

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 24, 2023

BREWER: All right. Good afternoon and welcome to the Government, Military and Veterans Affairs Committee. I'm Senator Tom Brewer, representing the 43rd Legislative District, and I serve as the Chair of this committee. The committee will be taking up bills in the order that they are posted on the agenda. And just for a quick reference, that will be LR1CA, Senator Blood first, then LB420 with Senator Raybould, then LB190 with Tom Brandt, and last will be LB637, Senator Albrecht and she will have someone, her LA, Glenda, will be standing in for her. So with that, 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 may come and go during the hearing. It's just part of the process. They have bills to introduce in other committees. I ask that you abide by the following procedures to better facilitate today's meeting. Please turn off or silence any electronic devices or phones. Please move forward to the designated testifier area. Just as a reference, that's the first row up here. So if you're going to be testifying today on LR1CA, feel free to come up to one of the seats here in front so we can have some idea how many are going to be speaking on this bill. All right. The introducing senator will make their initial statement, followed by proponents, opponents, and those in the neutral. Closing remarks will be reserved for the introducing senator if they so wish. If you are planning to testify today, we'd ask that you pick up one of the green sheets on the table in the back, fill it out. Please fill it out completely and legibly so it can go properly into the official record. If you want to record your presence here today, but not testify, there is a white sheet and you may record that information on it. If you have handouts, we ask that you provide ten copies. If you don't have ten, get with the pages, they can make copies for you. Let's see, when it's time to testify, we ask that you come up, speak into the microphone clearly, state your name, then spell both your first and last name. We will be using the light system here today. I need to get some idea of how many-- how many are testifying on the first bill? Oh, boy. OK. And then on LB420? OK. LB190? And last but not least, LB637? All right. It'll be a three-minute day then. All right. So you'll get green for two, yellow for one, and then your time will expire. No displays of support or opposition for bills, vocal or otherwise, will be allowed. This is a public meeting. With that, we will begin by introducing our senators starting on my right with Senator Conrad.

CONRAD: Good afternoon. Hi, I'm Danielle Conrad from north Lincoln.

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RAYBOULD: Good afternoon, everyone. I'm Jane Raybould, Legislative District 28, which is from the center part of Lincoln, the heart of Lincoln.

SANDERS: Good afternoon and welcome. I'm Rita Sanders. I represent District 45, which is the Bellevue-Offutt community.

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

HALLORAN: Good afternoon. Steve Halloran, representing Adams County, Kearney County, which is not Kearney, Nebraska, and, and Phelps County.

HUNT: I'm Megan Hunt and I represent District 8 in the northern part of midtown Omaha.

BREWER: All right. The Vice Chair is Senator Sanders, legal counsel is Dick Clark, and our committee clerk is Julie Condon. Our pages today are Logan, raise your hand over there, and Ryan. All right. With that, we will welcome Senator Blood to the Government Committee and you may begin whenever you want.

BLOOD: Well, thank you and good afternoon to Chairman Brewer and the members of the Government, Military and Veterans Affairs Committee-- Affairs Committee. My name is Senator Carol Blood, and that is spelled C-a-r-o-l B-l-o-o-d, and I represent District 3, which is the western half of Bellevue and eastern Papillion, Nebraska. I do thank you for the opportunity to bring forward LR1CA, or also known as unfunded mandates resolution. Unfunded and underfunded mandates are a persistent and growing problem for cities, counties, and school districts. As a former member of the Government, Military, and Veterans Affairs Committee and former city council member, I'm very aware of the task services and office space that the state requires political subdivisions to provide, often with little to no reimbursement for the costs associated with these services and programs. LR1CA is a constitutional amendment to prohibit the Nebraska Legislature from imposing any financial responsibility for new programs or increased levels of service under existing programs on any political subdivisions after the year 2024. Friends, as you already know, Nebraska is a Dillon's Rule state, and that means counties have little flexibility because we have put very restrictive guidelines within state statute as to how they can pay for items and how those funds may be used. So when an unfunded mandate is passed on to that political subdivision, they have few tools in their toolbox that can be used to pay for these mandates. Often, counties have to resort to

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raising property taxes to pay for these unplanned and unfunded mandates that the Legislature passes or cut vital services such as for the additional snow removal costs this year that many out west are facing in their budgets if there's not ample money in their rainy day funds. So for some context, the Legislature has been trying to grapple with the issue of unfunded mandates for several decades. As I walk you through this long list of unfunded, underfunded mandates, it's important to understand that counties are creatures of the state. Therefore, property taxes are often the only avenue available to address these added budget burdens. We should also note that state aid to political subdivisions such as counties was eliminated in 2011 with the promise that it would one day be reinstated when the state budget got back on its feet. Further limits continue to be proposed and are not compatible with the cost shifting the Legislature has done and continues to do so in terms of unfunded mandates. So in 2014, this committee released a report on LR582 regarding the size and scope of unfunded mandates to counties. Now Senator Sue Crawford, who introduced the resolution, worked with committee counsel, the Nebraska Association of County Officials, and others to research the issue and publish the results of their findings. In 2019, Senator Wayne introduced LR149 which updated Senator Crawford's earlier study regarding unfunded mandates, mandates to counties and the funding sources used by counties to pay for these unfunded mandates. The 2014 report, which is still available on nebraskalegislatre.gov under Standing Committee reports detailed 16 actionable steps the Legislature could take to address some of the most pressing unfunded mandates to counties from Arthur to Douglas. These include: restore state aid to counties; increase user fees such as marriage licenses, permits and registrations and index these fees for inflation; increase amount retained by counties for documentary stamp collection; appropriate money to counties to cover the cost of supervision and transportation of juvenile offenders by law enforcement; compensate counties for costs associated with housing state prisoners in county jail facilities, including pretrial detention for defendants who are later convicted of state crimes; require DHHS, Probation, and other state offices to pay for their own space and maintenance costs; compensate counties for printing of ballots/ballot space for election to statewide office, constitutional amendments and referendums; compensate counties for verification of signatures for ballot initiatives; require the state of Nebraska rather than the county to pay for costs associated with an autopsy and grand jury if a prisoner dies in custody. So in the years since the publication of the LR582 report, Nebraska has really made little to no progress on these unfunded mandates, and we've even added new ones. Meanwhile, the state

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continues to point to local government as the reason your property taxes are high, while each year adding to the financial burdens with new mandates. So this isn't an issue that has only been researched in the last decade. In 1996, the Legislature passed LB299, which created a task force for unfunded mandates to review programs or services passed by the Legislature and their effect on political subdivisions. LB1192 and LB311 were introduced in 2003 and 2004, respectively. The Nebraska Legislature was to produce a fiscal report on any legislation that would impose an enforceable duty on local governments within the state. LR544, introduced in 2013, was also intended to study the fiscal impacts of unfunded mandates on local governments in Nebraska. Later, LR149 in 2019 was meant to examine the burden unfunded mandates had on county budgets. Nationally, several states have really stepped up to the plate and brought forward similar legislation, including Alabama in '98, Colorado in '91, as well as Maine. Now in Oregon, the voters went to the polls in 1996 and decided that the state government shouldn't pass laws unless it could be shown how that new law could be paid for. In 2000, they liked it so much they eliminated the sunset provision. So this wouldn't be the first attempt to address unfunded mandates and there is precedence for attempting to find a solution to these overwhelming-- to overwhelming our subdivisions with programs they struggle to finance. Senator Sue Crawford's LR582 report several years ago highlighted the burden unfunded mandates were creating for local governments but also prescribe solutions to this problem, yet little evidence of progress exists today and even more unfunded mandates have been issued. And meanwhile, Nebraska constituents have seen high property taxes and continue to express their frustration, as they should. To illustrate, illustrate some examples of what I'm talking about today we can look no further than Johnson County with Tecumseh State Prison. Inmates that pass away while incarcerated must have an autopsy or sometimes a grand jury investigation. The state does not pay for this so Johnson County is required to cover expenses with a small tax base that they have. The fact that the state runs a prison within their county but requires the county to pay for these services is extremely unfair and burdensome especially for a county with not a lot of revenue to begin with, yet the county has to provide services for the citizens they are already being squeezed by the state. Another example is LB605, the criminal justice reform package that was passed in the Legislature in 2015. The Legislature originally set aside half a million dollars for reimbursement for costs incurred by counties. Because of the bill, a reimbursement fund was created and operated by the Crime Commission. LB605 required the Commission to establish criteria for counties to qualify for reimbursement through a demonstration that the increased county jail costs were a direct

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result of LB605. Now the sentiment of most senators, if you look back at the transcripts at the time, was that counties would not see an increase in jail costs as a direct result of LB605. But as I shared last time when I brought this constitutional amendment forward, Sarpy County has seen a significant increase in county jail costs as a result of LB605. In 2019 alone, using the definitions and criteria established by the Crime Commission, Sarpy incurred a total cost of \$241,368 and only received \$68,000, excuse me, in aid which is a difference of \$173,208. Unfunded mandates affects our school districts as well. Recent Legislature-- the recent legislation passed has required additional training instruction for topics like violence training, suicide and awareness and substance abuse. And these requirements are, are likely much needed but the Legislature failed to address the funding for these programs and left it up to local school districts to scrape together the cash. Changes in curriculum also require expenditures from school districts themselves. Teachers must vet and choose materials, make sure they align to state standards, develop a curriculum guide, and new assessments for teaching the new curriculum. Teachers would need to log additional hours in the summer or during the school year to implement the new curriculum, in addition, with the new materials needed to be purchased. Imposing a financial burden and then wiping our hands without finishing the task of actually funding programs is not good government. The buck doesn't stop with us for a lot of the legislation this body passes and it has become up, and it has become up to the political subdivisions to scrape together whatever cash-strapped resources they have. We really need to take responsibility and finish the task of funding a program for municipality or a county so we do not pass the buck to them. This isn't to say that legislation that is unfunded isn't a value or offer progress to our constituents, but we need to be practical and provide a fiscal road map to see the legislation properly executed and not, and not complicate the budget problems of our political subdivisions. So in Sarpy County, which is represented by Senators Arch, Blood, Holdcroft, and Sanders, in the fiscal year of 2022, there was over \$15 million in unfunded mandates the county had to account for. I'm going to say that again, \$15 million just for the year of 2022. That's almost double what was reported to this committee two or three years ago. NACO's findings from last year surveyed 93 counties in total and found nearly \$53 million in unfunded mandates. And unfortunately, they weren't able to, to reach all of the counties of a little over half. So knowing that that wasn't even all the counties and there is that much in unfunded mandates is substantial. So in this body we perpetually look for avenues to lower property taxes, but much of our legislation it's not sustainable. LR1CA is a sustainable-- is

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sustainable and saves our counties from undue pressure to finance legislation the state places on them. The last time I introduced this legislation in 2022, it was unanimously passed by the committee and passed through General File 34-5. This bill has bipartisan reach and can be implemented easily. Today, I also bring forward an amendment which you should have in front of you. This amendment was suggested by Senator Dorn during last year's debate. You'll note that it says beginning on January 1, 2025, that the Legislature, by general law, imposes a program upon any political subdivision of the state or increased level expenditure required under an existing program upon any political subdivision of the state, as those terms are defined by the Legislature. The costs of such programs or increased level of service shall be reimbursed by the state in such a manner as the Legislature may prescribe. I thank you for your time today and consideration for LR1CA. I would encourage you to wait for additional questions in my closing as I have several testifiers who will likely answer those questions and help-- I have no idea what that sentence means-- as I have several testifiers who will likely answer those questions and, I think, also to help keep the, the hearing shorter so we can value your time as well.

BREWER: All right. Thank you, Senator Blood. Just as a refresher, last year what happened then, came out of committee, came to the floor, we got a first vote on it but ran out of time before it was able to get three votes.

BLOOD: It was basically end of the session. We had like two, three days of window time to finish it in and we couldn't get to Select. We actually adjourned early on the night of my bill.

BREWER: Hmm. All right. Well, with that, let's go ahead and see if we don't have some questions for you. If we don't, I'm sure we will at the end.

RAYBOULD: Well, I think, Senator Blood, you asked us to hold the questions until you close.

BLOOD: I-- because I do think that a lot of your questions will be answered. And I know that you have a roomful of people and I'm just doing this out of respect to your time.

RAYBOULD: Thank you.

BREWER: All right. So you'll stick around for close?

BLOOD: Yes, sir.

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BREWER: All right. Thank you. All right. We will begin with proponents to LR1CA. Good afternoon and welcome to the Government Committee.

DOUG KAGAN: Good afternoon. Doug Kagan, D-o-u-g K-a-g-a-n, Omaha, representing Nebraska Taxpayers for Freedom. Members of our taxpayer group, myself included, regularly meet with and discuss with financial officers of local government subdivisions their annual budgets and other financial matters relating to taxation and expenditures. Every fiscal year, we hear the identical refrain that unfunded and underfunded state mandates placed upon them wreak havoc with their budgeting. Worse yet, sometimes pledged state funding is not forthcoming, for instance, for special education. One state mandate requires paying additional court personnel. District court judges are state employees, but counties must pay for a bailiff for each judge and for a law clerk shared by all judges, plus health and dental insurance. Counties must provide courtrooms for each county, juvenile, and district court including custodial services and utilities and provide security for these courtrooms. This requirement necessitates sworn deputies, civilian security officers, and various security equipment. Nebraska counties no longer receive reimbursement for the housing of state prisoners. Nebraska statute requires an autopsy and a grand jury hearing for anyone who dies in state custody but jailed locally. The problem does not stem only from the Legislature, but also from the State Department of Education. Regulations promulgated by this department have the effect of state law. Every public school must implement multicultural education in each area of K-12 curriculum. Several Rule 10 requirements appear as micromanagement. Each elementary school must subscribe to at least five periodicals, each junior high to at least ten, and each high school to at least 25. Local school districts must fund these mandates. Consequently, local governments must shift their budgetary expenditures or raise property taxes to comply. Some mandates need-- seek to solve a problem, but others are feel-good bills that only continue to add to the cost of government. It is time for senators to scrutinize issues and determine which legislation has true value for the local level. That which does hold value must come with accompanying funds to reimburse local governments implementing these programs. Property taxpayers waited too long for relief from unfunded and underfunded mandates. Increasing state aid to lower property taxes was the top recommendation by the 2013 legislative Tax Modernization Committee. As Larry the Cable Guy says: Let's Git-R-Done. Thank you.

BREWER: All right. Thanks, Doug. I got to tell you, I like this bill because I think that if you were to query all of my sheriffs, they would tell you that right now they are getting simply in a position

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where their jail responsibilities are taken precedence over them being on the road patrolling because they have so many people in, in the jails because of how we have designed our, our judiciary process now. And that, you know, their primary responsibility was supposed to be the safety. And to a degree it is if, if you have someone who is bad, but if, if you have a lot of people that are in a county jail for a year, you know, that eats up space and there's a point where you have overflow and they have to send to other counties--

DOUG KAGAN: That's right.

BREWER: --and you're still paying. And this was something that was not of their doing. They're just trying to react to it. You know, I guess I'm just-- I know from your testimony kind of where you're at, but I was going to share some of the frustration that, that I hear from the sheriffs on, on their dilemma.

DOUG KAGAN: Yes, earlier today we left with some of your offices our issue paper on this particular bill. And as an addendum, there were reports on both Sarpy and Douglas County how much more money these-- the county commissioners have to spend for these underfunded and unfunded mandates.

BREWER: OK. All right. Questions for Doug? Yes, Senator Raybould.

DOUG KAGAN: Yes.

RAYBOULD: Mr. Kagan, I don't have a question. I just want to say thank you because your, your testimony was pretty concise. I think you covered every single component of unfunded or underfunded mandate. And so I just, I dug out my folder because I love talking about unfunded mandates so much. When I went door to door and I would ask constituents what are your issues? Guess what they talked about? Property taxes. And I said let's talk about unfunded mandates. And, and so I brought my folder from 2013-2014 when I was the county commissioner with all the unfunded mandates. So I would just want to say thank you. I appreciate the fact that you summarized the issue so succinctly.

DOUG KAGAN: Well, you're welcome. Property taxes is the number one issue with our members also.

BREWER: And, Doug, you kept it to exactly three minutes. I don't know how you did that but it was impressive. All right, any other questions for Doug? All right, sir. Thank you.

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DOUG KAGAN: OK.

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

JON CANNON: Good afternoon, Chairman Brewer, members of the Government, Military and Veterans Affairs Committee. My name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the executive director of the Nebraska Association of County Officials, also known as NACO, here testifying in strong support of LR1CA. First and foremost, I have to thank Senator Blood for bringing this bill. Last year, it was LR263CA. We worked very, very hard to get that across the finish line. I remember it was that, that early adjournment about 10:00 in the evening and, and we didn't get to the second round vote on the LR263CA and, and no one was more upset than she was. And so I, I know that she feels this acutely and so I do want to thank her for that and recognize that. This is a property tax bill. Ordinarily, I'd be over in Revenue, but I, I get to be here this afternoon so I'm delighted about that. This is a property tax bill. When I think about tax policy, I ask myself four questions on the revenue side. The first question is what do you want to pay for? The second question is how much do you need? And I'll tell you the answer is all of it. We're not mixing diamond dust in with the gravel. We're not gold plating the road graters. Everything that we pay for is something that we need or we have to do. The next question is, is who do you want to pay? And we've decided a long time ago that things that are of a peculiarly local concern should be borne by the, the local taxpayers. And then the last question is how do you want them to pay? And I can tell you that if we had just a statewide income tax, the good people of McPherson or Arthur or Banner Counties would probably be in a bit of a bind since they don't have much in the way of retail establishments there. We decided a long time ago that property tax is the most stable tax base that we can have and so, therefore, that's how we have the system that we, that we currently do have. What are counties responsible for? This answers the, the first question, what do you want to pay for? We, we pay for roads, bridges, law enforcement, jails, courts, and elections. You know, and we decided a long time ago, again, these are things that are peculiarly local. The question is, is how much of these things are truly local? How much of them are of a statewide concern? Because frankly, once you start answering those questions a little bit differently, then all of a sudden where you want the tax burden to fall becomes a little bit different answer. For counties, we only have the property tax and we have a little bit from the inheritance tax, but that's in smaller counties that, that varies from year to year. We get a little bit from the highway allocation fund, we get a little bit of lodging tax, but primarily the, the main driver of our revenue stream is the property

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tax. And so we hear it, our folks-- and you're going to hear plenty of them behind me, they are property taxpayers as well. They understand how acutely everyone in their community feels about the property taxes that are being levied against them. From the county perspective and I'm only, I'm only here to make the brief for the county. From the county perspective, our folks, I would say, are about as conservative as it gets when it comes to how they budget and how they allocate their funds on the, on the property tax side. I invite you to listen to the testifiers after me. This, I mean, this is not the silver bullet, but it's a great start. This isn't going to fix the property tax issue, but it, it starts us in the right direction. I would like to recognize or I'd hope that, that future Legislatures would take a bill like this and they would force them to be perhaps-- I'm out of time. So, so sorry. Happy to take any questions.

BREWER: Go head and finish that. You're on a roll right there.

JON CANNON: Oh, well, thank you. You know, my hope would be that if a bill like this passes and we put this into the constitution, that future Legislatures will have to be more thoughtful about whether or not this is the right bill to push down to the locals. And, and, again, we go through those questions as to, you know, why are we taxing and levying the taxes that we want to? I provided you a handout. It shows you the results of the survey that we had and 56 counties responded. Not all of them did. One of the great things about being the executive director of NACO is that the counties feel like they can more efficiently ignore me from time to time. And, and that's fine. I'm their employee and not, not the other way around. You'll notice that on the back side of that sheet, we have the county break down for small, medium and large counties, and you can see in the smaller communities, and, and these are averages, of course, but you can see in the smaller communities how much the allocation matters to them in the medium and large and so on. With that, I'm happy to take any questions you might have.

BREWER: Yeah, this is handy. Thank you.

JON CANNON: Yes, sir.

BREWER: All right. Questions for Jon? Senator Raybould.

RAYBOULD: Yes. Thank you, Mr. Cannon, for being here. You know, I'm, I'm reading the, the amendment, and as a business person, it says the costs of such programs are-- increased level of services shall be reimbursed by the state in such manner as the Legislature may

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prescribe. You know, one of the things that I witnessed as a county commissioner is that the failure of the state to reimburse for elements that they're obligated to pay even in statute. So, for example, one of the issues was \$5.8 million in jail reimbursement that the state of Nebraska, for lack of a better word, stiffed Lancaster County on paying this. We're just not going to pay that anymore. I'm wondering if the amendment could be tightened up to give specific, you know, parameters on when they must pay. And if they fail to pay, if they're subject to penalties. Is that something that could be considered in this or--

JON CANNON: For my part, ma'am, I, I, I want to get this bill passed the finish line.

RAYBOULD: OK.

JON CANNON: And frankly, one of the issues that came up and, and probably was the issue that, that brought the most resistance last year when this bill was being debated was, well, all of a sudden the counties are just going to send the bill to the state and they're going to expect to be reimbursed. And that is not-- I don't think that's what we intended. So if-- we want the Legislature to retain a certain amount of control. Now, when we talk about jail reimbursement, that was something that was written in the statute and what the Legislature giveth, the Legislature can certainly taketh away. And my recollection is that with general reimbursement, they, one, didn't appropriate the, the monies; and then, two, just got rid of the statute. I, I could be wrong on that last part. I'll, I'll have to check, double check and make sure. If you put this into the constitution, however, it's there. And unless the vote of the people comes along and says we don't like the state paying for these sorts of things, it will be there. And, and, again, the Legislature retains a certain amount of control so that they can come along and say here's how we're going to do this, here's how reimbursement is going to work. I, I think that that's kind of the give and take that would be necessary for-- I, I think we would be comfortable with that. But I think that would make the-- this Legislature and perhaps future Legislatures more comfortable with that result as well.

