

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 31, 2020

BREWER: Good afternoon, ladies and gentlemen, and welcome to the Government, Military and Veterans Affairs Committee. My name is Tom Brewer, I'm the committee chairman. I represent 13 counties of western Nebraska. We will start with introductions of the committee members, starting on my right with Senator Blood.

BLOOD: Good afternoon, my name is Senator Carol Blood, and I represent western Bellevue and southeastern Papillion, Nebraska.

LOWE: John Lowe, District 37: southeast half of Buffalo County.

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

La GRONE: Andrew La Grone, District 49: Gretna and northwest Sarpy County.

M. HANSEN: Matt Hansen, District 26: northeast Lincoln.

KOLOWSKI: Rick Kolowski, District 31: southwest Omaha.

HUNT: Megan Hunt: midtown Omaha, Dundee, and Benson.

BREWER: To my right is Dick Clark, committee clerk-- committee counsel. To my left, Julie Condon, committee clerk. We do have several senators that have bills that they will be introducing in other committees today, Senator Hansen and Senator Blood. So if they come in and out, don't panic, nothing personal. Today we are-- oh, our pages today, we have two, which are Kaitlin and Taylor. [INAUDIBLE]. We'll be having hearings on three bills today: LB790, LB889, and LB857, and we will have an exec after we're done with hearings today. With that said, Senator Slama, come on up. Oh, hold up. I got some administrative-- go ahead and sit down.

SLAMA: OK.

BREWER: If you have cell phones or electronic devices, be sure and mute them. If you wish to record your attendance, you may fill out one of the white slips that's on the table. And if you want to testify, please fill out one of the green sheets. When you come up, give it to Julie for the record. If you have materials to pass out, please provide 12 copies. If you don't have them, get with the pages and they can make copies. Letters must be submitted by 5:00 p.m. the day prior to the public hearing. Letters must include your name, address, the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 31, 2020

bill number, and your position: for, against, or neutral. The number of letters will be read, read into the official record, but it will just be the total number. There will be no mass mailings that will be included. We'll ask that those that are going to speak on a given bill move to the front. When you are come up-- when you come up to testify, please state your name and spell it for the record. Speak clearly into the microphone. I will begin testimony today by having the senator do an opening statement, followed by proponents, opponents, and those in a neutral capacity. With that said, we will have a five-minute light system today. So you'll have your green light for four, amber for one, and then it will be red. We'll have both the visual red and we'll have an audible alarm. With that said, Senator Slama, welcome to the Government, Military, and Veterans Affairs Committee.

SLAMA: Thank you. Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Julie Slama, J-u-l-i-e S-l-a-m-a, and I represent District 1 in southeast Nebraska. Today, I am here to introduce LB790, a bill authorizing the Department of Administrative Services to use-- the use of group contracts entered into with political subdivisions of other states. The bill also authorizes the State Purchasing Bureau to take the lead in negotiations when collaborating with other government entities. Currently, Nebraska is a member of the National Association of State Procurement Officials, otherwise known as NASPO. NASPO is a nonprofit association whose focus is to help its members achieve success as public procurement leaders in their states through promotion of best practices, education, professional development, research, and innovative procurement strategies. It is made up of the directors and staff of the central procurement officers in each of the 50 states, the District of Columbia, and the territories of the United States. As a member of NASPO, Nebraska has the ability to purchase off of and negotiate with Nebraska political subdivisions for goods and services. An example of this is our current parking technology. The city of Lincoln owns a contract for the technology and the state has attached themselves to that contract. We would like the ability to do the same with political subdivisions of other states. Technology would be one of the things states could negotiate or purchase off of other state political subdivisions. In keeping with our parking technology example, if Nebraska had the authorization to use contracts bid by public sub-- political subdivisions of other states, they could look into what other municipalities have for their parking technology and inquire if Nebraska could join their contract for services. As a member of NASPO, states can be designated as lead states for contract

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 31, 2020

negotiation purposes on NASPO contracts. For example, if multiple states need to bid on an office supply contract, NASPO will contact a lead state. If Nebraska is selected to be the lead state, then it would bid, negotiate, and write the contract. This is advantageous for a couple of reasons: it can lower the price of goods, since multiple states will be buying off of the contract; and it can lead to more rebates for Nebraska as the lead state. However, in statute, Nebraska currently cannot be named a lead state, and LB790 would change that. There are currently 23 states that are leading at least one project. Another 13 states are leading more than one project. Nebraska's neighboring states of Colorado, Iowa, Minnesota, and Oklahoma are all lead states and are currently leading projects. Nebraska wants to be able to join this group. Passing LB790 would give Nebraska another tool to negotiate and purchase products, and possibly do so at a lower cost. A representative from DAS, Doug Carlson, is here today to testify, and will be able to answer any specific questions you may have. Thank you. And I would be happy to answer any questions you may have for me.

