

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 27, 2022

BREWER: Good afternoon, and welcome to the Government, Military and Veterans Affairs Committee. I'm Senator Tom Brewer from Gordon representing the 43rd Legislative District, and I serve as the Chair of this committee. The committee will take up the bills in the order posted on the agenda. Our hearing today is your public part of this legislative process. This is your opportunity to express your position on these legislative issues. The committee members might come and go during the hearing, it's just part of the process. We have bills to introduce in other committees. Ask that you abide by the following procedures to better facilitate today's meeting. Silence or turn off your electronic devices, which I need to do. Please move to the reserved chairs when you're ready to testify. These are the chairs in the first row. Introducers may make their-- the introducer will make the initial statement followed by proponents, opponents, and those in the neutral testimony. Closing remarks are reserved for the introducing senator. If you're planning to testify, please pick up one of the green sign-in sheets at the back table. Please fill out the green sign-in sheets before you testify. Print and complete the entire form. When you come to testify, turn in the sheet to either the committee clerk or one of the pages. This will help us to make sure we have an accurate record. If you do not wish to testify, but would like to have a record of your presence here, there is a separate white sheet on the table that you can sign for that purpose. This will be part of the official record for today's hearing. If you have handouts, we ask that you please have 12 copies. If you do not, please notify us so we can have one of the pages make copies for you. When you come to testify, please speak clearly into the microphone. Tell us your name and then please spell your first and last name clearly for the record, and that does not matter whether you have one or two bills, you will do it each time. We will be using a light system for testifiers. You will have five minutes to make your initial remarks for the committee. That yellow light will come on with one minute remaining, when the red light comes on, your time has ended. And no displays of support or opposition for bills or vocal-- vocal or otherwise will be allowed in the hearing today. The commit-- committee members with us today will introduce themselves starting on my right with Senator Sanders.

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

M. HANSEN: Matt Hansen, District 26, northeast Lincoln.

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

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 27, 2022

HALLORAN: Steve Halloran, District 33, Adams, Kearney and Phelps County.

BREWER: To my right is legal counsel, Dick Clark, to my left in the corner is our committee clerk, Julie Condon, and Chloe-- where is Chloe? Chloe Fowler right back there, will be our page today. Uh. OK. And the other senators are either presenting or out for the day. Let's see, we will go ahead and move to our first bill of the day, which happens to be LB823. Senator Ben Hansen, welcome to the Government, Military & Veterans Affairs Committee.

B. HANSEN: Thank you, Chairman, Colonel, fellow mountain climber Brewer, and the Government, Military and Veterans Affairs Committee. My name is Senator Ben Hansen, that's B-e-n H-a-n-s-e-n, and I represent the 16th Legislative District. I bring before you today LB823. This legislation would help provide a more predictable regulatory environment for charitable organizations by ensuring state agencies and other governmental offices do not exceed their legislative authority as it pertains to filing or reporting requirements placed on them. America is the most charitable nation on earth. Even now despite a devastating global pandemic and economic downturn in a year marked by division and partisanship, the charitable sector throughout the country, and especially Nebraska, has answered the call in providing relief to our citizens and communities through virtual learning, food assistance and much more. We must empower the charitable sector to respond to big problems that government can't handle, or that the private sector can do better. And we must also encourage philanthropy-- philanthropy to work alongside large scale government initiatives, driving efficiency and innovation along the way. We do this by allowing charitable organizations to focus on their missions, not on mandates that could jeopardize their important work. Now, let me be clear, this bill does nothing to reduce the requirements and disclosures that are currently required of charitable organizations, but it does reaffirm that all new filing or reporting requirements placed on charitable organizations first be approved through the legislative process. A testifier who follows me will give you more specific examples of state agencies exceeding their authority in other states. Those actions prompted six other states to pass similar legislation in just the last two years, and several more states are considering this bill in 2023. I believe our charitable organizations in Nebraska should be highlighted, commended and encouraged, not drawn into overburdensome regulations that haven't been authorized by this legislative body. Nebraska's charitable sector is vibrant and a diversity of interests ranging from agricultural science to curing rare diseases and protecting endangered species. But

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 27, 2022

without an affirmation signal from lawmakers-- but without an affirmative signal from lawmakers, the charitable sectors might prove to be a tempting target for those trying to turn private philanthropy into instruments of public policy. That has never-- that has never been envisioned by givers attracted by the flexibility, transparency and predictability that exist in the charitable sector today. I have an amendment I would like to submit which you guys should have in front of you and gals, sorry. I haven't had-- this amendment is a result of conversations my office has had with the Attorney General's Office and clarifies language around the Charitable Trust Division's investing-- investigator power. I ask you to advance LB823 to the floor for consideration by the full Legislature. I would be happy to try and answer any questions you might have, but the testifier behind me will be able to expound in more detail. Thank you. And with that, I will do my best to answer any questions you might have.

BREWER: All right, thank you for that opening. And just for clarification, too, you have another bill you need to present in Health and Human Services?

B. HANSEN: Yes.

BREWER: So if you have questions, now would be the time they want to ask them because you won't be here for a close?

B. HANSEN: Yes, correct.

BREWER: OK, or ask someone who follows you for more detail?

B. HANSEN: Yes.

BREWER: All right. All right, with that, questions for Senator Hansen. Well, it looks like you're going to get off easy today. Thank you for that opening, and we will--

B. HANSEN: Thank you.

BREWER: --take care of business. All right. First proponents of LB823. Welcome to the Government Committee.

MEGAN SCHMIDT: Mr. Chairman, members of the committee, my name is Megan Schmidt, spelled S-c-h-m-i-d-t, and I serve as the director of government affairs for the Philanthropy Roundtable, and I would like to submit my testimony in support of LB823. Founded in 1991, the Philanthropy Roundtable's mission is to foster excellence in philanthropy, protect philanthropic freedom and help donors advance

