

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 20, 2019

**BREWER:** Good afternoon, ladies and gentlemen. Welcome to the Government, Military and Veterans Affairs Committee. My name is Tom Brewer, representing the 43rd District. And we will open this public meeting-- public committee hearing now. Start with introduction of senators on my right.

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

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

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

**KOLOWSKI:** Rick Kolowski, District 31 in southwest Omaha.

**BREWER:** And Senator Hilgers and Senator Hansen are both presenting. So with that said, we'll finish introductions. Our legal counsel, Dick Clark, to my right; committee clerk, Julie Condon; and to the left, pages Preston and Nedhal. So those will be our two pages today. Today, we're gonna have a public hearing on LB99, LB452, LB151, and LB21. Some admin things we need to run through here, please mute your cell phones or electronic devices. Please keep in mind that senators will be either on their computers or their phones, either logging information from the meeting or checking to see if there's supposed to be in another hearing. If you wish to record your attendance in a hearing you may do so by filling out the white attendance sheet. If you wish to testify, please complete one of the green sheets over on the table and have it ready to turn in to the page or to the committee clerk when you come up. If you do not wish to testify but want your position to go on the record, you can fill so-- fill out the white sheet or provide a green sheet to the page. If you plan to pass out materials, try and have 12 sets. If you don't have 12 sets of material, please let the page know to make copies. Letters being submitted to the committee need to be here by 5:00 p.m. the day prior to the hearing. Each letter must include name, address, bill number, your position, and that you request to have it in the official record. At the end we will announce the number of letters in opposition, support, and a neutral position. Mass mailings are not included in this. Please come to the front of the room if you're gonna testify for the given bill at the time. Please state your name and spell it. The senator will open with his statement then we'll have the proponents, opponents, and then those in the neutral capacity and then the

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introducing senator will be allowed to come forward for his closing remarks. Today, we'll be using the three-minute light system so it will come on with a minute to go, a red light comes on. And for some reason you're so focused you don't see the red light, there'll be an audible alarm that goes. At that time, please end your presentation and be prepared to take questions. With that said, Senator Wayne, come on up.

**KOLOWSKI:** Senator, Senator.

**BREWER:** Oh, I'm sorry. Senator Hunt, you want to go ahead and do a quick introduction?

**HUNT:** Senator Hunt. I represent District 8, which includes the neighborhoods of Dundee and Benson in midtown Omaha. Thank you.

**BREWER:** Senator Wayne, welcome to the Government, Military and Veterans Affairs Committee. It is good to have you back.

**WAYNE:** Yes, it is. Well, we'll see how this hearing goes before I say it's good. [LAUGHTER] Good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District number 13 which consist of north Omaha in northeast Douglas County. For three members-- Senator Hansen is not here, heard a similar bill yesterday regarding municipalities and what we're trying to do or what my goal is overall is to simplify our procurement process but in the process this bill only deals, deals with shrinking or lessening the burden on small business owners when they do government contracting. LB99 simply moves forward the deadline from 45 days in current statute to 15 days when dealing with the small business for prompt pay. The bill defines small business currently as the U.S. Small Business Association October 1, 2018 date. So we have a current code or a current definition that fits into what we believe is sound history of why-- how you define a small business. The purpose of this bill is to encourage more small businesses to do contracting work with the state. The fact of the matter is 45 days. Me being a small business owner and construction owner, it takes a long time to sometimes get billing, and 45 days is 3 to 4 payrolls. Plus, if you do concrete like I do you have to pay that within 30 days and it becomes a cash flow issue. If we are gonna encourage small businesses to participate in our bidding process, we have to make sure that we can pay them on time and pay them quicker than what we're currently doing at 45 days. You look at the fiscal note, I just think it's kind of

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interesting that-- one, Corrections needs five more people. You figure the up-front issues with security and everything to get a contract with Corrections, you would think they could do that a little faster and I'm willing to work on that. But I didn't notice that DHHS, which is our biggest fiscal note, already goes between 12 and 19 days. So I am open to amendment to make it 20 days than I suspect that fiscal note should go away if they currently do most of their operations between 12 to 19 days according to the fiscal note. So if we can do an amendment to 20 days, I'm OK with that. And then I think that eliminates some of the fiscal note and I'll work with the Department of Corrections to figure out why they need to hire five more people to, to do this. I will say what was interesting is the Department of Transportation, which does most of the construction projects, had no info-- no fiscal impact. I think they have already, through their DBE Program, work with a lot of small and emerging businesses. Me being one of them and they do try to pay quickly. But most of the time it's through a general contractor so there's not a whole lot they can do, it's when the general contractor submits theirs. That's a different situation. But I do think as we go forward about helping small businesses through a contracting process, this is critical making sure that we can allow them to have the proper cash flow to be successful when bidding on projects. I know the university said they had a lot of different issues with it. But to me we can sit down and work through most of those. But at the end of the day, it comes down to a simple principle. If you are a small business and you have four or five, eight people working for you, you can't often float that cash, that cash flow for 45 days underneath current statute. So I think it's time to update that. And especially with technology, I think we can do it. And with that, I'll be happy to answer any questions.

**BREWER:** All right. Thank you for your testimony. Questions for Senator Wayne? Senator Blood.

**BLOOD:** Thank you, Chairman Brewer. Thank you, Senator Wayne, for bringing this bill forward. I do have several questions. And one of them you kind of addressed. Yeah, I'm looking at these fiscal notes, and the first thing that comes to mind for me that I'm confused about and maybe you can clarify. So true or false. They're not really paying any additional bills, they're paying the bills that are already existing. Right?

**WAYNE:** Correct.

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**BLOOD:** So we're just asking them to do it in a smaller window of time but yet they need additional employees to do that?

**WAYNE:** Right. So through the conversation with my office and some of these offices it's to see if the work is completed to satisfactory. They need somebody to go out-- like in concrete work, inspect it. But again, I don't think they, they need that many people.

**BLOOD:** And if they did like a DLT contract, then that would even expedite it, take out the middle man.

**WAYNE:** Correct.

**BLOOD:** So it almost seems like to look at these fiscal notes at first glance they're written in a way to say, hey, we don't want to do this.

**WAYNE:** I, I believe so. And Senator Blood, I think it's critical to my more conservative colleagues. This is how we force government to be more efficient to pay bills on time.

**BLOOD:** OK. So now I'm gonna be devil's advocate though.

**WAYNE:** OK.

**BLOOD:** All right. So as a business owner, it's my job to put terms in my contract, to say when I want to get paid. Why don't people have that ability to do so when they work with the state?

**WAYNE:** So most times when they bid on projects, a contract would-- contract with projects you're-- well, one, you're at a disadvantage in the negotiation. Typically, it's a hard bid on most procurement issues above \$50,000. So it's a hard bid and those contract terms are already laid out in the contract. So what I see happening is small businesses are discouraged from even bidding because they know especially with government workers 45 days out. So they never, they never bid. So that's part of the issue is you're not on a level playing field when negotiating with the government.

**BLOOD:** So this would also affect how they contract then as well.

**WAYNE:** Yes. I think it'll open up doors for more small businesses.

**BLOOD:** All right. Fair enough. Thank you.

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**BREWER:** All right. Additional questions? I have one. So the process works. You're the small business. You do work for the state of Nebraska. You send them a bill. When we talk about the 15-day clock or if you talk about their being able to do it in 12 to 19 days, is the, the clock start when the bill is received? When the bill is sent?

**WAYNE:** When the bill,--

**BREWER:** When does the clock start?

**WAYNE:** --when the bill is received.

**BREWER:** OK. And the 20 days does seem like a-- it seems like a compromise on that because I could see how it would be difficult to float that much money that long if he were doing everything on a smaller scale. You're open for that?

**WAYNE:** Correct.

**BREWER:** And looking at the fiscal notes, there would probably one of them that would still-- the, the Corrections one might still be there, but I think you do have some fair questions. But all right. So that's the time line. Got it. Thanks.

**WAYNE:** Thank you.

**BREWER:** No other questions. You're gonna stick around for closing?

**WAYNE:** Yes.

**BREWER:** Thank you. All right. First proponent? All right, no proponents. Opponents? OK, we have one. Welcome to the Government, Military and Veterans Affairs Committee.

**ANN MARTINEZ:** Thank you.

**BREWER:** And you have a green light. There you go.

**ANN MARTINEZ:** Good afternoon, Senator Brewer and members of the committee. My name is Ann Martinez, that's A-n-n M-a-r-t-i-n-e-z, and I'm the controller for the Department of Administrative Services, and I'm here today in opposition of LB99. LB99 would amend sections of the Prompt Payment Act requiring all agencies, the university, and state colleges to make payment in full for all goods and services or services rendered by a creditor which is a small business on or before

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the 15th calendar day either after the receipt of the goods or the date of the receipt of the billing from the-- for the goods and services received, whichever is later, unless the provisions for a payment are agreed to in writing by the creditor and the agency. The Act currently requires a creditor to receive payment on or before the 45th calendar day. The bill defines a small business as a business classified as such according to the Table of Small Business Size Standards matched to the North American Industry Classification Systems Code of the U.S. Small Business Administration as the table existed on October 1, 2018. The creditor must submit evidence of its classification status, status as defined above with each invoice that is sent. The average small business definition according to the SBA would encompass approximately 96.5 percent of all Nebraska companies. During payment processing of small business invoices, the default payment terms in the state's accounting system would have to be manually changed along with accounts payable policies and procedures at the agency level. During calendar year 2018, DAS processed over 29,000 vendor payments for our 12 divisions. Procurement and invoice approval processes are decentralized with many invoices entered and approved first at the facility level located throughout Nebraska where the goods and services are received when invoices are then sent electronically to Central Finance for payment and processing. No DAS division can approve invoices for payment without review and approval by staff at the originating agency, the university, or the state college. Each level of approval is necessary to ensure the proper internal controls are, are maintained with a separation of duties. These are procedures that are required by the State Auditor's Office as well as government accounting standards. If LB99 becomes law, DAS would be required to-- for-- to hire an additional accounting FTE to monitor the status of unpaid invoices, review the submitted evidence, help determine if a signed contract changes the payment schedule, and to assist with accounts payable processing and pre-auditing. One-time costs would be incurred to create a new queue and to make changes to our workflows. And you can see the workflow on our-- my additional sheet on my testimony. These additional costs would result in the need for additional revolving fund appropriation. Any increases to a DAS internal assessment can impact the enterprise as it could increase costs of our goods and services to the other state agencies. The Prompt Payment Act also allows creditors to charge interest. As you can see there's information there that that statute would also have to be changed so that interest would begin to accrue at the 16th day. I'll be happy to answer any questions.

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**BREWER:** All right. Thank you. Questions? Well, since you're here let me throw one out there. When you talked about-- you said during CY2018, DAS processed over 29,000 vendor payments for the agency's 12 divisions. I assume that you track how much time it takes you to pay the, the vouchers that you've processed. What, what is the normal timetable right now?

**ANN MARTINEZ:** We did take a look at this and basically only 17 percent of our vouchers were paid within zero to 15 days. Fifty-two percent were paid from zero to 30 days. And basically, if you combined-- then we took a look at all of the invoices paid, 87 percent of our invoices were paid within 60 days. It's very difficult for us to process invoices within even the 30 days. Because even as I mentioned earlier in my testimony, if you look at the flow chart, again, the goods and services are being received at an out-state location where they would need to approve that then send it to us. And when you take a look at the volume that we're doing-- you know, each one of those steps could take multiple days.

**BREWER:** All right. So when we looked at the issue of modifying to 20 days, you don't see that as probably being a lot of help?

**ANN MARTINEZ:** No.

**BREWER:** And when you figure the additional requirement for the law as written. That's where the cost came up that was on the, the sheet here.

**ANN MARTINEZ:** Well, the cost on our fiscal note was related to the fact that we feel we would need an additional staff person and how much additional interest we might be charged because the difference between-- again, we have 45 days to pay. But in the statute that talks about interest, it says that interest begins to accrue on the 31st day. So what we would be looking at here is then now interest would accrue at the 16th day, so potentially we-- all agencies could have additional interest charges.

**BREWER:** OK. One more time around. Senator Lowe.

**LOWE:** Thank you, Chairman. And thank you for coming here today to testify. We've done a lot electronically lately. Has it been 45 days in the past? I mean, 15 years ago, 20 years ago, was it still 45 days or was it longer?

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**ANN MARTINEZ:** I would say it probably was longer. We've been using ECM, which is an electronic content management for the past five years so that sped things up. Because previously, the people would have had to either use interoffice mail or because most of our sites are across the state they would have to use the mail to mail the invoice to us. So with using electronic management we've cut down a lot of that. And I think also with electronic management, sometimes invoices can get mislaid and that type of thing. With [INAUDIBLE]-- excuse me, with electronic management then we can keep track of those invoices where they're at, has there been kind of a delay because someone was out of the office or didn't get approved or something like that. So I think we've made lots of inroads with the electronic management by bringing them to us faster but it still takes us time when you're looking at-- for example, I have an accounts payable clerk that may come in, in the morning and there might be 200 invoices in her queue. Well, she's gonna prioritize those perhaps by utilities we treat first, by those that are the oldest past due. With this we would add another queue to say, well, this was a vendor who met the 16 days who did not through a contract agree to 30-day payment to try to push those ahead. But again, at each approval level it takes time.

**LOWE:** It would just seem that electronically we could kind of move things a little quicker than even that. But I, I could see where if you have 200 or 300 payments, it may take a, a bit longer.

**ANN MARTINEZ:** And you have to realize that the person in the facility-- again, they may have 25 or 30 invoices. Maybe that clerk didn't get time to put those into the system. Now we have a facilities maintenance person whose job is at some point during their day to set aside, set aside time to go in and approve those invoices. And maybe I'm busy that day, there was a crisis, I didn't get to them, and maybe they would sit there for two or three days before they're passed on. Because it just simply-- this is just another responsibility and the level of opportunity of things that have to be done. And again we want the person at the facility to say, did you get the goods or services. Because someone's sitting in Lincoln, I can't make those decisions and know for sure.

**BREWER:** OK.

**LOWE:** Thank you.



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**BREWER:** Additional questions? I have just a quick one on the 29,000 vendor payments for the 12 different agencies. Is there any way that you separate them to know how many of those would be small business?

**ANN MARTINEZ:** No. But again, the definition of a small business is any company that has 500 or less employees. Based on the information that I saw from the Small Business Administration they said in the state of Nebraska that would be 96.5 of all, of all businesses would meet that category of having 500 or less employees.

**BREWER:** All right. That's all the questions I got. Thank you for your testimony.

**ANN MARTINEZ:** Thank you.

**BREWER:** All right. So we've went through proponents. Additional opponents? Anybody in the neutral? All right, Senator Wayne, come on back.

**WAYNE:** Thank you, Chairman Brewer. So, yeah, we can change the interest rates on the 16th day, I'm willing to go to the 20th day. The issue is how many people are being locked out of the market? How much money-- what-- how much money do we spend on contracting goods and services across the state. And it seems to me that if we have utility bills we know we got to pay them. That shouldn't take 30 or 40 days to process. You should probably know that you have a local special rate. I'm pretty sure with any utility company, that's fine. But the question that wasn't asked and the question that wasn't-- and the answer that wasn't given is how many of those small businesses are currently? I understand the state has 97 percent. But how many small businesses currently work in contract in the government sector? What I would tell you is it's not that many. It's not 97 percent. But again, this seems like a modernization process issue that at the end of the day if I can have a daycare facility, and I don't have one, but I can submit my billing to DHHS of 100 to 250 kids for 30 days and they can turnaround a payment within 10 days which is probably the most complicated process and they do everything on-line. Why isn't the rest of our government able to do the same thing? If you're-- if you have performed a service, you know when you performed a service, it sounded like a little complicated process, the field starts then it goes to central then it goes back to the field for approval and paid for by Central. As Senator Lowe pointed out with technology that can be streamlined and should be streamlined and maybe it already has. I just don't see that there's an excuse anymore of why it takes 45 days

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particularly about small businesses. Small businesses cannot float 45 days. And what we heard is sometimes it's already up to 60 days. That's two months of me carrying payroll before I can even get to another project. So guess what? I'm only doing one or two projects for the government because I can't float that much, and that's a real of most small businesses that I've talked to. So I would ask this committee to-- I'll work with this committee to do any amendments, but I think it's critical for our small businesses that we promptly pay them in an efficient and effective manner.

