

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee January 28, 2021  
Rough Draft

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**BREWER:** --Government, Military and Veterans Affairs Committee. I'm Senator Tom Brewer from Gordon, Nebraska, representing the 43rd Legislative District. I serve as the Chair of this committee. For the safety of our committee members, staff, pages, and the public, we are asking those in attendance to follow the following procedures. Due to social-distancing requirements, seating in the hearing room is limited, very limited. We ask that you only enter the hearing room through-- during the period that you're doing your bill. Bills will be taken up in the order posted outside the hearing room. This list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time to post the new bill. We're requesting that everyone utilize the correct entrance and exits coming and leaving the building. Please note the exit door is on the right side. We request that you wear face coverings while in the hearing room. Testifiers may remove the face covering during their testimony to assist committee members and transcribers in clearly hearing and understanding their testimony. For committee members, I leave it up to your discretion on wearing face coverings because we have adequate protection with plexiglass and spacing. So again, this is up to the senator's discretion on masks. Public hearings for which attendees reach seating capacity or near capacity, the entrance door will be monitored by the Sergeant at Arms and they will allow people in as folks exit so that we do not exceed the number allowable in the room. Again, we ask that you do social distancing and wear a mask. The Legislature does not have the ability, due to the HVAC project, to have overflow hearing rooms, so those waiting will have to wait in the hallways. We ask that you try as best to limit the number of handouts and the committee will take up bills in the order posted on the agenda and today is-- or this morning will be LB368 and LB369-- oh sorry, wrong one, that would be a Friday-- LB294 and LB213. Had you worried there, didn't I? All right, let's see, our hearing today is your public part of the legislative process. This is your opportunity to express your opinion on proposed legislation before us today. Committee members must come and go during the hearing. It's just part of the process. They have bills to introduce in other committees. I ask that you abide by the following procedures. To better facilitate today's meeting, please silence or turn off cell phones or other electronic, electronic devices. No food or drink in the hearing room. Please move to the reserved chairs when

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you are ready to testify and these are the two chairs on either side, first rows. Introducers will make their initial statements, followed by proponents, opponents, and neutral testimony. Closing remarks are reserved for the introducing senator. If you're planning to testify today, please pick up a green sheet that is on the table in the back of the room. Please fill out the green sheet before you testify. Print it so it's legible. Once the form is completed, as you come forward to testify, make sure that either a page or the clerk gets a copy of this. Let's see, this will help us to monitor how many that we have. The letters for the record must be posted before 12:00 p.m. CST, noon, the day before the hearing. If you have any handouts, please provide 12 copies. We may, if time is available, have the pages help with additional copies if you need. Each letter must have the bill number and whether they're proponent, opponent, or in the neutral position. We will only announce the number of letters received in the three different categories, not specific names. No mass mailings will be put into the record. When you come testify, please speak clearly into the microphone. Tell us your name and please spell both your first and last names to ensure accuracy for the record. We'll be using the light system for all testifiers. You will have five minutes to make your initial remarks to the committee. When you see the yellow light come on, that is your indicating that you have one minute left. When the red light comes on, you will likely also hear an audible alarm. That means that you need to complete your opening and be prepared for questions. No displays of support or opposition for bills or-- vocal or otherwise-- vocal outbursts or otherwise, will be allowed in the public hearing. Committee members with us today will introduce themselves, starting on my right with Senator Blood.

**BLOOD:** Good morning. My name is Senator Carol Blood and I represent District 3, which is western Bellevue and southeastern Papillion, Nebraska.

**McCOLLISTER:** John McCollister, District 20, central Omaha.

**SANDERS:** Rita Sanders, District 45, representing the Bellevue-Offutt community.

**HALLORAN:** Steve Halloran, District 33, representing the Adams County and the western and southern Hall County.

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**BREWER:** To my right, Dick Clark, committee counsel. On my left, committee clerk, Julie Condon. This morning for pages, we've got Jon Laska. Raise your hand there, Jon. He is a senior at UNL from Genoa. And we've got Ryan Koch, Ryan, and he is a senior also from the big town of Hebron. With that said, Senator Flood, welcome to the Government Committee. You may begin whenever you're ready.

**FLOOD:** Thank you. Good morning, Chairman Brewer and members of the committee. My name is Mike Flood, F-l-o-o-d, and I'm the state senator for District 19, which includes Madison County and portions of Stanton County. I'm here to introduce LB294 at the request of the Department of Administrative Services. This bill allows deputy directors and certain agency legal councils to elect to become discretionary employees and exempts later-hired deputy directors and certain agency legal counsels from the state personnel system. This policy change would afford state agencies the same privileges that we currently exercise in the Legislature. As each of you know, we are allowed to hire members of our staff at our discretion. This is critically important because the staff and the senator need to have aligned priorities. This should be the same with agency leaders in state government. One additional feature of the bill is that no current employee will be forced out of their position. A deputy director or legal counsel will have the opportunity for a one-time, opt-in opportunity to become a discretionary employee at any point of their employment with the state of Nebraska. No current employee will be forced to make that switch and the position will not become discretionary until the position is open. A previous version of this bill, LB543, was introduced by Senator Lowe in 2019 and was opposed by the Nebraska State Bar Association. However, working between DAS and the State Bar Association, those issues have been resolved by having the attorney portion of the bill only include agency legal counsels of an agency with at least 200 employees. Director Jason Jackson from the Department of Administrative Services will be following me and will be able to explain the compromise if you're interested and answer any detailed questions on the bill. Thank you for your time.

**BREWER:** Thank you for your opening. Questions for Senator Flood? All right, you're going to stick around for closing or you're going to--

**FLOOD:** I'll waive closing. I have Revenue.

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**BREWER:** OK, well, thank you for that opening and we will have our crew come up and do a quick cleanup. All right, we will now go to those proponents of LB294.

**JASON JACKSON:** Mr. Chairman, did I understand that-- your preference that I remove my mask?

**BREWER:** It's up to you if you think we can hear clear enough. We just want to make sure that it gets transcribed correctly.

**JASON JACKSON:** OK.

**BREWER:** So you, you have the option to. It's, it's your--

**JASON JACKSON:** Well, perhaps you can alert me if I'm not enunciating sufficiently.

**BREWER:** Well, I, I somehow can sense you probably will be fine. Good morning and welcome to the Government Committee.

**JASON JACKSON:** Thank you, Colonel. If it's your preference, I'll go ahead and begin.

**BREWER:** Please.

**JASON JACKSON:** OK. Thank you, Colonel, and members of the committee. It's wonderful to see everybody. Glad everybody's made it back to Lincoln, healthy and safe. My name is Jason Jackson, J-a-s-o-n J-a-c-k-s-o-n. I'm the Governor's chief human resources officer and the Director of the Department of Administrative Services and I'm here to testify in favor of LB294. I want to begin by thanking Senator Flood for introducing this bill on the department's behalf. So LB294 proposes to make our talent management practices more competitive for executive-level leaders and high-level legal talent by modifying 81-1316 to include personnel employed as deputy directors and personnel employed as agency legal counsels at our largest agencies. Constitutional offices, the courts, postsecondary education are excluded from the changes proposed in the bill. Under current law, the objective of 81-1316 is to allow agency heads the opportunity to hire, compensate, and supervise critical, confidential, and policymaking personnel without restrictions from selection procedures, compensation rules, or grievance procedures. The law recognizes that these

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positions are roles with great responsibility and increased expectations of accountability, while also recognizing that performance appraisal is sub-- is more subjective for executive leaders and leading subject matter experts. Currently, 81-1316 falls short of its goals by failing to include deputy directors and leading-- excuse me, deputy directors and top attorneys as positions it covers. Including deputy directors and agency legal counsels in the law will make the state more competitive for top executive and legal talent by affording leaders more discretion with respect to compensation while also contributing to a high-performing team by increasing the accountability expectations of senior leadership. Both of these objectives are in keeping with the principles of 81-1316 and bring our managerial practices for senior leadership positions into closer alignment with the policy objectives at the root of the law. As Senator Flood said, LB294 was developed in collaboration with the Nebraska Bar Association and reflects a compromise that strikes the right balance between legal ethics rules and affording civil service protections to career attorneys in state government. Ethical rules governing the legal practice afford clients, in this case the state, discretion over their legal representation. That discretion is in tension with civil service rules that operate to prevent arbitrary talent management decisions affecting career government workers. A prior iteration of this bill, entered-- LB543, introduced by Senator Lowe last biennium, was more expansive in the number of attorneys it covered and was initially opposed by the State Bar Association. We've worked with the NSBA to overcome their opposition by only including the legal counsels of agencies that have 200 or more employees and specifically the leading in-house counsel at those largest of agencies, not all the attorneys in those agencies. This bill strikes the right balance between attorney ethics, governing the attorney-client relationship, and continuing to afford civil service protections for career government attorneys. Finally, it is important to note what the bill does not do. It does not impact any current teammates by changing anyone's current status, position, civil service, or union protections. This bill only operates prospectively to future teammates hired into state government in these positions. It will not be retroactively applied to anyone on our current team. No one's employment rights will be in any way compromised by this bill. It can only accrue to their benefit if they seek to apply for one of

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these positions going forward. Thank you for your time and I'd be happy to answer any questions the committee has.

**BREWER:** All right, thank you for that opening or the, the testimony. Let's run around real quick and see if we have questions. Yes, Senator McCollister.

**McCOLLISTER:** Yeah, thank you, Mr. Chairman, and thank you for being here, Mr. Jackson.

**JASON JACKSON:** Yes, sir.

**McCOLLISTER:** Ultimately, how many people will be subject to this, this statute?

**JASON JACKSON:** Potentially as many as about 30, give or take one or two.

**McCOLLISTER:** Just 30?

**JASON JACKSON:** So when we think about the deputy directors, it's probably about 20 agencies that are impacted there that would have discretion over their deputy director positions. And then with the legal counsels, based on current numbers, those agencies over 200 personnel, that would net out at about 12 agencies right now.

**McCOLLISTER:** So a total of 30 people?

**JASON JACKSON:** Give or take one or two in any direction, pretending-- whatever their unique circumstances of those respective agencies are.

**McCOLLISTER:** Are those 30 people-- of those 30 people that will ultimately be subject to this bill, how many are union members now?

**JASON JACKSON:** None.

**McCOLLISTER:** All of those employees, whether now or later, as this bill takes effect, will they lose any due process rights?

**JASON JACKSON:** If you were to-- a discretionary teammate has less due process rights than does somebody within the civil service system under 81-1316.

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**McCOLLISTER:** So they are subject to employment at will?

**JASON JACKSON:** Correct. I mean, that's not a direct synonym, but when we think about discretionary, it's a near-synonym to think about it as at-will employment.

**McCOLLISTER:** Under this statute, are you allowed to disclose or not disclose the salary offered to a particular employer? Are all the employees of, of state government, are their salaries obvious? I think there was at one time a website that gave all the state salaries on, on a, on website.

**JASON JACKSON:** I can't speak to the website, but all salary information of every teammate in state government is public information and subject to public record.

**McCOLLISTER:** So as a matter of discussion, will the terms of the employment be disclosed to the press or is that-- are you allowed to keep some of that information confidential?

**JASON JACKSON:** You know, I could research that further, Senator, but I'm not aware of any condition of employment, including salary, benefits, total rewards, and due process. I'm not aware of any condition of employment, regardless of your status with the state as an employer, that wouldn't-- that would be confidential in character. You know, it, it may be-- now when you say disclosure to the press, you know, a lot of these positions are-- wouldn't necessarily merit a press release, but if you're, if you're thinking about, hey, if, if the press were or any other interested citizen were to be interested in what is the status, what is the salary, all of that information would be made available.

**McCOLLISTER:** OK, thank you, Mr. Jackson.

**JASON JACKSON:** Yes, sir.

**BREWER:** All right, additional questions? I guess I, I got one for you. We have the luxury here of being able to hire our-- in the case-- let's say our legal counsel here. I'm able to at will find and, and hire that person. This essentially will give directors the ability to do something similar to that? Is that how I'm reading this?

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**JASON JACKSON:** Yeah, so currently, Mr. Chair, agencies have a-- there's a number of specific positions that are identified within the scheme of current law as being discretionary. Those are largely subject-matter expert type of positions.

**BREWER:** OK.

**JASON JACKSON:** And this statute actually spells that out and then what's more is agencies, based on kind of a quota system, are afforded a particular number of discretionary positions. And so that is the kind of flexibility that agency directors across the breadth of state government operations have in terms of choosing their team. The deputy director classification right now, they don't have a choice. It's a career position. So unless they're using one of those discretionary quotas on that position, it would be a classified position and they wouldn't be able-- it would be analogous and the-- you know, you can't choose your XO. What we would purport to do here is allow directors to choose their teams and choose their second in command.

**BREWER:** Well, I guess if the bar association is good with it-- and as far as the early letters that we got in, there was no opposition to it. I'm, I'm kind of surprised this hasn't happened before. Has it just been something that folks have kind of accepted as the norm and there just hasn't been a push before to do this or why, why--

**JASON JACKSON:** Yeah, I think I would attribute it to kind of a legacy of this is the way we've always done things. And increasingly and, and generally speaking, 81-1316 and our personnel system is a legacy of older personnel management practices that aren't necessarily in keeping with the state being competitive from a modern standpoint. I would also say it operates-- you know, I hit upon the accountability component. When we think about executive-level leaders in particular, you know, we want to be able to address misconduct and underperformance and not necessarily have to have, you know, prolonged progressive disciplinary type of regimes to, to correct behavior that's at odds with Nebraskans' expectations. So that's another feature of this bill. We think with the increased responsibility, the increased compensation that comes with these types of positions, there's a level of accountability that should also flow to that and this bill would afford that level of accountability to leaders.

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**BREWER:** All right. Any more-- yes, Senator McCollister.

**McCOLLISTER:** Yeah, thank you, Mr. Chairman. Don't you already have the right-- isn't-- aren't those particular employees, don't they already-- aren't they employees at will?

**JASON JACKSON:** They're not.

**McCOLLISTER:** What, what, what, what classification are they in that you're wishing to change?

**JASON JACKSON:** So there is a deputy director classification--

**McCOLLISTER:** OK.

**JASON JACKSON:** --which if an agency hasn't bestowed upon that classification one of its quotas of discretionary positions, it would be a civil service position and not in that [INAUDIBLE] position. So what we purport to do is, on a prospective basis, not move anybody out of a classified position that's already in it, but in the future, when those positions become vacant, the leaders of those respective agencies would have the opportunity to hire that position as a discretionary teammate.

**McCOLLISTER:** Of the current employees, if you wish to dismiss that employee, what, what occurs when, when, when that happens? Are-- so as, as you propose, it would be easier to fire somebody, correct?

