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Government, Military and Veterans Affairs Committee
February 09, 2011

[LB198 LB338 LB343 LB480]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, February 9, 2011, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB198, LB338, LB343 and LB480. Senators present: Bill Avery, Chairperson; Scott Price, Vice Chairperson; Lydia Brasch; Charlie Janssen; Russ Karpisek; Rich Pahls; and Paul Schumacher. Senators absent: Kate Sullivan.

SENATOR AVERY: Good afternoon. Welcome to the Government, Military and Veterans Affairs Committee. My name is Bill Avery; I represent District 28 here in the heart of Lincoln and I Chair this committee. I'm going to introduce everybody including those who are not here. They will be here soon. Senator Rich Pahls over here on the end is from Omaha, represents the Millard area. Seated next to him is Senator Lydia Brasch from Bancroft, one of our newest members. And Senator Charlie Janssen from Fremont will be here in a few minutes. And seated next to him is Senator Scott Price, the Vice Chair of this committee, from Bellevue. Christy Abraham is the legal counsel to the committee. And moving on around, Senator Russ Karpisek from Wilber will be here in a few minutes. Senator Kate Sullivan has a bill before another committee and may not be back today, because apparently they're going to hear three or four bills at the same time including hers and she needs to be there. But seated next to her is Senator Paul Schumacher from Columbus. And at the very end is the committee clerk, Sherry Shaffer. She will be the one that you will want to give this piece of paper to. If you are a testifier, we want you to fill out this form, print legibly so we can read it, this becomes the official record of who appears to testify. And when you take the microphone, please state your name clearly and spell it so we get it right. If you are here and you want to record your support for or opposition to any of these bills that we will hear today, but you do not necessarily wish to testify, there is a form that you can fill out available at each door; as are these forms as well, they're available at each door. Simply fill out this form indicating who you are and your address and the bill number and whether you support or oppose. Now, if you have electronic devices, we'd ask you to put your telephones on silence and we ask that you not, unless you're a part of the certified press, we ask that you not be using your laptops during these proceedings and you may not video tape these proceedings. So, with that I would like to introduce our pages for today. We have Mr. Kyle Johnson from Sutton and we don't have...okay, Danielle Henery from Battle Creek is usually here, but not today. Kyle is going to do double duty. We will hear the bills in the order as they are posted outside the door starting with LB198 by Senator Mello and followed by LB338, LB343, and LB480. Welcome, Senator Mello.

SENATOR MELLO: (Exhibits 1, 2, 3) Good afternoon, Chairman Avery and members of the Government, Military and Veterans Affairs Committee. My name is Heath Mello, M-e-l-l-o, and I represent the 5th Legislative District which includes south Omaha and Bellevue. In 1975 the Legislature amended the statutes dealing with state-owned

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vehicles to take positive steps to reduce the consumption of gasoline in the state of Nebraska and to make the most efficient and economical use of our nation's resources, as well as state funds. In 1980, Nebraska was the first state in the nation to require the use of 10 percent ethanol in state vehicles; and in 2005, the Governor, Dave Heineman, issued an Executive Order promoting the use of biodiesel in E-85 flex-fuel vehicles. In the language of his Executive Order, the Governor affirmed that it is "appropriate that state government assume a leadership role in promoting renewable fuels such as ethanol and biodiesel and the efficient use of energy and natural resources to the benefit of the state's residents and in the interest of the environment, economy, and future generations of Nebraskans." LB198 would take the next step in advancing our state's longstanding policy of encouraging fuel efficiency and use of alternative fuels and generally requires that all state-owned passenger cars purchased or leased by the Transportation Services Bureau be fuel-efficient or alternative-fuel vehicles. A division of the Department of Administrative Services, the Transportation Services Bureau oversees roughly 17 percent of all state-owned vehicles. While larger agencies such as the University of Nebraska and the Department of Roads maintain independent fleets, many state agencies rely on the Transportation Services Bureau to assist with the purchase or lease of vehicles for their fleets. Under LB198, state-owned passenger cars that are purchased, leased, or are approved for purchase or lease by the Transportation Services Bureau would have to fall into one of the follow categories: (1) identified as a fuel economy leader in the annual Fuel Economy Guide issued by the United States Environmental Protection Agency; (2) be a flex-fuel vehicle; (3) a hybrid electric vehicle; (4) electric or plug-in electric vehicle; (5) hydrogen or fuel-cell vehicle; or (6) other alternative-fuel vehicles. This requirement could be waived by the chief of Transportation Services Bureau if the cost of compliance exceeds the projected gasoline consumption cost savings. The committee should have received a copy of AM271 which corrects an oversight on the part of my office. In the process of drafting LB198, we attempted to use language that was very similar to the LB978 legislation that this committee heard last year requiring DAS to purchase ENERGY STAR certified appliances. The amendment removes the word "gasoline consumption" allowing the chief of the Transportation Services Bureau to waive the requirements of LB198 if the cost of compliance exceeds all projected cost savings, not just fuel costs. In all practicality, LB198 simply codifies and expands on Governor Heineman's 2005 Executive Order. Flex-fuel vehicles, which are capable of running on either traditional ethanol blend gasoline or E-85, are widely available in Nebraska. And as the Executive Order notes, the state already maintains a large state fleet of flex-fuel vehicles. In recent weeks, Nebraska has also received some good news regarding the availability of alternative fuels in our state. This June, Metropolitan Utilities District will be opening two new compressed natural gas fueling stations in Omaha, including one in my district. And as the Lincoln Journal Star reported this week, the city of Schuyler will soon be joining the list of Nebraska communities in which E-85 is available for the use in flex-fuel vehicles. As a member of the Appropriations Committee, I recognize that we have to look both beyond short-term budget cuts and begin to implement long-term budget

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solutions if we are to merge from our current fiscal crisis. LB198, by reducing the overall energy usage of our state fleets will save taxpayer dollars and improve our air quality while providing our state government with the opportunity to lead by example. With that, I thank the committee for their time and will be happy to answer any questions you may have. [LB198]

SENATOR AVERY: Thank you, Senator Mello. Any questions? Senator Price. [LB198]

SENATOR PRICE: Chairman Avery, thank you very much. Senator Mello, thank you for bringing the bill forward and testifying today. Last year's bill I signed on to that, it is a good thing. I do have some questions on this one, hopefully in the spirit of trying to make it a better thing. On page 2, line 20, paragraph 20, it says, "all state-owned passenger cars" and my question, when I look at that I want to say passenger vehicle and I think of first responder vehicles. Okay, so now some first responder vehicles, would those be included because it could be a larger class of vehicle, maybe it doesn't have...I just want to make sure that we understand is it...we say "all" there, but in the document from the Governor it talks about...05-03, has whenever practical. So I didn't know if "all" should really be something we hang our hat on because it can be kind of limiting if we have a first responder vehicle. [LB198]

SENATOR MELLO: The best way I think to answer your question, and it's a good question, Senator Price, is to...is to call to the attention the committee the amendment that we put forward, which was the oversight that we had in our bill. Still with all state-owned passenger cars, even if it is a first responder vehicle, it still provides the flexibility for some reason the chief of the Transportation Services Bureau sees that there's not a projected cost savings by going, let's say, a nonelectric hybrid version of that passenger car or a nonflex-fuel version of that passenger car, that they can waive that. So then they can buy just your standard passenger vehicle that uses only gasoline if that's the case. [LB198]

SENATOR PRICE: Good, because I was concerned that we have our hands tied in this situation (inaudible) use-specific vehicle versus just passenger. [LB198]

SENATOR MELLO: We tried when drafting that...and like I say, the oversight was done on our part in my office in the drafting of it, is that we wanted to make sure that the department had the flexibility in regards to when it doesn't make financial sense. If it makes fiscal sense for us to be purchasing hybrid electric vehicles, or flex-fuel vehicles instead of gasoline only vehicles, that's the purpose and that's why it is essentially the expansion of Governor Heineman's Executive Order. [LB198]

SENATOR PRICE: Great, and then we go down about three more lines on line 23 it says, (a) identified as fuel economy leaders and the Fuel Economy Guide. I just want to make sure, are we talking about everything in the guide or the top five, top ten; as we

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get more and more (inaudible), as we get more and more vehicles moving into this market...more competition, it's going to be like a consumer guide and every car is going to be covered, every flex thing, so now I said, I've met the mark of the...in the spirit of the law, but I didn't really...the intent, but not the spirit. [LB198]

SENATOR MELLO: Well, essentially if you continue reading through lines 23, 24, 25, and then on 1, 2, and 3 on page 3, those are just...once again, those are categories that they can utilize. It doesn't mean that they have to utilize it; it's an option that is available. And within...identified as a fuel economy leader in the annual guide, that's one of the categories they can use. [LB198]

SENATOR PRICE: Could...(inaudible) I said, maybe I didn't articulate, could you just say identified in the annual Fuel Economy Guide, because (inaudible), it just leaves interpretation. I just didn't know where you were. I won't belabor the point any further. [LB198]

SENATOR MELLO: There are specific vehicles listed in that guide that essentially wouldn't...would qualify for that. So I would...it would be the intent, I would say, by reading the way we had drafted it, that if you're included in this guide in any shape or form that you would be considered one of the fuel economy leaders, as what the name of the guide is, the fuel economy leaders guide. So I think... [LB198]

SENATOR PRICE: (Inaudible) that I don't have to be the top point in the guide, it can just be in the guide. [LB198]

SENATOR MELLO: As the language says, identified as fuel economy leaders in the annual Fuel Economy Guide. [LB198]

SENATOR PRICE: Okay. Thank you. [LB198]

SENATOR AVERY: Senator Janssen. [LB198]

SENATOR JANSSEN: Thank you, Chairman Avery. Sorry for my late arrival today. Senator Mello, always a pleasure. Do you think...I ask this probably knowing the answer I'm going to get, but do you think maybe we're a little bit ahead of where we need to be? I've been reading some news reports on electrical vehicles. I've had an E-85 vehicle since 2006, in fact, I note on here I'm from Dodge County, Fremont in particular, at one point in time we had an E-85 pump. The demand wasn't there. Just read an article this morning about electric vehicles and the fact that the consumers don't want them right now. And do you think we need to be in a position where the government says and mandates that you have to do this? It almost...I mean I don't recall a mandate saying you have to go from horse-drawn carriage to cars, I think common sense finally took us there. Any parallels there? [LB198]