RAYBOULD: So I'm, you know, I'm just trying to understand, I don't know if it would be retroactive. You're saying it wouldn't, it would be from a point in time going forward?

JON CANNON: Yes, ma'am. That's, that's why it's not the magic bullet to fix property taxes. But it is a great start because what it does is

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it puts us on the road where, where every future Legislature would have to say, OK, this is something that's going to be pushed down to the local political subdivisions, not just the counties. Is this something that we want to have to reimburse? Because ultimately, I mean, the question always comes down to who is the "stuckey?" And if it's the Legislature, if it's the state, then the Legislature has to consider whether or not this is something that we want to push down to the locals.

RAYBOULD: OK. I know that last year Senator Matt Hansen passed a bill that would require the state to reimburse the jail for all the jail holds for individuals who were court ordered to go to the Regional Center to either be restored to competency so they could be sent to the Penitentiary to serve out their sentence or to stay in the Regional Center to get the treatment that has been court ordered that they received. And so Senator Matt Hansen's bill was to, to require the state to reimburse the county after so many days, because we're finding that those patients or individuals were court ordered to get treatment, but they're being held in, in the jail where they're not getting the treatment because the Regional Center was so overcrowded. And so ultimately, you know, after 90 or 120 days, the state was better. But now they've kind of fallen back. And, and when I asked Brad Johnson, who is the director of Lancaster County Jail, I asked how much has the state reimbursed you for that so far? And he said, zero. So, I mean, to me, there has to be a little bit more teeth to the legislation and maybe it is sending the state a bill. I think we did.

JON CANNON: And, and, ma'am, once, once this passes as a constitutional amendment because I'm--

RAYBOULD: OK.

JON CANNON: --I, I have high confidence that the people of the great state of Nebraska would pass this if it's on the ballot, then the Legislature would have the opportunity to have enabling legislation which would put those teeth into it, as you said.

RAYBOULD: Are you aware of any state that put it out to a vote of the people that where it failed? I know Oregon, it overwhelmingly passed. Were there any other states? I know Senator Blood had mentioned a few others.

JON CANNON: I'm not aware of any outside of Senator Blood's testimony.

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RAYBOULD: OK. Thank you.

JON CANNON: Yes, ma'am. Thank you.

BREWER: All right. Additional questions for Jon? All right. Thank you for your testimony.

JON CANNON: Thank you very much.

BREWER: Welcome to the Government Committee.

JIM WARREN: Thank you. Good afternoon, Chairman Brewer and members of the Government Committee. My name is Jim Warren, J-i-m W-a-r-r-e-n, and I'm vice chair of the Sarpy County Board of Commissioners. I first of all want to thank Senator Blood for introducing LR1CA and for her commitment to helping to eliminate underfunded and overfunded mandates. Over several years, we have watched many well-meaning legislative proposals directing local governments to implement and ultimately pay for things in the long term. Over the past few legislative sessions, we have seen more and more bills that limit governments' control-- local governments' control of funding and, therefore, limit their ability to pay for the current programs. We are, in most cases, operating on extremely skinny budgets. We support the, the measures and would fully fund the-- would like help to fully fund the unfunded programs. LR1CA would certainly give teeth to any government measure passed in the future. I'm going to kind of deviate from the script here just for a minute and would say we on the county board in Sarpy County are serious enough about this commitment that I've already talked to a couple of commissioners, and we would love to see a one for one-- dollar for dollar on the amounts that could be saved. We'll put that money back in the pocket of our taxpayers. In closing, I've handed out a document that provides an estimate of the unfunded mandates for Sarpy County, which has already been stated by Senator Blood, \$15.6 million. Thank you for your service and the opportunity to visit with you today. I'm happy to answer any questions that you may have.

BREWER: All right, Jim. Let's see if we've got questions for you.

CONRAD: I just have one.

BREWER: Senator Conrad.

CONRAD: Thank you so much, Commissioner.

JIM WARREN: Yeah.

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CONRAD: I was hoping, and I, I can definitely look it up if you don't know off the top of your head, but I thought the chart was instructive in regards--

JIM WARREN: Right.

CONRAD: --to the total price tag and the diversity of the different mandates imposed. But just to put it in context, roughly what's-- what would be, like, Sarpy County's annual budget-ish or figure out biennial? I don't know.

JIM WARREN: It would be very, very-ish.

CONRAD: OK.

JIM WARREN: That was put together by our financial guy.

CONRAD: OK.

JIM WARREN: But I've seen depending on how you determine total budget,--

CONRAD: Yes.

JIM WARREN: --you know, 5 to 10 percent. Somewhere in that range.

CONRAD: OK. That's what I was trying to figure--

JIM WARREN: Right.

CONRAD: --out exactly with how much and I'm guessing that would probably be a pretty similar range for most counties and we could work with Jon.

JIM WARREN: Yeah, I would guess that would be.

CONRAD: Yeah, but that's a significant component,--

JIM WARREN: Right.

CONRAD: --a significant percentage.

JIM WARREN: We were able to lower our budget this last year by a very small amount, but at least it was, it was a reduction. And we wanted to do that to show the senators that, that we're committed to this thing. And, and, again, I think we've got the, the votes on the board

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that would figure out if these unfunded or underfunded mandates would be funded, that we wouldn't have to lean on local taxpayers.

CONRAD: Thank you so much.

JIM WARREN: Um-hum.

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

JIM WARREN: Thank you.

BREWER: Lynn, welcome to the Government Committee.

LYNN REX: Thank you, sir. Mr. Brewer-- Senator Brewer, you're also Mr. Brewer, but Senator Brewer.

BREWER: You can call me whatever you want.

LYNN REX: Colonel Brewer,--

BREWER: Thank you.

LYNN REX: --members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We're here today in strong support of LR1CA, as we were last year in LR263CA, which is the precursor to this. We really want to thank Senator Blood for introducing this legislation, and I'd like to address a couple of things from a little bit different angle because you're going to hear today from a number of folks about-- hear specific types of mandates that we've had. And I know several of you on this committee have served in local government before. And I apologize, Senator Hunt, that I'm going to review some of the same information I reviewed with the Urban Affairs Committee. It's been reviewed with Revenue Committee numerous times. But I think it's important to look at a different perspective. So, for example, two of the largest unfunded mandates, the municipalities in the state and, frankly, counties on one of them are still dealing with was back in 1992, passage of LB1257, an unfunded mandate to cities and counties in the state of Nebraska and villages, I might add. And this is when Subtitle D requirements came down from the federal government on landfills, and the feds said we're going to mandate to the states without giving you a penny. You need to have Subtitle D landfills. You need to have liners. You need to go through all of this. And basically you need to do it and fund it on your own. The state of Nebraska and the State Legislature then mandated on municipalities and counties here it is. It is your obligation without a penny. It was one of the largest unfunded

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mandates in the history of Nebraska and there are regional landfills that have resulted from that. Another one for municipalities, and I'm going to talk about the handout that I just gave you, was the basically defined benefit systems for first class city police and fire back in the '60s without one penny given to municipalities. And I apologize to Senator Conrad, because you've heard this story before in part. So it's one thing to say here's a program going prospectively, but to say we're going to give, for example, the average of the last five years benefit and 50 percent of your salary but here it is and we're not giving you any money for this. So if you had an experienced force and you had officers retiring within two or three years, there's no way they could contribute enough to help offset that. So they plunged you into unfunded liabilities from day one to the point that one of our first class cities was on the verge of bankruptcy. And frankly, John DeCamp back in the day passed a bill authorizing for the first time municipal bankruptcies because of the fact that if that bond issue had not passed, there would have been a municipal bankruptcy in the state due to that. So there are huge consequences here. This handout, and perhaps somebody would be kind enough to ask me a question, I'll review it in more detail. But I think that there's been such a misunderstanding that when people talk about state aid to municipalities, state aid to counties, what does that mean? I think folks, I know Senator Mello and others used to tell me, oh, my gosh, they thought this was, like, a huge state aid package like you would give and should give to schools. That's not what this was. Our, quote, state aid, and I've outlined for you here in a number of pages, the cuts which ended up in total-- I guess, I've got the red light here and perhaps somebody could ask me a question. But if not, I understand.

BREWER: Well, Lynn, there is no doubt that we get the most bang for the buck with you so--

CONRAD: Yeah.

BREWER: --finish where you were at there, then I, I got a question for you.

LYNN REX: OK. Thank you, sir. So basically, the very last page of that handout you'll see that in 2011, passage of LB383, the elimination of the remaining amount of, quote, state aid. But what was state aid? State aid, again, I think there was a perception, and I've testified over the years with the Appropriations Committee and others, but this is just a huge amount of money that was given to offset basically property tax exemptions given by prior Legislatures. Well, it wasn't

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that. It was basically five exemptions. And so that's all it was for municipalities and counties and, frankly, NRDs. And so when you look back at what happened, I'm going to make it really quick, 1967, the Legislature exempted households and intangibles, \$12.6 million that they put into a governmental subdivision fund. In 1972, the Legislature started one of the largest exemptions that-- basically in the history of Nebraska. And by the way, I'm not saying these exemptions weren't legitimate because our folks in the business community and agriculture needed to compete but that resulted in exemptions for livestock, farm equipment, and business inventory. And by the way, I also apologize to you, Senator Lowe. I know you heard this yesterday, too, or Tuesday, I guess it was. So basically, that resulted in what was called the personal property tax relief fund. And the Legislature said to us, look, we're going to give you dollar-for-dollar reimbursement for the exemptions and the property taxes that were taken away, because we know if we take a base that's this big and you think about car dealerships, business inventory, ag, and you narrow it down to a very small folks in the middle, those folks in the middle are the ones paying the tab and then you add on this what LB1CA is intended to address, which is the unfunded mandates. But because the Legislature then, contrary to the advice of the Chair of the Revenue Committee, was Cal Carsten, you may remember Senator Carsten from Nebraska City, he urged his colleagues to make sure you put an indicator on the valuation, because if you don't do that, then of course what resulted was it's an unconstitutional, it's a frozen class. You cannot distribute monies based on what was in 1972 or 1967. You have to keep an indicator. But as you can imagine, the new car dealership folks, the Nebraska Farm Bureau, all the folks that were the beneficiaries of that exemption or their members were, and rightfully so, I might add, they basically said we don't want an indicator. So that indicator never happened. So in one Nebraska Supreme Court decision after another, those distributions to local governments were held to be unconstitutional because it was a frozen class, because the Legislature didn't keep tabs on what those valuations were. So by 1980, the Legislature said, OK, we're going to combine that governmental subdivision fund at \$12.6 million, \$70 million of the personal property tax relief fund, and we're going to call it the local government fund. And by the way, the \$70 million was an interesting proposition because when we were assured, we, local governments, NASB, the School Boards Association, NACO, the League, the NRD Association, we were assured a dollar-for-dollar reimbursement. Now, who said that? Senator John DeCamp, Senator Loren Schmidt, others who were advocating for passage of LB518, which passed in 1977 because that started in 1972, 5/8 exemption finalized in 1977

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with the remaining 3/8 exemption for a total of what was then \$250 million on day one that local governments across the state lost in actual revenue, not valuation. That's just from those three exemptions alone. So you extrapolate what those numbers would be today to offset some of this and then you couple that with the mandates and you can see why this is problematic. Again, the Nebraska Supreme Court said good job, Legislature, but again, unconstitutional. So at that point, then in 1982, the Legislature passed LB816, and that was a bill where Senator DeCamp said, OK, we've had enough of this. We can't, we can't seem to accommodate the Nebraska Supreme Court's need to not have a frozen class. So we're just going to call it state aid. And so it was known as, quote, state aid ever since then. Governor Exon, then Governor Exon, said when these bills passed exempting livestock, farm equipment and business inventory, that as much as he would like to reimburse local governments \$250 million, he said, we can't do it, we can't afford it. So that's where he put a \$70 million cap. You'll note cut after cut after cut. The full appropriation to municipalities was only \$17.9 million. And so we were grateful for something but it was a totally inadequate amount of reimbursement. So where we are here today is we've had a total elimination of our, of our Municipal Infrastructure Redevelopment Fund. The, quote, state aid, which is a minimal amount but still was something. It was valuable, better than nothing. And then coupled on top of that with the mandates and this is why it's problematic for municipalities, for others, coupled with within the next step of that, Senator Brewer, was what happened in 1996 when the Legislature passed LB1114 putting in play-- somebody is saying time's up--

BREWER: It wasn't us. [INAUDIBLE].

LYNN REX: --LB1114 putting in place the, the levy limits on all local governments that passed in 1996 to take effect in 1998. And for municipalities, that was 45 cents per \$100 of valuation plus 5 cents. But here's the kicker on that. Every village, every city of the second class, and we only have 529 cities and villages, 380 are villages. But when you look at that, they were all over \$1.05. Because you buy a fire truck, you do something like that, and you're going to be over that. So in two years they had to go from \$1.05 to 45 cents plus 5. In addition, in LB-- in 1996, the Legislature passed LB299, which is the beginning of the lid on restricted funds. And so of the 529 cities and villages, and I will close with this, of the 529 cities and villages in the state of Nebraska, we started with 531 when I started at the League, we're now down to 529. Half of those are up against their maximum levy limit of 45 cents plus 5 cents for any local agreement. Half of them are up against it. Most of those are small communities,

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they were the ones most impacted by the levy limits because they were all over \$1.05 at the time which is their maximum levy limit. And, Senator Lowe, the cities like Kearney, Nebraska, that then in 1996 were at 87.7-- .5 cents per \$100 of valuation. They weren't even close to that. So it was kind of on the levy side, a nonevent. They're impacted by the lid on restricted funds. But half of the municipalities that are up against the maximum levy limit of 45 plus 5, half of those can't even raise the money to spend the 2.5 percent lid of restricted funds over the prior year that you grant them to spend. So with that, I just want to underscore the importance of LR1CA. This is a really important measure. And we think it's something that the Legislature should seriously consider and pass and enact. And we have every confidence the voters will also approve it. With that, I'm happy to any-- answer any questions you might have.

BREWER: Well, Lynn, what I love about you is, is we get kind of the, the history piece of it and the encyclopedia, because you've, you've been, you've lived it, you've seen it. And for some of us that haven't gone that far back, fitting the pieces of the puzzle together, understand how we got here, you fill, fill in a lot of those blanks. So thank you. I do wish that when we, we have bill numbers that it had the Legislature, you know, like if it was the, the One Hundred Fifth and it was LB605. Part of that was, was the, the Legislature that adopted it so that we don't get LBs mixed up over year-- session after session and then year after year and, and then you get confused because you'll hear the same number--

LYNN REX: That's true.

BREWER: --on different issues and-- all right. Questions for Lynn? All right. Thank you. That was a great history lesson.

LYNN REX: Thank you very much. Appreciate your consideration today and thanks to Senator Blood.

BREWER: OK. Next proponent to LR1CA.

RON PETERSON: Good afternoon, Senators. My name is Ron Peterson, R-o-n P-e-t-e-r-s-o-n. I'm the chairman of the Hall County Board. And ironically, my dad was a senator in 1980 and sat next to DeCamp so it was kind of interesting to hear that. I will try to highlight some of the major expenses that Hall County has experienced from unfunded mandates. First, we provide office space to Adult and Juvenile Probation, Health and Human Services, and driver testing who totally occupy about 21,000 square feet in Hall County buildings. If these

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offices were rented on the open market at \$14 a square foot, it would cost the state over \$294,000 per year. This figure does not include costs for utilities, insurance, janitorial service, supplies and maintenance. Since 2016, the renovation expenses associated with these offices have exceeded half a million dollars. Another major expense is courthouse space. Now there's a bill before the Legislature, LB81, which will assign another county court judge to Hall County. And we understand we will be getting a juvenile hearing officer. Our current Hall County Courthouse has no room for additional courtrooms and the current ones are inadequate. In addition, there will be-- need to be additional support staff that will require more space. Preliminary estimates for the additions to the Hall County Courthouse could range in approximately \$25-\$30 million, not including recent renovations that were in the millions. As you can see, these additional cost-related unfunded mandates have a dramatic impact on taxpayers in Hall County. When you look at the overall constraints because of the 2.5 percent growth limitation and the possibility of the elimination of the inheritance tax, we cannot continue to cover these costs without the possibility of layoffs or ignoring our basic needs at the county level. The inflationary pressures will make it impossible for us to cover increased health costs and wages in the future. Unlike states and cities, we do not benefit from increases in sales tax revenue because of inflation. These are just a few of the examples of how unfunded mandates place restrictions on Hall County taxpayers and the services they receive. Therefore, we ask for you to support this resolution.

BREWER: All right. Thank you. All right. Let's see if we don't have some questions for you. Yes, right here.

RON PETERSON: Hi, Ray.

AGUILAR: Hi, Ron. Just for my own curiosity, do you guys get a portion of the casino revenues now?

RON PETERSON: We do. As an example, last month, the amount was \$55,000. So that will not come close to replacing it. Current level is what we would lose if the inheritance tax goes away.

AGUILAR: But you won't turn it down.

RON PETERSON: No, we won't. But on the other hand, I can assure you that we're probably going to see some increased expenses in court costs and also law enforcement activity. And that's one of the things that concerns some of the taxpayers.

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AGUILAR: Thank you.

BREWER: Question for you. When it comes to being able to incarcerate juveniles, you have facilities there to do that in Hall County?

RON PETERSON: No, we don't. We have to send them up to Madison if we do, but we have a few of them that we can take. We have to isolate. There's some restrictions in terms of how they can be handled, but many of them are sent up to Madison. We've looked at that possibility as another thing and, and I know the sheriff would like to see us have it locally because obviously that takes time for his people to haul people back and forth.

BREWER: Well, and, and that's the very reason I ask the question because I was on the phone with the chief of police out west, they had a juvenile who kind of went crazy and stabbed his sister and his mother. So he's a, he's a violent nature and Scottsbluff used to be able to take them and they can't anymore. The inn was full at Kearney. The inn was full in Lincoln. And when he got to Omaha, the inn was full and he ended up taking him into Iowa. Now if you're leaving far western Nebraska, almost to the Wyoming border, you lose four days in transporting that, that juvenile. And, you know, that's, that is a, a cost that they have to eat. And the other crazy part about it, it was two days later they got the call to come get him so he lost another four days. And so at some point, there's things like that we're going to have to figure out some solutions because we're just killing these towns and counties and trying to have the ability to meet what's required and, yet, there is no solution that doesn't put him in a terrible position.

RON PETERSON: And Hall County is in a real difficult situation if you-- our judges appeared before our board the other day and told us we currently had about 600 cases of juvenile cases in Hall County this last year, which is almost the same amount as Sarpy County, which is three times our size. And we don't have a juvenile hearing judge because we aren't big enough. The law says you have to be at 75,000 population. So they're going to provide us possibly a juvenile hearing officer. But our county judges are hearing 600 cases of, of juvenile cases in addition to the regular number of cases, which I understand was around 11,000. So it's really a mess.

BREWER: Well, we'll look forward to the Judiciary Committee helping us find some solution here. All right. Any other questions? Thank you for coming and testifying.

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JACK MOLES: Good afternoon, Senator Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Jack Moles. That's J-a-c-k M-o-l-e-s. I'm the executive director of the Nebraska Rural Community Schools Association, also known as NRCSA. On behalf of NRCSA, we'd like to voice our support for LR1CA. We thank Senator Blood for bringing this bill or this resolution. Many times the Unicameral passes legislation that places mandates on the schools or ESUs. Most often these mandates are unfunded or underfunded. The intent of these mandates is most often very good, but the true financial impact is seldom addressed, except that the costs fall to the school district or the ESU. With about two-thirds of Nebraska's public school districts, most of them rural districts not receiving equalization aid, NRCSA believes that this happens more disproportionately to our rural schools. LR1CA, if adopted by the voters, would go a long way in providing true property tax relief for our rural districts and the ESUs that serve them. I provided a few examples for you there of, of things that have been done recently. Bills that have been passed. I'm not going to go into detail on those, but all of those have, have or could possibly extend more cost to the districts. And by using those-- by providing those examples, NRCSA is not arguing about the intent or the merits of the bills, we're not singling them out. We're just providing examples. We're simply pointing out that no matter how well intentioned, the Unicameral often adopts legislation that passes more costs on to our public schools and ESUs. Of course, when a school district receives little or no equalization aid, these costs are then passed on to the property owners. LR1CA would allow the voters of the state to decide if unfunded or underfunded mandates are an acceptable way of doing business. We appreciate Senator Blood's efforts in this area and we encourage you to move LR1CA forward.

BREWER: All right. Thank you, Jack. Let's see if we have some questions for you. All right. I'm kind of impressed that my district is so well represented on your executive committee hearings with Crawford, Chadron, Hershey.

JACK MOLES: Got most of you.

BREWER: All right. Thank you for your testimony.

JACK MOLES: Thank you.

BREWER: Welcome to the Government Committee.

