

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee February 10, 2022

**BREWER:** Good afternoon and welcome to the Government Committee. I'm Senator Tom Brewer from Gordon representing the 43rd Legislative District, and I serve as Chair of this committee. The committee will take up bills in the order posted on the agenda. Our hearing today is your public part of the legislative process. This is your opportunity to express your opposition or support for different legislation before us today. The committee members might come and go during the hearing. This is just part of the process, some have bills in other committees to present. I ask that you abide by the following procedures to better facilitate today's procedures. First, silence your phones. And please, when it's time for the bill that you're going to speak on, move forward to the front row if you're going to be coming up as the next speaker, presenter. Introducers may make-- the introducer will make the, the initial statement followed by proponents, opponents, and those in the neutral. Closing remarks are reserved for the opening senator. If you are planning to testify, please pick up one of the green sign-in sheets at the back table. Please fill it out completely and print. When you come up-- when you come forward to testify just pass it to either one of the pages or the committee clerk. If you do not want to testify here today, but you want the record-- to have it in the record that you're attending, there are white sheets on the table and that will go into the official hearing record. If you have handouts, make sure that you have ten copies and give them to the page when you come forward to testify and they'll make distribution to the committee. If you need copies, please let one of the pages know and they can make copies. When you come up to testify, please speak clearly into the microphone. Tell us your name. Please spell your first and last name so it's actually recorded. We will be using a light system for all testifiers here today. You will have five minutes to make your initial remarks to the committee. A yellow light will come on with one minute remaining. And when the red light comes on, you need to end your presentation. No displays of support or opposition to a bill vocal or otherwise will be allowed in this hearing. Committee members with us today, I will start on my right with Senator Blood.

**BLOOD:** Good afternoon. Senator Carol Blood, representing District 3, which is parts of Bellevue and Papillion, Nebraska.

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

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

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

**BREWER:** Dick Clark on my right the legal counsel, on the corner over there is our committee clerk, Julie Condon. Our pages today, Bhagya, raise your hand there, and the other one is Sophia, somewhere back there behind the chair. And let's see-- so we will go ahead and move for the first bill of the day for LB1165. Senator Sanders is presenting in another committee, and so she has someone to fill in for her. Go ahead.

**KENNETH PANCAKE:** Yeah. Good morning, Chairman Brewer and fellow committee members. For the record, my name is Kenneth Pancake, K-e-n-n-e-t-h, and just like the breakfast, P-a-n-c-a-k-e, and I'm presenting on behalf of Senator Rita Sanders of District 45, which includes much of the Bellevue and Offutt communities in eastern Sarpy County. The senator has bill in Appropriations today. She sends her regrets. So today we're introducing LB1165 to clarify the timing of levies resulting from bonds passed by a ballot initiative. We'd like to thank Senator Walz's office, the League of Nebraska Municipalities, the Nebraska Association of County Officials, the Attorney General's Office, and the Auditor's Office for working on this concept with us. So currently, when a municipality approves a bond through a ballot initiative or any governmental entity, that entity, whether it be a, a city or a school district, it begins to collect that levy before actually having the issued bond in hand. This helps avoid long delays in enacting the purpose of the bond. It also makes the process fairer. Hypothetically, let's pose that a vote of the people in, we'll say, Fremont Public Schools approves a bond. Let's also posit that it takes five years to have the actual bond in hand for the sake of argument. In that time, new residents have moved in that did not vote to approve that bond. Also, minors have reached voting age. They also did not voice their opinion on that bond. But if the district was forced to wait until they had the bond in hand to exercise the levy, those people would pay that tax the same way others in the Fremont community would. There's a basic principle that when voters approve a levy, you more accurately tax those that approved it, the quicker you begin. Again, that whole process is how it currently works. But attentive eyes in the Attorney General's and Auditor's offices have studied the issue in the past year. As it turns out, the actual statute is ambiguous regarding the legality of that process, so they've asked for clarification in state statute. This bill does that by simply adding a quick phrase into the Nebraska Budget Act in three places. This whole process is very technical, but there are testifiers following me that can explain the process in more detail. Thank you for your time and

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attentiveness for that long-winded explanation, and please feel free to contact our office with any questions or concerns.

**BREWER:** All right. Thank you. We don't ask questions of staffers, but this is more just kind of a, a general information. Do you know who's going to be following to speak on this?

**KENNETH PANCAKE:** We have a few, Christy from the League, NSBA [SIC] is here. I think NACO, NACO's here, and then auditors will be testifying as well.

**BREWER:** How many did you bring in opposition?

**KENNETH PANCAKE:** Don't know of any. I hope I'm not surprised.

**BREWER:** You have no letters in opposition or--

**KENNETH PANCAKE:** Oh, great news.

**BREWER:** --neutral so we'll look forward to hearing. Thank you for that opening. All right. And you won't have to close. So just take copious notes and you'll be fine. All right. The first proponent to LB1165. Uh-huh, he was serious. You really were here for this.

**CHRISTY ABRAHAM:** I was. I got it. Thank you.

**BREWER:** Christy, welcome to the Government Committee.

**CHRISTY ABRAHAM:** Thank you so much, Senator Brewer. It's good to see you. My name is Christy Abraham, C-h-r-i-s-t-y A-b-r-a-h-a-m. I'm here representing the League of Nebraska Municipalities. We want to thank Senator Sanders for introducing this bill, and Kenneth did a great job of explaining it to you. We just want to talk to you a little bit about why the League supports it. We really view it as a issue of clarification and of saving taxpayer dollars. I am distributing a letter from Mike Rogers, who is a bond counsel from Gilmore Bell. I'm always reluctant to distribute things because the letter is always more fascinating than I am, but he does a really nice job of explaining sort of the timing and how all of this works. And I think, as Mr. Rogers explains in his letters, cities really don't want to borrow money until that project is very close to starting. If they have to issue the bonds or borrow money too soon before the project starts, that interest on that bond is going to start. So as, as Senator Sanders' staff explained, you kind of have to set your property tax levy in October. And other than this lovely year where you can apparently build something year round because it's never

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winter, most of the times you can only start building in the spring or the summer. So we really appreciate the clarity in this bill that even if the bonds have been approved and the levy has started in October, they don't have to issue those bonds until closer when the time of when it's actually going to be built, thereby saving all of that interest in those intervening months. So I agree this is a very technical bill. I'm happy to answer any questions you might have. But again, we feel like this is a clarification and a, and a taxpayer saving money issue.

**BREWER:** All right. Thank you for your testimony.

**CHRISTY ABRAHAM:** Sure.

**BREWER:** That was kind of the point I was making early on is it seems like this is a fairly commonsense needed thing so I-- I'll, I'll be anxious to see if anyone is in opposition.

**CHRISTY ABRAHAM:** Great. Thank you, Senator.

**BREWER:** Questions? Yes, Senator McCollister.

**McCOLLISTER:** Thank you, Chairman Brewer. Thank you for being here again.

**CHRISTY ABRAHAM:** Sure.

**McCOLLISTER:** Who came up with the, the terminology that makes changes in the bill?

**CHRISTY ABRAHAM:** Who came up with the terminology? That is a great question. I am going-- I would love to say it was the brilliant League of Nebraska Municipalities. It wasn't. I'm guessing it was a combination of the Auditor's Office and the Attorney General's Office. They both have been working with this issue and my guess is they are the ones who came up with the language in the bill.

**McCOLLISTER:** Well, specifically authorized to be issued by the governing body or the legal voters of the political subdivision, and only voters can be legal. So isn't, isn't the term "legal" redundant?

