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Government, Military and Veterans Affairs Committee
January 24, 2007

[LB27 LB87 LB100 LB187]

The Committee on Government, Military, and Veterans Affairs met at 1:30 p.m. on Wednesday, January 24, 2007, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB27, LB100, LB87, and LB187. Senators present: Ray Aguilar, Chairperson; Mick Mines, Vice Chairperson; Greg Adams; Bill Avery; Mike Friend; Russ Karpisek; Rich Pahls; and Kent Rogert. Senators absent: None.

SENATOR AGUILAR: We're going to get started. Thank you and welcome to the Government, Military and Veterans Affairs Committee hearing. My name is Ray Aguilar, I'm from Grand Island. I'll introduce the rest of the committee. On my far right is Senator Kent Rogert from Tekamah, Nebraska. Next to him is Senator Russ Karpisek from Wilber, Nebraska. On my immediate right is Christy Abraham, the legal counsel. On my immediate left is committee clerk Sherry Shaffer. Next to her is Senator Mike Friend from Omaha. Next in line, Senator Rich Pahls from Omaha; and Senator Greg Adams from York; Senator Bill Avery from Lincoln. Bills will be taken up in the order that they are posted on the door. Sign-in sheets are at both entrances. Sign in only if you are going to testify and put the sheet in this box up here on the table as you come up. If you're not going to testify but would like to be on the record either as a proponent or an opponent on the bill, there is another sheet you can fill out and sign. These are on the tables near the entrances as well. Print your name and indicate who you are representing. Before testifying, please spell your name for the record so that we can make sure it's transcribed accurately. Introducers will make the initial statement, followed by proponents, opponents, and neutral testimony. Closing remarks are reserved for the introducing senator only. Listen carefully and try not to be repetitive so we can get through this process that much quicker. If you have a prepared statement or an exhibit, give it to the page and we will distribute it and make copies if needed. You will need 12 copies if you're passing something out. Please turn off your cell phones and pagers. And I'd also like to introduce our pages for today. We have Adam Morfeld from Sioux Falls, South Dakota, as well as Bri McLarty from San Antonio, Texas. All right, let's get it going. LB27, introduced by Senator Adams.

SENATOR ADAMS: Thank you, Mr. Chairman, and good afternoon, committee members. I'm Greg Adams, A-d-a-m-s, representing the 24th District. LB27 that you have in front of you, what the bill intends to do is this. In 1991 this body passed LB840. And the essence of that, it allows municipalities with a vote of its citizens to earmark sales tax dollars or property tax dollars for economic development. Of course, there has to be a very specific economic development plan. The bill goes on to say that the dollars in that LB840 plan and the plan itself have to be audited annually. And that's a reasonable thing to do. These are public dollars, they're tax dollars that are being used for economic development. There's a plan that's there, it needs to be followed, and the audit is all part of that. The bill goes on to say that the audit needs to be conducted by

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

Government, Military and Veterans Affairs Committee
January 24, 2007

an auditing agency that is independent of the municipality, that is independent of any parties in the economic development plan. And probably what compounds it and brings this bill, more than anything else, the auditor cannot be or have any ties to the financial institutions that may be handling these funds. Now typically that's not going to be an issue. However, in our villages and second-class cities, a problem has come up. And the problem is finding an independent auditor in those small communities. So what LB27 would do, if enacted, it would allow cities of the second class or villages, if there is no independent auditor within that municipality, to go to the State Auditor's office and ask that the State Auditor do the audit of the LB840 money and the economic development plan. I'd answer any questions. It's really that simple. [LB27]

SENATOR AGUILAR: Questions for Senator Adams? Bill. [LB27]

SENATOR AVERY: Do you know why the Auditor of Public Accounts was not authorized to do these in the first place under LB840? [LB27]

SENATOR ADAMS: I don't. However, the Auditor is here and maybe at some point he might be willing to answer that question. But I can't answer it. [LB27]

SENATOR AVERY: Okay. [LB27]

SENATOR AGUILAR: Further questions? Senator Karpisek. [LB27]

SENATOR KARPISEK: Thank you, Mr. Chairman. Senator Adams, what about the people that do the city's audit on a yearly basis? Would they not... [LB27]

SENATOR ADAMS: My interpretation of this, it needs to be someone that is independent of the body, of the municipality. [LB27]

SENATOR KARPISEK: So not even who you hire to do your annual auditing? [LB27]

SENATOR ADAMS: That would be my understanding. And in the small communities, you can be somewhat empathetic to the problem that arises. [LB27]

SENATOR KARPISEK: Absolutely. And I do like the idea of letting the state then be able to do it for them. Thank you, Mr. Chair. [LB27]

SENATOR AGUILAR: Further questions? Seeing none, thank you. We will now take proponents of the bill. Can I see a show of hands how many is going to testify on this bill? I see two. [LB27]

MIKE FOLEY: Thank you, Chairman Aguilar and members of the committee. For the record, my name is Mike Foley, Nebraska State Auditor. I'm actually in the hearing room

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

Government, Military and Veterans Affairs Committee
January 24, 2007

today because of the next bill, LB100, but I thought I would just weigh in on this bill because it so directly affects my office. [LB27]

SENATOR AGUILAR: We appreciate that. [LB27]

MIKE FOLEY: I discussed the bill with my staff, discussed with Senator Adams. It's our feeling that we probably have the statutory authority already to do those audits. But to the extent that there may be any ambiguity whatsoever about our involvement in this kind of work, I think this bill just clarifies that ambiguity that may be there. So we support the bill. We think it's helpful to clarify the law in this area but whether or not it's really needed is another question. So thank you. [LB27]

SENATOR AGUILAR: Thank you for your testimony. Questions for the Auditor? Seeing none, thank you. Next proponent? [LB27]

GARY KRUMLAND: (Exhibit 1) Senator Aguilar, members of the committee, my name is Gary Krumland, spelled K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities. I'm appearing in support of LB27. I want to thank Senator Adams for introducing this bill. It was brought to us and the senator by, started from the city of Ord, but some other cities have also expressed concern about this. And as he said, that the standards for doing an audit for the LB840 programs are tighter than what a normal auditor would do. And on page 2, lines 3 to 11 in the bill is what the existing law is. It has to be an annual outside independent audit and they can't have any contractual or business relationship with a business receiving funds under the program or with any financial institutions involved with the program. When the bill was first adopted, I think the thought was that this would be mainly some of the larger cities who would get involved with this. And so there really wasn't a concern about, you know, a larger city would have many options to go to for an audit. But as you can see from one of the handouts is the list of cities that have adopted programs, and this is from the DED web site. A lot of smaller communities are doing it now. And for example with Ord, they have two auditing firms, both of whom have relationships with all the financial institutions in town and who do audits for a lot of the businesses who apply. So under those terms, they would not be able to do this audit. Even though that normally wouldn't be a conflict and they can do the city audit, they can't do the economic development program audit. In addition, in some of these smaller communities these are the very people they wanted to get involved with the program and they put them on the committees, put them on the loan committees and things like that because they want their expertise to help with the city. But by doing so, then they eliminate people who do the audit. And we looked at several different approaches. One would be maybe lessen the standard of what an auditor does but we weren't comfortable with doing that. And we thought to make it clear that, in those situations where a village cannot get an audit because of all the CPAs in the area are involved with the program, this would be a source to make clear that the State Auditor could do it for the city. And so that's...you've heard that's

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

Government, Military and Veterans Affairs Committee
January 24, 2007

what the bill does. And I'd be happy to answer any questions. [LB27]

SENATOR AGUILAR: (Exhibits 2 and 3) Thank you, Gary. Questions for Mr. Krumland? Seeing none, thank you. Further proponents? Any opponents? How about neutral testimony? For the record, I'd like to read into the record that we have a letter of support from the city of Ord, Nebraska, as well as the city of Louisville. Senator Adams to close. Senator Adams waives closing and that closes the hearing on LB27. We're now ready to open on LB100. Senator Erdman. [LB27 LB100]

SENATOR ERDMAN: I can do that, Mr. Chair, if you'll give me a moment to get my information right and just (inaudible). [LB100]

SENATOR AGUILAR: Absolutely, take all the time you need. We're here for you. Feel the love? At your will. [LB100]

SENATOR ERDMAN: Thank you, Mr. Chairman, members of the Government, Military and Veterans Affairs Committee. My name is Philip Erdman, I represent the 47th Legislative District, here to introduce LB100. LB100 is the result of a ongoing effort by then-Senator Foley and now Auditor Foley to address an issue that he believes is important. And it's my pleasure to present the bill before the committee at his request, that you may be able to discuss the policy decision before you. LB100 encompasses the following change. The Nebraska State Auditor generally conducts an audit of each state agency about once every three years. Current law provides that if, in the course of conducting an audit of an agency, the Auditor finds a potential problem relating to effectiveness, efficiency, or performance of state programs, the Auditor shall report the matter to the Legislative Performance Audit Committee, which may investigate the matter further, report it to the appropriate standing committee of the Legislature, or both. LB100 simply revises this provision of law to allow the State Auditor to offer such findings to the Legislature at any time, not just in conjunction with the current audit. Passage of this bill would enable the Legislature to learn of potential problems in program administration at an earlier date, thereby enabling a more timely corrective action and cost savings. Mr. Chairman, it's my understanding that the Auditor will be following me to present the value of LB100 further. It is also my understanding that there are other members of the Legislature who have a role in the Performance Audit Division who will also be testifying. It's my understanding their testimony will be in opposition. One of the things that I would encourage the committee to do is to listen to the testimony on both sides and actually read the bill, as opposed to making assumptions about what the bill does or does not do. And if necessary, then we can work to compromise any perceptions with the language that needs to be appropriate, as I understand, the Auditor's intent. So with that, I'd be happy to answer any questions. And again, the Auditor is here to present his story as well. [LB100]

SENATOR AGUILAR: Thank you, Senator Erdman. Questions for the senator? Seeing

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

Government, Military and Veterans Affairs Committee
January 24, 2007

none, you're off the hook. [LB100]

SENATOR ERDMAN: For now. [LB100]

SENATOR AGUILAR: First proponent of the bill? [LB100]

MIKE FOLEY: Thank you again, Chairman Aguilar, members of the committee. For the record, I'm Mike Foley, the Nebraska State Auditor, here today to testify in support of LB100 which was introduced at my request by Senator Erdman. I'm very grateful to Senator Erdman for his willingness to help out with this important legislation. A few years ago when I was a newly elected state senator, I received a phone call from a constituent who informed me that he worked as a computer systems analyst over at the Nebraska Department of Health and Human Services. And he was concerned because in the office cubicle directly next to his, an independent contractor was essentially doing the same work as my constituent but earning consultant fees that were two or three times larger than his salary and benefits. And the situation had been going on for a while and naturally was a source of great concern to the employee. Well, I explored the matter and confirmed the truthfulness of his claims, and I began writing letters to the Department of Administrative Services. And ultimately, after about three years of effort, the contract with that independent consultant was ended. But prior to the termination of that contract, the independent consultant had received several hundred thousand dollars in payments from the Department of HHS. And I relate that story to you today because it so clearly summarizes the need for this legislation. LB100 is all about empowering the professional auditors who work in the State Auditor's office to explore and analyze areas of government inefficiency and report our findings back to you in the Legislature. Under current law, my audit teams do report findings of government inefficiency when they are identified in the course of our regular routine financial audit work. However, most state government programs are only audited on about a three-year cycle. So passage of this legislation would enable my auditors to report findings of government inefficiency at any time, not just when we find it in conjunction with our regular routine audit work. The bill says that at any time my office becomes aware of problems relating to the performance or efficiency, or inefficiency, of government services, my auditors can analyze the matter and report our findings to the Legislature. The act of publicly disclosing a professional analysis of government inefficiency will go many miles toward solving problems because only when these problems are exposed to the light of day will they ever be addressed. Many of you are probably aware that the State Legislature already has a Performance Audit Committee with competent staff. However, the resources of that office are very limited and the number for performance audits conducted each year is a very, very low number. You may also be aware that there's a rather long history of legislative discussion about the extent to which the State Auditor's office ought to be involved in performance auditing. Performance audits are structured around an extensive body of standards, the implementation of which can be very time consuming and very expensive. This bill is not

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

Government, Military and Veterans Affairs Committee
January 24, 2007

about performance auditing. Most areas of government inefficiency don't need a full-blown performance audit. What they need is a professional analysis and public reporting. My experience in government has been that when problems of public administration are professionally analyzed and made public, they are already well on their way to being solved. Later during this legislative session, the Appropriations Committee will report to the floor the state budget bill. And each of you will then be called on to start making decisions about which government programs merit various levels of funding. There will be some painful decisions to be made because the available resources are never sufficient to meet the demands on those resources. The limitation on our resources makes it imperative that every state dollar be spent wisely and efficiently in the delivery of essential government services. This legislation offers an opportunity for a change in direction regarding the proper oversight of state government programs. The bill presents you with a decision. We can continue on with business as usual with very limited oversight of state government programs, or we can step it up a notch by enabling our professional state auditing staff to prepare timely analyses of government programs and report our findings to you. Thank you, Chairman Aguilar, members of the committee. I'd be pleased to entertain any of your questions. [LB100]