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SENATOR MELLO: You know what, that's a great question, Senator Janssen. And I think...I take the perspective that our state government, similar to what Governor Heineman laid out in his Executive Order that the state of Nebraska can help lead by example when it comes to alternative-fuel vehicles. And we started to take that path now where we're not where we need to be in regards to just flex-fuel vehicles. So I think with what LB198 does, it doesn't...we don't pick one vehicle or one fuel type more than another, which I think is very critical. It's not trying to dictate that we have to go this way or have to go this way, it's that we want to make sure that alternative-fuel vehicles of all kind are available and that we try to focus on those vehicles instead of just your traditional gasoline consumption vehicles when it is economically feasible. If it is not economically feasible, similar to, it sounds like, to the situation in Dodge County where a private business decided to stop offering E-85 because they felt they weren't...it wasn't economically viable. This bill...we don't want to tie the Transportation Services Bureau to say that you have to buy these vehicles if it's not economically feasible for the state to do. Essentially, it's...the best way to describe it without repeating my introductory statement, is that we are codifying what I believe what Governor Heineman put in his Executive Order, but we're taking it a step further, kind of updating, in a sense, that in 2005 there wasn't electric vehicles, a lot of electric hybrid vehicles that were being utilized in state governments or local governments around Nebraska or around the country. We didn't have, I think, the growth that we might have seen now with hydrogen-fueled vehicles down the road, compressed natural gas fuel vehicles down the road, purely just electric vehicles as we're starting to see, they're coming on the market right now. So I think that's kind of where this goes, Senator Janssen, is that it's not mandating government to do anything beyond what we've kind of already been doing and it also provides us the flexibility as a state of saying if this doesn't make economic sense, then they don't have to do it. [LB198]

SENATOR JANSSEN: So do you think, and I know you and the Governor are usually lockstep in policymaking, so did you speak with the Governor when you said this codifies this? Is this something the Governor asked you to put forward and something that he's on board? Or is that your interpretation from what you've (inaudible)? [LB198]

SENATOR MELLO: The Governor did not ask me to introduce this piece of legislation; as we were looking into various fuel-related issues, this was the Governor's Executive Order, was something that caught our eye and a lot of other people pointed it out of us taking a look at that before we wanted to do any kind of legislation regarding alternative fuels. We have had conversations with the Department of Administrative Services and are more than willing to continue those conversations; define some kind of resolve, so to speak, to this issue. I think that we're not there yet, possibly, and I'll wait to hear what their testimony is today. But I think we can get there and that will hopefully answer your question. [LB198]

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SENATOR JANSSEN: Thank you, Senator Mello. [LB198]

SENATOR AVERY: Any other questions? Senator Schumacher. [LB198]

SENATOR SCHUMACHER: Thank you, Senator Avery. Senator Mello, thank you for bringing this. This is a...kind of a start of a good academic exercise here. The first question that I have though is, what criteria does this administrator use, or do we need to lay down criteria, in evaluating the cost of compliance with the cost of savings? I mean, what is the cost savings here; what is the cost of compliance? What all does he take into account? [LB198]

SENATOR MELLO: That's a great question, Senator Schumacher, and I think to some extent we leave that up to the Transportation Services Bureau to determine that. Once again, this is not...we didn't want to micromanage the TSB when doing this bill because it is not with the intent of this bill that we wanted to allow them to provide...utilize a lot of the existing data that the Transportation Services Bureau already produces and already provides publicly available data in regards to the services they provide. And this subsection essentially allows them to determine on their own whether or not it's cheaper and be able to back that up with their own analysis of whether or not it's more economically viable for the state to purchase a flex-fuel vehicle compared to a gasoline vehicle. They usually...like I said, if you read the fiscal note that was attached to this bill, both from the Legislative Fiscal Office, as well as from the department, I think you'll notice that there's some stark contrasts in the sense that the Transportation Services Bureau was unable, essentially, to provide any rationale in regards to why it might cost any money...or any additional funds in the future, have any additional financial impact in the future with the way the bill is drafted now because it's generally left up to them. We trust the fact that those who are running the TSB will be able to utilize their existing processes now to determine whether or not it makes economic sense for us to purchase a different kind of alternative-fuel vehicle, or it doesn't. And if it doesn't, we just need them to provide us why they chose not to do that and we give them the flexibility and the exemption to not do that. I hope that kind of answers your question. [LB198]

SENATOR SCHUMACHER: Well, there might be a lot of indirect cost savings theoretically on saving the environment, do they go that far, or do they just go as far as what it costs to fill up at the pump? [LB198]

SENATOR MELLO: Once again, we leave that up to the Transportation Services Bureau. I think it would be very difficult to be able to provide in statute the exact cost savings that we wanted them to utilize in regards to...you're exactly right, whether or not air quality--what is the cost savings on air quality? Do we associate that with asthma rates? Do we associate that with cancer rates? I think the way we leave it here is, in all practicality, we're looking at it from a financial aspect in the sense of the life potential...the potential life cycle of that vehicle in regards to the amount of mileage that

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vehicle may get compared to a traditional gasoline vehicle. Obviously, the fuel costs are the guiding force of this bill which is if it is economically more viable for us to buy vehicles that we can then provide and buy cheaper fuels for those vehicles, that might be...that's the cost savings...that's the intent of the cost savings, I should say, in this bill. [LB198]

SENATOR SCHUMACHER: Okay. Now, I know there's been some discussions and I think in the Attorney General's Opinion or something that says we can't just delegate to some other code maker or bookmaker our guidelines and our rules. To what extent is...is there an issue...might be an issue with saying, well, you can buy cars identified in this book put together by somebody? [LB198]

SENATOR MELLO: We have looked into this on a host of other pieces of legislation that I've done where we use other codes, other statutes, other regulated bodies, both dealing with the federal government, as well as private organizations, whether or not you're dealing with a state building code or a state energy code, we utilize other organizations for those codes that we use. And in this case, what we're using is the United States Department of Environmental Protection Agency which the bill I brought, I brought a bill to this committee last year regarding the purchase of energy-efficient appliances that use the ENERGY STAR certification that also comes from the U.S. EPA. So, in that sense what we're...we stuck with, I think, a governmental entity that has appropriate oversight and that it's not a private organization that the information is readily available to the public, both taxpayers and/or the state of Nebraska if they wanted to research the information themselves. [LB198]

SENATOR SCHUMACHER: What's a flex-fuel vehicle? [LB198]

SENATOR MELLO: Flex-fuel vehicles are vehicles that can utilize both E-85 fuel as well as regular gasoline or blends of ethanol or blends of gasoline. [LB198]

SENATOR SCHUMACHER: So just basically ethanol blend kind of things. So basically, this seems to me, with the exception of the ethanol item, seems to be pitting gasoline against coal as a source of fuel. Why is one so much more desirable than the other? [LB198]

SENATOR MELLO: Well, I would say...I guess, Senator Schumacher, that's one perspective potentially to have in the sense of pitting coal versus petroleum. I would say that the way that this bill is drafted, I think it provides alternative fuels and alternative sources of energy as well, a hybrid electric vehicle, so to speak, yes, might use petroleum in regards to gasoline, but it also could derive its electricity from a net-metering at a facility or at someone's house for that matter if they did it. [LB198]

SENATOR SCHUMACHER: But that's coal. [LB198]

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SENATOR MELLO: Net...well, yes, but no, it would be actually wind...net-metering is more smaller wind projects, more renewable energy, more wind-related projects is what I'm referring to. [LB198]

SENATOR SCHUMACHER: But the bulk of our electricity is coal; a little bit nuclear. [LB198]

SENATOR MELLO: I think we're seeing a larger...a larger push, maybe, to more renewable energy in this state with...primarily focusing on wind right now. And I think with, at least some of our electric vehicles, I think that is an opportunity for us as a state to move forward. We did pass some legislation last year dealing with exporting wind energy and there's some other changes that we made over the last couple of years regarding renewable wind energy that could serve as a fuel source for a plug-in electric vehicle. You're right in some extent, if it was a compressed natural gas vehicle, that is a fossil fuel, but it is a cleaner fossil fuel than gasoline or petroleum in itself and there's numerous scientific studies that show that it has much less greenhouse gas emissions, as well as air quality is much, much, seemingly, better, I should say, in communities that have compressed natural gas vehicles. [LB198]

SENATOR SCHUMACHER: Would compressed natural gas then fall under other alternatives? [LB198]

SENATOR MELLO: Yes, and I believe we've been contacted, there is someone today who will make a suggestion of changing (f) to include compressed natural gas vehicles, so I kind am...of cutting him off at the pass, so to speak, a little bit of referring to it, since I know they'll be coming up and testifying and saying that they would like to see that change. [LB198]

SENATOR SCHUMACHER: I have no further questions. Thank you, thank you, Senator Mello. [LB198]

SENATOR AVERY: Any other questions from the committee? Senator Karpisek. [LB198]

SENATOR KARPISEK: Thank you, Senator Avery. Senator Mello, thanks for bringing this...is fuel economy the only...are there other things than fuel economy that can be used in the (inaudible). [LB198]

SENATOR MELLO: Well, once again, the way that we drafted the bill is that we wanted to give as much flexibility to the Department of Administrative Services as possible in the sense of allowing the Transportation Services Bureau to determine what other potential cost savings there might be besides just fuel cost savings. And that's why the

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amendment that you see in front of you eliminates the projected gasoline consumption cost savings and just exceed the projected cost savings, because we wanted...there are some things such as repairs, such as vehicle maintenance that might be different, for example, on a hybrid vehicle compared to a flex-fuel vehicle compared to a gasoline vehicle. We want to make sure that we give them as much flexibility as possible while still providing guidelines. [LB198]

SENATOR KARPISEK: Okay. One of my concerns would be buying electric cars that...are just pure electric, don't have a combustion engine, heat, at this time of year and just the power to drive around these streets. [LB198]

SENATOR MELLO: I think the thought, once again, is trying to provide guidelines and trying to provide some legislative direction in regards to purchasing...of having the state lead by example in regards to the kinds of products the state purchases. And transportation products are very key, I think, when you're talking about 7,000 to 8,000 vehicles, as well as, obviously, the cost savings with fuel, depending upon the fuel is, once again, we're leaving that up to the department to determine that out, but also some of the innate cost savings that Senator Schumacher mentioned that we can't always quantify, I think, in fiscal matters, in the fiscal numbers and data. [LB198]