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 27, 2022

opportunity and personal responsibility. Today, the Philanthropy Roundtable has around 600 active members consisting of private foundations, community foundations and family foundations nationwide, including right here in Nebraska. Nebraska is home to just over a thousand foundations that give millions to charitable causes each year. As someone who was born and raised just south of the border in Kansas, I know how important charitable organizations are to the communities in the Midwest. LB823 allows the Nebraska charitable organizations to focus on their governance and grant making instead of being subjected to the uncertainty of additional filing and reporting requirements. This bill is simply adding a layer of transparency and calls for any proposed filing or reporting requirements must first go through the legislative process. The Attorney General would still have full investigative-- investigative and prosecutorial authority to go after any bad actors. In other states we've seen an increasing call for charitable organizations to disclose an increasing number of details about their operations governing and grant making. For example, last year, the California Attorney General's Office issued a mandatory survey to sponsors of DAFs, or donor-advised funds, located or registered in the state, demanding information that covered a sweeping array of confidential financial data, the funds sponsoring organizations, which are themselves public charities, without any evidence of fraud or abuse. In Hawaii, the State Attorney General's Office subpoenaed documents relating to all of the nonprofits financial accounts simply because it opposed the construction of the 30-meter telescope. In Massachusetts, charitable organizations must file extensive reports with the state Attorney General, which includes a 15-page form. This includes the names and addresses of fundraisers and board members. And finally, in Connecticut, fundraisers must provide the state with 20 days advance notice before being allowed to speak. The fundraiser is further-- furthermore required to not only tell the state they plan to speak, but also submit to the state their script and any promotional material they plan to use. There's an ongoing lawsuit on the issue. Lawmakers must ensure any new requirements are closely scrutinized to ensure they are based on solid evidence of widespread need. When such burdens are stopped by unilateral executive action, legislators have the responsibility to challenge the overreach that directly hurts the communities they represent. Seven states have enacted this legislation, including Iowa, Kansas and South Dakota. These are-- these states have made it hospitable for charities and created a predictable regulatory environment. It's better to be proactive because philanthropy serves as a vital part of the Nebraska community and LB823 will help to protect the Nebraska charitable sector. We want to go on record

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 27, 2022

expressing our support for LB823. In appreciation for Senator Hansen introducing legislation, we ask you to advance the bill. Thank you, Mr. Chairman, and I'm happy to answer any questions the committee members might have.

BREWER: Right. Thank you, Megan, for that opening proponent testimony. By chance did you have a chance to read the amendment that Senator Hansen handed to us?

MEGAN SCHMIDT: I briefly glanced over it, yes.

BREWER: I was just curious reading through it, seems like-- seems like it isn't asking for a terrible push on anything, but I should have hit him up before he left just exactly what kind of transpired to force the requirement for this amendment. But that I may have to just talk to him offline because it may not be fair to use since you haven't seen it, so.

MEGAN SCHMIDT: No, that's OK. So we had-- there were conversations that we were involved in with Senator Hansen's office yesterday with the Attorney General's Office, and it just clarifies the investigatory powers for the Attorney General.

BREWER: Very good. All right. Questions? Any additional questions? Senator McCollister.

McCOLLISTER: Yeah, thank you, Mr. Chairman. Referring to your testimony in the fourth paragraph.

MEGAN SCHMIDT: Which paragraph?

McCOLLISTER: Fourth, beginning LB823, this bill is simply adding a layer of transparency and calls for any proposed filing or reporting requirements must first go through the legislative process. What do you mean by legislative process? A formal bill? In the Legislature, is that what the intention is?

MEGAN SCHMIDT: Sure. So it just-- if any state official wants to impose any filing or reporting requirement on a charitable organization, it just adds a layer of transparency and allows legislatures to have a voice, allows charitable organizations to have a voice. And if everybody agrees that this is something that they want, then that's fine. But we just want that transparency there instead of agency officials to have that ability to have that unilateral action.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 27, 2022

McCOLLISTER: But doesn't the Secretary of State currently have this authority to do what you're suggesting?

MEGAN SCHMIDT: Yes, so that's what I'm saying is this puts it in the hands of the Legislature.

McCOLLISTER: So describe the mechanics of how this would work.

MEGAN SCHMIDT: Sure. So if somebody-- so if the Secretary of State or the Attorney General or any other state agency official wanted to impose any type of filing or reporting requirement, whatever they wanted-- whatever requirement they wanted to impose, it would first need to go through the legislative process. So they could either submit their own bill, they could go to a Legislature and have them submit a bill, but it would just go through the legislative process and go before a committee just like this, have a hearing, and then it would be voted up or down and it would open up to the transparency process.

McCOLLISTER: Do state officials currently have that authority to do it?

MEGAN SCHMIDT: What do you mean?

McCOLLISTER: I mean, you gave me a list of state officials that could-- if tried to institute a change while requiring you to do additional things, though.

MEGAN SCHMIDT: Right.

McCOLLISTER: Do they have that authority now?

MEGAN SCHMIDT: So this is-- we're talking right now, I think Nebraska has a great regulatory environment. We're talking about creating a future. We want to keep charitable organizations to where it's a predictable regulatory environment for charitable organizations because we don't know. You know, you could have a great Attorney General, a great Secretary of State, but 5, 10, 20 years from now, they may not be as friendly toward charitable organizations. And so we don't know what the laws will be then and so this-- this doesn't change any laws on the books now, but it protects for the future.

McCOLLISTER: Thank you.

BREWER: OK. Any additional questions? All right, seeing none, thank you for your testimony.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 27, 2022

MEGAN SCHMIDT: Thank you.

BREWER: Let's see, the next proponent to LB823, last call. So we'll take the first opponent to LB823. Welcome to the Government Committee.

HANNAH YOUNG: Good afternoon, Chairman Brewer, and members of the Government, Military and Veterans Affairs Committee. My name is Hannah Young, H-a-n-n-a-h Y-o-u-n-g, and I'm with Nonprofit Association of the Midlands, or NAM. NAM is a nonprofit organization with over 725 members dedicated to strengthening their collective voice, leadership and capacity of nonprofit organizations, enriching the quality of community life through Nebraska and western Iowa. We help nonprofits help their communities. There are over 13,000 nonprofits in our state, each trying to make a difference on their own. We bring them together so that each member can benefit from our collective strength. Thank you for the opportunity to testify on LB823. While we appreciate the bill sponsors interest in the nonprofit sector, however, we do have concerns about hampering reasonable transparency and accountability of the nonprofit sector. This is why NAM is opposed to LB823. LB823 is a solution to a problem that simply does not exist in Nebraska. Charitable nonprofits are not afraid of the government, we work in partnership with them. The filing and reporting requirements are not a burden on nonprofits. We have not had any members or nonmembers come to us and express concerns on the current regulations or fear of future regulations. The charitable sector values reasonable privacy, but we also value transparency and accountability. The Nebraska public relies on nonprofits to not only provide many essential services, but the public also expects nonprofits to manage finances, engage in government and remain politically nonpartisan. The current private--privacy transparency balance in our state is reasonable, and we do not see a need to change these requirements at this time. Thank you again for the opportunity to testify. NAM appreciates the committee's work and we are always available to provide insight and data from the nonprofit sector. Thank you for the opportunity and I am happy to take any questions.

BREWER: All right, thank you for your testimony. Questions? Any questions? Seeing none.

HANNAH YOUNG: Thank you so much.

BREWER: Thank you for your testimony. All right. We are still on opponents to LB823. Additional opponents. All right. Then we will go to any in the neutral for LB823? All right. What about letters? Here. Oh, here it is. Got it. OK, on LB823, we had zero letters in support,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 27, 2022

one letter in opposition and zero in the neutral. So with that we will close on LB823 and I'll hand the controls over to Senator Hansen and head for the chair.

