proposals, bid specifications, and the procurement procedures for publicly funded construction projects reflect cost-efficient and effective measures only. Specifically, this bill prohibits a governmental entity from giving a preference in requests for proposals or bid specifications based on a contractor's or subcontractor's: (1) their willingness or unwillingness to enter into or adhere to the terms of a collective-bargaining agreement; or (2) other participation or lack of participation in a collective-bargaining agreement. In a nutshell, LB975 prohibits government-mandated project labor agreements. A project labor agreement, or a PLA as it's also known as, generally includes terms that set out wages, benefits, work roles, hiring pools, grievance procedures, and antistrike provisions. Again, this bill is not about the merits of PLAs. I can point you to studies that say PLAs are good, and I can point you to just as many that indicate they are not good. Regardless, those types of contractual details should not be dictated by the government. Those are decisions that are best left to primary contractors and to the free market. And conversations...frankly, conversations that I had with representatives of labor during the special session and last year can attest to that as well because a well-known project, the TransCanada XL Pipeline project, does have a PLA in effect, but that's a private PLA. With public construction projects, the government is responsible for the funding and should only be concerned with procurement procedures that ensure the efficient use of those funds--overall cost of the project, time lines, etcetera. As far as the details that may be contained in a PLA, that is for the contractor to decide. In fact, nothing in LB975 prevents the awardee of a government contract from entering into a PLA or from engaging in any other activity protected by any federal law, including the National Labor Relations Act. LB975 simply allows governmental bodies to give true consideration to the most qualified and responsible bidder by prohibiting

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

Government, Military and Veterans Affairs Committee
February 22, 2012

government-mandated PLAs. Again, thank you for your time today and your consideration of LB975. I also want to thank those who came with me today to testify behind me and also for my colleagues and others that may be here today that have spoken with me and expressed their concerns and their willingness to discuss these issues with me. I look forward to a constructive conversation on LB975 and would be happy to answer any questions for you. Thank you. [LB975]

SENATOR PRICE: Thank you, Senator Smith. Are there any questions from the committee? Seeing none, we will move to the first proponents for LB975. Welcome, ma'am. [LB975]

ERIN EBELER: Thank you. Ladies and gentlemen, my name is Erin Ebeler, and I am here on behalf of the Associated General Contractors Nebraska Building Chapter, Associated General Contractors Nebraska Chapter, Associated Builders and Contractors Cornhusker Chapters, and the National Utility Contractors Association of Nebraska. Additionally, the Nebraska State Chamber has asked that I inform the committee that it also endorses LB975. First... [LB975]

SENATOR PRICE: Could you spell your name, please, for the record? [LB975]

ERIN EBELER: Yes. Ebeler, E-b-e-l-e-r. [LB975]

SENATOR PRICE: Thank you. [LB975]

ERIN EBELER: First, as the senator did, we would like to extend our appreciation to this committee for taking these comments into consideration. We support this bill because it ensures effective government, fairness in bidding, and that the taxpayers receive quality projects in a cost-effective manner. Under the terms of LB975, private enterprise is ensured the ability to utilize cost-efficient and effective means and methods when bidding and building construction projects for the government. Specifically, this bill prohibits a governmental entity from giving a preference in requests for proposals, or RFPs, or bid specifications based on a contractor's or a subcontractor's: (1) willingness or unwillingness to enter into a collective-bargaining agreement; or (2) the participation or lack of participation in a collective-bargaining agreement. In short, under the terms of the Nebraska Fair Bidding Act, the government may not give a preference to either a nonunion or a union contractor and may neither require nor prohibit the use of a project labor agreement. In short, this bill is neutral. Rather, this bill allows the private company awarded the bid or the RFP to determine the means and methods that should be used to perform a particular construction project. If that private enterprise determines that a unionized work force or a project labor agreement should be used, that company is free to enter into any agreements or engage in any activity protected under federal law, including the National Labor Relations Act. Likewise, if the private company wants to allow nonunionized labor, it may do that as well. LB975 simply keeps the politics out of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 22, 2012

decisions that are best left to the competitive marketplace. With that, I'd be happy to answer any questions. [LB975]

SENATOR PRICE: Thank you, Ms. Ebeler. Are there any questions? Senator Sullivan. [LB975]

SENATOR SULLIVAN: Thank you, Senator Price. Thank you for your testimony. Have all the associations that you're representing been party to this amendment, and have you...are you aware of the amendment? [LB975]

ERIN EBELER: Yes, we are aware of the amendment, ma'am. [LB975]

SENATOR SULLIVAN: And in agreement with it? [LB975]

ERIN EBELER: Yes, ma'am. [LB975]

SENATOR SULLIVAN: Okay. [LB975]

SENATOR PRICE: Are there any other questions from the committee? Seeing none, thank you very much for your testimony. [LB975]

ERIN EBELER: Thank you. [LB975]

SENATOR PRICE: Watch your step. Can we have the next proponent for LB975? Are there any other proponents? Seeing none, do we have our first opponent for LB975? Good afternoon, sir. [LB975]

ROD MARSHALL: I'm here representing Valley City Council. I'm the president of the city council there. My name is Rod Marshall, M-a-r-s-h-a-l-l. Chairperson and fellow members of the committee, I'll be brief with my comments today, but I want to bring up what I think is a very important point. I don't want to debate what project labor agreements should be used on public construction in Nebraska, but to me a much bigger issue, and that's the impact that in passing this bill would have on local control and local autonomy. The state has long, rich history of recognizing the autonomy of individual communities and local elected leaders. As far back as the 1920s, Nebraska's Supreme Court recognized that public bodies have discretion in awarding contracts, and the discretion in public contracting includes determining the responsibility of bidders. There are multiple competitive bidding statutes in Nebraska that covers city and counties and other public bodies that require the public contracts to be awarded to the lowest responsible bidder. Just by using the word responsible, these existing laws recognize that some of the discretion will be exercised by the individuals who are charged with awarding these bids. And who is responsible for exercising these discretions? That's the people who have been elected by their local constituents. As all

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

Government, Military and Veterans Affairs Committee
February 22, 2012

of us go into the public ballot box and decide who is going to represent us and in deciding how our tax dollars are going to be spent in local communities, we pick our city council members, our school board members, and these other types of spending decisions every day. And these locally elected officials who live and work in our local communities who are the best position to determine how local funds should be spent, and that includes how tax dollars should be spent on construction. If a new public library was to be built in Valley, should the elected officials in Valley make the decision on how that library is going to be built, or should the decision be made by lawmakers here in Lincoln? Why do we elect people to sit in our school boards if they're not going to be the ones permitted in making decisions about the best way to build a local school? This bill says that locally elected officials can't be trusted to wisely spend our tax dollars and that the state knows better. I don't think that Nebraskans want their local leaders to be dictated by Lincoln any more than the state of Nebraska wants to be told by the folks in Washington, D.C. I don't think that the stripping away of local autonomy fits with this kind of principle that we've always been abided here in Nebraska. For those of you who were elected and served in local offices, would you have wanted the state to tell you how to make each and every decision when you passed a bill like this that chips away at local control? When...where does it...where does this end? Do we really want the city council members in Valley having called Lincoln to get approval every time that we need to put up a stop sign? Or is the state going to tell local communities that...to start putting up Chinese drywall in every public building? When we elect public to run our cities and towns...I'm sorry, when we elect people to run our cities and towns, they're charged with acting as good stewards of our money. I don't think that local officials would use an option like a project labor agreement in public construction if they didn't think that it was the best interest of the local community. If our local officials do a bad job at spending our tax dollars, trust us, they'll be voted out. And if we take away the ability of these people to...that we've selected to conduct our local business to make these decisions, then why have...why be voted in? As I said in the beginning, I don't want to debate the merits of using project labor agreements on local construction projects. That's my whole point. We need to make sure that this type of debate and analysis is being done at the local level by our county commissioners, our city council members, and our members of our school boards. They know the local landscape, they know the needs of the community, and they're the ones who are responsible for making such...public projects are built in efficient and cost-effective ways. They shouldn't have that responsibility if the authority is going to be taken away from them to make real decisions. It's risky to look at this as just a bill about project labor agreements. What we really are talking about here is taking a big step toward eroding local control, and I would encourage you to uphold the integrity of local autonomy in this state and vote no on this bill. Thank you. [LB975]

SENATOR PRICE: Thank you, Mr. Marshall. Are there any questions from the committee? Senator Sullivan? [LB975]

SENATOR SULLIVAN: Thank you, Senator Price. Thank you for your testimony.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 22, 2012

[LB975]

ROD MARSHALL: Yes. [LB975]

SENATOR SULLIVAN: Are you familiar with the amendment? [LB975]

ROD MARSHALL: I have not seen that, no. [LB975]

SENATOR SULLIVAN: Okay. All right, thank you. [LB975]

ROD MARSHALL: Yeah. [LB975]

SENATOR PRICE: All right, Senator Janssen. [LB975]

SENATOR JANSSEN: Thank you, Senator Price. Thank you for coming today. [LB975]

ROD MARSHALL: Yeah. [LB975]

SENATOR JANSSEN: I appreciate it. You said you were the president of the Valley City Council? [LB975]

ROD MARSHALL: Yes. [LB975]

SENATOR JANSSEN: Okay, let's see here. To an aside, how many members do you have on that council? [LB975]

ROD MARSHALL: We're four council members and the mayor. [LB975]

SENATOR JANSSEN: Four council...do you...would you mind if I ask what your full-time job is, or is that your full-time job? [LB975]

ROD MARSHALL: No, that's not my full-time job, no. I'm a business manager of the labor organization. [LB975]

SENATOR JANSSEN: Okay, thank you. [LB975]

ROD MARSHALL: Yeah. [LB975]

SENATOR PRICE: Are there any other questions from the committee? Seeing none, thank you for your testimony, sir. Can we have our next opponent, please? Welcome, sir. [LB975]

GARY KELLY: Thank you. For the record, I am Gary Kelly, K-e-l-l-y, and I am here

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 22, 2012

today representing members of the International Brotherhood of Electrical Workers Local No. 22, as well as our members from the Omaha Southwest Iowa Building and Construction Trades Council. Vice Chairperson Price and members of the committee, thank you for allowing me the time to participate in this discussion today about this bill. The bill before you is a ban that would be imposed by the state on every city, county, school district, and all other political subdivisions and public entities in Nebraska. This statewide ban would prevent locally elected officials from using prehire agreements like project labor agreements on public construction projects. What I don't understand is why does the state want to prevent local communities from using something that is perfectly legal? There is nothing within this legislation that says project labor agreements aren't legal devices, and this isn't surprising considering that a majority of courts including the United States Supreme Court have recognized that PLAs are a lawful means for building public projects. A project labor agreement sets the terms and conditions for labor during the course of an individual project. PLAs have been used in the private sector for decades. They are being used by the federal government, and we've been seeing them used effectively in this region, including in the state of Iowa which has been using project labor agreements on big prison construction projects just in the last couple of years. The United States Supreme Court said that when a public entity is issuing contracts for construction, it is legal for them to ask contractors and labor representatives to sign on to an agreement which will dictate the labor terms on that project. These agreements establish how labor disputes will be resolved, and most PLAs include no-strike clauses and other provisions that some officials believe will help make sure construction work is done on time and on budget. And if it's legal and some public bodies have decided they are effective, why does Nebraska want to take this action that will make PLAs illegal on public projects in this state? I can understand if the state itself decides it doesn't want to use project labor agreements to construct new state buildings. If the current administration or future administrations decide PLAs aren't a good idea on state projects for whatever reason, that would seem to me to be a choice the Governor could make for himself. But why would you want to take that option off the table for local governments in Nebraska? Local officials have been elected to make decisions about how local projects will be built, and why shouldn't they have every legal option available to them in making those decisions? We can let our local officials debate whether a project labor agreement should be used when they are deciding how to build a project, but unless you take this action to go against what the courts have already decided, there is no debate about whether PLAs can be used. They can be used because project labor agreements are perfectly legal. I think it is important that we all recognize that fact. I appreciate the opportunity to speak and thank you for your time. [LB975]