SENATOR KARPISEK: Very good. Thank you, Senator Mello. Thank you, Senator Avery. [LB198]

SENATOR AVERY: Any other questions? Senator Janssen. [LB198]

SENATOR JANSSEN: Thank you, Chairman Avery. Senator Mello, something came up just while I was listening to the discussions between you and Senator Schumacher. Aren't most vehicles...I just bought a new vehicle, first time since 2006, kind of excited about it. Aren't most of them flex? [LB198]

SENATOR MELLO: No. No, actually it's funny you mentioned that, because we had to do some research, actually, with the TSB and we originally thought most of the vehicles were flex-fuel vehicles, but roughly only 50 percent of those vehicles are right now out of the Transportation Services Bureau. So we recently just got this information to our office today which, unless there is some contradictory information that we might get later on, I thought somewhat similar in that sense. But the other component too, and this is a bigger issue that I'm more than willing to sit down and work with the committee on; we also come to find out, and I mentioned in my testimony that as the state of Nebraska only 17 percent of our vehicles go through the Transportation Services Bureau. So we actually are only talking still right now even of trying to find ways to expand the use of flex-fuel vehicles and other alternative fuel vehicles, we're only talking about less than 20 percent of the state-owned vehicles now with LB198. And ideally when we found out this information, I was hoping that we would be talking about a much greater, larger

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number of vehicles statewide, and really we're not. So to some extent, while this is a positive first step, there is still a lot of other agencies who purchase their vehicles that don't fall under LB198. [LB198]

SENATOR JANSSEN: Thank you. What do you drive? [LB198]

SENATOR MELLO: I drive a 2004 Saturn Ion. It gets roughly about 34 miles to the gallon. [LB198]

SENATOR JANSSEN: I just wanted to get you on record for saying that you drove a Saturn. [LB198]

SENATOR MELLO: Okay. It is a nice...it's a GM car that's American made. [LB198]

SENATOR JANSSEN: I've seen it. I know where you park. Thank you. [LB198]

SENATOR AVERY: Any more questions? I don't see any. Thank you, Senator Mello. [LB198]

SENATOR MELLO: Thank you. [LB198]

SENATOR AVERY: Are you going to stay to close? [LB198]

SENATOR MELLO: I'm going to waive. [LB198]

SENATOR AVERY: You'll waive. [LB198]

SENATOR MELLO: Actually no, I'll stay. I'll stay. [LB198]

SENATOR AVERY: Oh, I talked you into it, all right. Before we start with testimony, I want to remind you we're going to be using the light system. The green light indicates you have four minutes and when the amber light comes on, you have one more minute to wind up your testimony and the red light means finish. Okay. Red is stop. Now, proponent testimony. Anyone wish to testify in support of this LB198? Senator, you have no supporters. (Inaudible crowd discussion.) Oh, here we go. Senator Schmit, haven't seen you in a long time. [LB198]

LORAN SCHMIT: (Exhibit 4) Well, Senator, it's good to see you again. Good to be before the committee and appreciate the opportunity to testify. For the record my name is Loran Schmit, L-o-r-a-n S-c-h-m-i-t. I appear here today on behalf of the Association of Nebraska Ethanol Producers in support of LB198. I appreciate very much that Senator Mello, by the introduction of the bill, has called attention to the fact that state agencies should, when possible, use efficient alternative fuels, some of which are at

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least produced in Nebraska. I also want to commend the Transportation Services Bureau who, under the leadership of Mr. Steve Sulek, are already purchasing a high percentage of flex-fuel vehicles for their agency. Senator Mello has called your attention to the fact that not all of the state agencies get their field vehicles from the Transportation agency. The Game and Parks, Roads, others, university, purchase their own vehicles. So this bill addresses the Transportation Services Bureau. You might want to, if you consider it, take a look at those other agencies because they are the ones who, for one reason or another, are not, at this present time, purchasing a high percentage of other vehicles. I believe the Legislature will learn that other state agencies have not purchased as great a percentage of flex-fuel vehicles as has the Transportation Services Bureau. We all recognize that it is not easy to draft a bill which accomplishes all of the goals that we might like to attain. There are also a variety of reasons why a state agency might want to purchase one vehicle over another. And as it was brought up by a question here, there are a number of reasons why an agency might want to not purchase this type of vehicle that you and I might think they should purchase. But I believe that LB198 provides sufficient flexibility for the chief of those bureaus to use their own good judgment and purchase that which is economical and environmentally favorable. Some of the reasons why you might want to buy a flex-fuel vehicle is that a flex-fuel vehicle costs about the same, virtually the same as a nonflex vehicle. Second, the flex-fuel vehicle can utilize virtually any blend of ethanol and gasoline which allows the driver to select the blend which he or she determines to be most economical and efficient. Third, the installation of an E-85 pump, or a blender fueling station will cost only a modest \$22,000 to \$30,000. It's not a major expense. Fourth, a flex-fuel vehicle is not limited to a specific geographic area because it can use any blend of gasoline and ethanol in Nebraska which is legal. One of the problems we have with flex-fuel vehicles, are that we have about 98,000 of those in Nebraska at the present time and only about 60 of the E-85 stations. So that limits the availability of that fuel to those vehicles. Fifth, and most important, ethanol is produced in Nebraska from corn grown in Nebraska by people living in Nebraska, some of whom may be in this room, provides job opportunities, improve markets for farm crops, and fuel security for all Nebraskans. It is interesting because there's about 2.5 times more gallons of ethanol produced in Nebraska as is used in the entire petroleum gasoline vehicles in Nebraska. It's also a fuel which is environmentally clean and cleaner than regular gasoline. There are many factors that must be considered when a state agency determines what type of vehicle best serves as transportation for state employees. I can remember when the state of Nebraska refused to purchase air-conditioned automobiles on the basis that it was an unnecessary luxury. Former Senator George Gerdes proved that the resale value of an air-conditioned used automobile made it a more economical to purchase than the purchase of a non air-conditioned vehicle. So, you know, sometimes we might try to practice (inaudible) economy, and it really doesn't work out that way. There's also a time, believe it or not, when the state insisted that our vehicles only be equipped with AM radios. We found out it cost \$300 more to buy that kind of a vehicle than to buy the standard package. So when we pass these bills, we got to allow for some flexibility and

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the administrator's judgment. And I believe this bills does that. LB198 is a good first step. The Ethanol Board has been working with the Transportation Services Bureau to encourage the use of more flex-fuel vehicles. The same agency is willing to work with Senator Mello to encourage other agencies to use flex-fuel vehicles. I cannot speak for the manufacturer of other alternative energy type of vehicles, but I am sure there are persons available who can assist Senator Mello to achieve his objective. I appreciate testifying before this committee and thank Senator Mello for introducing the bill. [LB198]

SENATOR AVERY: Good timing, Senator. [LB198]

LORAN SCHMIT: Thank you. [LB198]

SENATOR AVERY: Any questions from the committee? Thank you for your testimony. [LB198]

LORAN SCHMIT: Thank you, Senator. [LB198]

SENATOR AVERY: Any other proponents? [LB198]

PAT PTACEK: Chairman Avery, members of the committee, my name is Pat Ptacek, that's P-t-a-c-e-k, I'm executive vice president of Nebraska Grain and Feed Association appearing in support of LB198 today. I can tell you from discussing this issue with my membership and those members that do offer gasoline pumps, they would love to see other state agencies taking the lead and promoting alternative fuel-flex vehicles and also showing the public that these are efficient, safe automobiles that can run on ethanol. Right now I think we got a great message from the EPA allowing us that 15 percent blend. Obviously, we would like to go a little bit more in promoting the E-85. And I think this is a great promotion. And I would tell you if we could get this kick-started, my members would love to be able to have more flex-fuel pumps at their facilities. We're consuming over 32 percent, 34 percent of our corn in ethanol here in the state of Nebraska and it's important to the farmers and it's important to agribusinesses across the state and I think it's important to our economy because we look pretty good compared to the rest of the nation. With that I'd just like to lend our support. [LB198]

SENATOR AVERY: Thank you, sir. Questions from the committee? Don't see any. Thank you for your testimony. [LB198]

PAT PTACEK: Thank you. [LB198]

SENATOR AVERY: Other proponents? [LB198]

DAN CROUCHLEY: Chairman Avery, members of the committee, my name is Dan Crouchley, D-a-n C-r-o-u-c-h-l-e-y. I'm senior vice president and general counsel of

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Metropolitan Utilities District in Omaha. Metropolitan Utilities District is a natural gas provider for the Omaha area and in communities in Sarpy, Douglas and Washington Counties. We're currently heating the homes of 210,000 customers and we find that natural gas is an excellent alternative fuel in terms of compressed natural gas. And we support LB198 for that reason. Senator Mello referred to some discussions we had about making compressed natural gas as one of the specifics in subsection (3). And he's cooperating in that regard. So we would make that request. Compressed natural gas has reduced carbon emissions compared to gasoline. It also obtains...it's a cheaper price per equivalent gallon compared to gasoline. MUD has currently...it has 70 compressed natural gas vehicles and continues to increase its fleet using that fuel. MUD has also entered into an agreement with Happy Cab to put 50 cabs onto the streets of Omaha that use compressed natural gas vehicles. MUD is also installing two public compressed natural gas fueling stations in Omaha. And as I understand, Lincoln will soon have two fueling stations; one at the airport and Black Hills Energy is also opening one in the near future. Compressed natural gas provides one of those choices of alternative fuels, along with the others. MUD is in favor of increasing the use of alternative fuels and MUD supports LB198. Any questions? [LB198]

SENATOR AVERY: Thank you, sir. Senator Schumacher. [LB198]

SENATOR SCHUMACHER: Thank you, Senator Avery. Now compressed natural gas still has considerable carbon dioxide emissions doesn't it? [LB198]

DAN CROUCHLEY: Yes. [LB198]

SENATOR SCHUMACHER: No further questions. [LB198]

SENATOR AVERY: Any other questions from the committee? Seeing none, thank you, sir. [LB198]

DAN CROUCHLEY: Thank you. [LB198]

SENATOR AVERY: Any other proponent testimony? All right. We'll move to opposition testimony. Anyone wish to testify in opposition to LB198? Welcome, sir. [LB198]

