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Government, Military and Veterans Affairs Committee
February 17, 2016

[LB694 LB851 LB955 LB992]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, February 17, 2016, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB694, LB851, LB992, and LB955. Senators present: John Murante, Chairperson; Tommy Garrett, Vice Chairperson; Dave Bloomfield; Joni Craighead; Mike Groene; and Matt Hansen. Senators absent: Tyson Larson; and Beau McCoy.

SENATOR MURANTE: Welcome to the Government, Military, and Veterans Affairs Committee. My name is John Murante, I'm the state senator for District 49, which includes Gretna and northwest Sarpy County, and I'm the chairman of this committee. We are here today for the purposes of conducting four public hearings. We'll be taking up the bills in the order on which they appear on the agenda outside of this room. If you wish to testify on any of the matters before us we ask that you fill out one of these green sheets, which are located on either side of this room. If you are here and wish to declare your support or opposition to any of the matters before us, but do not wish to testify, we ask that you fill out the sign in sheet, also located on either corner of the room. We'll assure you that if you state your opinion it will be taken into account, just as if you had testified. If you do testify, we ask that you begin by stating and spelling your name for the record, that's very important for our transcribers office. The order of business is that the introducer will be recognized to make opening remarks, we'll then proceed to proponent testimony, followed by opponent testimony, then neutral testimony, and the introducer will be given an opportunity to close. We ask that you listen very carefully and try not to be repetitive, in the Government Committee we do use the light system. Each testifier is permitted four minutes to speak, that is indicated by your green light, when the yellow light comes on you have one minute remaining and we ask that you begin concluding your remarks, when the red light comes on we ask that you stop, and we'll at that time open the committee to any questions they may have of you. At this time I'd ask that everyone turn off or silence any cellphones or other electronic devices. This is a technology-equipped committee, so you may see members with iPads or laptops, they are simply researching or taking notes for future reference. If you have a prepared statement, an exhibit, anything to hand out to the committee, we ask that you provide 12 copies to the pages, who will distribute them to the committee. If you don't have 12 copies, just again give it to the pages and they will take care of making copies for you. So with the formalities dispensed with, let's proceed to the introduction of members. To my far left: Sherry Shaffer is the Government Committee clerk; followed by State Senator Joni Craighead from Omaha. State Senator Beau McCoy, also from Omaha, will not be with us today. State Senator Matt Hansen from Lincoln, Nebraska will be with us eventually, but isn't here right now, obviously. Andrew La Grone is our committee's research analyst; State Senator Tommy Garrett from Bellevue, Nebraska. Senator Garrett is the Vice Chairman of this committee. State Senator Dave Bloomfield from Hoskins, Nebraska; followed by State Senator Tyson Larson from O'Neill. And joining us, State Senator Mike Groene from North Platte, Nebraska.

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SENATOR GROENE: My office is the furthest away.

SENATOR MURANTE: We're going to measure that one out, Senator Groene, I think.

SENATOR GROENE: What's that?

SENATOR MURANTE: We're going to measure that out, tape off the distance. So with the formalities having been dispensed with, we once again welcome back Senator Crawford to your committee on Government, Military, and Veterans Affairs.

SENATOR CRAWFORD: Thank you, thank you. [LB694]

SENATOR MURANTE: You're almost an honorary member at this point, Senator Crawford. [LB694]

SENATOR CRAWFORD: I could show up at Exec Session this afternoon, help you out. [LB694]

SENATOR MURANTE: Not quite that...you're close to having honorary membership. Ex officio, nonvoting. [LB694]

SENATOR CRAWFORD: All right. Good afternoon, Chairman Murante and members of the Government, Military, and Veterans Affairs Committee. My name is Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I represent the 45th Legislative District of Bellevue, Offutt, and eastern Sarpy County. I'm pleased to bring LB694 before you today. LB694 is a technical amendment to a portion of the Taxpayer Transparency Act that exempts the State Department of Education from posting service authorizations entered into for the purposes of providing specific goods, services, or financial assistance on behalf of or to specifically named individuals as contracts in the contract database. The Taxpayer Transparency Act already exempts certain contracts like this for the purposes of providing specific goods, services, or financial assistance on behalf of or to a specifically-named individual, including contracts entered into by the Department of Veteran's Affairs, University of Nebraska, and the State Energy Office. On the bill draft, if you see Page 4, lines 1 through 12, you will see the language for those exemptions for the other departments that we have already in the Taxpayer Transparency Act. These contracts are exempted because posting them would violate confidentiality for individuals and families receiving these state services. The State Department of Education Office of Vocational Rehabilitation has service authorizations that fall into this same category, so they have requested the same exemption. Mark Schultz, the director of Vocational Rehabilitation, will testify shortly about his agency's need for

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confidentiality in these service authorizations. I believe it is important to ensure the confidentiality of individuals who are receiving specific services from our state agencies. This exemption will accomplish that while staying true to the intent of the Taxpayer Transparency Act, which was designed to protect the public's right to information about how government is spending its resources and contracts. The Taxpayer Transparency Act continues to work as designed from February 20, 2015 through February 11, 2016. There were 10,721 visits to the contract database according to the Department of Administrative Services, the total number of pages viewed was over 89,000, and the State Contract Database currently holds over 147,000 documents. The majority of users--over 50 percent--are from the public. The state of Nebraska users account for 35 percent and higher education users comprise 11 percent. With LB694 we will continue to strike the right balance between transparencies for taxpayers and confidentiality of those individuals that are receiving specific state services. I ask you to move LB694 to General File, and with that I'd be glad to take any questions. [LB694]

SENATOR MURANTE: Thank you, Senator Crawford. Are there any questions? Seeing none, thank you very much for your opening. So we will proceed to proponent testimony on LB694. Welcome. [LB694]

MARK SCHULTZ: Thank you. Good afternoon, Chairman and members of the committee. My name is Mark Schultz, M-a-r-k S-c-h-u-l-t-z, and I'm the director of vocational rehabilitation in the Department of Education. LB694 exempts VR from the listing of certain contracts on the State Treasurer's Web site under the Taxpayer Transparency Act. We appreciate Senator Crawford's support for our request to provide the exemption. The reason for this request is because recently it was brought to our attention that our service authorizations can be defined as contracts. As a core partner under the Work Force Innovation and Opportunities Act, VR provides assistance to individuals with disabilities to train for, get, and keep jobs. Our funding is primarily federal, with every state dollar we get matching approximately \$4 federal. These funds are used to authorize for such things as psychiatric evaluations and medical assessments to help determine eligibility, the valuations to determine appropriate assisted technology and work site modifications for our consumers, financial assistance for postsecondary education and training, financial assistance for assisted devices, work clothes, tools, gas, and other supports as necessary to enable individuals with disabilities to participate in our services such as job searches and even work until they're successfully employed. Last fiscal year we issued 15,391 authorizations for services and financial assistance, for a total of around \$5 million. So the average authorization is just over \$300. We believe the intent of the Taxpayer Transparency Act was to preserve the confidentiality of individuals on whose behalf we authorize specific goods, services, or financial assistance. Contracts of a similar nature is what is mentioned, but UNL, state colleges, veteran's affairs, the energy office, and others are already exempted and we believe the exclusion of VR from that list was an oversight. This bill will correct that oversight and preserve the

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confidentiality of the individuals with disabilities that we serve. So thank you for your consideration and I will be glad to answer any questions. [LB694]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? Senator Groene. [LB694]

SENATOR GROENE: The Department of Education...I'm confused. We constitutionally defined that 21 years of age is what you guys make sure they get a free instruction in our common schools. Who are these people? [LB694]

MARK SCHULTZ: Okay. Vocation rehabilitation is administratively located in the Department of Education. And we...actually we have about, of the 524 staff that are in the Department of Education, almost 300 are under vocational rehabilitation or disability determinations. [LB694]

SENATOR GROENE: It's for all age groups? [LB694]

MARK SCHULTZ: Yes, those programs are individuals for us who are willing and able to go to work, so it would be 16 through whatever age. And disability determinations they do the determinations for all ages who are looking for Social Security disability benefits. And so those programs are under the Department of Education, but don't necessarily...aren't specific to schools or to that age group. [LB694]

SENATOR GROENE: So is Matt Blomstedt your boss? [LB694]

MARK SCHULTZ: He's my boss. I report directly to Matt, yes. [LB694]

SENATOR GROENE: And then like the opportunity center in North Platte, do they go to you for...I think it was called the opportunity center where they made widgets and things. Would that go to you for their grant money? [LB694]

MARK SCHULTZ: Well, I think that's a department...division of disability. I'm trying to think if it's in VD or not. That would be in Health and Human Services, I believe, under the auspices of the Developmental Disabilities Program. We work with them, but our services are for anyone with a disability of any age. [LB694]

SENATOR GROENE: For education? [LB694]

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MARK SCHULTZ: As long as they're looking to go to work. And then we can provide support for the education and training, so we would work with community colleges and universities, primarily postsecondary institutions, to help them acquire the knowledge or skills that they need. [LB694]

SENATOR GROENE: That's where...it's in the Department of Education. [LB694]

MARK SCHULTZ: Yes, because we're not just helping someone get a job. We're about the training and the career planning that goes into that and helping people along. You might have heard the term career pathways. [LB694]

SENATOR GROENE: So you issue checks directly to the client, or do you do it to the educational institution or their instructor who... [LB694]

MARK SCHULTZ: We do it both ways. For the training and education, primarily the check would be issued to the institution. [LB694]

SENATOR GROENE: So those would still have to be... [LB694]

MARK SCHULTZ: Those are only half of the individuals. So the individual on whose behalf we are doing it will be named in that authorization, and the number of credit hours and so forth will be also disclosed, as well as the class information. So we're looking to, for those kinds of contracts...I'll give you another example. For individuals in order to be able to go to work, sometimes they need to get in and out of their house, so we would put a ramp on their house in order to enable them to participate in employment. [LB694]

SENATOR GROENE: So you're talking about the Freedom of Information Act, that is somebody asked you for information about...you don't have to release it? Or is that... [LB694]

MARK SCHULTZ: No. [LB694]

SENATOR GROENE: Oh, you would have to on the Freedom of Information. [LB694]

MARK SCHULTZ: We would have to probably...what do you call it when you have to black out everything? [LB694]

SENATOR BLOOMFIELD: Redact. [LB694]

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MARK SCHULTZ: Redact everything, most of the information. And some of the people we work with, their communities are so small that if we just identify the kind of work we're doing we disclose that they're working with us. And we can't do that. [LB694]

SENATOR GROENE: How often do you get requests for information? [LB694]

MARK SCHULTZ: We don't. [LB694]

SENATOR GROENE: So then why do you...you're worried about that... [LB694]

MARK SCHULTZ: Well, because the concern I would have about having 15,000 service authorizations in there and the amount of staff time it would take to put in those \$300 on average authorizations. And I believe that the public probably wouldn't be served because we would have to redact so much information that there would be very little that would actually disclose. [LB694]

SENATOR GROENE: This doesn't exempt you from the courts if a summons or a lawyer needed evidence in a case? [LB694]

MARK SCHULTZ: No, it does not. No, and we do get contacted and we do have to provide that information when we're properly served. [LB694]

SENATOR GROENE: It's just the average citizen that has a neighbor and wonders how they're getting all that funds... [LB694]

MARK SCHULTZ: Exactly. [LB694]

SENATOR GROENE: Wants information. [LB694]

MARK SCHULTZ: This would preserve their confidentiality in those cases. [LB694]

SENATOR GROENE: Thank you. [LB694]

SENATOR MURANTE: Senator Bloomfield. [LB694]

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SENATOR BLOOMFIELD: Thank you. Mr. Schultz, I am all for protecting the privacy of the individual, but is there any way...if we pass this bill do you still put the information out about how much money is going to this as a group? [LB694]

MARK SCHULTZ: Yes. We provide the information in the aggregate. So for example, I can tell you we put out a report that shows how much money we spent around postsecondary training and support, how much money we've spent on assisted technology or rehabilitation technology, how much for support employment services that we do provide for on the job training. So we have different categories, we report that information (inaudible). [LB694]

