

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 25, 2023
Rough Draft

BREWER: All right. Good afternoon and welcome to the Government, Military and Veterans Affairs Committee. I'm Senator Tom Brewer from Gordon, representing the 43rd legislative District. I served as the chair of this committee. The committee will be taking up bills in the order that was posted on the agenda. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on proposed legislation before us. The committee members might come and go during the hearing. This is just part of the process. Some will have bills in other committees to present. I ask that you abide by the following procedures to facilitate today's proceedings. At this time, be sure that you have silenced any electronic devices, phones--

_____ : I found this on the web.

BREWER: Something about watches.

LOWE: And watches.

BREWER: All right. Please move to the reserved chairs when it's your turn to testify. These are the first two chairs on either side in the first row. Just ask that you move forward so-- it won't be a problem today, but when we're really full, people sometimes don't get the message just to keep filtering forward as the speakers rotate. And then, of course, if the room is real full when you're done speaking, exit so we have room for those that are coming in. OK. Introducing senators will make the initial statement followed by proponents, opponents and those in the neutral testimony. Closing remarks are reserved for those-- for the introducing senator only. If you're planning to testify, please pick up a green sign-in sheet that is on the table at the back of the room. Should look like this. Please print clearly, complete the form and be prepared to turn it in to either page or the committee clerk when you come forward to testify. If you do not wish to testify but would like a record of being present here at the hearing, white sheets are on the back and you can indicate whether you support, oppose or are neutral on the bill there. If you have handouts, I would ask that you have ten copies. If you don't, please let us know and we can have pages make copies. When you come up to testify, please speak clearly into the microphone. We have had some problems where folks will turn and look away and not speak into the microphone. It's hard later then to record and get that testimony, so we just ask that you stay focused on speaking clearly into the microphone. When you do, please announce and then spell your first and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 25, 2023
Rough Draft

last name. We were going to use a light system today because of the number of folks testifying. We'll go with 5 minutes. So at the four-minute mark, I'll turn from green to yellow and then yellow to red as you hit the five-minute mark and that's your cue to stop. And my right hand here will have a timer going with an alarm, so if you go too long, you'll know it. Let's see. And no displays of support or opposition to bills, vocal, vocal or otherwise will be allowed. Committee members that are here with us today will introduce themselves, starting on my right.

RAYBOULD: Jane Raybould, Legislative District 28 from Lincoln. It's the center part in the heart of Lincoln.

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

AGUILAR: Ray Aguilar, District 35, Grand Island.

LOWE: John Lowe, District 37.

HALLORAN: Steve Halloran, District 33.

HUNT: I'm Megan Hunt from District 8, which is the northern part of midtown Omaha.

BREWER: Go ahead, Senator Conrad.

CONRAD: Hi. I'm Danielle Conrad from north Lincoln's fightin' 46th Legislative District.

BREWER: All right.

CONRAD: Dropping my book.

BREWER: Legal counsel, Dick Clark on my right and on the corner over there is Julie Condon, the committee clerk. And our pages today are Logan and Audrey in the back. All right. With that and our very first bill to be presented in the Government Committee, come on up and we will hear LB52.

LIPPINCOTT: Good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Loren Lippincott. That's L-o-r-e-n L-i-p-p-i-n-c-o-t-t, and I represent Legislative District number 3, 4-- 34. I've introduced LB52 on behalf of the Nebraska Military Department to increase the cap on Nebraska National Guards State Tuition Assistance Program from \$900,000 to \$1

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 25, 2023
Rough Draft

million. That \$900,000 was established back in 1999, so 24 years ago. This past year, we came close to hitting the current cap of \$900,000. The Nebraska National Guard provides a variety of benefits that incentivizes military service and continuation of military service. State tuition is one of the most popular benefits that the Nebraska National Guard offers. Many other states offer some form of military educational assistance that appeals to individuals who are looking for their next home and Nebraska has an opportunity to enter the space to compete for those individuals to choose Nebraska as their next home. Major General Bohac, adjutant general of the Nebraska National Guard will be following me with more information and I respectfully ask for you to advance LB52. And I would like to read one quote from General George Washington, which I think is applicable to this bill. The willingness with, with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional to how they perceive the veterans of earlier wars were treated and appreciated by their nation. George Washington. Thank you, sir.

BREWER: All right. Thank you. Questions for Senator Lippincott? Well, thanks for bringing the bill. Since I use the program, I, I fully understand the importance of it. And I mean, it's a recruiting tool. And right now, you know, there's, there's a challenge finding good, young talent that will come and be a part of, of the military and this is a tool that is invaluable. So thanks for bringing the bill.

LIPPINCOTT: Thank you, sir.

BREWER: And you'll stick around for close?

LIPPINCOTT: Yes, sir.

BREWER: All right. Thank you.

LIPPINCOTT: Thank you, sir.

BREWER: OK. We'll start with proponents. Daryl Bohac, welcome to the Government Committee.