**CHRISTY ABRAHAM:** Well, that is a good question. Perhaps that is superfluous, maybe you don't need legal voters, maybe you only need the voters of the political subdivision. That's a good question. I, I do believe the Auditor is going to testify at some point. You might

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ask them, but I don't know that we would have a concern about taking away the word "legal" if that's important,--

**McCOLLISTER:** Thank you.

**CHRISTY ABRAHAM:** --Senator McCollister.

**McCOLLISTER:** Thank you, Mr. Chairman.

**BREWER:** All right. Any other questions? Thank you.

**CHRISTY ABRAHAM:** Thank you, Senator.

**BREWER:** OK. Next proponent. Welcome to the Government Committee.

**CANDACE MEREDITH:** Thank you. My name is Candace Meredith, that's C-a-n-d-a-c-e M-e-r-e-d-i-t-h, and I am the deputy director of the Nebraska Association of County Officials, also known as NACO. And I am here today in support of LB1165, and thank you to Senator Sanders for introducing this bill. I am going to repeat some of the things that was said before me here, but when voters or the members of the governing body have approved the issuance of a bond, LB1165 would allow a bond to be included in a political subdivision's budget to enable a tax levy for bond principal and interest prior to the bond being issued. As it is now, a political subdivision must wait until the bond is issued to add to the budget to start a tax levy which can create cash flow issues and higher interest accrued due to delayed payment schedules. So establishing a tax levy at time of bond approval along with setting up a timely payment schedule can reduce interest on that bond payment, which will then help reduce that tax, tax asking for the bond. So thank you for your consideration, and I'd be happy to take any questions.

**BREWER:** All right. Thank you, Candace. Let's see if we have any questions for you. Senator McCollister.

**McCOLLISTER:** Yeah, thank you. Thank you, Mr. Chairman. Where did this bill come from? Who, who asked for this bill if you know?

**CANDACE MEREDITH:** As, as, as was mentioned before, I believe it was coming-- suggestion from the Auditors, but I think they would probably be able to answer that better than I can.

**McCOLLISTER:** OK, thank you. Thank you.

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**BREWER:** OK. Any other questions? All right. Thank you for your testimony. Next proponent. Welcome to the Government Committee.

**ROBIN RICHARDS:** Good afternoon. My name is Robin Richards, R-o-b-i-n R-i-c-h-a-r-d-s. I am here today as a representative of the Nebraska Association of School Boards, and I appreciate the opportunity to speak in front of you. I am here in favor of LB1165, and would like to extend my sincere gratitude to Senator Sanders for addressing this issue and for helping us work towards a solution. I come before you to ask you to support this bill that would restore the authorizations schools in our state had prior to this fiscal year. The authorization allowed them to receive money to pay for bonds before the bonds are drawn. The recent interpretation of statute by the Auditor leaves districts in a place of taking on multimillion dollars in debt without income to pay for it. For several reasons, this could be catastrophic to the district should they not be able to collect the levy that they need to pay the debt. In both the Ralston and Fremont cases that you will hear about today, a simple technical correction will give them the room to do as the school districts in our state have always done, have income before taking on debt. We trust school boards to be good stewards of taxpayer funds, and this bill allows them to continue in the best interest of those taxpayers. Allowing them to collect money from the constituents that have already voted on the matter, you give the district's financial security while taking on these large financial burdens to better the lives of our students. Thank you very much for your time and your continued service to our state. Happy to answer any questions you might have.

**BREWER:** All right. Thank you for that testimony. Now the reason it has become an issue this year, and just so we get it on the record here, is that because of how the Auditor's Office has read the, the reg and, and determined that this is how it needs to be or did we do something last year that changed everything?

**ROBIN RICHARDS:** I believe that the Auditor actually changed the original retired and then the new interpretation, it changed a little bit the authorization the stu-- or schools had.

**BREWER:** OK. Thank you. All right. Questions? All right. Thank you, Robin.

**ROBIN RICHARDS:** Um-hum. Thank you.

**BREWER:** OK. Next proponent to LB1165. Proponents to LB1165. All right. We will go to opponents to LB1165. All right. Well, then we'll go to

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any in the neutral for LB1165. Uh-huh. Now we have the guilty party. It all comes clear. Welcome to the Government Committee.

**RUSS KARPISEK:** Thank you, Senator Brewer, members of the Government, Military and Veterans Affairs Committee. My name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, and I am the legislative liaison for Charlie Janssen, the State Auditor. I also have Jeff Schreier with me today who will probably hopefully be able to clear things up better than I can. I think the key word here is issued. The bonds issued. And a little bit, Senator Brewer, yes, we've had some turnover in the office, two people with over almost 80 years combined have left the office, Mary and Deann. So there are new eyes on things. However, as Jeff has told me, this really started with I think Douglas County, he can clear this up if I'm wrong, calling our office and hearing that there was a couple other places that were going to issue bonds without-- or sorry, start collecting the taxes, the levy before the bonds were issued. That's what caused us to look at the, the statute and say, well, it does say interest on bonds issued, so this does fix that. And it says or authorized before. And so we're very happy about that, and I think that clears that up. The other issue, though, that we do have and it maybe what kind of brought this up was what happens if those bonds are not ever issued. You start collecting the levy, the county does. Something happens, the bonds aren't issued, interest rates skyrocket. Just really go stretching here, but the city of Winslow was, was wiped out. What if they would have had something? And I know it's kind of far fetched. There was one TIF plan. I don't-- can't tell you where, but they were issued, they issued bonds and then did not-- or I'm sorry, they started collecting the taxes and did not issue the bonds. So I have talked to Christy with the League a little bit and really haven't come up with any language because we-- I don't feel that's my place to stick my nose in to, to, to creating language. Just to say if that happens, how does that money go back to the taxpayer? Is it the next year? Is it two years? I don't, I don't know. And again, there might be something else in statute that I was thinking the way that we give back on the real estate. I can't think of the right word right now, but you don't pay your-- the, the real estate taxes reduction might be a way to go about it. Anyway. So that's kind of a two-pronged deal, and I'm sorry to even bring that up, but we did not come up with this language in the Auditor's Office. I don't know who did. I'm just guessing Bill Drafters. I don't know. So I probably agree with Senator McCollister that maybe legal voters doesn't need to be. I don't know. I'm not in the Bill Drafting. So that's kind of the, the short of it. Again, Jeff has more experience

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with it. He doesn't want to testify, but anyway, I'll be glad to try to take any questions.

**BREWER:** All right. Thank you, Russ. I think that does help clarify things. Eighty years of experience, that'd be like, be like losing Patrick. I mean, that's a lot of experience.

**RUSS KARPISEK:** It is. It's-- it kind of worked well that they both retired together, though, because I think if one would have left, the other would have got everything dropped on them. So we've really had, in my opinion, a very good, very good transition. Craig Kubicek has stepped into Mary's role. Jeff Schreier has kind of stepped into Deann's role. And I sit right next to Jeff, I hear a lot of him talking with the counties with NACO. I'm on a county board, so I kind of-- I'm a little bit dangerous what I know and what he, what he's doing, I think I'm very happy with, so.

**BREWER:** That's good.

**RUSS KARPISEK:** But it is a new set of eyes. But again, this came to us with the question of can they really do that? Can they issue them before? And I, again, I think it's clear, bonds issued. So that fixes that.

**BREWER:** Well, I mean, it hurts to lose that much experience. But you know, a lot of times you talk to folks that are convinced that some towns are, you know, a couple of retirements or heart attacks away from actually making progress. So who knows. OK. Any other questions? All right. Thank you.

**RUSS KARPISEK:** You guys are easy on me. Thank you.

**BREWER:** All right. Additional neutral for LB1165. Oh, you're neutral, correct?

**JEFF SCHREIER:** Neutral. Yeah.

**BREWER:** Oh, there we go.

**LOWE:** He was neutral too.

**JEFF SCHREIER:** All right. Good afternoon, Committee. Like Russ said, my name is Jeff Schreier, J-e-f-f S-c-h-r-e-i-e-r. Maybe just a couple of clarifying things here. Like Russ mentioned it this last year, it was a little bit unique in that Douglas County reached out to us directly regarding whether or not these couple school districts could



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issue or start levying for these taxes on bonds that have not been issued yet. And it has, has been our office's long-term stance that the levy cannot be until the taxes-- or the levy cannot be set until the bond was issued. The problem comes in, in that we have about 2,500 budgets that come into our office by September 20 and the county board sets levies by October 15. So the reality is we just can't get through all of the-- reviewing all of those budgets. So in the past, maybe it looked like we did not have the opinion that the bonds needed to be issued. That's not the case. It was probably more of a case of we just didn't have the resources to get through all of those budgets and I identify that. And ultimately, most of the time the bonds do end up being issued. So we've never really made too big of a deal about it. So that's maybe just a little bit more background and we're kind of, our office, like Russ said, our only concern or kind of question maybe to be addressed by the committee is what happens if the bond's never issued. So like Russ mentioned, we don't really want to put our nose too far into that. We're just kind of here to enforce it. So with that, any-- I'll take any questions.