STEVE SULEK: Thank you. Good afternoon, Chairman Avery and members of the committee. My name is Steve Sulek, that's S-t-e-v-e S-u-l-e-k and I am the administrator for the Materiel and Transportation Services Bureau Division of Administrative Services. I'm here today testifying in opposition to LB198. The Transportation Services Bureau remains committed to efforts to increase fuel efficiencies of vehicles used by the agencies, boards, and commissions of the state of Nebraska and to implementing practices to reduce the number of gallons of gasoline required to operate our fleet. You should also be aware that the entire fleet, pursuant to the Governor's Executive Order

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05-03, uses E-10 fuel which contains 10 percent ethanol for a standard gasoline powered vehicles. Also, pursuant to this Executive Order, E-85, which is 85 percent ethanol, is to be used in fleet flexible-fuel vehicles and B2 biodiesel, which is 2 percent soy-based diesel, is to be used in diesel-powered vehicles whenever these fuels are available and it is practical to do so. LB198 would add requirements to the current procurement process that would most likely increase costs overall and without meaningfully meeting reduced gasoline consumption objectives. It is important to note that today under current law, we can consider for purchase the types of vehicles specified in this bill if doing so is in the best interest of the state. Our first objection to the bill is that we can already make these types of purchases under current law, therefore it is unnecessary. Secondly, the bill requires that we base the value of purchasing decision on yet to be realized savings. Not only would we be purchasing vehicles that are priced higher than vehicles that may not be listed in the bill, we must justify their purchase on savings that we cannot reliably calculate because the savings is based on fuel consumption data that we won't have until we have utilized the fuel consumed. Thirdly, this bill requires TSB to predict future availability of types of vehicles in the marketplace and to predict if and when these vehicles might be made available to governments as fleet vehicles. If this bill were to become law, each time TSB would put out a bid request for vehicles, we would first have to determine the availability of vehicles from this list. We may have none, some or all available. Then we would have to determine whether fuel availability, not fuel costs, but fuel source availability is offered throughout the state. Finally, we would have to perform the calculation that savings must exceed gasoline consumption costs. And if there is not a vehicle able to meet these tests, then we would have to rebid in order to secure necessary vehicles already available in Nebraska. And because we have a record of looking for the most efficient and economical cars relevant to our needs as a state, we would essentially be conducting the same type of bid that we are currently performing. We purchase approximately 140 vehicles annually that would be subject to LB198. To provide an example of how much a difference there is in pricing between some of these vehicle types; the current base price from the state contract for the standard four-door compact sedan which happens to be a Ford Fusion is \$17,165. The base price for the state contract for a hybrid compact four-door sedan, which is also a Ford Fusion, is \$25,653. This is an increase of \$8,488 or 49.5 percent over the non-hybrid model. To continue the formula proposed by this bill to calculate potential savings, if we use \$3 per gallon and an estimated usage of 50 percent city driving and 50 percent highway mileage for 100,000 miles over five years, the savings in fuel expense would still not recover \$3,448, or approximately 40 percent of the additional cost of acquisition for each hybrid purchased. If we increase the price per gallon of fuel to \$4 per gallon, we still would not be able to recover \$1,768, or over 20 percent of the additional cost of acquisition for each hybrid purchased. As you can see given these basic calculations, we would have to front-load purchasing these vehicles in the amount of approximately \$1.15 million from the current fiscal year because LB198 requires us to leverage any cost difference against potential saving-cost savings. Contrary to the fiscal note, we would not be able

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to absorb these additional costs. We are also very in support of efforts to apply new technology to improve the efficiency and cost effectiveness of state-owned vehicles. However, due to the volatility in fuel and other energy markets and our current inability to project availability and costs associated with future technology, it would not be possible to accurately make the comparisons required by this bill to determine if the additional cost of new technology would ever be recovered through savings resulting from a reduction in the use of gasoline. I would like to thank the committee for the opportunity to testify today and will be glad to answer any questions. [LB198]

SENATOR AVERY: Thank you for your testimony. I have a question. The Governor's Executive Order was dated May 20, 2005. What was your department doing prior to this Executive Order to use ethanol and alternative fuel in your consumption? Were you doing anything at all? [LB198]

STEVE SULEK: Oh certainly, Senator. Transportation Services Bureau has been purchasing and using flex-fuel vehicles since 1993. So that has been something we've been very interested in through the years. [LB198]

SENATOR AVERY: So then the Governor's Executive Order was unnecessary? [LB198]

STEVE SULEK: No, it was not unnecessary. It absolutely provides the endorsement and direction that is appropriate for the use of flex-fuel and E-85. It also helped provide additional guidance for the situations under which we would use these fuels. And it also makes reference to E-10 as well. [LB198]

SENATOR AVERY: You find this law unnecessary? [LB198]

STEVE SULEK: Yes, sir. I believe that we are able to perform today what's currently listed in this law. [LB198]

SENATOR AVERY: Any questions from the committee? Senator Price. [LB198]

SENATOR PRICE: Thank you, Chairman Avery. Sir, I have a quick question so I can understand what the TSB has purview over buying vehicles, fleets. Do you have any idea, can you hazard a guess on the total state government footprint based on yours...are you responsible for half the cars in state government...30 percent? [LB198]

STEVE SULEK: I would say it would possibly be in that range, Senator. I can certainly do some research and provide you with more information on that. Some of the other fleets have more specific uses, say the Department of Roads, which is going to involve more heavy equipment, dump trucks, those sort. So the types of services that we provide to the agencies are more slanted towards passenger carrying vehicles. [LB198]

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SENATOR PRICE: All right, thank you very much. [LB198]

STEVE SULEK: You bet. [LB198]

SENATOR AVERY: Senator Schumacher. [LB198]

SENATOR SCHUMACHER: Thank you, Senator Avery. A couple of questions; does the state currently operate any hydrogen combustion or hydrogen fuel-cell vehicles? [LB198]

STEVE SULEK: No, sir. [LB198]

SENATOR SCHUMACHER: Of the vehicles that you're operating, how many generally travel with more than one person in them? [LB198]

STEVE SULEK: I do not have exact figures on that, but I would say the majority of our vehicles travel with more than one person in them. [LB198]

SENATOR SCHUMACHER: More than one person. [LB198]

STEVE SULEK: Right. And that's concerning TSB vehicles. [LB198]

SENATOR SCHUMACHER: Okay. And then finally, of the miles put on by the vehicles in your fleet, how much of that is between cities or within a city? [LB198]

STEVE SULEK: The vast majority of the miles that are accumulated on our vehicles each year would be between cities. And I'm sure you can understand the...it takes one trip to make up for a number of small trips in town. So we do have some vehicles that are located, say, in the greater Omaha area where they do not leave the city very often. But they do not roll up a lot of miles. But if you're traveling on the I-80 corridor, if you have to go out to the western part of the state, (inaudible) one trip can offset a number of smaller trips in town. [LB198]

SENATOR SCHUMACHER: I have no further questions. Thank you. [LB198]

SENATOR AVERY: Any other questions from the committee? I don't see any. Thank you, sir. [LB198]

STEVE SULEK: Thank you very much. [LB198]

SENATOR AVERY: Any more opposition testimony? Any neutral testimony? Senator Mello. [LB198]

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SENATOR MELLO: Thank you, Chairman Avery. And to clarify a question that Senator Price asked, at the beginning of the hearing, in regards to passenger vehicles, as well as potentially first responder vehicles, under...on line 20 on page 2 it says subject to subsection (2), if you go up to subsection (2), it specifically exempts those vehicles you're talking about. So I just wanted to make sure I was clarified; my aide clarified that statement, so I wanted to make sure we got that on the record. Chairman Avery, members of the committee, as I stated before, I think there's a disagreement between Department of Administrative Services and myself in regard to this issue. We are willing and have been in conversation with them. Once again, I think this is an opportunity for the state to lead by example and to provide some clarifying language that this is something that Department of Administrative Services can already do. We should clarify in existing statute then if they feel that we do not need to add this existing new statute because as some of the numbers and information that was provided to you in the opposition testimony, we also, as our research has shown, that we're still not meeting up what I consider to be the needs of trying to promote flex-fuel vehicles and other alternative-fuel vehicles to the level that we need to, not just in TSB, but across state agencies. And at the end of the day that's the goal of LB198. While it's a first step just to deal with TSB, ideally we'd like to make this affect all state agencies and transportation. Thank you. [LB198]

SENATOR AVERY: Thank you. You have one more question, Senator Price. [LB198]

SENATOR PRICE: Thank you, Chairman Avery. And thank you, Senator Mello, because I think that if this is good for the state to do, I would hope that any changes you'd make would involve at least the university, as a large user of vehicles--passenger vehicles, and other state agencies. I understand that state highway would be problematic as I mentioned earlier, but hopefully you would include, with any change, that the...as now, going forward on this bill, the university would participate along with other state agencies. [LB198]

SENATOR MELLO: Thank you. [LB198]

SENATOR PRICE: Thank you. [LB198]

SENATOR AVERY: Thank you very much. [LB198]

SENATOR MELLO: Thank you. [LB198]

SENATOR AVERY: (Exhibit 5) I have here a letter of support to read into the record from J. William Moore, publisher and editor in chief of EVWorld.com. With that we will end the hearing on LB198 and we will open the hearing on LB338 and invite Senator Howard to come forward. [LB198]

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SENATOR HOWARD: Good afternoon, Senator Avery. [LB338]

SENATOR AVERY: Good afternoon, welcome. [LB338]

SENATOR HOWARD: Thank you. Senator Janssen reminded me this morning that I'd be here this afternoon. He told me it'd give me something to look forward to, so (laughter) I appreciate that. For the record, I am Senator Gwen Howard, that's H-o-w-a-r-d, and I represent District 9. Today, I'm introducing LB338 on behalf of AFL-CIO. I agreed to introduce this bill because I believe our state contracts are an economic engine that come with great responsibility. It is essential that we try as hard as we can to keep our state money in Nebraska and in the United States. In these tough times, it makes no real sense to send state dollars to another state, let alone to another country. To that end, LB338 would require the Department of Administrative Services to give preference to private entities that certify that the work they do for Nebraska will occur in the United States. Under this bill, a contractor would include a certificate in the proposed contract that discloses where the work will likely be done. The bill would also require that the state give preference to American-made goods. Additionally, if a contractor certifies that the work will be done on American soil or goods will be manufactured in America and the job is then outsourced, the contractor will be barred from another state contract for a period of five years. We have a duty to spend Nebraska's tax dollars in a manner that extracts the most benefit for our citizens. We should make our goods here and we should create our jobs here. It helps our citizens and ultimately stabilizes our tax base. It's time that "buy American" is more than a slogan we haul out when it's convenient instead of when it should be something we actively engage in. Thank you for your time and thank you for your attention to LB338. I don't know about you but I find it increasingly harder and harder and harder to find anything that actually is made in America, besides weapons (laugh). I was shocked, probably you were, too, if you noticed in the Egyptian conflict that they held up a tear gas canister that said, "made in the U.S.A." So I think we need to get back to making products here that benefit our citizens and do the most good. I'm going to leave a number of people here to speak to you and give you information, and with your permission, I'm going to return to Health over across the way. (Laugh) [LB338]