SENATOR BLOOMFIELD: And this bill would affect none of that? [LB694]

MARK SCHULTZ: It does not affect that at all, as long as we're not disclosing personal confidential information. [LB694]

SENATOR BLOOMFIELD: Thank you. [LB694]

SENATOR MURANTE: Thank you, Senator Bloomfield. Seeing no additional questions, thank you very much for your testimony. Much appreciated. [LB694]

MARK SCHULTZ: Thank you. [LB694]

SENATOR MURANTE: Is there additional proponent testimony to LB694? Any additional proponents? Are there any opponents to LB694? Is there any neutral testimony? Senator Crawford. [LB694]

SENATOR CRAWFORD: Thank you very much for your questions. Just for the record, I want to try to clarify public records spending and the contract database. All right? So the Taxpayer Transparency Act adds a contract database so that it's easy for citizens or others to search for contracts that the state enters into. All right? And so these service authorizations we are excluding from that database. They are still public record and freedom information rules that apply to public records still apply. We're not changing that, we're just not putting them in this tool that citizens can use to find some things more quickly. It's also the case on that Nebraska Expenditures Web site there's also like a checkbook function, all right, and so also spending you can still check there. We're just not putting these service authorizations in this one contract database tool. [LB694]

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SENATOR MURANTE: Okay. Any final questions? Seeing none, thank you, Senator Crawford, we much appreciate it. That closes the hearing on LB694 and we'll proceed to the next item on the agenda, LB851. Senator McCollister, welcome back to your committee on Government, Military and Veterans Affairs. [LB694]

SENATOR McCOLLISTER: I don't believe I've ever been here before. [LB851]

SENATOR MURANTE: Well, welcome for the first time. [LB851]

SENATOR McCOLLISTER: (Exhibits 1, 2, 3) Well, thank you. Chairman Murante and members of the committee, I am John McCollister, J-o-h-n, McCollister, M-c-C-o-l-l-i-s-t-e-r, and I represent the 20th Legislative District in central Omaha. I'm here today to introduce LB851 and AM2149, which you have before you. AM2149 would replace the green copy of the bill. This proposal, now represented by AM2149, would broaden the type of entities required to submit financial data for our state's transparency Web site, statespending.nebraska.gov. The Web site is administered by the Nebraska State Treasurer. Currently, financial information from the state agency and the University of Nebraska are included on the transparency Web site, but financial information from a variety of quasi-public entities is not. A list of likely state entities to be affected by the proposed changes to the Taxpayer Transparency Act has been provided to you. Under AM2149, a state entity is defined as: any agency, board, commission, or department of the state and any other body created by the state statute that includes a person appointed by the Governor, the head of any state agency or department, an employee of the state of Nebraska, or any combination of such persons, and that is empowered by state law to collect and disburse state receipts. AM2149 would define state receipts as revenue other than income received by a state entity from taxes, fees, charges, interest, or other sources, which is used by the entity to pay expenses needed to perform the entity's state duties. State receipts would not include pass-through funds. Pass-through funds are those received by a state entity acting only as an intermediary or custodian of the funds and obligated to pay or return the funds to an entitled person. Under AM2149, expenditures of state funds would mean an expenditure of state receipts, whether appropriated or nonappropriated, by a state entity in forms excluding but not limited to: grants, contracts, state aid to political subdivisions, and tax refunds or credits that may be disclosed according to provisions of several state incentive programs. The transfer of funds between two state entities, payments of state or federal assistance to an individual, or expenditure of pass-through funds would not fit the definition of expenditure for purposes of this act. AM2149 would require state entities to submit to the State Treasurer for inclusion on the state transparency Web site all expenditures of state receipts, whether appropriated or nonappropriated, including grants, contracts, subcontracts, aid to political subdivisions, tax refunds or credits that may be disclosed under existing laws, and any other disbursements of state receipts in the performance of an entity's functions. Data from the state entities would be available for the fiscal year 2016-2017 and for each subsequent fiscal year. You've been given a

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number of...quite a bit of information. The amendment, itself, I think indicates the changes that were made in the document. You've also received a spreadsheet which outlines the changes to the various categories at the request of state entities. And that's what you see in the documents you've been provided. The other changes that appear in AM2149 are simply a reordering of the provisions in the Taxpayer Transparency Act by the Revisor's Office to make the act align more closely in structure of similar acts in Nebraska statutes. Thank you for your attention, I'd be prepared to answer any questions. I should mention that the State Treasurer will follow me. If any application questions would occur, it would probably be better directed to him. [LB851]

SENATOR MURANTE: Thank you, Senator McCollister. Are there any questions? Senator Bloomfield. [LB851]

SENATOR BLOOMFIELD: Senator McCollister, you enjoying your first trip to this committee? [LB851]

SENATOR McCOLLISTER: I am, indeed. [LB851]

SENATOR BLOOMFIELD: Thank you. I just didn't want you to be here and not get any questions, so. [LB851]

SENATOR MURANTE: Groene hasn't started asking questions yet. [LB851]

SENATOR McCOLLISTER: It's a fine, fine committee and the state senators are outstanding. [LB851]

SENATOR GARRETT: They seem to be. [LB851]

SENATOR MURANTE: Thank you, Senator Bloomfield. Any additional questions? [LB851]

SENATOR GROENE: I'm saving for the next guy. [LB851]

SENATOR MURANTE: Well, let's proceed to our State Treasurer. Thank you, Senator McCollister. [LB851]

SENATOR McCOLLISTER: Thank you, Mr. Chair. [LB851]

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SENATOR MURANTE: Well, we had State Auditor Charlie Janssen day earlier. So we have State Treasurer Don Stenberg day today. I wish you as much luck as Senator Janssen had when he was here. [LB851]

DON STENBERG: Well, thank you, Mr. Chairman, members of the committee. For the record, my name is Don Stenberg, D-o-n S-t-e-n-b-e-r-g, and I'm the Nebraska State Treasurer. And I'm here in support of LB851. I'd like to thank Senator McCollister for bringing this bill forward. We worked on it very closely together and I think it's an improvement in our state transparency Web site. As Senator McCollister stated, this legislation will add receipts, expenditures, and contracts of quasi-public agencies to Nebraska's state government transparency Web site. And basically, a quasi-public government agency for purposes of the bill is basically stated as an entity that is created by state statute and it has one or more members who are appointed by the Governor or by some other state official or on which a state official serves as a committee member. Because quasi-government agencies are created by state statute to carry out important public functions and in many cases to manage substantial public resources, I strongly believe that they should have the same level of transparency as do the state agencies and constitutional offices. Transparency fosters accountability, increases public engagement, and improves efficiency in government. In 2009, Nebraska Legislature passed the Taxpayer Transparency Act. And that legislation required the State Treasurer to develop a searchable, publicly accessible Web site to track all state spending and made the State Treasurer responsible for it. I thought about doing a demonstration, but I know in five minutes I can't do it. But if you go to the Web site you can find out how much the state...it has a lot of flexibility. You can go to any state agency and look for any expenditure over \$10,000. You can go and look for a particular company that might be a contractor for the state and see how much they were paid in a fiscal year. So there's a tremendous amount of information that's available. In 2013, Senator Crawford introduced legislation, which I supported at that time, to require all state contracts--with certain exceptions--to be made available on-line. And that legislation is very successful, as you heard Senator Crawford testify earlier here on another bill. A tremendous number of state contracts are now on-line and are reviewed very substantially by a lot of different people. We've improved the transparency Web site substantially since I took office. A independent national rating organization rated Nebraska's transparency Web site as a D at the time I took office. And most recently, we've moved that up to a B-plus. So we've improved that transparency Web site substantially and would like to improve it further with this legislation. By definition, quasi-public agencies only exist because they were created by the Nebraska State Legislature performing important public functions. And not to repeat myself, but I will, I think that they should be held to the same standards of disclosure that we already currently have for our existing state agencies and constitutional offices. And with that, I'd be happy to take your questions. [LB851]

SENATOR MURANTE: All right. Thank you, Treasurer Stenberg. Are there any questions?
Senator Bloomfield. [LB851]

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SENATOR BLOOMFIELD: Thank you. Mr. Stenberg, do you have any reason to believe that there's any nefarious activity within any of these subsets that we're wanting to get to? [LB851]

DON STENBERG: No, I sure don't. The State Auditor is here and I think may testify and maybe he'd have a better, more knowledgeable answer. But no, I don't. But...and I don't...I think part of it is, I think you get more efficiency when you've got publicly reviewable information. If you can review contracts, how much is an agency...how much is paying their lawyers, how much are they spending on legal fees, what are they paying their employees? Are they being paid a lot more than other state employees? Should they be? Maybe they should. But right now that information might be available with a public records request, but you can't just go on-line and find that. You can about any state employee, you can see what their net pay is. If a state agency has a contract with a law firm, for example, for legal advice, you can both look at the contract and you can also search that law firm on our transparency Web site and see how much they were paid last month or last year or the last three years. [LB851]

SENATOR BLOOMFIELD: Okay. Thank you. [LB851]

SENATOR MURANTE: Thank you, Senator Bloomfield. Any additional questions? Senator Groene. [LB851]

SENATOR GROENE: University of Nebraska is covered by this? So... [LB851]

DON STENBERG: Yes. In fact, they're already on our Web site, so I don't think this would impact... [LB851]

SENATOR GROENE: And their contracts are on there? [LB851]

DON STENBERG: My understanding is their contracts are (inaudible)... [LB851]

SENATOR GROENE: So that article that was in the Sunday World-Herald about the donor and the... [LB851]

DON STENBERG: Well, those contracts aren't on-line, because those...and I don't know...all I know is what I read in the article...same article. Apparently, as I understand that situation, they set up...outside entities were set up. They do not fall under this definition of quasi-public agency because they were not created by the Legislature, which is part of the definition that Senator McCollister is using here, which is kind of a understood definition of quasi-public agency. These

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were, as I understand it, entities set up outside. They were not created by the Legislature.
[LB851]

SENATOR GROENE: But state funds were used. [LB851]

DON STENBERG: I'm not defending it, I'm just explaining it. And in answer to your question, no, those things are not...the things referred to in that article are not on the state's Web site.
[LB851]

SENATOR GROENE: Should they be included in this? [LB851]

DON STENBERG: They would not be included under this legislation... [LB851]

SENATOR GROENE: Should they be? [LB851]

DON STENBERG: ...unless you amended it. [LB851]

SENATOR GROENE: But should they be? [LB851]

DON STENBERG: I suppose if your Legislature amended it and passed it, they could be, yes.
[LB851]

SENATOR GROENE: Anyway, so everybody who gets state money is... [LB851]

DON STENBERG: You don't even have to... [LB851]

SENATOR GROENE: Public school (inaudible)? [LB851]

DON STENBERG: No. The political subdivisions, school districts, and so forth are not covered by this, because they're local entities. Local governments, including school districts, are required to file certain budget information...relatively limited budget information with the State Auditor. And that is available on-line. You can either access it through the State Treasurer's Web site--we have a link to the Auditor's Web site--or you can go directly to the Auditor's Web site and get very limited budget information about school districts and cities and counties. But it's very...
[LB851]

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SENATOR GROENE: What about (inaudible) like the Public Service Commission? [LB851]

DON STENBERG: Public Service Commission is already part of the state and would be available on the transparency Web site currently. [LB851]

SENATOR GROENE: (Inaudible) where they expend their money? [LB851]

DON STENBERG: Right. [LB851]

SENATOR GROENE: Thank you. [LB851]

SENATOR MURANTE: Thank you, Senator Groene. Any additional questions? Seeing none, thank you very much for coming down today, appreciate it. [LB851]

DON STENBERG: Thank you. Thank you. I've got another bill, so I'll hang around. [LB851]

SENATOR MURANTE: All right. Eagerly anticipate your testimony on that one. Any additional proponents to LB851? Mr. Geis, welcome back to the Government Committee. [LB851]