M. HANSEN: All right. Thank you, Senator Brewer. We've closed the hearing on LB823 and we'll be transitioning to our hearing on LR271.

BREWER: Thank you, Vice Chair Hansen, and good afternoon, fellow senators of the Government Committee. I'm Senator Tom Brewer. For the record, that is T-o-m B-r-e-w-e-r, and I represent 11 counties of the 43rd Legislative District of western Nebraska. I'm here today to introduce LR271. I introduce LR271 at the request of administrative services to officially name two office buildings. This resolution resonates with me in a number of ways as a Veteran of the United States Army and as Native American. The fact that each of these buildings will be named combined the two groups. I am pleased to bring this legislation as a means to honor our state's first servicemen of the 1st Nebraska Infantry and the state's native inhabitants who have had extraordinary impact. The state office building across the street to the north, officially at 1526 K Street, and the home to six state agencies, will be named for the First Nebraska. It is an administrative building. The namesake recognition is of the First Nebraska Volunteer Infantry Regiment, a company of courageous Nebraska men who fought in the-- on the Union side of the Civil War. LR271 also honors Chief Standing Bear and his pivotal contribution to equal justice for Native American peoples. After we-- after he was pushed out of his homeland and returned to bury his son in Nebraska, it was Chief Standing Bears' profound words before the federal judge that led to him being recognized as a first Native American as a person. 271-- LR271 will designate the building west of the Capitol, officially located at 1521 South 14th Street, currently known as the Executive Building as Chief Standing Bear Justice Administration Building. This building is particularly fitting for its namesake as it is the location of the employees of our court within the judicial branch. Naming these state buildings will be a gesture of respect for both the people of Nebraska to honor the bravery and contribution of First Nebraska Regiment and Native Americans. The Department of Administrative Services, Director Jason Jackson, will follow me with his remarks and assist with addressing any questions. Thank you for considering LR271. I'm available for questions.

M. HANSEN: Thank you, Chairman Brewer. Questions from the committee? Seeing none, thank you for your opening. And with that, we'll invite up our first proponent testifier. Welcome.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 27, 2022

JASON JACKSON: Thank you for having me. Good afternoon, Colonel Brewer, Senator Hansen, members of the Government, Military and Veterans Affairs Committee. My name is Jason Jackson, J-a-s-o-n J-a-c-k-s-o-n, and I am Governor Ricketts Chief Human Resources Officer and Director in the Department of Administrative Services, and I'm here to testify today in favor of LR271. I first want to extend my appreciation to Senators Brewer and Pansing Brooks for introducing LR271 and recognizing the importance of formally naming two of our state buildings in honor of Nebraskans who have had a lasting legacy in the meaningful contribution to our state and our country. This past fall, we had the opportunity to dedicate the office building at 1526 K Street, which is basically just to the north of the Capitol and on the right side of the mall, to the First Nebraska Volunteer Infantry Regiment in honor of the bravery of those courageous Nebraskans who organized and fought for the Union during the Civil War. The men in the First Nebraska fought numerous important engagements, endured great hardship and suffered hundreds of casualties in defense of freedom and the Union. Their efforts contributed directly to the north's victory in the Western Theater of the War and ultimately to ending slavery in north America. Our dedication was a simple way to honor their extraordinary service, and we appreciate the Legislature bestowing upon the First Nebraska the additional dignity of having their history formally recognized in the building's official manner. This legislative resolution would also name the building-- the office building located at 521 South 14th Street, which is to the immediate west of the Capitol. This building is home to the administrative offices of the judicial branch and is commonly known as the Executive Building today. This LR would formally name the building the Chief Standing Bear Justice Administration Building. Chief Standing Bear's significant contribution to the principle of equal justice under the law, his endurance of immeasurable hardship to win the right to equal justice under the law for himself and other indigenous people, is deserving of this historic resignation-- recognition that is being bestowed upon him. It is also a fitting tribute to his legacy of fighting for justice that the building that bears his name should be the home of judicial administration in the state. In closing, I'll also add that administrative services and state building division regard our public buildings as the public face of Nebraska's government to our-- to our residents and a place where teammates do noble work serving our citizens. Naming these buildings after the First Nebraska Regiment and Chief Standing Bear, respectively, is in keeping with the dignity of the buildings themselves, the work that is performed there and will serve as an enduring reminder of their

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 27, 2022

namesakes to Nebraskans for years to come. Thank you for your consideration and I'm happy to answer any questions you may have.

M. HANSEN: Thank you for your testimony. Are there questions? Seeing none, thank you for your time.

JASON JACKSON: Thank you.

M. HANSEN: We'll invite up the next proponent on LR271. Welcome.

KENT ROGERT: Good afternoon, Senator Hansen, members of the Government, Military and Veterans Affairs Committee. My name is Kent Rogert, K-e-n-t R-o-g-e-r-t, and I'm here today in support of LR271 on behalf of the Ponca Tribe in Nebraska. The Poncas wish to thank Governor Ricketts, Senator Brewer, and Director Jackson for their efforts in this historic naming of a pretty cool building right across the street from the Capitol, right next to my office, which is kind of nice. So we thank everybody for that and we are honored to be a part of this process. So happy to answer any questions. That's all I have.

M. HANSEN: Thank you. Questions? Seeing none, thank you. All right. Take our next proponent. Welcome.

JUDI GAIASHKIBOS: Good afternoon. Thank you, Senator Brewer, Chairman and Colonel Brewer and Government, Military and Veterans Affairs Committee. I am Judi Gaiashkibos, the executive director of the Nebraska Commission on Indian Affairs, and I am a member of the Ponca Tribe and Santee Sioux as well, and I am here in support of LR 271. I would like to-- of course, many of you know that as a member of the Ponca Tribe, of course, I would be supportive of naming the building across the street in honor of Chief Standing Bear in this LR271. But rather than speak just from a personal view, I'd like to present this more as the director of the Commission on Indian Affairs and share with you that the Chairman Trudell of the Santee Sioux Nation has asked me to also share with you that the Santee Sioux Nation supports this change of name to honor Chief Standing Bear and the Omaha Tribe does as well. So on behalf of the Commission on Indian Affairs, I have dedicated a lot of my life's work for the last 26 years to celebrate the story of Ponca Chief Standing Bear and to help Americans and Nebraskans know this important story. But I'd also like to share a little bit of testimony from two of my dear colleagues that live here. One lives in Lincoln, Nebraska. Dr. Gregg Wright, who has given me some thoughts to share with you, and then the other is a longtime attorney, Lawrence Dwyer, who wrote a book about Ponca Chief Standing Bear. So I'm going to close my testimony with reading from some

