

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

Government, Military and Veterans Affairs Committee  
January 25, 2018

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[LB831 LB997 CONFIRMATION]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Thursday, January 25, 2018, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB831, LB997, and a gubernatorial appointment. Senators present: John Murante, Chairperson; Tom Brewer, Vice Chairperson; Carol Blood; Tom Briese; Mike Hilgers; John Lowe; Theresa Thibodeau; and Justin Wayne. Senators absent: None.

SENATOR MURANTE: (Recorder malfunction)...and Veterans Affairs Committee. My name is John Murante. I'm the state senator for District 49 which includes Gretna and western Sarpy County, and I'm the Chairman of this committee. We are here today for the purposes of conducting three public hearings. We'll be taking those matters up in the order in which they appear on the agenda outside of this room. If you are here and wish to testify on any of the matters before us, we ask that you fill out one of these green sheets of paper. The green sheets are located on either side of the room. If you are here and you wish to express support or opposition for any of the matters before us but you do not wish to testify, we ask that you sign in and indicate your support or opposition. I can assure you that your opinion will be given the same weight as if you had testified. If you do testify, we ask that you begin by stating and spelling your name for the record, which is very important for our Transcribers Office. Our order of proceedings is that the introducer of the legislation will be given an opportunity to make opening remarks. Then we will listen to proponent testimony, followed by opponent testimony, then neutral testimony, and the introducer will be given an opportunity to close. In the case of our gubernatorial appointee, the appointee will be given an opportunity to open but will not be afforded an opportunity to close. We ask that you listen very carefully and to try not to be repetitive. We do use the light system in the Government Committee. Each testifier is allotted three minutes to testify. When the yellow light comes on, we ask that you begin concluding your remarks because you have one minute remaining. When the red light comes on, we ask that you conclude your remarks and we will open the committee up for any questions they may have of you. At this point, I'd like to ask everyone to turn off or silence any cell phones or other electronic devices, anything that makes noise. If you have a statement, an exhibit, or anything you would like distributed to the committee, we ask that you provide 12 copies to our page. If you don't have 12 copies, don't worry; provide what you have to our page and he will make copies for you. Our page for the day is Joe Gruber from Omaha. For introductions, to my immediate right is Andrew La Grone. Mr. La Grone is the Government Committee's legal counsel. To my far left is Sherry Shaffer. Sherry is the Government Committee Clerk. For self-introductions of members, we'll start with Senator Lowe.

SENATOR LOWE: John Lowe, District 37.

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SENATOR BRIESE: Tom Briese, District 41.

SENATOR HILGERS: Mike Hilgers, District 21, northwest Lincoln and Lancaster County.

SENATOR BREWER: Tom Brewer, District 43.

SENATOR WAYNE: Justin Wayne, District 13, the "Mighty District 13."

SENATOR BLOOD: Senator Carol Blood, District 3.

SENATOR MURANTE: And Senator Thibodeau will be with us momentarily. I'd like to remind everyone that Senator Brewer is the Vice Chairman of this committee. So with that, we will welcome to the Government, Military and Veterans Affairs Committee, Colonel. Welcome.

JOHN BOLDUC: Thank you. [CONFIRMATION]

SENATOR MURANTE: No problem. When you're ready. [CONFIRMATION]

JOHN BOLDUC: (Exhibits 1, 2, and 3) Good afternoon, Chairman Murante, members of the Government, Military and Veterans Affairs Committee. My name is John Bolduc, J-o-h-n B-o-l-d-u-c, and I've been appointed by Governor Ricketts to serve as superintendent of law enforcement and public safety in command of the Nebraska State Patrol. Thank you for having me here today to discuss the future of the Nebraska State Patrol and my experiences and qualifications for the role of superintendent. I'd like to thank each of you for taking the time to meet with me over the last few months. I'm originally from Maple Grove, Minnesota, which is a suburb of Minneapolis. I attended and graduated from Bemidji State University in 1986 with a bachelor's degree in criminal justice. I attended the basic police academy at Alexandria Technical College in Minnesota. I became a police officer in 1986 with the Maple Grove Police Department. In that capacity, I served as both a police officer, training officer, detective, sergeant, and SWAT team commander. I was appointed chief of police for the city of Mora, Minnesota, in 1998 where I served until 2001. In 2001, I had the honor of being appointed by the late mayor of Brainerd, James Wallin, to the position of chief of police for the city of Brainerd. I served there until 2010. In May of 2010, I accepted the position of chief of police and vice president of public safety at the Port of San Diego. There I oversaw a staff of over 140 sworn officers and 25 civilian employees with an annual budget of \$38 million. I served at the Port until I came here at the Nebraska State Patrol in October of 2017. During my career, I had the opportunity to further my education by attending the FBI National Academy in 1999. I later completed a degree, a master's degree in organizational leadership at National University in California. Some aspects of my

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career that I believe translate well into this position include my commitment to professionalism and leadership development. In 2005 I was appointed to the Minnesota POST Board, which is the Peace Officer Standards and Training Board. I was named chair of that board in 2008. At the POST Board, the task of that board is to oversee the development and training, hiring, and retention standards of Minnesota's 10,000-plus peace officers. I've had the honor of receiving several community service awards from the Blandin Community Foundation, the National Latino Police Officers Association, the Minnesota Department of Public Safety, and several other community groups. I would submit to the committee that my experience meets the four-year law enforcement qualification as required by Nebraska Revised Statute 81-2001 for this position. I believe a notable point of my experience, which I believe will serve me well here in Nebraska, is that I have worked in both rural and urban environments; from a town of roughly 3,000 people in Mora, Minnesota, to the 17th largest metropolitan area in the country, with over 3 million people in San Diego County. I believe my experience in both urban and rural settings equips me well to lead an agency that serves the diversity of communities throughout our great state, from small villages to metro areas. The Nebraska State Patrol is Nebraska's only statewide, full-service law enforcement agency. Our responsibilities are many: primarily enforcement and investigative functions, but we have an equally important responsibility to support public safety partners and Nebraska's local law enforcement agencies. We have continued that work, even during a period of time during which our agency came under great scrutiny. I will address the events that led to that scrutiny as well as the progress our team has made in adopting new policies and holding employees accountable for misconduct. But first let me detail some of the fantastic work by our troopers and civilian employees that I've been able to witness firsthand. In the four months that I've been in this position, I've seen great police work happening all across our state from major drug seizures to diligent criminal investigations to dedicated work on Nebraska's roads during treacherous weather conditions. I have heard from the public about many instances in which a trooper has stopped along the side of the road to help someone in need. Our troopers go into schools to educate kids on safe driving. Our crime lab technicians are on the cutting edge of law enforcement technology. Our civilian employees work with the same dedication that you see from those in uniform. The Nebraska State Patrol is more than 700 members of one team, striving toward one goal. The State Patrol was put under a microscope in 2017, stemming from two high-profile cases that occurred in 2016. Those cases resulted in a review of the State Patrol and its policies by the Governor's Office. That review recommended internal policy changes, many of which I can report to you are already complete. The review also triggered an internal investigation into the actions of seven sworn personnel following those two high-profile cases. Let me emphasize, this investigation was focused on the actions in response to the incidents. Those incidents involved a tactical vehicle intervention and a separate use-of-force incident. At the conclusion of the investigation, five sworn employees were disciplined, which included administrative penalties, demotions, and a termination. In addition to those five, the lieutenant colonel elected to retire and a sergeant elected to resign. I believe this outcome was just. The conclusion of the investigation was supported by the evidence, and the punishments were logical

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and followed industry best practices. I cannot go further into detail on those findings because of confidentiality found in state personnel rules as well as the state labor contract with the troopers' union. As I stated during a press conference to announce the results of that investigation last month, those cases were only 2 out of 216,000 cases that State Troopers handled in 2016. It is my view that those events are not only behind us, they are the exception. The future is bright for the Nebraska State Patrol. When I spoke with Governor Ricketts about this position last year, we talked about my experience stepping into situations in need of change. I told Governor Ricketts then that I believe that my training, education, and experience could be useful in providing transformational leadership to the Nebraska State Patrol. After being here for four months, I am convinced that we have all of the ingredients necessary to move this agency forward in a positive manner. Our troopers are admirable public servants and our civilian employees share the same dedication to public safety. The Nebraska State Patrol has served this state for 80 proud years. As we move into year 81, our continuing goal will be to provide Nebraskans with a safe place to call home. Thank you, Mr. Chair, members, and I'd be happy to answer any questions you have at this time. [CONFIRMATION]

SENATOR MURANTE: Thank you, Colonel. Thank you for your opening. I do have a question or two. As you stated, you are taking over an agency that is under a lot of public scrutiny, has been by any reasonable measure an agency in turmoil for the last year or so. What is it that compelled you to leave San Diego, California, and come to the state of Nebraska and take over an agency that is currently facing so many challenges? [CONFIRMATION]

JOHN BOLDUC: Thank you for the question, Mr. Chair. It certainly wasn't the weather. You know, actually there's two reasons; and I've shared this with many folks who have asked that very logical question. Number one, I have family close to the area. I have a son in Kansas, a daughter in Minnesota; and being closer to those family members was an important move for my wife and I. And at this stage in my career, I believe that my experience could be useful in helping to transform this agency back into one that is respected and one that is trusted and one where we can put the good work that everyone does on a daily basis in context. Notwithstanding the challenges that we've had, I believe, as I stated before, we do have the right ingredients to have a great agency as we move into the future. [CONFIRMATION]

SENATOR MURANTE: Okay. And you stated in your remarks that, I'll just quote it, it's your view that "those events are not only behind us," but "they are the exception." I'm wondering what policies are currently in place or you think would be important policies to create to ensure that the events of the past don't happen again. [CONFIRMATION]

JOHN BOLDUC: Thank you for the question. When you do an evaluation of an incident, you do kind of a postmortem on any incident, you usually find that you have good policies that aren't

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followed. That certainly is part of the case with respect to these incidents. But there are also opportunities to evaluate the policies we have to see if they're still keeping pace with the industry, to see if there are ways that we can make them better. And there have been several recommendations regarding policy changes that have already been implemented. And that's not a point that you ever arrive at. We always have to constantly look at our policies and our procedures to make sure they're keeping pace with the expectations of the community, with the inputs that are given by the Legislature, by the courts, and that's a continuing process improvement. [CONFIRMATION]

SENATOR MURANTE: Okay. Thank you very much. Any...Senator Brewer.  
[CONFIRMATION]

SENATOR BREWER: All right. It's going to take a while, about seven pages here of a while, so take a deep breath, glad you got water. [CONFIRMATION]

JOHN BOLDUC: Very good. [CONFIRMATION]

SENATOR BREWER: Understand I got a personal interest in this for a number of reasons. For one, I spent five years commanding the counter-narcotics task force, which is part of the State Patrol. We're the military piece that helps. And for the sake of everyone who doesn't understand, there are a lot of expensive pieces of equipment that it would put an unfair burden on the Patrol to have to purchase, so the military, as we can, provide resources to people to help in some of those situations. So I've had a chance to see the State Patrol morph over the years. And if I was to analyze where you're at right now, you were the guy that we're giving a used car that had four flat tires, a broken headlight, windshield, no wipers, and you're trying to fix it. And I think you're getting the tires on and there are some things that are happening to get back to where it used to be. Now I'm going to give you raw data. This will be a colonel-to-colonel kind of thing.  
[CONFIRMATION]

JOHN BOLDUC: All right. [CONFIRMATION]

SENATOR BREWER: And if it hurts your feelings, I'm sorry, but it's just the only way I know how to do this. There is the perception...and I am dealing with a lot of input from the field because half of the State Troopers that were affected by the events that you talked about were in my district, so if I don't listen to them I'm not doing my job, so I'm being a conduit for the people and for those troopers. So for the sake of everyone here, we're going to have to backtrack a little bit to make sure... [CONFIRMATION]

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JOHN BOLDUC: Sure. [CONFIRMATION]

SENATOR BREWER: ...we're on the same sheet of music. Now part of the heartache is that we are, by the legislation that's proposed, needing to have more transparency. The problem with that is, the more I try and dig to get answers about why they're either fired or they retire because that's really kind of the only option they have short of possibly losing their retirement, there are no answers because it's in this mysterious, hidden, internal investigation area. And there's also this mystical, possible FBI or Attorney General investigations going on. So we'll talk about them at some point, the issue being, if there is either one of those, there has to be a point of contact within those different organizations who we can go to, to find out. Now, on the IA issue, I don't know the rules. You know, I would like to think that if we can get a statement from the trooper that they will release that information, there's a way to see it. And just so everyone understands, there was a grand jury investigation in Sheridan County after the...what most of you know as a PIT maneuver that happened north of Gordon where someone was killed as a result of that. The grand jury did not find any issues with Trooper Flick, who was the one who conducted the maneuver, but in the State Patrol investigation it was determined that something happened that resulted in him being terminated. Again, I'm trying to answer questions from the district and I can't because it's in that realm of things I cannot see. So with that said, we're now taking a look at how do we guarantee that the future of the top law enforcement organization within Nebraska has the right leadership. Now again, this is more of that raw data. I like your background. You come up through the ranks. I think it was a good call on the part of the Governor to put you in there because my personal feelings is that the organization was inbred and it had issues and when we bring more up from within the organization, sometimes you're unable to see or understand what's going on because you're a part of it. You're that fresh look from the outside coming in and I think that will be invaluable down the road. Now the other side of that is that you're worried that if you come into an environment and the only people that are feeding you information are the same people that were feeding predecessors information that may not have been, how shall we put this, valuable to them, that you will be put in a position that will be very difficult for you to succeed. Good, I'm glad you're making notes on that one. So as we look down the road here--and don't think that this is the end of your questions, this is just going to give you a chance to answer this because I don't want to stack too many on you--how can we have confidence, not so much in your ability--I believe you do have the ability--how do we have confidence that you're going to be allowed to succeed if you're being put into a position where that same set of dynamics are there that may not have helped previous commanders be successful?  
[CONFIRMATION]

JOHN BOLDUC: Thank you, Mr. Vice Chair, for those questions, or that question. Let me, if I may, let me address a couple of the comments first and then I'll try to answer your question. First of all, the FBI investigation is not mystical. It's real. [CONFIRMATION]

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SENATOR BREWER: Good. [CONFIRMATION]

JOHN BOLDUC: It is happening. And my experience with the investigations conducted by that organization, they don't share information with you until they're done, so you know what I know, which is nothing. I do know that they have all the information that they have requested. The same is true of the special prosecutor in western Nebraska. We have fully cooperated with all information that they have requested. They have all the information that we have. So that's important. Really, Senator, the question you're getting at, and they're good observations and you're getting feedback from folks in your district and that's all valuable and it's not anything that I haven't already heard from them directly, so it's validated that people do hold those views. They are...there are skeptics within our organization, there are skeptics within the community, and that's fair. But as a police chief for 20 years now, it seems like that started yesterday, but one of the attributes that one has to have to be successful leading any organization is discernment. I've complained already to some of my command staff that I get filtered information, perhaps well intended, perhaps not, but it's my job to discern what information is being filtered and to make sure that I am listening, first of all, asking the questions, and then listening to the input of everyone across the organization. And if you ask anybody in the organization, I'm not bashful about my initial observations and about my complaints. The fact that all of the brass are sequestered in a separate building on the south end of Lincoln seven miles from the nearest actual troop doing the work is a problem. The fact that I need to go out of my way, and I do, to interact with troopers in the field doing their job to find out what is the ground truth, that's important to me. Not that I believe anybody is trying to dissuade me or mislead me, but people provide information from their viewpoint, from their filter. Right? I know this, having worked in organizations for many years, so it's incumbent upon me to get all the information that I can to make effective decisions. That requires that discernment that I was talking about. You asked for a guarantee. I can't give you one. I can give you a guarantee that I will give you and the citizens of Nebraska 100 percent of my best effort based on my track record, based on my training, education, and experience, that I will give 100 percent to make sure this agency is the most effective that it can be. I cannot guarantee outcome; I can only guarantee effort.  
[CONFIRMATION]

SENATOR BREWER: All right. Well, I could not agree more with that. I think that's exactly the right attitude. Now, if our job is to help make you successful, let's take a look at a few things and see where we're at. Let's take the pulse of what you're dealing with so people...because, again, part of this is for the official record on where we're at. [CONFIRMATION]

JOHN BOLDUC: Yes, sir. [CONFIRMATION]

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SENATOR BREWER: How many Nebraska State Troopers are you short right now of your authorized full number? [CONFIRMATION]

JOHN BOLDUC: Thank you for the question. As of today, and it changes weekly, we are 45 sworn troopers short... [CONFIRMATION]

SENATOR BREWER: All right. [CONFIRMATION]

JOHN BOLDUC: ...of our authorized staffing. [CONFIRMATION]

SENATOR BREWER: How many will you have in your class if you are at full capacity for...your next class is May, correct? [CONFIRMATION]

JOHN BOLDUC: Yes, in early May the next camp will start. We are in the process still of vetting those candidates. We hope to be in the neighborhood of 30 recruits in that camp. [CONFIRMATION]

SENATOR BREWER: How many that you know of at this point have given you some type of a warning that they will retire in the next year, or whatever in advance they have to give you of projected retirements? [CONFIRMATION]

JOHN BOLDUC: Thank you, Senator. That numbers is knowable. I don't know it off the top of my head, but I can certainly get that and get back to you, but there are several who do intend on retiring. If we look at the track record over the last few years, we're having upwards of a dozen retirements per year. [CONFIRMATION]

SENATOR BREWER: All right. And part of the picture I'm trying to picture...paint for folks is, no matter what you do, you're going to be short personnel probably for almost a two-year cycle with retirements and limitations on your classes. Is that a fair projection, because from start to finish, when you start a student till you put them in a cruiser paired up with another officer, that's a nine-month process? [CONFIRMATION]

JOHN BOLDUC: You could probably stretch it to a year. [CONFIRMATION]

SENATOR BREWER: Okay. All right. Well, that's, you know, that's something that, you know, maybe wish there was an easy fix for it but there really isn't. All right, I'm going to run down some other issues for you and some of these don't need a lot of explanation; it's more for



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situational awareness. Obviously the situation that I wish I could figure out some easy solutions to is the Whiteclay situation. I understand the liquor stores are closed; doesn't change some of the problems in that area. The other part of that is I guarantee you there is at least one person in the body who will be bringing up issues of cold-case files for Whiteclay. That I would say to be sure and put on your to-do list as time allows because the question will come. And it's very complicated. It's a lot of history with it. And I'm not asking for a response from you on that. That's just simply so you understand that as this body meets and talks about legislation, there are things that we would need to defend for you, and the more we understand and are able to, the better, because otherwise you're a punching bag. So part of it is for your own sake that we want to take a look at some of these issues. Now if we look at the issue of the headquarters that you mentioned there, part of the change of the big seven, however many were affected by the moves as a result of that investigation, your second in command retired. Who is your new second in command? [CONFIRMATION]

JOHN BOLDUC: The new second in command is Andrew Duis. He goes by "Buck" Duis. He was a captain at the training academy out in Grand Island and he was promoted, I believe, two weeks ago. [CONFIRMATION]

SENATOR BREWER: All right. One of the things that we here need to stay on top of is who is our liaison, because the reason I guess I'm a little confused on this is at one time it was Captain Jahnke, and then a Captain Ryan came in and I thought he was the new guy. Is that correct? [CONFIRMATION]

JOHN BOLDUC: That was correct until yesterday. Captain Jahnke is now back in that position. [CONFIRMATION]

SENATOR BREWER: Okay. Is that normal to bring him back and...I mean, is that, like, going to be that way for a long time now? [CONFIRMATION]

JOHN BOLDUC: For the foreseeable future. [CONFIRMATION]

SENATOR BREWER: All right. So within the headquarters and how things are structured now, do you see any major changes or add...the structure as we see it is going to stay the same? [CONFIRMATION]

JOHN BOLDUC: To answer your question, Senator, major changes, yes, we are, I am, and my new lieutenant colonel are evaluating that. It's in my goals for this year is to take a hard look at our structure. The structure that was built over the years that evolved probably served us well at

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one time. Technology was different 30 years ago. Reporting relationships, the need to have facilities and face-to-face meetings on a regular basis, it is...it's different today with the technology that we have. So keeping that in mind, we are going to reevaluate the entire structure. If you are going to build a state law enforcement agency like the Nebraska State Patrol with a blank sheet of paper and came up with the ideal structure, it very likely would not look like the organization that we have on paper today. Now I don't come to you with all of the magic answers yet, but I believe that we're asking the right questions. The right structure, the right reporting relationships, the right number of people in the right places, those are all things that we're going to evaluate so that we can bring the most efficient and most effective service to the citizens of Nebraska that we can. [CONFIRMATION]

SENATOR BREWER: You're bringing a level of logic into this that will probably cause you to fail in government, but we wish you the best of luck. No, I think that's a great idea. Figure out how to do it right and if it doesn't match, then adjust accordingly. Now one of the other issues that is going to come up, and we can either not address it or go ahead and get it out in the open now, and that's the issue that came up with the physicals for those...were they female candidates for the training at the academy? [CONFIRMATION]

JOHN BOLDUC: That's correct. [CONFIRMATION]

SENATOR BREWER: What safeguards do we have...are any...give us a little background on how that all came about. [CONFIRMATION]