DARYL BOHAC: Good afternoon, Senator Brewer. It's good to be back. And to the members of the Government, Military and Veterans Affairs Committee, I am Major General Daryl Bohac, D-a-r-y-l B-o-h-a-c, Adjutant General of the Nebraska National Guard and director of the Nebraska Military Department. I'm testifying in support of LB52. We are grateful for Senator Lippincott and his co-sponsors for introducing the bill, which seeks to increase the existing cap from

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 25, 2023
Rough Draft

\$900,000 to \$1 million. This increase would allow eligible net Nebraska National Guard members to utilize the State Tuition Assistance-- Assistance Benefit as increasing tuition at the universities has become a concern. The Nebraska Military Department has observed a steady increase in the University of Nebraska-Lincoln's tuition rates since the implementation of the \$900,000 cap that was established in 1999. This program reimburses Nebraska universities and colleges up to the UNL tuition rate. In the past two decades, there's been no change to the appropriations cap. And we have found in our records that with every passing year, requests for tuition assistance get closer and closer to exceeding this cap. We predict that in the next year, requests may very well exceed the existing cap. If this were to occur, we would be faced with the difficult decision of denying Nebraska National Guard members of an essential and hard-earned benefit. Although our members join for different reasons, many of our new members join for this specific benefit and others continue to serve and remain in uniform for this purpose, as well. I, along with many of you on this committee, understand and appreciate the dedication and sacrifices regularly made by our men and women in uniform, whether they are responding to natural disasters, civil unrest or deployed to protect the security interests of the United States of America. Our Nebraska National Guard service members have and will continue to remain always ready, always there. A sign of gratitude for their service, as well as their family sacrifices, has been expressed through the State Tuition Assistance Program. We continue to hear positive comments about the program and what it has meant to Nebraska National Guard members in support of their educational endeavors. As our service members improve themselves through education, our units become more professional and more capable. In fact, in order to progress in rank, a degree is required for junior officers and a promotion enhancement for senior enlisted members. That educated force is not only in our units, but is also your neighbor and is-- and in the civilian job market and workforce. With the support and passage of LB52, we can proudly work to make Nebraska the most military- and veteran-friendly state in the country. Continued support of this program by keeping on pace with decades of raising-- rising education costs, will demonstrate the state of Nebraska's commitment to this valued program and your Nebraska National Guard members. Senator Brewer, committee members, that concludes my testimony. I'd be glad to answer any questions you might have.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 25, 2023
Rough Draft

BREWER: Thank you, General, for your testimony. So you've gone 24 years without an increase?

DARYL BOHAC: Yes, sir.

BREWER: I don't think we have many state programs that can say that so--

DARYL BOHAC: There's been--

BREWER: --for management.

DARYL BOHAC: Yes, sir. Just to-- Senator, just to be clear, the appropriations has increased slightly over the years. It's the appropriations cap that's in the statute that has not changed.

BREWER: Thank you for clarifying that.

BREWER: OK. Questions for the general? Oh, yes.

CONRAD: Thank you. Thank you so much.

BREWER: Senator Conrad.

CONRAD: Thank you, Chairman Brewer and thank you, Major General. Good to see you again.

DARYL BOHAC: Good to see you.

CONRAD: Thank you for your ongoing service to the state of Nebraska and your leadership. I was really grateful to see Senator Lippincott bring this measure forward and I think it will enjoy a warm reception by this committee and the Legislature as a whole for a variety of the reasons that you outlined. But I was so grateful to hear you really, very clearly connect the dots about how increasing tuition really puts pressure on this and other programs. And it impacts the men and women that serve in our National Guard. So one thing that I wanted to get a better handle on is, is really the adequacy of this level of cap being raised. I don't know if you've had a chance to review the Governor's budget proposal, but it provides very little support to our institutions of higher education and that's going to send tuitions skyrocketing in our state colleges and university. So in light of that proposal, if it were to be adopted, it seems that this might be far too modest in order to meet the needs of our National Guardspeople

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 25, 2023
Rough Draft

pursuing a higher education. Just wanted to provide you an opportunity to comment on that.

DARYL BOHAC: OK. Thank you, Senator Conrad. Well, certainly there is that risk and the risk here today, even if we didn't-- if it wasn't increased, is if we have requests above the cap level, we can't come in for a deficit request. And we have done that in the past. And the Legislature has been generous in meeting that difference. But when you have a legislatively imposed cap, then you can't, you can't use that avenue to, you know, cure the issue. So--

CONRAD: OK.

DARYL BOHAC: --I think we would remain concerned about increasing tuition costs.

CONRAD: Thank you very much. Appreciate it.

BREWER: All right. Other questions? All right. Thank you, sir.

DARYL BOHAC: All right. Thank you, Senator.

BREWER: All right. Next proponent. Why did I have a sense you're going to be a proponent?

RYAN McINTOSH: What's that, Senator?

BREWER: I said I had a sense you were a proponent--

RYAN McINTOSH: Yes.

BREWER: --not an opponent. Welcome to the Government Committee

RYAN McINTOSH: Chairperson Brewer, members of the committee, my name is Ryan McIntosh, M-c-I-n-t-o-s-h. I'm here today as a lobbyist on behalf of the National Guard Association of Nebraska, which includes the commissioned officers and warrant officers of the Nebraska National Guard, as well as a number of retired officers as well. Without repeating things that have already been said, I will provide a little bit more background on the Tuition Assistance Program. So to the Nebraska National Guard members, we have both federal and state tuition assistance. And there's two key points with state tuition assistance I want to make clear: one, is that the number of service members is capped at 1,200 per year. And more importantly, number two, service members must exhaust all of their federal tuition assistance

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 25, 2023
Rough Draft

prior to applying for state tuition assistance. So the million dollar cap actually goes a really long ways to a lot of service members because federal is being used up first. Federal tuition assistance will cover up to 16 credit hours per semester and \$250 per credit hour. For reference, the current base cost at the University of Nebraska-Lincoln is \$259 per credit hour and UNO is \$235 per credit hour. So service members seeking a bachelor's degree at the University of Nebraska-Lincoln, taking a standard 15 credit hour load, would have most of their tuition covered, with just a little bit needing to dip into tuition-- state tuition assistance. Books, fees, room and board are not otherwise covered. So with that, I'll conclude my testimony and ask that the committee support the bill and pass it to General File.