**JASON JACKSON:** Correct.

**McCOLLISTER:** OK, but now it's more difficult to, to fire somebody, right?

**JASON JACKSON:** Correct.

**McCOLLISTER:** How does that, how does that change?

**JASON JACKSON:** Sure. I hate to use a negative example, but the circumstances of the conversation kind of lends itself to that. So I'll use as an example, the circumstances through which I came to be the Director of Administrative Services. My predecessor was terminated for failing to address a series of sexual harassment issues within the

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department, OK? When we became alerted to that, did an investigation, identified that failure of leadership, the administration and the Governor was able to immediately remove that director precisely because he was discretionary. In the absence of this, in a similar situation, a leader with knowledge of that type of conduct, if there hadn't been a prior documented disciplinary issue on point addressing it and we-- there hadn't been a series of progressive discipline that had been walked through to achieve that, that, that termination would have never been able to be arrived at and that leader would continue to serve in their position, potentially victimizing the women under their supervision and continuing to make them feel unsafe. So that's an example of how, you know, for-- when we think about heightened accountability for heightened levels of leadership and the discretion to operate quickly when we think about-- not arbitrarily, but quickly when we see conduct at odds with our expectations and how civil service procedures can operate to inhibit that.

**McCOLLISTER:** Isn't-- wouldn't that simply be a lack of due process if this new system were employed?

**JASON JACKSON:** In, in what respect?

**McCOLLISTER:** If you can arbitrarily-- and let's use that word carefully-- arbitrarily dismiss somebody without due process, doesn't that employee lose some of his due, due process rights?

**JASON JACKSON:** Well, again, nobody will be losing due process rights because what we're contemplating here would be people who entered into their relationship with state employment with an expectation of at-will employment. As the Chair said, very analogous to the discretion that you enjoy with your office, offices and I know nobody here and certainly nobody in executive positions in state government just acts arbitrarily to terminate employees. What it does mean is that the process and the procedure and specifically the expectations of progressive discipline would be reduced. And so we can-- when we see an example of misconduct, you can, you can remove that teammate from the organization without having to have a series of repeated misconducts before that would happen. You know, I think for lower-level folks in the organization, folks with perhaps not the same level of authority attached to their respective roles, that level of due process is appropriate to make sure that, you know, we're not just

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acting arbitrarily, but there is a, a certain degree of accountability and discretion that flows to the accountability that we're talking about when we're talking about executive leaders and deputy directors, to which I-- you know, I think that's appropriate.

**McCOLLISTER:** But EEOC rights will supersede the proposed system and the current system.

**JASON JACKSON:** That's, that's a great observation. So there still is a layer of protection. You know, even as you and all of us, in the capacity of managing your own teams-- and as I understand it, your teammates are discretionary, at will within your offices-- all of us are still prevented from making termination or employment descriptions-- decisions on the basis of a, of a district-- descriptive class or a protected class. So there still is this undergirding of protection that federal and state law operates to limit improper motives for termination decisions.

**McCOLLISTER:** Thank you--

**JASON JACKSON:** Yep

**McCOLLISTER:** --Director Jackson.

**BREWER:** All right. Any additional questions? All right, thank you for your testimony.

**JASON JACKSON:** Thank you, sir. Thank you.

**BREWER:** All right, crew is in motion. We will still be taking proponents of LB294. All right, any additional proponents? We'll move to opponents. Anyone here in the neutral capacity? Seeing that, we will close after I read in-- we have, as far as written testimony, no proponents, one opponent, the Sierra Club of Nebraska with Al Davis, and we have no one in the neutral position. And then on the position letters, we have one from the Nebraska Accountability and Disclosure, Disclosure Commission as a proponent. No opponents and none in the neutral position. With that, we will close the hearing on LB294 and we'll have the team real quick reset and get ready for LB213 with Senator Briese. Good morning, Senator Briese.

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**BRIESE:** Good morning, Chairman Brewer and members of the Government, Military and Veterans Affairs.

**BREWER:** You're one of the unique guys that has a perfect record. We have had one of your bills, we "execed" on it, and it went forward, so you're 100 percent.

**BRIESE:** Oh.

**BREWER:** Not many can say that.

**BRIESE:** All right, all right. Well, I appreciate that. Thank you to the committee for that.

**BREWER:** All right, whenever you're ready, you may begin.

**BRIESE:** OK. Thank you again, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. I come before you today to introduce LB213, which would require an outside audit of state government instrumentalities for efficiency. Let me start by saying that the goal here isn't to cut costs by eliminating programs or reducing the services that government in Nebraska is providing to the taxpayers. The core goal of this legislation is to make sure that those programs and services are offering those taxpayers the most bang for their buck. I think we can all agree that we want government programs to, to do the most possible for the people and that's at the core of this. Some of us might disagree later when cost savings are found, whether those savings should go to expanding programs or lowering taxes, but, but that's a conversation that the-- can be conducted at a later date. As I've stated publicly, publicly in the past, I believe that Governor Ricketts has done an excellent job of identifying many ways to make government run more efficiently. But by the same token, there's always going to be efficiencies that can be found in any organization from the smallest small business to multinational corporations. And I maintain that in order to run government like a business, which is something I've believed in for a long time, it's best to do just what the businesses would do to identify and eliminate inefficiencies and that's to bring in a fresh pair of eyes, to bring in someone from the outside who knows what needs to be done because he or she has done it before. So I believe we should always be looking for ways to create efficiencies, save the

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taxpayer money. This belief is buttressed really by an examination of our state spending. According to one source, we, we are 14th highest in state-- state spending for GDP and our spending per, per capita is average at best. So there would seem to be some room for improvement and that's partly what this bill addresses and that brings me to just what this bill does. As you see, it's a relatively short bill and that aside from listing out all of our state agencies, commissions, boards, associations, and committees, the bill is less than one page long. It simply would have the Department of Administrative Services contract for an efficiency review of all state instrumentalities in order to make the delivery of services more cost effective, identify outdated delivery practices that can be eliminated, identify increased efficiencies in service delivery, identify potential new sources of funding for services other than taxation, and make government more accountable to residents of this state. Other states have done similar reviews and I really am intrigued by the result. I passed out a handout from the Arkansas Policy Research Council that you can review. According to it, Kansas performed something similar in 2015. It was-- according to the document, it was a cost of about \$3 million. The study identified areas to save of over \$2 billion. The 2017 budget assumes savings of \$47 million and the '19 budget savings of \$89 million flowing from this endeavor. Louisiana spent about \$4.2 million in 2014 and found potential savings of roughly \$2.7 billion over a five-year period. The governor there attributed savings of \$145 million due to the review. A North Carolina review in '14-15 cost \$4 million and resulted in over \$14 million in savings the first year. It further appears that Iowa and Colorado have undertaken similar reviews and I have information suggesting that Iowa identified five-year savings of \$1.6 billion. My staff and I have spoken with some folks involved in the efficiency audit industry. One company identified several other states that have done a similar review, including Wyoming. There, the state initially spent \$2 million for the review and identified \$200 million to \$250 million in biannual savings from a \$2.7 billion biannual budget. The same individuals suggested the average identified savings due to increased efficiencies from what they have done to be roughly 4 to 6 percent of the state's budget. They further indicated any review could be tailored to the dollars the state is willing to invest in this effort, but suggested the amount spent by some of the states mentioned a little bit ago would seem in the ballpark. I've also passed out an exhibit, which is a letter from

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another company that does such audits. In it, they explain the items-- many of the items they were looking for in such things and they suggest a cost to the state of Nebraska, if, if they would undertake this review, to maybe be in the \$1 million to \$1.5 million ballpark. And according to their average result of 5 percent of a state budget, the potential savings could be \$250 million. And as I mentioned earlier, I do think many of our agencies have made some nice strides in the delivery of services and in garnering efficiencies, but there's always room for improvement. When asked at the interim study hearing about the current process being used by Nebraska state agencies, one individual in the industry noted, quote, I just think there are additional ways to find additional savings, unquote. He added, quote, there are always ways to improve. There's always ways to do things more efficiently, unquote, and I, and I can't disagree with that comment. Again, this bill is not about reducing or eliminating government services. It's simply trying to ensure that we're operating in the most efficient way possible. I believe we have an obligation to our taxpayers, as stewards of their tax dollars, to do everything possible to ensure that government programs are run responsibly, efficiently, and with as little waste as possible and with as little untapped potential as possible. Thank you for your attention to this bill and I'd be happy to try to answer your questions if there are any.

**BREWER:** Thank you, Senator Briese. Senator Blood.

**BLOOD:** Thank you, Chairperson Brewer, and thank you, Senator Briese. And you knew I'd have questions today--

**BRIESE:** Oh, sure.

**BLOOD:** --because we talked about this already and I do have several questions--

**BRIESE:** Sure.

**BLOOD:** --and then I won't have to ask for a second chance to talk. So can you explain to me briefly what the Operational Excellence Office is for that was created by Governor Ricketts?

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**BRIESE:** I would guess that there's an individual behind me, maybe in opposition, that could more fully describe that, but I am aware of some of the tools used within Nebraska state government, but, but that particular office, I-- he might be best able to explain that.

**BLOOD:** So the question that I would have, knowing that the Operational Excellence Office does exist and that their mission is to do basically what you described, but only in house, can you explain to me why this method versus, versus the lean methodology method would be more productive?

**BRIESE:** Well, at the, at the interim study, one of these individuals I was quoting here was asked specifically about the process used in Nebraska government. I think he was asked specifically about the Lean Six Sigma process and his quote was what? Quote and-- quote, there are always ways to improve. There's always ways to do things more efficiently, unquote. And that was in response to a direct question regarding the use of the Lean Six Sigma method here, but, but that's a great question. I'd ask the same question if I was you, but according to that testifier, no, there's ways beyond that, that those folks can find savings for us.

**BLOOD:** But there have been 350-- at least as of 2019, 350 new processes put into place that were improvements in 18 different state ed-- agencies that freed up 300,000 man hours.

**BRIESE:** Yeah.

**BLOOD:** Are you saying that-- and not to put you in the spot, but are you saying that what is going on is not efficient enough?

**BRIESE:** I would get-- I would maintain there's always room for improvement. When you talk about taxpayer dollars, we have a solemn responsibility as stewards of those dollars to do what we can to ensure they're stretched as far as possible, that we're using-- making the most use of those dollars. It's important to do so. It's our obligation to do so.

**BLOOD:** And I don't, I don't disagree.

**BRIESE:** Yeah and I know you don't and I appreciate and applaud what Governor Ricketts, the administration and what, what they've been

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doing there. I-- they have made great strides, but I think the outside audit, the return on investment on these things has been through the roof, as you can see here in what I indicated and you can read there. And so I think there's always room for improvement. We should always be trying to find that improvement. And again, I'm going back to the testimony there and, and in the letter you can read also similar comments that there are ways to find improvements in efficiency. The Lean Six Sigma, you know, it's my understanding that that looks for waste, waste in various forms and then it also focuses on consistency, eliminating variability in the product, so to speak, and putting that into practice. I think maybe we would have to have somebody better explain to us how that works, but I, I would maintain that this is still necessary. It could still be very advantageous from the interest of efficiency and maximizing use of our, our revenue.

**BLOOD:** I do have two more questions.

**BRIESE:** Sure.

**BLOOD:** So I'm going to stick with the Sigma Six just to wrap that part up. So you, you very specifically said that you feel that government should be run like a business, right, in general and I agree with that.

**BRIESE:** Yeah, yeah--

**BLOOD:** And so--

**BRIESE:** -- it can't be at every aspect.

**BLOOD:** So when you implement something like the Office of Operational Excellence and you utilize a program such as the Sigma Six program, that is something that's done usually in a window of time, usually about a decade, and part of that programming is also training state employees. So much like karate, there's, like, levels. So we've trained almost 13,000 employees that are at the white-belt level. We have almost 4,000 employees have been trained at the yellow level. Each level I'm talking about goes up to being a, a better-trained employee and these are my numbers from last year-- I don't have new numbers-- 23 for the green, 123 for the executive green, and 20 for the Lean-certified leaders. So the question that I would have for you,

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and this is one of the things that drives me crazy about government, is that it's-- we're always looking for the next best thing and we always think we know better and we sometimes don't allow the process, the previous process that we put into place to actually see fruition, to actually be successful. So the question that I would have on that would be why, why are we not waiting to see if this is actually going to work because it appears to be working?

**BRIESE:** Well, I, I would maintain that what I'm talking about here can complement what's currently being done. It can improve upon what's currently being done. And, and again, I, I applaud what's being done there and, you know, they've made great strides. And what they've implemented, I'm sure is, is going to yield dividends for the government and the taxpayers. But it's my belief, based on what I've read, based on what we have been provided, that this can improve upon that, add to that. And the dollars we spend to do this, it's my estimation and prediction that could yield many times over. And, and also, we have to recognize, you know, we're looking for-- you know, this audit is going to come up with ideas. Here, do this, this, and this. You know, somebody's going to implement that tool and, and that's why some of the numbers I quoted, the audit identified such and such or found such and such, you know, \$1 billion or \$2 billion and-- but maybe only \$100 million or \$200 million was actually realized because the state chose to implement only certain aspects of it. You know, we're not tied into everything that would come up, but it would seem that some good practices, good changes could be identified that could save the, save the state and improve efficiencies and be a huge win for the taxpayers. And, and--

**BLOOD:** And I-- yeah, I'm going to ask my last question. It-- and again, and again, I appreciate your enthusiasm and I don't disagree that the taxpayers deserve better, but my-- again, my concern-- and I want to be careful because we're not supposed to pontificate anymore-- my concern is that is it broken and it needs to be fixed? I'm not sure that spending money to save money is the way that I personally-- and I understand why you think in the long run-- I've heard-- I listened very intensely. The one concern and the last concern that I have, the question that I have, you used Kansas as an example of doing this. Are you familiar with the fact that Kansas, after years of severe budget cuts because of doing things like this, are now just kind of struggling and trying to get back on track?

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**BRIESE:** Well, again, what is identified is going to be a choice then whether we implement those things. I would hope that we would embark on a responsible path towards implementing what, what is suggested. And your comment earlier about spending money to save money, you know, that's, that's what every business does. That's what we should be doing on behalf of the taxpayers if there's a path forward to improve, improve on things and find some efficiency. But yeah, and I'll, I'll be interested to hear the following testimony. And we will have some other testimony, I think, talking about the tax burden in Nebraska. I, I talked about the fact that our spending per GDP is roughly 14th highest in the country. And to me, that's indicative of-- I shouldn't say a problem, but possibly there's room for improvement. I think somebody else is going to testify about the, the tax burdens faced by Nebraska. And, you know, this isn't a, this isn't about taxes, but I think the tax burden that somebody is probably going to talk about suggests, you know, maybe there is an underlying issue here, but that we need a fresh set of eyes to help us identify.