**BREWER:** All right. Thank you, Jeff. How long have you worked in the office?

**JEFF SCHREIER:** Since 2013.

**BREWER:** You don't look that old, just for the record, OK.

**JEFF SCHREIER:** Getting, getting close to ten years.

**BREWER:** All right. Well, did you notice a big change in your workload with the loss of the 80 years of experience?

**JEFF SCHREIER:** I, I did. It-- it's been a little bit of transition for sure, and definitely some new duties.

**BREWER:** So does that mean that with the number of years you have in the office, you're one of the old men now or--

**JEFF SCHREIER:** Well, we've got Russ sitting back there, so.

**BREWER:** That's a good one. I like that.

**JEFF SCHREIER:** Well, we also have a lot of young, young guys, too, right out of college. So I'm probably somewhere, somewhere in the middle.

**BREWER:** So what you're saying is Russ is your pillar of knowledge.

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**JEFF SCHREIER:** Well, I don't know if we want to say that, but.

**BREWER:** All right. Any, any questions? All right, seeing none, thank you for your testimony. All right, we are still in the neutral category for LB1165. Is there any other takers out there? Seeing none, let me read in-- all right, hey, we have no letters, opposition, support or neutral, so that's easy. We will now transition to the next bill which will be LB1096. And we will welcome to the hot seat our very own Senator Steve Halloran. Senator Halloran, as soon as you get notes.

**LOWE:** Glad somebody knows what they're doing.

**BREWER:** I don't want to make you a multitasker, so I'll wait here.

**HALLORAN:** All right.

**BREWER:** All right. Welcome to your Government Committee. You're welcome to start whenever you're ready.

**HALLORAN:** OK. Thank you, Chairman. Chairman Brewer and members of the Government, Military and Veterans Affairs Committee, my name is Steve Halloran, S-t-e-v-e H-a-l-l-o-r-a-n, and I represent Legislative District 33, which encompasses the counties of Adams, Kearney, and parts of Phelps County. I'm here today to introduce LB1096, which authorizes certain political subdivisions to participate in trust or investment pool administered and overseen by the State Treasurer. Nebraska is one of 23 states that authorizes private investment pools for local governments. There are currently two private local government investment pools in Nebraska, both created under the Interlocal Cooperation Act. LB1096 would allow local government entities to participate in a pool with state oversight. If passed, Nebraska would be the 30th state to establish a state-sponsored investment program, including eight states that have both private and state-administered investment pools. The authority granted in LB1096 applies to entities that we commonly think of as governmental or public entities such as cities, counties, school districts, and others. State government agencies are not eligible to participate and the bill appropriates no state dollars to operate the trust. The local entities listed in LB1096 already have statutory authority to make short- and long-term investments, but this makes the authority to participate the state-administered investment pool explicit. A state-administered investment pool provides a number of advantages for local entities. But chief among them is a benefit of competition in the market. By adding investment pool options, we can ensure that

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local entities using any program are getting the best return on their investment without jeopardizing the sacred guiding principle of government investing, safety of principle. Furthermore, creating a program under the State Treasurer can provide an additional level of oversight and transparency for pool participants and others considering utilizing the tool as part of their operations. LB1096 does not mandate local government participation or participants in the state-sponsored investment pool or make investments at all. At the end of the day, LB1096 is all about creating opportunities for Nebraska's local entities to make transparent and advantageous investments if they so choose. Thank you for considering this legislation, and I'm happy to answer any questions you have. In addition, I have an industry expert coming behind me who can help answer many or all those questions. Thank you for your consideration.

**BREWER:** All right, Senator, I thank you for that opening. Questions for Senator Halloran on LB1096? You'll stick around for close?

**HALLORAN:** I can.

**BREWER:** OK, good. I'll take that as a yes. All right, we will begin with proponents to LB1096. Sir, welcome to the Government Committee.

**CHRIS DeBOW:** Thank you, Mr. Chairman.

**BREWER:** Whenever you're ready, you can begin.

**CHRIS DeBOW:** Thank you, Mr. Chairman. Members of the committee, staff and guests, my name is Chris DeBow, C-h-r-i-s, last name is DeBow, D-e- capital B as in boy -o-w, and I'm here testifying in support of LB1096. Coming around the table, there's two documents. One of them is just some background information on my firm Public Trust Advisors. We are a-- an investment manager that specializes in managing government funds. We, we work nationwide and currently oversee about \$50 billion for over 5,500 governments. The secondary document is a word document, which provides most of the written testimony today. I plan to kind of walk through and describe some of the frequently asked questions about LB1096. The, the main reason that LB1096 is a great idea for Nebraska is that it will increase competition and ultimately lower costs, which means that the interest income at the local governments earn should increase all of the things considered. So let me start by describing what is a local government investment pool. A local government investment pool essentially allows two governments to come together and invest their money jointly, the same way two governments might come together and do a, a request for proposal and, and purchase

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pencils. They can do the same thing on the investment side. So when we refer to a L-- an, an LGIP, that is what we are referring to. A local government investment pool is typically reserved for the district's operating funds, bond proceeds, debt service reserves. It is not any of that pension or other long-term investments. A government can put a dollar in today into an investment pool, and they can take the dollar out tomorrow, and they would earn interest on those funds. So it's what we call daily liquidity. LB1096 is-- allows for any political subdivision or government in Nebraska, but it does exclude the state itself. One of the questions that oftentimes pops up is what does state sponsored mean? And as, as the senator pointed out, there is no funding appropriated by the state. State sponsored merely means that it is, it is hosted by a state official for oversight and procurement. Some states will have their state-sponsored LGIP in the Treasurer's Office. Other states may have it in the Comptroller's Office, but essentially that's what state sponsored means. There are no fees that are-- or no cost to the state. The fund, the local government investment pool fund, charges fees for its management and that's what pays the cost to operate the fund. Another commonly asked question is what about governance options? So most of the time, the state-sponsored funds will create an advisory board or a board of trustees that can be composed of the State Treasurer. Most of the time, in terms of governance, it is done-- the participants of the fund will elect the board of trustees, so it's run by the participants for the participants. You're probably asking why does Nebraska need a state-sponsored local government investment pool? And it really comes down to of the eight states that have both public and private funds, the state's program is the largest fund in the state and it's also the lowest cost. And this is extremely important because the higher the cost is of a program that means less interest for the underlying governments. So there are currently two private programs in the state and they each charge about .40 percent or what we call 40 basis points. Nationally right now, state-sponsored programs, the pricing is ranging in from 5 to 15 basis points. Senator Blood, you mentioned you were from the city of-- or the Bellevue area. Bellevue Public Schools last year had \$26 million in one of the two private funds. And if it was in a state-sponsored fund charging 15 basis points, they would have earned an extra \$65,000. So to a school district, that's material, that's real dollars that flow to the bottom line in terms of interest income. So there's a ton of benefits for local governments in Nebraska, and I've got about 30 seconds left, so I'm kind of want to make sure I hit on maybe one other point here. I have in here the difference between a fee waiver and a deferral. So I would encourage you to read the difference between a fee waiver and a deferral. But

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going forward, there are significant savings for local governments nationwide and here in Nebraska if you have a state-sponsored fund. So we would, we would-- we are proponents of the LB1096, and look forward to answering any questions that the committee may have.

**BREWER:** All right. Thank you, Chris. We're going to have to dig a little deeper here so I have a better understanding of this. Now, obviously, we want to make sure that these funds are secure. Do you have the same protection with FDIC as a bank would?

**CHRIS DeBOW:** The trust, the investments of the trust back, the, the investment program. So whereas if you put your money into a bank, the \$250,000, it's, it's backed by the full faith and credit of the Federal Deposit Insurance Corporation. In, in the trust side, the trust can invest in U.S. treasuries. It could invest in FDIC-back product, but it's ultimately the underlying investments that back the trust or the investment pool.