SENATOR PRICE: Thank you, Mr. Kelly. Are there any questions from the committee? Seeing none, thank you for your testimony, sir. [LB975]

GARY KELLY: Thank you. [LB975]

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

Government, Military and Veterans Affairs Committee
February 22, 2012

SENATOR PRICE: Can we have our next opponent? Can I have a show of hands of people who plan to testify on this bill, please? Great, thank you. Welcome. [LB975]

JOHN BOURNE: Thank you. Good afternoon, Chairman--Vice Chairman--Price. Excuse me. I'd like to thank you and the fellow members of the committee...back up. Sorry about that. My name is John Bourne, B-o-u-r-n-e. I live in Omaha, Nebraska, at 9209 Meadow Drive, and I'm an international representative for the IBEW. I'm based in Omaha, work out of Washington. I'll start over. I would like to thank you and the fellow members of this committee for the chance to speak before you today. The issue that I want to talk about is something that seems to come up every time we talk about project labor agreements, and there's some rumbling about that as we've been discussing that, and that's the impact that PLAs can have on the overall construction cost of a project. As we are aware, at this point a project labor agreement established labor conditions on a specific project, and that may include establishing the level of compensation that workers on the project are going to be paid in wages and benefits. A PLA offers standardized labor conditions that apply to any contractor who will work on that project whether they're union or nonunion contractors. Streamlining the process levels the playing field for everyone involved and provides greater certainty to that construction processes, I think much to what Senator Smith is trying to get to. Whenever we get into this discussion, there's always talk that using a PLA will mean that the project could cost more. The question is whether what they're saying is true. When you use a PLA, does it really drive up the cost of a project? The answer is I think that's certainly not the case, though as Senator Smith says, there's plenty of studies on both sides. There have been multiple studies done that analyze how much projects end up costing when PLAs are used and when they're not used. Those studies have found that no measurable increase in project cost can be attributed to project labor agreements themselves. One of the more recent studies was just issued last November that looked at the use of PLAs on large scale, high dollar, public construction within the San Diego Unified School District. After the voters in that district approved a more than \$2 billion bond issue, the school board decided that all construction projects over \$1 million would be built using an overall prehire agreement called a project stabilization agreement--PLA, which of course we know that to be. After several years of using this agreement for the construction, the district itself commissioned an outside firm to do an in-depth study on what the impact of using the PLA had been. The results were dramatic. On the projects where the prehire agreement was used, the bids were not higher, and the costs to the school districts were not higher. The project was completed sooner than the projects without the prehire agreements, and the study showed that more local residents were employed on these projects than on non-PLA projects. The San Diego school district was able to quantify the benefits that I believe can also be achieved with the use of PLAs here in Nebraska. But if legislation like LB975 is passed, local officials here won't even have the opportunity to try out a project labor agreement, and there won't be any studies to see whether their Nebraska constituent taxpayers might enjoy the same types

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

Government, Military and Veterans Affairs Committee
February 22, 2012

of benefits provided to the taxpayers in San Diego. That's just one of the numerous studies that have been done to evaluate the economic impact when using PLAs, and we're talking about studies being done by independent research firms and university professors. Before you take a vote on a bill that imposes a statewide ban like this, shouldn't we all take the time to sit down, read, and fully understand and evaluate these studies? Now can I guarantee you as a public official that using a PLA will result in lower costs each and every time on every project? No. Absolutely no, I can't say that. But I can say that one of the primary things that PLA is designed to do is to add efficiency--much to what Senator Smith said--to a project and help contain costs. When you look at what a project labor agreement offers, it only makes sense that cost savings could be a primary benefit. PLAs are frequently used for large-scale construction work where work will sometimes go on for years. It's these kinds of lengthy, expensive projects where you want to have established labor relations so you can help ensure that there won't be any significant delays. Now critics on the other side will probably be able to break out what they say are examples of projects where PLAs have been used and the projects have gone over budget, but you need to look at the numbers closely and see exactly why these projects were in fact over budget. Many times it's because change orders were made by the owners during the course of construction, change orders that modify how the construction will be done or the amount and types of materials that could be used. And if there's a lot of change order, that means cost will increase, which is something that has nothing to do with whether there's a PLA in place. When you're going to be spending millions in taxpayers' dollars to build a public structure, the best means should be used to try and ensure that you get the best work at the best value. Using a PLA might be one way to do that. The talk that PLAs will drive up cost simply isn't true, and I urge you to reject this bill. And I certainly thank you for your time, and I thank Senator Smith for bringing it up for debate. [LB975]

SENATOR PRICE: Thank you, Mr. Bourne. We have now been joined by our committee Chair, Senator Avery. But as he sits down I'll open up for questions from the committee. Are there any questions for the committee--from the committee? Seeing none, thank you very much. [LB975]

JOHN BOURNE: Thank you so much for your time. I appreciate it. [LB975]

SENATOR AVERY: Thank you. Good afternoon. [LB975]

STEVE SIMPSON: Thank you, Senator Avery. Welcome back. My name is Steve Simpson, S-t-e-v-e S-i-m-p-s-o-n. I am the president of the Lincoln Building Construction Trades Council. I'm stepping up here today in opposition of LB975 on one reason, and one reason only is all I'm going to talk about, and I'm going to be brief. What you have here is an opportunity, since every PLA and every job situation is different. They are completely different. You can't just throw a blanket statement over a PLA and say, it's covering, that does it. What a PLA does is it allows for local work force

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

Government, Military and Veterans Affairs Committee
February 22, 2012

to be guaranteed to go to work on taxpayer-funded projects. In Iowa, they have PLAs that they put in place, and in those PLAs there's a 50 percent guarantee that the local work force will go to work on those projects. In the Kentucky and Louisville area, they built an arena--in fact, there's the same contractors building the arena down the street here--and they had...did it under a project labor agreement and they did it in...with a guarantee that at least 75 percent of the people will be from Kentucky or Indiana, at least 65 percent would be from the greater Louisville area, at least 5 percent will be minority, and at least another 5 percent will be women. That's all written into the project labor agreement, so to say that what we have here is an opportunity to put local taxpayers back to work. These are people that are out of work right who are...who could actually go off of the government dole is the common, most wonderful way of using this now. They can jump off of that, go to work on a project, and actually their tax-paid dollars would go back into the coffers being spent on that project. So what this is, is an opportunity here to show you that PLAs are a chance to put local people back to work. I am the president of the Lincoln Building Trades. I'm also a United States Marine, and I bring that up because under project labor agreements...and I sent the committee some information about a project called Helmets to Hardhats. Helmets to Hardhats is in association with the National Building Trades. That's who they work with; that's all they work with. They are funded...they were funded partially through the federal government. Through the recent cuts in spending, they lost all their funding. What we can do on a project labor agreement, what has been done on project labor agreements is they can take a nickel, a dime an hour off every worker's salary, fund that project. What they do is they try to find homes or try to find work for our soldiers, Marines, airmen, naval...Navy, for--sorry, I'm a Marine, I can't do that very easily--but find them a place to come home and go to work in construction and they do. My trade itself has put several people back to work through Helmets to Hardhats, slips them into an idea where they can jump in...now they get to choose. They get to see which trade would most line up with them, and it puts them right into an opportunity to go right into the apprenticeship and get a job and start a career in construction. Without a project labor agreement you can't fund this program anymore. Project labor agreements are where the money comes from for this project. It's one of the main sources for their income. We cut that out and then we're cutting out the opportunity to put our own returning soldiers and airmen and every...from the war a chance to go back to work. Again, this is pretty simple stuff to me. I'm a pretty simple person. All I see is an opportunity for us to put individuals back to work, and that's what we've all been talking about the whole time. The economy is terrible right now. Everybody understands that. Construction is taking it harder than anybody. But what a project labor agreement does is guarantees that...there are people all over the country that if they heard they're building something in Omaha or in Lincoln or in greater...out in western Nebraska, they're coming. Example is the Qwest Center in Omaha, which was documented in the World-Herald. There were out-of-staters that came in there and put that together on their taxpayer dollars. Another example is NPPD power station number two, where the company that was hired to put that job together was from Texas, as were most of their employees, using NPPD dollars. I urge you to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 22, 2012

vote this down. It's not good for Nebraska taxpayers. It's not good for the Nebraska worker. [LB975]

SENATOR AVERY: Thank you, Mr. Simpson. Questions from the committee? Senator Janssen. [LB975]

SENATOR JANSSEN: Yes, thank you, Chairman Avery. I just have a clarification for the record. [LB975]

STEVE SIMPSON: Yes. [LB975]

SENATOR JANSSEN: It's a, you know, we should give our sailors some credit too. (Laughter) You kind of said that, so as a sailor... [LB975]

STEVE SIMPSON: Okay. [LB975]

SENATOR JANSSEN: ...it'd be "Dixie Cups to Hardhats," maybe, instead of Helmets to Hardhats in there. [LB975]

STEVE SIMPSON: On ship, they wear helmets, sometimes, so on flight light, so... [LB975]

SENATOR JANSSEN: Well, I've lived there for four years, so you're welcome for the rides we gave you. (Laughter) [LB975]

STEVE SIMPSON: Fair enough. [LB975]

SENATOR AVERY: Any other questions? Any serious questions from the committee? (Laughter) I don't see any. Thank you for your testimony. [LB975]

STEVE SIMPSON: Thank you. [LB975]

SENATOR AVERY: Any other opponent testimony? Seeing none, neutral testimony? Neutral testimony? Senator Smith, you are next. [LB975]

SENATOR SMITH: Good afternoon, Senator Avery, and thank you again, Senators. I appreciate the ability to come before your committee, and I have a few notes that I've jotted down. I just want to make some quick clarifications and then just finish my closing. First, I think for Mr. Bourne that spoke in opposition and other members of labor and collective bargaining, I just wanted to make certain I say to them how much I appreciate the pride that they have in their work and for their craft and for their trade and the work that they do to build and to provide services to our communities. And once again I wanted to iterate that this is not about a debate on union versus nonunion,

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

Government, Military and Veterans Affairs Committee
February 22, 2012

collective bargaining/noncollective bargaining contracts, and I do appreciate them coming today, and I particularly appreciate the tone of wanting to work to come up with something that we can agree on with this bill. But again this is not about the merits of using or not using union labor or even about the pros and cons of PLAs themselves. I am, and many of my colleagues I have spoken to know that I'm a strong proponent of local government, local control, and I would not have introduced this bill nor support this bill if I felt that in any way it would prohibit local governments from bidding practices that encourage the lowest responsible bids. I believe that is the job of local government, and I believe that this bill emphasizes that duty of local government, so I do not believe that there is a conflict between what I believe is responsibility of local government and this piece of legislation. This bill is simply about ensuring that government entities do their job in determining the best means for completing a public project both effectively and efficiently and in the best interest of the public and the taxpayers. I might also go a step farther in saying that this bill is in line with free market principles, the principles that lead to work-process efficiencies, competitive pricing of products and services, and value for the average citizen whether it's because they're a customer or a consumer or a taxpayer or a rate payer. It is targeted towards more responsible government. There was a comment made about that this is a ban on project labor agreements and prehire agreements. This is not a ban on either of those. It does not prevent them from being used. LB975 simply states that private entities must determine whether or not they should be used on a project based upon each construction project at issue. This law specifically takes the politics out of the decision that's being made as to whether a PLA makes economic sense for that project. This bill simply states that the government cannot give a preference to union contractors, and it cannot give a preference to nonunion contractors. So the ability remains that PLAs can exist on projects, but that is a free-market decision. It is not a public decision. Great presentation about Helmets to Hardhats program. And nothing says a local government entity can't fund such a program through other means such as allocation of tax dollars, so that type of a project is not prohibited by this legislation, so I hope that provides some level of clarification. Once again I appreciate being able to come before this committee. I appreciate the tone of those that came even in opposition to this bill. I've had many conversations outside, prior to this committee meeting today, and I believe there may be some opportunities for us to work together. I'm encouraged by hearing that in concept there...we may have some general agreement. I'm certain there's a lot of details that would need to be worked out, but you certainly have my commitment to come up with a very constructive outcome to this bill, and I do believe that this is in line with what we need for effective and efficient government. So thank you very much for your time. [LB975]