**BLOOD:** That's what Kansas thought too. And, and now Kansas is in a very-- has a very huge problem now because they, they agreed with that principle, reacted on that principle, now are trying to make up for making a bad decision, so I just-- I don't want us to be Kansas--

**BRIESE:** Sure.

**BLOOD:** --and-- but I hear what you're saying. I agree with you that we can always do better, but I'm not sure, until I hear more, that I necessarily agree, so--

**BRIESE:** Sure.

**BREWER:** Senator McCollister.

**McCOLLISTER:** Yeah, thank you, Mr. Chairman. Good bill, Senator Brieese. Thank you. You've got a good history of trying to save the state money and, and work on some of the overspending issues. You gave this statistic about 14th highest in government spending per, per, per person.

**BRIESE:** That, that was per GDP.

**BREWER:** GDP.

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**McCOLLISTER:** Per GDP.

**BRIESE:** Yes.

**McCOLLISTER:** Does that include the public utilities?

**BRIESE:** The public utilities might distort that slightly, but I think there's a lot of people of the opinion that public utilities does not distort it very much if it does. And so I have not-- I can't answer your question, but I, I know where you're going with that and I don't know that it distorts it very much. And if you talk about per-person spending, I think, you know, we might be 21st or something like that, that's according to my office's latest data. I, I had information figures, you know, the numbers are all over the board depending on the source it seems to me. But, you know, we're roughly 14th per GDP, I think roughly 21st per person, and that's why I said earlier, we're average at best and actually below average.

**McCOLLISTER:** Did that come from the Tax Foundation?

**BRIESE:** I don't think it was Tax Foundation, pretty darn sure it wasn't, but I could ask right here where we got that.

**BREWER:** Go for it.

**BRIESE:** Do you recall?

\_\_\_\_\_ : I don't.

**BRIESE:** OK, I've got it somewhere, but--

**McCOLLISTER:** Is Director Jackson going to follow you?

**BRIESE:** I, I believe at some point, he will. I think so. I don't know that.

**McCOLLISTER:** Can I ask him about the state's ability to contract?

**BRIESE:** Yeah.

**McCOLLISTER:** You may know that there have been some difficulties surfacing lately.

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**BRIESE:** Sure. Yeah, he should have some good answers for you hopefully.

**McCOLLISTER:** Could you envision we'd hire an outside company through a competitive bidding process?

**BRIESE:** Yes.

**McCOLLISTER:** Thank you.

**BRIESE:** Yes, at least a couple of such companies out there-- in fact, there's multiple companies out there, but a few of them with a really good track record, it seems.

**McCOLLISTER:** Thank you. Thank you.

**BREWER:** All right, additional questions? Seeing none, you'll stick around for a close?

**BRIESE:** Yes, I will.

**BREWER:** Good. I got a hunch we've got more questions for you there. All right, thank you--

**BRIESE:** Thank you.

**BREWER:** --for your opening on that. All right, we will, as soon as we do our cleansing process here, transition to proponents.

**McCOLLISTER:** He does a good job, doesn't he?

**BREWER:** Yes, Jon does nice work. All right, come on up. Let's see, we got the paperwork. We're all good to go. Sir, welcome to the Government Committee.

**DAVID NABITY:** Good morning, everyone. My name is David Nabity. I live in Elkhorn, Nebraska, and I met Tom really for the first time just this morning. When I saw that he had put together this bill, it, it really motivated me to want to come down and, and just communicate a little bit about how important I think these performance audits are. And back in 2006, I ran for statewide office and one of the reasons why I did was to, to try to get performance audit planning done in the

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state of Nebraska. There was a gentleman named Billy Hamilton in Texas who was the comptroller of Texas back when they had their big oil crisis and they were going to have to put in an income tax and they were in a big panic. They didn't know what to do and they put together 100 people from the private sector, along with the people leading the departments of government and they took five months and they scrubbed. And they looked for every place to eliminate inefficiencies, overemployment, places where there's bad programs who just-- that should just be eliminated. They looked at the good programs that needed more funding and they worked super hard to try to streamline and modernize Texas' government and the end result was something like \$3 billion in savings. I've got a letter here that I can give you that's from Billy Hamilton that could be handed around. And it was a huge success and one of the reasons why Nebraska needs to do and embrace performance audits is it's the only kind way to look for government efficiency. You've got landowners that are really tired of the high property taxes and they say, well, let's just cut government 30 percent, let's just cut it across the board. You got business owners and, and people in the private sector asking for the same thing. And if you just do across-the-board cuts, it's very, very cruel because it's not very strategic. If you can launch a performance audit process where you can really identify what's really working and what needs to be eliminated, it's the kindest way to start reforming government. And one of the reasons that we need to-- I've got another handout here now. I'm sorry. I'm going to keep you guys busy. You can-- you want to, you want to just take them all same time or-- OK, I'm sorry.

\_\_\_\_\_ : No worries.

**DAVID NABITY:** Back in 2006, I, I commissioned a team to do a study about Nebraska and how we look from a tax standpoint. And so I'll wait till this gets in front of you, but we looked at three scenarios for people living in Nebraska on what they were paying in income tax, what they were paying in motor vehicle tax, and what they were paying in real estate property taxes. So we took somebody that made-- that had a \$150,000 home. They made \$35,000 dollars a year, and they-- and this was back then, they had a 2004 Jeep Grand Cherokee and a 1999 Pontiac Bonneville and the taxes in Nebraska at the modest income level were \$5,600. If you just go to South Dakota, they would have dropped to \$2,700. Sarasota, Florida, \$2,600. Austin, \$3,200. Tucson, \$3,700.

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Colorado Springs, \$3,500. And if you went to Cheyenne, Wyoming, you would cut your taxes by \$4,000 down to \$1,573. And even Wyoming, knowing full well that their tax burden compared to other states is so low, felt the need to do performance audits. And we are, you know, significantly more expensive, 80 percent more expensive than Wyoming. If you look at a middle-income level, the difference between us and Wyoming is \$9,000 a year. If you look at a high-income level, somebody at \$500,000 of a real estate, a \$250,000 income, if they just moved to Wyoming, instead of paying \$30,000 basically in Nebraska, they'd pay \$5,400. If they moved to Florida, they would pay \$8,400. So our tax load here is a big, big deal and one of the things that I do for a living is I consult businesses on transition planning and the clients that we have that sell their companies typically will have a, a home in another state that's more. So they'll spend time in Nebraska and they'll spend time in, in-- because their kids are here and then they'll spend time in these other states. What almost every one of them is doing is they're getting a home in Arizona or getting a home in Florida or getting a home in Texas and they're living there just long enough to make their residency there so they don't have to be a resident of Nebraska and pay these kinds of taxes and we are losing significant wealth out of this state because of our tax burden. The last thing I want to take you to is I just spent maybe an hour yesterday googling Nebraska and how we fared from a tax standpoint and these-- I just-- I didn't print the whole article because this document would have been way too big, but Kiplinger has us 49th in the nation as far as the-- we're one state away from being the worst state in America for retirees to retire in. Fox Business says we are the worst. We're worse than New York. We're worse than California. We're worse than Illinois. MarketWatch has us the worst in the United States. WalletHub has us 46th, so we're five from the bottom. Our national reputation, senators, is horrible and the wealthy people that live in Nebraska that can are moving. The kindest way to reform government is through performance audits and I really, really encourage you to embrace this bill as a start. And if it needs to be expanded and add, you know, I-- I'm sure that I could bring to the Capitol 10 to 20 MBAs and people from corporations around the state that would take five months and work alongside people in state government to help them figure out how to "reinnovate" our state so we can, we can change our national reputation and we can hang on to the wealth that we have and grow.

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**BREWER:** OK.

**DAVID NABITY:** So with that, I know I'm out-- over my time. I'm sorry. I'm not used to talking five minutes for anything--

**BREWER:** That's all right.

**DAVID NABITY:** --so I apologize.

**BREWER:** All right, well, thank you for that. I, I actually do listen to you on the radio to pick up tips on--

**DAVID NABITY:** I'm sorry that you have to do that.

**BREWER:** --[INAUDIBLE] deal with money and that is kind of your trademark is, is understanding money and how it's to be used. Tomorrow afternoon, I'll have a chance to brief a bill on v tax and military retirement. And I mean, this is-- this doesn't even include that.

**DAVID NABITY:** No.

**BREWER:** It's, it's a different standalone--

**DAVID NABITY:** No.

**BREWER:** --issue, but your, your-- to your point of not being a place where retirees have a, a burning desire to go to--

**DAVID NABITY:** Yeah.

**BREWER:** --it is a little bit discouraging to see folks that, you know, are Nebraska fans that have been born and raised here, but then make the decision to leave because, you know, if, if you're on a fixed income in retirement and it's a difference of thousands of dollars, you know, that's--

**DAVID NABITY:** Yeah.

**BREWER:** --that's a hard one to walk away from and so any attempts to try and swing that pendulum--

**DAVID NABITY:** These stats-- excuse me-- these stats that I showed you, these were in '06 and it's only gotten worse. It hasn't gotten better.

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**BREWER:** Yeah, it would be interesting to see all-- and if-- and it would be interesting if you had-- and I don't know if you can get numbers for Council Bluffs, but it would be just-- if we were on the other side of the river, what would--

**DAVID NABITY:** I should have, yeah.

**BREWER:** OK. Questions? Senator McCollister.

**McCOLLISTER:** Yeah, yeah, thank you, Mr. Chairman. Good to see you, Dave.

**DAVID NABITY:** You too, John.

**McCOLLISTER:** Good to see you up on your soapbox.

**DAVID NABITY:** Oh, I just care about my home state, you know what I mean?

**McCOLLISTER:** I hear you. These state-by-state comparisons are pretty interesting. When you compare Nebraska with Wyoming, that doesn't recognize the, the minerals and, and oils money that the states-- the severance payments the state receives, so somewhat of an unfair comparison. And also, you look at South Dakota and they have a very broad sales tax that's fairly high. So yeah, they, they may have low property taxes and low income taxes, no income taxes, but they have a, a very generous sales tax.

**DAVID NABITY:** Don't you, don't you find that most people don't care about sales tax? It's the property and the income and the motor vehicle taxes that make them the maddest.

**McCOLLISTER:** I haven't felt that.

**DAVID NABITY:** No?

**McCOLLISTER:** Paying any taxes concerns people, but, you know, you got to level the playing field, at least in terms of some of those other, other taxes states charge, so--

**DAVID NABITY:** The thing, the thing we'd say about South Dakota is they got less than half the people. They got the same landmass and they

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have developed massive tourism that we haven't developed. So each state's going to have its own story about what it's doing, but it's making tactical and strategic decisions to innovate so that they're paying their bills with the cash flow that they're creating over their economic development plan. This bill is so harmless when it comes to being able to say let's, let's look, let's analyze, let's, let's look at every place we possibly can to create savings and the-- I, I just don't see any downside, especially if it changes how we look on paper.

**McCOLLISTER:** I agree to a point, but the state's ability to contract is the question. The Saint Francis issue, we didn't do a good job selecting the right contractor and selecting the right contractor is, is essential to do this correctly. I plan to support the bill. You know, a modest expense of \$4 million to save millions and billions, I, I think it's a good investment, as, as Senator Briese indicated, so--

**DAVID NABITY:** I'm and not-- like I said, I think we could, we could get corporate companies all over the state to donate talent too for a while to help.

**McCOLLISTER:** Good to see you, Dave.

**DAVID NABITY:** You too.

**McCOLLISTER:** Thanks for being here.

**DAVID NABITY:** Thank you.

**BREWER:** Senator McCollister, he's got a good point in that those states do have an advantage. I don't know that, say, in Iowa or-- you know, they, they would be-- I don't know that anybody goes to Iowa for a lot of tourism, maybe a little bit, and their-- as far as oil or coal, any of those kind of benefits, they wouldn't have either. So if, if we were to compare Iowa, I-- are you familiar with numbers there? Are we--

**DAVID NABITY:** No, I'm sorry, I didn't look. I-- it would be a good idea to probably do this analysis with Midwestern states and those, those sorts of things, but for us to be the worst state in America, Senator Brewer, I mean, come on. We-- we're better than that as a state. We-- there's no excuse for us being the worst state in America based on the rankings from these, from these retiree magazines. And

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for us to be, in our peer group, to beat California, New York, and Illinois, it's, it's a sad indictment on our state and we're better than that. And, you know, as I look around this room, all you guys, you know, you could make a big difference on, on the direction of where the state goes by supporting something like this and maybe even expanding it.

**BREWER:** Well, I don't want to speak for-- at least in my district, the, the questions I get is-- we have OK roads, we don't have great roads, but, you know, they're, they're adequate to get around safely for the most part. It's not like we have new vehicles for all of our state employees to drive. It isn't like our state employees drive a, a, you know, better piece of equipment than other states. And you look-- we're not really living high on the hog anywhere. And yet some-- for some reason, we, we seem to have a huge burden taxation wise. So if you could pull back all the curtains and figure out what's making this work in a way to where we are struggling, there's, there's actually something kind of appealing to that to figure out what we're doing that we could change that would help us so that if we're paying that much, at least we know where it's going.

**DAVID NABITY:** I'm sure you all here-- you know, just slash, you know? Enough of this baloney with Nebraska's taxes, just cut. Well, that's the most cruel thing you could do because good programs that are doing a good job, that have good people that are running efficient get slashed along with the bad ones. This, this process is the kindest way to go about trying to figure out ways to reform government.

**BREWER:** You know-- and I've heard that. I mean, I heard someone tell me the other day-- he goes, you know, you guys in the Legislature could save half the expense by cutting your staff in half. And I said, well, we could, but I guarantee you the productivity would be less than half if I had one person answering that phone every day.

**DAVID NABITY:** Yeah.

**BREWER:** And there's a point you can't do the people's business if you can't answer the phone and, and react. I mean, you can take notes until you're blue in the face, but if you can't take that note and turn it into action to actually make the world a better place or at least your district, you know, shame on you.

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**DAVID NABITY:** Yep.

**BREWER:** You're, you're not going to get to where the people need you to be.

**DAVID NABITY:** Well, Billy Hamilton and the team behind him, they put the Texas Performance Review Board together and then they came back every two years and did the same thing all over. They put a big team together. They gave him only five months, so it had a beginning and an end and that-- Texas doesn't have an income tax today because of all the work they did to keep their government expenses under control. So we can do it. We just need to have the people with the courage to get something like this launched and, and I think we'll be real proud of ourselves after we go through it if, if we can get the senators to come on board.

**BREWER:** All right, additional questions for Dave? Senator Halloran.

**HALLORAN:** Welcome and thanks for your testimony.

**DAVID NABITY:** You bet.

**HALLORAN:** I'm going to-- I'm-- try to make an analogy, maybe a metaphorical analogy with what you do for a living, right, you're a financial adviser?