**BREWER:** All right, now let's go into the ability to control how that money is, I guess, going to be used as far as a selection of how that investment will be moved forward. The Treasurer then doesn't decide that, that's the-- how did you use the, the group that would have the oversight part of this? I mean, who, who decides what is invested in it?

**CHRIS DeBOW:** Yes, Mr. Chairman, so typically the board of trustees, again, that's, you know, could be elected by the participants, conducts the affairs of the trusts. Oftentimes, the board will procure and bid out the following services. They'll bid out looking for an investment manager. They'll look for an auditor. They'll look for an accounting firm, look for a legal firm. All of those services are typically outsourced. And so that's who would be doing those services on behalf of the trust.

**BREWER:** So the Treasurer would function similarly as a nonvoting member of that then if you wanted him in that capacity. If not, he's not really a player.

**CHRIS DeBOW:** Correct. The Treasurer could just serve in an honorary position or they could actually-- he could have a vote, but the bylaws can be created of the trust. They can be, you know, derived that the governance is structured however the, the state would like it.

**BREWER:** And you, you were kind of on it right at the end there when you're talking fee versus a referral.

**CHRIS DeBOW:** Yeah.

**BREWER:** Let's go over that just one more time.

**CHRIS DeBOW:** Yeah, so-- again, I ran a little bit short on, on time in the comments, but there's-- so in the local government investment pool world, typically, there's a fee that's assessed that runs that, that the, that the, the pool charges. When interest rates go very, very, very low, oftentimes, the providers have to waive the fees. And if you waive a fee, it basically-- you're sort of, you know, foregoing that fee forever. If you're deferring the fee, you start to accumulate those fees that you didn't collect because you couldn't otherwise, and your plan is to charge those into the future. So one of the funds in the state that's existing right now, the NLAF program actually has a deferral agreement where there's \$1.3 million in cost that were supposed to be charged last year that they didn't charge and they're going to carry that forward. And what I would tell you is on a national level, most funds, when they waive those fees, they waive them. They do not accrue them and do that. My company last year, we waived seven and a half million dollars of fees. So there's, there's-- the better way to do it is to waive it versus defer it.

**BREWER:** All right. That's, that's much clearer. Now you use an acronym there I'm not familiar with, so I'm not sure if everybody else here is too. And so we get it on the record, what-- NLAF, what is that, what is that?

**CHRIS DeBOW:** NLAF is the Nebraska Liquid Asset Fund. It is one of the two privately run local government investment pools in the state. The other program is NPAIT, the Nebraska Public Agency Investment Trust. And again, I would say for the record, that both programs have great providers behind them, has nothing to do with, you know, my comments relative to them. They are great, great service providers. Just the pricing structure that is out there right now is it seems to be very high versus what's available nationally.

**BREWER:** All right, well, I'm kind of been picking the time here. Additional questions? We'll start with Senator McCollister.

**McCOLLISTER:** Yeah, thank you, Mr. Chairman. What exactly is your company's role in this process? Do you offer the funds or you simply mediate the funds or what--

**CHRIS DeBOW:** So, so my company, Public Trust Advisors, we work on local government investment pools and we manage those in ten other

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states. So ten other boards of trustees have retained my firm. So if the state was to create a, a new local government investment pool, we would be one of the bidders that would be bidding on those services. And we do the investment management, the accounting, and typically the marketing. Those are the services that we provide.

**McCOLLISTER:** Perhaps you're not willing to disclose it, but what is your typical fee and how many basis points?

**CHRIS DeBOW:** So our typical fee is about 12 basis points. We are launching two new programs in the next 60 days. One is in the state of California and one is in North Carolina, and those are at 15 basis points, 15 basis points. So our existing business is at about that 12 basis points range and that's for all services. There's no other, other charges. We don't, we don't charge bank fees or that's it. It's all, all inclusive.

**McCOLLISTER:** When we compare the system you're advocating for versus our current systems, so is the, is the primary benefit lower cost?

**CHRIS DeBOW:** Yes, I would say the, the absolute primary benefit is, is lower cost.

**McCOLLISTER:** Thank you.

**BREWER:** All right. Senator Blood.

**BLOOD:** He actually answered my question.

**BREWER:** OK, we're good. Senator Lowe, no question?

**LOWE:** No question, Chairman.

**BREWER:** All right, give you a chance. All right. Thank you for your testimony.

**CHRIS DeBOW:** Thank you, Mr. Chairman. I just do want to say hi to my mom, who turns 70 tomorrow. She's watching online so [INAUDIBLE].

**BREWER:** All right, well, that's-- we've made a movie star.

**CHRIS DeBOW:** Thank you.

**BREWER:** OK, so we will go to additional proponents to LB1096. Any other proponents? All right, then we will transition to opponents. Well, it's been a while, but welcome back to the bank-- to the Banking Committee-- the Government Committee.

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**BOB HALLSTROM:** Thank you, Chairman Brewer-- same room-- and members of the Government, Military and Veterans Affairs Committee. My name is Bob Hallstrom, B-o-b H-a-l-l-s-t-r-o-m. I appear before you today as registered lobbyist for the Nebraska Bankers Association to testify in opposition to LB1096. As Yogi Berra so astutely said: This feels like deja vu all over again. Just less than a year ago, I was in this same room. Senator McCollister would have been there perhaps at that time with regard to the Banking Committee. But in regard to the issue of LB654. LB654 was introduced and it does basically what LB1096 does except some of the guardrails and some of the specificity contained within that bill has been removed. Ergo, the bill got referred to the Government Committee, but we're pleased to be before you today to testify. With regard to our opposition, I try to suggest that banks have always maintained and advocated that the best and safest place for the investment of public funds is in the local hometown bank. Those deposits are insured up to \$250,000 by the Federal Deposit Insurance Corporation and any deposits in excess of the FDIC-insured amounts are further secured by securities in collateral equal to at least 102 percent of the amount of the deposits in excess of the FDIC-insured amounts. As pursuant to your question, Senator Brewer, I, I don't think the assets in the investment trust have any similar type of protection. We believe that those public deposits should be placed in the banks and in the communities where the money is earned and put to good and beneficial use in the form of loans and investments to spur the local economy. The provisions of LB1096 again do not provide any guidance with regard to the investment options that would be available for local political subdivision funds. What we have found when I talked about the collateral issues earlier, we have by nature, I think, conservative and appropriately so local political subdivision treasurers who question the collateral that banks use to protect those deposits that are over and above the FDIC-insured limits, typically suggesting that only U.S. treasuries and government bonds should be utilized even though we have a long laundry list of permissible securities to use. In this case, I think we're putting the stamp of statutory credibility by having the Treasurer oversee and administer the program and perhaps are going to have local political subdivision treasurers having investments made on their behalf in investments that they would not directly deposit. My testimony suggests that there are other states where there are the investment trust or pools where there are specific educational requirements. Those states have deemed it important, Texas, in particular, that the local political subdivision officials are aware of the investments that can be made, the risks that are associated with that. They're required to adopt a formal investment policy in Texas to guide where their funds will be



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deposited in accordance with their risk factors and so forth. None of that is contained within LB1096. With that, I'd be happy to address any questions. I would note for the record, before you start questions, they say you learn something new every day. And what I learned today is a combination of terms that I had never heard before, which were Russ Karpisek and a pillar of knowledge. So with that, I'd be happy to address any questions.

**BREWER:** I'm-- I may be guilty of that comment.

**BOB HALLSTROM:** Well, I know he's not back to his office, so he didn't get a chance to hear you.

**BREWER:** Yeah, I'm sure he's watching on, on television enthralled by it all. All right, Bob, just so I make sure and get this clear. The example that you gave in Texas, the reason that you found that more, more attractive or better is that they have tighter limitations on how it's managed?

**BOB HALLSTROM:** Yeah, Senator, I don't think it's so much that I found it better, but I think it, it leads into my comments that related to the conservative nature of those local political officials to begin with that Texas has deemed it important, which I believe it probably is, that they understand and know that they are going to be-- have, have investments made that they perhaps would not be making directly. And to have that knowledge may actually guide whether or not they even participate in the, in the pool or the trust to begin with. And I think the other thing, Senator, that kind of speaks volumes with regard to this issue is we're not seeing those entities that would have the opportunity to benefit as, as the, the witness in support had suggested here today supporting the bill. We've seen a company that would like to have this set up, come into play. I don't know whether the State Treasurer has independently opined as to his interest in, in administering and supervising the program. Perhaps there's a letter that's, that's in the record for that to that extent, but we're not seeing those local political subdivisions, no hue and cry from them to come up and, and ask for this particular program.