BREWER: All right, thank you for your opening testimony. Questions for Senator Slama? All right.

SLAMA: All right.

BREWER: And you'll stick around for closing?

SLAMA: Absolutely.

BREWER: All right. Thank you. Doug, welcome back to the Government, Military and Veterans Affairs Committee.

DOUG CARLSON: Senator.

BREWER: Whenever you're ready.

DOUG CARLSON: Good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Doug Carlson. Doug, D-o-u-g, Carlson is C-a-r-l-s-o-n. I'm the deputy director and materiel administrator for the Department of Administrative Services, and I'm here today to support LB790. And I would also like to thank Senator Slama for her leadership in introducing this bill on behalf of the Department of Administrative Services. This bill would allow for the purchase of goods and services when the contract was competitively bid by a political subdivision of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 31, 2020

another state or a cooperative purchase, purchasing organization that creates contracts on behalf of other states of-- and group of political subdivisions of other states. Currently, the state cannot use these types of contracts and are missing out on significant savings. An example of this is Sourcewell, a political subdivision in the state of Minnesota. Sourcewell combines more than 50,000 government, education, and nonprofit organizations across the country in an effort to maximize their cost-savings by leveraging buying power. If we were able to utilize one of these contracts from Sourcewell where we'd procure our paper and plastic products, we would save \$448,000 annually. These contracts are competitively bid, completely transparent, and allow-- and will allow us to save taxpayers' money. Efficiencies would also be gained by utilizing these out-of-state political subdivision contracts. These are the same efficiencies gained with our current ability to purchase off of contracts bid out by other states or cooperative purchase, purchasing organizations on behalf of other states. These efficiencies include the process-- the bid process has already been completed in a transparent way, the processing-- the pricing may be lower due to economies of scale, and agencies can utilize completed market research in which to develop specifications, thus saving time and resources. The National Association of State Procurement Officials, or NASPO, which is our professional organization, did a 2018 survey of the states, and they indicated that 38 states have this authority to cooperatively purchase with other, other political subdivisions outside their state. LB790 will help Nebraska become number 39, and will allow us to provide the best prices to the agencies that we get to serve while ensuring competition and transparency of how we procure those goods and services. The other aspect of this bill would allow Nebraska to act as a lead state on contracts bid by cooperative purchasing organizations on behalf of other states or a group of states. There are 23 states, including the surrounding states of Colorado and Iowa, which allow their respective state purchasing bureau to act as the lead state. There are benefits to acting as the lead state on these types of solicitations. Lead states and their sourcing teams on the solicitations are reimbursed for the personnel hours so that no internal state resources are expended for cooperative contract work. Serving as a lead state on a solicitation also often provides us a larger percentage of return to our state in the form of rebates that we receive by cooperative contracts utilization. The current utilization of cooperative contract provides Nebraska with rebates upwards of \$600,000 or more per year. For fiscal year '16-17, we received \$641,000; for fiscal year '17-18, we received \$561,000; in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 31, 2020

fiscal year '18-19, we received \$652,000 in rebates. These rebates will be used within our budget to help fund our program and keep assessments low. Serving as a lead state will increase those rebates and allow the State Purchasing Bureau to reduce, to reduce the assessments we charge agencies. Thank you very much for your time today and allowing me to testify. I would now be happy to answer any questions you may have.

BREWER: All right, thank you, Doug, for your testimony. Questions for Mr. Carlson? All right. Oh, go ahead.

KOLOWSKI: Let me ask one, please. Thank you, Mr. Chairman. Finding out where we are on the list of people that you have or groups that you have in different states, why haven't we acted earlier on this?

DOUG CARLSON: That's an excellent question, Senator. That's an excellent question.

KOLOWSKI: And the answer is?

DOUG CARLSON: I would hate to speculate, Senator. But it is clear to me that--

KOLOWSKI: Before your time was it?

DOUG CARLSON: It would have been before my time. I've been doing this job for just over a year now. So it would have been before my time. But I think it's clear this time to get this done and make this happen.

KOLOWSKI: The other states, do they automatically write into the contracts that they're doing with a particular company so it does spread to the other states automatically? Or how do they go about doing that?