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ALLIE FRENCH: Thank you. Good afternoon. My name is Allie French, A-l-l-i-e F-r-e-n-c-h. I am representing Nebraskans Against Government Overreach. It was actually kind of interesting, Senator Blood's office had reached out to our group asking us to come and testify in support of LR1CA and we weren't exactly sure what we were looking at at first so we took a neutral position with our group members asking them to look into it further. But I wanted to stand up today for our group in support of, at the very least, allowing Nebraska constituents to vote on this matter. Listening to the other testifiers today, it sounds like there are very, very good reasons for sincerely considering this legislation. And we certainly wouldn't want to stand in the way of our voices being heard from all of the people. So we don't have a bunch of numbers for you or a bunch of statistics. We're not going to talk your ear off about other political entities. But at the end of the day, we do support this going forward and allowing to be voted on by the people and, and see where they stand on it. Thank you.

BREWER: All right. Thank you. I'll ask if there are any questions for Allie? All right. Thank you for coming and testifying. All right. If there's more that are stacked up for LR1CA, come up and take a seat in the front row so I get a head count here. And if you've already testified, you can move out smartly for other chairs. All right. With that, welcome to the Government Committee.

SARAH CENTINEO: Thank you very much, Chairman Brewer, committee members. My name is Sarah Centineo, S-a-r-a-h C-e-n-t-i-n-e-o. I am a nurse attorney out of Bellevue, Nebraska. I am here today representing the Nebraska Association for School Boards and my own school board in Bellevue Public Schools, of which I've been a member for the last six years. I-- just to refresh you, the NASB represents 260 districts in Nebraska and over 324,000 students are in our member districts. Today, what I really wanted to touch on is the, the unfunded mandates recently what seems to have been a trend with personal accounting and computer requirements. All of these are great things for our, for our kids to, to learn about. But when the Legislature mandates these to our schools, our schools are absolutely affected. And in Bellevue, we are a landlocked school district with Iowa on one side and, and nowhere to grow. There are-- my colleagues, let's say, my colleague in David City, when we testified against the computer bill last year, getting a teacher to-- accessible to teach and having and upgrading the equipment to make everything equitable for the kids in rural districts is quite expensive. And in districts with smaller budgets, this takes up a much larger percentage of their budget and it is fundamentally, I think, unfair to them. We believe strongly the NASB and local control and being-- and that each district really is

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different, whether it's from funding a population or geographic differences. Transportation, for example, is a bigger cost in some districts than in others. When we look at all of these things together, when we are presented again with these unfunded mandates that we are required to by legislative command, it can really adversely affect the opportunities that our students see in general. So I don't have any numbers for you, unfortunately, about exactly what the, the-- what that looks like. I think we could probably work on that. But in this bill would if-- I'm sorry, this constitutional amendment would if passed by the voters, I think it would definitely benefit both the equalized and unequalized districts equally, which is something that we don't always get to see in the education world. So thank you for your time and I'm happy to ask-- answer any questions.

BREWER: All right. Well, it's probably good that you don't give us too many numbers because we're looking more of a concept than numbers right now, because we seem to have kind of a tidal wave of people with the same opinion here so. All right. Any questions? Questions? All right. Thank you for your testimony. Welcome to the Government Committee.

DARRELL ZABROCKI: Thank you. Good afternoon, Senator Brewer and members of the committee. I'm Darrell Zabrocki. That's D-a-r-r-e-l-l, last is Z-a-b-r-o-c-k-i. I live at 427 South 1st Street in Seward, Nebraska, and I am currently a Seward County Commissioner and I'm here today to testify in support of LR1CA. Counties have one main source of revenue to fund county government and the additional mandates from the state, and that revenue source is property tax. Counties do not have additional revenue streams and the mandates as legislated from the state put additional strain on county budgets. We are competing in a labor market that requires more and more of our resources to be used for salaries and benefits so that we can recruit and retain a skilled workforce to serve our constituents. Additional state mandates inhibit our ability to meet the challenge in this area. Counties have traditionally supported state and local concerns in areas such as roads, bridges, law enforcement, elections, courts, jails. However, some areas that are pushed down to the county level are not necessarily local in nature. An example would be the postcard bill from last session. This legislation cost counties in Nebraska \$450,000 last year statewide. In Nebraska and Seward County, the postcard bill cost the county \$6,000. Currently, we have a bridge project that we're required to remove some trees along the Blue River to create a mitigation site. Ironically, we need almost \$6,000 to get these trees removed. Budgets being tight, I would have much preferred to use that \$6,000 to remove those trees for our bridge project instead of sending

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out the pink postcards. We currently provide space in our Justice Center for the State Probation Office. We are not compensated for the space, nor are we compensated for the telephone expenses for this office. At present, we are required to provide these services. In the past, HHS was housed in our county office spaces, but the, the HHS department outgrew our facility and they moved on to lease space, but we absorbed these expenses for years. Last year, legislation was introduced that would have forced county jails to house state inmates due to the current overcrowding at the State Corrections facilities. This measure failed to advance, but if it had passed it would have created a hardship for county corrections facilities. We do not have sufficient staff to absorb the influx of inmates and we do not have the ability to provide the programs required to support state inmates. There are several election integrity bills currently being considered. These measures will require changes to hardware, software, election supplies that will create additional expenses for our election commissioner's budget, funding that we currently do not have to meet these potential new requirements. And I see I'm out of time. Thank you very much for your time and I would entertain any questions that you might have.

BREWER: All right, Darrell, we, we got your testimony here and I think everybody's, everybody's with you. They understand what's happened. I did not realize that the-- and I did like that postcard bill so I'm, I'm as guilty as anybody, I guess-- didn't realize it would be that much expense with it, but that's probably it, is it's, it's chips here, chips there and pretty soon it's a, it's a big chunk gone that you can't use to do what you're supposed to do day to day in the county. Is that kind of a way to synopsis it?

DARRELL ZABROCKI: That's a fair assessment, sir.

BREWER: All right. Do we have any questions? Yes, Senator Conrad.

CONRAD: Thank you, Chairman Brewer. I don't have any questions. I just wanted to say welcome to, even though I represent north Lincoln in the Legislature, any time I hear Seward County, of course, that perked up my ears and I want to say thank you for your service, Commissioner.

DARRELL ZABROCKI: Thank you very much. Thank you for your service and I'm very much aware of who your parents are.

CONRAD: Yeah. Good to see you.

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

JOE HEWGLEY: Thank you, Senator Brewer. I'm a shorter guy.

BREWER: Yeah, well, that chair makes you feel short.

JOE HEWGLEY: Thank you, Senator Brewer and members of the committee. My name is Joe Hewgley. That's J-o-e H-e-w-g-l-e-y. I've been a Lincoln County Commissioner since 1985, so it's going on 38 years. I've seen a lot of change in both state and county government over those years. I'm going to deviate from my previous comments because there were some things that were brought up about state funding. It was either during my first or second tenure as president of our state organization. I'm going to guess it might have been 1998. Senator Don Pederson from North Platte, good friend, introduced a bill on my request, the county's request, to see if we could get some funding for our county jails. I, I really felt good. I was patting myself on the back when I went home. That was introduced, it passed, and I felt really good. But I-- but the next year when we came to get funding, they said, well, we don't have enough money. So the very first year out of the chute, the, the first year we, we got about 20 percent, second year we got 50 percent, and it went down from there because each year, although the Legislature did pass to fund those state-- I should say state inmates, I need to clarify that, the funding wasn't there so it was easy, as somebody mentioned, you can give, you can take away. So when we talked about measures on the, a little stricter on the CA, I appreciated your comment, Senator Raybould, that you hit it right on the point. So hopefully that constitutional amendment will do that. I'll be brief, Senator, I know where you live and it's a Friday afternoon, so I'm going to cut through the rest of this. I want to talk specifically about a couple of areas, and that's juvenile justice 3As. We've seen a tremendous increase in the number of all of our court cases, but 3As, in 2014, I think that was one of our first studies that came in through here. I came down and testified on that, \$74,000 is what we had from Lincoln County; 2016, 366; 2018, 560; 2022, 770. We're projected this year to have over \$900,000 in our only 3A program. So if you look, that's a twelvefold increase over those number of years. It's not sustainable. That's not sustainable to the taxpayer. Be glad to answer any questions, it's late on a Friday afternoon, and thank you for your time.

BREWER: Well, it's, again, just like Lynn, it's nice to have folks that have been around a while and have seen the good and the bad and understand what, what needs to be done. Because if you only see this

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much of it and, and the truth somewhere out here, it's, it's good to have that filled in.

JOE HEWGLEY: I wish I had a tenth of Lynn's recall, though.

BREWER: Yeah, well--

JOE HEWGLEY: What, what a walking encyclopedia.

BREWER: Wouldn't it be great to be able to talk that fast and think that fast to get that much information out. She's amazing. All right. Questions? All right. Thank you, sir.

JOE HEWGLEY: Thank you very much. Have a great day.

BREWER: OK. Next proponent to LR1CA. Welcome to the Government Committee.

RICK VEST: Good afternoon, Senator Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Rick Vest. Spelled R-i-c-k V-e-s-t. I'm appearing before the committee in my capacity as a member of the Lancaster County Board of County Commissioners. I'm here to testify on behalf of the Lancaster County Board in support of LR1CA. The Lancaster County Board is committed to providing sustainable local government services to our constituents. The provision of local government services at the, at the county level is defined by statutory mandates from the state. Each year, the Lancaster County Board makes tough decisions during the budget process to ensure that our constituents both enjoy a reasonable property tax rate while also receiving the government services that we are mandated to provide. Some mandates go to the core of responsibilities of county government. These functions generally provide a direct benefit to our constituents, and funding them with local real property tax is appropriate. Other mandates, however, primarily obfuscate the true cost of state government. In this situation, shifting the costs to counties places an unreasonable burden on our local property taxpayers. With rising costs and increasingly limited revenue streams outside of property tax, we are often faced with the prospect of choosing between curtailing service levels for core local services or raising the property tax level to pay for the increasing costs of state government. For example, Lancaster County has been mandated to pay the costs of maintaining office and service facilities for the Department of Health and Human Services to administer Medicaid at a budgeted cost during the fiscal year of approximately \$300,000. Similarly, appointed legal representation in district court and

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juvenile court is paid by Lancaster County at a total budgeted cost of approximately \$2.51 million this fiscal year. County court paid staff costs for district court and juvenile court total over \$2.16 million and nonoperating costs for both district court and juvenile court total over \$1.1. Finally, Lancaster County is mandated to pay for office space, utilities, office equipment, and computers used by adult and juvenile probation at a total budgeted cost of approximately \$973,000. Property tax growth cannot be controlled without a well-designed and reliable state plan for funding programs and services which counties are mandated to perform. LR1CA provides an important property tax relief mechanism, and for that reason we support this important legislation to ensure continued funding. Thank you for the opportunity to testify. I'll be glad to answer any questions.

BREWER: Perfect on timing. Thank you. All right. Let's see if we have any questions for Rick. Questions? All-- you threw there, I thought, I thought--

CONRAD: No, I just needed to wave.

RICK VEST: North, north, north Lincoln.

BREWER: All right. Thank you for your testimony.

RICK VEST: Thank you, Senator.

BREWER: OK. Any additional proponents on LR1CA? Welcome to the Government Committee.

AL DAVIS: Thank you, Senator Brewer, members of the Government Committee. I'm, I'm not going to read my testimony. I think you have heard from a lot of really expert witnesses here who tell you why it's such a necessary thing. But I'm here on behalf of the Independent Cattlemen of Nebraska and the Sierra Club and also Nebraska Farmers Union, where I'm a board member. John asked me to testify in support of this bill today. So in my experience prior to being in the Legislature some years ago is that I was a school board member and so from that perspective I certainly appreciated the testimony that came from the School Boards Association about what the unfunded mandates can do to a taxpayer. As you know, when, when a county puts its budget together, all the, all the entities submit their requests and fill it out and so then the poor guy who is on the farm or the ranch or the home sees the bill and he really blames the local government for a lot of the problems. And some of that is due to unfunded mandates that

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have come down. As you know, this bill nearly made it last year and certainly would have voted-- the voters would support it. I know they will. So I think it's time to let the voters do so and pass the bill onto the floor where it can be debated and passed by the Legislature. Thank you.

BREWER: All right, Al, let's see if we got any questions. All right. Thank you for your testimony. OK. Any additional proponents to LR1CA? Anybody here in opposition? Anybody here in neutral? Well, then we welcome Senator Blood back. Oh, we've got letters to read in. Oh, you're going to like this, we got 12 proponents, no opponents, and two in the neutral.

BLOOD: My only regret is that you cannot ask for a Speaker priority on a resolution. I know, ah.

BREWER: Oh, but we still can do that, can't we?

BLOOD: Maybe you can sweet talk him for me.

RAYBOULD: Can it be a committee?

BREWER: We'll talk.

BLOOD: I-- maybe if I cry, he'll change it. I don't know. All right, so first of all, I want to thank all of you for your patience. I know it was a little bit longer hearing than you're usually used to, but as, as you can see it's a very important issue to many Nebraskans. And we could have invited a whole lot more people but out of respect to you we did not. But I do want to close by saying I really think it's time that we take a look at these issues and we really start breaking down what's necessary and what has value, which we always talk about running government like a good business. That's what you do with good business, right? So if these programs have value, then the state should reconsider how they fund the programs and really quit kicking that property tax can down the road. And that's all we want to do with this legislative resolution. I truly believe with all my being that if it goes to the ballots, it's going to pass because it is the expectation of Nebraskans that we not do something unless we can show how we can pay for it. Pretty simple principle. And so I, I sincerely hope that you will move this forward on the next Exec agenda. And I pray that you vote it out unanimously as you did in the past. And if not, no hard feelings. But I do appreciate the opportunity to have a hearing on this bill. And I look forward to seeing what happens in the end.

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BREWER: All right. Let's see we don't have some questions for you.

CONRAD: I don't, I don't have any questions. I just wanted to-- thank you, Chairman Brewer-- I just wanted to commend Senator Blood for her continued leadership on this issue. And I think it's, you know, it's really a, a testament to your work in identifying an issue and a solution that brings together perhaps one of the most diverse set of testifiers that I think we've maybe seen this year. I mean, I know that there's a lot of common ground and commonsense bills that come through the Legislature that don't grab a lot of headlines. But I mean, this really has a obviously a very, very diverse set of perspectives, all kind of coalescing around this issue and solution. So I, I appreciate that and just wanted to, to note that.

BLOOD: And I, I completely agree with you. It's, it's strange bedfellows, quite frankly, but I don't know a single Nebraskan that doesn't want better transparency, right, regardless of their party or their ideology--

CONRAD: Yes. Yes.

BLOOD: --and for us to be fair and honest when it comes to how we put programming forward.

CONRAD: Yeah, very good. Thank you. Thank you.

BREWER: All right. Any other questions? So just to be clear, since you had no opposition that spoke here and you had no opposition, we probably should put this on the Exec file right away. All right?

BLOOD: I mean, you could make it a committee priority bill.

BREWER: Well, let's get it out of Exec. [LAUGHTER]

BLOOD: I'm just kind of like--

BREWER: Well, we will Exec on it on the next Exec. How does that sound?

BLOOD: I appreciate that.

BREWER: All right. Thank you for presenting LR1CA.

BLOOD: My pleasure.

BREWER: OK. We'll have a quick reset to put up the next bill and we will invite Senator Raybould to the chair. OK, we get everybody to

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settle down, we'll get started here. Senator Raybould, welcome to your committee.

RAYBOULD: Thank you, Chairman Brewer. It is so great to, to be in front of you in this capacity. It's a little unusual, but--

BREWER: You're fine. I'm just trying to get the room to settle down a little here. All right, go ahead.

RAYBOULD: I just want to wrap up on that last issue with unfunded mandates. I remember when I became a county commissioner in 2011, right from the gate, they, they dissolved and said, nope, we're not going to pay state aid to cities and counties anymore. And you know that number stuck in my head. On the county side, it was \$1.4 million. On the city side, it was \$1.6 million. And so what that did, it just, boom, created a deficit right in January. We thought we had our budget balanced and we didn't. And so we had to figure out other things to cut to make sure that we got our budget balanced. But I'm here, members of the Government, Military and Veterans Committee [SIC], to talk about LB420. My name is Jane Raybould, J-a-n-e, and last name is R-a-y-b-o-u-l-d. I represent Legislative District 28 and appear before you today to introduce LB420. LB420 seeks to move the cost of office and service facilities used for the administration of Medicaid on to the state. And as a side note, this is only asking for the administration of Medicaid. We have a whole number of other facilities from DMV to the courthouses to Probation and Parole that could have been added to this list, but we're not asking for that at this time and I know Commissioner Rick Vest will be able to talk more about this. This is an issue that I first encountered as a Lancaster County Commissioner, property taxpayers in Lancaster County have had to pay continuing costs to provide office space for the Department of Health and Human Services to administer Medicaid. State administration of Medicaid has benefited the entire state by bringing consistency of services and increasing efficiency in healthcare administration. While many counties have seen a reduction in costs and Medicaid offices, Lancaster County has seen an increase in costs as Medicaid operations have centralized here. Given this legislation's initiative to reduce tax burdens on our citizens, not just in Lancaster County, but in all of those counties that pay to house HHS offices, I believe that this is an easy adjustment to make in that direction and to provide some relief from an unfunded mandate. Furthermore, I, I also feel that this adjustment may further incentivize the Department of Health and Human Services to seek further efficiencies in administering Medicaid by evaluating its physical scope. I will be followed in testimony by Commissioner Rick Vest of Lancaster County. He can provide some

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additional perspective on this issue. I will try to answer any questions you may have about LB420 or any other unfunded mandates you want me to spend a lot of time talking about. But I do hope that you will look favorably on this as a step in the right direction for our taxpayers--

BREWER: All right.

RAYBOULD: --and thank you.

BREWER: Thank you for that opening. Let's see if we have questions. I, I have just one. If we were to pass Senator Blood's LR1CA, would that then cover what you're trying to do with LB420?

RAYBOULD: It should cover that. But you-- we're asking for the Legislature to look at just the costs that Lancaster County and other counties are paying right now. So if LRCA1 [SIC--LR1CA] gets passed, it has to go to the voters. And I think it's projected to hit the election schedule maybe in 2024?

BREWER: Correct.

RAYBOULD: This is something that we're seeking immediate relief on with-- from the Legislature for this year in the hopes that it'll cause DHHS to evaluate some of their office space needs and that we could see some relief this year.

BREWER: Gotcha. All right. Thank you.

RAYBOULD: You bet.

BREWER: All right. No questions. You'll stick around for close?

RAYBOULD: [INAUDIBLE]

BREWER: All right. First proponent to LB420. Welcome to the Government-- welcome back to the Government Committee.

RICK VEST: Thank you, Senator. Thank you, Senator Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Rick Vest, spelled R-i-c-k V-e-s-t, and I am appearing in my capacity as a member of the Lancaster County Board of Commissioners and testifying on behalf of the board in support of LB420. LB420 seeks to address the continuing cost to Lancaster County property taxpayers for providing office space for the Department of Health and Human Services to administer Medicaid. This arrangement rose out of LB522 in 1982,

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when the administration of Medicaid was transferred from the counties to the state of Nebraska. An amendment added to another bill in the same session established that counties would pay the cost of Health and Human Services' offices as they existed in 1983. The move to the state administration of Medicaid has benefited the entire state by bringing consistency of services and, over time, increased efficiencies. With improvements in technology, the need for physical facilities shrank and those facilities became more centralized. That meant fewer locations and fewer counties were needed. Although the state-- statute speaks about maintaining offices as they existed in 1983, we can all agree that the lay of the land has significantly changed since then, including just recently with shifts to remote work and telehealth becoming prominent. So over the last 39 years, while many counties have seen costs diminish or disappear along with their Medicaid offices, Lancaster County continues to pay rising costs as Medicaid operations are centralized here. This situation has created inequity that lands directly on Lancaster County property taxpayers, who are now on pace to pay out about \$300,000 in rent during this fiscal year. This figure rises consistently every year, LB420 would fix this fundamentally unfair situation for property taxpayers in Lancaster County. In addition, in this era of Medicaid expansion and readjustment, LB420 would give the Legislature a more accurate assessment of what it actually costs to administer the overall Medicaid program. Furthermore, just as this change led to systematic improvements in the 1980s, the changes proposed by LB420 may further incentivize the Department of Health and Human Services to seek further efficiencies in administering Medicaid by reconsidering the scope of its physical footprint. Given this Legislature's focus on reducing the overall tax burden on our citizens, we believe this is the right answer and now is the right time for this legislation. Although we humbly recognize that there are not any simple solutions to solve the property tax conundrum, we do ask you to pass LB420. Thank you for allowing me to testify. I would be happy to answer any questions. [INAUDIBLE]

BREWER: All right. Well, thank you for your testimony. Let's see if I have any questions. All right. I think you, you did kind of clear things up on why this impacts-- well, in this case, Lancaster County, different than it would counties out in my district, because we don't have the burden on that, that you've been because of the central-- centralized part of, of what they're doing with Medicaid, so.

RICK VEST: Yeah. Yeah. We've been around, we know how the world's changed since 1982 as far as the use of technology. Yeah. So it's-- it makes sense. I mean, every move that's happened has increased

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efficiencies and been better. It's just that now all the burden for those efficiencies are falling on one set of property taxpayers.

BREWER: Got it. All right. Well, thank you for your testimony.

RICK VEST: Thank you, Senator.

BREWER: All right. Next proponent for LB420. Welcome back to the Government Committee.