**BREWER:** All right. Additional questions for Bob? Senator McCollister.

**McCOLLISTER:** Yeah, thank you, Mr. Chairman. How long have these kinds of funds, the LGIPs, been in existence?

**BOB HALLSTROM:** I don't know, Senator, when I did the research, I think some of them have been around for many years, but I'd have to go back

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and refresh my memory as to, as to exactly how long they've been in play.

**McCOLLISTER:** Have they've been in business long enough that they could have gone through the liquidity crisis we had 10 or 15 years ago?

**BOB HALLSTROM:** I would assume so. I believe, I believe that would be the case. The two that were mentioned by Mr. DeBow in Nebraska, the NLAF and the NPAIT, have been in existence for some period of time as well.

**McCOLLISTER:** Have any failed that you're aware of?

**BOB HALLSTROM:** Not that I'm aware of.

**McCOLLISTER:** Thank you, sir.

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

**BOB HALLSTROM:** Thank you, Senator.

**BREWER:** All right, additional opponents to LB1096? Good afternoon.

**COLBY COASH:** Good afternoon, Senator Brewer.

**BREWER:** Welcome to the Government Committee.

**COLBY COASH:** Good afternoon. Thank you, Senator Brewer, members of the Government, Military and Veterans Affairs Committee. For the record, my name is Colby Coash, C-o-l-b-y C-o-a-s-h, and I represent the Nebraska Association of School Boards, and we're here today in opposition of LB1096. School boards across the state have participated in an investment pool since 1988 is the length of time that districts across the state have participated in, in their government pool, which earlier was named. So I'll bring it up as the NLAF, Nebraska Liquid Asset Fund. In 1988 when political subdivisions were given the ability to do so, this is done by the consent of the school boards who participate. To cut to the chase, school boards aren't asking for state oversight over this. We've been doing it since 1988 very skillfully. It's been a great benefit to those districts that participate, and we, we would resist the idea of the State Treasurer taking on any responsibility around the, the investments that they're already managing themselves. We believe that if a board of Nebraska public officials are governing an investment pool, that pool should be subject to the local control and does not require any, any state

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involvement. This bill opens the door for a state takeover of the investment responsibility schools, and that is the nature of our opposition. There is adequate competition within the currently established investment pools and the network of banks that Mr. Hallstrom talked about that do not involve the state. So there is competition. Mr. DeBow is and his firm are, are allowed to compete for this business in the state and offer better service, and the districts who participate are, are welcome through their governance structure to, to take a look at that if the bid's put forth. Leave it at that, and I appreciate your time.

**BREWER:** All right. Thanks, Colby. Now just for clarification, so if LB1096 passed, that would not mandate any of the school boards to invest in them, it would just simply be another option or would it then force a path that's, that's different?

**COLBY COASH:** I don't see mandate language in the bill. But to, to the point of my testimony, we're not asking for another, another option. Public Trust Advisors can compete and come in and bid for the business of the current pools if they choose to. Their, their approach seems to be to get the state to sponsor it so that they can become a vendor for the state. We're saying we already have vendors. We have established pools since 1988. We'd prefer to keep it that way.

**BREWER:** OK. Questions? Yes, Senator Blood.

**BLOOD:** Thank you, Chairman Brewer. So I was listening to your conversation. I, I don't-- I read this as a mandate, "Any eligible entity is authorized to participate."

**COLBY COASH:** So the eligible entity, I believe in that, in that bill is, is the vendor.

**BLOOD:** Oh, OK, that's not phrased really great. We may have to [INAUDIBLE].

**COLBY COASH:** I'll leave that to the legal counsel to take a look. I don't have in front of me, Senator.

**BLOOD:** Are you-- so I was listening to the conversation earlier. So this came from the State Treasurer's Office?

**COLBY COASH:** I believe this came from Public Trust Advisors who testified in, in favor of the bill and ultimately, Senator Halloran.

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**BLOOD:** Of course. I mean, his name is on it, right? All right. I, I just-- I've talked to multiple entities that have concerns with this. So you're, you're bringing up more questions than I actually had. So I'm glad to hear you come and testify today. Thank you.

**COLBY COASH:** Thank you.

**BREWER:** All right, we're, we're going through the paperwork here, so what we'll try and do is when Senator Halloran comes up for his close to make sure that we, we get that clarified so we, we got it right, but--

**COLBY COASH:** Very good.

**BREWER:** --that's a good question. All right, any additional questions for Colby? Sir, thanks for coming in.

**COLBY COASH:** Thank you.

**BREWER:** All right, the next opponent to LB1096. Welcome to the Government Committee.

**CANDACE MEREDITH:** All right. My name is Candace Meredith, C-a-n-d-a-c-e M-e-r-e-d-i-t-h, and I am the deputy director of the Nebraska Association of County Officials, also known as NACO. And I am here today in opposition of LB1096. Nebraska public entities currently have a variety of avenues to effectively and safely invest funds based on the established sound policy created by this Legislature. Nebraska already has investment programs with local oversight that Colby just mentioned that are allowable in Nebraska. Counties have the option to invest in these cooperative investing programs that offer education and liquidity management tools with the oversight of local officials that understand how local public, public funds should be invested. Counties, for the most part, focused on liquid investment options as funds are received in one month and distributed to political subdivisions by the 15th of the following month. Counties do take special consideration in how they financially plan as cash reserves are limited by the Budget Act, which is another benefit to using a shared pool such as the established program, NPAIT, who has been around nearly 30 years for additional services like bond proceed management, cash flow analysis, and competitive fixed term bids. As we understand that it is not mandatory, which I know this to question now, that the State Treasurer will oversee an investment pool, we do not consider this that adding the State Treasurer to administer local investments would be a competitive option for counties as the services

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of the program ran by the state may not be customized to our local services. If a public trust is interested in building an investment relationship with Nebraska local officials, NACO would recommend that they collaborate with those stakeholders that are responsible for the local public funds to develop a program that would be a benefit to local public entities and their communities. Thank you for your consideration. I'd be happy to take any questions you may have.

**BREWER:** All right, thank you. I guess the first question I got is the way your testimony went is, is it seems like it's assumed that the State Treasurer is going to be in some capacity having either oversight or be a nonvoting member of the board. That wouldn't necessarily be true would it? I mean, he could, he could not have anything to do with any, any of this at all. I mean, is that right or do you read it different?

**CANDACE MEREDITH:** Right. It's, it's very vague on with how this reads so without the logistics of how this is going to be ran, it just seems very unclear.

**BREWER:** All right, additional questions? Sorry, about that delay there. Yeah, Senator McCollister.

**McCOLLISTER:** Yeah, thank you, Mr. Chairman. As I understand the crux of your argument, this is taking income and programs away from local banks. Is that the crux of the argument?

**CANDACE MEREDITH:** That, that is one of them. We-- you know, the counties do have wonderful banking relationships with those brick and mortar in their, in their counties and also the current pools that are in existence they do have-- it's just not just an investment tool for them, but there's other components to it, such as cash management tools, education pieces. It's just not the simple here's the pool, here's the investment. There's a give and take there. So when we're looking at these pools, it's just not simply just the investment piece. There's more responsibility that goes with it, and it's a collaboration.

**McCOLLISTER:** OK, thank you. Thank you, Mr. Chairman.

**BREWER:** Additional questions? Just one quick one before you go. The other states that do use the, the pool, the local government and investment pool that are in other, that are in the other states, is there an equivalent to NACO there and has there have been comments there about it?

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**CANDACE MEREDITH:** No, I have not had those-- there is associations in those other states, but I haven't had those conversations about this. I do know there is in some of these states, there is a difference in how the treasurers are appointed, elected, and how much education is offered in those states.