GAVIN GEIS: (Exhibit 4) Chairman Murante, members of the committee, my name is Gavin Geis, G-a-v-i-n G-e-i-s, and I'm here representing Common Cause Nebraska. We are in support of LB851. Mentioned before was a recent review...a national review of transparency Web sites across the nation and Nebraska received a B-plus. What's being handed out to you now is just a quick summary of that report. The report's about 50 pages long. If you want to dig in deep and see where people are at, I encourage you to do so; it's a really well researched piece. But if you look toward the bottom, those bottom few brackets, you can see the grading metric that was used and the scores that Nebraska received. So when it comes to contracts and expenditures, Nebraska did very, very well. The only category we received a ding in, quasi-public agencies addressed right here, LB851. Across the nation we got...we tied for 17th, which means we have a very good Web site. This would only improve our grade. Additionally, there were a few other categories that we can continue improving in, but they would just build off of what's already being built, a very good Web site. We could go further in discussing the actual benefits that were provided by tax breaks and economic funding development. Other states do go into that data and receive high grades. We do not. We can just continue to expand the number of agencies and programs that are covered by our transparency Web site. By no means are these criticisms of our Web site, we have a great Web site. These are just how we can be the best in the nation. You should take a look at Ohio's Web site. It is on par with Nebraska, just beats us by a few categories in terms of access and the way data is displayed. But as I've said quite a few times, Nebraska is very good, it's just a

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great encouragement that we're continuing to expand and that the Treasurer's Office wants to do that. I don't see any reason why we should remain at 17. I think if we continue to push things like moving quasi-public agencies onto this Web site, we should be moving up in the rankings. So you can, like I said, find the report--there's the Web site for the report--if you want to see what other states are doing and how we could be better than them. [LB851]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for coming down today. We appreciate it. [LB851]

GAVIN GEIS: Thank you. [LB851]

SENATOR MURANTE: Are there additional proponents wishing to speak on LB851? Proponents? Welcome back. [LB851]

JACK GOULD: Thank you. Senator Murante and members of the committee, my name is Jack Gould, that's J-a-c-k G-o-u-l-d, I am an unpaid registered lobbyist from Common Cause, but I'm here testifying just as a private citizen. I just simply want to thank Treasurer Stenberg for the ongoing effort that he's been making to make public records public. And I also want to thank Senator McCollister for picking up the banner on this bill particularly, because I think it extends that transparency. And nothing builds greater public confidence in government than having public records available. So I want to thank both men and I also appreciate the committee looking into this and continuing the search for openness in government. Thank you. [LB851]

SENATOR MURANTE: Thank you very much, Mr. Gould. Are there any questions? Seeing none, thank you for coming down today. Senator Karpisek, welcome back to the Government Committee. [LB851]

RUSS KARPISEK: Senator Murante, members of the committee, thank you for allowing me to come today. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, and I am the legislative liaison for the Auditor of Public Accounts, Auditor Janssen. I'd like to thank Treasurer Stenberg and Senator McCollister for working with us on this and especially Senator McCollister's staff because they had to put up with me more than one time to come in. I'm testifying in favor of the amendment to LB851, in particular, sub (b), line 8, on page 3. What it says is: Expenditures of state funds includes expenditures authorized by the Board of Regents of the University of Nebraska, the Board of Trustees of the Nebraska State Colleges, or a public corporation pursuant to Sections 85-403 to 85-411. The Auditor's Office has asked for this paragraph to be added and it has been okayed by everyone else involved, treasurer and senator. When the university or the state colleges go out for bid for revenue bonds for a particular project, they have to pledge revenue to pay off these bonds. In cases where student fees are collected to

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pay off the bonds, there may and usually is extra money collected that might be used for a different project later on. Currently, these funds do not meet the definition of state funds, but this bill would change that. This extra money right now is just deposited with a trustee; that wouldn't change. And then the trustee is then directed by the board to pay the contract for this other project. We are not saying that this process is wrong, but we just feel that it should be disclosed on the transparency Web site. As I understand it, these contracts are already uploaded onto their systems, so our part of this bill would only require that these contingency and maintenance funds be put on the Web site. This would not affect any foundation money, any money donated by private individuals, just money that is generated by student fees for the bond repayment. If you have any questions, I'd be happy to try to answer your questions. [LB851]

SENATOR MURANTE: Thank you, Senator Karpisek. Senator Bloomfield. [LB851]

SENATOR BLOOMFIELD: Thank you. I have asked the Treasurer if there was any possible nefarious actions being taken. I would like to give you this opportunity to expound, if you think there are. Or if you would rather not disclose anything, that's fine too. [LB851]

RUSS KARPISEK: Well, I don't really work on the audits. But, no, I don't think so. I think that what has happened is that they ask for student fees for many different things. I don't know, for lab fees. There might be some money left over so then maybe they will go to fixing some windows, maybe even in the lab; that extra money. Again, it's all been publicly shown, but it just hasn't been on the Web site. So, no, I don't think that there's anything nefarious at all about that. It's just that it's there, we'd like it to be on the Web site. [LB851]

SENATOR BLOOMFIELD: Thank you. [LB851]

SENATOR KARPISEK: Thank you. [LB851]

SENATOR MURANTE: Senator Bloomfield. Senator Groene. [LB851]

SENATOR GROENE: When the auditors audit, do they use this Web site a lot to gather information on an entity that they're auditing? I mean, does it help the Auditor's Office? [LB851]

RUSS KARPISEK: Oh, I'm sure that it would help to go look. Again, I don't do the audits, but I think most of what they do is dig a little deeper than looking at this. But I'm sure that they do also look at it to make sure that everything's...I don't know that we...just to make sure that it all jives. [LB851]

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SENATOR GROENE: Just out of curiosity, I wouldn't even know that this existed, these extra...what brought it to light to the auditors that...did somebody complain? Did...that this money or an auditor was doing something with the University of Nebraska and noticed that some money was not accounted for or wasn't explained why it was spent? I'm just curious how you ever... [LB851]

RUSS KARPISEK: I think that it was probably found in an audit, but it was just shown that this money is going to a trustee and then the board okays the trustee to pay a contractor. So it was all there, it just showed up that it wasn't on the Web site. There was a little disagreement maybe about if it has to be on the Web site or not per current statute. So this is why we're trying to change that to say it should be on there. I don't think that there was a big fight about it and I don't think there is now. Again, we're not asking them to do anything different other than just put it on the Web site. [LB851]

SENATOR GROENE: I'm just curious who studies that Web site so close that they noticed that that was not reported. [LB851]

RUSS KARPISEK: Well, when our auditors go through and do an audit and they check state statute to make sure that everything is being done, not only that the money is right, the statute is also being followed and there was a question to whether... [LB851]

SENATOR GROENE: Reporting requirements. [LB851]

RUSS KARPISEK: ...it should be on here and it was not and so there was a finding. So this is just kind of trying to fix a finding that we had. That's all it was. It was nothing that we thought was bad, just to say, we think it should be on there for everybody to see. [LB851]

SENATOR GROENE: Fair and thank you. [LB851]

SENATOR KARPISEK: Thank you. [LB851]

SENATOR MURANTE: Thank you, Senator Groene. Any final questions? Seeing none, thank you very much, Senator Karpisek, we appreciate it. [LB851]

RUSS KARPISEK: Thank you. [LB851]

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SENATOR MURANTE: Additional proponent testimony to LB851. How many more proponents do we have for LB851? All right. Welcome. [LB851]

JESSICA HERRMANN: (Exhibit 5) Thank you. Chairman Murante, members of the Government, Military and Veterans Affairs Committee, my name is Jessica Herrmann, J-e-s-s-i-c-a H-e-r-r-m-a-n-n. I am the director of legislative outreach for the Platte Institute for Economic Research. Thank you for this opportunity to speak in support of LB851. Transparency is government's obligation to share information with citizens that is needed to make informed decisions and hold state and local elected officials accountable for their stewardship of the public's tax dollars. The Platte Institute supports LB851, which would broaden the scope of state entities that are required to submit basic financial information on the Nebraska state spending Web site. Quasi-public agencies are a large and important part of state government operations. As many as 30 of these state entities exist in Nebraska, with the power to collect fees, issue bonds, and manage public resources. These boards, commissions, committees, councils, and other quasi-governmental bodies are typically governed by a board appointed substantially or entirely by the state. The expenditures of quasi-public agencies often fall outside the regular budget process. This assures public investors that obligations for payment will not compete with general government functions. However, this separation causes these entities to suffer from an accountability deficit, as the absence of public records prevents taxpayers from monitoring cost overruns and project developments. Even policymakers are unable to determine exactly how many of these entities currently exist in Nebraska. In recent years, several states have begun requiring quasi-public agencies to submit basic financial information for transparency purposes. Connecticut, Florida, Louisiana, Massachusetts, New Jersey, New York, Ohio, Oklahoma, Oregon, and West Virginia have some form of reporting requirements for these state entities. More states are recognizing that revenue from quasi-public agencies are amounting to an increasing percentage of the state's general budget. As a result, citizens must have the necessary tools to monitor the role these entities play in the increasingly complex state budget process. While Nebraska's spending Web site has improved in recent years, the expenditures of these quasi-public entities are still exempt from reporting requirements. Nebraskans need solid information on what they get for their tax dollars. And policymakers need to know every piece of the budgetary pie, including what is off budget, in order to use tax dollars in the most effective way. LB851 would accomplish both objectives and we urge the committee to advance this bill. Thank you for your time today and I'm happy to answer any questions. [LB851]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for coming down today, much appreciate it. [LB851]

JESSICA HERRMANN: Thank you. [LB851]

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SENATOR MURANTE: Any remaining proponent testimony to LB851? Seeing none, is there any opposition testimony to LB851? Is there any neutral testimony to LB851? Welcome.
[LB851]

TIMOTHY KENNY: (Exhibits 6, 7, 8) Chairman Murante, good afternoon. Members of the committee, good afternoon. My name is Timothy Kenny, T-i-m-o-t-h-y K-e-n-n-y. It has been my honor to be your executive director of the Nebraska Investment Finance Authority since I think 1994. I'm here to testify on behalf of the Nebraska Investment Finance Authority about my anxieties--and they're merely anxieties--about LB851, as amended by AM2149. First, I want to make sure that you don't misinterpret my testimony as opposition or resistance. We are wholeheartedly in favor of meaningful state disclosures prescribed by this bill. We applaud Senator McCollister and Treasurer Stenberg's efforts in this matter and been working with them since mid-December on LB851. We believe the suggestions will offer a win-win for the state. My testimony focuses on the effort to consolidate functionally, legally, financially, and constitutionally discrete entities into the state's reporting system. In that process, we must take into account system harmonization costs, cyber risk and security, and the utility and accuracy of the data reported in light of the prescribed best practices. I am NIFA's chief disclosure officer as well as NIFA's chief risk officer/manager. And, as so, I'm anxious a little bit about three things. First, I'm anxious about the day-to-day cyber risk that you and I face from malicious use of public information, such as we saw perhaps the other day in the city of Lincoln transparency Web site that you read about in the newspaper the other day. Unfortunately, this is the world we live in and these are the threats that we see at NIFA, particularly as a financial institution...a discrete financial institution and we attempt to manage them. As an illustration, in the last 90 days, NIFA has had 15 such intrusions into our data systems. That's not necessarily unexpected because we have, in the last 90 days, also had over 122,000 inquiries from Asia. More than half of those have come from Chinese and Ukrainian Web sites. So this is the world we live in and the systems that we manage. Raw transaction level data accessible on a worldwide network is exactly the kind of information that thieves seek in order to take information from financial institutions to try and put Malware on their systems. The U.S. PIRG report that the treasurer referenced earlier--and we've handed out a copy for you--also talks about this. It says that transparency efforts of our 50 states--and this is in the current report--report that there are certainly good reasons to limit the scope of personal information in the public domain. People may use that information inappropriately or it could be used by criminals. My point is simply this: It's important that this process be carefully constructed and closely supervised after the implementation. And that's what NIFA is going to propose a little bit later. Some of my comments on transparency and disclosure, which are included in this, include some context with respect to the type of disclosure NIFA currently makes. We make, and I've listed for you, over 13 different high levels of disclosure, complete, comprehensive, audited, and independently verified. And in many of the disclosures we make to the Unicameral and to the Legislature, we do this in advance...a year in advance of our activities and then we report to you annually