JON CANNON: Thank you, Chairman Brewer, members of the Government, Military and Veterans Affairs Committee. My name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the executive director of NACO, here to testify in strong support of LB420. Thanks again to Senator Raybould. When she was running last year, I, I had the pleasure of being introduced to her and, and she, she made sure I knew that she was formerly Lancaster County Commissioner. I said, well, you're one of us. She said, well, not so fast, my friend, but I've got a couple of bills in mind that, that NACO will probably be in support of, and we're certainly happy to be here for that. As Commissioner Vest already ably relayed, this is from, from legislation from 1982, was effective in 1983. And that's what we've been living with ever since. It was supposed to be a grand bargain, depending on who you ask, as to, well, the counties were going to, you know, they were going to give up the, the public works or the public services function in, in exchange for providing office space in, in the county courthouse and those county courthouses where HHS wanted to, what ultimately became HHS would end up. I'll refer to my prior testimony as far as, you know, when it comes to property taxes, you know, what do you want to pay for? Who do you want to pay for it? How much do you need? How do you want to pay for it? Right? And, and I go back to the who do you want to pay for it? Because again, I'll reiterate my prior testimony. Those things that are a peculiarly local concern are the things that we want the locals to pay for. And so back then, everyone in 1982, everyone said, well, obviously what I'm, what I'm doing what, what is now referred to as an HHS sort of service, that's obviously a very local issue. I would say by now the way that we've gotten to where we are with HHS, that we consider it a statewide issue. It is very much a state statewide issue. And if so, if you, if you accept that premise, then the question is, why are we having local property taxpayers pay for office space for, for what is a statewide concern? So LR1CA, to answer a, a previous question, LR1CA is prospective only, and so it would only be for those additional costs that the Legislature is going to push down to the local political subdivisions after it's passed. So presumably January 1, 2025. This bill is current. This bill, it would be

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reimbursement for what is currently being provided by the counties. You know, Senator Brewer, you said earlier that, you know, you hadn't realized that with all these bills that, you know, there are so many chips that kind of fall in-- into this whole thing. I'm reminded of the adage that: No single drop believes that it is the cause of the flood. And for anyone that looks at the fiscal note and says, well, maybe the cost is too high, I would tell you that that fiscal note represents dollar-for-dollar property tax relief for the great-- the taxpayers of the great state of Nebraska. I have nothing further. I'd urge your passage of LB420 and I'm happy to take any questions you might have.

BREWER: All right. Thank you for that clarification on the difference between Senator Blood's LR and, and this LB, so.

JON CANNON: Yes, sir.

BREWER: Appreciate that. All right. Any questions for Jon? All right. Thanks for coming in.

JON CANNON: Thank you very much. Thank you all.

BREWER: OK. Additional proponents to LB420? And you guys are starting to see why we clump like things together. Save trips.

JIM WARREN: Senator Brewer, I'm seeing why I have never chosen the path of legislation. [LAUGHTER]

BREWER: Welcome back.

JIM WARREN: Good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Jim Warren, J-i-m W-a-r-r-e-n. I'm a Sarpy County Commissioner and I'm supporting LB420. And the comments that have been made so far, I echo and I don't want to take up a lot more of your time. I do just want to add some numbers to it. We're required to maintain expense at our cost, our facilities. Up until recently, we also had to provide space for motor vehicle for driver's license. They were removed from the courthouse and there are still a little hard feelings between the director and Sarpy County. But it should not be an expense of local taxpayers, i.e., the county taxpayers. We provide about 18,000 square foot of space, space to DHHS and Probation. Being in Sarpy County, we're in kind of a high-rent area. The cost of that would be approximately \$1.3 million a year. This attempts to change this have been failed in the past, and we continue to see additional mandates put upon the county. The counties are forced to pass this burden

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directly on to taxpayers. I respectfully ask the committee in advance to support LB420. Thank you for your time and be happy to answer any questions.

BREWER: Thank you. Just double checking my notes here. \$1.3 million.

JIM WARREN: Yeah.

BREWER: OK.

JIM WARREN: Yeah,--

BREWER: All right.

JIM WARREN: --18,000 square feet.

BREWER: Questions for Jim? All right. Thank you for coming and testifying.

JIM WARREN: Yep. Thank you.

BREWER: OK. Additional proponents to LB420? All right. Any opponents? Anybody here in the neutral? Oh, hold it, we got an opponent somewhere? No. You're neutral right?

LARRY KAHL: Opponent.

BREWER: Opponent. OK. Opponent. Welcome to the Government Committee.

LARRY KAHL: Thank you, Chairman Brewer, members of the Government, Military and Veterans Affairs Committee. My name is Larry Kahl, L-a-r-r-y K-a-h-l, and I'm the chief operating officer for the Nebraska Department of Health and Human Services, DHHS. I'm here to testify in opposition to LB420, which would require DHHS to pay counties for the cost of the space-- office space and service facilities used for the administration of public assistance programs. A little history, prior to April 1, 1983, counties had the responsibility for the administration of these programs and were responsible for the cost of building space, equipment, and employees. Prior to April 1, 1983, counties were also responsible for some program costs, including as much as 14 percent of the cost of the Medicaid program, which equated to about \$20 million back in 1983. Legislation in '82 and '83 mandated the transition of 89 county welfare offices, 1,200 county employees, and the public assistance programs from counties to state government. In exchange for the state assuming responsibility and costs for these programs, the counties

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were required to provide DHHS with office space to administer those programs. In 2011, LB234 created a process under which a county could request DHHS to review office and service facilities provided by the county to determine if the department is able to reduce or eliminate office space within the county. DHHS has granted such request in situations where the original programming has vacated, no longer require space in that county, or DHHS has consolidated and no longer requires county space. In other counties, the office service facilities required by DHHS has exceeded the county's obligation and DHHS pays the county for that additional space. DHHS currently occupies roughly 170,000 square feet of space provided by counties. This is a decrease from the 210,000 square feet that the counties were required to provide in 1983. DHHS estimates that the fiscal impact of no longer having office space provided at no cost would exceed \$4.3 million to the department. The current cost to the counties to provide this space is significantly less than the more than \$317 million that the counties would be paying in 2022 dollars had the state not relieved the counties of the financial burden of the cost of county public assistance offices. We're committed to helping people live better lives wherever they reside. While we continue to improve access to services through efficiencies, we are also committed to being available in local offices across the state. In summary, LB420 will burden DHHS with additional operating costs that would be-- that would alter the long-standing agreement and relationship with Nebraska counties. We respectfully request the committee not advance LB420. Thank you for the opportunity to testify and I'd be happy to answer any questions.

BREWER: All right, Larry, appreciate you giving us a little more history here because we didn't get this side of the history here so we're kind of understanding how all this is coming together now. All right. Questions for Larry, DHHS? All right. Thank you.

LARRY KAHL: Thank you.

BREWER: Thank you for this testimony. That is very helpful. All right. So we've gone proponents. Any additional opponents? Anyone in the neutral? All right. Senator Raybould, would you like to close?

RAYBOULD: Thank you all very much. And I, I seem to recall that back when I was a county commissioner, we had-- as county commissioners, we had no say in the contract that Health and Human Services would sign for office space. And so I've been on the, I was on the public building commission for 12 years, helping with the property management and maintenance of the city and county properties. And it seems like

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at that time we did not have any say or control when HHS could go out for office space and maybe overestimate their space needs, but then they would sign the contract and we were obligated to pay. I think it's important that we take this step and look at Health and Human Services and the reimbursement. It's great to see that they went from 211,000 square feet and now down to 170,000 square feet. But that's all over the state of Nebraska, and not just the facilities in Lancaster County. In Lancaster County, the cost is about \$300,000 every year. So we're still asking for relief at this time. I think it's a right step for the Legislature to take a look at and, and review and take seriously. I know the fiscal note is quite high. It's 3.-- or I'm sorry, it's \$4.3 million. But I know that this would provide tremendous amount of relief to the counties right away. And I think it's a necessary step in our commitment to seriously review any and all unfunded mandates going forward and understand that there are serious fiscal consequences that the counties have consistently shouldered the burden on. And unfortunately, they've had to pass on to the, the taxpayers because we have to have a balanced budget. And a balanced budget requires us to make cuts when all these costs for juvenile courts, district courts, other facilities increase. And so this is just one small step in the pathway to correcting some of these-- the cost shifting that has been going on for quite some time.

BREWER: All right. Thank you.

RAYBOULD: You bet.

BREWER: Questions for Senator Raybould on LB420? All right.

RAYBOULD: Thank you.

BREWER: Thank you. And that will close our hearing. No letters to read in. So we will reset for LB190 and we happen to have Tom Brandt here with us. Senator Brandt, welcome to the Government Committee.

BRANDT: Good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. I am Senator Tom Brandt, representing Legislative District 32: Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster Counties. Today, I am introducing LB190. This bill seeks to provide county boards with the authority to adopt resolutions that provide for a project payment plan extending for multiple years beyond the completion date of projects to repair, retrofit, reconstruct, or replace any bridge. LB190 also provides that full authority to create and adopt these payment plan resolutions shall be vested in the county boards. County boards will not be

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required to take further action under any state law to exercise this power. Finally, if any other provision of law in the county conflicts with LB190, the bill will take precedence. This bill is necessary to provide safe roads and bridges for people to drive on. There is currently a large gap in funding that is critical to the repair and upkeep of current infrastructure in Nebraska counties. LB190 provides a solution to our infrastructure needs without seeking to increase property taxes or additional bonding authority. Construction costs are only getting more expensive. Allowing for longer payment terms on these type of projects will allow us to lock in current prices to repair closed or damaged bridges immediately. It is our hope to create a sustainable approach to maintaining our infrastructure instead of continuing to address infrastructure issues only when they become impossible to ignore. This bill was brought to us by the Lancaster County Board of Commissioners and following me in testimony you will hear from Lancaster County Engineer Pam Dingman and Lancaster County Board Commissioner Rick Vest. With that, I will answer any questions that the committee may have.

BREWER: All right. Thank you, Senator Brandt. Let's see if we don't have some questions on LB190. Questions? All right. So real quick synopsis.

BRANDT: Sure.

BREWER: We got a lot of bridges having issues. The idea is we fix them before they become a crisis.

BRANDT: No. Well, yes, actually, we passed this bill out of this committee last year. It was called design-build for bridges, and we ran out of time on the floor. So there were some angst about the design-build component. So we dumbed down a little bit to take that out of this and so basically your board of commissioners passes a resolution, and then when they put the bid package out, it will probably say, just give us the regular bid and then give us a bid for this over four years, five years, so that the bidders would know there's two options. I would anticipate that's how this would work.

BREWER: So I think the word design is not good for a bill.

BRANDT: Must not have been with somebody. I'm not sure.

BREWER: All right. Thank you.

BRANDT: Yep.

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BREWER: You'll stick around for close?

BRANDT: Yes.

BREWER: OK. We will start with proponents to LB190.

RICK VEST: Yeah, it's, it's, it's me again.

BREWER: Well, a little deja vu here. Welcome back.

RICK VEST: It appears to me that you all are doing all the hard work at the Legislature here. Good afternoon, Senator Brewer and members of the Government, Military and Veterans Affairs Committee. My name is still Rick Vest, R-i-c-k V-e-s-t. I am appearing as a Lancaster County Commissioner and testifying on behalf of the board in support of LB190. In 2018, the Lancaster County Board convened a citizens' task force to renew-- to review the existing conditions, future needs, and potential policy improvements and funding solutions that could be leveraged to improve Lancaster County's infrastructure. The results of the task force reported a \$9 million gap in annual funding to address improvements to critical bridge infrastructure and a \$15 million funding gap for maintenance and repair of all roads and bridges in the county. LB190 provides an innovative solution to our infrastructure needs that does not seek to increase property taxes. Currently, Section 23-135 requires counties to be invoiced within 90 days of completion of services rendered, rendered by the contractor. To address this issue, LB190 mirrors legislation adopted within the context of construction of the recently completed South Beltway, namely LB616 from 2019 to provide flexibility to this payment timeline. Like LB616 which authorized the Department of Transportation to contract for longer payment terms on its construction contracts, LB190 authorizes counties to pay for bridge repair projects over a period of time that extends beyond the completion of the project. Ultimately, allowing for a longer payment term on these types of projects will allow us to take advantage of current prices to repair closed and damaged bridges immediately. Locking in prices may lead to significant cost savings in an inflationary environment during which construction costs continue to skyrocket on what seems like a daily basis. In addition, unlike other proposals that we have supported in the past, LB190 does not entail additional bonding or taxing authority. The construction contracts would be paid only with budgeted funds. The authority we are seeking through LB190 would provide us one more tool to help meet the goal of providing safe and reliable transportation for Lancaster County citizens and visitors. For example, the authority in LB190 would prove especially valuable when

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repairing multiple bridges that may be damaged due a flood-- due to a flooding emergency. Lancaster County Board is committed to creating a more sustainable infrastructure program that will end the current approach our engineer must take to keep our road network open. The authority is only part of the solution, but nevertheless it represents an important step toward meeting our infrastructure needs. Thank you. I would be glad to answer any questions and I'm not testifying on the next bill just so you know.

BREWER: You're not?

RICK VEST: This is it.

BREWER: All right. Well, that, that's going to motivate us a little. OK. Any questions? All right. Thank you, sir.

RICK VEST: Well, thank you all. And I always ask my mother to pray for me before I come over and she always instructs me to thank you all for the hard work you do on behalf of the citizens of Nebraska so Bonnie says thank you to you all.

BREWER: Tell her hi for all of us. We appreciate it. OK. Next proponent to LB190. Welcome to the Government--

PAM DINGMAN: Good afternoon.

BREWER: Sorry. Welcome to the Government Committee.

PAM DINGMAN: Thank you. Good afternoon, Senator Brewer and members-- and committee members. My name is Pam Dingman, P-a-m D-i-n-g-m-a-n. I'm the Lancaster County Engineer, and today I am representing NACO, the highway superintendents, and the Professional Engineers Coalition. Today, I would like to talk to you about one bridge. Well, maybe two bridges. Well, technically, three bridges. On Roca Road in southern Lancaster County, this road is critical to school and farm market routes. There are three bridges built on Roca Road in 1958. All three bridges were built with the same type of construction and were rated poor. After the flood of 2019, the bridge east of 96th Street on Roca Road failed a scour critical bridge inspection and was closed. The corridor has many complex utility and environmental permitting issues. The design work and the utility relocation work took over 18 months. The cost of replacing this bridge was approximately \$525,000. It would have been great to replace all three bridges at this time. However, there was not funding available to do this. In April of 2022, a large void was discovered behind the abutment of the second bridge located just west of 96th Street, and Roca Road was once again closed. At this

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time, I suggested the remaining two bridges be replaced at the same time. My department asked the county commissioners for \$550,000 per structure for the two bridges. The current engineer's estimate for construction with inflation is \$1.6 million per structure. If all three bridges on Roca Road were replaced in 2020, the estimated cost would have been under \$2 million. If all three bridges are replaced-- were replaced in 2023, the estimate would most likely be over \$4 million. Had this legislation existed in 2020, Lancaster County could have built three bridges at the same time and saved approximately \$2 million. Allowing counties to spread the cost of these projects over a number of years would have given us the opportunity to save money and complete many essential bridge projects prior to closure. I think it's important to note that this story about three bridges on a well-traveled, paved road in Lancaster County has occurred three times in my tenure as county engineer. So it's not really three bridges, it's really nine. Honestly, it's not really about bridges at all. It's about restoring resiliency to our rural communities through dependable infrastructure. It's about the simple goal of getting to school or work or getting your goods to market in a safe, reliable route. It's about restoring basic needs to our rural communities. Thank you for your time.

BREWER: All right. Thank you, Pam. Let's see if we have questions for you. Questions for Pam? Yes, Senator Conrad.

CONRAD: Thank you, Chairman Brewer. Good to see you, Ms. Dingman. Just a quick question, and it might be beyond the scope of this bill, but--

PAM DINGMAN: Sure.

CONRAD: --I was thinking about it as you and Senator Brandt were talking. So I understand it. We've been allocated a pretty significant amount of resources from the federal government for infrastructure needs, things like bridges, presumably. Do you have a sense about either the timing or the scope of some of those resources? And if there are measures like this or otherwise that, you know, we should really prioritize to leverage all opportunities to stretch those dollars as far as they can for our infrastructure needs? If you-- if it's beyond the scope, I apologize, but it just got me thinking.

PAM DINGMAN: So the, the infrastructure, the bipartisan infrastructure bill has a number of components. Nebraska will be receiving additional funding for bridges, overall. I believe it's in the neighborhood of \$45 million per year. Approximately 10 percent of that will be distributed by the state to county structures. The bridge condition

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report that is actually from NDOT's website that I passed out lists all the bridges that counties own that are rated poor. You may note there's a significant number of them, 4. million-- \$4.5 million isn't going to go very far, quite frankly. There's a second part to the bipartisan infrastructure bill called the Bridge Investment Program. It's a grant program that you have to apply for. We, Lancaster County, did apply for a grant. We have not been informed yet if we have received it. We did apply for about 4.-- or \$12.4 million, which of course is significant. I believe at the current time we have 25 bridges that are rated poor and in constant danger of being suddenly closed without notice to the public. We, we need about \$100 million to stabilize our bridge program. And so this is just one more tool in the toolbox to get us a little further down the road, literally.

CONRAD: Thank you. Thank you.

BREWER: Yes, Senator Raybould.

RAYBOULD: Thank you, Ms. Dingman. Can you tell us how many years you've been the county engineer?

PAM DINGMAN: So I have been the county engineer now for nine years.

RAYBOULD: Nine years. And how many bridges have you closed over that nine-year period?

PAM DINGMAN: Well, at our high point after the flood of 2019, I closed 28 bridges due to that flood. And what's interesting is we still have about five of those bridges closed right now. A lot of people don't realize that FEMA, FEMA got wise to, to bad bridges several years ago. And if you have to close a bridge after a flood and it was kind of a junky bridge anyway, they will give you, like, 10 percent of the cost of that bridge. And that's what happened to us in 2015 and 2019. They just denied the claims.

RAYBOULD: So did anybody ever complain about when you closed a bridge?

PAM DINGMAN: I am not popular when I close bridges. When I, when I go out into the county, I, I swear now that we're in this new day where everyone has surveillance, as soon as I get out of my truck and start looking at a bridge, I have people drive up and say, you know, please, please don't close our bridge. And I understand what that is, but it is my duty as a licensed engineer to protect the health and welfare of the public and I take that duty very serious.

RAYBOULD: OK. Thank you very much.

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BREWER: So the moral of the story is we don't want to see what our bridge is, if you've got the pen and the bridge is not ready. All right. Let's see if we have any other questions. All right. Thank you.

PAM DINGMAN: Thank you.

BREWER: OK, we are still on proponents of LB190. Welcome to the Government Committee.

DENNIS WILSON: Thank you. Appreciate that. And, Senator Brewer, I appreciate you on-- as the Chair here and the rest of the senators, I think, I've met at least one time or another in my 67 years. I will keep it brief. I can avoid some of the things that will be on the written list here, but a few of the things I'd like to note is some of the changes--

BREWER: Can we get your name and spell for us.

DENNIS WILSON: Oh, I'm sorry. Dennis Wilson, D-e-n-n-i-s W-i-l-s-o-n. Despite the interest rates coming up currently, we have so many developments going on throughout the county. And the problem we're facing, along with what, what's in this note is we have a dichotomy whereby we've got the bridges that are failing, just as Pam just mentioned. But the problem we have is with all of these growing subdivisions coming in, we end up with a number of other bridges that are not necessarily in bad shape now, but they are load rated. Those are the bridges that we need to get repaired as quickly as possible because the traffic is increasing by such large rates for us right now. Roads that were carrying maybe 200 vehicles a day are now carrying up to 5,000 vehicles a day. And we don't have enough resources that we can utilize to repair these bridges or in some places to have to repair them. I would like to make one of the key areas, our ag area. We have what I call a "rurban" county. We have a number of areas that are "rurban" in nature, but we also have a lot of rural. And the way those structures are set out in the low-lying areas where most of the crops are, we're seeing large vehicles going across bridges that are already rated, and that's one of the most dangerous things we can be looking at right now. We have a number of semitrailer trucks. We have OPPD taking things to some of the areas such as Facebook and to some of the other locations where we're getting businesses developed. The reason we're in favor of this particular measure is so we can prepare for some of those bridges that we know are not going to be in great shape in the near future. And it will also help us to make those feeders coming into those neighborhoods a welcome thing as opposed to, say, gravel running throughout the area.

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So as, as we attack these bridges, it allows us also then to pave around through those areas. With that, I'll just take any questions.

BREWER: All right, Dennis, let's see what we have in way of questions here for you. Questions? Yes, Senator Sanders.

SANDERS: Mr. Wilson, welcome.

DENNIS WILSON: Thank you.

SANDERS: Sarpy County, fastest growing county still in Nebraska. Can you keep up with the demand if it's growing so fast and you have bridges in the area that it's growing the most, should those have been replaced a few years back to deal with what's now the growth? What would the disruption look like if we start to repair them now? I mean, it's all about safety, but do you have to build a new bridge to accommodate to the repair of the bridge?

DENNIS WILSON: Almost always we have to replace them. And the reason I mention that is because our crews have the ability to do welding and other things. If there's a repair that needs to be done, in most cases, my staff can do it. They'll go out to areas such as Vencil Island, which had some serious impacts after the flooding. But our crews went in and they could do some welding and fix up the thing to the point where we know it's going to function at least for the next five years, say. So we do have the capabilities for that. We certainly don't have near enough money to be caring-- taking care of those bridges that really need it. And they're going to get worse, as I say, just because of the traffic and the loads they're carrying.