SENATOR AVERY: (Exhibit 2) Thank you, Senator Smith. I have one letter of opposition from the city of Lincoln to read into the record. You might want to talk to the mayor as to what their objections are. You probably have a copy of this. [LB975]

SENATOR SMITH: Yes, I have received one... [LB975]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 22, 2012

SENATOR AVERY: Yeah. [LB975]

SENATOR SMITH: ...in my office earlier. [LB975]

SENATOR AVERY: Yeah. Any more questions from the committee? I don't see any. Thank you very much. [LB975]

SENATOR SMITH: Thank you. [LB975]

SENATOR AVERY: That ends the hearing on LB975, and now we welcome Senator Tony Fulton to introduce LB1006. [LB1006]

SENATOR PRICE: You know how to clear a room. [LB1006]

SENATOR FULTON: I guess. [LB1006]

SENATOR AVERY: You may commence when you are ready, sir. [LB1006]

SENATOR FULTON: Okay. Thank you, Mr. Chairman, members of the committee. For the record, my name is Tony Fulton, T-o-n-y F-u-l-t-o-n, and I bring to you LB1006, which amends a longstanding statute intended to provide blind persons with economic opportunity by giving the blind a priority status with regard to operating vending facilities on state government property. The legislative history of this statute suggests that the change I'm proposing with LB1006 is befitting with its stated purpose. When first enacted in 1961, the Director (sic) of Public Institutions was mandated to grant licenses for vending of food, tobacco, newspapers, and the like to blind persons in need of employment. Successive amendments placed this authority in the commission and modernized the references to vending. However, the priority for blind persons remained without caveat. In LB1006, I am not proposing a drastic revision of the bidding process for vending facilities. Rather, I'm proposing an amendment that ensures the bidding process is truly competitive for blind persons and thus more in keeping with its intended purpose. LB1006 provides that the priority for blind persons for vending is contingent on a bidding process that is based on a comparison of the product price in the bid and not rents or other factors that may make the bids of the blind less competitive. The intended purpose of the statute has been eroded over time and LB1006 intends to, at least in some degree, restore its purpose. And there will be those to follow who will testify in favor of the bill, but I would endeavor to answer any questions if there are any. [LB1006]

SENATOR AVERY: Thank you, Senator Fulton. Isn't it true that we just had a recent change in vending contract here in the building? [LB1006]

SENATOR FULTON: I believe so. Now I don't know that I could define recent but I think

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

Government, Military and Veterans Affairs Committee
February 22, 2012

the folks behind me could, and that's part of the reason why this was brought to me as...for consideration to introduce. [LB1006]

SENATOR AVERY: Yeah, I thank you for that. Any questions from the committee? Don't see any. Are you going to stay around to close? [LB1006]

SENATOR FULTON: I'd like to, but we are engaged in a friendly discussion in another committee that I probably need to be at. [LB1006]

SENATOR AVERY: (Laugh) Be kind to me in that committee, will you? [LB1006]

SENATOR FULTON: Of course. Always. Thank you. [LB1006]

SENATOR AVERY: All right. We'll move now to proponents of this bill. Come forward, please. [LB1006]

PEGGY VAN ZANDT: Thank you. Good afternoon, Senators. [LB1006]

SENATOR AVERY: Welcome. [LB1006]

PEGGY VAN ZANDT: (Exhibit 1) Senators, thank you very much. Good afternoon. My name is Pearl Van Zandt. That's V-a-n Z-a-n-d-t. I'm from here in Lincoln, and I'm executive director of the Commission for the Blind and Visually Impaired. I'm going to be brief, and then my deputy director who heads the vending...Nebraska Blind Enterprises vending program will give you more detail. As director of the Nebraska Commission for the Blind and Visually Impaired, I'm here to testify in support of LB1006. This bill will help to enable more blind Nebraskans to become gainfully employed as vendors in the Randolph-Sheppard program or Nebraska Business Enterprises, NBE, as we call it. The bill establishes a meaningful priority for blind persons to operate vending facilities on state property, with the exception of Game and Parks and the University system. LB1006 amends Nebraska Revised Statute 71-8611 to provide priority for bids from blind persons for vending facilities on state property based on a comparison of product prices. This change will help to ensure optimum competitiveness of the blind in the bidding process. The priority is in effect when the product prices in bids from blind persons are comparable to the product prices in any other bids submitted. The law would still require blind vendors bidding for contract to be similar in qualifications and capabilities to other bidders. This change will enable more blind individuals to become self-supporting taxpayers, less likely to need state-supported benefits such as SSI and Medicaid. And Carlos Servan will give you more details, but I'd be glad to answer any questions you might have. [LB1006]

SENATOR AVERY: Thank you, Ms. Van Zandt. Questions from the committee? Don't see any. [LB1006]

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

Government, Military and Veterans Affairs Committee
February 22, 2012

PEGGY VAN ZANDT: Okay. [LB1006]

SENATOR AVERY: Thank you for your testimony. [LB1006]

PEGGY VAN ZANDT: Thank you, sir. [LB1006]

SENATOR AVERY: Next testifier in support? Welcome, sir. [LB1006]

CARLOS SERVAN: (Exhibit 2) Thank you, Senator Avery and members of the committee. For the record, my name is Carlos Servan. My address is 3800 C Street here in Lincoln. I am the deputy director of the Commission for the Blind as well as the supervisor of the Nebraska Business Enterprise program. [LB1006]

SENATOR AVERY: Would you spell your name for us, sir? [LB1006]

CARLOS SERVAN: I'm sorry. Yes, sir. Servan, S-e-r-v-a-n. [LB1006]

SENATOR AVERY: Thank you. [LB1006]

CARLOS SERVAN: Around 70-75 percent of blind people are either unemployed or underemployed in the nation. The Randolph-Sheppard Act oversees a national program that has given more jobs to blind people in the nation than any other program for people with disabilities. This act gives priority to blind people on all federal buildings and properties including the right of refusal, which means that the General Services Administration will give the agency for the blind the opportunity to assign a blind manager there, and if there is no one available they could decline. Around 30 states in the nation have adopted what is called the "mini-Randolph-Sheppard" program. This state law, it's supposed to copy the federal law and will give priority to all blind vendors on state properties and buildings. Until the year 2000, as Senator Fulton described, we had preference. But an attempt to have a priority from the consumers came up, but somebody added the language that needs to be comparable in prices. We didn't have any problems until maybe two or three years ago when Administrative Services decided to open the buildings for bids. When we asked them if there was any dissatisfaction of the services we provided, we were told that they were looking at the law, and because of a change of the language they decided that they need to open those for bids. So we put up the bids and were surprised that they gave the contracts to multinational corporations that were paying an extra maybe \$20,000 in rent per year. When we approached the Services...I mean, I'm sorry, the Administrative Services and asked about this particular decision, we were told that they need to look at the interest of the state and how will the state benefit. What they are not taking in consideration is that we lost three vendors, blind vendors. They pay 13 percent of set aside to the state. They also pay their own taxes. And now that they are unemployed, they are a burden to

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

Government, Military and Veterans Affairs Committee
February 22, 2012

society, getting Medicaid, social security, welfare like housing and food stamps. So how will the state benefit most? Of course it's by giving jobs to blind people. By supporting LB1006, it is a potential, a possibility that we could have five new buildings in the near future, meaning that we can get five blind people working there. When they pay their...a percentage of set aside, a portion of that money will help the program to create more jobs to blind people. Last year in May we put a bid for the State Patrol and in October for the state office in Omaha and were denied the opportunity again to pass. The priority language was not considered as intended. I was looking at a dictionary last night and found out that a priority means the right to take precedence over others. As it is right now there is no priority for the blind. Therefore, we the blind urge you to support this bill. Any questions for...? [LB1006]

SENATOR AVERY: Thank you. You're right on time, and you can't see the lights. That's good. Some people with better vision have not been able to do that. [LB1006]

CARLOS SERVAN: Thank you, sir. [LB1006]

SENATOR AVERY: Questions from the committee? Senator Sullivan. [LB1006]

SENATOR SULLIVAN: Thank you, Senator Avery. Thank you, Carlos, for your testimony. Do the blind vendors have any contracts anywhere with any state building? [LB1006]

CARLOS SERVAN: With the state only two, but very minor. One is with the State Patrol--not the cafeteria, but only two machines there. And then the North Platte office building, which there are only four machines there and the vendors don't make much money on those two. They have to have other job. And so we don't have any other big buildings. We are trying though. [LB1006]

SENATOR SULLIVAN: Okay. Do you have any contracts with any nongovernmental places? [LB1006]

CARLOS SERVAN: A few of them. Mainly, most of them are with the federal entities,... [LB1006]

SENATOR SULLIVAN: Um-hum. [LB1006]

CARLOS SERVAN: ...but we have very few that the blind vendors themselves found in their own locations. [LB1006]

SENATOR SULLIVAN: Okay. [LB1006]

CARLOS SERVAN: But with the state, we hope that the state will set precedents and

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 22, 2012

give example as leaders. [LB1006]

SENATOR SULLIVAN: Previously you have had contracts with the state? [LB1006]

CARLOS SERVAN: Yes. Here, it was a blind vendor running the vending machines here. At the State Office Building, we had a blind person running the vending machines but also another one on the first floor running a little coffee shop. We lost those vendors, and they aren't employed now. [LB1006]

SENATOR SULLIVAN: And how many years were they in place? Do you know? [LB1006]

CARLOS SERVAN: One of them was like there for 20 years and the other one around...they're very close. Both of them were very close to 20 years. [LB1006]

SENATOR SULLIVAN: Thank you very much. [LB1006]

CARLOS SERVAN: When we asked for dissatisfaction, again we were told that it was just looking at interpreting the new law or the new change of the law. [LB1006]

SENATOR SULLIVAN: Thank you. [LB1006]

SENATOR AVERY: Senator Price. [LB1006]

SENATOR PRICE: Thank you, Senator Avery. Thank you, Carlos, for testifying. So am I to understand we have two standards in this state, one for federal buildings and one for state buildings? [LB1006]

CARLOS SERVAN: Correct. [LB1006]

SENATOR PRICE: Thank you. [LB1006]

SENATOR AVERY: Let me ask you a question. Was the major reason why you lost the contract in this building and in the State Office Building the additional money that you're...the other bidder was willing to pay for the room rent? [LB1006]

CARLOS SERVAN: That's what we were told. [LB1006]

SENATOR AVERY: Yeah. And they were willing to pay \$20,000? [LB1006]

CARLOS SERVAN: More per year, right. [LB1006]

SENATOR AVERY: More, more than what you could afford. [LB1006]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 22, 2012

CARLOS SERVAN: For a year for the combination with the two buildings, yeah. [LB1006]