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 27, 2022

testimony that they sent me. And I think their words are very eloquent and much better than mine. So Dr. Gregg Wright would like to express his gratitude to the Government, Military and Veterans Affairs Committee. He would like-- building names do matter because they bring our history into the present and push into the future. So building and naming buildings matters. The naming of a Nebraska justice building brings with it added responsibility to bring our history into our present. That part of our history that best expresses Nebraska's most important examples of justice. There is not a better example of justice rendered than the story of Chief Standing Bear's receiving official judicial confirmation in Omaha in 1879 that he was, in fact, a person under our constitution saying, this also recalls how far from our founding principles we had fallen and how important it is to continually remind ourselves of what equality under the law must mean. Standing Bear's story also reminds us of the courage it always takes to stand up for our important founding principles when the law and the courts and the people have forgotten them. The north entrance of our state Capitol proclaims, the salvation of the state is the watchfulness in the citizen. It is important that finally, in 1879, the courage of Chief Standing Bear and of the lawyers that plead his-- that pled his case led them to watchfulness that brought us to our senses. Naming this Nebraska State Justice Administration building after Chief Standing Bear is the perfect way to honor his courage and to remind everyone who enters the building of our highest principles and of the watchfulness and courage needed to ensure that we live by them. Please support this legislative resolution, Dr. Gregg Wright. And then I would close with the final quote from Lawrence Dwyer, and I have provided you his full testimony, but I think this really captures the essence of why this would be so profound and why as an Indian person, member of the tribe, and director of the Indian Commission and on behalf of all First Peoples of Nebraska. In the long history of our state, I can think of no one who better represents the core values of the good people of Nebraska than Chief Standing Bear. Honor, integrity, generosity, hard work, love for family, concern for neighbors, love for the land and a desire to be free. He expressed it best in his testimony given before the court on May 1st, 1879, when he said, I want a place where I can work and support my family and when done with life, die peacefully. All Standing Bear wanted was justice. Therefore, Lawrence Dwyer encourages you to support LR271 and name the building, 521 South 14th Street, in his honor. And I concur, and I would be happy to answer any questions.

M. HANSEN: Thank you. Could we get you to spell your name for the record? First and last name?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 27, 2022

JUDI GAIASHKIBOS: Oh, I forgot to do that. I'm sorry. Judi, J-u-d-i, Gaiashkibos, G-a-i-a-s-h-k-i-b-o-s.

M. HANSEN: Perfect. Any questions from committee members? Senator Lowe.

LOWE: Thank you, Vice Chair, and thank you, Judi, for being here today and testifying. Are there any plans for signage out in front of the building or on the building that you know of that will do it justice?

JUDI GAIASHKIBOS: Oh yes, I believe-- I have been in communication with Jason Jackson and a committee, and they have a donor that is funding-- I think this is OK for me to say, there will be a bronze sculpture bust of Standing Bear, a little different than the one that's on Centennial Mall. It will have a different headpiece on. That was something that was recommended for a unique new image of Standing Bear that we could all celebrate. It will be sitting on a base. And there will be benches out there, so it will be a welcoming place for people to see that image. And inside, I believe there are plans to do murals that tell the story of the forced removal and the consequent death of Bear Shield and Chief Standing Bear's honoring his word. Like we all would like to do and his son's dying wish to be buried along the Niobrara, which is our homelands. So I think that will be really a lovely place for anyone that comes to our state to see and people that work here in the Capitol and in the court system and then propel them to go up Centennial Mall and to the U.S. Capitol and see Standing Bear in Statuary Hall.

LOWE: Thank you. I'm sorry, I may have jumped that question, but rushed you along.

JUDI GAIASHKIBOS: Kind of put me on the spot, but.

M. HANSEN: Thank you, Senator Lowe. All right, see no other questions, thank you for your testimony.

JUDI GAIASHKIBOS: Thank you very much.

M. HANSEN: Are there any other proponents for LB271 (SIC LR271)? Last call for proponents. All right. Is there anybody who wishes to testify in opposition to LR271? Seeing none, anybody wishes to testify in neutral on LR271? Seeing none, Senator Brewer, we invite you up to close. And while he's coming to the testifier stand, I'll note for the record that we had two position letters and were both proponents, no opponents and no neutral.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 27, 2022

BREWER: Well, thank you for listening to the testimony, I guess a parting thank you to, to Judi. She has been a champion for the story on Chief Standing Bear, and she's the reason why that statue is in Washington, D.C. and I highly recommend if you haven't been there to go, because when we traded out the statue we had there, we got a better position. And it's probably in the most prominent place and is probably the most impressive statue in the building. So with that, I will take any questions.

M. HANSEN: Thank you. Are there questions? All right, seeing none, thank you, Chairman Brewer, and we'll close the hearing on LR 271, and we'll welcome you back up to the table for your opening on LB778.

BREWER: Thank you, Vice Chair Hansen and members of the Government Committee. My name is Senator Tom Brewer, T-o-m B-r-e-w-e-r, and I'm here representing the 43rd Legislative District. Now as you've heard with what seems like every bill, this is a very simple bill. LB778 says that you cannot award a government contract based on whether a bid comes in for a union shop or a merit shop. So let me just kind of basically walk you through this here. Section 4-- I'm sorry, Article IV, Section 6 of our state constitution says that our executive branch is supposed to make sure that the affairs of the state are efficiently and economically administered. That means that government should not spend more than we have to, to get a particular project or work done. Nebraska statute 73-201 says something that should be obvious. The provisions we put in government contracts directly impact the efficiency of state operations. So with that said, I have a problem with any contract provision that keeps Nebraskans from getting the best deal for our tax dollars. I support both the rights of workers to form unions and those-- and support those that wish to be nonunion shops. If the union shop is able to give the best deal to taxpayers, then the union shop should get the contract, plain and simple. But likewise, the same should be true of the merit shops. This bill says the union status of contracts should not be decided on who is awarded the public contract in Nebraska. That's it. Thank you, and I'd be happy to take any questions.

M. HANSEN: Thank you. Are there any questions? All right, seeing none, thank you for your opening.

BREWER: And I'll stick around for close.