SENATOR AGUILAR: Thank you. Questions for Auditor Foley? Mike, Senator Friend. [LB100]

SENATOR FRIEND: Thank you, Mr. Chairman. Auditor Foley, nice to see you again. [LB100]

MIKE FOLEY: Good to see you, Mike. [LB100]

SENATOR FRIEND: Can you tell me on...you have the bill in front of you, right? [LB100]

MIKE FOLEY: I do. [LB100]

SENATOR FRIEND: On page 4 of the bill where most of the changes, it looks like, occurred in drafting, lines 12 and 13, there is some information there that I was a little bit curious about. "In the course of conducting such analysis, Section 84-305 shall apply." Does Section 84-305--and I don't believe it's included in here... [LB100]

MIKE FOLEY: No. [LB100]

SENATOR FRIEND: ...because nothing changed in that section--does that define the information on line 9, "analyze the matter and immediately report the findings in writing"? Does that section define, you know, what analysis is going to occur? [LB100]

MIKE FOLEY: Actually it doesn't, no. Section 84-305 is a provision of existing law that relates to the Auditor having full access to the books and records of the agency. [LB100]

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

Government, Military and Veterans Affairs Committee
January 24, 2007

SENATOR FRIEND: Okay. [LB100]

MIKE FOLEY: And this just makes clear that when we do the analysis, we're going to have access to all of the books and records of the agency, which is of course what we would have if we were doing a regular financial audit. [LB100]

SENATOR FRIEND: Okay. But in your opening you pointed out that there, maybe not a structural or a functional change being necessarily the reason that you are here, but analysis is an important part of what you think the Auditor's office should be doing. This isn't giving you any...that line on 9, I guess, I wanted to make sure that what you're looking at and interpreting is the same thing that I am and that that's not giving you what some would interpret more power than... [LB100]

MIKE FOLEY: What it's really doing is making our analysis more timely because when we get, if I get a phone call today from somebody at Department of Roads, for example, who says, hey, you're not going to believe what's going on in my office, we're doing this, this, and this, and you ought to look at this. Well, I could say, well, thanks for calling, why don't you call the Legislative Performance Audit Committee, they'd be interested to know about that. Or I could say, you know, we're scheduled to come back in your agency in about two years so when we come back in two years, you know, let's get together and we'll look at this thing. What this bill is all about is saying, I'm coming down there tomorrow morning, I'm going to look at that tomorrow morning because you've piqued my interest and I think you've got something that's worthy of my attention. And I'll come in there and I'll have full access to books and records and I'll verify what the claim may be or may find that it's just a specious claim and discard it. But in any event, I'll analyze that problem and then report my findings to the Legislature. [LB100]

SENATOR FRIEND: And even if that language on line 9, I don't mean to get (inaudible) but I think this is pertinent and I think you probably agree. Even if that language wasn't in there, it's not going to...this is not going to...because in line 6, you're saying "at any time." You're changing the course of behavior... [LB100]

MIKE FOLEY: Right. [LB100]

SENATOR FRIEND: ...by the auditing department right there. [LB100]

MIKE FOLEY: I can do it today, if I'm in that agency today doing a financial audit, I can perform that analysis today and report my findings to the Legislature. But as I mentioned in my testimony, we're only in these agencies once every three years or so. And once we're out, we're on to other things. [LB100]

SENATOR FRIEND: Okay. [LB100]

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

Government, Military and Veterans Affairs Committee
January 24, 2007

MIKE FOLEY: So this just would make the analysis more timely. [LB100]

SENATOR FRIEND: Thanks. [LB100]

SENATOR AGUILAR: Senator Avery. [LB100]

SENATOR AVERY: Mr. Foley, doesn't current law allow you to report to the Legislative Performance Audit Committee if you find something like that, then they can take a vote, a majority vote would then enable you or authorize you to conduct the audit? [LB100]

MIKE FOLEY: That's right. There's provisions of law that actually enable the State Auditor to do performance audits in conjunction with the Legislature's Performance Audit Committee. It's a relatively new provision of law, I don't know if it's ever been actually used. It's something we're looking at. [LB100]

SENATOR AVERY: You mean this LB... [LB100]

MIKE FOLEY: Well, it's not a bill, it's current statute would enable the state... [LB100]

SENATOR AVERY: But it was passed in 2003? [LB100]

MIKE FOLEY: That may be correct. [LB100]

SENATOR AVERY: LB607. [LB100]

MIKE FOLEY: That may be correct, yeah. Sounds about right. [LB100]

SENATOR AVERY: So you've never tried to use that? [LB100]

MIKE FOLEY: I personally have not. [LB100]

SENATOR AVERY: Wouldn't it be prudent to see if that works... [LB100]

MIKE FOLEY: I've been here three weeks though. (Laugh) [LB100]

SENATOR AVERY: ...before you try to fix it? [LB100]

MIKE FOLEY: I'm sorry? [LB100]

SENATOR AVERY: Wouldn't it be prudent to see if that's broken before you try to fix it? [LB100]

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

Government, Military and Veterans Affairs Committee
January 24, 2007

MIKE FOLEY: But, Senator, that's a performance audit. What's called for here is not a performance audit. [LB100]

SENATOR AVERY: Sounds like it. [LB100]

MIKE FOLEY: Well, no, it really isn't because a performance audit involves a whole complex body of standards. A performance audit is very, very time consuming, very expensive. It can be a very lengthy process. This is something far less of that. This is more responding to a very unique problem within a particular government program, analyzing it, presenting the findings to the Legislature rather than...if someone called me and said, you know, my agency is paying twice what they ought to be paying for computer services, you wouldn't do a performance audit of the agency to analyze that problem. [LB100]

SENATOR AVERY: So you're not able to... [LB100]

MIKE FOLEY: This is more of a rifle-shot approach at looking at a specific area of concern... [LB100]

SENATOR AVERY: A microaudit, you're not able to do that now? [LB100]

MIKE FOLEY: When we're in the agency doing a regular financial audit, as these issues come up, yes, we can address those concerns. This just makes things clear that we could do it at any time, not just in conjunction with the regular financial audit, which is... [LB100]

SENATOR AVERY: But couldn't you go to the Legislative Performance Audit Committee and... [LB100]

MIKE FOLEY: We can. [LB100]

SENATOR AVERY: ...request to do a microaudit? You wouldn't have to do an entire sweeping macro performance audit. [LB100]

MIKE FOLEY: We could request that they do it. We could request that they do it. [LB100]

SENATOR AVERY: But you could get permission to do it yourself and report back to them, right? [LB100]

MIKE FOLEY: Well, it's not clear in statute. What statute allows is for my office and the Legislature Performance Audit Committee to do a joint performance audit. And that term "performance audit" is something far more complex than what this is all about. [LB100]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
January 24, 2007

SENATOR AVERY: My understanding of constitutional law is that legislative bodies have first authority and responsibility for oversight. [LB100]

MIKE FOLEY: And you have that. [LB100]

SENATOR AVERY: Yes. Are you trying to encroach on that? [LB100]

MIKE FOLEY: Well, the Legislature also has given some significant responsibilities to my office. I'm trying to make my office more relevant to your needs by providing more information to the Legislature. [LB100]

SENATOR AVERY: We had a conversation this morning. You knew I was going to ask that question. [LB100]

MIKE FOLEY: Right, yes, I did. (Laugh) Thank you, Senator. [LB100]

SENATOR AGUILAR: Further questions? One more, Mike. How often has you or your office provided topics to the Audit Committee in the past? [LB100]

MIKE FOLEY: Senator, I'm really not in a position to know. I don't know. [LB100]

SENATOR AGUILAR: Okay. [LB100]

MIKE FOLEY: You know, I've been on the job for three weeks. I don't know to what extent my predecessor did that. [LB100]

SENATOR AGUILAR: Sure, sure. Further questions? Seeing none, thank you, Auditor. [LB100]

MIKE FOLEY: Thank you, Mr. Chairman. [LB100]

SENATOR AGUILAR: Further proponents? Seeing none, let's get started on opponents. [LB100]

SENATOR SCHIMEK: (Exhibits 1 and 2) Good afternoon, Chairman Aguilar and members of the Government, Military and Veterans Affairs Committee. For the record, my name is DiAnna Schimek and I represent the 27th Legislative District. I'm here today to testify on behalf of the Legislative Performance Audit Committee in opposition to LB100. We believe that this legislation is unnecessary and could open the door to allowing the Auditor of Public Accounts to conduct performance audits, a step the Legislature has repeatedly declined to take and should, we believe, continue to resist. Before I discuss the specifics of LB100, let me give you a little history about the statute

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

Government, Military and Veterans Affairs Committee
January 24, 2007

it seeks to amend. That statute requires the Auditor of Public Accounts to report to the Legislature any potential performance audit issues that arise during the course of financial audits. The requirement was adopted because the former Auditor convinced this committee that she had agency performance information that she could not report under the financial auditing standards that governed her work. The Government Committee, which I chaired at that time, supported the legislation establishing this requirement. However, in the more than three years since that requirement went into effect--and this answers your question, Senator Aguilar--the Auditor did not refer a single topic to the Performance Audit Committee. Today the Government Committee has before it LB100, which would apparently extend the Auditor's authority by allowing it to refer to the Legislature performance audit topics identified outside the financial audit process. And I'm going to just take a little side track away from my prepared testimony and say to you, if you haven't been on this committee before, you may not know that there are different criteria for doing performance audits and financial audits. And you often don't have the same kinds of auditors doing those audits. A financial auditor is likely to have degrees in business and accounting and financial matters. But performance auditors may have degrees in history or art or whatever because they're looking at programs, not financial interests. So the Performance Audit Committee believes that this is unnecessary. Section 50-1206(1) of the Performance Audit Act provides that constitutional officers may submit potential audit topics at any time. Consequently, the Auditor may already report to the Audit Committee suggestions it has for audit topics regardless of where those suggestions come from. Since the former Auditor did not refer any topics to the Audit Committee under the mandatory provision or the general authority to do so contained in the Audit Act, it's unclear to us why there's a need for additional statutory authority to make such referrals. LB100 is also unnecessary because the Audit Committee does not need the APA to analyze a matter before referring it to the committee. The committee routinely considers topics submitted for audit and determines which ones to pursue. We can ask the audit staff to conduct informal background research on a given topic. And if additional information is needed, we can assign them to conduct a preaudit inquiry to find out anything else we need to know before deciding whether or not to pursue that topic. There is simply no need for the Auditor to conduct any kind of investigation before referring potential performance audit topics to the committee. The Auditor investigation would be an unnecessary duplication of efforts. The Audit Committee is also opposed to the bill because it opens the door to allowing the Auditor to conduct performance audits. It would allow the Auditor to analyze the matter and report written findings to the Legislature. It would also extend to these investigations an existing statutory provision authorizing the APA, or Auditor, to have access to all agency records. While the bill never uses the term "performance audit," this bill, the activities that describes our performance audit activities under government auditing standards. I would note that a provision of Section 84-304(3), which is not referred to in LB100, expressly prohibits the Auditor from conducting performance audits. Consequently, if you adopt LB100 or if we do, it would appear to conflict with that statute. The Legislature has repeatedly rejected efforts by

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

Government, Military and Veterans Affairs Committee
January 24, 2007

the Auditor to extend its authority into the realm of performance audits for a number of reasons, including the increased likelihood that the Auditor, as an individual elected official, could use performance auditing for political means and the greater enforcement potential for this function within the Legislature. The Legislature has enforcement tools, through the legislative and appropriations process, that are not available to the executive branch. As Senator Jerome Warner stated in legislative debate on the bill that created our legislative audit process, it's "done virtually in the great majority of states, it's also important to have it part of the legislative function because if, in the event that statutory changes are needed or required or budgetary issues are involved then, if there have been legislators involved the likelihood of implementation of those recommendations is going to be much greater than is possible with someone outside doing these in which there was no legislative participation in its development." And I don't remember that Jerry Warner ever talked in such long sentences (laugh) but he apparently did. That comes from the debate on LB988. We only have to look back last year to see an example of this. The Legislative Performance Audit Committee conducted an audit of the Nebraska State Employees Retirement Systems that resulted in major changes in that agency. The Auditor had reported on problems for several years but had been unable to affect any substantive change. I would end by stating that 40 state legislatures have some type of performance audit or program evaluation authority because it is a fundamental component of legislative oversight. I did, I think, we did provide the list of those states along with this testimony. And I would thank you, be happy to try to answer any questions that you might have. I also brought with me Martha Carter from the program evaluation staff who's far more knowledgeable on some of these issues than I. [LB100]

SENATOR AGUILAR: Thank you for your testimony, and welcome back. [LB100]

SENATOR SCHIMEK: Thank you. [LB100]

SENATOR AGUILAR: Any questions for Senator Schimek? Senator Friend. [LB100]

SENATOR FRIEND: Thank you again, Chairman Aguilar. Hi, Senator Schimek. [LB100]

SENATOR SCHIMEK: Hi, Senator Friend. (Laughter) [LB100]

SENATOR FRIEND: Auditor Foley and I were having a discussion, and I don't know if you were here at the time. One of the things that I was a little bit curious about in regard, practically, in regard to the legislation are things that are actually being changed here. On page 4, on line 9, you had alluded to a little bit by, you know, the language "analyzing the matter." Obviously that...you were alluding to the language that's being, I guess, injected here. Is that a safe assumption? [LB100]