JOHN BOLDUC: Great. Thank you for the question. So that is a matter of pending litigation at this point, which is being addressed. However, I can say this. We...it is very important that we treat all of our prospective recruits and all of our officers in training and all of our troopers with the utmost respect. And having said that, we've made some changes to that pre-employment physical which is a pretty significant change. So anyone, male or female, has to meet certain standards as directed by the Crime Commission, and that's for every peace officer in the state of Nebraska, so it's not just the State Patrol. So we have to adhere to those standards to make sure that the folks that are coming on board as peace officers are medically, physically, and in all other ways prepared for this job, so in that we have to have a physical. The Crime Commission lays out what are the requirements of those physicals. We adhere to those. Now, after the events that you're referring to, we made some changes in how we administer that. We have a different medical provider. Both male and female troopers can see their own physician in order to accomplish some of the required examinations to make sure that they're medically fit for this job, and that's a positive change. And the rest of that particular situation is still a matter that's being resolved. [CONFIRMATION]

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SENATOR BREWER: All right. Another question that I think is inevitable, we've got to have an answer to, is...I'm going to give you an army example and I think it will carry over and...  
[CONFIRMATION]

JOHN BOLDUC: Okay. [CONFIRMATION]

SENATOR BREWER: ...make some sense to you. If we're doing night operations and we run over someone and kill them, it is not that chain of command that investigates. We go to a separate division because, within that organization, there's going to be a tendency to want to take care of folks or make sure that whatever we report is the most positive way of looking at it. It may not be the right answer on what truly happened. How come the Patrol doesn't allow, say, Lincoln Police Department or Omaha Police Department to investigate instead of keeping that internal? [CONFIRMATION]

JOHN BOLDUC: Well, actually, we do allow other organizations to conduct investigations. It is actually rare. [CONFIRMATION]

SENATOR BREWER: (Inaudible.) [CONFIRMATION]

JOHN BOLDUC: It is a...it's a common industry practice, if there is the potential for a conflict of interest, to have another agency do that investigation. It's a common practice within the industry. In fact, we just did one of those. So it is not a black-and-white policy that thou shalt never do that. We do, do that on occasion. Now, doing that routinely is simply not practical. We need to have the policies and the procedures in place where we can conduct internal investigations over our own staff, and we do, and we do that quite well notwithstanding the facts that sometimes we don't get it right. So if we were to ask the Lincoln PD or Lancaster Sheriff or someone to come in, conduct all those investigations, it would be very impractical because they're...you know, they have their own work to do as well. [CONFIRMATION]

SENATOR BREWER: Would it be safe to say that if it involved, well, in the case of the issue there in Sheridan County, a death, that it wouldn't be unreasonable? Even if there was an expense involved, I think that folks would understand that there's a point you really need that outside, unbiased view of what happened. And, you know, I guess that's what I would throw out there, there's...maybe there are certain circumstances where even if there's an expense involved, if you look at what that expense cost for the investigation on the seven and the time and all that, I would think that would have been a really good investment to have someone come in and it had been a clean, straight shot, and it would have been decided and done. But again, you're going to be the guy in charge and we're going to blindly trust you on these things. I'm throwing them out there so that, for the sake of everyone here, they understand your thought process and why it is

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that way. Don't think of these as cheap shots because these are just ways that we got to walk through some of these issues so we get you...the white board is all messed up right now. We're trying to clean that white board so that when you start you get to draw the picture and it looks the way you want it to. [CONFIRMATION]

JOHN BOLDUC: Right. Thank you, Senator. I would like to address that, if I may. It is a tool that is in our toolbox to have other agencies assist us. I'll give you an example. I had an officer-involved shooting at the Port of San Diego. One of my officers shot and killed a subject as the officer was being viciously attacked. That investigation was turned over to the San Diego Police Department, which at the Port of San Diego I worked for the port. The city of San Diego is a separate entity. They conducted that investigation. That's a very common practice in our industry when it involves a serious injury or death. So that is a tool that is in our toolbox and, depending on the circumstances of any future events, it is certainly something that can be availed of. If I may, Senator, I don't expect you, any member of this committee, or anybody else to blindly follow me. By the end of today I will have the talking part done. I'm going to have to prove it and I expect to do that. [CONFIRMATION]

SENATOR BREWER: All right. Now we get into the hard stuff. We are living in what I'd like to call austere times. We're scrambling to come up with \$200 million. What do you see in the way of things you can do that would be considered cost savings for the State Patrol... [CONFIRMATION]

JOHN BOLDUC: Well, thank you, Senator. I'm really glad you asked that. [CONFIRMATION]

SENATOR BREWER: ...short of not having enough people? [CONFIRMATION]

JOHN BOLDUC: Right. I'm really glad you asked that question because we had a meeting just this morning to talk about this very subject. We believe that there are a number of process improvements that we can do within the organization with respect to facilities, with respect to human resources, with respect to efficiencies in some of our processes that can free up time, not so that we can necessarily reduce numbers of troopers. I think we could actually increase the number of troopers if, over the next few years, we tighten the ship up, we make things more efficient so that the work that we do doesn't take as long as it does today. So that involves looking at our facilities, the amount of money that we spend on facilities across the state, how many do we have, how much does it cost us, where can we do some consolidation. Is six troop areas the right number for us? That's part of that structure that we're talking about. With the technology that we have today, is it necessary to have people driving 300 miles a day to handle Patrol operations? By using an intelligence-led policing model we can see by analyzing data where our hot spots are, where our needs are, and we can allocate resources based on that.

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Those, again, are industry standard practices. I believe that those are areas where we can save money. We also need to operate within the budget that's allocated to us. We intend to do that. You know, the money we have is the money we have. I think I might be quoting my boss if I said austerity doesn't mean living within your means, it means living with your means, and we have to do that just like every Nebraska citizen. [CONFIRMATION]

SENATOR BREWER: All right. Why don't I take a break and let a few people ask questions and then we'll come back for my last remaining pages. [CONFIRMATION]

SENATOR MURANTE: All right. Any additional questions? Senator Wayne.  
[CONFIRMATION]

SENATOR WAYNE: Thank you. So we had this conversation privately and I just need to put it on the record too. Currently how many minorities, particularly based off of race, are within your organization, and how many of them are in leadership roles? [CONFIRMATION]

JOHN BOLDUC: Thank you for the question, Senator. We are underrepresented in minorities in the Nebraska State Patrol. Our population of sworn officers is 4 percent. The population of Nebraska is 11 percent minorities. Notwithstanding the fact that female...the female population of Nebraska is about 50 percent, we're at about 7 percent. The national average in law enforcement is about 16 percent. The national average for state law enforcement agencies is actually 6.5 percent. So we're doing better on female hiring and recruitment than other state agencies but not as good as other law enforcement agencies. And with respect to minority hiring, we are at, as I said, 4 percent, and with...in terms of minority officers in leadership roles, we are underrepresented. [CONFIRMATION]

SENATOR WAYNE: Yeah. [CONFIRMATION]

JOHN BOLDUC: We have work to do. [CONFIRMATION]

SENATOR WAYNE: Do we have any? [CONFIRMATION]

JOHN BOLDUC: At the sergeant rank and above, so in leadership roles we have several ranks, so at the rank of major and above we do not, and at lieutenant I believe we do. And I'm sorry I don't have that breakdown but I'd be glad to get that for you, Senator. [CONFIRMATION]

SENATOR WAYNE: And then also with respect to females in leadership? [CONFIRMATION]

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JOHN BOLDUC: We have a number of females in sergeant and one as a captain, none at the major level and none higher than that. [CONFIRMATION]

SENATOR WAYNE: And then what are...what kind of...how are you planning on diversifying the Patrol? [CONFIRMATION]

JOHN BOLDUC: Excellent question, thank you. So we've looked at kind of what we've been doing in the past and I've spoken...we have a new human resources administrator within the State Patrol. And some conversations that we have had, that I have had with him are we need to do a better job of recruiting and hiring and retaining women and minorities, so let's look at what we've done traditionally and figure out where the gaps are. We can analyze applications and the end result, who got hired, who didn't, where did they fall out, and by analyzing that we can find out where we have the roadblocks to that success. I'm very fortunate, I believe, in that in my last job, in seven and a half years, we dramatically increased our recruitment and retention of minorities and women simply by looking at what we've been doing and not accepting it and saying we need to do something different. If we always do what we've always done, we'll always get what we've always got. So we went to...where are we going to find minority candidates who want to be in this job? So we...not where we've been looking, so we looked elsewhere, and we did a lot of recruiting fairs in the military. Our military is one of our most diverse institutions. We have outstanding candidates in our military. So we've spent more effort on that already in just the short time I've been here. I can't, again, guarantee you results this year or next year or five years, but I can absolutely guarantee you that the effort will be there. And as I alluded to earlier, sometimes our troopers and staff on the front lines, they have the best ideas. Right? It's not the guy in the corner office that gets paid to have all the great ideas. This guy's job is to find the people who have the great ideas and help them rise to the top. We had a female trooper out in Troop E who said, hey, I want to be part of the solution, you know, hiring more women. Great. We're going to put you to work. So we sent our PI out there and got some video of her doing her job and we put that on social media. We took her great ideas and turned her loose and said, okay, now get some of your friends, because who better to help hire female troopers than female troopers? So we hope that by the end of this camp we will have better numbers than we did in the last camp and then that's going to be the bar for the next camp and we're going to keep that effort up. But we have to be intentional about it. That's the point that I want to make. I do intend to be intentional about it, increasing the diversity of our organization, and that will make us better. [CONFIRMATION]

SENATOR WAYNE: Thank you. [CONFIRMATION]

SENATOR MURANTE: Thank you, Senator Wayne. Senator Brewer. [CONFIRMATION]

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SENATOR BREWER: All right, we'll jump back. One of the areas I've got some calls...and remember, we're going to call this BJ, "before John" arrived, okay? So the concern is that we have local law enforcement and sheriffs that are struggling to do their day-to-day tasks and some of that is compounded with a lack of communications or, how shall we put it, a lack of a partnership with local law enforcement and the Patrol. And I don't know that this is intentional. Some of it is just because of a lack of overtime. But I guess as you look at fixing the recruiting problem, because that is a pool where you can draw officers who come with some experience already, and also to help local law enforcement, would be to make sure that as we transition in this period where you as the new colonel are kind of drawing that new picture of the Patrol, that that teamwork that needs to be out there between local law enforcement, Patrol, is something they feel good about and they feel like, you know, there's a little different attitude now and that we are now in a position where, if we need the help, we can go to them and feel comfortable that they're going to, if they can, be there. All right. One of the other things that's going to come up on the floor of the Legislature is the legislation that's being proposed, LB792, LB791. I've read through them. I guess the first question is, did you design this legislation? [CONFIRMATION]

JOHN BOLDUC: I did not design the legislation. I was informed of it and asked if I would support it and my answer to that is yes. [CONFIRMATION]

SENATOR BREWER: Okay. Well, it's going to come under a lot of scrutiny for a number of reasons, and the one that I struggle more with than the other is LB791. And I understand why they did it. For the sake of everyone here, so you understand what LB791 is, is, well, the Reader's Digest version is it takes sergeants out of the collective bargaining. And I am sure that the sergeants are a pain in the butt and that they probably are the reason why things are drawn out and take longer. But to take them out of collective bargaining when...again we'll use a military example. The folks that are there as the first-line supervisors, the ones that are there for all the really bad stuff, are always the NCOs. You know, the officers are usually busy doing administrative tasks or the things that doesn't always have them where the rubber meets the road and things are happening. And to cut that slice out and say you're not going to be a part of collective bargaining almost makes it look like a maneuver to expedite things that they wanted..that wants to...it gives a perception that leadership in Lincoln wants to fast-track things and not have those who really are grasping what's going on to have a say in it. Can you see how I might have that perception? [CONFIRMATION]

JOHN BOLDUC: Yes, Senator. I understand that you've probably gotten some feedback to that along those lines, but I can say that if there are folks who have that view, they are reading between the lines and they're putting two plus two and getting six. I can tell you in my experience, when I was a sergeant, I was not part of the collective bargaining unit and I thought that worked quite effectively. In two other organizations that I worked in, the sergeants were in a different bargaining unit. I don't believe...now I may be corrected, but I don't believe that that

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legislation precludes sergeants from forming their own bargaining unit, which would be very common, having supervisors in a different bargaining unit than those that they supervise. That's actually a very common practice, so...and again, I don't see anything that would preclude that from happening. Now, in fairness, the last organization that I worked in, the sergeants were in the bargaining unit; in fact, the lieutenants were too. And I can tell you that caused conflicts of interest and it caused some challenges, and I tried to work to remove them but I didn't get there. Perhaps the next chief will. But it is, it's a philosophical argument, it's a philosophical point that those who are front-line supervisors to the troops in the field may feel a conflict of interest when there are incidents that will need correction and perhaps even investigation of misconduct, and it would be better to have a firewall there. And I believe that that is the intention of that legislation and, when asked, I supported it for those reasons that I just articulated. [CONFIRMATION]

SENATOR BREWER: All right. And I apologize for my lack of knowledge on this, but when we talk collective bargaining--again, we're doing this for the sake of everyone here... [CONFIRMATION]

JOHN BOLDUC: Yes, sir. [CONFIRMATION]

SENATOR BREWER: ...and it's just unfortunate I'm the slowest one--the...this get-together that...when you guys all come together for a pow-wow, when it's about collective bargaining and the different issues you're addressing, explain the process, how does that work, because you're talking about them forming their own separate pod or whatever it's called. [CONFIRMATION]

JOHN BOLDUC: Yes. Well, they would be in a separate union. So in my experience, in my last agency or two agencies ago, we would negotiate every two or three years, whatever the length of the contract was, the contract that was bargained the last time. And then there would be an exchange of ideas on, look, we would like such-and-such percent raise, we would like such a contribution to the health insurance, and we'd like to address some contract language to make it more clear. So one bargaining unit, say it's just the troopers, would engage in that process. We would sign a contract and then both parties would work within the bounds of that contract. This same process would happen for whatever other unit, sergeants. Now typically beyond sergeants, lieutenants and captains, normally they're not in a bargaining unit, so... [CONFIRMATION]

SENATOR BREWER: Right. [CONFIRMATION]

JOHN BOLDUC: ...it's very common for sergeants to be in a unit not necessarily the same as the troops. [CONFIRMATION]



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SENATOR BREWER: All right. So your perception of LB791 is not to take the sergeants out of the bargaining because they can form a separate way of, I guess, having their issues and concerns addressed? [CONFIRMATION]

JOHN BOLDUC: Well, first things first, we've got to get them out of the unit that they're in. If they decide to form another unit, that's their prerogative. [CONFIRMATION]

SENATOR BREWER: How many sergeants are there in the Nebraska State Patrol?  
[CONFIRMATION]

JOHN BOLDUC: I don't have that number in front of me, Senator, and I apologize, but I can get that. I believe the number is in the 60s or 70s. [CONFIRMATION]

SENATOR BREWER: All right. [CONFIRMATION]

JOHN BOLDUC: I can get that for you. [CONFIRMATION]

SENATOR BREWER: All right. I can take a breather for a while if you want. No, actually, I...just...I guess I'll leave you this. Just like we used to say as you had a change of command, the new commander coming in will only get one chance to do the job right and his legacy will be whether, you know, he is that person who they believe in and they trust and they want to go to work every day and work for. I think you're in a great position now that as you move forward, you know, you can draw in that white board however you want. And you have been given the most difficult opportunity anyone in the history of the Nebraska State Patrol has ever had. You came in under some really hard times. So the fact you accepted the job, I commend you. And you have been very willing to talk about issues and just give open, raw answers, and I thank you for that. [CONFIRMATION]

JOHN BOLDUC: Thank you, Senator. [CONFIRMATION]

SENATOR MURANTE: Thank you. Any additional questions? Seeing none, thank you for your testimony. [CONFIRMATION]

JOHN BOLDUC: Great. Thank you, Mr. Chair, Senators. [CONFIRMATION]

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SENATOR MURANTE: Thank you. All right. Are there any proponents to the gubernatorial appointment? Is there any opposition to the gubernatorial appointment from the Omaha World-Herald? (Laughter) [CONFIRMATION]

\_\_\_\_\_ : (Inaudible.) [CONFIRMATION]

SENATOR MURANTE: (Laugh) I think we just gave him a heart attack. Is there any neutral testimony? Seeing none, that closes the hearing on the appointment and we'll move on to the next item on the agenda, LB831. Senator Wayne. Senator Wayne, welcome to your Committee on Government, Military, and Veterans Affairs. [LB831]

SENATOR WAYNE: (Exhibits 1, 2, and 3) Thank you for having me today. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13 which is north Omaha and northeast Douglas County, which has a median income of \$41,992. Why is that important? Because those are the hardworking people with full-time jobs that I represent. And that is a household income number. That means oftentimes there are two-family homes and that's combined income of \$41,992. And I will say for the record that number is skewed because I happen to have Mr. Scott, who is in the top 200 wealthiest men in America, of \$4.3 billion, so the average income is actually significantly lower in my district. This bill is about public service and not providing a public career. It's about full-time pay for part-time work in many instances. Now I do want to note, I saw Councilman Gray here and I said this to him--I am working with committee legal counsel to develop an amendment to look at those who work full-time jobs and it's in their policy...or city statutes or county statutes where it's full time and they have a significant budget amount that they should be exempted from this legislation. The city of Omaha has a \$900 million budget. Most of those city council people work every day on the city council issues and so I understand that. But I want to just pose that to Douglas County. I want it so that Douglas County has a \$300 million operating expenditure, but yet make more than the city council and more than most...all county commissioners across the state. In 2015, when this issue first arose to my desk and I wasn't here, but I was on the Omaha Public School Board, by the way has a \$900 million budget, at which received no money as a school board member. Douglas County increased their pay from \$37,000 to \$44,000. That was over a 34 percent increase. To add insult to injury, in 2017, Douglas County voted 4-3 to give themselves an additional 4 percent increase for the next four years which means from \$51,000 in 2019 to \$58,356 in 2022. Why is that important? I want to turn to the map that I handed out with the zoning. Douglas County...when you look at Douglas County, most of it is the city of Omaha. What the pink around the city of Omaha represents is the ETJ. That means zoning, housing, building codes, all that process is still governed by the city of Omaha. You also note Waterloo, Valley, and Bennington also have their city limits and their own ETJ. So when you look at the responsibility of Douglas County, you're looking at only the area in the white, by a large extent, which is significantly small. So when I look at that and I look at the amount of pay, I look at the people

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who are in Douglas County whose household income, which is another sheet I handed out to you, is only \$53,000; that means a household income, two people working together, I find it appalling that by 2022 they can make \$58,000 for a part-time job. The reason why I say it's a part-time job, because many of them have other full-time jobs as they're on this board. Supporters argued that they needed to catch up over the years, but you tell me in the private sector or even among many other government employees, when have you seen almost a 50 percent raise in a six-year period? So as I began researching more and more other counties, York County discussed moving...increasing theirs to \$2,000 a year for the next four years, up to \$29,000. Scotts Bluff County had a 34 percent increase from roughly \$15,000 to \$25,000. But the one that stood out to me and the more people who contacted my office was around Madison County. Madison County, whose average income for a household income is \$46,000. Their county commissioners make \$44,000, plus benefits; most commissioners get plus benefits. But I'm also hearing that Madison County gets a truck. We talk about issues in the state Legislature, and when I went door to door, and all you guys, we heard a lot about property taxes and a lot about everything else. Those are all local issues they keep saying, but yet in the Legislature we're always trying to find ways to reduce property taxes. You'll hear a lot of people talk about local control today. But yet, we have, just yesterday, debated a bill, LB614, of which everybody in here supported, to remove some caps on local authority. I can go statute after statute and tell you how we limit spending of taxpayers' money throughout this state. This is not unheard of, and in fact, quite common in the state of Nebraska. What I also provided to you was a wage sheet, because I wanted you to know what the average wages were, our weekly wages were in each of these counties as they relate to full-time jobs versus commissioners' part-time job. Douglas County, if you were to take the \$9.32 and multiply that out, that's \$48,000 a year, the average wage earner in Douglas County for a full-time job. Now I represent many people who work 40 to 50 hours a week who don't get the same benefits, the quality of benefits, that these commissioners get and don't even make close to what they're making for a part-time job. So I am open to many amendments that if people want to have suggestions. The one that I would ask this committee to consider is the fundamental issue of voting on your own raises. At a minimum, maybe the voters of that district should vote on their own...on their raises of their elected officials, like they do for the state Legislature. So if anybody brings up a local control issue before this committee, I would ask and urge this committee, since I can't ask questions, as Senator Brewer reminded us, that would they be supportive of that...allowing voters to vote on their salary? We start the bar at...the floor at \$24,000, if they want to go over that, it would be a vote by the people. There's only about 20 commissioners...or counties that would be affected by this bill. The rest of them are good stewards. And Sarpy County had huge debates over this and they decided not to have increases. And that's the kind of stewardship that I want to support. But when I see these things happening in my community, Lancaster, Wayne, Madison, Cedar, to name a few, who are making full-time wages for part-time jobs, it is our role as the Legislature to have a conversation and limit that ability. That is our role and that is what we should do. And with that I'll answer any questions. [LB831]

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SENATOR MURANTE: Thank you for your testimony. Senator Blood. [LB831]

SENATOR BLOOD: Thank you, Chairman Murante. I actually have several questions. I just want to make sure that I heard you correctly. What did you say about the Omaha City Council? [LB831]

SENATOR WAYNE: Omaha City Council makes \$36,000. And I said I am willing to add an amendment that if a certain budget threshold is met and that they work full time, that they should receive full-time pay and would be exempt from this statute. [LB831]

SENATOR BLOOD: And what would you consider full-time on a city council? [LB831]

SENATOR WAYNE: Thirty hours...I would consider 30 hours plus like any other full-time jobs. [LB831]

SENATOR BLOOD: I want that job. So I can tell you that on the Bellevue City Council that I usually worked 35 to 50 hours a week on city council stuff. And I was definitely not the norm, but I also was not the minority, and I made \$9,000 a year and was happy to get that check. And, of course, we didn't get reimbursed for mileage or...which I don't know if Omaha City Council gets reimbursed for mileage and things on top of their salaries or not. [LB831]