SENATOR AVERY: Okay. [LB338]

SENATOR HOWARD: Right. [LB338]

SENATOR AVERY: Let me see if we have any questions for you first. Senator Price. [LB338]

SENATOR PRICE: Thank you, Chairman Avery. Thank you, Senator Howard. I'm looking over the bill here and just wondering just because of my involvement in another

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committee, what about Native American, that's a different nation and things and goods and services made there? [LB338]

SENATOR HOWARD: Made where? [LB338]

SENATOR PRICE: On a reservation which actually is a different nation. It's not a, quote, quote... [LB338]

SENATOR HOWARD: This wouldn't...I mean, we wouldn't be restricting...it's my understanding, let me put it that way, it's my understanding we wouldn't be not buying things that are made...I mean, are you thinking of the casinos on Native American...or just in general? [LB338]

SENATOR PRICE: Okay. No, no, I'm just thinking because we have different things and we do economic development on our reservation, and we haven't seen a lot of it before but it can become kind of a sticky wicket at times, so. [LB338]

SENATOR HOWARD: I don't think...it might be useful if we actually did have some product, some business... [LB338]

SENATOR PRICE: More productivity. [LB338]

SENATOR HOWARD: Yeah, that would be my opinion. [LB338]

SENATOR PRICE: And the other question would be, what about ownership of like I bought a Ford one time? That's an American company, Ford. You know, you think about it but it was made in Mexico. So how do you draw the distinction? Have you thought about that? [LB338]

SENATOR HOWARD: I have a Honda that's made in the United States so go figure. (Laugh) [LB338]

SENATOR PRICE: And BMWs are made in the United States. So one of the questions that comes out when you talk about the manufacturer... [LB338]

SENATOR HOWARD: No, that's a really... [LB338]

SENATOR PRICE: ...or the ownership...? [LB338]

SENATOR HOWARD: That's a really good question. That's a really...you can determine, I mean, obviously you did determine where your car was made, but I think that's something that we all have to personally consider in that case and... [LB338]

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SENATOR PRICE: But now we're talking about five years and we're barring a company or something like that from doing things. So we'll listen to all this testimony and won't bind you down... [LB338]

SENATOR HOWARD: Yeah, I think that would be your... [LB338]

SENATOR PRICE: ...but I think that for those who are following, those are questions that would be in my mind. [LB338]

SENATOR HOWARD: Yeah. Just on a personal note, you know, it's fine to help out disenfranchised countries, and I think we all do...this country does plenty of that. I mentioned to other people I had a little problem with a charge that showed up on my charge card that I had made, and when I had called the customer service and followed up, the person that was in the fraud division I could not understand him when he talked. And I said, I can't understand what you're telling me, and I said, where are you? And he said I am in Pakistan. So I think we just really need to bring our businesses back to our country and serve our own. Thank you. [LB338]

SENATOR AVERY: Any other questions? I don't see any. Thank you. [LB338]

SENATOR HOWARD: Thank you. It was a pleasure. [LB338]

SENATOR AVERY: Yeah. (Laugh) Proponent testimony. So, Mr. Mass, you were responsible for this bill. [LB338]

KEN MASS: You got it. (Laughter) Senator Avery, members of the committee, my name is Ken Mass, that's M-a-s-s. I represent the state AFL-CIO here today and in support of LB338. We thank Senator Howard for introducing it. First, let me comment to Senator Price's question on cars that are made in the U.S.A. or Mexico. I personally drive a car that's union-made in Canada by the Canadian makers, that's a Chevy Impala. If I go back and buy a brand new Silverado today, it is on the union list of union-made trucks but the parts come from Mexico. In 1975, a friend of mine bought a brand new Ford pickup. He's a very enthusiastic person, so he took all the tires off, took all the wheel bearings off. The wheel bearings on that Ford pickup made in the U.S.A., the wheel bearings were made in Japan. So if we can find anything in today's age, it's a shame that the jobs that we have lost that went offshore that we can't hardly find a product anymore made in the U.S.A. But it still goes on. But basically the bill Senator Howard has introduced for us will ensure state tax dollars are used to create state jobs, state jobs to stabilize the state tax base by prohibiting states from contracting with or providing economic development assistance to companies that ship service work offshore. This bill requires companies that violate the offshoring ban during the course of the contractor development assistance period to repay the state an amount equal to the amount paid by the state agency or by local government for the percentage of work

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that was performed by workers outside the United States. I find it interesting today as I'm visiting with my doctor, and we're not talking about state jobs here, we're talking about x-rays, x-rays of injuries. And there is more being used where the x-ray...they sent my x-rays to which country do you think to be examined? [LB338]

SENATOR SCHUMACHER: India. [LB338]

KEN MASS: India. And they are shipped back while I was in the hospital from India telling me exactly what was wrong with my back. I find that interesting. That's what's going on. The general public is not aware of that. I was aware of it because I asked who was looking at my x-rays and I was told. But, yes, they were done in India. That's work that would have been done in the United States. Nineteen ninety-four when NAFTA came into existence, NAFTA is the North American Free Trade Agreement between Canada, the United States, and Mexico. In 1994, we led the group opposing NAFTA because Ross Perot was right. There would be a sucking sign of jobs going out of this country and that's exactly what happened. Mexico was used. Mexico was not the problem anymore. We understand where the problem is now because China just about makes everything. In 2009, 2009, I had a gentleman stop in my office. That's two years ago. His skinny: I'm here to apologize to you. I finally understand what you meant in 1994. I said, I don't know where you're going with this. What are you talking about? He said I heard you talking about NAFTA. He says it didn't make sense to me because it didn't affect me. My daughter just lost her \$72,000 job to India. Now I understand what you're trying to tell me. So it just didn't start, it's been going on. I understand that. But this is the vision to try to hold that and keep jobs in the United States as we lay off state employees or whatever employees they may be by trying to (inaudible) so. I'd answer any other questions. Senator Avery. [LB338]

SENATOR AVERY: Well, thank you, Mr. Mass. Are you worried at all about the ability of Nebraska to remain competitive with surrounding states if we were to advance this bill? [LB338]

KEN MASS: Um-hum. Um-hum. Yes. [LB338]

SENATOR AVERY: Do you think it would be negatively affected, our competitive stance? [LB338]

KEN MASS: You mean the cost of it you mean or the product you mean? I guess I can't answer it this time of the cost of that certain product. I can't answer that question. I think we'd be very competitive with the cost of it because you're getting it done here instead of shipping it from somewhere to here. You're getting it done here, so yeah. [LB338]

SENATOR AVERY: Senator Price. [LB338]

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SENATOR PRICE: Chairman Avery, thank you. Mr. Mass, one of the things...because I'd been looking at it for another reason, but my understanding why the state doesn't hold special classes of providers like the (inaudible) program, women-owned businesses, service-disabled veteran-owned businesses, the reason we don't have special considerations for that is because when we do business with other states, they would hold it against us. So we're pretty open but let's say Missouri has a SDVOB preference. Well, what we do, we give them 10...we add 10 percent to anybody coming from Missouri to even it out, you know, because of the different businesses. So don't you see that this just isn't competing with other states... [LB338]

KEN MASS: Sure you are. [LB338]

SENATOR PRICE: ...or it really put us behind a power curve? [LB338]

KEN MASS: I was just on a conference call this morning, Senator Price. The governor of New Jersey is now in Illinois today trying to get work from Illinois (laugh) to go to New Jersey. So the competitiveness is out there. What the gimmicks are thrown in or the incentives are throwing in to try to get them is another thing. But the governor of New Jersey was in Illinois trying to pull jobs from there into New Jersey, so. Needless to say Illinois is not too happy about it, but. But that would help, so there is (inaudible) I can tell. [LB338]

SENATOR PRICE: Okay. Thanks. [LB338]

SENATOR AVERY: Senator Janssen. [LB338]

SENATOR JANSSEN: Thank you, Chairman Avery. Mr. Mass, first time I think you've appeared since I've been on this committee, so... [LB338]

KEN MASS: Glad to be here. [LB338]

SENATOR JANSSEN: I only had a comment. I agreed with...I didn't think we would agree on something but I agreed on...'94 I was also a senator. I was a student senator at Wayne State College and agreed that NAFTA was a bad deal then. Talking about this bill, but we agree on something. (Laughter) [LB338]

KEN MASS: Thank you, sir. I'll take that to the bank, huh? (Laughter) [LB338]

SENATOR JANSSEN: There you go. [LB338]

SENATOR AVERY: Senator... [LB338]

KEN MASS: I'd better go to the casino tonight. [LB338]

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SENATOR AVERY: Senator Schumacher. [LB338]

SENATOR JANSSEN: Now we disagree (laughter) in Iowa. [LB338]

SENATOR SCHUMACHER: Thank you, Senator Avery. One of the things that we find ourselves in is the world is globalized. To the extent that we take a protective measure here and it results in a counter-protective measure taken by the persons that are affected by our protective measure, we begin to set in motion trade impairments that it impairs globalization and we're stuck. So if we do this here and the boys in Beijing who might be looking at buying some of our filets say, you know, we're not importing filets from Nebraska anymore. And then we counter back with something else and they counter back with something else. Is the interests of the world served? [LB338]