SENATOR SCHIMEK: Yes. [LB100]

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

Government, Military and Veterans Affairs Committee
January 24, 2007

SENATOR FRIEND: Okay. What about that language, and when I look, and help me out here, because when I look at that language, I'm adding it to or, I guess, grouping it in with subsection 3 of 84-304 on page 2, where we as a legislature are specifically giving the Auditor a certain amount of power, for lack of a better way to describe it. Now without...this is my guess, I didn't ask Auditor Foley. But my guess would be that elaboration on line 9 and then further down on lines 12 and 13, it's a logical...I mean, I don't know where you draw the...I would say it's not an assumption. I mean I guess I'm looking for your feedback on how you would draw the conclusion that that line is more than adding to maybe subsection 3 and tossing performance audit into the mix. And I'm certainly not defending him. And I want to know where we've drawn those conclusions, when you were talking about analysis earlier with the quotes, that piqued my interest. Because I don't get that. I mean, what I'm seeing, just to add to it, in line 9 is an auditor, whoever it might be, trying to add to their power under subsection 3, saying, look, I mean, you, Legislature, are going to tell us to do something, we need the power to be able to do it. Do you kind of see where I'm going? [LB100]

SENATOR SCHIMEK: I do. And let me try, if I can, to try to make this a little clearer, at least from my perspective where, how I'm looking at it. The phraseology "analyze the matter," I'm not sure we know what that means. At the present time, the State Auditor does not have any authority to do performance audits. So therefore the only thing that...and also it says in statute that if the Auditor discovers any potential problems related to effectiveness, efficiency, or performance of state programs, then it goes on to say he or she shall analyze the matter. Well, how do you analyze effectiveness, efficiency, or performance of state programs if you're not using performance audit standards? I don't think you can do that from a financial audit standards perspective. This is not a...what's the phraseology I'm trying...it's not a term of art or it's not a, I don't think it's...we know what that means to analyze the matter. But I suspect that if you're going to discover those potential problems and then analyze them, that you are getting into the area of a performance audit. And I don't think it's any secret that either the former Auditor or this Auditor has said that they would like to do performance audits. I mean, that's public record. I don't think there's any secret about that. So that's what makes me tend to believe that this does move towards the performance audit. [LB100]

SENATOR FRIEND: Well, thank you, because that was a good explanation of what I was looking for. [LB100]

SENATOR SCHIMEK: It's a fuzzy phrase. [LB100]

SENATOR FRIEND: Well, and I guess what I would, just what I would add, and I'd like your comment, I guess, afterward if you'd like to. The reason that I brought up Section 84-305 with Auditor Foley is because when we're talking, in that same paragraph, about analyzing the matter, no new language...well, that was, but immediately report those

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

Government, Military and Veterans Affairs Committee
January 24, 2007

findings in writing to the Legislative Performance Audit Committee, some of that language isn't new. But what is new language is this, "in the course of conducting such analysis," and that's the reason I brought it up with the Auditor. It's my assumption that Section 84-305 is a definition or an explanation of that analysis. That's why I was asking him what was in that, you know, the content of 84-305. I don't have it in front of me. He explained it. My view is this. I would say, on line 9, "analyzing the matter" is defined. And it would be my assumption then, based on what Auditor Foley told us, is that you're looking back to page 2, line 11, subsection 3, all the way down to the bottom of the page. That's what is an offshoot. Well, not an offshoot, but...yeah, an offshoot of 84-305 is the powers of the State Auditor. You see where I'm going there, Senator Schimek? I mean... [LB100]

SENATOR SCHIMEK: Not quite. [LB100]

SENATOR FRIEND: ...I understand what the fear is. I'm not sure I have the fear. We give the Auditor as much power as we choose to give the Auditor. [LB100]

SENATOR SCHIMEK: Well, let me... [LB100]

SENATOR FRIEND: And I don't have the same fear, I guess, that they're going to have what I would presume the time to go through, you know, the type of things that Chris Beutler's group did for the last four years that I was here. [LB100]

SENATOR SCHIMEK: What then do you think the Auditor would be doing exactly to get to the bottom or to at least be able to talk about with the Performance Audit Committee, what the effectiveness, efficiency, or performance of those state programs is? You can't look at that from a financial audit standpoint. And let me... [LB100]

SENATOR FRIEND: I see your point. I think there's some guesswork... [LB100]

SENATOR SCHIMEK: ...finish. [LB100]

SENATOR FRIEND: ...involved here. Sorry, go ahead. Did you lose your train of thought? I can help you. [LB100]

SENATOR SCHIMEK: Yes, I did. Thank you very much. (Laugh) [LB100]

SENATOR FRIEND: I can help you. I can help you with a train of thought, it might not be yours that I like. (Laughter) [LB100]

SENATOR SCHIMEK: I did lose my train of thought, so go ahead. [LB100]

SENATOR FRIEND: I'm sorry, Senator. I'm sorry about that. [LB100]

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

Government, Military and Veterans Affairs Committee
January 24, 2007

SENATOR SCHIMEK: That's fine. [LB100]

SENATOR FRIEND: No, I don't really have any more questions. I just, we can carry this on in a different format... [LB100]

SENATOR SCHIMEK: Okay. [LB100]

SENATOR FRIEND: ...off the record if you'd like sometime. [LB100]

SENATOR AGUILAR: Further questions? Senator Karpisek. [LB100]

SENATOR KARPISEK: Thank you, Mr. Chairman. Senator Schimek, in your notes here, I'm all for more...I don't want to say auditing, but to make sure that things are going the correct way. And I think that we're all on that same page. [LB100]

SENATOR SCHIMEK: Right. [LB100]

SENATOR KARPISEK: I just, on the back it says the Legislature Performance Audit Committee conducted an audit of the Employees Retirement System that resulted in major changes. The APA had reported on problems for several years but had been unable to affect any substantive change. So I guess on that, if they reported for several years, why couldn't something be done? [LB100]

SENATOR SCHIMEK: The financial auditors reported? [LB100]

SENATOR KARPISEK: Yes. (Inaudible). [LB100]

SENATOR SCHIMEK: No, it says the Auditor had reported on problems for several years. But it's not my understanding that that had been reported to the Performance Audit Committee. But I'd have to double check on that. That's a good question. [LB100]

SENATOR KARPISEK: Okay. I guess the question is, is some of this just a matter of communication between the two, the Auditor and the... [LB100]

SENATOR SCHIMEK: That is part of it. I mean, there's a long-standing disagreement between auditing, the financial auditor or the executive branch auditor and the legislative branch auditor. There has been some of that that has gone on. And we actually effectuated what I thought was a pretty good compromise several years ago that actually empowered the two of them to work together on occasion. And to my knowledge, that has never happened. I think that we ought to try out what we put together, the scheme that we put together for them to, in order to use the best of both offices. But to my knowledge, there's not even been communication between the

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

Government, Military and Veterans Affairs Committee
January 24, 2007

Auditor's office and Performance Audit (inaudible) to say there needs to be a look at this program. [LB100]

SENATOR KARPISEK: So help me out... [LB100]

SENATOR SCHIMEK: Yes. [LB100]

SENATOR KARPISEK: ...since I've been on this job as long as the Auditor... [LB100]

SENATOR SCHIMEK: And I could be wrong, I mean, I'm new to this. [LB100]

SENATOR KARPISEK: ...has been on his. But the Performance Audit Committee really would start the process and then ask the auditors for their input. [LB100]

SENATOR SCHIMEK: It could happen that way. Their help with that performance audit, yes, it could definitely happen. [LB100]

SENATOR KARPISEK: Or the Auditor could come in and say, hey, I see problems, would you get this process started. [LB100]

SENATOR SCHIMEK: Rolling, that's exactly right. [LB100]

SENATOR KARPISEK: Okay, thank you, Senator Schimek. Thank you, Mr. Chair. [LB100]

SENATOR AGUILAR: Further questions? Senator Avery. [LB100]

SENATOR AVERY: Senator Schimek, I'd like to follow up on Senator Karpisek's question. You do say here that the Auditor had reported on problems for several years but had not been able to affect any substantive change. What was the nature of that report? Did they go to the Audit Committee and say, we have a problem here, and the committee didn't take any action? [LB100]

SENATOR SCHIMEK: If I might, I would like the Audit Committee staff to answer your question because I wasn't here and I can't...I'm testifying on behalf of the committee so... [LB100]

SENATOR AVERY: You weren't on the committee? [LB100]

SENATOR SCHIMEK: I was not on the committee. So if...Mr. Chairman, may we ask Margaret Carter to...Martha, I'm sorry. (Laughter) Martha Carter. [LB100]

SENATOR AGUILAR: Just state your name for the record and we'll go from there.

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

Government, Military and Veterans Affairs Committee
January 24, 2007

[LB100]

MARTHA CARTER: Senator Aguilar and members of the committee, my name is Martha Carter. I'm the legislative auditor. So in that capacity, I'm in charge of managing the Legislative Audit staff that work for the committee. To answer your question, Senator Avery, the reporting was done in the Auditor's financial reports where they would indicate that there were some problems with the performance at the Retirement Board. There was never a recommendation made to the Performance Audit Committee that there were performance audit issues that needed to be addressed. So there was never any direct communication from the Auditor to the Performance Audit Committee. The statement reflected in Senator Schimek's testimony reflects that the Audit Committee in and of itself chose to pursue an audit and, in the course of that, discovered that there had been several financial audits that had raised some issues, not all of the issues that we ended up looking at. But they had raised some issues that the agency frankly had just refused to implement. And in fact, we ended up saying in the audit report the agency needs to do what the Auditor of Public Accounts has recommended. This is just inappropriate that they have refused to respond to those recommendations. But the difference is, if an agency does not respond to a recommendation made by the Auditor of Public Accounts, they do not have the same enforcement tools that the Legislature has. That's not to say that they have none. They could come to the Legislature and ask for legislation to be introduced or something like that. It's just not a direct connection between the Audit Committee and the recommendations. [LB100]

SENATOR AVERY: So the Audit Committee is directly tied to the Legislature. The Legislature can take action against those agencies to bring about corrective action. That I understand. What I am not quite sure about though is, did you have a number of these reports that came from the Auditor and your office just waited until you got a certain number before you conducted the audit or not? [LB100]

MARTHA CARTER: No, I would not say that was the way. The audit actually was undertaken because of a request that was made through the performance audit process to put that topic on the list for the committee to consider. I appreciate what you're saying. It would be great if we could look through every financial audit and identify potential topics for audits. [LB100]

SENATOR AVERY: Um-hum. [LB100]

MARTHA CARTER: We do that to some extent. We don't do it with every issue. So in this case, it was not that the audit, the performance audit was driven by the financial audit. It was driven by a request that came through the traditional performance audit request process, which is primarily requests from senators. That's what got it in front of the Audit Committee. And it was after we began the audit, and we routinely do at that

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

Government, Military and Veterans Affairs Committee
January 24, 2007

point, go back through what the Auditor of Public Accounts has done. Once we got a topic in front of us, then we do routinely go back through those. So it was in the course of doing that that we said, hey, this issue keeps coming up time after time. And one in particular that I remember was really quite simple. It was that the Auditor of Public Accounts was recommending that the Retirement Board send out a letter to school districts, I think, that clarified something about the way they needed to report information. And the Retirement Board had just said no, we're not going to do it. They didn't give any reason, they just said no, we're not going to do that. So it was after we were already in the topic that we discovered those things. [LB100]

SENATOR AVERY: Thank you. [LB100]

SENATOR AGUILAR: Further questions for either Senator Schimek or...seeing none, thank you. Thank you both for coming here today. [LB100]

MARTHA CARTER: Thank you. [LB100]

SENATOR SCHIMEK: Thank you. [LB100]

SENATOR AGUILAR: Any other opponents? How about neutral testimony? Seeing none, I would announce that we've been joined by Senator Mick Mines from Blair, Nebraska. And also announce that as you see senators come and go, don't be offended by that. They're merely introducing bills in other committees and will be back as soon as they're finished. Senator Erdman to close, please. [LB100]

SENATOR ERDMAN: Mr. Chairman, I think the testimony has been constructive, and in fact so that there's probably more that I should say than I will. I've been a member of the Performance Audit Committee for two years as a member of the Nebraska Legislature. I served the last two years, in fact. Have also served as a member of the Nebraska Retirement Systems Committee for the past six. All of the audits that were done by the State Auditor at the time, Auditor Witek, were distributed to all members of the Legislature, including those that work for the Legislature. And so any issue that may have been found in those audits was available to all members. And so there's some interesting conversations that I think, that arose out of those conversations. But let me direct you back to what the bill does. Okay, the bill does not allow the State Auditor to do performance audits. And here's how I can prove that to you. If you have a copy of the green copy, turn to page 2, go to line 23, after the comma of 84-322. That language is not stricken. At least, in my Bayard High School education and University of Nebraska degree, I read that to say that the State Auditor still cannot perform performance audits. That's plain reading. As we go through this process, I think it's important to realize that there is always the tendency--we heard it this morning on the floor by our senior member--there's always a tendency to say, well, this is a slippery slope if we go down this path. The reality is, is that LB100 does not open the door to performance audits for