**DAVID NABITY:** I'm actually more of a business planning consultant, so--

**HALLORAN:** Oh.

**DAVID NABITY:** --I get hired--

**HALLORAN:** There went my example, I guess.

**DAVID NABITY:** Yeah, well, I-- you know, but, but-- you know, it's, it's all-- I mean, you, you've got to do a valuation--

**HALLORAN:** Right.

**DAVID NABITY:** --on the company. You got to look at the sale price. The seller has to evaluate his cash flow after he's paid his capital gain

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tax and then figure it out where he wants to live. So it is a financial-- there is a big financial planning component.

**HALLORAN:** Right. Let me use a different analogy. Assuming you were a financial adviser, a financial adviser will take some of the information from the company that's listed on the stock exchange and, and, and has the opportunity to sell their other stocks, but they'll also inquire about second and third-party observers of that company to analyze how they do things, right?

**DAVID NABITY:** For sure.

**HALLORAN:** And that's kind of what this is, don't you think?

**DAVID NABITY:** Absolutely.

**HALLORAN:** And this is a, this is a second pair of eyes to look at some work?

**DAVID NABITY:** No, no question.

**HALLORAN:** If I look in the mirror in the morning, I'm, I'm, I'm pretty subjective about that. I think I look pretty good, but if other people-- if I were to ask other people objectively, they might point some things out that need improvement.

**DAVID NABITY:** It, it brings up a thought, physician heal thyself.

**HALLORAN:** There you go. OK.

**DAVID NABITY:** Yeah.

**HALLORAN:** Thanks for your testimony.

**DAVID NABITY:** Yeah, you bet.

**BREWER:** The person who had brought up the idea of, of cutting the staff in half also made the comment about pay. And I said if you, if you really look at how our staffs are paid or you can take that onto a state level, I don't think if you look from the Governor on down, any of those are paid at a higher level than in other states--

**DAVID NABITY:** No.

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**BREWER:** --so it isn't like--

**DAVID NABITY:** Nobody is getting rich in government.

**BREWER:** --we're, we're getting carried away with staff or--

**DAVID NABITY:** Yeah.

**BREWER:** And I think it's safe to say, but senators aren't getting overpaid. So, you know, again, for us to have that high tax, where is it going? There's-- somehow, there's a, there's a hole, there's, there's a vacuum that's pulling a lot of money in and I, and I don't think-- at least I don't know where that's going to, where that number is as high as it is and, and justifying where that is, so--

**DAVID NABITY:** The one thing I haven't done and I, I would like to is to look at the demographics of the state and see which percentage of those citizens are 55 and above and what percentage of the tax load is being paid by those people because I am very, very concerned. With the people that I'm seeing, virtually 100 percent of the clients that sell their companies for \$10 million to \$20 million, they're gone, virtually 100 percent of them. And if, if we continue to see the mass exodus of people 55 and above, I don't know how the heck we're going to cash flow the state in the future. And if we don't, if we don't look at changing our national reputation and looking at lowering these costs, I, I, I don't know-- I mean, I really fear for the state. I really do.

**BREWER:** Well and I think we'll hit a, a breaking point too. And I've seen this in my district, which is, is, you know, it's all western Nebraska or a good share of western Nebraska, and what we're seeing is that there isn't that generation that come up to replace the generation that's either retiring or passing away. So a lot of the places are being sold and, and, and we got bigger and bigger places--

**DAVID NABITY:** Yep.

**BREWER:** --that are run by people that aren't even from Nebraska. And, you know, a lot of what made Nebraska Nebraska is, is dying because they can't afford to continue doing that lifestyle they've enjoyed. So again, I, I think that's a, a fair point. OK, additional questions? All right, thank you for the materials.

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Rough Draft

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**DAVID NABITY:** You bet.

**BREWER:** This is invaluable and thank you for your testimony.

**DAVID NABITY:** Thank you.

**BREWER:** Jon, we, we judge the morning against the afternoon and we determined you're much quicker, more efficient, cleaner than the afternoon crew.

**McCOLLISTER:** Do you hire out?

**JONATHAN LASKA:** No. Beats cleaning my room.

**BREWER:** All right, we are still on proponents for LB213. Any more proponents? All right, from there, we'll go to opponents. Oh, hang on here. I do have too many sheets and on LB213 for written testimonies that came in, we got Bob Hallstrom from the Nebraska Federation of Independent Businesses and Sarah Curry from the Platte Institute. Welcome to the Government Committee. You may begin whenever you're ready.

**JUSTIN HUBLY:** Good morning, Senator Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Justin Hubly, J-u-s-t-i-n H-u-b-l-y, and I'm the executive director of the Nebraska Association of Public Employees, AFSCME Local 61. Our union represents approximately 8,000 state employees who work at 58 state agencies and our members live in all 93 counties. Providing essential services to our neighbors is at the heart of what our members do each day and providing those essential services in the most efficient manner is a shared goal. However, this bill, while I'm sure well intentioned, misses the mark on how best to improve the efficiency of state government. When a state employee hears we need to be more efficient, they assume that a spending cut is on the way. Cutting costs often doesn't translate to efficiency and in fact, often results in significantly higher cost. I'd like to offer a few examples where state government has been penny wise and pound foolish. Low wages have led to an untenable turnover rate of state employees. In the last seven years, the average annual pay increase for our members was 1.75 percent. Over that same time period, the average annual rate of inflation was 1.63 percent. That means that state employees received

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an average annual effective salary increase of eleven one-hundredths of a percent. In that same time period, the average annual turnover rate at state agencies was 19.3 percent and of those that left state service, 35 left-- 36 percent left in their first year and 61 percent left in their first four years. We estimate the cost of that turnover in training costs alone to be over \$15 million. In perspective, a 2 percent salary increase, increase for our members costs around \$7 million a year. The outsourcing of work, whether it be long term or short term, is usually very costly. We believe that having a dedicated state employee perform the work of the government is inherently more efficient than outsourcing the work to a private contractor that is not directly accountable to the taxpayers. The misguided outsourcing of CFS case management in Omaha and the need to hire private nursing staff at inflated costs at our 24-hour facilities because we can't retain our nurses it's not only inefficient, but it actually costs more. Another prime example of the penny wise and pound foolish approach is the Central Nebraska Veterans' Home in Kearney. The new home is a wonderful facility that our veterans deserve. Funds were appropriated to build this beautiful facility, but because of low wages and draconian overtime policies, the home can't be staffed. The turnover rate of employees at the Department of Veterans' Affairs last year was 44.6 percent. That's a 123 percent increase in turnover since the Department of Veterans' Affairs became its own agency four years ago. Nearly half of the Central Nebraska Veterans' Home staff last year-- and the home, it was-- half of the staff left last year and the home is still not at full capacity because of these shortages. Why would we invest in a facility only to have it not be able to meet the needs of the veterans we serve because of staff-- staffing shortages that can be easily solved? With those examples in mind, we find the \$4 million cost of an efficiency study to be a waste of resources that should be going to serving our citizens and frankly, in and of itself is inefficient. I'd like to offer two practical suggestions to improve the efficiency of state government. First, invest in frontline employees so our citizens are provided services by competent, qualified, and experienced state employees. Our new contract that will take effect on July 1 includes a step pay plan for the first time in 16 years. We're thankful to the Governor and his staff, especially Director Jackson who's here. I appreciate working together on that for some systemic change and it's a structural change that I think will go a long way to improve turnover if it can be improved upon in the next

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biennial. Second, solicit feedback from our frontline state employees for ways that their agency can be more run-- can be run more efficiently. Just about every one of our members could offer at least three suggestions off the top of our head to find efficiencies. Right now, it's just simply not in the culture for the voice of frontline staff to be heard, even though they're typically the best suited to answer questions and provide solutions. So in the end, we support the intent of this legislation, but can't support a bill that has a \$4 million price tag to hire consultants when we already have the answers in house and can better use that money to directly support-- to support the government to run more efficiently. I'm happy to answer any questions you have and I encourage you to contact me at any time if you have questions on how to improve the efficiency of state government. If I can't answer your question directly, I'd be happy to put you in touch with our members who very well live in your district. So thanks very much for your time and I appreciate you being here today.

**BREWER:** Thank you for that testimony. Thank you for staying within the time. All right. Real quick, you brought up the issue of the veterans' home in Kearney and, and that's one that I've tried to keep an eye on and Senator Lowe is going to be a better expert than I am, but the 44 percent turnover, you mentioned that you had ways of making that more efficient or, or better. What, what-- where did they miss the mark with the VA home? Where they can do--

**JUSTIN HUBLY:** The biggest issue at the vets home, in all four of them actually from Bellevue to Kearney, Scottsbluff and Norfolk, are all the same, in my opinion, based on what we hear from our members. That's the overtime policies. We tried to negotiate some different overtime procedures and I appreciate that the Department of Administrative Services was entertaining those, those proposals that we brought forward. And it was super disappointing that the Department of Veterans' Affairs, not only after two years of conversation said we don't see any problem, but didn't offer any solutions of their own. So Senator Brewer, it creates a vicious cycle. We're short staffed, so we require the staff who are there to work 16-hour days of overtime caring for disabled veterans. And so they quit because they worked 16-hour days after 16-hour days and then you hire new people who quit and this vicious cycle continues. So two things that need to be fixed. One is the starting wage and I think we're-- we have a better system

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in place and it will take some time to fix, but getting the Department of Veterans' Affairs to realize we have to come to a common-sense solution so that people aren't working 16-hour days of overtime consistently, I think that would help solve that staffing problem.

**BREWER:** All right, thanks for the insight on that. OK, Senator McCollister.

**McCOLLISTER:** Yeah, thank you, Mr. Chairman. Are the Department of Corrections personnel part of your union?

**JUSTIN HUBLY:** We represent the nonsecurity staff, so we represent, for example, licensed mental health practitioners, master social workers, cooks, dietary aides, maintenance, plumbing, those, those--

**McCOLLISTER:** So they have a separate union?

**JUSTIN HUBLY:** The, the staff who are in the P bargaining unit, those are security staff, are represented by the fraternity order-- Fraternal Order of Police. We represent about 500 state employees who are not in that bargaining unit and one of the eight bargaining units that we represent. We do not perform security tasks.

**McCOLLISTER:** Did I hear correctly you have 8,000--

**JUSTIN HUBLY:** About 8,000.

**McCOLLISTER:** Well, thank you for being here.

**JUSTIN HUBLY:** You bet.

**BREWER:** All right, additional questions? Senator Lowe.

**LOWE:** Thank you, Chairman Brewer, and thank you, Mr. Hubly, for coming and testifying today. You said that there's a big turnover in, in this-- in, in government employees. Do you know if when they do do the turnover, do they do a private sector or are they, are they turning over to another government position?

**JUSTIN HUBLY:** If, if they're included in the state employees almanac as turnover, they have left state service. So I don't know where they go, but they aren't here.

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**LOWE:** OK, thank you.

**JUSTIN HUBLY:** You bet.

**BREWER:** All right, additional questions? Yes, Senator Blood.

**BLOOD:** Thank you for your testimony today. Excellent job putting it all together, by the way. So it's been my experience, having witnessed this in, in other types of government, that when there's a performance audit-- audit, that it's really-- it's a very slow, big formal report, hindsight reports. And government, just like everything in the world today, is just constantly changing and constantly-- it's very fluid. So I'd be curious to know in the past-- and we know we've had other people come in and outside of the Sig-- Sigma Six-- how long have you been with the government-- the state government?

**JUSTIN HUBLY:** Well, I've been executive director of the union for about a year and a half.

**BLOOD:** How long have you been here in Nebraska as an employee?

**JUSTIN HUBLY:** About two years.

**BLOOD:** OK and where did you come from?

**JUSTIN HUBLY:** Chicago.

**BLOOD:** Working in the government?

**JUSTIN HUBLY:** Yes.

**BLOOD:** OK, then you will understand-- I, I don't want to ask this question if you don't have the experience to answer it.

**JUSTIN HUBLY:** Sure.

**BLOOD:** OK, so have you seen a lot of people come in and audit in different fashions and what usually happens to those reports?

**JUSTIN HUBLY:** Yes, my background is actually in public education. I was a teacher.

**BLOOD:** Oh, OK.

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**JUSTIN HUBLY:** We had all kinds of consultants come in to tell us how to do better. And no offense, but on 13 years of teaching, I never learned anything to become a better teacher from an auditor coming in to tell me how to do my job better. I learned it from my colleagues, from good administrators, from good school board members who had good policies. That's how we got better.

**BLOOD:** And I'm going to back you up because you just said what I wanted to hear. So people that come in that don't function within your demographic come in and tell you how to do your job better, yes?

**JUSTIN HUBLY:** Frequently.

**BLOOD:** And it's been your experience that that's not been productive?

**JUSTIN HUBLY:** True, I've never been invited to the private sector to ask-- find some efficiencies.

**BLOOD:** OK, so would you say that we already have now put into place, based on your testimony, something that is performance based?

**JUSTIN HUBLY:** I do and, and what I want to offer the senators today-- and I appreciate the way you framed that-- is, you know, I think sometimes that the unions are, are framed as this-- well, it's us versus them or this is-- we're just representing our workers and not-- our union has had major changes in the last two years and a different philosophy change and you have my commitment to work with Director Jackson or whoever is in that place at Department of Administrative Services. Let's find solutions that benefit everybody. That's what state government service is all about.

**BLOOD:** Fair enough, thank you.

**JUSTIN HUBLY:** You bet.

**BREWER:** OK, additional questions? Senator Halloran.

**HALLORAN:** Thank-- thanks for your testimony. Oftentimes it is a pay issue, right, where there's perceived to be an insufficient pay and, and consequence-- and overtime as a result, but I can give you several examples-- and I'm not going to incriminate any specific agency, but I know of one specific instance is close, very close to home, where

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there was a significant number of government employees that quit because of a mismanagement decision of moving a program from A to B to C and boom, they were done with it. They, they were done with the bureaucracy. It wasn't the pay. They liked their job and they did a good job and they just quit because guess what? Management was throwing them here and there and everywhere and, and it--

**JUSTIN HUBLY:** It gets hard to go from Geneva to Hastings to Kearney to Geneva to Hastings to Kearney, you know?

**HALLORAN:** There you go.

**JUSTIN HUBLY:** It's a repeat cycle.

**HALLORAN:** I didn't, I didn't want to be real specific.

**JUSTIN HUBLY:** Sorry.

**HALLORAN:** No, that's fine, but you understand what I'm saying?

**JUSTIN HUBLY:** I mean, I-- absolutely and I hope we can find some solutions together because we, we see the problem.

**HALLORAN:** Thank you.

**JUSTIN HUBLY:** You bet.

**BREWER:** Well, and I guess sometimes what the challenge with this is-- because, you know, your lifetime experience and, and mine are different because we had oversight and evaluations by other brigades or other divisions because they, they brought in that fresh look. And whether it be safety operations, say, when you're, you're parachuting or, or when you're conducting operations, how you do that more efficiently, they, they would come in with this nontainted because obviously, if one battalion evaluates another battalion, that brigade commander might decide that he didn't like the way they were doing it because he didn't want to hear anything negative. And, and a fresh face coming in can be more raw and more honest, but again, that's, that's a completely different environment than what we're talking about here. So I'm trying to get everything lined up the way it needs to be, but-- OK, additional questions? All right, thank you for your testimony.