KEN MASS: I'd think that's probably true. This problem just didn't start. Needless to say I'm getting off track here a little bit, but my old alma mater, I used to work at the Western Electric plant in Omaha, we've had a good run. It started in 1957. In August...July 31, that plant will be closed. That plant will be closed and in the early seventies we had almost 8,000 people out there. What has caused that is products that are made (laugh) and shipped overseas. I understand that. I understand the bottom line of corporate wanting more money. I understand that. It's a shame because there was a plant in 1957 that came to Omaha, Nebraska. They closed the Lincoln plant as well and the people from Lincoln came to Omaha to work. It was a plant that has been great over the years but it's a plant that never asked for any tax incentives. They put it in Nebraska, in Omaha, Nebraska, and Nebraska because of the quality of work, of workers. That plant was made up of individuals that just wanted to go to work. They weren't there for greed. They didn't see how much money they'd make. They just wanted to work. That has been taken out of their hands and, you know, it's been taken out of Omaha, taken out of Nebraska, all that tax revenue. And the bottom line is they couldn't make the part cheaper anymore so they went offshore. The loyalty isn't there anymore on both sides. And, in fact, we probably have a...a search of clothing in this room, there would probably be some naked bodies in there when we find U.S.A. clothes. I may be the only one standing with clothes made in the U.S.A. in this room. But, anyway, having said that I understand that. But when we give corporations tax incentives to go offshore and ship the products back in this country, that's what's wrong. We need to stand up. [LB338]

SENATOR SCHUMACHER: We're on the same wavelength on that one. [LB338]

KEN MASS: Pardon? [LB338]

SENATOR SCHUMACHER: We're on the same wavelength on that one. [LB338]

KEN MASS: All right. Thank you, sir. Appreciate it. [LB338]

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SENATOR SCHUMACHER: I have no further questions. [LB338]

SENATOR AVERY: Any more questions? It looks like you've got them all. Thank you. [LB338]

KEN MASS: Thank you. Have a good day. [LB338]

SENATOR AVERY: Any other proponent testimony? Okay. Any opponent testimony? Welcome. Yeah. [LB338]

STEVE SULEK: Good afternoon, again, Chairman Avery and members of the committee. My name is Steve Sulek, S-t-e-v-e S-u-l-e-k, and I am the administrator for the Materiel and Transportation Services Bureau Divisions of Administrative Services, and I am here today to provide testimony in opposition to LB338. Our opposition to this bill is based on the experience that efforts to provide preference and procurement most often generate retaliatory actions on the part of others. This would come at a time when the state strives to improve the local economy through a strengthened position for Nebraska-based industries and companies in a larger global market. Additionally, this legislation would add new complexity to the procurement processes followed by the state agencies, boards, and commissions. In doing so, it would make the process more labor-intensive, increase the amount of time it takes to complete procurement transactions, and would increase overhead expenses associated with the procurement process. We also believe this would decrease the number of potential and eligible vendors interested in providing goods and services to the state, which in turn would ultimately increase acquisition costs for these goods and services. Finally, we believe the passage of this bill would have a negative impact on the efforts to grow the state's economy through international trade and partnerships. I'd like to thank the committee for the opportunity to testify today and would be glad to take any questions. [LB338]

SENATOR AVERY: Thank you. Any questions from the committee? Senator Schumacher, did you have your...? [LB338]

SENATOR SCHUMACHER: I think I thought through the answer myself, so it was depending upon... [LB338]

SENATOR AVERY: Okay. All right. There are no questions. Thank you for your testimony. [LB338]

STEVE SULEK: Thank you very much. [LB338]

SENATOR AVERY: Any other opponent testimony? Any neutral testimony? All right. Seeing none, Senator Howard has waived her closing, so that will end the hearing on

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LB338. And now we will hear from our own Senator Brasch, LB343. Good afternoon.
[LB338]

SENATOR BRASCH: Good afternoon, Chairman Avery, and good afternoon, members of our Government, Military and Veterans Affairs Committee. My name is Lydia Brasch, L-y-d-i-a B-r-a-s-c-h, and I am the senator elected to represent District 16. I'm before you today as the introducer of LB343. LB343 was brought to me by the Board of Examiners of Land Surveyors. The board's underlying rationale for legislation is to raise the educational requirements to become registered as a land surveyor in Nebraska. The board is a member of the National Council of Examiners for Engineers and Surveyors, or NCEES, and existing education requirements for land surveyors in Nebraska lags both the NCEES requirement and those of surrounding states. Specific qualifications for land surveyors are currently found in the statutes. LB343 removes these requirements from the statute, enabling the board to progressively modify the rules and regulations to establish land surveyor education requirements. Currently, the language found in the statutes is reflected in the board's rules and regulations. So if adoption of LB343, no real change will occur. However, it is the examining board's intention to gradually modify the rules and regs to enhance the educational requirements, and LB343 serves as the first step in this process. NCEES provides model law for states and, currently, a four-year degree is suggested for the minimum education requirement for a registered land surveyor, quite a contrast to Nebraska laws that do not require any formal education. Someone wishing to be a registered land surveyor in Nebraska may qualify to sit in the examination with six years of experience, which five years must be directly related to land surveying, and three of the five years must be in a responsible position as a subordinate to a registered land surveyor. By 2014, Iowa, Missouri, Kansas, Colorado, Wyoming, and Oklahoma will require a minimum two-year degree, while North Dakota and South Dakota will require more extensive apprenticeships than Nebraska at 8 years and 11 years respectively. Of the 310 registered land surveyors in Nebraska, those who do not meet the educational requirements with the examiners board intends to set us a future time line. It will remain registered land surveyors in the state with proof of professional development. In order to adopt educational requirements in the coming years, it is also necessary for Nebraska colleges to offer the appropriate programs, a process in and of itself that also speaks to why these educational requirement rule changes will be gradual and should be left to the examiner board to establish within their rules and regs as LB343 accomplishes. Testimony from Steven Cobb, state surveyor, will follow, and he is capable of addressing the board's intentions and answer any specific facts about land surveyors. Nonetheless, I would be happy to address questions you may have. [LB343]

SENATOR AVERY: Thank you, Senator. Any questions from the committee? Going to let you off light. [LB343]

SENATOR BRASCH: Thank you. [LB343]

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SENATOR AVERY: All right. Proponent testimony? Come forward, sir. [LB343]

STEVEN COBB: Good afternoon, Senator Avery, members of the committee. My name is Steven, S-t-e-v-e-n, Cobb, C-o-b-b. I am the State Surveyor but also the secretary for the Board of Examiners for Land Surveyors. I think that Senator Brasch did a fine job of introducing the bill. Specifically, there are three things that we seek to accomplish. We're going to redefine the definition of a land surveyor from one that engages in the practice of land surveying to one that has become registered through the act itself according to the statutes. We're going to remove or we're going to redefine the "surveyor-in-training" by removing the requirements to sit for the examination that are now present in the statute to simply stating that an SIT is an individual that has successfully passed an examination and the fundamentals of surveying that has been approved by the board. We're doing exactly the same thing for the applicants that come before the board to apply to be registered land surveyors. Currently, those specific requirements are listed in the statutes. We're removing them from the statutes and just basically stating that the...excuse me, I lost my place here, that those individuals that would become registered have fulfilled the requirements as set forth in the rules and regs. Currently, please understand that all the requirements are in the rules and regulations so that the passage of the bill itself would not affect registration at this point. The board would have to go through changing those particular requirements in the rules and regs. That step has not been initiated. [LB343]

SENATOR AVERY: Is that your testimony? [LB343]

STEVEN COBB: Yes. [LB343]

SENATOR AVERY: Okay. [LB343]

STEVEN COBB: I'm sorry. [LB343]

SENATOR AVERY: Questions from the committee? Senator Price. [LB343]

SENATOR PRICE: Thank you very much, Chairman Avery. And I guess I'm going to talk a lot today. Sir, let me ask you. And I thank you for coming down and testifying, bringing your professional opinion here. Do we have a big problem with inexperienced or poorly performed surveys right now? [LB343]

STEVEN COBB: No, I don't believe so. [LB343]

SENATOR PRICE: Okay. Because it sounds like we're going to change a process that says you have to sit for an examination. You still have to sit for an examination? [LB343]

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STEVEN COBB: Precisely. [LB343]

SENATOR PRICE: Okay. And then the next thing that worries me or concerns me down the road is 407 issues, the change in scope of practice. I don't know if that would apply here or not, but if someone else wants to come up and say, now they're a surveyor or something and then encroachment and you have to change your scope. I mean, right now it doesn't seem like we have a lot of problems, but it sounds like we're trying to keep up with the Jones'. Iowa is doing it. Everybody else is having these stringent education and academic ones, but we don't have a problem. And I thought maybe what you were going to tell me if we have a challenge, we're not getting qualified applicants for the...to sit for the test or our failure rates are too high, something along those lines that would denote a need for an education system to do it. But it sounds like the pipeline is good, the students are good or the applicants, and the work is good as it is. [LB343]

STEVEN COBB: Well, I think the direction that the board wishes to head is they wish to eventually achieve the recommendations handed down by NCEES which is a four-year degree. Now our surrounding states, at least by 2014, are going to require a two-year degree. This is actually in a strange way a service to our applicants because registered land surveyors can also reciprocate into other states assuming that they have been registered under the same requirements, and if our requirements remain low, that becomes a difficulty for reciprocating into other states. We have that issue right now with the state of Iowa. [LB343]

SENATOR PRICE: Would we lose any certification from the NCEE--if this is the correct acronym there--if we don't do it? [LB343]

STEVEN COBB: I don't believe so. [LB343]

SENATOR PRICE: Okay. [LB343]

STEVEN COBB: No. Their model law is a guide for us to follow. [LB343]

SENATOR PRICE: Okay. [LB343]

STEVEN COBB: It's a recommended guide. [LB343]

SENATOR PRICE: All right. Great. Thank you. I was thinking about the electrical standards act and the other acts we have to follow, and sometimes we lose certification if we don't keep up. So thank you. [LB343]

SENATOR AVERY: Did we have a bill maybe in 2007 that dealt with this section of law? [LB343]

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STEVEN COBB: No. [LB343]

SENATOR AVERY: No. [LB343]

STEVEN COBB: No. [LB343]

SENATOR AVERY: But you did have a bill in 2007? I think it was one of my first bills that I got passed. Yeah. [LB343]

STEVEN COBB: Yes, it was. That dealt with charging for the exam through NCEES. [LB343]

SENATOR AVERY: That's right. Okay. Thank you for that reminder. Senator Janssen. [LB343]

SENATOR JANSSEN: Chairman Avery, I think you kind of asked that question. I wasn't here in '07, well, not here specifically. But has this particular bill ever been...for this subject matter ever been brought before? [LB343]

STEVEN COBB: No. [LB343]

SENATOR JANSSEN: That was my only question, so. [LB343]

SENATOR AVERY: Senator Schumacher. [LB343]