SENATOR WAYNE: I do not...I'm aware...my understanding they do not. [LB831]

SENATOR BLOOD: Good to know. I guess I'm looking at this chart, and do you remember when that teacher used to come to her classroom and there was one kid that was being bad but everybody got punished? That's kind of how I feel this legislation is. I look at Sarpy County specifically, since I represent Sarpy County, and I'm very familiar, when I see Senator (sic-Mayor) Kindig sitting out here, I'm familiar with, pretty much, all the officials in Sarpy County because I've been around for awhile. And I can't think of any city or county meeting where they weren't being good stewards. And that's because of the people who put them into office. And I appreciate the fact that you like to bring bills forward to start conversations; good for you. But I question...and I'm not talking about government overreach, I'm talking about this is the job of the voters. If they're unhappy that people give themselves raises, then they should be voting those people out. It's not our responsibility to tell them how to be good citizens. And that's what I feel that we're trying to do. And I feel, when I look at this chart, you're punishing Nebraska government entities for the bad actions of a few. [LB831]

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SENATOR WAYNE: There wasn't a question in there, but I'll reply and say that I do praise Sarpy County. But again, there are only 20 counties that would be affected. We have 93 counties, so I'm not punishing the other 60-plus counties. In addition to that, this is not uncommon for state policy. If the school wants to override a levy, they go to the vote of the people. We set levy limits; we set expenditure limits all the time regarding tax dollars. This is no different. We do it all the time. [LB831]

SENATOR BLOOD: I do think there's a difference between overriding a levy and capping salaries because you're talking about (inaudible) in some ways, HR issues and issues that belong to the voters. We're not asking them to override something, we're asking to cap something, to make the decision for them. [LB831]

SENATOR WAYNE: So you would be agreeable to an amendment that allows the voters to vote for their salary? [LB831]

SENATOR BLOOD: I would be agreeable to bring forth people who are abusing this and not bring everybody into the conversation. Because again, my question, which apparently didn't come out as a question is, when you say 20 counties, I don't even know if I count 20, and why is it not to be dealt with within their own county? [LB831]

SENATOR WAYNE: They can be. And I'm willing to provide that option by setting the floor at \$24,000, like we do with many other political subdivisions with a cap or a levy limit or a spending limit, and then say if they want to go over that, the vote of the people. That's what we've discussed about...I haven't dropped the amendment, but I'm saying it publicly, I will have no problem with that. I have no problem giving what is deemed local control to the vote of the people, but there needs to be a floor and if they want to go over that floor, then let the people vote on it. We do that for everything else...a lot of things, not everything, but a lot of other areas when it comes to spending of government dollars. [LB831]

SENATOR BLOOD: Including the Omaha City Council. [LB831]

SENATOR WAYNE: Including the Omaha City Council. [LB831]

SENATOR BLOOD: Thank you. [LB831]

SENATOR MURANTE: Thank you. Senator Thibodeau. [LB831]

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SENATOR THIBODEAU: Thank you, Chairman. Senator Wayne, and again, I do appreciate you bringing this bill forward as it does bring the conversation about. I would like to reiterate that I do agree with Senator Blood that I feel that an undue amount of people are being punished due to a few who are taking advantage, or whatnot, and that those people should be voted out. My question to you is, why did you come up with the \$24,000? Was that to, basically, kind of, raise the thought behind the legislative salary or was it just...where did you come up with that number? [LB831]

SENATOR WAYNE: So when looking across caps and spending limits on salaries, I did go back and look at the Legislature's chances of trying to pass it in different voting and that's where I came up with it that if our Nebraskans have voted that we think \$12,000 across the state for a state senator is what is needed...or should be kept, then that should be the starting point for all legislative bodies. And if the locality needs something else local, then they should be able to vote on it. But absolutely, if the state has said very convincing in the last election, 2 to 1, \$12,000 for a state senator, and we're a legislative body, then to me I can extrapolate that and say, well, \$12,000 is a starting point for every legislative body. [LB831]

SENATOR THIBODEAU: Thank you. Are you...when you're talking salary, are you talking straight salary? Some legislative bodies do have access to health insurance, whereas I know if we access our health insurance at the Legislature, we have to pay the full cost. Some legislative entities do not have to do that. So are you looking total salary? Are you including, you know, if there is mileage included in there? For the record, city of Omaha does not reimburse for mileage unless you are taking a trip out of state on behalf of the city or you are testifying on behalf of the city. But other than that, they do not reimburse mileage; there's no additional salary beside their straight yearly salary. But what aspects of salary are you taking into? Just straight base pay or benefits? [LB831]

SENATOR WAYNE: Straight salary. I have not included benefits in the language. I'm willing to look at it, but I haven't included it. I was doing straight salary. The issue before the body is should someone get a full-time pay for part-time work? We can argue about what that is and what it looks like, but at the end of the day, if you work full-time somewhere else, which happens in many of these other counties, and you're also getting a full-time pay of which many people work 40 to 50 hours a week and can't equal the same thing. And I'm not just talking about Douglas County, you can literally work 40 hours a week and only make \$27,000. Is that comparable for Nebraska to say you can work 40 hours an week and make \$24,000 or you can be in office and make \$27,000 plus benefits when really we're talking two days of work a week for many of these commissioners. That's the question before the body. [LB831]

SENATOR THIBODEAU: Thank you, Senator Wayne. [LB831]

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SENATOR MURANTE: Thank you, Senator Thibodeau. Senator Hilgers. [LB831]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Senator Wayne, for bringing this bill. I think it's a very important bill and I think it adds a spark to what I hope is a very worthwhile conversation. I appreciate the dialogue this morning. I want...or this afternoon. I want to focus...I think you're right that the amount we can talk about, and that might vary, but I want to touch a little bit on, I think, a core concern that I have with how the system is currently brought up, that you've touched on as a proposed amendment, I want you to...if you wouldn't mind...elaborate a little more, and it's this idea that any political entity of any kind, and I don't care if it's the Legislature or on down or on up, could vote on their own salary increase. That seems to me to be an inherent conflict of interest that, in my view, has no place in any form of government. And I think...I think it erodes the public's trust in our government when their elected representatives can vote themselves salary increases. We may believe that in some instances the work is so burdensome that some people need to be paid more for that work, that's a decision not, in my view, not for the people who are holding the keys, it's for the voters. So I was wondering how much of that motivated you on this. I know it's not directly...I mean, the format of the green copy is certainly is a cap, so it doesn't really talk about that. How much of you bringing this is motivated by that idea that it shouldn't be the actual political subdivision themselves in determining their salary? [LB831]

SENATOR WAYNE: A lot of it, to answer your question directly, a lot of it. And actually, I talked to Chairman Murante after I dropped the bill because I was contemplating withdrawing it and reintroducing it with the amendments. I did not do that because I didn't want to draft a new bill and then have more issues and add another amendment. So I'm kind of waiting for people to talk and figure out what kind of an amendment we can drop to correct the issue. But that's a 100 percent part...I mean, fifty...at least 80 percent of why I brought this bill, I guess, is the issue of voting on yourself. And what you'll find out, when you look at historical votes in the last eight years, that statutorily they have to set it every four years. But what you'll find out is every county commissioner...some of them, the bigger ones are staggered, so people up for election vote no, it still passes. And then people forget about it when their year is coming around because it's four years later and it's business as usual. And so it needs to be a vote of the people at a minimum. [LB831]

SENATOR HILGERS: Do you know if its statewide...in your research, at the state level, are there any positions for which the holders of that position, the Attorney General, Governor, can determine their own salary? [LB831]

SENATOR WAYNE: No. So let's think about it from a broad perspective. Last year, this body approved 1 percent increase for judges. We approved their salaries. They don't even get to

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approve their own salaries. And that is a constitutional separate body of government. I don't think any political subdivision or any part of government should decide their own salaries. And if we're going to leave it to local control and local people, then let them have a local vote. [LB831]

SENATOR HILGERS: Thank you. [LB831]

SENATOR MURANTE: Thank you. Senator Blood. [LB831]

SENATOR BLOOD: Thank you, Chairman Murante. So I keep rereading this, I mean, it's an easy bill to read here in just a couple of minutes. And things that I see missing that I'm concerned about, I'm just...I question if you have the same concerns is that there are so many different types of government, first of all, in Nebraska. There's the weak mayor system, such as in Bellevue; there's a strong mayor system with a legislative council such as in Omaha. You've got the townships, the villages, the commissioner-led legislative type bodies elected...you know, everyone is different. And there's what, 27 counties...or townships that use township system. And I hear what you're saying about they're not working full-time jobs and I look at...although we prevented the mayor from raising their salaries in Bellevue when I was on the council, because we felt the council was a legislative body, so we only wanted a small cushion. I know for a fact that the mayor in Papillion, the mayor in La Vista, the mayor in Bellevue, they're easily working 60 hours a week and other jobs. And if, indeed, the council were to vote to raise their salaries, it would be based on those hours that they put in. It's really easy to be an outsider and say, oh well, they only...they go to meetings twice a month and maybe talk to a few citizens. And there's so much more involved. And I'm hoping there's a lot of people who are going to talk on this and not me, but I just...I feel like there's more thought process that needs to be put into this, because we are just talking about a very small group of people who are abusing it. And it's good that you're bringing it to light. And we're not really taking into consideration the types of government that are involved as well. [LB831]

SENATOR WAYNE: Well actually, we took a lot of consideration in the type of...me being Chair of Urban Affairs, I see different structures from townships, villages, primary class, all the way up, and so that's why it says "the legislative body" because we are explicitly not including mayors or when they appoint...the city council appoints...some of the smaller towns a "mayorish" type of body. Like we're excluding that part of it. It's only the legislative body of that government body. So we've thought about a lot of that. If there's some language that needs to be added, we can sure do that. But that was why it was structured the way it was, the legislative body of a political subdivision. [LB831]

SENATOR BLOOD: All right. Not all legislative bodies are elected are they in Nebraska?  
[LB831]



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SENATOR WAYNE: All legislative bodies? I can't think of one... [LB831]

SENATOR BLOOD: Some of the villages? [LB831]

SENATOR WAYNE: I mean, even SIDs have elections. So I can't think of one, off the top of my head, that's not. [LB831]

SENATOR BLOOD: Thank you. [LB831]

SENATOR MURANTE: Senator Briese. [LB831]

SENATOR BRIESE: Thank you, Chairman; and thank you, Senator, for bringing this. Do you see any difficulties with trying to carve out an exception for the "full-time" position; or you mentioned somebody applying over...working over 30 hours a week this job. It might be fairly difficult to, number one, define what a full-time position is; number two, to enforce and decide whether that actually is a 30-hour a week job. [LB831]

SENATOR WAYNE: So that's why...one of the reasons why the amendment hasn't been drafted. But there's such a...so I was looking at budgets and I have expenditure...operating expenses on this sheet because there's such a gap between Omaha and, say, Lincoln; and by the way, Lincoln is only at \$24,000 a year, so they will fit right in here; but there's such a gap between Omaha. You can literally do \$800 million or \$700 million budget and nobody else will be affected but Omaha. I mean, again, Douglas County only has a \$320 million budget. So that's how I was looking at the budget. But the reason why that language isn't drafted, because I didn't want to get into 30-hours a week, 40 hours...I mean, I just wasn't sure, but it's somewhere around the budget. But clearly, if you have a \$900 million budget, in the private world, you're making, according to the board of directors, a little bit more than \$36,000. I can tell you that. The city council is probably too low. [LB831]

SENATOR BRIESE: But even if you are dealing with a large budget like that, that doesn't necessarily mean you're putting in X amount of hours though, correct? [LB831]

SENATOR WAYNE: Senator...I mean senator, I elevated you, Senator Gray...or maybe demoted you because you'll get less pay. (Laughter) Councilman Gray maybe can testify to different levels of...that may be true, but at least all the city council people I've talked to, it's a 30-hour to 40-hour job, if not more. [LB831]

SENATOR BRIESE: Thank you. [LB831]

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SENATOR MURANTE: Thank you. Senator Lowe. [LB831]

SENATOR LOWE: Thank you, Chairman Murante and Senator Wayne for bringing the bill. Good discussion. Do you see any problems with maybe...if this goes into fruition that other benefits may happen, a housing stipend, to make up for the lack of this or a travel...a gas or vehicle stipend to make up for the difference? [LB831]

SENATOR WAYNE: That could happen... [LB831]

SENATOR LOWE: A hidden income. [LB831]

SENATOR WAYNE: Right. That could happen, and that's why I'm not...haven't got a clear answer on the Madison County situation with trucks. That could happen. I would hope that it wouldn't. But what I was trying to do was make it clear, concise, and base it off of something that was already in law like a Legislature. Our constitution says we're capped at \$12,000 in salary. So I was trying to keep the language the same. And I hope all the people who come and testify against this bill will support, I think...I think (Senator) Vargas has a bill to raise our rates and it could pass. If this passed, it will be tied to ours, so they'll have a vested interest in supporting any raise for us. But anyway, but yeah it could be an issue, but...they can do that now, too. [LB831]

SENATOR LOWE: You know, I just think it's good that we only work a 60-day and 90-days out of the year for our wages. So it's...I can appreciate it. [LB831]

SENATOR BLOOD: Speak for yourself. [LB831]

SENATOR WAYNE: Yeah, Urban Affairs didn't; we were all over the place doing TIF this year. [LB831]

SENATOR MURANTE: Senator Brewer. [LB831]

SENATOR BREWER: Thank you, Mr. Chairman. Are you being funny at the 60- or 90-day thing? (Laughter) All right, so that I understand your chart. If my counties are on the back page and highlighted, that's a good thing. [LB831]

SENATOR WAYNE: Correct. [LB831]

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SENATOR BREWER: Thank you. (Laughter) [LB831]

SENATOR MURANTE: That was a hard ball. Okay, any additional questions? Seeing none, thank you for your opening. [LB831]

SENATOR WAYNE: I will try to stay for closing, but I may have to run to Judiciary to do my other bill today. [LB831]

SENATOR MURANTE: Sounds good. We'll proceed to proponent testimony on LB831; proponents. Opponent testimony to LB831? Welcome. [LB831]

BEN GRAY: Thank you. Good afternoon, Senators. Chairman of the committee and members of the committee, my name is Ben Gray. I, for the record, live at 4942 Nebraska Avenue in Omaha, Nebraska, 68104. I am currently the president of the Omaha City Council. I am here in opposition to the legislation and...for several reasons. And I will, you know, and I hope the amendment that Senator Wayne is talking about, I hope you all will consider that. But for the record I have to be in opposition to it and I have to explain to you why. There's several things that...first of all, there were a couple of questions that were asked that I want to address. We don't vote on our salaries. The city council doesn't vote. The city council votes...like for example, I may drop a bill tomorrow to increase the city council's salaries, but that won't happen until...that won't take effect until the next election. So you'd have to win reelection in order to partake of...or in order to get the benefit of the increase in terms of salary if you do that. This body has the right to do whatever it wants to do as it relates to government subdivisions. But the question becomes, should you do it? And in this particular instance, I have concerns about how we're going to...and you all raised the question really well that talks about how are we going to adjust and how are we going to determine what's full time, what's part time, who does the most work, this kind of thing; those things are going to happen. I mean, those things are going to be concerns that we have. And there are some unintended consequences. As our finance director is reading the proposed bill, the bill could affect nearly 300 of our employees, which would cost the city significant amount of dollars. So I think there are unintended consequences that when we don't study something, and in this particular instance, I think if we're going to do something like this, or if this is going to be a consideration, you ought to study it first so that you know what government subdivisions are doing and not doing. When we're talking about spending and levy limits, we're not usually talking about in terms of pay, we're usually talking about in terms of whether we want to increase, for example, the school district, whether we want to increase by 1 percent the amount of money that they take in as a body. So it's usually not...we're not talking about individuals' salaries or anything like that. And putting it to a vote, I mean, I don't know that I would be diametrically opposed to putting it to a vote, but I think we have a system that currently works. And I think the system currently works well the way we do it. And the amount of hours

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that we work, you have to keep in mind...and there was another question asked about do we get pay for making trips and so forth. Absolutely we do not. I don't even get money...I don't even get reimbursed for coming down to Lincoln to testify today. So we're not getting that...we don't get that money. And in fact, I've been before this body in several different varieties and talking about the land bank and abandoned building ordinances and all those sorts of things. Well, you have to travel to other cities to see how those things operate because you want to bring the best hybrid back to the city of Omaha. And in a lot of instances, I've used my own money to address that so that we have an effective legislation when we go to...when we come back and introduce legislation. So it's important and I know...the three minute time limit, so I'll just stop right there, but I do have a concern about us...the unintended consequences of the language. We don't vote on our salaries. We have to get reelected if we're going to get those salaries. And it is...it does become cumbersome to try and address who is doing what in which districts because I can tell you in the western part of the district where you have issues that relate to healthcare, your federal-qualified health centers are in deep trouble. And your city councils and your county boards are going to have to deal with that trouble. So what they work now is probably going to be a lot more than in the future than it is right now. I will stop, Senator, and answer any questions you all might have. [LB831]

SENATOR MURANTE: All right. Thank you. Senator Thibodeau. [LB831]

SENATOR THIBODEAU: First, thank you for correcting me on being reimbursed for your mileage down here. So I apologize. [LB831]

BEN GRAY: If you want to do it, you can. (Laughter) [LB831]

SENATOR THIBODEAU: I know that you corrected me, and do know firsthand that all of you council members work very hard and work more than 30 hours a week and more than just your weekly Tuesday council meetings, so we appreciate your service. [LB831]

BEN GRAY: Yes, thank you. [LB831]

SENATOR THIBODEAU: What I would like to ask you is you said this bill could affect 300 of the employees. Can you please explain that a little further to us? [LB831]

BEN GRAY: The way you talked about it, administer...I don't have the bill in front of me, but when you talked about administrative individuals, I think that's what it says, the way it reads, based on what our finance director is telling us, there were a number of people that could be affected by that. I used the round number, but it could be easily more than that, I think. [LB831]

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SENATOR THIBODEAU: Okay. [LB831]

BEN GRAY: But the way it reads, it could affect a number of other employees besides city council members. [LB831]

SENATOR THIBODEAU: Thank you. [LB831]

SENATOR MURANTE: I think you might be (inaudible) this bill, which you oppose, with the next bill that you will, undoubtedly, also oppose. [LB831]

SENATOR THIBODEAU: Yes. That, I think, will affect you. [LB831]

BEN GRAY: Good point. [LB831]

SENATOR THIBODEAU: That, I think, will affect your employees. [LB831]

SENATOR MURANTE: Senator Hilgers. [LB831]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Councilman, for being here; I appreciate your testimony. [LB831]

BEN GRAY: Sure. [LB831]

SENATOR HILGERS: I was looking at, I think, line 6, it does say "any elected member." So I think it is LB997, that administrative issue. [LB831]

BEN GRAY: Well, I'll be back for that one when (inaudible). (Laughter) [LB831]

SENATOR HILGERS: All right. And I...that was three questions, I have two questions. One is, I do appreciate the distinction you're making between voting on your salary versus voting on a salary for a city council person who may or may not be you on the next election. Given, maybe, some of the high return rate for incumbents and that, I don't know if it's a...it's a distinction that has a difference, but I don't know if it's a meaningful enough difference to say we're taking it out and we're having true third party. You did say...I think I heard you say you may not be diametrically opposed, would you be opposed to an amendment that said, hey, we're going to put this in the hands of a third party, albeit, like the voters. And if so, could you maybe elaborate on some of the nature of those actions? [LB831]

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BEN GRAY: Well first of all, I think it already is in the hands of the voters. And I don't think we need legislation to do that. And when I say it's already in the hands of the voters, every ten years we do a charter review convention. And in that charter review convention, that's all citizens. And city council members get to appoint three members; the mayor gets to appoint seven. And those members go through the city charter every ten years to determine if there are any changes that need to be made. And I will tell you that as a journalist for over 30 years and covering some of these and now as a politician for the last nine years, I have participated in or have witnessed several of our charter review conventions, and at no time did salary ever come up, at no time. And these are citizens that take a look at the charter and they look at everything from pay to finance to a governance to all other...all aspects of city government and all aspects of the city charter. And so it is in the hands of the voters already, so I don't...while I say I wouldn't be diametrically opposed to it, I don't know what we...I mean, right now we already have a system in place that citizens get to look at every ten years that addresses the...and we can call them sooner if we want to or if there is a need to or if there's a desire by a group of citizens to do it. I mean, we can do that. But at the end of the day, we have a system in place where people get a chance to look at various aspects of it; and in no instance have they brought that up. [LB831]

SENATOR HILGERS: Well, so I take that as a fair point except I would say I do think there's a big difference between a once every ten year, after the fact review, after the salary has already been increased, maybe it was increased in year two and at the eight years later they're looking at it. Would you oppose having that same charter review group look at salary increase and approve before it goes into effect? [LB831]

BEN GRAY: Well, I guess I don't know what the point of that would be, because they already have the opportunity to do that. And when you're talking about...we're talking about every four years now. So when they get a chance to look at that, they're going to have the opportunity to weigh in on it and decide if it's something that ought to go before the voters for a vote. [LB831]

SENATOR HILGERS: They being the charter review? [LB831]

BEN GRAY: They being the charter review committee. [LB831]

SENATOR HILGERS: That you said four years. I thought earlier...is it ten years or four years? I'm sorry. [LB831]

BEN GRAY: Ten years is the charter review, which we can do more often if we need to. But we try to do it every ten years and for every ten years we have been doing it successfully. And we have made changes to the charter based on some of their comments. But at no time has anybody ever brought up salary. [LB831]