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

Government, Military and Veterans Affairs Committee
January 24, 2007

the State Auditor. It does not. I cannot emphatically say that enough. It does not because the prohibition is still intact in subsection 3 of the law that prohibits the State Auditor from performing performance audits. Why would we have a situation where a State Auditor, who is concerned about the efficiency of state government and is tasked with that responsibility under statute and in accordance with their duties, not seek to cooperate fully or in a more collaborative effort with the Legislative Performance Audit Committee? A number of reasons, I would think. Maybe there was hostility towards the collaboration in the past that prohibited some of those discussions from going on. It's my hope that under the new leadership of Auditor Foley and the new leadership of Senator Schimek, along with the talented staff that I had the opportunity and honor to work with in the Performance Audit Division over the last two years, that we can begin to address some of the issues that you pointed out, Senator Karpisek, of communication. This is a two-headed monster that has to be addressed in a collaborative effort. You have one entity in the State Auditor that has certain responsibilities and you have another entity in the Performance Audit Committee that has different responsibilities. And in order for us to truly have effectiveness of coordinating the authority that we have given to agencies in carrying out the responsibilities under statute, there has to be some coordination. There absolutely has to be. And it is true that there are provisions in law that allow the State Auditor to do performance audits. That's not in this bill. It flat out isn't. It is my understanding, in visiting with the current Auditor, that there were at least a couple attempts to contact the former Chairman of the Performance Audit Committee to seek those collaborative efforts between the Auditor's office and then the Performance Audit Division. But it was my understanding that they were never given a definitive answer because they were never taken up the flagpole. The other irony, I guess, as you go through this is that you asked the Performance Audit Committee to do things that are not audits in order to come up with what should be an audit. Well, if it's not an audit, if it's not a performance audit, if it's a preaudit or something like that, isn't that equivalent to what you're asking the State Auditor to do in the event that he find something, is to present that information to you, knowing full well that the prohibition is still in law that you can't do performance audits as a State Auditor? Isn't the opportunity to have those collaborative efforts together at a point where we can say, a State Auditor is going to gather this information, not just so-and-so says, because maybe that's what the intent of some would have, in that the Auditor gets a call from an agency and says, hey, we think so-and-so is being paid too much as a contractor. So then do we want the State Auditor to pick up the phone and call the Performance Audit Committee and say, hey, we think so-and-so is getting paid too much as a contractor? Or do you want the State Auditor to be able to have the opportunity to look and see whether it's a legitimate claim and then report that, it's a legitimate claim or it's not, to the Performance Audit Division? That's how I understand the bill. The authority that's under the law right now is the same authority that the Auditor has in the event that he's in the Department of Roads doing an audit. The term "analyze the matter," if it's not a term of art understood by the court, the court will give it its plain reading. So if you give me some information, and as what I have done with Senator Schimek's testimony, is to analyze it. So I have looked it over

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

Government, Military and Veterans Affairs Committee
January 24, 2007

and I have made my own conclusions based on her testimony what she was attempting to tell us. I have analyzed the matter. And it's the plain reading of the law if it's not a term of art that will be applied. To cut to the chase, I think there's an opportunity to resolve these disputes. I think this is a simple opportunity for us as a state legislature to ensure that the information necessary is presented in the appropriate manner, that we can protect the authority that the legislative branch has--which I am a proud member of and believe firmly in the separation of powers and believe that we, as a legislative branch, should control the things that we control and we should do our authority well. And at the same time, I believe that there are opportunities for use to maximize our effectiveness and efficiency, that we should use those opportunities to enhance our authority as a legislative branch. I don't believe LB100 undermines any of our authority now. In fact, if you go and look back at the bill under the new language that's on page 4, the State Auditor doesn't get to go out and run around and say, ha ha, look what I found, to the world. Whatever he finds, he has to report directly to the Legislative Performance Audit Division. This bill, as I would read it, is designed to require that type of cooperation in the event that this opportunity is used. So I intentionally used the opening that I did to make sure that you listened to the testimony as to what the bill does and what I believe the bill does not do. And to come before this committee and state that this allows the State Auditor to do performance audits is simply not reading the law as it stands, even under LB100. Is there opportunity for us to clarify what some of these terms mean? Absolutely. But is it responsible for us to have a scenario--and as a member of the Performance Audit Committee for the last two years--where you allow the committee to vote by a majority vote on which issues we're going to take up as importance to the members of that committee? That's how it works. Senator Mines, you send a request in to Senator Schimek and you say, I'd like a performance audit done. Let me give you an example. I'd like a performance done on the Board of Educational Lands and Funds. They're supposed to have sold off an X amount of land by the year 2008, and that number is 25 percent. Has that been done? Well, there is probably a number of reasons. The Performance Audit staff probably decided that it wasn't necessary or appropriate for them to utilize their resources for that. The members of the committee voted not to make that a priority or to not put that at the top of the priority list. Or there's no need to do it because the request is out of order or is not appropriate. There's a number of reasons why it wouldn't happen. I see this as an opportunity for us to utilize the talent that we have. We have invested the funds. We have made sure that our folks that work for the Legislature and the Performance Audit meet the standards required in order to be considered performance auditors. They're following the standards that are necessary. There's no more State Auditors thumbing their nose at the Nebraska Legislature's Performance Audit Committee because we're meeting the standards. We have removed that argument against the talented folks that we have. Let's use the resources that are available in the other side of this discussion to bring that additional information in to our folks who can do the job and to better coordinate it. So as I read LB100 and I believe the simple reading of the bill would concur, it simply gives the Auditor the ability to do what he normally would do if he were conducting it in

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

Government, Military and Veterans Affairs Committee
January 24, 2007

the course of a normal audit in his duties and he reports that back to the Performance Audit Division, maintaining the prohibition on performance audits for the State Auditor. If you go back and look at the record, I'm sure I've probably said that it doesn't allow him to do performance audit probably 9,000 times. But I would cherish the opportunity to work with Senator Schimek, the Performance Audit staff, the State Auditor, and try to see if we can't resolve this. I think they have legitimate concerns. I think it's appropriate for us as a legislative branch to listen to those individuals that we have tasked under statute and under our authority to make sure that they feel like their work is going to be appropriate. But most importantly, that they're going to be respected in their efforts and that they're a valued part of this process. They absolutely are. As a member of the Retirement Committee, I know that the individual that comes before me in a couple weeks to be confirmed as the new director of NPERS is probably a result of the efforts undertaken by the Performance Audit Committee to say, the Auditor found some things, we think you should implement some things. And when it became evident that some of those changes probably weren't able to be accomplished under the existing authority or the existing personnel, they made a decision to change that. So there is a role to play in this process. And I think it's valuable for us to have these discussions but my hope is, is that we have the discussions on the language in the bill and the intent. And that if we can make the intent match the language and vice versa, we can figure out a way to get past the point where we adopt policy in this state based on who's in an office. Because I think we have a good Auditor. I know we have great audit staff in the Legislative Performance Audit Committee. And I think the Chairman of the Performance Audit Committee is a well-reasoned and levelheaded individual who will work to find a solution that can be acceptable. So I would leave that offer to the committee and answer any questions that you may have. [LB100]

SENATOR AGUILAR: Thank you, Senator Erdman. Questions for the senator? Seeing none, thank you. [LB100]

SENATOR ERDMAN: Thank you. [LB100]

SENATOR AGUILAR: That closes the hearing on LB100. We're now ready to open on LB87. Senator Howard, please. [LB100 LB87]

SENATOR HOWARD: I always feel like the next contestant. (Laughter) [LB87]

SENATOR AGUILAR: Whenever you're ready. [LB87]

SENATOR HOWARD: Okay. Good afternoon, Chairman and members of the Government, Military and Veterans Affairs Committee. I'm Senator Gwen Howard and I represent District 9. I'm here today to introduce LB87. The purpose of LB87 is to reduce the number of state contracts for services that are awarded to foreign countries and to support workforce investment efforts within the state of Nebraska. Offshore state

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

Government, Military and Veterans Affairs Committee
January 24, 2007

government contracts is not a concern that is limited to the state of Nebraska. Increasingly, state government contractors are outsourcing jobs to other countries where workers are paid less. Left unchecked, state offshoring will continue at the expense of American jobs. While state contractors may argue that offshoring of jobs to companies outside of the United States saves taxpayer dollars, other costs related to these contracts are often ignored. According to the Center for Policy Alternatives, offshoring state services decreases state revenue and increases cost. When jobs are contracted overseas, states experience a loss in tax revenue, and an increase in the need for social services that accompany unemployment. Although these costs tend to be hidden, they are real and very effective on our American employees. In 2006, the state of Nebraska paid an estimate in excess of \$86 million in unemployment insurance benefits. The increase in expenditures on unemployment insurance, welfare payments, Medicaid, Kids Connect, and housing assistance in assistance to the loss of tax revenue make offshoring a shortsighted concept that shifts cost, at best, and devastates hardworking families. Today you may hear testimony from state agencies concerned that the challenges that they face in complying with the requirements of LB87 will be costly and inconvenient for them. They will argue that this bill will create problems throughout the state systems. You may feel sympathetic toward their arguments. But I ask you, how sympathetic do you think the 1,665 constituents who live near the Tyson plants in Norfolk and Dakota City, or the 550 plant employees in Lincoln, or the Pfizer plant employees in Omaha will be to the notion that the state has no more commitment to them than to private businesses? Do you think the estimated 33,424 Nebraskans who collect unemployment insurance benefits in 2006 are sympathetic to the state's inconvenience of being required to contract for services provided by Nebraska or other United States workers? The public is concerned about offshoring and the private sector, entire cities, are being bankrupted by the closing of major plants that chose to ship jobs overseas. Government employers within the United States have to set an example and invest in their own economies if they want to turn this harmful trend around. LB87 is about the state of Nebraska as an employer investing in its citizenship and its economy by keeping more of its contracts in the United States and in Nebraska. I ask the committee's favorable consideration of this bill. Thank you. [LB87]

SENATOR AGUILAR: Thank you, Senator Howard. Questions? Seeing none, thank you. [LB87]

SENATOR HOWARD: Oh, I am surprised. (Laughter) Thank you, thank you for your attention. [LB87]

SENATOR AGUILAR: Can I get a show of hands for people who are going to testify on this bill? [LB87]

SENATOR HOWARD: If I can just add... [LB87]

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

Government, Military and Veterans Affairs Committee
January 24, 2007

SENATOR AGUILAR: I see three? [LB87]

SENATOR HOWARD: I would just like to add, when I was campaigning two years ago, one of the things that I heard going door to door was that people were very concerned about the hot line being outsourced to India. And the more I thought about that, the more I thought we should consider their concerns. Thank you. [LB87]

KEN MASS: (Exhibits 1 and 2) Senator Aguilar, members of the committee, my name is Ken Mass, that's M-a-s-s, representing the AFL-CIO here today and here in support of LB87. I'm passing out a couple pamphlets of information for you. One is dealing with shipping jobs overseas and how real is the problem. I'll let you read that at your own progression. But the other one deals with corporate myths about shipping jobs overseas. I'd like to go through a couple of the myths that are here, kind of wait until we get them out here. Anyway, one is talking about the outsourcing crisis. The myth is that only a small percentage of all the jobs in the U.S.A. labor market have been lost due to shipping jobs overseas. Millions of jobs are destroyed in the U.S. every year and millions more are created, a couple hundred thousand jobs lost overseas to outsourcing is just a drop in the bucket. The facts of that is no one knows for sure how many jobs are being shipped overseas, primarily because the government neither collects this information nor requires companies to disclose it. According to most estimates, American workers have lost hundreds of thousands of white-collar jobs to outsourcing over the past few years and millions of jobs will be shipped overseas in the next five or ten years. The second myth I want to talk about is myth number 4. And it talks about only jobs that companies are shipping overseas are low-end jobs that should have not been done in the U.S.A. anyway. Offshoring frees workers to find jobs that are more productive and forces American companies to force into higher value-added activities and (inaudible) create new technologies, and goods and services. All these benefits the economy is in the long run. The facts of that is there is no inherent limits on the kind of work that can be outsourced. As long as a service can be delivered over a phone line or Internet connection, it is (inaudible) to outsourcing. In fact, the outsourcing trends appears to be moving more less productivity and low-skill jobs, like call centers and to more productive high-skill jobs like engineering, radiology, research and design. According to Craig Barrett, CEO of Intel, "Unless you are a plumber or perhaps a newspaper reporter or one of these jobs which is geographically situated, you can go anywhere in the world and do just about any job." The Economic Policy Institute found industries in which new jobs are being created in the American economy actually pay 21 percent less on an average than the industries losing jobs because of offshoring and other pressures. In addition, expanding industries are less likely to provide workers with health insurance than the industry cutting jobs. The next myth is, offshore outsourcing is good for the U.S. economy because it saves firms money, allows them to invest additional resources in more productive activities back in the U.S.A. If policymakers restrict offshoring, there would only be American firms less competitive and hurt the economy in the long run. The facts are, there is no guarantee companies that increase

