

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 19, 2021
Rough Draft

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BREWER: Good morning, and welcome to the Government, Military and Veterans Affairs Committee. Senator Tom Brewer from Gordon representing 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 this hearing to abide by the following rules. Due to our social distancing requirements, seating in the hearing room is limited. Wouldn't be a problem today. If you're attending, just take note of the bills that will be heard and this morning it will be real easy, we only have one, LB652. Be sure and use the identified entrance and exit doors. Request that you wear a face covering while in the hearing room. Testifiers may remove the face covering during their time testifying. Committee members, I leave it up to your discretion to wear face covering because of the plexiglass and adequate distancing. We're not going to worry about overflow today. We're not going to worry about the H-back. We'll ask that you limit handouts. The committee will take up bills as they are posted in the order on the agenda. Today, again, we just have the one. Our hearing today, you're probably part of the legislative process, is your opportunity to express your position on proposed legislation before us today. Committee members might come and go for other hearings. We ask that you silence your cell phones or any other electronic devices. Ask that you also abide by the following rules to facilitate today's procedures. No food or drink. Please move to the reserved chair when you're ready to testify. Introducers will make their initial statement, followed by proponents, opponents and those in the neutral. Closing remarks will be saved for the introducing senator. If you're planning to testify, we ask that you please pick up a green sheet on the table, back of the room. Please fill out the green sheet completely, print clearly and fill out the entire form. Let's see. Any letters of support need to be in by 1200 hours, Central Standard Time, of the day prior. If you have handouts, please make sure that you have at least 12. Each letter must have the bill number. Proponent, opponent, neutral, no mass mailings. When you come up to testify, please speak clearly into the microphone and tell us your name and then please spell your first name and your last name to ensure accuracy with 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, one minute remaining, red light and the alarm will indicate your time has

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expired. No displays of support or opposition to bills will-- otherwise will be allowed in this public hearing. Committee members with us today will introduce themselves starting on my right.

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

McCOLLISTER: Senator McCollister, District 20, central Omaha.

SANDERS: Good morning. Rita Sanders, representing District 45, the Bellevue/Offutt community.

LOWE: John Lowe, District 37, Kearney, Gibbon, and Shelton.

HALLORAN: Good morning. Steve Halloran, District 33, Adams and Hall County.

HUNT: I'm Megan Hunt. I represent District 8, which includes the neighborhoods of Dundee and Benson in midtown Omaha.

BREWER: Dick Clark is the legal counsel for the Government Committee, and Julie Condon is the committee clerk. In the back, we've got Jon Laska. He is a senior from UNL from Genoa, and Ryan-- Ryan there? All right, he's AWOL. We've got Jon, but he's really good, so we've got it covered. With that said, we will start with our first and only presenter today. Senator Wayne, come on up. Welcome to the Government Committee.

WAYNE: Good morning, Chairman Brewer, and members of the Government and Veteran Affairs Committee. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and northeast Douglas County. LB652 is a part of my effort to advance broad or strategic goals relating to equity and access-- accessibility to our economy. It is a bold vision for our state. It places-- a place where we achieve equity in contracting and supports the idea that we have people who are left behind when it comes to economic system. What's interesting about Nebraska is, we are always ranked numbered in the top 10 for affordability. This year we were ranked number 6, according to USA Today rankings. It's also interesting when we talk about economic-- economic opportunity, we're always ranked in the top half. This year, we're ranked about 18. What's a glaring statistic that we are always ranked in when we talk

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about equality in the first two that I just mentioned, so equality in the first two, economic opportunity and affordability, we are ranked 48th in the country. There is an opportunity gap that exists. And my goal was that local and state government dollars used for contracting and procurement benefit the entire community proportionately, not just the selected few. This is important because it has always been my belief that if people have good paying jobs, 80 to 90 percent of our social problems go away. But it starts with a good paying job and we as government officials can help do that. For example, we heard a lot last year on the floor about a project for UNMC in Nebraska medicine of about 1.6 to \$2 billion project for a new hospital care facility for-- particularly around infectious disease and other things. We even committed \$300 million to that project. If we were to adopt the guidelines outlined in this bill, \$300 million would be injected into the most impoverished [SIC] areas around the Omaha area. That's how you fundamentally change the community. It's not a secret. And I know this works because you have to look no farther than our Nebraska Department of Transportation. Last year, they testified against this bill. They will probably do the same thing this year, but they're missing one key element. And if you turn to page 4 of our bill, if you have it in front of you, a participant in the United States Department of Transportation's Disadvantaged Business program adheres to the requirement. That means every participant in their program who are DBEs already, qualify under HUB. There is no additional expense for them. If they choose to adopt things outside of the DBE program, which they don't have to, that's the only time it becomes an expense, because I acknowledge that our DBE program, which is mandated federally, has worked. And when they come here, you can ask them, were there people who started in the DBE program who can now bid as general contractors, and their answer is, yes. So it works. Now, DBE is designed based off of minority participation. We can't do that because of a constitutional amendment that was passed in 2000, but we can do it through the HUB program-- HUB program by looking at zip codes and poverty rates and determining how to change what in other bills I call economic redevelopment areas. And how do I know this works? You have to look no farther than Atlanta. Atlanta is considered to have one of the strongest black, middle and upper class, and that can be traced back to one federal project. 1979 to 1983, Maynard Jackson, who was the mayor at that time, sat down and said, if you're going to build a federal airport-- that's why the airport's named after him, --there

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has to be 30 percent minority participation. That project was actually delayed for a year and a half. And he said, there will be-- weeds will grow on these runways before I turn a shovel because he knew the power of procurement when it comes to uplifting the entire community. They ended up negotiating for a while with the federal government over a year, year and a half, and they ended up settling around 22 percent, but that created a chain reaction. And the same excuses you hear today from the industry about why minority or small businesses can't participate, were the same things we heard back then. And so what Maynard Jackson actually did is broke the project down. And that's what-- the expense you see from in the fiscal note is about requiring government to break the project down. And what they did in Atlanta and what they can do today is, they studied it and they said, you know, 80 percent of this airport is a parking lot. It's a driveway. Small businesses know how to pour driveways. And they're like, well, the concrete sticker, it requires more rebar. But at the end of the day, it's a driveway. And they broke it down and that's what we can do, but government doesn't want to. Why? Because government feels like it's easier to hire one contractor and go figure it out. But if you're redoing this building and you want to do the sidewalks, how hard is it to separate out the sidewalks for a small business? Instead of having a \$1 million project in which you have to bond, you only have a \$100,000 project just in sidewalks. That's how you get small businesses to participate and that's what this bill does. And there's a compounding economic benefit. The reason why I started with construction is because you have to hire more people to maintain your vehicles or your dump trucks and this is what happened in Atlanta. Then as your payroll gets bigger, you have to hire an accountant or a payroll specialist. Then you hire more HR people because your company is growing. It's a triple net positive effect when our government decides we're going to help small businesses grow. Study after study has shown that. So this bill, while it's similar to last year, we took out a lot of things. We narrowed it down. We're not requiring cities and everybody else to do it. We have a separate bill for that in Urban Affairs. We have skimmed it down to say, set up goals, prioritize how to do contracting with small businesses, and let's make sure we hold those general contractors, who pledge to do contracting with small businesses, accountable. Again, Chairman Brewer and the Government Committee, we have to figure out how to support small businesses. We have to figure out how we change our most distressed areas, and one of

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the easiest ways for a government entity to do that is through their procurement process. What about the HUB zone in the-- and how this sets up just real quickly. It's the same as the ERA that we passed last year and the Imagine Act, where it's 150 percent of the average unemployment rate and 20 percent poverty. Those were designated tracks. Those are throughout the entire state. Is there a concentration in-- in Douglas County? Absolutely. But there's also two tracks in Hastings. There's also a track in Kearney. It's a weird track because the poverty rate is high because they're students, but there's also a track there. There's a track in Madison County. The entire Thurston County is a track. There's tracks in Sarpy County. This is truly a way to develop jobs in our most distressed area and help companies move in there and grow and start with small businesses. I don't believe we're asking for too much. If you recall, the fiscal note was in the multiple millions last year, because of the changes, it's only one million, two million following year. I think that's reasonable to help us grow the economy and help us grow small businesses. And with that, I will answer any questions.