DOUG CARLSON: Well, so the cooperative contract does that, it allows that other states could attach themselves to it through purchasing agreements and participating addendums. It's a very simple process. We just need to change the law that would allow us to do that, and then we could, we could do that as well.

KOLOWSKI: So the other states that are blocking this right now simply don't have the law written in a particular form?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 31, 2020

DOUG CARLSON: Correct.

KOLOWSKI: Thank you very much.

BREWER: All right. Oh, Senator Lowe.

LOWE: Thank you, Chairman. I'd like to go along with Senator Kolowski's lead there. Have, is this a new concept in the last 10 years or something, that states have all of a sudden started to do this?

DOUG CARLSON: You know, I couldn't give you the specific time line, but this has been going on for more than a decade with other states. So this is a, this is pretty common. Other states, clearly, you know, I'd read the number of states that do this. They clearly see the value of this for their taxpayers and we should be doing the same thing.

LOWE: OK, thank you.

BREWER: So we'll just refer to this as BC, "before Carlson." All right, any more questions? All right, thank you for your testimony.

DOUG CARLSON: Thank you.

BREWER: OK. Any additional proponents for LB790? Any here in opposition? Any here in neutral? Senator Slama is waiving closing. All right, so that closes our hearing on LB790 and we will now transition to LB889. Senator Hilgers, welcome to your committee on Government, Military and Veterans Affairs.

HILGERS: Thank you, Chairman Brewer, members of the Government, Military and Veterans Affairs Committee. My name is Mike Hilgers, M-i-k-e H-i-l-g-e-r-s, I represent District 21, which is parts of northwest Lincoln and Lancaster County. I'll have a brief opening on LB889 this afternoon, which has brought me to the Attorney General-- by the Attorney General in an effort to help streamline a few different portions of administrative procedure or civil procedure as it relates to the Administrative Procedures Act. There are three changes, and there's a testifier behind me who can go into a little bit more technical detail, maybe add some anecdotes and color to some of these changes. But there's three changes that these, that the bill is meant to make. One is to clarify the service of profit-- process provisions for nongovernmental entities. So right now, if you have an administrative, you have an administrative action that is then appealed to district court, the current statute discusses service of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 31, 2020

process in the context of the Attorney General. The problem is, is that sometimes in these administrative actions, you have nongovernmental entities. So if you want to serve the state, you can serve AG, but if there's an individual corporation and you serve the AG, then that actually, and you don't actually serve the individual, then your appeal can be-- as to that individual, there will be no jurisdiction, because you didn't serve them. So this change is to make clear how to actually effectuate service on the nongovernmental entity. So in fact, it's a little bit more user-friendly for those people who are appealing the administrative decision. So that's the first change. The second change is to make clear again on the appeal, on the appellate portion of the Administrative Act, just on what exhibits need to be introduced. So if you have an administrative proceeding, there's a record that's developed. As I understand, this is not my core area of practice, but as I understand it, if you're going to appeal that to a district court, say in Lancaster County, you would provide the record from the-- for what the proceeding that you're appealing. But there's been some, in some courts at least, I think in Lancaster County, some of the courts are requiring that you also provide the record as an exhibit, which sounds sort of like on the one hand, kind of a who-cares requirement. But actually what-- there's two reasons why we should care. One is it's duplicative, could be potentially a lot of additional paper. Secondly, it could by offering it into an exhibit, it has a different evidentiary importance. And so you might, if you just offer it-- if you offer that evidence in, subject, and you know, you can't-- you might have to re-offer all your objections that you made at the administrative proceeding or potentially waive them. It's duplicative, unnecessary, and potentially harmful to the parties just from a preserving objections standpoint. So that's changed too. And then the third change is just remove some obsolete language that was pre-date to, I think, 1989. So it's not relevant anymore. So those are the three primary changes. None of them are earthshaking. But for the litigants in these particular proceedings, it will help streamline it, make it a little bit easier, and help avoid error. I'm happy to answer any questions that you might have. And as I mentioned, there's someone behind me who can maybe add some more color to what I just described.

BREWER: Yeah, it wouldn't be hard to add much color to that. Thank you for your opening. Any questions? All right, seeing none, you'll stick around for closing?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 31, 2020

HILGERS: Yes, sir.

BREWER: All right, first proponent. Welcome to the Government, Military and Veterans Affairs Committee.