M. HANSEN: Perfect. With that, we'll invite up our first proponent testifier. Welcome.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 27, 2022

KATIE WILSON: Good afternoon, everyone. My name is Katie Wilson, K-a-t-i-e W-i-l-s-o-n, and I'm the executive director of the Associated General Contractors, Nebraska Chapter, also known as the Highway Chapter, testifying in support of LB778. I want to thank Senator Brewer for introducing this important legislation that will ensure Nebraska contractors can compete on an even playing field for public infrastructure contracts. AGC is a trade association of highway contractors who perform highway, bridge, and utility infrastructure work across the state. My members don't build Nebraska alone, but depend on the thousands of construction workers who are out daily improving Nebraska's infrastructure. And it is those workers that bring me to this chair before you today. You might be surprised that I spend more time worrying about our workforce shortage in the highway construction industry than I do about whether Nebraska is spending enough on roads. In fact, our association is leading the way on trying to make sure we have enough people to work. For example, we have contributed \$375,000 to date to the Central Community College Hastings Heavy Equipment Operator Technician Training Program, as well as we award three \$4,000 scholarships to students in the program annually. Pre-COVID, we lead a school-- an after-school construction club at Arnold Elementary School here in Lincoln. And we show third and fourth graders hands-on basic construction concepts and skills used in the construction industry. And our Road Rebellion social media campaign informs teenagers and parents about career opportunities that offer 13 percent higher wages in the construction industry than other Nebraska jobs. We hold Equipment Days events in the spring at the state trap shoot, where we promote career opportunities to the students and their parents. And our latest program offers HR services to our members to assist them in improving their recruiting, onboarding, and retention processes. Unfortunately, certain contracting practices by public bodies are only going to exacerbate the workforce shortage for the construction industry. Governments are starting to offer preferences to contractors who have a certain type of workforce. This distorts the competitive bidding marketplace and results in fewer bidders and a 12 to 20 percent increase cost to the taxpayer. That means we get 12 to 20 percent less projects for our dollars. One of the largest myths about project labor agreements is they guarantee qualified workers. That's just basically wrong. Workforce restrictions in the agreement prohibit the contractors from utilizing their full complement of qualified worker-- of qualified employees on the project. Also, local projects that are competitively bid attract significant local bidder participation, and the bidding process is very competitive, including PLA requirements will limit local participation, and I don't think that's what we want to see in our right to work state. So this bill

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 27, 2022

simply says to public entities, when bidding out a job, you can't reward or penalize a contractor based on the type of workforce they have. All bidders should have a truly free and open competition with the ability to benefit from investments in their workforce. Even more, all workers should be free to choose without strict contracting mandates. Our neighboring states of South Dakota, Iowa, Kansas, and Missouri all ban PLAs. So on behalf of my members, I would urge the committee to advance LB778 to the floor, and I'd be happy to answer any questions you might have.

M. HANSEN: Thank you. Are there questions? I would have one. So what's like an example of like a current PLA in Nebraska?

KATIE WILSON: Well, we haven't had them. They've been talked about for many, many years. I know our friends behind me have been at this table many times. But with the new infrastructure bill, there was some language in, in that act that kind of promotes this type of thing. It's not a mandate, but it, it does, you know, suggest possibly utilizing them, so.

M. HANSEN: OK, thank you. Seeing no other questions, thank you for your testimony.

KATIE WILSON: You bet.

M. HANSEN: Hi, welcome.

JEAN PETSCH: I must be very short. Good afternoon, Committee. I, too, am from the AGC. The other one. I'm Jean Petsch, J-e-a-n P-e-t-s-c-h. I am director of advocacy for the Associated General Contractors, the Nebraska Building Chapter. The Building Chapter also is a trade association representing 130 commercial firms that represent thousands of managers, craft employees that build structures or buildings, as opposed to the last group you heard that build highways and bridges, that build locally, regionally, and nationally. Why do we support LB778? One of the key reasons is because of the purpose of the bill that's spelled out in Section 2. It promotes the economical, nondiscriminatory selection of providers for goods and services and then also the efficient administration and completion of those projects. The Building Chapter members all believe and are committed to open and fair competition in the pursuit of public projects. We feel this is the best way to get any project off to the best possible start. The bill is not really anti anything or pro anything. It will protect and allow for as many possible qualified bidders and pursuers as possible for governmental entities to select from for their

construction projects. What are some of the practices that would no longer be allowed under LB778? One practice not allowed would be requirements to adopt a collective bargaining agreement. We feel these are decisions that should be left to the contractor employer and their employees, and that if a choice should not be imposed as a condition of competing for or performing on a publicly funded project. Also, government mandates such as PLAs, or project labor agreements, would no longer be allowed. Katie just mentioned these in more detail. These can limit competition, which typically drives up cost, cause delays, and disrupts local collective bargaining agreements. In cases where it would benefit the project, the selected contractor will be the first to recognize the need for a PLA and also the most qualified person to negotiate that PLA. Scoring criteria that preferences hiring of percentages of apprentices on a project would no longer be allowed. Only recognizing one of many types of training that is used for the industry gives no credit to the employers' right to make their own training decisions or level of investment in the right training for their particular companies or credit to the extensive amount of in-house investment they've already made in training programs. Again, these types of preferences limits the number of bidders and pursuers that you're going to have looking or bidding, pursuing your government projects. Another practice that will no longer be allowed under LB778 is scoring criteria preferences that favors a certain class of employees or training options that are labeled as workforce development efforts. As Katie mentioned in her testimony, the entire industry is already working on workforce development efforts with all the resources we can pull together. You really cannot fairly single out one way over the other as the answer to the point of giving preference. Any of the above mentioned examples are discriminatory towards small and emerging contractors. This group of contractors just cannot compete on projects with preferences. In the end, we end up eliminating a whole subset of emerging and small contractors that we really are trying to support and grow for the future and we need their capacity down the road. So in the long run or in closing, we support LB778, it will ensure fair and open competition for everybody that looks to government contracting. Thank you, Senator Brewer, for introducing the bill and to the whole committee for listening to the testimony today.

M. HANSEN: Thank you for your testimony. Questions from committee members? Seeing none, thank you. Welcome up the next proponent.

ANNE KLUTE: Good afternoon.

M. HANSEN: Hi, welcome.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 27, 2022

ANNE KLUTE: You're getting all of us association girls all at once, look at you. Senator Brewer and committee, my name is Anne Klute. That's A-n-n-e K-l-u-t-e. I am the president and CEO of the Associated Builders and Contractors, Cornhusker Chapter, and I represent 145 members of the construction industry. ABC was founded in 1950 to create an association based on the shared belief that construction projects should be awarded on the merit of those most qualified and responsible bidders. Today, we are recognized nationally as one of the leading organizations representing America's business community and the merit shop construction industry. With that said, I believe it's important for you to understand exactly what the merit shop philosophy represents. We believe in a system of free enterprise and open competition. We believe employees and employers should have the right to determine wages and working conditions through either individual or collective bargaining as they choose within the boundaries of the law. We believe the employer must have the concern for the general welfare, excuse me, of the employee and that there must be a fair compensation for work performed. At the same time, we believe that the employee has the obligation to satisfactory performance of assigned work. We support sound legislation in the areas of workers' compensation, safety and unemployment compensation. We believe legislation that embraces fair play for employer and employee is essential to the preservation of our free enterprise system. We believe the law should protect the rights of the employees to work regardless of race, color, creed, age, sex, national origin or membership or nonmembership in a labor organization. We believe work opportunities should be made available to all legal residents and we support programs toward this end. We oppose violence, coercion, intimidation and denial of the rights of employees and employers. We believe in the incumbent upon all branches of government to be responsible stewards of taxpayers' dollars. And we believe that the government should award contracts only to the lowest responsible bidder. We oppose unjust pressure to violate these principles. We believe monopolies or any kind of price or wage fixing in either the public or private sector are detrimental to our system of free enterprise. We believe the destiny of all Americans can be best served in cooperation, reconciliation, and following tenets of free enterprise and democratic government. We believe business leaders can best preserve these tenets by becoming active in politics and civil affairs. Thank you, Senator Brewer, for introducing LB778 and thank you to the committee members for giving us the time today. We support LB778. LB778 will be fair to all the industry and support the previously stated philosophies by ensuring that all Nebraskan contractors have a fair opportunity to bid on all projects. Government-mandated PLAs would put burdens on a majority of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 27, 2022