SANDERS: Thank you.

BREWER: All right. Additional questions? Sir, thank you for your time.

DENNIS WILSON: You bet. Thank you.

BREWER: All right. We are still looking for proponents to LB190? Is there anybody here in opposition to LB190? Is there anybody here as neutral on LB190? Welcome to the Government Committee.

KRISTEN HASSEBROOK: Good afternoon, members of the Government Committee. My name is Kristen Hassebrook, K-r-i-s-t-e-n H-a-s-s-e-b-r-o-o-k, and I'm testifying today on behalf of the Associated General Contractors Nebraska Chapter. AGC is a trade association of highway contractors who perform highway bridge and municipal utility infrastructure work. And we certainly understand the

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challenges counties have in budgeting and paying for work on bridges that need to be replaced and repaired and we do not object to this being a tool available to counties to use. But in surveying our members this week, we did find some concerns from contractors on how they might bid on a project of this type at the county level. Most county bridge contractors are small or very small businesses, and this type of financing would likely require the contractor to finance the project, either by self-financing it, which very few would be likely to be able to do, or to go to a bank and ask the bank to extend them financing in advance of bidding on the project. And none of our members that did county bridge work had experience doing that type of request. Again, we want to be a good partner with our counties and do not object to this tool. But we would make a suggestion or a request that the committee maybe consider adding language that would require counties to be upfront about the desire to finance any projects over time before the project goes out to bid that would allow any contractors to be fully aware and informed prior to making that bid. We, of course, assume that is the intention of our-- of the counties, but the bill doesn't specifically specify that. So we would just make that request of the committee. With that, I thank you for your time and I'd be happy to answer any questions.

BREWER: All right. Let's see if we've got questions. Senator Raybould.

RAYBOULD: Thank you, Ms. Hassebrook. Did your members indicate that they were not likely to bid on projects--

KRISTEN HASSEBROOK: There was--

RAYBOULD: --if they had to somehow--

KRISTEN HASSEBROOK: There was certainly a little, a little reluctance, but certainly wanted to find out more. I think being-- knowing that information upfront is really what would be helpful to them so they could make that decision.

RAYBOULD: OK. Thank you.

BREWER: All right. Additional questions? Thank you for your testimony. All right. We're still on those in the neutral for LB190. Seeing no more, we'll have Senator Brandt come back and close. Senator Brandt, welcome back.

BRANDT: Well, I think it's about as straightforward as what it was last year. You heard from two county engineers. We have a need out there. We need to capture the current prices. The people in the no

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[RECORDER MALFUNCTION]-- bridges are going up 20-25 percent a year and what happens and particularly-- the counties that I represent, are really small counties. And with the, the price of the bridge is going up and currently where they have to pay for the bridge up front, by the time they get the money to do it, the price has almost doubled. And particularly, where you get down here in southeast Nebraska, you know, the water in this state runs from Chadron to Falls City. I've got counties that have 200 or 300 bridges in these little counties and we've got 5,000 people. And it's, it's just tremendously expensive. A lot of these can be replaced with culverts or box culverts, but those aren't cheap either. And you heard from Mr. Wilson, roads that used to carry 200 vehicles a day are now carrying 5,000 vehicles. You close a bridge now, you usually divert that traffic to another road not designed to carry that. And yes, we have talked to Kristen's [PHONETIC] group, with AGC, about their concerns. And I think as long as the contractors know up front, I would-- it's like the example I gave. I think when they put the bid document out, there probably would be two lines on there to give them the option of bidding it, bidding it both ways. But certainly the county engineers or the commissioners can make it very clear, up front, so that they can decide whether they want to bid or not. Talked to Jon Cannon with NACO. He felt that less than 10 percent of the bridges that the counties do today would probably fall into this category. But that's, that's just a guesstimate. So, I would take any questions.

BREWER: All right. Thank you, Senator Brandt. Let's see if we have questions. All right. Seeing none, we will go ahead and read in your letters which are hidden underneath here. You have two proponents and no opponents and nobody in the neutral.

BRANDT: Great. Thank you.

BREWER: All right. That will close our hearing on LB190 and we'll get reset for LB-- oh, excuse me-- LB638-- LB637. OK. As we're getting ready to kick this off, how many are here to testify on LB637? Going to be a long night. All right.

RAYBOULD: Great.

BREWER: Whenever you're ready, go ahead and kick off.

RAYBOULD: We're ready.

BREWER: Welcome to the Government Committee.

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ALBRECHT: Well, thank you. I don't know if it's a privilege to be the last one between here and the road to get home. Yes. Chairman Brewer, good afternoon-- and members of the committee. For the record, my name is Joni Albrecht, J-o-n-i A-l-b-r-e-c-h-t, and I represent District 17, which includes Dakota, Thurston, Wayne and a portion of Dixon County in northeast Nebraska. I introduce LB637 after hearing numerous times from individuals and organizations who have often not felt that their voices were being heard by officials they have elected and who are spending their tax dollars. LB637 promotes transparency and accountability in government and offers members of the public an opportunity to trust that they will be heard. LB637 makes two simple changes within the Open Meetings Act, found in the Nebraska Revised Statute 84-1412. First, to Section 1, LB637 adds one sentence: a public body shall-- we love that word shall-- allow members of the public an opportunity to speak at each meeting. Number two, in Section 2, LB637 deletes one sentence that reads: a body may not be required to allow citizens to speak at each meeting, but may forbid public participation at all meetings. The change is simple. The goal is clear. If you have been elected by the people and/or if you are able to decide how to spend people's money, then you are expected to listen to the voices of the people. Members of your public service-- sorry-- members of your public deserve it and this change requires it. Furthermore, governing bodies will benefit from it. Good ideas, in fact, great ideas, come from listening to the people on items being considered by a governing body and items that are not being considered but, perhaps, should be. As an example, when I served on the Papillion City Council, we had a large Wal-Mart coming in, a super Wal-Mart and it was in my district and the people were not happy. And I basically said to them, it could be a hog confinement or it could be a super Wal-Mart generating lots of money for our community. You tell me what you want to do. I put out a postcard just to see. We spent 15 hours in the planning stages. We spent 15 hours on the city council listening to whether Papillion should have a super Wal-Mart or not. Had we not listened to those 15 hours of testimony, we wouldn't have-- we would not have had the nicest Wal-Mart in the state because the people said, we don't want lights in our backyard. We don't want trash all over. We don't want the trucks coming in in the middle of the night. Everything they said, we tried to comply. So you get a lot more out of it if we do listen. So there may be some discomfort for elected officials as the public testifies, but not listening should never be the answer. The body is free to schedule time at the beginning, middle or end of the meeting. The body is free to allow time for each speaker in accordance with the number of people expected to speak. And by putting it on the agenda for every meeting, the public knows that there's an

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opportunity and they know that if for some reason they missed the opportunity at one meeting because they were late or ran out of time, maybe they only gave them 15 minutes at the beginning of the meeting. I don't know. They can trust that they'll have an opportunity at the next meeting. OK. And in exploring this issue, my office found out that there are some bodies that already have public comment as an item on their agenda. However, we've also found examples of bodies suspending public comment for an indeterminate amount of time so that others in the public-- it was very infrequent and very inconsistent or where members of the public have to jump through hoops to be assigned a place on the next agenda. Many people don't know whether or not they are or will be allowed to speak at a meeting and some people travel a long ways to just-- go testify. We see that here. After testifying, you'll hear from others who'll share their stories and the need to have an opportunity to speak in front of governing bodies that affect their lives. I invite you to listen. I believe that we can all agree that many people feel frustrated by the current state of politics and this opportunity to know that they will be heard and give more people the confidence and trust in their government. I'll be happy to answer any questions.

BREWER: All right. Thank you, Senator Albrecht. Questions for Senator Albrecht on LB637. All right. You'll stick around for close?

ALBRECHT: Yes, sir. Yes.

BREWER: All right. We will start out with proponents to LB637. Welcome to the Government Committee.

LARRY STORER: Thank you, ladies and gentlemen. It is a pleasure to be here. My purpose today is to give you a summary of things that I've already sent to you in emails and have not gotten replies to. That's part of my problem is the transparency that goes on between agencies and citizens. This body is one of the better ones. You seem a lot friendlier and more open to citizens that are here. A little easier to hear you. And sometimes you do talk with us, sometimes you laugh with us. There are many different bodies around the state that do not do that. They're, they're very hostile towards a citizen that wants to interrupt their business day. That's my mission here, is to tell you that this I do support this bill, but it needs to be amended severely, maybe totally rewritten. The intent of the act, I asked a former secretary or attorney general one time at a business meeting, who is the intent of the act for? And he explained to me that it's for the citizen to be able to petition the government. But I can tell you, this body is one of the better ones for that. I can tell you that

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there are a number that are not. They're all over the map on the interpretation of these rules. Omaha Public Schools is the worst. Number one, they do not have a copy of the current Open Meetings Act. The one that's printed out of date by the National Association of School Boards and they do not always refer to it at the start of their meeting. The City Council in Omaha is the next worst-- well, it's probably the worst, because they have one that's displayed and they tell you you can go refer to it, but it interrupts their meeting if you do that. What citizen is going to come down 3 hours early to check that out and 3 hours early to read their rules, which are very hard to understand. That's the other problem, the wide variance in the rules, the interpretation of the Open Meetings Act itself. And that needs to be a full, open debate in the state by the sheriffs, the attorney general and the county attorney in that each county may be invited to city councils, and the other boards that have open meetings. Because I heard one group-- this was in the newspaper, I believe. I will refer to it quickly, but at the Fremont City Council, I went there one time and they were very friendly but after the election, that changed. And they became hostile to the citizens and it created some problems. They think that they can tell you when and where you can talk and what you can talk about. That's now. They never used to be that way. Omaha, for example, comparing to this body today, if you're one inch off of the topic of that agenda, you are out of order. And if you make one iota of a protest to that, you are ruled out of order by the president of that presiding body and ordered out by a sheriff's deputy. Taxpayer dollars. At least this body has a State Highway Patrol person that's in a red coat and he's pleasant, also. He's not sitting right next to me. He doesn't come down and sit next to me as a threatening gesture, that if I get out of line with the president of the council, that he goes like that and I get walked out, which happened just a few weeks ago. He also told me and I think illegally, that I was out of the building. That was a civic center for county and city. I don't think there's any law in there that says if he did not arrest me, I did not make a crime, that he cannot order me out of that council building-- out of that civic building. But he did and that was not the first time. This is not his fault. Thank you. This is not his fault. He was ordered to do that by a presiding officer that doesn't understand the Open Meetings Act.

BREWER: Larry, so we get you credit for your testimony, say and spell your name so it goes into the official record. Would you please?

LARRY STORER: I'm sorry?

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BREWER: Say and spell your name so it goes in the record and we have your testimony and your name.

LARRY STORER: I missed it by 2 minutes last night, so I will present that to you just in here.

BREWER: No, no. All, all we need is your, your, your name and then spell it.

LARRY STORER: Oh, I'm sorry.

BREWER: For the official record.

LARRY STORER: Larry Storer, L-a-r-r-y S-t-o-r-e-r, 505 Lafayette, Omaha, Nebraska.

BREWER: Just, just the name is fine. OK. Thank you. Let's see if we have questions for you. Any questions for Larry? All right. Thank you.

LARRY STORER: Thank you.

BREWER: Doug, welcome back to the Government Committee.

DOUG KAGAN: Thank you, Senator. Good afternoon. Doug Kagan, D-o-u-g K-a-g-a-n, representing Nebraska Taxpayers for Freedom. LB637 is very important to our group and its members, who, including myself, frequently speak at local government, council, board and commission meetings. Although the current Open Meetings Act does not require such entities to allow public comment at all meetings, actually, several local subdivisions in the Omaha metro area do allow comments on agenda items or nonagenda items, not specifically noted on their agendas. In fact, a few officials encourage citizen input and actually seek to engage with us on issues. However, we believe that the Legislature should mandate allowing public comments at every meeting under the open meetings law, because of entities that refuse to allow it or make it difficult. The Papio NRD and State Board of Education are two prime examples. Our members relate problems occurring in several categories, such as burdensome advance notice requirements in order to speak; it is cumbersome to include a nonagenda item to ask for its placement on an agenda; difficulties accessing audio-visual equipment to display testimony. Officials should anticipate planning a longer meeting for a controversial subject. Because some public officials do not respond well or at all to emails, phone calls or letters, constituents feel the need to speak to them publicly. They may find that some officials prefer to muzzle public commentary, not wanting to accept criticism or suggestions. Unfortunately, there are elected officials who simply do

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not want to hear or listen to public rebuke and unreasonably deny public commentary or limit numbers of speakers. Local officials also foster resentment when they remove discussion items from the agenda at the last minute or add them shortly before a meeting, thereby depriving the public of the opportunity to comment on these issues. Some consider themselves public masters rather than public servants, making people so unwelcome that they no longer wish to participate in the public process. During public comment time, officials might actually learn something from constituents. This bill would not impose micromanaging rules governing public comment. Local officials can implement reasonable rules enabling individuals to exercise their First Amendment rights adequately, without needlessly delaying or disrupting a meeting. If someone wishes to pursue an issue at length with a public official or discuss a personnel matter, public comment time would offer a place to introduce the topic and request a personal meeting with the official or in a private session. We encourage you to advance LB637 for full discussion by the Legislature, for both in-person and videotaped public meetings. Thank you.

BREWER: Thank you, Doug. Now, have you, by chance, had one of these incidents that have been described happen to you or?

DOUG KAGAN: Yes, I have. There was an instance at the Papio Natural Resources District meeting where they took the agenda item off the agenda and they didn't-- there was a provision for doing so in the open meetings law, but they did it right before the meeting. We had a crowd of people there, they wouldn't put it back on the agenda and none of us could testify. This had to do with a bond issue.

BREWER: OK. All right. Thank you. All right. Any other questions for Doug? All right. Thanks for coming in. Thank you for your testimony. All right. We are still on proponents to LB637. Welcome to the Government Committee.

LOREEN REYNANTE: Thank you. Good afternoon. My name is Loreen Reynante, that is L-o-r-e-e-n, last name, R-e-y-n-a-n-t-e. I reside in Papillion, Nebraska. I am a proponent of LB637. Thank you, Senator Albrecht, for introducing this bill. It seems obvious that elected officials should want to hear from their constituents in a public setting, but sadly, that is not always the case. We, the people, are the second house in Nebraska. The salvation of the state is the watchfulness in the citizen, which, as you know, is the inscription over the main entrance to the Nebraska State Capitol. The COVID experience allowed parents, citizens and taxpayers to realize that they need to get involved with local government and other political

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subdivisions, including school boards. As a graduate of the Papillion La Vista School District in 1978, I found it astounding that there is a board policy, 8420, that states: the board is not required to allow citizens to speak at each meeting, but shall not forbid participation at all meetings. Essentially, they use the wording in the current Nebraska Open Meetings Act but changed a few of the words. Their policy also states that a person may speak for up to 3 minutes, not to exceed 30 minutes total. I like that this bill will allow for continued input and certainty that our elected officials and citizens will hear public comments at all meetings. And thank you very much for allowing me to speak today.

BREWER: All right. Thank you. Let's see if we have any questions for you on LB637. All right. Thank you. And thank you for the written testimony. Welcome to the Government.

DENNIS SCHLEIS: My name is Dennis Schleis, D-e-n-n-i-s S-c-h-l-e-i-s, and I live in Omaha. I don't testify very often at government meetings because, like a lot of people, I feel ill at ease. Nevertheless, when I do muster up enough courage to attend a city council meeting or county board meeting, I expect the opportunity to be heard. When I attend such meetings, I think it's only fair that everyone gets to speak their mind. I do prepare my comments when I speak. I don't mind waiting a long time to speak, but sometimes, not everyone gets to speak. So I think LB637 needs to be passed. And I thank you.

BREWER: All right. Thank you. Hang on. Let's see if we have any questions. All right. Thanks for coming in and thank you for testifying. Oh, I'm sorry. Senator Raybould.

RAYBOULD: Mr. Schleis, thank you so much for coming to testify. I know people get nervous and it takes a lot of courage to do so. But you said that not everyone gets to speak. Do, do-- could you share a situation where they came to provide public comment and they weren't permitted to speak?

DENNIS SCHLEIS: Yes. This was at the city council where the president required that he stick to the agenda. But-- and so when the person got up to speak, his discussion was not on that particular topic and he was escorted out of the building. That's all.

RAYBOULD: All right. Thank you so much.

DENNIS SCHLEIS: You're welcome.

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BREWER: All right. We'll continue with proponents of LB637. Allie, welcome back.

ALLIE FRENCH: Good afternoon. Allie French, A-l-l-i-e F-r-e-n-c-h. I am representing Nebraskans Against Government Overreach. Unlike our last testifier, I do this a lot. All over the place. In fact, over the last two and a half, three years, I think I've testified at least 24-plus various school boards, city council meetings, not so often county commissioner meetings and a lot here at the Legislature. It's amazing the differences between each body in how they conduct their hearings, at which points they allow people to speak, at what topics they allow people to speak on. And I can tell you that almost every district that I have been to in this state, at least one or two people are almost always removed, often for being slightly off topic, for being emotionally charged and honestly, oftentimes it's completely within reason. What isn't within reason is when we have a large number, number of people show up and because of its overwhelming capacity, people are often left without the opportunity to speak. I can think of examples in Fremont, where we had over 100 people show up for the mask mandate and not everybody got to speak. Many people went home because it got late. And, and it was done and over with. Same has happened in Omaha. Heck, we've even had a few hearings here recently and Senator Hunt's no longer here, but she'd agree with me, where hearings occur here and not every person who wishes to speak actually gets to speak before the body that they were there to, to be before. In fact, I, myself, did not get the chance to speak two weeks ago at a hearing, because we had it split up so that proponents went first for 3 hours and opponents for 3 hours and neutral for 3 hours. And, and because of the way it was set up, I had to leave before I got the opportunity to speak. And that, unfortunately, was kind of my own fault. I had family obligations. I didn't get the chance to be there, but I'm not the only one who has this happen to us. And I think that it would be extremely important that LB637 includes that all public members who show up get the opportunity to speak. And while I understand that has the potential to increase costs to cause meetings to have to go over multiple days, I think that that is an obligation and a duty of those who are elected into this body or any body, state body, should be required to hear every single person who shows up to speak, whether they agree or not, whether it keeps them there for 2 hours or 12 hours over the course of two days. I think every person should always have the opportunity to be heard, if they so desire. And I think that-- I did want to also mention, just kind of while we're on the topic, when it comes to providing testimony here and, and we have the opportunity to do so in person, but we're required to have that

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comment submitted by noon the day before. That, that can be very upsetting for people who plan on being here the day of but then, for example, they don't get to speak. They would have sent in an email the day before, but they thought they were going to get the opportunity to speak. They now no longer have the ability to submit that full testimony because of those limitations on providing comments to our elected bodies.

BREWER: OK. I agree with you on that. I, I have tried to, to have it so that as long as I'm in the Chair, that there will never be a Government hearing that we leave before everybody gets to speak. And--

ALLIE FRENCH: You are very good about that.

BREWER: --and I think we have a pretty good track record on that. I will be tested next Wednesday because we have three voter ID bills up on the agenda.

ALLIE FRENCH: Yes, you will be tested that day.

BREWER: But, you know, I-- fortunately, I'm blessed to have a really good committee of folks that stay focused. And, you know, we, we have some rotation we have to do just because of the nature of the things we have to do here.

ALLIE FRENCH: Absolutely.

BREWER: But I, I understand, you know, if it were me, I don't think I like the three hour, three hour, three hour, two hour, two hour, two hour. You know, I think you've got to be realistic, that as long as you have people that are still wanting to have a voice, you-- I mean, that's, that's why we have the job. We, we gut it out.

ALLIE FRENCH: Right.

BREWER: We, we figure out how to do that.

ALLIE FRENCH: And I do want to point out, there's no problem with doing segments: 3 hours, 3 hour, 3 hour is fine, but you have to come back around, I think, if there are still more people.

BREWER: Right. I, I agree. And the problem if you get too long of a block, the, the next group gets put at a disadvantage or say, if you're neutral folks, they don't even get up for 6 hours or whatever that is.

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ALLIE FRENCH: Absolutely.

BREWER: So it's really a management of the room and the people and, and just having that rotation so that if they're willing to keep moving forward in the chairs and know that you can get everybody in, but--

ALLIE FRENCH: Yeah.

BREWER: --I appreciate you, you, you know, trying to explain to us. We don't get to see a lot of other hearings.

ALLIE FRENCH: Right.

BREWER: Because we're too busy here, you know, chasing our tails.

ALLIE FRENCH: I didn't mention the State Board of Education because I'm certain others following me will. That's a very common one. We saw them just out and out refuse to have comment altogether. And they're not the only body who does that. Omaha, for example, won't let you speak at all unless it's specifically related to an agenda item. So they don't even have an open comment period where you can go in and just bring up what is important to you. You would have to go to a council member and request that it be added to the agenda or set up a private meeting, which is good and I think people should do that if they think something is important. But I also think these subjects need to be brought up in the public light because it might not affect just one person. And when these conversations are only had in private, you don't have the opportunity to open up that debate and that discussion to others in the community that would care equally as much. So I think it's important to keep that in consideration.

BREWER: But a lot of times you have folks that are very well educated on a particular topic and by everyone getting to hear it, everyone's--

ALLIE FRENCH: Learning.