**BREWER:** All right. Questions for Senator Wayne? I got one for you. Now when we talk small business, and again because I'm not in that realm, I thought the small business determination was on the amount of income the business made is where they decide whether you're small or big?

**WAYNE:** It's the amount of employees, and it's also a income. And it's, and it's--

**BREWER:** And it's 500?

**WAYNE:** Well, some businesses can be that big like general contractors. Yeah, there's some small businesses that are a lot of employees, but I would venture to say that's not the vast majority of our contractors.

**BREWER:** OK. All right. Thank you for your testimony on LB99.

**WAYNE:** Thank you.

**BREWER:** Oh, yes. And just as a quick reference here on LB99, we did have letters. We had one opponent, and one proponent, none in the neutral. Next up, we have LB452. Look at that, right there. Senator Clements, come on up. Welcome to Government, Military and Veterans Affairs. We will-- as soon as we get a green light we'll-- oh no, you don't need a great light. You're good to go.

**CLEMENTS:** OK. Thank you. Thank you, Chairman Brewer, members of the Government, Military and Veterans Affairs Committee. I'm Senator Rob Clements, R-o-b C-l-e-m-e-n-t-s. I represent Legislative District 2, and I'm here to introduce LB452. LB452 amends Section 13-1901 to change the boundaries of two Nebraska Planning and Development Regions moving Cass County from Region 6, Southeast Nebraska Development District, to Region 8, Metropolitan Area Planning Agency. This change allows for Cass County to more effectively take advantage of the current planning and development connections that already exist with

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the Sarpy County metro area. Last session I had a similar bill, LB1019, which was advanced out of this committee but was unable to get a priority designation. This last December we also had an interim study hearing, LR374, where we heard several concerns about the process regarding boundary changes. To try and address some of these concerns, LB452 provides a requirement that when any county desires to change planning and development regions, the development districts within the two planning and development regions are required to enter into a written agreement to resolve any outstanding financial and legal obligations. Since the introduction of LB452, NROC, the Nebraska Regional Officials Council, which is a statewide organization for the eight development districts, asked us if we would be open to a one-year moratorium on any new boundary changes while allowing Cass County to move forward with their negotiations. The amendment which has been provided to you, AM206, is a white copy amendment which would become the bill. And if you'll refer to the map that I've handed out you'll see that Nebraska Planning and Development Regions were created by the Legislature in 1992 to help coordinate economic development with counties and cities in a particular region across the state. Much has changed in 26 years since these regions were created in 1992. Though Cass County is still considered in some ways a rural county, Plattsmouth, Buccaneer Bay, Beaver Lake, and Louisville have become bedroom communities of the Omaha metro area. There are many current development connections with their northern neighbor Sarpy County which is Nebraska's fastest growing county. Sarpy County is currently a more natural economic development partner for Cass County than it was in 1992 when Cass County was substantially more rural. Highway traffic counts across the Platte River on the two major highways into Sarpy County from Cass County have grown tremendously over the years. Highway 75 from Plattsmouth to Bellevue has almost reached 10,000 vehicles a day going north over the Platte River. In the center of the county, Highway 50 at Louisville has increased to over 3,500 vehicles going north over the Platte River towards Papillion. I believe for these reasons that LB452 makes sense for Cass County. I also spoke with Sarpy County officials who are in support of this change. There are a few county and city officials here today that have come to testify in favor of LB452 and can answer more detailed questions for the committee as to their reasons for requesting this change. I'll gladly work with the committee and other stakeholders to address any concerns they may have. And thank you for consideration of LB452, and I'll try to answer any questions at this time.

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**BREWER:** All right, thank you for your opening. Questions? Senator Blood.

**BLOOD:** Thank you, Chairman Brewer. Thank you for bringing this bill back, Senator Clements. I was happy to see that you brought it back again. I want to get some things on the record so I have some questions and they're gonna be leading questions to be very frank.

**CLEMENTS:** All right.

**BLOOD:** You left out Highway 34. Why?

**CLEMENTS:** I didn't have a traffic count for Highway 34.

**BLOOD:** OK. So being your friendly neighbor to the north, we've always worked well together. And in this description I think that Highway 34 needs to be included because it connects what county in Iowa? Mills County--

**CLEMENTS:** Yes.

**BLOOD:** --to the Bellevue Cass County area.

**CLEMENTS:** Yes, it does. The new bridge there has been important for transportation.

**BLOOD:** And wasn't part of that goal for that bridge to spur development along that corridor?

**CLEMENTS:** Yes.

**BLOOD:** Do you know how many acres there are for development in that area for business?

**CLEMENTS:** I don't.

**BLOOD:** I believe it's 3,000 acres.

**CLEMENTS:** Wow.

**BLOOD:** So leading questions. So does Highway 34 also allow trucks to cross more easily if they have freight?

**CLEMENTS:** Yes.

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**BLOOD:** And so could that be economic development coup for both Sarpy and Cass County?

**CLEMENTS:** Yes, because Highway 34-- the bridge across the Missouri River is not very far north of the county line of Cass County.

**BLOOD:** So it makes perfect sense to join together because we have a mutually beneficial goal that will be better met if we are all participating in MAPA and we'll have the guidance of the Omaha metro area who has already gone through some of the same growing pains. So you referred to Cast County as rural, but I look at it as an economic development partner that's going to help that part of the state grow.

**CLEMENTS:** Yes, I agree.

**BLOOD:** All right. Those were my questions. Thank you very much.

**CLEMENTS:** Thank you.

**BREWER:** Well, so glad none of those were leading. [LAUGHTER] All right. Questions?

**BLOOD:** Got to get it on the record.

**BREWER:** Oh, sorry.

**KOLOWSKI:** Thank you, Mr. Chairman. Senator, tell us where Cass County fit in as far as the discussion with Lancaster, Lancaster being a single county number 7 sitting there and with the growth that we're having up and down the Interstate 80 corridor from Omaha to Lincoln. Was there consideration given to the possibility of connecting with 7?

**CLEMENTS:** I have not had any, any Cass County officials ask for that and Lancaster has not approached me either about connecting. The major population in Cass County is clear over to the east in the Plattsmouth area and much less population on the west side. And MAPA has also made a commitment to serve the entire county and the smaller communities not just the Plattsmouth and larger areas and they have demonstrated they've done that in Douglas and Washington County as well so I was comfortable with them managing the entire county.

**KOLOWSKI:** Has discussion taken place on the placement of Cass and Lancaster in any way, shape, or form?

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**CLEMENTS:** No, I have not had any discussion.

**KOLOWSKI:** OK. Thank you very much.

**BREWER:** I'll have a comment here I guess. When I was listening to your notes you said 10,000 vehicles going north on 75, I would wager you that if you were to have the ability to monitor where those go, probably 5,000 of those end up at Offutt. If you drive around Offutt, the 20-county plate is a very, very common plate there. So I guess going along with your, your comments that does have a pretty close connection there just because--

**CLEMENTS:** Yes.

**BREWER:** I don't know if I like the term bedroom community, but Plattsmouth-- if you're-- you know, kind of strapped for cash, that's a place that you're gonna find a home a lot cheaper sometimes then going the other direction. So--

**CLEMENTS:** Yes, as I've have campaigned in Plattsmouth area, many, many households there are military working at Offutt.

**BREWER:** All right. Senator Lowe.

**LOWE:** Thank you, Chairman. Thank you, Senator Clements for bringing the bill. What were the two highways you named as the traffic counts? Seventy-five--

**CLEMENTS:** Highway 75, which is the eastern part right by Plattsmouth and that goes from Nebraska City all the way north into Sarpy and Douglas. And that has the 10,000--

**LOWE:** Um-hum

**CLEMENTS:** --vehicles. And Highway 50 comes from Louisville north through Springfield and on into Papillion.

**LOWE:** And that had the 3,000 going--

**CLEMENTS:** Three thousand five hundred, yes.

**LOWE:** Do any of these vehicles travel south then later on in the day or are they just migrating out of Cass County?

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**CLEMENTS:** Yes, they're coming right back, that number, back the same day.

**LOWE:** OK. Just making sure they weren't leaving and fleeing and--

**BREWER:** Going to Iowa.

**CLEMENTS:** We're glad to have them back.

**BREWER:** OK. Additional questions? Seeing none, thank you for your opening. All right, proponents for LB452. Come on up. Welcome to the Government, Military and Veterans Affairs Committee. And we've got your green light, you're good to go.

**JANET McCARTNEY:** OK. Good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Janet McCartney, that's J-a-n-e-t M-c-C-a-r-t-n-e-y. I'm currently serving my ninth year as the Cass County District 2 Commissioner. I also served as the county board chair for four of those years. My testimony is in favor of LB452. For the past couple of years, Cass County has considered moving from Region 6, the planning and development. Generally known as SENDD, the Southeast Nebraska Development District to Region 8 known as MAPA, or the Metropolitan Area Planning Agency. In December of 2016, the Cass County Board of Commissioners unanimously voted to pursue moving our county from Region 8-- or to Region 8 MAPA from Region 6 SENDD. Cass County belongs to the Transportation Technical Advisory Committee, known as TTAC, and it's a portion of MAPA. For the last five and a half years, I have served on that committee as well to keep up with the technical transportation and usually-- you know, the work is right there keeping us informed of-- I have learned a great deal on how the projects move forward. Region 8 MAPA, along with other agencies played an instrumental part in working with all of the parties in getting the approval for the bike path on the northbound portion of Highway 34/75, the bridge, the bridge over the Platte River. Work has already begun on that bike path. The girders are in place and hopefully in the springtime they'll be starting to put that bike path actually on so that we can have bikers use it. Cass County has belonged to Region 6 SENDD for as many years as I have known about Cass County. SENDD has been a good working with the 16 counties that make up Region 6 including Cass County. Cass County's population base has grown an estimated 20 percent since 1985 as reported in the United States Census Bureau. I do know that Cass County communities have received SENDD financial support on their projects. Having served on the

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MAPA-TTAC, I believe that we can possibly get more projects for our county belonging to Region 8 MAPA. Based on the 2014 census, forty-two and a half percent of our population travels from Cass County to Sarpy or Douglas County for work. In fact, I myself travel from Cass County to Douglas County for the last 20 years of my full-time employment. I worked with-- my last was with First Data Resources. I was there for almost 15 years, as well as previously, I worked at US West and Union Pacific before I went to work for First Data. With Highway 34/75 corridor improvements, as well as future state road improvements, I see Cass County growing in population creating additional road work needed to allow our county citizens to commute to their jobs. I also envision growth in Cass County as transportation becomes more conducive to business to locate the county. The dues structure for Region 8 MAPA is different than the membership region in 6 SENDD. Do I need to stop?

**BREWER:** All right. We got your testimony here so--

**JANET McCARTNEY:** OK.

**BREWER:** --let's, let's transition to some questions for you if you're OK with that.

**JANET McCARTNEY:** OK.

**BREWER:** All right. Questions? Senator--

**KOLOWSKI:** Thank you, Mr. Chairman. Miss McCartney, thank you for your testimony today. I wanted to thank you also for basically including the Papio NRD into the discussion and the other NRDs surrounding the area because with the population we have in this particular zone it's gonna become more and more busy as far as biking and all the, the trails and development of those trails and the bridges over the river and all those kind of things are, are in the master plan in heads,--

**JANET McCARTNEY:** Right.

**KOLOWSKI:** --but we, we have to make a reality of that because it's-- you're, you're moving a lot of pieces around and--

**JANET McCARTNEY:** I was very happy to see that the state went ahead and started working on that bike trail.



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**KOLOWSKI:** I appreciated that very much and I hope that continues in the future as far as the discussions with those different NRDs. Thank you.

**JANET McCARTNEY:** Thank you.

**BREWER:** Oh, Senator Hunt.

**HUNT:** Thank you, Chairman Brewer. Thank you so much for being here today, Commissioner. Will the passage of this bill save money for cities and villages in Cass County? Can you talk about that a little bit?

**JANET McCARTNEY:** Yes, it will I-- the-- right now, belonging to MAPA only the county pays. And that cost that the county will pay is about \$11,741 based on the 2010 census. With SENDD, not only does Cass County pay, we pay \$12,512 plus \$3,654 for housing dues for a total of \$15,395 to SENDD. And each one of our towns and villages, if there's a project that comes from them, they also have to put in money. Wherewith, if we go to MAPA, all the money will come through MAPA for the projects.

**HUNT:** So with, so with SENDD the county pays more and the cities and villages and towns pay more--

**JANET McCARTNEY:** Yes.

**HUNT:** Is your-- is how--

**JANET McCARTNEY:** Yes.

**HUNT:** Thank you.

**JANET McCARTNEY:** Um-hum.

**BREWER:** Senator Lowe.

**LOWE:** Thank you, Chairman. And thank you Commissioner for being here. I'm sure that SENDD doesn't want you to leave.

**JANET McCARTNEY:** I'm sure they don't, yes.

**LOWE:** Because you are a thriving county and you will make them not quite so well-off. Is there anything that you can see coming from, from this that might hurt SENDD?

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**JANET McCARTNEY:** I, I really don't think it will. We, as Cass County has, at least to my knowledge, recently have probably nothing in SENDD. We don't even have a county board on their board, a county board member. It's usually residents or like a mayor or somebody from other areas, areas and towns in Cass County. I, I do know they were in opposition the first time we brought it forward. I've not heard anything from them since then.

**LOWE:** OK. Thank you.

**BREWER:** OK. Additional questions? Seeing none, thank you for your testimony. OK. Additional proponents? Welcome to the Government, Military and Veterans Affairs Committee.

**PAUL LAMBERT:** Thank you, Chairman Brewer--

**BREWER:** And you got your--

**PAUL LAMBERT:** --and thank you for the committee to hear this. I am Paul Lambert, P-a-u-l L-a-m-b-e-r-t. I'm the mayor of Plattsmouth. I'm here in support of LB452 and wish to thank Senator Clements for introducing this important piece of legislation for us.

**BREWER:** Can I have you spell it?

**PAUL LAMBERT:** L-a-m-b-e-r-t.

**BREWER:** OK.

**PAUL LAMBERT:** A lot of people put p's in it but it's a b.

**BREWER:** Got it.

**PAUL LAMBERT:** Plattsmouth supports LB452 because it's a natural market and trade area for Plattsmouth and most of Cass County and the greater Omaha metropolitan area. As Senator Clements said, LB452 would revise 13-1901 and move Cass County from Region 6, the Southeast Nebraska Development District to Region 8 with Washington, Douglas, and Sarpy counties. The legislative history of LB573 clearly illustrates intent to create districts based on natural trade areas and with flexibility as those trade areas may change from time to time. Then Senator, Ron Withem, suggested there may be a need to have flexibility for changing boundaries and changing the people we're working with. I believe this is a case today. Cass County is included in the Omaha Council Bluffs Metropolitan Statistical Area. The U.S. 75 corridor into Plattsmouth

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and beyond has been planned for approximately 30 years as an extension of the Plattsmouth Highway 75 Kennedy Freeway into and out of Omaha and the metro area. Two of three of these phases, two of them have been completed. Another phase is planned to commence construction in 2020. Offutt Air Force Base is one of the greatest economic impacts on the Omaha metro area. Cass County and Plattsmouth participate in Offutt Joint Land Use Study. Significant elements of that dialogue was, was facilitated by MAPA. Cass County and Plattsmouth partner with the Greater Omaha Economic Development Partnership and have done so since 2008. From the 2016 census, we know that 74 percent of the Cass County work force commutes out of Cass County to work. Only 5 percent stay in Region 6. Where are Plattsmouth residents going to be employed? They're going to Omaha. Some-- the small percentage rate will stay in Plattsmouth; they come to Bellevue; Council Bluffs; Papillion; La Vista; Glenwood, Iowa; Offutt Air Force Base; and Chalco Hills. The Greater Omaha Metropolitan Area is our trade area. Since 13-1901 was enacted, economic and demographic patterns have changed and as a legislative history of 13-1901 suggested, so should the development districts to which we belong.