the state's contractors and effectively remove them from the opportunity to bid on such projects. I see no reason why this bill should not be moved from committee to the floor of the Legislature for an opportunity for all legislators to represent their constituents effectively. The bill does not ban PLAs on projects. It simply states that it cannot be a government-mandated project labor agreement. The bill ensures that the fair opportunity to bid on all government projects is given to all contractors in Nebraska. It simply requests that the government projects are available to all contractors, and the majority of Nebraska contractors are merit shop contractors. So this bill gives a fair opportunity to all Nebraskans. Thank you for your time. If you have any questions, I'd be happy to answer.

M. HANSEN: Thank you. Are there questions? Seeing none--

ANNE KLUTE: Thank you for your time.

M. HANSEN: Thank you. Invite up our next proponent.

JACK RUSSELL: Good afternoon, members of the committee. Thank you for letting me speak here today. My name is Jack Russell. That's J-a-c-k R-u-s-s-e-l-l. I am the policy and research coordinator for the Lincoln Independent Business Association. And I am here to deliver testimony on their behalf in support of LB778. The Neutrality in Contracting Act would level the playing field when it comes to government bids. The language in this bill helps ensure that contractors are not discriminated against simply because of a collective bargaining agreement. This can help prevent policies at all levels, levels of government that harm our local contractors. A recent example comes to mind that demonstrates the need for this legislation. Earlier this month, the Lincoln City Council proposed an ordinance that directly impacted how contractors would be selected for city projects. It made it easier for contractors with union affiliation to complete the bid process compared to those that had no collective bargaining agreement. If implemented, this ordinance would have had a detrimental effect on our local contractors and smaller subs. Luckily, this ordinance was removed from this council agenda and will undergo some changes before consideration. The point remains, though, that if subdivisions can discriminate based on collective bargaining terms, there is potential for real damage to our local contractors. LB778 does a good job of addressing this concern. LB778 also allows the government to truly be able to accept the lowest bidder, which has the potential to save taxpayer dollars. Additionally, we appreciate the listing of subdivisions in Section 3 (4) of the bill. This adds clarity and avoids unneeded confusion upon implementation. It also

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 27, 2022

directly addresses the worry of our members in the Lincoln community. Now, more than ever, it is essential that our government entities are not adding additional burden on businesses. That includes procedures that favor a bid competitor simply because of union ties. LB778 is a commonsense bill that addresses the concern of many business owners. It allows for a more efficient and equal procurement process and protects small business. For these reasons, LIBA supports advancing the bill out of committee and onto General File. I want to extend appreciation to Senator Brewer for bringing this bill forward and to the committee again for allowing me to speak here today. I'd be happy to try and answer any questions that you may have.

M. HANSEN: Thank you. Are there questions from the committee? I would actually have one, and I've been mulling it over. So I guess I'm coming from this in the context of the Saint Francis contract, having served on that committee, where they won the contract solely based on being the low bidder and that seems to be the consensus and didn't necessarily be ranked higher in a lot of other categories, including the ability to perform the contract. Is the thought that just we should stick with the low bidder always wins or are there other things that they do inside of a business that, like, the state should be able to consider?

JACK RUSSELL: Well, I think that from a fiscal standpoint, the lowest bid should be considered. Obviously, if, if one company or one contractor is able to complete the contract in the best way, you know, that should be considered as well. I can't speak to the Saint Francis contract--

M. HANSEN: Sure.

JACK RUSSELL: --as much, but I know that this bill prevents a concern that some of our members have.

M. HANSEN: Sure. I appreciate that and I wasn't expecting you answer Saint Francis. That was just something the committee was struggling with of-- in terms of how do you differentiate between cost efficiency and actual efficiency and one of the metrics should.

JACK RUSSELL: Yeah, and I think ability to complete the contract is a big one as well as cost. I just don't think that union affiliation or collective bargaining terms should be on the table for that, especially for some of our lower, smaller contractors and things like that.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 27, 2022

M. HANSEN: OK, thank you. Any other questions?

JACK RUSSELL: Thank you.

M. HANSEN: All right, seeing none, thank you. Invite up our next proponent. Welcome.

JEFF WOLGAMOTT: Good afternoon, everybody. My name is Jeff Wolgamott, J-e-f-f W-o-l-g-a-m-o-t-t. My address is 8942 South 29th Street here in Lincoln. I am an owner of Ironhide Construction here in Lincoln. We are a merit shop contractor based here and we participate in the National Safety Training Evaluation Program, we're an AC478 accredited contractor. We volunteer-- voluntarily participate in these programs because we value the safety of our team and enforce practices that we ensure meet OSHA standards. We choose not to participate in a labor union because we believe the merit shop philosophy is best suited for our company. But most importantly, benefits our team. We offer competitive salary that is supported by fringe benefits, including paid time off, health insurance, short-term disability, eye and dental insurance, life insurance, simple IRA, and an employee assistance program. I and my company support LB778. LB778 would be fair to all in the industry. Government-mandated PLAs would place a financial burden on our company that would not allow us to be competitive on certain projects. We already support our team with the benefits I stated previously. But if a government-mandated PLA is in place on a project, I would have to be paid twice on those fringe benefits. One I already paid to myself and I'd also have to pay to the Union Hall. This would take our costs and escalate them to a point where we could not be competitive. Ultimately, the PLAs are not-- they add cost to the project, and they would never see the benefit of the fringe we pay. Our employees would never be invested in those fringe benefits. It is not a protect-- productive process for anyone. The project loses, our company loses, and our employees lose out on potential work. I see no reason why anyone would argue against this bill. This bill does not ban PLAs on projects. It just simply states it cannot be a government, government-mandated PLA. This bill makes the opportunity to bid on projects fair to everyone. It simply requests that government projects are available to all qualified contractors. The majority of the contractors are merit based contractors like I am. I see no need to put any undue financial burden on us or our public money. Thank you for your time. I'd be happy to answer any questions.