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SENATOR HILGERS: Is there a four-year...I'm still using a four-year... [LB831]

BEN GRAY: It's a four-year...every four years we...I mean, our length of service runs every four years. [LB831]

SENATOR HILGERS: So the election side of what you're argument is. [LB831]

BEN GRAY: Yes. [LB831]

SENATOR HILGERS: Okay. Okay, I guess we might just disagree on whether that's comparable to a vote of the people before the raise goes into effect. But I appreciate the points that you're making on that. I guess the last question I have, and I didn't get a chance to discuss this with Senator Wayne, and it is actually a concern I have with the bill as it's currently drafted is that I think people...people run for offices, they know what the salary is when they run. [LB831]

BEN GRAY: Yes. [LB831]

SENATOR HILGERS: When we ran for the Legislature, we all knew it was \$12,000. You can price that into whether you want to do it or not. [LB831]

BEN GRAY: Yes. [LB831]

SENATOR HILGERS: And I do think that when people have subtle expectations about the work they're going to put in and what they're going to get compensated, that we should go and unsettle those expectations when they're in the middle of the game. So in other words, I wouldn't support changing this legislative salary lower after we've already been there going forward. So can you comment a little bit on whether you think, if this bill were to go forward, your comments on whether we should grandfather in, if it sort of stays with this structure, grandfather in current legislative representatives. [LB831]

BEN GRAY: Well, I would hope that you would turn the bill down, quite frankly. [LB831]

SENATOR HILGERS: But if we were to move it forward, I understand you're an opponent. [LB831]

BEN GRAY: If you were to move it forward, the question again, let me say that... [LB831]

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SENATOR HILGERS: Could you expand a little bit on your thoughts on whether a grandfather clause of some kind would be necessary. [LB831]

BEN GRAY: For city council members? [LB831]

SENATOR HILGERS: For current... [LB831]

BEN GRAY: For current elected officials? [LB831]

SENATOR HILGERS: Yes, sir. [LB831]

BEN GRAY: Whether there out to be a grandfather clause? [LB831]

SENATOR HILGERS: Um-hum. [LB831]

BEN GRAY: I mean, I guess it's not a...it wouldn't be my best alternative, but if that's what...if that's what you were going to do, I would...you have the authority to do that. But the fact of the matter is, is that this has not been studied very well, Senator Hilgers, so we don't know...I mean, we don't know from county to county, from city to city, you know, what issues are, what people are being paid, if that pay is appropriate. What are going to be the standards that we use to determine pay and how much people should be paid? What are going to be those standards? I don't know the question to...I don't know the answer to that. So grandfathering people in to some standards that I don't even understand, I don't know why that would be...I don't even know why I would be supportive of anything like that. [LB831]

SENATOR HILGERS: Thank you, Councilman. [LB831]

BEN GRAY: Sure. [LB831]

SENATOR HILGERS: Appreciate it. [LB831]

SENATOR BREWER: All right, thank you. Additional questions? Senator Lowe. [LB831]

SENATOR LOWE: Thank you, Vice Chairman Brewer, and Councilman Gray. [LB831]

BEN GRAY: Senator, how are you? [LB831]



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SENATOR LOWE: Quite wonderful. [LB831]

BEN GRAY: Good. [LB831]

SENATOR LOWE: And yourself? [LB831]

BEN GRAY: Well, I had to come down here and I don't get paid for it. (Laughter) Just kidding. [LB831]

SENATOR LOWE: Well, we don't get paid much either, so it's a...I just want to clarify because you are a very well spoken individual. [LB831]

BEN GRAY: Yes. [LB831]

SENATOR LOWE: You did not say you are going to drop a bill to raise your salaries. [LB831]

BEN GRAY: No, we have to. By statute we...by city charter we have to at some point within this four-year cycle, but we haven't done it yet. [LB831]

SENATOR LOWE: But you said you...you were going to drop one tomorrow; you did not say that. [LB831]

BEN GRAY: No, I didn't say that. I said I could drop one tomorrow. [LB831]

SENATOR LOWE: I just wanted to clarify that in case somebody... [LB831]

BEN GRAY: No. Let me be clear. I could drop a bill tomorrow that increases the salary for city council members. [LB831]

SENATOR LOWE: Okay. [LB831]

BEN GRAY: And the mayor. We have to do it for the city council and the mayor. [LB831]

SENATOR LOWE: I see. [LB831]

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BEN GRAY: But it wouldn't affect this council and this mayor unless we got reelected three and a half years from now. [LB831]

SENATOR LOWE: Okay, thank you. [LB831]

SENATOR MURANTE: All right. Any additional questions? Senator Brewer. [LB831]

SENATOR BREWER: Thank you, Mr. Chairman. Quick question for you, so I understand the scope of things, how many employees are there with the city of Omaha? [LB831]

BEN GRAY: Oh, god, 3,000, maybe 3,500. I don't...about 3,500, yeah about 3,500 employees. [LB831]

SENATOR BREWER: Yeah, close enough for government work. By the way, I need your barber, let me know where you get your...(laughter). [LB831]

BEN GRAY: Thank you. [LB831]

SENATOR MURANTE: All right, any final questions? Seeing none, thank you for your testimony. [LB831]

BEN GRAY: Thank you, Senators. Thank you all for your attention. [LB831]

SENATOR MURANTE: Thank you. Mr. Mayor. Welcome back. [LB831]

DOUGLAS KINDIG: (Exhibit 4) Good afternoon. You bet. I'm Mayor Douglas Kindig, K-i-n-d-i-g; I'm mayor of the city of La Vista. But I'm also here today on behalf of the cities of Papillion, Bellevue, Springfield, and then, obviously, La Vista. We are here today to oppose LB831. I'm going to rip the lid right off of the bucket right away and I am going to talk about local control. And I hope I'm getting the chance to answer some of Senator Wayne's questions. But our primary concern related to this bill is of local control. As you know, local governing bodies are able to make salary adjustments during an election year. We all are different. Our system is a little different from Omaha; I'm sure we're different than a number of bodies throughout the state. But during that election year, when we are making those decisions subject to immediate review by the voters, this has come up in La Vista, and when it does, we review the actions taken by other jurisdictions. In my city, we do do a comparability study. We think we need to be fair. But we revolve around the demands and the needs of our community and how this translates to

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the work of our elected officials. Any adjustments are made subsequent to the discussion and in light of all public hearings. Every municipality is different. We have different residents, goals, challenges, and expectations. Nobody better understands our respective communities better than we do. We are accountable to those we represent, and we are responsible in establishing the salaries for those who hold our positions. Again, one size does not fit all. We do strongly encourage that this bill does not come out of committee. Again, I thank you for your time and consideration today and I'd be more than happy to answer any questions. [LB831]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? Senator Hilgers. [LB831]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Mayor, for being here. I hear you on local control, but I agree with Senator Wayne that this with local control is just sort of a talisman sometimes people wave and say let's let local control. But the state creates...we have ultimate responsibility for the structure of our local governments here. And so what is it about in this sense specifically why local control is so important. I understand that local control in general can be important, but why is it so important in this sense that local control be important? [LB831]

DOUGLAS KINDIG: I think it's, over all, as you said, Senator, the state can set what we can do at the city level. And you will always see me in front of you preaching local control. We are on the streets every day, sir. The business that I work in, I'm lucky enough to actually work in the city of La Vista. I used to be a barber. And if you ask Senator Chambers, that's the city hall out on the streets. So I was able to communicate with the citizens on an everyday basis. As far as this issue goes on local control, this is how it has been. Correct? It is not been abused by the majority of the legislative bodies in the state. It's been...as a matter of fact, my quick story is my council in 2012 wanted to give me a raise. I think I work hard at my job and I think we've done some good things for the city of La Vista. I put in a raise for the council which they turned down. I don't know why, but I thought I should not take a raise if my city council would not take one. We came back in 2016 and they did, through very good discussion, more than once in public meetings, decide to raise their local wages, the wages for being a city council member. And they also gave me a raise at that time. I think we are put in these positions to make those decisions. I think we can use going to the vote of the people, and I do never want to disrespect anyone, but I think we can use that as an excuse many times. I think we can...when the decisions are tough to be made by the people that know those issues the best, when they either can't come to an agreement or they don't want to step up to the plate, I think they talk about let's take it to a vote of the people. One thing that needs to be, maybe, thought about here is it cost us to run an election. It costs us to put a ballot issue on the ballot. So I think we know best at the local level and I think we know best on this issue. [LB831]

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SENATOR HILGERS: So what I guess what I heard...and what I haven't heard and what I heard just now is, well, there are instances where we don't exercise our discretion. And I appreciate the discretion that you and other members of La Vista have shown in not exercising the power that they have. But what I haven't heard is, hey boy, one size here is really going to...we really need to have local control because we need to determine an additional salary...a greater salary to do what? We're going to lose good candidates? I mean, what I haven't heard is an articulation about why local control on a salary instance...and I have one last follow-up...is why that is important. And what I heard you say is well we haven't exercised our control the way that we could have, we haven't exercised that authority. But I think that's a different question. I think the question is why do you have...why here? Why is when determining your pay why is that local control so important and something that we should not regulate at the state level? [LB831]

DOUGLAS KINDIG: I think we know our city the best. Senator, there would be nothing more that I would like to do than to sit on that side of the table. Something I aspire to do. Something because of a \$12,000 salary does not allow me to do that. Now the state constitution makes you go to the voters to get that increase. I would be the first one to stand up...and I've told senators before to go out and lead that campaign, because I think we would have a more diversified body of government. I think there's individuals who could serve down here that bring a different perspective. Thank you for letting me have my soapbox on that, Chairman. But as far as the local community knows, my answer to that is we do truly know how many hours we work, the amount of time that we put in, and we can't run, excuse me, to the voters every time we need to make a decision. And so that's back to the basics of just local control. [LB831]

SENATOR HILGERS: I appreciate that. And by the way, I think in this body, particular, Senator Wayne and Senator Murante know this, there are very few members of this body who have young children. And part of the reason is because the pay is low. But we still have quality people who serve as legislators. [LB831]

DOUGLAS KINDIG: I wasn't implying (inaudible)... [LB831]

SENATOR HILGERS: No, no, no, I'm...but I more than most appreciate the point you're making. So I guess that brings me to my last question which is sort of two parts. One is, tell me...I understand you're saying we shouldn't run to the voters, but there's something philosophical about saying we as elected officials should not be the ones determining our salary because that is...that may not be abused all the time, may not be abused most of the time, but it could be abused some of the time. And as people who sit in the public eye and the public trust, we should be above reproach when it comes to salary at all levels. So philosophically, would you mind telling me why it is that it is important for elected officials to make the decision on their own salary. And then as a second part of that, tell me whether or not you would support the

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amendment that Senator Wayne discussed which was keep local control, but put it in the hands of the voters. [LB831]

DOUGLAS KINDIG: I think that the voters and the citizens already have that control. I think council member Gray mentioned that it has to be during an election year. It has come up in some of my elections over time that my opponent said that he's going to donate his salary. Well, and so it was an election issue. So we do have that. With my city council, we do...our terms are staggered, so we have four council members run one cycle and then two years later...any time during that two-year period, city council can vote for a raise. To raise the mayor's pay, it does have to be during my time that I'm up. So maybe not the answer you want, sir, but we do truly feel that the local voters already have that. They can vote us out of office. And it's been done before. And then as far as the second part of your question, would you mind just repeating that. [LB831]

SENATOR HILGERS: I think you... [LB831]

DOUGLAS KINDIG: Senator Wayne's amendment? [LB831]

SENATOR HILGERS: Yeah, and I think you've articulated an answer. [LB831]

DOUGLAS KINDIG: If I could just say to that, though, on Senator Wayne's amendment, and maybe he can explain this later during closing, but Senator Wayne made the comment during his testimony that he doesn't think any legislative body should vote on their salary. That comment was made. But then he's giving an amendment to allow Omaha to do that. I was told by a very wise man that was involved with our city that if you make exceptions to ordinances and laws, you don't have ordinances and laws. So I would not support any type of an amendment to take it to the vote of the people for the exact reasons that I gave. But I think if you weaken this bill in any way by making exceptions, then that's what you've done is you've weakened it. [LB831]

SENATOR HILGERS: Okay. I'm not sure...I may have missed...I don't know if Senator Wayne had that proposed amendment; he may have, I may have missed it. But thank you, Mayor, for your back and forth. [LB831]

SENATOR MURANTE: All right. Any additional questions? Seeing none, thank you for your testimony. [LB831]

DOUGLAS KINDIG: Thank you. [LB831]

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SENATOR MURANTE: Additional opposition testimony? How many opponent...opposition testimony do we have? How about this, if you wish to testify in opposition, why don't you come and sit down in the front seats. Ms. Abraham, welcome back to the Government, Military, and Veterans Affairs Committee. [LB831]

CHRISTY ABRAHAM: Good afternoon, Senator Murante. Thank you so much. Thank you, Government Committee, I'm so glad to be here today. And I just want to start by saying it gives me no pleasure to oppose a bill by our beloved Chair of the Urban Affairs Committee. But my name is Christy Abraham, that's spelled C-h-r-i-s-t-y A-b-r-a-h-a-m; I'm here representing the League of Nebraska Municipalities. And first of all, I just want to say I think legislators are paid too little and you work hard, you deal with difficult issues and the League has always been supportive of every measure to increase your salary and will be supporting Senator Vargas' proposal as well. With that said, we do need to oppose. As you've heard, we do have, as far as I can tell, one city who would be over the \$24,000 threshold, and that's Omaha. I use this sophisticated search engine called "the Goggle" and as far as I can tell, after Omaha and Lincoln, the salaries drop off significantly. For example, Grand Island is paid \$6,000; Gretna, under \$5,000; Hastings, \$7,000; villages--maybe a couple hundred dollars. So as I said, Omaha is really the only city that is going to be affected by this legislation. We're happy to work with Senator Wayne on an amendment if this committee feels that is appropriate. And I guess that concludes my testimony. Thank you so much for your time today. [LB831]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? Seeing none, thanks for coming down. [LB831]

CHRISTY ABRAHAM: Thank you. [LB831]

SENATOR MURANTE: Appreciate it. Additional opposition testimony? Welcome. [LB831]

ELAINE MENZEL: Hi, Chairman Murante and members of the Revenue (sic-Government) Committee...no, wrong... [LB831]

SENATOR MURANTE: Now we got to go look. [LB831]

ELAINE MENZEL: I am used to testifying, not even in Revenue, Judiciary, so at least maybe I didn't say that one, but anyway. For the record, my name is Elaine Menzel, it's E-l-a-i-n-e M-e-n-z-e-l, and I'm here today appearing on behalf of the Nebraska Association of County Officials. And we're in a position of opposition for many of the same reasons that prior testifiers testified to, particularly on local control. I won't get into...hopefully I won't be repetitive on some of those

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things. But I would first like to say we certainly will work with Senator Wayne as he moves forward on this issue, if he chooses to do so, and the committee if they do as well. Additionally, I would like to point out that it is important that all elected officials get paid a reasonable compensation, including the legislators. And like the League of Municipalities, NACO has also been supportive of legislators getting paid just compensation. And while we've not taken positions on all of our legislation at this time, it's my expectation that we will certainly be lending some type of support to Senator Vargas' bill. I would like to give you a little bit of background about NACO's involvement in the salary setting and recommendations that we have set. There are statutes at this point that do have minimum levels for county officials in the Chapter 23-1100 series. Those salaries are...they had been codified in 1961 and those minimum salaries range from \$5,000 to \$20,000. The Legislature was not keeping up with making modifications, similar to arguments you frequently hear in terms of not keeping up with the cost of living for fees and those types of things. And so in 1983 time frame, the association took it upon themselves to help create a salary committee to review salaries for county officials at that time, not just the elected officials but county board as well, and they made recommendations for them. I see I'm running close to out of time, but certainly we collect information; we distribute that. We just recently made recommendations to all of the counties as well. And then also, I do...on some of the amendments that have been proposed, I would like to point out a couple of concerns related to the Article III, Section 19 of the constitution that provides you can't increase or decrease the salary during the term of office of an elected official. And that's not just for one official, rather it's the board. So I think it would potentially be problematic to set up full-time or part-time for different persons on the board and that type of staff. So those are some of the reasons that we oppose the legislation and I'd be glad to try to answer any questions if there are any. [LB831]

SENATOR MURANTE: Thank you. I do have one. I want to follow up on your commentary on Section 23; I just briefly tried to pull up that section of statute regarding minimum salaries for county government employees, is that correct? [LB831]

ELAINE MENZEL: Correct, correct. [LB831]

SENATOR MURANTE: And those are still... [LB831]

ELAINE MENZEL: They're still codified, but we've not abided by those nor certainly...they're minimums, so we certainly recommend that they be at a higher level than that. And their...county clerk, assessor, treasurer, sheriff, attorney, clerk of the district court, register of deeds, and assessor, but it does not include county board. But when we... [LB831]

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SENATOR MURANTE: So do you support...does your organization support abolition of those minimums? How's that not a local control issue as well? [LB831]

ELAINE MENZEL: Well, it's been in statute for years. We would be fine with getting rid of the minimums, because... [LB831]

SENATOR MURANTE: Okay. [LB831]

ELAINE MENZEL: ...what the point is that the statutes had been such that the Legislature was not addressing them during the time frame so they weren't increasing to match what the people should be compensated for their... [LB831]

SENATOR MURANTE: Sure. [LB831]

ELAINE MENZEL: ...so that's why we got involved in 1983 in terms of doing studies for purposes of trying to do fair...well, in fact, the Legislatures were coming forward and saying counties aren't paying enough because they're so fiscally prudent. [LB831]

SENATOR MURANTE: I guess my point is we're looking at the same issue, but from two different caps, right? I mean, Senator Wayne is providing a ceiling as current state law provides a floor, both have the same policy constraints relative to local control and relative to whether the Legislature should by state law be imposing their will upon a local government, but I'm not hearing opposition to the floor, just the ceiling, which suggests that we're not really talking about local control, we're talking about making sure people get paid as much money as we can pay them. [LB831]

ELAINE MENZEL: Well, and maybe I'm not sufficiently articulating, I...well, I was not here back in the '80s when the agreement was made with NACO and the senators who would have been involved or interested in that topic. But my understanding was that NACO is going to take over...to work with the counties, because the way it's structured, we certainly don't do it for ourselves, we have a committee of individuals that represent county officials and the county boards, as well as the various elected officials, to evaluate the information. So from that, they're looking at the information that is locally set. So I don't know that I'm fairly responding to your question, but... [LB831]

SENATOR MURANTE: Okay. [LB831]



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ELAINE MENZEL: ...but no, I mean, I would...while we've not considered it, my guess is we would be receptive to removing the minimum as well as the ceiling. [LB831]

SENATOR MURANTE: Okay. Senator Hilgers. [LB831]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you for being here, I appreciate your testimony. [LB831]

ELAINE MENZEL: Okay, thank you. [LB831]

SENATOR HILGERS: Just a quick follow-up, similar to Senator Murante's, although I thought I heard...what I thought I heard you say was that there might be some constitutional questions under Article III. My read of Article III and the limitations on the Legislature's ability to reduce or increase compensation for a particular elected official is that it's limited to individuals. I mean, the article specifically speaks about his or her versus maybe...not...would be more silent on sort of categories, but I wanted...so in other words, it might prohibit the Legislature from singling out Councilman Gray, but it might not prohibit the Legislature from singling out entire bodies. But that's my read initially. Can you tell me a little bit, expand a little bit on your interpretation of Article III and how you think...is there any precedent to how it's been applied and how it would apply here? [LB831]

ELAINE MENZEL: And I've not fully researched for purposes of that, that's my initial concern that it might be problematic. Certainly willing to look at it more so, but...and would like the opportunity to do so. It would...for it to be workable, I would think the definition and that becomes problematic on some of (inaudible). [LB831]

SENATOR HILGERS: Sure. And I appreciate you raising (inaudible). [LB831]

ELAINE MENZEL: And...Article III, Section 19, I think also, if evaluating it, you might want to set the dates for purposes of...you know that type of stuff...evaluate effective date and that type of thing. [LB831]

SENATOR HILGERS: Sounds like a good issue for Mr. La Grone. Thank you. [LB831]

SENATOR MURANTE: All right. Any additional questions? Seeing none, thank you for your testimony. [LB831]

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ELAINE MENZEL: Thank you. [LB831]

SENATOR MURANTE: Additional opposition testimony to LB831? Any neutral testimony on LB831? Seeing none, Senator Wayne. [LB831]

SENATOR WAYNE: You guys are lucky, I was just informed I have to go over to Judiciary for my other bill. But you kind of stole my thunder. I was waiting for the whole local control argument to happen and then my closing I was going to bring up the fact that we already do it. We set the minimums and in fact we...for county officials they have to have it done statutorily prior to January 15 every year they have to set their salary...yeah, every budget that they're going to increase their salaries they're going to have to set that every four years on election year on January 15. So we already control their salaries in some aspect. It's not a local control issue at all. The issue is should there be a floor, should there be a cap; and if you want to go over the cap, give it to the vote of the people. Let them decide whether they should go over the cap or not. With that I'll answer any questions, otherwise I'm going to the dark hole, Judiciary. (Laughter) [LB831]

SENATOR MURANTE: Senator Hilgers. [LB831]

SENATOR HILGERS: Thank you, Mr. Chairman. Real briefly, Senator Wayne, I mentioned it earlier, I think, discussing with Councilman Gray, can you speak a little bit about this grandfather issue, whether if you're going to take someone's salary and cut it down, is that an unfair change in expectations? [LB831]