MILISSA JOHNSON-WILES: Thank you. Good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Milissa Johnson Wiles, M-i-l-i-s-s-a J-o-h-n-s-o-n-W-i-l-e-s, Assistant Attorney General, appearing on behalf of the Attorney General's Office. We are here testifying in support of LB889. This is a bill that was requested by the Attorney General's Office, and we thank Senator Hilgers for proposing this bill. Just to give a little general overview of the Administrative Procedures Act statute that is being proposed to be amended here, is that it provides for district court review and administrative agency decision in a contested case. And as Senator Hilgers already mentioned, the record is created at the agency level with testimony and exhibits, a final decision is made by the agency. And if that decision is appealed to the district court, the court, court reviews that record de novo. As Senator Hilgers also stated, there are three purposes of this bill. The first would be to remove obsolete language. The standard of review before July of 1989 was limited to certain criteria, and that statute was changed to make the review de novo, which is to re-- review the agency decision anew and make independent findings of fact in conclusions of law. For those that are not attorneys on the committee, and I hear that there are a lot of them, but all of the language in the statute referencing criteria before July of 1989 is now obsolete. So we'd ask that it be removed. The second purpose of the bill, bill is to clarify that the district court reviewing the agency record does not need to mark it as an exhibit at the appeal hearing. And my color for this, I guess, would be there, there is a Supreme Court decision from 1982, Maurer v. Weaver, which specifically found that when the record of the agency comes to the district court, it does not need to be independently marked and received as an exhibit to be available for the district court's review. That's obviously an old case, but it is, it is a good case law. But there has been some confusion among the district courts about whether it actually needs to be received or marked as an exhibit and received in evidence. We understand that in Lancaster County the district judges may have, may have a rule or have otherwise agreed that the record would need to come in without separately marking it and receiving it as an exhibit. Because any efforts in this regard are duplicative, as Senator, Senator Hilgers said, and can cause difficulty. It actually does cause difficulty for citations to the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 31, 2020

record when the, when the decision is appealed further to the Court of Appeals and Supreme Court. I personally have experienced that many times. Other district judges have agreed with our position about the, the record not being marked as an exhibit. But we believe that this language change would be necessary for it to be easier for all district courts to be advised with clear direction from the Legislature that there's no reason to do that. And finally, the third purpose of the bill is to clarify the service of process provisions for nongovernmental agencies-- or nongovernmental entities or individuals. And when there is an appeal of an agency, the decision, the APA requires service of summons on all parties of record in the administrative agency hearing. At times there are parties to an administrative proceeding who are not governmental entities, such as corporations or individuals. I work with the Liquor Control Commission. So, for example, a couple of years ago we had an appeal where there were citizen protesters who had appeared at the administrative hearing and participated, and then they would need to be separately served on as parties of record on appeal to the district court. The current language of the statute provides that summons in an APA appeal shall be served in the manner provided by 25-510.02, which the first part of that is the statute that directs service of summons on the Attorney General. Obviously that that, that would not work for individuals or for corporations. So this amendment in LB889, and this is on page 2, lines 17 and 19, clarifies that, for nongovernmental parties, summons shall not be served on the Attorney General but by regular means of civil process, as in any civil action. And echoing Senator Hilgers' comments, I actually had written here that we believe that this amendment will make the statute more user-friendly, so we do think that that's important, by making it clearer for parties appealing agency decisions to know how to serve summons on entities or individuals that are not the government. So thank, thank you for your time, and I'm available if you have any questions.

BREWER: All right. Thank you.

MILISSA JOHNSON-WILES: And I'm sorry if that wasn't as colorful as I was set up to be.

BREWER: You were a whole lot more colorful than Senator Hilgers. All right, thank you for your testimony. Questions on LB889? All right, looks like you're gonna get off easy.

MILISSA JOHNSON-WILES: All right. Well, thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 31, 2020

BREWER: OK. Additional proponents for LB889. Are there any here in opposition? Any here and the neutral capacity? Senator Hilgers? He's waiving his closing. Wow, we are moving along nicely today. That will close the hearing on LB889, and we'll switch out numbers here. LB857, Senator Lowe, welcome to your committee on Government, Military and Veterans Affairs.