SENATOR SCHUMACHER: Thank you, Senator Avery. You say we have...or testimony was we have 310 licensed surveyors in the state? [LB343]

STEVEN COBB: Yes. [LB343]

SENATOR SCHUMACHER: Is that too many or too few? [LB343]

STEVEN COBB: I think it's too few. [LB343]

SENATOR SCHUMACHER: So we need more surveyors. [LB343]

STEVEN COBB: Well, we have enough to cover certain areas of the state and it's very sparse in others. Yes. [LB343]

SENATOR SCHUMACHER: Okay. And that's why we're increasing the standards to become a surveyor? [LB343]

STEVEN COBB: No. We're increasing the standards to elevate our standards so that

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they're on par with the surrounding states. That is the first step. Eventually over time the board wishes to achieve the NCEES level. [LB343]

SENATOR SCHUMACHER: With the higher standards, will there be increased performance? [LB343]

STEVEN COBB: I would think so. Yes. [LB343]

SENATOR SCHUMACHER: What are they doing wrong now? [LB343]

STEVEN COBB: They're not doing anything wrong. The field itself is changing. Land surveying is not what it used to be. Land surveying now involves other forms of measurement. It involves the use of GPS. It involves the understanding of certain levels of geodesy. And these can only come about through education. [LB343]

SENATOR SCHUMACHER: You mentioned GPS. Now that's when you would make it much easier and much more of a technical thing than the old trying to figure out angles and laying out a tape measure like grandpa had to do when he was a surveyor. [LB343]

STEVEN COBB: Both of them are methods for measurement, yes. We'd just have to learn...we have a different set of tools with GPS than we had with transit and tape. [LB343]

SENATOR SCHUMACHER: Okay. So I guess my final question is, is there anything really broken with the way we're doing it now? [LB343]

STEVEN COBB: I don't know that there's...I think that we need to elevate at least the base level of education. Right now we don't even require a high school education, and I think that we need to get to the point where we at least have a two-year requirement. [LB343]

SENATOR SCHUMACHER: I don't have any further questions. [LB343]

SENATOR AVERY: Thank you, Senator Schumacher. Anybody else? Thank you for your testimony. I don't see any more questions. [LB343]

STEVEN COBB: Thank you. [LB343]

SENATOR AVERY: Any other proponent testimony? Good afternoon. [LB343]

DOUG STEVENSON: Good afternoon, Senator Avery, and the rest of the committee. My name is Doug Stevenson, D-o-u-g S-t-e-v-e-n-s-o-n, and I come to you as a private land surveyor. I work with Olsson Associates out of Holdrege, Nebraska. I'm also

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president of the Professional Surveyors Association of Nebraska, referred to as PSAN. PSAN is the largest association representing land surveyors in Nebraska. There are 310, 311 land surveyors registered in Nebraska and out of those, 198 are members of our association. I'm here on behalf of support for LB343. Two years ago, the Board of Examiners for Land Surveyors requested both PSAN and Southeast Nebraska Land Surveyors Association, SENLSA--they're a regional association of land surveyors in Nebraska--to assist the board by informing our respective members the need for changes in education requirements and report those desires back to the board. This board of education consisted of four members of both of those associations. We were comprised of the two associations formed and tasked accordingly. I'm a member of that committee. The committees researched the education requirements of the surrounding states, reviewed the current Nebraska requirements, and proposed modifications to the current education requirements. The committee researched and the proposals of the board were then presented to the members of both PSAN and SENLSA for discussion comment. All the PSAN and SENLSA comments and concerns were compiled, and then that was reported back to the board for their use and consideration. When I took office as president of PSAN, I sat down with the past president and the other board members of our association and we discussed the challenges that were facing the land surveyors profession. Education requirements was a reoccurring theme of our conversation. LB343 will clean up these statutes, removing the specifications...specific registration certification requirements from the statutes instead and put them into the rules and regs. The language requested for removal of the statutes currently exists in the rules and regs. LB343 will not change the current requirements but it'll allow changes to be accomplished through the rules and regs and modify that process for us. With that, I'll entertain any questions. [LB343]

SENATOR AVERY: Thank you. Questions from the committee? I don't see any. Thank you for your support and for your testimony. [LB343]

DOUG STEVENSON: Good. [LB343]

SENATOR AVERY: Anyone else wish to testify in support of LB343? Good afternoon, sir. [LB343]

GARY TINKHAM: Good afternoon. My name is Gary Tinkham, T-i-n-k-h-a-m. I'm a member of the Board of Examiners for Land Surveyors, the state of Nebraska, and have been for nine years. Over the last nine years, we've seen a little bit of a decline in the number of applicants that come in, number one; number two, a steady decline in the pass rates that we have. We're down to where we're passing 40 percent or less of the examination people that come in. This is a national exam given nationwide. The national average on the examination is about 50 percent, so we're a little below that. But those people who have a four-year degree, they pass 80 percent of the people. Those people who have no education pass below the 40 percent level. So education is a big issue

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when you come to this. Our goal is not only to raise the education to make better professionals, but we have to protect the safety and welfare of this state and the people of this state, and by having better professionals, we feel we really can do that, and education is just one of those steps along the road to do that. We feel it's very important that we do that and to allow them to be able to reciprocate with other states in and around the area. [LB343]

SENATOR AVERY: Thank you. Right today in order to qualify for the exam you have to have so many years of on-the-job training? [LB343]

GARY TINKHAM: Yes. [LB343]

SENATOR AVERY: Is that the way it works? [LB343]

GARY TINKHAM: Yes, you have to have only six years of training. And it's not training, it's whatever the person you're working for provides you with training. It's not like a program that, say, the plumbers in the state...city of Omaha go through where they have nightly classes, etcetera, etcetera, etcetera. I feel in a lot of cases the guys that are coming in to become licensed as surveyors have far less education than our plumbers and electricians and other people coming into our programs. And we really feel we want to change that. We want to be stepped out there in front of that a little bit. [LB343]

SENATOR AVERY: Are you worried at all about perhaps a depressive effect on the number of surveyors that we might have available to us in the state if we adopt this? [LB343]

GARY TINKHAM: No. We have...over half of the students that are coming in today have a two-year degree program or graduates of a two-year degree program. And we want to phase this in over a long enough period of time that everybody coming into the program has an opportunity to see that it's there, they've got to do this, and we don't think that that's going to be a real problem. I know that in some of the other states that have adopted the four-year degree programs they've had some of this problem, for instance, Illinois, theirs dropped off considerably. But remember that the applicants, more of the applicants that are coming in are being licensed. Another thing that scares me about it is that we are getting upwards of five...we meet four times a year and we have as many as five reciprocal applications come in for a registration in Nebraska. And this year we're going to have one person taking the land surveyors exam, and that's with no education. So we really...it's not...you can't affect that very much. [LB343]

SENATOR AVERY: So where are these courses available? Community colleges? [LB343]

GARY TINKHAM: There's a course at Milford, the Southeast Community College has a

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surveying CAD program. [LB343]

SENATOR AVERY: Um-hum. [LB343]

GARY TINKHAM: There's several others around that have civil engineering tech programs. [LB343]

SENATOR AVERY: Yeah. [LB343]

GARY TINKHAM: And, you know, our goal was to set this up so possibly that any type of four-year degree...not any type but a Bachelor of Science degree with some certain educational...surveying educational of classes that can be gathered on-line through metro in Denver or several other institutions that provide these on-line that you can go out and get that information and become available. It's not that difficult to do. [LB343]

SENATOR AVERY: Thank you. Senator Price. [LB343]

SENATOR PRICE: Senator Avery, thank you. Sir, let me ask real quick then. Would you foresee that you'd reduce or eliminate the on-site experience or just go strictly to an education? So in other words, if you have a four-year degree, you sit for the test, and you pass it you can be licensed or you still have to have time on the stick? [LB343]

GARY TINKHAM: Oh, no, no. You're still going to have to have time on. Yes, absolutely. You know, there's a lot of things you can teach in a school but you can't teach them how to go out and find a section corner or how to...the surveyor profession is kind of an art. It's not all cut and dried. You have to have the ability to go out there and visually see what's going on on the ground and why things are the way they are and make decisions based on that. [LB343]

SENATOR PRICE: I'd agree. Having to read 1 to 50,000 maps with the Army, I agree. All right. Thanks. [LB343]

SENATOR AVERY: Any more questions? Senator Schumacher. [LB343]

SENATOR SCHUMACHER: Thank you, Senator Avery. We had a thing before this committee last week I believe it was defining a boundary between two counties, and I think the indication was that most of those locations along the line to that boundary were calculated using GPS. Would that be the modern way of doing things? [LB343]

GARY TINKHAM: In some cases it would be, yeah. [LB343]

SENATOR SCHUMACHER: Okay. And what distinguishes a case where you would use GPS as versus one where you would use some other metes and bounds mechanism?

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[LB343]

GARY TINKHAM: Well, if the GPS is available or if it's usable in that case you generally use it. The accuracy has been proven to be very, very accurate and very precise.