BREWER: All right. Thank you. Any questions for Senator Wayne? While we've got you up here and the Nebraska Department of Transportation did send a letter in, but the second paragraph goes, this bill would establish a new and complex regulatory program requiring preferent-- preferences to be granted historic loan to use businesses for all state agency contracts exceeding \$200,000. I guess off-- off the top of your head that-- that sentence, they're kind of starting off by, you know, laying the groundwork of why this is not a good idea.

WAYNE: Again, their current-- their current DBE program already meets the HUB requirement. I specifically added them as their current program as a definition of a HUB participant, so every DBE participant, which my company is one, although I haven't had any state contracts, nor do I bid on it, they're quite honestly, too big, they're already qualified as a HUB. So the only new system they would have to do is if they decided to move into the further definitions of specialty trades, other contractors, etc., they don't have to do that. They already are meeting and they actually based off the numbers, they set their own goals. So if they continue to set their goal at two and a half percent, which I think is low, there is no additional expense. And if their expense is only a \$1 million, or the entire fiscal note

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is only a \$1 million, the first year, \$876,000, I think it's an investment well worth it.

BREWER: All right. One more time around, questions? Senator Halloran. There was a plexiglas mirror effect there.

HALLORAN: Thank you, Mr. Chairman. Thanks, Senator Wayne, for your-- for your presenting this bill today. So in your presentation, the question I was going to ask, but I think you commented in your presentation, this concept-- was this concept what was done in Georgia, Atlanta?

WAYNE: Yeah, well, no, they-- they specifically at the time used race. They wanted to hire minority and women, race and sex. They wanted to hire minority and women, and because of our ban in our Constitution, we have to use something else. And so we've been talking about the economic redevelopment areas in Imagine last year, the Imagine Act last year that was incorporated, and I think those tracks are-- are most distressed, are hurting areas. So I just use that definition of where they would be located at.

HALLORAN: OK, so has this been-- just so we can reference somewhere else if it's been done before and get in some of it?

WAYNE: Yes, yes, there are HUB programs actually in Texas, one of our more conservative states, and they are actually doing very well. There are-- there are actually HUB zones across the-- across the country, but Texas was the one that stood out to me the most because they actually seen a huge increase in their HUB participants. And as they grow through their state program, they've seen a huge growth in them. And so I would-- I would encourage you to ask the Transportation Department how many DBEs started off as subcontractors and how many can actually bid on the entire as a general contractor. And there has been a significant number that can, so-- so the concept works.

HALLORAN: OK. Thanks, Senator Wayne.

BREWER: All right. Additional questions for Senator Wayne? You'll stick around for closing?

WAYNE: No, I'm going to waive closing. I have a marijuana day in Judiciary, so I'm next there.

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BREWER: Oh, good luck with that.

WAYNE: I'd rather stay here for the record.

BREWER: All right. It's on the record, we got you. All right. We will start with proponents for LB652. Oh, we got a malfunction.

JONATHAN LASKA: Yeah, we got a malfunction today. Have to work with it, I guess.

BREWER: All right, looks good. All right, proponents. All right, then we will move to opponents to LB652. Welcome to the Government Committee.

DOUG CARLSON: Good morning, Chairman Brewer. Good morning, Chairman Brewer, and members of the committee. My name is Doug Carlson, Doug, D-o-u-g, Carlson, C-a-r-l-s-o-n, and I am the deputy director and materiel administrator for the Department of Administrative Services and I am here today in opposition of LB652. While this bill has a noble cause in trying to assist underutilized businesses, as we've seen many times before with legislative proposals to bring preferences to various groups, the bill asks us to create a system of preferences that is both complex and uncertain. The agency is opposed to any preferences or priorities given to certain factors due to the fact that they limit competition, drive up cost to the taxpayers, and potentially impede Nebraska companies doing businesses in other states. Our agency's view is that we operate in a global marketplace and that transparent and open competition is good for the taxpayer. The state of Nebraska continues to work very hard to reduce the tax burden on its citizens while also maintaining a high level of service to those same citizens. This is why we created the Procurement Concierge Program. This program aims to remove barriers for minority-owned, women-owned, veteran-owned and small businesses to create opportunities by having a procurement professional on our side be their partner by walking these businesses through the procurement process. We have also greatly increased our advertising by focusing on the north and south Omaha communities. We've made outreach opportunities on 95.7, the Boss radio station, which is a north Omaha Radio Station, and we've connected with multiple minority-centric economic groups as well as advertising in the Omaha Star. It has been well-received and we are absolutely excited about this program. LB652

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also includes an elaborate process by pre-identifying a subcontract plan, ongoing monitoring of those subcontracts, auditing of the compliance with the subcontract plan, and requires contract amendments should any subcontract plan require changes throughout the life of a prime contract. Currently, our agency has no involvement with the subcontractors as there is no contractual relationship directly with the state. The bill also requires the state to audit the contractors compliance with the subcontracting plan, which creates layers of bureaucracy counter to good government. The system created by this bill is untenable with the existing work force. State Purchasing Bureau manages all commodity contracts statewide and at \$50,000 or above, either bids services contracts out on an agency's behalf, or reviews those proposed-- proposed bids prior to being released, with some exceptions. Currently, state purchasing is handling in excess of fifth-- 650 active contracts. All this is being accomplished with a staff of 13 individuals. State Building Division manages roughly 80 projects, which typically encompasses one to two contracts, and each of these contracts may have 10 to 20 associated subcontracts depending on the scope of the project. Those projects are handled by a staff of 7 project managers. This bill introduces an extraordinary level of complexity to existing contracting procedures. Applying preference by choosing one vendor over another without competitively bidding is like to-- likely to increase protest and potential lawsuits, as the complexity will likely create confusion among many vendors who offer a lower price but will not receive an opportunity to bid due to not being certified as an underutilized business. The bill further complicates the awarding of contracts and, as written, would hamper more than help Nebraska businesses, as well as deter any out-of-state businesses from trying to do business with the state of Nebraska. The end result will be greater cost to taxpayers. Furthermore, any additional requirements on the part of the vendor could greatly increase costs to the state, as contractors certainly won't incorporate such costs into the contract price. The bill also proposes significantly shorten turnaround time for payments to be made to contractors and subcontractors, which deviate from the existing Prompt Payment Act. Invoice approval processes are decentralized and require review and approval by staff who receive such goods and/or services before being submitted for the payment process. Every level of approval is necessary to ensure proper internal controls with a separation of duties required by the state auditor and by government

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accounting standards. Additional staff would be required to meet the requirements. We owe the citizens we serve transparent and accountable actions when we spend their taxpayer dollars. Thank you for your time. I'd be happy to answer any questions.

BREWER: Thank you, Doug. Quick question for you on the concierge service. What exactly is that?