SENATOR WAYNE: Well, I think the...well, I think if they can vote their salary up, they're also changing expectations. But to be fair, the bill would be affected after a term. So everybody going into the next election cycle would know what it is. And there are some staggered terms and we can deal with that. I have familiarity of doing that with OPS when we shrunk the school board, so we can make all that work. We can make them all rerun. There's things we could do. I don't want to have to go down that complicated of a path, but the simple answer is at the end of their term. [LB831]

SENATOR HILGERS: Thank you. [LB831]

SENATOR MURANTE: Thank you. Seeing nothing else, thank you, Senator Wayne. And we will turn it over to the Vice Chair. [LB831]

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SENATOR BREWER: Thank you, Mr. Chairman. Welcome to your committee literally.  
[LB997]

SENATOR MURANTE: Thank you, Senator Brewer, members of the Government Committee. For the record, my name is John Murante, J-o-h-n M-u-r-a-n-t-e; I'm the State Senator for District 49, which includes Gretna and western Sarpy County and I'm here today to introduce LB997. I believe I have brought the remainder of the political subdivisions of the state with me to oppose this legislation. So I will give you a bit of a background and understand that some clarity certainly needs to be made on definitional purposes. First, this issue is meant to address what, I believe, is a true property tax crisis in the state of Nebraska. As we all know, property taxes are levied at the local level. The property tax dollars are spent at the local level. And I believe that we as legislators have a very large role to play in providing that property tax relief. With that said, the bill as it's currently drafted applies to all political subdivisions, and I intend on bringing forth a piece of legislation to you to narrow the scope of this bill to only those political subdivisions which levy a property tax. And there is also one drafting error that the bill was not...ended up being broader and there were more concerns that the bill went far beyond what I intended the bill to cover and that is on line 2...page 2, line 2 where we're discussing primary responsibilities are solely supervisory in nature. The word "solely" was left out in the final draft of the bill. So what this bill is attempting to cover are people whose sole responsibilities are supervisory or supportive in nature. With that said, I understand that there is no current statutory definition of what an administrative employee is for any political subdivision. I understand the Education Committee just had a public hearing on a comparable subject matter where it turns out not just with...across political subdivisions, but within common political subdivisions, differing school districts defined what an "administrator" or "administration" was differently. And to me, that is something that this Legislature absolutely needs to clarify because as a very real part of transparency includes clarity. The voters have to...the people of Nebraska have to understand what these terms mean; and especially when we're talking about roles that are supervisory or administrative in nature. Just take school districts for example, I think parents want to know how much of a school district's budget is spent in the classroom. And if they're defining what "administration" is differently, it's very difficult if not outright impossible for parents to make the choice for their children as to what school districts that they want to send their child to. But to me, this gets into what I believe any reasonable business person, any reasonable business practice would look at. We have, what I believe...I think most of the members of the Legislature would agree, is a serious property tax crisis in this state. That requires controls on local government spending. I don't see any alternative to that reality. And in my view, any time an organization, whether it's government or business, is looking at reasonable budgeting practices to cap where money is being spent, we ought to start at the top. Whether you are...my former business where I was the president and CEO of a restaurant, we would budget. If the dollars that came in did not meet what we budgeted, it was the top that received the first cut. And I think government should operate the

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same way. This bill is drafted such that we are singularly excluding...obviously school districts are the biggest spenders of property tax dollars in the state of Nebraska, statutorily based. We set their property tax levies and they levy the most property taxes. In my view, our problem with property taxes on the school district level is not that we're paying school teachers too much, but that we need to start when talking about limiting spending at the administrative level. And I think that is what responsible business people look when they're setting budgets as well. Now there have been...I've gotten numerous commentary about...from the people behind me who have had...who have spoken with me about the nature of this bill. And there is one element of opposition which I understand completely and am happy to work with and that is how do we define what an administrative employee is. It will be a challenge, but I think we have to do it. Even if we don't place a cap in the salaries and benefits of these employees, we need to define what an administrative employee is so that we're looking...we are ensuring that we are looking...that when we are looking at the budgets of political subdivisions we have apples to apples comparisons. The second is largely the opposition we heard to Senator Wayne's bill that we either cannot or should not put in basic budgeting principles into the budgets of local political subdivisions. I would submit that not only should we be doing that, but we do that, as Senator Wayne articulated, in numerous different ways, and it is our responsibility to do that. Now I'm not saying that one-size-fits-all solutions are across the board a good thing, but basic budgeting principles restraints on...we can't go...we're not...in this bill, we're not telling them how to spend their money. You're saying there is a percentage of administrative costs that political subdivisions ought not exceed. Now, to me there are two different questions that we get to when we ask that policy question. The first is, what...should there be a line at all? And the second is, what should it be? On the first I think the answer is absolutely yes. Clearly it is the statutory duty in numerous different provisions of state law that political subdivisions are governed and regulated and their expenditures are limited in certain capacities. What that is? I'm willing to have that conversation. The number 5 percent was taken from a number of different studies on the proper administration of major corporations, as well as non-profit organizations. There's a certain amount for non-profit organizations; there is a percentage of the budget that the IRS does not find allowable and 5 percent was a recurring theme along those academic studies. So 5 percent seemed reasonable. But by the same token, if there is a logical rationale as to why that number should be different, I'm open to that. But I think this is a good start to a conversation to addressing what we're going to do about local government spending because that is ultimately at the core of why property taxes in this state are out of control. And I think we should start at the top. I think that's the most appropriate way of doing it, and would be happy to answer any questions that you may have. [LB997]

SENATOR BREWER: Thank you. Questions? Senator Blood. [LB997]

SENATOR BLOOD: Thank you, Co-Chair, is that what I call you? [LB997]

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SENATOR BREWER: Whatever you want to call me. [LB997]

SENATOR BLOOD: Brewer. And thank you for bringing this forward, Senator Murante. I may have several questions. Can you tell me what the current percentage on average is spent on administration on a budget across the state of Nebraska, is there an average? [LB997]

SENATOR MURANTE: I don't believe that those statistics exist. [LB997]

SENATOR BLOOD: Well, you'd have a budget, you look at the budget and say how much to pay administration. [LB997]

SENATOR MURANTE: I don't believe that state government has a collective data point of the average of all of the hundreds of political subdivisions in the state of Nebraska. [LB997]

SENATOR BLOOD: What about just the top three? [LB997]

SENATOR MURANTE: So I will say this, what I deliberately did not do was look at specific political subdivisions and say what are they spending as a percentage of their budget? Because this is not targeted at any one political subdivision; it's not targeted at any one administrator. It certainly is not targeted at my...look at the...either Gretna...the city of Gretna or Gretna Public Schools, this isn't an admonition on any individual or individual subdivision. This is a question of what ought to be the state public policy across the board. So to that end, that was my approach with it. I'm not targeting any individual person nor political subdivision. [LB997]

SENATOR BLOOD: And I want to make it clear, that's not what I'm asking in any fashion. So for me when I do a bill that has any kind of fiscal information involved, I look what the problem is. And so to verify a problem when we're talking about budgets, how much of that budget is being spent right now on administration so I can justify bringing it to 5 percent. Not just looking at property taxes, but looking at budgets to see if indeed there is a need to bring it down. So that's why I'm asking that. So I'm thinking more feasibility assessment-type thing. So the next question I would have would be what is the average number of administrative staff per municipality board as far as in most of the budgets. Have you looked at that at all? [LB997]

SENATOR MURANTE: So within a board... [LB997]

SENATOR BLOOD: Like, because I'm looking at city clerk. I'll go back to Bellevue because that's what I know best, so I think based on this description there would be a city clerk, an assistant city clerk, would that be? Because they would supervise as well, or not? [LB997]

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SENATOR MURANTE: So it would depend on whether their job, as the bill as amended, is exclusionary...is solely supervisory or supportive in nature. [LB997]

SENATOR BLOOD: Okay, so we'll say city clerk, so city administrator, and then what about like... [LB997]

SENATOR MURANTE: We'll I would say...let's back up for a second, so the city clerk, as I understand it is the person who is recording the votes of a political subdivision's legislative body. [LB997]

SENATOR BLOOD: But that's a very small part of their job. [LB997]

SENATOR MURANTE: But is it a part of their job? [LB997]

SENATOR BLOOD: It is part of their job. [LB997]

SENATOR MURANTE: And is that supervisory in nature? [LB997]

SENATOR BLOOD: They would have an assistant city clerk so they would be supervising one person? [LB997]

SENATOR MURANTE: That's not what I...well,... [LB997]

SENATOR BLOOD: So is it based on how many people you supervise? [LB997]

SENATOR MURANTE: No, it is based on whether their job is solely supervisory or supportive in nature. [LB997]

SENATOR BLOOD: Okay, so... [LB997]

SENATOR MURANTE: So if they are physically taking the votes, even if it's 1 percent of their job, as the bill as amended, that person would not qualify under this bill. [LB997]

SENATOR BLOOD: Well, that would almost be everybody that's in an administrative position though. [LB997]

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SENATOR MURANTE: I deliberately...it was my hope that the bill would be narrowly crafted such that...yeah, I think the... [LB997]

SENATOR BLOOD: I'm not trying to harass you, I'm really trying to get my brain around this, sincerely. [LB997]

SENATOR MURANTE: So I'm trying to...the issue I'm trying to address are people who...when we look at a management structure, a flowchart, people whose sole job is to manage other people, that if...we'll take a school district, if it's a superintendent...if you are an employee of a school district and you never enter a classroom or talk to a kid, this is probably a pretty good sign that you are in an administration in nature, that is... [LB997]

SENATOR BLOOD: But wouldn't they attend school board meetings? [LB997]

SENATOR MURANTE: I'm not sure I follow the question. [LB997]

SENATOR BLOOD: A live administration that attends school board meetings...I mean, I'm trying to think of one...very few exceptions, and again, it could be just how it is phrased and it's just not clicking in my head, I can't think of any administrative position that is purely just supervisory, not one...and that's...under this description, so maybe that's where I'm stuck. So if the description says supervisory, in a business most definitely you have people that only supervise, but you look at the city administrator they're required to attend city council meetings and, indeed, they do supervise people, but they have so many other roles that they play, so maybe it's the description that I'm stuck on. Maybe that needs some work. [LB997]

SENATOR MURANTE: Well, I would tell you, and I've told several of the people behind me that there...if you were...when the League of Municipalities came to me and expressed their opposition to this bill, I was surprised that they cared because it seemed to me...it would shock me that there was a city that had 5 percent administrative fees. I mean, if, in my view, if your budget is overwhelmingly city police, fire, roads... [LB997]

SENATOR BLOOD: That's a large part. [LB997]

SENATOR MURANTE: That's a significant part of the budget, that's what they do. [LB997]

SENATOR BLOOD: Yeah, I would agree. [LB997]

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SENATOR MURANTE: So that's what I'm targeting is the layers upon layers of...and to the extent that none exist and this doesn't apply to anybody, then maybe the folks behind me can take a sigh of relief and it's not that big of a deal. But I do think when we look...these are terms that are used, certainly, in the business world on budgeting practices. And relative to definitions, I'm happy to work on the language. I think that's probably, at this point in the legislative process, secondary to the principle, and we can hammer out who ought to be covered and not, but I'm happy to work on that as well. [LB997]

SENATOR BLOOD: But in the business world, wouldn't you do a comparative study so you'd know where you're at to know if you were making the right move financially? [LB997]

SENATOR MURANTE: Well, that's what I did. That's what...the number 5 percent wasn't pulled out of the air, it was taken from a number of academic studies about appropriate executive pay and that's where the number came from. [LB997]

SENATOR BLOOD: I only have one more question and then I'm done. So did you do any research on what the average benefits for administrative positions are? The average...I mean, I think the average in Bellevue is like \$35,000 was the average per employee. [LB997]

SENATOR MURANTE: So that goes to another important point of what...sort of two different ways of attacking the same problem. Right? So Senator Wayne had a bill that dealt with an individual officeholders' salaries. Senator Linehan has a comparable piece of legislation in the Education Committee which deals with the salaries of individuals and whether they can exceed a certain amount of...you'll have to forgive me, I wasn't in that public hearing, but I think it was five times...superintendent pay cannot exceed five times that of a teacher. I chose to go a different route. Not to focus on the individual, but to focus on the budgeting process; what percentage of the overall budget ought to go to administration as a collective, and then it's up to the political subdivision how they are going to allocate those dollars which to me, probably, is more in line with the local control arguments that we're undoubtedly about to hear. But that was my approach to dealing with that same problem. [LB997]

SENATOR BLOOD: But, Senator, wouldn't...if a...say a municipality, and again, I go back to what I know, or you participated in evidence-based budgeting where they did comparative studies and they looked at what staff was truly needed and what staff was not needed, and then what they come up with is going to be more than 5 percent, I mean, they're doing their due diligence. Who are we to say, you know what, 5 percent. [LB997]

SENATOR MURANTE: I think what you are talking about...where we would have, I think, a fundamental disagreement is the appropriate relationship between the state and local



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governments. In my view, and I think this is based in both the state constitution and state law, local governments derive their power from the state, from state statute and the state constitution. [LB997]

SENATOR BLOOD: I agree with that. But I also agree that sometimes, as I've heard you say many times on the mike, there can be overreach. [LB997]

SENATOR MURANTE: Yes, and if...if you think setting sort of a basic budgetary threshold is micromanagement, I would just have to disagree. I don't think that is micromanagement of a local political subdivision to just outline what percentage of their budget on administration...administrative costs cannot be exceeded. [LB997]

SENATOR BLOOD: I respect that. [LB997]

SENATOR BREWER: Any additional questions? Yes, go ahead. [LB997]

SENATOR THIBODEAU: Thank you, Vice Chairman. So my questions actually drive around basically the classifying of the jobs. So prior to joining the Legislature, I sat on the Omaha Personnel Board and I can tell you I think I might have read every job description for every employee in the city of Omaha. So, not that I memorized all of them, but what I can say is I feel that a lot of their job descriptions, as it's currently defined, could fall under this. So they then may have to go back and reclassify or redefine their jobs. And how...where are they going to get the direction to do that? Are they going to look to the Department of Labor? I mean, like for my business, I look to the Department of Labor for a lot of things or I do a lot of comparative studies, as you said with your business, when setting salaries or budgets and those types of things. But if we are going to tell them that they have to keep a threshold, are we going to tell them how they need to get there? Or are we just going to let...because then could their costs even go higher trying to figure out and reclassify or relook at...you know, I think they have 33,000 employees, obviously, they're not going to have to look at all of them, because some of that includes police and whatnot, but... [LB997]

SENATOR MURANTE: Sure, I think an element of that gets into creating a state law; and I think this is probably true, not just on this legislation, but on any legislation, creating definitions which are simple and easy to understand. That is certainly something that I am committed to. There is clearly a lot of lack of understanding of the practical implication of the bill as it's currently drafted, and I appreciate that. We tried to use sort of generally accepted terms to put into the bill as it's currently drafted. But I'm happy to work on it. I mean, if the hangup is we have to define what the word "administration" means, I think we're all pretty smart people, there's a lot of smart people behind me, I think we can probably figure that out. So that's why I'm

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trying to figure out if there's opposition, what is it? Is it really we have to figure out how to define the word "administration?" Because I think we can get that done this year. If the problem is inherently philosophical in nature, we, the Legislature, either cannot or should not tell the local political subdivisions what to do on something like this and that's more of an impasse that we're probably not going to be able to get over. [LB997]

SENATOR THIBODEAU: Well, and I get the argument between local control and state control. But I think it is more broad than just defining the term "administration" or "administrative." Because even if you look at the definition of a salaried employee versus an hourly-waged employed, I mean, even employers get caught up all the time and they end up having to owe back wages because they make the mistake of how they classified that job. [LB997]

SENATOR MURANTE: Oh sure, absolutely, absolutely. [LB997]

SENATOR THIBODEAU: So you think it would be easy to classify salaried, you know, versus non, but it's a very hard...it's a tough thing to do and you have to make sure that you're doing it correctly or that you can have huge implications. [LB997]

SENATOR MURANTE: Absolutely. [LB997]

SENATOR THIBODEAU: So I don't know if I would, you know, put it down to as easy as just defining "administrative." I think that maybe there's a good place to start. And I agree you brought up another good discussion, because we do have to control costs and this could be an area where we control it, but I just think the long-term implications need to be reviewed a little further. [LB997]

SENATOR MURANTE: Agreed. [LB997]

SENATOR THIBODEAU: Thank you. [LB997]

SENATOR BREWER: All right, additional questions? Senator Lowe. [LB997]

SENATOR LOWE: Thank you... [LB997]

SENATOR BREWER: Whatever you want to call me. [LB997]

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SENATOR LOWE: Let's not go there. And thank you, Senator Murante. Devil's advocate one more time, let's go from Senator Blood and Senator Thibodeau and some of your testimony, let's say that they want to take somebody out of the administration category just by assigning them some other job to do that. Would that then take them out of this category? So if you're a city manager and all of a sudden one day a week you have to drive the trash truck around, that would take them out of this category or... [LB997]

SENATOR MURANTE: Well, I'll tell you... [LB997]

SENATOR LOWE: There's always ways around... [LB997]

SENATOR MURANTE: There's always ways around it. And as strictly as I had intended the language to be drawn, I'll give you...I'll share with you a conversation I had on this bill with a friend of mine who is a teacher who asked me, basically, the same question that you did, but relative to superintendents. Well what if the superintendents just go for an hour a day a teach a class? I would submit that if the net result of this is superintendents get out of their administrative buildings and into a classroom, that's not the worse thing in the world. If it means that the people at the very top are doing the jobs that the working people in those political subdivisions are doing, you know, I'm willing to accept that. That's certainly not the stated intent, but that's not the worse thing in the world. I would also say that by putting this along with numerous other things and in the budget act, they are...the political subdivisions report to the State Auditor and the State Auditor would make an assessment as to whether...and the State Auditor currently does make an assessment as to whether the political subdivisions are in compliance with the remainder of the Nebraska Budget Act, so there is some enforcement mechanism there beyond just where putting a statute in place and hoping that people are good actors. But I agree with you, it's the defined line between narrowly tailoring this such that we're accomplishing our policy and without creating loopholes that are so easy to jump through that the bill doesn't do anything. But I agree with where you're coming from. [LB997]

SENATOR BREWER: Additional questions? Seeing none, thank you for your testimony. Will you be sticking around for closure? [LB997]

SENATOR MURANTE: Yeah, two or three hours we'll probably take. [LB997]

SENATOR BREWER: Thank you. [LB997]

SENATOR MURANTE: Yeah, I'll be around. [LB997]

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SENATOR BREWER: Good. All right, real quick, how many are here that are proponents?  
(Laughter) [LB997]

SENATOR MURANTE: I could have told you that. That goes without saying, Senator. [LB997]

SENATOR BREWER: All right. How many here plan to testify that are opponents? All right, hope you brought your dinner. All right, first up, come on down. Welcome. Whenever you're ready. [LB997]

STEPHANIE SUMMERS: (Exhibit 1) Thank you. Good afternoon. My name is Stephanie Summers, S-t-e-p-h-a-n-i-e S-u-m-m-e-r-s. Good afternoon, Vice Chairman Brewer and members of the committee. Again, my name is Stephanie Summers and I am here as president of the David City Public Schools School Board and I'm also here representing the Nebraska Association of School Boards. I am here in opposition to LB997. As a school board member, I have two major responsibilities: budget and policy. So my responsibilities are not unlike your responsibilities in this legislative body. If this bill is passed, it would not only undermine one of my two major responsibilities that I was elected for, it would also cut my district's administrative staff by at least one-third. In my district we have a total of 12 administrative positions underneath the language of this bill. It would include our principals, our superintendent, and our secretarial staff that are not in the classroom. Cutting my district's administrative staff by one-third is absolutely devastating; just as it would devastate any of the districts in Nebraska. All I could think of after I came up with that number was how do we decide who goes and how do we provide the same level of education for our district and the same quality? If by chance through discussions on my school board we decided that we needed to keep all of our positions and we felt that they were essential to our district, then each one of those positions would have to take a 30 to 40 percent cut in compensation. How can I ask anybody on my administrative team to continue to maintain their level of responsibility for two-thirds of their current salary? I have passed out two different slides there, a handout. And as you can see from the handout...and this is from the United States Census Bureau, the first, the top graph is compared to the surrounding states, Nebraska ranks the lowest in administrative costs per student as a percentage. And the lower graph represents the percentage of those administrative costs that go directly toward the student. And the state of Nebraska is the clear winner on that one, 66 percent of those costs are directly benefit the student. The Legislature currently has brought forth the bill that ties the hands of the locally elected officials tasked to provide education for the children of their community. You brought forth a bill that is a knee-jerk reaction that does nothing to solve the problems of the 1 percent, and only serves to punish the 99 percent. Our system of governance says that I am held accountable to my taxpayers for spending at our local level. I've had meetings with farmers in my district. My board and I have completely been transparent with them with regards to our budget. They've entrusted me to govern our school district and the finances to support it. I take that role very seriously and that's why I'm here today. Centralizing education

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decisions into a roomful of people sitting in the Capitol isn't what the taxpayers in Chadron want; it's not what the stakeholders of Gibbon want; and it isn't what the community of Albion wants. And I can assure you without a doubt that it is not what the people of David City, Nebraska, want. I thank you for your time and I thank you very much for your service to our state. [LB997]

SENATOR BREWER: Thank you for your testimony. Questions? Senator Blood. [LB997]

SENATOR BLOOD: Thank you, Co-Chair Brewer. I just have a quick question. So it sounds like to me that maybe an unintended response to this proposed legislation would be unemployment? [LB997]

STEPHANIE SUMMERS: For sure. There's no...we have...we only have 650 students in our public school district. We also have a Catholic school system in our district. We have two elementary principals, one high school principal, one assistant principal. I wasn't exactly sure if this language included the athletic director because that would also be a supervisory role. And then, obviously, I think we have four total secretaries. So we're counting 12 or 13 people total at an administrative level in our entire districts and to cut one-third of them...we're one of the top three employers in our community. And it would devastate to those families and to our community, yes. [LB997]