**BREWER:** Thank you for your testimony. And Mayor Lambert, you were a state senator.

**PAUL LAMBERT:** Yes, sir.

**BREWER:** What were the years?

**PAUL LAMBERT:** Short time, I was appointed in 2011, served a special session on the pipeline and then a short session. And then I would-- did not win reelection. Mr. Kintner beat me.

**BREWER:** That's all right. Things happen in the fast lane. All right. Questions? Senator Blood.

**BLOOD:** Thank you, Chairman Brewer. And it's nice to see you again Mayor, I haven't seen you for a couple of months.

**PAUL LAMBERT:** No ribbon cuttings.

**BLOOD:** No ribbon cuttings and I'm here now. So I'm glad you brought up ribbon cuttings. I think it's really telling and I-- I'm going to ask you for your opinion on this. As an outside observer, I notice that you are very active in community events in Sarpy County. And I noted

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that the vast majority of Sarpy County senators also cosponsored this bill.

**PAUL LAMBERT:** Um-hum.

**BLOOD:** Can you give me your personal opinion about why it's so important that, that you reach north and that you mingle with us and how it benefits your community?

**PAUL LAMBERT:** Well, north is coming to Plattsmouth. The metro area is moving to Plattsmouth. I want to be part of it. I want my city poised to take care to be part of it. I'm very active with Offutt Air Force Base. I'm on the board of directors of the Offutt Advisory Council.

**BLOOD:** I would agree.

**PAUL LAMBERT:** I'm an ambassador with the Bellevue Chamber. I do a lot in the whole metro area because that area's coming to Plattsmouth whether we like it or not. I mean, growth happens. And I want to be there and have our city poised and ready for it.

**BLOOD:** And would you say that the comments that were made earlier about Highway 34 are one of the really important issues of why we need to bring you into our district when it comes to the thousands of acres that we have for development along Highway 34?

**PAUL LAMBERT:** Yes, it's very important. And, and as you all know of when an employer decides on an area he looks at the work force. If we're there, we're part of it. And we're part of the Bellevue area.

**BLOOD:** You are. I agree.

**PAUL LAMBERT:** We're part of the metro Omaha area. It's-- it just is and you know you can't fight it. Growth is coming and I want it to be orderly and organized and cooperative where we can all work together.

**BLOOD:** And, and I have to say for the record that you've been a very friendly neighbor to our south--

**PAUL LAMBERT:** Well, thank you.

**BLOOD:** --and that you work really well with, with our community and our county and you do it a very good job for your constituents.

**PAUL LAMBERT:** Well, thank you very much. I appreciate that.

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**BREWER:** Additional questions? Senator Kolowski.

**KOLOWSKI:** Thank you, Mr. Chair. Mr. Mayor, thank you very much for your presentation today. And on our map here it's in a typical fashion we have all the Nebraska territories, but we don't talk about anything in Iowa. We have to remember how much growth has taken place in that Iowa section up and down the river as far as Council Bluffs and the areas there that are working in feeding into this whole metropolitan a number of counties that are impacting us. We, we have a lot to be thankful for with the MAPA and NRDs and number of voices that are assisting with the growth and, and accumulation of more roadway, more, more retail space and all the rest in those, in those areas. My, my concern having lived here for-- since 1967, 50-some years now, is that we're going to continue. Just think of ourselves 50 years ago.

**PAUL LAMBERT:** Um-hum.

**KOLOWSKI:** Now think of ourselves 50 years in advance, or let's just go to 2050. Very short time compared to another 50 years. We're gonna see monumental growth in this area.

**PAUL LAMBERT:** Yes.

**KOLOWSKI:** And doing what you're asking for now gets us on the, on the forefront of being to where we need to be with the different organizations all coming together to give us the best decisions on quality of life issues whatever they might be throughout the communities.

**PAUL LAMBERT:** I totally agree with you, sir. You're right. And if I could go back to when you talked about Lancaster County, if we talked to them, 75 percent of the population of Cass County lives within 5 miles of Highway 75. So we're very heavily tilted to the east end of the county. But I agree and as I said earlier you get-- plan, plan ahead like MAPA has project 2050 where they're looking way ahead. You know, it was 50 years when they started it.

**KOLOWSKI:** Sure.

**PAUL LAMBERT:** But that's the only way you get good cooperative and proper growth I believe. And this would be a step towards it in my feeling.

**KOLOWSKI:** Agree. Thank you.

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**BREWER:** All right. Any other questions? Well, since everyone else is tossing you a softball, let me, let me work one in.

**PAUL LAMBERT:** Uh-oh.

**BREWER:** So I made a statement earlier. Would you say that if you were a young enlisted couple that was at Offutt and you wanted to find cheaper housing would you go north or south?

**PAUL LAMBERT:** You'd go south.

**BREWER:** There you go.

**PAUL LAMBERT:** Sir, I did that myself. I-- my whole career I worked in the Omaha area. My office was in Omaha. I looked at houses in Omaha because I grew up south of Plattsmouth. I was still in Cass County down in the Murray area. But I was ready to go out on my own and buy a house in Omaha. I looked at prices. I looked at Bellevue. I've been a resident of Plattsmouth since 1981.

**BREWER:** Heard good things about their Mayor.

**PAUL LAMBERT:** Thank you.

**BREWER:** Thank you.

**PAUL LAMBERT:** Question. Who told you that?

**BREWER:** I'm not saying. All right. Thank you for your testimony.

**PAUL LAMBERT:** Yes, sir.

**BREWER:** All right. Additional proponents for LB452? All right, here's your chance. Come on up. Please have a seat. Sit down, relax for a moment there.

**JENNIFER CREAGER:** Yeah, that would be nice.

**BREWER:** Welcome to the Government, Military and Veterans Affairs Committee.

**JENNIFER CREAGER:** Chairman Brewer, members of the Committee. For the record, my name is Jennifer Creager, J-e-n-n-i-f-e-r C-r-e-a-g-e-r, senior director of Public Policy at the Greater Omaha Chamber. I just wanted to come up today because the economic development arm of our organization is the Greater Omaha Economic Development Partnership of

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which Cass County, as the Mayor mentioned, is a member. Also, Senator Kolowski, Pottawattamie County and the city of Council Bluffs are-- is also a member. We do all of our economic development activities on a regional basis. So for that fact, I think this bill makes a lot of sense in addition to what the other testifiers have said. So just wanted to make our support known for the bill. Thank you.

**BREWER:** All right. Thank you for your testimony. Questions? Looks like you did a good job.

**JENNIFER CREAGER:** Thank you.

**BREWER:** Thanks. OK. Additional proponents? Welcome to Government, Military and Veterans Affairs Committee.

**ROGER BEHRNS:** Good afternoon, Senator Brewer and committee. I'm Roger Behrns, R-o-g-e-r B-e-h-r-n-s. I'm the mayor of Louisville. A lifelong Cass County, fifth generation, and a member of the Cass County Economic Development Council. And I just wanted to go on record to say that Louisville is in favor of this and if there's any doubt about the amount of traffic on Highway 50, just sit down at the Walnut Street intersection about 7:00 in the morning and again in the afternoon. The traffic is very heavy coming from Louisville and surrounding communities, Cedar Creek, South Bend, further south, Weeping Water, and even beyond the county. There's a lot of traffic going north. So I thank you for your consideration. If you have any questions?

**BREWER:** All right. Questions? All right. Thank you, Mayor.

**ROGER BEHRNS:** Thank you.

**BREWER:** Additional proponents? Seeing none, we'll transition to opponents? OK. Those in the neutral capacity? All right. Senator Clements, come on up.

**CLEMENTS:** Thank you, Chairman Brewer. In closing, I think the proponents have let you know that Cass County definitely wants to move into the MAPA district. They really want to know what development is coming from the north so they can plan and coordinate with that development and if they're part of MAPA they'll have better information as to what development is coming and I think it's going to be a benefit for them. And I just ask for your support of this bill. And if you have any more questions, I'd be glad to answer them.

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**BREWER:** All right. So just, just for clarification here, you got the mayors of the two towns to come and speak and the Chamber from Omaha and you had no opposition and none in the neutral, it's a pretty easy walk there. OK. Senator Blood.

**BLOOD:** Thank you, Chairman Brewer. So Senator, you had mentioned in the, the first testimony that you couldn't get it prioritized last time you brought this forward. Will you be making this your priority bill because of its importance to the economic development in that area?

**CLEMENTS:** I'm considering that.

**BLOOD:** Thank you. That's the only question I have.

**CLEMENTS:** All right.

**BREWER:** Senator Kolowski.

**KOLOWSKI:** Mr. Chairman, thank you. Senator, thank you again for your presentation today. And I hope one thing that will be kept in mind as your planning moves ahead, the corridor between Omaha and Lincoln and all the changes that have taken place in 50 years that have happened there. Don't forget that, and don't let it out of the box when we're trying to do this larger planning closer to the river and closer to those two counties-- multiple counties. Let's keep that alive and well and do things correctly so we don't have to make up errors and, and clean things up later on.

**CLEMENTS:** I respect your point and I, and I live toward the western part of Cass County so I'm very aware of the need to make sure they're equally treated.

**KOLOWSKI:** Thank you for bringing this forward. Thank you.

**CLEMENTS:** Thank you.

**BREWER:** All right. Thank you for your closing and as a wrap up here on LB452, we had five letters that were proponents; zero opponents; and one in the neutral position. With that, that will close our hearing on LB452. And I'll hand the gavel to you.



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**La GRONE:** We will now open the hearing on LB151. Senator Brewer, welcome to your committee on Government, Military and Veterans Affairs.

**BREWER:** Thank you, Vice Chairman La Grone and good afternoon fellow Senators of the Government, Military and Veterans Affairs Committee. I'm Senator Tom Brewer. For the record, that is T-o-m B-r-e-w-e-r, and I represent the 13 counties of the 43rd District in western Nebraska. I'm here today to introduce LB151. Under the National Labor Relations Act, construction contractors, employees have the right to choose to unionize or not unionize. In other states, some have turned to politicians and the use of project labor agreements and state contracts to put the thumb on the scales in favor of one side or the other. A project labor agreement, or we'll refer to as a PLA, is a prehire agreement about work conditions on a particular project. It takes collective bargaining and inserts it into a state contracting process. This bill would make sure there are no PLA requirements in contracts with the state of Nebraska. The use of a project labor agreement usually results in a higher construction cost for taxpayers. It can make a losing bid into a winning bid by disqualifying other contractors with lower bids. Qualified contractors who wish to make lower cost bids should not be locked out because of whether or not they choose to unionize. LB660 [SIC]-- make sure that there are no preferences shown to other union, nonunion contracts where a state of Nebraska seeks bids. This makes a level playing field where the best contractor wins regardless. What is good for-- this is good for the taxpayer and good for Nebraska. This concludes my remarks, but I'll be followed by representatives from Nebraska Chapter of the Associated Builders and Contractors who can answer other detailed questions. That concludes my opening.

**La GRONE:** Thank you, Senator Brewer. Are there any questions? Senator Blood.

**BLOOD:** Thank you, Vice Chair La Grone. Thank you, Senator Brewer. It was also so courteous of you to let other people go ahead of you. That was a nice thing to do today. I do have a couple of questions. Can you give me any examples where this has been an issue in the past, some concrete examples of how what we have now is not working?

**BREWER:** No. This-- I don't know that it has been used. The idea is that it won't be put in any contracts.

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**BLOOD:** I, I don't understand what you're saying. Can you put it-- won't be put in any contracts. What do you mean?

**BREWER:** The idea is so it can't be put into contracts for state contracts.

**BLOOD:** What can't be put into the state contracts?

**BREWER:** The PLA.

**BLOOD:** OK. I just want to make sure we're getting this on the record correctly. So the-- when the issues that I have when I hear this is-- and I'll go back to my municipal background and maybe you can address this for me and maybe clarify it for me. So we would frequently, and usually I didn't vote for these contracts, would take a lower bid from a nonunion organization who would always end up coming back to us for more money. And when we tracked the union-- the, the contracts that involved unions and the contracts that didn't involve unions it seemed pretty consistently it was the, the union groups that didn't go over and come back for more money than the nonunion new groups that did that they would say, hey, I know we said it was gonna cost \$500,000 but now we need \$750,000 dollars. So will this change into the statute change any of that? And if so, how?

**BREWER:** No, the, the PLA would prevent it from being written into the contract initially. You know, I think what you're talking about is simply more management on the part of whoever's awarding the bids and the progress on the project whether they come back for more money or not. This is preventing it being written in the contract that you have to use one or the other.

**BLOOD:** But isn't one of the benefits if they're doing their job without having to come back-- the fact that they are already union is what I'm saying?

**BREWER:** If you're gonna condemn everyone to your experience then, yes.

**BLOOD:** I am not condemning everyone. I'm, I'm asking a question that's based on my experience. That's right.

**BREWER:** OK. Well, that's the Sarpy County experience.

**BLOOD:** That is the Sarpy County experience, but I think I've seen that in Douglas County and Lancaster as well.

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**BREWER:** I can't speak for them.

**BLOOD:** So one of the concerns that I have is sometimes I see bills like this and I'm gonna listen to both sides. And I don't hide the fact that I do support unions.

**BREWER:** No, you don't.

**BLOOD:** And I'm not gonna get on my-- I do not hide that fact.

**BREWER:** No, you don't.

**BLOOD:** And I, and I do it for many, many reasons that have to do with the greater good of the middle class. But I will say that sometimes I worry about bills like this because-- and I'm hoping I'm wrong and I'm gonna listen to the testimony, sometimes I think that it's greed disguised as public policy, and I'm hoping that I'm wrong.

**BREWER:** How do, how do you-- and how is that?

**BLOOD:** And I'm hoping that I'm wrong and I'm gonna listen to the testimony to get an answer.

**BREWER:** OK. But you're, you're implying something here without giving me the facts to understand why you're making that open statement.

**BLOOD:** I'm implying that I'm concerned that we're getting away from organizations whose only goal is to make sure that people are paid a living wage, have benefits, can retire with a decent income, and can survive in middle-class America which is quickly disappearing. That's all I'm saying.

**BREWER:** But should we purposely weigh the scales in favor of one over the other?

**BLOOD:** I am going to change the scales in favor of the working class regardless, regardless of whether you're union or nonunion always.

**BREWER:** OK. I think that's fair.

**La GRONE:** Thank you, Senator Blood. Any additional questions? Seeing none, thank you for your opening.

**BREWER:** I'll stick around for closing.

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**La GRONE:** I figured you would. We'll now move to proponent testimony. First proponent. Welcome to the Government Committee.