BREWER: --a little, a little wiser.

ALLIE FRENCH: Absolutely. [INAUDIBLE].

BREWER: All right. Do we see any other questions? All right. Thanks, Allie.

CONRAD: [INAUDIBLE].

ALLIE FRENCH: Conrad.

BREWER: Oh, I'm sorry.

CONRAD: Sorry, thank you.

BREWER: I looked and glanced over.

CONRAD: No, that's OK. Thank you. Thank you. Thank you, Ms. French. Thank you for being here. I am really excited to be a co-sponsor of this measure with Senator Albrecht and had a chance to work with her office on this matter over the past few years before I rejoined the Legislature. But I really appreciate your commentary here today and anticipate that we'll see, hopefully a very broad section of Nebraskans coming forward in support of, of open government in general, which I think is a real point of pride for us as Nebraskans. The other thing that I'm concerned about and you touched upon as well, is that when an elimination public comment is utilized as viewpoint discrimination, whether that be folks who are concerned about COVID restrictions, whether that be folks that are concerned about curriculum issues, whether that be activists who are crying out in regards to police practices, I mean, it can be any number of different issues, any a number of different points on the political spectrum. But I, I am concerned about how an elimination or deterioration of public comment is being weaponized, from a viewpoint discrimination perspective. And I appreciate you lifting that up.

ALLIE FRENCH: Absolutely. And just to expand on that. Another great example, what actually took place in Fremont, they often deal with-- on the citizen side, they often deal with topics that come forward that they feel are overreaching, say, on-- what's the word-- not pet care, but the Humane Society--

CONRAD: Oh, OK.

ALLIE FRENCH: --in, in Fremont and they have a lot of discussion about that. However, there have been, at times, council members that didn't want to hear about it. So there's actually an active group in Fremont that, that really cares about this a lot. And oftentimes, they find themselves silenced or an agenda item removed, and then they're no longer able to speak on a topic that they care about. So I went a little bit less controversial, but just an example to add to that.

CONRAD: No, that's helpful. I didn't know about that issue in Fremont. Appreciate it.

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ALLIE FRENCH: Absolutely.

BREWER: All right. Any other questions for Alli? All right. Thanks again for coming in.

ALLIE FRENCH: Thank you.

BREWER: All right. Still on proponents to LB637. Welcome to the Government Committee.

KENT FRANZEN: Thank you. My name is Kent Franzen, K-e-n-t F-r-a-n-z-e-n, and thank you to the members of the committee for this chance. The operative change made by LB 637 appears to me to be the sentence that Senator Albrecht read: except for closed sessions called pursuant to Section 84-1410, a public body shall allow members of the public an opportunity to speak at each meeting. I believe this one sentence will go a long way towards helping my fellow Nebraskans believe that they at least have a chance to address our political bodies, in fulfillment of the right they are guaranteed under the First Amendment of the U.S. Constitution, which reads, in part: for the right of the people peaceably, to assemble and to petition the government for redress of grievances. This is also addressed in the Nebraska Constitution. The right of the people to peaceably assemble, to consult for the common good, and to petition the government or any department thereof, shall never be abridged. Without this change in state statute, political subdivisions will retain the legal cover to deny a constituent's speech at any meeting or meetings they please. This is especially true if they anticipate the prospective speaker to oppose the unit's aspirations. And for many, the ideal of free speech and open meeting will continue to be a source of frustration instead of decompression, as they watch some, in my opinion, unethical board members use their elected positions to stifle opposition by withholding the open meeting opportunity to redress a grievance. I've been a village board member and therefore, I support the ability of a body to manage their meetings. However, no political subdivision should be able to sidestep hearing from their constituents as easily as they can at present, particularly if the speech being muzzled is uncomfortable to the unit in question. I have heard from multiple media sources that we all need more civility in our public discourse. I agree, and I believe this change in statute will give those that wish to address a body an opportunity to do so. Just having a fair chance to make your point can go a long way towards reducing the exasperation with government at all levels. Please pass LB637. Thank you for your time and consideration of my opinion, even if you disagree.

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BREWER: Thank you, Kent, for your testimony. Let's see if we got any questions for you. Any questions for Kent? All right. Thank you for your testimony. And just a quick side note here. Let's see. Larry, the copies were made of your documents and delivered, so we have them in our hand. All right. With that, please go ahead and start on LB637.

SAMUEL LYON: Good afternoon, Senator Brewer, members of the committee. My name is Samuel Lyon, S-a-m-u-e-l L-y-o-n. I'm testifying today in support of LB637. I want to thank Senator Albrecht for bringing this bill. And I'm also-- it was very happy to see Senator Conrad signing on to it. Listening to constituents should not be controversial and it should not be partisan. Reading an excerpt, excerpt from the Attorney General's Office: "the Nebraska Open Meetings Act guarantees that every meeting of a public body shall be open to the public, in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies." The Open Meetings Act has been around for close to 50 years. You would think that nearly 50 years of practice, we would have figured it out by now. But I'm here to tell you that there are still significant issues here in Nebraska. I'm troubled by the actions of some who were, who were elected to serve the public, yet who are using their power, in some cases, to silence the voices of those they were elected to represent. I speak of my recent experience at the Lancaster County Board, where I, along with several others, were invited to speak on an agenda item. It was on the agenda-- only to be silenced by a policy that was being weaponized to prevent the public from speaking on that specific topic. Three days ago, when we arrived at the county board meeting and the agenda item arrived, we were told that we could not speak on the issue because it hadn't been brought up for a motion yet, even though it was admitted that they had had discussion on agenda items without motions, previous. But then, it was asserted that that was only staff. And then, well, that was only expert opinion and then, well, that was only invited guests. Eventually, we weren't allowed to speak on it at all because it, it failed to get a second motion. At the end of the meeting, during the open meeting portion, the open mike portion, we were told again we could not speak on that topic because it was on the agenda. And instead of realizing that, that the policy is made for-- to, to prohibit a speaker from doubling up and speaking on it at the agenda and then, again, on it at the open mike period, they said well, it was on the agenda and even though you didn't get to speak on it, you cannot speak on it again. Unfortunately, this is not the first time I have experienced this behavior from an elected body in Lancaster County and I feel it's an affront to the Open Meetings Act and shows a pattern of behavior that needs to be addressed. As

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citizens of this great state, we have the right to be heard and we have the right to speak on what matters to us. I, I witnessed the, the public confused, disappointed, angry, bewildered and frustrated when they left. And these are not emotions that we want citizens feeling when they leave a public meeting. I urge you to support this bill, but I also request an amendment that would grant the public the ability to speak on an agenda item during the open comment if they were not allowed to speak during that part of the agenda. Thank you for listening to me today.

BREWER: All right. Thank you for your testimony. Let's see if we have any questions for you. All right. Thank you for your testimony.

SAMUEL LYON: Thank you.

BREWER: All right. Still on proponents to LB637. Welcome to the Government Committee.

BRAD YERGER: Thank you. Chairman Brewer and senators of the Government-- Government, Military and Veterans Affairs Committee. I want to thank you for holding this hearing today. I better stop. My name is Brad Yerger. B-r-a-d Y-e-r-g-e-r. I'm a resident of Fremont, Nebraska. Thank you for holding this hearing today. And I want to publicly thank Senator Albrecht and now, Senator Conrad, for introducing this important legislation. I'm here today to voice support for LB637 and ask that you consider strengthening it even further to ensure that the public has a right to speak on every agenda item on-- of the public body when the item doesn't require an executive session. I believe the passage of LB637 is necessary to clarify the real intent of the Open Meetings Act. Section 84-1412(2) addresses meeting misconduct, but that sentence has been used far too often and taken out of context and used by some to override paragraph one, thus rescinding the rights to the-- of the public to speak. This single sentence has been misinterpreted and misused by some as a means to further deny the public's right to speak on an-- individual items before the public body that are on the published notice. This misrepresent-- misrepresentation and abuse of the public's right to speak needs to stop. Serving as a city council representative for four years, I was encouraged to be familiar with state statutes and the Nebraska Open Meetings Act. And I found that Nebraska 84-1408 and 84-1412(1) work in tandem to ensure that meetings of the public body are open to the public so that citizens can exercise their democratic privilege of attending and speaking at meetings. My study also led me to the Attorney General's Opinion regarding this last sentence of 8412 [SIC-- 84-1412(2)] in paragraph two. That opinion appears to indicate

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the language was not intended to limit the public's right to speak, as set forth in paragraph one. Rather, the purpose was to address provisions of misconduct. Passage of LB637 eliminates this confusion in the last sentence of 8412(2) [SIC], in an effort-- I, I, I support this wholeheartedly. In the community where I served as a city council member and the, the public's right to speak was often under attack, the last four-- last section of 8412(2) [SIC] was repeatedly invoked as a means to curtail the public's input at city council and other board meetings. For example, open public comment periods occurring once a month for a half an hour before the regular meeting started on items not on the regular agenda, were argued as being sufficient to satisfy the Open Meetings Act. However, that interpretation meant that the public would never get a chance to speak on any regular agenda items before decisions were made. There was also an attempt to rewrite city code to completely remove public speaking rights for the purpose of shortening meetings. And city boards have been advised by the public that their individual agenda items weren't required to be spoken on at the time. They could speak at them at the end of the meeting, when the items were already adjudicated by the-- meeting under question. So citizens in my community desperately need this legislation to pass. Therefore, I wholeheartedly support LB637. I would ask that this legislation be amended to make sure the public gets the right to speak on all published agenda items. Thank you for hearing me today and thank you for your service to this great state. I believe that informed and reasoned decisions are necessary if you're a public servant.

BREWER: All right. Thank you for your testimony. Let's see if we don't have any questions. Questions left, questions right. All right. Looks like you're good. Thank you. OK. We are still on proponents to LB637. And if you're planning to speak and you're not in the front row, go ahead and move up or at least get to the second row, so we got some idea who we got left here. Welcome to the Government Committee. Whenever you're ready, you can start.

ELIZABETH DAVIDS: Thank you. Thank you. My name is Elizabeth Davids, E-l-i-z-a-b-e-t-h D-a-v-i-d-s, and I am from Senator Conrad's district. And I'd like to thank Senator Albrecht for bringing this bill and Senator Conrad for co-sponsoring it. I very much appreciate the bipartisan work that you are doing. In the past two years, I've had a laundry list of public meeting experiences at a number of board meetings: at the State Board of Education, most of the biweekly Lincoln Public School Board meetings and now, at the Legislature, as well. I am really proud of my legislative body, this Legislature, that you operate under the principle that each bill is to be heard in a

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public hearing, even when there are 800 or so of those bills, because it keeps the people of Nebraska right where we should be: as the second house. I also appreciate that the Lincoln Public School Board policy is to hear public comment at every public meeting, approximately every other Tuesday evening throughout the school year and even a few times during the summer, as well. I strongly disagree with the recent change that the LPS board made, under Don Mayhew's leadership, to reduce the amount of time that each person has to make their statements, no matter how complex the situation or story is, reducing each public comment time by 40 percent by-- from 5 minutes to 3 minutes, leaves us parents feeling muzzled since communicating our thoughts efficiently in that amount of time is hardly a challenge the average person wants to take on. But the State Board of Education is an entirely different situation from the Legislature and the LPS, altogether. The State Board of Education only provides for public comment during a majority of its monthly meetings, so that means there could be five months of the year that the State Board of Ed doesn't have to hear from their constituents on public record. This is certainly concerning when one considers that, two years ago, the State Board of Ed proposed highly controversial health standards to which hundreds of Nebraskans wrote electronic public comments and then drove across the state to attend, attend in-person board meetings month after month after month. And the state Board of Ed did everything they could to dissuade public participation. In Kearney, on June 4, 2021, when they allowed almost 150 people to sign up to speak and then, they limited public comments to 2 minutes from 5 minutes and then, they limited speakers to only the first 75 speakers out of 150. That was their very first order of business. And when we filed complaints with the Attorney General's Office, even the Attorney General's Office said that the Board's actions were inconsiderate and disrespectful, problematic and worthy of admonishment from their office. So this bill doesn't right that wrong, but it is a step in the right direction for continuing to make our own governmental services more open and accessible to us, we, the people of Nebraska. So I sincerely hope to see this bill voted out of committee with strong bipartisan support.

BREWER: All right. Thank you for your testimony. OK. Questions. Questions. All right. Thank you. All right. Still on proponents, LB637. Welcome to the Government Committee.

STEPHANIE JOHNSON: Thank you. My name's Stephanie Johnson, S-t-e-p-h-a-n-i-e J-o-h-n-s-o-n, and I just want to say thank you to Senator Albrecht and Conrad for, for co-sponsoring this bill and just for bringing this bill. I am in absolute support of it. Just in the last three years, I have found myself testifying in front of multiple

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boards and bodies. And what I had found is that it's, it's such a variance of what they will allow or disallow, as far as public comment and if you don't know exactly the, the specific rules of that board, the rules of engagement, if you will, then you may or may not be allowed to have public comment. The State Board of Education, I won't even go into it because it's a repeat, but I was going to bring that up, as well. It's-- that's been very frustrating. I'm living in Lincoln. The-- I've been to the city council meetings. And they have used the agenda item correspondence, where you're not able to access public comment, just dependent upon what the rules are as far as the agenda and the Lancaster County Commissioners Board, as Samuel said. So it's what I have found or what I have felt like, as a citizen who's wanted to go and establish, you know, my First Amendment right, is that I have-- it seems as though they have put rules in place as a barrier to that First Amendment. We have the First Amendment right to approach our government with our grievances, our grievances, but yet, there are so many ins and outs of how to do that. I would like to just say thank you to this body at the Nebraska Legislature. I've found you guys to be the most easy to work with, if you will, as a citizen, as far as able-- being able to come before you. I have had times where I have not been able to get my comment heard, only because it's been a hot-button issue and there have been so many people and I'm not able to come back for the third hour, you know, because of family obligations. But I just want to say thank you for what you do as far as making it available to us here. But if you could just extend that for all of us in the state of Nebraska, across other boards. It's different when we would be engaging with public businesses. But as far as going to address public servants who are representing us and we just want our voices to be heard because we-- they're representing our voice. We have that First Amendment right. So just would appreciate you voting this out of committee and making this a, a right for all Nebraska citizens to be heard. Thank you.

BREWER: All right. Let's see if we have any questions. John Lowe.

LOWE: Thank you, Chair. And thank you for coming to testify in front of this great board.

STEPHANIE JOHNSON: Yeah. Thank you.

LOWE: I, I just might say that-- always come with a written testimony. That way, if you can't stay, you can turn it in.

STEPHANIE JOHNSON: I have learned that.

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LOWE: And so I'm just-- that's for everybody else in virtual land.

STEPHANIE JOHNSON: That's a great, that's a great strategy, for sure.

LOWE: Because some of our hearings do get extra long.

STEPHANIE JOHNSON: Absolutely.

LOWE: And people have to go back to their children and lives.

STEPHANIE JOHNSON: And it's been where I actually have thought, oh, I'm going to be able to give my testimony and then didn't submit it before, so I wasn't able to get it on the permanent record.

LOWE: Thank you.

STEPHANIE JOHNSON: But thank you.

BREWER: Actually, that was, that was a great recommendation. Like in Kent's testimony, I went ahead and made notes in there so I can go back and find specific things that he talked about that I want him to follow up on. So the written testimony does help, but especially, if it's limited time for questions or, or if it's the end of a long day and everybody's tired.

STEPHANIE JOHNSON: That's-- yeah. Good to know. Thank you so much.

BREWER: All right. Thank you for your testimony.

STEPHANIE JOHNSON: Thank you.

CONRAD: Thank you.

BREWER: OK. We are still on proponents to LB637. Welcome to the Government Committee.

SUSAN JACOBUS: Thank you. My name is Susan Jacobus, S-u-s-a-n J-a-c-o-b-u-s, and I want to thank you for allowing the public, including myself, to speak to all of you today in support of this very important legislation bill, LB637. This, LB637, clarifies the real intent of the Open Meeting Act. And as such, while I support this bill strongly, I do believe it could use some amending. For instance, in the bill language itself, on line 4 at the very end on the second page, it says, and the right to speak at meetings of public bodies, I would strike the word "and" and add the word "on"-- all or part any meeting-- any part of a meeting of a public body. Only because what's been happening and I need to clarify, I am a past council president of

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Fremont. I have been on city councils for 16 years and I have seen this bill-- or excuse me-- the Open Meeting Act applied rather-- many various ways, I guess, is the kindest way to put it. When there seems to be a great controversial issue similar to what had been stated before by prior proponents of this bill, things have been shut down or removed from the agenda and even the council members aren't allowed to discuss, add or subtract. They've now instituted a gag order on their own council because of some opposition within the members who want to have a chance to speak for their constituents. This is wrong. They put their own gag order on and allowed them to speak once and then only once, again. And I can appreciate some consternation when it comes to opposition, but I do believe that opposition leads to change. I respect opposition and more often than not, it's led me to make better decisions at the council level. And it has been most beneficial on various instances of controversy, such as welcoming Costco to our corridors of Fremont. That said, I would also like to see an amendment to line 6, where it says that-- on line 6 of page 2 of this proposed legislation: called pursuant to Section 84-1410, "and" may be videotaped, televised, etcetera. I can appreciate that you are going to allow voices to be heard at a public meeting, but when? On what topic? Right now it's very selective. I've been to many township meetings, I've been to village meetings, first class city meetings, second class and the metropolitan principal and it varies across the board. And as prior speakers have stated, even school boards are all over. While I support strongly this legislation, I do believe that there's some gray area for interpretation, but members of the public should be allowed to speak on all agenda items and not limit them to speak at the end of a meeting or at-- only on opens meeting period. And I appreciate consideration and I appreciate your support of this very, very important legislation, LB637. Thank you.

BREWER: All right. Thank you for your testimony. Let's see if we have any questions. Left, right. All right. Thank you for your testimony. Still on proponents to LB637. Welcome back to the Government Committee.

PAUL VON BEHREN: Thank you. Paul Von Behren, two word last name, V-o-n, second word is B-e-h-r-e-n. I'm from Fremont. There's an even bigger issue, I think, that surfaces with this. I appreciate the bill because this is definitely needed. Let me give you a little bit of background. It may not seem entirely relevant. I'm on the Fremont City Council. My second meeting on the council, a motion was brought forth or resolution was brought forth to stop public input on the consent agenda. That is, they could not pull off an item on the consent agenda to be discussed. It was taken even further to the point where even an

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individual council could not request an item for individual discussion. And to take it one step further, they took it to the point where it would take the-- not quite the majority of the council to remove any item from the consent agenda. What's so interesting about that is within the last couple of years, Fremont was chastised for \$350,000 that it could not properly document that had been spent. The only rational explanation for it was that it was hidden in the consent agenda where it was not challenged. And now the very actions that were being proposed would have been-- would have stopped that public scrutiny even further. The point of it is, over the last 10 or 15 years, I believe most of us can probably, at least sense somewhat of a trend toward stifling public comment or limiting public input into government bodies. In this particular case, the doc-- the reason for offering that was because our meetings are not properly structured. They wanted shorter meetings, plain and simple. So the answer is, instead of doing the right thing and structuring the meetings, let's just shut down the public. In a past conversation with the Attorney General's Office, one of their people indicated to me that this is just a-- as it is. It's a-- this is very badly written legislation that actually violates the intent of the statute, which is to expand public opportunity for speaking. What we're trying to understand-- and even further, they made the statement that they are seeing an increased number of what they referred to as statist opportunities. I don't know if that's gen-- current staff, current staff or not, the statist attorneys who are making efforts or supporting efforts to shut down the public themselves. The point of this is unless this is defined that the public can speak at every agenda item at every meeting, this trend is likely to continue. And I would encourage you not only to pass this bill out for debate and full public view, but also at the same time to add the amendment that the public will be allowed to speak on every agenda item before the council or the government body. Thank you.

BREWER: All right. Thank you, Paul. I'll see if we have any questions for you before I let you go. All right. Thank you for your testimony. All right. We are still on proponents to LB637. Spike, it is good to see you.

SPIKE EICKHOLT: Good to see you all. Thank you. Good afternoon. My name is Spike Eickholt, S-p-i-k-e, last name is E-i-c-k-h-o-l-t. I'm appearing on behalf of the ACLU of Nebraska in support of LB637. We want to thank Senator Albrecht for introducing the bill and Senator Conrad for co-sponsoring it. I'm glad that Senator Albrecht's here because she said earlier today she didn't know if she could be here for the whole hearing. I'm glad she was, because this may be the only

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bill that I'm with her on this year. [LAUGHTER]. This is a simple, straightforward bill. You've heard it. You know what it does. It was heard last year. You've heard justification for it. I just wanted to highlight again why it's important. I actually looked at the transcript for LB112, which is Senator Albrecht's version that she introduced last year, to see what the discussion was. And I wanted to kind of talk about some of the opposition testimony that was said last year. Maybe some of that will be said again today. I think one of the arguments against this bill was that local government is already open and people can reach out to their local official by email and so on. We don't need to have public comment every time the public body meets. And that's a good feature of local government. It should be open, but there is certain value and definite process in having a public comment period because that is on the public record. It is formal. If I meet with Senator Lowe privately, that's something that he and I talk about, but if he and I have a discussion on a bill, it's known what I say, what I testify to, the questions he asks me and the answers that I give. And that is a value and that goes into the public record and that is important. Another argument, generally, centers on what I would call inconvenience of local government. We have to have hearings. We have to let them testify. We have to hear them. I would respectfully suggest that inconvenienced local government is not a legitimate concern when you're considering amending our change in the Open Meetings Act. You've probably heard, at this committee, from probably 50 or 60 people today. OK. So it can be done. You can have-- and local governments can have content neutral limitations and restrictions for public comment. You can have the "Dick" alarm, if you want to, right, if people go too long. You could do that kind of thing. And that's how it works. And it's fine. And you-- this body and this committee is able to accommodate it. Local government can as well. And I know from one-- Senator, Senator Raybould, maybe, will testify to this or attest to this when she was on city council. Sometimes on public comment, no one would even be there.