SENATOR AVERY: Um-hum. [LB1006]

CARLOS SERVAN: And again our position is we are also a state agency and we were...we're now taking now that money from set aside. [LB1006]

SENATOR AVERY: Um-hum. [LB1006]

CARLOS SERVAN: Yeah. [LB1006]

SENATOR AVERY: And is your contention that the cost of assisting visually-impaired people who were employed, gainfully employed in that previous program, the cost of that to the state is greater than the \$20,000? [LB1006]

CARLOS SERVAN: Exactly. Way greater, yeah. [LB1006]

SENATOR AVERY: Okay. [LB1006]

CARLOS SERVAN: Um-hum. [LB1006]

SENATOR AVERY: Any other questions? I don't see any. Thank you for your testimony. [LB1006]

CARLOS SERVAN: Thank you. [LB1006]

SENATOR AVERY: Any other proponent testimony on LB1006? Good afternoon, sir. Welcome. [LB1006]

MARK BULGER: Good afternoon, Senators. My name is Mark Bulger, M-a-r-k B-u-l-g-e-r. And Senators, I'm here this afternoon first as a citizen of Nebraska, secondly as a blind person, and then third, I am with a consumer group organization called the American Council of the Blind. And through the American Council of the Blind, I learned that the blind sometimes need protection and unity to overcome the obstacles that are...that we face. I have been sighted, I've been visually impaired, and now I'm legally blind, and I'm here to say that blindness is a difficult obstacle. I'm not here to say that the blind cannot do anything. With training and support, blind people have proven that they can do many things, but nonetheless unemployment among the blind is high. When I hear the words preference or priority, I'm putting them in the context of the people's money. You know, we hear preference or priority to veterans because veterans served our country so honorably. You know, back in 1930 there was legislation passed

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 22, 2012

at the federal level that gave blind vendors preferential standing in federal buildings, and as a result over the years thousands of blind people were not only gainfully employed but they also learned the process of business, and I can't help but think a lot of them gave up their jobs as they went out and became independent in other areas. So I sometimes look at Randolph-Sheppard as it gave blind people an opportunity to understand the free market, and that could not have happened without the preference. And again we're talking about the people's money. I certainly wouldn't be here to say, well, such and such auto repair shop needs...has to have preference for blind people in vending, but I will say that here in the state of Nebraska we do have a support network for vendors. At the Nebraska Commission for the Blind, they do have...blind vendors do have an expertise that they can call upon, so it's not like you're putting people into state buildings, as this proposal or law suggests, without being qualified. So like I said I have been blind. I'm blind now and the obstacles are difficult and I...as Carlos Servan said that the federal government, you know, 78 years ago...70 or 80 years ago recognized the value in investing in the blind, and I don't think it probably cost the federal government anything. In reality it probably generated more money. And I'm certainly not here to say that the blind should displace people that are working anywhere because we certainly don't...I don't think just because I'm blind or someone else is blind that we're entitled to anything. But that being said, with the people's money, like veterans and other people that are maybe...they deserve maybe a hand up or just an extra consideration, the blind would certainly appreciate any preference or priority in the state building with the people's money so that more people have opportunity to be gainfully employed and give back to society, so thank you. [LB1006]

SENATOR AVERY: Thank you, Mr. Bulger. Questions from the committee? I don't see any. Thank you very much for your testimony. [LB1006]

MARK BULGER: All right. Thank you. [LB1006]

SENATOR AVERY: Any other proponent testimony? Good afternoon. Welcome. [LB1006]

BRAD MEURRENS: (Exhibit 3) Good afternoon, Senator Avery and members of the committee. For the record, my name is Brad Meurrens, B-r-a-d M-e-u-r-r-e-n-s, and I am the public policy specialist with Nebraska Advocacy Services, the center for disability rights law and advocacy. We are the designated protected and advocacy organization for persons with disabilities in Nebraska, and I am here today in support of LB1006, and I'll be brief. With an unemployment rate of 70-75 percent nationally, every effort should be taken to increase avenues for blind people to earn a living. The Nebraska Business Enterprise, NBE, blind vendor program addressed in this bill is one of the strategies and represents a unique opportunity for blind people to achieve a level of economic self-sufficiency. However, the program benefits its vendors only so far as they can compete with other nonblind vendors and corporations. Simply put, this bill levels the

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

Government, Military and Veterans Affairs Committee
February 22, 2012

playing field for blind vendors participating in the program. LB1006 remedies the situation by focusing the bidding competition on the bid's product price rather than including rental payments and other payments or fees for the space. This is a simple yet critical fix, for the status quo bid awarding process stacks the deck in favor of deep pocket corporations at the direct expense and exclusion of independent individual blind vendors. For that reason, we support the bill and ask that it be advanced and passed by the Legislature. Are there any questions? [LB1006]

SENATOR AVERY: Thank you, sir. Questions from the committee? I don't see any. Thank you for your testimony. [LB1006]

BRAD MEURRENS: Thank you. [LB1006]

SENATOR AVERY: Any other proponents to LB1006? Proponents? Any opponents? Welcome, sir. [LB1006]

STEVE SULEK: Good afternoon. My name is Steve Sulek, spelled S-t-e-v-e S-u-l-e-k. I am the administrator of both the Materiel Division and the Transportation Services Bureau of the Department of Administrative Services. I would like to thank Chairperson Senator Avery and all the members of the committee for the opportunity to provide testimony today in opposition to LB1006. The Department of Administrative Services is very much aware of the exceptional work performed by both the Commission for the Blind and Visually Impaired and those who participate in their programs. Our opposition to the proposed bill is based purely on how this bill would impact the procurement process and in no way should be construed as opposition to the Commission for the Blind and Visually Impaired. The proposed statute changes the conditions under which priority is to be given to blind persons when awarding vending facilities contracts. The proposed bill will give priority to blind vendors when the product price submitted is comparable to the product price of other bids submitted for the products sold in similar buildings on similar properties and the qualifications and capabilities of the vendors are also similar. Currently, vendor service contracts are awarded via a Request for Proposal in bidding process. The Request for Proposal, or RFP, is used for securing sealed bids from potential vendors. Bids submitted must contain responses to the requirements identified in each section of the RFP. An RFP generally consists of four sections: the executive summary; the corporate overview; the technical approach; and finally, the cost proposal. Requirements for each section are tailored specifically to each particular service contract. A valid vendor response must answer and address all questions and information requests contained in each of the four parts of the RFP. All valid bids are then reviewed individually by a designated evaluation team, and points are awarded in accordance with a scoring criteria established specifically for each RFP. The current law provides that a priority shall be given to blind persons, but only when the bid submitted is comparable in price to the other submitted bids and the qualifications and capabilities of the vendors bidding for a contract are similar. The proposed bill would shift the

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

Government, Military and Veterans Affairs Committee
February 22, 2012

emphasis from a comparable bid to merely considering the product price for items being vended. This would effectively exclude from consideration other requirements contained in the RFP such as rental agreements, energy efficiency, the quality of products being sold. Any rental agreements payable to the state in exchange for the ability to operate vending machines or services on state property will no longer be a weighted factor for consideration. If a visually-impaired vendor offers a product at a similar price to other vendors, then the contract would be awarded, per the bill's preference, to the visually-impaired vendor regardless of any rent the other vendors have offered to pay the state. Currently, revenue from the rents received is used to offset the state's expense related to vending machines, such as electrical costs incurred by the state as a result of the vending machines. In addition to the rents received, criteria such as energy efficiency of vending machines, variety, and quality of products offered would be compromised if not abandoned altogether when a preference is conditioned on the sole criteria of product price. Under this bill, it is possible to award a contract based on a single element of the bid received. I would like to thank the committee for the opportunity to be here today and would be glad to answer any questions you might have. [LB1006]

SENATOR AVERY: Thank you. Questions from the committee? Senator Pahls. [LB1006]

SENATOR PAHLS: How long has it been since the blind people were not...have not been responsible for the vending machines? [LB1006]

STEVE SULEK: There has been a recent change in vendors. I believe it was approximately a year ago. I don't have that date committed to memory, but can certainly get that for you. [LB1006]

SENATOR PAHLS: Okay. No, I...because I can remember in the past I was thoroughly impressed because I'd be up there using another vending machine, and there would be an individual that seemed to be filling the, you know, machine, and always pleasant, so I was impressed that we were giving certain people the ability to perform a task that there would be some pride in, you know. So to me it's just larger than just the money. Another thing--and again, I'm very familiar with this, being in the school business--vending machines can reap pretty good profits, so I'm wondering where all that money is going if you're saying it's paying for electricity because I don't see those vending machines being replaced. I haven't been paying attention to them because about...I can't say when I quit using them because I always had to call because there was a problem, so I'm...you know, this is giving me opportunity to...you hit sort of a sore spot here because I think somebody's making money but aren't really doing the things that probably should be doing. So I'd like to know where all this money is going to because it has to be a pretty good sum. [LB1006]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 22, 2012

STEVE SULEK: My understanding, the contracts for the State Capitol, the revenue received is between \$10,000 and \$11,000 a year, and the Capitol...the contracts for the state building division facilities that are under contract it's, I believe, \$26,000--in that neighborhood--per year. [LB1006]

SENATOR PAHLS: And that goes for...? [LB1006]

STEVE SULEK: That goes back to help offset the costs of electricity, building maintenance, and other related expenses. [LB1006]

SENATOR PAHLS: That just doesn't sit well with me because it's...I'm surprised at the lack of money. They must have very good contracts then because schools get tons of money on things like this. So you're just saying \$10,000 in this building? [LB1006]

STEVE SULEK: That's the existing contract. Yes, sir. [LB1006]

SENATOR PAHLS: Boy, I tell you, I think somebody ought to be looking at the negotiating then because...I'm trying to visualize the number of machines in the building. So for \$10,000 in this building, we've decided...so now you're telling me...what do you...we make \$10,000 basically in this building on the vending machines. [LB1006]

STEVE SULEK: Through revenue collected through the rent agreements. [LB1006]

SENATOR PAHLS: Through revenue collected. I understand. [LB1006]

STEVE SULEK: Yes, Senator. [LB1006]

SENATOR PAHLS: So we've taken that away from some individuals who apparently were doing a decent job for 20 years, for \$10,000. [LB1006]

STEVE SULEK: Yes, Senator. The one thing I would like to mention is that there are provisions in state government that prohibit against non-term-ending contracts. [LB1006]

SENATOR PAHLS: Right, yeah. [LB1006]

STEVE SULEK: So when a contract expires, it has to be bid out again if there are requirements for bidding that contract. [LB1006]

SENATOR PAHLS: Right. [LB1006]

STEVE SULEK: There had been changes, and I'm afraid I don't...familiar with the year. There had been changes in this bill previously that centered the focus on the application

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

Government, Military and Veterans Affairs Committee
February 22, 2012

of priority to when bids were comparable, so that's what led to the circumstances that allowed other vendors to bid and compete, and the contract was awarded based on the results of the RFP. [LB1006]

SENATOR PAHLS: Yeah. And I'm not trying to...my intent is not to go after you; that's not my intent. My intent is trying to figure out the rationale. And I understand changes were made, so...and then the contract came up. You had to look at like three or four different items as I understand. [LB1006]

STEVE SULEK: Yes, sir. [LB1006]

SENATOR PAHLS: So what we need to do is if we feel like there's a change, then we need to see whether those items were worth that losing that...or, I mean, that \$10,000, you know. I'm just trying to balance this thing out. [LB1006]

STEVE SULEK: Certainly. [LB1006]

SENATOR PAHLS: If we can do good, but I understand if our hands our tied, but I'm just a little curious. [LB1006]