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

Government, Military and Veterans Affairs Committee
January 24, 2007

their profits through outsourcing to low-wage companies will turn around and use those increased profits to support jobs in the United States. Next, policymakers should not take any action to restrict offshoring because there are such actions at the state level would violate the constitution and restrictions at the state or federal level would violate international trade rules. If policymakers try to limit the outsourcing, it would set off a trade war that was ultimately only harm U.S. interests. The facts are that under the American system of federalism, states traditionally have a large degree of autonomy over how they spend their tax dollars on the procurement of goods and services. State laws give preference to goods made locally and nationally. "Buy Local" laws, "Buy American" laws have been on the books for years and have largely withstood judicial scrutiny. These laws have been upheld with the well received market participant exception to the commerce clause of the U.S. Constitution, which allows states to give less favorable treatment to foreign or out-of-state providers when they do as a market participant; that is, as a direct purchaser in a market using state tax revenue. The same logic that allows these states preference in the procurement of goods should apply equally to the procurement of services. Though some of new trade agreements attempted to limit the procurement authority at the state and federal levels, there are a number of legal actions that can still be taken to limit the offshoring of public contracts under these agreements. The vast majority of U.S. trade partners have no rights to retaliate if federal and state government decide to limit offshore public contracts. Of the World Trade Organization's 147 members and only 28, including the U.S.A., have signed the WTO agreement on government procurement. And the rules only apply to the countries that have signed on. Regarding every other country in the world, U.S. government and states' authorities have no international obligations limiting their authority to over procurement policy. India, a common destination of U.S. services contractors, is not a signatory to any international procurement agreement. Even the U.S. Trade Representative has defended limits on offshoring of federal contracts, remarking in a recent trip to India, "...one is not really in a position to complain about a government procurement agreement if one does not belong to the WTO." Finally, the restrictions on the ability of public contracts to offshore will only end up costing taxpayers more money. Governments should find the best value for their taxpayer dollar even if it means sending jobs overseas. The fact is that, first, while it may cost more for companies to employ workers in good jobs in the United States, that it does not mean to them to ship jobs overseas where wages are lower and workers' rights may be more easily violated. This is not a valid argument for subsidizing corporate outsourcing with taxpaying money. This is simply a no-guarantee business which actually pass on any savings from offshoring to consumers, public contractors, and pass on (inaudible). Basically, that's what I have. In closing, there are companies offshore work would work not because they cannot find skilled work in the United States but because they can find skilled workers in other countries who will do the same work for pennies on the dollar. More than 330,000 highly skilled computer system design, Internet publishing, and search portal professionals have lost their jobs since January of 2001. The reason companies are offshoring is not because of lack of skills but to take advantage of the

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

Government, Military and Veterans Affairs Committee
January 24, 2007

significant lower wages. In India, for example, a financial analyst makes 57 to 82 percent less than the analyst in the United States. A telephone operator in India makes about a dollar an hour, compare to \$12.57 in the U.S.A. It's all I have. I'll answer any questions. [LB87]

SENATOR AGUILAR: Questions? Senator Avery. [LB87]

SENATOR AVERY: Thank you for appearing. And you know that I'm basically in sympathy with your position. But aren't we really talking about global trends that may be beyond the ability of this Legislature to control and correct? I mean, this is about globalization, the world economy. [LB87]

KEN MASS: There are. And as I reported, I think there's 18 states now that have taken position against the WTO and not being players in that, to become part of that, of outsourcing their jobs out. The states have done that themselves. They've taken that authority, they've used the authority to not be part of that, and agreeing not to be part of it, portion of the WTO and outsourcing jobs globally. [LB87]

SENATOR AVERY: But they want to be part of the WTO's enforcement mechanisms. [LB87]

KEN MASS: That's right, yeah. But they're taking an individual statement within the states, yes. [LB87]

SENATOR AVERY: That's a risky thing because... [LB87]

KEN MASS: Pardon? [LB87]

SENATOR AVERY: That's a risky step for them to take... [LB87]

KEN MASS: Yes, it is. [LB87]

SENATOR AVERY: ...because if you say, I'm going to have a menu of things the WTO can do and I'm going to pick these, these, and these, and the rest I'm going to ignore, pretty soon you undermine the entire authority of what may be an important institution. [LB87]

KEN MASS: Possible, yes. [LB87]

SENATOR AVERY: For your interests, in fact. [LB87]

KEN MASS: Yes, yes, very much. [LB87]

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

Government, Military and Veterans Affairs Committee
January 24, 2007

SENATOR AVERY: I wish some of my legislation could have fiscal notes like this that say indeterminate effect. (Laughter) But unfortunately I don't have that privilege. Thank you. [LB87]

SENATOR AGUILAR: Further questions? Seeing none, thank you. [LB87]

KEN MASS: Thank you, Senator. [LB87]

SENATOR AGUILAR: Any more proponents? Any opponents of the bill? [LB87]

BEVERLY NETH: (Exhibits 3, 4, 5, and 6) Chairman Aguilar, members of the committee, I am Beverly Neth, B-e-v-e-r-l-y N-e-t-h, director of the Department of Motor Vehicles. I'm here today to testify on this bill in opposition and I want to thank you for the opportunity to testify on behalf of the administration in opposition to LB87. In addition to copies of my testimony, you're also receiving letters from other state agencies on the impact of this bill on their agencies if it were adopted and I ask that those be placed into the record, please, Mr. Chair. [LB87]

SENATOR AGUILAR: We will. [LB87]

BEVERLY NETH: Representatives of the Health and Human Services System, the Department of Insurance, the Department of Administrative Services are also on hand to ask any questions you might have that would pertain particularly to their agencies and their letters. It is clear that we operate in a global economy and Nebraska is a part of that economy. It is becoming increasingly difficult to find a business that does not have a buyer, a customer, subsidiary, agreement, or contract with a non-U.S. entity. Operating in this marketplace also subjects U.S. companies, including Nebraska's, to mergers and acquisitions with foreign entities. The state contracts with companies that have international presence and provide necessary services. The DMV is certainly no exception. Over the past several years, we have migrated almost all of our programs from paper-based manual processes to electronic business applications and systems. This migration began with the implementation of the Vehicle Titling Registration System, known as VTR, and continued into the driver licensing area with the implementation of the Interactive Driver License System and the Digital Driver License System. We have also fully integrated Motor Carrier Services System, a Financial Responsibility Reinstatement Workfile, and a Document Management System that will soon be agency-wide. While many of our systems were developed in house and our maintained by our in-house technology staff, there are some that are provided to us by a vendor; the Digital Driver License System being the most prominent. Digimarc, a Massachusetts-based company, is our current driver license system vendor. That contract must either be renewed by Digimarc under the terms of the contract or it will expire in 2008. The adoption of the federal driver license standards in May of 2005, known as the REAL ID Act, has prompted the rapid advancement of several globally

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

Government, Military and Veterans Affairs Committee
January 24, 2007

operated technology companies into the United States driver license or ID systems market. Several foreign countries offer state-of-the-art computerized ID systems, including Canadian Bank Note based in Ottawa, Ontario; DeLaRue based in the United Kingdom; and Giesecke & Devrient based in Munich, Germany. I am concerned that the adoption of LB87 would prohibit the DMV from accessing services from some of the world's foremost experts in ID systems. Additionally, I am concerned that LB87 may place the Nebraska DMV at a competitive pricing disadvantage by limiting the number of vendors who would be allowed to respond to a request for proposals. At present, DeLaRue and Giesecke & Devrient are the two companies that hold exclusive rights and patents associated with the document security feature known as the Optical Variable Device, or OVD. As a part of the uniform identification program, the Association of American Motor Vehicle Administrators, known as AAMVA, approved the concept of a common security element that all AAMVA member jurisdictions could use on their driver license and ID cards. The primary purpose of the OVD is to improve security examinations of out-of-jurisdiction cards by DMV staff that may not be familiar with a particular design of a particular card. Although the Nebraska DMV is presently not using the OVD on its documents, adoption of LB87 would seemingly prohibit future use of the OVD. Many more examples of how LB87 would unfavorably impact our state agencies exist. We must ask ourselves whether it is good public policy to restrict the state's ability as a protectionist measure to enter into contracts with companies because they are competitive in the international marketplace. Nebraska has benefited from this same marketplace. Adoption of LB87 would result in a conflicting message. By creating preferences and mandating on-shore contracts, we are telling these companies that we won't do business with them, while at the same time we are asking their countries to buy Nebraska-made products and services. Again, thank you for the opportunity to testify and I'd be happy to answer any questions you might have. [LB87]

SENATOR AGUILAR: Thank you, Ms. Neth. I think you kind of touched on the question that I had written down and that was, if we refuse to do business with a country like China, how can we expect them to buy Nebraska beef? [LB87]

BEVERLY NETH: I certainly think that is a very pertinent question to the topic before the committee today. [LB87]

SENATOR AGUILAR: Senator Mines. [LB87]

SENATOR MINES: I do. Thank you, Mr. Chairman. Beth, hello again. In this bill, it says that all state contracts for services--it doesn't identify products, but services--shall be awarded to U.S. companies. And that's it. Are there services that your department takes advantage of or uses that are provided only by foreign or out-of-the-country providers? Is it conceivable that there are providers that, it's only available from offshore providers? [LB87]

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

Government, Military and Veterans Affairs Committee
January 24, 2007

BEVERLY NETH: It certainly is. And particular to the companies that I mentioned today in my testimony, those contracts are considered contracts for services because we are contracting with that company to provide programming, integration into our existing systems, as well as there could potentially be some hardware. But primarily it's software services that those contracts address. [LB87]

SENATOR MINES: Right. So if those services weren't available from a domestic company, you would have to have a whole set of...someone develop something else for Nebraska. In other words, if it's not available, you can't purchase in the United States, you certainly can't purchase it offshore is what I'm reading here. [LB87]

BEVERLY NETH: That is the way I read the bill as well... [LB87]

SENATOR MINES: Okay, thank you. [LB87]

BEVERLY NETH: ...so you would be left with either trying to develop your own in-house system. And these systems are, as I said, right now we do rely upon a digital driver license vendor and I am not aware of any state in the country that has its own in-house Digital Driver License System. [LB87]

SENATOR MINES: Okay, thank you. [LB87]

SENATOR AGUILAR: Further questions? Senator Avery. [LB87]

SENATOR AVERY: Do other states have legislation like this? [LB87]

BEVERLY NETH : I certainly am not aware of legislation that's particularly in the arena of the Department of Motor Vehicles that would be affected. We interact with a number of other countries. Our association, the AAMVA association is actually an international association. We interact with Canadian provinces as well as Mexico is a member. And so there is that discussion of best practices and services and companies that could be available to provide services throughout that industry. So particular to legislation that exists, I'm sorry, I can't address that. [LB87]

SENATOR AVERY: One of the concerns that many people have who are familiar with these issues involving trade--and service does involve trade, I mean, you are trading one service for another--is that you get into a beggar-thy-neighbor arrangement where if we start restricting what we are going to sell to another country, then they may restrict what they will buy from us. Do you know of any services that Nebraska sells to other countries that might be in jeopardy if we were to pass this? [LB87]

BEVERLY NETH: As specific to the state of Nebraska agencies selling services, I don't know that. I am assuming that there are a multitude of private companies that provide

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

Government, Military and Veterans Affairs Committee
January 24, 2007

services... [LB87]

SENATOR AVERY: Financial services, for example. [LB87]

BEVERLY NETH: Absolutely could be one of them, technology services. We are right now contracting with a company that is a Nebraska-based company called FileBound to do our Document Management System. It is a terrific product and I imagine that they would like to go global as well and provide their service to other countries. They are in other states. It's a terrific product. It's a terrific service that they offer and could certainly benefit them negatively if Nebraska adopts this kind of measure. [LB87]

SENATOR AVERY: Thank you. [LB87]

SENATOR AGUILAR: Further questions? Seeing none, thank you, Director Neth. [LB87]

BEVERLY NETH: Thank you. [LB87]

SENATOR AGUILAR: Thank you for coming down today. Next opponent? [LB87]

JAN MCKENZIE: Senator Aguilar, members of the Government Committee, it's a rare event for me to testify in front of this committee but I'm happy to be here today. For the record, my name is Jan McKenzie, J-a-n M-c-K-e-n-z-i-e. I'm executive director and registered lobbyist for the Nebraska Insurance Federation. You might think it's odd that I'm here testifying in front of you on this bill but I need to explain a bit more. I know you've received a letter from the director of Insurance. Veteran members of the Legislature and those who have served on the Banking Committee before know that insurance, unlike banking, is regulated by the state in which a company is domiciled. Twenty-six of my members are domiciled in Nebraska and, in fact, all but one of those companies do business in virtually every state in the United States. And one in particular--you might recognize the name Berkshire Hathaway, who is very heavily into insurance--has as one of their groups Lloyd's of London. Now as a regulator, the Department of Insurance is required to do all financial examinations and market conduct examinations. And in order to do that, they hire someone in London to do that for Lloyd's of London there. It makes very little sense to have someone from Nebraska go to do that. And in fact, as I read this, the person couldn't even conduct the financial examination in London because it's not being performed in the United States. So for insurance purposes, while I understand what Senator Howard was really getting at is outsourcing of other types of jobs, the language is written so broadly and without regard to the regulatory aspects of insurance, that this would be devastating for insurance companies who do business in other countries. I know that Aflac is another one of my members--and I believe they have someone here to testify as well--has a company in Japan, a branch company in Japan, and the department contracts with individuals in