DOUG CARLSON: Yeah, thanks for that. We're absolutely excited about this. It really focuses on three efforts. The first one is vendor concierge's piece. So you're a potential vendor and you want to do business with the state. You call us or you sign up with us, within 48 hours we'll respond to you and we'll sign you up with the state of Nebraska. Now, to be clear, you don't actually have to sign up to-- to get awarded a contract, but why not build a relationship now? So we'll get you into the system. The second piece is the contract concierge's piece is where we are going to sign one of our procurement professionals to you and they're going to walk you through every piece of the process. I had this conversation last night with the Midlands African Chamber and one of the gentlemen was telling me that, you know, he's obviously a small business and it's only him. So if he's spending time putting a bid together, it takes time away from doing something else, right? When you are the only person in the business, you're the CEO, you're the admin-assistant, you're the CEO, all those things, so every minute you're spending doing something, better be value added. Well, having us on your side, walking you through the process and how it works, making sure you have-- you checked all the boxes and done the right things, is going to allow you to have barriers removed to create opportunities for you. And then the third piece is the discovery innovation piece, which allows minority-owned, women-owned and veteran-owned businesses to connect with us to tell us what types of goods or services they have out there. And a really good example of this is a minority-owned company, PEI, that we signed a \$1.2 million contract with. This company is in Lincoln, Nebraska, actually, of all places, and what they-- they had for us were medical mobile platforms that we utilized, especially in the last week during this terrible weather, for mass COVID testing. And-- and they built those right here in Nebraska. It's been a great program. We've had 23 vendors sign up under this concierge program that have connected with a professional on our side to-- to remove those barriers, make the process easier to understand, and do good things for the state.

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BREWER: So essentially, you're coaching and mentoring those that are interested in contracts, especially at the entry level, the--

DOUG CARLSON: That's exactly right, Chairman Brewer, we are. And a government accounting-- excuse me, Government Procurement magazine, which is a national trade publication really focusing on state procurement, they did an interview with me just actually last week. The article will be released in a couple of weeks and they called the program a bold and innovative. It's the first of its kind in any state government.

BREWER: All right. Additional questions? Senator McCollister.

McCOLLISTER: Yeah, thank you, Chairman Brewer. Thank you, Mr. Carlson, for being here.

DOUG CARLSON: Yes, sir.

McCOLLISTER: As a part of the process that you have, do you have a pre-qualification process where you evaluate vendors to see if they have the capability of fulfilling a contract?

DOUG CARLSON: Prior to a bid coming out, Senator, can you clarify?

McCOLLISTER: Prior to awarding a bid to a particular contractor.

DOUG CARLSON: Yeah, we vet through lowest responsible bidder is the statute for-- for goods and then services as well. So part of it, whether it's a invitation to bid for goods, we use the lowest responsible stature-- statute or request for proposal for services. We vet them through a number of different methodologies.

McCOLLISTER: You check with other states or other vendors to see if they've had success with that particular vendor?

DOUG CARLSON: Reputation is a part of the RFP, sir, the request for proposal, yes, sir.

McCOLLISTER: And during the life of a contract, if a bidder is not performing, you have the ability to cancel the contract, correct?

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DOUG CARLSON: We do, sir, yep. And vendor management is an important piece that we really focused on in the last two years, making sure that we're holding vendors accountable as we should be.

McCOLLISTER: Mr. Jackson was here some time ago. We talked about the St. Francis situation. Do you have any comment on what went wrong there?

DOUG CARLSON: Sir, I'm really not prepared to talk about the St. Francis contract. I think it's an important conversation that we have, but I'm really here today to stay focused on minority-owned, women-owned and veteran-owned businesses.

McCOLLISTER: What I'm hearing from you is, it's duplicative. That it's a-- you already have a minority contractor programs in place and this one would replicate or at least duplicate some of the other programs. Would that be a fair thing to say?

DOUG CARLSON: Well, sir, I would say to you that the vendor concierge's program, the Procurement Concierge program focuses specifically on vendor that are minority owned and women owned and-- and veteran owned, and we're incredibly excited about the program. I think it's-- it's-- it's removing barriers. It is creating opportunities. The vendors that I'm talking to, including last night, they're excited about the program. Our team is excited about the program. I think it's going to do good things.

McCOLLISTER: OK. Thank you, Mr. Carlson.

DOUG CARLSON: Yes, sir.

BREWER: All right. Any additional questions? Yes, Senator Sanders.

SANDERS: Thank you, Chairman Brewer. Thank you for coming in to testify, Mr. Carlson. Why would we-- why would we not want to deter any out-of-state businesses? What do we not have in Nebraska that we would want to have to look outside of the state of Nebraska?

DOUG CARLSON: Well, there's-- there's laws, some reciprocal laws, some non-reciprocal laws that other states have. I don't have specifics for you, Senator Sanders. I can get that stuff for you. The other states have that-- that if we have certain rules and they can't do business

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with our vendors in our state, so we need to be really deliberate about any rules that we do put in place, laws that we put in place that would potentially limit those-- those vendors, especially when we start thinking about cooperative contracts. So what a cooperative contract is, Senator, is a competitively bid contract from another state and/or another political subdivision, so think about counties, cities and other places. And this is part of the program that we're working on with vendors is showing them how cooperatives work so they can expand their business. But if Nebraska has certain laws that prohibit that, are focused on certain keys that-- that other states can't participate in, you're going to limit competition and you're going to limit our state businesses from doing business with other states.

SANDERS: Thank you.

DOUG CARLSON: Yes, ma'am.

BREWER: All right. Yes, Senator McCollister.

McCOLLISTER: Yeah, is it possible for Nebraska to use an existing contract in Iowa or Minnesota? You have those kinds of arrangements such that-- I think that's what you were saying just--

DOUG CARLSON: Yes, Senator. So we do utilize cooperative contracts. They're competitively bid and we can attach ourselves on others. It's called a participating addendum where, you know, we-- we obviously have terms, conditions that the state must leverage, must utilize based on the statutes that you all have set forth. So, but as long as they're willing, that vendor is willing to sign with our terms and conditions, yeah, we can do business with them. One of the more popular cooperative contracts is a NASPO contract. National Association of State Procurement Officials is what a-- they're cooperative. I think last year we signed-- it's a little over 100 contracts for cooperatives.

McCOLLISTER: By the same token, counties can enter in and use the state contract for purchases, correct?

DOUG CARLSON: That's correct, Senator.

McCOLLISTER: Thank you very much.

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DOUG CARLSON: Yes, sir.

BREWER: All right. Any other questions? Doug, thank you for your testimony.

DOUG CARLSON: Congratulations on being a grandfather, by the way.

BREWER: All right, we'll do a quick clean up here. Gee, did you fix your broken bottle there, Jonathan?

JONATHAN LASKA: Yes, sir, fixed her up.

BREWER: Well done. Welcome to the Government Committee.

JOHN ALBIN: Thank you. Good morning, Chairman Brewer, and members of the Government, Military and Veterans Affairs Committee. For the record, my name is John Albin, J-o-h-n A-l-b-i-n, and I'm Commissioner of Labor appearing here today on behalf of the Nebraska Department of Labor, and I'm appearing today in opposition to LB652. The department opposes LB652. LB652 creates the Nebraska historically underutilized Business Program Act to be administered by the Department of Labor. LB652 aims to promote historically underutilized businesses through the state contracting process, staffing and administrative-- administrating this new program will have a substantial cost. LB652 requires businesses to apply to the Commissioner of Labor to be certified as a historically underutilized business. If approved, the certification remains for 5 years. Businesses must annually provide an affidavit to the commissioner to verify continued certification. Department must then determine if a business meets the definition of a historically underutilized business, the department may decertify the business if it violates any rule, policy or procedure of the historically underutilized business program. To do this, department must develop the program and all the accompanying forms and procedures. The department believe its first year cost will be just under \$860,000, second year costs are estimated at \$1,139,702. Department will need at least 11 more employees to create and administer this program. Department relies on the Department of Administrative Services or DAS for assistance with procurement. But under this bill, the department will need to hire and train staff right away to have a competent understanding of this procured-- procurement-based program before it begins on July 1, 2022. Finally,

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LB652 requires all state agencies to develop their own goals for contracting with historically underutilized businesses. Annually, each agency must publish number and dollar amount of contracts awarded to historically underutilized business; an opportunity analyze the LB652 goals; a statement on if the goals were met and if goals are not met an explanation. Additionally, each agency must include a detailed report outlining compliance with LB652 as a part of its appropriation request. Thank you for your consideration and I'll be happy to try and answer any questions you might have.