BREWER: All right. If you're, say, attending Doane, you can still get tuition assistance, but what you do is you get it at the rate as though, say, you were going to Chadron State, a state or, or a university-- a state college or university.

RYAN McINTOSH: So the federal would cover up to \$250, \$250. And then it's tied to the University of Nebraska-Lincoln, I believe.

BREWER: OK.

RYAN McINTOSH: So even if you're, if you're going to Chadron, which has cheaper tuition, then that would all be covered. At Doane, it won't-- it'll-- I think it's good.

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

RYAN McINTOSH: Thank you.

CONRAD: Can I ask? Sorry, so sorry.

BREWER: Oh, yes. Sorry. Go ahead, Senator Conrad.

CONRAD: One popped into my mind. Thank you, Chairman Brewer, and thanks Ryan. Good to see you again. Just-- I should know this, but I'm going to ask just to be clear. Tell me how-- and maybe it was where Senator Brewer was going, but tell me how the program works. Do the dollars follow the student and the service member? Are they eligible to be utilized at all private schools, all public schools? Could you just maybe provide us just a quick thumbnail sketch about the contours of the program to make sure we have a better understanding?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 25, 2023
Rough Draft

RYAN McINTOSH: Sure. And there's, there's been a number of improvements and changes to the program just within the last couple of years. Nebraska actually has one of the best, if not the best, programs. Several years ago, it was changed so that we can apply it to beyond a first bachelor's degree and for professional studies and those bachelor degree studies. So it goes with the student. It's something that the student service member applies for every year, both to the federal side and the state side as necessary. And it is eligible at all private and public universities.

CONRAD: That's so helpful. Thank you very much.

RYAN McINTOSH: Yeah.

BREWER: All right. Any additional questions? Thank you for your testimony.

RYAN McINTOSH: Thank you.

BREWER: OK. Additional proponents to LB52? All right. Any in opposition? Anybody in neutral? All right. We will ask if there was-- would you like to close on LB52? Waives closures and there are no letters to read in so that will close our hearing on LB52 and result in a battle handover here.

SANDERS: Good afternoon.

BREWER: Good afternoon. Thank you, Vice Chair Sanders. And good afternoon, fellow Senators of the Government, Military and Veterans First Committee, I'm Senator Tom Brewer. For the record, that is T-o-m B-r-e-w-e-r. I represent 11 counties over the 43rd legislative district of western Nebraska. I'm here today to introduce LB252. I'm introducing this bill on behalf of the Nebraska Department of Veterans Affairs. The purpose of this bill is, is-- honestly, it's just a clean up, technical language of the law for the mil-- for the Veterans Department. As you can see, from the bill is nine pages long with just minor changes to specific titles such as the director of the department. The bill removes a old requirement for the department to be located inside the Capitol building, and it changes the name of the Veterans Home, formerly Grand Island, to the Central Nebraska Veterans Home and a few other minor changes. I will be followed by the director who can answer more detailed questions within the bill itself, if you have any. And other than that, I will take any questions.

SANDERS: Are there any questions for Senator Brewer? I see none.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 25, 2023
Rough Draft

JOHN HILGERT: Good afternoon. Good afternoon. My name is John Hilgert, J-o-h-n H-i-l-g-e-r-t. I'm the director of the Nebraska Department of Veterans Affairs and I want to thank Senator Brewer for introducing this bill at the request of the agency. As Senator Brewer has mentioned, this is a straightforward administrative cleanup bill addressing outdated language, incurred statutes and provides for greater ability for veterans to access care in the time of need. The bill makes six changes to six state statutes and would repeals statute 80-336. The bill changes the term director to Director of Veterans Affairs. It removes the requirement for the agency to be located in the state Capitol building. It changes the name of the Veterans Home located in central Nebraska to Central Nebraska Veterans Home from Grand Island Veterans Home. And it states the term-- it adds the term designee to the statute authorizing the waiver of tuition program. It changes the permanent method of registry of graves for veterans, and it removes the requirement that veterans applying for Nebraska veterans aid must apply only through the local veterans service organization, post or county service officer nearest her or his place of residence. There is one other cleanup measure we found today upon review that I would, I would ask the committee's consideration to add, and we could certainly get the exact wording to the committee counsel later, but it's under the tuition of waiver section. One of the criteria for tuition of waiver is for the-- it waives the tuition of the dependent if someone dies from a service connected disability. I can say for 23 years that I've been around the department and earlier than that, one of the eligibility requirements for the waiver of tuition is killed in action. It's an obvious one. We've been doing that forever. The entire-- the bill almost is constructed for that. I'm not sure exactly how that was not specifically outlined in statute. It's inferred. Certainly, killed in action is a service-connected disability that ends in death. But we wouldn't mind if we add killed in action or killed on active duty, actually, would be the terminology. And that includes, of course-- currently in statute includes prisoners of war, people who are-- individuals who are missing in action, but that might be another cleanup aspect of the bill as well. That concludes my testimony. I'd be more than happy to answer any questions that you might have.

SANDERS: Any questions? I see none. Thank you.

JOHN HILGERT: OK. Thank you very much.