STEVE SULEK: Well, and in this case product prices were included as one of the components, one of the elements in the RFP because the products charged are to the people using the machines and do not reflect the fiscal impact on the state. [LB1006]

SENATOR PAHLS: Right, right. [LB1006]

STEVE SULEK: That was included as part of the technical solution and not in the cost proposal. [LB1006]

SENATOR PAHLS: Okay, okay. Okay, thank you. [LB1006]

SENATOR AVERY: Senator Price? [LB1006]

SENATOR PRICE: Thank you, Chairman Avery. Thank you, Mr. Sulek, for coming. And we're talking about contracts and I feel pretty confident to talk about bidding of contracts,... [LB1006]

STEVE SULEK: Certainly. [LB1006]

SENATOR PRICE: ...and I think Senator Pahls began to hit on that, and I'll talk with Senator Fulton later. It would be interesting to see that if all the things were considered in the acquisition process, that the RFP would state that you have be able to come in with the energy-efficient equipment and that you had to...other than the rent issue; we'll

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 22, 2012

park that for a minute. But in the actual technical performance requirements of the contract, if all things were equal...and I don't know that the RFPs were set up in such a manner to clearly articulate. I'm sure that our blind vendors who are coming out could meet the technical requirements of equipment capabilities maintenance and things of that nature. So I'm thinking maybe what we need to do is include in the RFPs before we even do anything further, but also if we have to do it legislatively, that the RFP is set out to include and articulate those as the grading points, and then put it...make that incumbent. So if I have a non-visually-impaired vendor and this vendor, they're all working in the same...off the same requirements... [LB1006]

STEVE SULEK: Um-hum. [LB1006]

SENATOR PRICE: ...and then we can address the part about who is paying rent and how we the state value that rent value as opposed to the cost to the impact on these lives that end up going into the state system. And that's not your bailiwick, that's in ours... [LB1006]

STEVE SULEK: The... [LB1006]

SENATOR PRICE: ...and I understand that, but I definitely want to make sure that we understand that. I would hope that the greatest level of effort is made in solicitations in our piece to make sure everybody understands your proposal would be graded down if you're not using ENERGY STAR or whatever those things are. And I'm not sure I heard the discussion. I'm not going to say you're not doing that, but that's what I think we have. The element of the RFP here is what needs to be addressed. It's our issue. [LB1006]

STEVE SULEK: Certainly, Senator. And in these instances, the energy efficiency was another component of the technical solution, so points were...as you indicated that, you know, somebody might be...lose points. In this case, points were awarded based on that aspect of the technical solution. So if a vendor, regardless of who that vendor is, has more efficient machines that they're offering as part of their technical solution that would be used, they would get more points in that part of the evaluation. [LB1006]

SENATOR PRICE: Well, I would hope that when we visit that we might take into consideration of the cost that takes and that we have them weighted differently because I would really hate for someone to lose a job because they came up with a gee-whiz-bang thing to save me one penny a month. And because these energy things, you start at a certain a certain point, you're beyond...you have diminishing returns here, so I just want to make sure hopefully we make that equitable because we believe there is a sociological impact in what we're doing here. Thank you so much. [LB1006]

STEVE SULEK: Certainly. Thank you. [LB1006]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 22, 2012

SENATOR AVERY: Senator Pahls? [LB1006]

SENATOR PAHLS: Yeah, I just have one more question. So you mean when the contracts were made, these were all brand-new machines that were brought in? [LB1006]

STEVE SULEK: That...I don't know that they were all brand-new machines. A vendor may provide machines that had been used in other facilities. [LB1006]

SENATOR PAHLS: Okay. [LB1006]

STEVE SULEK: However, the degree of energy efficiency... [LB1006]

SENATOR PAHLS: Okay, thank you. Thank you. [LB1006]

STEVE SULEK: You bet. [LB1006]

SENATOR AVERY: And you have a reliable way of measuring that efficiency? [LB1006]

STEVE SULEK: It's...that would be, as Senator Price had indicated, there is standards that are established like the ENERGY STAR that would allow for those comparisons. Yes, sir. [LB1006]

SENATOR AVERY: So what would your...I know you were engaged in a conversation with Senator Pahls on this. But how much money did the state actually save with this new contract? [LB1006]

STEVE SULEK: Well, we're talking about a couple of contracts. In total, approximately \$38,000 a year. [LB1006]

SENATOR AVERY: \$38,000. And you've...that was a...did you have a threshold that you were looking for? Or could it have been \$15 and you would have awarded a contract? [LB1006]

STEVE SULEK: Well, the existing statute says...it uses the term similar, which is a very broad statement. If you were coming down to...Senator Price has indicated from his experience sometimes the degree of difference between bids can be quite narrow, so there are times when contracts are awarded on the basis of a few points. In this case, points are assigned based on the evaluation which includes cost proposals, so a cost proposal. Or, in this case as well, the product price which was included in the technical solution also garnered points, so slight differences can make a decision. [LB1006]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 22, 2012

SENATOR AVERY: So you took a cold, hard look at the RFPs or the bids, and you determined that there were no intangibles that you could consider. It's just the hard facts on the forms, right? And you looked only at the number, the amount of money that would be saved? [LB1006]

STEVE SULEK: Well, not just the amount of money, sir. The evaluation process awarded points for all of the sections that I identified. That included the executive summary, the corporate overview, the technical solution, and the cost proposal. [LB1006]

SENATOR AVERY: Um-hum. [LB1006]

STEVE SULEK: So all of the points are accumulated, and then it's based on the highest number of points, so if you're a responsible bidder, you meet all the requirements of the RFP, the highest number of points garnered through the evaluation process. It's not just solely on the cost for services. [LB1006]

SENATOR AVERY: And you have no place in this bidding process for intangibles? [LB1006]

STEVE SULEK: No, sir. The existing statute allowed for the awarding of priority when the bids were comparable, and due to the nature and the differences in the points that were awarded through the evaluation process, there were no bids that were considered to be similar. [LB1006]

SENATOR AVERY: Did it give you any cause to be concerned about the decision made? [LB1006]

STEVE SULEK: It's... [LB1006]

SENATOR AVERY: Do you sleep well at night? [LB1006]

STEVE SULEK: It's...well, not always. (Laugh) However, we have to do our portion of this process in coordination with the parameters that are established by statute, so I'm not always allowed to make those kinds of considerations, sir. [LB1006]

SENATOR AVERY: Yeah, well...but you're opposing a change in the statute now. [LB1006]

STEVE SULEK: It's a...I'm just responding to the bill that's submitted, Senator. [LB1006]

SENATOR AVERY: Yeah. Senator Price? [LB1006]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 22, 2012

SENATOR PRICE: Yeah, real quick. I appreciate and I don't want to belabor this too much. I probably already have. I apologize to the committee members. But when we talk about a cost proposal, is there a way, if we chose to do this, to where we could make that so that we could...wouldn't have people coming in offering exorbitant rent prices? So in other words, in cost, schedule, performance, and we're looking at things there. If we're looking at the part of performance and the technical solution being similar but the weighted factor is the ability of some other entity who...to offer...I'm thinking about cost realism here. [LB1006]

STEVE SULEK: Um-hum. [LB1006]

SENATOR PRICE: Someone comes in and offers you three times what you were getting for the rental space for a long time, that's...I don't know where the realism is in it, but I understand you're statutorily limited in what you can do. But we have the authority to interject there and say in certain circumstances that cost proposal and cost realism will be submitted to closer scrutiny and more discretion. [LB1006]

STEVE SULEK: The...without seeing proposed language, it would be hard for me to comment on a concept. [LB1006]

SENATOR PRICE: Oh. [LB1006]

STEVE SULEK: Is it possible to make adjustments in the process under certain circumstances statutorily? Yes, sir. [LB1006]

SENATOR PRICE: Great. Then we can always visit off mike. I appreciate your time and your willingness. Thank you. [LB1006]

SENATOR AVERY: Any other questions? I don't see any. Thank you, sir. [LB1006]

STEVE SULEK: Thank you. [LB1006]

SENATOR AVERY: Any other opponent testimony? All right, any neutral testimony? All right, that closes the hearing on LB1006 because Senator Fulton declined to close. All right, we'll now move to LB1076. Senator Karpisek, welcome to the committee. [LB1006]

SENATOR KARPISEK: Thank you, Senator Avery and fellow members of the committee. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, and I represent the 32nd Legislative District. LB1076 has been a very frustrating bill for me to carry this year. It seems that there is a lot of misreading of the bill because people on both sides of the issue are against it. (Laughter) And I guess that is typical, but... [LB1076]

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

Government, Military and Veterans Affairs Committee
February 22, 2012

SENATOR AVERY: Only you could do that. (Laughter) [LB1076]

SENATOR KARPISEK: I know. This bill was carried by Senator Mines in 2007, and I am just going to read for you a little bit. I know the committee can read their own memo from legal counsel, but I'm going to read it for the record and for others in the room. In regards to public records, the bill provides that a public body or custodian of public records is not required to copy, produce, or generate all public records created within a certain time frame unless the request specifies a specific subject matter. The bill also clarifies that a requester of a public record is allowed both access and copies of public records if requested and copying equipment is reasonably available. It's just to say that someone can't come in and say, I want everything that deals with everything that you've ever had, and I want it tomorrow. It's just a reasonable request, and they are of course allowed to access it, but it has to keep it in a little bit of a common-sense time frame and tell us what you want, and give us a little time to get it to you. The other part is the main part of the bill and why I wanted to bring it. In regards to open meetings, the bill specifies that the public has the right to speak on agenda items. The bill also outlines the procedure for a citizen to recommend subjects for discussion as possible agenda items at future meetings. Each public body will have a forum for citizens to request possible agenda items. Within ten business days of receiving the form the secretary or other designee of the public body will send the citizen a written statement regarding the status of the request. That ten days has caused some heartburn, and I'm not married to that one way or another. I realize if a lot of people write in and ten people have to...or ten days it has to be out, just to say we're not going to hear...not put it on the agenda, so...and I think there may be an amendment from someone behind me to offer, and that's fine with me, but what I'm trying to get at is so people can get on an agenda. What...the reason I brought this bill is that there are some bodies that will not put a certain...something that they won't put on an agenda. A problem that a constituent may have, they won't put it on an agenda. They say we have open mike time every month. The open mike time, you can get up and you can talk. However, if it's not an agenda item, the board can't act on it. That's the whole reason for this bill. I have gotten numerous nasty e-mails saying, why are you trying to shut people up? I'm trying to do the exact opposite. I'm trying to let them have a way to get on an agenda, to be heard, and for action to be taken. I don't want to go as far...I think in 2007 the committee did an amendment to say after so many times it will be on the agenda. I really don't want that to happen because not all things need to be on an agenda. A lot of these things can be done without an agenda item popping up. Say somebody needs dirt moved in their backyard that was left there from a snowplow; someone can just take care of that. But the issue at hand is that we do have public bodies that are keeping things off agendas and not dealing with them. I don't understand why. I think you should get it in front of the body, vote no if you want to, and be done with it, so that is the reason for the bill. I have further statements as such from 2007, when Senator Mines brought it up. I think people are being confused with the...it says that there will be a paper to write down an agenda

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

Government, Military and Veterans Affairs Committee
February 22, 2012

item. I think they're confusing that with that you would have to sign up to be allowed to speak. Not at all. The other part maybe that they don't like says that it will be within the discretion of the chair on how long, those sort of things. It's what we do here. Some committees don't use lights; some use lights with five minutes; some use lights with three minutes. It's kind of how we do things. The Chair has the opportunity to decide how long someone can talk. With that, that is the issue that I bring forward, and I'd be glad to try to answer any questions. [LB1076]