BREWER: All right, thank you for your testimony. Questions? All right, you must have done a good job.

JOHN ALBIN: Thank you.

BREWER: Thank you. All right, we will have our next opponent to LB652. Come on up. No more opponents? All right, we'll go to our first neutral testifier for LB652. Wow, that wraps things up pretty quick. Senator Wayne has waived closure, so I need to read in some information. Oh, let's see, written testimonies we have none in support. We have one opponent and that is from the Department of Transportation. And then as far as position letters, we had no proponents, one opponent, and one in the neutral. And with that, we will close our hearing on LB652 and our hearings for the morning. And we'll see everyone-- well, we'll see the committee this afternoon at 1330.

[BREAK]

BREWER: OK. Welcome to the Government, Military and Veterans Affairs Committee. I'm Senator Tom Brewer, from Gordon, representing the 43rd Legislative District, and I am serving as the Chair of this committee. For the safety of our committee members, staff, pages, and the public, we ask those attending the hearing abide by the following procedures. Was that due to social distancing, that we have limited seating in the room. Today we should not be a problem with the seating issue. Be sure that when you enter and exit, you use the correct doors: enter to the left; exit to the right. We ask that you wear a face covering while in the hearing room. Testifiers may remove your face covering during your testimony so that we're able to properly transcribe your testimony for committee members. We'll leave it up to your discretion on face

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BLOOD: Good afternoon. My name is Senator Carol Blood, representing District 3, which is western Bellevue and southeastern Papillion, Nebraska.

LOWE: John Lowe, District 37, Kearney, Gibbon and Shelton.

HALLORAN: Steve Halloran, District 33, Adams County and the better parts of Hall County.

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HUNT: I'm Megan Hunt. I represent District 8 in Dundee and Benson in midtown Omaha.

BREWER: Dick Clark, our legal counsel, and Julie Condon, the committee clerk. And this afternoon, we've got Caroline Hilgert there. She is a junior at UNL. And we have Peyton Larson, and she is a sophomore at UNL. With that, Senator Linehan, welcome to the Government Committee.

LINEHAN: Good afternoon, Chairman Brewer and members of the Government Committee. My name is Lou Ann Linehan, spelled L-o-u A-n-n L-i-n-e-h-a-n, and I represent Legislative District 39. I have introduced LB179 due to my frustration with the many inconsistencies regarding assessments, the witness as Chair of the Revenue Committee. We have a-- we have an elected county assessor in 82 of our 93 counties. In the remaining 11 counties, the county clerk serves as the ex officio county assessor. In 2019, the Legislature passed Senator Erdman's LB372. This bill changed provisions relating to classes and subclasses of agricultural land used in the Natural Resources Conservation Service land capability groups rather than dryland farming criteria. Then the Legislature also passed LB512 in 2019, which included provisions for adjusting the assessed valuation for destroyed real property, which was before the flood. Some of the 93 county assessors embrace these changes while other county assessors ignored the required changes and guidance from the Department [SIC] of Property Assessment. It has become evident to me that there are some county assessors who are not following the rules, regulations or guidance provided by the Property Assessment Division. It appears some county assessors are using, at best, sloppy process that almost borders on abuse of power. The inconsistent and inaccurate valuing of real property affects over \$1 billion of state funding that is distributed through TEEOSA aid and over \$100 million that is distributed through the homestead exemption program. LB189, introduced by Senator Halloran, was heard by the Revenue Committee on February 10 of this year. Two testifiers shared their frustration with the method county assessors were using to value their real property. Each testifier indicated they followed the process for appealing their valuations, first to the county board of equalization and then to the Tax Equalization and Review Commission, also known as TERC. TERC ruled the valuations were too high for one of the testifiers and the valuation should be reduced. However, the ruling came two years after the appeal was filed. In that period of time, the county assessor had

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continued to overvalue the real property. The second testifier had the same experience. When a property owner follows all the steps of appeal, their valuation, it is evident they're not receiving equal treatment. Continuing this practice of electing county assessors allows a county board of equalization to hide behind or blame the county assessor when rejecting an appeal to the lower valuation for a property owner. It continues the practice of only making the county assessor-- assessor accountable to the property owner. By making the county assessor an employee of the county board, we make the county assessor accountable to the property owner and the county board. A consistent and actual-- accurate process for determining the valuation of real property is essential as we continue to look for ways to generate property tax relief for all Nebraska taxpayers. So I just-- for now, two years as Chair and this year, then the stress on people, we had people come to the Revenue Committee who went to TERC. It can take three or four years, and even when they win cases with TERC, the county assessor still can turn around and raise their valuations back to what they've already gone all the way to talk to have lowered. We just need some borders around this thing. And we also heard-- Senator Halloran knows, it was his bill-- that they don't have to pay any interest, the property taxpayer, even if they've charged double what they should have charged, and they have up to five years to pay them back, whereas if you are delinquent in your property taxes, you have to pay 14 percent interest. So we need to make some changes here, so, happy to take questions.

BREWER: All right. Thank you. And I'm dealing with that in my own district with one county, almost identical land. It was underwater and one county adjusted appropriately and the other just absolutely refused to do it and just continued to charge like it was before, so it does seem to be an arbitrary decision on the part of that county.

LINEHAN: We had an individual who owns property here in Lincoln that was burned during the riots. It was a private company. And they refused to lower his valuation, even though the building is uninhabitable and is still boarded up. I just walked by it the other day. It's boarded up, uninhabitable, and Lancaster County Assessor has refused to lower the valuation, which is the law, by the way, the law.

BREWER: OK. Questions for Senator Linehan on LB179? Senator Hunt.

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HUNT: Thank you. I have an ignorant question.

LINEHAN: Uh-huh, no questions. [LAUGH]

HUNT: So what you-- what you just described of, you know, the business owner whose valuation won't be lowered, which seems wild to me, like we should all agree that of course it should be lowered, why isn't this like a job for a lawyer, like why isn't this something that a case could be brought against the assessor? Just curious.

LINEHAN: Well, they do-- they do have a case and they can get a lawyer, but it costs a lot of money to hire lawyers, and I don't think, when the law is abundantly clear-- and I don't remember how many people-- how many of us voted for it, but I think it was very close to unanimous that they just-- I mean, this was a really sad case. He went to the assessor who sold a-- who told him to go to the county treasurer, who told him to go back to the assessor, and it just wasn't-- they wouldn't even give him the form to fill out.

BREWER: OK. Senator Halloran.

HALLORAN: Thank you, Mr. Chairman. This is not a question. It's just a compliment. And I'm a little bit embarrassed to say this, but you presented my bill better than I did, so.

LINEHAN: I don't think so. You did a good job.

BREWER: I think you did a better job than he did. Senator Blood.

BLOOD: Thank you, Senator-- or Chairman Brewer. And it's nice to see you in our committee again. So I just want to address the TERC issue a little bit to help me get my head wrapped around this. So-- so why does TERC only meet annually?

LINEHAN: Oh, no, they meet-- they meet more than that, but it just-- there's so many backlogged cases that it can take up to two years for your case to be heard.

BLOOD: Oh, then they need to update their website because it says they meet annually, so they meet-- how often do they meet, do you think?

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LINEHAN: Well, not often enough, but it's a lot more than annually. I can get you a better answer.

BLOOD: OK.

LINEHAN: But I was under the impression it was more like weekly or biweekly.

BLOOD: Oh.

LINEHAN: And they have-- they can have-- they have changed it to where you can have like one-- one member of TERC or two members, but then if that gets-- if they disagree with you, then you have to go to the full board. And there is a bill in front of the committee right now, the Revenue Committee, to expand TERC to where they should be able to get it done within nine months.