**DAVID CHAPIN:** Thank you. My name is David Chapin, D-a-v-i-d C-h-a-p-i-n. First, I would like to thank Senator Brewer for putting forward this bill and for his testimony that's already on the record. I think he laid out many of the reasons why I support this legislation. To me it really is a free market issue. It's a-- it allows for open competition that we have in place now and that would preserve that. It's a preemptive bill that would keep the status quo the way that we have it on government funded projects. In other parts of our country, we have seen a growth in project labor agreements and individual jurisdictions put them in place on local projects all across the country. This bill preserves free markets. It's really again a preservation. There's 24 other states that have put forward similar legislation. When you look at a map of those 24 states, you will notice that the, the low tax states that Nebraska tries to compete with. States like South Dakota, Iowa, and Kansas are ones that have already passed and have in place this legislation. High tax states like New York, California, Illinois, encourage project labor agreements. Those are the states that we're not trying to emulate in our public policy. In my opinion, we should not be. We already have in place, as Senator Brewer alluded to, consumer protections on public construction. We have already great public bidding laws. We have construction contracting laws that are in place within our state already. We have building codes. All of those protect the public interest. They protect the contractors, the people that work for different contractors. We have great laws in place to do those already. When project labor agreements are put in place, they limit the competition that, that would go forward and try for the various different projects. Certainly, one that's on them. My firm which is a local electrical contracting firm, we're unwilling to bid projects that are project, project labor agreements. Standard PLAs place burdens on our firms that we are unwilling to accept. We provide and have a registered training program for all the apprentices that work at our firm while registered by the state of Nebraska and all the typical employee benefits that a, that a responsible employer would have. PLAs though enforce us to pay double. It puts in place language that makes us pay into the union plans and our employees would see no benefit from that. They see benefits from the, the contributions we make to our own plans but, but not the other ones and, and because of that it drives up our cost and limits the playing field and we, we wouldn't bid that. And I would think you'd find that most merit shop

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contractors would be unwilling to do the same. So I believe when you support this bill you preserve free markets and put us on a level playing field with the states that we tend to compete with locally or, or regionally in the country. So--

**La GRONE:** Thank you for your testimony. Are there any questions?  
Senator Blood.

**BLOOD:** Thank you, Vice Chair La Grone. And thank you for your testimony. I only caught your name David. What, what organization are you with?

**DAVID CHAPIN:** What organization-- I am currently the chair of the Assoc-- the Cornhusker Chapter of the Associated Builders and Contractors and I'm the president and CEO and owner of Willmar Electric.

**BLOOD:** So can you walk me through an example. I know I already asked this of Senator Brewer, but I'm kind of looking for some, some solid examples of how this has hurt-- I mean, not just saying I think this will hurt my business. But you can-- can you give me several examples of how this has hurt my business maybe a particular contract that you actually did engage in that you chose to participate in or one of your members did and how it affected them negatively?

**DAVID CHAPIN:** Well, later there is a member in the audience who can talk about how it affected his where he signed one. I won't sign a project labor agreement. There hasn't been one put forward on contracts that I know of inside of the state of Nebraska but they are in, in other offices that we've had around the country. I'm in a peer group with other contractors from other parts of the country and they spend time weekly fighting project labor agreements. The local school boards would, would put on those projects that limit their ability to compete with that. This bill would protect Nebraskans against the higher costs and the limited competition of doing that by being proactive. It's hard to know if there's a local entity that's considering one of these right now because we can't know what all the different jurisdictions in Nebraska have on their minds. And if, if somebody that the Legislature-- that the reason for the urgency is if, if you pass it now proactively the legislator-- the Unicameral only meets a certain portion of the year. If, if, if we were-- if you are to adjourn without passing this it gives all that time for someone to enact a project labor agreement and limit the competition.

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**BLOOD:** So walk me through how you pay double. I'm a little confused on that part.

**DAVID CHAPIN:** Well, when, when you get the language of a typical project labor agreement it requires the contractors who get the job to pay into, into certain pension funds and then to certain benefit-- employee benefit pools. That because our employees of our firm are not signatory with any affiliated labor organization, we-- they don't get the benefit from that. They're not gonna get the health insurance. They're not gonna work there and retire from that. They do, of course, get the benefit of the health insurance and the retirement that we invest as a company. But we have to continue to do that because as a, as a conscientious employer we have to continue to provide those things for, for the training program. For example, we have a training program that again is approved and registered with the state, and so we're to continue to provide that for our employees. So money that we would have for the project labor agreement would require us to put into a different training fund, and our employees won't see the benefit of that. They're not gonna go to class twice for the same thing.

**BLOOD:** So nobody from Labor is working with you then?

**DAVID CHAPIN:** What do you mean nobody from Labor is working with me?

**BLOOD:** So you have your employees?

**DAVID CHAPIN:** Yes.

**BLOOD:** Are you using, are you using union employees as well?

**DAVID CHAPIN:** I'm not using union employees. We're not-- our, our employees back in the 70s decided to vote and they decertified from that [INAUDIBLE].

**BLOOD:** Why do you think they require you to do that?

**DAVID CHAPIN:** I don't know why they require us to do that. That's why I'm here trying to get this legislation passed so that we're not required to do that. I think, I think it's bad policy.

**BLOOD:** So does the federal government do that in their contracting?

**DAVID CHAPIN:** The federal government does not. There are some-- Obama signed executive orders is my understanding and there are some federal

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PLAs. I don't know any specific [INAUDIBLE] that do it. Not a lot of government agencies have put those on.

**BLOOD:** OK. Thank you.

**La GRONE:** Thank you, Senator Blood. Any additional questions? Seeing none, thanks for coming down.

**DAVID CHAPIN:** All right. Thank you.

**La GRONE:** Next proponent. Welcome to the Government Committee.

**JAY BUCHANAN:** Vice chair, thank you. Members of the committee, thank you. My name is Jay Buchanan, B-u-c-h-a-n-a-n. I'm here in favor of LB151. I represent my wife and I own a small [INAUDIBLE] owned electrical contracting business here in the state of Nebraska. I'm also representing our association of merit shop contractors, Associated Builders and Contractors, Cornhusker Chapter here in Nebraska who has members throughout virtually every county in the, in the state. I ask myself why would I want to subsidize our competitors' operations? We're asked to, to participate in subsidizing our competitors be in the union. It provides our competit-- provides our competition a clear and significant advantage in the bid process. It's a direct conflict of interest. It spits in the face of fair and open competition and disenfranchises fair enterprise. A great majority of merit shop contractors like us will not participate in the bidding process significantly decrease in the competitive bids which drive up costs significantly erodes the benefit of a positive market. Secondly, PLAs are discriminatory. PLAs mandate discriminatory-- discrimination against 80 percent-- 86 percent of the private sector construction workers nationwide who choose not to join the union. Ultimately, will be ruled down by the State Supreme Court or is highly likely. An example is recently in January the Commonwealth Court of Pennsylvania struck down the PLA mandate in there, in their state. It tried in the Commonwealth Court in Pennsylvania the court, the court ruled on January 11, that PennDOT's PLA mandate violates state's competitive bidding laws and discriminates against nonunion comp-- contractors. ABC is opposed to government-mandated PLA's because these agreements restrict competition, increase cost, create delays, discriminate against nonunion employees, and place nonunion general contractors and subcontractors like us at a significant competitive disadvantage. Typical government-mandate PLAs are nothing more than an anti-competitor scheme that end open and fair bidding on taxpayer funded projects. Third reason I-- we stand for this bill, is PLAs

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drive up costs to the state and to taxpayers. It drives up cost to government by 12 to 18 percent, I have some citations for you on that, increase taxation to the public, lowers available monies to utilize in future projects and budgets, enriches the trade unions. Trade unions represent less than 13 percent of the construction market in the country disenfranchising the remaining 87 percent of the market. Less competition equals less-- competition leaves higher costs and disenfranchises free enterprise, and I had some citations in my materials to share that with you from the Department of Labor. And what's at risk? In 2000-- in 2017, Nebraska state governments funded construction projects of \$1.79 billion. Over a 10-year period, this is nearly 20 billion in state monies at risk to higher costs. If you take that by the rate, that's 2 to 3 billion additional taxpayer dollars over the next decade.

**La GRONE:** Thank you for your testimony. Are there any questions?  
Senator Kolowski.

**KOLOWSKI:** Thank you, Mr. Chair. Thank you for your testimony today. I wanted to ask you have you had entire states that have banned the PLAs and they cannot use?

**JAY BUCHANAN:** There's 24 states today that have, yes.

**KOLOWSKI:** Twenty-four states that haven't?

**JAY BUCHANAN:** That have banned PLAs in their state government and the overreach of federal government on PLAs, yes. And the case I used in Pennsylvania is a recent example were the states-- the state courts rule it down. And I'll just re-- I'll just re-- recite what I just said. Recently, Commonwealth Court of Pennsylvania strikes down the PLA mandate tried in the Commonwealth Court of Pennsylvania. The court ruled on January 11 of this year, the Pennsylvania Department of Transportation PLA mandate violates the state's competitive bidding laws and discriminates against nonunion contractors. If you read the language of a PLA, that's in fact true.

**La GRONE:** Thank you, Senator Kolowski. Any additional questions?  
Seeing none, thanks for coming down.

**JAY BUCHANAN:** You're welcome.

**La GRONE:** Any additional proponents? Welcome to the Government Committee. Thank you.



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**BRUCE PETERSEN:** Thank you, Senator La Grone and the committee. My name is Bruce Petersen, B-r-u-c-e P-e-t-e-r-s-e-n. I'm the vice president of finance for an electronic contracting company. We're a low voltage contractor here in Nebraska. We also have offices in Kansas City, Missouri; Wichita, Kansas; Springfield, Missouri; Omaha, Nebraska. I'm also representing the Associated Builders and Contractors, Cornhusker Chapter. I'm on their board. And I'm in support of LB151, primarily for more selfish reasons and those reasons have to do with my employees. And with, with project labor agreement, the Fringe Benefit Funds that the employers are required to contribute to are typically the union funds. So the union health and welfare benefits, the union retirement funds, and the rub is when you do that for one project all of those funds typically have rules and regulations on who can participate and how long you have to participate before you're eligible for benefits. And on a single project, typically our employees aren't gonna accrue enough hours to be able to benefit from those funds. And as was mentioned earlier, we don't shut off our benefits for a particular project to pay the project labor agreement fund. We're paying both because we don't want to leave our employees in the lurch. And so what happens, we pay double the benefits and our employees only get to enjoy the ones that are provided by the company because typically they're not gonna vest in the other benefit funds. And so I don't have a problem paying fringe benefits and we do a lot of prevailing wage work especially down in Missouri where there's federal Davis Bacon projects and there's also a state prevailing wage act. What's different between those types of agreements and a project labor agreement, we have the ability to provide fringe benefit payments into a fund that our employees will benefit from. It's not mandating it. They go to another fund that they can't vest in. So I have included a copy of the Roseville area schools. This is from Minnesota, a project labor agreement, and I draw your attention to pages 5, 7, and 8, where they are highlighted and it basically outlines that a project labor agreement does extend where those funds-- those fringe benefit payments are gonna be made. And it also delineates that the signatory contractor or the person bidding on this project agrees all of the funds legally established agreements revolving around their participation of, of the payment. So I'll take any questions if you have any at this point.

**La GRONE:** Thank you for your testimony. Are there any questions?  
Senator Blood.

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**BLOOD:** Thank you, Vice Chair La Grone. Thank you for your testimony. Can you repeat what you just said? I'm, I'm not sure I understand what you're trying to tell me.

**BRUCE PETERSEN:** The difference between a project labor agreement and prevailing wage?

**BLOOD:** Well, explain page 8 to me.

**BRUCE PETERSEN:** OK.

**BLOOD:** Thank you for helping with this.

**BRUCE PETERSEN:** OK. So Section 2 that I have highlighted, contractors agree to pay contributions to establish employee fringe benefit funds in the amounts designated in the applicable collective bargaining agreements in Schedule A. Well, that means that any contractor would be obligated to pay a union plan, health and welfare plan, a retirement plan. Any other fringe benefit plans that they have. But until you have enough hours to vest in those plans your employee that you're paying those funds on behalf of ostensibly to lift them up and make them a productive member of society they're not gonna see any benefit from those payments.

**BLOOD:** So for clarification, is this a PLA that you would want to see in Nebraska or the ones that you currently seen in Nebraska?

**BRUCE PETERSEN:** This is what I would not like to see happen in Nebraska and that's why I'm supporting the bill because--

**BLOOD:** Can you read the rest of the sentence after the semicolon because you only read the first part? Please.

**BRUCE PETERSEN:** OK, the contractors and unions agree that only such bona fide employee benefits as accrue to the direct benefit of the employee such as pension and annuity, health and welfare, vacation, apprenticeship, and training funds, etcetera.

**BLOOD:** So provided, however, the contractors and the unions agree that only such bona fide employee benefits as accrue to the direct benefit of employee such as pension and annuity, health and welfare, vacation, apprenticeship, training funds, shall be included in this requirement and paid. So there's, there's a mutual agreement there between

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contractors and unions before the money is paid? Am I reading that wrong?

**BRUCE PETERSEN:** What I see here is that most companies would agree that those pension and annuity, health and welfare, vacation, apprenticeship, and training fund contributions would help the employees. The question is, which employees? My employees would not be signatory to the collective bargaining agreement for a long enough time to be able to have access to those benefits. We pay them just the same, but my employees would not qualify because typically we wouldn't register enough hours on a particular project to say, OK, now you qualify. You've been in long enough, you can start drawing benefits or enroll in training or sign up for the health insurance or draw any pension benefit from those contributions.

**BLOOD:** You know, and I'm not a lawyer and I never pretend to be, but I bet if I throw a rock in this room I'll hit a couple. But when I read it-- so the contractors agree to pay contributions to the established employee fringe benefit funds in the amounts designated in the applicable CBA in Schedule A, and that's where you originally stopped, provided, however, that the contractors and the unions agree that only such bona fide employee benefits as accrue to the direct benefit of the employee such as pension, blah, blah, blah shall be included in this requirement and paid by the contractors on the project.

**BRUCE PETERSEN:** Um-hum.

**BLOOD:** So are you saying that there's, there's not an agreement being made that they're just basically doing whatever the heck they want and this contract-- part of the contract means nothing?

**BRUCE PETERSEN:** Well, take a look at the next paragraph that I have highlighted. This also--

**BLOOD:** Adopt and agree to be bound by the written terms.

**BRUCE PETERSEN:** Of the legally established trust agreements specified by the detailed basis on which payments are made into the benefits and paid out of such trust funds.

**BLOOD:** Which is a natural progression after you guys meet and talk about it.

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**BRUCE PETERSEN:** Well, the point is the legally established trust fund agreements--

**BLOOD:** Um-hum.

**BRUCE PETERSEN:** --are gonna be those of the collective bargaining agreement.

**BLOOD:** Interesting. I, I think I'm reading this differently than you are but I'll listen to see what everybody else has to say.

**BRUCE PETERSEN:** So when we pay into those funds,--

**BLOOD:** Um-hum.

**BRUCE PETERSEN:** --typically at the employee level we're not paying enough into those funds for those employees to be eligible to draw anything back out of those funds in a form of a health and welfare health insurance agreement or coverage in the form of a pension benefit or in the form of training. So those are the three things that we're being required to pay into. And I agree, those benefit the employees but they benefit the employees of the collective bargaining agreement not by employees that are working on this job that are not members of a collective bargaining agreement.

**BLOOD:** So if I hear you correctly, you're telling me that contractors and unions aren't discussing this in advance even though it says in this particular contract that you do?

**BRUCE PETERSEN:** I'm, I'm sorry, I don't understand.

**BLOOD:** So again, I'm a real literal thinker. So when I read this, it's provided, however, that the contractors and unions agree. So how do you agree? Do you meet, do you talk, or is it just kind of understood?

**BRUCE PETERSEN:** Well, that's what's kind of insidious about this project labor agreement. Because as a company going about our daily business, we come across a project that is subject to a project labor agreement. Those terms are set in the bid documents. And it's, it's not a situation where we sit down and say, well, let's hammer this stuff out ahead of time. It is-- here's the conditions, you can choose to bid or not bid under these conditions. And if you choose to bid, your agreeing to these things that are stipulated which include paying

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into benefit funds that you know your employees are not gonna benefit from.

**BLOOD:** That you-- but it says that you come to an agreement once you-- if you do that.

**BRUCE PETERSEN:** Well, it's, it's a [INAUDIBLE] agreement that if you choose to bid, you're gonna bid under this set of circumstances. Not that you had any chance to have any input for the terms being set forth in the project labor agreement. It's, it's not unlike becoming signatory to a collective bargaining agreement that's already been hashed out and is in place. You don't have an opportunity to change the terms of that agreement, you have the term-- or you have the ability to sign a letter. The setup would say, OK, I agree with everything that's in this agreement even though you can't change anything about it.