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afterward. So NIFA is a very well disclosed entity. I want to refer you to that report that 11 of the 14 top rated states with respect to disclosures, A's, are using the same kind of disclosure that we propose. Two other points: NIFA receives no state tax dollars from the state. And NIFA is not a state agency, so the administrative system at DAS that other entities use is not available to NIFA. As a result, we might have to spend about \$150,000 to develop a system to get into the treasurer's Web site. Our simple suggestion is this: That NIFA would report the same information, but on standalone entity, much like the University of Nebraska does, in a digital link to the treasurer's disclosure page. It would have all the same information plus a searchable database of receipts, disbursements, contracts, and salaries paid from the funds flowing through NIFA's operation funds. I think allowing NIFA to continue to provide this type of comprehensive disclosure has many advantages and I think it might increase the rating that we currently have, but takes into consideration the 30-year duration and complexity of our contracts, the extraordinary cost in cyber risk that we see every day, the different levels of cyber security that's demanded at a financial institution, and the required Nebraska constitutional separation of NIFA from those of the state, because we are legislatively accountable to the state but not financially accountable to the state. So we thank you for the opportunity to testify. I want to thank again the senator and the treasurer for their efforts. And I'm available for questions. [LB851]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions?
Senator Bloomfield. [LB851]

SENATOR BLOOMFIELD: Thank you. Mr. Kenny, you said it would cost NIFA \$150,000 to develop a process to get access to this. I see Senator Groene has it on his laptop. Why would it cost that kind of money? [LB851]

TIMOTHY KENNY: For two reasons: One is, we have it on our laptops on our systems too, but our systems are not the same systems that the state uses. So we would have to devise an interface, a systematic and secure interface to get all of our data which is in different formats and different structures into the state systems. The second reason is, we probably...I counted them the other day. It's an inexact number, but we probably have over 100 open bond series that have 30-year terms. Those series come in pages of some 900 pages, 500 to 900 pages each. We would have to break those down, redact them, review them, and then put those forward, because they contain in these bond issues account information, transfer information, wiring instructions. And our bond issues, of course, go on for sometimes 30 years. So we have an immense amount of information that we would have to bring forward. We would have to design systems to get them to your systems, secure and safe and apart from cyber. And then we're obligated, because we're a separate entity and we're liable under state and federal law and we have no statutory immunity, we would have to devise systems to monitor your system to see that our information on your system is not misused. [LB851]

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SENATOR BLOOMFIELD: Ain't technology grand? Thank you. [LB851]

TIMOTHY KENNY: It's a different world. But thank you for the question. [LB851]

SENATOR MURANTE: Thank you, Senator Bloomfield. Are there any additional questions? Senator Groene. [LB851]

SENATOR GROENE: I don't know what I'm talking about here, but are you telling me you report to the secretary of...the treasurer information and from there they can get into somebody else's database? [LB851]

TIMOTHY KENNY: Well, for example, no one piece of information is important, but for the right amount of money on the black Internet you can buy my Social Security number, my date of birth, and all my grades from college, which is kind of embarrassing. But you can take that with my salary information that would be posted on it--and we're happy to put salary information on it--you could put those two pieces of information together and send me a request for W-2 information or something like that. All I have to do is click on that, all I have to do is click on that and a piece of Malware then could be installed on our system. And it's more than just phishing and identity theft, it's about data hijacking and system destruction and denial of service. So there's several different levels of computer fraud that go on, but it begins with the same kind of information, what we're talking about. It's the same type of transaction level information that can convince people to click on a link. What we're proposing--and it's a little different than...not different in terms of content, but just different in style--what we're proposing is not doing transaction level, not posting every check, every cash disbursement, but providing the actual salaries that we pay. That's a distinct difference. I mean, if you were to just dig down a little bit in the current system, what you're seeing with respect to salary transactions is the net. The net salary, net of taxes, net of insurance, net of Social Security, net of contributions to retirement plans. That could be some 25 percent or 30 percent different from the actual salary paid. We're actually proposing a more accurate system that puts forth our actual salaries. [LB851]

SENATOR GROENE: Thank you. [LB851]

SENATOR MURANTE: Thank you, Senator Groene. Seeing no additional questions, thank you very much for your testimony. [LB851]

TIMOTHY KENNY: Thanks for the opportunity. [LB851]

SENATOR MURANTE: Additional neutral testimony to LB851. Welcome. [LB851]

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LYNN SCHULLER: Thank you. Chairman Murante and members of the committee, my name is Lynne Schuller, L-y-n-n-e S-c-h-u-l-l-e-r, I'm the executive director of the Propane Education Research Council and we would fall under this proposed legislation. PERC is funded entirely from the propane industry. We receive no state dollars at all. The bulk of our money is used for safety training for propane professionals so that they can handle a hazardous material safely. And we also purchase emergency equipment. Last year we purchased a couple of flaming towers for volunteer fire departments. The tornado in northeast Nebraska threw several propane tanks several miles. And the safest way to dispose of that propane is to burn it out with a flaming tower, but volunteer fire departments do not have the funds to pay for that type of specialized equipment. So the Fire Marshal agreed to keep it for us and then if there's a need across the state, they will transport it for us so that those volunteer firefighters are not put in harm's way unnecessarily. I spoke with Senator McCollister about some of the concerns I had about this particular piece of legislation. He helped me tremendously and I think he took care of a lot of my concerns. The only concern I have remaining is that two months ago I received a call from my bank saying that I needed to call them immediately, it was an emergency, which is not a good feeling. And the person in charge of my account said that she had received an electronic transfer request for several thousand dollars and it had our bank routing information, our account information, and my date of birth on it and appeared to have come from my e-mail, which it obviously did not. What tipped her off was because I worked with her for quite a long time, she said that they ended the e-mail with, have a joyous day, and I would never use the word joyous. I said, you know me very well. No, I would not. So I went back and looked. There was a small typo on the information so I think that they pulled a lot of the information off of a Web site where we are listed. I have no idea how they got the account number. I'm just grateful that the person at the bank works with us enough that she immediately recognized that it was a fraudulent transfer and obviously it did not go through. I called the police about it. They said that because it was number one, not completed, so there was no actual fraud; and number two, it was a person in Georgia that requested the payment, it was going to be difficult to have jurisdiction or to even get a conviction because all they would have to do is say, well, I have no idea what happened. I'm an innocent victim just like you are. So that was frustrating. But I would like to echo NIFA's comments and say that we're also concerned about cyber security. And I would just ask that you use extreme caution in what's in the legislation to be listed publicly. [LB851]

SENATOR MURANTE: Okay. Thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for coming down today. We much appreciate it. [LB851]

LYNNE SCHULLER: Thank you. [LB851]

SENATOR MURANTE: Is there additional neutral testimony to LB851? Any more neutral testimony? Seeing none, Senator McCollister. [LB851]

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SENATOR McCOLLISTER: Well, thank you, Mr. Chairman and thank you, members of the committee. I'm very sympathetic to the concerns of Director Kenny. Cyber security is something we need to be concerned about, all of us need to be concerned about. And we've had a good working relationship and good collaboration on some of these issues and I think we'll continue to do that and try to deal with some of the concerns that the NIFA department has and also any other department. So we will continue to work on that, gentlemen and ladies. I'd also like to express my gratitude to Sherrie Geier, my senior LA, who's done a great deal of work on this bill. I think the materials in your hands are some indication of that, and also State Treasurer Stenberg for his hard work. So I'm grateful for that and I would encourage you to move this bill out of committee. Thank you. [LB851]

SENATOR MURANTE: Thank you very much. Any final questions? Seeing none, thank you very much for coming. [LB851]

SENATOR McCOLLISTER: Have a joyous day. [LB851]

SENATOR MURANTE: All right. That concludes the hearing on LB851. We'll proceed to the next item on the agenda, LB992. Senator Ebke, I know you've been here before. Welcome back to the Government, Military and Veterans Affairs Committee. Let's hold on just for one second while the room clears. Common Cause has no interest in your bills, apparently. All right, thank you. [LB851 LB992]

SENATOR EBKE: Thank you, Chairman Murante. And it's always fun to come before the Government Committee. For the record, my name is Senator Laura Ebke, L-a-u-r-a E-b-k-e, and I represent the 32nd Legislative District, which consists of Jefferson, Thayer, Fillmore, and Saline Counties, as well as the southwest portion of Lancaster County. LB992 works to place a limit on the amount of debt political subdivisions acquire through the use of installment contracts for the purchase of real or personal property. The impetus for this bill is a rising concern about future payment obligations that mount as public subdivisions outlay expenses that must ultimately be included in future budgets. This impacts local taxpayers. As I understand it, the current system allows at least some political subdivisions to use these installment contracts in a way that others would use general obligation bonds. By way of example, let's assume a city desires to purchase a building to renovate and house city offices. The cost of the building is a little more than \$5 million and the renovation is projected to be about \$1.5 million, bringing the total investment to \$6.5 million. Rather than budgeting for the cost of a one-time payment, and rather than floating a bond issue to a vote of the people, the city purchases the building and renovation via an installment contract to be paid for over a period of 15 years. This avoids the need to wrap the entire expense into the current budget and avoids the need to appeal to the voters to authorize what would otherwise be a long-term general obligation bond. Even so, the

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city is now on the hook for 15 years of future payment obligations, a debt the taxpayers must continue to make payments in each coming city budget. Now while this might seem simple enough, the practical manner in which it works gets a bit more complicated. Rather than entering into the installment contract with the seller of the property or item directly, the city works through a bonding agency to sell a lease interest in the future payments. This allows the city to finance the entire project and make payments on bonds through the life of the installment contract. At the end of the day then, the city is able to finance the purchase and renovation of a major city building or the purchase of other items the city desires to buy and avoids the input of the voters they would otherwise get if the city used a general obligation bond. This financing tool is used to pay for everything from office buildings, as in my example, to firetrucks and street lights. Because this financing tool operates in nearly the same way as a general obligation bond, concerns continue to mount with regard to how political subdivisions use this mechanism to avoid a vote of the taxpayers. LB992 proposes capping the future obligations political subdivisions have with respect to these contracts to help protect taxpayers from being forced to make room for payment obligations in future budgets without voter input. What is however still unclear is the extent to which the use of this mechanism and the authority by which political subdivisions do this. We know that cities of the primary class, in other words Lincoln, have express statutory authority to enter into these types of installment contracts and corresponding bonds as found in Section 15-201.02 of the Nebraska revised statutes. While a specific Nebraska statute directly authorizes city of the primary class to use installment contracts, our brief review of statute failed to uncover any such express authority for other classes of Nebraska cities or subdivisions. Now you will likely hear today from taxpayers with concerns about how this has impacted the city of Lincoln, you will also probably hear reasons why a cap is problematic from the city of Lincoln and other cities and political subdivisions. What I really hope to obtain from the hearing today is a better understanding of the breadth of which this financing tool is used and the extent to which taxpayers are being committed to these long-term payment obligations without their direct input. I hope that other cities or subdivisions, which may be using this particular means of financing, will also be able to provide us with details on where the statutory authority for their use of these certificate of participation bonds comes from. And with that, I would close. I would try to answer any of your questions, there will be I think people behind me that will probably have more to say about this. And I do have to be in another hearing shortly, so I'll probably waive my close and Brandon will take notes for me. [LB992]

SENATOR GARRETT: Thank you, Senator Ebke. Are there any questions from the committee? Senator Hansen. [LB992]

SENATOR HANSEN: Thank you, Vice Chairman Garrett. Senator Ebke, how did you arrive at your \$25 million number? [LB992]