LOWE: Why, thank you, Chairman Brewer and fellow members of Government, Military and Veterans Affairs Committee. My name is John Lowe, and I represent the 37th District. I'm here today to introduce LB857. LB857 is designed to look at rules and regulations in the state of Nebraska. Over the interim we had a hearing on LR92. During that discussion, it seemed that this committee was interested in rules and regulations, but did not want to just borrow from what other states are doing. So after the hearing, I thought about ways to ensure the state has to up-- as up-to-date and effective rules and regulations. That is how LB857 was born. LB857 is designed to look at all the rules and regulations in the state, which makes a different-- which makes it different from LB299 that was in the Government-- the Government Committee heard three years ago. LB299 was designed to look at occupational licensing rules and regulations. LB857 builds off that general principle and now applies it to all the rules and regulations. LB857 requires each state agency to issue a report to the Clerk of the Legislature 10 years after a rule or regulation is enacted. The report must include why the rule or regulation was prom-- promulgated and whether the rule or regulation is still working as it was intended. My rationale for this change can be covered in five points. First, this bill will act as a check on state agent, agencies by the Legislature. It will follow future senator-- or it will allow future senators to know whether state agencies are enacting rules and regulations as the Legislature intended. Second, a rule or regulation may have worked perfectly for a time, but new legislation may have impacted the older rule. Third, new staff at an agency will be hired between the passage of this bill and the 10-year market in which the review will happen. Those new staffers may have a new idea on how the rule or regulation should work. This review process will help get new eyes on how our agencies are working. Fourth, technology is changing quickly. New technology will inevitably change the way we do things as a state that we cannot fully predict. And last, a report on rules and regulations will benefit future senators. By the time a report would be filed, each one of us will be term-limited out of office. Senator Kolowski's replacement, if they serve two terms, will be term-limited as well. Those reports will allow future state senators to have some history of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 31, 2020

why a rule or regulation was implemented. Improving institutional knowledge is just one more reason that I believe LB857 will be beneficial. Thank you, and I'll be happy to answer any questions.

BREWER: All right. Thank you for your opening testimony. Senator Blood.

BLOOD: Thank you, Chairman Brewer. And thank you, Senator Lowe, for bringing this bill forward. Can you tell me, please, how many agencies currently report to our Clerk?

LOWE: No, I cannot. There may be somebody that follows me that can answer that question for you.

BLOOD: Are you familiar with the agency reports that are public information that we have access to?

LOWE: Yes.

BLOOD: Do you know how many reports are currently online?

LOWE: I do not, off the top of my head.

BLOOD: 2,228.

LOWE: OK.

BLOOD: So if you go through State Statute Chapter 4-113, Chapter 81-1833, 43-3326, 48-3103, 84-948, it's a long list. It does appear that the vast majority of agencies already do reports very similar to what you are requesting. Would you say that that's accurate?

LOWE: I would, judging by what you're saying, I would say that's accurate.

BLOOD: Nebraskalegislature.gov/agencies is the link that you would want to go to. So the concern that I have, because we do put a very big burden on our staff. And while we should, we have expectations that they will report to us so we can create good policy based on data and not on our personal wants and needs. Why are we, why are we what appears to me wanting to be redundant?

LOWE: I don't know if we would be redundant. I believe this is good policy, that we check our rules and regulations and we make sure. Not all agencies do this in a timely manner.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 31, 2020

BLOOD: Which agencies do not do it?

LOWE: I cannot tell you which, which ones.

BLOOD: OK.

LOWE: And they do all generate reports, so this would be just one more way that they could generate it.

BLOOD: What new technology are you concerned about? You said that with new technology, that was one of your concerns, what concerns you most about upcoming technology that you think will affect this?

LOWE: Well, if we go back 10 years, you know, we didn't have a lot of the technology, a lot of the software that we have today.

BLOOD: Such as?

LOWE: Well, the programming. A lot of the programming has been initiated, and we can do things more efficiently. You know, constantly we're going back and looking at our rules and regulations. And that's good practice. Businesses do it all the time.

BLOOD: Right.

LOWE: And I believe government--

BLOOD: And obviously our agencies do, too.

LOWE: I believe gov-- good government should do that also.

BLOOD: So I'm still kind of confused on the technology part of it. So you're saying that they have the ability to do it quicker now, is that what you're telling me when you talk about technology?

LOWE: Well, they-- we should have the ability to do it quicker and maybe not so many man-hours involved.

BLOOD: And then that was a result of what?

LOWE: What was that?

BLOOD: You said software. What software?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 31, 2020

LOWE: Well, I believe we're constantly updating our software. And maybe an agency is using an older software that could be updated into something new that could generate reports in a more timely manner.

BLOOD: But when it comes to technology, isn't that already something that's already reviewed on a regular basis?

LOWE: It may be.

BLOOD: That part of it.

LOWE: It may be.

BLOOD: Thank you, Senator Lowe.

BREWER: All right, additional questions? Seeing none, I assume you're going to stick around for closing?