**BREWER:** OK. All right, well, thank you for your testimony. OK, still on LB1096. Any other opponents? Any in the neutral for LB1096? All right, then let's go to the letters. We have no letters in support, none in opposition, and one in the neutral. So with that, we will close on LB1096. Oh, I'm sorry, I got a closing to give-- you got a closing to give. Dang, I got, I got conditioned on that first one to no close. Wow, do I feel bad now. Senator Halloran, please forgive me.

**HALLORAN:** No, that's fine. Thank you, Mr. Chair, and thank you participants, people that testified, I appreciate it. It was, I think, very informative both ways. One, one thing, let's get some of the questions that were or comments that were made, my good friend Bob Hallstrom mentioned that other states, other states had requirements that participates in local government investment pools are required to be educated in the, in the instruments, the investment instruments so they're, they're intelligent in regards to how their investments are going. To my knowledge, the current local pools aren't necessarily required of that, but I can assure you almost any pool would do that. It's to the benefit of the pools, benefit of the management of that pool that they inform or help keep informed and educate the participants in the investment instruments. As I understand it, and I, I wish I could have been on the committee chair so I could ask the questions, my understanding, though, that some of the people that have testified and the people they represent receive what's, what's come-- what's called sponsorship in return for participating. That's a very nice word. I won't use another word for it, but it's, it's a certain amount of-- small amount of basis points they receive back for participating in, in their pools. The one we're proposing wouldn't do that. Ultimately, in closing, I mean, this is in the free enterprise system that we have, it seems kind of odd that we have, that we have this consternation about competition in, in allowing choice. To your question, Senator Blood, I think it was a question about whether it was mandatory or not. Clearly, it's not mandatory. It's just one more, one more pool that they can choose from. And these are all smart people that participate in these pools, and I believe-- I would trust their judgment that they would look into it, if not they find it advantageous, advantageous or not. Clearly the, clearly the cost of the pool, the basis points are, are-- is a dramatic difference and I

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think it would be an attractive option, an alternative for our local units of government.

**BREWER:** OK, you're done with your close?

**HALLORAN:** Yes.

**BREWER:** Senator Blood.

**BLOOD:** Thank you, Chairman Brewer. And thank you for answering that question, Senator Halloran. Senator Halloran, are you aware of any connection between our Treasurer and this organization? Do you know of, of any connection? I, I got to say I'm going to express my concern on record. So Aaron Bos, B-o-s, does that name sound familiar to you?

**HALLORAN:** It does not. No.

**BLOOD:** He is the regional director of Public Trust Advisors, previously worked for our State Treasurer in the unclaimed properties as an unclaimed property specialists. And then prior to that worked as the General Affairs committee clerk. So I'm always concerned when we have a path, that I'll research further, to an, an elected official and that people that come up here and talk about things that pertain to, to money. And I'm not saying you have a bad idea, but I just wanted to express that concern to you that there is this relationship, and I'm not sure that I'm comfortable with that relationship. So I'm hoping you and I can talk on the floor about it tomorrow.

**HALLORAN:** That would be fine. Could you explain that, that, that relationship or that potential relationship again?

**BLOOD:** So Aaron, A-a-r-o-n, and I'm not sure how to pronounce his last name, Bos, Bos, B-o-s. He's the regional director of Public Trust Advisors, which is where Mr. DeBow was from. Prior to becoming, and this was very recent actually, regional director of Public Trust Advisors, he worked for our State Treasurer. He says on his LinkedIn profile specifically for Mr. Murante as the unclaimed property specialist. And then prior to that, he was a General Affairs committee clerk here in the Legislature. I'm not worried about the committee clerk part. I'm worried about working in the office of the State Treasurer, stepping into a position and now magically, they're in front of us.

**HALLORAN:** Well, that may be a concern. I think if you look at all the interconnectivity in state government and federal government, you'd

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find many, many more onerous connections than that that we should be concerned with.

**BLOOD:** And no, no doubt and I find those concerning, too, so. I just want to make sure that whatever we do, we do for the right reasons. And you always like transparency, as does-- do I.

**HALLORAN:** OK, we'll talk--

**BLOOD:** So I just want to make sure that we're doing it for--

**HALLORAN:** --we'll talk off mike.

**BLOOD:** --the right reasons.

**HALLORAN:** And, and during Executive Session, we can have that conversation.

**BLOOD:** I'm happy to talk with you about it.

**HALLORAN:** OK.

**BREWER:** OK. Additional questions? Seeing none, thank you for that closing, and I apologize for nearly cutting you off.

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

**BREWER:** I was maybe trying to expedite the day and I overlooked you.

**HALLORAN:** I get overlooked a lot.

**BREWER:** Well, I didn't mean it quite that way, but OK. All right. We are now going to transition to LB1037. I'll have a second here to reset. All right. Senator Arch, it is good to see you. Welcome to the Government Committee.

**ARCH:** Good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. My name is John Arch, J-o-h-n A-r-c-h, and I am before you to introduce LB1037. LB1037, I've identified as my personal priority bill for the session. The bill comes out of a recommendation of the LR29 committee, is cosponsored by all nine members of the LR29 committee and all seven members of the Health and Human Services Committee. LB1037 directs the Department of Administrative Services to contract with an outside consultant to complete an evaluation of the state's procurement practices and report the results of that evaluation, including recommendations for improvement to the Legislature and the Governor by November 15 of this



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year, 2022. As I think you are all aware, the LR29 committee was formed last session in response to what was going on with the state's contract with Saint Francis Ministries. And just to briefly summarize what occurred, back in 2019, Saint Francis proposed a five-year case management contract for 40 percent less than the bid of the longtime incumbent contractor PromiseShip. DHHS and DAS announced their decision to award the contract to Saint Francis and then PromiseShip filed a protest. PromiseShip's protest argued first that Saint Francis's bid was unrealistically low, and second that it proposed a caseload ratio that was inconsistent with Nebraska law. When DHHS and DAS asked Saint Francis how it would comply with the caseload ratio, Saint Francis said it would need an additional \$15 million, a change which would have invalidated the bid. Despite Saint Francis's request for additional funding, the state and Saint Francis came to agreement, under which Saint Francis purported to be able to meet contract requirements for the price in its original bid. At the time the contract was finalized in July 2019, many stakeholders were questioning how Saint Francis was going to be able to do the important work of case management in the Omaha area for such a discount, and it didn't take very long for these concerns to become a reality. Just a few months into the contract, DHHS's projections showed that Saint Francis was spending at a rate that would exhaust budgeted funding before the end of the fiscal year. In October 2020, Saint Francis announced it was suspending its CEO and COO pending an investigation into financial mismanagement. Their internal investigation revealed that Saint Francis had improperly bid the contract. As a result of Saint Francis's financial instability, DHHS was forced to negotiate a new contract with Saint Francis to enable the organization to continue providing case management and avoid disruption to the children and families in the Omaha area. By January 2021, just one year into full implementation of the contract, the state finalized an emergency contract that exceeded PromiseShip's bid by \$3.7 million and reimbursed Saint Francis's past expenses of \$10.5 million. So we're now talking about a contract that's more than one hundred and forty million more than the original bid. As you all likely remember, despite the additional funding, Saint Francis continued to struggle, and in December 2021, DHHS announced it was ending the case management contract with Saint Francis. And they're currently transferring those cases to the state, and that will continue for the next couple of months here. After the LR29 committee was formed last spring, we spent many months looking at what happened with the Saint Francis procurement. And what we heard from both DHHS and DAS was we followed the procurement process and the process resulted in the award to Saint Francis. So one of the things that we looked at was the procurement