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SENATOR EBKE: Well, it was just a number. Originally, you know, we were trying to come up with a reasonable number. The city of Lincoln currently has obligations in excess of \$41 million, we believe. You notice in the bill that it doesn't prohibit them from having that \$41 million, but it would discourage them from having...from increasing the indebtedness until they get to that \$25 million. It's sort of like with anybody's credit limit. If you don't have a credit limit on your credit card it's awfully easy to spend too much. So we think that it's important to have some sort of a limit on what the subdivisions can borrow on installment contracts without going to a vote of the people. [LB992]

SENATOR HANSEN: Okay. My reason for the question was I was just trying to understand...so it sounds like it's a number already below what Lincoln uses. But based on your testimony, are there other cities that would be near that \$25 million? [LB992]

SENATOR EBKE: Well, see in statute...we can only find authorization for it in statute for primary cities. Now if there are other cities using it, if there's other statutory authority that we've missed, you know, we're happy to take a look at that. And if there's need to have some sort of a phase in period or a rating of amounts based on the size of the city, we would certainly look at that as well. [LB992]

SENATOR HANSEN: Okay, thank you. [LB992]

SENATOR MURANTE: Thank you. Senator Bloomfield, then Senator Groene. [LB992]

SENATOR BLOOMFIELD: Thank you. Senator Ebke, as I read this, I understand it could be that \$25 million would be a total amount. I just want to clarify that. They couldn't owe \$24 million and go out and borrow another \$3 million on a different project. [LB992]

SENATOR EBKE: Right. They would have a credit limit and it's \$25 million. [LB992]

SENATOR BLOOMFIELD: The total limit of \$25 million. Okay, thank you. [LB992]

SENATOR MURANTE: Senator Groene. [LB992]

SENATOR GROENE: So are they using this for new construction or are they going out and doing a lease purchase on an existing building? [LB992]

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SENATOR EBKE: It's a variety of things that we've been able to find. Originally, as I understand it, and I think that somebody behind here was instrumental in developing this originally back in the mid 1980s I think. But as I understand it, the original purpose was to be able to purchase street lights or something like that. So it's basically any, you know, real or personal property that the...you know, it could be firetrucks, it could be...there's any number of things that it could be, I think. [LB992]

SENATOR GROENE: The government entity doesn't have a bond. Somebody owns it, somebody else bonded it and they're lease purchasing it from them for 15 years. Is that what you're saying here? So those street lamps don't show up under total debt, it's a lease. [LB992]

SENATOR EBKE: Well, they have to pay on it over the course of time, yes. But somebody else has the interest in it until...the bond holder has the interest in it until such a time. [LB992]

SENATOR GROENE: So by doing that they don't have to show bonded indebtedness. [LB992]

SENATOR EBKE: Right, they show it as I understand it... [LB992]

SENATOR GROENE: It's just an expense every year, a lease payment. [LB992]

SENATOR EBKE: Yeah, it's just an expense that they have to pay out of their general fund. [LB992]

SENATOR GROENE: And then like most lease purchases then at the end they have a final balloon payment or a final payment and then they own it. So but some other individual or private organization property owns the building. [LB992]

SENATOR EBKE: That has an interest in it. [LB992]

SENATOR GROENE: They go out and build the building, they own it, but the agreement that the city will at least purchase it over the next 15 years. Is that...in my business, lease purchases are common, but I don't think government should be hiding there. [LB992]

SENATOR EBKE: I don't know exactly how...what the legal designations for these purchases are, but they are...there's a lease interest in it. [LB992]

SENATOR GROENE: All right, thank you. [LB992]

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SENATOR MURANTE: Thank you, Senator Groene. Seeing no additional questions, thank you very much for your introductions. Appreciate it. [LB992]

SENATOR EBKE: Okay. [LB992]

SENATOR MURANTE: Proceed to proponent testimony to LB992. Mr. Mach, welcome back to the Government, Military, and Veterans Affairs. [LB992]

COBY MACH: (Exhibit 1) Thank you very much, Chairman Murante, and thank you to the members of the committee for your time. My name is Coby Mach, C-o-b-y M-a-c-h. I'm the president of the Lincoln Independent Business Association, we have 1,300 members in Lincoln. We're here today because of what we've seen as a growing trend, what we've seen regarding the city of Lincoln and their use of this financial tool. In 2001, Lincoln's total outstanding obligation under installment contracts and the corresponding COP bonds was just over \$1 million--we were at \$1.4 million. Today, that \$1.4 million in debt has grown to over \$41 million--it's \$41.6 million. Over the years, the city continues to wrack up this debt with various small projects, some larger purchases--the largest of which has been the city's decision to purchase and renovate the Experian building, a 355,000 square foot office building that has now had a total cost of more than \$15 million in bond obligations so far to date. In addition to the purchase of the Experian building, the city of Lincoln is using installment contracts and the coordinating COP bonds to complete both public improvements and city beautification projects. We prepared a handout with a number of relevant documents. The first one at the bottom is marked Exhibit A, and there you will see that that shows our general bonds, and right in the center of that first page of Exhibit A, you'll see the COP bonds listed. A quick review will show the city has used \$2.5 million to install art and landscaping along the entry corridor from the airport into downtown, more than \$4 million to repair and construct sidewalks, has used \$1.5 million to construct new clubhouses at Holmes Lake Golf Course, and \$14 million on streetlights. Now to provide a context for what the debt means, in 2016, that's just this year alone, taxpayers have to come up with \$879,000 to pay for the interest on these bonds. That's just to cover the interest--\$879,000. That is equal to more than a half-cent of our city property tax levy. We've included two editorials from the Lincoln Journal Start Editorial Board that have been published on this matter, marked as Exhibits B and B2, the first dated February of 2014, when the city approved the issuance of bonds for the Cornhusker Highway Beautification Project and sidewalk repairs. At that time, the Editorial Board was critical of the use of the tool, stating it was worrisome that no vote of the people was required. The second editorial is more recent, dated December of 2015, and again criticized the easy credit that these bonds provide and for the fact that they "do not require a vote of the public." Now that's not a letter that was written to the Journal Star, that is from the Journal Star's Editorial Board. Finally, I've included a handout copy of the statute that gives authorization to the city of Lincoln to use the installment contracts, that's Exhibit C, and a Wikipedia entry on participation certificates that is marked exhibit d. While Wikipedia entries may not be the most

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compelling authority, it is interesting to note that the third sentence of the entry, which we've highlighted, says "municipal and government entities use this instrument to circumvent restrictions that might exist on the amount of debt in other forms that they are able to take on." In our view, the use of the installment contracts and COP bonds is just like the use of a credit card. Every time the city reaches into its pocket to make additional purchases the taxpayers have to pay the bill, and we're having to pay it with interest. The use of COP bonds diminishes the voice of the taxpayers who would otherwise have a direct say and be able to vote on these types of expenditures. I'd be happy to try to answer any questions you've got. [LB992]

SENATOR MURANTE: Thank you very much for your testimony. I do have a couple of questions for you, and the first one is probably unfair to ask you, I didn't ask you to prepare for anything in advance. But I'll ask you a broad question, if you can't answer it I'd ask maybe somebody else in the room that testifies later if they know the answer to answer it. Do you have a concept of how many political subdivisions in Nebraska have installment contracts exceeding \$25 million? And if you don't have a number, is it a common occurrence, is it uncommon? [LB992]

COBY MACH: I do not have that number. It is my understanding, in a verbal conversation last week...we have a Lincoln Public Building Commission and we understand that they...our understanding is that they are just under \$24 million right now. The city of Lincoln we know is at \$41.6 million. Who else is out there with higher or lower obligations, I do not know. [LB992]

SENATOR MURANTE: Okay. The way I see it, we really have to answer three major (inaudible) with this bill. The first is should there be any limit at all? If so, what should the limit be? And if there's a limit, should it be the same limit for every political subdivision, regardless of size or any other variables? I'm wondering what your thoughts are on those three policy questions. [LB992]

COBY MACH: Senator, I would agree with you. And there may be a more appropriate formula to come up with. For example, our interest is approaching \$900,000 just in the interest. Maybe it's based on the amount of interest, perhaps it's based on the size of a general fund budget of a municipality or anyone else that is issuing these types of bonds. So to look at it and come up with a formula, we would certainly be willing to be part of that discussion. [LB992]

SENATOR MURANTE: Okay. Thank you very much for your testimony. Senator Groene I saw first, then Senator Bloomfield. [LB992]

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SENATOR GROENE: Coby, what is the purpose of these? I see Holmes Clubhouse, I could see a revenue bond could have been used there. Fiber Network, I don't know who's leasing that, but I could see a general obligation bond. So why do they even need these? [LB992]

COBY MACH: Well, and the Holmes Clubhouse, if my memory is right, we are collecting a dollar per play to try and help pay off some of these. But obviously there's no revenue... [LB992]

SENATOR GROENE: That could be a revenue bond. [LB992]

COBY MACH: There's no revenue from sidewalks and those sorts of things. And, Senator, we're not here objecting to the use of these bonds. [LB992]

SENATOR GROENE: Why do they need them? [LB992]

COBY MACH: Well, I do think it's appropriate at some point when you take a look at a city that, you know, for example if we were to use them for street lights, which we have done. That may be an appropriate use. And I think that if there is a cap then cities will use these bonds a little more judiciously, rather than buying, you know, buildings that now have ongoing expenses. And now we're having to in our case this Experian Building, now we have to put a new roof on. [LB992]

SENATOR GROENE: Maybe somebody after you can explain...you either bond it or you lease it. I've never heard of leasing to pay a bond that the bond that you're due to pay you lease it from somebody else who owns the facility or the property and then you eventually own it. But I don't understand the correlation between bonds and the word "lease". Do you understand that? [LB992]

COBY MACH: Senator, this is a very complicated process. And I know that there are...the city of Lincoln is probably going to testify after me, probably in the opposed position. If they do, that might be a better question for them, to have them explain exactly how these certificate of participation bonds are issued. [LB992]

SENATOR GROENE: And how they're actually paid. [LB992]

COBY MACH: Yes. [LB992]

SENATOR MURANTE: Okay. Senator Bloomfield. [LB992]

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SENATOR BLOOMFIELD: Mr. Mach, you said that Lincoln is currently into these for about \$41 million. [LB992]

COBY MACH: \$41.6 million. [LB992]

SENATOR BLOOMFIELD: And we're wanting to put a limit on here of \$25 million. So are we essentially saying boom, Lincoln you can't do this anymore at all until we get down under \$25? [LB992]

COBY MACH: In 2001, if we go back 15 years, we only had \$1.4 million in debt with these. And in this particular instance, yes. What we're saying is that until that number drops back down to \$25 million, the city of Lincoln would not be able to issue more of these. However, the city of Lincoln has within its authority the ability to go out to a vote of the people for any project that it deems necessary. And if you can't go to the people and sell them on your project and your idea and get a positive, affirmative vote, I can tell you right now, I cannot remember the last time the city of Lincoln turned down a storm water bond issue, I can't remember the last time we turned down a school bond issue. And in fact, we've supported those as an organization. So yes, it would restrict the city of Lincoln. [LB992]

SENATOR BLOOMFIELD: Do you know roughly what it costs for the city of Lincoln to hold a special election? [LB992]

COBY MACH: I do not. [LB992]

SENATOR BLOOMFIELD: Thank you. [LB992]

SENATOR MURANTE: Okay. Senator Hansen. [LB992]

SENATOR HANSEN: Thank you, Chairman Murante. Mr. Mach, and this in a similar vein might be a question that others behind you can testify as well. Can you walk me through the process, to the best of your knowledge, of how these are adopted? Is there a public city council vote, is it part of their budget? [LB992]

COBY MACH: There is. And this goes...in our particular case, these go before the city council, they have to have city council approval. And we have testified before on these, we were big opponents of the purchase of the Experian Building, and so we have weighed in before on these at the city council level. [LB992]

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SENATOR HANSEN: Okay, thank you. [LB992]