SENATOR AVERY: Okay. Senator Price? [LB1076]

SENATOR PRICE: Thank you, Chairman Avery, and thank you, Senator Karpisek. It's an interesting proposition. The thing that comes to mind is if we end up saying that they have the ability to reject a citizen's request, I'm...we're back to where we started. So a citizen says, I'd like to get on the agenda, and they say, well, I'm not going to hear you. There's no mechanism to really say...I'm not sure how we get over this. I'm just pointing out to you that you're pretty much correct in saying that you have a self-filibustering bill here because of the challenges of implementing this and the...when you think about an elected board, and they're setting their agenda, and now there's 13, 14 items. A citizen...we all know some who are...we really appreciate their level of intensity and effort and involvement, but sometimes some people tend to dominate a conversation, and then you have business, so again balancing those things out. How do you see this going forward, being effective, if you just leave it up to the discretion of an individual to say but I'm not going to listen anyway? What do we do then? [LB1076]

SENATOR KARPISEK: You know, and that's where I've run into on this bill, too, is to say I don't want to force the board to put something on an agenda item or on an agenda, but there should be a way that people go about getting it on there. Now most boards, I think, do have a way. Either the chair can put it on, maybe two council members or two members can put it on, but they're just absolutely not doing it. And I can see the frustration of someone going two years and not being able to get any resolution through anything just because the board won't put it on and take action. [LB1076]

SENATOR PRICE: Okay, thank you. [LB1076]

SENATOR AVERY: Any other questions? Senator Janssen. [LB1076]

SENATOR JANSSEN: Thank you, Chairman Avery. Senator Karpisek, is there a particular incident that kind of brought this forward that you're speaking of? [LB1076]

SENATOR KARPISEK: Well, the one that I'm...the main one is a school board in my district that will not take action on an issue. And they let the constituents come in and open mike it every month, but they're not getting any satisfaction on what's being done.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 22, 2012

[LB1076]

SENATOR JANSSEN: I suppose they can run for school board. [LB1076]

SENATOR KARPISEK: And... [LB1076]

SENATOR JANSSEN: Probably are. I don't... [LB1076]

SENATOR KARPISEK: And I think they are. [LB1076]

SENATOR JANSSEN: I kind of...I guess harkening back to my city council days, I can think of some times where people do tend to dominate discussions and could really gum up committee procedures. Is this an unintended consequence, being that somebody wants to every month put on the agenda that well, we gave statutory authority to keep bars open until 2:00 or whatever, almost giving ordinance-making authority to everybody? Is that...? [LB1076]

SENATOR KARPISEK: Yeah, I think you're right; that is part of the problem. However, that's where the chair needs to be a firm chair and keep things moving. That's why it gives them the...keeps the authority that they have to limit the time or the amount of people or just kind of the same things we do here. [LB1076]

SENATOR JANSSEN: I found out in Fremont you can always have a petition drive and you can get stuff done that way, too, but...so it's just...thanks. [LB1076]

SENATOR KARPISEK: Thank you. [LB1076]

SENATOR AVERY: Senator Wallman? [LB1076]

SENATOR WALLMAN: Thank you, Chairman Avery. Thank you, Senator, for being here. On school boards, you know, we used to work with policy issues. It is tough because we've had the thing packed already on the curriculum items, so we set a policy like three minutes, and then that was...it's hard to enforce, but eventually the gang helps you. So I guess maybe city councils and school boards ought to have better policies in place maybe. But this would help, I think. [LB1076]

SENATOR KARPISEK: Well, just the way to get on the agenda. [LB1076]

SENATOR WALLMAN: Yeah. [LB1076]

SENATOR KARPISEK: That's my whole thing. You have an issue but you cannot get on the agenda because no one wants to deal with your situation. I agree with Senator Janssen that someone could try...want to be on the agenda every month for the next ten

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 22, 2012

years and say the same thing and you'd say no. Well, there again, there has to be some discretion of the chair. However, to go for two years and not get any satisfaction is not correct either. [LB1076]

SENATOR AVERY: Any other questions? I don't see any. Thank you. [LB1076]

SENATOR KARPISEK: Thank you. [LB1076]

SENATOR AVERY: Proponent testimony? Welcome, sir. [LB1076]

GARY KRUMLAND: (Exhibit 1) Senator Avery, members of the committee, my name is Gary Krumland. It's G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities, appearing in support of LB1076. The reason I'm appearing is the league was one of the people behind the bill that was introduced in 2007, so I thought it may be helpful just to give you a little background on what was going on at that time and tell you where some of these provisions came from. In 2007 there was--well, actually 2006--there were complaints and...about some public bodies, like you've just heard, that weren't allowing people to put things on the agenda. And one of the proposals was simply that a citizen could come to a meeting and add an agenda item that could be discussed, but that would kind of go against the Open Meetings Act because anybody other than people at the meeting would not know anything about it and wouldn't have a chance to respond. So LB...at the time...in 2007 LB391 was introduced and, as Senator Karpisek mentioned, there were three parts. The public records part was a direct result of a firm who was outside of the state sending public records requests to some political subdivisions across the state saying, I want all the e-mails that were either sent or received by the city or school board or whatever from 2001-2007, and so it was just...so there was a request put in to at least narrow that down, put a subject matter in. The other part was an attempt to create a process to put items on the agenda, and it was based on a process that the city of Grand Island has been using and other cities have now adopted. And what I've just handed out is a page from the Grand Island city Web site. They have a process where anybody can either do it on the Web site and put the information there or print this off and write it out and send it in, and it basically asks, you know, what item it is, gives some information like that. The city of Grand Island has found that a vast majority of the requests that come in can be handled administratively. People have a question and they don't know exactly who to deal with it. It comes in, it gets to the right department, the department contacts them and says, you know, we've already dealt with this, here is the process to do it, or if you have a complaint we can come and talk to you about it and get it resolved. So virtually they said about 90 percent is, I think, is the items that come in are handled without even having to go to the city council. Beyond that then they do put items on the city council, but they do have some discretion. For example, if they do put an item on the council's agenda, the council deals with it, they...and then somebody comes back the next month to say, we want to do this--or the next meeting. They do this again and again and again. They do say, well,

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

Government, Military and Veterans Affairs Committee
February 22, 2012

look, we just dealt with this. We're not going to deal with it again for a certain amount of time. So it...there is...there are political subdivisions, a couple cities who are using this, and it seems to work for them, so...and that's where the process came from, so I'd be happy to answer any questions. [LB1076]

SENATOR AVERY: Thank you. Questions from the committee? Don't see any. Thank you. Other proponent testimony? Good afternoon, sir. [LB1076]

TOM RICHARDS: (Exhibit 2) Good afternoon, Chairman Avery. I'm at a stage now where I have to wear my glasses. So Chairman Avery and members of the Government and Military Affairs Committee, my name is Tom Richards. I'm the manager of Governmental and Community Relations for the Omaha Public Power District. I'm appearing here today on behalf of the Nebraska Power Association, in support of LB1076 with one exception. As Senator Karpisek said, both sides, supporting and opposing, are on the same side, so I'm coming down on the support side, and we'll work through the exception. Power Association represents all the electric utilities in the state. Public power districts and other electric providers have an open process in how we conduct our business for the public good. For example, OPPD's Board of Directors receives information from the public in a variety of ways: through e-mails sent directly to the board of directors, comments from the public received from our Consumer Relations Department via e-mail and phone, attendance at board of director meetings and other public meetings, and functions throughout the district. Each of these methods of communication from the public result in a response from OPPD's senior management or in some cases directly from a member of the board of directors. At any regular meeting of OPPD's Board, the public can comment on agenda items before the vote is taken. In addition, at the end of the board of directors meeting, OPPD has an open mike period where the public can comment on other items of interest. Also, as with many boards, any OPPD member can put an item on the agenda at their discretion. If LB1076 is to move forward, the NPA would suggest the following amendment. And I have the amendment, but I forgot to bring it with me. And I can send it to your legal counsel if need be, but it's pretty straightforward. On page 10, line 11, we would like the requirement of a ten-day response from the board secretary regarding the status of the agenda request be stricken. We see the possibility of many requests to be placed on the agenda being made regarding contentious issues. The requirement that the board secretary respond to all of them could become very onerous. With the amendment striking that requirement, the Power Association would be in support of the bill. Thank you for your time, and I'll attempt to answer any questions you might have. [LB1076]

SENATOR AVERY: Thank you. [LB1076]

TOM RICHARDS: Thank you. [LB1076]

SENATOR AVERY: Any...? Senator Price. [LB1076]

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

Government, Military and Veterans Affairs Committee
February 22, 2012

SENATOR PRICE: Thank you, Chairman Avery. Good to see you again. [LB1076]

TOM RICHARDS: Nice to see you. [LB1076]

SENATOR PRICE: So I understand what we're talking about is somebody who is a bad actor--we haven't got to use that term in a long time. A bad actor comes in and decides to utilize this to gum up the works. But is there a time that does seem appropriate, I mean, to give a response? [LB1076]

TOM RICHARDS: You know, I don't know what the time is, and I'm not sure that giving the response is the thing that has to happen as well. I think what happens is when you tell somebody repeatedly that they can submit an agenda item that you're starting to create an expectation that they're going to get on the agenda, and I'm not sure that necessarily has to happen. More and more what's happening is larger groups, movements that oppose something or are for something show up. Sometimes they get their way. Sometimes they don't get their way, and they continue to try to work to get on the agenda to get the item overturned. So I'm not sure...you know, the part about submitting a form for recognition of that they want an agenda item, I don't think that's too onerous. I think it...as with any board, like a city council or a county commission or the Board of Directors of OPPD, any board member can put it on the agenda if they want to. It's a question of whether they want to get that on the agenda or not. [LB1076]

SENATOR PRICE: Well, I was just thinking of...from the perspective of a frustrated citizen wanting to say they're firing something off, and it never comes back, they never understand, and that that would put us right back to where we're at right now. [LB1076]

TOM RICHARDS: I guess what...at least what happens at OPPD--I think somebody said it in the opening comments--is that we work through a lot of those. There's a lot of different ways people bring information to the board of directors and it gets dealt with, so we haven't run into that situation at this point. [LB1076]

SENATOR PRICE: All right, thank you. [LB1076]

SENATOR AVERY: Any other questions? Thank you for your testimony. [LB1076]

TOM RICHARDS: Thank you, Chairman Avery. [LB1076]

SENATOR AVERY: Any more proponent testimony? All right, we'll move to opponent testimony. [LB1076]

JOHN BONAIUTO: Thank you. [LB1076]

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

Government, Military and Veterans Affairs Committee
February 22, 2012

SENATOR AVERY: Welcome. [LB1076]

JOHN BONAIUTO: Senator Avery, members of the committee, John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o. If I would have been a little bit quicker in thinking this through, I would have supported it like the last testifier because my issue is that same issue as an opponent. And we could live very much with having written suggestions I think, having a forum, and having people make suggestions to the board for future agenda items. I'm really concerned about having a ten-day requirement and having written feedback for every suggestion that someone makes. And I think that it's frustrating, obviously, and I appreciate what Senator Karpisek is saying. And he and I have had a conversation about this, and I had said to him, having a forum to make suggestions is not the problem. It's the response, and pretty soon you don't have the clerk doing it, you have an attorney doing it. And then because it's going to be something that's put in writing and sent to individuals, and we're talking about then legal time, and so I would hope that we could look at policies and procedures and process. And as the School Boards Association, who I represent--and I'm sorry I didn't say that. I'm a registered lobbyist representing the School Boards Association, and I would be happy to work with them to make sure that we have boards that are doing this and they're having the process that's workable and understandable because they take the open meetings law seriously and would be happy to work with Senator Karpisek and this committee on that. But again I think that having another duty with a time line is problematic. With that, I'll conclude my testimony. [LB1076]