SANDERS: Good afternoon.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 25, 2023
Rough Draft

RYAN McINTOSH: Good afternoon, Vice Chairperson Sanders. My name is Ryan McIntosh, M-c-I-n-t-o-s-h, and I'm testifying today on behalf of the National Guard Association of Nebraska just to lend our support to this bill. And with that, I'll conclude my testimony.

SANDERS: Any questions? Seeing none. Thank you.

RYAN McINTOSH: Thank you.

SANDERS: Let's see, we have proponents, any opponents on this bill? Seeing none, any in the neutral? I see none. Senator Brewer, would you like to close? You're going to waive closing. Are there any questions for Senator Brewer? I see none. We are closed on LB252. Good afternoon, again.

BREWER: Good afternoon, again. Déja vu. All right. Thank you, Vice Chair Sanders. Good afternoon, fellow senators of the Government, Military, and Veterans Affairs Committee. For the record, I'm Senator Tom Brewer. That's T-o-m B-r-e-w-e-r, and I'm representing 11 counties of the 43rd legislative District of western Nebraska. I'm here today to introduce LB250. I'm introducing this bill, I guess, out of a concern that there's oversight of the Nebraska National Guard, where I think right now we, we have kind of a void and we're not able to do that. The reason I'm doing it is because a number of folks have come to me with concerns. After spending 36 years in uniform, most of that in the Guard, this has kind of caused me to step back and take a look at-- you know, how do we go about this? And that's where the tool that I think is going to be the right answer here, a command climate survey is, is where we want to go. What it is, is it's a, it's a fresh, comprehensive, top-to-bottom look at an organization. It, it's a way to figure out if there's a, a, a problem that needs fixed and where the problem is. The command climate survey, as it's known in the military terms, is a common tool used to assess a number of key readiness indicators of military organization. These indicators give the incoming commander a clear picture of the overall, overall readiness of the unit. Now, what I'll do, if I can have the pages come up-- this is a couple of different examples of what a command climate profile looks like. As you can see or you will see when you get them, it's a pretty broad look at the organization, how it's structured, what are the positives, what are the negatives, things people are concerned about. And, you know, it's, it's focused on readiness issues, it's focused on morale and welfare of the troops. It's something that is a generic in the sense that it's for enlisted, it's for NCOs, it's for officers. It just simply tells you the pulse of the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 25, 2023
Rough Draft

organization and how it's doing. It's not a pass/fail assessment or indicator of any particular leader so much as more of the, the unit and the issues that need to be addressed there. And purpose of this would be to give that snapshot to not just the adjutant general, but to the, the Governor, to the Legislature. Because you have to understand that the military department is a unique beast in that if you're not a part of it, it's hard to really comprehend exactly how it works, who's who in the zoo, and if there's a problem, there is no conduit to really share that to, to let folks know what it is and how we fix it. Normally, you would leave that to the chain of command. The problem that I'm struggling with is that because there is a, I guess, what you'd call a comfort zone when it comes to myself with some of those that are members of the National Guard, because not only was I a career officer, but my wife was a career officer in the Guard, my, my son, my, my daughter just changed command of one of the units of the Nebraska National Guard. My son-in-law-- I've got three nephews, cousins, I mean, it's a true family affair and there's no way around that. I mean, I'd love, I'd love to tell you that, that it's anything different, but the Guard, for those in it, tends to be a organization that normally, if you have one, you have more family members that are in there because it's a natural migration. So when it comes to any express concerns and it's not able to be fixed through the normal channels, you're left with this quandary, quandary where you have to figure out how could we take this issue and get it in the light so we can address it so that people don't get out of the Guard simply because of the frustration, that we're able to try and figure out a way to work to a positive end to this. Now, the adjutant general-- he's picked by the Governor. And he is the commander of both the Air and the Army, along with [INAUDIBLE] management. He has a lot of fits under his umbrella. The challenge is that within the organization, which is big-- we talked about the 4,000. It's hard to figure out exactly where the problems are. Is it at a company level, a battalion level, a brigade level or is it the command group? And I think that the, the unit climate profile would help us to be able to sort that out and figure out, you know, if there's a problem, it needs to be brought to light so that it don't continue to fester. Because I think there's a point where the, the readiness of the organization itself is in jeopardy if that is not addressed and things are allowed to fester. After we wrote the legislation, the, the adjutant general was, was good enough to, to send me a letter. And we had a chance to talk just briefly before The State Of The State. And in there, he identified some what I think were flaws in the original bill that go a long way toward helping us find a, a good place where we could work from. And