**BLOOD:** So-- and I hear what you're saying.

**BRUCE PETERSEN:** OK.

**BLOOD:** But what I'm reading is different than what you're saying. And so I, I think I'm gonna talk to some lawyers when we're done here today and get some clarification on this particular paragraph. But I appreciate you help-- helping me try and understand this--

**BRUCE PETERSEN:** Um-hum.

**BLOOD:** --because I find that part really confusing. So-- but thank you.

**BRUCE PETERSEN:** Thank you.

**La GRONE:** Thank you, Senator Blood. Any additional questions? Seeing none, thanks for coming down.

**BRUCE PETERSEN:** Thank you.

**La GRONE:** Any additional proponents? Welcome to the Government Committee.

**BRANDON RAY:** Thank you, Vice Chairman La Grone and members of the committee and Senator Brewer as well. My name is Brandon Ray, B-r-a-n-d-o-n R-a-y. I'm the senior manager of state and local affairs at Associated Builders and Contractors out of the national office.

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Thank you for holding this hearing and allowing me to testify in support of Senator Brewer's bill LB151. As of today as we've discussed, 24 states have preserved fair and open competition while-- by prohibiting government-mandated PLAs to some degree on taxpayer funded construction projects. There are countless cases of government-mandated PLAs gone wrong and where policies like this in LB151 have been vital in protecting a state's taxpayers and small business. As discussed, multiple studies of hundreds of taxpayer funded construction projects across America found PLA mandates increase the cost of construction between 12 and 18 percent. A recent study done in May 2017 by the Beacon Hill Institute found, for example, that PLAs raise the base construction cost of Ohio schools by 13.12 percent equating to \$23.12 per square foot relative to non-PLA projects. The use of these discriminatory policies has been threatened in the past on Nebraska projects including in 2010 when efforts were made to place a PLA on the Haymarket Arena right here in Lincoln. Some might posit that this legislation is unnecessary because PLAs are used infrequently here in Nebraska. The same opponents will also go on to tout the perceived benefits and positive impacts of government-mandated PLAs which are based not on evidence but on biases against merit shop contractors and workers that have declined to join the union and are seen thus as adversaries. I would take issue with both of these positions. There would be no reason to speak up in such support of the use of government-mandated PLAs and then try to convince this body of their benefits while at the same time denying that there is no threat of their use. Opponents of this common sense legislation support the use of PLAs and stand against fair and open competition for one simple reason: to preserve that option as a tool to shut out competition and secure market share for their contractors and discriminate against hardworking, qualified, safe, and taxpaying merit shop contractors across this state. Today, America's construction industry faces a labor shortage estimated between 400 and 500,000 jobs. Eighty-seven percent of the construction work force nationally has chosen not to belong to a union. In Nebraska, 91.2 percent of the construction, construction work force does not belong to a union. If work is procured under a government-mandated PLA, local union workers will not be able to possibly fill all jobs and would require nonlocal, possibly out-of-state union workers before local nonunion contractors would be able to bid. Employing government-mandated PLAs in the bid process for public works projects in the state unnecessarily excludes nine out of ten construction workers that are supporting the same projects with their own hard earned tax dollars. In fact, the combined, the combined total of tax

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dollars, as referenced earlier by Mr. Buchanan, used for state and local construction in this state amounted to over \$1.7 billion in 2017. Protecting that amount of money from unnecessary cost increases, decreases in competition, delays, and discrimination is not a solution in search of a problem. It's simply good government and proper-- good governance and proper stewardship of taxpayer dollars. It's another piece in the strong foundation the state's bidding and procurement process is built on. The process state and municipalities must use to award public projects is already heavily prescribed including the method of bidding, determining bidder responsibility, the rejection of bids, and other aspects of the bidding process. This legislation clarifies the appropriate role of the public owner with regard to a contractor's labor affiliation. As you can see in my testimony there, there's plenty more expounded upon and I'm happy to answer any questions.

**La GRONE:** Thank for your testimony. Are there any questions? Senator Blood.

**BLOOD:** Thank you, Vice Chair La Grone. And thank you for your testimony.

**BRANDON RAY:** Yes, ma'am.

**BLOOD:** I never thought I'd meet anybody that spoke faster than I did so good job.

**BRANDON RAY:** Try to fit in all I can.

**BLOOD:** And you enunciated very well. I just noticed that pretty much everybody's proponent is from ABC.

**BRANDON RAY:** Yes, ma'am. We represent primarily merit shop contractors. So in, in our association alone that's 21,000 contractor members, 69 chapters across the country, which I would argue is probably only a fraction of that 87 percent of the contractors in this country that are nonunion.

**BLOOD:** Oh, I agree. So did you bring this bill to Senator Brewer then?

**BRANDON RAY:** This Chapter did and has asked me out of the national office to, to help. I've been a part of this issue in other states where they've-- you know, depended on us to help provide resources and, and be a part of the, the conversation.

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**BLOOD:** So do you think these types of contracts will ultimately resolve the elimination of cost overruns by organizations?

**BRANDON RAY:** Do-- I, I don't know if I understand your-- what types of contracts, the project labor agreements--

**BLOOD:** Um-hum.

**BRANDON RAY:** --themselves? Will they result in cost overruns or prohibit cost overruns?

**BLOOD:** I think they will eliminate cost overruns.

**BRANDON RAY:** I do not think they will eliminate cost overruns. I think that project labor agreements as we've seen multiple examples of contribute to cost overruns due to the lack of competition by limiting the pool of eligible bidders or at least bidders that feel eligible to, to submit a bid.

**BLOOD:** So there's four or five things that experts believe contribute to cost overruns. Can you tell me what some of those are?

**BRANDON RAY:** Limited competition at the cost of wages and that is not to say that wages should be decreased in order to submit a low bid. But in jobs such as these that contain project labor agreements, as Mr. Petersen pointed out, those are things that are decided ahead of time. They're included in a bid requirement. We already have a prevailing wage policy in place in Nebraska that ensures prevailing wages put on projects receiving public money. Project labor agreements are not necessary to ensure proper wages are being paid. It is simply a way to enrich coffers that these employees will not be able to draw from.

**BLOOD:** You know, it's interesting you said that because yesterday and today I did a bunch of research and, and I come up-- when I looked at cost of-- at the-- when there's overruns that didn't come up in any other research that I saw. It was inaccurate project estimates, serious project design errors, not plan-- planning for change orders, site management.

**BRANDON RAY:** And I would argue that all of those things absolutely can contribute to cost overruns on projects. That does not exclude this specific policy from also contributing to cost overruns and there's plenty of research out there about that. And I would also argue that when comparing contractors you also have to keep in mind-- I think



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many times when there's cost overruns on projects, that's contractor specific, not labor affiliation specific or willingness to sign on to a PLA that you had no input in, in designing. So when there's a contractor that's not obviously performing their job as they, they bid, I would, I would argue that's, that's contractor specific not, not due to the fact that they are either a union or nonunion contractor which is what these PLAs get to the heart of.

**BLOOD:** So what is the average wage for your-- the employees for your members?

**BRANDON RAY:** It all depends on their trade. It all depends on where they are, what their station is and in their career. So I--

**BLOOD:** Pick the, the most-- the, the, the top three trades within your organization. What would you say that their average hourly wage is?

**BRANDON RAY:** Honestly and respectfully I can't-- I don't feel comfortable answering that--

**BLOOD:** OK. Fair enough.

**BRANDON RAY:** --and providing inaccurate information. I would defer to, to contractors to provide that information. But at least at Associated Builders and Contractors, I know across the country, our contractors are very proud of the benefits and the wages that they provide their employees and it's not some race to the bottom to see who can get away with, with paying their employees low wages.

**BLOOD:** And I'm not implying as such.

**BRANDON RAY:** Understood.

**BLOOD:** All right. Thank you.

**BRANDON RAY:** Thank you.

**La GRONE:** Thank you, Senator Blood. Any additional questions? Seeing none, thanks for coming down.

**BRANDON RAY:** Thank you very much.

**La GRONE:** Any additional proponents? Seeing none, we'll now move to opposition testimony. First opponent. Welcome to the Government Committee.

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**FELICIA HILTON:** Thank you, acting Chairman La Grone and members of the committee. Thank you for having me today. My name is Felicia Hilton. I am the political director and government affairs director for the North Central States Regional Council of Carpenters. I cover Iowa, Nebraska, and South Dakota so I'm very familiar with this type of language going around the country.

**La GRONE:** Sorry, could you spell your name real quick?

**FELICIA HILTON:** I'm sorry, F-e-l-i-c-i-a H-i-l-t-o-n.

**La GRONE:** Thank you.

**FELICIA HILTON:** Sorry about that. First, I just want to say that LB151 the Government Neutrality in Contracting Act is a bill that prohibits the use of what is known as project labor agreements by the state and all political subdivisions. So right now we do not have a mandated PLA in any of the subdivisions or political subdivisions in Iowa-- or I'm sorry, in Nebraska and I don't believe that we have a mandated PLA provision in the code here in Nebraska. The project labor agreements are management tools utilized by-- primarily on large projects. So we're talking about football stadiums. We're talking about primarily large projects that really do try to implement project labor agreements. There are local communities that have made specific projects that they're building or constructing a project labor agreement. But they're all-- it's just a tool in the toolbox. Private sector uses it when they feel that it's necessary to, to have a project labor agreement in order to have the project built with the specificity or the timetable and to make sure that all of the construction professionals are working together in a uniform fashion. And it sets the time that workers or the, the tradesmen will go to work. It sets their vacations, their holidays, so it's making sure that within the agreement that everybody is working together and it's typically on large projects. And currently there is nothing in state law that encourages or discourages the utilization of this type of tool. And we think it should remain that way. The following attributes of the project labor agreements show why it's important to political sub, sub-- sorry, political subdivisions to have this tool in their toolbox. I also want to state that I feel like one of the reasons why there is a push around the country to take away this ability for public entities to be able to use project labor agreements is because there is a-- since that paying the wages and preventing misclassification on jobs, preventing-- some of the local governments are doing this to actually protect taxpayer money from being used on

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workers that are being misclassified, being abused in construction and through excessive work not wanting to pay overtime. Those types of things so we do believe that local governments that have used this are doing it to make sure they're protecting not only the, the tradesmen in the middle class but also protecting-- sorry about that, but also protecting taxpayers as well.

**La GRONE:** Thank you for your testimony. Are there any questions?  
Senator Blood.

**BLOOD:** Thank you, Vice Chair La Grone. Thank you for your testimony. I just want to make sure we're clear on this. So right now in Nebraska, there are no mandated PLAs?

**FELICIA HILTON:** No.

**BLOOD:** So no mandated PLAs?

**FELICIA HILTON:** No mandated PLAs.

**BLOOD:** Nothing that forces local, county, state agencies to do this?

**FELICIA HILTON:** No. But it is a tool in the toolbox currently where since it is an option public-- political subdivisions could use a PLA to build something significant that they wanted to build. The federal government does still use project labor agreements. There's a federal courthouse being built into Des Moines right now. It's under a PLA with the GSA. So it isn't something that the federal government does not do. They do PLAs quite a bit. So it isn't something that's-- you know, that the federal government has, has banned. But there are no mandates to use a PLA. It is discretionary and most-- it's mostly used depending on the type of, of project that's out there. And in this legislation it basically turns anyone that's submitting for a contract to become a public contractor. So it changes, in, in our opinion, the definition of a contractor regardless of their status as a union or nonunion into a public contractor as well as their employees or anyone performing the work. The subcontractors that are engaged in the construction also become public contractors. And then if you are a subcontractor under the new term of public contractor you are considered-- that's when you're considered a subcontractor. If you're a contractor under the public contractor in this language. And you know, that concerns us as well because I'm trying to figure out why would construction and the construction industry be singled out and have a term of being considered a public contractor for doing a

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contract-- a public contract basically, where I don't see this in any other language where a contractor doing business with a public entity would become a public contractor. And if they subcontract any aspect of the work that's where the term subcontractor comes in. So it's kind of-- it's, it's confusing for, for me to understand why it would do that. And it basically prohibits a local government from not only just being able to say, you can't do a PLA on vertical construction, it includes horizontal construction, utility projects, energy projects, so it covers construction in a vast manner and prevents a local government from being able to use this tool if it were to want to use it for some other type of project outside of something that's vertical as well. And so the scope of it and the fact that it includes-- it encompasses construction for the state and local governments overall not just vertical, they use a school building. But if you read the, the language in Section 3, and it-- and I'm sorry, under line 17, it basically covers the whole gamut of anything that you would do in the construction industry. And then they change the term in Section 4, I believe. When you go into Section 4 [SIC] and you look at line 12, they changed the term to a public contractor and defined it as a firm, partnership, limited liability company, corporation. All of these things become public contractors. And so I don't really know what the implications of turning private contractors into a public contractor because they've submitted a bid. And then it keeps the term when it's talking about who is discriminated against-- it's saying it discriminates against bidders or a term that would discriminate against bidders, public contractors, and subcontractors, which I'm assuming that this term would be project labor agreement. But in the language because it's just-- it's so broad and it covers everything and it takes away local governments' ability to address each project individually and that's what these are for so you can have design-build. You can have a project labor agreement. You could have a Lease Purchase Agreement. There are many types of agreements under what they call public-private partnerships. There's tons of things that it depends on its project base. It depends on the project, the size and the scope of the project, how fast it has to be built. There was a project where it was a natural gas factory. I'm sorry, a natural gas plant in Marshalltown. It was private. It was under a PLA. But it was six tens, and in construction that means six days a week, ten hours a day. It had to be built within five years. They wanted the natural gas-- you know, running within five years. It opened before that. But it's because it was a very specific time sensitive project. It's not on every energy project out there but this natural fired gas-- natural gas plant had to be up and running in a certain time,

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and so that is why it was under a PLA. But within that PLA, it did mandate six tens. It, it described-- you know, what days you're off, when everybody comes to work, what time work starts, the shift switches-- the shift differential if you're working night shift. But the bottom line is that was everybody that worked on that project. So it was whether you worked the morning shift, the swing shift, the night shift, it was six tens. Everybody worked six days a week, ten hours a day. That was in the agreement. And it's the end user-- it is the developer that comes up with the specifications of why this is important and why this has to be developed under this manner. It isn't the union, it isn't the, the signatory contractor, it is the developer. So if it's a developer that's building something and that's what they want whether it's public or private, that's how you come to-- you know, what tool they would use to build this project. And it makes no sense to ban the state or any political subdivision from being able to use this tool.

**BLOOD:** So-- sorry, I didn't mean to cut you off.

**FELICIA HILTON:** Sorry. That's OK.

**BLOOD:** I want to make sure that we're going question and answer and we're not extending your testimony because then I'd get in trouble. So if this bill were to not pass it really wouldn't change anything because we're not mandating that everybody does it. It's optional.

**FELICIA HILTON:** Right.

**BLOOD:** All it would do would be to take away that optional tool from the municipalities or the organizations that would like to utilize it.