[LB343]

SENATOR SCHUMACHER: To within how far? [LB343]

GARY TINKHAM: Centimeter. [LB343]

SENATOR SCHUMACHER: Centimeter? [LB343]

GARY TINKHAM: Yeah. [LB343]

SENATOR SCHUMACHER: That's pretty precise. [LB343]

GARY TINKHAM: The size of a dime, yeah. If you're... [LB343]

SENATOR SCHUMACHER: That's more precise probably than laying down (laugh) on the floor. [LB343]

GARY TINKHAM: Yeah, yeah. I mean, we've come a long ways from the chain and transit, you know, in the 1850s when they were out here with dragging a tape across there with a compass, you know, and they were looking out across there. They had to plus or minus ten feet per mile, and I doubt that they made that very often because there was nobody to check it and no way to check it. Where today, you know, we're down to the size of a dime. [LB343]

SENATOR SCHUMACHER: So the only time you wouldn't use GPS would be if there would be a building and the way of the bird or... [LB343]

GARY TINKHAM: For the most case, yeah. [LB343]

SENATOR SCHUMACHER: For the most cases. Well, wouldn't that have made surveying a whole lot easier now? [LB343]

GARY TINKHAM: Well, you still have to find the corners. You still have to know how to calculate the positions, etcetera, etcetera. I mean, GPS just does not tell you that's where it's at. It's still the same processes. GPS is just a better method of measurement. That's the only thing it really does for you. [LB343]

SENATOR SCHUMACHER: Would increasing the amount of years in school or whatever increase the number of surveyors we have then? [LB343]

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GARY TINKHAM: I would think that it might increase or it may decrease. I'm not sure. I can't tell you. We had five applicants come in in the last...we had a board meeting last week, we had five applicants come in for reciprocity and of those five applicants I believe that three of them had bachelor's degrees in survey. And, you know, I mean... [LB343]

SENATOR SCHUMACHER: Now would one with a bachelor's degree make more money than one that was self-taught and just had the five years of experience as an apprentice? [LB343]

GARY TINKHAM: I can't answer that. [LB343]

SENATOR SCHUMACHER: Would this, what we're doing here or propose to be doing here increase the cost to the general public of the surveys conducted or have no effect at all? [LB343]

GARY TINKHAM: Well, I think that it may increase the quality of what you're getting. Maybe it does increase the cost. [LB343]

SENATOR SCHUMACHER: I don't have any further questions. [LB343]

SENATOR AVERY: Any other questions from the committee? I don't see any. Thank you, sir. [LB343]

GARY TINKHAM: Thank you. [LB343]

SENATOR AVERY: Any other proponent testimony? Good afternoon. [LB343]

DENNIS WHITFIELD: Good afternoon. What a great day to come down and talk to Chairman Avery and the rest of the committee. Thank you. [LB343]

SENATOR AVERY: Thank you. [LB343]

DENNIS WHITFIELD: My name is Dennis Whitfield, D-e-n-n-i-s W-h-i-t-f-i-e-l-d. I come to you as a private surveyor. I own my own business in Bellevue, Nebraska, and I'm also representing the Southeast Nebraska Land Surveyors Association as the current president-elect. The board members of the Southeast Community Land Surveyors Association (sic) became active in the necessity of requiring additional education requirements to become a registered land surveyor in the state of Nebraska almost two years ago. The board of the Southeast Nebraska Land Surveyors Association fully supports LB343. As Doug mentioned, I also served on the educational committee made up of members from the boards of the Southeast Nebraska Land Surveyors Association

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and the Professional Association...excuse me, Professional Surveyors Association of Nebraska. The intent of that educational committee was, (1) to assist the Nebraska state Board of Examiners for Registered Land Surveyors and, (2) to educate the association's membership of the nationwide and, more specifically, surrounding states movement towards requiring additional education to become a registered land surveyor. Presentations were made to the memberships of both associations on what surrounding states were requiring or moving towards requiring with regard to additional education. The members then completed a questionnaire which determined the membership's position on additional educational requirements. The general membership of both associations supported additional educational requirements to obtain a surveyor's license in the state of Nebraska. These results of the questionnaires were reported back to the Nebraska state Board of Engineers for Registered Land Surveyors (sic), and LB343 starts the process of requiring additional education. Passage of LB343 will allow Nebraska to work towards aligning with other states in educational requirements to become a registered land surveyor in the state of Nebraska. That's all I have for today. If there's any questions, please. [LB343]

SENATOR AVERY: Thank you very much. Questions from the committee? Senator Schumacher. [LB343]

SENATOR SCHUMACHER: Just one question. How does one become a member of this examining board? [LB343]

DENNIS WHITFIELD: The examining board? [LB343]

SENATOR SCHUMACHER: Um-hum. [LB343]

DENNIS WHITFIELD: The examining boards are appointed by the state surveyor. It's through a process. Is that correct, Steve? [LB343]

STEVEN COBB: No. Those are Governor appointed. [LB343]

DENNIS WHITFIELD: Governor appointed. My fault. [LB343]

SENATOR SCHUMACHER: So the board is appointed by the Governor. [LB343]

DENNIS WHITFIELD: Yeah. Gary Tinkham is a member of the board, appointed by the Governor. [LB343]

SENATOR SCHUMACHER: I don't have any further questions. [LB343]

SENATOR AVERY: Questions? Thank you for your testimony. [LB343]

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DENNIS WHITFIELD: Thank you, committee. [LB343]

SENATOR AVERY: Any other proponent testimony? Okay. Any opposition testimony? Any neutral testimony? Senator Brasch, do you wish to close? Senator Brasch waives closing. That will end the hearing on LB343. We'll now move to LB480 and welcome Senator Krist back to the Education Committee. Oh, did I say Education? Government. (Laugh) My mind is on what we've been doing in here. [LB343]

SENATOR PRICE: Your mind is on getting far.

SENATOR AVERY: Getting out of here. (Laughter) You are our final one today.

SENATOR KRIST: I'll try to make this painless.

SENATOR AVERY: Okay.

SENATOR KRIST: I didn't say easy, I said painless. Good afternoon, Chairman Avery and members of the Government Committee. For the record, my name is Bob Krist, K-r-i-s-t, and I represent the 10th Legislative District in northwest Omaha. I appear before you today to introduce and support LB480, a bill I introduce on behalf of the Omaha/Douglas Public Building Commission and the Lincoln/Lancaster Public Building Commission. It was brought to me by my friend and colleague General Paul Cohen. LB480 is intended to clarify the authority of the city and county to enter into certain agreements with each other and with the public building commission. The statutory definition of the term "project" is being altered so that the provision of fixtures and furnishings is not mandatory but rather it may be included in the city and county agrees to it. The second substantive change is to allow the city and county, which make up the public building commission, to agree that some area with a commission facility may remain under the exclusive control of either the city or county and that entity may take responsibility for maintenance, repair, use, furnishing, or management of such an area. This cannot happen if the city and county do not agree to it. This language is intended to clarify the current statute to allow for practices that have developed in the two public building commissions in the state of Nebraska. Lastly, there are no substantive changes to clarify the language and make it consistent with current statutory writing methods. LB480 does not change the responsibilities of the city or county but rather provides flexibility to the projects that may be developed by the public building commission but only if the two parties agree. This change to the Nebraska Statute Section 13-1304(9) is intended to make clear that the city or county can either in certain agreements relative to space within the building, structure, facility, under the control of the public building commission. This would allow, for the example, a city and a county to agree that a certain office has responsibility of the city or the county and would be responsible for furnishing, maintaining, and repairing said office. LB480 has received the support of both Omaha/Douglas Public Building Commission and the Lincoln/Lancaster Public

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Building Commission. It does not obligate any city or county or the public building commission to do any more or less than what it's currently doing. It merely allows the parties to move forward in whatever fashion they feel is appropriate cooperatively. I want to thank the committee for welcoming me back and for your consideration on the support of LB480, and I would be happy to answer any questions but I know that there are experts behind me. [LB480]

SENATOR AVERY: Not many. (Laughter) [LB480]

SENATOR KRIST: Not many. I don't need many. [LB480]

SENATOR AVERY: Thank you. Senator Price. [LB480]

SENATOR PRICE: Chairman Avery, thank you. Senator Krist, what project really came about that we needed this? [LB480]

SENATOR KRIST: I think General Cohen can probably speak to that specifically and more eloquently than I can. [LB480]

SENATOR PRICE: Okay. Okay. [LB480]

SENATOR AVERY: I don't see any more questions. You going to stick around to close? [LB480]

SENATOR KRIST: Given the alternative, yes, sir, I'll be here. [LB480]

SENATOR AVERY: (Laugh) All right. Proponent testimony. Good afternoon, sir. [LB480]

DON KILLEEN: Good afternoon, Chairman Avery, members of the committee. My name is Don Killeen, K-i-l-l-e-e-n. I'm the administrator for the Lincoln/Lancaster County Public Building Commission. I am here to testify on behalf of the public building commission in support of LB480. The Lancaster County Public Building Commission feels that this clarification in the language is merely interpreting the original statute as we have been operating since our inception of 1991. We feel that this is more of a housekeeping issue and, again, is the manner in which we've always operated. With that, I would be happy to answer any questions. [LB480]

SENATOR AVERY: All right. Thank you, sir. Questions from the committee? Senator Pahls. [LB480]

SENATOR PAHLS: Yeah, I want to cut to the chase instead of keep talking around circles. You're saying, you're telling me this is basically how it's going to be. [LB480]

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DON KILLEEN: Right. [LB480]

SENATOR PAHLS: It's really that simple? [LB480]

DON KILLEEN: Right. [LB480]

SENATOR PAHLS: Okay. That's all I need to know. [LB480]

DON KILLEEN: Okay. [LB480]

SENATOR AVERY: Thank you, sir. [LB480]

DON KILLEEN: Sure. [LB480]

SENATOR AVERY: Any other proponent testimony? You must be General Cohen. [LB480]

PAUL COHEN: Yes, sir. [LB480]

SENATOR AVERY: Yeah. Welcome. [LB480]

PAUL COHEN: Thank you, Senator Avery. Senator Avery, Mr. Chairman, members of the committee, my name is Paul Cohen, P-a-u-l C-o-h-e-n. I'm the administrator for the Omaha/Douglas Public Building Commission here to talk to you in support of LB480. I think to answer Senator Price's question is what project led to our asking for this change, there's no specific one other than as from time to time we review the lease agreement between the city, county, and the building commission and certain questions arise as to why we do things, the way we are doing them, and whether there really is firm basis within the statute to do it. Primarily this particular issue is one that over the 35 years that the Omaha/Douglas Public Building Commission has been around, the changes to this bill reflect how things have evolved and how really business is done. And in order to avoid any further conflicts or future problems, we thought we should codify the way it's done and working well rather than wait for a problem to come down in the future. I'd be happy to answer any other questions that you might have. [LB480]

SENATOR AVERY: Thank you, sir. Questions from the committee? I think this is an easy one. Thank you, sir. [LB480]

PAUL COHEN: Thank you, Senator. Thank you very much. Thank you, members of the committee. Appreciate it. [LB480]

SENATOR AVERY: Any other proponent testimony? Any opposition testimony? Neutral testimony? Senator Krist? [LB480]

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SENATOR KRIST: Can you spell consent calendar? [LB480]

SENATOR AVERY: (Laughter) I think I can. [LB480]

SENATOR KRIST: Thank you very much. I appreciate the opportunity. [LB480]

SENATOR AVERY: All right. [LB480]

SENATOR KRIST: And it was a pleasure working with both sides. They pretty much had things worked out before and this is their incentive, so. Thank you very much. [LB480]

SENATOR AVERY: Thank you. That closes the hearing on LB480 and the hearings for today. [LB480]