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**JUSTIN HUBLY:** Thanks so much.

**BREWER:** Very informative. All right. We are still on opponents of LB213. Jason, welcome back to the Government Committee.

**JASON JACKSON:** Thank you, Colonel.

**BREWER:** Whenever you're ready.

**JASON JACKSON:** OK. Colonel Brewer and members of the committee, thank you for having me back. My name is Jason Jackson, J-a-s-o-n J-a-c-k-s-o-n, and I am the director of the Department of Administrative Services here today to speak in opposition to LB213. LB213 would require the Department of Administrative Services to contract with a vendor for an efficiency review of all state agencies listed within the bill and to provide the results of such review electronically to the Legislative Council no later than the 1st of January 2023. The review is to be conducted by an independent source to make the delivery of services more cost efficient, as well as identify new sources of funding other than taxation. I would like to thank Senator Briese for the focus on government efficiency and operations. This has been an area of focus for the Ricketts Administration and for our agency in particular. Governor-- government efficiency and process improvement is an important task to ensure Nebraska's tax dollars are being spent efficiently and wisely and they are seeing value in the investment in their government. This affords me an opportunity to talk about the tremendous success that the Ricketts Administration has had in implementing continuous process improvement throughout the state. Some of the give and take earlier-- and Senator Blood, I think you cited some of these successes-- we have over 5,000 yellow belts trained throughout state government in Lean Six Sigma methodology, over 300 green belts trained, 2-- 26 process improvement coordinators trained and deployed and embedded in our state agencies overseeing process improvement projects, 400 projects to date across the enterprise. These are folks who are embedded in the agency, familiar with the subject matter and the business domains of those respective agencies working shoulder to shoulder with their teammates as a permanent fixture of their teams, having the subject matter expertise. I heard one comment from a prior testifier about the academic credentials that could be brought to bear. Our process improvement coordinators, many of them have obtained advanced degrees,

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MBAs, even doctorates. To date, over 400,000 hours of teammate time has been saved through those 400 projects that have been implemented throughout our various agencies. I'll highlight a couple of examples because these, these efforts pay dividends for our constituent-facing services, as well as for our internal, internal teammates. So when the Ricketts Administration took office, the average wait time for ACCESSNebraska, so that's the DHHS helpline through which underprivileged Nebraskans get access to their medical and food assistance bus-- benefits, averaged nearly 30 minutes per phone call. To date, DHHS has been answering the ACCESSNebraska phones 35 consecutive months in under five minutes. So that's an example of how we deploy our process improvement teams to work through the processes. Leveraging Lean Six Sigma methodologies make the process more efficient and that accrues to the benefit of our constituents seeking service and also accrues to the benefit of our teammates because, you know, in this example, it's quite unpleasant to answer the phone after somebody's been waiting 30 minutes to get to you, obviously. So there's an engagement payoff as well. You know, I appreciated Mr. Hubly's remarks because from our administration's perspective, a successful government efficiency operation is one that's imbued in our culture and that's what we've attempted to do and that's why we've invested so much in training throughout the organization. Frontline teammates at all levels get white belt training to make them conversant in Lean Six Sigma methodology and then increasing the level of sophistication and training as you advance in your respective career. So to close, while I'm sympathetic to the goals of LB213, I think it's redundant to contract with a private vendor at a higher cost to do efforts that the state already has in flight to make our operations more enduring in character. And I'm skeptical that such an effort would have the same success in making-- imbuing the culture of our organization with the skills necessary to make this sustainable so that everybody in the organization, regardless of the level, feels empowered to make suggestions about the changes that impact their work and that's our objective. So with that, Mr. Chair, I'll stop and be happy to receive any questions anyone may have.

**BREWER:** I'm sure we have a bunch for you. Thank you for that testimony. And on your comment of the picking up the phone after someone's been waiting 30 minutes, here at the Capitol, we have-- or at least I've had a bit of a problem in that there is a, a Senator Tom

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Brandt, Senator Tom Briese, and Senator Tom Brewer and they sometimes get those mixed up and they're right to repair a bill that Tom Brandt has that has angered some implement dealers and I've got to deal with them and so I am very quick to redirect them to the correct senator.

**JASON JACKSON:** Understood.

**BREWER:** Senator Blood.

**BLOOD:** Thank you, Chairman Brewer. I have the Blood-Flood going on thing.

**JASON JACKSON:** Yeah, I noticed that.

**BLOOD:** Yeah. Thank you for your testimony today. The one thing I didn't hear you touch down on that I had the question-- and, and maybe you can clarify if my understanding is correct. So when you implement a program such as the Sigma Six and I was very impressed at how fast the numbers have changed since my last research. That's just-- like, you've basically doubled it in, like, a year, right?

**JASON JACKSON:** Yes.

**BLOOD:** Wow. So when you implement a program like Sigma Six-- and it's my understanding that the OE was created in 2017, does that sound right?

**JASON JACKSON:** That does.

**BLOOD:** OK, second year that our Governor was in office.

**JASON JACKSON:** Right.

**BLOOD:** OK, so I'm going by memory so bear with me--

**JASON JACKSON:** So am I.

**BLOOD:** --if I'm wrong and, and you're happy-- please correct me if I'm incorrect.

**JASON JACKSON:** Understood.

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**BLOOD:** So it was always my understanding with the training that I had in Sigma Six that really to see anything transitional happen, to see the, the type of goal happen, you really need basically a decade of consistency and sticking to your program because you-- what you work with is a living, breathing document that is fluid, that you probably go back and revisit and tweak as needed. Would you say that that's accurate or is that just in my head and not right?

**JASON JACKSON:** Well--

**BLOOD:** And you're not going to hurt my feelings if it's just in my head and I'm--

**JASON JACKSON:** No, yeah, I-- you know, I, I-- what I would say is I think you need sustained focus to have an enduring culture change in an organization and that's our objective. So again, my skepticism about having a third party come in would be that it-- whatever benefit is derived, would it be sustainable such that our business practices wouldn't ultimately revert if what we're not doing is training our team to be able to again, be empowered to influence these changes on a going-forward basis? I also-- if I may, just in response to your question, you know, our state has been recognized as a national leader in terms of how we do this. So all of you have in front of you the National Association of State Chief Administrative Officers, in partnership with the Harvard Business, Business Institute, basically identified Nebraska as the foremost state in the country for operational excellence through the work of our Center of Operational Excellence, so--

**BLOOD:** Actually, on the Sigma Six website, there was a story last year that actually said that very thing, so you actually answered my question. The answer was yes then.

**JASON JACKSON:** Yes.

**BLOOD:** You do need a, a window of time for it to be sustainable, to have the ongoing education and training to meet the ultimate goal of what they're asking this bill to do with an outside source.

**JASON JACKSON:** Yes.

**BLOOD:** Thank you.

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**JASON JACKSON:** Yep.

**BREWER:** Good question. Senator McCollister.

**McCOLLISTER:** Thank you, Chairman Brewer. Thank you, Director Jackson.

**JASON JACKSON:** Yes, sir.

**McCOLLISTER:** You are absolutely right. ACCESSNebraska was a, a major success story. I was on that task force and the state grabbed the whole of that problem and resolved it, so congratulations for that. Now on the other hand, tell us about Saint Francis and what happened there. Did, did you administer that, that bidding process?

**JASON JACKSON:** Perhaps you might be more specific?

**McCOLLISTER:** Yes. Saint Francis is a contractor that works for Nebraska and it's been in the news. Did you bid that contract?

**JASON JACKSON:** State procurement bid that contract on behalf of the Department of Health and Human Services, yes.

**McCOLLISTER:** So it was under your purview?

**JASON JACKSON:** Correct.

**McCOLLISTER:** What happened to that bid that it went so badly?

**JASON JACKSON:** Yeah and incidentally, I appreciate that-- it was very statesmanlike of you to mention that you would have this question so I wouldn't be caught flatfooted, so I do appreciate you having mentioned that.

**McCOLLISTER:** Yeah.

**JASON JACKSON:** You know, I, I think with-- my reflection on the process is, and if you'll permit me to give a little context, state procurement is something that's fraught with vulnerability to litigation when we see across the breadth of states across the country. And in fact, there's a bill floating around in the Legislature now that would make that even more expansive. And so when we think about state procurement with Administrative Services, we show

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up to work shoulder to shoulder with our, with our agencies who are our customer. So we attempt to administer the process of a bid, an awarded bid based on their business needs, basically. What we have to do is evaluate bids within the four corners of the response to the RFP. So from a, from a bit of a distance and not having immediately at my fingertips all the particulars of that particular bid and what's happened subsequent to that, I would say that you have two bidders, both of whom represent that they could fulfill the requirements of the RFP and one of whom substantially underbids the other. As state decision makers-- and here we rely upon the program experts in the agency that we're supporting regardless of what the contract is-- we make those evaluations based on what's within the four corners of the RFP and then attempt to be as objective and keep the state in a position where it can withstand scrutiny for involving arbitrary criteria that was outside of the bid proposal. So to me, that's one of the things that undergirds the issue with the Saint Francis/Promiseship bid is that as state actors, we need to be objective in terms of awarding those bids and awarded based on the information that's provided to us in response to the RFP.

**McCOLLISTER:** But when you evaluate bids, do you not evaluate the fitness of those bidding? I've done a lot of state bidding and, and if the bidder is unqualified in some way, you have the ability to not take that bid, correct?

**JASON JACKSON:** I think it would be-- it's problematic or at least would put the state in a position of being vulnerable to scrutiny. The more outside the four corners of the bidder's response we're in pulling in criteria, that can't be apples to apples compared to other bidders that had an opportunity to competitively participate in the process.

**McCOLLISTER:** So in the bid process, there's four major considerations, is that correct?

**JASON JACKSON:** I couldn't say.

**McCOLLISTER:** Yeah, you said there's four pillars or four corners--

**JASON JACKSON:** Oh, yeah. I'm sorry. I'm using a legal term of art. I'm saying that, you know, the paper they respond to, you know, what's,

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what's contained within that document of their, of their response has to be the basis upon the decision in our evaluation criteria. In other words, we can't pull in criteria that we didn't place in our original bid proposal and give everybody an objective opportunity to respond to.

**McCOLLISTER:** And of the considerations considered, do you value them equally or is the price component more important than the others, than the fitness of the contractor to provide the service?

**JASON JACKSON:** I would say that that's highly dependent upon each individual case. And again, as an agency, from a state procurement perspective, what we attempt to do is show up as a consultant partner and walk our customer agencies through the process with a high degree of deference to the subject matter experts in those agencies who are ultimately making the scoring decisions on each of the individual criteria within the RFP. And then there's an aggregation process in terms of how those responses are weighted and a bid award is made. And so in any particular instance, different criteria could have different weighting.

**McCOLLISTER:** So in the case of the serve-- Saint Francis contract, HHS decided who the contractor should, should be to provide the service and not anybody in Administrative Services?

**JASON JACKSON:** HHS scored the bid and then we, on behalf of HHS, award the contract to the bidder that scored the highest.

**McCOLLISTER:** Thank you, Director Jackson.

**JASON JACKSON:** My pleasure.

**McCOLLISTER:** All right, additional questions? All right, seeing none, thank you for your testimony and helping to clear a few things up.

**JASON JACKSON:** Thank you.

**BREWER:** All right, we are still on opponents of LB213. Are there any more out there? Can you raise your hand so I know? All right, are there those here testifying in a neutral position? Got one. Russ, come on up. Paperwork, decontaminated, welcome in.

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**RUSS KARPISEK:** Thank you, Senator Brewer and members of the General Affairs Committee [SIC]. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, and I am the legislative liaison for Charlie Janssen, the Auditor of Public Accounts. Auditor Janssen wanted me to come in. We definitely are not opposed to ever more transparency or ways to find things that, that could be done better and I would just go back to my time when I was in the Legislature and what I didn't understand, which was a lot, but the Legislature has per-- Performance Audit and they do a great job. We do two very different things and although we work together well, we kind of try to stay out of each other's way. So the Auditor of Public Accounts mainly just does financials. We can do a very small scope of performance audits in cities and counties when we're auditing there, but again, very small. We've, again, tried to make sure that we don't step on Performance Audit toes when we do things. I guess the question is we're-- again, we like this idea, but with \$4 million, we could greatly expand our scope of practice and hire more people and do more audits and we think do the same thing. Again, we don't think it's a bad idea, but we are here and again, I'm-- in my time in the Legislature, I have to admit, I don't know that I read many audits. And I'm not saying that you don't, but I know we put them out and we don't get a whole lot of comment back on them. So we're doing a lot of them every day and again, we do the cities, counties, and state agencies. A lot of people-- I didn't probably know that when I was in the Legislature either. So we have a very good, I think, working relationship also with DAS and the Governor's Office and we work together and try to find these inefficiencies, the problems. Sometimes the, the agencies don't want to do anything about it. They say OK, so you found this. Well, we're not going to change. Kind of baffles my mind, but, but that happens a lot. So really, the scope of our practice is narrow and when we do find someone who may be embezzling or doing something wrong, many times we have a hard time with getting the county attorneys to file charges on people, especially in the smaller counties of which I am from one. You know, everyone knows everyone. Then it goes up to the, the Attorney General. Well, the Attorney General's Office is very busy and we understand that and maybe sometimes the amount of money that we're finding probably just doesn't rise to the level of the many things that their office is doing. And I'm not trying to say that they're gone. They help us immensely, but sometimes they're overwhelmed also, so that becomes an issue.

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Interestingly, Senator McCollister, we did get a request to audit Saint Francis from a senator and we had to go back to the senator and kind of "rescope" it because they asked for a performance audit of Saint Francis and all these things. Well, we just can't do that, so we-- because we can't do performance audits. And again, we have about 50 people in the Auditor's Office, including me as one of them. And I, I don't do audits and you can be thankful for that. So we had to "rescope" that and I told the senator to please go to Performance Audit, try to talk to them and try to find some other ways that maybe we can all work together. But I think everything's in place. I think it's a great idea. We're just here to say, hey, we're, we're here to help and any money coming our way, we could, we could hopefully do a good job also. Thank you, Senator Brewer.