BLOOD: And what is the filing fee that they charge? Do you know off the top of your head?

LINEHAN: I think it's \$50, but we may have raised that. It was lowered and we raised it. I'm not sure what we-- I'll find that by closing.

BLOOD: So to file an appeal, you-- you have to pay.

LINEHAN: Yep.

BLOOD: And then even if you win your appeal, there's nothing that prevents the county from raising it back up.

LINEHAN: That's one of the really bad things. That is true. I mean, that happens with boards of equalization too. I've had several constituents from Omaha said they got the board of equalization to drop it down, which is your county board, and then the next year the assessor just increased it again.

BLOOD: So are we doing anything to like make TERC better?

LINEHAN: Well, there is a bill-- I think it's--

_____ : Senator Erdman's bill.

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LINEHAN: --Senator Erdman's bill to say TERC has to hear the case within nine months, which TERC came back and said they would actually have to almost double their staff. And I can't remember the fiscal note, but I think there's some feeling on the Revenue Committee, well, then that's what we need to do, because we should not be-- I mean, in one case-- and I know this is where people's sympathy wanes because of the-- these are not-- in some of these cases, these are at least wealthy property owners. They may not be wealthy cashflow people. But one case was-- I think they owed like \$175,000, the county did, back to this property taxpayer, and they had up to five years to pay it back with no interest. And he still-- and even though they owed him \$175,000, he'd still paid over \$100,000, so these are like hundreds of thousands of dollars.

BLOOD: Do you know how many they get in a year, how many claims are filed?

LINEHAN: No, I don't.

BLOOD: OK.

LINEHAN: I-- I-- it's one of those--

BLOOD: Hundreds, like hundreds?

LINEHAN: it is hundreds, yes.

BLOOD: Thousands?

LINEHAN: I believe it's hundreds, but I don't think-- I don't-- I'll get you an answer.

BLOOD: OK.

LINEHAN: It's [INAUDIBLE]

BLOOD: I didn't mean to put you on the spot. I thought--

LINEHAN: No, no, no.

BLOOD: --you're always so knowledgeable. i just thought you'd know.

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LINEHAN: Those are things I should know, and I've heard them several times on the Revenue Committee, but I don't want to-- somebody has just been kind enough to send me a note. TERC filing fees have been adjusted. They are based on valuation and range from \$40 to \$85.

BLOOD: OK, thank you.

LINEHAN: OK.

BREWER: All right. Any additional questions? You'll stick around for closing?

LINEHAN: Yes.

BREWER: OK, thank you. All right, hit the clean-up here. You're going up against Jonathan in the morning, and he's pretty good, so--

_____ : Oh [INAUDIBLE]

BREWER: We're not judging though.

_____ : That's a lot of pressure.

BREWER: Thank you. All right, first proponent of LB179. All right, then we will switch to our opponents to LB179. Come on.

TERRY KEEBLER: Good afternoon, Senator Brewer, members of the committee. My name is Terry Keebler, T-e-r-r-y K-e-e-b-l-e-r. I am the Johnson County Assessor currently, here to testify in opposition to LB179, I'm also here representing NACO. I'd served 12.5 years as a county board member sitting on board of equalization. I've been assessor now a little over two years. I guess, first off. I'm here in opposition, as NACO board talked about this, is that the assessor is an elected official. They are responsive to the people that elected them, not to the county board. The public is who he elects. The assessor is who they will answer to. So just overall, I feel that should stay that way, the-- as elected officials, we are responsive to what the public wants, and that's not just the assessor. That was NACO Board as overall for the elected officials. And most of those NACO Board members are county board members, not other elected officials. And I guess getting a little deeper into it, we are-- before I could file to be assessor, I had to take and pass a test from Department of

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Revenue to show that I knew what would be going on, just in order to file. Anyone that is an assessor or a deputy assessor has to have passed that exam. Going forward, we need at least 60 hours of education in every four-year period, this approved by Property Assessment Division. And as we're doing our job, we have to follow the laws that you have passed. We also have to follow all the regulations that Department of Revenue puts out. Once we set the values, in-- by March 19 for most of the counties, March 25 for the bigger counties, those go to Department of Revenue, who looks at our values, makes sure we are within the range that's required. They make a recommendation that goes to TERC, who gives us a grade of whether we've met the required valuation parameters, being 100 percent, 90 to the 100 percent for commercial or residential, 69, 75 percent for the agricultural parcels. So-- and after we submit those on March 19 to the state, the county assessor cannot change that value. After that point, the only people that can change that value are TERC or the county board of equalization. So I share some of the frustration with TERC's delay and hearing these. When I first became assessor, we had a case that went to TERC from before, and I think it was two years after the hearing before we even heard what the result was. And as a county board member, just from before, the only case, as the county board member, I can remember losing in front of TERC was one in which we did not listen to the assessor and decided that we could figure out what the value was better. When it went to TERC, they didn't agree with that because we had no factual basis to set that value; we just picked a number. So with that, we-- the ratios we're coming up with, the values that we're coming up with are based on sales in the last two to three years, so we are responding to what the market has been. And that's, I guess, why I oppose this. I-- I think it's not good policy to have the assessor not be independent and be beholden to the county board. Thank you.

BREWER: OK. All right. Thank you for your testimony. We will see if we have questions. I guess I scribbled down a couple real quick. Your 60 hours of, I guess, what you'd call sustainment training, how is that monitored? I mean, if you decided he didn't want to do it, who has oversight that would make sure that you were?

TERRY KEEBLER: The Property Assessment Division of the Department of Revenue. If you're not-- if you have not received those hours, they

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can pull your license, which means you're no longer eligible to hold the office.

BREWER: And then who-- who has oversight if you are not following the law? Otherwise, the Legislature passes a new law, such as the one that we had on-- for Senator Erdman on property value for flooded land or un-- unavailable-to-use land. If you just don't follow the law that's been passed, who would throw up the red flag and say, hey, you're-- you're not doing it right?

TERRY KEEBLER: That would probably also be Property Assessment Division. The other thing that, as an elected official, we're subject to recall if we're not doing our job and the people don't think we're doing our job.

BREWER: in Johnson County, how many appeals go to the TERC board in a year, say?

TERRY KEEBLER: I think this past year I think we had seven, and that's probably towards the higher end.

BREWER: OK. No, that's-- that's a good-- good to know, because Johnson County is probably a good average. I mean, that's kind of-- represents a good share of the counties in Nebraska as far as population and-- and issues, so, all right. And one more time, any other questions? No? Thank you for your testimony.

TERRY KEEBLER: Thank you.

BREWER: All right. We are on opponents. Welcome to the Government Committee.