SENATOR BLOOD: Do you happen to know what your unemployment rate is right now in your area? [LB997]

STEPHANIE SUMMERS: That is not a number that I have, no, I'm sorry. [LB997]

SENATOR BLOOD: Just curious. All right, thank you. [LB997]

STEPHANIE SUMMERS: Thank you. [LB997]

SENATOR BREWER: Additional questions? Go ahead, Senator Thibodeau. [LB997]

SENATOR THIBODEAU: Thank you, Vice Chairman. And I'll just let everybody know, I'll probably ask everyone the same question, so you can be prepared or start Googling if you need to. Currently, what is your percent of salary as opposed to your budget overall? [LB997]

STEPHANIE SUMMERS: For administration or for teachers? [LB997]

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SENATOR THIBODEAU: Well, I would like you to break it out, if you have that information. [LB997]

STEPHANIE SUMMERS: Well, I...I'll probably have to round, because I don't know specific numbers. [LB997]

SENATOR THIBODEAU: That's okay. [LB997]

STEPHANIE SUMMERS: I would say for our total budget for our salaries it's about 80 percent, and that's including teachers. I mean, that's a bulk of our budget is paying our teacher salaries. And we stay within the array of our district. You know, we're required to do that by law, otherwise we go to CIR and that's...we've never had to do that. But our administrators are right now at 7 percent within that 80 percent. So that's without benefits and that's administrators only. That's not including the secretaries that... [LB997]

SENATOR THIBODEAU: So this is straight compensation, not adding benefits. [LB997]

STEPHANIE SUMMERS: No, that's including benefits. [LB997]

SENATOR THIBODEAU: That's including benefits. I'm sorry, I misunderstood that. [LB997]

STEPHANIE SUMMERS: That's compensation plus benefits. Yes. [LB997]

SENATOR THIBODEAU: Okay. [LB997]

STEPHANIE SUMMERS: And that's the 80 percent as well, is including benefits and... [LB997]

SENATOR THIBODEAU: Okay, thank you. [LB997]

SENATOR BREWER: Okay, (inaudible). [LB997]

SENATOR BRIESE: Okay, thank you, Vice Chairman Brewer. Thank you for being here. And in your numbers here, when you suggest you'd have to cut back roughly a third, so your total dollar...total amount you're thinking about is 7.5 to 8 percent of total budget, I'm assuming, dedicated toward administrative salaries and benefits. [LB997]

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STEPHANIE SUMMERS: Um-hum. Um-hum. [LB997]

SENATOR BRIESE: Others might testify to this later, but in case they don't, do you know how that compares to statewide average of K-12 districts or what the norm would be out there? [LB997]

STEPHANIE SUMMERS: You know, all I can speak to is that we try to stay competitive in our area, you know, being a smaller school. It is difficult to get quality administrators, but we also had administrators that have either...our current superintendent, this was his first superintendent job, and we don't see any reason why we would get rid of him. We love him. He's doing an absolutely fantastic job. So maybe his compensation wouldn't be as high as somebody who has had experience or is in a bigger community. So, but we try to be competitive is all I can answer to that. [LB997]

SENATOR BRIESE: But as far as a percentage for comparable districts or across the state, we don't know that yet. [LB997]

STEPHANIE SUMMERS: No. And I'm sure it would be...I'm sure it would be comparable, but I can't speak to it specifically. [LB997]

SENATOR BRIESE: Okay, thank you. [LB997]

SENATOR BREWER: Senator Hilgers. [LB997]

SENATOR HILGERS: Thank you, Mr. Vice Chairman Brewer; I appreciate it. Thank you for being here; I really do appreciate your testimony. One, and I wasn't...I think from Senator Murante...what I took from Senator Murante's opening was in part that maybe the definition was too broad that he had currently in the green copy that there might be some definitional language either that he intended to have in here but didn't, that he doesn't have, but also language that he might be willing to work on that would help limit the scope. So in other words, I hear you say, hey as written, this covers a lot of my folks and I'm going to have to let them go. Assume we're in a world where the scope of this is at a threshold that it is above where you're at today. So in other words, take for a moment the idea that you have to let anyone go off the table and I just want to talk philosophically. The notion that you would have a cap for salaries in the business world is one that is strongly supported in part because it helps focus people on making wise decisions with salary dollars. The salary dollars are one of the hardest things to allocate in a way that's disciplined and efficient because you have people, you bring them on, it's hard to value, it's harder to let them go. And so in the business world, there's like some really good reasons why

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you might want to have a cap of some kind. So can you...take me, again, the unemployment issues off the table, which in my hypothetical I'm assuming the cap is above where you are now. Philosophically, can you sort of lay out your objections to having a cap at all for salary?  
[LB997]

STEPHANIE SUMMERS: Well, I guess...yeah, my...in my mind, the way I think about it is I sit down...I'm just going to use my superintendent because he's my one employee, you know, as a school board member, he's the one employee that I have, and when we sit down and decide does he get a raise and how much does he get a raise. Number one, I'm thinking about the 20 farmers that showed up at our school board meeting because we're in a rural district, I'm thinking about them and I'm wondering I have to answer to them; and he has to answer to them as well. He's out in the community; he's talking to everybody and he's going to have to answer for his salary. If I don't...if I don't do on my taxpayers justice and if I don't keep them in mind when I'm setting his salary, and then him in turn when he comes to us to give us a guidance on our principal's salaries that we also need to approve, if I'm not thinking about the taxpayers, then I'm not doing the job that I was elected for. So to me it all boils down to the people voting. And they already get a vote. If they don't like what I'm doing, if they don't like the fact that if I want to give my superintendent a 5 percent raise and they don't like that, I'm up for reelection this year. So they get to let me know that. [LB997]

SENATOR HILGERS: Well, I appreciate that and I am grateful that the work that you've done, how you put taxpayers at the forefront of your mind, and certainly appreciate...I think if we had every public servant take the same approach, maybe we wouldn't be having this conversation. So I do appreciate that in all sincerity. One of the questions, I think, that's hard to answer from a citizen's perspective is whether or not the allocation of dollars is wise. In other words, it's hard to judge if that 5 percent really is too much or too little for a lot of reasons. I mean, some of that...some is apathy, some of it big budgets, it's hard to judge, they don't have all the information you might have. And so maybe not in your shoes because I understand that you're doing as diligent a job as you can. From a big picture, what tools do citizens have to feel confident that their elected representatives are allocating those dollars in the most efficient and wise way? I mean that's one takeaway I have from Senator Murante's bill is that it gives some confidence, maybe, to citizens that maybe they don't know all the particulars of the array and the competition and everything else, that there's something that's making sure that people are allocating their dollars wisely. I mean, is...how would you elaborate on that? [LB997]

STEPHANIE SUMMERS: Thank you. I think it all comes down to--are they doing the job? Right? Are they getting...are they doing the job right and are they getting compensated fairly from the taxpayers' standpoint and from the administrative standpoint. And we are mandated by the state that we have to evaluate our superintendent, our principals, our teachers; we have to evaluate them every single year. And while that evaluation is not public, I mean, it can't be. You



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have to have some personal...you can't let them know exactly what the evaluation is, but there has to be a level of trust, isn't that what it comes down to? You have to have some level of trust that the people that you're voting into office are doing what they say they're doing. And I'm evaluating the superintendent, and I am going to conferences, and I'm trying to figure out what's the best way to evaluate. How do I know he's doing a good job? And that's the...unfortunately it does boil down to trusting the people that you put into power and trusting that they're doing their due diligence. And if you don't feel that, then you got to find somebody else. [LB997]

SENATOR HILGERS: Well, and I appreciate that sentiment. I do think that we have a whole number of measures that in combination with trust we use to hold people accountable, right? [LB997]

STEPHANIE SUMMERS: Um-hum. [LB997]

SENATOR HILGERS: That's why we have a free media, for instance. And it's hard to keep people...hold people accountable if you don't necessarily have the information to do it. So that was...I don't want to...we can have a long philosophical debate about how we keep public representatives accountable to the people who voted them into office, but I appreciate your comments today. Thank you. [LB997]

STEPHANIE SUMMERS: Thank you. [LB997]

SENATOR BREWER: Additional comments? Senator Lowe. [LB997]

SENATOR LOWE: Thank you, Vice Chairman Senator Colonel Brewer. And thank you for coming to testify today. It's very interesting on what we're talking about today and how it affects everybody. Senator Murante said that if it gets...the administration out of the office and into where the people are, this bill will have at least accomplished something. Does your athletic director does he also teach? [LB997]

STEPHANIE SUMMERS: Yes, she does. [LB997]

SENATOR LOWE: My guess is that would not take into consideration on this bill. [LB997]

STEPHANIE SUMMERS: Okay, right, um-hum, sure. [LB997]

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SENATOR LOWE: Does your...any of your other administration, because you're a small school district, do they also teach? [LB997]

STEPHANIE SUMMERS: Our principal coaches; he does not teach anymore, he just coaches. So I don't know if that would be...he coaches the football team. [LB997]

SENATOR LOWE: I'm not sure either, but...anybody else in the administration? [LB997]

STEPHANIE SUMMERS: Actually a number of our...I guess our elementary school teachers, some of them do some coaching, but the superintendent does not. [LB997]

SENATOR LOWE: Okay. [LB997]

STEPHANIE SUMMERS: Or the elementary principals do. [LB997]

SENATOR LOWE: I'm just trying to alleviate your fears of firing everybody because there may be a way around that. [LB997]

STEPHANIE SUMMERS: I don't...yes, and although I don't want to have a high school principal and four sixth-grade teachers on my...who all have responsibilities of administrators. Does that make sense? I don't want to re... [LB997]

SENATOR LOWE: How about administrators who are also teachers? [LB997]

STEPHANIE SUMMERS: With all due respect, I'm a teacher, actually, I...that's my...my passion is education and I've never, ever want to be an administrator. And I think that putting also teaching...and for us, I know for smaller districts, it's a "you have to." There are some administrators that have to teach. That is...it's always something. For our district, I see how busy our administrators are and they push us every day to be the better district. And I think putting that on their plate is...does detriment in our district...is a detriment to us if we were to have to have them do that in order for them to keep their jobs. [LB997]

SENATOR LOWE: And I know my son's...they did go to a Catholic school and the principal drove the school bus to sporting events and things like that. [LB997]

STEPHANIE SUMMERS: Sure. Yes, we do that as well, yes. [LB997]

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SENATOR LOWE: And, you know, just to make things more efficient. [LB997]

STEPHANIE SUMMERS: Um-hum. Yep. Oh, yeah, you're always looking to cut corners in how you can... [LB997]

SENATOR LOWE: But that just...it seems like that's getting them out of the administration building and in with the students, so it may not be as bad as what we all think. [LB997]

SENATOR BREWER: All right, additional questions? Seeing none, Stephanie, thank you for your testimony. [LB997]

STEPHANIE SUMMERS: Thank you very much. [LB997]

SENATOR BREWER: And your honesty, we appreciate it. [LB997]

STEPHANIE SUMMERS: Thank you. [LB997]

SENATOR BREWER: Welcome. Whenever you're ready. [LB997]

RENEE HYDE: (Exhibit 2) Thank you. My name is Renee Hyde, R-e-n-e-e H-y-d-e. Senator Brewer, members of the committee, I come before you today as a representative of the Nebraska Council of School Administrators, Greater Nebraska Schools Association, and the Nebraska Association for School Personnel Administrators. I'm currently an assistant superintendent of human resources for Papillion La Vista community schools. I have had the opportunity to work as a superintendent in smaller schools across our district: Trumbull, Eustis-Farnam, and Plattsmouth, prior to my move to Papillion La Vista. In addition to that, I was raised on a Nebraska ranch that has been in our family for more than 100 years. I was taught from a very young age by a very wise steward of the land to look beyond what sounds like a good idea to the potential for the unintended consequences in the implementation of that idea. I understand the desire to lower property taxes and the importance of balanced taxation policies. Those are good ideas that we support. However, I am compelled to share with you the methods proposed by LB997 will have significant consequences that I believe you do not intend. If I understand the proposed bill correctly, and I heard the definition issues, and those are my issues too, capping the budget for administrative, supervisory, and support employee compensation at 5 percent would mean a significant reduction in the number of folks employed by a school district. What will happen to the work that is done by these folks? My belief is that it will be shifted to the plates of teachers. When teachers spend their time and energy doing the work of current administrators, they have less time to focus on teaching and learning. When a teacher's focus is diverted from

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teaching and learning, student learning suffers, and teacher satisfaction diminishes. Turnover increases and our best teachers will be leaving our state and the profession. Our pool of replacement teachers is shallow. I'm in the middle of that right now hiring for next year. Enrollments in teacher preparation programs at the college level are less than in past years. What happens when teaching is no longer a doable job? And if I often ask myself if we are overstaffed administratively. At Papillion La Vista we had 82 custodians cleaning more than 2 million square feet of space that's occupied by 12,000 kids. We have three supervisors who support those 82 custodians. I don't think we're overstaffed. In my central office, in my department which I know best, I have myself and one other administrator and five clerical staff members. We cover all of the things that a typical HR department would cover. I don't think we're overstaffed. And my staff often feels very stretched. Senators, I invite you to shadow any one of our central office administrators across the state any day of the week. We are lean. We are constantly looking for the most efficient way to do business and we are tight-fisted with the hard-earned dollars of our taxpayers. If we are forced to live under a 5 percent budget cap on our administrators, we in our district would need to cut about 50 jobs from our local economy. If you don't count the clerical staff, we are beneath the 5 percent cap. But it's a very slippery slope that any one hirer could shift us over or behind. We are a large school district in Nebraska with a \$134 million budget. We can absorb a lot and shift that 5 percent and it doesn't shift the 5 percent so much. I've worked in small schools. That 5 percent shifts very, very easily with one hirer. I've worked for many school board members over my career. Not one board has failed to be hyper sensitive to property taxes for their constituents. The idea of decreasing property taxes is good. However, this method of cutting costs, I believe, has many unintended consequences. It will harm the classroom. It will harm the students of our state. And I strongly encourage you to oppose this bill. Thank you for your time. I'd be glad to answer questions. [LB997]

SENATOR BREWER: Thank you for your testimony. Questions? Yes, go ahead. [LB997]

SENATOR THIBODEAU: What is your total percent of compensation versus your budget? [LB997]

RENEE HYDE: Eighty six percent of our total budget...general fund budget is personnel compensation. [LB997]

SENATOR THIBODEAU: Okay. What about administrative? Do you know that? [LB997]

RENEE HYDE: With the definition of administrators that we currently have... [LB997]

SENATOR THIBODEAU: That's fine, use your current definition. [LB997]

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RENEE HYDE: We are under 5 percent. We are at 4.99 this year, total compensation, not just salary. [LB997]

SENATOR THIBODEAU: Okay. Thank you. [LB997]

SENATOR BREWER: Additional questions? Seeing none, thank you for your testimony. Again, I'll remind you of the light system. The yellow you have one minute; red you're on borrowed time. [LB997]

BEN GRAY: Yes, sir. [LB997]

SENATOR BREWER: Chairman Gray, welcome. [LB997]

BEN GRAY: (Exhibit 3) Thank you, sir. Mr. Vice Chair, members of the committee, again, my name is Ben Gray, 4942 Nebraska Avenue, Omaha, Nebraska, 68104. I'm currently the president of the Omaha City Council. In talking about this bill, one of the things that I raised, in the last presentation that I probably should have raised in this one was the one where we talked about what the definitions are because those definitions are important. And with our particular number of employees, we looked at the number and we've got some preliminary numbers for you, Senator. And without being real specific right now... [LB997]

SENATOR THIBODEAU: You don't have to be exact, it's okay. [LB997]

BEN GRAY: Okay. Right now we have a total personnel cost of about \$308 million. Okay, and about 34...and about...that makes up about 34 percent of our budget. And as the way the...the way the language is written in this current proposal, about 40 percent of our positions will fall under that salary cap. Just to answer your question. [LB997]

SENATOR THIBODEAU: Thank you. [LB997]

BEN GRAY: I wanted to talk about property tax for a minute because I, too, recognize the necessity for doing something about property taxes. But I want you to know in the city of Omaha, we are not even close to our levy limit. And there's one concern that I have that is...that is really a major concern and that is we have the CenturyLink, we have the baseball field for the College World Series and other things and we have to pay down that debt. By city charter, the only method that we can use to pay down the debt is property tax...only method we have. We would have to change the rules or change the laws in order to address that. And if we were to further erode our property tax or put a cap on property tax with bills that we have to pay coming

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due, it will make it more difficult for the city to do. I want to talk about...you know, in 2009 when I first came into office, we had a \$14 million shortfall. And our city council decided on a number of things and we tried to avoid as much as possible, even knowing at that time that we had to pay down the debt on the CenturyLink, we had to pay 2.6...we had to raise our property tax limit by 2.6 percent to pay down that debt. And again, that's required by law. But we tried to use other fees and we tried to use wheel tax fees and other fees. And when we did that, those were taken away from us by the Legislature. So I'm saying, if you don't want us to use other fees or other methods to avoid using property taxes, tell us what you want us to do, because when we tried to do it another way, we were scolded and spanked for doing it, and some of our authority was taken away. And with property tax, we've had two instances where we have lowered our property tax. I fought against both of them. I want you all to know that I fought against both property tax decreases. And I did that because I feel...and I'm certain I feel this way, we need to be talking about...or there should be a discussion about sales tax exemptions. We leave anywhere between \$3.5 billion and \$5 billion on the table every year in sales tax exemptions. And I think that needs to be addressed. With that I'll close my testimony and answer any questions you all might have. [LB997]

SENATOR BREWER: I'm so impressed. You were watching that. You're right on top of it. [LB997]

BEN GRAY: Yes, sir. [LB997]

SENATOR BREWER: Well done. All right, questions? [LB997]

SENATOR THIBODEAU: He answered my questions right off the bat, so... [LB997]

SENATOR BREWER: Go ahead. [LB997]

SENATOR BRIESE: Thank you, Vice Chair. And thank you for being here again, Councilman Gray. [LB997]

BEN GRAY: Sure. [LB997]

SENATOR BRIESE: A quick question. If I understand your testimony correctly, 12 to 13 percent of your total budget would be directed toward administrative compensation. [LB997]

BEN GRAY: I don't know what the 12 or 13...let me give you the numbers again. [LB997]

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SENATOR BRIESE: You said a 34 percent of your budget is personnel, and then did you say... [LB997]

BEN GRAY: Thirty-four percent of our...the money that we pay out is personnel. [LB997]

SENATOR BRIESE: Forty percent of your budget is administrative. [LB997]

BEN GRAY: Forty percent of the people would be affected by the salary cap. [LB997]

SENATOR BRIESE: Okay. Thank you. [LB997]

SENATOR BREWER: And I should point out that you have an all-freshman class here. So it was before us they did the evil things, okay? Just so you know. (Laughter) We will pay attention to your (inaudible). [LB997]

BEN GRAY: Okay, because I was getting ready to wait for all of you outside, but since you all have been through that, okay I'll...(laughter). [LB997]

SENATOR BREWER: Thank you for your testimony. [LB997]

BEN GRAY: Thank you. Any other questions? Thank you. [LB997]

SENATOR BREWER: Welcome. [LB997]

DEAN EDSON: (Exhibit 4) Thank you, Senator Brewer. Senator Brewer, members of the Government Committee, my name is Dean Edson, it's spelled D-e-a-n E-d-s-o-n. I'm executive director of the Nebraska Association of Resources Districts, presenting testimony in opposition to LB997. I want to preface that my comments are solely based on the green copy or introduced copy and the interpreted language that...by the local NRD offices. I'm going to skip over some of this so in the essence of time, we've all heard the one-size-fits-all concern. The local districts need to have some flexibility to be at equal salaries or compete in that local market, and that's going to bode very...all across the state. And I want to point out most important things, almost all of the district employees have some administrative or administrative support responsibility in their current job description whether they be a manager, a supervisor, or a field technician. We also operate differently than other political subdivisions. We use our local property taxes to leverage federal funds to construct or implement projects. These include but are not limited to flood control, recreation and conservation programs. These are funds specific to a project and must

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pass through a budget. For many of these projects, money set aside on an annual basis, sometimes several years, and then paid out in one year. That's a total expenditures of the budgets can vary greatly from year to year. This would make it difficult to try to stay within that 5 percent every year. We also cover large areas and many have large...have water regulations in place that require them to hire more employees to administrate. This gets back to the field technicians that we have to hire and they have to administrate these programs. The number of square miles that districts cover is significant. For the 23 districts, the square miles that we have to cover ranges to 1,523 square miles to 6,922 miles. We did some analysis on the bill and the total expenditures for the fiscal year only. In the analysis we did, we only applied the cap and calculated on an average. For the total budget, there's 6 of the 23 districts that would have a limit of less than \$12,000 per employee; 14 of 23 would have less than \$20,000. I'm going to skip the property tax component in the essence of time here. I do want to point out on this budget variance, if we looked at fiscal '17-18 only, there's one district in western Nebraska that has an average of \$145,809 per employee this year. That's because they're paying for the large project this year. If I look back at past budgets, it's less than \$25,000. So, again, my comments are based upon the green copy and the interpretation that we're having right now, what is defined as administrative or support. Thank you and I'll try to answer some questions. [LB997]

SENATOR BREWER: Thank you for your testimony. Just out of curiosity, the western Nebraska district, I might take an interest in. Which district? [LB997]