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 25, 2023
Rough Draft

I'll, I'll share them with you and then I'll have the-- I need a copy of his letter handed out here. But in my original look at the issue, everything evolved around concerns on the Army side. So when we worked up the legislation, we didn't include the Air, because the problem was the Army or it appeared that there were concerns on the Army side. But after I read what he, what he explained, I, I agree, that if we're going to do a snapshot, we do a snapshot of everything. We get, we get a look and see-- and then it actually helped with a problem later. Now, I provided some letters that we will be handing out to you and these were-- I asked them to leave the names off of them because they were concerned about retaliation and retribution. And I said, listen, just share your thoughts. I guess I'm concerned that they feel that way. But within the military, there are those who, if they see your dislike or concern about certain things going on, sometimes it's easier to just get rid of the individual rather than address the problem. And so it's hard to want to hold up your hand and say there's a problem because you fear that your ability to continue in service may be in jeopardy. Again, if, if we were to take and find an example that maybe helps you to better understand it, maybe the Judiciary Committee would be a good example. It hears concerns and issues within the Department of Corrections and they play an oversight role. This committee should be no different with the military department. So how do we get to the right place here? And I think the General gave us some, some tools to do that. Let me share those with you now. So we, we, we make sure that this covers both Air and Army. This top down look could be done-- originally, we looked at having a-- another state come in. But the, the problem with having another state come in and do this is that there is a cost involved and then, you know, who do you go to? It could maybe be done, but it would be painful and hard. I think if you were to have the Air Guard look at a overview of the Army and the Army of the Air Guard, as far as the command climate profile, they're both very professional organizations. They could look at that snapshot of each other and then that be used to consolidate that information into a report. So that would be my recommendation there, is follow what the, what the adjutant generals ask with including the Air Guard, using the Air and the Army to do that command climate profile on each other. The only thing the adjutant general asked about originally-- I had looked at only when the adjutant general changes that we do this. And his point was, why would you do it then? Why wouldn't you do it so that you kind of, periodically, had that pulse of what's going on? And, and I think that's a great point, because every two years is his recommendation. I think that's fair. The only thing that I would add is I'd like to see us do within 90 days of the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 25, 2023
Rough Draft

changing of the adjutant general, because what that does is, is the new person coming in needs to understand where he's at, where the organization is and, and I think that helps him get there. So those would be committee amendments or amendments that need to be made to the bill, I think, to make it a better bill and, and, and, and have it so that it's, quite frankly, done right. And so that's why the idea of having a command climate profile, I think, it's valuable to the organization, it's valuable to the chain of command. I think, sometimes, you need to have an outsider come in and say, hey, this is, this is what I think is going on and this is what needs to be addressed if there is a problem. If there's not, then you know, that's what the unit climate profile will reflect. But right now, that needs to be done at all levels, not just at a company or battalion level, because sometimes the problem isn't there. The problem is at a higher level. So with that, have the pages come out and we'll have these to hand out, if I could. And I will take any questions.

SANDERS: Senator Lowe.

LOWE: Thank you, Vice Chair, and thank you, Senator Brewer. Can't an adjutant general ask for one of these at any time? Would that be possible?

BREWER: He could.

LOWE: Then why would we need it in legislation?

BREWER: Well, I guess if we wanted to make it cyclic so that, that we could have the oversight, the results of it-- I mean, he could have, he could have a unit climate profile once a week if he wanted with his own organization. He has more than enough authority to do that. But I think that the Legislature and the Governor-- for one, its peace of mind that the, the Military Department is clicking on all cylinders and things are going the way they should. And then I think a, a forced one that goes in conjunction with the change of the adjutant general is necessary because the adjutant general could come from a lot of different places. It won't-- he wouldn't necessarily have to be someone within the Nebraska National Guard right now. You could take someone from the National Guard Bureau, you could bring them in, if they had served in the Nebraska National Guard, if they were of the rank of, of lieutenant colonel, if they've met the requirements to be a general officer, the Governor could pick someone from, from active duty even. So that person really needs to have a fresh look at where things are and he needs kind of an unbiased snapshot of it.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 25, 2023
Rough Draft

LOWE: Thank you.

SANDERS: Thank you, Senator Lowe. Senator Hunt.

HUNT: Thank you, Vice Chair. Thank you, Chairman Brewer, for bringing this bill. Is the idea kind of when there's a new adjutant general, that it's almost kind of like a, a clean slate or a, a opportunity for people to start fresh with new leadership and let them know the lay of the land and what the problems are in the field there, where they're working or?

BREWER: Well, kind of. So remember, with the military department, unlike, say, state government, when there's a change of the Governor, there's a pretty good purge of people.

HUNT: Right.

BREWER: I know with the adjutant general, there's a few moves here and there, but for the most part, the natural migration of folks that have specialty skill sets, whether it be in aviation or maintenance or wherever it might be, they're moving up, too. And there's, there's not a, a change like that. But say, if there is a problem-- and I'll give you an example. Say, maybe in HR, where people are not necessarily being given jobs who are qualified because of a, of a good old boy system that just doesn't want them to be part of an organization or in a certain place. There's nothing to fix or correct that and, and the adjutant general might even not know about it. The climate profile would bring that up and you would see that and then you might be able to fix it so they didn't continue to have that same treatment of individuals.

HUNT: Would the profile be public or accessible to other people in the organization?

BREWER: You know, that's a good question and that's why the unit climate profile is limited on what's in it. And let me give an example. Anything that has to do with, say, the number of helicopters that are available. That would be in a classified [INAUDIBLE] we couldn't really get into. So you could say, well, there's maintenance problems and people aren't fixing aircraft like they're supposed to, but you couldn't talk about how many were available and weren't because of it. So there's kind of a needle you've got to thread through some of that, but some of the questions are fair game. For example, say there's a strength problem. Say your recruiting or

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 25, 2023
Rough Draft

retention isn't happening because of how people are being treated or because, you know, the chow they're having is, is horrible and nobody wants to stay and so the retention is gone. So recruiting and retention are big issues and, and that's something that's relatively available through common channels. But you want to be able to figure out how to do it because the problem is, sometimes these issues, if they go long enough, it's hard to come back. Once folks have left and said, I don't want to be a part of the organization anymore because they didn't treat me right.

HUNT: Right. And these changes from the major general you're comfortable with, you said?

BREWER: I am. We, we had a chance to talk. We didn't get into a, a ton of detail, but I've literally, pretty much x-ed out all my speech here once I had a chance to look through there. I thought he made some great points. And what, what I would probably do is work up an amendment that we'd have to bring back for everyone to look at, but it would include pretty much everything there.