**BREWER:** All right, thank you for that testimony. Now while we got you in the hot seat here, how many employees do you have in the Auditor's Office that actually do audits?

**RUSS KARPISEK:** Probably 45 if we're full staffed.

**BREWER:** OK.

**RUSS KARPISEK:** And that ranges from some right out of college up to some-- we've-- we have a couple of people in the office that have been there for 35, 40 years.

**BREWER:** So if you go out and you find where there's been some issues, some-- say funds that aren't managed correctly or whatever it is, you write up a report and turn it in. Unless there is a desire on the part of local control to effectively do something, that's kind of the end of your involvement with that?

**RUSS KARPISEK:** Right. We can turn it-- if there would be any criminal or-- we think criminal, we would turn it over to the county attorney and/or the Attorney General. But after that, if it's a state agency, again, we would talk to Mr. Jackson and the Governor's Office just to make sure they're aware of it, but we have no hammer.

**BREWER:** So the hammer is the county attorney and if the county attorney is related, passionate for whatever that person's purpose or

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business is, then you may not have any activity whatsoever to correct it?

**RUSS KARPISEK:** That is correct. Again, then we do go to the Attorney General's Office and we have a very good working relationship, but again, they are--

**BREWER:** They are busy.

**RUSS KARPISEK:** Awful busy, yes, but we do--

**BREWER:** All right, quest--

**RUSS KARPISEK:** --when-- and again, when it is the, the state agencies, which a lot of times I think kind of what we're talking about here, maybe more, we do go to DAS--

**BREWER:** What's in the--

**RUSS KARPISEK:** -- and the Governor's Office. But again, I-- sometimes we don't see much help from the agent, not the DAS, but maybe the agencies.

**BREWER:** But if it is a Nebraska state agency that's the problem, then you'd have a little more flexibility to add pressure to fix the issue, wouldn't you, as opposed to it being a, a county or city issue?

**RUSS KARPISEK:** Yes, again, through DAS and the Governor's Office. Many of our audits, we see the same issues year after year after year and we've been here with legislation to address that and I think that's getting better. But I think as, as the gentleman said that was the teacher, somebody coming in, telling him how to teach better isn't always-- doesn't go over well. So I think sometimes that may happen with our audits also.

**BREWER:** So thanks for your advice, but no thanks. Senator McCollister.

**McCOLLISTER:** Yeah, thank you, Mr. Chairman, and thanks for being here--

**RUSS KARPISEK:** Thank you.

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**McCOLLISTER:** --Mr. Karpisek. The State Auditor is a separate constitutional office, correct?

**RUSS KARPISEK:** Correct.

**McCOLLISTER:** And so you're not beholden to the AG or the Governor, correct?

**RUSS KARPISEK:** Correct.

**McCOLLISTER:** So you can operate outside of, of their, their effort to control you, right?

**RUSS KARPISEK:** Oh, correct. Yes.

**McCOLLISTER:** OK. When you described what your mission was, you said it was fairly narrow. So it, it-- you simply go back and look at the records of, of some agency or, or even an agency outside the state that is spending money that they may have done that incorrectly, right?

**RUSS KARPISEK:** Yes.

**McCOLLISTER:** OK. Well, I think the, the intent of the bill that we're now reviewing is an outside-the-box kind of consideration where they, where they simply don't look at the way the money is-- has been spent, but they will look at ways to spend it better. So I'd argue it's, it's a little different kind of concept. Have you ever thought about coming back before the Legislature and expanding your mission to include some of those other functions?

**RUSS KARPISEK:** We have talked about that and at present-- and the Auditor's watching now. We don't want to-- I guess we don't want to rock the boat. When I-- when we were-- Auditor, Auditor-- Senator Janssen and I were in the Legislature, we were very-- I was anyway, very-- I mean, I wanted to make sure that Performance Audit stayed Performance Audit and there was some talk at that time of combining them. I didn't like that idea because we're going to keep our own stuff.

**McCOLLISTER:** Has that changed?

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**RUSS KARPISEK:** My personal opinion, yes--

**McCOLLISTER:** OK, thank you.

**RUSS KARPISEK:** --that we could work together more, but I don't know. I'm not in charge of how to do that, but there's a lot-- again, I think this is a great idea. I think that if we had more funds, especially \$4 million and maybe some change in statute, then a lot more scope could be widened and more done.

**McCOLLISTER:** Thank you for your testimony.

**RUSS KARPISEK:** Thank you.

**BREWER:** So you could be the dog that barked and actually had teeth.

**RUSS KARPISEK:** We'll be back tomorrow with a couple bills to give the dog a little more teeth.

**BREWER:** OK, I'll-- let's see-- OK, additional questions? Seeing none, thank you.

**RUSS KARPISEK:** Thank you, Senator.

**BREWER:** All right, any additional testifiers in the neutral capacity? I need to-- real quick, we do have one in the neutral that's sent in. The Nebraska Bar Association sent in a letter in the neutral capacity and let's see, what else do we have? Any else on-- all right, with that, then we will close the hearing on LB-- oh, yeah, I'm sorry, I didn't forget you, Tom. I did actually forget you. I didn't forget you were there, I just forgot your close and I started with Flood and he was very clear that he was going to waive it and I--

**BRIESE:** Oh yeah.

**BREWER:** --kind of just skipped you there. Welcome back to the Government Committee.

**BRIESE:** Well, thank you, Chairman Brewer, and I want to thank all the testifiers on both sides and appreciate that-- the nice questions for them. It's my understanding, you know, the Auditor's job is currently simply to ensure that laws are followed, procedures are followed, and

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of course, like you pointed out, Senator McCollister, their job currently doesn't really entail this and the Auditor's, Auditor's Office does a great job of what they do and really appreciate their work. But, but one of the points of this is to bring in an outside agency, which I think would have some merit, as opposed to expanding the duties of the Auditor's Office. And it's also my understanding, you know, we heard from a representative of the employees and it's my understanding that these audits typically bring in or they typically try to engage the employees early on, which I think is a, you know, a great, great concept and a great strategy and I, I think that's important to recognize that. But also, somebody suggested that this is about cutting. This is just simply about cutting and they were concerned about that and I disagree. It's not just simply about cutting it, simply finding or trying to find a, a better use of taxpayer dollars if, if those better uses are available and trying to free up revenue and this free-- and point is that freeing up revenue by finding more efficiencies could help solve some of the problems that the one testifier was concerned about, talking about pay raises and retention and things of that sort. You know, this can actually help address some of those issues at the end of the day. Also, the comment was made that outsourcing can be costly and misguided. Well, no guarantees that an efficiency audit is going to recommend any outsource or anything like that, but if they do, it's still left to elected officials to decide whether to implement that, so it's not a done deal when that happens. But the bottom line is, you know, I think the suggestions, the, the theme of the folks opposing this is that the status quo is acceptable and I couldn't disagree more. We have a solemn obligation as stewards of the taxpayer dollars to ensure that those dollars are utilized in the most efficient way possible. And that solemn obligation, in my view, strongly suggests that we need to be heading in this direction to try to ensure that those dollars are being used as efficiently as possible. The number of \$4 million was bantered around quite a bit and maybe I added to that, but, you know, the one per-- the one outfit said one to \$1million to \$1.5 million, so I'm, I'm not sure where we'd be at on that. If we go down this road, if we pass legislation in this regard, maybe we should cap it. As I indicated earlier, one company said we can tailor to your budget, but you get what you pay for too, but it might be wise to, to cap it. But as one person said, you know, there's, there's really no downside to this and I, I tend to agree with that and I think the upside is very

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substantial. So anyway, thank you for your consideration. I could answer any more questions if you have any.

**BREWER:** Actually, asked-- you answered one there because you'd given the numbers from Wyoming was \$2 million with \$250 million savings. We're going to be a little bigger than Wyoming, but I'm probably not doubling it. So that's why I was wondering where the \$4 million come-- that was just kind of a swag.

**BRIESE:** Yeah, yeah. One company suggested, in the ballpark of some of those other ones, maybe in that Arkansas document of \$1.5 million to \$4 million-- somewhere, but then a different company said Nebraska probably \$1 million to \$1.5 million.

**BREWER:** All right, questions? Senator McCollister.

**McCOLLISTER:** Yeah, that \$4 million number came out of Performance Audit, correct? Did Senator Briese get that?

**BRIESE:** It, it, it--

**McCOLLISTER:** I mean, it came out of--

**BRIESE:** --it was what some of these other outfits charged, basically. I think in that document, somebody in there, it cost around \$4 million. I think the range was \$2 million to \$4 million, \$1.5 million to \$4 million according to one source. Other source said Nebraska could do it for \$1 million to \$1.5 million.

**McCOLLISTER:** But the fiscal note was \$4 million.

**BRIESE:** OK. Yeah, I'm not sure.

**BREWER:** There was a fiscal note somewhere?

**BRIESE:** I'd have to look at it.

**BREWER:** Oh, all right.

**BRIESE:** I'm not sure where they got that number.

**McCOLLISTER:** OK.

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**BRIESE:** Yeah.

**BREWER:** Any additional questions? Senator Lowe.

**LOWE:** Thank you, Chairman, and thank you, Senator Briese, for reintroducing a bill that I carried two years ago. You know, as a businessman, I, I always look for ways to do business better and I always thought I knew the answers. And occasionally, somebody would come in and tell me their thoughts from the outside and I kind of bucked those thoughts at the time, but then maybe later came back and said this might be all right to, to introduce this or at least put my twang on, on his thoughts. In your view, does-- by doing things on the inside and, and keeping things internal, does that always work as well as, as working with the outside for something like this?

**BRIESE:** Yeah, yeah, great question, Senator. No, I don't think so. I think it works better to have that outside set of eyes, have people coming from a fresh perspective to give us some thoughts on it. See what they see, you know, from the inside. And again, I'm impressed with what Mr. Jackson pointed out, what's been-- being done. You know, we're making, making good strides here. I'm confident of that, but it can't hurt to have somebody come from the outside. Oftentimes, that outside perspective, I hate to ever say it's going to be a better perspective, but in some cases, it can be.

**BREWER:** Senator Halloran.

**HALLORAN:** Thank you, Mr. Chairman. Thank you, Senator Briese, for bringing this bill. I'm going to give an anecdotal example of, I think, what you're talking about here. I do inspections for restaurants, for a restaurant franchise and when I come into the restaurant, they're not happy to see me, right? I mean, they, they anticipate I'm going to catch them at-- doing all kinds of things they shouldn't be doing or making suggestions to make them more efficient and they're already comfortable doing what they do. But at the end of the day, after the second and third inspection, they're very glad to see me come there because they recognize that my goal was, was to help them be more effective and efficient and be helping the safety protocol for the guests. So ultimately then, this is that outside set of eyes and that's the example I use with them all the time. I'm an outside set of eyes. If you're looking at something every day and

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doing something every day, it becomes normal. It becomes normal, but a second set of eyes can point things out that-- oh, well, yeah, maybe that's not normal. So anyway, I, I applaud you for bringing this bill.

**BRIESE:** I appreciate your comments, Senator.

**BREWER:** And Senator Briese, if you want a positive experience, go to the restaurant with him when he's doing the evaluation. You can't believe the service you get.

**BRIESE:** I can't wait.

**BREWER:** Senator Blood.

**BLOOD:** Thank you, Chairman Brewer. So one last question, promise.

**BRIESE:** OK.

**BLOOD:** I had earlier, when I knew this bill was coming, talked to several of my colleagues in Wyoming because that was one of the examples you had talked about on the floor with me. So they're going in this year with a \$1.5 billion deficit and, and I don't want to throw anybody under the bus, so the colleagues that talk to me actually said that they felt that there was a rush to cut from outside-- with outside information, utilized the, the foundation for those cuts, and now they find themselves not only in a deficit, but in a crisis of trying to figure out what to do with tax revenues. So I just kind of wanted to put that out there and ask if you were aware that.

**BRIESE:** No, I, I wasn't aware of that, but again, it's going to be up to elected officials to implement this and that's going to be a decision that-- it's going to have to be made-- be made by this body and the executive branch, yeah. You know--

**BLOOD:** But Senator, who--

**BRIESE:** --we, we have to be--

**BLOOD:** --wants to be on the--

**BRIESE:** --cautious about what we do.

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**BLOOD:** --who wants to be on the side of saying, no, I don't want to save taxpayer dollars? And don't you feel sometimes that we get bamboozled into doing things because we don't want to be the bad guys?

**BRIESE:** But, but if it's going to destroy or significantly, significantly impair government services, yeah, most, most of us aren't headed that way.

**BLOOD:** Just me and my caveats, I know--

**BRIESE:** Yeah.

**BLOOD:** --those darn caveats.

**BRIESE:** Yeah--

**BLOOD:** Thank you.

**BRIESE:** --good perspective.

**BREWER:** True to you, Senator Blood. Just so I understand the-- so, so Wyoming, it looks like they're financially in trouble because they have-- are in a position where they're not going to have enough money for what's projected to be their costs or, or requirements out there. And they, they had the audit and through the audit, they reduced how much it's costing them to run government. You'd-- you're thinking there's a direct correlation between the two?

**BLOOD:** Are you asking me a question?

**BREWER:** I'm asking him and through you.

**BLOOD:** All right. I'm not even sure how to-- if I'm supposed to answer-- what's going on--

**BREWER:** I just looked at you when you answered--

**BRIESE:** But I see where you're, where you're going.

**BREWER:** I'm just-- I'm, I'm trying to make sure I, I got that because I-- it may be a great point. I'm just-- if they reduce the cost of government and yet they're still in trouble, did one correlate to the other, I guess is the question.

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**BLOOD:** That was my understanding.

**BREWER:** OK, well--

**HALLORAN:** Mr. Chairman--

**BREWER:** --that's a good answer, Tom. Thank you. Yes, go ahead.

**HALLORAN:** Thank you, Mr. Chairman, since we've apparently gone into an informal Executive Session--

**BREWER:** No, no, that was just a question.

**BRIESE:** I better get out of here.

**HALLORAN:** Well, no, but since you're here-- but part of the equation in the budget when there's a budget shortfall is not only the spending, but the income revenue and I would suggest that the other half of the equation for Wyoming is a very impaired revenue stream from coal being devalued. So I just wanted to put that--

**BLOOD:** Actually, that's true.

**BREWER:** That could be a factor. Any additional questions for Senator Briese before we call it? All right, Senator Briese, thank you.

**BRIESE:** Thank you.

**BREWER:** You've engaged a lot of minds that normally aren't quite as inquisitive, so that's a, that's a good sign. You did it.

**BRIESE:** Thank you, everyone.

**BREWER:** All right. With that, we will close on LB213 and we'll close the morning session. Don't forget 13:30 for our return.