DEAN EDSON: Twin Platte. They're paying for their...they're putting their pipeline in this year and the payment has to go out this fiscal year. So they've been setting aside money. On that capped portion, when we discuss this, on a lighter note, the manager from the Papio requested that maybe you look at a floor of 5 percent on the budget for salaries. [LB997]

SENATOR BREWER: Floor. [LB997]

DEAN EDSON: Being facetious. [LB997]

SENATOR BREWER: Okay. A-ha. [LB997]

DEAN EDSON: Being facetious. [LB997]

SENATOR BREWER: It's good that you're being that way. [LB997]

DEAN EDSON: Yeah, I'm being facetious on that. [LB997]



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SENATOR BREWER: Go ahead. [LB997]

SENATOR THIBODEAU: Thank you, Vice Chairman. What is your total budget...districts (inaudible)? [LB997]

DEAN EDSON: Well, each of the 23 districts have a separate budget. [LB997]

SENATOR THIBODEAU: So it would be hard for you to answer my question. [LB997]

DEAN EDSON: To answer your question, I would need to go back to each of the 23 districts and calculate that, which I'd be more than happy to do. [LB997]

SENATOR THIBODEAU: No, that's fine, because in your statement you at least said, you know, the salary per employee. So that can kind of help me determine. So thank you. [LB997]

DEAN EDSON: Yes. Yes, and I visited with Senator Murante about this and we're willing to take a look at some language to try and help you out. But it's that definition that catches us. And again, we're solely testifying on the green copy. [LB997]

SENATOR BREWER: All right, additional...go ahead. [LB997]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you for being here. The question on the...the sort of lump sum point that you were making, from an accounting perspective, are the dollars that are set aside on an annual basis, are they included in part of the budget? How are they accounted for in that given year's budget? [LB997]

DEAN EDSON: They're calculated as an expenditure out of their sinking funds. [LB997]

SENATOR HILGERS: Okay. So that would...so in those given years, that would...those dollars would be part of the cap. So the real question is, is you sort of build up this additional excess, in one year you draw down. So as long as those dollars didn't count twice, essentially, then you wouldn't have that surge, right? [LB997]

DEAN EDSON: Right. But, I mean, all I'm looking at though is the way the bill is drafted. [LB997]

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SENATOR HILGERS: No, and I...no and I don't mean to...I'm just trying to explore that point to see if I'm missing something in how you're applying. I get what you're saying. [LB997]

DEAN EDSON: You are correct. [LB997]

SENATOR HILGERS: And maybe there could be a change here. Thank you very much. [LB997]

DEAN EDSON: Yep. [LB997]

SENATOR BREWER: Additional questions? Thank you, Dean. [LB997]

DEAN EDSON: Yep, thank you. [LB997]

SENATOR BREWER: Next up? Welcome, sir. [LB997]

DOUGLAS KINDIG: (Exhibit 5) Good afternoon again. Thank you, Senators, for taking time. I'm Mayor Doug Kindig, K-i-n-d-i-g, I'm the Mayor of the city of La Vista, here today representing not only my city, but the cities of Papillion, Bellevue, and Springfield. I won't go through my whole testimony today, sir, out of respect for all the time that you've already put in this afternoon. I will mention that my testimony was written by my city administrator. But what I would like to tell you is that any bill that can have undue...or unknown consequences that can be a detriment to communities, in our mind, is not a good bill. And I would argue that paying a fair wage, which I think the local officials, again, to the same arguments that I had before, Senator, hearing from the people, doing it at a public hearing and compensating those administrative people at a wage that we think is right is a way to save property taxes. I will tell you that if you put unqualified people in a position, you will end up with bad results. I will give my administrator and her team all the credit for maintaining La Vista's property taxes at a rate that we would all like to see go down, because that is what we are trying to do, is to give the best quality service at the best price. But I can tell you that without them, I would not have the high services, I wouldn't have good medical, good fire. I also wouldn't have the chance to be able to grow my city. I wouldn't have the chance to bring in a \$250 million project to 84th Street which is going to generate many taxes. I wouldn't have had the chance to do the Southport area where we have a hotel conference centers to where occupation tax and sales tax helps pay for many of the services. I didn't put that together. I get credit; I get to stand in front of a podium many times. It's my staff. I know what they do the best and I think we need to be able to maintain that control at the city level. The last story I'll tell you is Dr. Ripley from the Papillion La Vista School District, Dr. Ripley makes a good salary. I'll also tell you he does more than supervise people.

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Dr. Ripley reached out to me and Mayor David Black of the city of Papillion and between the three of us we put together a task force to help fight teen suicide. Now Andy didn't have to do this from his job description, he doesn't supervise people, but he's done it because he cares about the community. And it all goes back to giving the local people the control of being able to hire those individuals which are going to lead our organization and leave it at the local control. With that I'd be more than happy to take any questions. [LB997]

SENATOR BREWER: Thank you for your testimony. Questions for the mayor? Go ahead. [LB997]

SENATOR HILGERS: Thank you, Mr. Vice Chairman. Appreciate, Mr. Mayor, you testifying on this one as well; I enjoyed our engagement on the last issue. So I completely agree with you that it should be within the subdivisions, sort of, discretion to be able to determine if they want to pay a fair wage or not. And I think if the cap was a cap as to individual salaries for any one individual, I would agree with you to that as it goes that far. But is it the purpose of a cap, generally, not is to make officials be very thoughtful about how they deploy and allocate resources across a number of employees. So they may really...they may understand that to get this superstar, you got to pay X, or maybe you got to pay 20 percent above X to really bring this person in. But maybe that means that in this other area, maybe you got to go without. But you got to then make the decision and say, hey, you know what, now that I really think about it, I don't really need that person. Doesn't it kind of force that kind of decision making from a more global perspective that would be valuable for an organization? [LB997]

DOUGLAS KINDIG: I think in the private industry you can maybe apply that theory. In the public sector, we have to answer to the Commission on Industrial Relations. A lot of that is already taken out of our hand on the majority of our employees. The other thing I didn't mention is we do compete against the private sector. My city administrator is in charge of an \$18 million budget; approximately 150 full-time equivalent employees, hundreds of millions of dollars of property, and she makes somewhere around \$130,000. I could get you that exact figure. In the private sector, that job is well over the \$200,000 north, so those are other factors that we have. But we are tied somewhat to the Commission on Industrial Relations as far as what we do pay all of our employees. We do comparability studies about every two to three years. And in La Vista, we've gone to "pay for performance" as far as our raises go. So we think that's a way to, obviously, keep the employees involved also. But that may not have answered all your questions, but we are restricted by some statute already. [LB997]

SENATOR HILGERS: One other question, I appreciate that. A point you made before which was, I think, about local ability to sort of...I think it's unintended consequences, which I took from that this may not be what you meant, but I took from that...you might be in a position if you

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had this cap five years from now where you say, boy, I got to exceed it and I got a really good reason. Would you...I don't know if Senator Murante would even be supportive of this, but in theory would you be supportive of a bill if there was some sort of safety valve mechanism by which the cap could be exceeded for some, you know, for some particular reasons that we could agree made sense? [LB997]

DOUGLAS KINDIG: Back to the vote of the people, Senator? [LB997]

SENATOR HILGERS: Maybe...(laughter) maybe not a vote...maybe, maybe not, maybe it's a vote of the...putting aside for a moment who would decide, just from a...that's a good question though, but from a...just from a safety valve perspective, would that be something that you'd be supportive of? [LB997]

DOUGLAS KINDIG: I'll go back and I'll keep it very simple, I'm a firm believer that the citizens of the state of Nebraska have the best access is their local official. And any control that I can maintain at the local level I would like to continue to do that. I'll continue to preach that; and if I ever had the opportunity, I would carry that message to a higher office. So I'll be consistent with that. But very simple answer, but I'll stick with that. [LB997]

SENATOR HILGERS: All right, I appreciate it. Thanks for coming today. [LB997]

SENATOR BREWER: Senator Briese. [LB997]

SENATOR BRIESE: Thank you, Chairman Brewer. Thanks again for being here. Of your \$18 million budget, have you calculated what percent might fall under the definition of administrative salaries? [LB997]

DOUGLAS KINDIG: My administrator texted it to me, so I don't mean to be rude and look at my phone. [LB997]

SENATOR BREWER: No, no, you go for it. [LB997]

SENATOR BRIESE: That's fine. [LB997]

DOUGLAS KINDIG: How we interpret the definition of the bill, about \$5.2 million of an \$18 million budget could possibly be for administrative costs and their support, which figures out to

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27 percent of our budget. To meet a 5 percent, it would be right around \$937,000 in La Vista. [LB997]

SENATOR BRIESE: And that would depend on the definition of administrator. [LB997]

DOUGLAS KINDIG: Very much. Yes, sir. [LB997]

SENATOR BRIESE: Okay. Thank you. [LB997]

SENATOR BREWER: Go ahead. [LB997]

SENATOR THIBODEAU: Thank you, Vice Chairman. Mayor, how many, say, city employees that would fall under your definition of administrative would you say? [LB997]

DOUGLAS KINDIG: I have...and I'll get that for you, Senator, but, I mean, we have a number of employees all the way down that as far as they...they do supervise people. And in La Vista, we've taken even a mid-level employee, and I'm going to use a...I don't think he would mind, but I've got an employee by the name of Jeff Thornburg and Jeff has been with the city for a number of years and Jeff is in charge of all the maintenance at our sports complex. Jeff has the title of the foreman down there, but what we've gone to in the city of La Vista is we allow those people, even at that level, they make their own budget; they do administrative duties. Who better to tell us what the sports complex need than Jeff Thornburg? So he does administrative duties down there other than just supervising people, he's in on a lot of the financial decisions and stuff. So I would...my guess would be somewhere that we probably have 70 to 80 people out of 130 full time that do administrative duties. But I will provide that for the committee as soon as I can. [LB997]

SENATOR THIBODEAU: Thank you. [LB997]

SENATOR BREWER: All right. Additional questions? Seeing none, thank you, Mayor. [LB997]

DOUGLAS KINDIG: Thank you, Senators. [LB997]

SENATOR BREWER: Come on up. Welcome to the Government Committee. Have a seat, sit down and relax, make yourself at home. [LB997]

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KYLE MCGOWAN: Okay, thank you, Senator. Good afternoon. Thanks for your time, I do appreciate it. And the good news is, I threw away my other testimony because after listening to Senator Murante's opening, this is about property tax. So my first question is if this is about property tax, what kind of money are we going to save by implementing this law? It is difficult for me to say whether it's good or bad or how it will affect my patrons...oh, I'm so sorry...I didn't introduce myself. Kyle McGowan, K-y-l-e M-c-G-o-w-a-n and I represent the Nebraska Council of School Administrators. My apologies. [LB997]

SENATOR BREWER: You're official now. [LB997]

KYLE MCGOWAN: Now I'm official. So I don't see a way to really surmise how capping administrative salaries in schools leads to better school leadership. And if this is mainly aimed at property tax, in Nebraska we pay for our schools via property tax. According to Farm Bureau, we're 49th in the nation in terms of giving state aid to local school districts. So I wish that we would have more bills like Senator Briese is going to bring to us in which he's proposing, I don't know what your number is right now, \$600 million in property tax savings, that's something that we can look at and maybe get behind as school districts. I fail to see how trying to find, maybe, the most inexpensive leaders that we can will help our school district. The other piece that is just very interesting to me is local control apparently is in the eye of the beholder. I assume the federal government tells the states what to do, and sometimes you feel a state and the (inaudible) that you're being overreached upon, I think in the United States we have pretty much a representative type of government that generally works, one could argue how well. School boards are elected officials. I'll bet some people around this table have been on school boards. They tend to be leaders; they tend to be pretty smart folks. And my experience has been they stay within their budgets. And so I think that's the group that should decide on how they should spend their budgets. With that I'll end my testimony. [LB997]

SENATOR BREWER: Thank you for your testimony. Questions? Go ahead. [LB997]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you for being here. I respectfully would submit that I think there's a significant difference between the relationship between the states, vis-a-vis the federal government, where states are sovereign and are...we have a strong federal system versus the local political subdivisions that we have in Nebraska which are...which really are creatures of the state government. I do think there's a big different there and I think we commonly, as we pointed out in Senator Wayne and some...the opening from Senator Murante actually do put local control...limits on local control. So local control is not, in my view, that sort of a talisman that just allows our local subdivision to do all they want. And I apologize, that was a comment and not a question. My question is, I do think that...can you expand a little bit more on your comment about this isn't about property taxes, because I do see...I see insofar it's not

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additional revenue. I agree with you in that sense. But taxes are the means by which we spend, you know, we pay for the spending that we agree to. And so to the extent that Senator Murante's bill is a way to slow or reduce the rate of spending or to allow for more efficient spending, isn't that a vehicle by which...maybe not the only vehicle, but a vehicle by which we can help address property taxes? [LB997]

KYLE MCGOWAN: Well, I would argue that it makes it more efficient. I would argue that cheapest doesn't always mean the best value. I think leadership is pretty important in any industry. And so if you don't have a strong leadership, whether it's in schools or a private business, I think you can find poor leaders in very inefficient but maybe not cost them as much as good leaders. [LB997]

SENATOR HILGERS: And I completely agree with you. And I think I actually...that distinction gets to the very heart of this because I think in any organization, which should never be assumed, or is that you will always have the same number of people always there. Right? So if you do say, yeah, we will always and forever have a hundred people and you're going to limit the amount we can total spend overall, yeah, then maybe what you're...then what will necessarily happen is you're being cheaper for each individual. But what an overall cap requires you to do is say I'm going to go and get the superstars here. Right? We have a salary cap in the NFL and someone can go and get the superstar Tom Brady and fill in other places where maybe they don't need a superstar. Right? And so...I don't...I do think...I take your point very seriously and I get what you're saying about you don't want to...you don't want to cheapen out the resource that we spend on people. I get that. But I do think it misses an inherent aspect of Senator Murante's bill which is like if we have a mechanism that's a cap, then it forces us to be more thoughtful...and not to imply that we're not being thoughtful to some degree, but it forces us to be more thoughtful about where we want to get...we want to spend to get this great person over here and maybe we don't need this position over here. [LB997]

KYLE MCGOWAN: I don't disagree that you could determine and sort of play with your employees' salaries in terms of who is available. I think what may be unique about schools are sometimes that we're asked to do more and more things that require more people, but our budgets or valuations wouldn't necessarily go up. I'll give you an example: when I started, I was a long-time superintendent in Crete. When I started as superintendent, we had one guy sort of in charge of technology. Well, now we have three people. And everybody has their own laptop. And everything is wireless. And that really wasn't...we did grow as we had number of students, but that was a requirement to meet the times. When we've had different needs in terms of, particularly at Crete, that a large percentage of our student growth have required English language programs. And so that required additional people and with that comes a variety of things. So I would just tell you that an unintended consequence that I would be concerned about caps is sometimes they become the minimums. Sometimes people then reach to...well, we've got

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room under the cap. Maybe that's a good NFL analogy. So since we have some room, let's get to the cap. [LB997]

SENATOR HILGERS: And actually, I think it was Mr. Edson who actually...actually that's a good point, because I did consider that with Mr. Edson's testimony because there were some NRDs that were under the cap. I think that's a fair observation. Thank you very much. [LB997]

KYLE McGOWAN: Sure. [LB997]

SENATOR BREWER: Additional questions? Senator Briese. [LB997]

SENATOR BRIESE: Thank you, Vice Chairman Brewer. Thank you, again, for being here, Mr. McGowan. You've heard my questions earlier about where other folks fall, as far as percentage wise. Sounds like the definition of "administrator" and "administrative staff" is somewhat influx, but it also sounds like it might be defined fairly narrowly full-time administrative staff and their support staff. But under that definition, do you have a feel for where districts are going to tend to fall? We heard a little over 5 if you put in clerical; maybe substantially over 5 with clerical. We heard a 7 to 8 percent earlier. On the average any guess or (inaudible) percent of school districts could be affected? [LB997]

KYLE McGOWAN: I'm only speaking for myself. Yeah, so Crete is a Class B school district with about 2,000 students; \$20 million budget when I left. And I would have counted nine people on my administrative team. Under Senator Murante's bill, that number would probably go up. And I think he certainly recognizes the importance of the definition. But if you included salaries and benefits, we would have been somewhere around 7 or 8 percent. [LB997]

SENATOR BRIESE: Okay. Does that include support staff? [LB997]

KYLE McGOWAN: Well, you asked about administrators, rights? [LB997]

SENATOR BRIESE: Okay. [LB997]

KYLE McGOWAN: No, it doesn't...we have a food service director; we have a technology director; transportation director; maintenance director. [LB997]

SENATOR BRIESE: Okay, thank you. [LB997]



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SENATOR BREWER: Senator Wayne. [LB997]

SENATOR WAYNE: Kind of along the lines of those, I was in Judiciary, so I apologize, but is there a number that works for you? Ten percent? Fifteen percent? [LB997]

KYLE McGOWAN: It's all about definition, right? So would you consider a transportation director who a couple of times a week has to drive a bus as an administrator. Would you consider a food service director that might have to stand behind the line handing out cinnamon rolls once a week an administrator? So that...therein lies the question of that definition of what an administrator is. I don't think it has been very well defined yet today. [LB997]

SENATOR WAYNE: But may...do you think, maybe, that's the issue? [LB997]

KYLE McGOWAN: Could be. [LB997]

SENATOR WAYNE: Because here's why I say that, because budgetary, (inaudible) what's on a former school board, we had different definitions of administrations, sometimes when it was convenient for us. And so maybe there needs to be a statewide definition of what administrators are so people can understand the budget better. [LB997]

KYLE McGOWAN: Well truly, Senator, with all due respect, I think the issue must be property tax, that's what I heard at the opening. So if it's, you know, certainly we heard lots of testifiers feel that the issue was what local control is. So I interpret this bill now after listening to the introduction as being a way to save money for property owners. [LB997]

SENATOR WAYNE: Essentially if schools are more efficient that rely on property taxes, then the efficiency would save them money. [LB997]

KYLE McGOWAN: Well, if efficiency relates to spending the least amount of money, I disagree. I think schools are responsible to educate kids at a high level and that costs different amounts, I think, for different schools. [LB997]

SENATOR WAYNE: Yeah, I understand it too. So when I was president of the PS school board, we did a needs analysis and we ended up moving a hundred people back to the classrooms. And so maybe this bill is indirectly targeting the fact that more resources should be directed at the classrooms. [LB997]

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KYLE McGOWAN: I think you just described what should happen in school boards. I think you took a look at where your personnel needs were, you went through your process with what other process that looked like and decided we're moving a hundred people back in the classroom. That's kind of my point is that we have school board members that are very qualified, intelligent folks that could be making these decisions, have been making these decisions, but I think it's not fair to just look at a superintendent's salary and say that's person is making too much money. [LB997]

SENATOR WAYNE: I would disagree with the last part of that statement, but...thank you. [LB997]

SENATOR BREWER: All right. Additional questions? Seeing none, thank you, sir. [LB997]

KYLE McGOWAN: Thank you. [LB997]

SENATOR BREWER: Senator, welcome back to the Government Committee. [LB997]

GREG ADAMS: It's been a year...or has it? Doesn't quite feel like it. Thank you, Senator, and to all of you. My name is Greg Adams, G-r-e-g A-d-a-m-s; I'm executive director of the Nebraska Community College Association. And for purposes of time and certainly I'll take any questions and I'll try to answer them for you, let me put a slightly different twist on this when you're a community college. Certainly, we could make a local control argument, if you want to. We can sit here and do that. We can talk about the definition of administration and maybe that gets us part of the way there, maybe it doesn't. From a community college standpoint, I want you to think about something else. I just checked before I came over here this afternoon, and in 2017, Nebraska's six community colleges in aggregate collected from the federal government about \$127 million whether it be in Pell Grants, whether it be in direct loans, whether it be in Perkins money, whether it be in work study money, impacting probably in excess of 13,000 students across the six campuses. All of that federal money comes with an obligation. And as I thought about coming over here today, I thought, well, what I ought to do is print out for you all the stuff that has to be done--data collection and reporting, keeping track of crime statistics, financial operations, the list goes on. If we're not in compliance with any of those things, we lose that money. We also have the Higher Learning Commission and the Higher Learning Commission credits our institutions. And they list criteria that have to be met by all of our colleges. And if we lose accreditation, we lose the federal money. And again, I won't go through the list, but one of them, very simply is, that you have to maintain administration in order to manage your operation, sufficient administration. I don't know if there's a specific number on it, because every college is different. But literally, we put \$127 million on the table that comes with obligation,

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student services, tutoring, I've gone through just a portion of the list for you. That is at stake. I'll end right there and if you have questions, I'll try to answer them. [LB997]

SENATOR BREWER: Thank you, sir, for your testimony. Questions? You must be wearing them down. (Laughter) Oh, sorry. [LB997]

SENATOR WAYNE: I do have one. (Inaudible). But if you put the number at 10 or 15 percent, they won't...it will meet those adequate supervision...or adequate administration. [LB997]

GREG ADAMS: You know, I don't know how accurate these numbers will be, Senator, but let me give it a shot. In preparation for this, Southeast Community College, one of the larger institutions in the state, as you know, we did a quick look. And rather than try to determine exactly what Senator Murante meted by administration, we said let's just look at those people who we know are in supervisory positions and exclude their immediate staff, just in supervisory positions. And for Southeast Community College that would amount to about 13 percent. And I would wager to say that as you walk westward across the state to the other community colleges, they will have many of the same administrative positions because they too are accredited by the Higher Learning Commission, they too have Title IX compliance obligations, but at the same time they may not have as many faculty, so all of a sudden now proportionality starts to change and as you move from a metro to a western, you're going to climb up that percentage that administration is of that total salary and benefit. I don't have numbers to give you. [LB997]