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

Government, Military and Veterans Affairs Committee
January 24, 2007

Japan to do that. It might be difficult to find someone in Nebraska who is both a financial examiner and spoke fluent Japanese but it might be a nice trip for them. With that, I'd answer any questions you might have. [LB87]

SENATOR AGUILAR: Thank you. Questions for Ms. McKenzie? Seeing none, thank you. [LB87]

JAN MCKENZIE: Thank you. [LB87]

SENATOR AGUILAR: How many more testifiers do we have on this? I see one. Welcome. [LB87]

MARY JOHNSON: Senator Aguilar, members of the committee, my name is Mary Johnson, M-a-r-y J-o-h-n-s-o-n, and I'm a registered lobbyist for Ruth Mueller Robak, appearing today for the Associated General Contractors, Nebraska Chapter. I'm appearing opposed to LB87. The AGC appreciates the interest that Senator Howard has in promoting business in Nebraska and protecting those businesses. Unfortunately, we believe that this particular bill may be a bill that's harming those that she's trying to protect. Nebraska employees will see their ability to compete for work in neighboring states adversely affected and a preference statute will negatively impact employment and economic vitality in Nebraska. Many of our construction companies do a substantial amount of work in neighboring states as there's not enough work for them to do in Nebraska. With this language in statute, our companies will be at a competitive disadvantage when bidding for out-state work. The legislation may appear to protect Nebraska contractors but most likely the bill will encourage retaliatory legislation or trigger current laws against our companies in surrounding states. In addition, the bill may ultimately work against city government and government entities when purchasing goods and services by not allowing it to accept the lowest bid possible. LB87 may have unintended consequences. This bill may not give support to the firms that we'd really like to help but our contractors just would like to proceed with a level playing field, not only in Nebraska, but being able to compete in other states. If you have any questions, I'd be happy to answer. [LB87]

SENATOR AGUILAR: Thank you. Questions of Ms. Johnson? Seeing none, thank you. [LB87]

MARY JOHNSON: Thank you. [LB87]

CURT BROMM: Chairman Aguilar, members of the committee, for the record, my name is Curt Bromm, C-u-r-t B-r-o-m-m, and I'm appearing as a registered lobbyist for Aflac Insurance Company. And Ms. McKenzie articulated, I think, the insurance concern very well. And I don't want to take much of the committee's time. But let me say that I think we have something very good going in this state in the area of insurance and that is that

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

Government, Military and Veterans Affairs Committee
January 24, 2007

we are attracting some very large and some very international companies to locate and have their domicile here. And the primary reason is that, other than the fact that we are friendly in terms of our premium tax structure, we have a very commonsense approach to regulation; thorough but common sense. And companies respect that, they like that. Aflac does about 60 to 65 percent of its business in Japan and they've got a huge presence there. One out of every two Japanese consume Aflac product. And so they came here with the idea that they would continue that operation without any unnecessary impediments. They appreciate and invite the regulatory oversight of the Nebraska Department of Insurance. That helps their credibility in doing business because our Insurance Department has such great respect throughout the entire country. And if this were enacted--and I commend Senator Howard for her interest and her effort--but the wording is so broad that it would definitely interfere with the oversight and audit functions of their Japanese component. It would create some great costs for someone or make it impossible to satisfy the regulatory requirements that we have here in our Department of Insurance. They do have to contract with auditors in Japan that have a command of the Japanese language and are located there rather than trying to send people from here over there, which is not only extremely costly but probably not practical. So not to take anymore time, that's our concern. If something like this is done, we would hope that it would be done with a surgical approach and exempt certain activities that absolutely have to be exempted. So that's all I have to say, Mr. Chairman. Thank you very much. [LB87]

SENATOR AGUILAR: Thank you. Questions? [LB87]

SENATOR AVERY: Yes. Senator Bromm, if we were to try to come up with a list of areas to exempt, wouldn't that be a gigantic task? [LB87]

CURT BROMM: Senator Avery, I think it would. I'm not sure that it would be possible because it would again have unintended consequences, I'm sure, that would be retaliatory or there would be some repercussions that we wouldn't expect. But I just, speaking for my client, we feel strongly the insurance industry is global, definitely global, international and we have to operate in that market. [LB87]

SENATOR AVERY: You can't be competitive in any other way. [LB87]

CURT BROMM: That's right. [LB87]

SENATOR AVERY: If we try to come up with a reasonable list of exemptions, it could tie a committee in knots for a decade. (Laugh) [LB87]

CURT BROMM: I would think so. It would be a daunting task. [LB87]

SENATOR AGUILAR: Further questions? Seeing none, thank you, Senator Bromm.

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

Government, Military and Veterans Affairs Committee
January 24, 2007

[LB87]

CURT BROMM: Thank you very much. [LB87]

SENATOR AGUILAR: Any more opponents? How about neutral testimony? Senator Howard, to close. [LB87]

SENATOR HOWARD: (Exhibit 7) You know, I have to quote Senator Raikes when yesterday he said, I see I've brought peace and harmony to the valley. (Laughter) The fiscal notes for this bill were surprisingly limited in the number of agencies affected. I would like to clarify that the Nebraska Employment Retirement System estimated a fiscal note of \$28,000 for a three FTEs contract related to computer support maintenance. The bill does stipulate that bid preference is given only to contracts employing ten FTEs or more. So this contract would be exempt. I have prepared an amendment, knowing there would be a few people that would speak in the opposition. And I think this will address some of the concerns related to the procurement of commodities and the service of those commodities. Again, this bill is about investing in the workforce here in Nebraska and throughout the United States. I am bringing you this bill today because I was asked by my constituents, and on more than one occasion, what can be done about offshoring of American jobs? When I'm asked the question again, I know I'll be able to say I brought this bill to the Legislature for their consideration. And I thank you for your attention. [LB87]

SENATOR AGUILAR: Questions for Senator Howard? Seeing none, thank you. I'd also like to read into the record... [LB87]

SENATOR AVERY: Yeah, I do have a question. I'm sorry, Mr. Chair, I know you're getting tired of this but I do have a question. Are you saying that you're not sure this could work? [LB87]

SENATOR HOWARD: Am I saying that I'm not sure it could work? [LB87]

SENATOR AVERY: Yeah. [LB87]

SENATOR HOWARD: I'm bringing it to you for consideration and I'm sure that you will have plenty of room to discuss whether it would or not. [LB87]

SENATOR AVERY: Okay. [LB87]

SENATOR AGUILAR: (Exhibits 4, 5, 6) I'd like to read into the record letters of opposition from the Department of Insurance, Department of Administrative Services, and Department of Health and Human Services. [LB87]

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

Government, Military and Veterans Affairs Committee
January 24, 2007

SENATOR HOWARD: Thank you. [LB87]

SENATOR AGUILAR: And that closes the hearing on LB87. Senator Mines to open on LB187. If you will, Senator, give them a moment to clear out. While we're clearing the room, can I get a show of hands on how many are going to testify on this bill? Great. I think I saw four, not bad. [LB87 LB187]

SENATOR MINES: Twenty? [LB187]

SENATOR AGUILAR: Twenty-seven, actually. (Laughter) You may proceed. [LB187]

SENATOR MINES: Mr. Chairman, members of the committee, my name is Mick Mines, M-i-n-e-s. I represent the 18th Legislative District and I'm the principal introducer for LB187. Here's how it started. And first of all, let me preface all my comments by saying that I believe interlocal agreements or Interlocal Cooperation Act is a terrific idea and I would encourage the fair use of interlocal agreements throughout local government. The premise makes great sense. But this is how this bill came about. There are two instances that are identified in this bill that I became aware of that I consider to be abuse of the Interlocal Cooperation Act. And under LB187, we would bar both of those activities. One is, we would bar a school district and a public power district for the purpose of contracting for utilities. And the other one is, we would bar a school district and an educational service unit for the purpose of contracting for the services of full- or part-time employees. And here's what I mean. Interlocal agreement, the intent of the Interlocal Cooperation Act is that two or more entities, local public entities, shall have an interlocal agreement in which, I believe, both sides fairly benefit. There's a benefit in either a savings of money or there's a benefit in provision of service. In these two instances, an example is Omaha Public School District has an interlocal agreement with the Omaha Public Power District. And we learned of this in this committee last year and a wink and a nod was given to that issue. However, and I hope we have testimony that will prove different, the perception is that the OPS agreement with OPPD is merely so that...oh, by the way, we heard in this committee there was no reduction in the rate to Omaha Public Schools. So one would presume that the interlocal agreement is set up and intended to shift the cost of electric power out from under the lid that schools are placed. The second one is that my own school district, Blair School System, they contract, Blair Public Schools contracts with Educational Services Unit 3 for the provision of substitute teachers. Again, there may be more to the story. However, the implication is that, or the effect is that all of the wages that are paid for substitute teachers is now moved outside of the lid. And those are the...I didn't go any further. Those two, I think, are wonderful examples of the perception that there is abuse of the intention of the agreement. So those are the two that I brought up in this particular bill and it does also reference back, I think it ties in very nicely with the bill you heard last week, LB13, which is an oversight bill. We as elected officials, we as citizens of Nebraska don't have reasonable access to the interlocal agreements themselves. We

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

Government, Military and Veterans Affairs Committee
January 24, 2007

don't know what the interlocal agreements that are in place today, there are thousands, and I would guess the vast majority fall within what I would consider legitimate savings and/or enhancements to local government. But we don't know. So under LB13, the Secretary of State would be the holder of those and treat them like a corporation. The records would be open to people and incidents like the two I've identified today, we could verify and check. So this again, I selected this, these two instances under LB187. I look forward to the discussion. And with that, I'll entertain any questions, Mr. Chairman. [LB187]

SENATOR AGUILAR: Thank you, Senator Mines. For one, I'm glad to see you're not trying to do away with all interlocal agreements for school districts because I'm anxious to hear the rest of the testimony or as they say how this implicates them. And also, I recall something I heard on the floor this morning and that is, when there is an abuser out there in the system, let's go after the abuser, let's not throw the baby out with the bath water. So I'm glad to see that (inaudible). [LB187]

SENATOR MINES: Yeah, thank you. No, I believe in interlocal agreements. I've used them as an elected official. They work. But I consider these two instances to be abuses but I'm anxious to hear the discussion. [LB187]

SENATOR AGUILAR: Further questions? Senator Adams. [LB187]

SENATOR ADAMS: Senator, you and I have had this discussion and there are countless examples of interlocal agreements that have accomplished exactly what I think the original legislation was intended to accomplish, and that's efficiencies. But I suspect that you might agree with me that, in the course of developing those interlocal agreements, probably somewhere in the mind-set there was also an opportunity to get outside of the lid. The other thing I was thinking about here as...and Senator Aguilar, you caused me again to rethink it, so my question may not be very definitive. Is this so narrow in scope that we may be infringing upon some interlocal agreements that do fall within these two categories that do comply with the intent of the Interlocal Agreement Act? [LB187]

SENATOR MINES: That's a good question. I don't, on the surface, believe that we do. There could be unintended consequences. I don't know that. I just was, again, citing those two examples because I don't know what else might be out there. We just don't have accountability at an open, on a level like LB13 identified. But there could be and I don't know that yet, Senator. [LB187]

SENATOR AGUILAR: Further questions? Seeing none, thank you, Senator Mines. [LB187]

SENATOR MINES: Thank you. [LB187]

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

Government, Military and Veterans Affairs Committee
January 24, 2007

SENATOR AGUILAR: We will now take proponents of the bill. Seeing none, (laughter) opponents? [LB187]

VIRGIL HARDEN: Senator Aguilar, members of the committee, good afternoon. My name is Virgil Harden. I'm the director of business for Grand Island Public Schools. My last name is spelled H-a-r-d-e-n. And it's my pleasure to spend some time this afternoon talking to you about the things that Grand Island Public Schools does in relation to interlocals; specifically, not with the OPPD, obviously, or a public power district, but with the city of Grand Island. We have had an interlocal with the city of Grand Island for electricity for, well, since 1998. It's a very important tool that we use, the interlocal, to manage our energy cost in a district like Grand Island. We are the third lowest spending school district, Class III school district in the state of Nebraska. Sometimes we're the lowest spending but the last two or three years we've been the third lowest. So we really work hard at trying to utilize our resources to the best extent possible. We started off with a company called Energy Education. And we did a baseline where we took the information on our utilities and actually started gathering that so we could develop a historical longitudinal record of what our uses were in each building. We have 22 different buildings in our school district. We maintain 1.25 million square feet of space for student learning and instruction. Annually, the district reviews the condition of the systems that we maintain in our school district buildings, things like the HVAC system, things that use electricity; heat pumps, mechanical systems. And we have a current list of over \$27 million of deferred maintenance and projects that we could attack. If we had \$27 million right now today, we could spend that, implement, and make all those projects that have been deferred happen basically. All of that is in an effort to try to paint a picture for you of the importance of an interlocal for a school district like Grand Island that has to utilize our resources as efficiently as possible, given that we're locked into low spending because of expenditure lids in the state of Nebraska. Other items that they're important, we work with the city of Grand Island specifically on our energy usage and then conversely for them, as a utility that produces the energy, the load that we produce on that system. We work with the city of Grand Island to maintain the electrical systems into our buildings. For example, our senior high was built in 1953. That electrical service into that building needed to be repaired and we worked with the city to make sure that that got done and completed on a timely basis. All of this run through the interlocal. We also added, the last time we upgraded our interlocal and renewed it, we put in the concept of an energy managing position to be shared with the city of Grand Island. We have not implemented that but intend to work on that through the end of the school year. The idea of an energy manager position for that would be a person that would work half time for the city and half time for the school and actually work with our employees, work with our systems, and try to identify the different components and usage. A lot of times energy is used because people have a bad attitude towards energy is free and they walk out and leave the lights on. And so education on how much things really cost really helps to reduce the energy usage. Again, all of this is