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process, and what we found is that it is not consistently supporting good decision making in procurement and the Saint Francis procurement is-- was one example, and simply one example, where the process did not yield a positive result. In 2007, Medicaid Management Information System, MMIS's, procurement resulted in an award to a company with little track record, which was ultimately unable to deliver the system despite being paid more than \$6.8 million. The state terminated the contract in July 2009, making an additional settlement payment of \$4.75 million. In 2014, the state awarded an \$80 million contract for the development of a modern Medicaid eligibility and enrollment system. DHHS terminated the contract in 2018, stating that there was no evidence to support completion of any part of the contract, despite having paid the contractor \$6 million in state funds and \$54 million in federal funds. That contract is now the subject of ongoing litigation. As I said, the LR29 committee looked at the procurement process, and I could point to a few different areas where we see that there is room for improvement. For example, having a process in place to evaluate, evaluate the reasonableness of bids that are a significant deviation from industry standard and requiring an additional due diligence into bidders' financial stability, qualifying of the bidders. However, one of the things that the LR29 committee was conscious of was not making any rash changes to our procurement system. That's not, frankly, the HHS expertise. We didn't want to tie the hands of those who were making these difficult procurement decisions, but we do want to establish a procurement system that supports good decision making. I'm grateful to Director Jackson and his team for being willing to participate in this process, actively participate. I want to acknowledge that these large contracting decisions are incredibly difficult. The subject matter is extremely important. There's a lot of money at stake, and the state has an obligation to ensure wise use of taxpayer funds. I do want to address the fiscal note, which is the cost of the consultant to assist with this evaluation. The folks at DAS who work in contracting day in and day out are busy doing just that, hiring a consultant with expertise in procurement who also know other state systems to come in and help Director Jackson and his team and work with their customer agencies is going to take a significant effort. When you look at the millions of dollars that are on the table with these big contracting decisions, I firmly believe this is a good investment. And with that, I will conclude my opening. I just want to make, I just want to make maybe a summary statement, and that was, that's a lot of detail. But in essence, what we saw was multiple administrations. We've had names change. It's not the same individual involved in the decision making. And so we obviously turned our thoughts towards the process of

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procurement itself. And, and I think, I think we discovered that there was significant opportunity. But it is, it is large. It's a large issue because we have, we have things in statute and we have things in a procurement manual, which-- what should we do? I mean, we looked at we looked at some of the some of the statutes and thought, well, maybe we should make some adjustments there. And we thought, you know, before we start tinkering with the system thinking as though we actually did something useful, let's take a step back. Let's, let's take a look at our present procurement system. Engaged, obviously, Department of Administrative Services in this process and do this, do this right. So I would anticipate that as a result of the, of the study, if it's, if it's approved and passed by the Legislature, that we would see a bill probably in January with some statutory changes and some recommendations to the full Legislature. So with that, I will close my opening and be willing to answer questions that you might have.

**BREWER:** All right, thank you, Senator Arch. Questions for Senator Arch? Senator McCollister.

**McCOLLISTER:** Thank you, Mr. Chairman. I don't have a question. I just want to thank you for the thorough analysis you did on Saint Francis and the proposed solution you are now recommending.

**ARCH:** Well, thank you.

**McCOLLISTER:** Thank you, Senator Arch.

**ARCH:** Yeah, thank you very much.

**BREWER:** All right. Any additional questions? I assume you're going to stick around for close, since--

**ARCH:** I will.

**BREWER:** --you got the next bill, too?

**ARCH:** Yes.

**BREWER:** All right. Thank you.

**ARCH:** Thank you.

**BREWER:** All right, we will start with proponents to LB1037. Welcome back to the committee, to the Government Committee.

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

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

**JASON JACKSON:** All right. Good afternoon, Colonel Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Jason Jackson, J-a-s-o-n J-a-c-k-s-o-n, and I'm Governor Ricketts's chief H.R. officer and the Director of the Department of Administrative Services. I'm here to testify today in support of LB1037. First, I want to thank Senator Arch and members of the Health and Human Services Committee and members of the Eastern Service Area Child Welfare Contract Special Investigative and Oversight Committee, LR29, for introducing LB1037 and proactively looking for opportunities to improve Nebraska's procurement processes. I thought I'd start just by offering a little bit of context. The Materiel Division is responsible for the state's procurement of goods and services, and we have a team of 14 teammates dedicated to overseeing that task, and they handle currently 685 contracts with a total of \$3.7 billion in value. State agencies are also empowered to oversee their own service-- services procurements, with an additional 38 teammates across the breadth of our operations and various agencies in procurement classifications. Goods and services can, can range in, in scope from road salt to custom IT software and everything in between. Our procurement statutes were first enacted in the 1940s, and the statutes we operate under today have not been substantively updated in nearly 20 years. A lot has changed in procurement operations in those intervening years, and it is timely that we engage in a comprehensive review of how we get better as a state. Under Governor Ricketts' leadership, process improvement has been a key tenet of our administration, and it is in keeping with that approach that we welcome the opportunity to work collaboratively with the Legislature to identify opportunities for improvement in state procurement. This bill owes its genesis to the work of the LR-- the LR29 committee's investigation into the circumstances surrounding the child welfare contract awarded to Saint Francis for the Eastern Service Area. I had the opportunity to testify before the LR29 committee, and as I shared with its members, the Saint Francis contract decision was made in good faith by child welfare experts and procurement professionals doing what they believed the law and procedure obligated them to do. LB1037 is a welcome opportunity to look at legal reforms and engage in evaluation of our procurement processes to yield better procurement results. Looking ahead, establishing clear guiding principles is certainly an objective with which we, well-- provide-- excuse me. Looking ahead, establishing clear guiding principles is certainly an objective of which we believe will appropriately provide latitude to

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forestall issues and contract executions and fulfill the intentions of the LR29 committee, as well as provide essential procurement improvements overall. Thank you for the opportunity to testify, and I'd be happy to answer any of your questions.

**BREWER:** All right, thank you. Questions? Senator McCollister.

**McCOLLISTER:** Thank you, Mr. Chairman. You indicated 38 agencies have their own procurement policies. Is that correct?

**JASON JACKSON:** No, sir. I indicated that there's 38 procurement professionals across the breadth of state government operations outside of Materiel Division's operational control.

**McCOLLISTER:** But there are some, for example, the Department of Roads or-- don't they do their own bidding?

**JASON JACKSON:** All agencies are empowered to do their own services contracts. They can elect to leverage state procurement to do their procurements on their behalf, but whether they do their own bidding or leverage our team to do it on their behalf, the law compels them to follow state procurements process. So one process, but different agencies can act independently in doing their own procurements.

**McCOLLISTER:** Will the contract that you're proposing also cover those agencies that do their own bidding?

**JASON JACKSON:** That would be my expectation. My expectation is that this continuous-- collaborative continuous improvement effort would look at the breadth of state contracting and state procurement operations for-- to evaluate. You know, what level of, for example, and I think this gets to your point, Senator, what level of decentralization is appropriate? What level of centralization is appropriate? You know, there's, there's gives and takes and cost-benefit analysis associated with that and different risks that may be opposed-- that may expose themselves with either approach. It certainly would be my expectation that this review would analyze those questions.

**McCOLLISTER:** Well, in a former life I dealt with, the Department of Roads, so called then, and they did a good job. And so-- but perhaps you will discover some savings if you were to centralize some of those functions. Thank you.

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

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**BREWER:** All right, additional questions? Thank you, Jason.

**JASON JACKSON:** Yes, sir.

**BREWER:** All right, next proponent to LB1037. OK, opponents? Anyone in the neutral? All right, let me read in the good news for Senator Arch is there are no opposition letters. There is no neutral and four letters that are proponents. So that means that puts it in a very good place for a certain person's priority. All right, we will transition to LB64 now.

**McCOLLISTER:** Going to let him close?

**BREWER:** Yeah, I was going to-- oh I, you waived that. I thought that meant you waived it. I'm sorry.

**ARCH:** I was just saying hello.

**BREWER:** Boy, am I hard on closers today. OK.

**ARCH:** OK, thank you. Yes, I-- thanks very much to Jason Jackson's testimony. I think that we see an opportunity here, right? And you, your committee, I know, is very much engaged in good government. And we want to have well-run government, and this is, this is an opportunity. So I would appreciate your support. And if there's any questions I could answer, I'd be happy to do that at this time.

**BREWER:** I'm guessing with no opposition, no letters, that you wouldn't mind an early exec and this move forward quickly?

**ARCH:** I'd appreciate that.

**BREWER:** All right, thank you. Well, with that, if you'll give us just a moment, we will transition some numbers here so that we get to LB1064 and I'll give you a chance to open on it. OK, we are now going to start on LB1064. Senator Arch, welcome.