SENATOR AVERY: Thank you. Questions from the committee? I don't see any. Thank you, Mr. Bonaiuto. [LB1076]

JOHN BONAIUTO: Thank you. [LB1076]

SENATOR AVERY: Other opponent testimony? Good afternoon. [LB1076]

JOHN LINDSAY: Thank you, Senator Avery and members of the committee. My name is John Lindsay, L-i-n-d-s-a-y, appearing as a registered lobbyist on behalf of the city of Lincoln, here similarly to the last two testifiers, one proponent and one opponent, and again with the same language. Senator Karpisek was prophetic, I guess, in his opening statement. The city of Lincoln does have concerns with Section 3, the language that's been identified by the last two testifiers with some of the same concerns. Additionally, just the question of you'd hate to move to a situation where citizens have to or feel that they must fill out a form in order to communicate with their elected officials, that the response being, yeah, you've got to go fill out a form and then we'll look at it. Secondly, we...as a second issue, we have the same concern about responding via U.S. mail when right now we have a variety of ways of responding to constituents. Oftentimes issues are resolved via e-mail, they are resolved via telephone, resolved via face-to-face visits. So it seems that requiring that it be done by U.S. mail doesn't take

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

Government, Military and Veterans Affairs Committee
February 22, 2012

into account the fact that we're talking about the constituent issues that may be very broad on the spectrum, from something that could be handled very quickly to something that may very well need to be an agenda item on a governing body agenda, so there's concern with that one-size-fits-all approach. But the primary concern, as have other testifiers been, with that language on page 10, lines 7-14, and the city of Lincoln through Steve Hubka has e-mailed each of you a letter outlining those concerns. I'd be happy to answer any questions, Mr. Chairman. [LB1076]

SENATOR AVERY: Any other questions? Senator Pahls. [LB1076]

SENATOR PAHLS: Thank you, Senator. Does Lincoln, do they have that many problems that people...that you know of, I mean, needing to go in front of a group? [LB1076]

JOHN LINDSAY: Oh, I don't think so. The...but that's kind of the point, is that concerns of citizens. To the citizen, it's the most important issue the city faces. [LB1076]

SENATOR PAHLS: Right. [LB1076]

JOHN LINDSAY: To the city, they receive a lot of input from and appreciate the input,... [LB1076]

SENATOR PAHLS: Yeah. [LB1076]

JOHN LINDSAY: ...but a lot of input from citizens that, while important to that citizen, in the overall scheme of things may not be as significant. Do they rise to the level of agenda items? Typically, no. But again, depending on the individual citizen, it could be very, very important. [LB1076]

SENATOR PAHLS: Yeah, I understand. Anything that's...that you're proposing, it's important to you. [LB1076]

JOHN LINDSAY: Right. [LB1076]

SENATOR PAHLS: But I'm just wondering if this is a real big issue or if this is something that happens occasionally because I do know the cities and every...you know, the...hopefully, government does respond. [LB1076]

JOHN LINDSAY: Right. [LB1076]

SENATOR PAHLS: I mean, I'm trying to imagine. Do we have that many issues that are not resolved? [LB1076]

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

Government, Military and Veterans Affairs Committee
February 22, 2012

JOHN LINDSAY: Oh, I don't...and I don't think so. But the question is if citizens believe they have to fill out a form--which by the way I think is available at the governing body's meeting... [LB1076]

SENATOR PAHLS: Yeah. [LB1076]

JOHN LINDSAY: ...or at the office during business hours. Again, in the days...in the electronic age, if they have a form they do want to fill out, it should be...they should be allowed to do that on-line as well. [LB1076]

SENATOR PAHLS: Right. Okay. [LB1076]

JOHN LINDSAY: I mean, I do think it probably needs a bit of update on that. But no, I don't think so, and...but again the question is perception of the citizen with respect to their issue,... [LB1076]

SENATOR PAHLS: Yeah, okay. [LB1076]

JOHN LINDSAY: ...and you all know from dealing with issues day in and day out, they don't all require legislation. [LB1076]

SENATOR PAHLS: Yeah. [LB1076]

JOHN LINDSAY: But people are looking for a little of the...a little assistance, and that's...and you respond, just as our city council members and our mayor respond, for the same reason. One, it's good government; and (b) if they don't, reelection is going to be a little difficult. [LB1076]

SENATOR PAHLS: Yeah. [LB1076]

JOHN LINDSAY: And so they're going to respond, but the question is in what format. [LB1076]

SENATOR PAHLS: Okay, okay. Yeah, thank you. Thank you. [LB1076]

SENATOR AVERY: Any other questions? I don't see any. Thank you for your testimony. Any other opponent testimony? Good afternoon. [LB1076]

BETH BAZYN FERRELL: Good afternoon, Chairman Avery, members of the committee. For the record, my name is Beth Bazyn, B-a-z-y-n; Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials, and we're appearing in opposition to the bill. But I think like all the other testifiers we could probably go either way because the issues are all the same, and I would just sort of echo their comments about being able

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 22, 2012

to submit a form electronically or some other options as well as the fact of having a forum altogether to be able to address issues that the public presents to us. I would add one comment though. The first part of the bill that talks about providing copies and getting the requests for copies for a huge amount of time, we would support that provision. If it was a separate bill, we would be here definitely in support of that one, so I would be happy to try to answer questions. [LB1076]

SENATOR AVERY: Thank you. Questions from the committee? Don't see any. Thank you. Any other opponent testimony? Any neutral? [LB1076]

SETH BRAUNING: Yes, I'm an opponent. [LB1076]

SENATOR AVERY: Opponent? [LB1076]

SETH BRAUNING: Yes. [LB1076]

SENATOR AVERY: Okay. Good afternoon. [LB1076]

SETH BRAUNING: Good afternoon, Mr. Chairman and members of the Government, Military and Veterans Affairs Committee. My name is Seth Brauning. That is spelled S-e-t-h B-r-a-u-n-i-n-g. I am part owner of a small business here in Nebraska and I'm testifying as a citizen, not a lobbyist, that is very concerned about the LB1076 legislation that is before us today. As the other testifiers have mentioned, we're...I'm in favor of the intent behind the bill, but the way it is currently written will cause great harm to First Amendment rights with the limiting and restricting of public input. The changes that are being proposed to the Open Meetings Act are detrimental for two reasons. First, this legislation could open the door to considerably expediting the law creation process. While this may seem like a good thing on the surface, it actually is very bad for Nebraska. Whenever law passage is quick, it doesn't leave adequate time for Nebraskans to voice their opposition or support for a bill or a provision or statute to Nebraska. This bill, on page 9, Section 3, line 18-19, provides an open door for authoritarian law, rushed through at the expense of Nebraskans' freedoms and liberties. Second, these changes to Open Meetings Act on page 10, Section 3, lines 7-14, which has been previously mentioned by other testifiers, could prevent or greatly restrict Nebraskans from giving public testimony concerning a matter such as public safety, education reform, etcetera, like the...what is currently available during the Lincoln City Council meetings. It provides a form but doesn't permit citizens to have a voice on nonagenda items and expect them to be put on the agenda. I know that has been addressed by other testifiers. This could render Nebraska's state and local governments unresponsive or more unresponsive and disconnected to the needs and concerns of Nebraskans all across the state. Again, please preserve the rights of Nebraskans, and keep Nebraska's state and local governments connected to the thoughts, needs, and desires of its citizens because they are very important. In conclusion, I strongly urge

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

Government, Military and Veterans Affairs Committee
February 22, 2012

each of you legislators to uphold your oath of office to the citizens of Nebraska and value our First Amendment rights by killing this bill before it reaches General File. Thank you. [LB1076]

SENATOR AVERY: Thank you. Questions from the committee? Thank you, Mr. Brauning. I don't see any questions. All right, now additional opponent testimony? Okay. Welcome. [LB1076]

CHARLOTTE RALSTON: Thank you. Mr. Chairman, members of the committee, my name is Charlotte Ralston. That is spelled C-h-a-r-l-o-t-t-e; Ralston, R-a-l-s-t-o-n. I'm a small-business owner here in Lincoln, I live in the 32nd District, and I'm testifying today as a concerned citizen. I came to oppose the bill because I read it, but after hearing the intent I would be in favor if it achieved it. However, in reading the bill I would oppose it because it changes...the changes it makes to the Open Meetings Act, in spite of its supposed intent, actually narrows the scope of the freedom of speech and limits public input and more narrowly restricts the ability of Nebraskans to exercise their First Amendment rights in a public forum. Several portions of LB1076 provide cause for concern. On page 4, at least on my page 4...it may not be on yours. Let's see. This is the first time I've done this; I'm not very good at it. It's the section that refers to the access and copies relating to a specific subject matter. I'm wondering if that would limit the access to a complete document to be released if we made that kind of a limitation. Or would just part of the document be able to be released if we said specific subject matter? And just kind of on the side it says, if requested and copying equipment is reasonably available. Is an individual allowed to bring their own scanner when they access a public document? Changes to Section 1 of 84-1412 also limit public comment at meetings to agenda items as allowed by the individual presiding over the meeting. Open public comment has been a longstanding tradition at the meetings of many boards, councils, and commissions because of protections previously provided by the Open Meetings Act. For example, the Lincoln City Council provides a period of time at its public meetings for citizens to comment on issues that may or may not be germane to subjects included on a meeting's agenda. This period of public comment has been a crucial avenue for many in Lincoln, and I assume Nebraska citizens across the state, to raise new concerns and address ongoing grievances. We call this the open mike, which is available every other week, and it is an opportunity for the public to bring items not on the agenda for which their meetings are already limited to anyway. This bill as amended would, in my understanding, allow for limiting this option. This would put we citizens at a disadvantage in participating in our local government. And I do believe the best solutions are found closest to the people they impact, and this bill complicates this process at the local level. Second, changes to Section 2 of 84-1412 create a form on which many citizens may recommend subjects for discussion as possible agenda items at future meetings. After a citizen fills out this form, they may wait up to ten days before their answer is mailed to them, and this correspondence will occur first-class mail, and a person wishing to make public comment may wait upwards of two weeks to find out if

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

Government, Military and Veterans Affairs Committee
February 22, 2012

their request has been granted. Well, during that time the issue may have already passed by. I would suggest an electronic option with a shorter deadline for response if there was going to be this. I am in favor of expanding the option to get on the agenda, but I don't believe this bill achieves that. More paperwork and limited forums for citizen input are the surest way to silence the public. Most people are already insecure in addressing public officials and speaking at meetings. Another obstacle like this achieves the goal of less citizen input, not more. In Section 3, 18-1412 (sic), giving one person--the chairman--absolute control in deciding what is pertinent in public debate and input at open meetings seems to be a violation of our First Amendment right to free speech under the constitution. Since each of you have taken an oath to uphold the constitution in your office, I would ask that you take this oath seriously for the freedom of speech and keep it from such unintended consequences as those limitations in LB1076. I treasure the right as a citizen of Nebraska to testify at public hearings such as this one in front of your committee today, and I would ask that you not approve the changes to this bill, however well-intended these amendments first came to be. Such action would do well to honor this day, the birthday of our first great president, George Washington, who said, "Government is not reason. It is not eloquence. It is a force like a fire, a troublesome servant and a fearful master. Never for a moment should it be left to irresponsible action." Thank you. [LB1076]

SENATOR AVERY: Thank you. Questions from the committee? I don't see any. Thank you. Any other opponent testimony? We're on LB1076. All right, neutral testimony? Oh, Senator Karpisek? You are recognized to close. [LB1076]