**FELICIA HILTON:** Right.

**BLOOD:** OK. Thank you.

**La GRONE:** Thank you, Senator Blood. Are there any additional questions? Seeing none, thanks for coming down.

**FELICIA HILTON:** Thank you.

**La GRONE:** Any additional opponents? Welcome to the Government Committee.

**SUSAN MARTIN:** Good afternoon. Good afternoon, members of the Government, Military and Veterans Affairs Committee. My name is Susan

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Martin, S-u-s-a-n M-a-r-t-i-n, representing the Nebraska State AFL-CIO and our members in option-- in opposition to LB151. We do stand in opposition specifically because the legislation prohibits government mandated project labor agreements. A project labor agreement is a project management tool designed to ensure on time, on budget results for a given project through a streamlined labor relations policy. PLAs improve efficiency by coordinating the work of the multitude of subcontractors and craft workers engaged on a specific construction project and have been used for generations on successful public and private construction projects. The use of PLAs do not restrict competition by shutting out nonunion contractors. On public projects, all contractors, union and nonunion, are invited to submit bids. Nonunion contractors can be found on many PLA projects. PLAs simply create a level playing field for all contractors by standardizing labor conditions on a particular project. There's a few points that I think are important to consider as you weigh this legislation. Project labor agreements may provide benefits that we feel are getting overlooked and this legislation would do away with those benefits. Project labor agreements help to establish clear boundaries and expectations for projects whereby a contractor and workers agree to establishment of minimum, minimum terms and conditions for employment. These clearly established expectations lead to higher productivity, better work for better pay, as well as standardizing rules for work hours, safety, drug testing, and all the others. All of these factors lead to projects that are done to the benefit of all parties, the contracting agency, the contractor, or subcontractors, and the workers. The decision to use a PLA should remain with the government entity or subdivision who are ultimately responsible for taxpayer dollars and know what is in their best interest. Third, project labor agreements can be used by public project owners like school boards and city councils to set goals for creating local jobs. They may include provisions for targeted hiring and apprenticeship ratios. By including requirements for local workers to enter union apprenticeship programs, the project labor agreements can be used to help local workers gain skills which is one of Nebraska's work force development goals focusing on Nebraska's skilled work force. To close, I just want to say again that the provisions of LB151 was introduced as a means to help increase efficiency and reduce costs I'm sure. When in fact, we argue that that's not the case. Construction owners and taxpayers benefit the most because PLAs help to ensure greater efficiency on construction projects that involve many subcontractors and large numbers of craft workers from various trades. LB151 is more simply an attempt to put labor unions at a disadvantaged position when it comes

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to bidding for contracts and this is not good public policy. Thank you for the opportunity to testify this afternoon.

**La GRONE:** Thank you for your testimony. Are there any questions? Seeing none, thanks for coming down. Any additional opponents? Welcome to the Government Committee.

**CHRIS CALLIHAN:** Thank you. Good afternoon, Senators. My name is Chris Callihan, that's C-h-r-i-s C-a-l-l-i-h-a-n. I'm here representing IBEW Local 265, the Lincoln Building and Construction Trades Council, and the Omaha and Southwest Iowa Building and Construction Trades Council. I am testifying today in opposition of LB151, the adopt of Government Neutrality in Contracting Act. PLAs have been used-- have been around and used by public and private entities in the process of capital construction projects since the 1930s. We've have seen PLAs scrutinized by even the highest court in our country in a case from Iowa saying that a PLA violated Iowa's right to work statute, violated the state's competitive bidding standards, and was unconstitutional violation of due process, equal protection, and free association rights. The U.S. Supreme Court rejected those claims and upheld the PLA. I would ask you to think about this. What is the difference between a general contractor offering to take care of majority or all the trade crafts under one employer like a PLA? Or a general contractor offering to work as a construction manager or on a prime bid which means that they take care of securing the bids for the subcontractors. They both present a form of packaged deal to the customer or municipality. Both options are good tools that should be in the toolbox for all customers including private, state, county, city. All of the above who are looking to do a construction and maintenance projects. This brings me to my final point, PLAs have not been written. The contractor or government agency or private company can write it to mean any requirement provision or standards that they see that they want or need for their work or specific project. They could write a PA-- PLA stating that they want a certain percentage of minorities employed within the project covered by the PLA. You could see the University of Nebraska draft a PLA requiring that all construction workers wear scarlet and cream clothing on all their projects. You could see any entity write an appeal by just simplifying-- simply recontracting companies to utilize apprenticeship training programs or requiring access to basic health insurance to their employees. This allows if they choose to place a requirement that protects their taxpayer base by making sure that our taxpayer-- our tax dollars are spent in good faith by contracting companies

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paying good wages and benefits to the same tax base. This is not a union concept or idea. This is a good business model and it makes sense to have it in the toolbox for our government agencies and private companies both in Nebraska. It should be their choice to utilize, utilize this great tool. Please do not deny them the option of using this tool. Thank you for your time and listening for me today-- listening to me today. I'd be open to any questions.

**La GRONE:** Thank you for your testimony. Are there any questions? Seeing none, thanks for coming down.

**CHRIS CALLIHAN:** Thank you.

**La GRONE:** Next opponent. Welcome to the Government Committee.

**RON KAMINSKI:** Good afternoon, Chair and members of the Government, Military and Veterans Affairs Committee. My name's Ron Kaminski, K-a-m-i-n-s-k-i, and I am here today representing Laborers International Union of North America and the Omaha Federation of Labor. We are here in opposition to this legislation. LB151 has been introduced over and over again here in our Legislature. And it's clearly a government overreach that does nothing except lower wages and benefit-- benefits for construction workers in the state of Nebraska. It should be clear there was not one employee here today in support of this legislation. I took some time researching wage determinations in counties in Nebraska including, Dawes, Hooker and Sheridan. The prevailing wage in those counties averages \$10.24 an hour without health insurance or retirement. The same employee doing the same type of work in Douglas or Sarpy County, County gets paid approximately \$21 per hour with benefits. Our members make roughly \$32 an hour under our agreements, our union contracts. As the Nebraska Legislature is looking for revenue, we shouldn't be decreasing wages which hurts income tax or eliminate workers' benefits because wages are so low in some Nebraska counties. I am in, in clear opposition to this. And like I said, this is a clear overreach. The gentleman from Washington D.C., there's a couple of things I need to correct that he said. First of all, there is no prevailing wage when it comes to state funded projects in Nebraska. The only thing that is-- there's a prevailing wage is Davis Bacon, which is a project that is 100 percent funded by the federal government. Mr. Buchanan said 12 to 18 percent-- there-- that is just incorrect. I don't know where those numbers are coming from. Any type of, of research I've done, this is just to



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protect taxpayers within a political subdivision. So that's all I have.

**La GRONE:** Thank you for your testimony. Are there any questions?  
Senator Blood.

**BLOOD:** Thank you Vice Chair, La Grone. And thank you, Mr. Kaminski.

**RON KAMINSKI:** Yep.

**BLOOD:** So one of the things that I noted, and I said this earlier to, to Senator Brewer, it's been my experience at the municipal level and I saw it in other municipalities that were in the top five that frequently contracts that did not pertain to unions would outbid unions--

**RON KAMINSKI:** Um-hum.

**BLOOD:** --and consistently those are the contracts that we saw go over. Why do you think that is?

**RON KAMINSKI:** Well,

**BLOOD:** And I'm,--

**RON KAMINSKI:** -- to, to--

**BLOOD:** --I'm not against those companies in any fashion. I just always thought it was a curious--

**RON KAMINSKI:** I, I think that there's-- I think there's a lot of issues and I disagree with the gentleman that was here in support of this legislation. It is a clear race to the bottom. Contractors-- and we, we know situations in Omaha and in Lincoln where employees are misclassified so they don't pay any type of income tax. They don't have to pay any type of social security or employee benefits on those, on those people. There was a misclassification bill passed into law here in Nebraska. The problem now is they don't fund the enforcement of that. OK? There are cases where we have, quote unquote, visa farm workers that are coming up that are doing construction work. We have a situation where there's folks that are on visas that aren't even supposed to be working that we found on-- working with contractors that contracts with the city of Omaha. Omaha, in other areas, it's, it's trying to get that lowest number and they're all competing against each other. And if you can lower wages and benefits, your

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costs when you bid are lower. So I think a lot of the overruns are they probably intentionally do some of that stuff to ensure that they can get the contract and then they would come back and ask for more money.

**BLOOD:** Well, I want to be careful because I certainly am not here to [INAUDIBLE]--

**RON KAMINSKI:** And I'm not saying that's all contractors union or nonunion.

**BLOOD:** Yeah, I want to be really careful. Right.

**RON KAMINSKI:** Correct. Correct. Yep.

**BLOOD:** Because I just-- I don't believe--

**RON KAMINSKI:** Yep.

**BLOOD:** --that. But one of the things I've noticed in some of these agreements, too, and I know I've talked to you about this before is that there's so many-- they bring in layers of other organizations so they contract to contract to contract.

**RON KAMINSKI:** Um-hum.

**BLOOD:** And I've helped people try and get their pay--

**RON KAMINSKI:** Correct.

**BLOOD:** --because all of a sudden they can't find the people who contracted with people who contracted with people--

**RON KAMINSKI:** Very irresponsible.

**BLOOD:** Right. And they can't get paid.

**RON KAMINSKI:** Yep. Yep.

**BLOOD:** And I saw that happen more often than not and that always concerned me. So did you hear the-- I know, I know you're not a lawyer, but I'm just hoping that someone else can-- did you-- when I was talking about page 8, Section 2 of this contract--

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**RON KAMINSKI:** I heard a little bit of it. I would have to see a copy of it.

**BLOOD:** So I'm gonna read it to you--

**RON KAMINSKI:** OK.

**BLOOD:** --because I'm still trying to get this in my head. To me when I hear it, it says that they've communicated. So the contractors agree to pay contributions to the established employee fringe benefit funds in the amounts designated in the applicable CBAs in Schedule A; provided, however, that the contractors and the unions agree that only such bona fide employee benefits as accrue to the direct benefit the employee, like pension, blah, blah, blah, shall be included in this requirement and paid by the contractor. So without that agreement, do they pay that?

**RON KAMINSKI:** Without an agreement, no, not necessarily.

**BLOOD:** I mean this is, this is how I'm reading it, provided, however, that the contractors and unions agree that the benefits--

**RON KAMINSKI:** That sounds like that would be something that they would negotiate, agree upon before it's put within the, within the language.

**BLOOD:** Well even if they sign it, it's-- I think it's saying that they have to agree to the terms.

**RON KAMINSKI:** Correct. Correct. Yep.

**BLOOD:** All right. And again, I'm not a lawyer.

**RON KAMINSKI:** Yeah, and I don't, I don't-- I mean, I don't know that contract. And the thing about is we don't have any PLAs in Nebraska and never have.

**BLOOD:** Right, that's the part that confuses me.

**RON KAMINSKI:** I heard somebody talk about the Arena down here. Our members poured all the concrete on that Arena and there was no project labor agreement or never was a push for a project labor agreement.

**La GRONE:** Thank you, Senator Blood. Any additional questions? Seeing none, thanks for--

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**RON KAMINSKI:** Thank you, sir. Appreciate it. Thank you guys.

**La GRONE:** --coming down. Any additional opposition testimony? Welcome to the Government Committee.

**JOHN ANTONICH:** Thank you, members of the Government, Military and Veterans Affairs Committee. My name is John, J-o-h-n, Antonich, A-n-t-o-n-i-c-h. I am the executive director of the Nebraska Association of Public Employees of the American Federation of State, County and Municipal Employees. We are the collective bargaining agent for a majority of the Nebraska state employees, and I am here today to express my opposition to LB151. While LB151 may well-- be well intended, the language of LB151 is prob-- problematic for any worker currently under a collective bargaining agreement in the state of Nebraska who may want to work on a public contract in the future. LB151 specifically prohibits that under any request for a proposal that no term shall require, prohibit, encourage, or discourage bidders, public contractors, or subcontractors from entering into or adhering to a collective bargaining agreement. The fact that there is language in the bill about whether or not a contractor would even need to be required to adhere to an already existing collective bargaining agreement is not something that we can support. Furthermore, the language within LB151 would effectively prohibit the use of project labor agreements by the state and all political subdivisions. Project labor agreements are tools that are utilized for management on large projects which require multiple professions working in concert to accomplish the pro-- project efficiently and on time. The use of project labor agreements would require that existing collective bargaining agreements be adhered to in future public contracts. Currently, there is nothing in state law that encourages or discourages the utilization of this important tool at the disposal of the state in various political subdivisions. Project labor agreements should remain this way in order to protect the rights of the various workers represented throughout Nebraska. Again, I urge you to oppose LB151 because it does not ensure that existing or future collective bargaining agreements would be honored and it would make the use of the project labor agreements difficult which are a beneficial tool that the state and political subdivision can use to ensure the quality completion of a public project. Thank you, and I'd be glad to answer any questions.

**La GRONE:** Thank you for your testimony. Are there any questions? Seeing none, thanks for coming down.

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**JOHN ANTONICH:** Thank you.

**La GRONE:** Any additional opposition testimony? Welcome to the Government Committee.

**BARRY MAYFIELD:** Thank you. Good afternoon, Senators. My name is Barry Mayfield, Jr., B-a-r-r-y M-a-y-f-i-e-l-d, Jr. I'm the business manager and financial secretary of the-- for the International Brotherhood of Electrical Workers Local 22 out of Omaha, Nebraska. I represent 1,759 members and 102 nonmembers. Our electricians man work all over the state and parts of western Iowa. I'm here today to testify against LB151. From what I understand of this bill, the purpose is to introduce anti-collective bargaining language into statutes governing public subcontracts. LB151 also would discriminate against all employers seeking to bid on public contracts who have entered into collective bargaining agreements with their employees. Like you, I have heard of labor shortages. If you limit who can bid a project you are removing a choice for customers. I have personally never worked on a PLA and I don't expect to. A PLA doesn't increase any cost to a project. It protects the customer by making the contractor accountable for their work, safety on the job, and training that is needed to protect the bottom line. PLAs do not require bids from only unionized contractors. They do not require a nonunion contractor to become a union contractor. PLAs do not give an advantage to a union or nonunion contractor. They protect the customer that has chosen to have a project labor agreement. The jurisdiction, the jurisdiction I represent is accountable for 55 percent of the wage share for electric work being done which comes to over \$95 million. I would think you would want more accountability on taxpayer dollars. Taxpayers and private companies should be able to protect themselves which the PLA provides. Why would you create a problem that doesn't exist? The real reason some contractors choose not to bid on projects covered by PLA is that they don't want to be held accountable for their work in the manner in which it is completed. Less competition bidding a project drives up the total cost. And then a little off, off script, which I have just read to you, is I am on a trust committee and by, and by law and this is federally mandated that there is no contributions that can come to that trust by a nonsignatory contractor. A PLA does not entitle money to be shifted to a, a trust. A trust can only take that from a bargaining employee that is by signatory contractors. I just wanted to make that clear. And I would also respectfully ask the committee to IPP this bill. I want to thank you for your time today.

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**La GRONE:** Thank you for your testimony. Are there any questions? Seeing none, thanks for coming down.

**BARRY MAYFIELD:** Thank you.

**La GRONE:** Any additional opponents? Seeing none, any in a neutral capacity? Seeing none, Senator Brewer, you're welcome to close.

**BREWER:** Thank you, Senator La Grone. All right. The-- this bill is really-- I think a lot more simpler than some are making it here. State contracts should be awarded to qualified bidders that can do the work for the least amount of money. The bill was never designed or intended to be this giant anti-union bill or a pro-union bill. It just says that we should not prefer one over another. In fact, it makes sure that the state government isn't playing favors in the decisions. You know, part of our job as, as state senators is to be good stewards of state money and that's the idea behind this bill. So with that said, I'll take questions.

**La GRONE:** Thank you for your closing. Are there any questions? Seeing none, thank you, Senator Brewer. Before we close the hearing, we did have four letters from proponents, two letters in opposition, and none in a neutral capacity. And that closes our hearing on LB151.

**BREWER:** And do we have Senator Kolterman? We do have Senator Kolterman. All right. Senator Kolterman, welcome back.

**KOLTERMAN:** I haven't been here for a while.

**BREWER:** I know. It's good to have you--

**KOLTERMAN:** I'm missing out on all the fun.

**BREWER:** --it's good to have you back. Thank you for your, your patience. And let me get your bill up here and we'll kick things off. LB21. All right. With that said, welcome to the Government, Military and Veterans Affairs Committee.