**ARCH:** Thank you. Good afternoon, once again, Senator Brewer, members of the Government, Military and Veterans Affairs Committee. For the record, I am John Arch, J-o-h-n A-r-c-h, I represent the 14th Legislative District in Sarpy County, and I'm here today to introduce LB1064. As I talked about in my opening on the previous bill, Nebraska's procurement process needs improving. LB1064, which was brought to me by the Department of Administrative Services, is a first simple step towards that improvement. LB1064 establishes a funding structure allowing DAS to finally obtain an electronic procurement

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system. Under the bill, the electronic system will be paid for by providing the system provider with a percentage or portion of transactions and would be collected from the contractors and bidders by the system provider. Nebraska is one of only 11 states that have not yet adopted an electronic platform for its procurement process. Every bid is still done through a myriad of paperwork. The hassle of filling out all that paperwork by hand deters bidders, particularly smaller businesses, and increases costs for DAS and others. DAS estimates that switching to an e-procurement system will be revenue-neutral, if not save the state money in total, through a more efficient system that attracts more competitive bidding. While I have prioritized LB1037, the previous bill, this bill is just as important in improving our procurement process. Passing this bill now will give DAS the time to secure a system provider and be ready for any reforms that come out of the LB1037 analysis. I would encourage the committee to amend the provisions of LB1064, this bill, into my priority bill, LB1037, and move our procurement process forward. I'll try to answer any questions, but I know DAS Director Jason Jackson is following me and is probably better-versed on the entire process.

**BREWER:** All right, thank you for that opening. Questions for Senator Arch? Senator McCollister.

**McCOLLISTER:** Thank you. Maybe I missed it, Senator Arch. When is this, your LB1037 going to be active, and when will we be able to get the report?

**ARCH:** LB1037, I believe has a report of, of a November date of this year.

**McCOLLISTER:** November?

**ARCH:** Yeah. It's fast, it's fast. So it's one of the reasons why we're not requiring them to bid out the contract. We just see that there is-- need an opportunity to move pretty quickly on some of these changes. We've got a, we've got the Medicaid MCO bidding contract that's coming up very shortly here, April. That will probably go out to a-- with an RFP in June, I think, they intend to award. So we, we have-- we won't be able to directly influence that with, with procurement reform, but, but these things just keep coming. And so we have to-- we felt we had to move pretty quickly.

**McCOLLISTER:** Even though the report might be-- might not be done, some of the lessons we've already learned could be incorporated into the processes that when you go to review those bids, correct?

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**ARCH:** Oh, absolutely, yes. I mean, I've, I've had discussions with, with CEO Smith from DHHS on, on how we are-- how we are doing this RFP process and, and for the MCOs. I think that, I think that given our experience with Saint Francis and even the history of some of these others, there's a lot of motivation to do it well on everybody's part.

**McCOLLISTER:** Thank you, sir.

**ARCH:** Yeah.

**McCOLLISTER:** Thank you, sir.

**BREWER:** All right, additional questions for Senator Arch? All right, again, I'm assuming you'll stick around for closing?

**ARCH:** I will.

**BREWER:** And I'll let you actually do one this time.

**ARCH:** Yeah, I won't wave at you this time.

**BREWER:** Good. I misinterpreted the wave. All right, Jason.

**JASON JACKSON:** I apologize for killing trees. My intention will be made clear soon.

**BREWER:** Welcome back.

**JASON JACKSON:** Thank you, Colonel Brewer. Good afternoon. Chairman Brewer and members of the Governor-- Government, Military and Veterans Affairs Committee. My name is Jason Jackson, J-a-s-o-n J-a-c-k-s-o-n, and I am Governor Ricketts' chief H.R. officer and Director of the Department of Administrative Services. And I'm here today to testify in favor of LB1064. First, I want to extend my appreciation to Senator Arch for introducing LB1064 on behalf of DAS. If enacted, this bill will help us take necessary steps to modernize our procurement operations for the benefit of our customer agencies and firms bidding to offer goods and services to the state. By way of background-- yep, my apologies. And this will be a little repetitive, but I know people look at these transcripts in isolation without necessarily reference to the prior bill. So I'll just repeat myself here. By way of background, Materiel Division is responsible for state procurement of goods and services, with 14 teammates overseeing, overseeing procurement of approximately 685 contracts with a total of \$3.7 billion in value. State agencies are empowered to oversee their own services procurements with additional, with an additional 38 teammates



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at other agencies and procurement classifications, and goods and services can range from road salt to vehicles to custom IT software. Nebraska is one of only 11 states using a manual paper-based procurement process. This antiquated process operates to the detriment of our customer agencies, our teammates and firms wishing to do business with the state. For our teammates, the constant downloading, uploading, scaling and emailing that goes into a typical procurement detracts from the value-add activity of sourcing and analyzing. For firms, the onerous nature of the procurement process deters bidding on state contracts. I'll take a moment now to just-- the document that I had passed around there, that's an invitation to bid, and that's actually a very simple one. That's for a one product for the Department of Corrections, their CSI facility down at Tecumseh. That invitation to bid went out. It got only two respondents, one of which was disqualified for, again, the onerous nature of the paper contracting process, just how they filled out the form. It wasn't responsive. The other one whom we thought would be a vendor that would be interested in the procurement actually said the process was too onerous. They had enough other, other business, they didn't even bid on it. And so we had to actually reissue that ITB. So that's just a representative example of actually a very simple invitation to bid that I thought would just kind of illustrate for those of us that don't work in the procurement world, you know, how onerous the paper-based processes are. For, for the taxpayer, this antiquated process also means higher administrative overhead and higher overall contract costs. E-procurement systems provide digital, automated workflow management and end-to-end-- of the end-to-end procurement process, diminishing the time that is wasted on document creation, upload and data entry. By making access to bidding easier, e-procurement encourages competition and lowers barriers of entry to state contracts for small, minority-owned and women-owned businesses. Thirty-nine other states have adopted this best practice approach to procurement operations. LB1064 puts us on the path to fixing this by providing a sustainable funding mechanism for an electronic procurement system. Currently, the Materiel Division is funded using revolving funds and an assessment that we charge our agency customers based on their historical usage rates, with about 33 percent of that coming from the General Fund. Our research shows that most e-procurement systems are funded using a subscription model, with many utilizing the same funding mechanism as we are proposing in this bill. Once fully implemented, DAS anticipates this funding model would enable us to completely eliminate our assessment. I thank you again for the opportunity to testify in support of LB1064, and I'd be happy to answer any questions you may have.

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**BREWER:** Thank you. So essentially, you had to kill some trees to save some trees. Is that how this works?

**JASON JACKSON:** That's the idea, sir.

**BREWER:** OK. Well, very good. Questions? Questions? All right, seeing none, thank you.

**JASON JACKSON:** Thank you.

**BREWER:** OK. Additional proponents? Anybody here as an opponent? Anybody here in neutral? Senator Arch, welcome back.

**ARCH:** Thank you. I appreciate the collaboration with the Department of Administrative Services. I think we can actually get something very meaningful done with both of these bills. You'll notice that the fiscal note for LB1037 in particular-- or excuse me, was it LB1037-- LB1064?

**BREWER:** LB1064.

**ARCH:** LB1064. You can see that, that, that the dollars move, right? So departments apply, you know, apply cost to this. But in the end, as I was-- as it was explained to me by even the, some of the MCOs that are applying for this next round of RFP, we have, we have bidders that put tens of thousands of dollars into the bidding process for these large contracts. I mean upwards of a hundred thousand dollars by the time you add all the fees and everything, everything, you know. So the ability to do, do an e-procurement and increase competition, encourage bidders, I think is, is, is very useful. So obviously I strongly support this bill and, and again, would encourage you to take this bill, amend it into LB1037 and pass that from committee. I appreciate that.

**BREWER:** All right, questions for Senator Arch? Just before you go here, just for clarification, because we're working with the same subject, shouldn't be a problem. You make life pretty easy, since this bill had no opposition either, so the two of them are about as easy as you could ask for. I would guess in a different world, we could make it even a consent calendar, but you're kind of committed now so.

**ARCH:** I am.

**BREWER:** All right, we will then close on LB1064 and we thank you.

**ARCH:** Thank you.

**BREWER:** Yes, and I-- so again, there are no letters on LB1064. So with that, we will close our hearings for today.