HUNT: OK. Thank you, Chairman.

SANDERS: Thank you, Senator Hunt. Senator Brewer, we're just looking at the language of this. We're not going to be involved in distribution of the survey. And I didn't see a fiscal note. So it's just--

BREWER: Well, I mean, right now, there's not a fiscal note included in it. The actual command climate survey, survey document, that's--it's--that's a form that's in the military system. So, of course, there would be a, a printing cost to print that and then, you know, whoever is going to be meeting with the different groups, whether it be within the command headquarters or in the battalions, brigades, wherever they're going, to make the distribution, to get back the information consolidated, there would be some requirement that would have to come with that. That would be one we'd probably have to, after sitting down with the adjutant general, figure out what that looks like.

SANDERS: Thank you, Senator Brewer.

BREWER: But I think it would be pretty minuscule in the big picture, compared to the other things we're dealing with.

SANDERS: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 25, 2023
Rough Draft

CONRAD: I had--

SANDERS: Yes, Senator.

CONRAD: Thank you. Thank you, Vice Chair Sanders. Thank you, Senator Brewer. Good to see you. I, I think that this is a really interesting idea and I appreciate the background that you provided the committee so that we have a better understanding of it. But my questions are really, I guess, maybe more about how to ensure the best value for all stakeholders involved. And I'm just thinking a lot about the metrics, kind of, in terms of when something like this might be conducted. I see in the materials you passed out, there's an annual command climate survey for, for other aspects of command, but we don't have one on the state level. And then I know you were kind of looking at perhaps that natural inflection point when there is new leadership in place. Is there any thinking that an annual survey might be a better way to go for consistency purposes or, you know, set to every other year or every five years? I know in conducting, say, for example, performance evaluation, sometimes it's like doing a 360 for-- Senator Ra;ybould and I were just kind of talking about that, as well. But can you just talk to me about the time metric, I guess, is at the heart of that rambling question?

BREWER: Well, you know, your point is well taken. The question is where, where is that sweet spot where it's, you know, it's enough time for that commander to actually have his or her plan of, of movement with leadership and operational stuff implemented and going so that what you're getting a, a result back on is truly them and how things are, rather than remnants of what was there before. And so I think that's probably why the general went with two years, because it was enough time to, to get into that cycle, but normally a commander's in command for two and a half, three years. That's kind of the standard. So, you know, that would give time for a commander to have most of his time in command is part of that evaluation and is probably as good a snapshot as you can get because it, it does become a burden if, if it's too often--

CONRAD: Right.

BREWER: --because if you could go to a drill weekend and see all the requirements we put on them. For them to get out and to, to drive their trucks, fly their helicopters, do all the things they're supposed to do, by the time they check all the boxes on all the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 25, 2023
Rough Draft

ankle-biting stuff they got to do, they don't get a chance to actually go and do their mission right away.

CONRAD: Right.

BREWER: So I'm trying to not dig into that because we want them to be there and ready to go when the time comes. And this survey and, and-- what we would do is find one that we could take maybe questions from a couple of different ones, so that it asked those questions we need asked and tells us the information we need and then that be kind of the one we use instead of maybe a company or a battalion level one, which is what you're looking at there. So I just tried to snatch one that was already in the system ready to go--

Good example, yeah.

--but it would be relatively easy to find one that we could, we could manage so that it was telling us what we need.

CONRAD: Right. No, that's super helpful. Thank you. And then the other, kind of, two threads that I was thinking about during your testimony, people want to weigh in on them or we can talk about more in the course of the hearing. But, you know, just wanting to ensure that there were privacy protections in place for the folks that were filling out the surveys to make sure that they could be as candid as possible in their responses and, and providing protection. So I just find it kind of think through like the privacy protections in that regard. And if there was a way, perhaps, to maybe marry the roll-out if something like this were to be adopted with education for whistleblower protections or otherwise, just-- I know that's an ongoing part of training that's available to members of the National Guard and other, other areas of public and private sector, but just trying to think about educational opportunities that, that perhaps might be married with, with an effort like this to, to kind of help provide some context. So I was worried about privacy and, and other ways, too, to educate members about how to step forward if they have concerns about what's happening in their, their workplace.

BREWER: Well, I'm-- I'll be following [INAUDIBLE] by, by General Bohac and, and he would probably be able to tell you with current detail on the command climate survey. I believe those are, are done, collected and it's done in I guess, a level of secrecy that you can actually have on something like that. I mean, if you have 20 people in the room and half of them complain about something, you're pretty sure that at

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 25, 2023
Rough Draft

least half the folks in that room are complaining. But he can probably help you out more of that, but I, I agree that, that if you don't have that, the ones who are fearful for their careers, you know, they, they've got a family to take care of. And most of them have invested a good share of their life in learning that skill. And sometimes they would rather just bite their lip and, and get through it than to try and fix something and have their career ended for, for that action.

CONRAD: OK. Thank you so much. Thank you.

SANDERS: Thank you, Senator Conrad. Are there any other questions? I see none. Thank you, Senator Brewer.

BREWER: And I'll stay around for close.

SANDERS: Thank you. We are now open for public hearing. Opposition? Proponents? Just dive right in. Are there any proponents? Seeing none, opponents? Neutral?

DARYL BOHAC: Well--

SANDERS: Good afternoon.