SENATOR MURANTE: Thank you, Senator Hansen. Seeing no additional questions, thank you very much for your testimony. [LB992]

COBY MACH: Thank you for your time. [LB992]

SENATOR MURANTE: Additional proponent testimony to LB992? Any additional proponents? Welcome. [LB992]

CHARLOTTE RALSTON: (Exhibit 2) Hi. Hello, Chairman Murante and members of the committee. My name is Charlotte Ralston, C-h-a-r-l-o-t-t-e R-a-l-s-t-o-n. I'm testifying on behalf of myself and friends and fellow citizens who are concerned about their property taxes. First, I want to thank you guys. All of you are just a great community, you've done such a good job in so many ways. But last year you took action to close a loophole in the JPA or Joint Public Agency bill that allowed for virtually unlimited bonding to happen without a vote of the people. It passed unanimously in the Legislature, thanks to this committee passing it to the floor. This proved to be to the public that you understand what good and constitutional government is about, and are willing to reign in abuses in government when it is brought to your attention. Unfortunately, we've discovered another method by which our governing authorities can bypass the people and bond against our property without voter approval. Just like the JPA, COP bonds place our property on loan without our vote and without limit right now. Just like the JPA, representatives who are bonding debt against our property, supposedly for emergency measures such as street lights and sidewalks, don't want to put these bonds on the ballot. LB992 addresses this issue. This would limit the amount they can bond without our vote. Frankly, I think COP bonding authority should be completely eliminated because bonds against our property should always be put to a vote. The high regard for private property is why we have the state law requiring voter approval for general obligation municipal bonds. The \$25 million limitation at least puts a lid on this kind of spending, but I would agree with you, it is somewhat of an arbitrary number on probably bad policy. Beyond this, we have then more government spending in plain view and can get back to requiring elected representatives in our city to get permission to use debt for these things, which is right and just under our form of government. Using COP bonds to get around the vote of the people is like I'll say sneaking the credit card out of my wallet and using it without my knowledge. I'm responsible for the repayment, but I didn't authorize the charge. Please take action and approve LB992, and maybe even consider reducing that \$25 million. Thank you for listening to a voice that represents many others that believe the same. [LB992]

SENATOR MURANTE: Thank you very much, Ms. Ralston, for your testimony. Are there any questions? Seeing none...oh, excuse me, Senator Groene. [LB992]

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SENATOR GROENE: Do you know what percentage of Lincoln's levy services debt or what their debt levy is versus their general obligation levy? [LB992]

CHARLOTTE RALSTON: I don't know. [LB992]

SENATOR GROENE: General fund levy...I'm just curious. [LB992]

SENATOR MURANTE: Okay. Seeing no questions, thank you very much for coming down. Much appreciate it. Is there additional proponent testimony wishing to speak on LB992? Seeing none, how many opponents do we have? Fair amount, all right. Welcome. [LB992]

PAUL KRATZ: (Exhibit 3, 4) Thank you. Members of the committee, my name is Paul Kratz, K-r-a-t-z. I'm the city attorney for the city of Omaha. First of all, I would like to mention that we are passing out a letter from the League of Nebraska Municipalities. I've been authorized on behalf of that League to present the letter, and they are in opposition to the bill. Secondly, with respect to the city of Omaha, let me put forth that this bill would be devastating for the city. As the second handout you will see that currently the city of Omaha has approximately \$135 million of outstanding lease-purchased bonds. We plan on issuing about another \$15 million of lease-purchased bonds in the next few months, that's also on the handout that's being passed around. What makes these different from general obligation bonds are several. One, their contractual nature, not unlike a lease purchase of a copy machine or other type of machine that you get to use in the office. They come from the general fund appropriation, they are not backed by the full faith and credit of the taxpayers. That's a significant difference. In fact, you'll see on our bonds, many of them are backed by revenue. A number of our bonds I use for parking garages, obviously to produce revenue. Another significant portion was used for the TD Ameritrade Ballpark. Again, that produces revenue, and that's where a lot of the source of payment comes for these bonds. I would like to mention and emphasize that the public does have a say and influence on these bonds. It goes before the city council, the city council obviously has a public hearing. In Omaha, we have three readings, and there's plenty of time for the public to voice their input. And secondly, it's passed on by the city council, which as you know are representatives of the citizens. So I think both those allows sufficient protection against I guess runaway lease-purchased bonds. And finally, I'd like to mention that while people talk about putting the city in debt for the future, realize this is part of our general fund--payments are part of our general fund. So we have caps on those, there's only so much we can spend each year on general fund appropriations. So there is essentially a cap or a levy suppression on these type of bonds. With that, I'll answer any questions you guys might have. [LB992]

SENATOR MURANTE: Thank you. I'd like you to maybe expand on that a little bit. Are there statutory restrictions that prohibit this sort of thing or just practical? [LB992]

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PAUL KRATZ: A little bit of both. In the city of Omaha, we have the ability to at least purchase bonds by our home charter. Secondly, we have a limit on our debt service, as set forth in the city charter. The state has a cap on levies, and levy relates directly to your general fund. So yes, there are those type of limitations, plus, you know again, the practical limitation of how far do you go with something like this. [LB992]

SENATOR MURANTE: And do you think there should be any limit on how far the city goes on this from statute? [LB992]

PAUL KRATZ: I do not at this point. I mean, obviously we're way over the \$25 million. We use it mostly where we have...essentially a revenue bond, where we have revenue coming in to help pay off those bonds. [LB992]

SENATOR MURANTE: All right, any questions? Senator Groene. [LB992]

SENATOR GROENE: Senator Ebke said that Lincoln has it in statute that the authority to use this form. What statute are you using for Omaha to the ability to do it? [LB992]

PAUL KRATZ: It's in the Omaha city home charter. [LB992]

SENATOR GROENE: Why does Lincoln need a state statute and you do not? [LB992]

PAUL KRATZ: It might be in the state statute, too, and I don't know. We look to our home charter for these type of decisions. [LB992]

SENATOR GROENE: So I guess if there is no law we can do it. [LB992]

PAUL KRATZ: No, it's provided for in our home charter, which was passed by the citizens of Omaha many years ago, that gave us certain authority. That is our law. [LB992]

SENATOR GROENE: What's the history...we heard from Mr. Mach that Lincoln went from \$1.5 million to \$41 million. What's the history of Omaha's use of these bonds? [LB992]

PAUL KRATZ: Omaha started off using the bonds for parking garages, probably 25 or 30 years ago, and that's been the main function that we used. Again, those produce revenue. We used it for the TD Ameritrade Ballpark, we've used it for some library renovations. Those are the main uses. [LB992]

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SENATOR GROENE: Did the TD Ameritrade Park went to a vote of the people? [LB992]

PAUL KRATZ: It did not, no. [LB992]

SENATOR GROENE: If it would have been revenue bonds, you would have had to do that? [LB992]

PAUL KRATZ: No, it would not. [LB992]

SENATOR GROENE: On parks and recreation you do not have to go to the people if you want to borrow money? [LB992]

PAUL KRATZ: If we use general obligation bonds for parks and recreation, we do. Occasionally we have used lease-purchased for specific items. I think in renovation... [LB992]

SENATOR GROENE: Or economic development you also have to, so what did you classify the TD Ameritrade Park under? [LB992]

PAUL KRATZ: A revenue bond. [LB992]

SENATOR GROENE: But what facility, that you didn't have to go to the people? [LB992]

PAUL KRATZ: You're talking about the procedure? [LB992]

SENATOR GROENE: Building it. Borrowing money to build it. [LB992]

PAUL KRATZ: Okay. We have a facilities corporation and we also have a parking corporation in the city of Omaha. Those are separate nonprofit corporations, the board of directors are city employees that run those. That organization, that corporation will own the facility and then by a contract with the city of Omaha pay off the debt over a period of time, just like any lease. Then at the end of that period... [LB992]

SENATOR GROENE: So that corporation that you made owns it, and the city of Omaha is paying a lease to pay it off and then they'll take ownership. [LB992]

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PAUL KRATZ: That's correct. Unlike maybe implied earlier, this is not a third party, but this corporation is again a city of Omaha corporation. [LB992]

SENATOR GROENE: And that corporation issues the bonds and applies the lease's collateral. [LB992]

PAUL KRATZ: Yes, it does. Yes. [LB992]

SENATOR GROENE: The contract with the city is collateral. [LB992]

PAUL KRATZ: And the land. [LB992]

SENATOR GROENE: But if you would have went...if the city would have owned it directly, you would have had to go to the people for a vote? [LB992]

PAUL KRATZ: That's correct. And frankly we don't because this becomes more efficient. [LB992]

SENATOR GROENE: They might have voted it down. [LB992]

PAUL KRATZ: They could have voted it down, could have voted for it. Certainly with the arena convention center the citizens voted for it, but this is a much more efficient way to create these facilities... [LB992]

SENATOR GROENE: And the interest rates, how do they compare to a revenue bond, which is usually the lowest interest rate. [LB992]

PAUL KRATZ: Yeah, no, they'd be the same. GOs are a little bit more... [LB992]

SENATOR GROENE: GO, yes they are, because they're guaranteed by taxes. [LB992]

PAUL KRATZ: Revenue and lease-purchased are about the same. [LB992]

SENATOR GROENE: They are, the interest rates? [LB992]

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PAUL KRATZ: They both, revenue and lease-purchased, are one notch below the GO bond rating. So they require...I can't think off the top of my head, maybe 50 basis points more in an interest rate. [LB992]

SENATOR GROENE: Than a GO? [LB992]

PAUL KRATZ: It's half a point, yeah. [LB992]

SENATOR GROENE: All right. But you...poor city of Lincoln. They got a law that polices them and you guys, since there isn't one in your class of city, you can do what you want. [LB992]

PAUL KRATZ: Well, I say there is a law which allows it. Our home charter is the law and that allows us to use these type of bonds. [LB992]

SENATOR GROENE: But the Legislature creates and regulates what municipalities can do. [LB992]

PAUL KRATZ: Except to the extent that we have a home charter. If the Legislature so chooses to legislate the entire field, then that would overrule the Omaha city charter. But until it does so, our charter controls... [LB992]

SENATOR GROENE: You're the highest authority. Thank you. [LB992]

SENATOR MURANTE: Any additional questions? Seeing none, thank you very much for your testimony. [LB992]

PAUL KRATZ: Thank you. [LB992]

SENATOR MURANTE: Additional opposition testimony to LB992? Welcome. [LB992]

STEVE HUBKA: (Exhibit 5) Thank you, Chairman Murante and members of the committee. My name is Steve Hubka, S-t-e-v-e H-u-b-k-a. As interim finance director of Lincoln, I'm testifying in opposition to LB992. I would like to thank you for the opportunity to comment. As has been mentioned already, in Lincoln, the most common type of financing this bill would impact is a type of bond called certificates of participation, which we commonly refer to as COPs. Unlike general obligation bonds, owners of COPs hold a legal interest in the property purchased until the bond is paid off. Nevertheless, bond holders purchase Lincoln's COPs based