M. HANSEN: Thank you. Are there questions? Senator McCollister.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 27, 2022

McCOLLISTER: Yeah, thank you, Senator Hansen. I'm not familiar with the term [INAUDIBLE] shop, merit shop.

JEFF WOLGAMOTT: Merit shop. It's nonunion.

McCOLLISTER: Merit shop.

JEFF WOLGAMOTT: Merit shop.

McCOLLISTER: I got it. Thank you.

JEFF WOLGAMOTT: Did I stumble through that one?

McCOLLISTER: Yeah, I missed the--

JEFF WOLGAMOTT: It happens.

M. HANSEN: All right. Thank you, Senator McCollister. Seeing no other questions, thank you for your testimony.

JEFF WOLGAMOTT: Thank you very much. Thank you, Senator Brewer.

M. HANSEN: Invite up our next proponent.

BRANDON RAY: Afternoon.

M. HANSEN: Welcome.

BRANDON RAY: Senator Brewer and members of the committee, thank you for having us. My name is Brandon Ray. I am-- B-r-a-n-d-o-n R-a-y. I am director of state and local affairs at Associated Builders and Contractors out of our national office. We are a national trade association representing more than 21,000 proud members from construction and industry related firms founded on the merit shop philosophy. So thank you for having this hearing and allowing us to testify in support of LB778. I'll try to keep this brief and to the point. You've heard already today about the merit shop construction industry that makes up, as we pointed out, an overwhelming majority of the construction industry here and nationally as a whole. You've heard about some of the particulars of project labor agreements, how they affect merit shop contractors, both union-- or how they affect merit shop contractors and union contractors, why or why not they should be used, much less mandated on public construction projects. But in short, we know, we know for certain through a vast array of academic research studies and on-the-ground evidence that PLA mandates put a thumb on the scale in favor of a certain segment of contractors in the

bidding process, unfairly discourage merit shop contractors and their employees who have chosen not to belong to a union from competing for projects paid for by their own tax dollars and raise the costs of projects up to 20 percent in some cases. In this state, those merit shop contractors make up over 86 percent of the overall construction industry according to the most recent U.S. Census Bureau data. Just to illustrate again how severely these can impact the merit shop, a recent study done in October 2021 by Dr. John McGowan, formerly a professor of economics at Saint Louis University, found that merit shop workers nationally on PLA projects forfeit up to 34 percent of their total take-home pay to dues and benefits they cannot take advantage of. That comes down to wage theft, plain and simple to benefit another side of the industry. As of today, due to these indisputable facts of the effects of PLAs, 24 states have in place policies to preserve fair and open competition by prohibiting government-mandated PLAs to varying degrees on taxpayer-funded construction projects. When challenged, all measures have been legally upheld in the courts and there are countless cases of government-mandated PLAs gone wrong, contrary to the claims you may hear from opposition to this bill and where policies like this have been vital in protecting a state's taxpayers and small businesses. To augment what our Nebraska-based merit shop contractors have already spoken to and have on the record, I want to address you specifically today also about the current federal environment around construction and the use of these agreements and the context of the last year's developments in federal spending and state assistance and what that could mean for Nebraska. As you know, two largest tranches of federal spending for the most recent legislative efforts in Congress come from the American Rescue Plan, or ARPA, and the Infrastructure Investment and Jobs Act. The American Rescue Plan totaled \$1.9 trillion in a price tag and included \$350 billion allotted to states, localities, and tribal governments, with approximately \$195 billion going specifically to state governments as grants to be controlled and used autonomously by each state. The IIJA, the infrastructure bill, has a total investment of \$1.2 trillion to be procured, designated, and regulated by the federal administration. These two bills will carry great benefit to the citizens in this state and their piece of this total price tag and Nebraska has been allocated \$1.04 billion from ARPA and will receive a total of \$3.04 billion from the infrastructure package, with \$2.2 billion of that money specifically coming from highway formula funding for roads and bridges. Keeping that in mind, let's address project labor agreements in that context. PLAs have already been encouraged by the current federal administration, as pointed out previously as a part of the guidance from the U.S.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 27, 2022

Treasury accompanying ARPA. This is troubling, however, states have full control of allotment of that money, and if they have a policy like LB778 in place, they are completely protected from the use of government-mandated PLAs when dictating how this money is spent. Separately, regarding the infrastructure package, while the federal government can control how they would like to procure projects and spend that money, they have historic-- historically deferred to state preference on their policies around things like PLAs and states that have these policies in place do not usually see PLAs mandated on projects in these states. If LB778 is passed, Nebraska has an almost guaranteed protection from seeing these costly and discriminatory agreements being used here. We've talked about how they've been used in the past or have been threatened on Nebraska projects, including in 2010, when the Haymarket Arena was entertaining. Some may posit that this legislation is unnecessary because PLAs are used infrequently here in Nebraska, that the presence of them touting the benefits of these agreements while also trying to convince that they are not something that would be used seemed to be in conflict. So Nebraska deserves efficient, accountable, and effective construction spending and investment in communities, communities free from costly and discriminatory procurement policies. Taxpayers, industry stakeholders will benefit from a fair and open competitive bidding process open to all qualified contractors. So I urge you to vote in support of LB778. Thank you.

M. HANSEN: Perfect. Senator McCollister for a question.

McCOLLISTER: Yeah, thank you, Senator Hansen. Nebraska's a right to work state.

BRANDON RAY: Yes.

McCOLLISTER: How does that, that fact influence the legislation that we are proposing?

BRANDON RAY: Right to work and PLAs are two separate issues, so the right to work status of Nebraska does not prohibit the use of project labor agreements. It just alters the language that would be allowed in the project labor agreement instead of requiring workers to be hired through the union hiring hall. They would just be required to join the union as opposed to in a non right to work state. But these two issues are not to be [INAUDIBLE].

McCOLLISTER: But you're not aware of any instance where a PLA has been in evidence in a contract in Nebraska?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 27, 2022

BRANDON RAY: Not in my view, but there are more local folks that would be able to speak to that better than me.

McCOLLISTER: Thank you.

BRANDON RAY: Um-hum.

M. HANSEN: Thank you, Senator McCollister. Senator Lowe.

LOWE: Thank you, Vice Chair. Thank you, Mr. Ray, for coming here. With all this money coming out to the, to the states, is it going to be hard for the companies to access material because it's all coming in at one time and it's a big mess that's going to be happening? Are we going to be able to use all that money in a timely manner before it disappears?