DARYL BOHAC: --good afternoon, Senator Sanders and members of the Government, Military and Veterans Affairs Committee. I am Major General Daryl Bohac, D-a-r-y-l B-o-h-a-c, Adjutant General of the Nebraska National Guard and director of the Nebraska Military Department and I am testifying in a neutral position today on LB250. My 44 years of military service has taught me that a healthy command and leadership climate is vital, as command climates have the capacity to impact readiness, morale, recruiting and retention. It is for this reason that I appreciate Senator Brewer's willingness to work with us to achieve the intent of this bill by using the processes currently available to us and provided by the federal government. I also suggested that instead of tying the frequency of the report to the Governor and the Legislature to the appointment of the Adjutant General, it would be more productive to request a report each biennium of the Legislature. I look forward to collaborating with Senator Brewer and the Government, Military and Veterans Affairs Committee to refine the language, authorities and scope of this bill to ensure the true intent of LB250 is met. That concludes my sen-- my testimony, Senator. I'd be glad to answer any questions.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 25, 2023
Rough Draft

SANDERS: Thank you. General Bohac. Are there any questions? I do have one question on the distribution of this so everyone has a voice in this survey. Will you take it off of a list that makes sure--

DARYL BOHAC: All right. Thank you, Senator. So in the process of administering command climate surveys that are done electronically and through email systems to afford people the opportunity to respond. And they are responded in an anonymous fashion, so personal, identifying information is not included in the response. Then the, the-- and then we also can tell the percent of respondents per unit being surveyed. To answer one of the earlier questions, there's a requirement after each change of command for a climate survey to be conducted within, I think, 60 days, and then annually, thereafter. So to Senator Brewer's point earlier, it gives the incoming commander a chance to understand the issues in his or her unit and then take, you know, develop a plan of action to address those things in the resurvey later. So that, that's how this could work. And then we would in-- within the Nebraska National Guard, within the Military Department, compile a, essentially, what we call an executive summary. It is a report to the Governor to, to this committee and the Legislature for consideration.

SANDERS: Thank you. Any other questions? Seeing none, thank you.

DARYL BOHAC: Thank you.

SANDERS: I think we have one testifier, proponent or opponent?

JEFF DOWNEY: Proponent.

SANDERS: Proponent? Please.

JEFF DOWNEY: Thank you, Senator. My name is Jeff Downing, Je-f-f D-o-w-n-e-y, formerly a sergeant in the Nebraska Army National Guard. I want to thank you guys for opening up this forum to allow some of us to speak for you today. My career started in 2012 as a combat engineer in the United States Army based out of Fort Leonard Wood, Missouri, and included a nine-month tour to northern Afghanistan to conduct route clearance operations. I ended my contract in 2015 with an honorable discharge and simultaneously enlisted in the Nebraska Army National Guard and became an E-4 specialist as part of Alpha Troop 1-134th CAV. I spent four and a half years in Alpha and then spent nine months in the 1st ID MCPOD before that unit moved to Colorado and finished my career as an E-5 sergeant at the Training Center Command Detachment One in Hastings at Greenlief Training Site and ended my

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 25, 2023
Rough Draft

career on November 9, 2022, after my request for exemption from the COVID-19 vaccination was denied despite recommendations from my personal doctor. I've done my fair share of command climate surveys. Unfortunately, many of those don't seem to go very high up the flagpole or chain of command. Oftentimes, they're not done honestly in fear of what would come next. When I took my oath of enlistment on November 9, 2011, I made a promise to myself that I would not advance my career by playing politics. However, I would progress through merit, knowledge and work ethic. And unfortunately, that's not how it always works. But you heard Senator Brewer reference the "good ol' boy" program or, or the "good ol' boy" policy within the Guard and that is very real and I've witnessed it. During my time in the Guard, I saw my peers get promoted not because of their ability to act under pressure or their ability to complete a task on the battlefield, but because they could volunteer for classes that those of us with full time jobs and families could not. The response we were always given was be more committed. I saw brothers who were moved to different units, not for the benefit of the unit, but for the benefit of the new command team. I attempted to return to Alpha Troop in 2020, as I missed my brothers, the calling of the mission and also had the opportunity to receive a promotion and ultimately have my own squad. I was instead called a quitter repeatedly by my commander every time that I had seen him and was not welcomed back even though they were in need of NCOs. I saw one of my first sergeants, the man who promoted me to E-5, a great mentor, a friend, a brother, forced out of the guard and his success-- successor transferred to-- from a different unit, only to be replaced by someone who had fulfilled his sergeant time already, only because they did not have a position for him at the headquarters company. I've seen soldiers, myself included, receive orders to a different unit simply because the retention and recruiting numbers in the receiving unit were low, regardless of what that soldier, including my own situation at home and not being able to keep up with the increased drill dates and extended annual trainings along with the required coursework that is mandated to meet the new mission requirements. We call that "needs of the army." I've been a part of training missions that seem to have no purpose other than to fulfill certain people's careers and really without a reason given to us or our command team other than speculation. There are soldiers dealing with these same and similar problems. However, they cannot come forward without facing negative repercussions or ret-- or alienation from their units. That's a problem. Having an open door policy, which I know most all commanders including General Bohac have, is great to have, as long as the door closing behind you will allow for it. The

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 25, 2023
Rough Draft

problem can be solved. And I believe that getting honest feedback from the men and women in uniform without repercussion is not a perfect fix. However, it is the best way to get started. It gets to the point where we as soldiers feel as though we are pawns rather than valued members of the armed services, including the Nebraska Army National Guard. I come to you today not as a disgruntled soldier because of my removal of service, but as a concerned citizen of the state of Nebraska while still having soldiers still serving today. This concludes my testimony. I want to thank you again and I am open to any questions if you should have some.