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

Government, Military and Veterans Affairs Committee
January 24, 2007

accomplished through an interlocal, specifically with the city of Grand Island, for utilities. It was interesting to note Senator Mines' opening comments about hoping there was a rate reduction. Maybe we're unique, but we did not achieve a rate reduction because our utility is a public-owned utility. They have to produce it, it's a commodity. I don't know that we would have any producers that we could buy from other than the city of Grand Island. Any commodity, one of the key components to that is simply the usage. And so that's how we have approached this. It's a cost-avoidance program for the school district of Grand Island. We are going to pay the cost of buying electricity to run our schools and educate our kids. The best thing that we can do to concentrate on saving money and becoming efficient as a public entity is to avoid costs that we could...avoid the cost by putting in new equipment, by putting in new systems that manage things more automatically, by putting in sensors that would actually turn the lights off five minutes after the room is emptied, and things like that. So we attack this in a very systematic, methodical method to try to be as efficient as we can. And if we did not have this interlocal, we wouldn't have these dollars to reinvest into that program. We would have no choice but to back off that process. And over a period of time, I think it's reasonable for those systems to deteriorate to the point of costing even more to run and costing even more to fix. So it's part of a program that we use to manage the costs that we have that we're going to face anyhow to try to achieve the highest level of efficiency for the school district and try to save cost for the community at large and the taxpayers. With that, I would be happy to answer any questions you might have. [LB187]

SENATOR AGUILAR: Questions for Mr. Harden? Yes, Senator Adams. [LB187]

SENATOR ADAMS: Well, if you don't get a cut on rates, the services that you described--and certainly valuable ones--then are you saying that those services would not have been provided by the city of Grand Island had you just asked? [LB187]

VIRGIL HARDEN: Well, I think if we would had asked, I would guess that those services would have been provided. What I'm saying to you is that we looked at the interlocal agreement as a tool to start down a road of really attacking out-of-control energy cost in the school. So because, I guess for lack of a better word, it was incentivized by the fact that that interlocal could have those expenditures outside of the lid. We then took it upon ourselves to use that tool, that opportunity that the Legislature gave us, to really manage that in a much more professional manner. So it really jump-started the process for us in Grand Island. [LB187]

SENATOR ADAMS: So you answered my next question. You do take the exemption that the interlocal provides for you? [LB187]

VIRGIL HARDEN: Yes, we do, to the tune of about \$680,000. [LB187]

SENATOR ADAMS: Okay, thank you. [LB187]

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Transcriber's Office

Government, Military and Veterans Affairs Committee
January 24, 2007

VIRGIL HARDEN: Um-hum. [LB187]

SENATOR AGUILAR: Further questions? Seeing none, thank you, Mr. Harden. [LB187]

VIRGIL HARDEN: Thank you. [LB187]

SENATOR AGUILAR: Next opponent? Welcome. [LB187]

JAN GLENN: (Exhibit 1) Good afternoon, Chairperson Aguilar and committee members. My name is Jan Glenn, spelled J-a-n G-l-e-n-n. I am the director of business services with Educational Service Unit 3 and my testimony today is to kind of explain in terms hopefully that show the cost efficiency and effectiveness of our substitute interlocal that's discussed in the bill. We have a pool of substitute teachers and those teachers register with us to sub in the districts of their choice that participate in the substitute interlocal. Right now, we have 650 substitute teachers in that pool. And one of the benefits that we've had, an example is that a school district needed a long-term Spanish substitute teacher. They didn't have access to find a Spanish substitute teacher, they're not common. So they contacted us and we looked through all of the teachers to try to help them locate a Spanish long-term substitute teacher for their program. We have a centralized payroll process for the substitutes for working in multiple districts. So because of that, it saves the districts staff time, postage, and paper costs because we're managing this employee that provides services in several districts. We have one location for processing paperwork, payroll, and issuing W-2 forms, and one entry into the state new hire system; because every district that hires an employee has to enter their name and information into the state new hire system. We also allow our districts to share costs for criminal background checks for the substitutes working in multiple districts. We receive competitive pricing due to the volume of the background checks that we perform and they usually cost between \$11.50 and \$35 a person, depending on the level of the search that we're performing. And an example is, we have a substitute teacher who is going to substitute in four districts and the districts share the cost of that substitute. So if it was an \$11.50 search, they might have a \$3 cost for a background check rather than each district performing that same background check on the substitute. The salaries and benefits for these substitutes are paid by Educational Service Unit 3, and then each month after payroll we invoice the school districts for that cost. It also has allowed the daily sub rate to kind of level out between the districts because they can share these subs. It's just been a very beneficial cost savings program for our districts. And with that, I thank you. And if you have any questions... [LB187]

SENATOR AGUILAR: Questions for Ms. Glenn? Senator Pahls. [LB187]

SENATOR PAHLS: Yes. Thank you, Senator Aguilar. The question I have, okay, the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
January 24, 2007

sharing of the 650 or so subs, the district still pays for that sub? [LB187]

JAN GLENN: That's correct. [LB187]

SENATOR PAHLS: Not the ESU? [LB187]

JAN GLENN: That's correct. [LB187]

SENATOR PAHLS: Okay, thank you. [LB187]

SENATOR AGUILAR: Further questions? Seeing none, thank you. Next opponent? Welcome. [LB187]

DENNIS POOL: Good afternoon. Senator Aguilar, committee members, my name is Dennis Pool. I'm the assistant superintendent for general administration of the Omaha Public Schools. We're here to testify in opposition of LB187. And as I've listened to testimony here and Senator Mines' introduction. Again, Omaha obviously comes to the point of discussion about this. I think that, with the previous testimony, there are other school districts that are involved with interlocals with both ESUs and with public power districts. I'd just like to give you a little background and then I want to talk. And hopefully I can answer some of the questions that was raised by Senator Mines in his introduction. The act itself does provide with some incentives which are exclusions from the expenditure limitation to provide the resources then that are required for these joint projects or contracts. And the Omaha Public Schools has used the Interlocal Cooperation Act agreements for now 38 years. And I just want to kind of go through some of the activities, as Senator Mines pointed out, there's all kinds of activities. Our school resource officers, not substitute teachers, but school resource police officers are contracted with the city of Omaha. The city of Omaha provides these officers. We pay them through a joint mutual contract so that we have those people on our staffs. We're currently building a new elementary school in northwest part of our district. And this new elementary school is being jointly contracted through interlocal agreements with the city parks and recreation department for the recreation-type parts of the facility. Also with the library commission for the purposes of the library, which will be open to the public, a joint-use facility. And also the work with the engineering with OPPD for some of the engineering services. We do have interlocal agreements with other districts, including educational service units. We have a transportation interlocal with Millard Public Schools. We jointly contract with Laidlaw Transportation to provide our buses. We can do so in an aggregate and save significant dollars on those contracts by doing that. So there are certainly different types of interlocals. In 1999, our school district passed a bond issue, \$350 million, and our voters approved this. And we were able to, outside of the expenditure limitation, issue bonds and a debt service to construct and renovate our facilities. In the construction and renovation process, we contracted with OPPD for \$9.6 million worth of electrical engineering services provided to the district so that we could

put in place ground-source heat loop well systems, which would then use electrical energy to both heat and cool the buildings. Now with that in mind, we received then back from those contracts \$330,000 worth of discounts. And what we did was increase significantly our consumption of electrical energy by doing that. In other words, we moved from gas heating to electrical heating. We put heat pumps in buildings that had no air conditioning previously. So obviously, electrical energy consumption was increased by simply the engineering of the heating and cooling portion of our construction project. The electrical consumption is a part of your general fund operating expenditure, not bond fund debt service. The ongoing electrical consumption was increased, which increased our general fund obligation for electrical energy. That in and of itself means that--not by rate increases, but simply by consumption--we had now to pay for a greater amount of electrical energy. This electrical energy was purchased then through the Interlocal Cooperation Act agreement with OPPD. And so there's the rationale for the interlocal in that regard. Obviously, the engineering was a part of it as well. But there's one other aspect I'd like to share with you before I conclude my testimony. Mr. Harden talked a bit about his budgeting process and how he is involved with this. One of the problems that we run into with energy consumption in a large school district, in a small school district, is it becomes a part of your budget that is unpredictable. As we all know with heating fuel and with electrical energy, with gasoline, we may catch a spike in those kinds of energies at any point in time. We can anticipate work with our suppliers to make sure we have a fixed rate, but we can't rely on Mother Nature for electrical energy or for heating fuel, to say that that's going to, we're not going to have an exceptionally cold winter or we're not going to have an exceptionally hot summer. So those are just the realities of budgeting for those expenditures and we're talking, you know, for heating fuel, about \$6 million; for electrical energy, about \$8 million. It's a significant portion of our budget. If I have this expenditure and it's under the expenditure limitation, I'm going to have to budget that as closely as I can to what I think it might be. Why? Because if I can hit it right, if I can hit it right, that means the money that I would have otherwise maybe budgeted for fuel can be used for other things; teacher salaries, instructional materials, those types of items. If it's outside of the expenditure limitation, I have a little different budgeting philosophy and I would like to share with you. If I have an \$8 million budget for electricity and I have an exceptionally warm late fall, an exceptionally cold winter--and because of our heat pump utilization, now that's electrical energy--all of a sudden our consumption is higher than we anticipated. So now instead of the expenditures for the year being \$8 million, it's \$8.5 million. Well, under the limitation, that half a million dollars has to be paid and it has to be paid out of the funds that are the limited funds. So that means I've got to go to some other program, whether it be a summer school program, whether it be some staff development, and I have to say, you're going to have to curtail that activity. Why? Well, because we need that \$500,000 to pay for electrical energy. Now if it's outside of the limitation, I have a little more flexibility. Flexibility would be this: I might go ahead and budget \$8.7 million instead of just \$8 million. I'm not going to increase taxes, I simply take seven-tenths of a million dollars, or \$700,000, and I take that money from my

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

Government, Military and Veterans Affairs Committee
January 24, 2007

reserves and I use that reserve then as a revenue source if I need it. So it's not state aid, it's not tax dollars, it's just reserves that we've carried over from previously unutilized budgeting. So we can hold that. Now if I have a situation where it's outside of the expenditure limitation, when I hit that \$8.7 or \$8.5 million, I have revenue to cover that and I don't have to go to these programs to say, you can't do summer school or you can't do these programs that we talked about. So it does create a little greater flexibility in how we plan for our budget, especially in these items such as heating fuel, electrical energy, and gasoline. So with that, I just simply would like to say that I would hope that you would understand the reasons that we use these. They are certainly, the expenditures are there, they're reportable, they're audited, they are a part of the State Auditor's requirements to record our interlocals. We really feel like they do give us the flexibility to be able to do things that we would have maybe otherwise not been able to do. And we ask that you oppose this elimination of these exclusions from the Interlocal Cooperation Act. Thank you. [LB187]

SENATOR AGUILAR: Questions from the committee? Senator Pahls. [LB187]

SENATOR PAHLS: This is a question I have. I'm recalling some of this from last year and also I think Senator Mines brought this up. Now you are your own district and you are your own ESU. Is that true? [LB187]

DENNIS POOL: That's correct. [LB187]

SENATOR PAHLS: So you have your administration and your board are actually making agreements with themselves? [LB187]

DENNIS POOL: Well, certainly that's because the laws are set that way. If...the services that we provide, Senator Pahls, through our educational service unit are truly the core services that all ESUs are directed to be able to provide to all of their school districts; the professional development, the technology services, and our library and media services. In reality, we have done a contract, and let me share with you a contract where we did just what you're describing, if I may. We used to have a process put in place where we could issue general obligation bonds and we would have to work with what we called an "S-deal" lease corporation. And that "S-deal" lease corporation would be authorized to issue bonds on behalf of the district. They would issue the bonds. We would procure buses and they would lease then those buses to the district and we would pay off the debt obligation. When that debt obligation was paid off, then the "S-deal" lease corporation would transfer title to the district. We've issued a contract now with, and created an interlocal agency, a joint agency type of agreement where we do just that with issuing those bonds. So it allows us to issue bonds and pay off significant purchases, like transportation vehicles, those types of things, through those Interlocal Cooperation Act agreements. And so that's an example of one that we have. Another one was when we implemented the change from our old mainframe type