JON CANNON: Thank you, Chairman Brewer. Members of the Government, Military and Veterans Affairs Committee, my name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the executive director of the Nebraska Association of County Officials. I will also refer to it as NACO, and I'm here to testify in opposition to LB179. First, you know, no one can discount the experience that Senator Linehan has had and-- and/or endured as the Chair of the Revenue Committee. She's done a fine job and she's done-- she's worked very, very tirelessly as far as real property tax relief for the citizens of our state. Last year, she was one of the principals behind LB1107-- LB1107, which I think is a real vital

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opportunity for at least starting to work on the property tax issue in our state. This is one of those bills that I think nibbles around the edges, and I'd like to go into a little bit why-- of why NACO is opposed to this. We, along with Senator Linehan, favor accountability from the-- all of our elected officials' positions. We also favor consistency as far as valuations across county lines. I'm not sure that this bill gets us there. As Mr. Keebler had mentioned earlier, assessors stand in front of the electorate every four years and if they're-- they're really doing a poor job, they-- they have to take what is the-- the-- probably the-- the least popular position in county government and they have to have people vote for them to continue in that office. And I think given-- given generally how many of our assessors get reelected, they must be doing a fairly decent job. As Mr. Keebler also mentioned, they are subject to recall if people really do not like the position that they're taking on-- on valuations or anything like that. And also there is an added layer of accountability they have to the Property Assessment Division of the Department of Revenue. Department of Revenue-- headed by the-- the Property Assessment Division, headed by the Property Tax Administrator, has general oversight over all 93 county assessors across the state. There are various statistical analyses that they do. There are-- they will look at the anecdotal evidence that is in front of them as far as whether or not assessors are-- are, you know, overusing or abusing their powers. And they generally do a fairly decent job of-- of policing the work of the assessors. And in the time that I've been around the property tax issue, I know of a few of opportunities that the Property Tax Administrator has had to look at the license-- or the certificate, pardon me, of an assessor in various counties. There's usually investigation that-- that is carried on. At the end of that investigation, there's a report that is given to the county board and is made public. You know, none of this happens under the shadow of night. This is all made very, very public when it's appropriate. And-- and I think the Property Assessment Division does a very fine job of policing any of the more egregious abuses that there may be out there, and there-- and frankly, there are not a lot of them. The-- the process that Mr. Keebler was referring to earlier is called statewide equalization. That is when-- that is the annual equalization meeting of the TERC, which-- which you were referring to, Senator, and that is-- that is a statewide process where they look at all of the statistics that come to them from all 93 counties. They

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look through. They may do an analysis. They say, OK, did you get a passing grade, were you within the range that we have established for residential and commercial and also agricultural land? As with statistics, what you're-- what you're doing is you're taking a very, very small sample and you are basing your decision as to whether or not that assessor gets a pass on that small sample size. And so, as with any statistical sample, you're going to have outliers on either the high end or the low end. And what we have in place is a process where if someone is one of those people on the high end, they have the ability to bring their information forward to the county board, which acts as a check on the county assessor. And-- and when they present that information, if that information passes muster, then the county board can-- can do something about that. Now the Department of Revenue has published one of their statistics. In-- in one of the many statistics they publish, there are 1,090,000 real property records across the state. When we heard the bill for Senator Erdman earlier this week, which I believe was LB613, he mentioned that there were 1,500 appeals filed with TERC last year. Now, I'm not very good at math, but 50 divided into about a million equals 0.15 percent, I think. And so if that's an abuse, I'd-- I'd-- I'd hate to see what was-- what was really abusive, because to me that-- that seems like a pretty good batting average. Now-- and Senator Linehan had asked this earlier as to whether, when I was in Revenue, had asked the question, well, how many of these are-- are-- are there-- are there protest to the county board, because that's going to be a different number, necessarily, and I-- I don't have the answer to that yet. I'm-- I'm going to try and get some information from the Department of Revenue at some point to find out. But whether it's high or whether it's low, I think the fact that these issues are resolved at the local level is something that should give everyone in the room confidence that-- that the process is not abusive to the taxpayer. One other thing that I would like to mention, because I see that I'm starting to run out of time, there is currently pending litigation regarding election commissioners. There's a provision in the Nebraska Constitution that says that the Legislature shall provide by law for the election of such county and township offices as may be necessary. The Attorney General had issued an Opinion just a little while ago that, like a year and a half ago or so, that says that-- oh, I'm sorry. I'm out of time. I'll stop right there.

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BREWER: Senator McCollister.

McCOLLISTER: Yeah, I'm interested in your final thoughts. If you'd proceed, I'd be grateful. Thank you.

JON CANNON: Yep. Thank you, Senator. I appreciate that. The Attorney General had issued an Opinion that said, if once the Legislature has said we need to have an office in county government, that office has to be elected. Now, for what it's worth, NACO is on the other side of that issue, but that is pending litigation. It was heard at Lancaster County District Court. There has been an appeal filed with the Supreme Court and-- and NACO will be participating on the briefs. But what I'm-- what I want this committee to understand is there is pending litigation as to whether or not every county office has to be elected, has to be an elected position, and so this bill flies directly in the face of-- of that litigation. And I-- I think at the very least, that this-- this bill should not move forward until that case has been resolved. It's still an open question, frankly. The other thing I did want to reference was the hearing on LB189, which Senator Halloran had brought, there was the question from an ethanol plant, in the city of Madrid in Chase County, as to whether or not they-- they received their-- their refund in a timely fashion. And what I can tell this committee is that-- and-- and what I told the Revenue Committee as well, is that the county had made its refund. However, the county is also the collector for every other political subdivision, and so whether or not those rural fire districts or the ESUs or the NRDs had made their-- their refund to that ethanol plant in a timely manner, the county did what it was supposed to do as far as-- as far as making its part of the piece hole. And so that's all I really had. I'd be happy to take any further questions. And thank you, Senator McCollister.

BREWER: [INAUDIBLE] Senator McCollister.

McCOLLISTER: Seems to me your position is a little inconsistent. If you're trying to retain the current system for the assessor, the elected assessor, why wouldn't you want all election to do it-- all election commissioners to be elected as well?

JON CANNON: That's a great question, Senator, and in code-- the-- that's my code for, boy, I really wish you hadn't asked that, because

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that's a tough question. But the-- the way that our system is, as far as election commissioners are concerned, is we have-- in the three largest counties, the election commissioner is appointed by the Governor and their deputy has to be from the opposite party. And then in those counties over 25,000, the election commissioner can-- the county board can decide whether or not they want to have the election commissioner appointed by the county board. The system that-- that we've put into place seems to be working. But it-- again, it's-- it's for-- for the three largest counties, we-- we put that into the law that it has to be by-- an appointment by the Governor. And that was in response to-- that was in response to issues that-- that were happening in-- in Douglas County, frankly, over 100 years ago. And so whether or not those issues still remain, I have no brief for that. But what we hear from our clerks and our election commissioners is that-- that they prefer that system to remain in place. The reason I wanted to bring that up, however, is the fact that because that litigation is currently in place and we don't know what the result is going to be because it is before the Supreme Court, I'm-- I'm not sure that it is the appropriate time for this bill to move forward.

McCOLLISTER: Can I continue?

BREWER: Go ahead.

McCOLLISTER: That's a bill from Senator Matt Hansen, by the way.

JON CANNON: Yes, sir.

McCOLLISTER: The county assessor-- assessor situation is interesting, particularly in the Millard Public Schools, and I represent, you know, three school districts in Omaha, because Millard, the school district, is in two counties, Sarpy and Douglas.

JON CANNON: Yes, sir.

McCOLLISTER: And still you'll have a neighborhood in Douglas County, and then you also have a neighborhood in Sarpy County, and the way the assessors, each one of those counties, has accounted for those-- those property values is very different. So you-- you have an issue about having those assessors work those properties differently based on the different values.

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JON CANNON: So--

McCOLLISTER: Can you respond to that?