SANDERS: Thank you, Sergeant Downey, for your service as well and your testimony.

JEFF DOWNEY: I appreciate it.

SANDERS: Are there any questions? I see none. Thank you very much.

JEFF DOWNEY: Thank you for your time.

SANDERS: Are there any other testifiers, proponent, opponent or neutral? I see none. Senator Brewer, would you like to close? I'd also like to add there are no letters for LB250.

BREWER: All right. Yes. What, what you just heard is what I've had wander into my office on a pretty steady basis over the last four years that I've been the chair of the committee. And the dilemma is that I think we got a lot of really great talent out there that we're losing and I'm not sure where the problem is. I don't know whether it's a company, battalion, brigade. I think there's probably a mix of issues. I am concerned that if, if we're not able to identify it, it will continue. And so that's the idea behind the bill. Now, is it the perfect solution? Don't think it is, but I think it gets us closer to it. And maybe through the process we can figure out what right looks like. But it's, it's a good first step to get us at least a, a base to work off of information and to at least get the word out to folks that we want to try and better understand the problems that are there and maybe some ideas on how to fix it, share that information to the chain of command. And if, if the decision by the chain of command at that point that they don't want to fix it or they want to retaliate, then, then we, we find a new course of action on how to fix it. But I think what we have talked about with the Air and the Army using each other to get that snapshot to go with the biannual, which I think is a good cycle for now, and, and then we also keep in mind that should the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 25, 2023
Rough Draft

adjutant general leave, he or she that replaces him would have that climate certify-- survey done in that, in that 90-day cycle so that they understand what the issues are as they come in. I think those are essential. So what needs to happen now? Need a rewrite amendment. Obviously, if this was to continue to be a problem and we couldn't maybe, sort out exactly what the issue is, I think an interim study where we, probably, in a, in a closed environment, ask some of them to come in so that they don't fear some type of a retaliation for them sharing with the committee what the issues are, might be in order. But I think the first step is to do the amendment, pass this legislation, get that first survey done, see what it looks like and see if that information is what we really need to understand what's going on.

SANDERS: Senator Raybould.

RAYBOULD: I didn't know if it was appropriate to ask questions of someone who closes. But, you know, Senator Brewer, to help understand the nature of the problem, so you have articulated that you have received concerns because of your role as, as the chair of this committee. But if you get these concerns or if any one of us gets concerns expressed by some constituents who are in the Air or Army National Guard, how should we best convey them? Should they be conveyed to you? And then how do you convey them? Should they, they go up the chain of command or--

BREWER: No, no.

RAYBOULD: --what's-- I mean, what is-- how are we best to address those to--

BREWER: those-- that's absolutely--

RAYBOULD: --effect positive changes? Besides doing a climate survey, which I think is really good, and businesses do them annually or every three years or so. That's so important. But how, how best can we respond to some of the concerns that were articulated as representatives for the constituents that this might impact?

BREWER: Actually, that's a wonderful question because it's, it's actually the question, you know, everybody ought to be asking. And the answer is a little challenging in the military environment. We have an IG, inspector general. That is a process you can use and it is used on, on some occasions. Sometimes, what's going on, though, is not really at a particular level or the issue is not that the inspector

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 25, 2023
Rough Draft

general should be handling. For example, if, if it comes to an issue where, you know, there's, there's morale issues because of kind of an inherent problem within the unit that may be more in the chain of command, using the chain of command isn't an issue. And it would be near impossible to file an IG complaint and not have that be something the commander at whatever level is going to be aware of who filed it, when they filed it, what the issue is, because as they come down to do the sworn statements, that's all going to be evident. Now, what then happens is if you file an IG complaint and they look at and they say, you know, we just don't find grounds for that to really be an issue, you have just sacrificed probably your career, your livelihood as far as any income you're going to make from the National Guard, any promotion you're going to have and you did that because you wanted to fix something that was broken. So there's inherent risks with that. So, you know, that's why in some cases, I've said, all right, you need to use your chain of command. And, and as they painted the picture and it was obvious that probably was the core of the problem, then I made a recommendation. But we don't really have-- in the Department of Corrections, you would have an ombudsman who would be an option that is kind of that impartial person that can look at it and say, you know what, you got a, you got a point here. There's an issue. We need that issue addressed. We don't quite have that same environment within the military. So that's why I kind of left the door open that if there was a consistent number of individuals with problems and it cannot be addressed, that may be a, a interim study where we're able to actually dig down and look at things in more detail and understand what the true part of the issue is, might be our opportunity then to get answers. But I think we have to let this process work to figure out, you know, what, what's there? Is it a problem that can't be fixed within the current structure or is there a way to take the current system and tweak those things that could be adjusted so that it was done right if there's a problem and not completely upset the apple cart on this deal. But at this point, it's all unknown and we have to take away the fear of, of sharing what's going on so that we can figure out what, what the true issue is. And so, again, I think this is a step forward. It may not be the absolute solution, but we'll be a lot closer.

RAYBOULD: OK. Thank you.

SANDERS: Are there any other questions? I see none. Thanks for bringing the bill forward.

BREWER: Thank you.

SANDERS: And this closes the hearing for LB250. And back to LB52, were there any letters of support or opposition in LB52, LB252 also? No letters. Thank you. Have a good evening.