LOWE: Would you like me to?

BREWER: Yeah, I would.

LOWE: OK.

BREWER: All right, first proponent for LB857. Good afternoon. Welcome to the Government, Military and Veterans Affairs Committee.

NICOLE FOX: Good afternoon. Happy Friday. My name is Nicole Fox, N-i-c-o-l-e F-o-x, director of government relations at the Platte Institute. And I'm here today to testify in support of LB857. Thank you, Senator, Senator Lowe, for sponsoring this bill. According to research done by the Mercatus Center in 2017, Nebraska's administrative code contains over 100,000 restrictions. Of the 21 states Mercatus had researched as of 2017, Nebraska ranks second-highest per capita at 52.4 regulations per 1,000 people. Regulations come with a price tag for promulgation and enforcement, and require people, processes, and systems and government agencies, as well as in the businesses and organizations affected by those regulations. Individuals and businesses needing to follow those regulations find themselves needing to hire lawyers familiar with relevant regulations to assure they're complying. This constitutes a hidden tax. According to the Competitive Enterprise Institute 2017 report, federal regulations alone added nearly \$14,000 annually to American household budgets through hidden taxes. While Nebraska cannot control regulations at the federal level, it can control its own.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 31, 2020

While the Platte Institute applauds the proactive approach some occupational licensing boards have taken to update burdensome regulations, this is not the case for all of them. Additionally, several bills have been introduced during this current legislative session that will result in new regulations for many agencies. The Beacon Hill Institute sought to identify the scope and costs of regulations in Nebraska, and the regulations for which they were able to obtain a cost estimate totaled \$473 million in 2016. This cost estimate included over \$300 millions in fees, \$63 million in appropriations, and \$110 million in compliance costs. However, after reviewing the Nebraska administrative code, it was felt these figures represented a fraction of the total cost to the private sector. An important factor not cons-- not considered in their calculations was the impact regulations have on the private economy. Many opportunity costs come into play. The money households and business, businesses spend on fees could be used to finance household consumption and saving. The time and effort that households and businesses spend to comply with regulations could be redirected to producing goods and services. Aside from costs, we must acknowledge that state regulatory reform has many natural opponents, especially industries who like the regulations because existing policies keep out their competitors. We need to assure that future businesses and entrepreneurs don't face obstacles that over time result in much less economic opportunity and creativity. In June of 20-- 2019, the Platte, Platte Institute released a report with suggestions for regulatory reform in Nebraska. In that report, we covered regulatory reform options, including a comprehensive sunset provision with periodic reviews. North Carolina and Rhode Island have passed this type of legislation, resulting in 12 and 31 percent reductions respectively. Additionally, in Idaho, regulations must be reauthorized by the Idaho Legislature annually. Without this reauthorization, the state's regulations expire. After adjourning for the 2019 session, the state underwent a regulatory reset. The legislature had failed to pass a rule, a reauthorization bill. As a result, for each rule requested to stay in place, it had to be justified. In December of 2019, Governor Little announced that Idaho surpassed South Dakota in becoming the least-regulated state in the country by cutting and simplifying 75 percent of its regulatory rules. LB857 would require that each state agency review its rules and regulations 10 years after they become effective, beginning in 2021 through 2028. This review includes a report to the Clerk of the Legislature that, that must cite each rule or regulation's statutory authority and assess whether it is accomplishing its statutory purpose or needs revision. We support this idea. A one-time review of only new

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 31, 2020

rules or regulations has a limited scope and we feel the need to suggest strengthening this idea. Ideally, the addition of a sunset provision to this review has the potential to significantly reduce regulatory burden. At a minimum, we suggest requiring ongoing periodic review like LB299 passed in 2018. This law requires review of occupational regulations to be completed every five years and every five years thereafter. We hope the committee takes us into consideration. While some regulation will always be essential, regulatory policies should not unnecessarily pose barriers that impede the state's economic growth. I thank you for the opportunity to testify and I'd be happy to answer any questions.

BREWER: All right, thank you for your testimony. Questions? Questions?

NICOLE FOX: No?

BREWER: All right, seeing no questions, thank you for your testimony.

NICOLE FOX: All right.

BREWER: All right, next testifier as a proponent. Welcome to the Government, Military and Veterans Affairs Committee.

DUSTIN ANTONELLO: Thank you.

BREWER: You may begin.