SENATOR KARPISEK: Thank you, Senator Avery and members of the committee. And I think we just saw what I talked about on both sides of being against it--one not wanting to send something out in ten days and the other side saying that's too long. Well, there you have it. I do want to say that in the bill it says each public body shall have a form on which citizens may recommend subjects for discussion as possible agenda items. Nothing says that you have to fill out one of these forms to get on the agenda. It's a way to get on the agenda. Again, the ten days, I realize if you are in a city maybe that has every-other-week meetings, fine. The deal on the open mike I think is nothing but a recipe for disaster. You come in and people talk, but the board can't do anything about it, so you just...you cannot take action on something that's not on an agenda. I mean, if I have that wrong, somebody taught me wrong. But if it's not on an agenda, you can't take action on it. If some...I mean, if it's to move a pile of dirt or something, fine. I guess if the open mike nights...I wouldn't have one if I was running a meeting. I never did as 12 years of mayor. I put it on the agenda. One of the kind of odd things is, just to let everyone know the record on this, is when Senator Mines brought this bill in '07, the committee statement shows that there was...there were seven yes votes and one present not voting. I was the present and not voting, so if you were on this committee then, you voted for this bill. (Laughter) [LB1076]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 22, 2012

SENATOR AVERY: Senator Pahls? [LB1076]

SENATOR PAHLS: Thank you. I'm a smarter man now. (Laughter) [LB1076]

SENATOR PRICE: One could only hope. [LB1076]

SENATOR KARPISEK: Me, too, because I brought the bill, and I didn't vote on it last time. [LB1076]

SENATOR PAHLS: I tell you, there is some conflict here, right? No, in all sincerity, I see what you're driving for. But also, I...if somebody brings it to an open mike and the chair is not going to...cannot act on it that night but you said somebody's been fighting this for two years, I would think eventually that would get...that would be on the agenda unless it's a personality. [LB1076]

SENATOR KARPISEK: You would think that it would eventually get there but it is not, hence my... [LB1076]

SENATOR PAHLS: Okay. [LB1076]

SENATOR KARPISEK: ...the bringing of this bill. I sure don't want to do anything to stifle anyone. That is absolutely not the reason I brought it. The part in there about at the chair's request or however it says it, I mean, I think that's how everything is run. A mayor or a board president or a chairman runs the boards now and can limit discussion on it, so I don't think that putting that in there actually does anything other than codify it. But again the reason for bringing this bill is because people are not being heard and things are not being done, so thank you for the time. [LB1076]

SENATOR AVERY: I think Senator Price had a question. No? All right, thank you. [LB1076]

SENATOR KARPISEK: Thank you. [LB1076]

SENATOR AVERY: (Exhibits 3-5) I have three letters of opposition: one from the city of Lincoln; one from the Nebraska Public Employees Retirement Systems; and one from the city of Omaha. That ends the hearing on LB1076. We'll now move to LB1024. [LB1076]

SENATOR PRICE: Welcome back, Senator Avery. [LB1024]

SENATOR AVERY: Thank you, sir. Mr. Vice Chair, my name is Bill Avery, B-i-l-l A-v-e-r-y, representing District 28 here in Lincoln. I have been asked by the administration to bring this bill, LB1024, and what it does is provide an exemption for

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 22, 2012

deputy agency heads from the State Personnel System. The intent of the State Personnel System is to ensure that all state employees doing similar work are paid the same amount. The employees of the State Personnel System also have a grievance procedure. Employees that are exempted from the State Personnel System are referred to as discretionary or at-will employees. In other words, these employees serve at the pleasure of the agency director. Often, positions exempted from the State Personnel System hold positions of high responsibility or hold positions that are very difficult to fill such as physicians and pharmacists. Deputy agency heads actually work closely with the agency head to ensure the proper management of the state agency. While the number of responsibilities of deputy agency heads can vary from agency to agency, all share a certain type of responsibility, such as leading the agency in the event that the agency's head is absent. The Governor's Policy Research Office estimates that there are about 22 such deputy directors in the code agencies presently. It's important to note that current law provides that any changes to positions exempted from the personnel system will not affect the status of the current employees in those positions unless the employee gives their consent. In other words, the deputy agency heads covered by this bill will have the choice to opt out of the State Personnel System. If an individual decides to remain part of the State Personnel System, the position would only be filled as a discretionary position when it becomes vacant. With that, I will take any questions you might have. There are people here who have a greater knowledge in this area and have greater stake in it, and they are going to be testifying. [LB1024]

SENATOR PRICE: Thank you, Senator Avery. Are there any questions from the committee? Seeing none, we will move on now to the first proponent from LB1024. Welcome, sir. [LB1024]

BOB HOUSTON: (Exhibit 1) Thank you. Well, good afternoon, Vice Chair Price. My name is Bob Houston, and...H-o-u-s-t-o-n. I'm director of the Nebraska Department of Correctional Services. I am here today in support of LB1024 and would like to thank Senator Avery for introducing the legislation. LB1024 exempts all deputy agency heads from the State Personnel System. Deputy agency heads serve and are accordingly compensated to carry out state initiatives and critical operations. Agency directors work closely with their deputies, and they must share similar values, principles, and methods of practice to ensure the proper management of the agency. For these reasons, deputy agency heads must be fully engaged and dedicated to accomplish the goals of the director and the agency without the need to employ lengthy personnel processes. Because I feel strongly that deputies should be exempt from State Personnel System, I'm...am currently...utilize five of the department's eight exempt positions for my deputies. The passage of LB1024 will allow me to utilize the five exempt positions on other worthy personnel in our department. Thank you very much for the opportunity to testify, and I'd be happy to answer any questions you may have. [LB1024]

SENATOR PRICE: Thank you, Director. Are there any questions from the committee?

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
February 22, 2012

Seeing none, again appreciate you testifying. [LB1024]

BOB HOUSTON: There you go, thank you. [LB1024]

SENATOR PRICE: We'll move on to the next proponent. Good afternoon, Director. [LB1024]

JOHN HILGERT: Good afternoon, Vice Chairman Price. Members of the Government, Military and Veterans Affairs Committee, I am John Hilgert, J-o-h-n H-i-l-g-e-r-t, Director of the Nebraska Department of Veterans Affairs. I come before you today in support of LB1024, which exempts deputy heads from the State Personnel System. The Nebraska Department of Veterans Affairs is a small agency. It consists of 17 employees. It's critical to our effective operation that the deputy director is of the same mind in issues of mission, values, and administrative direction as the director. I recently went through the hiring process for a deputy director after our agency's deputy retired after 38 years. Although we believe that we have a fine deputy in John McNally who came on board last year, it would have been very helpful in the hiring process to have this position be discretionary. It would have sent a clear message that the expectation of this position is to act in concert with the director. When the director is absent from the state, the deputy would be the director in the director's absence. The constituencies that we serve as well as the employees we manage would be assured of consistent administration of this department. Even when both the deputy and the director are on station together, we must act in unison and react in unison to our federal partners, our state peers, and our county colleagues for coordination, for accountability, for effectiveness, and I would ask you to support and act favorably on LB1024. Thank you. [LB1024]

SENATOR PRICE: Thank you, Mr. Hilgert. Are there any questions from the committee? Senator Pahls. [LB1024]

SENATOR PAHLS: Okay. As I can recall, in the past when an agency came in front of us, there was a lot of push back on doing what you're...what you want. Is that with the health agency? Was there a push back on that? Now why is there not push back on this? Because in, I think, last...as I can recall, was there not push back? And I don't feel anything here at all. I mean, why? Why isn't there anybody saying, we don't want to see this happen? [LB1024]

JOHN HILGERT: Well, my deputy is standing right there, and he's probably wanting to stay on the good side of the department. But, John, you could come up as a private citizen in a minute. But no, Senator, to answer your question, I don't know why. I think that part of it is that other agencies, larger agencies, have a number of discretionary employees. [LB1024]

SENATOR PAHLS: Right. [LB1024]

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

Government, Military and Veterans Affairs Committee
February 22, 2012

JOHN HILGERT: We have not, in the Nebraska Department of Veterans Affairs.
[LB1024]

SENATOR PAHLS: Right. [LB1024]

JOHN HILGERT: I can only speak for my department. I'm not sure what push back and instance you are referring to. I'm sorry, Senator, I just don't remember. [LB1024]

SENATOR PAHLS: And I'm not trying...I'm... [LB1024]

JOHN HILGERT: But I can't really theorize why there wouldn't be. We're talking about a limited number of individuals. [LB1024]

SENATOR PAHLS: Right. [LB1024]

JOHN HILGERT: We're talking about a number of individuals that are specifically designed to support the director of the agency. Therefore, I think it's logical to assume that most Nebraskans and constituencies, partners, would think that the deputy be in concert with the director, so I think maybe logic dictates that there is not a lot of push back. [LB1024]

SENATOR PAHLS: Okay, because I'm looking here...because the agency had around 5,000 employees, and they wanted to exempt 50, which he...probably information you don't have. That's just why I was surprised and... [LB1024]

JOHN HILGERT: I am here in my capacity as Nebraska Department of Veterans Affairs, not as the division director of Health and Human Services. [LB1024]

SENATOR PAHLS: Yeah. [LB1024]

JOHN HILGERT: I would defer that to Kerry Winterer, our CEO. [LB1024]

SENATOR PAHLS: Yeah, yeah. Yeah, well, I'm...but I'm just trying to figure out why there's push back in one and there's not in another. Will this have anything to do with salaries? [LB1024]

JOHN HILGERT: I don't anticipate that it would. Not in my agency, it would not.
[LB1024]

SENATOR PAHLS: Okay. [LB1024]

JOHN HILGERT: We are...we have to live within the confines of the Appropriations

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

Government, Military and Veterans Affairs Committee
February 22, 2012

Committee, in conjunction with the Governor's signing that appropriations bill no matter what happens with this bill, so it would not impact their salaries. [LB1024]

SENATOR PAHLS: Okay, okay. [LB1024]

JOHN HILGERT: But again it seems logical that deputies and directors be of the same mind. [LB1024]

SENATOR PAHLS: Okay, thank you. [LB1024]

SENATOR PRICE: Thank you, Senator Pahls. [LB1024]

JOHN HILGERT: Thank you. [LB1024]

SENATOR PRICE: Seeing no other questions, thank you, Director. [LB1024]

JOHN HILGERT: Thank you. [LB1024]

SENATOR PRICE: And we'll move on to any further proponents for LB1024. Are there any opponents for LB1024? Would anybody like to testify in the neutral? Then we will move to closing. Senator Avery, welcome. [LB1024]

SENATOR AVERY: I would like to respond to Senator Pahls. That was my bill that we got hung up on last year, and I think that the number was a little bit high for some senators that felt that 50 was too much. And we were also in the midst of a rather tumultuous year involving that agency, and I think that's the reason. [LB1024]

SENATOR PAHLS: Okay. Okay, thank you. [LB1024]

SENATOR PRICE: Are there any other questions for Senator Avery? Seeing none, thank you, Senator Avery. [LB1024]

SENATOR AVERY: Thank you. [LB1024]

SENATOR PRICE: (Exhibit 2) And I would like to read into the record. This is a letter of opposition by the executive director of NAPE/AFSCME Local 61. And with that, we will conclude the hearings for today on LB1024, and thank you for participating in your government. [LB1024]

SENATOR AVERY: That ends the hearings for today. Thank you all for coming. I would ask the committee... [LB1024]

SENATOR PAHLS: But you don't...(inaudible). (Laughter) [LB1024]

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

Government, Military and Veterans Affairs Committee
February 22, 2012

SENATOR AVERY: Let's take a five-minute break. [LB1024]