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on Lincoln's credit rating, not because they want to exercise their property interest because of the default. It's been mentioned we use these for streetlights, obviously bond holders don't care to come and tear down our streetlight system in order to exercise their property interest. By the end of our fiscal year in August, as was mentioned before, we anticipate having approximately \$41 million of COPs outstanding. The \$25 million limitation in LB992 would prohibit Lincoln from using this financing method for several years, until our outstanding debt for installment payments drop below \$25 million. Lincoln has used this financing method for a variety of projects, most of which have been mentioned, but including streetlights, firetrucks, automated defibrillators, sidewalk repairs, and a number of other uses--as was mentioned, the purchase of the Experian Building. Most of these times it is usually in amounts less than would be cost-effective for a general obligation bond. The COPs financing mechanism also allows us to tailor the length of the debt issuance from 7 to 15 years, depending upon the type of asset being purchased. And that's something looked favorably upon by the credit rating agencies. Our COPs issues are reviewed and rated, and receive a triple-A rating from Moody's, the highest rating that's possible. That's better than the federal government has. These ratings would not happen if our debt burden were too high. In general, limitations on financial flexibility are considered a negative factor in bond ratings. LB992 would be considered such a limitation, and could negatively impact bond ratings. COPs bonds are sold competitively, receiving the best interest rates in the market at the time of issuance. High bond ratings produce the lowest available interest rates. Anything that harms these ratings would result in higher interest rates that the taxpayers would have to pay. It is important to note that when COPs financing is utilized, the city council must pass a bond ordinance with a full public hearing, and I might add that prior to that there's budgetary approval as well. Over the years, these ordinances have passed with very little, if any, opposition, either from the public or the city council. And as Mr. Mach noted, they testified I believe in opposition to the Experian Building, and that is true. And that's one of the few times over the years that I can remember any significant opposition to any of the COPs financing. These financings have clearly been used for purposes supported by the public and their elected representatives. In addition to COPs financing, LB992 limitations would apply to purchases of heavy equipment, where vendor financing can be utilized. As an example, our landfill operation can buy us earthmoving scrapers costing \$800,000. This represents about an 8 percent increase in an annual budget by itself, if not financed over time. This budget increase could cause unnecessary user fee and increases to maintain cash flow and debt coverage ratios. LB992 limitations would also apply to our relationship with the Public Building Commission, where bonds are issued based on long-term rent payments from the city and Lancaster County. I have passed out a letter signed by the Lancaster County Board opposing this bill because of its impact on projects the city and county have cooperated on through the Lincoln/Lancaster Public Building Commission. Finally, I note that LB992 would prevent the city from refinancing outstanding issues at lower interest rates if available, due to the hard \$25 million limitation. To summarize, LB992 is a one-size-fits-all bill that would likely have a negative financial impact on

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Lincoln, and it would also limit larger subdivisions' options for providing cost-effective services to the public. I urge the committee to not advance LB992. [LB992]

SENATOR MURANTE: Okay, thank you very much for your testimony. Senator Bloomfield. [LB992]

SENATOR BLOOMFIELD: Thank you. Mr. Hubka, do you believe there should be any limit at all put on or just leave it totally to the discretion of the city council? [LB992]

STEVE HUBKA: I do not think that it is practical to come up with a limit. And a couple reasons for that: when we have our bonds rated, we not only look at our debt burden...and if ours is too high, our bond rating goes down; but they also look at the debt burden of the community. So if LPS, for example, public schools issues a large bond issue, they take a look at the debt burden of the whole community, of the citizens. So I think our best control over that is our bond rating agencies that keep an eye on each and every one of these issues. I've worked for six mayors now, including Mayor Wesely, who is sitting behind us here, and I have not worked yet for a mayor that was willing to do anything to risk a lowering of our bond rating. [LB992]

SENATOR BLOOMFIELD: Thank you. [LB992]

SENATOR MURANTE: Senator Groene. [LB992]

SENATOR GROENE: Did these COPs show up in your bond debt? [LB992]

STEVE HUBKA: Yes, they do. They show up in our annual comprehensive financial report, there's a lengthy footnote that itemizes all our different types of debt, they show up in our budget book. [LB992]

SENATOR GROENE: So do they show up...the payments show up in your bond retirement levy? [LB992]

STEVE HUBKA: Yes, yes, they do. There's a section of our budget book that has that. And we also do a... [LB992]

SENATOR GROENE: I mean, most cities have two levies, they got the levy for your general fund and then you have your bond retirement levy. And some of them have more than two. [LB992]

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STEVE HUBKA: Yeah, we have more than two, but we do have the two you mentioned. [LB992]

SENATOR GROENE: Yeah, two major. But the lease payments show up in that levy, you levied for the lease payment along with your revenue and general allocation bonds, or does that lease payment come out of your general fund? [LB992]

STEVE HUBKA: The lease payments for many of them come out of the general fund. We have others...for example, we have defibrillators that we purchased that come out of our ambulance fund. We have the Experian payments, for example, come out of... [LB992]

SENATOR GROENE: That's why I asked about does it show up in your total bond debt, because normally a lease only shows up as an expense. You don't...not borrowed the money against the piece of property and making a bond payment, your lease is an expense. So it doesn't show up the entire...at least the purchase doesn't show up in long-term debt. How does that work with the city? [LB992]

STEVE HUBKA: It shows up as both a current liability and a long-term liability. [LB992]

SENATOR GROENE: So when a bond rating company looks at your statements, those lease purchases show up in your total debt of the entire community? [LB992]

STEVE HUBKA: Yes, they do. [LB992]

SENATOR GROENE: The total lease amount over the 15 years. [LB992]

STEVE HUBKA: Yes, they do. And they look at things, for example, what is the average length of our outstanding debt. And these are mixed in there right with our general obligation bonds and revenue bonds. [LB992]

SENATOR GROENE: So then what is the purpose? Why not go to the voters and have a revenue bond or a general obligation bond? [LB992]

STEVE HUBKA: Well, for one thing, many of these things that we have issued COPs for are smaller in amount. A special election probably costs \$100,000 or more, a ballot question probably costs \$20,000 or \$30,000. We have pending an issue that includes a fire station for

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about \$1.6 million, streetlights for about \$3 million, fire rigs that are a couple million, and the previously mentioned roof at the MSC. [LB992]

SENATOR GROENE: Are they cheaper from the bond company to issue smaller amounts this way than it is a general obligation bond? Because you have a pretty good sized fee for issuing bonds. [LB992]

STEVE HUBKA: You do. One thing you would have with the four items we have here is you'd have four separate ballot questions, number one, and you'd have to have then four separate issuances. You'd probably have to have these rated, possibly individually, which costs about \$15,000 per rating. [LB992]

SENATOR GROENE: And these bonds are sold on the open market, bond market? [LB992]

STEVE HUBKA: Yes. [LB992]

SENATOR GROENE: Thank you. [LB992]

SENATOR MURANTE: Any final questions? Seeing none, thank you for your testimony. [LB992]

STEVE HUBKA: Thank you. [LB992]

SENATOR MURANTE: Additional opposition? Welcome. [LB992]

JIM GROTRIAN: Welcome and thank you. It's good to be here, I think it's the first time in front of the government for me. So good afternoon, Chairman Murante and committee members. My name is Jim Grotrian, J-i-m G-r-o-t-r-i-a-n. I'm the executive vice president in Metropolitan Community College, and I'm here today in opposition of LB992. As a quick reminder, MCC service area covers Sarpy, Washington, Dodge, and Douglas Counties, serving almost 40,000 students a year from 8 different locations. We are opposed to LB992 because imposing a one-size-fits-all cap of \$25 million on all the impacted local units of government listed in this bill, without taking into account the size and scope of each of our service areas, could interfere with our ability to carry out our mission and meet the needs of our constituents. I do understand the importance of asking local government to hold down spending and not overcommitting to long-term debt through installment payments, but at MCC we know that a well-managed and conservative budget supports our taxpayer, but also most importantly our students, by keeping our education affordable. In our 42-year history, MCC has effectively used bonding and lease

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payments with positive results. The first time was in 1999, when we opened our Sarpy County Center, in partnership with the city of La Vista. The second time was in 2006, when we built out the south Omaha campus, in collaboration with the Omaha Public Library System and Metro Area Transit, at a time when we were revitalizing the Omaha Livestock Exchange area. These are good examples of government working together, leveraging our public resources, and responsibly using debt and long-term financing to meet the needs of our students and constituents. And now once again in 2016 we will be financing to meet the needs of the large capital project currently underway at our Fort Omaha campus, scheduled to open in 2017. In closing, I want to restate our opposition to LB992 and allow us to work within the current law and meet the needs of our constituents. I'd be happy to answer any questions. [LB992]

SENATOR MURANTE: Okay, thank you very much for your testimony. Are there any questions? [LB992]

SENATOR GROENE: Community college, right? [LB992]

JIM GROTRIAN: Yes. [LB992]

SENATOR GROENE: You're limited to what, two mills or whatever it is for capital? [LB992]

JIM GROTRIAN: Yeah, we have a 2 cent cap on capital and it's...we have a total cap of \$11.25 with a 2-cent capital cap. [LB992]

SENATOR GROENE: Yeah, and you don't have the ability of a bond election, right? [LB992]

JIM GROTRIAN: We could. [LB992]

SENATOR GROENE: You can add that? [LB992]

JIM GROTRIAN: It would be an election for the entire four counties. [LB992]

SENATOR GROENE: To have added debt besides that two...the capital expenditures? [LB992]

JIM GROTRIAN: Yes. [LB992]

SENATOR GROENE: And how do you pay your lease now? Out of the 2 cents? [LB992]

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JIM GROTRIAN: Yeah, out of our 2 cents. And we've always done that, and we manage it within the revenue that's allowed to us under that particular cap, like some of the (inaudible). [LB992]

SENATOR GROENE: So you guys have a cap, basically? The 2 cents. [LB992]

JIM GROTRIAN: Yes, we do. [LB992]

SENATOR GROENE: You couldn't go any further with your capital expenditures with that 2 cents, because you're not supposed to pay for that out of your general... [LB992]

JIM GROTRIAN: That's correct. And also as a reminder, we have to do our ongoing maintenance and support all of our capital leads out of our 2 cents. We don't receive any support from the Legislature in our state funding for capital, that's only a general fund support. [LB992]

SENATOR GROENE: So you're limited to 2 cents. [LB992]

JIM GROTRIAN: We're limited to 2 cents and it's our responsibility to work with our board to manage the revenue (inaudible). [LB992]

SENATOR GROENE: But you've never taken and said well, this is a lease payment, we can take this out of the general fund? [LB992]

JIM GROTRIAN: No, we can't. It has to be paid out of capital. [LB992]

SENATOR GROENE: You've done that always with these COPs? [LB992]

JIM GROTRIAN: That's correct, yeah. [LB992]

SENATOR GROENE: All right, thank you. [LB992]

SENATOR MURANTE: Thank you. Seeing no additional questions, thank you very much for testifying. [LB992]

JIM GROTRIAN: Thank you. [LB992]

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SENATOR MURANTE: (Exhibit 6, 7) Is there any additional opposition testimony to LB992? Is there any neutral testimony? Not seeing Senator Ebke, I will assume that means she waives closing. That will end the hearing on LB992. I also received letters of opposition from Dennis Baack of the Nebraska Community College Association, and John McClure of the Nebraska Public Power District. And with that, we will proceed to the next item on the agenda, LB955. Senator Scheer, welcome back to your committee on Government, Military, and Veterans Affairs. [LB992]

SENATOR SCHEER: I just feel so good to be back, Senator Murante. [LB955]

SENATOR MURANTE: Just move right in, right back to your old chair. [LB955]

SENATOR SCHEER: Well, somebody is sitting in it. And Norm's not there, so it just wouldn't feel right. Thank you, Senator Murante and committee members. Good afternoon. I am Jim Scheer, J-i-m S-c-h-e-e-r, and I represent the 19th District, which is Madison and part of Stanton County. I'm here to introduce LB955. The bill was sought to correct a problem that the state colleges and the University of Nebraska system were having with the contract to process credit card transactions. Under the current statute, state agencies are required to use the credit card processor selected and contracted by the Treasurer. However, the processor that the Treasurer had contracted with does not have the technical capabilities to transact business the way the college needs to have it occur. This is currently costing them a total of about \$266,000 a year in extra fees. Simply put, what we're really talking about is under the current system that the state uses--the current provider that the state uses--it is impossible for them to match programming that would allow them to collect the tuition. And say the tuition is \$1,000, so they would try to get a service fee, a collection fee, whatever you want to call it, to offset what the credit card would cost, so we'll say 1.5 percent of that. So it would be \$1,000 plus, you know, \$15 or whatever the case is. Under the contract with the state you can only bill out the \$1,000, so therefore either the college or the university would be eating that \$15 on per thousand or whatever that magic number is on each transaction. And that ended up costing them literally over \$250,000 a year in lost revenue because they were having to pay the fee to the credit card facilities. We did meet...the university system and state college and myself met with Treasurer Stenberg, and we've come to an agreement that I think is satisfactory to all parties. At this point, I'm going to be asking the committee just to simply hold the bill this year. Instead, the Treasurer has requested that we allow him the rest of the calendar year to pursue the administrative effects, either by working with the current processor to enable their system to acknowledge and work with the systems that are currently in use both at the state college and the university system or entering into a new contract that would provide services not only for those two, but the state as well. He's also shared with myself and the college that he does not plan to pursue any action against either the colleges or the state colleges over the period of time, so they're free to continue to use their current contractual arrangements. If any reason there's not an administrative solution