**BREWER:** Welcome to the Government, Military and Veterans Affairs Committee. I am Senator Tom Brewer from Gordon, Nebraska. I represent the 43rd Legislative District and I serve as the Chair of this committee. For the safety of our committee members, staff, pages and the public, we ask those attending our hearings to abide by the following procedures. Due-- due to social distancing requirements, seating in the hearing room is limited. We ask that only those enter

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that are up for the next bill pending available seating. The bills will be taken up as posted outside the hearing room. The list will be updated after each hearing to identify which bill is currently being here-- heard and the next one up. The committee will pause between bills to allow time for the public to come in and out of the hearing room and the pages to reset. We request that everyone utilize the identified entrance to my left, exit to my right, in and out of the hearing room. Please note that the exit door is on the right side. We request that you were fast-- face covering while in the hearing room, except the testifiers may remove the face covering during testimony to assist committee members and transcribers to clearly hear and understand testimony. Committee members. I will leave it up to you on whether to wear a face covering or not. I am choosing not to so that the transcribers can clearly hear testimony. Pages will sanitize the front table and chair between testifiers. The public hearing for which attendance reaches the seating capacity or near capacity, the entrance door will be monitored by the Sergeant at Arms to allow for people to move in as those move out. The Legislature does not have available due to the HVAC project, overflow hearing rooms, so those waiting must wait in the hallways. We'd ask that you also limit handouts. Our committee will be taking up bills in the order they are posted on the agenda. Our hearing today is your public part of the legislative process. This is your opportunity to express your opinion on posted legislation before us today. Committee members might come and go during the hearing. This is just part of the bill process. They have bills to introduce also in other committees. Ask that you abide by the following procedures to facilitate things here today. Please silence your cell phones or any other electronic devices. No food or drinks in the room. Please move to the reserved chairs when you're ready to testify. These are the two chairs on either end of the first row. Introducers may make initial statements followed by proponents, opponents, and those in the neutral testimony. Closing remarks are reserved for the introducing senator. If you're planning to testify, please pick up a green sheet, is on the table in the back of the room. Please fill out the green sign-in sheet before you testify. Print clearly and then turn in the form prior to testifying to either the committee clerk or one of the pages. If you have more than-- if you have handouts, we need 12 copies. If you don't have those, let us know. We'll try and work it so the pages can make copies. If you have letters to enter, those letters must have the bill number, whether

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you're a proponent, opponent, or neutral. The letters must be received prior to 12:00 noon the day prior, and no mass mailings are accepted. When you come up to testify, please speak clearly into the microphone, tell us your name and then spell your first and last name to ensure that is accurately recorded. We will be using the light system for all testifiers. You will have five minutes to make your initial remarks to the committee. When you see the yellow light, you'll know that you have one minute remaining and with a red light, your time is up and there will be an audible alarm also to indicate when your time is ended. Questions may follow your introduction. Let's see, no displays of support or opposition to a bill, local or otherwise, is allowed. Committee members with us today, and we will start with-- Senator Blood has actually gave me a note. She is going to be in another hearing, but will be here. We'll start with Senator McCollister.

**McCOLLISTER:** Thank you, Chairman Brewer. My name is John McCollister. I represent the 20th Legislative District in Omaha.

**RITA SANDERS:** Rita Sanders, representing District 45. That's the Bellevue, Offutt community.

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

**LOWE:** John Lowe, District 37.

**HALLORAN:** Steve Halloran, District 33, which is Adams and parts of Hall County.

**BREWER:** To my right is my legal counsel, Dick Clark, and to the left is committee clerk, Julie Condon. And today, in the P.M., we have Caroline Hilgert. She's a junior from UNL and we have Peyton Larson. Peyton is a sophomore from UNL. There you are, OK. And with that said, Senator Aguilar, welcome to the Government Committee.

**AGUILAR:** Thank you, Chairman Brewer. And it's nice to see the Tri-City connection here. [LAUGHTER] Good afternoon, Chairman Brewer, and members of the Government, Military and Veterans Affairs Committee. It's my pleasure to be back in front of the Government Committee. My last time being when I was serving as Chair in 2008. My name is Senator Ray Aguilar, R-a-y A-g-u-i-l-a-r. I represent the 35th Legislative District in Hall County. I'm here to introduce this

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afternoon LB224. I was asked to carry LB224 on behalf of the county surveyors of Nebraska. LB224 would change the requirements imposed upon county boards needing to appoint a surveyor should one not be elected. Presently, if a county with less than 150,000 residents fails to elect a county surveyor, the county must appoint a county surveyor that resides outside the county, even if an otherwise qualified and willing surveyor resides within the county. So far, this has not been an issue, but it remains a unique possibility. Current statute has the potential to force rural counties into a multi-county talent search to recruit a licensed surveyor who is willing to accept the position and the conditions it entails, including the commute. As you could imagine, in more rural areas of the state, the commute can be significant when it has to be from beyond the county line. Further in more rural counties, the smaller population may be detrimental to recruiting efforts. In terms of the financial impact, counties are required by statute to pay the mileage of an appointed surveyor to and from work. This can add up quickly if the county surveyor is regularly needed for work in the county, especially if the surveyor has to travel from beyond the county line. LB224 removes the requirement that the appointee be from outside the county and permits counties to appoint an in-county surveyor to the Office of County Surveyor. The current requirement imposes an undue requirement on county boards who are seeking an appointee who is both licensed and able to do the job in a timely manner. It's intuitive that a local surveyor would know the county best and would be able to serve the county's needs in a more timely manner than a surveyor who does not live in the immediate area. Nebraska counties should be able to select the best qualified candidate for the job, regardless of which county they reside in. LB224 removes this requirement and allows county to make the best choice for themselves. I will conclude my opening and encourage you to move LB224 forward. Thank you.

**BREWER:** Thank you for that opening. Start, I guess with the questions here. If you were to go out into my district, where I've got a lot of large county with small population, Thomas, Hooker, counties like that, if they get into a need, they're probably going to have to hire someone from completely out of the county in some cases because they probably don't have a qualified person is readily available within the county. Procedurally, is that what they do there? Do you know?

**AGUILAR:** They could still do that. Yes, if they so chose.

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**BREWER:** OK. Senator McCollister.

**McCOLLISTER:** Yeah, thank you, Mr. Chairman. The 150,000 person threshold, have you given thought to eliminating that provision so counties have a population greater than that number could follow this-- this particular statute?

**AGUILAR:** Thank you, Senator McCollister. Actually, we just recently had some last minute discussions along that line, and I would certainly be open to continuing those discussions if necessary.

**McCOLLISTER:** Well, I know, for example, the surveyor in Douglas County is no longer functioning as-- as I think he's on disability, so, you know, perhaps that would be something we could discuss.

**AGUILAR:** We certainly will.

**McCOLLISTER:** Thank you.

**BREWER:** All right. Other questions? Senator Halloran.

**HALLORAN:** Thank you, Mr. Chairman. Thanks for bringing this bill, Senator Aguilar. I understand the intent of the bill and I really have no issue with it. I think it's a-- it's a solid-- solid bill. The question I have is on some of the language that's been deleted from current statute and on page 13 and page 14-- on page 13, starting with line 22 to 31 and then following the next page 1 through 17.

**LOWE:** You on LB224?

**HALLORAN:** Am I on the wrong bill?

**LOWE:** Yes, sir.

**HALLORAN:** Ah, Senator Aguilar, I will hold that question for the next bill. [LAUGHTER]

**BREWER:** Boy, he thought he had one on you there.

**AGUILAR:** Not a problem.

**HALLORAN:** Sorry about that.

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**BREWER:** All right. Well, thank you for almost having a good question.

**AGUILAR:** Almost, yeah.

**BREWER:** And I didn't know that you were a former Chair of the Government Committee. I'm going to have to come tap you for wisdom here.

**AGUILAR:** My last two years, I served as Chair.

**BREWER:** All right. Well, will you be sticking around for close?

**AGUILAR:** I will.

**BREWER:** All right. Thank you. All right. We will start with the proponents of LB224 as soon as we get through spraying everything down. All right, thank you for coming to Government hearing, and you may begin whenever you're ready, sir.

**STEVE RIEHLE:** Thank you, Senator Brewer. My name is Steve Riehle, R-i-e-h-l-e, Hall County Engineer, also a member of the legislative committee of the Nebraska Association of County Engineers, Highway Superintendents and County Surveyors. Members of the committee, Senator Brewer, thank you for the opportunity to speak before the group today in support of LB224, both as a-- as a county engineer and also as a member of the legislative committee of the association. I appreciate the members of the committee holding a hearing on LB224 and for considering this bill. Also thank Senator Ray Aguilar for introducing the bill. Current statute appears to have been crafted around a county appointing an elected county surveyor from any other county. I think they did that one when the-- perhaps the world was flat and the world is no longer flat. What they thought I believe in the statute was, is that if your particular county didn't have anybody run for county surveyor, you could do what Sherman County did and you could appoint the county surveyor from Howard County that did run for election, and then that surveyor could perform the duties as an elected surveyor in Howard County and then could be appointed by Sherman County and could perform the duties of county surveyor for Sherman County. But what this bill will allow is if you had a surveyor that resided in your county, you wanted to appoint that individual as a qualified individual, allow you to appoint somebody that resided

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within your county. The current language does not allow appointment of a surveyor that resides within the county. If passed, the bill will allow counties to appoint a county surveyor that resides within the county. On my behalf, as well as the recommendation of the Legislative Committee of the Nebraska Association of County Engineers, County Highway Superintendents, the County Surveyors, I ask you to move the bill forward. In addition to that, it came to our attention and we talked to Senator Aguilar's office this morning. There's something that we would like to consider, whether it's at the committee level or through Senator Aguilar to fix a different part of the statute and I'll hand out something on that we believe is very related.

**BREWER:** OK, the page is helping there.

**STEVE RIEHLE:** And Senator Lowe would be familiar with this because I think he was part of the original legislation. There's a population threshold and we think it's somewhat related to this as appointing a county surveyor. There's a population threshold in Section 23 of statute that calls for the county surveyor, the elected county surveyor, to be named as, or to function as the highway superintendent for that county and then to appoint as their deputy a county engineer. And it gets a little messy in statute, because if that elected surveyor happens to have an engineering license, they can still run for surveyor. They'll be elected surveyor, and then they would appoint a deputy who has a surveying license. In today's engineering and surveying world, it's not very common to have somebody that has both licenses. It used to happen a lot in the 50's, a little bit in the 60's, and a lot less frequently today. There's-- there used to be a lot more overlap between engineering and surveying and there's less than there used to be. And what affects only Hall County and none of the other counties, and then that's why Hall county is here, is that we're going to be approaching that population threshold and probably exceeding it when the census is certified. And then our current organizational structure, where I'm appointed by the county board and I've got an elected surveyor then would be switched. And so we would propose that an amendment be considered that raises that population from the current limit of 60,000 that was done under Senator Lowe, I think three years ago. We'd raise it to 75,000. The thoughts on the 75,000 population from our perspective is, is because that's half of the 150,000 that affects Douglas, Sarpy, and Lancaster County. The statutes for Douglas, Sarpy, and Lancaster County call for the county

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engineer to be elected because they're over 150,000, and then the county engineer is to appoint as a deputy, a county surveyor. Right now we're-- we would be the opposite of that once we exceed 60,000. And so that's where it comes into Douglas, Sarpy, and Lancaster County is the county engineer is currently elected because it's over 150,000 and then appoints as the deputy, the county surveyor. Appreciate the committee supporting. I ask the committee to support LB224 and I'd ask the committee to consider perhaps an amendment at some point in time, whether it's through the committee or through Senator Aguilar, about the other population threshold.

**BREWER:** All right. Thank you for your testimony. Now, since you just brought this up, let's just jump back there. Do you think that Douglas, Sarpy and Lancaster want to keep things the way they currently have them and this change isn't really affecting them anyway.

**STEVE RIEHLE:** It does affect them. My understanding, and there have been different discussions, I believe, for Douglas, Sarpy, and Lancaster County as to whether that provision should change. And I've not been party to those for a few years, but I think there was a discussion a few years ago about changing the county engineer's position from elected to appointed. But I think this one since we are so much less than them and we're-- we're not-- we don't have any metropolitan class cities and we don't have any primary class cities and we won't in Hall County for quite some time because we'd have to be 100,000 population, I think we're a different animal.

**BREWER:** All right. And the question I asked earlier, I would imagine for those really remote counties, how do they handle a need, because obviously their-- their need for a surveyor may be somewhat limited, and availability of them, I think, would be the other issue.

**STEVE RIEHLE:** It is. And what you'll find and you get into-- into more rural counties, there will be a-- sometimes nobody actually runs for county surveyor. And that's why they had some of the ballot language where they'd set it up for each county to have an item on the agenda. Last year should be on the ballot, last fall should the county surveyors office remain an elected position. And it was to help address that because you wouldn't want somebody to move from your county and run for elected if you've already got somebody at the

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county board it appointed. And so I think that's-- that was some cleanup legislation for a number of counties. And then they can do what-- what currently a number of counties do is, is nobody ran for election so then they appointed somebody and they found a surveyor that would cover five, six, seven, eight counties and cover that area. And then there was some-- some economies of scale because that surveyor was able to run an office. And other than traveling time, you could perform the functions of county surveyor for a number of different counties.

**BREWER:** Seems too logical for the Government. All right, questions? All right, looks like you're going to get off easy.

**STEVE RIEHLE:** Thank you.

**BREWER:** Thank you. All right. I got the crew coming up. Any additional proponents of LB224? Come on up. Welcome to the Government Committee.

**BETH BAZYN FERRELL:** Thank you. Good afternoon, Chairman Brewer, and members of the committee. For the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials and I'm appearing in support of LB224. We'd like to thank Senator Aguilar for introducing the bill. This-- you hear a lot of testimony about good government bills. This is really a good government bill, because it's just a simple clean up, if you will. It would allow county boards to appoint a surveyor from any county, including their own county, so they would have the opportunity to appoint a surveyor who is familiar with the county, the terrain, the taxes, the needs of the county itself. So we see this as really a sort of a cleanup to make things more efficient. We would also support the amendment that's been suggested to you.

**BREWER:** That was my next question.

**BETH BAZYN FERRELL:** I'd be happy to answer questions.

**BREWER:** Thank you. Questions? Yes, Senator Lowe.

**LOWE:** Um, thank you, Chairman, and thank you, Beth, for being here today. Um, should the surveyor be elected or appointed?