**KOLTERMAN:** Chairman Brewer, and members of the Government, Military and Veterans Affairs Committee, my name is Mark Kolterman, M-a-r-k K-o-l-t-e-r-m-a-n. I represent the 24th Legislative District of Nebraska, and I, I appear before you today to introduce LB21. LB21 is intended to create a defined protest procedure under the Administrative Procedures Act for any contract for services awarded by any state agency in excess of \$5 million. As of now, Nebraska law does

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not provide an express right of judicial review of agency award decisions. The current appeal process is very limited allowing a, dis-- disappointed vendor to write a protest letter and to meet with the director of the Department of Administrative Services. Both the director of DAS and the Nebraska Attorney General have contended that protesting bidders do not have a right to judicial review regardless of the size of the contract award. By not allowing judicial review, this puts Nebraska at a disadvantage. Over half of all states and, and the United States Federal Government provides for judicial, judicial review of procurement decisions. Without an appeal process which includes judicial review, many companies could be dissuaded from investing in Nebraska. LB21 seeks to remedy this issue. If LB21 is enacted into law, the Department of Administrative Services promulgate rules and, and regulations establishing formal protest procedures for any services awarded by any state agency in excess of \$5 million. It is my intent that the \$5 million threshold be applied to an initial contract and not include the option of any extension years and I'm willing to be happy to work with the committee to address that issue. Under LB21, if the Department of Administrative Services receives a formal protest, the department shall provide a notice and hold a hearing for the contested case pursuant to the Administrative Procedures Act within 60 days after the receipt of the protest by the department. After the hearing, the department will issue its final decision and any party in any case may then appeal that final decision as laid out in the APA. Thus under LB21, the only way for a disappointed bidder to obtain judicial review will be to appeal the department's final decision to the Lancaster County District Court as set forth in the APA. Testifiers following me will highlight the need for this legislation both from a legal perspective and a business standpoint. With that said, LB21 would show vendors that they will be treated fairly during an appeals process and will give them certainty that errors in the award process can be corrected. As I stated earlier, I am willing to work with the committee to work on an amendment to clarify that only initial contracts exceeding \$5 million, \$5 million are to be covered by this legislation. But I believe the legislation will make Nebraska more business friendly and will help protect the state from awarding contracts to entities that may not be able to handle the contract as deficiencies could be identified during the appeals process. With that, I'm open to address any questions that you might have. Thank you.

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**BREWER:** Thank you, Senator Kolterman. OK, just for clarification. So the, the fiscal note on this bill is how much?

**KOLTERMAN:** I haven't seen the fiscal note yet.

**BREWER:** Oh, because I'm, I'm looking at it now and it's not-- it, it looks like '19-'20 is a hundred ninety- seven thousand five and then '20-'21 is two hundred thousand seven hundred and change.

**KOLTERMAN:** Yeah, I'll be honest with you, I haven't seen the fiscal note on it yet, Senator.

**BREWER:** I guess the concern is obviously with some of the guidance from the Speaker. Do you think he's going to push back if this bill came forward with the budget situation we have?

**KOLTERMAN:** Well, I think in light of the fact that we've had a lot of bills-- or a lot of contracts that have exceeded \$197,000. One, one example is we just heard of a, a process where we lost over \$60 million between state and federal aid.

**BREWER:** And that was on a computer program?

**KOLTERMAN:** It was, it was on a computer program. You know, in light of that fact, if we-- if it costs us \$197,000 to save several million I think it's well worth the money invested. And we'll, we'll talk some more about that. I, I just, more than anything, want to let people know that our process is flawed. And, and, quite honestly, I don't see where it's gonna take \$197,000. I think we'd more than save that amount. But I'm willing to fight that battle if it gets to the floor of the Legislature.

**BREWER:** All right, questions on LB21? You get off early in the start anyway.

**KOLTERMAN:** Yeah.

**BREWER:** You're gonna stick around for the finish.

**KOLTERMAN:** Oh, absolutely. I wouldn't miss it. Thank you.

**BREWER:** All right. The first proponent. Come on up.

**TOM KENNY:** Thank you.



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**BREWER:** Welcome to the Government, Military and Veterans Affairs.

**TOM KENNY:** Thank you, sir. My name is Tom Kenny and I appreciate the opportunity to testify in support of LB21.

**BREWER:** Could you just spell it, please.

**TOM KENNY:** It's Tom K-e-n-n-y, and I'm an attorney at the Kutak Rock firm in Omaha, Nebraska, and I practice in the area of litigation, defense, and procurement. And we work with clients through all stages of the procure-- of government procurements in about ten states. I have helped clients in government contracting matters and including the federal government. And I'd, I'd like to provide a little bit of legal background on LB21. First of all, there was a similar bill that was offered last year by Senator Schumacher, LB814, and that arose really out of a discussion with-- between Senator Schumacher, Senator Wayne, and I about an article that we wrote for the Nebraska Law Journal that pointed out what we perceived to be some serious gaps and flaws in the procurement system. And we wrote the article really as practicing lawyers. We were not representing any-- anyone. I'm not representing anyone here today. But as a practicing lawyer and a taxpayer, we identified through our participation in multiple protests here in the state of Nebraska some flaws in the system. So what would LB21 do? We would-- it would seek to correct some serious gaps in our procurement system by allowing for-- as Senator Kolterman mentioned, on service contracts, only the larger ones, \$5 million or more, limited right of agency review before an administrative law judge for the, for the agency and judicial review of the-- of a state's decision on who should be awarded these large contracts. The LB21 would require the agency protest process to be completed within 60 days, and LB21 would cut off any other form of legal challenge to the award decision. It would cause a protest to fall within existing law-- the Administrative Procedures Act, where we have a well-developed decisional law on what that statute means, what that means in terms of the agency's discretion and it would lead to more predictable outcomes we think. I think the bill would attract-- help the state to attract more quality national vendors to participate in more competitive pricing and lower pricing by bidders by creating a really a business friendly procompetition legislation that is entirely consistent with this administration's initiatives in those areas and consistent with best practices around the country. The existing procurement system, as the Senator testified, allows a contractor who submits a-- who spends

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hundreds of thousands of dollars in submitting a bid only the right to send a letter and have a meeting.

**BREWER:** I tell you what it's so rare that I get free lawyer time. Finish what you're reading there so I get to hear it.

**TOM KENNY:** OK. The, the existing system provides only the-- so if a large bidder comes in, is unsuccessful in protesting-- or in a, a contract award allows him only to have-- write a letter and have a meeting. It allows no formal review by the agency nor no review by the courts. And that really differs from other states significantly. It differs from what the federal government does. It differs from what the state of Nebraska does. If a state of Nebraska-- if a Medicaid patient, for example, in the state of Nebraska is denied a permission or approval of a \$200 walker that, that he or she needs to, to get around, that person would have a full administrative hearing right, discovery, depositions, administrative hearing before the agency and then judicial review for a \$200 walker. But if, if you're bidding on a \$750 million managed care contract or a \$50 million Medicaid Management Information Services contract you have no rights. You have the right to send a letter and have a meeting. We feel that LB21 is-- would help to Shepardize and safeguard taxpayer funds and would help to attract quality national companies to bid on our large contracts.

**BREWER:** Senator Blood.

**BLOOD:** Thank you, Chairman Brewer. Thank you for your testimony.

**TOM KENNY:** You're welcome.

**BLOOD:** Just real quickly. So listening to this, I guess I'm kind of surprised it doesn't already exist. Why does it not exist in Nebraska?

**TOM KENNY:** I'm not sure. I'm not sure, Senator.

**BLOOD:** Like [INAUDIBLE].

**TOM KENNY:** There is a, there is a-- an existing process that exists really by-- on the Department of Administrative Procedures Web site that allows you-- allows bidders to write a letter and have a meeting with the head of DAS. But unlike the state of Iowa or all of our surrounding states-- the majority of the states, if a-- and there's no threshold in the majority of states. I want to-- I wanted to point out that there were concerns raised last year with Senator Schumacher's Legislature that said, that this is gonna cost too much. It's gonna

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take too, too much time out of the agency's workload. And so we've-- Senator Kolterman has addressed that. Instead of having no threshold where you could protest any contract, now you can only protest a contract that is \$5 million or more. And instead of-- and in response to the concern about the agency's time and how long is it gonna take to get, get through this process, we've put a tight deadline, 60 days.

**BLOOD:** Right.

**TOM KENNY:** So from the time that the contract is awarded until the, the, the bidder would have 60 days to complete his hearing before or her hearing before the agency. And it's-- in, in my view it is-- Nebraska is an outlier in this area, it is very unusual and we have large clients that will come to us and say, what do you mean you don't have a protest process? What do you mean we don't get a hearing? So when we, when we come in and spend a million dollars putting a bid together on a large contract and we get a one page letter back that says, sorry, your protest is denied. And we have no ability to understand why the state made that decision, it's very frustrating. And we've had several large clients say, after going through this, we'll never come back to Nebraska and they haven't.

**BLOOD:** So if I hear you correctly, it also creates greater transparency?

**TOM KENNY:** Absolutely.

**BLOOD:** And makes-- holds people more responsible--

**TOM KENNY:** Yes.

**BLOOD:** --for their actions. Is that correct?

**TOM KENNY:** Yes, it does.

**BLOOD:** Thank you.

**BREWER:** I was gonna ask the same questions, I'm shocked. The, the figure that Senator Kolterman talked about, the 60-plus million, that was a DHHS contract with computers. I'm trying to remember what, what the details were with that. Do you-- are you familiar with that at all?

**TOM KENNY:** I, I am familiar, Senator. I was not involved as, as an attorney for any of the parties there. But I think that, that involved

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a DHHS-- a technology services contract that was procured through the Department of Administrative Services. And in that was-- a decision was made in 2014 to award that contract to a company out of India by the name of Wipro or Wipro, W-i-p-r-o. And the-- just late last year that contract was cancelled after a loss of \$60 million. So the question becomes, if there had been a-- that the type of process that Senator Kolterman wants to have here where you have an agency hearing and then the ability of judicial review. Would that have changed the result? I don't think we can say for certain what would have happened. We do know that, that contract was protested back in 2014, and there was no administrative hearing, there was no judicial review. And there's other large contract failures in the state of Nebraska that, that I-- that we've been involved in. Back in 2007, there was a-- the MMIS, Medicaid Management Information Systems, contract was procured and the state awarded that contract to a-- an employer-- a technology company out of Arizona with 75 employees. They awarded it over a, a large contractor with 20,000 employees. And, and we happened to represent that larger company and there was no protest allowed and that case ended up going into litigation. But after two years of work on the contract, the state of Nebraska fired the, the winning bidder. They had no idea what they were doing. We had paid them \$8 million and they hadn't performed the service. So I think that, that this level of review-- additional review on, on the larger contracts we're spending a lot of taxpayer dollars, would be more likely to ferret out the unqualified bidder or the bidder that would have-- that would, that would not be able to perform.

**BREWER:** This is very interesting. Thank you. Senator La Grone.

**La GRONE:** Thank you, Mr. Chairman. And thank you, Mr. Kenny, for being here. Just a couple quick questions. I, I might be misremembering, but was there a case-- and you mentioned the 2007 incident, but wasn't there a Nebraska Supreme Court case recently on this-- relatively recently on this topic?

**TOM KENNY:** I, I am not sure that I'm familiar with that, Senator, if there was.

**La GRONE:** OK, I thought it preceded your article but I may be wrong on that. That's why I was curious if, if there was or not. And you start-- began to touch a little bit on the differences between LB814 and LB21. If I'm remembering LB814 correctly-- and correct me if I'm wrong here. I'm remembering that a lot of the discussion was about creating certainty in these contracts and essentially how would-- you

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know, how would we be able to award the contract and get the work going if there's this elongated protest procedure? Can you talk about why the 60 days was included and how that 60-- whether or not and I'm assuming you would say it would since you-- you know, are in favor of the bill, whether or not and how that 60 days would address that concern?

**TOM KENNY:** Well, first of all there-- in LB814 there was no time limit--

**La GRONE:** Um-hum.

**TOM KENNY:** --on, on when the procedure had to be-- the administrative hearing had to be completed. So this would put-- and, and this would be similar to what the, the state of Iowa has that the-- from the, from the day that the contract is awarded the, the protesting party has to com-- has to file its protests and complete the entire hearing if they want to do depositions or collect documents and things like that. It has to be all completed in 60 days. So that would, that would address the delay question. And I think one other way to address that would be if the agencies knew that, that they-- that there was going to be this process they could try to, they could try to release their RFP and you know, build that time-- that 60-day time limit into their procurement schedule. And that way it wouldn't have any impact on when the contract went into effect.

**La GRONE:** And you somewhat anticipated my next question which is, how does that 60-day timeline or the process set up by LB21 in general compare to other states? You mentioned Iowa, was this modeled off of Iowa?

**TOM KENNY:** That provi-- that particular provision was modeled after Iowa. And the, the rest of it is-- you know, the Nebraska's Administrative Procedures Act is, is well-developed. The judges know what it means. The, the state agencies know what it means, and it does-- you know, for the-- those at the agency are concerned about having someone second guess their opinion, the Administrative Procedures Act allows wide discretion to the agencies to, to make decisions. But it says, that it does have some limits. And it, and it-- and the, the court would review-- you know, whether the agency's decision was arbitrary and capricious in which case the contract award might be overturned. But if it's within-- you know, the range of

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reasonableness that is well-developed in the state, I-- then it would be approved, and it wouldn't add any delay in that case.

**La GRONE:** So how does that process-- obviously, I know it's not gonna match up perfectly since our APA has a long history in, in the state. But how does that process compare to other states that have-- that use this similar process?

**TOM KENNY:** It, it would be similar to most states that I'm familiar with and the federal government would all rely on the Administrative Procedures Act in terms of-- you know, what is a contested case hearing? What is the standard of review? How much discretion does the agency have? And, Senator, I think I know what you're-- the Supreme Court case that you're referring to is a-- it's about a 20-year-old Supreme Court decision.

**La GRONE:** So it wasn't recent.

**TOM KENNY:** It wasn't that recent, but it did come up recently in the Heritage Health protest litigation. And in that case the Nebraska Supreme Court said, that if there's a violation of state law, then, then there is a presumed to be prejudice and, and it is presumed-- there is a presumption that an injunction should be entered against-- you know, going forward with the contract. And that did come up in the Heritage Health litigation where the state of Nebraska-- where, where the protest-- there was a protest filed. It went into state court, and the state of Nebraska took it out of state court and removed it to the federal court and argued that Nebraska Supreme Court law did not apply so that they could, so that they could avoid having an injunction entered. But I think that's the case, and I think it's Rath v. City of Sutton is the name of the case.

**La GRONE:** And just offhand, this is the last question. You don't by chance have the Heritage Health cite off the top of your head do you?

**TOM KENNY:** No, but I'd, I'd be happy to provide it to you.

**La GRONE:** I can get it from counsel, that's fine. Thank you.

**TOM KENNY:** Sure.

**La GRONE:** Thank you, Mr. Chair.

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**BREWER:** All right, additional questions? Seeing none, thank you for your testimony.

**TOM KENNY:** Thank you, thank you very much.

**BREWER:** All right, the next proponent. Senator Kolterman, we grilled him pretty hard. Hopefully, that takes some of the questions away from you.