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

Government, Military and Veterans Affairs Committee
January 24, 2007

computer system. I think the state of Nebraska has done some similar things in recent years here, where they change from the mainframe to a, like a PeopleSoft software system which is a network system. Those are very significantly expensive products to buy. And so we were able to interlocal cooperate agreement with ESU 19, who was doing the technology services, to implement that. So what it means is, is that we were able to pay those expenditures to the ESU to provide the services and we didn't have to go into our restricted budget and say, okay, in this year we're not going to be able to budget \$6 million for instruction, for instructional types of things because we need to have this software upgrade. Now you say, well, so then you're going outside of the expenditure limitation. Well, in that regard, we are. The other side of it is, is that we're able then to utilize those dollars that are there to provide...we've been able to put, like I said, the energy increases, we've put in all-day kindergarten. And those are some of the flexibilities it has allowed us to do in that regard. [LB187]

SENATOR PAHLS: I'm just curious, what was the amount last year, was it around \$10 million that was outside the lid on this? [LB187]

DENNIS POOL: On which interlocal? [LB187]

SENATOR PAHLS: On the chart that you gave us last year, I think Senator Mines and I looked at that. It seemed like it was a \$10 million savings for you last year. [LB187]

DENNIS POOL: On our electrical energy or the... [LB187]

SENATOR PAHLS: I don't know if it was electrical or just... [LB187]

DENNIS POOL: Yes. Or on the ESU? [LB187]

SENATOR PAHLS: The ESU, I'm sorry. [LB187]

DENNIS POOL: On the ESU. It's up a little bit this year because we're upgrading the human resources, it's about \$12 million this year. [LB187]

SENATOR PAHLS: Okay, thank you. [LB187]

SENATOR AGUILAR: Further questions? [LB187]

SENATOR ROGERT: Senator, I have one. [LB187]

SENATOR AGUILAR: Yes. [LB187]

SENATOR ROGERT: And this is more a new-guy question. But doesn't that exemption allow you to take a larger chunk of state aid than you're entitled to? [LB187]

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

Government, Military and Veterans Affairs Committee
January 24, 2007

DENNIS POOL: Well, does it take a...it would allow your expenditures to increase. To the extent that your expenditures are out of line and not in agreement with what are in the state aid formula, what they allow, what they use in calculation of state aid, it would possibly to a degree. I think you'll find though that, in our district, our per-person cost is certainly less than the state average per-person cost. You still are under a revenue limitation as well. In other words, these don't allow you to raise your taxes. They don't allow you to raise your property tax base to do that. [LB187]

SENATOR ROBERT: Right, but if you're budgeting over, budgeting for more, you have the money to use, that means you're getting more money somewhere. If you're not raising the taxes, that's coming from another source. [LB187]

DENNIS POOL: But the presumption is, is that the expenditures that you have are not required expenditures. I could not do without electrical energy. [LB187]

SENATOR ROBERT: I agree. [LB187]

DENNIS POOL: Okay. So if there are savings to be had in that regard, there are savings that we would have in that regard, what's that money then used for? If that would be your question, I could say to you it would be used, in the last, the years that I've been with the district, is we had implemented all-day kindergarten. The funds were used for those types of programs. We've put in place counseling services in our elementary schools. We have been able to lower class sizes in our inner-city elementary schools so that we can meet some of the needs of those students. So to say that we were just doing it to inflate the expenditures, I think maybe that might be some net result in that, but it certainly isn't because of the things that the board is trying to do weren't purposeful. [LB187]

SENATOR ROBERT: Okay, thank you. [LB187]

SENATOR AGUILAR: Further questions? Seeing none, thank you. [LB187]

DENNIS POOL: Thank you. [LB187]

JOHN BONAIUTO: Senator Aguilar, members of the committee, John, J-o-h-n, Bonaiuto, B-o-n-a-i-u-t-o, and I'm the executive director of the Nebraska Association of School Boards. Although we appear in opposition to Senator Mines' bill, LB187, I have appreciated Senator Mines' openness and willingness to visit with us about this issue and the spirit in which he has approached it. Also Senator Aguilar's comments to be in the hearing, that if we have some issues that we need to deal with, then we should deal with those issues. Because interlocals are so very important to government subdivisions that we want to make sure that we use the interlocals the way they were intended to be

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Government, Military and Veterans Affairs Committee
January 24, 2007

used and we want to keep that tool that was given to governing boards to manage the lids that we work with. And so we're open, I just want to reinforce that we're open to work with Senator Mines and the policymakers, whether it's oversight on how we need to make sure that you're comfortable that we are doing what we are supposed to be doing in meeting the intent of the law. As you have found out from your own school districts in your legislative area, no two are alike. And each school district uses the interlocals a little differently. There are many school districts that may start in an interlocal and are unable to put any benefit outside of their spending lid because they don't have the levy. They don't need the additional authority but there may come a time when the benefit of staying in the interlocal and that incentive works for them. So it's a changing environment. And so I can tell you that not all interlocals have putting money outside the lid as the goal. For sure that's an incentive and it can be used effectively and it was intended that way when the lids were put in. So my testimony is to end on the note that we will work to make sure that we can keep this a strong tool that we can use in managing our political subdivisions. I would say to Senator Rogert, he asked a question about expanding state aid. We're going to have this discussion on LB362, which is Senator Raikes' bill that deals with interlocals in the Revenue Committee. And he's going to ask us those hard questions, whether the interlocals expand the base and then the base ends up expanding state aid. But for this discussion, I appreciate your openness and willingness to work with us on this. [LB187]

SENATOR AGUILAR: Questions for Mr. Bonaiuto? Seeing none... [LB187]

JOHN BONAIUTO: Thank you. [LB187]

SENATOR AGUILAR: ...thank you. Further testimony by opponents? Seeing none, what about neutral? Are you an opponent or neutral? [LB187]

HERB SCHIMEK: Mr. Chairman, my name is Herb Schimek, represent the Nebraska State Education Association. We are in opposition to this bill. I want to make our position very clear. We have never supported lids. We will never support lids. And so anything that helps the school district negotiate with lids and negotiate through the process, we are in favor of. Thank you very much. [LB187]

SENATOR AGUILAR: Thank you. Questions for Mr. Schimek? [LB187]

SENATOR AVERY: Mr. Schimek, are you admitting that school districts actually use the ESU as a way to get around the lids? [LB187]

HERB SCHIMEK: No. (Laughter) [LB187]

SENATOR AVERY: Okay. Just for the record, I wanted to know. (Laughter) [LB187]

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

Government, Military and Veterans Affairs Committee
January 24, 2007

SENATOR AGUILAR: Further questions? Seeing none, any more opposition? Any neutral? Senator Mines to close. [LB187]

SENATOR MINES: Thank you, Mr. Chairman, members. Great testimony. And I didn't hear a single example that contradicted the reason for this bill. It's clear to me that there are--and I'll pick on schools because that's what this is about--that there are abuses and that schools are using the levy lid requirement and they're using smoke and mirrors to shift the cost of services, particularly commodities. I think Mr. Harden, when he suggested it's a commodity, electricity is a commodity, absolutely it is. And when you purchase a commodity under an interlocal agreement, there's an assumption...excuse me, as a legislator I presume that that interlocal agreement is benefiting one or the other parties. In this case, in the case that Mr. Harden gave us, frankly he talked about service to the buildings had been upgraded and they had done some energy management planning and they're trying to avoid cost. You know what? They would do that with or without an interlocal agreement. That's good business to do those kinds of things. That's what we all do outside of government. However, when it comes to a commodity, shifting \$680,000 outside your lid isn't a savings, as you may have heard the word tossed around. Nobody is saving money. The taxpayers are still paying that money. You are shifting it from under the lid to avoid your spending cap and your allowance. You're spot-on, Senator Rogert. That impacts your state aid formula and there are consequences that we didn't intend in the Interlocal Cooperation Act. Jan Glenn with ESU 3, they've got 650 substitute teachers. I'm marvelled, I think it's a terrific program and I suggested to my legislative aide, I said this is a great program. But you don't need an interlocal agreement to conduct your business, to conduct the way that you hire substitute teachers and shift their salaries out from under your lid. That's the consequence that we're dealing with. And then finally, Mr. Pool from Omaha Public Schools suggested that they had a \$9.6 million engineering contract with Omaha Public Power District. That's great. They shifted to heat pumps, I assume they're more efficient. They could have and should have contracted with OPPD as a provider without an interlocal agreement, without shifting \$9 million out from under the lid. They were going to do that anyway. And this Interlocal Cooperation Act is a vehicle for this instance to, I believe, abuse the system. Additionally, I heard OPS has about an \$8 million energy cost and I heard justification why it's right and good to shift those expenses outside the lid so you can accommodate other services and other...I don't agree. It's a commodity. Frankly, we should deal with it as a commodity and not shift it out from under our spending lid for other purposes. Oh, by the way, state aid kicks in on top of it. I believe these are abuses. I believe that the bill is put forth in good conscience and these are illustrations of why I brought this forward. Thank you. [LB187]

SENATOR AGUILAR: Questions for Senator Mines? Senator Pahls. [LB187]

SENATOR PAHLS: Senator Mines, and I understand it seems like schools are the issue. Do you have issues with cities and counties... [LB187]

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

Government, Military and Veterans Affairs Committee
January 24, 2007

SENATOR MINES: I have an issue with any political subdivision that is abusing the Interlocal Cooperation Act. This is a very basic start because these are two I know about. We can't track interlocal agreements as a body because the Auditor has requested that interlocals be filed a couple years ago. I'm guessing they're in a box down in the basement somewhere. So in combination, this is, I believe, a good start. LB13 that would make more public what the interlocal agreements are, I think it's a good start. [LB187]

SENATOR PAHLS: You know, as a mayor, did you have interlocal agreements? [LB187]

SENATOR MINES: Oh, absolutely. Not to this extent. [LB187]

SENATOR PAHLS: No, no, but I mean, but your town... [LB187]

SENATOR MINES: Oh, yeah. [LB187]

SENATOR PAHLS: ...would be much smaller, I would assume. Did you ever think that you were doing something...you know, I'm not trying to put you on the spot. [LB187]

SENATOR MINES: No, no, no. Heaven forbid. (Laughter) [LB187]

SENATOR PAHLS: (Inaudible) somebody else's perception. [LB187]

SENATOR MINES: No. And in fact, municipalities could use the same type of interlocal agreement with Omaha Public Power or with the local power company. We, in Blair, did not do that. Our interlocal agreements were predominantly with the county for snow removal and those kinds of things, law enforcement. [LB187]

SENATOR PAHLS: By the way, I did hear you were a good mayor. So I just wanted (inaudible). [LB187]

SENATOR MINES: Oh, well, thank you for that. [LB187]

SENATOR AGUILAR: Further questions? Senator... [LB187]

SENATOR AVERY: Just for the record, I did not hear that you were a good mayor. (Laughter) I didn't hear you were a bad mayor either. (Laughter) But that's not what I want to ask you. You seem to suggest this is really not the ultimate solution to the problem. I believe Senator Raikes has a bill, you mentioned, before Revenue. Is that a broader, more comprehensive approach? [LB187]

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

Government, Military and Veterans Affairs Committee
January 24, 2007

SENATOR MINES: Senator, I have not read his bill. I talked to him about it and I believe that Senator Raikes would eliminate interlocal agreements, perhaps just with schools, and then allow them more spending authority. He perceives that there are abuses, as you've heard today. And his solution is much different than mine. I think if we can encourage local government to become more efficient or effective through an interlocal agreement arrangement, that's great. But these instances prove that it's not, that's not what's happening here. [LB187]

SENATOR AVERY: But you do admit there is a need perhaps to take a broader comprehensive look at... [LB187]

SENATOR MINES: Yes, Senator, I do. [LB187]

SENATOR AVERY: Thank you. [LB187]

SENATOR MINES: Thank you. [LB187]

SENATOR AGUILAR: Senator Pahls. [LB187]

SENATOR PAHLS: Since I have not had the opportunity to read Senator Raikes' bill at the moment, do you agree if you take something away maybe state aid should be increased? Or are you ready to say that (inaudible)? [LB187]

SENATOR MINES: You know, again, I'm sorry, I haven't seen his bill. I think you need to balance but I also think that, over time...and I'm picking on schools. They're not necessarily...just an example that I have. Over time, I believe that they've been forced to the point that they have to use smoke and mirrors to maintain a level of education. And that shifting these costs outside the lid is a way for them to do that. I'm just simply saying, let's not pull the wool over anyone's eyes. These are real costs. Taxpayers are still paying the bill. Let's keep them within the lid. And if we had to adjust state aid or the spending side, I'm wide open to that as well. [LB187]

SENATOR PAHLS: Okay. Because most of the examples that OPS gave, you probably agree that they were trying to spend the money, like I heard, all-day kindergarten, things like that. These are not unusual things they were trying to do. They were trying to accomplish... [LB187]

SENATOR MINES: Yeah, well, those...absolutely. I think those are wonderful. But don't, in my opinion, don't abuse an interlocal process to justify doing something else. [LB187]

SENATOR PAHLS: Thank you. [LB187]

SENATOR AGUILAR: Further questions? Seeing none, thank you. [LB187]

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

Government, Military and Veterans Affairs Committee
January 24, 2007

SENATOR MINES: Thank you very much. [LB187]

SENATOR AGUILAR: That closes the hearing on LB187 and our hearings for the day.
[LB187]

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

Government, Military and Veterans Affairs Committee
January 24, 2007

Disposition of Bills:

LB27 - Advanced to General File.
LB87 - Indefinitely postponed.
LB100 - Indefinitely postponed.
LB187 - Held in committee.

Chairperson

Committee Clerk