DUSTIN ANTONELLO: Good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Dustin Antonello, that's spelled D-u-s-t-i-n A-n-t-o-n-e-l-l-o, I'm here today speaking on behalf of the Lincoln Independent Business Association in support of LB857. The implementation of new regulations is often well-intentioned, but they could end up creating unintended--unintended consequences for the business community. These unintended consequence, consequences can be especially harmful to small businesses who do not have the financial or human resources at their disposal to comply with new regulations. A study conducted by the National Association of Manufacturers found that small firms and startups with fewer than 50 employees incur regulatory costs of more than \$11,700 per year per employee, which is 17 percent higher than the average for all firms. The paperwork, compliance, and reporting requirements that often result from new regulations can rob an owner of the time needed to run a profitable business. According to the, to small business surveys conducted by Babson College, on average, small

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 31, 2020

businesses spend four hours per week on dealing with government regulations and tax compliance, which totals over 200 hours per year. Regulations can also get in the way of businesses getting off the ground in the first place. The cost to obtain a license and the time necessary to complete requisite training could be enough of a deterrent to prevent entrepreneurs from realizing their dream of becoming a business owner. It is no surprise then that, as regulations have increased, the number of businesses created has gone down. According to a report by the U.S. Chamber of Commerce, there were roughly 400,000 companies started in 2013 compared to 450,000 companies in 1980, even though the U.S. population was 40 percent smaller in 1980. By requiring state agencies to go back and review its rules and regulations every 10 years, LB857 will provide a mechanism for state agencies to evaluate whether, evaluate whether a regulation is accomplishing its intended purpose and determine if it's negatively impacting local businesses. Requiring a review of state regulations will also allow state agencies to determine whether any duplicative or conflicting regulations are already in place on the federal or local levels. LB857 is a good first step toward implementing the regulatory, regulatory reform necessary to prevent rules and regulations from becoming an undue burden on local businesses. I urge you to support LB857. Thank you, and I'd be happy to answer any questions.

BREWER: All right, Dustin, thank you for your testimony. Questions on LB857? Seeing none, thank you for your testimony. All right. Any additional proponents for LB857? Are there any here in opposition? Any here in the neutral capacity? Come on. Welcome to the Government, Military and Veterans Affairs Committee.

BO BOTELHO: Thank you, Chairman. Good afternoon, Chairman brewery members of the Government, Military and Veterans Affairs Committee. My name is Bo Botelho, B-o B-o-t-e-l-h-o, and I am a chief operating officer and general counsel for the Department of Health and Human Services. I'm here to testify in a neutral capacity on LB857. This bill would require state agencies to review their rules and regulations and report to the Legislature about these regulations, statutory authority, and whether the regulations are accomplishing their statutory purposes or need revisions. The reports would be due in a prescribed schedule, with the first report covering regulations whose effective date is 2021, due to the Legislature by December 31st, 2031. Nebraska law requires agencies to report annually to the Legislature on all rules or regulations required by law and their status, including the reason for any delays in their promulgation,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 31, 2020

Nebraska Revised Statute 84-910 (1). There are additional statutory requirements as to specific topics of regulation. DHHS estimates that it would take two to three hours of program staff time and three to four hours of legal staff time to review one chapter of regulations. Additional staff time would be required for administrative review of the regulation, as well as for the development and review of the annual reports to the Legislature. To get a sense of what this would mean overall, keep in mind that DHHS has approximate 415 chapters of regulations at present, although most of these will have been re-promulgated prior to 2021. Because DHHS propagates so many regulations, it does not manually track the effective dates, dates of any edit statutory authority and statutory purpose. This is not something the agency currently does or could efficiently do with existing personnel. An information technology system would be needed to effectively and efficiently produce these types of reports. Thank you. I'll take any questions.

BREWER: Thank you, Bo.

BO BOTELHO: You're welcome, Chairman.

BREWER: 415 chapters of regulation at the present?

BO BOTELHO: Yes. We're the big ugly as far as the state goes in regulation.

BREWER: All right. Questions? Senator Blood.

BLOOD: Thank you, Senator Brewer. Thank you for your testimony. I didn't have time to count, but do you know off the top of your head how many reports that you already have to do and send to the Clerk on a yearly basis for your department, for DHHS?

BO BOTELHO: We do an annual report every year on regulation, for any promulgation that's done that year, or regs that were supposed to be promulgated during the year.

BLOOD: Right.

BO BOTELHO: So we do [INAUDIBLE] status report. And we can do that on a year-by-year basis because that's how we designed the track.

BLOOD: And that's been going on for quite a while, is that correct?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 31, 2020

BO BOTELHO: Yes.