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can be sought and we will need some type of statutory change as we present it here, I want to make sure that everyone knows we'll certainly work with the Treasurer and the systems to try to develop something that is affable and agreeable to all. We just really have sort of found ourselves in a situation where although the Treasurer has tried to find access through their current provider that would allow these transactions to take place economically for both the college and university systems, he's just not been able to. Their system just does not allow those interactions. And I believe he's here to testify, so I'm not going to try to put words in his mouth. He may testify technically against the bill or for the bill or in neutral, but certainly he can express his own views on this. But that was the meaning behind the bill, they were...to me, if it was costing an extra \$250,000 for the university and the college system that was coming out of state dollars because they were having to cover it and they weren't getting it covered, they were losing it on tuition. So this way at least it gets it back to a user fee if they're going to college there and they want to use a credit card system for whatever reason for purchasing, you know, there will be a user fee of a small percent to cover the additional costs of utilizing their credit facility. And that's pretty much it. [LB955]

SENATOR MURANTE: All right, thank you very much. Any questions? Seeing none, thank you very much for your introduction. [LB955]

SENATOR SCHEER: Thank you. [LB955]

SENATOR MURANTE: We'll gladly hold the bill for you, Senator Scheer. We'll proceed to proponent testimony on LB955. Any proponents? Any opponents? Welcome back. [LB955]

DON STENBERG: Thank you. State Treasurer day at the Government Committee. [LB955]

SENATOR MURANTE: That's right. It's official. [LB955]

DON STENBERG: (Exhibit 1) Mr. Chairman, members of the committee. For the record, my name is Don Stenberg, D-o-n S-t-e-n-b-e-r-g, I'm the Nebraska State Treasurer. Let me begin by saying...by confirming what Senator Scheer has stated. I think there's an administrative solution that we can work out with colleges and the university on this issue, and I'm committed to doing that. I think our current statute will enable that. My principal concern going forward is that we hold the constitutional authority of the State Treasurer. I want to state for the record what my objections to the bill are, so that we have that in the record. But since the committee will be holding the bill, that may not be important as a practical matter. And then my time may run out, but if you'd like more of a factual background explanation of how this all came about, I'd be happy to provide that as well. But I'd like to get in the record my objections, which are two. Number one, in my opinion, I believe the bill as written would be unconstitutional because it

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violates the inherent constitutional authority of the State Treasurer. In setting up our state constitution, Nebraska voters decided they wanted independently-elected officials to serve certain functions. So for example, the State Auditor position exists in our state constitution for the purpose of auditing financial accounts of state agencies, so a legislative bill that would strip that authority from the State Auditor would be unconstitutional because it would be taking away the constitutional authority of the State Auditor. Likewise, the Attorney General under the constitution is the lawyer for the state, so legislation that would authorize a state agency to hire their own council, without the approval of the Attorney General, would likewise be unconstitutional. The office of Treasurer was created in the constitution to have control of the state's banking relationships and has been a part of the state constitution since statehood. And so in my opinion, LB955 would violate the inherent constitutional authority of the State Treasurer. And there's an Attorney General's Opinion with my guy named Stenberg to Treasurer Heineman that actually discusses that. And I'll hand this out. If you want to read that at some point without going through the whole thing, Page 6 talks about inherent authority of the State Treasurer. And it's in the context actually of a state credit card bill that would be amended by LB955. The other issue is I believe that it would be bad public policy. You basically get a volume discount, so the more credit card processing you're doing, the lower per transaction rate you can get when you go out for a request for a proposal or a contract. And to give you an idea of where we're at, in calendar year 2015 we processed over \$154 million in credit card transactions for state agencies, including the University of Nebraska and the state colleges. Of that amount, \$89.4 million was for the University of Nebraska, \$13.1 million was for credit card processing for Nebraska state colleges. Now if this bill were to pass and the university and the state colleges were to fully utilize the authority given to them under this bill, it would reduce our credit card volume for other state agencies by \$102 million. Which would, over time, certainly result in increased credit card processing costs for all the other state agencies. It's very much in our interest I think to take advantage of that volume discount by including all state agencies under a contract. Current statute does allow the State Treasurer and the director of administrative services to authorize more than one credit card contract, so my goal is to utilize that authority, along with the director of administrative services, to enter into some kind of agreement that will allow the university and the state colleges to proceed under the contracts they have now, that will involve in the future the State Treasurer and the director of administrative services, as contemplated by existing law. [LB955]

SENATOR MURANTE: Okay, thank you very much for your testimony. Senator Bloomfield. [LB955]

SENATOR BLOOMFIELD: Mr. Treasurer, is there anything more you would like to add to the testimony you gave (inaudible)? [LB955]

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DON STENBERG: Well, thank you for that question. There's a little history that really is important here in giving you the flavor of it. Back in 1997, probably 1996, then Treasurer Heineman found out that there were five different state agencies that had each entered into an individual credit card processing contract. And he came to the Legislature and he said you know, we're not getting the best deal that we could, and anyway, this is something the State Treasurer should be doing. That led to the passage in 1997 of basically what is the current law that would be amended by LB955. Almost immediately, the University of Nebraska took the view that well, they weren't a state agency, and even if they were, they didn't have to follow this law. And that led to an Attorney General's Opinion, which is the one that I handed out. And basically that concluded that yes, the University of Nebraska is a state agency and number two, yes, they do have to comply with this law. And really...for a long, long time the university has been doing that and we currently do all the credit card processing that's done by swipe machines for both the university and the state colleges. And that's where those numbers that I alluded to earlier. What's involved now is the university at some point in time, I'm not sure when, I just found out about it recently, and the state colleges very recently entered into a contract for on-line processing of credit cards for tuition fees and housing at the university and the state colleges. And so that's the contract that's really an issue and that's what brought this bill here. Had the law been followed, really they should have worked with the DAS director and the State Treasurer to enter into a contract that we all agreed to. That did not happen. They went ahead and have entered into contracts. Senator Scheer was right, for technical reasons, our current credit card processing company is not able to fulfill the needs of the university and state colleges, and so we obviously are going to have to make some different arrangement for that. I can say if you do nothing, things will continue as they are, and hopefully we will have this resolved before the next legislative session. And if we don't, I'm sure I'll be a welcome guest here next year. But I do think we can get this resolved. [LB955]

SENATOR MURANTE: Okay. Senator Craighead. [LB955]

SENATOR CRAIGHEAD: Thank you, Chairman. Hi, Mr. Stenberg. Do you plan...is it your intent to allow colleges and universities to proceed under their current contracts without a lawsuit? [LB955]

DON STENBERG: Well, in my view, the contracts are in violation of the law. What I'd like to do is reach an agreement with the university and state colleges, since the DAS director and I have the authority to enter into more than one credit card contract. And it would appear to be that that will be necessary, given the circumstances here. So as I told Senator Scheer, no matter how these negotiations might go, I will not try to initiate any legal action until the next legislative session. If we can't reach some agreement at that point, you know, the deals off so to speak. But I think we can reach an agreement and we're not looking to any legal action between now and the next legislative session. [LB955]

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SENATOR CRAIGHEAD: Thank you. [LB955]

SENATOR MURANTE: Senator Groene. [LB955]

SENATOR GROENE: Dumb question, probably. You're talking about people paying for their tuition with a credit card or the employee of the university or the college using the credit card to fill the government car up with gas? [LB955]

DON STENBERG: Yeah, the credit card contracts we're talking about in this hearing...and we have ones that run both ways, but the one that we're talking about here are citizens who are paying the state government for some service. In the specific case of the university and state colleges, it's tuition fees and housing expense for those persons that wish to pay with credit cards. Now if they go to the bursar's office or whatever they call it these days, where you pay your tuition in person, and they use the swipe machine, that would process through the state's credit card process. If they do it on-line, that would process under this other contract that they have, that the Treasurer and DAS director were not involved in. But it's money coming in to the state, in answer to your question. This is all contracts for credit card processing for money the state is receiving. [LB955]

SENATOR GROENE: \$89 million was collected by the university--tuition through credit cards. [LB955]

DON STENBERG: Well, not just that, because their credit card swipe machines are also used at the...not the Devaney Center anymore, Pinnacle Bank Arena. Well, I guess the Devaney Center for volleyball. [LB955]

SENATOR GROENE: So if you buy a ticket for a basketball game on-line. [LB955]

DON STENBERG: Tickets...well, I don't know about on-line, I'm not sure on that. That's a good question. [LB955]

SENATOR GROENE: But you said it was the one on-line. [LB955]

DON STENBERG: Generally, if they're using a swipe machine, they're processing through the...you know, if you show up in person and you've got a credit card and you're buying a ticket or...I don't know, if they've set up to pay for popcorn and such with credit cards. If they are, that would go through the state's credit card process. [LB955]

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SENATOR GROENE: But if I get on their Web site and order tickets on the Web site, then it goes through there? [LB955]

DON STENBERG: That probably goes through there in that situation, yeah. [LB955]

SENATOR GROENE: And the point that Senator Scheer said was it's costing them \$250,000 for those separate contracts. Because it's their contract, not the state's. [LB955]

DON STENBERG: This gets into contingent fees, service fees. And what Senator Scheer was alluding to was if you are doing a transaction, let's say you're registering your automobile and you want to pay with a credit card. You can...and if you're doing that on-line, the state, or the county, or whoever is doing it is allowed to charge a percentage--that transaction fee, or service fee, or convenience fee; it's called different things and there's some legal significance to what you're calling it. But what the senator was referring to is currently, as I understand it, the state colleges are absorbing the credit card processing costs. What they want to do moving forward is charge the credit card processing cost to the user, and so the money that, as I understood the senator was talking about, would be essentially money they're now going to be ahead or money that they would...in other words, they're passing these costs along to the students, which reduces the costs for the state college because the processing costs are being passed on to the student. [LB955]

SENATOR GROENE: What the legislation would do. [LB955]

DON STENBERG: Well, that's not what the legislation does, that's what their contract does. [LB955]

SENATOR GROENE: So it really isn't a cost to the...it's a cost to the students, the user. [LB955]

DON STENBERG: It's a cost to the user. And we just went through this, we just entered into a new contract for credit card processing. We also just entered into a contract...our state Web site, if you're not familiar with it, is under the direction of the State Reference Board. And if you go on-line to do a transaction with the Department of Motor Vehicles or the Department of Agriculture or whatever state agency that you're paying some fee or buying a ticket or whatever, it goes through there. And for a long time that was not processed under the state's credit card processor, but it now is, or will be starting the first of April. And those almost all charge percentage fees to the user. So if you want to register your motor vehicle on-line, you can. It will cost you 2.49 percent for the convenience of doing that. If you go down to the Department of Motor Vehicles, you can save that 2.49 percent by doing it in person. So it's that processing fee

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that the state colleges are talking about and basically they want to change the way they're doing it. They've been paying the processing fees, they now want to pass those on to the student. [LB955]

SENATOR GROENE: All right. [LB955]

SENATOR MURANTE: Thank you, Senator Groene. Seeing no additional questions, thank you very much for coming down today. Much appreciate it. [LB955]

DON STENBERG: Thank you. [LB955]

SENATOR MURANTE: Is there additional opposition testimony to LB955? Opponents? Any neutral testimony? Senator Scheer waives closing. That ends the public hearing on LB955 and ends the public hearings for the day. But we are going to have an Executive Session. [LB955]