SENATOR WAYNE: So what happens if you don't...what are the state obligations that a community college has to have that is imposed by the Legislature, not Department of Education or anywhere else? [LB997]

GREG ADAMS: I could just outline, first of all, it is career and technical education, the statutes are very clear on that. That is our number one priority. Our second priority is transfer of credit. And included in that is developmental education. We also have an applied research statutory obligation, which is different than what an University of Nebraska would do. And then finally, we have a public service obligation. And to give you an example of that, the thing that we do most is provide customized training to employers all across the state within our given service areas. Those are our four statutory obligations. [LB997]

SENATOR WAYNE: Thank you. [LB997]

SENATOR BREWER: Additional questions? Seeing none, thank you, sir, for your testimony. [LB997]

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GREG ADAMS: Thank you. [LB997]

SENATOR BREWER: Welcome back to the Government Committee. [LB997]

CHRISTY ABRAHAM: (Exhibit 6) Thank you, Senator Brewer and members of the Government Committee. My name is Christy Abraham, C-h-r-i-s-t-y A-b-r-a-h-a-m, I'm here representing the League of Nebraska Municipalities. I don't want to be repetitive, I just want to say that the League does also have concerns about definitional issues and I would include in that the term "budget." When my cities started reviewing this, they had questions about what does "budget" include? Is it the property tax asking? Is it general funds? Does it include capital outlay? Does it include utility budgets? So that's another issue that we would want to look at. I want to mention that I was very grateful Senator Murante graciously chatted with me about this bill and did tell me that his intent was to limit it to the city clerk, the city administrator, and maybe any assistant to the person. And so with that knowledge, we sent out an e-mail to all of our smaller communities just to find out does your city clerk make more or less than 5 percent. And I don't want to tell you that we heard back from everyone. As you know, we have 380 villages and 117 second class cities. We had about 80 or so responses. And of those, 17 cities said that their clerks, just the clerks, are paid over 5 percent. And please don't misunderstand me, I am not here to say that those folks are overpaid. I don't think they are. For a little perspective, if a village has a budget of \$374,400 or less, the clerk will make less than minimum wage under the provisions of this bill. And so that's something that we just ask you to take into consideration. Again, we're very happy to work with your excellent legal counsel on language and clearing up definitions. I just wanted to add these numbers to your consideration. Thank you. I'm happy to take any questions. [LB997]

SENATOR BREWER: Thank you for your testimony. Questions? Senator Lowe. [LB997]

SENATOR LOWE: With a village of that size that has that kind of budget, would they need a full-time clerk? [LB997]

CHRISTY ABRAHAM: That's an excellent question. And some do not have full-time clerks. Some, the clerk probably wears three hats. He is the clerk; he is the utilities person; he is...he's doing many, many jobs. So you may have a person who is a full-time position wearing many hats and his title is city clerk, city treasurer, maintenance person. But that's an excellent question. Some of them won't have full time. You're absolutely right. [LB997]

SENATOR LOWE: So by just changing his definition, he wouldn't fall under this category by putting him into maintenance person. [LB997]

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CHRISTY ABRAHAM: That could be. Again, Senator Lowe, I'm working off green copy, and since city clerk is specifically mentioned as a position that's included, that's why we started talking to the city clerks. Yeah. [LB997]

SENATOR LOWE: Okay, thank you. [LB997]

CHRISTY ABRAHAM: Sure. Thank you. [LB997]

SENATOR BREWER: Additional questions? Senator Wayne. [LB997]

SENATOR WAYNE: She testified earlier on one of the bills, so I got to... [LB997]

CHRISTY ABRAHAM: Yeah, again, my apology, Senator Wayne. [LB997]

SENATOR WAYNE: It's okay. [LB997]

CHRISTY ABRAHAM: Yeah, I know. [LB997]

SENATOR WAYNE: I'm going to get the colonel thing going here, I'm going to ask you about 30 of them, if you don't mind. [LB997]

CHRISTY ABRAHAM: Okay, I'm ready, I'm ready. [LB997]

SENATOR WAYNE: This is really a simple question. How come you never say the same things about Trevor and my legal counsel for Urban Affairs? (Laughter). [LB997]

CHRISTY ABRAHAM: I always tell you how excellent Trevor is. [LB997]

SENATOR WAYNE: Okay. No other question. [LB997]

CHRISTY ABRAHAM: You have an especially excellent clerk in Government Committee, if I can just say that. [LB997]

SENATOR WAYNE: No further questions. [LB997]

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SENATOR BREWER: All right. Thank you for that informative question. All right, any additional questions? [LB997]

CHRISTY ABRAHAM: Thank you so much. [LB997]

SENATOR BREWER: You bet, thank you. Next. Come on up. Welcome back. [LB997]

ELAINE MENZEL: Thank you. Vice Chair Brewer and members of the Government Committee... [LB997]

SENATOR BREWER: Very good. You're a good student. [LB997]

ELAINE MENZEL: I got it right this time. Again, my name is Elaine Menzel, E-l-a-i-n-e M-e-n-z-e-l, here on behalf of the Nebraska Association of County Officials and appearing in opposition. And I'd almost echo what Christy has indicated for the rationale for the reason we oppose it and have concerns related to the definitions of, first of all, the administrative positions, but then also supporting staff and what that means, but certainly we would be glad to work with Senator Murante and his legal counsel. I will just say that all legislative staff is fantastic to work with, including Senator Wayne's and Senator Murante's. I concur with Christy in terms of trying to figure out some of the budgetary issues. The Auditor's Office does have a state database for purposes of trying to evaluate some of this information and pull it. And so when I tried to pull what the budget information will be for all of the counties, the best use was total disbursements and transfers, that seemed to be the figure that worked with. It ranged from the high of Douglas County to the lower of Arthur County. And for instance, I can tell you what those 5 percents would be. In Arthur County it would \$73,600 roughly. And then in Douglas County it would be roughly \$19,121,000-plus. Again, that could be skewed because of the disbursements, and so I'm not sure how that's impacted. And I, unfortunately, didn't have an opportunity to do more delving into the administrative position because of not knowing specifically which positions to look into and stuff. So with that I'll open it up to any questions, and I appreciate your time. [LB997]

SENATOR BREWER: All right. Thank you for your testimony. Questions? Looks like you're going to get off easy. [LB997]

SENATOR THIBODEAU: Sorry, I just have one. I just want to clarify under Douglas, you were saying \$19 million, based upon what you looked at, \$19 million of the total budget is on administrative, is that what you were stating? [LB997]

ELAINE MENZEL: No, no, no, no, I'm sorry. [LB997]

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SENATOR THIBODEAU: Could I ask you to restate that. [LB997]

ELAINE MENZEL: That's the budget in total... [LB997]

SENATOR THIBODEAU: Budget in total. [LB997]

ELAINE MENZEL: ...if it were 5 percent. [LB997]

SENATOR THIBODEAU: Thank you. [LB997]

ELAINE MENZEL: If it were 5 percent. [LB997]

SENATOR THIBODEAU: Thank you for clarifying. [LB997]

ELAINE MENZEL: Yeah, no, that's fine. And, again, I was unable to pull administrative in terms of time frame and stuff. [LB997]

SENATOR THIBODEAU: No, that's all right. [LB997]

SENATOR BREWER: All right. Thank you, again, for your testimony. [LB997]

ELAINE MENZEL: Thank you. [LB997]

SENATOR BREWER: All right. Next? Come on up. Welcome. [LB997]

DAVID LUDWIG: Thank you. Thank you, Senator and committee members. I'm David Ludwig, D-a-v-i-d L-u-d-w-i-g, I'm the executive director for the ESU Coordinating Council. For the past four years, prior to that, I was an ESU 2 administrator in Fremont for four years as well. Going through the...listening to the dialogue...the rich dialogue today, my testimony has changed somewhat knowing that the...because of the dialogue and I was going to talk about local control, the boards of each ESU as well, which within our...with all the issues, we have election districts and every election district is represented of a pretty equal population that governs the board, talking about market place and hiring an educational leader for the service unit as well. But most importantly, I do want to...knowing what the dialogue has been, just talking about...since we're talking about property tax and definitions, I just...within all the ESUs, when we work with our school districts and work with our board, the direction that we advise our board comes from the input that's provided from our member school districts. We work closely, closely with our school

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districts as far as communicating, identifying, working with them what their needs are; and then putting together a program of services that will best meet their needs. That's all done through teams going out to ESUs and then coming back with their superintendents, the issues, administrators working with the superintendents through an advisory council to determine the program it needs. But in so doing, we also look at core funds and then we also look at property taxes as well, the levy authority and how those monies are going to be spent. So that's one checks and balances that we as ESUs have. As well from there, that recommendation goes to our boards for final approval. So as far as efficiencies, you know, that's...again, we work closely. We're somewhat unique, but we work closely within our schools districts in that capacity. So when I initially read the bill, I was somewhat concerned; again, we're talking about definitions. And initially I was...a lot of us were really concerned as well about definition; we're talking about supervisory and supportive in nature. And one of the many duties that ESUs provide is to act in a cooperative and supportive role within DE and our school districts in developing long-range plans that best meet the educational needs of our member districts, and most importantly, our students. So before coming in today and within this rich dialogue, that was concerning for me that supportive role how does that...what does that mean. And for ESUs, pretty much everybody we have on staff is in support and is in a supportive role. So then after today, listening to about what we're talking about as well, as far as a better definition of...at least trying to provide some clarity in regard to a definition. If the definition is supervisory only, as an educator for 35 years, I've been in a leadership role for 31, but I don't consider myself an administrator just by title, but I am an educator and I know true others would feel the same way. So if we're talking about an administrator in a supervisory role only, we are instructional leaders. We're working right with our school districts; we're working with our teachers; we're working with our staff; we're rolling up our...sorry, rolling up our sleeves; we're working right with them; so we're not just supervisors, but we're instructional leaders. So by that definition, I'm having a difficult time trying to get my hands wrapped around what we're trying to do. So, anyway, with that said, you know, again, we are responsive to our districts' needs and through that we do respond to property tax levies, limitations and so on to get a program that works within the budget to best meet the needs of our member districts. So I see my time is up, so I apologize. And as far as Senator Thibodeau, as far as what the budgets, I don't have that information for all the ESUs, but if you want that's something. [LB997]

SENATOR THIBODEAU: That's okay, yeah, no, there's quite a few of them, so. [LB997]

DAVID LUDWIG: Right, okay. [LB997]

SENATOR THIBODEAU: And I can get your overall budget from Education. Thank you. [LB997]



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DAVID LUDWIG: Okay. All right. Okay, I appreciate the time being here, so I'll open up to any questions. [LB997]

SENATOR BREWER: All right. Thank you for your testimony. Questions? We are wearing them done. There is something to be learned from this though, Senator Murante has a unique ability of what we say in the military is "drawing fire." So it's obvious from today. Thank you. [LB997]

DAVID LUDWIG: Well, I appreciate what you do and thank you. [LB997]

SENATOR BREWER: Welcome. [LB997]

DAN SCHNOES: (Exhibit 7) Good afternoon. My name is Dan Schnoes, D-a-n S-c-h-n-o-e-s, I'm the ESU 3 chief administrator. And you've been here a long time, so I'm going to kind of keep it short, answer a few of the questions that I've heard that we want to have out there. Want to follow up on just a couple things that Dave said. When I first saw the bill, I was a little concerned because of the services that we're supposed to provide by statute to all of our schools. I said, well, we could almost qualify everybody that works at ESU 3 as an administrative person and I'd have to eliminate 95 percent of them. That would not be good for the schools. But after I've heard some definitions that Senator Murante offered, then it came down to, well, there's really only one person that truly serves in a solely administrative role and that would be me and that's the same for most ESUs. So in that respect, it would be less than 1 percent of our budget would go to an administrative position. However, if we have loopholes built in there, because one day our person making the delivery man was not available and we had to get these science kits out for our kiddos for classes that day, I delivered science kits so then that knocks me out of the picture for that year. So the definition piece is a concern of ours. I do want to put a plug out there for a lot of school administrators and superintendents and county workers is we wear a lot of hats. I'm 19 years as a small school administrator; I coach junior high basketball; I did pole vault for a number of years as a volunteer; I was a student council sponsor, along with junior-senior high principal. One year we didn't have the money to paint the mural in the gym, so I did it. And it's still there so it must have been okay. But we do those kinds of things and we try to do those things to save money. And sometimes we feel like we're under attack. And we don't want to feel that way, because we'd like to work along with you. So if Senator Murante in the future with this bill you'd like to do some definitions and really kind of talk about all the different things that could fall or not fall under administrative issues, that's what we do with our school districts all the time is help work with them and help them move across and help with those definitions. So we'd be there to help. [LB997]

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SENATOR BREWER: Thank you for your testimony. I think you can feel safe in that Senator Murante is flexible in trying to figure out what right looks like and how we get there. So thank you for being open minded on that. Questions? We are wearing them down. Thank you, sir, for your testimony. [LB997]

DAN SCHNOES: Thank you. [LB997]

SENATOR BREWER: Welcome again to the Government Committee. [LB997]

BUB WINDLE: Vice Chair Brewer, members of the committee, my name is Bub Windle, B-u-b W-i-n-d-l-e, here on behalf of the Frenchman-Cambridge Irrigation District in opposition to LB997. And I guess I'm really just here to continue to illustrate the diversity of political subdivisions that we have. Frenchman Cambridge is a surface, water, and natural flow irrigation district in southwest Nebraska. The irrigation district has a budget of \$1.3 million and has 11 employees. So under the limitations imposed in the bill, salary and benefits for administrative employees would be capped at \$65,000 for all employees, which we simply feel is too constrictive for us. And with that I'll take any questions. [LB997]

SENATOR BREWER: All right, thank you, Bub. Help me out a little bit here. The headquarters is located where? [LB997]

BUB WINDLE: In Cambridge, Nebraska. [LB997]

SENATOR BREWER: In Cambridge, Nebraska. Okay. [LB997]

BUB WINDLE: So it covers, I think, about 45,000 acres in southwestern Nebraska, largely in the Republican River Basin. [LB997]

SENATOR BREWER: Right. That would make sense. All right, questions? Questions? Wow. Yes. [LB997]

SENATOR THIBODEAU: I'm sorry. [LB997]

SENATOR BREWER: It's all right. [LB997]

SENATOR THIBODEAU: I know you're getting tired. I'll only make them brief. So you said you have 11 employees, so that would cap your employees, did you say \$65,000? [LB997]

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BUB WINDLE: Yes. [LB997]

SENATOR THIBODEAU: Okay. So not in too many words, as briefly as possible, that's pretty good salary. So what are those employees...what are their duties? [LB997]

BUB WINDLE: Yeah, so the way we look at is if you even under kind of the language of the bill now, and I'll make kind of the same caveat, this is based on the green copy, right? But if you're just looking at kind of one truly supervisory employee and one true support staff, you're looking at two salaries divided into \$65,000, you know, maybe it's \$40,000 and \$30,000 and even that exceeds \$65,000. So kind of as we figured slicing and dicing with definitions, it's probably too small. [LB997]

SENATOR THIBODEAU: That will (inaudible.) Thank you. [LB997]

SENATOR BREWER: All right. Oh, all right, go ahead, Senator Blood. [LB997]

SENATOR BLOOD: Thank you, Senator Brewer. Are you familiar with the budgeting process that they use? [LB997]

BUB WINDLE: I am not. [LB997]

SENATOR BLOOD: You're not? [LB997]

BUB WINDLE: Not in any detail, not kind of beyond... [LB997]

SENATOR BLOOD: Then I cannot ask you this question. [LB997]

BUB WINDLE: Yeah. [LB997]

SENATOR BREWER: Well, we appreciate the effort. All right, any additional questions? Seeing none, Bub, thank you for your testimony. [LB997]

BUB WINDLE: Thank you. [LB997]

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SENATOR BREWER: All right. Additional opponents? Those in the neutral category? Senator Murante, come on up. Welcome back to your Committee on Government, Military and Veteran Affairs. [LB997]

SENATOR MURANTE: Thank you, Senator Brewer; and thank you all for your patience. And thank you for those who testified, I really do appreciate. To be clear, I have a tremendous amount of respect for the local elected officials in this state, especially in my community: the mayor of Gretna, the superintendent of the Gretna public schools are two of the most respected individuals in our community. And I think that's probably true across the state of Nebraska. So I just want to, at a really high level, respond in two, sort of, separate ways to the opposition to the bill. In the first is more of a broader public policy discussion than it is the merits of this specific bill which was a significant number of the testifiers basically made the argument that because local-elected officials are elected and accordingly can be defeated in their reelection, that we as legislators ought not exercise any of our constitutional responsibilities to an act reasonable regulations on the conduct of political subdivision. Not only do I believe that that is terrible public policy, but I don't believe that it is consistent with the laws of the state. I don't believe it is consistent with legislative history. I don't believe it is consistent with how government in this state operates and has operated since our constitution as we now have it was ratified in our constitutional convention. Simply put, that is not how government works. Government works in this state that we operate under a constitution and the political subdivisions are creatures created by the Legislature. I, as a rhetorical device, I almost brought the statutory requirements for how political subdivisions exist; what their duties, responsibilities, and regulations are; because if you go back to your offices and you see your statutory books, they are almost two entirety of the hardbound books are exclusively regulations on political subdivisions. But I did take the opportunity to print off just one of those elements which is the Nebraska Budget Act, which is located in Section 13. And I just want to read the very, very first section of the Nebraska Budget Act which is to say: The purpose of the Nebraska Budget Act is to require governing bodies of this state, to which the act applies, to follow prescribed budget practices and procedures and make available to the public pertinent information pertaining to the financial requirements and expectations of such governing bodies so that intelligent and informed support, opposition, criticism, suggestions, or observations can be made by those affected. Clearly, our predecessors, as matter of state law, saw it as our responsibilities as state senators to put in place reasonable requirements on how political subdivisions operate. So at a very high level, notwithstanding the specific provisions of this bill, I would urge you to reject the argument on legislation going forward that because elected official...local officials are elected and voters can throw them out of office, we do not have any role to play, I simply...not only do I disagree with it fundamentally, I don't believe it has any basis in law. And finally, I want to thank Senator Thibodeau for asking a great series of questions because it kind of illustrated a point. She consistently asked the question, basically, what's your budget and according to your budget how much of it is in administrative pay? And almost every single political subdivision had an answer which means

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they at least have a definition for what administrative pay is because they all had an answer to the question of how much they're paying in administrative costs. So to demonstrate how nice of a guy I am and how flexible I am, what I would be willing to state is I will use their definition, whatever it is, I would like to sit down with them after this meeting and just say how do you define it. Because if you can give the number, then you can tell us what administrative costs is. So clearly the political subdivisions do it. And I think that I would be happy to use the definitions that they use. And to the extent that it has a fiscal impact, we can talk about things like phasing this in over a period of time and I'd be happy to do that as well. But with that, I know we are long past when I had hoped that we would be adjourned today, but thank you very much for your courtesy and for your attention to this what I think is a very important matter. [LB997]

SENATOR BREWER: All right, thank you for your closing. Questions for Senator Murante? Senator Blood. [LB997]

SENATOR BLOOD: Thank you, Senator Brewer. Senator Murante, I think that's great that you're willing to discuss the definition of what a supervisor...administrative employee is. But here's my concern, I know I missed a lot of it, but I also know some of the questions that were asked and I think it's because we're like-minded in some ways. What would you say if I were to ask you the question what is evidence-based budgeting, what would you say the answer to that would be? [LB997]

SENATOR MURANTE: I'm not going to get into a trivia contest with you, Senator Blood. [LB997]

SENATOR BLOOD: It's not trivia, I'm leading to something. But... [LB997]

SENATOR MURANTE: Okay. Well, why don't you get to your point and I will respond to that. [LB997]

SENATOR BLOOD: All right, why don't I get to my point, that is part of my point. So with evidence-based budgeting, because we are responsible legislators, when we bring a bill forward, is it not our responsibility to show how we came to to bring this bill forward to show what the problem is as opposed to its high property taxes and, hey, I did my due diligence on the 5 percent and that's how I came with that number. Questions had to be asked. We needed to know what is the percentage that is being done in budgets as far as for administrative staff and at what percentage of that is benefits and wouldn't that have made our understanding of what you were trying to achieve with this bill and what brought you...as much as what Senator Kuehn is doing right now, he's asking us to show what made you do this bill? What was the path that brought

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you? What was the math that you used? How are you justifying this bill? And so I guess the question I have is why are we not...where we're only giving the 5 percent, but not really getting inside your head and knowing why this bill is being brought forward. [LB997]

SENATOR MURANTE: Senator, I have given an opening and a closing as to why I'm bringing this bill. I have clearly articulated how the number of 5 percent came about. If you don't agree with that or you would have used a different methodology, that's your prerogative, but that question has been asked and answered. [LB997]

SENATOR BLOOD: I would disagree. I would agree the 5 percent has been asked and answered, but the path to this bill, simply talking about property taxes is not the path to why we need to implement this bill. So you and I will respectfully disagree on that. [LB997]

SENATOR BREWER: (Exhibits 8-17) All right, we will agree to disagree on that one. Additional questions? Seeing none, that will close on LB997. We do have letters to read into the record, ten all together. First one is Candace Becher, Vice President, Columbus Public Schools; Matt McLaughlin, self; Nancy Bryan, City Clerk/Treasurer for the city of Stromsburg; Marcia Mahon, Board President, South Sioux City Community School District; Becky Erdkamp, Village of Exeter; Michael Chipps, President, Northeast Community College; Dr. Tami Eshleman, North Platte Public Schools; Joann Fischer, Knox County Clerk and Election Commissioner; Tobias Tempelmeyer, City of Beatrice; and Mark Zimmerer, President, Norfolk Area Chamber of Commerce. With that we will close LB997. Thank you. [LB997]