RAYBOULD: Right.

SPIKE EICKHOLT: It would-- it was not that big of a [INAUDIBLE] and expectation to have that opportunity for public to be there. I would encourage the committee to advance this bill. Again, I want to thank the introducer and the co-sponsor for introducing it. I'll answer any questions if you have any.

BREWER: All right. Thank you, Spike. Understand, part of why I have "Dick"-- have the alarm is because some people have, like, limited vision--

SPIKE EICKHOLT: Right.

BREWER: --and those lights don't work for them. So if you don't have the alarm, short of just, you know, gang tackling them, you can't get them to, to not go on. So.

SPIKE EICKHOLT: And I'm not criticizing it because that's good because that keeps it neutral for everybody.

BREWER: Right. And that, and that's it. And, you know, and some I allow to go a little longer if your thought-- you know, that's not my job to stop you in the middle of a sentence. Let those finish out what you have to say. Just don't take advantage of it.

SPIKE EICKHOLT: Right.

BREWER: And, and, and you're good to go. All right. Let's see if we got any questions for Spike. Yes, Senator Conrad.

CONRAD: Thank you, Chairman Brewer. I know it's Friday afternoon and I think we're-- our brains have-- are all kind of feeling that. But thanks for being here, Mr. Eickholt. I just wanted to clarify, kind of, one thing from your comment in regards, perhaps, to some anticipated opposition or maybe even neutral testimony or maybe they got it worked out this year. I don't know. We'll wait and see. I don't foreshadow it. But I think sometimes when people look at this, at first blush, they're like, oh, well, we can't put any parameters on public comment if this measure moves forward. Well, perhaps the most robust kind of aspirational approach to public input and free speech, I don't read the measure that way.

SPIKE EICKHOLT: Right.

CONRAD: I-- kind of looking at it in context with the other aspects of the statutory scheme and really see this as a rather narrow, rather modest proposal that just says at every public meeting you have to provide that safety valve for public comment kind of thing. So folks can still testify on agenda items. And the public comment could still set, set viewpoint neutral limitations as to time, for example. Is that a fair read?

SPIKE EICKHOLT: I think you're absolutely right. And what this does is if you change the state law, then that will be the way that the local governments have to operate under. So it's just like you said, you won't have the-- you can't speak on it if it's on the agenda, you can't speak on it if it's on the agenda, if it doesn't receive a

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motion and a second to debate it. And it does not prohibit content-neutral or viewpoint-neutral limitations, time, place, manner type things, you can have it under 5 minutes.

CONRAD: Right.

SPIKE EICKHOLT: You know, the concern about open mike, people are going to show up and say whatever they want. That happens sometimes. Now, once-- Senator Raybould was on City Council, the "saucy nuggs" guy showed up. Right. And that went viral. He took his 5 minutes to talk about boneless chicken wings not being boneless. But that doesn't hurt the city of Lincoln at all. You were able to pass a budget and meet again and everything went fine. That was not the end of the world. And I think that's just a-- respectfully, a paper tiger, to argue that that's going to happen, because I think you're right. This doesn't say anything goes, it's Wild West. It just says if people show up at a public meeting, you ought to be able to say something formally to their elected officials during that meeting.

CONRAD: Very good. Thanks.

BREWER: I-- Spike, I just was going to say that I, I was kind of surprised. I went through to look at some of the opponents to this legislation and most of them are from folks that are on school boards or school administrators. And most of it has to do with just people not staying on subjects. It was tracking, really, what you said there. So I-- again, if you give them time to speak, you shouldn't direct what they're going to say. I mean, that-- that's kind of their time and.

SPIKE EICKHOLT: That's how you do it here. I mean, let's be honest, you heard from me lots of times and you don't always listen, right? You sort of wait it out until I'm done. And then I go. I mean, that's just kind of how it is sometimes.

BREWER: We all know what you're thinking. All right. Yes, Senator Raybould.

RAYBOULD: So, thank you, Mr. Eickholt. I just wanted to tell you, but there was one situation in open mike where the speaker was actually chastised and law enforcement stepped in because he lit a joint.

SPIKE EICKHOLT: Right. Well--

RAYBOULD: Right. And--

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SPIKE EICKHOLT: --that would not be speech.

RAYBOULD: --and law enforcement said, you, you can't do that during open mike night.

BREWER: I don't think I'd be a big fan of that either.

RAYBOULD: So. You know, "Johnny Light" had to be--

SPIKE EICKHOLT: I do remember that one, too.

RAYBOULD: --escorted out. And, you know, we, we have interesting things happen at open mike night. Yeah.

BREWER: Wow. Good to know. All right. Thank you, Spike. OK. Still on proponents to LB637. Welcome to the Government Committee.

DOUG WITTMANN: Thank you. I, I feel welcomed. This is-- my name is Doug Wittmann, D-o-u-g W-i-t-t-m-a-n-n. I prepared something, but it's all been said. I wanted to commend you, on this committee, because I can tell that you're listening. You're listening to people. That's the big frustration with people that testify at city councils and school boards is because they get this feeling that they wish that we weren't here to speak. You know, sad. And I just-- I do want to commend you. I, I-- I'm going to leave here today, shortly, hopefully, before the little button gets on the yellow, just to-- with a renewed hope that government can work and can listen. I think listening is one of the hardest parts of your job, probably, if you're representing people. And I commend you for it. And so I just urge your support for this and thank you for your service. Thank you.

BREWER: Thank you. Any questions? All right. I had to ask that. Thank you, sir. Welcome to the Government Committee.

MERLYN BARTELS: Thank you. Good afternoon, Senators. My name is Merlyn Bartels, M-e-r-l-y-n, Bartels is B-a-r-t-e-l-s. I'm here to support this bill because I feel there should be a time for public comment at all meetings. I'm going to give you some example of my experience with a couple school boards. I lived out in central Nebraska and since you brought that up about the opposition of school boards and administrators, I live in one district and I own some land in a second district, so I was told I could go to both districts and make comments or be a part of it. So when State Board of Education, a couple of years ago, come out with the CSE standards, which I'm sure you're all familiar with, people was concerned about it. I went to both school boards and just stated the facts of what was going on and just trying

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to inform them about it and asking me if they knew about it. And the one school board said they-- most of the members didn't even know about it. So that was a-- you know, I was surprised at that. The other school board welcomed me and was glad that I brought the comments to it. The first school board, there was several people at both of the meetings at that first couple months, when that was a real hot-button subject. And after about two months or three months, the one school board shut down public comment. And I asked, you know, why they done that or why, why that happened? And I was told, I guess, they don't have to allow public comment. So they shut that down and it was shut down probably for six or eight months. I attended some of the meetings and after a while, you get tired of not being able to say or do anything anyway, so I just quit. I just checked the agenda. No comments, so I figured no use going. But it kind of bothered me a little bit about that too, is one of the meetings I went to, they said, we want parents involved and everybody involved, but then when you show up, they don't want you to say anything or do anything. So anyway, I guess I felt like I-- that happened because they probably didn't want to hear what was being said in the first place. And the other thing is, I guess, when they-- those public officials and you ran for office, you knew that you were going to have to sit through these comments and committee hearings. So why can't the rest of the guys have to do the same thing? So I urge you to pass this, just for the fact that people will have the ability to speak at the public meetings. Thank you for your time.

BREWER: Thank you for your testimony. Let's see if we have any questions. All right. Thank you for your time.

MERLYN BARTELS: Thank you.

BREWER: OK. Still on proponents to LB637. Welcome to the Government Committee.

ALEX STEPHENS: I do feel welcome here. This is probably the most welcoming committee I've ever been to. My name is Alex Stephens, A-l-e-x S-t-e-p-h-e-n-s, and I'm a citizen of Lancaster County. This bill is about two different ways of thinking of governing and ensuring we think of it the correct way. It's moral, not partisan, which is why we see such a strikingly bipartisan group of sponsors. Two ways that are binary, one where the people are heard and rule and the other, where they are silenced and ruled. A prime difference between a civilized and uncivilized form of governance can actually just be found in its very structure, both physical and legal. And a barbaric form of government, there exists the ruler and the ruled, a person who

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has authority and the one who has no say. These form of governments even come with their own architectural styles designed to limit the interactions between ruler and ruled: walls, moats, inner versus outer cities, castles and palaces. Nebraska is not built on such a foundation. The fact that I am speaking to representatives here, situated in a semicircle [SIC], such that they are listening to me is very good proof of that fact. Governments that have been around for tens of thousands of years, here in Nebraska, have been-- have used this exact same structure for the exact same purpose. I can't thank you enough that you see to it to listen to each testimony that comes before you. Some institutions in Lancaster County, unfortunately, have seen to it to reintroduce the idea that there are rulers and ruled, that petitioning the king requires giving him a gift to his campaign. Calls are not returned, emails are not read. You are not allowed to go to their office. Ability to speak at meetings on topics of importance are curtailed. The only petition a citizen in Lancaster County can, in certain instances, obtain is to speak at an open meeting. And if you're unable to do so, you end up with no recompense. Denying every last avenue for a citizen to speak to his representative turns him into a serf. Viewpoint discrimination turns any number of groups into second-class citizens with a ruling caste over them. It turns the representative into a ruler of the kind our forefathers sought to-- fit to wrest from themselves, a baron whose power is maintained for his court, not for his people. We are citizens of Nebraska, not to be [INAUDIBLE] and treated as property and playthings. Denying the right of redress and petition is tantamount to declaring our grand experiment with representative democracy dead. It is an expression of-- a mixture of political hubris and probably, the desire to be lazy, the desire not to simply-- to simply rule and not listen. It is why I seek that not only in the public comment that public comment be required, but that all people be allowed to speak on-- of the various topics and the agenda item if they were unable to speak during the agenda topic comment period. The difference between civilized and uncivilized is not-- is in how we treat people who do not have power and not how the powerful would treat themselves. When the people rule, a government may be called as such. When the people are ruled, we do not call it governance. Thank you.

BREWER: Thank you, Alex. You, you make the day worthwhile.

ALEX STEPHENS: I try.

BREWER: I got to tell you that there's, there's times I feel guilty, because I just opened up to look at where I'm at on emails and I'm down 22,642. And, you know, you, you work through the day here and

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then, you're going to have an event somewhere that you got to go to. And by the time you finish the event and you get home, it'll be 8:30, 9:00 at night. And by the time you, you spend a little bit of time, time with your dog and get ready for bed, there's just not a lot of time to go through it. And the next morning, most of the time, you know, it's a 5:30 wake up and you're rolling again and get things going. And there's just times you don't get to all the stuff you want to. So, you know, sometimes, it's not because we don't want to, but you physically just run out of time in the day. And you feel bad because there's emails you didn't get answered and there's things you didn't get done. But understand, it is because we don't want to, it's just because we're human.

ALEX STEPHENS: That's entirely understandable. The, the problem is when it emerges as a specific pattern, in which it's very obvious that the people who are being listened to and the people who are not are based on, on various characteristics that are not determinative in a manner that is consistent with the way we ought to govern; one in which it's based off of whether someone's given a campaign donation, whether they have voted the right way, rather than do they have a concern that can be addressed by this various body? And if you're willing to say to that person, no, because of your skin color, viewpoint or what have you, that you are not-- should not be listened to, that's not governance, that's being ruled.

BREWER: I could not agree more. Any, any questions around the table? Well, thank you.

ALEX STEPHENS: Thank you.

BREWER: You have been a breath of fresh air. We appreciate it. All right. Are there any additional proponents for LB637? All right. So anybody here in opposition to LB637? Lynn, welcome back to the Government Committee.

LYNN REX: Thank you, Senator. Members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities and today, also the privilege of representing the Nebraska Association of County Officials, because they were tied up in another hearing representing us at that hearing. First of all, I'd just like to say that it's my understanding there might be 20 or 30 folks sitting outside who are here to talk about the voter ID next week. It's not on your agenda today, but they're here to talk about that and they want to talk about it now. That's the kind of thing that happens at city council meetings. And I'm just here to suggest to you

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that we are here and NACO and the League are opposing this bill for the same reason that we share the concern that Senator Joni has, Joni Albrecht, which is transparency and accountability. 84-1411-- and I was involved in drafting several of these words way back in the day, sad as it is-- 84-1411: each public body should give reasonable, advanced publicized notice. 84-1411, in part, (e) agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Why would that be? So that I, as a citizen, know whether or not at the Kearney City Council meeting, they're going to be talking about my property, so that I know whether or not in Lancaster County, they're going to be bringing up an issue that I care about or that involves me. And this is an example I've used at this committee before. It's a real example. And it's not unique, but it gives you some idea. When an open mike-- when those open mike sessions are not limited to agenda items, then you get folks that come forward and make accusations against neighbors and others. One, which I've used and I will be using on Monday at a training seminar on this issue, deals with the issue of someone coming forward and saying-- this is a real example-- I've seen that Mrs. Jones living next to me, she is constantly doing things at night. We know that she's doing drugs. I've called the police. Nothing happens. Nothing happens. Why is that? Why is this city council not doing something about that? And here's her address and here's what she's doing. Well, guess what? Mrs. Jones does Mary Kay. So, yes, there are people coming in and out of the house and as she said later, where do I go to get my reputation back? So there's a reason for reasonable, advanced publicized notice. And by the way, I agree with a couple of individuals who testified, that say you ought to be able to talk on agenda items. I would suggest that there's one nuance to that, that those agenda items that aren't just briefings. For example, this Legislature, you have got joint hearings between the Nebraska Department of Transportation and the Appropriations Committee for a briefing on the status of highway funding, whatever it may be. You may have that with respect to liquor control, where the Liquor Control Commission may be coming forward for a briefing. It's not for every lobbyist that can line up or every citizen to come talk about it, but there will be another time for that. And that's why this language, which was negotiated years ago, which would be stricken here, indicates on page 2, lines 17 to 18, actually, 16 to 18, a body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings. That's why that was put in. That's the backdrop to that, on those special, unique issues. But in terms-- oh, sorry.

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BREWER: That's why I got Dick with the alarm there. OK. I mean, I, I understand what you're saying. And I guess in my mind what I'm trying to do is sort that out, so that we don't have situations where people aren't given the opportunity, but yet you are able to conduct the business. And do you kind of understand that dilemma there, to figure out where is that, that space that let's both get done?

LYNN REX: I do. And in fact, the handout that you have here was developed by the city of Grand Island. And because-- one of the issues before, which is critically important, is how do I as a citizen get an item before the Grand Island City Council? You know, if I just show up and I want to talk about something, well, is that really fair, if in fact, I'm talking about you, but you don't know it. You don't know that I'm making accusations about your dog that bit me and caused rabies. But then I find out you don't even have a dog. So the reality is, what's the purpose of this? This is because-- the Grand Island City Clerk deserves all the credit for this, RaNae Edwards, and Senator Aguilar. And the purpose of this is look, at a public meeting, I can go to Grand Island, I can fill this out. I'm not going to get on the agenda that night, but I can fill it out. I can go to the city of Grand Island any time that they're open, and fill out this form and say, these are agenda items I want. I will tell you that there are cities all across the state of Nebraska that use this form. And in many times what happens is-- well, staff will get back to you. Let's say it's junk-- the standard one, junk cars. Why is it that the city of Kearney-- I'm making this up. I know they do a great job. So the city of Kearney is not addressing junk cars. And why don't you do something about it? And I want to talk about it. I want that as an agenda item. And they all say, well, Lynn Rex, here's the thing, which you can do. You fill out this form, tell us what your concern is. Staff gets back to you and they get back to me and say, you know, you may not know this. We have a junk car ordinance. Here's the process, here's the person to contact, here's how we move forward. But if I say in Grand Island, Nebraska and other cities that use this format, I still want that on the agenda because I still don't think that city gets it. I still want it. You will get that on an agenda. It may not be the next one, but in an upcoming meeting. So I do think that one of the most important issues that were raised today, is that when there is discussion on agenda items that it is, I would think of little or no value, if that discussion is at an open mike session afterwards, when the motions have already been made, actions are taken. What does that bring forward? That's why the public does need to have an opportunity to talk on agenda items. But the whole context of this act, the backdrop and foundation of it, is that the public has

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transparency, accountability. They know in advance what's going to happen. So for-- as I'm indicating to you now, it's so critically important, I think, for those in this room and I know that I-- and frankly, there have been some important issues brought forward today. And I think that there are some things that we're-- both NACO and the League are willing to sit down and visit with you about. But this does not result in transparency and accountability. This results in something else. Matter of fact, in talking to one of our press members recently, I said, do you know, do you understand why cities, many of them, do not have open mike? Instead, they allow folks to talk on agenda items, they indicate how you get an item on the agenda and they move forward in that process. And their response was the best press we get is in those open mikes. I know for a fact, in some cities, it is the most entertaining time. That's not what governance is about. So in any event, I respectfully-- and respectfully disagree with the Senator and also with you, Senator Conrad. I understand the appoint-- the, the point. NACO and the League are here and prepared to work with you on this. Last year, when this bill was being considered, I was asked the question, what about allowing citizens to speak on agenda items? That, to me, is pretty foundational. There needs to be a nuance about when you're dealing with those types of briefing situations. But other than that, I mean, it is supposed to be an open government. And there have been times in this Legislature, as there are in city halls, on very controversial issues, I remember, and it will happen again, with the Revenue Committee, when they look at trying to tax or remove exemptions, trying to tax inputs or remove exemptions. You couldn't find a standing place in the hallway in the Nebraska State Capitol. There may have been other issues-- and on voter ID, with all due respect, you may have something like that. But I was not trying to be just sarcastic, but realistic. We do have folks and frankly, I admire anybody who takes the time to come forward to a city council, village board meeting and I'm sure NACO would say at a county board meeting and participate, because that's really what it's about and having people be interested. But it has to be on topic and you need to know whether or not I'm going to be sitting here talking about whether or not I think you have a zoning violation, but you're not even there to understand it. And I'll just indicate this. I know, Senator Albrecht, you use a very good Walmart example. Here's one that I've seen developers do and it involved a Walmart on North 84th. So within the open mike period, you can say a lot in 3 minutes and you get up and you indicate, tell you what, we're going to have a great Walmart and-- or Super Target. You pick, you pick the store. It's going to be a great store-- Scheels-- you pick the store-- going to be great. And this is where it's going to be located. Here's what it's going to look

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like. It's going to be great. Well, then, that's in an open mike session. Of course, nobody knows, because the public as-- if you are the city council, you can't say anything. You can't respond because you have then violated 84-1409; and that could result in 84-1414, which is voiding any action that was taken within 120 days of the date on which that alleged violation occurred. So all I'm suggesting is I just think that maybe there's some things here that we can do to tighten this up. But I will tell you that that Walmart, they had never asked for a permit. Front page in the Lincoln Journal Star on the next day. Here's where it's going. They never even asked for a permit. They weren't even along then, but they had the case of first impression.

BREWER: All right. Thank you. Questions for Lynn? I-- we'll start with Senator Raybould.

RAYBOULD: Thank you, Ms. Rex. And I seem to recall and you would know better, that the League of Municipalities and NACO, that they have seminars not only for the clerks and-- the elected officials on the Open Meeting Act-- Open Meetings Act and what it is permitted and allowed and what we're supposed to do as elected officials. Does, does NACO and the League of Municipalities still do that?

LYNN REX: Absolutely. And in fact, like I said, I'll be doing one next week at our, at our midwinter conference. And it's really, really important to do that. But it's obvious, too, that there are some things here that can be done to tighten this up. But I think that what is proposed here does just the opposite. It does not give you transparency. It does not give you accountability.

RAYBOULD: OK. Thank you.

LYNN REX: Thank you.

BREWER: All right, Senator Conrad.

CONRAD: Thank you, Chairman Brewer. And thank you, Lynn. It's always good to see you and your knowledge and your passion are always appreciated and your service as well. I just want to unpack a couple of things from your opposition testimony, because I, I just recognized perhaps a few inconsistencies and want to give you an--

LYNN REX: OK.

CONRAD: --opportunity to, to maybe address those. But in the current Open Meetings Act-- and I know that you've participated in its construction and updates and amendments over the years. I mean, number

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one, I think you would agree that at the outset, in the intent section, it really provides a very strong intent for public participation and speaking in meetings. And then it goes on to kind of delineate how that plays out. So that being said, we know that under existing law, public bodies can't prohibit all public comment. Right?

LYNN REX: Right.

CONRAD: They have to have it, at least at some meetings. So even under the current structure, some of the things that you raised as what see, kind of, straw man arguments that like, oh, somebody might say something about a neighbor that's inappropriate or kind of out of the blue, that, that can happen under existing law, number one. Yeah, I think you'd agree with that?

LYNN REX: Oh, yeah. I'm not saying that open mikes per se--

CONRAD: Right, right.

LYNN REX: --don't comport with this. I'm telling you that open mikes can lead to lawsuits. Open mikes can lead to all kinds of other issues, Senator.

CONRAD: Well--

LYNN REX: And-- but, by the way, yes, I, I agree that overview is, is public participation.