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**BETH BAZYN FERRELL:** I think that's a good question. I think that's probably something that's a question that each county would need to answer themselves. Um, looking at what their needs are, what the population is, all of those things. It's probably not a one size fits all. And I think that's why the--

**LOWE:** Something up to 100,000, you probably don't need to elect one, something like that.

**BETH BAZYN FERRELL:** Right. I think every county is going to be different.

**LOWE:** OK. Thank you.

**BREWER:** All right. Additional questions? All right, thank you for your testimony. All right, we are still on proponents of LB224. Any additional? Are there any in opposition to LB224? Any in the neutral testimony? All right, seeing none. We have no written testimony and no letters. I guess that's good, right? They must not be upset with you. You want to come on up for a close?

**AGUILAR:** Thank you, Senator Brewer. I'd like to thank Steve and Beth both for testifying on behalf. LB224 would permit counties to appoint individuals who live within the county to the position of counties there-- surveyor. It would remove the unnecessary requirement that the appointed county surveyor live outside the county. It's important that we allow our county boards to make the best decision for their counties and clear their way for them to appoint a surveyor within the boundaries. Once again, I ask you support LB224 forward and thank you for your time. I would also be glad to work with Mr. Riehle and address his concern with the numbers, that if we have to do an amendment, we certainly will make sure that this goes forward.

**BREWER:** Why don't we do this, Ray, if your office will get with the clerk, we'll see how we do that as yours or a committee amendment. I mean, we've got no opposition. I-- I think we can move pretty quick on-- on this. So let's-- let's get that cleaned up and then we'll see if we got any more questions for you.

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**AGUILAR:** My-- my only concern, Senator, is my aide is out until Monday. He's on-- he's on COVID protocol. He'll be back Monday and then if that's soon enough, we'll be--

**BREWER:** Oh, yeah, I think that's soon enough because we wouldn't exec until next week.

**AGUILAR:** OK.

**BREWER:** You know, one of the days next week.

**AGUILAR:** Perfect.

**BREWER:** And that-- that won't be till Wednesday, Thursday or Friday, so.

**AGUILAR:** All right.

**BREWER:** And, yeah, you've been working with us.

**AGUILAR:** All right. Thank you.

**BREWER:** So thank you for bringing a common sense bill. All right. We will have a quick transition to LB43. I hope you're not getting a complex, but everybody leaves the room when you get ready to go to the mike.

**M. HANSEN:** I will take that on a heartbeat.

**BREWER:** All right. Welcome to the Government Committee. You may begin whenever you're ready.

**M. HANSEN:** All right. Thank you. Good afternoon, Chairman Brewer, and fellow members of the Government, Military and Veterans Affairs Committee. For the record, my name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. I'm here today to introduce LB43, which would require that all county election commissioners be elected rather than appointed. This is substantially similar to a bill I brought last session, LB1022. I'm going to start off by saying that I actually do not want the committee to take any action on this bill at this point, for reasons that I will make clear in a moment. For history, though, in 2019 I met with Civic

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Nebraska, and they showed me that our current statutes that provide for appointed election commissioners seem to be in direct conflict with our Nebraska Constitution, which calls for the election of all county officers in Nebraska Constitution, Article IX, Section 4. The question then became, are election commissioners county officers? To get an answer to this question, I decided to ask the Attorney General to issue an opinion on the matter. The Attorney General's 2019 opinion concluded that county election commissioners are, and their deputy election commissioners are county officers within the meaning of Nebraska Constitution, Article IX, Section 4, and that their appointment, rather than their election, violates this constitutional provision. He cited several reasons for this, including that they take an oath, they have a set term of four years, and that they were responsible under statute for enforcing the Election Act in promulgating rules and regulations under the act. For these reasons, among others, the Attorney General concluded that election commissioners are county officers and should therefore be elected rather than appointed. Since that point, there has been litigation in Lancaster County District Court on the issue. It is my understanding the Attorney General is currently appealing a ruling. Because of this, I would like the committee to hold LB43 until the final ruling is issued in that case. I believe this bill can serve as an important vehicle if the Supreme Court does, in fact, strike down our current statutes. For a little bit more context on this, under current law, the Governor appoints election commissioners in counties of at least 100,000 residents which of right now is Douglas, Lancaster, and Sarpy County. Also under current law, midsize counties, those between 20,000 and 100,000 residents can choose to have their county board members appoint an election commissioner. And right now, Buffalo, Cass, Hall, and Platte counties have made that choice. In counties of that size who do not choose to have an election commissioner appointed and the counties of fewer than 20,000 residents, the elected county clerk handles the duties of an election commissioner. LB43 would have all those currently appointed election commissioners be elected as well. It is my belief that all election commissioners should be elected in accordance with the Nebraska Constitution and in the vast majority of counties an elected official already, the county clerk, is handling election duties. It only makes sense to have someone accountable to the voters to oversee county elections. I would like to take the time to say for the record that I've gotten the opportunity to work with

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many of our appointed election commissioners over the years, and I want to commend them for their hard work. This bill isn't about them directly or personally. I simply believe that our Constitution requires those who oversee our elections to be elected. In my testimony, I said there might be people behind me.

**BREWER:** There's still a few. They stuck around.

There might be a few people behind me who could provide more context on the issue, so with that, I will just reconfirm my-- my desire to have this held until the Supreme Court rules on this issue. And with that, I would be happy to answer any questions.

**BREWER:** And if we want to ask questions, should we do it now because you'll waive closing?

**M. HANSEN:** That would be great.

**BREWER:** OK. Questions? Go ahead, Senator McCollister.

**McCOLLISTER:** Yeah, thank you, Mr. Chairman. If I understood you correctly, Senator Hansen, the state AG is a party to the courts heard in Lancaster County, is that correct?

**M. HANSEN:** Correct.

**McCOLLISTER:** Is he the plaintiff or the defendant?

**M. HANSEN:** He is the plaintiff. So it is-- well. I believe he's the plaintiff. That the party is-- the state of Nebraska with-- represented by Attorney General Peterson versus Pete Ricketts, Secretary-- Governor Ricketts, Secretary Evnen, and a variety of the local election commissioners with David Shively at Lancaster County being one of the lead.

**McCOLLISTER:** So the Secretary of State is taking an opposite position?

**M. HANSEN:** Correct. So at this point, we have a disagreement and interpretation between the Attorney General and the Secretary of State. So it is my understanding that we'll probably have to solve this in some fashion, but which one is correct at the moment is being decided by the courts. So that's why we'll have to wait.

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**McCOLLISTER:** So currently we're in Lancaster County for this court case. So do you anticipate it's going to end up on the Nebraska Supreme Court?

**M. HANSEN:** Yes, that's my-- that's where I assume it's heading. So that Clerk-- the Lancaster County District Court ruled, I believe, two weeks ago yesterday in favor of-- in favor of that the current statutes were constitutional. So they basically ruled in favor of the defendants, the-- the Secretary of State and the election commissioners, that the current statutes are constitutional. The Attorney General has reported through the media that they are planning on appealing that. And it is my assumption that it will ultimately get to the Supreme Court and be decided.

**McCOLLISTER:** When do you anticipate this will occur?

**M. HANSEN:** I don't know. So I don't know. Originally, there was some goal to have this be filed in original jurisdiction with the Supreme Court under stipulated facts. And that did not happen. So if you'd asked me a year ago, I would have told you I would have expected the Supreme Court decision to have already happened, but that didn't be the case. Part of the reason I introduced this bill is if the Supreme Court sides with the Attorney General and does strike down these statutes, we're going to have some unclear-- some-- we're going to need to clarify, especially in our largest counties, how elections happen. And so by introducing a bill now, having already had the hearing, if the Supreme Court case does rule that way, we'll at least have a vehicle already in Government Committee that we can just exec on getting the right shape and get out to the floor.

**McCOLLISTER:** What's the legislative history of having those three counties with sufficient population have the Governor select those-- those individuals?

**M. HANSEN:** My understanding, and that's part of the interesting thing with the court case is, I think it's been over 100 years that they've been appointed. So it is a long legacy. And my understanding is that especially it was kind of a reform to get rid of some of the party boss structure and the party machine structures in kind of the early 1900s, especially in Omaha. And so we've had it in some form since then.

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**McCOLLISTER:** Thank you very much.

**M. HANSEN:** Yeah.

**BREWER:** Good question. Now, because we're in a biennium, if this would drag out through the end of our session, it could be regenerated the next year?

**M. HANSEN:** Yeah.

**BREWER:** OK.

**M. HANSEN:** If I had to guess, this would be-- maybe be probably something where-- if the Supreme Court sides with the Attorney General, which I would-- which is my interpretation, my guess would maybe be early next session, we'd want to act on this quickly before the May primaries. And having this already introduced, had a hearing, all of that would give us the vehicle to do so.

**BREWER:** So we would call you visionary.

**M. HANSEN:** Um, sure I'll take it.

**BREWER:** All right.

**M. HANSEN:** I'm just trying to do good-- some good governing.

**BREWER:** Senator Lowe.

**LOWE:** Thank you, Chairman, and thank you. Senator Hansen. When you speak of Nebraska's largest counties, are you talking populationwise or land mass?

**M. HANSEN:** I guess populationwise.

**LOWE:** OK, because I'm thinking of Cherry County--

**BREWER:** I'm right at the corner of that.

**LOWE:** --would be struggling. In speaking of that with those counties that are or less populated, it may be hard to get somebody to run for this position and maybe easier to appoint.

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**M. HANSEN:** Well, that's actually-- currently all of the elections in the 80-some counties that aren't appointed are elected currently. So it's-- it's-- we asked the current elected county clerk and to my knowledge, I don't-- usually somebody steps up and volunteers to run for county clerk so there hasn't been an issue.

**LOWE:** All right. Thanks.

**M. HANSEN:** Of course.

**BREWER:** Any other questions? Yes, Senator Halloran.

**HALLORAN:** Thank you, Mr. Chairman. Thank you, Senator Hansen, for bringing this. Apparently going from an appointed position to an elected position removes the need for, because it's deleted in the bill, the need for a language that accounts for removal from that position, for dereliction of duty and incompetence and so forth. Is that why that language is deleted? That's on page 13.

**M. HANSEN:** Uh, yeah, that's my understanding. So they would be the same and have the same provisions as all other county officers--

**HALLORAN:** All?

**M. HANSEN:** --and they'd be accountable to the voters every four years. So that would be the main vehicle for.

**HALLORAN:** OK. Thanks, Senator.

**M. HANSEN:** Yeah, of course.

**BREWER:** All right. Senator McCollister.

**McCOLLISTER:** Better note. You elected-- election commission-- commissioner could be ousted from office, could they not be?

**M. HANSEN:** Yes, of course.

**McCOLLISTER:** Just like any politician except for legislators in the Nebraska Legislature. I don't think-- I don't think a state senator can be recalled.

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**M. HANSEN:** Oh, in a recall? No, a state senator cannot be recalled and-- I apologize, I don't know, off the top of my head, the recall provisions for other county officers. So my goal here would be to treat election commissioners the same way as clerks, you know, county engineers, county attorneys, all the other elected county positions.

**BREWER:** All right. One more time around, questions? Seeing none, thank you for that opening.

**M. HANSEN:** Thank you.

**BREWER:** And we'll see whether you've got support or opposition here.

**M. HANSEN:** I can take it, yes.

**BREWER:** All right. We will now go to proponents of LB43. Nobody is standing up. Well, then we will go to our opponents of LB43. Beth, welcome back to the Government Committee. Whenever you're ready.

**BETH BAZYN FERRELL:** Good afternoon, Chairman Brewer, and members of the committee. For the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials and I'm appearing in opposition to LB43. We're appearing in opposition, full disclosure, we filed an amicus brief in the Lancaster County District Court on-- opposite of the Attorney General's side. We filed on the same side as the Secretary of State. We had concerns that the Attorney General's reading of the Constitution would cause all other county officials to be elected if election commissioners and their deputies had to be elected. And so our concerns were that this would lose really any kind of efficiencies and any ability that counties have right now to sort of right size their government. There are counties that have worked together to join offices and functions through interlocals, through ex officio positions and so on. So that was the basis for our concern that it would open this up to all other offices. We appreciate that Senator Hansen wants to hold the bill until the Supreme Court appeal is-- has been addressed. When that's been addressed, if this bill would need to move forward or would move forward, we do have some concerns about some sections of the bill that we would like to address. I can bring those forward to you now or we could wait and address them if we need be. So I would be happy to answer questions.

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**BREWER:** All right. Yes, Senator McCollister.

**McCOLLISTER:** Yeah, thank you, Chairman Brewer. So if the bill could be redrafted in a way to carve out just those three populous counties, you'd have no objection, correct?

**BETH BAZYN FERRELL:** I can't speak for our board without actually having seen that. I think the response would probably be different than if election commissioners in all counties were elected. But again, I can't speak for that. We have representation on our board from the three largest counties, so I'm not sure how that would play out.

**McCOLLISTER:** So what you're saying is, uh-- if we could fix a bill in such a way that give you continued flexibility, that would probably be something you could support.

**BETH BAZYN FERRELL:** Um, I-- flexibility is something that we always aim for. That's always one of the things we appreciate, but I really couldn't necessarily speak for what they would decide to do.

**McCOLLISTER:** Thanks for coming, Ms. Ferrell.

**BREWER:** All right,. Additional questions for Beth. I guess until we heard your testimony, it kind of clarified exactly why there would be opposition because obviously you don't want to make a situation worse, you want to improve it. So, yeah, we probably do have a few more questions to sort through, but-- but thank you for that and thank you for coming today. All right, since we still have folks in the room, I'm guessing I have some more who are here in opposition to LB43. No?

\_\_\_\_\_ : Just wanted to hear.

**BREWER:** Oh, OK, well, that's good to have people that are interested. Is there anyone here in a neutral capacity? Seeing none, Senator, would you care to close?

**M. HANSEN:** Thank you, Chairman Brewer. And yes, real quickly, I think that issue of who-- who is and is not a county officer that NACO raised is one we'll, of course, is one we'll have to address. One thing we might want to look at and my bill contains it is trying to create a definitive list of who is and is not a county officer who

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needs to be elected. My bill has kind of a draft list on page 17. And if that's something we need to adjust or change or add or subtract from as we move forward. That's something I'm happy to work with. Again, this is-- right now kind of proving that we can, as a Legislature address this issue, and then if we get to the point where we need to address the issue, we've at least got a head start.

**BREWER:** So essentially like a placeholder, sort of.

**M. HANSEN:** Yeah.

**BREWER:** Gotcha. All right. Questions for Senator Hansen? All right, well, thank you.

**M. HANSEN:** Thank you.

**BREWER:** We do need to read in to the official record here on LB43, position letters. Proponents was Civic Nebraska. Had three opponents: Seward County Clerk, Richardson County Clerk, and the Nebraska Secretary of State. And there were no neutral positions on LB43. With that, we will close on LB43 and close our hearings for the day. Thank you.