BRANDON RAY: Well, I know, for example, the-- like I mentioned the \$2.2 billion that comes in just specifically for roads and bridges as part of the formula, the highway formula funding, that's a five-year period. So it does allot money over a, a period of time where hopefully supply chain issues, contractors' access to materials would be alleviated.

LOWE: OK, thank you.

M. HANSEN: Thank you, Senator Lowe. Seeing no other questions, thank you for testifying.

BRANDON RAY: Thank you.

M. HANSEN: Any other proponents for LB778? Seeing none, we'll switch over to opponents to LB778. Welcome.

SUSAN MARTIN: Good afternoon, Vice Chair Hansen and members of the Government, Military and Veterans Affairs Committee. My name is Susan Martin, S-u-s-a-n M-a-r-t-i-n, representing the Nebraska state AFL-CIO and our members in opposition to LB778. We do stand in opposition of LB778, specifically because the legislation prohibits government-mandated project labor agreements, PLAs, as you've heard before. A project labor agreement is a project management tool designed to ensure on-time, on-budget results for a given project through a streamlined labor relations policy. PLAs improve efficiency by coordinating the work of the multitude of subcontractors and craft workers engaged on specific construction projects and have been used for generations on successful public and private construction projects. The use of PLAs do not restrict competition by shutting out

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 27, 2022

nonunion contractors. On public projects, all contractors, union and nonunion, are invited to submit bids. Nonunion contractors can be found on many PLA projects. PLAs simply create a level playing field for all contractors by standardizing labor conditions on a particular project. There's a few points that I think are important to consider as you weigh this legislation. First, there is nothing in state law currently that encourages or discourages the use of project labor agreements. This means that there's nothing in state law that currently encourages or discourages the use of collective bargaining labor. Labor unions are not asking for special treatment or privileges. We're just asking that you not enact this legislation, a policy that would place union contractors and our members at an unfair disadvantage when it comes to bidding for contracts. Second, project labor agreements may provide benefits that we feel are getting overlooked, and this legislation would do away with those benefits. Project labor agreements help to establish clear boundaries and expectations for a project, whereby a contractor and workers agree to the establishment of minimum terms and conditions for employment. These clearly established expectations lead to higher productivity, better work for better pay, as well as standardizing rules for work hours, safety, drug testing, and all others. All of these factors lead to projects that are done to the benefit of all parties, the contracting agency, the contractor or subcontractors, and the workers. The decision to use a PLA should remain with a government entity or subdivision who are ultimately responsible for taxpayer dollars and knows what's in their best interest. Third, project labor agreements can be used by public project owners like school boards or city councils to set goals for creating local jobs. They may include provisions for targeted hiring and apprenticeship ratios by including requirements for local union workers-- or local workers to enter union apprenticeship programs. The project labor agreements can be used to help local workers gain skills, which is one of the Nebraska workforce development goals of focusing on Nebraska's skilled workforce. Finally, project labor agreements provide accountability. Because there are clearly defined standards for the employment and the work that will be done, that means that there is an established benchmark which can be used to make sure the work is done on time, under budget, and accurately. To close, I just like to say I believe the provisions of LB778 were introduced as a means to help increase efficiency and reduce costs, when in fact we'd argue that it's not the case. Construction owners and taxpayers benefit the most because PLAs help to ensure greater efficiencies on construction projects that involve many subcontractors and large numbers of craft workers from various trades. They ensure a steady flow of safe, productive, productive and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 27, 2022

highly trained construction labor, and they establish mechanisms for avoiding and resolving disputes. LB778 is more simply an attempt to put labor unions at a disadvantaged position when it comes to bidding for contracts. I thank Nebraska and the Unicameral system for the opportunity to testify this afternoon.

M. HANSEN: Thank you for your testimony. Questions? Seeing none, thank you. Are there other opponents to LB778? Welcome.

JON NEBEL: Thank you for having me. Welcome. My name is John Nebel, J-o-n N-e-b-e-l. I'm here on behalf of the IBEW Local 22 out of Omaha, Nebraska. You guys are all getting my handout on the basic points. What I want to do is kind of restart what we're talking about here. It's a project labor agreement, not a project contractor agreement. What this mechanism would be used for is to prioritize workers in Nebraska over any type of contractor trying to get the project. The two things that would likely happen if we were to enter into project labor agreement would be: fair wages would be paid to the employees and it would prioritize that Nebraskans would get the jobs before anybody from out of state. A couple of things I wanted to hit on was from the previous testimony that I wanted to clear up. The, the surveys where it's talking about 34 percent of the wages are lost. It's not-- that's just not accurate. What it-- what that would be is 34 percent of the wages that are paid are benefits. And I can tell you in my union, hour one, you're afforded the benefits towards the pension plan. After 270 hours, you would be afforded any type of health insurance packages. And then we have another pension that would be a five-year vesting. So typically on a big-time project labor agreement, it would be a project of that size so you wouldn't be losing out on any benefits. The second thing I wanted to hit was on the right to work issue. It is hand in hand. Nebraska is a Right To Work state. Therefore, it would be illegal to have someone be a member of a union in order to work on a project labor agreement, as would be for all Nebraskans. And let me see if there's-- that's about it. Really, it comes down to do you want to prioritize Nebraskans and get them on the projects? When we're taxpayers that are paying for these projects, we'd like to be the taxpayers that are earning the money on these projects as well. If you have any questions on my handout here, feel free to ask me, but otherwise, that's it.

M. HANSEN: Thank you for your testimony.

JON NEBEL: Um-hum.

M. HANSEN: Other questions? Seeing none, thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee January 27, 2022

JON NEBEL: Thank you.

M. HANSEN: Are there any other opponents to LB778? Seeing none, anybody who wishes to testify in a neutral capacity? Seeing none, we welcome up Chairman Brewer to close. And as he's coming up, we'll note we have position letters. We have three proponents, one opponent, and zero neutral. Three pro, one opponent, zero neutral. And with that you have the floor.

BREWER: All right. Thank you, Senator Hansen. All right. I thought Senator Hansen had a good question on Saint Francis so I, I read back through the contract and tried to make sure I, I had things tracking as they should. This bill is limited to construction contracts, not all government contracts, just so we are on the same sheet with that. And generally construction contracts are low bid because the government has all the specifications. The contractor is basically executing those requests by the government. So the intent of the bill was not to do it in a manner so that it benefits someone who was non-Nebraskan that was trying to bid on contracts or to put labor at a disadvantage. So if, if somehow that's being perceived here, it was, was not the intent. Again, it was just simply to, to look at the best way to spend our tax dollars in a, in a level, level playing field. And that was the intent. And with that, I'll, I'll take any questions.

M. HANSEN: Thank you. Are there questions from the committee? Seeing none, thank you, Senator Brewer.

BREWER: Short day.

M. HANSEN: This will clear-- close the hearing on LB778, and close our hearings for the day.