CONRAD: Yes. And then, the, the other piece, I guess I would say, and I know, since you've done some training on it, too, I don't think there's any indication in the laws that if somebody were to otherwise run afoul of a speech limitation in an open forum or otherwise-- for example, there's no sort of immunity afforded to a citizen who utilizes open mike for slander or libel or anything like that. I mean, is that true?

LYNN REX: Well, I think that is true.

CONRAD: Yeah.

LYNN REX: But I don't think that you create a scenario where someone is-- and by the way, somebody can probably libel and slander somebody on an agenda item.

CONRAD: Yes.

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LYNN REX: That can happen, too.

CONRAD: And that's also true. Good point.

LYNN REX: That's been done.

CONRAD: Yes.

LYNN REX: Been there, done that. But some folks have done it. So but I'm just suggesting to you that the whole context, Senator, of reasonable, advanced publicized notice--

CONRAD: Yep.

LYNN REX: --and why it's so fundamental to this, is so that all citizens know-- and when that last language was put in that I referenced to you about-- agenda items should be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting-- that's because there were agendas that went out, saying we're going to talk about--

CONRAD: Yeah.

LYNN REX: --utility improvements, nobody knew that that meant your street or your street. So in any event, it's so that people know what is going to be talked about. In fact-- and absolutely, people need to be able to talk on agenda items.

CONRAD: Yes, I-- no disagreement there. And maybe we'll have to agree to disagree on some of the other pieces. But, you know, the other thing that comes to mind when I think about where these can cause points of confusion for all stakeholders, elected officials, city and county clerks, school board staff, members of the public, is that think about some of those instances where there's a breaking news kind of situation, for example, locally, nationally, what have you. And there was no ability to get anything in, kind of, the preadvanced public notice about that issue. But it really provokes strong sentiment in the public and people are looking for outlets to express their perspectives about that. So it may never show up on an agenda or the timing might be off, in terms of agenda item. And I see a, a benefit in having clarity at each public forum to allow people to respond to things that maybe wouldn't show up on an agenda or that just fell out of, like, the timing component of agenda items. So if you want to respond to that, I'd give you an opportunity.

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LYNN REX: I guess I would disagree. I would think that the best approach to that, Senator Conrad, would be for me to go to my city council member or my school board member and say, look, this is happening. Maybe it's an issue on some of the controversial issues that school boards have had to face. This is what's happening. I want you to call a special meeting. I think this is really important to do that. It would never, as you know, it would not fall within the category of emergency under the context of how the Supreme Court has viewed it. But you can ask your representative to do that. But this is about governance. And so, to make, to make sure that-- it's not necessarily about the most current events that are there, but rather you go to your council member and say, I want that on the agenda and I want to be able to discuss that. I think you ought to have a special meeting to discuss that. I think that's very appropriate. But for example, some-- well, I can give you some examples that would-- if you have time, sometime, I'd be happy to meet with you and--

CONRAD: Sure.

LYNN REX: -- walk them through. But, but--

CONRAD: No and I definitely appreciate that. And then one more point, because I know it's Friday night and I know you've thought about this a lot, as Senator Albrecht and I have as well, is that I guess one thing that I'm hearing from testifiers today and will be no surprise to you, is that, really, there's this kind of patchwork approach from different entities of government, which causes a lot of confusion for citizens who want to participate in their government. And so one thing that I like about Senator Albrecht's approach is that it just-- it takes some of the guesswork out. So you don't have, you know, the, the fundamentals of open meetings are kind of the same, whether you're at the city council or the county board or the school board. And I think one thing that we've heard today, from citizens, kind of reaffirms that and that-- I just know that I've heard a lot from citizens over the year. They're trying to do the right thing. They're trying to participate in a thoughtful way. They're trying to petition their government in a peaceful way and they show up with their speech ready to go and then they're, they're stymied from speaking. And I think that escalates a tough situation instead of helping to, maybe, diffuse it or provide a constructive avenue for difficult topics to be discussed. So I think-- I understand where you're coming from, from a technical point of view. And I appreciate your indulgence in talking through different issues and I'm sure we'll continue the conversation.

LYNN REX: Looking forward to talking to both you and--

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CONRAD: Those are just--

LYNN REX: --Senator Albrecht.

CONRAD: --yes-- some of the issues that, that percolated when you were providing your testimony. Yes.

LYNN REX: I guess our big thing is just if there's anything else I could underscore, Senator Conrad, it is that the public needs to know. Citizens need to know. What are the people that they elected are going to be talking about tonight or what are they going to be talking about at their meeting? They deserve to know that.

CONRAD: Right.

LYNN REX: Up front. That's why it needs to be an agenda item.

CONRAD: Right. And nothing in Senator Albrecht's bill would undercut the existing agenda, kind of [INAUDIBLE].

LYNN REX: What would-- but it does.

CONRAD: But it doesn't because we already have open mike.

LYNN REX: [INAUDIBLE]. I, I disagree, but go ahead. I'm sorry. [INAUDIBLE].

CONRAD: OK. All right. We may--

LYNN REX: No, I'm sorry.

CONRAD: --and it's fun to have an exchange. I didn't mean to speak over you, either, but appreciate it.

LYNN REX: OK. Thanks.

CONRAD: Thank you, Lynn.

BREWER: All right. Any additional questions? Senator Halloran.

HALLORAN: Thank you. Thank you, Chairman. So Ms. Rex, this is a yes or no question.

LYNN REX: OK. I'll give it my best shot. I'll give it my best shot.

HALLORAN: Did, did my, did my ears deceive me when you said here, about 20 minutes ago, that a lot could be said in 3 minutes?

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LYNN REX: Yes.

BREWER: Man, this is your call, Conrad. Go ahead, Lowe.

LOWE: Thank you. And thank you, Ms. Rex, for being here. And what I'm going to say can go both ways, doesn't mean one party or the other. But I'm just using this as a reference today. On the floor of the Legislature, we've been discussing LB147, now, for what, three days, Kathleen Kauth's bill to change procedures for property tax refunds. We've spoken on everything but tax refunds. Are you saying the people are not being represented by the discussion of the Legislature? And it does go both ways. I'm not picking on one side or the other because I've been known to do this, too.

LYNN REX: Is your question then whether or not someone should be able to discuss issues that are not relevant to the bill that's on the agenda?

LOWE: Yes.

LYNN REX: You have a process in your rules that, I think--

HALLORAN: No we don't.

LYNN REX: --you don't have? OK. I could go on for a-- there-- there's a long answer to that, that involves your rules and that you have a process for dealing with that in your rules actually.

LOWE: And, and isn't that--

LYNN REX: You do have a process for that.

LOWE: --isn't that what we're looking at here, is the process and the rules?

LYNN REX: I see, I see a gavel, so [LAUGHTER].

HALLORAN: I'm listening, I'm listening.

LOWE: Isn't that what we're talking about here is the process and the rules?

LYNN REX: What we're talking--what--

LOWE: And, and changing those processes.

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LYNN REX: --do you have-- if you're asking if you have the authority to change the Open Meetings Act, of course you do. We're just suggesting that it really matters. And by the way, as I said last year, if reasonable, advanced publicized notice really doesn't matter, then just take the words out. If it doesn't matter, having agendas really don't matter, then take it out. But if it matters, otherwise, what it tells me is that I may have to be at every city council meeting to find out what they're going to do. I don't have time to do that. That's why I want to be able to look on a website or look in the newspaper and find out what they're going to talk about, what's the agenda.

LOWE: I'd love to be doing other things besides sitting and listening to whatever we're talking about on that day, because it has nothing to do with our agenda. But thank you very much. I appreciate it.

LYNN REX: Thank you.

BREWER: All right. Any other questions for Lynn? All right. Thank you for your testimony and your time.

LYNN REX: Thank you very much. Thanks for your courtesy and thanks for your consideration.

CONRAD: Thank you for being a good sport. Yes.

BREWER: All right. We are still on opposition to LB636 [SIC-LB637]. All right. Jack, welcome back.

JACK MOLES: Good evening, Senator Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Jack Moles, that's J-a-c-k M-o-l-e-s. I'm the executive director of the Nebraska Rural Community Schools Association and on behalf of NRCSA, I would like to testify in opposition to LB637. The Open Meetings Act states that a public entity must allow for public comment at meetings, but is not required to allow for public comment at every meeting. NRCSA members' school districts and ESUs are going above this requirement, though. In the vast majority of cases, the locally elected boards of education have made the decision to exceed the requirements of the Open Meetings Act. I did a survey of our member superintendents and ESU administrators and just-- kind of, give you a little bit of what I, I found. First of all, I was very pleased to find out that 141 out of 147 respondents or 95.9 percent said that their districts and ESUs allow for public comment period at each of their regular monthly board meetings. This is a regular agenda item

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for those districts and ESUs. By the way, I-- since we started this, I was checking my email. I have four more that said, they also do the same thing, so that number actually has gone up. Of the remaining two, six-- or remaining six, two said that they placed public comment on the agenda quarterly, but are open to placing public comment on the agenda if requested. One said that public comment is placed on the agenda every other month. Another said normally, they have it on the agenda but if the agenda is overly full, they will take it off and so forth. While most of the districts and the ESUs have well-defined protocols regarding public comment, many of them adjust the protocols to allow for a, a greater time period. For example, most of them or many of them said they have a 30-minute time period and 5 minutes per person. And if there are a lot of people there, they expand that to accommodate those people. Some of the districts voiced concern about requiring public comment period at every meeting under the Open Meetings Act would have the result of encouraging patrons not to follow the board's chain of command policy. Many of the board's-- most of the boards have a chain, chain of command policy. For example, if there's a complaint about a staff member that they're told to go to that staff member's direct supervisor and then work their way up the chain until it does get to the board, instead of going right to the board. Many of the respondents pointed out that their locally elected boards of education adapted the Open Meetings Act to best fit their local situations. They are of the belief that this is a local control issue in adaption-- and adaption within the Open Meetings Act should properly be left in the hands of the locally elected boards of education. I'll stop there since I have a red light.

BREWER: Thank you, Jack. Let's see if we have any questions for you. Questions. Questions. Senator Halloran, did you have any questions for Jack?

HALLORAN: Yes, I do.

BREWER: All right.

HALLORAN: [INAUDIBLE].

LOWE: OK. I'll do one.

BREWER: All right. Go ahead, John.

LOWE: Since, Jack, you're here. I've often said that being in the Legislature is so much better than being on a school board, because

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they're your neighbors that call you in the middle of the night. At least we're down here in Lincoln.

JACK MOLES: I would, I would agree with you on that.

BREWER: All right. Jack, thank you for your testimony.

JACK MOLES: Thank you.

BREWER: We are still on LB637, and opponents. Welcome to the Government Committee.

SARAH CENTINEO: It's nice for you to have me back.

CONRAD: Yes.

SARAH CENTINEO: My name is Sarah Centineo. I'm here on behalf of the Nebraska Association for School Boards. I am a locally-elected school board member from Bellevue. I've been on the school board for six years, so here's your chance to ask me school board questions. I, I--

BREWER: Can we have you spell your name?

SARAH CENTINEO: Sure. Sarah, S-a-r-a-h, Centineo, C-e-n-t-i-n-e-o. What I wanted to point out to the committee is that we-- I've, I've queried-- so I'm also on the NASB Executive Committee, the legislative committee and the board at large. So I've queried my colleagues throughout this state and I couldn't find any one of them on one of those boards that didn't have public meet-- allow the public to speak at all of their committee-as-a-whole meetings. So what we have, especially in some of the bigger districts, are additional committee meetings that are more specific to curriculum, to work meetings, that are still public meetings that are held under the open meetings law, but don't allow public comment, because those are just situations where those are mostly working meeting-- meetings. The Americanism Committee is another one of those. One of the things I was thinking about, I was listening to testimony, if I sat down here and told you that I wanted to testify about LB575 because I was limited to 3 minutes last week, that would be inappropriate for this committee, because this is not on your agenda and it's not in your purview. That's one of the things that we, in the school board, at our meetings, that we require is that it is-- for-- if you speak to an agenda item, it's regarding the agenda item and you can't really go outside that scope. And then we do allow open comment at the end of every committee-as-a-whole meeting. You just have to sign up in advance. This allows a structure where we're prepared to answer

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questions intelligently and engage. And if people just show up to talk about whatever their grievances are, it makes it very difficult to, to, to get the information together to talk to them about it and also, to have meaningful communication. So the, the way and as a-- I'm also a lawyer, so the Open Meetings Act, as written, is-- it is a meeting held in public. It is not a meeting for the, for the public to air their grievances or support, which we always enjoy, too. But what I've heard from the testimonies, from all of this, I believe that this all comes out of frustration, frustration of not being heard. And if there's one thing that I've learned, as an ICU nurse and as a lawyer, is that people who don't feel heard are not happy and they want to make good changes. So I think there is room and there is space for our local, our school boards, our local community, our city government to make it more accessible, to make sure that we're addressing those frustrations. I don't think this is the answer. I think this is, this is the wrong tool to address that issue. So I'm happy to take any questions.

BREWER: All right. Thank you for your testimony. And, and just for clarification, when that light comes on, it's your time. And if you wanted to talk about 500 and whatever, you're, you're welcome to do that. Now, I don't know that will help your cause much, but that time is your time and you're going to get to use it however you want, in here anyway. Senator Halleran, did you have a?

HALLORAN: Thank you, Mr. Chairman. So, this is not the right solution, what is?

SARAH CENTINEO: So, yeah. So I don't think it's a legislative solution. I think that-- outside of what we have existing as the Open Meetings Act. I think that there's, especially with the access we have to technology and electronic from our phones to Zoom, to all of the other things. If we-- if there's a frustration about my testimony doesn't get heard because I didn't make the cut-off time-- this is an example. But in school board meetings, we also have restrictions. Right. So when Senator Brewer was talking about flexibility depending on hot-button topics, we also need that. Because just as Senator-- looking at the time right now, we--

BREWER: Well, actually I'm looking at a message from the Ukraine here.

SARAH CENTINEO: But I-- well, I forget watch. See, watches are very-- they can be used for so many things. But it allows us flexibility to make sure-- you know, if we have a hot-button topic-- masks. Let's use that example. You know, if we let one person talk for 15 minutes, then

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there's like a dozen other people that don't get to talk or they run out of time, because time is finite. So we have to have the right protocols and procedures available, so that we-- and there's better ways to do that than this, so.

HALLORAN: But you do have time limits on, on-- even on your open meeting.

SARAH CENTINEO: Yep. We have a five-minute time, we have a five-minute time limit.

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

SARAH CENTINEO: Thank you very much.

BREWER: All right. So we should still be on opponents to LB637. Anybody here neutral on LB637? Mr. Neutral.

LOWE: Today, anyway.

BREWER: Bill, come on up.

BILL HAWKINS: Senator Brewer, members of the committee, I appreciate your time on this important issue. I'm a lifelong Nebraskans and a few years ago, I took the importance of speaking at public hearings extremely important. My name is Bill Hawkins, and it's B-i-l-l H-a-w-k-i-n-s. And I've spoke at a lot of hearings this last week. And at first, I came here to discuss the importance of the neutral testimony. And as I've testified on a lot of different issues this week, I've learned that in sitting here listening to the comments, both pro and con on this important issue, I've learned an extremely large amount of information. I was going to speak on Lancaster County Board, not hearing constituents speaking on ending an emergency deal just a few days ago. I didn't have all the facts, but a person who was at the meeting was able to explain it to me more clearly, so now I have the facts. And so, this bill, I think, is extremely important, to send a message to public officials-- elected public officials who hold public meetings, that they are paid-- not very much all the time, but they are paid public officials and in the state of Nebraska, the citizen is the other part of that government. And so-- but on the other side, we have opponents and we have proponents and the neutral is in the center. But if you're in dead center or neutral, then you don't care and you're not going to be at a public hearing. So the neutral position goes from here to there. It's a very fine line. But as I see my yellow light and it's Friday, I will conclude my thoughts,

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in that this bill needs to be worked out. People who speak at a public hearing in no way, Senator Raybould, should come in and light a joint and disrupt a public hearing. That person needs to be put in jail and escorted out. I've heard of others that-- I've, I've been privileged to just, mostly, speak in front of the Legislature. So I have not been at a charged up public hearing in a school board where I've had to be escorted out. I can see that happening because I'm a pacifist, pacifist, but I can only be pushed so far. So we need to listen to this: people. And so, I appreciate your time and I would gladly take any questions. And I really thank Senator Albrecht for bringing this bill and I hope it can be worked out and it should represent all people, the right to speak. So thank you for your time.

BREWER: Thank you, Bill. And I, I joke with him about calling him "Mr. Neutral" because he comes in neutral on my bills, but most of the time he's a positive neutral.

CONRAD: Yeah. Yeah.

BILL HAWKINS: And I, I hope I was on this bill, also. But there's a fine line.

BREWER: All right. Any questions for, for Bill?

CONRAD: Thanks.

BREWER: All right. Thank you for coming in.

BILL HAWKINS: And thank you for your time and have a good week.

BREWER: All right. Any other neutral? With that, we will welcome back Senator Albrecht.

ALBRECHT: I was going to waive. I have a few things to say now.

BREWER: Probably not a good idea.

ALBRECHT: OK.

BREWER: All right. Welcome back to close on LB637.

ALBRECHT: Thank you, Senator Brewer. What? Do you have somebody?

BREWER: Oh, I got something to read in. I missed my cue.

ALBRECHT: Sorry.

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BREWER: Dang it. I hate when I do that. All right. We need to read in: proponents, 129, opponents, 6 and 1 in the neutral. With that, please close on LB637.

ALBRECHT: That's interesting. Thank you for letting us know that. Senator Brewer, members of the Government Committee, I want to thank you for your time and attention to this bill. I'm even more excited that there's a different lineup of who's on this committee. And I thank you for signing on, Senator Conrad, because it came out 4-4 last year or two years ago, actually. It wasn't last year. And again, the same people were here, you know, in opposition. But that's why we're doing-- that's why we're writing this bill. People, if you are a president of a city council, city council, county board and now here and I know what we do to listen to everyone attentively, but if you're president of the council and you want to give everybody 10 minutes at the beginning, you can do it at the middle. You can do it at the end. They don't have to talk about what's on the agenda. They might want to tell you what a great job you did on something. They might want to talk about a, a bond that you're going to pass when you took it to the vote of the people and the vote of the people said no, but you did it anyway. They might want to talk about that. They might want to bring that up. I mean, they-- the only way they build trust is when you allow them to speak. That's how they trust that you're listening to them. You might not agree. You don't have to agree. You don't even have to answer them. You are simply there to listen. So if, if you lay out the rules-- I was a council chair. I was, I was a city council chair. I was a county board chair. You lay out the rules. If you're leading that meeting, you lay out the rules, just like you do at the beginning of every one of these meetings. And you let them know, you don't need to talk about other people. If there's a situation like that and you protect the people, come see me and, and we'll take, we'll take care of it. But you don't have to answer them on anything. If they want to come at you personally, you don't have to answer. You just lay the ground rules. We're going to have 10 minutes of open comment. There could be 50 people there. And if you see there's 50, you can give them 2 minutes because they're probably all going to be there to say the same thing because they're upset about something. But lay out the ground rules with-- based on the crowd that you have. We do that here. You could have 3 minutes, you could have 5 minutes, you could have 2 minutes. But that's what we're talking about here. The people need to be able to speak. We're spending their money, we're deciding policies that they have to live with, whether it's in their business, whether it's in their-- with their family, a school-- I mean, it's all about local control. Well, if it's all about local

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control, we want to be able to let the, the public talk to those people that have-- that they've voted into office. And if you don't like them, you vote them out. But this is, this is here for a reason. And you know what? When I started, it was not about the schools, but it's become about the schools because of what we did or the Department of Education presented to the schools. And you wonder why there's so many people in the building, today, with us? They want to be heard. And we're, we're listening to them. We have 820 bills. I mean, city councils, if you can't sit there for 3 hours at night, don't sign up. I mean, I've served now for about 20 years and I'm telling you, it's about the people and whether they want to talk to you before, during or after, even if they-- if-- even if they're upset and they're in your district, you're going to call them, because it's relationship building, as well. They've got to know that you're trying. You can say, hey, I understand how you feel, but I can't get five other people to come with me on this deal. So we're going to have to figure out something else. I mean, I am just very concerned about what's happening in the world today. And everybody has to get educated and all of us do, by listening to both sides. I know I have, in a lot of hearings that I've been sitting in this year. Things-- people will change your mind. The very people who put you in office will make it a better deal, they'll, they'll give you great ideas. I mean, they'll bring things up that you haven't even thought of. So to me, I just think it's something that we owe the, the public and I did hand out a letter, that if people are upset, the Attorney General's Office is who you contact and they'll look into it. That's their job. It says right there in the, in the, in the bill, bill. They'll handle it, but let the people speak. So thank you.

BREWER: All right. Thank you. Let's see if we have any questions. Questions. Senator Halloran.

HALLORAN: Thank you, Mr. Chairman. I think we can sum this up with what are the first-- what's the first four letters in the word hearing?

CONRAD: Hear.

ALBRECHT: Listen.

HALLORAN: OK.

ALBRECHT: Spelled differently, but listen.

HALLORAN: That's all I can think of. Very good.

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ALBRECHT: Thank you.

BREWER: All right. Any other questions? All right. Thank you for the bill.

ALBRECHT: Thank you.

BREWER: That will close our hearing on LB637 and will close our hearings on the day. You guys--