**KOLTERMAN:** Yeah.

**BREWER:** Welcome to the Government, Military, and Veterans Affairs Committee.

**DAVID KARNES:** Yes, thank you, Mr. Chairman and members of the committee. My name is David Karnes, K-a-r-n-e-s, 1650 Farnam Street, Omaha, Nebraska. I appreciate the opportunity to share on behalf of the United States Information Technology Industry Council, their strong support of LB21. The Council represents more than 90 member companies, each one among the most sophisticated, successful, and talented companies in America involved in the delivery of hardware, software, services, and solutions of information and communications technologies exclusively to the private sector. Please note in my materials the Council membership list which is attached is a copy. The Council's focus is on federal, state, and local levels of government and the Council advocates exclusively for improved procurement policies and the implementation of best practices by the public sector. As an advocate for the leading technology companies in our country, most of which compete regularly for state and federal technology contracts, the Council is committed to promoting fair, open, and thorough procurement mechanisms in states in order to employ the opportunity for the selection of the most qualified vendors quickly and as effectively as possible. It is our belief that the need for a streamlined and transparent review process for major state procurement contracts in Nebraska is long overdue requiring the Department of Administrative Services to treat significant procurement decisions, those of the contract value in excess of \$5 million as cases to be considered under the Nebraska Administrative Procedures Act ensures both good business practices for the state and due process for those competing for contracts in Nebraska. Indeed more than 30 states and the federal government provide a similar best practice contract procurement process as found in LB21. Providing independent but limited agency and judicial review in these procurement decisions will help protect all stakeholder's and the taxpayer's interests in

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Nebraska and ultimately attract more qualified and experienced companies to do business in Nebraska and compete for these very important state contracts. Under current law, the state of Nebraska provides no express right of judicial review of bid protests for vendors leaving final decisions of protest disputes to the discretion of the Department of Administrative Services. And unlike in most states at the federal level-- and at the federal level bidders in Nebraska have no right to an agency hearing and no express right to even limited judicial review. Nebraska's large contract procurement process has been unchanged for many, many years. It is fundamentally out of step with what is happening with the majority of the states including most of Nebraska's neighboring states and also the federal government. Because of this, many high-performing vendors which our Council represents may decide and have decided not to focus on contracting for contracts in Nebraska. The state of Nebraska prides itself on being business friendly and the Legislature must act to ensure that it continues to promote the inclusion of qualified national vendors through a truly competitive and fair process. To graphically demonstrate the cost to the state and its taxpayers of not incorporating the best practices of LB21, I direct your attention to the last attachment in my materials which is an editorial from December 18, last year. It is entitled a \$60 million lesson for the state of Nebraska. This references that the state has had to pull the plug on two major computer projects after spending more than 12 million of state taxpayer dollars and 54 million of federal taxpayer dollars. The issue was contractor nonperformance. The process of LB21-- that LB21 establishes could have helped the state be apprised of and alerted to potential contractor past and future performance issues. The editorial concludes by saying, these state contract failures should spur state officials to hold private vendors to high standards, set rigorous monitoring in place, and negotiate contracts that minimize taxpayer vulnerability to needless financial obligations. Complex projects, the editorial continues, sometimes don't go as planned, but it's imperative that government do everything possible to protect taxpayers from undue costs and frustrations. We call that a \$60 million lesson for Nebraska. LB21 is a step in the right direction for Nebraska to ensure all stakeholder's and taxpayer's interests are protected in the procurement process and will help attract more qualified vendors in state solicitations, ultimately leading to greater competition costs-- and cost savings for Nebraska, consistent with the vast majority of other states and the federal government procurement procedures. Chairman Brewer, I thank you for



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the time to present this testimony and to the committee, and I'd be happy to answer any questions on behalf of the Council.

**BREWER:** All right. Well, thanks for your, your testimony here. Actually some of the questions I had of you, you answered in your, your opening here so I, I, I didn't know the split of the \$12 million versus-- with the \$54 million federal. Questions for Mr. Karnes? This is very good, thank you.

**DAVID KARNES:** Yeah, thank you.

**BREWER:** OK, next proponent. Come on up.

**KERRY WINTERER:** Afternoon.

**BREWER:** Sorry, I was, I was busy looking at notes here.

**KERRY WINTERER:** I was expecting my welcome.

**BREWER:** Well, you know, welcome to Government, Military and Veterans Affairs. It's, it's been one of those days. Anyway--

**KERRY WINTERER:** It's been a long day.

**BREWER:** You're, you're getting the green light. You're clear to go.

**KERRY WINTERER:** You have my testimony which is being distributed. I may not follow that a hundred percent because I don't really want the dreaded red light--

**BREWER:** OK. [LAUGHTER]

**KERRY WINTERER:** --coming up here. Good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Kerry, that's spelled K-e-r-r-y, last name is Winterer, W-i-n-t-e-r-e-r. I am a former CEO of the Department of Health and Human Services. I am here today to testify in favor of LB21. I want to address the bill from my perspective as the head of a state agency. As I'm sure you are aware, DHHS is the largest department in state government and lets many, many large contracts. And the department cannot do its work without an efficient, effective, and unbiased contracting process. Let me just take a minute and talk about the process as existed based on my five and a half years of experience at the head of that agency. For large contracts, there's almost always a protest by one or more unsuccessful bidders because a protest process

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begins and ends inside DAS with the director having the final decision on the merits of the protest and protests are rarely upheld. The protester is very rarely satisfied with that decision. This often results in the protester attempting to find a legal theory in order to get into the courts and sometimes because there is no independent right to appeal to the court may include the protester coming up with theories that says, I'm a taxpayer and I have the ability to bring it into court or whatever. From the agency's point of view this protracted period is a period of uncertainty. Although the contract has been awarded and may even have been executed, we would always be looking over our shoulder watching the litigation proceed and concerned that the court might determine the contract award was not valued-- valid with serious consequences for delivery of our services. This could mean that some steps of implementation would be delayed waiting for the litigation to be finished. An example of this situation is a contract for a new Medicaid Management Information System which was a contract signed prior to my tenure at DHHS but was being implemented when I arrived. As you might, might imagine this was a many, many multimillion dollar contract. The state at that time was embroiled in a lawsuit brought by an unsuccessful bidder doing what I had previously described in terms of trying to litigate their rights. Another concern from the contracting agency's perspective from in this case DHHS is a need to be able to rely on the soundness of the procurement process and that it yields the most qualified contractor and the best contract for the benefit of the state. The fact is that without the procedure we're talking about at this point there is little or no effective outside for objective review of the criteria or the process that results in awarding a bid. And because a protest is, is decided solely by the director of DAS there is no objective evaluation of the merits of a protest. In the case of the MMIS project, that contract was awarded to a small company with little track record and without the resources to fulfill the contract requirements. This became painfully clear to me when I came on and one of my first actions was to terminate that contract and return to the drawing board for the MMIS project at considerable cost to the state. I don't know what DAS's position on this change may be. I do know after speaking with a former director of DAS that he very much disliked the role of deciding these protests feeling ill-equipped to understand fully the issues raised in the protest and that without some compelling argument he had no reason to differ with his staff who had made the award decision. In his case he would have welcomed another stage of objective appeal. Some may be concerned that this will greatly increase the amount of litigation against the state. This

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bill, as you've already heard, applies only to contracts over \$5 million. But whatever litigation resolves will be-- will in my view provide more credibility to the procurement process as well as providing encouragement for bidders who may now be discouraged about the current process. And I think this is important, litigation may well decline in the future as court precedents are set and potential protesters may be better able to evaluate their prospects for success-- successful appeal. I'm sorry, I didn't avoid the red light, but I would welcome any questions.

**BREWER:** And, and I, I-- part of it, too, is, is normally it's five minutes, we've cut you to three and when you plan this and you did your, your testimony you, you planned around five, so. And plus I'd, I'd like to give some headway where we're really actually getting information. Your, your background is invaluable in this very issue. So you know, I, I, I just thought you needed some leeway to make sure that we understand where you're coming from and why. Questions? Thank you for your testimony.

**KERRY WINTERER:** Thank you.

**BREWER:** Having someone who has been in that role explain this is very helpful.

**KERRY WINTERER:** Thank you.

**BREWER:** All right, next proponent to LB21. All right, opponents. Come on up. And if, if you need to go over, I, I understand it-- it's only fair, I'll let you do the same. But with that said, welcome to the Government, Military and Veterans Affairs.

**BO BOTELHO:** Thank you. Good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee, my name is Bo Botelho, B-o B-o-t-e-l-h-o, and I am the current interim chief executive officer for the Department of Health and Human Services as well as the chief operating officer for the Department of Health and Human Services and the former chief operating officer of the Department of Administrative Services. I am here today to testify in opposition to LB21 on behalf of both agencies. This bill is attempting to effectively overturn a Federal District Court's ruling that upheld the state's current bid protest statutes and procedures. You have that case being distributed now. The current bid protest process requires bidders to submit a written protest to the materiel administrator in DAS within ten days of the posting of the intent to award. Then the

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materiel administrator provides a written response within ten business days. If the protesting bidder is not satisfied the company has ten days to make a written request to meet with the materiel administrator and the director to set up a-- the protest meeting in person. They can skip the first step if they want and go directly to the in-person meeting if they wish. At this meeting, the bidder has the opportunity to present concerns or objections. The DAS director, with the advice of counsel, provides a final written decision within ten business days. The contract proposals are available to the bidders on the State Purchasing Bureau's Web site upon the issuance of the intent to award and any remaining records can be reviewed at the agency's office or obtained through the state's public records request process. So they have all the information they need for the protest. The current bid protest process takes approximately three to six weeks to complete. LB21 moves this process under the Administrative Procedure Act, thus creating a right to the contract. And although the bill attempts to cut off a protester's attempt to go directly to state or federal court, unlike LB814, which was a similar bill proposed in 2018, it does not prevent a court case, it adds more litigation. The Administrative, the Administrative Procedures Act begins with a hearing before a hearing officer, presentation of testimony in evidence, cross examination of witnesses, request for discovery, requested subpoenas, requests for protective orders, just like a court case any application of rules of evidence. The estimated process and timing of a protest on LB21 would be something like this: filing a protest within 10 days, those are current rules. The parties would have to mutually agree upon a hearing officer, 1 to 14 days; notice of a hearing has to be issued in 30 days, assuming everyone is available and prepared to proceed. The hearing could be delayed due to procedures listed previously, estimated at 1 to 3 additional months; hearing 2 hours a week-- 2 hours to a week; preparation issuance of the hearing officer's ruling up to 30 days; period to file an appeal of the hearing officer's ruling, 30 days; the District Court of Lancaster County is currently scheduling matters 3 to 6 months out; the time for district court judge to consider the record and issue a ruling another 30 days; period to file an appeal to the district court again you have 30 days. The Court of Appeals is currently scheduling matters 3 to 4 months out; time for an appellate court review of the record and issue a ruling, 30 days. Both courts have the option of remanding this to any lower level for additional procedures, procedures. The process under LB21 could result in a delay of an estimated 60 days and the estimated maximum of one and a half years. It has been the agency's experience that there could be multiple bid

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protests filed regarding the same intent to award. And upon sustaining one big protest, another protest is likely. It is important to remember the department at times contracts so they end when the new contract is coming into place requiring the bid process to happen quickly. Otherwise, the agency would have to resort to emergency contracts or extensions of contracts with the existing vendor, which are limited by statute and could add an additional unquantifiable cost to maintain the continuity of services. I've listed out the number of protests from 2018 to 2014 that would fall under this bill: 2018, 3; 2017, 10; 2016, 10, 8 in the range of \$5 million; 2015 was 1 protest; 2014, it was 5. And in those years, I've also demonstrated-- or listed out the number of, number of those protests of contracts that would fall within the \$5 million range. There are also concerns that state contracting decisions would be placed in the hands of a hearing officer that likely has no experience in contracting or in the laws, regulations, or contract implementation for complex programs, such as the Medicaid program. Protests often attack the evaluator scoring of proposals, as was the case in 2016. The Federal Court disagreed with the attack finding the evaluators' pertinent backgrounds and vast business experience gave them sufficient subject matter expertise to evaluate the corporate overview in sections of the RFP. Finally, the issue of whether or not our current bid process is fair was answered when the Federal District Court said, the evidence before the court indicates the state fairly, openly, and judiciously exercised its statutory authority in both the initial evaluation and the limited reevaluation. The Department of Administrative Services takes protests seriously to protect the integrity of the state's bidding process. If a legitimate mistake is identified or the agency has shown that the process was not fair, then bid protests are sustained and corrections are made. Thank you.

**BREWER:** Thank you, Bo. All right, questions? Well, you must have done a pretty good job because that was really-- leaning really hard toward Kolterman and then after you got done [INAUDIBLE] as far as it was, but we'll give him a chance to defend himself here. Seeing no questions, thank you for your testimony.

**BO BOTELHO:** Thank you.

**BREWER:** Are there any in the neutral capacity here? All right.

**KOLTERMAN:** Don't sell me short.

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**BREWER:** I just had to ask. Senator Kolterman, welcome back, and you are free to go ahead and close on LB21.

**KOLTERMAN:** Well, first of all, I started working on this, this summer and I want everybody here to know that I did reach out to DAS with a copy of the bill. I reached out to the Governor's Office-- his-- with a copy of the bill and asked for their suggestions or their improvements. We patterned this bill after Iowa and we tied it into the Administrative Services contract. You know, as far as right now my question is and this is where we differ from what the administration and Administrative Services have said, you can have court cases now. Those are gonna go on. We're giving you 60 days to at least have a formal turnaround. If it-- if after that it doesn't work, everybody's got the appeals process where they go to a district court. So that's really not a lot different than what we have today. Actually, it improves on it because we've given them 60 days that they didn't have in the past. The real question is if you look at the page that I believe Senator Karnes passed out with the ITI public sector members on it. You'll see some 90 members on there, big-time names, and I'm, I'm just gonna mention a few because-- you know, you got AT&Ts and you've got, just as an example, Samsung and you've got Toyota and Oracle and Corning. I mean, those are all huge companies that do a lot of governmental entity business. If we're in a situation which they're telling me that people are not gonna come to the table because they don't like our process and they don't feel they're being treated fairly, how much of that can we put up with? If we don't get the, the best of the best in a fair manner, we're not doing our jobs. The other question to me is, how many more million dollar contracts can we afford to cancel after we've invested in them? I mean, we've heard of \$60 million, \$12 million, \$14 million, it's going on. Doesn't, doesn't appear to be any attempt to stop that. This bill would stop that. It would be an attempt-- it would be, it would be better than what we've got now. Again, I'm not here to throw Administrative Services or the administration under, under the bus. I believe what we're laying out is a process that everybody can live with. It spells it out in statute exactly how the process would take place. And I don't know why we wouldn't want to do that because we're all about business, and we're about doing it in an efficient manner. That's, that's everything I hear is-- you know, let's cut through the red tape. Let's set things up so we don't have that stuff on a regular basis. So we've got the bill in front of you. Is it a perfect bill? No. Sorry, there isn't such a thing. Can we improve on what we've got? Absolutely, we can. Again, I'm willing to work with the people involved but they've got to

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meet us halfway. So you've got a bill in front of you. I'd like to see you move it to the floor. I'd like to have the debate on the floor so we can talk about this. I think it's fair to the taxpayers of this state that we got to quit-- think about if we'd had that 60, 72 million dollars where we'd be today, maybe some property tax relief. I mean, we hear that every day, property tax relief. Well, \$72 million can go a long ways towards that, plus, we might have had something that was done by now. We don't have a project. We've got to start over and go back to square one from 2014. We lost some time on that, time is money as well. So with that I would open it up to any more questions. Appreciate the opportunity to be here today.

**BREWER:** All right, thank you, Senator Kolterman. Yet, when I was reading through Bo's testimony here on the second page about in the middle, it says the process under LB21 will result in a delay of estimated minimum-- estimated-- estimated a minimum of 60 days and estimated maximum of one to one and a half years.

**KOLTERMAN:** Well, the 6-- the 60 days, Senator, is as maximum under the appeals process. The one and a half years is if they decide to take it to the district court if they don't get their way and decide to appeal it farther. That's when you get into the one and a half years because we don't-- we can't control the timeframe that the district court will take it out but they're met-- they're-- I assume they're, they're making the assumption to be at least one and a half years.

**BREWER:** So as it is now, it can still go to the district courts for resolution.

**KOLTERMAN:** Absolutely.

**BREWER:** OK.

**KOLTERMAN:** There's nothing to prevent that. It's already happened.

**BREWER:** All right, additional questions? I hate it the two lawyers aren't here to grill you, but I guess--

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

**BREWER:** --we'll make the best of it.

**KOLTERMAN:** They can, they can, they can drill me later.

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**BREWER:** Maybe. All right. Well, that--

**KOLTERMAN:** Three, three lawyers.

**BREWER:** --concludes our public hearing on LB21. There are no letters in support, opposition, or neutral. And that concludes our Government, Military and Veterans Affairs Committee hearing today.