JON CANNON: Yes, sir, I'd be happy to. Thank you. The-- the issue that-- that assessors have to deal with is they're working from what's called a mass appraisal model. And mass appraisal is I go out and I take as much information about all the properties in a particular jurisdiction and I-- I take that information and I-- I, you know, feed it into the-- into the machine and the machine kind of tells me what a value is. Well, that-- that machine has to have a model, first of all. And so-- and-- and I can't make the-- the case for Douglas County Assessor or the Sarpy County Assessor individually, but what I can say is that they have arrived at models that work for their counties where they have said, over time, we have found that if our standard-- and the-- just as an example, our-- our standard property is going to be a three-bedroom home with a two-car garage, a two-car attached garage with four fixtures in-- involved. And if there is one extra fixture, that's going to raise the value up just a little bit. and if there is-- if there are two fewer fixtures, that will lower the value just a little bit, if there's one less stall, one more stall, whatever. And when they create those models based on the pricing that they have available to them, that model will-- will yield a result. And as I was describing earlier, if-- in-- in many of those cases that model will be fairly consistent. The Department of Revenue will measure the-- the results that those models yield and they'll give them a passing grade and-- however, because of the fact that we're using statistics to-- to determine whether or not this model is accurate, they won't always be, not-- and not for every property, certainly, and so the process we have in place, the folks that are low-- who are valued lower than the-- than they should be, you're probably not going to hear them protest. For what it's worth, I-- I did value-- protest my property a couple of years ago as having been valued too low, but that's neither here nor there. But you will hear from the people whose properties have been valued a little higher than they should be, and the process we have in place is that if that is the case, then you take that to your county board, the county board will hear that, and they'll determine whether or not the property-- the value of that property should be lowered. And so--- and-- and again, so speaking to particularly the difference between Douglas and Sarpy County, you're going to have different models as part of their mass appraisal system,

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and those different models can yield different results. And if the folks on either side of the county line don't like what the result is, they have the opportunity to take that to their county board. And by virtue of the statistics that we've seen as far as the number of appeals you have to TERC being a vanishingly small amount of the real property records in the state, I think it shows that the-- the total-- the totality of the local process is in fact working.

McCOLLISTER: Perhaps TERC isn't issuing the proper guidance to these assessors. Could that be?

JON CANNON: I-- I've-- I know that TERC works very, very hard, and-- and I don't want to say anything either in support or-- or to their detriment. TERC, through its rulings, makes it known how they-- how they are going to look at a valuation issue. But really, the-- the assessor is going to be guided more by the rules and regulations promulgated by the Department of Revenue.

McCOLLISTER: Wouldn't you say that since assessors are elected, they have a conflict of interest in-- in doing their job correctly and perhaps undervalue some properties more than they should?

JON CANNON: And I-- I-- I think that you have a point, Senator, but I also think, more importantly, though, that the process we have in place, where all of their statistical information is reviewed by the Property Assessment Division through a statistical model, and that statistical model says, you know, generally speaking, for-- for the universe of properties that we're analyzing, were-- was that median value that you came to, was it high or was it low, that really is going to-- to account for most of the issues that you have. There can be other issues where there are some things that are going to-- they're going to fall off. They're going to be below. And so you're not going to hear the-- the protests from them. But we know that if-- if some people are-- are being undervalued, then those instances can be brought forward to the Property Tax Administrator who is able to undertake an investigation and-- and make that determination as to whether or not the assessor has, in fact, done their job.

McCOLLISTER: Should I keep asking you questions until the Chairman gets back?

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JON CANNON: I-- I can do this all day, sir, if you want me to.

McCOLLISTER: OK.

LOWE: I would like to have a weekend. Thanks. Thank you, Jon. Any other questions? So the assessor has to take a test prior-- prior to being elected or as they're elected?

JON CANNON: Yes, sir. They-- they have to have the certificate in hand before they can even run for election.

LOWE: Doesn't that limit your candidates?

JON CANNON: It does.

LOWE: I-- I-- I say that because Buffalo County, our assessor does not live in Buffalo County. She maintains a motel room but lives in Lancaster. And that, for Buffalo County people and property owners, causes a problem and-- because every year there are thousands of protests because she has no vested interest in Buffalo County besides a motel room. And every year we go back and we protest the same pieces of property every year, and it get-- just gets raised back up again. And so this is an elected position for four years, correct?

JON CANNON: Yes, sir.

LOWE: So the taxpayers are out their money for four years, continually, until the next election.

JON CANNON: Well--

LOWE: And if-- if there is no other qualified candidate, we're stuck in a-- in a problem there.

JON CANNON: And I-- I believe, sir, that in Buffalo County, I-- I-- I seem to recall that there are actually a number of people that hold their certificate, the assessor's certificate issued by the Property Tax Administrator. And so whether or not the Buffalo County Assessor is eligible to run for election, I-- I-- I've got to assume-- although I don't have that information in front of me, I-- I have to assume that someone has vetted whether or not she is eligible to file for election in Buffalo County and-- and someone made the determination

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that she could. And so at that point, that becomes an issue for the electorate to determine whether or not, you know, the fact that she maintains a hotel room versus a residence in Lincoln is-- is something that rises to the level where they-- they want to vote against her for that-- that purpose. But I-- I-- I mean, I don't want to-- the-- again, I-- I think this actually gets to the point where the voters get to decide whether or not that position should be filled by the people-- the person that they want to have in that-- that position. For what it's worth, I will-- the Buffalo County Assessor, actually, she's on both sides of this issue to a certain extent, because she was appointed by the county board originally when the prior assessor left, and then she ran for reelection in her own right and-- and was reelected, you know, by the voters. And so, you know, she's been on either side of the-- of the argument-- or on both sides of the fence, having been appointed and elected, so-- but in each case, the-- the Buffalo County Board decided that she was qualified and could serve as the assessor in Buffalo County, and then the voters decided that she was qualified and could serve as the-- as the assessor in Buffalo County.

LOWE: But if there's only one name on the ballot, it only takes one vote.

JON CANNON: Well, that-- that's an excellent point, sir.

LOWE: You-- you can't-- you can't vote against it.

JON CANNON: Yeah. That's a good point, sir.

LOWE: All right. Thank you very much. Senator Halloran.

HALLORAN: Thank you, temporary Chair, Senator Lowe. Thanks for testifying today. My concerns, and maybe you can address this, but my concerns with it being an elected position, is, having been through this myself, sometimes it's just the amount of hard campaigning they do or the amount of signs they put out, right, all part of the campaign process and not necessarily a lot to do with their qualifications. So my issue is, is what's the harm with it being an appointed position by the board versus an elected?

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JON CANNON: Well, and as Mr. Keebler had-- had mentioned earlier, I think that that amount of independence is probably going-- going to be crucial. I-- I believe that when the assessor is dir-- and-- and-- and you've addressed this, but when the assessor is directly accountable to the electorate, as opposed to being an employee of the county board, there are going to be times that the assessor and the county board differ in their opinion whether an exemption should be granted, whether a property should have its value raised or lowered. And in those instances, I-- I think it's important that you have the person that is responsible for setting values or determining or having-- making a recommendation as to whether or not a property should be exempted or not being able to exercise their independent professional judgment as to whether or not that actually should be appealed to TERC, because otherwise there-- there aren't many other parties that are-- that have standing in order to appeal that sort of decision up to TERC. The Property Tax Administrator, I believe, and the-- and the Tax Commissioner are able to appeal exemption decisions to TERC, but valuation decisions, there would be no one else that would be able to appeal that sort of thing. And so that dynamic tension, I believe, is necessary. As far as making the process whole, the assessor is accountable to the Board of Equalization and-- but the Board of Equalization is also accountable to the assessor to a certain extent.

HALLORAN: OK. Thank you.

LOWE: Thank you, Senator Halloran. Any other questions? Well, thank you very much.

JON CANNON: Yep. Thank you, sir.

DOUG KAGAN: Good afternoon. Doug Kagan, D-o-u-g K-a-g-a-n, Omaha, representing Nebraska Taxpayers for Freedom. Our opposition to LB179 is simple. We believe that an individual responsible for the sensitive and controversial issue of property valuation should face voters every four years. In my Douglas County-- in my Douglas County and other counties, there are many challenges to annual property valuation increases, over 5,400 protests in Douglas County in 2020. In my instance, I believe that our county assessor had substantially overvalued my home. Though it is standard practice for assessors to use, comparative market analysis, CMAs, to value homes, our assessor compared my house to one that did not even remotely resemble my home.