BLOOD: And that's why my, my curiosity, because I see some redundancy and I haven't had time to really dig in for hours onto what I'm seeing online. But in addition to that, you have other types of reports that you have to do too.

BO BOTELHO: Yes.

BLOOD: And hundreds and hundreds of hours-worth of reports. Would that be accurate?

BO BOTELHO: Yes. And I think the issue-- I mean, one of the concepts I wanted to try to get across here is that a lot of this work is manual. It's all paper-based. So these reports aren't generated from some existing database where you can simply--

BLOOD: Right.

BO BOTELHO: --tell it what to do and it generates reports. We are largely on the internal operations of state government, very much a manual process in the state.

BLOOD: Can you explain why that is? I think I have comprehension. But I think it would be good to have that on record.

BO BOTELHO: I mean, I'm not sure. I think when, you know, as the state evolves over time, we invest a lot into IT infrastructure. But a lot of it's the outward facing infrastructure. It's the platforms that, that, that deal with, with the public.

BLOOD: Right.

BO BOTELHO: The sort of the back office operations, those types of processes haven't really been automated. And I think it's just a matter if you put your time and money where you get, where you get the most bang for your buck. And so a lot of those processes are still very manual.

BLOOD: But if I hear you correctly, and it's been my experience because I've contracted with your agency before, is that so much of what you do is one-on-one and it's not-- and some of it's on-site.

BO BOTELHO: Correct.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 31, 2020

BLOOD: And so it requires this, not this. Would that be accurate?

BO BOTELHO: Yes.

BLOOD: To just make it really simple.

BO BOTELHO: Yes.

BLOOD: All right, thank you very much.

BREWER: OK. Additional questions? Seeing none, thank you for testifying.

BO BOTELHO: Thank you.

BREWER: Any more in the neutral capacity?

KEN ALLEN: Chairman Brewer, committee members, my name is Ken Allen, K-e-n A-l-l-e-n, I'm with the Board of Barber Examiners. I'm testifying, actually I missed the opponents side. So my neutral testimony would be more opposition. You're too quick on me, Chairman. Anyway, my board met last week and we discussed this bill. We feel that we have gone through the rigors of adjusting our regulations on a regular basis anyway. Almost annually we go through and regulate, go through our regulations, tone them down, eliminate any that are not necessary. And with the outcome of LB299 from a couple years ago, we immediately did that process once again through the whole book of regulations. And not that our book is big by any stretch, but it was a good tune up for us. The government policy research was awesome to work with. They helped us tone them down. To me and my board members, this bill is unnecessary. It's redundant. If you-- at the least, because we're already doing this because of LB299. And to throw this on top, I don't, I don't see the purpose. So anyway, that's my testimony. If you have any questions, I'd be happy to answer them.

BREWER: OK, real quick can we-- on name and spelling a name, so I got this right again?

KEN ALLEN: Sure. Ken, K-e-n, Allen, A-l-l-e-n.

BREWER: And you're representing?

KEN ALLEN: Board of Barber Examiners.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 31, 2020

BREWER: All right, let's go to questions. Questions? Questions? Seeing none.

KEN ALLEN: Thank you.

BREWER: Thank you for your testimony.

KEN ALLEN: Thank you.

BREWER: OK, additional in the neutral position? Seeing none, Senator Lowe, welcome back for your closing.

LOWE: Thank you very much, Chairman. And thank you for all the testifiers that were here today. We're talking about government agencies. Taxpayers pay into government agencies, and I believe the taxpayers deserve to know exactly how our government agencies are working and if some rules are out-of-date. And if you have an agency the size of the Department of Health and Human Services generating reports, wouldn't it be a better idea if there's some way that they could generate a report easier through software instead of all the manual hours that it takes to do that? Because when you do a manual report, you're pulling one, two, or three people off of what they're supposed to be doing with customer service to generate a report. I think by LB857 that we should be able to develop something that could go across state agencies so that we could develop our reports, reports much easier and in a timely manner. So that if we're doing a 10-year report because rules will change over that 10 years, they, they have to be accounted for and why they were changed. I believe LB857 will do that. I, I believe it will make it more efficient. We'll have a better government and our taxpayers will know exactly that we're doing good for the state. Thank you very much.

BREWER: All right, thank you for your closing. Questions for Senator Lowe on LB857? All right, with that, we do have letters to read in. We have five proponents for LB857. There none in op-- opposition, and none in the neutral. With that, we will close our hearing on LB857 and we will close our hearings for the Government Committee. We'll have a short break here and then open our exec session.