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So for several hours, I painstakingly compared my home to every other house in my entire subdivision and found three other homes more comparable to mine using the assessor's criteria; that is, last sale price, year built, valuation, square footage, lot size, total rooms, bedrooms, bathrooms, quality, condition, and remodeling. I successfully protested on the basis that the assessor valued my house disproportionately in relation to other properties based solely on sales price. The referee lowered my valuation by \$25,000. I refer to state law, footnoted below, that purchase price alone is not conclusive of the actual value of property for assessment purposes. I believe that the assessor analysis did not consider the full physical description of my house, as required by statute; therefore, in 2022, I want the opportunity to vote for someone I believe more qualified for my county assessor. This bill would not allow me to vote for someone in whom I have confidence in setting a proper valuation on my home. An appointed assessor might be someone who I believe unsuited for the position, someone who could remain in that office for decades. Although I have found Douglas County commissioners very sympathetic to the plight of homeowners protesting their valuations, assessors should face the electoral judgment of those whose homes they evaluate. Whether an elected or appointed assessor, much property owner dissatisfaction, we believe, stems from the reluctance of our state to utilize updated valuation criteria, such as construction quality, home style, interior quality, heating type, energy efficiency, number of homes for sale and how quickly they sell. Thank you.

LOWE: Thank you, Mr. Kagan. Senator Blood.

BLOOD: Thank you, Senator Lowe. Mr. Kagan, if you as a consumer were to say that there was one thing that an assessor could do differently, what would that be? Because my concern is, is that if you bring in a new assessor, they have the exact same training as the previous assessor. So what-- what would you say would be something that would make that better?

DOUG KAGAN: Well, that's a two-part question, Senator. One thing I-- I think they could do is-- is just more closely examine the property, and I'll give you an example. I live in a three-bedroom house. Two doors away, there's a six-bedroom house. That house is valued less than my house is valued. OK. Secondly, I think that not all the blame should go onto county assessors. I think that Nebraska has a valuation

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system that is behind other states, as I stated at the end of my testimony. And I think that in order to really sort this problem out, the valuation problem, the entire criteria needs to be updated like other states have done.

BLOOD: Fair enough. Thank you.

LOWE: All right. Thank you, Senator Blood. Senator McCollister.

McCOLLISTER: Thank you, Senator Lowe. What have other states done that you find admirable?

DOUG KAGAN: Well, they have more precise criteria. They look at-- they look at the construction quality of the home, the home style, where the-- where in town it is, the-- you know, the-- the heat-- heating types. You know, they have updated heating types like-- like solar, for instance. How-- you know, I don't want to brag when I say this, but I've had real estate people tell me, in some subdivisions in Omaha, homes sell quicker, like in my subdivision homes can sell in 24 hours because it's a subdivision where people really want to get into, I guess. So those homes might be valued more than homes in, say, an older neighborhood where not so many people want to buy homes.

McCOLLISTER: That good thing happened when you moved out of my district, right?

DOUG KAGAN: Yeah. [LAUGH]

McCOLLISTER: Thanks, Doug.

LOWE: Thank you, Senator McCollister.

HALLORAN: Thank you, Senator McCollister.

LOWE: Senator Halloran.

DOUG KAGAN: Yes.

HALLORAN: Welcome, Mr. Kagan. So how long-- just a-- a point of information. How long has the Douglas County Assessor been in office?

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DOUG KAGAN: In Douglas County? I think she's-- she's on her second term. And the election is in two years. And our-- our people are not really satisfied with the job she's doing.

HALLORAN: And she got reelected once then?

DOUG KAGAN: She got reelected-- it would have been in 2018.

HALLORAN: OK, thank you.

LOWE: OK. Any other questions? Seeing none, thank you, Mr. Kagan.

DOUG KAGAN: OK. Thank you, Senators.

LOWE: A very quick spritz down. Are there any other in opposition? Seeing none, are there any in the neutral? Seeing none, Senator Linehan, you have an opportunity to close.

LINEHAN: Thank you. So we found the answer. In 2018-- I'm sorry, to Senator Blood's question on how many hearings are-- how many appeals, in 2018 there were 1,315 appeals with 1,092 hearings scheduled; in 2017, there were 1,567 appeals with 1,255 hearings scheduled. And then some of the schedulings fall off because they work it out a different way. But it's close to what Mr. Cannon said. I wish-- going back to, I think, as Senator McCollister-- between the Millard school district with Sarpy County versus Douglas County, and you've talked about this before, and I don't know. I need to talk to your committee, writ large, who needs to fix this. But clearly, we've got a lot of things that need to be fixed. I'm not saying that this is the answer, though one of my-- just from man on the street, before I got here, like how you see it when you aren't on the inside of the Legislature, when I see in the paper that my property taxes are going up because the county assessor raised the valuation, it irritates me because they don't have to go up. The county board, the school board, everybody can reduce their levy, but nobody does. So I kind of see the county assessor, and part of this is like the punching bag for people to blame, when in reality that's just-- and the county assessor in Douglas County did a very good job when she ran for reelection in 2018. She did this road show where she went out and explained to whoever would come: I can raise it up, but you're-- all the people that are-- I don't collect any taxes. I can-- you know, the levy is--

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can go up and down, so-- and I am-- was good to hear this today because in today's world, I don't understand why we-- we aren't-- to Mr. Kagan's testimony, you can have two houses side by side, and they are hugely different in value, and especially now. New houses are getting built today. Their square footage isn't so much, but all the stuff that's in them, whether it's the electrical system or the intercom system or the heating system, I mean, there's homes being built in Elkhorn that are smaller than mine, but they're worth a lot more than mine because of all the, I don't know, frosting or extras or-- so I think we need to like maybe work, this committee with the Revenue Committee, and figure out a way, all the things that need to be fixed, because we clearly have issues here between the assessor, the levies, people's knowledge. And then just one last thing: I'm-- I'm not convinced because we only have 1,500 people that all-- get all the way to TERC, even though that's a small percentage, that's not a problem, because most people don't have the wherewithal-- or many people-- I shouldn't say most, but a lot of people are not going to have the wherewithal to come and fight over \$500. I mean, you got a file, you got to go to Lincoln and you've got to do all this work, and when they get told that it doesn't matter if you win one year, they're just going to put it up the next year, I-- I don't think the 1,500 appeals are probably really rep-- well, I quite-- feel quite certain they're not representative of the frustration that's out there, which we all hear about every day, and we don't collect any property taxes, so.

LOWE: OK. Thank you, Senator Linehan. Senator Halloran.

HALLORAN: Thank you, Senator Lowe. Thank you for that. That crossed my mind as well. I think at some point people just give up the ghost, right, and try--

LINEHAN: Yeah, or move.

HALLORAN: --or-- well, or move. But a lot of times after several appeals, they just say-- well, they just-- they just say, what's the use, right? I mean, this isn't going anywhere, and I think that-- I think that belies the numbers, as you point out, the-- the data, so.

LINEHAN: And there's a-- again, we'd have to have staff and a lot of work on this, but with my last two years of being on Revenue and the

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Education Committee, the-- the-- these valuations and whether they're accurate or not have a huge influence on who gets what in school funding. So if Millard is low or high, that affects their equalization fund. If Omaha is low, that means everybody else in Nebraska gets a little less because Omaha gets a little more. So these, these valuations, in my-- if I was-- you know, we should have a more constant valuation process across the whole state because you're talking over billion dollars in TEEOSA aid and over \$100 million dollars in homestead exemptions. And if you don't have the counties all doing the same way, you're going to have discrepancies that, if we could see them, we would understand are hugely problematic as far as fairness and equity across the state.

LOWE: All right. Thank you, Senator Halloran. Any other questions? Seeing none, thank you, Senator Linehan.

LINEHAN: Thank you all very much and thanks for the people that showed up even to protest.

LOWE: We have position letters. There were zero proponents and five opponents, and written testimony: one opponent, Rick Vest from the Lancaster County Board of Commissioners. And that ends our hearing for LB179 and our committee hearing for the day. Thank you.